

Variance Request Information



Variances, as set forth in [Land Development Code \(LDC\) Section 509](#), are modifications or alterations to ordinance requirements that align with the public interest and spirit of the city's development standards. These are granted when, due to unique circumstances, strict adherence to the LDC's provisions would cause unnecessary physical (not financial) hardship to the property owner. Similarly, appeals from a decision to approve or deny an administrative adjustment application shall be considered as a variance. All requests for a variance require approval of the board of adjustment.

Board of adjustment meetings are regularly conducted on the first Tuesday of each month at 5:30 p.m. The request for variance application must be fully completed and submitted with all supporting documents at least 21 days prior to the meeting date.

The applicant must be either the property owner of the subject property, a lessee or person holding an option or contract to purchase or lease the property, or an authorized agent of the property owner. City officials are authorized to require proof of legal authority to take the action sought.

Incomplete applications will not be processed, which may delay your request. An application is considered complete only upon review and confirmation by Development Services staff that all required items have been submitted, including:

- Application fee (\$150 single-family residential use; \$300 all other uses)
- Site plan which illustrates the following:
 - Boundaries of the lot or parcel;
 - Location of existing and/or proposed structures; and
 - Any other site features that would be helpful in considering the application
- Other information that gives context to the request (photos, documents, etc.)
- Written conclusions responding to the variance review criteria

Property owners within a 250-foot radius of the subject property will be mailed written notice of the request at least ten days, but no more than 25 days, before the evidentiary hearing. Additionally, a notification sign will be posted on the subject property or an adjacent public right-of-way. The board of adjustment or city council agenda and staff report will be made available on the city's website. City staff will handle the distribution of these notices.

The applicant must attend the public hearing. If the applicant is a governmental entity, corporation, LLC, LLP, or Partnership, legal counsel representation is mandatory. If the applicant is different than the property owner, he/she must also be present. All evidence presented at quasi-judicial evidentiary hearings for variance requests must be under oath.

The board will solely consider competent, material, and substantial evidence presented during the hearing in its decision. Board members shall refrain from communications regarding a request outside the hearing.

After the evidentiary hearing, the board of adjustment can approve the request, with or without conditions, only upon a concurring vote of a four-fifths majority of the board's membership; otherwise, the request shall be denied.

Request for Variance Application

ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL



PROPERTY ADDRESS(ES): _____

PROPERTY TAX PIN(S): _____

PROPERTY OWNER(S): _____

OWNER ADDRESS: _____

OWNER EMAIL AND PHONE #: _____

APPLICANT (if different from owner): _____

Relationship to owner: ☐ Lessee or contract purchaser ☐ Owner's authorized agent ☐ Easement holder

APPLICANT ADDRESS: _____

APPLICANT EMAIL AND PHONE #: _____

APPLICABLE LDC REGULATIONS FROM WHICH VARIANCE(S) IS/ARE SOUGHT: _____

NATURE OF VARIANCE REQUEST: _____

REQUIRED DOCUMENTATION

- ☐ Application Fee (\$150 Single-Family Residential Use; \$300 All Other Uses)
- ☐ Site Plan
- ☐ Variance Review Criteria Statement

By submitting this application, the undersigned acknowledges that they are either the property owner or one of the persons authorized by [North Carolina General Statute 160D-403](#) to make this application. Also, the undersigned acknowledges that the information and statements made in the application are correct and that development approval is subject to revocation for false statements or misrepresentations made in securing the development approval.

APPLICANT SIGNATURE: _____ DATE: _____

TO BE COMPLETED BY DEVELOPMENT SERVICES STAFF

RECEIVED BY: _____ DATE: _____

DETERMINED COMPLETE: _____ DATE: _____

CASE #: _____

Revised 08/2024

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VARIANCE REVIEW CRITERIA

Each of the following conditions require an affirmative finding from the Board of Adjustment to grant a variance. Please indicate the facts and arguments that satisfy these criteria:

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district, and that are not a result of the owner's intentional action;
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) or practical difficulty because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards.
4. The variance is the minimum action necessary to alleviate the hardship or practical difficulty and observes the spirit of the Land Development Code; and
5. The variance desired will not adversely affect the public health, safety or general welfare or impair the purposes or intent of the Land Development Code or the comprehensive plan.

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NOTICE OF RIGHT TO HAVE MATERIALS FORWARDED TO MEMBERS OF ROCKY MOUNT BOARD OF ADJUSTMENT OR CITY COUNCIL

Prior to each meeting of the board of adjustment, materials pertaining to each appeal request for a variance from the zoning ordinance, request for a special use permit, request for interpretation, and all other matters scheduled for hearing are forwarded to individual members of the board of adjustment for their review. If you are scheduled to appear before the board, you are entitled to have forwarded any written materials pertaining to your case, which can be duplicated and forwarded by U.S. Mail. To have your materials included in the packet of information, you must deliver the materials to the Department of Development Services at the same time the application is submitted. Materials must be reproduced on 8.5" x 11" sheets, except for surveys and maps. You are reminded that you are not entitled to contact any board of adjustment member in any attempt to discuss your case prior to the scheduled evidentiary hearing. If your written materials are not received by the date and time prior to the hearing, you will be deemed to have waived your right to have written materials of your choosing forwarded to board or council members.