



## The Village of Sugar Mountain

251 Dick Trundy Lane ♦ Sugar Mountain, NC 28604

Tel: (828) 898-9292 ♦ Fax: (828) 898-9293

### VARIANCE APPLICATION INSTRUCTIONS

COMPLETE APPLICATION: The applicant must submit the following items:

1. Six (6) copies (one with original signature) of the Application for Variance. The original application and the property owner certification page require applicant's signature to be notarized. Notary services are available at the Village Hall for a charge of \$5.
2. A plot plan or site plan showing the dimensions of the parcel of all structures on the parcel and all setbacks (existing and proposed). A full survey is required if you have one. If you do not, your plot plan may be hand drawn; However, it must be to scale and the scale must be shown on the drawing along with the following information:
  - a. North Point with North being at the top of the plot plan.
  - b. Location and orientation of the lot built upon or to be used or to be built upon including names of all streets upon which the lot abuts or obtains access to and from;
  - c. Dimensions and acreage of the lot built upon or to be used or to be built upon;
  - d. The size, square footage, location and height of all existing and proposed buildings and structures, including projections such as chimneys, bay windows, patios, decks, porches, eaves, carports, awnings, or stoops and distances from the closest point to the property line;
  - e. An elevation drawing is required if the project is going beyond one story;
  - f. Location of existing and proposed required yards, including transition yards, easements, vehicular surface areas, and rights of way and distances from closest point;
  - g. Plantings required by this code and relationship of these planting areas to building and structure;
  - h. Location of any signs and fences involving this variance;
  - i. Parking must be shown for both existing and proposed spaces. Driveways entrances and exits.
  - j. Must stake out property indicating corners of lot to be built upon as well as staking out the location of the building on lot.
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 and return envelopes for each. All envelopes must be affixed with *first class postage stamp* (metered postage *will not* be accepted) and the return envelopes must contain the following return address:

**Village of Sugar Mountain – Board of Adjustment  
251 Dick Trundy Lane  
Sugar Mountain, NC 28604**

4. You can either obtain a signed and notarized 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 or one can be mailed to property owners. The addresses for property owners may be

obtained from the current Avery County Tax Office, 175 Linville St., Newland, NC 28657, Phone 828-733-8228.

5. Submit Variance Application and application fee of \$125 no less than 30 days prior to hearing.

**WHAT WE WILL DO AFTER WE HAVE RECEIVED YOUR VARIANCE APPLICATION REQUEST:**

1. Review for Sufficiency: Zoning Administrator 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 Board of Adjustment Committee chairman.
2. Notification Letters to Adjacent Property Owners: Written notifications will be mailed to adjacent property owners.
3. Zoning Administrator Recommendation: The Zoning Administrator will make one of the following recommendations to the Board of Adjustment committee:
  - a. No Opposition to the variance request.
  - b. No support for the variance request. (Opposed)
  - c. Offers no opinion.
4. Public Hearing Notification: Notification of the public hearing will take place by three different methods. A written notice prepared by the Zoning Administrator or his designee 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. A notice will be published in the newspaper no less than ten (10) days but not more than twenty-five (25) days prior to the public hearing.
5. Board of Adjustment Agendas: Board of Adjustment agendas will be mailed or delivered on or before the date of the hearing.
6. Public Hearing: The Board of Adjustment will hold a public hearing and consider the application, the Zoning Administrator's 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 Village of Sugar Mountain's Zoning Ordinance, Chapter 1, Article XII, Section 1205.3, *Variances*.
7. Board of Adjustment Ruling: The Board of Adjustment will make and vote on a motion based on one of the three recommendations from the Zoning Administrator. In granting a variance, the Board of Adjustment is authorized to attach safeguards and conditions to the approval as is necessary and appropriate in order to protect established property values in the affected area or to include limitations as follows:
  - a. Appearance including architecture, design and disposition of windows along with any other openings, and materials.
  - b. Drainage with respect to erosion, situation, flooding.
  - c. Duration of the variance, for either a limited or an indefinite period of time.

- d. Landscaping, screening, fencing with respect to protecting affected property from anticipated noise, loss of privacy, and glare; preserving the important natural features; or harmonizing the request with affected properties.
- e. Location and character.

