

TOWN OF WALDEN
Board of Zoning Appeals
VARIANCE APPLICATION

Date _____

Address of Subject Property _____

Block No. _____ Subdivision _____ Tax Map _____

Name of Applicant _____

Mailing Address _____

Daytime Telephone Number _____ Fax Number _____

E-mail Address _____

Name of Business (if applicable) _____

Name of Property Owner _____

Mailing Address _____

Daytime Telephone Number _____ Fax Number _____

E-mail Address _____

☐ VARIANCE APPROVED:

☐ VARIANCE DENIED:

Date _____ Signature _____

Town of Walden

1836 Taft Highway, P.O. Box 335 *Signal Mountain, Tennessee 37377 Telephone (423) 886-4362
Fax (423) 886-7953

TOWN OF WALDEN

Board of Zoning Appeals

Variance Application

Authority

In accordance with Article 9. of the Zoning Ordinance, the Board of Zoning Appeals is authorized to hear and decide the following types of requests:

1. Power to Grant Variance in Site and Area Regulations. The Board of Appeals shall have the power to grant variances and adjustments in the area and building site regulations of the Zoning Ordinance in cases where strict application of the regulations would result in practical difficulty or unnecessary hardship which is not attributable to the actions of the applicant or predecessor's in title; but only in harmony with the spirit and intent of the Ordinance and in such a manner as to grant relief without substantial injury to the public interest or rights.
2. No variation in the application of the provisions of the Zoning Ordinance or grant of a temporary permit shall be made unless after a public hearing, as provided for in Section 9, the Board of Appeals shall find that such variation will not:
 - a) Impair an adequate supply of light and air to adjacent property;
 - b) Increase the hazard from fire and other dangers to said property;
 - c) Diminish value of land and buildings throughout the surrounding area;
 - d) Increase the congestion or traffic hazards in the public streets or highway; and
 - e) Otherwise, impair the public health, safety, comfort, morals, and general welfare of the inhabitants of the Town of Walden.

The Board of Appeals may impose such conditions as will lessen any injury to the character of the subject Zone...

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Variance Application

Submission Requirement Checklist

The following information shall be submitted with this application form. Additional information may be required as determined by the Board of Zoning Appeals and/or Staff.

- ☐ Applications submitted to the Town of Walden by the deadline.

Attach a complete site plan and description of the property involved.

Site plan must include proposed building uses, building plan, and elevations.

Location of property lines.

Front, rear, and side setback lines.

Footprint of existing and proposed buildings.

Location of easements or right-of ways.

Location of existing and proposed driveways.

Location of existing streams.

Approved site plan from the RPA for all subdivisions.

Attach an approved Septic Permit.

Additional information may be requested as determined by the staff.

Attach a check payable to the Town of Walden for \$100.00

- ☐ Applicant or a representative must be present at the Board of Zoning Appeals meeting

TOWN OF WALDEN

Board of Zoning Appeals

Acknowledgement

It is understood that approval of the proposed development is conditioned upon full compliance with all applicable regulations and ordinances of the Town of Walden and conditions imposed by the applicable Boards of the Town.

In cases where the applicant is not the property owner, it is also hereby acknowledged by the property owner that he or she is in full agreement with the content of this application.

Signature of Applicant

Signature of Owner if different from Applicant

Date

In general, the Board of Zoning Appeals meets on an as needed basis at Town Hall, at 1836 Taft Highway.

The submission deadline is the 10th of the month to be heard the following month.

Copies of all required materials and a non-refundable filing fee shall be submitted to the Town Recorder by the application deadline.

Contact the Town of Walden to confirm deadline and meeting dates and times.

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TOWN OF WALDEN

Board of Zoning Appeals

Variance Attachment

Address of Subject Property _____

Please read Article 9. Board of Appeals for Variances, section 9.03, 9.04, & 9.05 of the Town of Walden Zoning Ordinance, attached to this application.

1. Provide a description of the requested Variance.

2. Describe the situation creating the hardship.

3. Describe the conditions associated with this situation that make your property different from the conditions of the surrounding lots or

4. Describe the effect that granting this variance would have on adjoining streets or public or private property.

5. What other alternatives could solve the problem caused by the situation?

The petition for a variance was granted.

Date _____

The petition for a variance was denied.

Signature/ Town of Walden _____

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Article 9. Board of Appeals for Variances

9.01 Creation and Membership of a Board of Appeals.

- (a) The first Zoning Board of Appeals appointed shall serve terms of one (1), two (2), and three (3), four (4) and five (5) years respectively. Thereafter, terms shall be for five (5), and vacancies shall be filled for the unexpired terms only. The Board of Mayor and Aldermen shall have power to remove any member or associate member of the Board for cause, after a public hearing.

9.02 Meetings and Rules of the Board of Appeals.

- (a) The Board of Appeals shall designate one of its number Chairman, who shall call meetings of the Board of Appeals at such times and places within the Town as the Board of Appeals may determine. The Chairman may administer oaths and compel the attendance of witnesses.
- (b) The Chairman may, in the absence of a regular Board of Appeals member from a meeting, appoint one (1) of the associate members to temporarily fill the vacancy.
- (c) The Board of Appeals shall keep minutes of its proceedings and records of its examinations and other official actions, which shall be filed at the office of the Board of Appeals and constitute a public record.
- (d) The Board of Appeals may adopt its own rules of procedure not in conflict with this Ordinance.
- (e) In the performance of its duties, the Board of Appeals may employ administrative and consulting employees, and may incur such expenditures as shall be authorized by the Board of Mayor and Aldermen.

