



**TOWN OF FUQUAY-VARINA**  
401 Old Honeycutt Road  
Fuquay-Varina, North Carolina 27526  
(919) 552-1429

<b>TOWN OFFICE USE ONLY:</b>	
Tracking No. -	_____
Receipt No -	_____
Rec. Date -	_____
<b><u>VARIANCE REQUEST</u></b>	

**REQUEST FOR PRESENTATION BEFORE THE FUQUAY-VARINA BOARD OF ADJUSTMENT**

**State of North Carolina**  
**County of Wake**

In the Matter of the Town of Fuquay-Varina Board of Adjustment

Fuquay-Varina Board of Adjustment Number: \_\_\_\_\_

Name of Petitioner: \_\_\_\_\_

I hereby request to make a presentation before the Town of Fuquay-Varina Board of Adjustment in the matter of the case noted above and petition attached. In making this request, I assert that I understand all the following statements:

1. This request will be reviewed by the Town of Fuquay-Varina Board of Adjustment and may be either granted or denied.
2. Making a presentation will require the presence of myself and/or my representative during any public hearing held in this matter.
3. My presentation will be limited to discussion of my first hand and personal knowledge and information regarding the matter noted above.
4. The North Carolina State Bar’s Authorized Practice of Law Committee has ruled that the appearance in a representative capacity at a quasi-judicial hearing or procedure is limited to lawyers who are active members of the Bar. Proceedings before the Town of Fuquay-Varina Board of Adjustment is quasi-judicial. You should consider how you intend to present your case to the Town of Fuquay-Varina Board of Adjustment in light of the State Bar’s opinion and whether anyone will be speaking in a representative capacity for you or your business. If you or your representative request to speak before the Town of Fuquay-Varina Board of Adjustment, you must complete and file this form along with the appropriate completed application or petition with the Town of Fuquay-Varina Planning Department prior to making any presentation.

Depending on your status as an individual, corporation, partnership or limited liability company, the State Bar’s opinion affects how you may proceed with your presentation. You are advised to consult these opinions and G.S. §84-2.1 et seq..

Please make sure that signatures on this Presentation Request form are: (1) for individuals and business owners, your signature; and (2) for corporations, partnerships and limited liability companies, signed by individuals who would not violate the State Bar’s opinion on the unauthorized practice of law.



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**REQUEST FOR PRESENTATION BEFORE THE FUQUAY-VARINA  
BOARD OF ADJUSTMENT  
(Continued)**

Also, be advised that the Town of Fuquay-Varina Board of Adjustment may choose not to proceed with hearing your case if the Town of Fuquay-Varina Board of Adjustment is informed that a violation of N.C.G.S. §84-2.1 et seq. may occur.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE (President, Owner, etc.)

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE NUMBER with AREA CODE

\_\_\_\_\_  
E-MAIL

State of North Carolina  
County of Wake

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

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

My Commission Expires: \_\_\_\_\_

Seal



**TOWN OF FUQUAY-VARINA**  
**401 Old Honeycutt Road**  
**Fuquay-Varina, North Carolina 27526**  
**(919) 552-1429**

<b>TOWN OFFICE USE ONLY:</b>	
Tracking No. -	_____
Receipt No. -	_____
Rec. Date -	_____
Hearing Date -	_____

**PETITION FOR VARIANCE**

**Board of Adjustment**

- **A fee of \$400.00 must accompany completed application.** Incomplete forms or inaccurate information will delay processing of the request.
- Complete this form and return to the Planning Department. Please refer to the Board of Adjustment Submittal Schedule for deadline dates.