Decisions of the Board, whether or not such decision contains limiting conditions, may be set aside or modified upon a finding that:

- (1) Fraud, material misrepresentation or other misconduct occurred at the proceeding before the Board.
- (2) Violation of any limiting condition imposed for the subject property.

In accordance with Zoning Ordinance Chapter 1, Article XII, Subsection 1206.4, the decision by the Board of Adjustment shall be made within thirty (30) days from the time of hearing.

If GRANTED, the Board of Adjustment shall authorize the Zoning Administrator to issue a Zoning Permit in accordance with Zoning Ordinance Chapter 1, Article XII, Subsection 1205.3.

If DENIED, applicant may, within thirty (30) days after the filing of the decision in the office of the Village Clerk, or after written copies of the decision are delivered to the aggrieved parties as stipulated in subsection 1206.4(5) and in G.S. 160A-388(e), notify Zoning Administrator, who shall act as clerk for the Board, of his intent to file an appeal as stated in Zoning Ordinance Chapter 1, Article XII, Subsection 1206.2. The Zoning Administrator shall immediately notify the chairman of the board that such appeals or application have been received. Procedure for an Appeals Hearing can be found in Zoning Ordinance Chapter 1, Article XII, Subsection 1206.3.

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:** In order to approve an application for a variance, the Board of Adjustment shall find the following:

- a. *Special circumstances exist.* These are special circumstances or conditions (like exceptional topographical 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 zoning district;
  - b. *Not a result of action by applicant.* The special circumstances are not the result of the actions of the applicant;
  - c. *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 zoning district, and would cause an unnecessary and undue hardship;
  - d. *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;
  - e. *Not adverse to adjacent land.* The granting of the variance will not adversely affect adjacent land in a material way; and
  - f. *Consistency with this Ordinance.* The granting of the variance will be generally consistent with the purpose and intent of this Ordinance.
8. Ruling Notification to Applicant: The Zoning Administrator, or his designee will either verbally notify, fax, e-mail, or mail a letter containing the Board of Adjustment Committee's ruling to the applicant.

**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

**APPLICATION FEE - \$125.00**

Requesting the following:       VARIANCE in the Zoning Ordinance  
    APPEAL Interpretation of Board of Adjustment and Request Re-Hearing

The undersigned does hereby request the following be granted by support of the following facts herein shown:

|   |   |
|---|---|
| Name of Applicant                           | Name of Owner                               |
| Address                                     | Address                                     |
| City, State, Zip                            | City, State, Zip                            |
| Cell/Home Telephone      Business Telephone | Cell/Home Telephone      Business Telephone |
| Email Address: _____                        | Email Address: _____                        |

PROPERTY ADDRESS: \_\_\_\_\_

This location is between (street, drive, road, etc.): \_\_\_\_\_

Parcel No.: \_\_\_\_\_      Zoning District: \_\_\_\_\_

Has work already started on this project?       Yes    No  
Did you obtain a Zoning Compliance for Building Permit?       Yes    No   If Yes, Provide Permit No. \_\_\_\_\_  
Has the property been before the Board before?       Yes    No   If Yes, When? \_\_\_\_\_

**A site plan showing the dimensions of the parcel (property), of all existing and proposed structures on the property and all setbacks (existing and proposed) must be submitted with application.**

- Establishment of hardship and factors relevant to the issuance of a Variance:
- A. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance.
  - B. That the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit, keeping with the character of the neighborhood.
  - C. That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.
  - D. That the reasons set forth in the application justify the granting of the Variance, and that the Variance is a minimum one that will make possible the reasonable use of the land or structures.

**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

Explain Need for Variance: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_  
Signature of Petitioner or Designated Representative

\_\_\_\_\_  
Date

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

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

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

SEAL

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

**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

**CERTIFIED LIST OF PROPERTY OWNERS**

**LIST OF PROPERTY OWNERS WITHIN 300 FEET OF THE LAND SUBJECT TO THIS VARIANCE:**

All property owners of the subject property must provide their signature(s)

Date: \_\_\_\_\_ Property Owner Signature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Property Owner Signature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Property Owner Signature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I, \_\_\_\_\_ (Applicant's Name) certify that this is an accurate listing of all property owners and owners within 300 feet of the land subject to this Variance application.

