



ADVISORY FROM THE BOARD OF ADJUSTMENT OF THE TOWN OF BILTMORE FOREST

This advisory is written to better inform applicants of the requirements for seeking a variance or conditional use permit. Our town of Biltmore Forest is a beautiful community. In order to maintain and protect this natural forested environment and the general welfare of this community certain ordinances have been enacted by the Board of Commissioners of the Town of Biltmore Forest under the laws of North Carolina. The spirit of these ordinances must be uniformly followed.

When seeking a conditional use it is important to submit sufficient information for a decision, i.e., specific dimensions, design, and buffering of a proposed fence, wall, etc. Standards for a conditional use permit are listed in Section 1005.03, Conditional Uses, pp. 31-33, in the Town of Biltmore Forest Zoning Ordinance manual, or under Zoning Ordinance at www.townofbiltmoreforest.com.

When seeking a variance certain conditions must exist and a hardship must be evident. A variance can not be granted without proof of a hardship that is *peculiar to the property*, i.e., shape, topography, tree preservation, etc. Please review Section 1005.04, Variations, pp. 33-34, in the Town of Biltmore Forest Zoning Ordinance manual, or under Zoning Ordinance at www.townofbiltmoreforest.com before submitting your application.

The Board of Adjustment represents you and your neighbors. Note that granting a variance can not confer upon the applicant any special privileges that are denied to other residents of Biltmore Forest. Our duty is to see that substantial justice is done. By reviewing the conditions of the ordinances and providing adequate evidence in your application, it is our intent that your application process can move in a smooth and expeditious manner.

Respectfully,

**Town of Biltmore Forest
Board of Adjustment**



GUIDELINES TO ASSIST IN NEW CONSTRUCTION

**TO: OWNERS, ARCHITECTS, BUILDING CONTRACTORS,
LANDSCAPERS and REAL ESTATE AGENTS**

FROM: TOWN'S BOARD OF ADJUSTMENT

Before new construction begins on residences, property owners would be well advised to become acquainted with our zoning ordinances. It is important to review this ordinance, your construction plans, and these guidelines, with Nelson Smith, as this is part of his duties as Zoning Administrator.

Our ordinance provides that residential districts consist of neighborhoods with "dwelling units placed on relatively large lots with considerable open spaces between structures, thus creating a low density residential environment."

Consistent with this openness concept, the ordinance establishes setbacks for all front, side, and rear lot lines. These setback lines are noted on all plats and they require that residences and accessory structures shall not intrude on the setback areas, again giving a sense of low-density areas. (The Board of Adjustment has authority to relax or modify these setback requirements for driveway entrance columns or driveway entrance walls. See Footnote 5, Article VI.)

With this background of information, all owners, architects, contractors, landscapers, etc., should carefully and deliberately study the lot with these setback restrictions before deciding on a construction site. Important trees, topography, and all other aspects of the lot should be well considered before the residence, accessory structures, driveways, walls are sited on the plans. This careful study should enable the site to be developed without intrusion on the setback area, further serving the sense of openness, separation, and low density.

Should a property owner contend that a strict enforcement of the ordinance results in a "practical difficulty or unnecessary hardship," the Board of Adjustment may grant variances and allow some extension into the setback areas. However, the conditions that must be satisfied to receive such a variance are strict and carefully limited. The best advice is as stated above: study the lot and the setbacks carefully before selecting a site and beginning construction. You may have to make a design change to allow the structure to fit the lot.

Checklist for Construction of a New Residence

1. Certificate of Zoning Compliance prior to lot clearing.
2. Responsibility of the contractor for damage done to the road shoulders. The contractor will be required to make the necessary repairs to bring the road shoulders back to their original condition prior to construction.
3. Responsibility of the equipment by contractors, that tracked equipment (e.g. bulldozers or track hoes) shall not be unloaded or operated on pavement surfaces.
4. Vehicles shall not park or be driven on the edges of the pavement.
5. Adequate protective measures shall be taken to prevent soil run off from disturbed ground areas.
6. Heavy aggregate gravel is to be placed from the edge of the roadway a minimum of 100 feet back into the construction site.
7. Monitor driveway gravel conditions and regravels when necessary.
8. Weekly washing of the road as required.
9. The contractor is responsible for delivery trucks and dumpster trucks dragging debris into the roadway. Clean roadways after deliveries.
10. Keep gravel off the roadways.
11. The construction site is to be maintained neatly without accumulation of trash and debris on the site.