**PETITIONER/OWNER INFORMATION**

1. Petitioner: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: (day) \_\_\_\_\_ (fax) \_\_\_\_\_

E-mail Address: \_\_\_\_\_

2. Property Owner: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: (day) \_\_\_\_\_ (fax) \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**PROPERTY INFORMATION**

1. Address or location of subject property: \_\_\_\_\_

2. Tax Parcel Number (PIN): \_\_\_\_\_ Lot #: \_\_\_\_\_ Block: \_\_\_\_\_

3. Current Land Use: \_\_\_\_\_ Subdivision: \_\_\_\_\_

4. Existing or proposed Land Uses on all adjoining properties and across streets:

a. North: \_\_\_\_\_

b. South: \_\_\_\_\_

c. East: \_\_\_\_\_

d. West: \_\_\_\_\_

5. Acres of property: \_\_\_\_\_ Street Frontage: \_\_\_\_\_ Existing Zoning: \_\_\_\_\_



**PETITION FOR VARIANCE**  
**Board of Adjustment**  
**Continued**

**TOWN OFFICE USE ONLY:**  
Tracking No.- \_\_\_\_\_

6. Is this petition the result of a violation notice?  
Is there any other local hearing pending or planned for this property?  
If Yes to either question above, explain: \_\_\_\_\_

- Variance Request:**    lot width    setback    bldg. height    sign  
 parking    landscaping/buffers & easements  
 accessory bldg.    other, \_\_\_\_\_

Is property located in a PD?    Yes    No   *If Yes, and a setback is sought, you must attach a copy of the homeowners' association approval of the request if an association exists.*

Describe request: specify the purpose, type, dimensions and location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DOCUMENTATION REQUIRED WITH PETITION:**

1. 15 copies of a scale drawing (1" = 100' or larger) of the site must be included. The scale drawings shall also be on a sheet no larger than 11" x 17". The drawing must contain the following:
  - a. All property lines with dimensions, north arrow and scale.
  - b. Adjoining streets with right of way.
  - c. All structures, parking, landscaping, access (existing and proposed)
  - d. The present use of the land and adjacent uses.
  - e. Zoning classification of all abutting property and across the streets.
  - f. County tax map and parcel number.
2. On a separate sheet provide a written legal description of the property.
3. Copy of deed with book and page numbers verifying current property ownership.

**The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State enabling act and the Zoning Ordinance of the Town of Fuquay-Varina, the Board shall not grant a variance from the terms of the Ordinance unless and until it shall make the prescribed findings. In order to grant a variance, the Board of Adjustment must make the required finding of facts contained in Article O, Section 9-4155 (3) of the Zoning Ordinance. The petitioner shall submit the following Statements of Justification, presenting factual evidence and testimony supporting each and all of the required findings as they relate to this petition for a variance.**



**PETITION FOR VARIANCE**  
**Board of Adjustment**  
**Continued**

<p><b>TOWN OFFICE USE ONLY:</b></p> <p>Tracking No.-_____</p>
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**The Board of Adjustment cannot grant a variance to written conditions adopted by the Town Board of Commissioners that are part of a Subdivision Exception/Variance, Planned Development, Conditional Zoning, Subdivision Plat or Site Plan approval that will be varied by this request.** Is the petitioner aware of any such written conditions that pertain to the property in question?     Yes     No

**Based on the variance request checked on the previous page you must provide the following appropriate information to support the petition request:**

**Lot Width, Setback:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
 \_\_\_\_\_
2. The variance request is: \_\_\_\_\_ feet. *(The measurement needs to be accurate and verified by a Registered Land Surveyor. For example if the petition is for a side setback variance to permit a 7 foot setback from a required 10 foot setback, the variance request is 3 feet..)*
3. The Fuquay-Varina Inspections Department has been notified of the proposed variance for a setback that results in the setback being less than 5 feet from a property line, and the variances' affect on the N.C. State Building Code has been determined and attached as evidence with this petition.  
 Yes     No

**Height:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
 \_\_\_\_\_
2. The variance request is: \_\_\_\_\_ feet. *(The measurement needs to be accurate. For example if the petition is for a building height variance to permit 55.5 feet from a maximum required 50 feet height, the variance request is 5.5 feet.)*
3. The Fuquay-Varina Fire Department has been notified of the proposed variance, and the variances' affect on the ability of the Fire Department to meet fire suppression standards for a fire event has been determined and attached as evidence with this petition.  
 Yes     No
4. The Town regulates the height of a fence on the front and sides of a property. There is no height limitation along the rear property line. The variance request is: \_\_\_\_\_ feet.  
*You must attach a copy of the homeowners' association approval of the request if an association exist.*



