



PLANNING AND CODES

TOWN OF DENTON

Board of Zoning Appeals Application

For Official Use Only

FEE DUE

Number: _____
Date Filed: _____
Hearing Date: _____
Applicants Notified: _____
Property Posted: _____
Notice Posted: _____
Decision of Board: _____
Applicant Notified of Decision: _____

*Application Fee & \$10 sign fee
PLUS cost of public hearing advertisement, due before
first meeting*

**Variance Applications & Appeals Applications require
complete application and 8 copies of all attachments.
Special Exception Applications require complete
application and 16 copies of all attachments.**

A. Applicant Information

APPLICANT NAME – PLEASE PRINT CLEARLY

ADDRESS CITY STATE ZIP CODE

PHONE NUMBER CELL PHONE E-MAIL ADDRESS

APPLICANT SIGNATURE – by signing this document applicant agrees to be responsible for all fees and advertising expenses
incurred by this application.

B. Property Owner Information

PROPERTY OWNER NAME – PLEASE PRINT CLEARLY

ADDRESS CITY STATE ZIP CODE

PHONE NUMBER CELL PHONE E-MAIL ADDRESS

PROPERTY OWNER SIGNATURE

C. Property Information

PROPERTY ADDRESS

MAP PARCEL PRESENT ZONING OF PROPERTY CRITICAL AREA DESIGNATION

D. Request

Request is hereby made for: (check one)

- ☐ Variance from strict application of said ordinance; section of Ordinance from which relief is sought:
- ☐ Yard, area or bulk requirements.
 - ☐ Bulk, area or height of structures.
 - ☐ Height or size of signs.
 - ☐ Placement of earth satellite antennae.

(If applying for variance please see page 4 of the application and include responses for each)

- ☐ Appeal from:
- ☐ Director of Planning and Codes, or other administrative officer in the enforcement of this Chapter 128, Zoning
 - ☐ Planning Commission Decision
 - ☐ Building Code Official Decision
- ☐ Special Exception - § 128-180

E. Sketch

Please attach 6 copies of sketch drawn to scale with all dimensions of lot and building thereon, distances between building and property lines, bounding street or road names, North point and scale.

F. Purpose

- If a Special Exception is being requested, please attach a description of the kind of exception desired and the reasons therefore. (see page 7)
- If applying for a Variance please see page 4 (see page 5 for Critical Area).
- If appealing a decision, please attach an explanation of appeal.

G. History

Has property ever been subject of previous application? Yes No

In the event this property has been the subject of a previous application, please provide the following information (Note: this information is on file in the Town Office):

PREVIOUS APPLICATION NUMBER

PREVIOUS APPLICATION DATE

PREVIOUS APPLICANT NAME

ACTION TAKEN ON PREVIOUS APPLICATION

H. Authority

- a. In the event the Applicant is a person other than the Owner of the subject property, give an explanation of the Applicant's interest in said property and attach hereto a statement by the Owner stating whether or not said Owner supports this application.
- b. List the name, address and telephone number of any agent or attorney who will be representing the Applicant. If the Applicant is represented by an agent attach documentary evidence that the Applicant is so represented.
- c. Attach hereto six copies of the recorded Deed conveying present ownership of the property which has been duly recorded among the Land Records of Caroline County, Maryland (a copy may be obtained from the office of the Clerk of Court if not otherwise available). If there are any restrictions attached to the deed of the property subject to this application, please advise the Board.
- d. **I do hereby solemnly declare and affirm under the penalties of perjury that the information provided, and the sketch shown in this application, as well as the documents attached to this application, are true, correct and genuine to the best of my knowledge, information and belief.**

SIGNATURE OF APPLICANT(S)

DATE

SIGNATURE OF APPLICANT(S)

DATE

SIGNATURE OF ATTORNEY / LEGAL REPRESENTATIVE

DATE

Request for Variance

(Please provide an explanation of each variance requested)

§ 128-181. Board of Appeals - Variances.

