

VILLAGE OF WESLEY CHAPEL - APPLICATION FOR A VARIANCE HEARING

INSTRUCTIONS FOR FILING AN APPLICATION FOR A VARIANCE

This Application must be filed at least two weeks prior to the next regularly scheduled meeting of the Village of Wesley Chapel Zoning Board of Adjustment. Return Application to the Village of Wesley Chapel, 6490 Weddington Road, Wesley Chapel, NC 28104. You will be notified by mail of the time and location of the meeting. **Zoning Board of Adjustment Fee of \$500.00 per case is required to be filed when submitting application form. This fee is non-refundable. Make check payable to the Village of Wesley Chapel.**

1. If title to the property is not in the name of the petitioner, include a notarized letter from the owner signifying his/her approval.
2. On Page (3), type or print complete names and addresses (including zip code and tax parcel #) of owners of adjoining properties, and properties directly across the street.
3. Submit a plot plan (not to exceed 8 ½" x 14"), or draw a site plan on Page (4), which describes the property and variance request. Give all appropriate dimensions, building/structures and their distance to property lines, right-of-ways, etc.
4. Application must be completed and dated for acceptance.

FOR YOUR INFORMATION

Upon filing an appeal with the Village of Wesley Chapel Zoning Board of Adjustment, the following rules and procedures shall apply until the Board has ruled on the appeal:

- a. No further construction work shall be done except in accordance with the provisions of the Zoning Ordinance.
- b. All legal proceedings to enforce compliance will be held in abeyance.
- c. All written or physical evidence (plans, maps, pictures, letters, etc.) presented before the Board becomes a part of the record and must be turned over to the Board.
- d. All testimony before the Board will be given under oath.
- e. Appellants may be represented by counsel at their own expense, if they choose to do so.

f. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, its Secretary or Zoning Administrator prior to the hearing.

g. You have the right to appear and present your case before the Board.

CHECK LIST OF ITEMS TO BE INCLUDED ON/WITH APPLICATION

- Have you been specific by stating the Sections of the Zoning Ordinance related to your variance request?
- Have you described your variance request by giving the amount of dimensions for each variance from the code requirements?
- Have you answered all questions listed under the heading “FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE?”
- Is your application signed and dated by appropriate parties?
- Have you given complete names, addresses and zip code of adjoining property owners? (Include persons on both sides of, behind and directly across the street from the property in question.)
- Have you listed the tax parcel number for each adjacent property owner, as described in the above question?
- Have you included a tax map with the property in question highlighted?
- Have you included a plot plan or a scaled drawing showing the exact dimensions of the variance you are requesting?
- If you are not the owner of the property, have you included a notarized letter from the property owner giving permission to appear before the Board?

IMPORTANT:

YOUR VARIANCE REQUEST MAY NOT BE PLACED ON THE AGENDA IF COMPLETE INFORMATION AND REQUESTED DOCUMENTS ARE NOT INCLUDED.

PLEASE READ THE ATTACHED FORM TITLED “ZONING BOARD HEARING PROCEEDINGS.” IT WILL GIVE YOU INFORMATION AS TO HOW THE MEETING IS CONDUCTED, AND SOME SUGGESTIONS ON PRESENTING YOUR CASE.

VILLAGE OF WESLEY CHAPEL
STATE OF NORTH CAROLINA

CASE NO _____
MEETING DATE _____

APPLICATION FOR A VARIANCE

Variance requested on property at: _____
Property Zoned: _____ Tax Parcel No: _____
Property Owner: _____
Date Existing Structure Erected: _____

TO THE VILLAGE OF WESLEY CHAPEL BOARD OF ADJUSTMENT:

I, _____, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Village of Wesley Chapel Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Zoning Ordinance (cite Section and numbers)

Describe the variance being requested on the above referenced property

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three (3) conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, (b) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit, and (c) that in the granting of the variance the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three (3) required conclusions.

THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three (3) rules to determine whether in a particular situation “practical difficulties or unnecessary hardships” exist. State facts and arguments in support of each of the following:

(1) If he/she complies with the provisions of the ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his/her property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

(2) The hardship results from the application of the Ordinance. (State what hardship results from application of the regulations of the Zoning Ordinance.)

(3) The hardship is suffered by the applicant's property. (Note: Hardships common to an entire neighborhood resulting from overly restrictive zoning regulations should be referred to the Village of Wesley Chapel Council and Planning Board. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

(4) The hardship is not the result of the applicant's own actions.

(5) The hardship is peculiar to the applicant's property.