**PETITION FOR VARIANCE**  
**Board of Adjustment**  
**Continued**

**TOWN OFFICE USE ONLY:**  
Tracking No.-\_\_\_\_\_

**Sign:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
\_\_\_\_\_

2. Describe the variance request by checking the appropriate box (s) below:

- reduce the setback requirement for a freestanding sign
- increase the maximum height requirement for a freestanding sign
- increase the maximum square feet requirement for a freestanding sign
- increase the maximum percentage of wall signage per building wall
- change requirement (s) for signage in the Town Center Plan area

*Has review and approval by the Town Board of Commissioners been obtained as required in the Town Code § 9-4144 E?*

3. The petitioner understands that the Board of Adjustment has no authority to vary the NC State Building Code requirements and any variance approved by the Board does not waive or reduce the requirements to mount, erect, attach, support, or design a sign to meet the appropriate NC State Building Code regulations.  Yes  No

**Parking:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
\_\_\_\_\_

2. Describe the variance request by checking the appropriate box (s) below:

- reduce the number of parking spaces required
- reduce the width of the travel lane
- increase the maximum number of parking spaces for a shopping center
- reduce percentage shared parking requirement proposed %: \_\_\_\_\_

*§ 9-4121 (d) Shared parking permits the Board to reduce shared parking up to 30%.*

modify loading standards Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**PETITION FOR VARIANCE**  
**Board of Adjustment**  
**Continued**

<b>TOWN OFFICE USE ONLY:</b> Tracking No.- _____
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**Landscaping:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
 \_\_\_\_\_

2. Describe the variance request by checking the appropriate box (s) below:

- reduce the buffer/landscape easement width
- street tree standard
- parking lot tree standard
- riparian buffer requirements (Cape Fear River Basin)

**Accessory Bldg.:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
 \_\_\_\_\_

2. Describe the variance request by checking the box below:

- increase accessory bldg. maximum square footage proposed %: \_\_\_\_\_  
*§ 9-4082 Accessory Buildings, permits the Board to increase the maximum square footage up to 25%*
- increase the total aggregate square footage of all accessory buildings/units/ temporary accessory storage units permitted on a property
- increase 6 month time limit for temporary accessory storage unit
- change required rear yard location of accessory building/unit/temporary storage unit

**Other Variance Request:**

1. The specific Town Code Section (s) applicable to the petition: \_\_\_\_\_  
 \_\_\_\_\_

2. Reason for the request: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



**PETITION FOR VARIANCE**  
**Board of Adjustment**

**TOWN OFFICE USE ONLY:**  
Tracking No. - \_\_\_\_\_

**STATEMENT OF JUSTIFICATION**

**Each statement of finding must be addressed with factual evidence and testimony to support the petition for the variance (add additional sheets as necessary).**

**The courts have developed rules to determine whether in a particular condition or circumstance “practical difficulties or unnecessary hardships” exist. State facts and arguments in support of each of the following:**

- a. That special conditions and circumstances exist which are peculiar to the land, structure or building (e.g., narrowness, topographic conditions, property shape) involved and which are not applicable to other lands, structures or buildings in the same district. *[If the petitioner/property owner complies with the provisions of the ordinances, the petitioner/property owner can secure no reasonable return from, or make no reasonable use of the property. It is not sufficient that failure to grant the variance simply makes the property less valuable.]***

**Statement by Petitioner:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Answer the following additional questions:**

- 1. Can there be beneficial use of the property without the variance being granted?  
 Yes    No

Explain: \_\_\_\_\_  
\_\_\_\_\_

- 2. Will the essential character of the neighborhood be substantially altered or will adjoining properties suffer substantial detriment if the variance is granted?  
 Yes    No

Explain: \_\_\_\_\_  
\_\_\_\_\_



PETITION FOR VARIANCE
Board of Adjustment

TOWN OFFICE USE ONLY:
Tracking No. - \_\_\_\_\_

STATEMENT OF JUSTIFICATION
(CONTINUED)

3. Will the delivery of public services be adversely affected if the variance were to be granted? [ ] Yes [ ] No

Explain: \_\_\_\_\_
\_\_\_\_\_

4. Can the predicament you describe be mitigated through some other method? [ ] Yes [ ] No

Explain: \_\_\_\_\_
\_\_\_\_\_

b. That the literal interpretation of the provisions of this ordinance would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. [Hardships suffered by the petitioner in common with neighbors do not justify a variance. Also, unique personal or family hardships or economic hardships are irrelevant since the variance, if granted, runs with the land. Hardships in this sense means only a physical problem with the land.]