9.03 Power and Duties of the Board of Appeals.

- (a) **Power to Grant Variance in Site and Area Regulations.**
 - (1) The Board of Appeals shall have the power to grant variances and adjustments in the area and building site regulations of this Ordinance in cases where strict application of the regulations would result in practical difficulty or unnecessary hardship which is not attributable to the actions of the applicant or predecessors in title; but only in harmony with the spirit and intent of this Ordinance and in such a manner as to grant relief without substantial injury to the public interest and rights.
 - (2) No variation in the application of the provisions of this Ordinance or grant of a temporary permit shall be made unless after a public hearing, as provided for in this section, the Board of Appeals shall find that such variation will not:
 - a) Impair an adequate supply of light and air to adjacent property;
 - b) Increase the hazard from fire and other dangers to said property;
 - c) Diminish value of land and buildings throughout the surrounding area;
 - d) Increase the congestion or traffic hazards in the public streets or highway; and
 - e) Otherwise impair the public health, safety, comfort, morals, and general welfare of the inhabitants of the Town of Walden.The Board of Appeals may impose such conditions as will lessen any injury to the character of the subject Zone.
- (b) **Non-Conforming Uses.** The Board of Appeals may order the issuance of Temporary Permits for nonconforming uses or for uses incidental to the development of the area provided that such Temporary Permit shall:
 - (1) Be granted for an initial period not to exceed one (1) year, and

Article 9. Board of Appeals for Variances

- (2) Be renewable at the direction of the Board of Appeals.

The Board of Appeals may require cash or performance bond renewable annually in favor of the Town of Walden effective in case such building or structure is not removed or remodeled to conform to the requirements of the Zone, within thirty (30) days from the date of notice of expiration of the permit. Such bond is to be in an amount as determined by a licensed professional architect or engineer registered in the State of Tennessee retained by the Town of Walden. The applicant shall pay any appraisal cost.

- (c) **Remodeling of Non-Conforming Buildings.** The Board of Appeals may allow reconstruction and remodeling of a non-conforming building where in judgment of the Board of Appeals based on plans and specifications submitted by an architect such reconstruction and remodeling will in the matter of front, side, and rear yards, structural integrity, and exterior appearance of said building make said non-conforming building safer and more healthful and bring it and its subsequent uses into fairer conformity with its surroundings.

9.04 Method of Appeal to the Board of Appeals.

- (a) Appeal from the decision of the Office of the Hamilton County Building and Zoning Director may be taken to the Board of Appeals whenever the applicant contends that the reasons for withholding a permit are inapplicable or unjust.
- (b) Similarly, the written and dated decision of the Office of the Hamilton County Building and Zoning Director granting and issuing a permit may be appealed to the Board of Appeals by any person, firm, or corporation aggrieved thereby; but such appeal shall not suspend nor supersede the issuance of the permit unless the appellant gives a bond, in an amount and with security satisfactory to the Board of Appeals, payable to the applicant for the permit, to cover all cost, damage, and expense that may accrue to him/her in the event that the appeal is not successful.
- (c) An appeal from the decision of the Office of the Hamilton County Building and Zoning Director may not be taken until after fifteen (15) days, but shall be taken within thirty (30) days from the date the decision is appealed.

9.05 Application Through Town Recorder. Applications shall be made through the office of the Town Recorder. The application shall be accompanied by the following material or other information as requested:

- (a) **Complete Plans and Descriptive Material to be Submitted.** Complete site plan and description of the property involved and site plans of the proposed buildings and uses; and, where required by the Board of Appeals, building plans, and elevations, and information on methods of operations and forms of operation contracts, leases, and other legal instruments.
- (b) **Evidence Required.** Evidence which, in the opinion of the applicant, satisfies the requirement precedent to grants of variance placed on the Board of Appeals concerning practical difficulty, unnecessary hardship, special or temporary conditions, safeguards against injury to the public interest, and similar evidence shall be required to be submitted in support of an application for a variance.
- (c) **Fees for Public Hearing Expense.** A fee established by the Board of Mayor and Aldermen, subject to change by resolution of said board, due and payable at the time of application for grant shall be paid to the Town Recorder, as agent for the Board of Appeals, to cover the cost of notices and other expenses incidental to this appeal.
- (d) **Public Hearing Expense.** Upon receipt in proper form of any such appeal or application the Board of Appeals shall hold a public hearing, thereon, notice of which shall be given at least fifteen (15) days prior to date of such hearing by one publication in a daily newspaper of general circulation throughout the Town of Walden and by personal service

or by First Class Mail to the adjoining and other property owners within a radius of 100 yards of the property affected.

(e) **Conditions on Approval of the Board of Appeals.**

(1) If the Board of Appeals finds that there are good and substantial reasons for issuance of the permit, and that the conditions and restrictions described in this Section have been satisfactorily met, it may grant the variance or permit requested and direct the issuance of a permit by affirmative vote of a majority of the Board of Appeals by the Town Recorder as approved.

(2) In approving any variance or issuance of any permit under the provisions of this Section, the Board of Appeals may designate such conditions in connection therewith, as will, in its opinion secure substantially the objectives of the regulation or provision from which such variance is granted. Where necessary, the Board of Appeals may require appropriate guarantees to insure that the conditions designated in connection therewith are being or will be in compliance.

(f) **Method of Appeal to Court.** Any person, firm, or corporation aggrieved by any decision of the Board of Appeals may present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the Board of Appeals. Such petitions shall not be filed with respect to the decisions of the Board of Appeals Official or any administrative officer, without recourse to the Board of Appeals.

(g) **Final Action of the Court.**

(1) Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board of Appeals to review such decisions of the Board of Appeals. The allowance of the writ shall not stay proceedings upon the decision appealed. The Board of Appeals shall be required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the appealed decision.

(2) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decisions brought for review.

(h) **Cost Not to be Charged to the Board of Appeals.** Cost shall not be allowed against the Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed.