



TOWN OF PEMBROKE VARIANCE APPLICATION

(General Variance, Sign Variance, Flood Damage Prevention Ordinance Variance)

Background (General & Sign Variance): A variance is a grant of relief from the requirements of the Town of Pembroke UDO which permits construction in a manner otherwise prohibited by the UDO where specific enforcement would result in unnecessary hardship. The concurring vote of four-fifths of the Board of Adjustment shall be necessary in order to grant a variance. The approval of a Variance is not considered to be approval of a “site specific vesting plan.” Changes in permitted uses shall not be authorized by a Variance. The Board of Adjustment may place conditions upon Variance approval if they deem that the conditions are reasonable and related to the Variance. The applicant is responsible for the burden of presenting factual evidence and argument to the contrary. The evidence presented by the applicant must be sufficient and factual in order for the Board to apply the evidence to the four findings which they are required to make.

Background (Flood Damage Prevention Ordinance Variance): The Town of Pembroke Town Council serves as the Board of Adjustment for Variance requests from the provisions of the Flood Damage Prevention Ordinance. Variances may be issued for situations described in Article 20, Section 20-3 (E)(3) & (10). The Board shall only issue variances if they can conclude there is a showing of good and sufficient cause, determine that a failure to grant the variance would result in exceptional hardship, and determine that granting the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud or victimization of the public, or conflict with existing local laws or the Town of Pembroke UDO.

Pre-Application Meeting: Applicants are not required to, but are highly encouraged to, have a pre-application meeting with the Town of Pembroke to discuss the requirements of this application and the Variance requirements listed in the Town of Pembroke UDO.

Application Requirements:

Submission: All Variance applications shall be submitted a minimum of 30 days prior to the Board of Adjustment meeting at which the Variance is heard.

General Variance:

- Site Plan (if applicable) – a plan drawn to scale showing the boundaries of the site, the proposed or existing structures, and the dimensional variance requested. A surveyed site plan is encouraged, please be aware that the Board of Adjustment may require that a surveyed site plan be provided to confirm exact measurements and accuracy.
- Written Description – a narrative that explains the specific Article/Section of the UDO that the applicant is requesting a variance from and the reason that the request is being made.
- Proposed Conditions – any conditions the applicant wishes to self-impose upon the variance request.



**TOWN OF PEMBROKE
VARIANCE APPLICATION
(continued)**

Sign Variance:

- Site Plan (if applicable) – a plan drawn to scale showing the proposed signage.
- Written Description – a narrative that explains the specific Article/Section of the UDO that the applicant is requesting a variance from and the reason that the request is being made.
- Proposed Conditions – any conditions the applicant wishes to self-impose upon the variance request.

Flood Damage Prevention Ordinance (Variance Request heard by the Town Council):

- Site Plan – refer to Article 20, Section 20-3(B)(1) for details on site plan requirements, must be certified by either a registered land surveyor or professional engineer.
- Written Description – a narrative that addresses the following topics in entirety; the danger that materials may be swept onto other lands to the injury of others, the danger to life and property due to flooding or erosion damage, the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, the importance of the services provided by the proposed facility to the community, the necessity to the facility of a waterfront location as defined under Section 2 of the Flood Damage Prevention Ordinance as a functionally dependent facility where applicable, the availability of alternative locations not subject to flooding or erosion damage for the proposed use, the compatibility of the proposed use with existing and anticipated development, the relationship of the proposed use to the comprehensive land use plan and flood management program for that area, the safety of access to the property in times of flood or ordinary emergency vehicles, the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action if applicable expected at the site, and the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges. **The topics addressed in this description will be the findings and facts that the Town Council will review to determine if the Variance may be issued.**

**Variance Application**

Date Received: _____

Application #: _____

PROPERTY OWNER INFORMATION:

Property Owner: _____

Address: _____

Phone: _____

Email: _____

APPLICANT INFORMATION:

Applicant (if different from owner): _____

Address: _____

Phone: _____

Email: _____

PROPERTY INFORMATION:

Tax Parcel #: _____ Acres: _____

Property Address: _____

Current Zoning District: _____

Proposed Variance (reference to the type and nature of request, narrative information to be included in Written Description portion of application requirements): _____

Findings of Fact (General Variance & Sign Variance): As stated in the Background section of this application, the applicant is responsible for producing evidence for the Board of Adjustment to review to support the facts listed below. The Board of Adjustment shall vote on each of the four findings of facts and is well within their rights to deny the Variance request if they feel that insufficient evidence to support the findings has been presented by the applicant.

The applicant shall provide complete sentence responses to each one of these findings as well as evidence as applicable to support their statements. "Yes" or "No" responses will not be accepted, and applications will be returned that contain such responses.

- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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Date Received: _____

Application #: _____

- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

Additional Statements Requiring the Applicant's Response (Sign Variance):

- (1) Complying strictly with the provisions of the Town of Pembroke UDO prohibits the applicant from making any reasonable use of the allowable signage.
- (2) The hardship suffered by the applicant is unique, or nearly so, and is suffered by the applicant rather than by owners of surrounding properties or the general public.
- (3) The hardship relates to the applicant's land (terrain of site, etc.) rather than to personal circumstances.
- (4) The variance will neither result in the extension of a nonconforming use nor authorize the initiation of a nonconforming use.
- (5) The variance is in harmony with the general purpose and intent of the Town of Pembroke UDO and preserves its spirit and if the variance secures the public safety and welfare and does substantial justice.

**Variance Application**

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Application #: _____

APPLICATION CONSENT:

Owner Consent: I, _____ (Owner Name), do hereby give my consent to _____ (Applicant Name) to apply for a Variance for my piece of real property located in the Town of Pembroke identified by tax parcel number _____.

Applicant Consent: I, _____ (Applicant Name), have the consent of the property owner, _____ (Owner Name), identified in this application and am fully authorized to act on the owner's behalf in applying for this permit. I agree that this permit, if approved, is issued on the presentation made herein and may be revoked because of material departure made herein or violations of conditions placed upon the Variance approval. It is further agreed and acknowledged that if this Variance is approved, the property identified in this application will be bound to comply with the provisions of the approved Variance. It is also understood that further site plans for development may need to be submitted to the Town of Pembroke for review post Variance approval.

APPLICATION SUBMITTAL SIGNATURES:

I hereby consent to all requirements, language and conditions listed within the text of this application as well as any additional applicable requirements within the Town of Pembroke Unified Development Ordinance. I consent to allowing the Town of Pembroke to advertise for the proposed Variance consistent with the manner described in NCGS 160D-406, which may include access to the property subject to the variance request at a reasonable hour.

Person Representing Application:**Signature of Property Owner(s):**

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, Notary Public,
do hereby certify that _____
personally appeared before me this day and
acknowledged the due execution of the foregoing
instrument. Witness my hand and official seal this
_____ day of _____, 20 _____.

(Official Seal)

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, Notary Public,
do hereby certify that _____
personally appeared before me this day and
acknowledged the due execution of the foregoing
instrument. Witness my hand and official seal this
_____ day of _____, 20 _____.

(Official Seal)

Notary Public

My Commission Expires: _____

Notary Public

My Commission Expires: _____

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TO BE COMPLETED BY TOWN OF PEMBROKE:

Pre-application meeting? If so, what date was the meeting and what were the results?

Date this application will be heard by the Town Council/Board of Adjustment: _____

Public Hearing Notification Dates:

Newspaper Publication Date: _____

Date Notice Mailed: _____

Date Property Posted with Required Signage: _____

Town of Pembroke Staff Signature: _____

(Staff member who accepted and reviewed this application and deemed it to be complete)