Statement by Petitioner: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Answer the following additional question:

1. Are the conditions or circumstances found to affect the applicant's property of a general or recurrent nature as to make reasonably practicable the formulation of a general regulation to address the conditions or circumstances? [ ] Yes [ ] No

Explain: \_\_\_\_\_
\_\_\_\_\_



PETITION FOR VARIANCE
Board of Adjustment

TOWN OFFICE USE ONLY:
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STATEMENT OF JUSTIFICATION
(CONTINUED)

c. That the special conditions and circumstances to be considered do not result from the actions of the petitioner. [Previous knowledge or violations of the ordinance prior to a petition before the Board of Adjustment are not conditions which the Board would consider justification to grant a variance.]

Statement by Petitioner: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Answer the following additional question:

1. Did you purchase/lease the property with knowledge of the condition you are seeking to obtain a variance for? [ ] Yes [ ] No

Explain: \_\_\_\_\_
\_\_\_\_\_

d. That granting the variance will not confer on the petitioner any special privilege that is denied by this ordinance to other land, structures, or buildings in the same district. [State evidence and testimony that the variance will be in harmony with the general purpose and intent of the ordinance and that the public safety is secured and does substantial justice by showing if the variance is granted the benefits to the applicant will not outweigh the benefit to the public.]

Statement by Petitioner: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_



PETITION FOR VARIANCE
Board of Adjustment

TOWN OFFICE USE ONLY:
Tracking No. - \_\_\_\_\_

STATEMENT OF JUSTIFICATION
(CONTINUED)

Answer the following additional question:

- 1. Will the requested variance have the effect of nullifying or impairing the intent and purposes of the specific standards, the Ordinance or the Comprehensive Plan?
Yes No

Explain: \_\_\_\_\_

Do you propose to attach any conditions with this variance request? Yes No

If so, specify the condition (s): \_\_\_\_\_

LIST OF WITNESSES:

Table with 2 columns: Name (Print), Profession. Rows for Witness #1 through #5.

I/we submit this statement of justification in support of the findings of fact to which factual evidence and testimony are given and witnesses, herein listed, give testimony and factual evidence in support of the findings for approval of the variance by the Board of Adjustment.

Date: \_\_\_\_\_ By: \_\_\_\_\_



**PETITION FOR VARIANCE**  
**Board of Adjustment**

**TOWN OFFICE USE ONLY:**

Tracking No. - \_\_\_\_\_

**ADJACENT PROPERTY OWNERS**

In the spaces below list the names and mailing addresses of all adjoining property owners within 100 feet of the property in question for a variance. Owners of property directly across the road also within 100 feet must be included (right-of-way does not count as part of the 100 feet. Copy additional sheets if necessary.

Name	Current Mailing Address (based on current tax records)	Tax Map Number (PIN)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

I \_\_\_\_\_ certify that this is an accurate listing to the best of my knowledge of all property owners of record within 100 ft. of the land subject to this petition using Wake County tax records.

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

By: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn to and subscribed before me, \_\_\_\_\_, a Notary Public for the above State and County this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

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

Seal

My Commission Expires: \_\_\_\_\_



**PETITION FOR VARIANCE**  
**BOARD OF ADJUSTMENT**

**TOWN OFFICE USE ONLY:**  
Tracking No. - \_\_\_\_\_

**AGENT AUTHORIZATION FORM**

Approval of any variance by the Board of Adjustment runs with the land; therefore, the property owner is the petitioner. The property owner may authorize an individual with Power of Attorney, Attorney, Contractor, Lessee to submit a petition on behalf of the property owner; however the property owner must sign the petition and this form.

I/We \_\_\_\_\_ are the owner (s) of the property for which the attached petition is being submitted authorize the agent herein named to submit this petition.

