
REMINDER

When applying for a variance, it is important to realize that you have the responsibility of proving that you need the variance because of a hardship. Also, please note that Board members are **not** allowed to discuss the case or gather evidence outside the public hearing.

How many Board members have to vote in favor of a variance in order for it to pass?

Four-fifths of the Board's members, or 4 of the 5 members, must vote in favor of each finding of fact for a variance to be granted. For example, a variance would be denied if two (2) or more of the Board members voted against any one of the findings of fact. The Board will notify you of their decision in writing regardless of whether the variance passed or failed with 5 working days of the meeting. (Section 153.280, (B))

What happens if the variance is granted?

If the Board decides to grant the variance, they may place certain restrictions or conditions on the variance to protect the public interest and neighboring property owners.

For example, if you are permitted to construct your building five feet from the property line rather than the required ten feet, you might have the condition that your maximum building height is thirty feet rather than the permitted thirty five feet.

What options do you have if your variance is denied?

If your variance is denied, you may abide by the ordinance requirement, or you may choose to appeal the decision to the Lincoln County Superior Court.

If you would like additional information, please contact the City of Lincolnton Planning Department at 704-736-8930.



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*The City of Lincolnton Unified
Development Ordinance is
available online at
www.ci.lincolnton.nc.us (click on
Departments, then Planning, then
Unified Development Ordinance.*

BOARD OF ADJUSTMENT VARIANCE REQUESTS

City Of Lincolnton
North Carolina



Planning and Zoning
Department

Phone: 704-736-8930
Web site: www.ci.lincolnton.nc.us



What is the Board of Adjustment?

The Board of Adjustment is a quasi-judicial board with 5 permanent members and 3 alternate members, comprised of citizens residing in Lincolnton and its Extraterritorial Jurisdiction. The Board of Adjustment is a volunteer board appointed by the Lincolnton City Council.

What is their function?

The Board of Adjustment has two main functions:


1. **Consider variance requests** - If certain hardships exist, the Board can vary the law to alleviate the hardship.
2. **Consider appeal requests** - If you do not agree with Planning Staff's interpretation of the Unified Development Ordinance, you may appeal the decision to the Board of Adjustment. The Board does not have power to change the Ordinance and is limited to its interpretation. Decisions are based on what the Board believes to be the actual meaning and intent of the ordinance.



What factors are considered in variance cases?

Standards for granting a variance can be found in Section 153.277 of the Unified Development Ordinance.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

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4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.