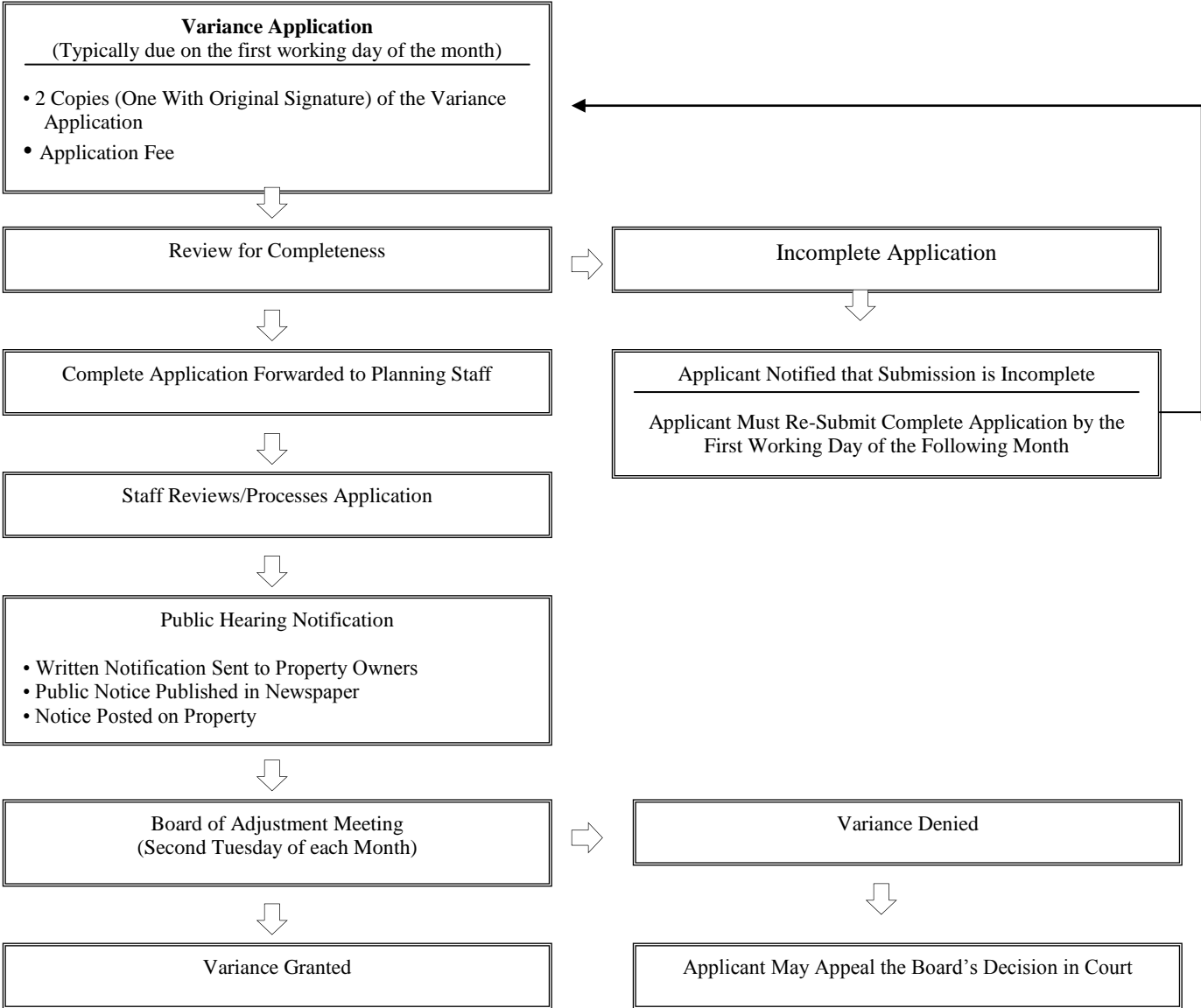


VARIANCE PROCESS

The Board of Adjustment conducts a quasi-judicial public hearing process. Only sworn testimony provided at the public hearing may be considered in their decision-making. The Board of Adjustment members cannot be legally contacted by the applicant or applicant's representative prior to the public hearing (e.g. no ex parte communication). If you have any questions, please contact Senior Planner June Cowles at 249-3331.



