



Board of Adjustment Application Instructions

Pre-Application Meeting & Submittal Requirements

WHO CAN APPLY?

The applicant for a Variance or Special Use Permit must be either the property owner of the subject property or one of the following individuals authorized by the property owner to make the application: i) a person holding a valid option to purchase the property; ii) a person holding a valid lease for the property; or iii) a person holding a valid contract to purchase the property. Every application must include contact information for both the property owner and the applicant (if the applicant is not the property owner). Please note, when submitting an application through the Permit and Development Portal, the user may automatically be listed as the applicant. Additional contacts may need to be added to ensure all of the proper information is included.

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 Justin Bucher, at (919) 996-2625 or Justin.Bucher@RaleighNC.gov to set up an appointment for a pre-application meeting.

For applications involving Transportation, Urban Forestry, Stormwater, or Public Utilities (watershed forestation) a separate pre-application meeting/consultation is also required with the appropriate plan review staff that focuses on the applicable code sections and request language under consideration. This pre-application meeting with the subject matter expert (SME) should occur before contacting BOA staff.

At a minimum, applicants should email the staffer(s) with a summary of the request and any pertinent exhibits/documents. The staff person will then decide if an in-person/web meeting is necessary prior to filing. After the pre-application meeting(s) the applicant should: understand the process including appropriate contacts and deadlines; understand the nature of request including relevant code sections, detailed measurements, and request language; and obtain answers to any outstanding questions or concerns. We encourage applicants to arrange a pre-application meeting at least 5 days in advance of the filing deadline to ensure the application is complete and accurate.

Transportation – Daniel.King@RaleighNC.gov
Urban Forestry – Christopher.Crum@RaleighNC.gov
Stormwater – Ben.Brown@RaleighNC.gov; Sally.Hoyt@RaleighNC.gov
Public Utilities – Jonathan.Ham@RaleighNC.gov

FILING DEADLINE

Complete applications must be filed by the filing deadline. Board of Adjustment meetings are typically held on the second Monday of each month at 1 p.m. Requests must be submitted 60 days before the meeting date. See the “[BOA Meeting Dates and Deadlines](#)” on the City’s official website for current filing dates and deadlines.

SUBMITTAL REQUIREMENTS

Variance and Special Use Permit applications must be submitted electronically through the [Permit and Development Portal](#). 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:

- Payment of filing fee (\$261.00) - For Variance and Special Use Permit applications, payment must be made online through the Permit and Development Portal. Appeals must be paid via check made out to the “City of Raleigh”;
- A plan drawn to scale, containing a north arrow, area of the subject property, and the location of all existing and proposed improvements;
- Other information the applicant would like to include to contextualize or substantiate the request (i.e. photographs, documents, etc.);
- One (1) original hard copy of the signed and notarized Certification of Owner(s) or Applicant(s);
- Mailing list and stamped (first class) and labeled envelopes – see ‘*Public Notice Requirements*’ on page 2 for detailed information;

The original hard copy of the signed and notarized Certification of Owner and stamped and addressed envelopes can be dropped off in-person at One Exchange Plaza, Suite 300 or mailed to the PO Box below:

Raleigh Planning and Development
Attn: Eric Hodge and Justin Bucher
PO Box 590
Raleigh, NC 27602

APPLICATIONS INVOLVING MULTIPLE PARCELS

If the Variance or Special Use Permit request involves multiple properties, the applicant must either: 1) submit separate applications for each property or 2) include of a condition of approval that the properties will be recombined.

Evidentiary Hearing Notice Requirements

To facilitate the creation of the required PROPERTY OWNER mailing list, applicants may utilize the Label Creator tool located on the Board of Adjustment webpage <https://raleighnc.gov/board-adjustment>. Please note that the label creator tool does not generate a list of tenant addresses if those addresses differ from the property owner addresses.

