



Board of Adjustment Application Instructions

PRE-APPLICATION MEETING

A pre-application meeting with City staff is required *prior to* the submittal of a Board of Adjustment Application, *except* for Appeals which are filed directly with the City Clerk. Appeal applications can be found on the Board of Adjustment webpage <https://raleighnc.gov/board-adjustment>

For Variances and Special Use Permits please contact Eric Hodge, at (919) 996-2639 or Eric.Hodge@RaleighNC.gov or Keegan McDonald, at (919) 996-4630 or Keegan.McDonald@RaleighNC.gov to set up an appointment for a pre-application meeting. For Design Adjustments, Design Alternates and transportation infrastructure related Variances, please contact Daniel King, at (919) 996-2408 or Daniel.King@RaleighNC.gov to set up an appointment for a pre-application meeting.

FILING FEE: \$208.00

SUBMITTAL REQUIREMENTS

Variance and Special Use Permit applications must be submitted electronically through the Permit and Development Portal <https://energocitizenaccess.tylertech.com/RaleighNC/SelfService#/home>. All other applications can be downloaded from City's official website <https://raleighnc.gov/board-adjustment>. An application will not be considered complete until **ALL** the following items have been submitted:

1. Payment of filing fee - For Variance and Special Use Permit applications, payment must be made online through the Permit and Development Portal. All other applications must be paid via check made out to the "City of Raleigh";
2. At minimum, a plot plan (also known as a survey plot plan) drawn to scale, containing a north arrow, area of lot, location of all existing improvements and use areas, location of proposed improvements, location of any constraints such as flood plain area, tree conservation area, buffer yards, easements, sight distance triangles, and impervious surface coverage. The plot plan must be drawn, signed and sealed either by a surveyor licensed in North Carolina, or a professional engineer licensed in North Carolina. If the request involves a structure, sign, or fence, then architectural elevations must also be submitted;
3. A list that includes the names and mailing addresses of the following: (1) owner(s) of the subject property included in the Application and (2) the owners of all property within 100 feet on all sides of the Subject Property, all as listed in the Wake County tax records at the time of submittal;
4. One (1) original hard copy of the signed and notarized Certification of Owner(s) or Applicant(s); and
5. Stamped (first class) and labeled envelopes addressed to the owner(s) of the Subject Property and the owners of all property within 100 feet on all sides of the Subject Property as noted on the required list. It is requested that the envelopes be self-sealing (peel and stick) and labeled with the following return address: Planning and Development Department, City of Raleigh, P.O. Box 590, Raleigh, NC 27602-0590

** Notarized Certification of Owner(s) or Applicant(s) and Stamped and Addressed Envelopes MUST be submitted by the filing deadline**

FILING DEADLINES

Complete applications must be filed by 4:00 p.m. on the filing deadline. (See the "Raleigh Board of Adjustment Application Deadlines" on the City's official website for current filing dates and deadlines.

<https://raleighnc.gov/board-adjustment>)

PUBLIC HEARING REQUIREMENT

The Raleigh Board of Adjustment (“BOA”) is a quasi-judicial body that considers requests for variances. The BOA considers the application, any other relevant written and/or illustrative evidence entered into the record, including a Staff report, along with sworn testimony, all provided at a public hearing.

Notification of the public hearing will take place by each of the following methods:

- **By Mail** - The Planning and Development Department will prepare and mail a written notice to the owner(s) of the property (the “Subject Property”) included in the BOA Application and the owners of all property within 100 feet on all sides of the Subject Property. This notice will be postmarked not more than 25 calendar days and no less than 10 calendar days prior to the date of the public hearing.
- **By Publication** - Notice will be published at least once in a newspaper having general circulation in the City no less than 10 calendar days but not more than 25 calendar days prior to the date of the public hearing.
- **By Web** - Notice will be posted on the City’s official website no less than 10 calendar days prior to the date of the public hearing.
- **On-Site** - Notice will also be posted by City staff on the Subject Property at least 10 days prior to the date of the public hearing. ***NOTICE TO APPLICANT - The applicant must retrieve the posted sign the morning of the public hearing and return it to the City either at the public hearing or within three (3) business days following the public hearing.***

General Information about the Board of Adjustment

The following is provided for informational purposes only. For further information, applicants are advised to consult the appropriate sections of the North Carolina General Statutes, the City Code, and the City’s Unified Development Ordinance (“UDO”). Please note the UDO proscribes that certain UDO provisions shall not be varied.

