

# Town of Holly Ridge

Post Office Box 145

Holly Ridge, North Carolina 28445

Telephone (910) 329-7081 Fax (910) 329-1593



## APPEAL APPLICATION

### SUBJECT PROPERTY INFORMATION

Nature of Appeal : \_\_\_\_\_

Property Address : \_\_\_\_\_

Parcel Number : \_\_\_\_\_ Lot Size : \_\_\_\_\_

Zoning District : \_\_\_\_\_ Effective Flood Zone(s) : \_\_\_\_\_

### APPLICANT INFORMATION

Applicant : \_\_\_\_\_

Mailing Address : \_\_\_\_\_

Telephone : \_\_\_\_\_ Email Address : \_\_\_\_\_

Legal Relationship of Applicant to Property Owner : \_\_\_\_\_

### PROPERTY OWNER INFORMATION

Owner(s) : \_\_\_\_\_

Mailing Address : \_\_\_\_\_

Telephone : \_\_\_\_\_ Email Address : \_\_\_\_\_

*If the application is not signed by the property owner, a written and signed statement by the property owner giving consent to the request must be submitted with the application.*



## **APPEALS**

### **Section 7-8-5 Appeals from Administrative Decisions**

The Board of Adjustment shall hear and decide appeals of any final and binding order, requirement, or determination by the Zoning Administrator or the Zoning Administrator's authorized agent pursuant to the requirements of this Section.

### **Section 7-8-6 Notice of Decision**

The Zoning Administrator shall give written notice of each final, binding decision to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

### **Section 7-8-7 Notice of Appeal**

- (A) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (B) Any person who has standing under G.S. 160D-1402 or the town (City) may appeal a decision to the Board of Adjustment.
- (C) An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.

### **Section 7-8-8 Transmittal of Record**

- (A) The Town Clerk shall transmit a copy of the notice of appeal upon receipt to the Zoning Administrator.
- (B) Upon receipt of the copy of the notice of appeal, the Zoning Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken and shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

### **Section 7-8-9 Stay of Enforcement**

- (A) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development

regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. .

(B) Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

#### **Section 7-8-10 Hearing**

(A) If enforcement proceedings are not stayed, the appellant may file with the Zoning Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed; otherwise, the Board shall hear and decide the appeal within a reasonable time.

(B) The hearing shall conform to the requirements for quasi-judicial hearings contained in Section 7-2-12 of this Ordinance.

(C) The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness.

(D) The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

#### **Section 7-8-11 Board Action**

(A) After concluding the hearing, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. In so doing, the Board shall have all the powers of the official who made the decision.

(B) The Board of Adjustment shall comply with all requirements set forth in Section 7-2-13 of this Ordinance in making, documenting, filing, and delivering its decision.