



Town of Hilton Head Island
 Community Development Department
 One Town Center Court
 Hilton Head Island, SC 29928
 Phone: 843-341-4757 Fax: 843-842-8908
www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY	
Date Received:	_____
Accepted by:	_____
App. #: VAR	_____
Meeting Date:	_____

Applicant/Agent Name: _____ Company: _____
 Mailing Address: _____ City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____ E-mail: _____
 Project Name: _____ Project Address: _____
 Parcel Number [PIN]: R _____
 Zoning District: _____ Overlay District(s): _____

VARIANCE (VAR) SUBMITTAL REQUIREMENTS

Digital Submissions may be accepted via e-mail by calling 843-341-4757. The following items must be attached in order for this application to be complete:

_____ A narrative that lists what Sections of the LMO you are requesting a variance from and explain **WHY** the variance is requested and **HOW** the request meets **all** of the criteria of LMO Section 16-2-103.S.4.a. Variance Review Standards

_____ A copy of correspondence providing notice of a public hearing to all land owners of record within three hundred and fifty (350) feet on all sides of the parcel(s) being considered for a variance. Such notice shall be mailed by first class mail fifteen days (15) prior to the Board of Zoning Appeals meeting per LMO Section 16-2-102.E.2.e.ii. Mailed Notices. A sample letter can be obtained at the time of submittal. Also provide a list of owners of record to receive notification. The Town can assist in providing this listing by calling 843-341-4757.

_____ Affidavit of Ownership and Hold Harmless Permission to Enter Property

_____ A site plan to scale of 1"=30' that clearly shows the requested variance in relation to the affected site and surrounding parcels and uses. Submit an 11"X17" (or smaller) copy of the plan.

_____ Filing Fee - \$250.00 cash or check made payable to the Town of Hilton Head Island

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application. YES NO

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Applicant/Agent Signature: _____ Date: _____

VARIANCE

PROCEDURES BEFORE THE BOARD OF ZONING APPEALS

Variance Request

A variance is a departure from the strict terms or expressed provisions of the LMO where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of any action on the part of the property owner, a literal enforcement of the LMO would result in unnecessary and undue hardship. This type of request is site specific.

The Variance procedure may be used to seek and obtain relief from the following standards:

- a. The district standards in Chapter 16-3: Zoning Districts, except standards designating permitted or prohibited uses, and setting maximum density;
- b. The use-specific conditions in Chapter 16-4: Use Standards;
- c. The following standards in Chapter 16-5: Development and Design Standards: adjacent setback and buffer standards; open space standards; parking and loading standards and fence and wall standards; and
- d. The following standards in Chapter 16-6: Natural Resource Protection: specimen tree and wetland buffer standards.

The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance. A variance may NOT be granted by the Board to:

- i. Permit a use of land or a structure that is not allowed in the applicable zoning district;
- ii. Allow the physical extension of a nonconforming use;
- iii. Increase the density of a use above that permitted by the applicable zoning district; or
- iv. Vary the sign regulations.

PROCEDURES

A. Submission of Application

1. Submit the application by the deadline indicated for each meeting on the Board of Zoning Appeals Public Hearing Schedule.
2. For a variance request, please submit the Variance Application Form, along with the items listed as submittal requirements on that form.
3. An application check-in conference is required for all applications to determine whether the application meets the minimum requirements for acceptance. The application check-in conference must be scheduled by appointment with the Community Development Department staff.

B. Public Notice Requirements

1. Public notice is required for variance requests. For variance requests, a published, posted and mailed notice is required.
2. **Published Notice** - A Public Hearing Notice shall be placed by the Administrator in a local newspaper of general circulation within the Town for not less than 15 calendar days prior to the meeting for the purpose of notifying the public.
3. **Posted Notice** - A notice of application sign shall be posted by the Administrator not less than 15 calendar days prior to the meeting at which the application will be reviewed. The notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property.
4. **Mailed Notice** - A notice of public hearing shall be sent by the applicant by first class mail to owners of record of real property within 350 feet of all sides of the parcel under consideration. Such notice shall be mailed not less than 15 calendar days prior to the scheduled meeting. In addition, in cases where the owners of record of real property are part of a condominium or time-share development, the applicant shall notify the regime and association manager.

All required mailed notices of a hearing shall, at a minimum:

01. Identify the application by name or application number;
02. State the type of application and the nature and scope of the proposed development or action;
03. Identify the location of the land subject to the application by street address or legal description, and include a location map;
04. State the date, time, and place of the hearing and state that interested persons may appear, speak, and submit evidence or comments at the hearing; and
05. State how additional information about the application may be obtained and how and where comments on the application may be submitted before the hearing.

Staff has a template available of a sample letter for the applicant's convenience.

C. Staff Review and Report

1. The Administrator shall prepare a staff report that reviews the proposed request, in light of the LMO, the Comprehensive Plan and the criteria listed below:

Variance Criteria:

A Variance may be granted by the Board of Zoning Appeals if it concludes that the strict enforcement of any appropriate dimensional, development, design, or performance standard set forth in this Ordinance would result in unnecessary hardship. A Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals determines and expresses in writing all of the following findings:

01. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
02. These conditions do not generally apply to other properties in the vicinity;
03. Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
04. The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.

D. Meeting Before the Board of Zoning Appeals

1. The Board is comprised of seven members, appointed by Town Council.
2. The Chairman of the Board opens the meeting and reads the procedures to be followed during the hearing.
3. Town staff will present the proposed request, be it a variance or special exception, address the required findings and criteria and provide a recommendation for approval, approval with conditions, or disapproval of the application.
4. The applicant will then present their request and address the required criteria.
5. In the case of an appeal, staff will present the Administrator's interpretation of the LMO. The applicant will then have an opportunity to present why they are appealing staff's decision.
6. The Board may have questions for Town staff or the applicant. The hearing will then be opened to the public for comment.
7. The Chairman will then conclude the public hearing portion of the meeting. The Board will then deliberate until a decision is reached. During the deliberations by the Board, Board members may address questions to staff or the applicant, but no person shall participate in these discussions unless addressed by the Chairman or a Board member.
8. The Chairman will then ask for a motion. In the case of a variance, the Board will make a finding and give its approval, approval with modifications or conditions, or disapproval of the application.

E. Written Notification of Decision

1. Within five business days after a decision has been made by the Board of Zoning Appeals, a copy of the written decision shall be sent to the applicant or appellant and the property owner.
2. A copy of the notice shall be filed in the office of the Administrator, where it shall be available for public inspection during regular office hours.

F. Appeals from the Decision of the Board of Zoning Appeals

1. A person who may have a substantial interest in any decision of the Board of Zoning Appeals, or an officer or agent of the appropriate governing authority may appeal from a decision of the Board to the Circuit Court of Beaufort County. The appeal must be filed within 30 days after the decision of the Board is mailed.
2. A property owner whose land is the subject of a decision of the Board of Zoning Appeals may appeal to the Circuit Court of Beaufort County or by filing a notice with the circuit court accompanied by a request for pre-litigation in mediation. The notice of appeal and request for pre-litigation in mediation must be filed within 30 days after the decision of the board is mailed.