

City of



Lumberton

Planning & Neighborhood Services

Variance process is as follows:

Applications must be submitted at least four (4) weeks prior to the intended Board of Adjustment Meeting.

- 1) Submit a completed application, along with the application fee of \$350 and a detailed business plan and site plan.
- 2) Once the Planning Department receives the above information, we will schedule a preapplication meeting, if needed. After the meeting, the Planning Department will submit the application to the Secretary for the Board of Adjustment requesting it to be placed on the Board of Adjustment's Agenda.
- 3) Once the meeting date has been determined, you will be notified of the time, date, and location of the public hearing. Please have a representative familiar with the request plan to attend this meeting/hearing.
- 4) The Board of Adjustments will hold the scheduled Public Hearing.
 - a) If the application is denied, you will be notified.
 - b) If the application is tabled for more information, you will be notified.
 - c) If the application is approved, the property owner will receive a Variance Permit that must be signed and notarized by all property owners. If there is more than one property owner, please request additional signature sheets. The signed permit must be returned to the Planning Department along with a check/money order for \$26.00 (recordation fees subject to change without notice), **payable to: Robeson County Register of Deeds** (personal checks will not be accepted).
 - d) Once the permit has been recorded, you may contact the Planning and Inspections Departments to obtain the necessary development permits.

Application must be complete prior to acceptance

City Council meets every second Monday of the month.

City Council Policy Committee meets the Wednesday before the City Council Meeting.

Planning Board/Board of Adjustments meet every third Tuesday of the month.

*** Dates, times, fees and process are subject to change***

The Rules

- Why rules? If you disagree with the decision you must petition the Superior Court (not City Council). The rules are followed to facilitate a fair hearing and court review.
- Speakers must be sworn or affirmed.
- The Applicant must prove by clear and convincing evidence as to each "factor" in the application why he should be treated different from other citizens subject to the ordinance. 4 out of 5 Board members must vote in favor of the Applicant to obtain a variance.
- Rules of evidence apply. [1] Since the Board will only consider the statements and items presented at the Hearing, request your application, documents, pictures, etcetera. be made part of the record. [2] Bring your speakers. A speaker can not say what someone else said. This would be considered hearsay and is not permitted.
- The Chair may limit the number of speakers and/or set time limits.
- Any Board member may ask a question of any speaker at any time.
- Possible Parties: The Applicant, the City Planning Department and opponents, if any. If there are several persons in opposition, they should select a spokesperson for their group.

**City of Lumberton
500 N Cedar Street
Lumberton, NC 28358**

TO:



Board of Adjustment Procedure

The Board of Adjustment is established by the City of Lumberton to hear and determine zoning ordinance variance requests in a fair and impartial manner. The Board is composed of citizens; not city employees.

The Board consist of 5 members with 1 acting as the Chair. The Hearing is a quasi-judicial hearing which means it is similar to a court hearing and the Board members act as judges. There is an order to how the meeting is conducted and rules to be followed. The chair will stop someone if he goes outside the rules. You can, but are not required to, have an attorney speak for you.

- City Attorney: The City Attorney will sit with the Board to provide the Board legal guidance and instruction. He will swear or affirm all parties indicating a desire to be heard (be a speaker).
- Stipulations: The Applicant and the City may, but are not required to, announce any agreements whether as to facts, documents, proposal of facts, etc. When received by the Board the same shall be treated as part of the factual record without further action.
- Proposal of Fact: Any party may submit its proposal of the Findings of Fact. The Board is at liberty to accept or reject; use or ignore the same.

The Order of the Hearing

- The meeting is opened and the agenda matter will be read by the board chairman.
- The Applicant and his speakers, Planning Department representative and anyone else (opponent) will be asked to come forward and be sworn or affirmed.
- The Planning Department representative will make a brief statement as to the reason for the variance request. By agreement (especially if Applicant is represented by an attorney) the Planning Department can allow the Applicant to make the statement.