- A. Subject to the provisions of § 128-178D, the Board shall have the power to grant variances of the following types and in accordance with the following standards:
- (1) Types of variances.
 - (a) Yard, area, or bulk requirements.
 - (b) Bulk, area, or height of structures.
 - (c) Height or size of signs.
 - (d) Placement of earth satellite antennas.
 - (2) Standards for granting a variance.
 - (a) Strict enforcement of this chapter would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.
 - (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity and which are peculiar to the land, structure, or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness, or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the line of sight when such object or objects cannot be easily removed.
 - (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
 - (d) Granting of the variance must be in harmony with the general purpose and intent of this chapter and must not be harmful to adjacent property, the character of the neighborhood, or the public welfare.
 - (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.
 - (f) The condition, situation, or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter.
 - (g) The variance granted must be the minimum necessary to afford relief.

- (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this chapter. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- (i) The applicant for a variance shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party if the Board finds such evidence not to be credible.

Critical Area Variance

§ 128-182. Standards for granting a variance within the Critical Area District.

- A. In addition to the findings in § 128-181 above, the Board may grant a variance in the Critical Area District, provided that:
 - (1) Special conditions or circumstances exist that are peculiar to the land or structure within Denton's Critical Area Program, which would result in an unwarranted hardship. For purposes of this section, "unwarranted hardship" means that without a variance, the applicant will be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
 - (2) A literal interpretation of this subtitle or the Denton Critical Area Program and this chapter will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
 - (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the Denton Critical Area Program to other lands or structures within the Critical Area.
 - (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition conforming to any neighboring property.
 - (5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, and the Denton Critical Area Program.
 - (6) The application for a variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
 - (7) A decision has been provided to the Critical Area Commission, in writing, immediately after the variance approval or denial.
- B. In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources

Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the Town's Critical Area Program. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance set forth herein.

- C. The Board shall make written findings reflecting analysis of each standard, including whether the applicant has overcome the presumption set forth in Subsection K(3)(b). The Board's decision and written findings may be based upon any competent evidence or testimony introduced or presented by the applicant, the Town or other governmental agency, or other person or entity as deemed appropriate by the Board.
- D. No permit may be issued for the activity that was the subject of the variance within the Critical Area District until the applicable thirty-day appeal period has elapsed.
- E. Reasonable accommodations for the needs of disabled citizens. Notwithstanding any other provision of this section, the Board may make reasonable accommodations to avoid discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following subsections.
 - (1) An applicant shall have the burden of demonstrating the following:
 - (a) The existence of a physical disability.
 - (b) Literal enforcement of the provisions of this chapter would result in discrimination by virtue of such disability.
 - (c) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter.
 - (d) The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this chapter as applied to the property.
 - (e) Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the particular disability of the applicant.
 - (2) The Board shall determine the nature and scope of any accommodation under this section. It may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist that accommodate the need with less adverse effect.
 - (3) The Board may require, as a condition of approval, that upon termination of the need for accommodation, the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

Request for Special Exception

(Please provide an explanation of each special exception requested)

§ 128-180. Board of Appeals - Special exception.

- A. In order to provide for adjustment in the relative location of uses and buildings of the same or of different classifications, to promote the usefulness of this chapter as an adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are permitted by the terms of this chapter.
- B. The Board shall have the power to approve special exceptions for any of the uses for which this chapter requires obtaining such exceptions and for no other use or purpose. The Board shall not grant a special exception except in conformance with the conditions and standards of this chapter.
- C. In granting a special exception, the Board shall make findings of fact consistent with the provisions of this chapter. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:
 - (1) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this chapter.
 - (2) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - (3) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazards.
 - (4) Not detrimental to the property values of adjacent development, do not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.
- D. The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board shall consider the recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party if the Board finds such evidence not to be credible.