On a periodic basis the Town will monitor the condition of the roadway at the construction site. An employee of the Town will notify the contractor if a problem is found., The contractor will be required to supply the Town with an onsite contact person and phone number. The contractor will be responsible for correcting the problem by Friday of that week. If Town crews are required to repair the problem the contractor will be billed for the services. If you have questions please call 274-3919

Terry Crouch
Public Works Director
Town of Biltmore Forest

Checklist for Commercial Development :

1. Zoning is R-5, Section 504 Statement of District Intent
2. State what is permitted and what is a conditional use in the R-4 district
3. State setbacks, minimum lot size, and height of building
4. Go over Section 801 Development Plan/Site Plan Requirements
5. Section 802.05 - Conditional Use Standards for Professional Office Uses
6. Section 1109 - Land Disturbance and Sedimentation Control
 - Section 1113 - Off Street Parking
 - Section 1114 - Oil-Street Loading and Unloading Space
 - Section 1121 - Material and Color Requirements for Commercial Buildings
 - Section 1122 - Site Design and Building Form and Mass for Commercial Buildings
 - Section 1200 - 1205 - Reviews by the Design Review Board
 - Section 1300 - Purpose and Intent of Buffers, Screening and Landscaping
 - Section 1301 - General Information on Buffers, Screening and Landscaping
 - Section 1302 - Existing Vegetation
 - Section 1303 - Buffer Strip and Screen Requirement
 - Section 1304 - Parking Lot Landscaping Requirements
 - Section 1305 - Screening of Dumpsters
 - Section 1306 - Street Trees
 - Section 1308 - Maintenance of Landscaping
 - Section 1310 - Plant Specifications
7. Signs for this development must be approved by the Board of Commissioners
8. Water is to be provided by City of Asheville/Town of Biltmore Forest
 - Sewer is to be provided by MSD
 - Driveway Permits are to be obtained by NC DOT
 - Erosion Control Permits are to be obtained by Buncombe County

Town of Biltmore Forest

Town Code of Ordinances - Noise

Section 12-2. Sounds Impacting Residential Life.

As a means of controlling and reducing noise levels in Biltmore Forest, all construction activities and property maintenance, including delivery of worker's material, machinery or equipment to or from a work site, must be conducted from 7:30 a.m. until 6 p.m. on Monday thru Saturday. Such activities are prohibited on Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. These restrictions apply on all properties within the Town except for clubs.

Should conditions on any property within the Town occur that have the potential of injury or damage to persons or property during prohibited hours, persons in charge, or involved in such matters, shall contact the Town's police officer in charge, present the problem, and seek permission to take appropriate action.

Any sound from radio, music or other noises are not permitted to the extent that they disrupt the quiet enjoyment of property.

Town of Biltmore Forest
APPLICATION FOR A CERTIFICATE OF ZONING COMPLIANCE

Application is hereby made for a certificate of zoning compliance for (a building) (land) located..... in the zoning district(s). The (building) (land) is to be used for If less than the entire (building) (tract of land) is to be used by the applicant, describe what portion is to be used:

.....
.....
.....
.....
.....
.....

A sketch plan of the proposed lot plan is attached as part of this application.

MAIN STRUCTURE & ACCESSORY STRUCTURE INFORMATION
(Please complete the details on the other side of this form)

Type of Construction:..... Interior Square Footage.....
Exterior Colors:..... (For Information Only)
Exterior Material:.....

Number of off-street parking spaces to be provided:.....

Estimated Cost \$.....

Estimated Completion Date.....

Property Owner:.....

Name of Applicant:.....

Mailing Address:.....

Telephone No:..... Cell;.....

Signature of Applicant:

Received by: Application No:
Date Received: Certificate No:

Applicant _____

Address _____

Lot Information

Lot Size _____

Area in Sq. Ft. _____

**Max. Permitted
Roof Coverage for Lot
Sq. Ft.**

**Max. Permitted
Impervious Surface Coverage
for Lot Sq. Ft.**

Main Residence

Type of Construction _____

Exterior Materials _____
Exterior Colors _____

Building Height _____

No of Rooms _____

Roof Coverage (Sq. Ft) _____

**Detached Garage
& Accessory Structures**

Distance from Setbacks
Side _____ Rear _____
ft. ft.

