

REMINDER

When applying for a variance, it is important to realize that **YOU** have the responsibility of proving that you need the variance because of a hardship. Also, please note that Board members are not allowed to discuss the case outside the public hearing.

What happens if the variance is granted?

If the Board decides to grant the variance, they may place certain restrictions or conditions on the variance to protect the public interest and neighboring property owners.

For example, if you are permitted to construct your building 5 feet from the property line rather than the required 10 feet, you might have the condition that your maximum building height is 30 feet rather than the permitted 35 feet.

If you would like additional information, please contact the Huntersville Planning Department at 704-875-7000.

What options do you have if your variance is denied?

If your variance is denied, you may abide by the ordinance requirement, or you may choose to appeal the decision to the Mecklenburg County Superior Court. If you choose to appeal the decision, you will have 30 days to do so from date you receive the Board's decision letter.



Town of Huntersville
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105 Gilead Road, Third Floor
Huntersville NC 28070
Phone: 704-875-7000
Fax: 704-992-5528
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The Town of Huntersville Zoning Ordinance is available online at www.huntersville.org (click on *Town Government*, then *Planning*, then *Ordinances & Manuals*).

Board of Adjustment Variance Requests



Planning Department

Phone: 704-875-7000
Website: www.huntersville.org



Who is the Board of Adjustment?

The Board of Adjustment is a quasi-judicial board with 7 permanent members and 3 alternate members, comprised of citizens residing in Huntersville and its Extraterritorial Jurisdiction (ETJ). The Board of Adjustment is a volunteer board appointed by the Town Board of Commissioners.

What is their function?

The Board of Adjustment has primarily two main functions:

1. **Consider variance requests**-If certain hardships exist, the Board can vary the law to alleviate the hardship based on criteria established by NC Legislation.
2. **Consider appeal requests**-If you do not agree with Planning Staff's interpretation of the Zoning Ordinance, you may appeal the decision to the Board of Adjustment. The Board does not have power to change the Ordinance and is limited to its interpretation. Decisions are based on what the Board believes to be the actual meaning and intent of the ordinance. (Information regarding the appeal process may be found in a separate brochure).

What factors are considered in variance cases?

Standards for granting a variance can be found in Article 11.3.2.e of the Zoning Ordinance.

Before granting a variance, the Board of Adjustment shall have made the following findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. 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.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.



4. 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.

What happens next?

Upon receiving a valid application Planning Staff will schedule your variance request for public hearing on the Board of Adjustment meeting agenda and will send written notice to person(s) filing the variance, the owners of the subject property, and the adjacent property owners.

How many Board members have to vote in favor of a variance in order for it to pass?

Four-fifths of the Board's members, or 6 of the 7 members, must vote in favor of each finding of fact for a variance to be granted. For example, a variance would be denied if 2 or more of the Board members voted against any one of the findings of fact. The Board will notify the applicant of their decision in writing regardless of whether the variance passed or failed within 5 days of the meeting.