VARIANCE PROCESS

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COMPLETE APPLICATION: The applicant must submit the following items by 5:00 P.M. on the submittal date listed on the Variance Application Schedule (attached).

1. Two copies (one with original, notarized signatures) of the Application for Variance.
2. A plot plan or site plan.
3. Envelopes addressed to each of the property owners of the land subject to the application and all property owners within 300 feet of the land subject to the application. The envelopes must be affixed with a *first class postage stamp* (metered postage *will not* be accepted) and contain the following return address:
**The Town of Apex – Planning Department
P.O. Box 250
Apex, North Carolina 27502**
4. A signed affidavit with a certified list of property owners of the land subject to the application and all property owners within 300 feet of the land subject to the application. The addresses for property owners may be obtained from the current Wake County Tax Office, 300 S. Salisbury Street, Raleigh, North Carolina.
5. The Variance Application Fee.

REVIEW FOR SUFFICIENCY: Planning staff checks application for sufficiency. Incomplete applications will be returned to the applicant (typically within the week the application is submitted). Sufficiently complete applications are forwarded to the Planning Director, or her designee.

PUBLIC HEARING NOTIFICATION: Notification of the public hearing will take place by three different methods. A written notice prepared by the Planning Department for all property owners of the land subject to the application, and all property owners within 300' feet of the land subject to the application. These notices will be postmarked not more than 25 days nor less than 14 days prior to the Board of Adjustment meeting. Two notices will be published in the newspaper published in the newspaper once a week for two successive weeks no less than 10 days but not more than 25 days prior to the public hearing. A notice will also be posted at the land subject to the application at least 14 days prior to the public hearing.

PUBLIC HEARING/BOARD OF ADJUSTMENTS: The Board of Adjustments will consider the application, relevant support materials, Staff Report and public testimony given at the public hearing. After the public hearing the Board of Adjustments will vote to approve, approve with conditions or disapprove the variance. Four-fifths of the members of the Board of Adjustments must vote for approval in order for a variance to be approved. The Board of Adjustments meets at 7:00 P.M. in the Town Hall Board Room on the date indicated on the Variance Application Schedule (typically the second Tuesday of each month).

VARIANCE APPLICATION

Application # _____

Date: _____

Variance Fee: \$ 350.00

Completed Application and fee must be submitted before 5:00 p.m. on the submittal date listed on the attached Variance Application Schedule. The submittal date is typically the **1st Monday** of the month (Please see the Variance Application Schedule since holidays may change the submittal date).

Permit or Relief Requested: ____ Variance

Applicant: _____	Owner: _____
Address: _____	Address: _____
_____	_____
City State Zip	City State Zip
Telephone: _____	Telephone: _____
Fax: _____	Fax: _____
E-mail: _____	E-mail: _____

Legal relationship of applicant to property owner: _____

Property location: _____

Street address or intersection

PIN# _____

Lot size: _____

Square feet: _____

Zoning classification: _____

Attach a plot plan or site plan to illustrate this request.

VARIANCE APPLICATION

TO THE APEX BOARD OF ADJUSTMENT:

I, _____, hereby petition the Apex Board of Adjustment for a VARIANCE from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Director, I am prohibited from using the parcel of land described in this application in a manner shown by the plot/site plan attached to this form. I request a variance from the following provisions of the Unified Development Ordinance (cite the paragraph numbers):

so that the above-mentioned property can be used in a manner indicated by the plot/site plan attached to this form or if the plot/site plan does not adequately reveal the nature of the variance, as more fully described herein: (If a variance is requested for a limited time only, specify duration requested).

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Apex Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. In order to approve an application for a variance, the Board of Adjustment shall find the following:

- 1) *Special circumstances exist.* There are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of the property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district;
- 2) *Not a result of action by applicant.* The special circumstances are not the result of the actions of the applicant;
- 3) *Strict application deprives use.* The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause an unnecessary and undue hardship;
- 4) *Minimum variance.* The granting of the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of this Ordinance;
- 5) *Not adverse to adjacent land.* The granting of the variance will not adversely affect adjacent land in a material way; and
- 6) *Consistency with this Ordinance.* The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. The courts have developed three (3) rules to determine whether in a particular situation “practical difficulties or unnecessary hardships” exist. State facts and arguments in support of each of the following:

VARIANCE APPLICATION

(a) If applicant complies with the provisions of the Unified Development Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his or her property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

(b) The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardship suffered by the applicant in common with his neighbors do not justify a variance. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

(c) The hardship is not the result of the applicant's own actions.

