

**IMPORTANT INSTRUCTIONS FOR FILING A
VARIANCE APPLICATION**

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

An application must be filed at least sixty (60) days before the meeting of the Town of Mooresville Board of Adjustments; and, within thirty (30) days of the Notice of Violation, if applicable. The application must be submitted to the Mooresville Planning Department, 413 North Main Street, Mooresville, NC, 28115. You will be notified by mail of the date, time, and location of the meeting. Applications are placed on the agenda according to the acceptance date. A Zoning Board of Adjustments non refundable fee of \$500.00 is required to be paid when submitting the variance application form. Applications available in our office or online at our website.

Purpose

The purpose of a Variance is to allow certain deviations from the standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards), when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Authority

The Board of Adjustment shall review and decide any applications for variances from the requirements of this Ordinance in accordance with this section.

Procedure

Preliminary Procedure

The preliminary procedures and requirements for submission and review of an application are established in Section 2.2, Common Review Procedures.

Review and Action by Board of Adjustment

After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the Board of Adjustment shall conduct a quasi-judicial public hearing on the application. At the public hearing, the Board of Adjustment shall consider the application, the relevant support materials, the Staff Report, and the sworn testimony given at the public hearing.

Within 31 days following the close of the public hearing, the Board of Adjustment shall approve, approve with conditions, or deny the application based on the standards in Section 2.3.4(4), Variance Standards. Granting a Variance shall require an affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote. All decisions by the Board of Adjustment shall be in writing, and shall be filed by the Planning Department.

Variance Standards

The Board of Adjustment shall only grant a Variance after having first held a public hearing on the matter and having made the following determinations or findings of fact:

- There are practical difficulties or unnecessary hardships in application of the Ordinance requirements; and
- Any practical difficulties or unnecessary hardships are not the result of the actions of the applicant; and
- 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 land or structures; and
- The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
- In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

- The citing of other nonconforming or conforming uses of land or structures in the same or other districts;
- The request for a particular use expressly, or by inference, prohibited in the district; or
- Economic hardship or the fact that property may be utilized more profitably with a Variance.

Conditions of Approval

The Board of Adjustment, in granting a Variance, may prescribe conditions in accordance with Section 2.2.15, Conditions of Approval.

Recordation

The applicant shall record the written decision on the Variance with the Iredell County Register of Deeds, and provide evidence of recordation to the Planning Department within 30 days of its approval.

Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the Town. A Variance shall not ensure that the development receiving a Variance receives subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

Lapse

Except where required as a prerequisite for a Site Plan or Subdivision Preliminary Plat associated with new development, an approved Variance shall run with the land. In cases where a Variance is a prerequisite to Site Plan or Subdivision Preliminary Plat approval, failure of an applicant to apply for a Building Permit and commence construction within one year of receiving Variance approval shall automatically render the decision of the Board of Adjustment null and void. Such time period shall not be extended with transfer of ownership.

Appeals

Any appeal from the decision of the Board of Adjustment shall be to the Superior Court for Iredell County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision of the Board of Adjustment is filed in the Planning Department, or after the date a written copy of the decision is delivered (via personal delivery or by registered or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the public hearing, whichever is later.

Rehearing Following Denial

The Town shall not accept an application for a similar variance request affecting the same property(ies) for a period of one year following the date of denial, unless substantial new evidence is presented.

FOR YOUR INFORMATION

Upon filing a variance application with the Mooresville Board of Adjustments, 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, and signed by the appropriate parties?
- 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 (\$500.00) Non-refundable

Town of Mooresville
Planning & Zoning Dept.
413 N. Main St.
Mooresville, NC 28115



Variances



Check us out on the web
www.ci.mooreville.nc.us

Click on **PLANNING DEPT**
(menu on left side of screen)

Maps, Zoning Ordinances, Planning Department Forms, Applications, services, and information regarding our department.

Planning and Zoning Department contact information:

Mandy Edwards	Zoning Administrator	(704) 799-4089
Tammy Heck	Zoning Administrator	(704) 662-6581
Jim King	Senior Planner	(704) 799-8018
Craig Culberson	Senior Planner	(704) 662-7041
Maureen Gable	Planner	(704) 662-3204
Cindy Sparks	Planning Technician	(704) 662-7040
Tim Brown	Planning Director	(704) 799-8019
Irene Mann	GIS/Mapping Tech	(704) 662-3191
Neil Burke	Transp. Planner	(704) 663-6891
Planning	Main Fax	(704) 662-7039