



# Variance Review Process

## Contact Information

Currituck County  
Planning Department  
PO Box 70  
Currituck, NC 27929

Phone: 252.232.3055  
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Physical Address: 153 Courthouse Road  
Website: <http://www.co.currituck.nc.us/Planning.cfm>

## Step 1 Pre-application Meeting

The applicant must schedule a pre-submittal meeting with county staff to discuss the proposed request, ordinance requirements, and process.

## Step 2 Application and Evidence Submittal

The applicant must submit a complete application packet on or before the application submittal date. A complete application packet consists of the following:

- Completed Currituck County Variance Application.
  - Application Fee (\$150).
    - A narrative explaining the need for a variance and any information which will be useful in considering this application.
    - An accurate site plan of the property drawn to scale (1"=50') in a professional like manner, unless waived by the administrator. Lots 20,000 square feet or smaller shall require a boundary survey/site plan prepared by a licensed land surveyor or engineer.
    - All residential site plans shall include the following minimum information:
      - General information, including but not limited to: lot dimensions; zoning designation; and setbacks.
      - Location(s), dimension(s), and arrangement of all: existing physical features (structures, buildings, streets, roads, etc.); proposed construction; driveway(s) including type of surface material; and, septic system, well, or water tap.
      - Topographic plan (shown in one foot intervals) that indicates location and elevation changes above or below natural grade within the past six months and contains the following certificate:

I, \_\_\_\_\_, owner/agent do hereby certify that I will develop the property in accordance with the approved plans which will be constructed or maintained so that surface waters from such development are not unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties. In addition, the development will be constructed or maintained so that it will not unreasonably impede the natural flow of water from higher or adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

Date: \_\_\_\_\_ Owner/Agent: \_\_\_\_\_
  - Comparison of how the proposed development relates to the Maritime Forest Guide.
  - Any additional information as required by the reviewing agents.
- Non-residential site plans shall include the following minimum information :
  - General information including, but not limited to: vicinity sketch; north arrow; engineering scale ratio; acreage; title of the development; date of the plan; gross floor area of all

- buildings; name and address of owner/developer and person or firm preparing the plan; and zoning setback lines.
- Location(s), dimension(s), and arrangement of all: vehicular entrances, exits, drives and fire lanes; automobile parking spaces, width of aisles and bays, angle of parking and number of spaces; truck unloading docks, ramps and spaces; refuse collection (dumpster) container space(s); building(s) with exterior dimensions; fences, walls, docks, ramps, pools, patios, and surface areas; water tap(s) denoting size(s) of line(s) or well area; sewer tap(s) denoting size(s) of lines or septic system location, including repair area; electrical service connection(s); existing and proposed fire hydrant; easements and rights-of-way; size(s) of all public utility lines (water, sewer and storm sewer) within all adjacent public rights-of-way and easements.
  - Drainage plan, including a drainage narrative with calculations, site surface drainage, pipe size, yard drains, catch basins, curb inlets, and topographic plan that indicates location and elevation changes above or below natural grade (shown in one foot intervals) within the past six months and contains the following certificate:  
I, \_\_\_\_\_, owner/agent do hereby certify that I will develop the property in accordance with the approved plans which will be constructed or maintained so that surface waters from such development are not unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties. In addition, the development will be constructed or maintained so that it will not unreasonably impede the natural flow of water from higher or adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.  
Date: \_\_\_\_\_ Owner/Agent: \_\_\_\_\_
  - Curb and gutter alignment, including street widening and storm drainage, if necessary.
  - Bufferyard/Landscape plan, including the following information:
    - Existing and proposed buildings, drives, parking areas, exterior storage areas, dumpsters, stormwater detention areas (if applicable) and accessory structures;
    - All existing and proposed planting areas and vegetation that will be used to comply with the bufferyard requirements, including the species, height, caliper (for single stem trees only) and spacing of all vegetation;
    - Existing and proposed physical barriers to be used to comply with the bufferyard requirements;
    - All surrounding existing land uses; and,
    - Adjoining property lines and names and address of adjoining property owners.
  - Site distance triangles of 10' x 70' shall be indicated at the intersection of all public right-of-way lines, and site distance triangles of 10' x 35' shall be indicated at the intersection of a right-of-way and driveway.
  - Comparison of how the proposed development relates to the maritime forest guide, if applicable.
  - The flood zone(s), including boundary lines and finished floor elevations, where applicable.
  - A lighting plan compliant with the Currituck County Unified Development Ordinance.
  - A copy of an executed NCDOT Street and Driveway Access Permit Application and Encroachment Agreement, if necessary.
  - Any additional information as may be required by the reviewing agents.
  - NCDENR, DWQ, stormwater permit application for projects with 10,000 square feet or more of built upon area proposed.
  - NCDENR, Land Quality, Erosion and Sedimentation Control permit application for projects with one acre or more of land disturbance proposed.
  - Number of Copies Submitted
    - 5 Copies of conceptual site plans
    - 5 Hard copies of ALL documents
    - 1 PDF digital copy (ex. Compact Disk – e-mail not acceptable) of all plans AND documents

