



SUBDIVISION HARDSHIP VARIANCE STATEMENT OF JUSTIFICATION

For each of the required conclusions listed below, attach a statement that explains how any existing conditions, proposed development features, or other relevant facts would allow the Planning Board (the Board) to reach the required conclusion, and attach any additional documents or materials that provide supporting factual evidence. Listed under each required conclusion are related principles established by case law.

Important: The applicant bears the burden of presenting sufficient evidence in support of the application to allow the Planning Board to make findings of fact that reasonably support each of the required conclusions.

- 1. Practical difficulties or unnecessary hardships would result from carrying out the strict letter of the regulation.**
 - 1a. Strict compliance with the regulation provides the property owner no reasonable use of the property.**

Ex.: It is not sufficient that the regulation would make use of the property less profitable or marketable.
 - 1b. The hardship results from application of the regulation to the property.**

Ex.: A hardship resulting from a characteristic of the property not affected by the regulation, or from application of a deed restriction, is not a relevant hardship.
 - 1c. The hardship is one that affects the property directly.**

Ex.: The regulation's hindrance to providing a benefit to neighboring properties or to the public is not a relevant hardship.
 - 1d. The hardship is not the result of the property owner's own actions - that is, special circumstances or conditions causing the hardship exist through no fault of the property owner.**

Ex.: The hardship may not be one the property owner inflicted on himself (e.g., been due to the owner's violation of the regulation) or could have avoided.
 - 1e. The hardship is peculiar to the property.**

Ex.: The hardship must be due to conditions specific to the property, and not to conditions that are neighborhood-wide or widespread throughout the jurisdiction.
- 2. The variance would be in harmony with the general purpose and intent of the Wake County Unified Development Ordinance and preserve its spirit.**

Ex.: A variance may not permit the expansion or extension of a nonconforming use or feature (which the Wake County Development Ordinance intends to be made conforming or abandoned), and may not permit a land use or basic development intensity not already permitted (varying basic use and intensity regulations that define zoning districts may be done only through the rezoning or text amendment processes). The extent of a variance must be limited to the minimum necessary to alleviate the hardship.
- 3. In the granting of the variance, the public safety and welfare would be assured and substantial justice done, both for the landowner and the public at large.**
 - 3a. The granting of the variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvement in such neighborhood.**

Ex.: A variance may not permit development that would be dangerous to neighbors, change the essential character of the neighborhood, or create additional difficulties re traffic, fire, water supply, sewerage, flooding, etc..
 - 3b. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.**

Ex.: The harm to the property owner from denying the variance, however, must outweigh the harm to neighbors and the public interest from granting the variance.

Notes: All documents and maps submitted as required become the property of Wake County.
The Wake County Unified Development Ordinance is on the web at www.wakegov.com.