

TOWN OF CHERAW

200 Market Street (P.O. Box 219) • Cheraw, SC 29520 • 843.537.8400



VARIANCE APPLICATION

OFFICE USE ONLY:

Date Received: _____ By: _____ Fee: \$75

Please print clearly. Complete and submit the application and attachments. If the applicant is not the owner(s), the owner(s) must complete and sign the Designation of Agent. Staff cannot place this application on the agenda if it is incomplete and/or without the appropriate supportive documentation. Please use additional paper. Print or type your responses. Include an accurate plat, scaled plot/site plan, and any additional materials (i.e. photographs, elevation drawing with dimensions, or renderings). Plot/site plans must be no longer than 11 x 17, and show scale, tax map number, property owner/developer information, date, vicinity map, north arrow, property shape and dimensions, landscaping, screening and buffering, and location and size of existing and/or proposed structures, and drives. The plot/site plan must be designed by a registered land surveyor, landscape architect, or engineer.

Applicant: _____

Address: _____ City/State/Zip: _____

Tax Map Number: _____ Property Address: _____

Phone: _____ Cell: _____ Email: _____

Designation of Agent: I/we hereby authorize the person named as Applicant to act on my/our behalf for the purpose of submitting and amending documents, meeting with staff, and attending public meetings/hearings.

Owner's Name (print) _____ Owner's Signature _____ Date _____

Witness (print) _____ Witness Signature _____ Date _____

Phone: _____ Email: _____

Zoning District: _____ List pertinent ordinance section: _____

Current property use: Residential Commercial Industrial Vacant Area (sq ft)/acre of propose project: _____

- 1. Describe the proposed project:
2. I/we hereby appeal the zoning official's denial to the Board of Zoning Appeals for a variance from the applicable zoning provision (cite article and section) _____ to permit the use of property in the manner shown on the attached scaled plot/site plan and/or above description.
3. The application of the ordinance is believed to result in an unnecessary hardship, and the standards for a variance set by SC Code § 6-29-800(A)2 and the ordinance are met by the following facts. Please describe in detail how you meet the below variance criteria.
a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows:

- b. These conditions do not generally apply to other property in the vicinity as shown by:

- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows:

- d. The authorization of the variance will not be of substantial detriment to adjacent properties or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons:

- 4. Indicate (check the applicable) supportive documentation. plat (**required**) scaled plot/site plan (*for new improvements*)
 - photographs elevation drawings with dimensions renderings
 - others (*please list*) _____.

I attest to the best of knowledge the information and attachment(s) provided is accurate. The proposed activity does not contradict any restrictions and covenants. I authorize the subject property to be posted with a notice of the Board hearing.

Applicant Signature

Date

STANDARDS FOR GRANTING VARIANCES

The applicant must provide sufficient evidence to support an unnecessary hardship. A variance allows the board to modify an otherwise legitimate zoning restriction when, due to unusual condition, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of “unnecessary hardship,” there must at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation. *Hodge v. Pollock*, 223 S.C. 342, 75 S.E.2d 752 (1953); *Colbert v. Krawcheck*, 299 S.C. 209 S.C. 299, 384 S.E.2d 710 (1989); *Restaurant Row Associates v. Horry County*, 335 S.C. 209, 516 S.E.2d 442 (1999), certiorari denied, 528 U.S. 1020, 120 S.Ct. 528, 145 L.Ed 2d 409 (1999). An owner is not entitled to relief from a self-created or self-inflicted hardship. A claim of unnecessary hardship cannot be based on conditions created by the owner nor can one who purchases property after the enactment of a zoning regulation complain that the nonconforming use would work a hardship upon him. *Rush v. City of Greenville*, 246 S.C. 268, 143 S.E.2d 527 (1965); *Georgetown County Building Official v. Lewis*, 290 S.C. 513, 351 S.E.2d 584 (Ct. App. 1986); *Restaurant Row Associates v. Horry County*, *supra*.

The board has some discretion when deciding to grant or deny a variance. However, it is not free to make whatever determination appeals to its sense of justice. SC Code § 6-29-800(A)2 state and explains the following variance criteria:

1. **Extraordinary/Exceptional conditions.** There are extraordinary and exceptional conditions pertaining to the particular piece of property. Extraordinary conditions could exist due to size, shape, topography, drainage, street widening, beachfront setback lines, or other conditions that make it difficult or impossible to make an economically feasible use of the property.
2. **Other property.** These conditions do not generally apply to other property in the vicinity. See *Bennett v. Sullivan’s Island Board of Adjustment*, 313 S.C. 455, 438 S.E.2d 273 (Ct. App. 1993).
3. **Utilization.** Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
4. **Detriment.** The authorization of a variance will not be of substantial detriment to adjacent property owners to the public good, and the character of the district will not be harmed by granting the variance.

SC Code § 6-29-800(A)(2)d prescribes other factors:

1. **Use variance.** SC Code § 6-29-800(A)(2)(d)(i) states: *The board may not grant a variance, the effect of which would be allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance (See Groves v. Charleston, 226 S.C. 459, 85 S.E.2d 708 (1955).*
2. **Conditions.** In granting a variance, the board may attach conditions to it. These conditions may affect the location, character or other features of the proposed building, structure or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.