

VARIANCE REQUEST

CITY HALL • 801 WEST AVENUE NW • PO BOX 958 • LENOIR, NC 28645

For questions about this application form or the variance procedure, please contact the Planning Department at 828.610.8442 to schedule a pre-application meeting. **Variance applications are heard by the Board of Adjustment (BOA).** A week prior to the BOA meeting, your request will be advertised in the News-Topic and courtesy notices will be mailed to the owners of property within 100 ft. of your property.

Submittal Checklist:

Application Form with Variance Justification Statements

Application Fee (\$250 — cash or check payable to City of Lenoir)

Site Plan* Must include:

- Property Lines
- Existing Development
- Proposed Development

*Typically, this can be simply accomplished with a hand drawing on a copy of a survey or aerial photograph. Make sure the hand drawing is "to-scale" and identify the setbacks. Provide 1 copy, maximum of 11" x 17".

Variance Information:

Property Address: _____ NC PIN: _____

Zoning District: _____ Current use of subject property: _____

Requested Variance (cite sections): _____ Proposed: _____

Required: _____

Contact Information:

Name of Applicant _____

Street Address _____

City _____ State _____ Zip _____

Phone Number: _____

Email: _____

Name of Property Owner _____

Street Address _____

City _____ State _____ Zip _____

Phone Number: _____

Applicant's Signature: _____

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

Owner's Signature: _____

By signing, I authorize _____ (Applicant) as my representative to request the variance on the real property listed in this application, and give full and complete permission for the Applicant to act on my behalf.

OFFICIAL USE ONLY:

Case Number: _____ Received : _____ Advertised on: _____ BOA meeting: _____

Final Judgment (approval or denial) : _____ Final judgment mailed to applicant: _____

The Board of Adjustment (BOA) does not have unlimited discretion in deciding whether to grant a variance. NC General Statutes (NCGS 160A-388) require the applicant to show all of the following justifications before the BOA grants a variance. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the BOA that the variance is justified. Provide additional sheets as necessary. A super-majority (5/6) of the BOA must answer **YES** to **ALL** of the below statements for the variance to be granted.

Variance Justification

An unnecessary hardship is created from the strict application of the ordinance. Whenever there is regulation, there is some level of necessary hardship and inconvenience shared by all of the community. An applicant must show *unnecessary* hardship, that is greater than a mere inconvenience or a preference for a more lenient standard. Cost of compliance may be a factor, but cost is not determinative. The hardship must come from the application of the ordinance. *Note: Prior to 2013, the City of Lenoir held that a hardship did not meet this standard unless the applicant showed **no** reasonable use of the property without the variance. This strict standard is no longer allowed under state statutes.*

The unnecessary hardship is peculiar to the property. The hardship must be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from the location of the property, size or shape of the lot, or topography or water features on the site. Hardships that result from personal circumstances may not be the basis for granting a variance. The board is looking at the nature of the property and the land use ordinances, not the nature of the applicant and their circumstances.

The Hardship is not self-created. The hardship must not result from actions taken by the applicant or property owner. Ignorance of the law is a self-created hardship — variances requested due to the owner’s failure to obtain appropriate building and zoning permits prior to construction will not be approved. However, purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not considered a self-created hardship.

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. Where an ordinance expresses a clear intent, the variance cannot subvert that intent. The variance cannot harm public safety, even if the request meets the “unnecessary hardship” test. And the Board must ensure that substantial justice is achieved in the issuance of each variance — the board will consider issues of fairness for the community, neighbors, and prior applicants in their decisions.