(2) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

(3) The granting of the variance secures the public safety and welfare and does substantial justice. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

VARIANCE APPLICATION

Petitioner or Designated Representative Certification:

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Date

Signature of Petitioner or Designated Representative

Property Owner(s) Certification:

All property owners of the subject property must provide their signatures.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Date

Signature of Property Owner

Date

Signature of Property Owner

Date

Signature of Property Owner

Date

Signature of Property Owner

Date

Signature of Property Owner

Date

Signature of Property Owner

Date

Signature of Property Owner

VARIANCE APPLICATION

**TOWN OF APEX
AGENT AUTHORIZATION FORM**

_____ is the owner of the property for which the attached application is being submitted:

- _____ Land Use Amendment
- _____ Rezone
- _____ Site Plan
- _____ Subdivision Map
- _____ Variance
- _____ Other: _____

The property is located at: _____
The agent for this project is:

Name: _____

Address: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

Signature(s) of Owner(s)

Type or print name

Type or print name

***Owner of record as shown on the latest equalized assessment rolls of Wake County. (An option to purchase does not constitute ownership). If ownership has been recently transferred, a copy of the deed must accompany this authorization.**

VARIANCE APPLICATION SCHEDULE



2012 VARIANCE SCHEDULE Town of Apex, North Carolina

(1) Submittal Date <i>No later than 5 p.m.</i>	(2) Staff reviews application and writes staff report	(3) Published notice posted to Town's Website	(4) Written notifications mailed	(5) Board of Adjustment Agendas mailed on or before:	(6) Board of Adjustment Meeting (6:00 p.m.)
Jan 3*	Jan 3* - Feb 6	Jan 30 – Feb 14	Jan 31	Feb 6	Feb 14
Feb 6	Feb 6 – Mar 5	Feb 27 – Mar 13	Feb 27	Mar 5	Mar 13
Mar 5	Mar 5 - Apr 2	Mar 26 – Apr 10	Mar 26	Apr 2	Apr 10
Apr 2	Apr 2 - 30	Apr 23 – May 8	Apr 23	Apr 30	May 8
May 7	May 7 - Jun 4	May 29– Jun 12	May 29*	Jun 4	Jun 12
Jun 4	Jun 4 - Jul 2	Jun 25 – Jul 10	Jun 25	Jul 2	Jul 10
Jul 2	Jul 2 - Aug 6	Jul 30 – Aug 14	Jul 30	Aug 6	Aug 14
Aug 6	Aug 6 - Sep 4*	Aug 27 – Sep 11	Aug 27	Sep 4*	Sep 11
Sep 4*	Sep 4* - Oct 1	Sep 24– Oct 9	Sep 24	Oct 1	Oct 9
Oct 1	Oct 1- Nov 5	Oct 29 – Nov 13	Oct 29	Nov 5	Nov 13
Nov 1*	Nov 1* - Dec 3	Nov 26 – Dec 11	Nov 26	Dec 3	Dec 11
Dec 3	Dec 3 – Dec 31	Dec 21* – Jan 8	Dec 21*	Dec 31	Jan 8

****Date changed due to holiday(s).***

Procedures for Applicant

- (1) Applicant submits two (2) copies (one with original signatures) of the Variance Application to the Planning Department by 5:00 p.m. on the date indicated above.
- (2) Staff reviews application and writes staff report.
- (3) Staff prepares and posts legal advertisement to the Town's website.
- (4) Written notifications mailed to adjacent property owners.
- (5) Board of Adjustment agendas mailed or delivered on or before the date indicated above.
- (6) The Board of Adjustment will hold a public hearing and consider the application, the staff report, relevant support materials and public testimony given. After the close of the public hearing, the Board of Adjustment shall approve, approve with conditions, or disapprove the application for a variance pursuant to the standards of the Unified Development Ordinance, Section. 2.3.8 (d), *Standards*.