



VARIANCE APPLICATION PACKET

A REQUEST FOR AN APPEAL OF THE INTERPETATION OF THE ZONING ORDINANCE OR A VARIANCE REQUESTING AN EXCEPTION FROM THE ZONING ORDINANCE.

SUBMITTED BY:

DATE:

RECEIVED BY:

REQUIRED MATERIALS:

- COMPLETED APPLICATION
- \$500 APPLICATION FEE
- NECESSARY ATTACHMENTS
- PLOT PLAN

PLEASE SUBMIT THIS APPLICATION TO THE PLANNING & INSPECTIONS DEPARTMENT LOCATED WITHIN TOWN HALL AT 321 CAUSEWAY DRIVE, WRIGHTSVILLE BEACH, N.C. 28480 P.O. BOX 626. IF YOU HAVE QUESTIONS REGARDING THE APPLICATION PROCESS PLEASE CONTACT US AT 910-239-1749 OR BY EMAIL AT ROQUINN@TOWB.ORG.

PLEASE NOTE: APPLICATIONS FOR APPEALS OR VARIANCES MUST BE FILED WITHIN **30 CONSECUTIVE CALENDAR DAYS** AFTER THE ISSUANCE OF AN ORDER BY A PUBLIC OFFICIAL OR TOWN EMPLOYEE.



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Background Information

Relief from the decision of any public official or employee charged with enforcement of the Zoning Ordinance may be sought from the Board of Aldermen sitting in a quasi-judicial role as the Board of Adjustment. Through the **APPEAL** process, the Board of Adjustments decides whether to uphold or reverse the decision of a public official who has denied a permit request. In a **VARIANCE** process, the Board of Adjustment decides whether to issue or deny an exceptional permit based on the unique circumstances of a property within the zoning jurisdiction of the Town.

An **APPEAL** is a request for an interpretation of the Zoning Ordinance by the Board of Adjustment. It is used when a permittee disagrees with the interpretation or decision of a public official or Town employee charged with enforcement of the terms and provisions of the Zoning Ordinance. Upon hearing the **APPEAL**, the Board of Adjustment shall:

- A. Interpret the meaning of any parts of the ordinance that is unclear;
- B. Apply the ordinance to particular facts in the situation; and
- C. Vote to uphold the decision of the official or correct any mistakes or abuses of discretion that the official may have made in administering the Zoning Ordinance.

A **VARIANCE** is a permit the Board of Adjustment may grant in cases of unique circumstances and unnecessary hardships. The decision to grant the variance is based on four findings of fact. The **VARIANCE** enables a property owner to make reasonable use of their property in some way that conflicts with the literal provisions of the Zoning Ordinance; provided that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice is done.

155.4.4.8 Board of Adjustment Action on Appeals and Variances.

- A. **Appeals.** A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include a statement of the specific reasons or findings of facts that support the motion. A favorable vote of the majority of the members shall be required to reverse or modify the order, requirement, decision or determination appealed from.
- B. **Variance.** The board must take a separate vote and vote affirmatively (by a four-fifths majority-see Section 155.3.13) on each of the required findings stated in Section 155.4.4.2(B). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 155.4.4.2 (B) shall include a statement of the specific reasons or findings of fact supporting such motion.
- C. **A motion to deny** a variance may be made on the basis that any one or more of the criteria set forth in Section 155.4.4.2(B) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).



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PROPERTY INFORMATION

Property Information

Street Address: _____
Zoning District: _____
Structure Use: _____

Property Owner Information

Name: _____
Address: _____
Phone: _____
E-mail: _____

Applicant Information

Name: _____
Address: _____
Phone: _____
E-mail: _____

Description of Issue

Town Code Violation: _____
Section of Ordinances: _____
Notice Issued On: _____
Town Official's Name: _____

Issue Description/Findings of Fact

Variations are issued as exceptions to the Town's Zoning Ordinances. A variance may be granted in unique circumstances and when unnecessary hardships which, through strict interpretation of the Zoning Ordinance, prevent the owner from making reasonable use of their property. A request for a variance requires the applicant to consider four specific criteria. The applicant's response to these four criteria is referred to as the findings of fact. When developing your findings of fact, please refer to these four criteria and describe how they relate to your variance request. Also, please describe how the situation that prompted this variance request could not have been anticipated when the ordinances were written. The Board of Adjustment will make their decision based on the findings of fact, evidence, and testimony at the Board of Adjustment hearing.

I, _____, HEREBY PETITION the Board of Adjustment of the Town of Wrightsville Beach, North Carolina, for a Variance from the literal provisions of the Wrightsville Beach Zoning Ordinance because, under the interpretation given to me by the Zoning Code Administrator, I am prohibited from reasonable use of the parcel described above.

Applicant Signature: _____ Date: _____



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FINDINGS OF FACT

Findings of Fact (Section 155.4.4.2 Variances)

A variance may be granted by the Board of Adjustment if it concludes that, by granting the variance, the following findings are supported by the Board of Adjustment decision:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Findings of Fact Responses

In the spaces below, please address each of the four findings of fact. Feel free to attach additional sheets if needed.

Please explain how unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Please explain how the stated hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.



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FINDINGS OF FACT & PUBLIC NOTICE

Findings of Fact continued...

Please explain how the hardship, as previously stated, did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship

Please explain how the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Notice of Hearing (Section 155.4.4.6)

Notice of hearings conducted pursuant to Section 155.4.4.5 shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons owning real property, any portion of which is located within 150 feet of the lot that is the subject of the hearing.

In the absence of evidence to the contrary, the Town may rely on the county tax listings to determine owners of property entitled to mailed notice.

The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.



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ACKNOWLEDGEMENTS

Notice of Hearing (Section 155.4.4.6)

Please list the name and address of all persons owning real property within 150 feet of the address which is the subject of this variance hearing:

Please submit envelopes for each of these property owners and the proper amount of first class U.S. postage.

Acknowledgements:

I understand that the fee for this application is non-refundable _____ (Initial)
 I furthermore certify that I am authorized to grant and do in fact grant permission to Planning Staff and his/her agents to enter on the aforementioned lands in connection with evaluating information related to this permit application _____ (Initial)

 Property Owner's Signature _____
 Date

 Representative/Agent _____
 Date

 Date of Submission to the Town



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APPOINTMENT OF AGENT

Authority for Appointment of Agent:

The undersigned owner, _____, does hereby appoint _____ as his, her, or its exclusive agent for the purpose of petitioning the Town of Wrightsville Beach Board of Adjustment for a variance or appeal of the Town’s Zoning Ordinances, as applicable to the property having the address of _____ and described in the attached petition.

The owner does hereby covenant and agree with the Town of Wrightsville Beach that said agent has the authority to do the following acts for and on behalf of the owner:

1. To submit the proper paperwork for a variance or appeal; and
2. To appear at Board of Adjustment hearing(s) to give representation and commitments on behalf of the owner; and
3. To accept the conditions or recommendations made for the issuance of an exceptional permit or of the appeal of a decision of a town official or town employee; and
4. To act on the owners behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition.

This agency agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Property Owner Signature: _____ Date: _____

Agents Name, Address, Phone Number, and Email:
