



Nassau County Department of Planning &
Economic Opportunity
96161 Nassau Place
Yulee, Florida 32097

Taco E. Pope, AICP
Director

APPLICATION AND INSTRUCTIONS FOR A VARIANCE

NOTICE: Florida Statutes and the Courts of Florida require that all Variance applications be heard as a Quasi-Judicial hearing, procedures attached on page 6.

1. The Conditional Use and Variance Board will conduct a public hearing for this application.
2. The procedure will require:
 - A. That the public notice of this application be mailed to adjacent property owners, a legal advertisement published in the newspaper and a sign posted on the property.
 - B. To be sworn in to present testimony;
 - C. To be allowed witnesses and the right to present evidence into the record;
 - D. To have the right to cross-examine witnesses opposed to the application and to be cross-examined by those opposed; and,
 - E. That the testimony and evidence address the criteria defined in the Land Development Code that is applicable to the application.
3. The Department of Planning & Economic Opportunity will prepare a staff report for the Conditional Use and Variance Board and for the applicant.
4. If you have any questions about procedures or the criteria, please consult with the Department of Planning & Economic Opportunity prior to the Conditional Use and Variance Board meeting.

INSTRUCTION FOR APPLYING FOR A VARIANCE

It is essential that all the information provided is accurate. Incorrect information can delay or nullify the application process. Use the Department of Planning & Economic Opportunity forms that are available for download at www.nassaucountyfl.com under Departments, Planning & Economic Opportunity, Downloadable Application forms. Please attach additional sheets as needed, using 8½" x 11" size paper, typed or printed .

Definition of Variance: A device which grants a property owner relief from certain provisions of the zoning ordinance, when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money. A variance shall be authorized only for height, lot area, size of structure or yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by the variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or in an adjoining district. The Conditional Use and Variance Board must approve all variances.

- The **Parcel Identification Number** is an eighteen (18) digit number defining the subject property. This number is located at the Property Appraiser's website at www.nassaufpa.com.
- The legal description of the subject property is shown on the deed and the survey. If the property is in a recorded subdivision, use the lot and block number. If the property is not in a recorded subdivision, use the metes and bounds description as shown on the deed or survey. A reference to the section, township, range, or deed book will not be sufficient. **A .txt file of the metes and bounds description of the boundaries of the property is required.**
- Fill in the street location by indicating the property location by side (north, south, east or west) of the street and the nearest intersecting streets (for example: west side of Amelia Road, between Magnolia Street and Amelia Lane). If a street address has been assigned to this property, include such number. If it is impractical to describe the street location by intersecting streets, indicate the approximate distance to the nearest intersecting street (for example: west side of Blackrock Road, CR 107, 1/2 mile north of A1A).
- Provide the name and address of the property owner. The owner's name should agree with the recorded deed.
- Provide the current zoning district classification of the subject property. The official zoning map is available at www.nassaufpa.com under *Map Layers*.
- Provide the Variance sought (for example: reduction of required rear yard from 30 feet to 18 feet). If the variance is more extensive than can be described on the form, use additional sheets. Be sure to include all details of the variance sought by the applicant (for example: reduction of required lot area from 7,500 square feet to 4,800 square feet and providing two parking spaces in lieu of required three spaces, and providing reduction in side yard on North side from 8 feet to 5 feet).
- When considering a variance request, the Conditional Use and Variance Board shall make a written finding that the zoning variance satisfies the criteria listed in Section 3.04B(3) - *Conditional Use and Variance Commission Powers and Duties* of the Nassau County Zoning Ordinance. Please address A-F of on page 2 of the application as completely as possible.
- It is required that a site plan be attached to the application. The site plan must be a scale drawing showing the size and location of the property together with the size and location of all structures. The applicant should also include information that will assist the Conditional Use and Variance Board in its consideration of these factors.
- The Land Development Code provides that a Variance shall be utilized within one (1) year of the date variance was granted. This means that the construction must commence within such time or the variance will become null and void. If the applicant anticipates that they will be unable to begin within one year, they should explain in the application and the Board can consider a longer time as a special condition of the variance. **If no request is made in the application for a longer time, the variance, if granted, will automatically expire within one year.**

The owner's signature is required on the application. If the application is signed by the agent, an *Owner's Authorization for Agent* form must be signed by the owner. Please include the telephone number of the person who can be contacted, and familiar with the application, to obtain additional information.

