

Phone: (704) 843-1680
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**VILLAGE OF MARVIN
VARIANCE APPLICATION**

10004 New Town Road
Marvin, NC 28173

APPLICATION NUMBER: _____ DATE: _____

APPLICANT'S NAME: _____

APPLICANT'S MAILING ADDRESS: _____

APPLICANT'S PHONE NUMBER: _____ FAX: _____

(If Different from Applicant)

PROPERTY OWNER'S NAME: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____ FAX: _____

RELATIONSHIP OF PROPERTY OWNER TO APPLICANT: _____

EXISTING USE OF PROPERTY: _____

PROPERTY ADDRESS: _____

TAX PARCEL NUMBER: _____

VARIANCE SOUGHT: _____

REASON FOR SEEKING VARIANCE: _____

Requests for variances shall be accompanied by a copy of a scaled, sealed dimensional survey drawn by a registered surveyor or engineer which shows: the exact shape, boundaries and dimensions of the lot to be built on; the exact size, shape, use and location of all existing and proposed structures and parking facilities on the lot; the required setback lines of the lot; any floodplain or easements on the lot; the location and type of screening and buffering proposed; and other information deemed by the Zoning Administrator to be necessary to consider the application. In addition, a map showing the location of the property in question and all contiguous pieces of property shall accompany the application.

A written application for a variance must also demonstrate in detail, the following:

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 a 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.

ALL COMPLETED APPLICATIONS FOR VARIANCES SHALL BE SUBMITTED TO THE ZONING ADMINISTRATOR AT LEAST FOURTEEN (14) DAYS PRIOR TO THE PUBLIC HEARING AND SHALL BE ACCOMPANIED BY A FEE (PAID IN CASH OR CHECK TO THE VILLAGE OF MARVIN) IN ACCORDANCE WITH THE CURRENT FEE SCHEDULE ADOPTED BY THE VILLAGE OF MARVIN IN ORDER TO BE CONSIDERED COMPLETE. Please note: all fees for regulation approval in the Village of Marvin are non-refundable, and checks that are returned will be subject to a returned check fee in accordance with the current fee schedule adopted by the Village of Marvin.

A DECISION OF THE BOARD OF ADJUSTMENT MAY BE APPEALED TO THE SUPERIOR COURT OF UNION COUNTY WITHIN THIRTY DAYS AFTER ITS DECISION HAS BEEN FILED WITH THE VILLAGE CLERK OR AFTER A WRITTEN COPY THEREOF IS DELIVERED TO EVERY AGGRIEVED PARTY WHO HAS FILED A WRITTEN REQUEST FOR SUCH COPY WITH THE SECRETARY OR CHAIRMAN OF THE BOARD OF ADJUSTMENT AT THE TIME OF THE HEARING OF THE CASE, WHICHEVER IS LATER.

CERTIFICATIONS

I HEREBY CERTIFY THAT ALL OF THE INFORMATION PROVIDED FOR IN THIS APPLICATION IS, TO THE BEST OF MY KNOWLEDGE, ACCURATE AND COMPLETE.

Signature of Applicant

Date

Signature of Property Owner
(If different than applicant)

Date

TO THE BEST OF MY KNOWLEDGE, THIS APPLICATION IS ACCEPTED AND DEEMED COMPLETE.

Signature of Zoning Administrator

Date

This information is to be filled out by the Zoning Administrator

- 1. SURVEY ATTACHED: YES _____ NO _____
- 2. LIST OF ADJOINING PROPERTY OWNERS ATTACHED: YES _____ NO _____
- 3. MAP SHOWING ALL CONTIGUOUS PROPERTY ATTACHED: YES _____ NO _____
- 4. FEE ATTACHED: YES _____ NO _____ AMOUNT: _____ CHECK #: _____
- 5. EXPLANATION/DEMONSTRATION OF ITEMS 1-5 (on page 2 of application) ATTACHED:
YES _____ NO _____

3. PUBLIC HEARING DATE: _____

4. SIGN POSTED ON PROPERTY ON: _____

5. NOTICES TO APPLICANT AND ADJOINING PROPERTY OWNERS MAILED ON:
(Certification Attached) _____

6. ACTION TAKEN BY BOARD OF ADJUSTMENT FILED: _____

7. DATE DECISION OF BOARD OF ADJUSTMENT FILED: _____

PROPOSED USE: _____

Section 11.3 Variances

When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

11.3.1 Under no circumstances shall the Board of Adjustment grant a variance to allow a use of land or structure not permitted under the terms of this Ordinance in the district involved or for a use expressly, or by inference, prohibited in said district. No variances shall be granted by the Board of Adjustment for the following:

1. Setbacks and areas of signs.
2. Setbacks for Essential Services - Class III.
3. Use Variance – No change in permitted uses may be authorized by a variance.

No variance for setbacks shall be granted which allows the applicant to reduce the applicable setback by more than fifty (50) percent.

11.3.2 The Board of Adjustment, before granting a variance, shall make the following findings:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. This shall be construed to mean:
 - a. If the property owner complies with the provision of this Ordinance, he/she can secure no reasonable return from, or make any reasonable use of, his/her property and
 - b. The hardship results from the application of the Ordinance, and
 - c. The hardship is suffered by the applicant's property, and
 - d. The hardship is not the result of the applicant's own action, and
 - e. The hardship is peculiar to the applicant's property.
2. That the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
3. That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.
4. That the reasons set forth in the application and the hearing justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

11.3.3 The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards which must be reasonably related to the condition or circumstance that gives rise to the need for a variance and are in conformity with this Ordinance.

Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and such violation shall be subject to those remedies as prescribed in Section 1.5 of this Ordinance.

11.3.4 Any order of the Board of Adjustment in granting a variance shall expire, if a zoning permit, or Certificate of Occupancy for such use if a zoning permit is not required, has not been obtained within one (1) year from the date of the decision.

Section 11.4 Application Procedure

The following regulations apply to all applications submitted to the Board of Adjustment:

11.4.1 Before a petition for an interpretation, appeal, or variance shall be considered, a completed application on a form provided by the Village of Marvin, accompanied by a fee (as established by the Village Council) shall be submitted to the Zoning Administrator. The fee shall be waived for any petition initiated by the Zoning Administrator or other application submitted by a Village of Marvin official acting on behalf of the Village of Marvin. The application shall contain the name, address, and telephone number of the applicant(s), and property owners if different from applicant(s), a description of the subject property with reference to deed book and page. The application shall also contain a list of names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year Union and Mecklenburg County tax records. A map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property shall accompany the application.

11.4.2 The filing of any application stays all proceedings unless the Zoning Administrator certifies to the Board of Adjustment that a stay in his/her opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, or by a court of record, on application, on notice to the Zoning Administrator, and on due cause shown.

11.4.3 The Board of Adjustment shall hold a hearing on all applications no later than forty (40) days after the application has been filed with the Zoning Administrator.

11.4.4 The Board of Adjustment shall give notice of the public hearing by sending notices by first class mail to the parties to the hearing and to all property owners contiguous or adjacent to the property (as defined in Section 12.1.2). Said notices shall be mailed at least seven (7) days prior to the public hearing. In addition, a conspicuous sign shall be placed in a conspicuous location on subject property(ies) indicating the nature of the public hearing and date, time and place at which it is to occur. Said sign shall be placed on the property(ies) at least seven (7) days prior to the public hearing and shall remain standing until the Board of Adjustment has reached its final decision. Failure to mail notices or to post notices shall not invalidate any action taken with regard to the petition.