Property Notification Requirements

Article XVII Requirements for public hearing and public notice.

§ 128-214. Posting.

- A. Unless otherwise expressly provided by law, all notices to the general public required by § 128-216 shall be made by posting the property to be affected by the pending proceeding. Such posting shall be made at least 14 days prior to the hearing date by the erection of a sign to be furnished by the Department of Planning. Such sign shall be continuously posted until the date of the hearing and shall not be removed until the time specified in Subsection E herein. Such sign shall be erected by the initiator of the proceeding within ten (10) feet of the boundary line of the property, which abuts the most traveled public road. If no public road abuts thereon, then such sign shall face in such direction as designated by the Director of Planning and shall bear the words:

PUBLIC HEARING NOTICE

Case Number: _____ pending
(nature of the case)

For information, call: _____
(telephone number)

The blanks shall be filled in with the assigned case number, if any, a short description of the nature of the proceeding, and the telephone number of the appropriate government office to provide information regarding the proceeding.

- B. The Department of Planning shall furnish the sign to the initiator of the proceeding with payment by the initiator of a nonrefundable deposit of \$10.
- C. At the hearing, it shall be the duty of the initiator of the proceeding to prove by affidavit or in person that he has fully complied with this section.
- D. Any sign to be posted pursuant to this section shall be maintained in a visible location and free from obstruction by brush, weeds, or other growth until after the public hearing is held. Such a sign shall be removed within five (5) days after the appropriate administrative board renders the final decision.
- E. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

§ 128-215. Public hearing.

All proceedings under the terms of this chapter requiring a public hearing shall be advertised by the Town once a week for two successive weeks in a newspaper of general circulation in the Town, with the first such advertisement at least fourteen (14) days prior to the public hearing, the cost for which publication shall be borne by the petitioner, prior to the date the proceeding is scheduled for hearing, which advertisement shall state the following:

- A. The date, time, and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, its area, name of owner, file or case number of the proceeding, and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

§ 128-216. Public notice.

- A. Preliminary major site plans, subdivisions, and applications under the provisions of the IRD Infill and Redevelopment Overlay Zone are subject to the public notice requirements outlined herein. The Planning Commission may require public notice for the review of a final major site plan or major subdivision.
- B. The applicant shall give at least fourteen (14) days' notice of the time and place of the Planning Commission review of a preliminary major site plan or subdivision application by mail to the owners of property within two hundred (200) feet of the property with which the Planning Commission's review is concerned.
- C. A certificate of mailing shall be submitted to the Department of Planning and Codes prior to the date on which the proceeding is scheduled. Failure to provide a certificate of mailing to all property owners within two hundred (200) feet of the property on which the proceeding is scheduled shall delay the proceeding. The mailed notice shall be directed to the address to which the real estate tax bill on the property is sent. Said notice shall contain the same information as the published notice required by § 128-216 of this article.
 - (1) The date, time, and place of such review.
 - (2) A summary of the purpose of the proceeding in sufficient detail to inform the public of the project scope.

- (3) The location of the property involved, its area, name of the owner.
 - (4) Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.
- D. The Department of Planning shall provide a complete, accurate, and up-to-date list of all such property owners that require notice. Failure of a person to receive the notice shall not impair the validity of the hearing. For any Planning Commission or Board of Appeals review that requires notification to contiguous property owners, the petitioner shall also post the subject property at least fourteen (14) days prior to the meeting.

Town of Denton
Sign Maintenance Agreement

I/we _____ as petitioner(s) to the Board of Appeals do hereby agree to maintain this sign which I/we agree to have posted on the property for the purposed of Public Notice relating to appeal # _____.

If for some reason the sign fails to remain posted for the necessary 14 days prior to the appeal hearing date, I/we shall notify the Director of Planning & Codes.

APPLICANT'S SIGNATURE

DATE

FILING DATE

REQUIRED DATE

POSTING FEE

DATE POSTED