

TOWN OF FLETCHER

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VARIANCE APPLICANT GUIDELINES

The Planning Department accepts variance applications on a monthly basis. All applications are due on the first Wednesday of each month.

Because variance requests involve a quasi-judicial review and require specific legal findings, a Pre Application Conference with Planning Department staff is required before an application may be submitted. The purpose of this meeting is to review the proposal, discuss the applicable ordinance requirements, identify any additional information that may be needed, and answer questions about the variance process.

To schedule a Pre Application Conference, applicants must submit a request by email to the Planning Department. Prior to the meeting, applicants should prepare a concept site plan showing the proposed variance, including the location and extent of the requested relief, along with a brief written explanation describing the reason for the request and the hardship affecting the property. Preparing these materials in advance will help staff provide meaningful feedback and ensure the application is complete before formal submittal.

A variance is granted by the Board of Adjustment through a quasi-judicial hearing to allow relief from specific requirements of the Land Development Code when strict application of the ordinance would create a practical hardship for a particular property.

Variances may be requested for standards such as:

1. Setbacks
2. Side yard requirements
3. Frontage requirements
4. Lot size

The applicant must demonstrate that strict enforcement of the ordinance would create an unnecessary or practical hardship unique to the property. A variance is intended to provide reasonable relief while maintaining the overall purpose and intent of the Land Development Code.

A variance application may be submitted only by the property owner, a person authorized in writing to act on the owner's behalf, or a person with a written contractual interest in the property. A complete variance application and all required materials must be submitted before the application can be processed.

Once a complete application has been submitted, enforcement proceedings related to the request are generally placed on hold while the variance is under review. However, the Administrator may continue enforcement if delaying action would create an imminent threat to life or property or would seriously interfere with enforcement of the Land Development Code due to the temporary nature of the violation. In those situations, only the Zoning Board of Adjustment, Town Council, or a court of competent jurisdiction may order that enforcement be stayed.

APPLICATION COMPONENTS

Variance applications consist of one required meeting and one primary application deadline. The application components are described below and include:

- 1) **Site Plan and Application Deadline** – The site plan and application requirements must be completed and submitted by this deadline. A complete application with accurate signatures and the application fee is required at this stage. Incomplete applications will not be considered for inclusion on the Zoning Board of Adjustments agenda. Partial submissions which have not met the standards established by the Town's Land Development Code, will not be accepted for review until complete.
- 2) **Zoning Board of Adjustment Public Hearing Meeting (Quasi-Judicial)**– Held on the Third Tuesday of the month at 6pm in the Council Chambers located at Town Hall (300 Old Cane Creek Road). The meeting includes Planning staff's report and presentation. The applicant must be in attendance and be sworn in to give testimony. Applicants are required to present evidence during the meeting for their variance. The Zoning Board of Adjustment takes final action on approving or denying the variance at this meeting.

The following pages include specific dates associated with the application components outlined above along with a detailed overview of the site plan and application requirements.

APPLICATION TIMELINE

Application Deadline 4:00 pm		Zoning Board of Adjustment 6:00 pm
November 5 th , 2025		December 16 th , 2025
December 3 rd , 2025	➡	January 20 th , 2026
January 7 th , 2026		February 17 th , 2026
February 4 th , 2026	➡	March 17 th , 2026
March 4 th , 2026		April 4 th , 2026
April 1 st , 2026	➡	May 19 th , 2026
May 6 th , 2026		June 16 th , 2026
June 3 rd , 2026	➡	July 21 st , 2026
July 1 st , 2026		August 18 th , 2026
August 5 th , 2026	➡	September 15 th , 2026
September 2 nd , 2026		October 20 th , 2026
October 7 th , 2026	➡	November 17 th , 2026
November 4 th , 2026		December 15 th , 2026
December 2 nd , 2026		January 19 th , 2027

VARIANCE REVIEW CRITERIA

The Zoning Board of Adjustment may only grant a variance having first held a public hearing on the matter and having made the following determinations:

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- 2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
- 3) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- 4) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- 5) The special circumstances are not the result of the actions of the applicant.
- 6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

The following are **not** cause for a variance:

- 1) The citing of other nonconforming or conforming uses of land or structures in the same or other districts.
- 2) The request to permit a use of land, building or structure which is not permitted by right or by special use in the district involved.
- 3) Economic hardship or the fact that property may be utilized more profitably with a variance.

The Zoning Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Code. 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 the Code and shall be punishable as prescribed in Article 17.

The concurrent, supermajority vote of four-fifths (4/5) of the voting members of the Zoning Board of Adjustment shall be necessary to grant a variance. In all matters coming before the Zoning Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. All decisions of the Zoning Board of Adjustment shall be in writing and filed with the Administrator.

SITE PLAN REQUIREMENTS

This information constitutes the minimum requirements for staff review. Please submit a digital copy to t.morrow@flechernc.org.

- 1) **A completed application** with property owner signatures.
- 2) **Application Fee:** \$350 (paid by cash or check at Town Hall).
- 3) **Site Plan:** Applicants must submit a site plan that clearly illustrates the variance request. At a minimum, the site plan should include property boundaries, existing and proposed structures, applicable property lines, required setbacks or other applicable dimensional standards, and the exact location and amount of the requested variance. All dimensions should be clearly labeled so the Board of Adjustment and the public can easily understand what relief is being requested and where it will apply. Photographs, surveys, or other supporting information may also be submitted if they help explain the request.

Applicants must also submit a written narrative explaining the basis for the variance request. The narrative should describe the unique hardship affecting the property, explain why strict application of the Land Development Code creates an unnecessary hardship, and describe why the requested variance is the minimum amount of relief necessary to allow reasonable use of the property. The narrative should focus on the

physical characteristics of the property rather than personal or financial circumstances, as the Board's decision must be based on the conditions of the property and the required findings established by North Carolina law.

Signature of Understanding and Completion

By signing this document, you are confirming that all required documents have been submitted in accordance with the requirements of this document.

Signature: _____

Printed Name: _____

Date: _____

HELPFUL LINKS:

Planning Department's Webpage:

<https://www.fletchernc.org/departments/planning-and-zoning/>

Town Land Development Code:

<https://www.fletchernc.org/departments/planning-and-zoning/land-development-code/>

Henderson County GIS:

<https://gisweb.hendersoncountync.gov/gisweb/>