



Variance Review Process

Contact Information

Town of Huntersville	Phone:	704-875-7000
Planning Department	Physical Address:	105 Gilead Road, Third Floor, Huntersville, NC 28078
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Huntersville, NC 28070		

Standards for Granting 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 the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (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 is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Notes:

- 1) Mountain Island Lake Watershed and Lake Norman Watershed – Appeals of and variances from watershed requirements are additionally subject to the requirements of Articles [3.3.2-C](#) and [3.3.3-B](#) of the Zoning Ordinance respectively.
- 2) S.W.I.M. Buffers – Appeals of and variances from S.W.I.M. Buffer requirements are additionally subject to the requirements of [Article 8.25.11](#) of the Zoning Ordinance.
- 3) No change in permitted uses may be authorized by variance.
- 4) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this section.

DISCLAIMER: THE VARIANCE PROCESS IS A QUASI-JUDICIAL PROCEDURE. CONTACT WITH THE BOARD OF ADJUSTMENT SHALL ONLY OCCUR UNDER SWORN TESTIMONY.

Step 1 Feasibility Meeting (optional)

A project feasibility meeting is a meeting to discuss potential submittals. There are no minimum requirements or plans required to schedule a meeting of this type. Feasibility meetings for variance applications can assist with determining if a variance is the most appropriate process for a property.

Step 2 Pre-Submittal Meeting (optional)

Staff advises the applicant to schedule a pre-submittal meeting with Town Staff to discuss the submittal process, application requirements, review fees, public notification requirement, evidentiary hearing process, etc.

Step 3 Initial Submittal Requirements

- Review Fee (Electronic Payment: [Payment Link](#), Check: See P.1 For Address)
- Variance Application with Evidence (Email: planning@huntersville.org, Hard Copy: See P.1 For Address)

Step 4 Board of Adjustment Hearing

Once all the submittal requirements are received by the Town of Huntersville Planning Department, Staff will request the item to be added to the Board of Adjustment meeting agenda.

Step 5 Notice of Hearing

Notice of Hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing is the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the Town may rely on the County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a Notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Step 6 Hearing Process

An evidentiary hearing is intended to gather competent, material, and substantial evidence to make findings for a quasi-judicial decision. During the hearing, witnesses and parties present sworn testimony based only on fact-based evidence. Staff will present findings of fact and the applicant will also have the opportunity to present findings of fact and provide testimony. Witnesses will have the opportunity to present testimony. Members of the Board of Adjustment will have the opportunity to ask questions of Staff, the applicant, and witnesses before deliberating upon the facts of the case.

Step 8 Voting by BOA

The concurring vote of four-fifths of the Board shall be necessary to grant a variance, including a variance as the Watershed Review Board. Except in the case of a variance, including a variance as the Watershed Review Board, a majority of the members shall be required to decide any other quasi-judicial matter, or to determine an appeal, or to enter a decision. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter pursuant to Section III. C. shall not be considered members of the Board for calculation of the requisite majority if there are no qualified Alternates available to take the place of such members. No more than seven (7) Regular and Alternate members may vote on any matter for which a public hearing was held. The Chairman shall be able to vote on any matter, including making and seconding a motion. No Board members shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing on

that application. If, during the review of any matter, a board member's term ends or is otherwise no longer with the Board, a different board member may vote on the matter after fully reviewing any available transcript, video, or other information of the hearing. Every quasi-judicial decision shall be signed by the Chairman, or other duly authorized member of the Board, and is effective upon filing the written decision with the Secretary of the Board.

Step 9 Decision

The written decision shall be signed by the Chair, or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board, or such office or official as the ordinance specified. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date of decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

Appeals to BOA

No appeal shall be heard by the Board unless a completed Notice of Appeal is filed with the Town Clerk to the Board of Adjustment within thirty (30) days from receipt the date of the order, decision, determination, or interpretation is made or rendered by an administrative officer, and any such fees shall be paid upon filing the Notice of Appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. All notices shall be made upon the form furnished by the Town for that purpose, and all information required thereon shall be completed, including a statement for the grounds for appeal, before an appeal shall be considered as having been filed.

Resources

- **Board of Adjustment**
 - <https://www.huntersville.org/263/Board-of-Adjustment>
- **Mecklenburg County Land Use and Environmental Services Agency**
 - <https://www.mecknc.gov/luesa>
- **POLARIS – Property Ownership and Land Record Information System**
 - <http://polaris3g.mecklenburgcountync.gov/>
- **Charlotte Water**
 - <https://charlottenc.gov/water>
- **NC Department of Environment and Natural Resources**
 - <https://www.nc.gov/agencies/environment-natural-resources>
- **NC Department of Transportation**
 - <https://www.ncdot.gov>
- **Huntersville Water Quality Ordinance**
 - <https://www.huntersville.org/544/Ordinances-Manuals>
- **Subdivision Ordinance**
 - <https://www.huntersville.org/544/Ordinances-Manuals/228>
- **Zoning Ordinance**
 - <https://www.huntersville.org/544/Ordinances-Manuals/228>
- **Town Engineering Standards Manual**
 - <https://www.huntersville.org/544/Ordinances-Manuals/228>