(b) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will 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.) _____

(c) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.) _____

(d) GIVE REASONS SET FORTH IN THIS APPLICATION TO JUSTIFY THE GRANTING OF A VARIANCE, AND THE VARIANCE IS A MINIMUM ONE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE LAND AND STRUCTURES. _____

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

Signature of Appellant

Represented by (Signature)

Typed Name of Appellant

Typed Name of Above

COMPLETE ADDRESS

COMPLETE ADDRESS

Date

Date

Telephone Number

Telephone Number

TYPE OR PRINT BELOW THE COMPLETE NAMES AND ADDRESSES (INCLUDING ZIP CODE AND TAX PARCEL NUMBER) OF OWNERS OF ADJOINING PROPERTIES AND PROPERTY DIRECTLY ACROSS THE STREET FROM THE PROPERTY FOR WHICH A VARIANCE IS REQUESTED.

These persons will be notified in writing of the time and place of the hearing. (Attach additional sheet(s) if necessary.)

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Page Five- Application for Variance

Received by the Village of Wesley Chapel:

Planning Director

Date

Page Five - Application for Variance

DRAW A SITE PLAN BELOW DESCRIBING PROPERTY AND VARIANCE REQUEST. GIVE ALL APPROPRIATE DIMENSIONS, BUILDINGS/STRUCTURES AND THEIR DISTANCE TO PROPERTY LINES, RIGHT-OF-WAYS, ETC.

ZONING BOARD HEARING PROCEEDINGS

Hearings are of two (2) types:

- 1) Application for a variance from the regulations in the Zoning Ordinance, or
- 2) Appeal from an interpretation of the Zoning Administrator.

The order of business for each case presented at a Board public hearing shall be as follows:

1. The Chairman, the Zoning Administrator, or such person as he shall direct, shall give a preliminary statement of the case;
2. All persons desiring to give testimony, and having signed up beforehand with the Secretary to present evidence or arguments, shall be sworn in. In the event any individual(s) declines to be sworn, he may still be heard, but shall be advised by the Chairman that the Board will consider their statements merely as information, not as evidence;
3. The applicant shall present evidence and arguments in support of his application;
4. Persons opposed to granting the application shall present arguments against the application;
5. Other persons in favor of granting the application shall present arguments for the application;
6. Both sides will be permitted to present rebuttals to opposing testimony, and cross-examine the opposing party(ies). The Chairman shall ensure that cross-examinations are conducted with brevity and decorum, and limited to matters directly relevant to the case at hand;
7. The Chairman, or his designee, shall summarize the evidence which has been presented, giving all interested parties the opportunity to make objections or offer corrections.
8. The Chairman shall close this case for public discussion, and shall proceed to the next case, if any, and thereafter to the next item of business on the meeting agenda. The Board shall subsequently and publicly discuss the case, calling upon the Zoning Administrator for input, clarification, etc. as deemed desirable, but without further input from the public. Board members, however, may seek further input, clarification, etc. from persons previously sworn and eligible to give evidence who are seated in the audience on any piece of evidence heretofore presented. Cross-

examination of and rebuttals by opposing parties at that time shall only be permitted on any such new evidence presented.

9. The Board shall render a decision, if it so chooses, the Board may continue the public hearing to a publicly stated date, time, and location no later than forty-eight (48) hours thereafter. Notwithstanding any such continuation, a final decision on the case shall be made no later than thirty (30) calendar days after the public hearing was concluded, or at the next regularly scheduled meeting of the Board following the hearing conclusion, whichever occurs later.

This is a quasi-judicial Board and can accept only sworn testimony. No hearsay evidence is admissible.

REQUEST FOR ASSISTANCE IN TRYING TO MOVE HEARINGS ALONG AS EFFICIENTLY AS POSSIBLE

It is extremely important to try to proceed as efficiently as possible with the hearing of each case. Based on the past experience of the Board, it is respectfully requested, if you plan to speak before the Board, to try to help the Board by keeping in mind the following suggestions:

1. **Please try to be brief.** The Board will have received the application about a particular case in their agenda packets. Most importantly, the Board will ask the questions that the Board finds necessary in order to understand the issue and to arrive at its decision.
2. **Please try to avoid any repetitious comments.** Repetitious testimony is one of the most time-consuming problems the Board has experienced.
3. **Please try to focus on the legal standards and issues in the Zoning Ordinance.** Another common problem is for people to begin to address issues that are not really involved in the Zoning Ordinance standards.
4. **The chairman, on behalf of the Board and for the people waiting to be heard, attempts to move the hearing along as efficiently as possible.** That, of course, is an important function of the chairman.

Your cooperation in seeking to conduct these hearings as efficiently as possible is appreciated by everyone.

Thank You.