



CASE No. \_\_\_\_\_  
BOA HEARING DATE \_\_\_\_\_

## TOWN OF MOORESVILLE – APPLICATION FOR A VARIANCE HEARING

### IMPORTANT INSTRUCTIONS FOR FILING A VARIANCE APPLICATION

#### **APPLICATION MAY BE FILED IN PERSON OR CAN BE ACCEPTED BY MAIL**

This application must be filed at least sixty (60) days before the meeting of the Town of Mooresville Board of Adjustment and within thirty (30) days of the Notice of Violation, if applicable. The application **must be submitted** to the Mooresville Development Services Department, 413 North Main Street, Mooresville, NC, 28115, by **12:00 noon on**\_\_\_\_\_. The meeting will be held on \_\_\_\_\_. You will be notified by mail of the date, time, and location of the Public Hearing. Applications are placed on the agenda according to the acceptance date. **A Zoning Board of Adjustment fee is required to be paid when submitting the variance application form. Make checks payable to the Town of Mooresville.**

**Residential / Commercial**

**\$ 500.00**

#### **The following information is required:**

1. Submit a physical survey (**not to exceed 8 ½“ x 14”**), or provide a scale drawing, describing the property and the variance request. Give all appropriate dimensions or computations, building / structures, and their distance to all property lines, right-of-ways, etc., pertaining to the requested variance.
2. If title to the property is not in the name of the applicant, include a notarized letter from the owner signifying his approval.
3. Application must be completed, dated, and signed by the appropriate parties, and notarized.

#### FOR YOUR INFORMATION

Upon filing a variance application with the Mooresville Board of Adjustment, the following rules and procedures shall apply until the Board has ruled on the variance request:

- No further construction work shall be done except in accordance with the provisions of the Zoning Ordinance.
- All legal proceedings to enforce compliance will be held in abeyance.
- All written or physical evidence (plans, maps, pictures, letters, etc.) presented before the Board becomes part of the physical record and property of the Town of Mooresville.
- All testimony given before the Board shall be given under oath.
- You have the right to appear and present your case before the Board.

- Applicants may be represented by council at their own expense, if they choose to do so.
- A Board member cannot discuss any case with any parties thereto prior to the public hearing on that case.

CHECK LIST OF ITEMS TO BE INCLUDED ON / WITH APPLICATION

- Have you been specific by stating the sections of the Ordinance related to your variance request?
- Have you described your variance request and included a physical survey or a site plan?
- Have you answered all the questions listed under the heading “FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE”?
- Is your application complete, dated, signed by the appropriate parties, and notarized?
- If you are not the property owner, have you included a notarized letter from the property owner giving you permission to appear before the Board?
- Names, addresses, and tax parcel numbers of adjacent property owners including those separated by street right of ways.
- Fee

**Your variance request will NOT be placed on the agenda if complete information and requested documentation is not included.**

**BOARD OF ADJUSTMENT HEARING PROCEEDINGS**

All exhibits should be numbered and must remain with the Board. Please turn them into the Zoning Administrator for tagging. The applicant shall have up to 15 minutes to speak. Other persons wishing to speak must sign in and are limited to three (3) minutes.

This is a *quasi-judicial* Board that can only accept sworn testimony. **Hearsay is not admissible.**

Appeal from this Board is to Superior Court of North Carolina. You have thirty (30) days from the date of the Board’s written decision to file an appeal.

The Development Services Department shall be notified in writing fifteen (15) days before the Board of Adjustment meeting of a withdrawal for the full refund of the application fee. Failure to withdraw within fifteen (15) days of the meeting date will forfeit all refunds.



CASE No. \_\_\_\_\_  
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**APPLICATION FOR A VARIANCE**

Variance request on property located at: \_\_\_\_\_  
Property Zoned: \_\_\_\_\_ PIN #: \_\_\_\_\_ Lot Size: \_\_\_\_\_  
Property Owner: \_\_\_\_\_  
Applicant: \_\_\_\_\_  
Applicant Address \_\_\_\_\_  
Applicant Phone # \_\_\_\_\_  
Date existing structure was erected: \_\_\_\_\_

**TO THE TOWN OF MOORESVILLE BOARD OF ADJUSTMENT:**

I \_\_\_\_\_ hereby petition the Board of Adjustment for a Variance from the literal provisions of the Mooresville Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using my parcel of land described above in the manner shown by the plot plan attached to this form. I requested a variance from the following provisions of the Zoning Ordinance (cite *Sections* numbers and *Code* requirements):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe the VARIANCE being requested on the above referenced property:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:**

The Board of Adjustment does not have unlimited discretion in deciding whether or not to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance, (b) that the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit, and (c) that in granting the variance, the public safety and welfare have been assured and that substantial justice has been done. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board, to properly determine that each of these three (3) CONCLUSIONS are applicable to the structure of the site. A through E are the Findings of Fact questions that the Board will answer following the Public Hearing. They must answer yes to each Finding in order to grant the variance.

- (A) THERE ARE PRATICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN APPLICATION OF THE ORDINANCE REQUIREMENTS. The courts have developed three (3) rules to determine whether, in a particular situation, “practical difficulties or unnecessary hardships” exist. State the facts and arguments in support of each of the following; (1) if he complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (2) The hardship of which the Applicant complains results from unique circumstances related to the Applicant’s land. (3) The hardship is not a result of the Applicant’s own actions (see Finding B).

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- (B) ANY PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS ARE NOT THE RESULT OF THE ACTIONS OF THE APPLICANT.

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- (C) THE REASONS SET FORTH IN THE APPLICATION JUSTIFY THE GRANTING OF A VARIANCE, AND THAT THE VARIANCE IS THE MINIMUM ACTION THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE LAND OR STRUCTURES.

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- (D) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THIS ORDINANCE AND PRESERVES IT’S SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.

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- (E) IN THE GRANTING OF THE VARIANCE, THE PUBLIC SAFETY AND WELFARE HAVE BEEN ASSURED AND SUBSTANTIAL JUSTICE HAS BEEN DONE.

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

\_\_\_\_\_  
Signature of Applicant / Owner                      Date

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Complete Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Zip

\_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness by my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

IF THE APPLICANT IS NOT THE OWNER OF THE PROPERTY, indicate the owner's name and address, along with a notarized letter signifying approval TO REQUEST A VARIANCE on his/her property.

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone # and email address

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Please list all the abutting property owners below. If there are not enough spaces please follow the same format below on a separate sheet and attach to the application.

Name	Tax Parcel & Lot Number	Address
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		

**This information can be obtained through the Iredell County Web Page at [www.co.iredell.nc.us](http://www.co.iredell.nc.us) then click on GIS. If you need assistance call the Iredell County Mapping Department at 878-3137 or the Mooresville Development Services Department at 662-7040.**