The non-refundable application fee for a Variance is required at the time of application. To confirm the fees, including postage based on the number of property owners within 300 feet, please contact the Department of Planning and Economic Opportunity at 904-530-6300. Return the completed application, any supporting data and the application fee to the Department of Planning & Economic Opportunity. Please make checks payable to: Nassau County Board of County Commissioners (Nassau County BOCC). **The applicant is responsible for the legal advertisement payment and must be made directly with the newspaper.**

Nassau County requires **due public notice** which includes a legal advertisement published in an approved newspaper of general circulation not less than fifteen (15) days in advance of the public hearing, a sign posted in a conspicuous place on or around the subject property and a public notice mailed to all property owners within 300 feet of the periphery of the subject property. The Department of Planning & Economic Opportunity will prepare the legal advertisement, the public notice and the sign. If the signs are destroyed or rendered illegible, notify the Department of Planning & Economic Opportunity immediately so that a replacement can be erected. **The applicant is responsible for delivering the original Proof of Publication from the newspaper to the Department of Planning & Economic Opportunity. The public hearing cannot be held unless Proof of Publication is received by the Department of Planning & Economic Opportunity before the public hearing.**

The applicant is not required to obtain the signatures or approval of the adjoining property owners. If you choose to present a petition of adjoining property owners favoring your application, attach a legibly printed or typed list of the names and addresses submitted on the petition.

If, for any reason, you wish to withdraw the application, you must notify the Department of Planning & Economic Opportunity, in writing, prior to the date of the public hearing. No refunds.

Persons with disabilities requiring accommodations in order to participate at the public hearing should contact (904) 530-6300 at least twenty-four (24) hours in advance to request such accommodation.

The public is invited to be present and be heard. If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose may need to ensure that a verbatim record of the proceedings is made.

The Department of Planning & Economic Opportunity can be reached at 96161 Nassau Place, Yulee, FL 32097, and (904) 530-6300, Monday through Friday, 8:00am until 5:00pm.



APPLICATION FOR A VARIANCE

Official Use Only

Zoning District: _____
 FLUM Designation: _____
 Commission District: _____
 Application #: _____
 Date Filed: _____

Parcel Identification Number (18 digit number)

Driving Instructions: _____

1. Legal Description: Lot _____ Block _____ Subdivision _____
 Plat Book _____ Page _____
 (Please attach a legal description if not located in a subdivision)

2. Location: On the _____ side of _____
 (north, south, east, west) (street)

between _____ and _____
 (street) (street)

Nearest identifiable landmark (for example: Walmart or I-95) _____

3. Name and Address of the Owner as shown in the public records of Nassau County:

Name and Address of the Applicant / Authorized Agent:

(PLEASE NOTE: If applicant is not the owner, this application must be accompanied by completed *Owner's Authorization for Agent* form.)

4. Current Zoning District: _____

5. Zoning Variance Sought: _____

6. Section of Land Development Code or provision that authorizes the granting of this Variance:

7. Section 3.04B (3) - Conditional Use and Variance Board Powers and Duties:

(Please attach a response to the following as Exhibit "A" [using 8½" x 11" size paper] with the answers typed or printed legibly.)

- A. Show that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district.
- B. Show that the special conditions and circumstances do not result from actions of the applicant.
- C. Show that granting the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.
- D. Show that literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would place unnecessary and undue hardship on the applicant.
- E. Show that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- F. Show that the granting of the variance will be in harmony with the general intent and purpose of this ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

9. Supporting data which is considered by the Conditional Use and Variance Board:

_____ Site Plan

_____ Any additional data

10. Has any application been submitted within the last two (2) years for a Zoning Exception, Conditional Use, Zoning Variance or for the Rezoning of any portion of the subject property included in this application? _____

If so, give details of such application and final disposition.

11. Is this parcel subject to deed restrictions enforced by a homeowners association? _____

If so, please provide an address and contact name.

In filing this application for a Variance, the undersigned understands it becomes a part of the official records of the Conditional Use and Variance Board and does hereby certify that all information contained herein is true to the best of his/her knowledge.

Signature of Owner: _____

Signature of Applicant: _____

(if different than Owner)

Signature of Agent: _____

(if different than Owner)

Owner's mailing address: _____

Telephone: _____

Email: _____

NOTE: If prepared or signed by an agent, a notarized *Owner's Authorization for Agent* form must be provided.

Newspaper for legal advertisement (OFFICIAL USE ONLY):

Fernandina Beach News Leader: _____

Nassau County Record _____

CONSENT FOR INSPECTION

I, _____, the owner or authorized agent for the owner of the premises located at _____ do hereby consent to the inspection of said premises and the posting of public notice by an employee of the Department of Planning & Economic Opportunity, Nassau County, Florida, in conjunction with application _____, without further notice.

Dated this _____ day of _____, 20____.

Signature of Owner or Authorized Agent

Telephone Number

STATE OF FLORIDA:
COUNTY OF NASSAU:

The foregoing instrument was acknowledged before me the _____ day of _____, 20____, by _____ who is personally known to me or who has produced _____ as identification.