RALEIGH BOARD OF ADJUSTMENT

The Raleigh Board of Adjustment (“BOA”) is a quasi-judicial body that considers requests for Variances, Special Use Permits (SUPs), Design Adjustments, Design Alternates and Appeals of Administrative or Raleigh Historic Development Commission (RHDC) decisions. The BOA’s decisions are final but may be subject to judicial review by the courts. The BOA consists of eight members, but only five members sit and vote on each of the hearings before the BOA. Four regular members and two alternate members of the BOA are appointed to two-year terms by the City Council and must reside within the City limits. One regular member and one alternate member of the BOA are appointed to two-year terms by the Wake County Board of Commissioners and must reside within the City’s extraterritorial jurisdiction.

WHAT IS A VARIANCE?

A variance is intended to provide relief where the strict application of a UDO provision would result in an unnecessary hardship. Variances are not granted to remove inconveniences. A variance may not be granted from any specific use standard associated with a use requiring the approval of a Special Use Permit nor anything considered a “use variance”.

WHAT IS A SPECIAL USE PERMIT? Special Use Permits are for uses that may be appropriate within a particular zoning district, but because of increased potential for incompatibility with adjacent uses, require individual review by the Board of Adjustment.

QUASI-JUDICIAL HEARING

You or your legal representative are ***required*** to attend and present your case before the BOA. The BOA will consider the application, any other relevant written and/or illustrative evidence entered into the record,

including the Staff Report, and any sworn testimony, all at a public hearing. After the public hearing, the BOA will vote to approve, approve with conditions, or deny the application.

BOA meetings are typically held the second Monday of each month in the City Council Chamber, Room 201 of the Raleigh Municipal Building located at 222 W. Hargett Street. Meetings begin at 1:00 p.m. unless otherwise specified.

During a quasi-judicial hearing on a request, the BOA holds an evidentiary hearing and makes its decision based solely on the written and oral evidence presented; its decision cannot be based on opinions inconsistent with the facts in evidence. Members of the BOA must refrain from *ex parte* communications (communications outside of the hearing itself) with anyone about substantive issues in upcoming or ongoing cases including other members of the BOA. All testimony before the BOA must be “sworn” testimony; therefore, all persons wishing to speak on the matter must be sworn in. The BOA can approve Variances only upon a concurring vote of four members of the BOA (out of a possible 5 votes). Special use permits (SUPs), Design Adjustments, Design Alternates and Appeals of an administrative or Raleigh Historic Development Commission (RHDC) decisions require a concurring vote of three members of the BOA (out of a possible 5 votes) in order to be approved.

All applicants are advised to have an attorney represent them as this is a legal proceeding. Applicants that are entities, including governmental entities, corporations, LLCs, LLPs and Partnerships must be represented by an attorney. Engineers, architects, real estate agents, planners and other non-attorneys may only appear as witnesses; they may not appear on behalf of an applicant or those opposed to an application in a representative capacity. In addition, only an expert can testify regarding matters that require expert testimony such as impacts of proposed activities on property values, traffic, or stormwater runoff. Individuals opposed to an application may appear and represent themselves at the hearing (entities opposing an application, however, must be represented by an attorney as explained above).

ADDITIONAL INFORMATION:

The aforementioned is provided for informational purposes only. For further information, applicants are advised to consult the appropriate sections of the North Carolina General Statutes, the City Code, and the City’s Unified Development Ordinance (“UDO”). Please note certain UDO provisions may not be varied including allowed land uses and use standards set forth in Chapter 6 and accessory structure regulations set forth in Chapter 7.

For further information on the quasi-judicial hearing process, please review “*A Citizen’s Guide to Evidentiary Hearings*” available on the City’s website here:

<https://cityofraleigh0drupal.blob.core.usgovcloudapi.net/drupal-prod/COR14/EvidentiaryHearing.pdf>