

# Design Adjustment Application

The purpose of this request is to seek a Design Adjustment from the Board of Adjustment for a specific project only and, if granted, may be approved with special conditions and provisions.

This application and all further action shall be consistent with Section 10.2.18 in the Unified Development Ordinance (UDO). The consideration and decision of this request shall be based solely on the conformance of the findings, as outlined in Sec. 8.3.6, Sec. 8.4.1.E and Sec. 8.5.1.G of the UDO. **A preliminary subdivision plan, plot plan, or site plan must be submitted to Development Services prior to the submittal of a design adjustment application.**

<b>PROJECT</b>	<b>Project Name and Address</b>		
	<b>Case Number</b>		
	<b>Transaction/Plan Number</b>		
<b>OWNER</b>	<b>Name</b>	<b>Email</b>	
	<b>Address</b>		<b>City</b>
	<b>State</b>	<b>Zip Code</b>	<b>Phone</b>
<b>CONTACT</b>	<b>Name</b>	<b>Email</b>	
	<b>Address</b>		<b>City</b>
	<b>State</b>	<b>Zip Code</b>	<b>Phone</b>
<b>REQUEST</b>	<b>I am seeking a Design Adjustment from the requirements set forth in the following:</b>		
	<input type="checkbox"/> <a href="#">UDO Art. 8.3 Blocks, Lots, Access</a>	- See page 2 and 3 for findings	
	<input type="checkbox"/> <a href="#">UDO Art. 8.4 New Streets</a>	- See page 4 and 5 for findings	
	<input type="checkbox"/> <a href="#">UDO Art. 8.5 Existing Streets</a>	- See page 6 and 7 for findings	
	<b>Provide details about the request; (please attach a memorandum if additional space is needed):</b>		

<b>CHECKLIST</b>	
Signed Design Adjustment Application	<input type="checkbox"/> Included
Page(s) addressing required findings	<input type="checkbox"/> Included
Plan(s) and support documentation	<input type="checkbox"/> Included
Notary page filled out by owner	<input type="checkbox"/> Included
Stamped and addressed envelopes; corresponding mailing list per UDO Sec. 10.2.1.C.1.	<input type="checkbox"/> Included
Fee - \$203.00	<input type="checkbox"/> Included

**Submit all documentation, with the exception of the required addressed envelopes and notarized certification of owner to: [Eric.Hodge@raleighnc.gov](mailto:Eric.Hodge@raleighnc.gov) or [Keegan.McDonald@raleighnc.gov](mailto:Keegan.McDonald@raleighnc.gov)**

**1) Deliver the addressed envelopes and notarized certification of owner to:**

Department of City Planning, Zoning Division  
 One Exchange Plaza, Suite 300  
 Raleigh NC, 27601

# Article II. Instructions

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## 1) **PRE-APPLICATION CONFERENCE:**

A pre-application conference with **Planning Department Staff** is required to be scheduled *prior to* the submittal of a Design Adjustment Application. Please contact Eric Hodge, Assistant Planning Administrator, at (919) 996-2639 [eric.hodge@raleighnc.gov](mailto:eric.hodge@raleighnc.gov) or Keegan McDonald at (919) 996-4630 [keegan.mcdonald@raleighnc.gov](mailto:keegan.mcdonald@raleighnc.gov) to set up an appointment for a pre-application conference.

## 2) **FILING FEE: \$203.00**

**SUBMITTAL REQUIREMENTS** *All requirements must be met to constitute a complete Design Adjustment Application*

1. One (1) hard copy of a completed Design Adjustment Application signed and notarized by all the owners of the Subject Property;
2. Payment of filing fee;
3. At minimum, a plot plan (also known as a survey plot plan) drawn to scale, containing a north arrow, area of lot, location of all existing improvements and use areas, location of proposed improvements, location of any constraints such as flood plain area, tree conservation area, buffer yards, easements, sight distance triangles, and impervious surface coverage. The plot plan must be drawn, signed and sealed either by a surveyor licensed in North Carolina, or a professional engineer licensed in North Carolina. If the Design Adjustment involves a structure, sign, or fence, then architectural elevations must also be submitted;
4. A list that includes the names and mailing addresses of the following: (1) owner(s) of the property (the "Subject Property") included in the Design Adjustment Application and (2) the owners of all property within 100 feet on all sides of the Subject Property, all as listed in the Wake County tax records at the time of submittal; and
5. Stamped (first class) and labeled envelopes addressed to the owner(s) of the Subject Property and the owners of all property within 100 feet on all sides of the Subject Property as noted on the required list. It is requested that the envelopes be self-sealing (peel and stick) and labeled with the following return address: Department of City Planning, City of Raleigh, P.O. Box 590, Raleigh, NC27602-0590.

*Incomplete Applications:* Planning staff checks applications for sufficiency following submittal. Incomplete applications cannot be accepted and will be returned to the applicant.

## 3) **FILING DEADLINES**

Complete applications must be filed by 4:00 p.m. on the filing deadline. (See the "Raleigh Board of Adjustment Application Deadlines" on the City's official website for current filing dates and deadlines. <https://www.raleighnc.gov/home/content/BoardsCommissions/Articles/BoardofAdjustment.html>)

## 4) **PUBLIC HEARING REQUIREMENT**

The Raleigh Board of Adjustment ("BOA") is a quasi-judicial body that considers requests for Design Adjustments. The BOA considers the application, any other relevant written and/or illustrative evidence entered into the record, including a Staff report, along with sworn testimony, all provided at a public hearing.