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

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

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

SEAL

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

**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

**BOARD OF ADJUSTMENT COMMITTEE DECISION**

The Hearing was held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

This \_\_\_\_\_ is hereby  
List Type of Application

GRANTED / DENIED  
(Circle One Only)

Conditions and Safeguards listed here:

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\_\_\_\_\_  
Board of Adjustment, Chair or Vice Chair

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk, Village of Sugar Mountain

SEAL

\_\_\_\_\_  
Date

**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

**OFFICIAL USE ONLY**

**PRE-HEARING**

- Was a Zoning Compliance for Building Permit applied for?       No     Yes  
*If Yes, date application denied?* \_\_\_\_\_  
*Reason Denied:* \_\_\_\_\_
- 6 Copies of Variance Application Submitted? *(one with original signature and must be notarized)*
- 6 Copies of Survey *(Must be a survey sealed by professional surveyor showing all existing structures and setbacks)*
  - Make sure survey meets all requirements as outlined under Item 2 of Variance Process & Requirements Page.
- Was property staked out?       No     Yes
- Envelopes addressed to each property owner of land subject to application and all property owners within 300 feet of land subject to application.
  - First Class Postage Affixed?
  - Return Address of Village Hall place on envelope?
- Signed and Notarized Affidavit with Certified List of Property Owners?
- Paid Variance Application fee of \$125.00?
- Did the Zoning Administrator Review Application?
- Contact Board of Adjustment Chairperson to Set Public Hearing Date: \_\_\_\_\_
  - Contact Members: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Send out Written Notification Letters or Hearing to:
  - Property Owners Subject to Application
  - Property Owners within 300 feet of land subject to Application
  - Advertisement in Avery Journal: \_\_\_\_\_ Date Listed
- Prepare Board of Adjustment Packets:
  - Agenda
  - Any previous months' minutes to be approved
  - Variance Application
  - Survey
  - Other Materials: \_\_\_\_\_
  - Given to Police to deliver: \_\_\_\_\_ Date

**Completed By:** \_\_\_\_\_

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



**APPLICATION FOR VARIANCE HEARING  
BEFORE THE VILLAGE OF SUGAR MOUNTAIN  
BOARD OF ADJUSTMENT**

APPLICATION NO.: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

**OFFICIAL USE ONLY**

**POST-HEARING**

- Board of Adjustment's Hearing Decision:
  - GRANTED
  - List any conditions or safeguards: \_\_\_\_\_
  
- Zoning Compliance for Building Permit Issued: (ZCP-\_\_\_\_\_)
  - Expires 6-mo from date of Issuance: \_\_\_\_\_  
*There must be significant work done within the 6-mo period or a new application will be required)*
- DENIED (*Applicant has 30 days from the date of decision to file for a Re-Hearing*)
- Letter Mailed to Applicant Notifying of Final Decision: \_\_\_\_\_ Date Mailed
  - Sent via:  USPS-Certified Return Rcpt # \_\_\_\_\_  E-Mail
- Were any additional requests made for decision notification?  No  Yes  
*If Yes, by whom?* \_\_\_\_\_
  
- Was a Re-Hearing Requested?  No  Yes Date Request Received: \_\_\_\_\_
- Are there substantial changes in the facts, evidence or conditions in the case to warrant a Re-Hearing?
- Yes If Yes, What are they? \_\_\_\_\_
  - Send out Notification Letters
  - Advertise in Avery Journal of Re-Hearing: \_\_\_\_\_ Date
- If No, there will be NO Re-Hearing
- Contact Board of Adjustment Chairperson to Set Public Re-Hearing Date: \_\_\_\_\_
  - Contact Members: \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  
- Prepare Board of Adjustment Packets:
  - Agenda
  - Any previous months' minutes to be approved
  - Variance Application with New Facts, Evidence or Conditions Added
  - Survey
  - Other Materials: \_\_\_\_\_
  - Given to Police to deliver: \_\_\_\_\_ Date
- Decision of the Board of Adjustment from Re-Hearing:
  - GRANTED  DENIED
- List any conditions or safeguards: \_\_\_\_\_

**Completed By:** \_\_\_\_\_

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