- Since the Applicant has the burden of proving why he should be allowed relief from the ordinance, at the podium, he will present his speakers and documents first.
- When a speaker concludes his remarks, any Board member, Applicant, Planning Department representative and/or opponent spokesperson may ask him questions, in the order as stated. The applicant may ask any speaker additional follow up questions.
- After the Applicant has presented all his speakers, the Planning Department representative may present statements and documents and be subject to questions as stated above for the Applicant from other parties.
- If there are opponents, he or the spokesperson may present statements and documents and be subject to questions as stated above from other parties.
- The Applicant may present additional statements to answer or respond to statements made by the other parties, subject to questions as stated above to the Applicant.
- The Applicant may make closing remarks summarizing his evidence and the factors. The Chair may, but shall not be required to, hear statements of other parties and if allowed, will precede the Applicant.
- The Chair will close the hearing as to any additional statements.

The Findings and Decision

- The Board in open or closed session, that day or at the next meeting, render its decision.
- A summary of the Facts will be made and approved by the Board. The Board may, but shall not be required to, use proposed facts from another party.
- The Board shall vote on each factor as to whether or not the Applicant has proven his hardship for relief from the ordinance. Factors can be voted individually or consolidated into 1 or more groups. The decision requires 4/5th affirmative vote for the Applicant to receive approval.
- Based on the preceding vote, the Board shall next vote to grant or deny the request. The vote requires 4/5th affirmative vote for final approval.
- A written document, signed by the Chair, will state the Board's action in a format approved by the City Attorney. The Applicant will then be given a copy.
- If the variance is granted, a memorandum of the same shall be recorded in the county register of deeds. The recordation fees are paid by the applicant. Once recorded, the Applicant will be provided a copy.

**DEPARTMENT OF PLANNING & NEIGHBORHOOD SERVICES
CITY OF LUMBERTON, NORTH CAROLINA
APPLICATION FOR A VARIANCE**

TO: THE BOARD OF ADJUSTMENT OF THE CITY OF LUMBERTON

1. Applicant: Owner (if different from Applicant):

(Name)	(Name)
(Address)	(Address)
City/State/Zip	City/State/Zip
(Telephone)	(Telephone)

2. Description of Property:

(Address)	(Deed Book)	(Page)
(Map Book)	(Page)	(Area)

3. Tax Map Identification:

(Township)	(Map)	(Block)	(Parcel)
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4. Proposed Use of Property: _____

5. Zoning District Designation of Property: _____

6. Variance requested to requirement of Section 35-: _____

7. Purpose of Variance: _____

8. Development Site Plan: See Appendix A of Land Use Ordinance.

9. Notice of Hearing: All property owners within 150' of the perimeter of the property subject of this petition must be notified by first class mail. Please attach list of all such property owners as reflected on the current tax Assessor's Roll with current mailing addresses, Taxing Township, Map Number, Block Number, and parcel Number.

10. Factors Required to Grant a Variance: When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following "factors". In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make so that the Board may conclude that the factors exist. (No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.):

a) Unnecessary hardship would result from the strict application of the ordinance:

b) 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.):

(Over)

c) The hardship did not result from actions taken by the applicant or the property owner:

d) 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:

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

(Applicant Signature) _____ (Date)

(Owner Signature) _____ (Date)

(Received By) _____ (Date)

City of



Lumberton

Planning & Neighborhood Services

Authorization to appear before City Council/Planning Board/Board of Adjustment on the behalf of the property owner(s).

Application File No.: _____

Property address: _____ Parcel #: _____

I, _____ (property owner), give Dr./Mr./Ms. _____ the authority to appear before City Council/Planning Board/Board of Adjustment on my behalf.

Authorized Person (print/type full name): _____

Signature: _____ **(Authorized Person)**

Authorized Actions: Appear before City Council/Planning Board/Board of Adjustment on property owner's behalf; Answer questions of the board(s) on property owner's behalf; Appear as the applicant.

1. The North Carolina State Bar has opined on more than one occasion, that non-lawyers representing someone else at a quasi-judicial hearing (such as variances and special use permits) constitutes the unauthorized practice of law (The City Attorney can provide copies of these opinions). Simply providing factual or expert testimony as a witness does not violate this rule.
2. If the applicant is not present and the representative does not have sufficient knowledge regarding the application to satisfy the Planning Board or Board of Adjustment, this may cause the request to be tabled or denied.

I, the undersigned, (owner of the above described property), do hereby acknowledge: (1) that I give authority to the authorized person listed above to appear before City Council/Planning Board/Board of Adjustment on my behalf, (2) that this authorization will not waive my rights as the property owner.

STATE OF _____ COUNTY OF _____

I, _____, a Notary Public in and for said County and

State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____.

Appendix A Information Required With Applications

A-1. In general.