Notary Public Signature

Name (typed or printed)

(Seal)

OWNER'S AUTHORIZATION FOR AGENT

_____ is hereby authorized TO ACT ON BEHALF OF

_____, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Nassau County, Florida, for an application pursuant to a:

- | | |
|--|--|
| <input type="checkbox"/> Rezoning/Modification | <input type="checkbox"/> Conditional Use |
| <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Preliminary Binding Site Plan |
| <input type="checkbox"/> Plat | |

BY:

Signature of Owner

Print Name

Signature of Owner

Print Name

Telephone Number

State of Florida
County of _____

Signed and sworn before me on this _____ day of _____, 20_____.
By _____

Identification verified: _____
Oath sworn: _____ Yes _____ No

Notary Signature

My Commission expires: _____

QUASI-JUDICIAL HEARING PROCEDURES

Florida Statutes and the Courts of Florida require that your conditional use application be heard as a Quasi-Judicial Hearing. A Quasi-Judicial Hearing, by state and case law, is different than a regular hearing conducted by this Board. A Quasi-Judicial Hearing is less formal than a court hearing but similar in procedures and evidence issues. In a Quasi-Judicial Hearing, the applicant has the burden of demonstrating by competent substantial evidence that his/her application meets requirements of the County Zoning Code, Comprehensive Plan and other applicable regulations.

The applicant is entitled to be represented by counsel and if you desire a continuance to obtain counsel, please come forward and make that request. The Board has the discretion to grant or deny the request. The only material or relevant evidence is that which addresses the applicable codes and/or Comprehensive Plan. The hearing procedures will be:

1. Staff will be sworn and shall describe the applicant's request, provide staff's recommendation and present any witnesses in support of staff's recommendation. Staff shall have fifteen (15) minutes.
2. The applicant and others presenting evidence will be sworn and shall state their name, address and subject to which they will testify. The applicant or its agent/attorney may elect to waive their presentation and to rely on the application, recommendation, and staff comments, reserving the right to address the Board if any evidence against the application is presented.
3. The applicant, or his/her attorney/representative, if they do not waive their presentation, will have an opportunity to present evidence for the application and will have fifteen (15) minutes for the presentation. If the applicant has witnesses, the applicant will indicate the name of each witness and the subject to be addressed. The applicant's witnesses will each have five (5) minutes. The applicant may also call the Zoning Official or other staff member who are present as a witness and ask them questions. Again, the time limit for questions is five (5) minutes.
4. Those who present evidence against the application will be sworn in and will be provided five (5) minutes each to present evidence and witnesses that address the criteria. Those who present evidence against, may also call the applicant, Zoning Official, witnesses or other staff members that are present as witnesses and ask them questions, subject to the five minute time limit. Extension of time limits may be granted by the Chair.
5. The applicant or its attorney may then cross examine those presenting evidence against, subject to control by the chair and county attorney. Cross-examination shall be five (5) minutes for each witness.
6. Sharing or transferring time is not allowed and anyone presenting repetitious evidence or evidence that does not address the criteria or is defamatory will be directed to stop and address the criteria.
7. Persons presenting evidence will address the Board, at the podium, and if there are documents or photos they must be presented when the particular individual is testifying. No documents will be returned, as they become a part of the record. As a Quasi-Judicial Hearing, numbers of individuals for or against a particular item will not be considered. The meeting is being taped; therefore there can be no applause or outbursts.
8. The Clerk shall state what documents will be placed into evidence and a motion shall be made to move those documents into the record. Any new or additional documents presented into evidence either by a sworn individual or staff shall also be included in the motion moving the documents into the record.
9. The Office of the County Attorney represents the Board and provides advice to the Board including advice as to the procedures and the admissibility of evidence.
10. The Board will afford members of the audience who have not presented evidence for or against three (3) minutes each to address any information provided. The members of the public will not be sworn in.
11. The applicant will be permitted to provide rebuttal as to any evidence against (a maximum of ten (10) minutes).
12. Staff may have five (5) minutes to provide final comments to the Board.
13. The Board will then close the public hearing and will discuss the application and may ask questions of the applicant, staff or those presenting evidence against or witnesses for the application. Any motion of the Board should include whether or not the board finds competent substantial evidence in the record and/or testimony received to support the board's decision for approval or denial.
14. The strict rules of evidence applicable to a court proceeding will not be utilized; however, the Board, with the assistance of the attorney, may exclude evidence that is not relevant or material or is repetitious or defamatory. Again, the Quasi-Judicial procedures are required by law and all those participating need to be aware of the procedures. Anyone who fails to follow the procedures may be required to stop his/her presentation or relinquish their time.
15. To be fair to everyone and in order to follow the procedures, if you have any questions please call the County Attorney's Office at (904) 530-6100 or the Department of Planning & Economic Opportunity at (904) 530-6300.