Roof Coverage (Sq. Ft) _____

Height _____

**Total Roof Coverage
of all structures** _____

Impervious Surface Coverage

Roof Coverage (sq. ft.) _____

Residence _____

all Accessory Structures _____

Patios (sq.ft.) _____

Driveways (sq. ft.) _____

Turn-Around (sq. ft.) _____

Parking Area (sq. ft.) _____

Total Imp Surf Cov (sq. ft.) _____

Interior Sq Ft _____

For info only

Prepared By _____

Signature _____

Date _____

<u>Lot Size</u>	<u>Permitted Max Roof Coverage</u>
Up to .5 acre	2613 square feet
Up to .75 acre	3200 square feet
Up to 1.0 acre	4356 square feet
Up to 1.2 acre	4600 square feet
Up to 1.5 acre	5000 square feet
Up to 2.0 acres	5600 square feet
Up to 2.5 acres	6200 square feet
Up to 3.0 acres	7000 square feet
Up to 3.5 acres	7700 square feet
Up to 4.0 acres	8200 square feet
Up to 4.5 acres	8400 square feet
Up to 6.0 acres	9147 square feet

<u>Lot Size</u>	<u>Maximum</u>	<u>Impervious Surface</u>
Up to 1.0 acre	25%	Up to 10,781
1.01-acre to 3-acres	20%	10,781 or Calculation
Over 3.01-acres	15%	26,136 or Calculation

Town of Biltmore Forest
APPLICATION FOR A CONDITIONAL USE PERMIT

TO THE BILTMORE FOREST BOARD OF ADJUSTMENT:

I,, hereby petition the Board of Adjustment to issue a Conditional Use Permit in the name of for use of the property described in the attached site plan in a manner set forth in that plan, or if not adequately explained there, as more fully described herein:

Authority to grant the requested Conditional Use is contained in the Zoning Ordinance, section: 1005.03 and Article VIII.

The Zoning Ordinance imposes the following **GENERAL AND SPECIFIC REQUIREMENTS** on the use requested by the applicant. Under each requirement, the applicant should explain, with reference to attached plans where applicable, how the proposed use satisfied these requirements:

General Requirement: The Conditional Use will not adversely affect the public interest of persons residing or working in the neighborhood of the proposed use and meets the requirements of **Sections 801 and 1005.3**.

Statement by applicant:

.....
.....
.....
.....
.....

Zoning Administrator Comment:

.....
.....
.....
.....
.....
.....

Specific Requirement: The proposed Conditional Use shall make satisfactory provisions in the attached plans to meet the specific requirements set forth in Sections:

Statement by Applicant:

.....
.....
.....

Zoning Administrator Comment:

.....
.....
.....

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

Date..... Signature

Address

Phone

Dear Applicant:

Please be advised that the Zoning Administrator and members of the Board of Adjustment may visit your property prior to the Board of Adjustments meeting.

Town of Biltmore Forest
APPLICATION FOR A VARIANCE

TO THE BILTMORE FOREST BOARD OF ADJUSTMENT:

I,, hereby petition the Board of Adjustment for a **VARIANCE** from the literal provisions of the Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land located in a manner shown by a Plot Plan attached to this form. I request a variance from the following provisions of the ordinance (cite paragraph numbers):.....

.....
so that the above mentioned property can be used in a manner indicated by the Plot Plan attached to this form, or if the Plot Plan does not adequately reveal the nature of the variance, as more fully described herein:
.....
.....
.....
.....

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that 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 the ordinance and preserves it's spirit and (c) that in granting of the variance the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the **facts** that you intend to show and the **arguments** that you intend to make to convince the board that it can properly reach these three required conclusions.

(a) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE.

The courts have developed three 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:

(1) If he complies with the provisions of the ordinance, the property owner can secure no reasonable return form, or make no reasonable use of, his property.

.....
.....
.....

(2) **The hardship of which the applicant complains results from unique circumstances related to the applicant's land.**

.....
.....
.....
.....

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

.....
.....
.....
.....

(b) **THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES IT'S 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 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.)

.....
.....
.....
.....
.....

(c) **THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSCTICE.** (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.)

.....
.....
.....
.....
.....

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

..... Signature
Month Day Year Address
Phone

Dear Applicant:

Please be advised that the Zoning Administrator and members of the Board of Adjustment may visit your property prior to the Board of Adjustments meeting.