The property is located at: \_\_\_\_\_

Wake County (PIN): \_\_\_\_\_ Current Zoning: \_\_\_\_\_  
Spell Out Name of District

The agent for this petition is:

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

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Representation: \_\_\_ Power of Attorney \_\_\_ Attorney \_\_\_ Contractor \_\_\_ Lessee

SIGNATURE (s) OF OWNER (s)

\_\_\_\_\_  
(Property Owner Print Name) (Property Owner Signature) (Date)

\_\_\_\_\_  
(Property Owner Print Name) (Property Owner Signature) (Date)

\_\_\_\_\_  
(Property Owner Print Name) (Property Owner Signature) (Date)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn to and subscribed before me, \_\_\_\_\_, a Notary Public for the above State and County this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

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

Seal

My Commission Expires: \_\_\_\_\_



# PETITION FOR VARIANCE

## Board of Adjustment

TOWN OFFICE USE ONLY:

Tracking No. - \_\_\_\_\_

### INSTRUCTIONS FOR FILING A VARIANCE

1. A petitioner for a variance must complete this application in full. This petition will not be processed unless all information requested is provided.
2. The petitioner shall submit with the application on the sheet provided a list of all adjoining property owners within 100 ft. of the proposed variance, with the current mailing address of each. These adjoining property owners will be notified of the proposed variance request by the Planning Department.
3. Completed petitions are submitted to the Town of Fuquay-Varina Planning Department located at 401 Old Honeycutt Road, Fuquay-Varina. The deadline to submit a petition and dates of the Board of Adjustment meetings are available on the Town's web page, [www.fuquay-varina.org](http://www.fuquay-varina.org), then click Planning Department.
4. The petition for a variance shall include maps drawn to scale and must be clearly legible and accurate to the best of the petitioner's ability. All documentation submitted with the petition or presented at the hearing before the Board of Adjustment in support or opposition to the variance becomes the property of the Town.
5. The petition must be signed by the owner of the property requesting the variance. The owner's signature must be notarized.
6. The public hearing before the Board of Adjustment is held on the **second Monday of each month at 7:00 p.m. in the Town of Fuquay-Varina Town Hall** located at 401 Old Honeycutt Road, Fuquay-Varina, Town Board Room **unless otherwise notified**.
7. The Statement of Justification must include all factual information and witnesses that will provide testimony to support these statements.
8. **A variance applies to the land unless otherwise restricted by the Board of Adjustment; therefore, the property owner is the petitioner, except one who is licensed to practice law in the State of North Carolina may represent the property owner as the petitioner.**
9. Unless otherwise specified, any order or decision of the Board of Adjustment granting a special exception shall expire if the petitioner does not obtain a building permit or Certificate of Occupancy for such use within twelve (12) months from the date of the decision by the Board of Adjustment.



**PETITION FOR VARIANCE**  
**Board of Adjustment**

<b>TOWN OFFICE USE ONLY:</b> Tracking No. - _____
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**INSTRUCTIONS FOR FILING A VARIANCE (Continued)**  
**AND**  
**SIGNATURES**

10. Any appeal of a decision by the Board of Adjustment shall be to Wake Superior Court within thirty (30) days of the date of the decision by the Board of Adjustment.
11. The petitioner has the burden of proof in the proceedings before the Board of Adjustment to provide evidence and testimony that the petition for the variance presents justification to meet the “finding of facts” in the case.

**SIGNATURES:**

I/we the undersigned, being first duly sworn, do hereby certify that all contents of this petition and all attached documents are true, complete, and accurate to the best of my/our knowledge and belief, and I/we have read and reviewed the petition and understand the required documentation and process to be followed before the Board of Adjustment.

