



### VARIANCE APPLICATION

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

**Applicant Name(s):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contact name and mailing address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contact phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**Location/Street address where  
Variance is requested:** \_\_\_\_\_

**Tax Parcel #** \_\_\_\_\_

#### **To the Kinston Board of Adjustment**

I, \_\_\_\_\_, hereby petition the Board of Adjustment for a **VARIANCE** from the literal provisions of the Kinston Unified Development Ordinance because under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described in the General Application form (attached) in a manner shown by the plot plan attached to that form. I request a Variance from the following section(s) of the ordinance:

Please cite Section # and Title: \_\_\_\_\_

Describe reason for Variance Request:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **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 before it may issue a variance:

1. That there are practical difficulties or unnecessary hardships;
2. That the Variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit;
3. That in granting the Variance, the public safety and welfare have been assured and Substantial justice has been done.

In the spaces provided, 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. An affirmative vote of at least 4/5 of the Board's membership on each of the three required conclusions is mandatory for approval of a variance application.

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, unnecessary hardship to the property owner would result from the strict application of the regulation. Please explain in what manner, if the hardship applies.

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

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3) The hardship is not the result of the applicant's/property owner's own actions.

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B. 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.)

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C. 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.)

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**I certify that all of the information present in this application is accurate to the best of my knowledge, information and belief. I authorize the City of Kinston to place a sign on the property in question for the purpose of alerting the general public of my request.**

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