

# 441 Gateway District Community Planning Council

## Application for a Zoning Variance

**The issuance of a zoning variance by North Carolina Law is difficult to obtain.** However, the *441 Corridor Planning Council* is authorized, upon appeal in specific cases to grant such variance from the terms of the *441 Corridor Land Development Ordinance*. In granting the variance the Planning Council must determine that by doing so the actions are not contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of the zoning ordinance is observed, public safety and welfare secured, and substantial justice done.

The application must be completed and the nonrefundable variance filing fee of \$100.00 be paid to the Jackson County Planning Department before the Planning Staff will schedule a public hearing before the *441 Corridor Planning Council*. **The applicant must obtain a copy of the 441 Corridor Land Development Ordinance and become familiar with it before finalizing the plans for a variance. It is the applicant's responsibility to be fully aware of the zoning regulations.**

The following information must be provided:

- (1) Name of Applicant: \_\_\_\_\_
- (2) Name of Property Owner: \_\_\_\_\_
- (3) Daytime Telephone Number: \_\_\_\_\_
- (4) Applicant Mailing Address: \_\_\_\_\_
- (5) Property Location: \_\_\_\_\_
- (6) Property Tax Identification Number: \_\_\_\_\_
- (7) Name of Applicants Legal Counsel: \_\_\_\_\_
- (8) Variance Requested (Attach additional pages if necessary; provide zoning ordinance reference): \_\_\_\_\_  
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(9) Detailed Site Plan Must Be Attached: \_\_\_\_\_yes \_\_\_\_\_no

**(10) 441 Corridor Land Development Ordinance Article 3:**

**Variances.**

**Before the 441Corridor Planning Council may grant a variance, it shall make the following three findings which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:**

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Council must find that all five of the following conditions exist. As the applicant, you must provide the background and justification that will enable the Council to make these findings. Please provide this information in the space provided:

a. The Planning Council shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Planning Council in granting a variance.

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b. The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.

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c. The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property.

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d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance and then comes to the Board for relief.

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e. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

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2. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area a non-conforming use. Moreover, the existence of a non-conforming use in the same or in another zoning district shall not constitute a reason for granting the requested variance.

3. In granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or general welfare.
4. In granting the variance, the Board may attach thereto such conditions regarding the location character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.
5. The Planning Council shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
6. A variance issued in accordance with this section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision.

I understand and have read the preceding sections of the 441 Corridor Land Development Ordinance.

\_\_\_\_\_yes \_\_\_\_\_no

If you do not feel that your request would meet all of the hardships, please understand that the variance cannot be granted. Appeals from the Planning Council shall be taken to the appropriate court of record, as provided by law.

Applicant's signature acknowledging that you have read and understand the requirements for being granted a variance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

If the applicant is not the property owner, the property owner's signature must be provided below acknowledging that the variance described above is being requested for the property.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date