



**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

Special Exception - § 128-163 J

**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 that 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 that 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.**

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SIGNATURE OF APPLICANT(S)

DATE

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SIGNATURE OF APPLICANT(S)

DATE

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SIGNATURE OF ATTORNEY / LEGAL REPRESENTATIVE

DATE

## **Request for Variance**

**(Please provide an explanation of each variance requested)**

§ 128-163 K.

(2) Standards for granting a variance.

- (a) Strict enforcement of this Chapter 128, Zoning 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 128, Zoning and must not be injurious 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 the ordinance.
- (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 Ordinance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
- (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

§ 128-163 K.

(3) Standards for granting a variance within the Critical Area District.

(a) In addition to the findings in Subsection K(2) above, a variance may be granted by the Board in the Critical Area District, provided that:

- [1] Special conditions or circumstances exist that are peculiar to the land or structure within the 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 (to Article 66B of the Annotated Code of Maryland or the Denton Critical Area Program and this Chapter, 128, Zoning) 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 which 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, on 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 that 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 variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
- [7] 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.

## **Request for Special Exception**

**(Please provide an explanation of each special exception requested)**

§ 128-163 J.

- (2) In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Chapter 128, Zoning. 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:
  - (a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.
  - (b) 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.
  - (c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - (d) Not detrimental to the property values of adjacent development, does 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.
- (3) The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Chapter 128, Zoning. 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 Ordinance. The Board shall consider 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**

Per § 128-179. “Public notice”, of the Town Code, whenever the application of Chapter 128, Zoning requires the holding of a public hearing, the petitioner requesting the public hearing shall give at least 14 days notice of the time and place of such hearing by certified U.S. mail, first class postage prepaid by petitioner, to the owners of property within 200 feet of the property with which the hearing is concerned. Proof of certified mailing shall be submitted to the Department of Planning prior to the date on which the proceeding is scheduled. Failure to provide proof of certified mailing to all property owners within 200 feet of the property on which the proceeding is scheduled shall delay the proceeding. Said mailed notice shall be directed to the address to which the real estate tax bill on the property is sent.

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 or accept service prescribed in this section 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 14 days prior to the meeting.

Said notice shall contain the same information as the published notice required by § 128-178 of the Town Code;

- 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, and 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.





**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.

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APPLICANT'S SIGNATURE

DATE

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FILING DATE

REQUIRED DATE

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POSTING FEE

DATE POSTED