Notice of evidentiary hearings are provided by each of the following methods:

MAILED NOTICE

Applicant Responsibility – At the time of submission of the application, the applicant must provide staff with a list that includes the names and mailing addresses of the following:

- Owner(s) and tenant(s) of the subject property included in the Application;
- Owners and tenants 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. Where the tax records reflect a mailing address for an owner of property to be different than the address of the property owned, then **both** must be included.
- Additionally, applicants must provide stamped (first class) and labeled envelopes addressed to the owner(s) and tenant(s) of the Subject Property and the owners and tenants of all property within 100 feet on all sides of the Subject Property. It is requested that the envelopes be self-sealing (peel and stick) and labeled with the following return address: Department of Planning and Development, City of Raleigh, P.O. Box 590, Raleigh, NC 27602-0590
- The applicant is responsible for notifying the City, and providing updated envelopes and an updated mailing list, if any of the abutting property owner mailing addresses have changed between the date of submittal and 30 days prior to the hearing.

City Responsibility – Using the applicant-provided envelopes, the Planning and Development Department will prepare and mail a written notice to the owner(s) and tenant(s) of the property (the “Subject Property”) included in the BOA Application and the owners and tenants of all property within 100 feet on all sides of the Subject Property. This notice will be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the evidentiary hearing.

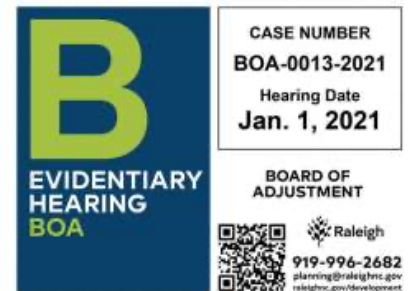
POSTED NOTICE

Applicant Responsibility - If the individual mailing addresses of tenants in any multi-tenant properties are not readily available, the multi-tenant property **shall be posted by the applicant**. Signs can be procured by contacting the staff planner and sign posting shall comply with the following:



- Signage shall be posted in the right-of-way immediately adjacent to the multi-tenant property at a conspicuous location visible from the nearest public street or streets if the property fronts on multiple streets
- The Applicant shall provide the City with documentation (photo and attestation as to date of posting) establishing compliance with the posting requirements of this subsection.

City Responsibility – Posted notice will also be posted by City staff on the Subject Property or on adjacent street or highway right-of-way at least 10 days, but not more than 25 days, prior to the date of the evidentiary hearing.



WEB POSTING

- Notice will be posted on the City’s official website no less than 10 calendar days prior to the date of the evidentiary 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) and Appeals of Administrative decisions. The BOA consists of five regular members and two alternate members. 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](#), per UDO Section 10.2.10, 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. Please note certain UDO provisions may not be varied including allowed land uses, accessory structure regulations set forth in Section 6.7.2., and use standards set forth in Chapter 6.

WHAT IS A SPECIAL USE PERMIT?

[Special Use Permits](#), per UDO Section 10.2.9, are for uses that may be appropriate within a particular zoning district, but because of increased potential for incompatibility with adjacent uses, the use is only allowed upon the presentation of competent, material and substantial evidence establishing compliance with one or more standards set forth in the UDO.

QUASI-JUDICIAL EVIDENTIARY HEARING

In considering applications, the BOA conducts a quasi-judicial evidentiary hearing. You or your legal representative are *required* to attend and present your case before the BOA. The Board hears and considers evidence presented at the hearing, and applies the standards set forth in state law and the City's ordinance. The BOA's decision must be based on competent, material, and substantial evidence submitted at the hearing. The BOA's decision cannot be based on opinions inconsistent with the facts in evidence.

All testimony before the BOA must be "sworn" testimony; therefore, all persons wishing to speak on the matter must be sworn in. BOA members may not discuss the case with the applicant, neighbors, or others outside of the hearing. This is known as "ex parte" communication and is improper.

The applicant, the City, and any person who would have standing to appeal the decision under N.C.G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board.

After the evidentiary hearing, the BOA will vote to approve, approve with conditions, or deny the application. 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) and Appeals of an administrative decision require a concurring vote of three members of the BOA (out of a possible 5 votes) in order to be approved. Following the vote, the Board's decision will be reduced to writing with findings of fact and conclusions of law and the written decision will be adopted when the meeting minutes are adopted.

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").