



Variances

Q. I saw a sign about a Variance Public Hearing, or I received a letter informing me that a nearby property owner is applying for a variance, what does this mean?

A variance is simply a tool to provide relief from the strict application of the Unified Development Ordinance in unique or peculiar situations. No ordinance can ever account for all possible real world situations so having a tool short of going to court for a property owner to seek relief is paramount.

State law, specifically [G.S 160A-388](#), defines the criteria that must be met in order to qualify for a variance. It is the task of the Board of Adjustment, an appointed citizen board, to hear variance requests and make findings of fact in their decision whether or not to grant a variance.

Variations are difficult to get by design. If a hardship under the ordinance is shared by everyone in a neighborhood or the whole town, then a variance is not an appropriate remedy. A text amendment, if so desired by the Board of Commissioners, would be the appropriate solution.

For example, suppose Tom H. would like to build an addition to his house. He calls the Planning Department and finds out that the side setback is 15 feet. Unfortunately for Tom, his house is only 25 feet from the side property line, making his dreams of a new sunroom an impossibility under the strict application of the ordinance. Now let's suppose that Tom's house is on a steep lot. In fact the other side of his lot slopes off dramatically, and the rear is unbuildable due to that same drop off as well as a stream buffer that limits where he can build. With those specific characteristics of his lot, Tom may well have a case for a variance. If he applied for one, it would be the job of the Board of Adjustment to hear the case and all evidence presented and make their decision based on the criteria outlined in state law. If on the other hand, none of the above site-specific characteristics exist, Tom's burden is common to the whole neighborhood, i.e. having a 15' side setback, then any reduction ought to be enjoyed by all through the text amendment process.

Variance Process

Who: Board of Adjustment

What: Holds an evidentiary hearing to hear evidence and determine facts (not solicit general public opinion)

Where: Town Hall Assembly Room

When: Typically the 4th Monday of each month at 6:30 pm

How: The applicant and any others wishing to present evidence are sworn in, the hearing is held. Then, the board makes their finding of facts, and usually makes their decision in the same meeting. $\frac{4}{5}$ of the board must vote affirmatively for a variance to be granted.

Note: All Board of Adjustment meetings are public meetings. However, unlike a rezoning or text amendment public hearing, which are legislative decisions where opinion is welcomed and encouraged, variance decisions are quasi-judicial, meaning court-like, and only relevant evidence and testimony can be considered in the board's decision.

More information: Please check out these blogs from the UNC School of Government for greater detail: [Variance Standards](#) and [Building the Record for a Quasi-Judicial Decision](#).