- (a) As provided in section 35-49, it is presumed that all of the information listed in this appendix must be submitted with an application for a zoning, sign, or special use, permit to enable the permit-issuing authority to determine whether the development, if completed as proposed, will comply with all the requirements of Chapter 35. As set forth in section 35-92, applications for variances are subject to the same provisions. However, the permit-issuing authority may require more information or accept as sufficient less information, according to the circumstances of the particular case. A developer who believes information presumptively required by this appendix is unnecessary shall contact the planning staff for an interpretation.
- (b) As also provided in section 35-49, the administrator shall develop application processes, including standard forms, to simplify and expedite applications for simple developments that do not require the full range of information called for in this appendix. In particular, developers seeking only permission to construct single-family houses or duplexes or to construct new or modify existing signs should contact the administrator for standard forms.

(Ord. No. 813, § 1, 6-3-85)

A-2. Written application.

Every applicant for a variance or a zoning, sign, or special use permit shall complete a written application containing at least the following information:

- (1) The name, address, and phone number of the applicant.
- (2) If the applicant is not the owner of the property in question, (i) the name, address, and phone number of the owner, and (ii) the legal relationship of the applicant to the owner that entitles the applicant to make application.
- (3) The date of the application.
- (4) Identification of the particular permit sought.
- (5) A succinct statement of the nature of the development proposed under the permit or the nature of the variance.
- (6) Identification of the property in question by street address and tax map reference.
- (7) The zoning district within which the property lies.

- (8) The number of square feet in the lot where the development is to take place.
- (9) The gross floor area of all existing or proposed buildings located on the lot where the development is to take place.
- (10) If the proposed development is a multifamily residential development, the number of one-, two-, three-, or four-bedroom dwelling units proposed for construction.

(Ord. No. 813, § 1, 6-3-85)

A-3. Development site plans.

Subject to section A-1 of this appendix, every application for a variance or a zoning, sign, or special use permit shall contain plans that locate the development site and graphically demonstrate existing and proposed natural, manmade, and legal features on and near the site in question, all in conformity with sections A-4 through A-6 of this appendix.

(Ord. No. 813, § 1, 6-3-85)

A-4. Graphic materials required for plans.

- (a) The plans shall include a location map that shows the location of the project in the broad context of the city or planning jurisdiction. This location map may be drawn on the development site plans or it may be furnished separately using reduced copies of maps of the Lumberton planning jurisdiction available at the planning and inspections department.
- (b) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Very large developments may require that plans show the development in sections to accomplish this objective without resort to plans that are so large as to be cumbersome, or the objective may be accomplished by using different plans or plans drawn to different scales to illustrate different features. In all cases, the permit-issuing authority shall make the final determination whether the plans submitted are drawn to the appropriate scale, but the applicant for a special use permit relies in the first instance on the recommendations of the administration.
- (c) Development site plans should show on the first page the following information:
 - (1) Name of applicant;
 - (2) Name of development (if any);

- (3) North arrow;
- (4) Legend;
- (5) Scale.
- (d) All of the features required to be shown on plans by sections A-5 and A-6 may be included on one set of plans, so long as the features are distinctly discernible.

(Ord. No. 813, § 1, 6-3-85)

A-5. Existing natural, manmade and legal features.

- (a) Development site plans shall show all existing natural, manmade, and legal features on the lot where the development is to take place, including but not limited to those listed below. In addition, the plans shall also show those features indicated below by an asterisk [*] that are located within fifty (50) feet in any direction of the lot where the development is to take place, and shall specify (by reference to the table of permissible uses or otherwise) the use made of adjoining properties.
- (b) *Existing natural features:*
 - (1) Treeline of wooded areas.
 - (2) Orchards or other agricultural groves by common or scientific name.
 - ;anchor;(3) Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains.
 - (4) Base flood elevation data (See Article XVI, Division 1).
 - ;anchor;(5) Contour lines (shown as dotted lines) with no larger than two-foot contour intervals. (As indicated in subsection A-6(b)(17), proposed contour lines shall be shown as solid lines.)
- (c) *Existing manmade features:*
 - ;anchor;(1) Vehicle accommodation areas (including parking areas, loading areas and circulation areas, see section 35-290), all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways.
 - (2) Streets, private roads, sidewalks, and other walkways, all designated by surface materials.
 - (3) Curbs and gutters, curb inlets and curb cuts, and drainage grates.