(Petitioner Print Name)	(Petitioner Signature)	(Date)
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(Property Owner Print Name)	(Property Owner Signature)	(Date)
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(Property Owner Print Name)	(Property Owner Signature)	(Date)
-----------------------------	----------------------------	--------

(Property Owner Print Name)	(Property Owner Signature)	(Date)
-----------------------------	----------------------------	--------

(Property Owner Print Name)	(Property Owner Signature)	(Date)
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Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

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

My Commission Expires: \_\_\_\_\_

Seal



## BOARD OF ADJUSTMENT PROCEEDINGS

**TOWN OFFICE USE ONLY:**

Tracking No. - \_\_\_\_\_

The Board of Adjustment consists of members appointed by the Town Board of Commissioners and the Wake County Board of Commissioners with recommendations from the Town Board of Commissioners. The Board of Adjustment is an independent Board that renders decisions on special exceptions, variances and appeals. The only avenue to appeal a decision by the Board of Adjustment is to Wake Superior Court. The Board of Adjustment conducts its proceedings in a similar manner to a court of law, which in common terminology and under the General Statutes of the State of North Carolina is called a “quasi-judicial hearing”.

A petition presented before the Board of Adjustment is a form of written testimony, and is used to show how ordinance considerations are addressed and to present evidence and witnesses to the Board of Adjustment that the required findings for approval can be made.

**Attendance at the hearing is required.** A petitioner may represent themselves and call upon witnesses to give testimony supporting the petitioners request or may be represented by someone “appropriate” for quasi-judicial public hearings. “Appropriate” in this case is someone who is licensed to practice law in the State of North Carolina. The petitioner plays a very active role in the Board of Adjustment’s consideration and must provide sufficient evidence in order for the required findings to be affirmed. The public hearing will allow the petitioner, proponents, opponents and anyone else the opportunity to speak, cross-examine and ask questions in regards to the petition.

In general the Board of Adjustment proceedings are as follows:

- Once the Board of Adjustment meeting is called to order and the Board members conduct initial business prior to hearing the cases, the Chairperson will ask that anyone wishing to speak on a particular case will be required to be sworn.
- The Chairperson will recognize the Fuquay-Varina Planning Department staff for a brief presentation that will be limited to: (i) addressing the nature of the request, (ii) presenting a map of the location of the affected tract or tracts of land, and, (iii) the applicable Town Ordinances the Board of Adjustment is acting under.
- The Chairperson will then open the case for public hearing and ask the petitioner to present their testimony and evidence and witnesses to justify their request. For most cases before the Board of Adjustment a decision by the Board of Adjustment applies to the land unless otherwise restricted; therefore the property owner is the petitioner. The property owner may retain legal counsel to present the case and call witnesses for the petitioner. Or, the property owner may present their own case and call witnesses to give testimony for the petitioner.



**BOARD OF ADJUSTMENT**  
**PROCEEDINGS**  
**(Continued)**

**TOWN OFFICE USE ONLY:**

Tracking No. - \_\_\_\_\_

- Once the petitioner has completed their testimony and presented evidence and/or witnesses, the Chairperson may call for any proponents to give testimony and present evidence in support of the petition.
- The Chairperson may then call for opponents to give testimony and present evidence and/or witnesses in opposition to the petition.
- The members of the Board of Adjustment may ask questions and clarification of any testimony given by the petitioner, proponents, opponents and witnesses for the case before the Board.
- The petitioner, proponents and opponents may cross-examine testimony and evidence given by either side. The Chairperson may recognize individuals who request to cross-examine testimony or evidence given.
- Upon completion of all testimony, evidence and witnesses before the Board of Adjustment the Chairperson will close the public hearing and then discussion of the testimony and evidence presented will be reviewed by the Board of Adjustment members. At this point the petitioner, proponents, opponents and witnesses are not permitted to provide additional testimony or ask questions to the Board members. The Chairperson may or as requested by a Board member reopen the public hearing to ask questions or receive additional clarification on testimony presented.
- The Board of Adjustment may approve the petition, approve it with conditions, continue it for more information, or deny it. Normally the Board of Adjustment will render a decision the same night of the public hearing.
- A vote by the Board of Adjustment to approve a petition requires a “super majority” which is 4/5 of the membership present. For example with 6 members present the vote must be 5 in favor to pass the petition. If the vote was 4 in favor and 2 opposed the request for the petition would be denied.
- A decision by the Board of Adjustment may be appealed to Wake Superior Court within 30 days of the date of the decision by the Board of Adjustment.

Staff Planner: (919) 552-1437

Board of Adjustment Clerk: (919) 552-1429

To accommodate disabilities and to comply with ADA regulations, please contact the Town Planning office if you need assistance.