Notification of the public hearing will take place by each of the following methods:

- **By Mail** - The Planning Department will prepare and mail a written notice to the owner(s) of the property (the "Subject Property") included in the Design Adjustment Application and the owners of all property within 100 feet on all sides of the Subject Property. This notice will be postmarked not more than 25 calendar days and no less than 10 calendar days prior to the date of the public hearing.
- **By Publication** - Notice will be published at least once in a newspaper having general circulation in the City no less than 10 calendar days but not more than 25 calendar days prior to the date of the public hearing.
- **By Web** - Notice will be posted on the City's official website no less than 10 calendar days prior to the date of the public hearing.
- **On-Site** - Notice will also be posted by City staff on the Subject Property at least 10 days prior to the date of the public hearing. **NOTICE TO APPLICANT - The applicant must retrieve the posted sign the morning of the public hearing and return it to the City either at the public hearing or within three (3) business days following the public hearing.**

## General Information about Design Adjustments and the Board of Adjustment

The following is provided for informational purposes only. For further information, applicants are advised to consult the appropriate sections of the North Carolina General Statutes, the City Code, and the City's Unified Development Ordinance ("UDO"). Please note the UDO proscribes that certain UDO provisions shall not be varied.

### *RALEIGH BOARD OF ADJUSTMENT*

The Raleigh Board of Adjustment ("BOA") is a quasi-judicial body that considers requests for Design Adjustments. Its decisions are final but may be subject to judicial review by the courts. The BOA consists of eight members, but only five members sit and vote on each of the hearings before the BOA. Four regular members and two alternate members of the BOA are appointed to two-year terms by the City Council and must reside within the City limits. One regular member and one alternate member of the BOA are appointed to two-year terms by the Wake County Board of Commissioners and must reside within the City's extraterritorial jurisdiction.

### *QUASI-JUDICIAL HEARING*

The BOA will consider the application, any other relevant written and/or illustrative evidence entered into the record, including the Staff Report, and any sworn testimony, all at a public hearing. After the public hearing, the BOA will vote to approve, approve with conditions, or deny the Design Adjustment. Three out of the five members of the BOA who are sitting and voting on a Design Adjustment hearing must vote for approval in order for a Design Adjustment to be approved.

BOA meetings are typically held the second Monday of each month in the City Council Chamber, Room 201 of the Raleigh Municipal Building located at 222 W. Hargett Street. Meetings begin at 1:00 p.m. unless otherwise specified.

During a quasi-judicial hearing on a Design Adjustment request, the BOA holds an evidentiary hearing and makes its decision based solely on the written and oral evidence presented; its decision cannot be based on opinions inconsistent with the facts in evidence. Members of the BOA must refrain from *ex parte* communications (communications outside of the hearing itself) with anyone about substantive issues in upcoming or ongoing cases including other members of the BOA. All testimony before the BOA must be "sworn" testimony; therefore, all persons wishing to speak on the matter must be sworn in. Appeals from a decision of the BOA shall be to Superior Court.

All applicants are advised to have an attorney represent them as this is a legal proceeding. Applicants that are entities, including governmental entities, corporations, LLCs, LLPs and Partnerships **must be** represented by an attorney. Engineers, architects, real estate agents, planners and other non-attorneys may only appear as witnesses; they may not appear on behalf of an applicant or those opposed to an application in a representative capacity. In addition, only an expert can testify regarding matters that require expert testimony such as impacts of proposed activities on property values, traffic, or stormwater runoff. Individuals opposed to an application may appear and represent themselves at the Design Adjustment hearing (entities opposing an application, however, must be represented by an attorney as explained above).



## **Article 8.3, Blocks, Lots, Access**

### **Administrative Design Adjustment Findings**

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- F. The design adjustment is deemed reasonable due to one or more of the following:
1. Topographic changes are too steep;
  2. The presence of existing buildings, stream and other natural features;
  3. Site layout of developed properties;
  4. Adjoining uses or their vehicles are incompatible;
  5. Existing buildings, streams or other natural or man-made obstructions or site layout of developed properties prevent cross-access;
  6. There are steep slopes in excess of 25%;
  7. Freeways, waterways, railroad lines, pre-existing development, tree conservation areas, stream buffers, cemeteries, open space or easements would make the provisions of a complete block or a stub-street infeasible; or
  8. With respect to the requirement for a stub-street, a high intensity non-residential use is located adjacent to a proposed residential subdivision.





**NOTARIZED CERTIFICATION OF OWNER(S)**

I, \_\_\_\_\_, the undersigned, being first duly sworn, depose and say that I voluntarily submitted this Board of Adjustment Application to the City of Raleigh; that I am the owner(s) of the property described and which is the subject matter of this Board of Adjustment Application; that all answers to the questions in this application, and all plot plan(s), sketches, data and other supplementary information attached to this application are honest and true to the best of my knowledge and belief. Submission of an incomplete or incorrect application may result in a delay in processing or the rejection of my application.

*[NOTE: If the owner is a corporation, this must be signed by an authorized corporate officer; If the owner is a partnership, this must be signed by a general partner; If the owner is a limited liability company, this must be signed by the Manager for a manager managed LLC, or all the members for a member managed LLC.] For multiple owners, attach additional Notarized Certification of Owner(s) pages.*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

STATE OF NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing application for the purpose stated therein and in the capacity indicated:

\_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary

[NOTARY SEAL]

\_\_\_\_\_, Notary Public  
Notary's Printed or Typed Name

My Commission expires: \_\_\_\_\_