TOWN OF MOORESVILLE – APPLICATION FOR A VARIANCE HEARING

IMPORTANT INSTRUCTIONS FOR FILING A VARIANCE APPLICATION

DISCUSSION ABOUT THE CASE IS NOT PERMITTED WITH BOARD MEMBERS!

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 Adjustments and within thirty (30) days of the Notice of Violation, if applicable. The application must be submitted to the Mooresville Planning & Community Development 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 Adjustments fee is required to be paid when submitting the variance application form. Make check payable to Town of Mooresville.

Residential/Commercial $500.00

The following information is required:

1. Submit a physical survey (not to exceed 8.5" x 11"), 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 Adjustments, the following rules and procedures shall apply until the Board has ruled on the variance request:

- No future construction work shall be done except in accordance with the provisions of the Zoning Ordinance.
- All 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 appeal and present your case before the Board.
- Applications may be represented by counsel 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.
CASE NO. __________________
BOA HEARING DATE ________________

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 number 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 Planning & Community Development 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.
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 numbered and Code requirements):

________________________________________________________________________

Describe the VARIANCE being requested on the above referenced property:

________________________________________________________________________

________________________________________________________________________

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustments 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 hardship 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 various, 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 PRACTICAL 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).

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

(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.

(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.)

(E) IN THE GRANTING OF THE VARIANCE, THE PUBLIC SAFETY AND WELFARE HAVE BEEN ASSURED AND SUBSTANTIAL JUSTICE HAS BEEN DONE.
I certify that all of the information resented 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

____________________________
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
Please list all abutting property owners below.

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This information can be obtained through the Iredell County Web Page at www.co.iredell.nc.us then click on GIS. If you need assistance call the Iredell County Mapping Department at 704-878-3137 or the Mooresville Planning and Community Development Department at 704-662-7040.
TOWN OF MOORESVILLE

“FINDINGS OF FACT” CHECKLIST

Variance Request

Application Number: ___________________________ Date of Application: __________

Applicant’s Name: ____________________________

Property Location: ____________________________

Tax Map No. __________________________________ Existing Zoning: __________

Proposed Variance: ____________________________

FINDINGS OF FACT

FOR EACH OF THE FOLLOWING ITEMS PLEASE STATE THE FACTS THAT SUPPORT YOUR VOTE.

☐ YES ☐ NO There are practical difficulties or unnecessary hardships in application of the Ordinance requirements; Explain: _______________________________________

☐ YES ☐ NO Any practical difficulties or unnecessary hardships are not the result of the actions of the applicant. Explain: _______________________________________

☐ YES ☐ NO 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; Explain: _______________________________________

☐ YES ☐ NO The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; Explain: _______________________________________

☐ YES ☐ NO In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done. Explain: _______________________________________

After having a public hearing on ____________ 20__, and in light of the findings of fact listed herein, the following action was taken by the Mooresville Board of Adjustment: ____________________________

________________________________________________________________________

In approving said Variance, the following conditions were imposed by the Mooresville Board of Adjustment: ____________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Board of Adjustment Chair, Town of Mooresville ____________________________ Date __________