



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 16-3-1906. Criteria for Approval of Variances
- _____ 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 thirty days (30) prior to the Board of Zoning Appeals meeting per LMO Section 16-3-111C. Mailed Notice. 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

NOTE: The applicant shall submit to the Administrator no less the seven (7) calendar days prior to the meeting, an Affidavit of Compliance with this notice requirement. LMO Section 16-3-111C(2). Mailed Notice

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.

A variance may be approved by the Board of Zoning Appeals from the following sections of the LMO:

1. Height, Maximum Impervious Coverage and Minimum Open Space, as set forth in Chapter 4.
2. Any design or performance standard set forth in Chapter 5, with the exception of sign standards.
3. The requirement to preserve specimen, endangered, threatened, rare or record size trees in Sec. 16-6-402.
4. The requirement to meet specific widths of buffers in Sec. 16-6-204.

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:

1. Permit a use of land or a structure not allowed in the applicable district.
2. Allow the physical extension of a nonconforming use.
3. Increase the density of a use above that permitted by applicable district.
4. 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 30 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 30 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 30 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.

The mailed notice shall provide the following information:

- a. The general location of land that is the subject of the application, including a location map.
- b. Its legal description or street address.
- c. The substance of the application, including the magnitude of proposed development and the current zoning district.
- d. The time, date and location of the public hearing.

- e. A phone number to contact the Town.
- f. A statement that interested parties may appear at the public hearing.

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

5. The applicant shall submit to the Administrator not less than 7 calendar days prior to the meeting an affidavit of compliance with this requirement including a list of all owners to which a notice was mailed.

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. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
- b. These conditions do not generally apply to other properties in the vicinity.
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
- d. Is not the result of the applicant's own actions.
- e. Granting of the variance does not substantially conflict with the Comprehensive Plan and the purposes of the LMO.
- f. The authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district 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 10 calendar 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.