- (4) Other storm water or drainage facilities, including manholes, pipes, and drainage ditches.
- (5) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television.
- (6) Aboveground utility lines and other utility facilities.
- ;
- ;anchor;(7) Fire hydrants.
- ;anchor;(8) Buildings, structures and signs (including dimensions of each).
- (9) Location of exterior light fixtures.
- ;anchor;(10) Location of dumpsters.

(d) *Existing legal features:*

- (1) The zoning of the property, including zoning district lines where applicable.
- (2) Property lines (with dimensions identified).
- (3) Street right-of-way lines.
- (4) Utility or other easement lines.

(Ord. No. 813, § 1, 6-3-85)

A-6. Proposed changes in existing features or new features.

- (a) Development site plans shall show proposed changes in (i) existing natural features (see A-5(b)), (ii) existing manmade features (see A-5(c)), and (iii) existing legal features (see A-5(d)).
- (b) Development site plans shall also show proposed new legal features (especially new property lines, street right-of-way lines, and utility and other easements), as well as proposed manmade features, including, but not limited to, the following:
 - (1) The number of square feet in every lot created by a new subdivision.
 - (2) Lot dimensions, including lot widths measured in accordance with section 35-183.

- (3) The location and dimensions of all buildings and freestanding signs on the lot, as well as the distances all buildings and freestanding signs are set back from property lines, streets or street right-of-way lines (see section 35-184.)
- (4) Principal side(s) building elevations for typical units of new buildings or exterior remodelings of existing buildings, showing building heights (see section 35-185) and proposed wall sign or window sign area.
- (5) The location and dimensions of all recreational areas provided in accordance with Article XIII, with each area designated as to type of use.
- (6) Areas intended to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.
- (7) Streets, labeled by classification (see section 35-210) and street name showing whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths. Private roads in subdivisions shall also be shown and clearly labeled as such.
- (8) Curbs and gutters, curb inlets and curb cuts, drainage grates.
- (9) Other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc.
- (10) Sidewalks and walkways, showing widths and surface material.
- (11) Bridges.
- (12) Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance with section 35-242.
- (13) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television. Water and sewer pipeline signs shall be labeled.
- (14) Aboveground utility lines and other facilities.
- (15) Fire hydrants.
- (16) Dumpsters.
- (17) New contour lines resulting from earth movement (shown as solid lines) with no larger than two-foot contour intervals (existing lines should be shown as dotted lines).
- (18) Scale drawings of all signs requiring permits pursuant to Article XVII, together with an indication of the location and dimensions of all such signs.

- (19) Vehicle accommodation areas (including parking areas, loading areas, and circulation areas, see section 35-290), all designated by surface material showing the dimensions and layout of proposed parking spaces and the dimensions and direction of travel of lanes, aisles, and driveways.
- (20) Proposed plantings or construction of other devices to comply with the screening requirements of Article XIX.

(Ord. No. 813, § 1, 6-3-85)

A-7. Documents and written information in addition to plans.

In addition to the written application and the plans, whenever the nature of the proposed development make information or documents such as the following relevant, such documents or information shall be provided. The following is a representative list of the types of information or documents that may be requested:

- (1) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
- (2) Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development, as set forth in Article XV, and that all necessary easements have been provided.
- (3) Detailed description of play apparatus to be provided in miniparks.
- (4) Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities.
- (5) Bonds, letters of credit, or other surety devices.
- (6) Stamped envelopes containing the names and addresses of all those to whom notice of a public hearing must be sent to comply with section 35-102 or section 35-52.
- (7) Complete documentation justifying any requested deviation from specific requirements established by this chapter as presumptively satisfying design standards.
- (8) Written evidence of permission to use satellite parking spaces under the control of a person other than the developer when such spaces are allowed pursuant to section 35-298.

- (9) Written evidence of good faith efforts to acquire satellite parking under the circumstances set forth in section 35-299.
- (10) Time schedules for the completion of phases in staged development, as required by section 35-61.
- (11) The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.

(Ord. No. 813, § 1, 6-3-85)

A-8. Number of copies of plans and documents.

With respect to all plans and other documents required by this appendix, the developer shall submit the number of copies (not to exceed fifteen (15)) that the administrator deems necessary to expedite the review process and to provide necessary permanent records.

(Ord. No. 813, § 1, 6-3-85)