

APPEAL APPLICATION

Town of Apex, NC



This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

APPEAL APPLICATION: Completed application must be submitted before 5:00 p.m. no later than 30 calendar days after the written decision or interpretation of the Director of Planning or other official. The Department of Planning and Community Development shall accept the application on behalf of the Town Clerk.

APPEAL APPLICATION FEE: \$650.00

For the complete Town of Apex Fee Schedule visit <https://www.apexnc.org/DocumentCenter/View/407>.

The Board of Adjustment conducts a quasi-judicial public hearing process. Only sworn testimony provided at the quasi-judicial public hearing may be considered in their decision-making. The Board of Adjustment members cannot be legally contacted by the applicant or applicant's representative prior to the quasi-judicial public hearing (e.g. no ex parte communication). If you have any questions, please contact Senior Planner June Cowles at 919-249-3339 or june.cowles@apexnc.org

PURPOSE: Any person aggrieved by any decision or interpretation made by the Director of Planning (except construction plans, final plats and minor subdivisions for subdivision) or other officials administering this Ordinance may appeal such decision to the Board of Adjustment, which shall review the decision or interpretation pursuant to the requirements of Section 2.3.12 of the Unified Development Ordinance (UDO).

HARD COPY SUBMITTAL REQUIREMENTS – SUBMIT TO PLANNING DEPARTMENT

- One (1) copy of Appeal Application
- The Appeal Application fee
- Copy of the written interpretation being appealed.
- A certified list of property owners of the land subject to the application.
- Notification list including property owners of the land subject to the application, all property owners and tenants abutting and located within 300 feet of the land subject to the application, and any neighborhood association that represents citizens within the notification area. This list must be obtained by emailing addressing.team@apexnc.org and will be provided within 5-10 business days of the initial request.
- Agent authorization form
- Affidavit of Ownership
- Envelopes Addressed to property owners subject to application and those on the notification list.
 - Addresses must be from the notification list obtained by emailing addressing.team@apexnc.org
 - Affixed with first class stamps and the following return address:
Town of Apex
Planning Department
P.O. Box 250
Apex, NC 27502

REVIEW FOR SUFFICIENCY: Planning staff checks application for sufficiency. Incomplete applications will be returned to the applicant. Sufficiently complete applications are forwarded to the planning staff for review.

QUASI-JUDICIAL PUBLIC HEARING NOTIFICATION: Quasi-judicial public hearing notifications includes three different methods.

- The Planning Department prepares written notifications (postmarked no less than 10 days and no more than 25 days prior to the Board of Adjustment meeting) for property owners land subject to the application and all property owners within 300 feet of the land subject to the application.
- A notice of the quasi-judicial public hearing will be published on the Town's website no less than 10 days and no more than 25 days prior to the quasi-judicial public hearing.
- A notice will be posted on the land subject to the application no less than 10 days and no more than 25 days prior to the quasi-judicial public hearing.

QUASI-JUDICIAL PUBLIC HEARING/BOARD OF ADJUSTMENT MEETING: The Board of Adjustment will consider the application, relevant support materials, the Staff Report, and public testimony given at the quasi-judicial public hearing. After the quasi-judicial public hearing the Board of Adjustment will vote to affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the standards in UDO Sec. 2.3.12.E *Standards*. The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination on appeal. The Board of Adjustment meets at 6:00 P.M. in the Town Hall Council Chambers on the date indicated on the Town of Apex Calendar of Meetings (typically the second Tuesday of each month).

APPEAL APPLICATION

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Application #: _____

Submittal Date: _____

Fee Paid \$ _____

Check # _____

APPLICANT INFORMATION

Applicant Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail Address: _____

OWNER INFORMATION

Owner Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail Address: _____

PROPERTY INFORMATION:

Address/Location: _____

Property PIN: _____

Acreage: _____ Zoning: _____

Town Limits: ☐ Inside corporate limits ☐ In ETJ ☐ Outside corporate limits and ETJ

Other contacts: _____

APPEAL APPLICATION

Application #: _____

Submittal Date: _____

To the Apex Board of Adjustment:

I, _____ hereby request the Apex Board of Adjustment consider my APPEAL from the following decision/interpretation of the Planning Director or other official:

This decision/interpretation relates to the following provisions of the Unified Development Ordinance (cite the paragraph numbers):

I believe the decision/interpretation of the Planning Director or other official is erroneous based on the following facts, materials, and evidence provided in support of my appeal (attach documents as necessary):

The decision/interpretation is adverse to my interests because:

STANDARDS BY WHICH THE BOARD OF ADJUSTMENT MAKES ITS DECISION:

Per Section 2.3.12.E of the Unified Development Ordinance, a decision/interpretation of the Planning Director or other official under the Unified Development Ordinance shall not be reversed or modified unless there is demonstrated evidence that the interpretation/decision is inconsistent with the intent and standards of the Unified Development Ordinance.

PETITIONER OR DESIGNATED REPRESENTATIVE CERTIFICATION:

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Signature

Date

CERTIFIED LIST OF PROPERTY OWNERS REQUESTING AN APPEAL

Application #:

Submittal Date:

1.

Print owner name(s) above_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

2.

Print owner name(s) above_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

3.

Print owner name(s)_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

4.

Print owner name(s)_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

5.

Print owner name(s)_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

6.

Print owner name(s)_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

7.

Print owner name(s)_____
Signature of owner(s)_____
Date_____
Print address of property_____
PIN #

AGENT AUTHORIZATION FORM

Application #: _____ Submittal Date: _____

_____ is the owner* of the property for which the attached application is being submitted:

- ☐ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: _____

The agent for this project is: _____

- ☐ I am the owner of the property and will be acting as my own agent

Agent Name: _____

Address: _____

Telephone Number: _____

E-Mail Address: _____

Signature(s) of Owner(s)*

Type or print name

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

AFFIDAVIT OF OWNERSHIP

Application #: _____

Submittal Date: _____

The undersigned, _____ (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at _____ and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated _____, and recorded in the Wake County Register of Deeds Office on _____, in Book _____ Page _____.
4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on _____, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on _____, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the _____ day of _____, 20____.

(seal)

Type or print name

STATE OF NORTH CAROLINA

COUNTY OF _____

I, the undersigned, a Notary Public in and for the County of _____, hereby certify that _____, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

[NOTARY SEAL]

Notary Public

State of North Carolina

My Commission Expires: _____

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: _____

Submittal Date: _____

Insert legal description below.