NOTE: NCDENR PERMITS AND APPROVED PLANS ARE REQUIRED PRIOR TO BUILDING PERMIT APPLICATION OR COMMENCEMENT OF PROPOSED USE IF A BUILDING PERMIT IS NOT REQUIRED.

### Step 3 Administrative Review and Recommendation

The planning staff will review the request and prepare a written report. A copy of the staff report and recommendation will be provided to the applicant in advance of the Board of Adjustment meeting. At the discretion of the administrator, non-residential requests for a variance may be reviewed by the Technical Review Committee one month prior to the Board of Adjustment meeting.

### Step 4 Board of Adjustment Meeting

The Planning staff will present the request to the Board of Adjustment. The applicant must attend the Board of Adjustment meeting to present evidence and answer any questions the board or public may have about the request. The Board of Adjustment shall conduct a quasi-judicial hearing that is subject to procedural rules set forth by the courts, including the requirement of a formal evidentiary hearing. All persons who intend to present evidence to the board shall be sworn. The board may approve, deny, or continue the hearing to a subsequent meeting.



# Variance Application

OFFICIAL USE ONLY:	
Case Number:	_____
Date Filed:	_____
Gate Keeper:	_____
Amount Paid:	_____

## Contact Information

<b>APPLICANT:</b>		<b>PROPERTY OWNER:</b>	
Name:	_____	Name:	_____
Address:	_____ _____	Address:	_____ _____
Telephone:	_____	Telephone:	_____
Fax Number:	_____	Fax Number:	_____
E-Mail Address:	_____	E-Mail Address:	_____
LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: _____			

## Property Information

Physical Street Address: \_\_\_\_\_

Location: \_\_\_\_\_

Parcel Identification Number(s): \_\_\_\_\_

## Request

I, \_\_\_\_\_, hereby request a variance from Section(s) \_\_\_\_\_ of the Unified Development Ordinance.

Provide a narrative of why the variance is needed and what circumstances have lead to the need for a variance:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relevant Factors for Issuance of a Variance

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it makes detailed written findings that:

- A. If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property. *(It is not sufficient that failure to grant the variance simply makes the property less valuable. Ordinarily some physical problem preventing development of the property in an authorized manner should be shown).*

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- B. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public. *(If other property owners in the area suffer from the same hardship then the proper action would be to seek relief through an amendment to the ordinance).*

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- C. The hardship relates to applicant's land, rather than personal circumstances. *(Hardships suffered by the applicant should relate to the applicant's land and not result from the ordinance regulations).*

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- D. The hardship is unique, or nearly so, rather than one shared by many surrounding properties. *(Hardships suffered by the applicant in common with neighbors does not justify a variance, the proper remedy is not a variance, but rather an amendment of the ordinance. Courts have held that a board's granting a variance based on such factors amounts to an attempted usurpation of legislative power).*

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- E. The hardship is not the result of the applicant's own actions. *(Where a property owner has either knowingly or unknowingly violated the ordinance by erecting a forbidden structure, he/she cannot cite expenses as a hardship, otherwise no one would ever comply with the ordinance. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self imposed).*

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F. The variance will neither result in the extension of a nonconforming situation in violation of the UDO nor authorize the initiation of a nonconforming use of land. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted will not create a new nonconformity).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

\_\_\_\_\_  
Owner Date

\_\_\_\_\_  
Appellant/Applicant Date

**Owner Verification**

If the person who is requesting the Board of Adjustment to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this section. If the owner is the appellant/application please do not complete this section.

Dear Sir or Madame:

I am the owner of the property located at \_\_\_\_\_.

I hereby authorize \_\_\_\_\_ to appear with my consent before the Board of Adjustment in order to request a variance at the above location. I understand that a variance, if granted, is permanent and runs with the land. I authorize you to advertise and present this matter in my name as the owner of the property.

If you have any questions, you may contact me at the following at the address, phone number, or email address listed on this application.

Respectfully yours,

\_\_\_\_\_  
Owner Date

Sworn to and subscribed before me, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

# Variance

## Hearing Dates and Procedure for Continued Requests

Request: \_\_\_\_\_

Application Submittal Date: \_\_\_\_\_

Technical Review Committee Meeting Date: \_\_\_\_\_

Board of Adjustment Meeting Date: \_\_\_\_\_

### **Procedure for Delayed Request**

*Please initial each statement.*

\_\_\_ If you wish to continue your request to a later date, you must appear before the appropriate committee/board on the scheduled meeting date, state the reason for continuance, and the meeting date you wish the request to be heard.

\_\_\_ There is a \$100 processing fee for each delayed request. This must be paid prior the delayed meeting date.

\_\_\_ If you wish to delay your request at a Board of Adjustment meeting, you are responsible for re-advertising your request in a newspaper of general circulation in Currituck County for the approved date. The notice shall include the date, time, place, and nature of the application and shall be advertised at least 10 days, but not more than 25 days, prior to the hearing. You must provide the Planning Department with a copy of the newspaper in which that advertisement occurred and an affidavit of publication provided by the newspaper listing the advertisement and advertisement date(s) prior to the Board of Adjustment meeting.

\_\_\_ A request may only be continued by an applicant a total of two times during the entire review process. If the request is not acted upon by the appropriate committee/board at the second delayed meeting date because of the applicant's request for continuance, the application will be voided and returned to the applicant. A new submittal, including submittal fees, will be required to place the item on an agenda. The request will process as a new submittal as if it has not been reviewed by any committees/boards. *Note: In the event of an emergency, the administrator may process the continuance without it being counted toward the maximum number of two continuances allowed.*

I, \_\_\_\_\_, acknowledge the meeting dates listed above and that I or my authorized representative must be present at each meeting. If I wish to continue my request, I must follow the procedures listed above.

\_\_\_\_\_  
Property Owner/Authorized Agent

Staff will use the following checklist to determine the completeness of your application. Only complete applications will be accepted.

## Variance Submittal Checklist

Date Received: \_\_\_\_\_

TRC Date: \_\_\_\_\_

Project Name: \_\_\_\_\_

Applicant/Property Owner: \_\_\_\_\_

### Applications

- \_\_\_ Complete Variance application
- \_\_\_ Hearing Dates and Procedure for Continued Requests form
- \_\_\_ Number of Copies Submitted
  - 5 Hard copies of ALL documents
  - 1 PDF digital copy (ex. Compact Disk – e-mail not acceptable) of all plans AND documents

### Fee

- \_\_\_ Application fee (\$150)

### File

- \_\_\_ Add new case number

### Pre-application Meeting

- \_\_\_ Pre-application Meeting was held on \_\_\_\_\_ and the following people were present: \_\_\_\_\_

### Comments

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