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PLANNING DIRECTOR'S MODIFICATION APPLICATION

Application for Minor Building Encroachments into Required Setbacks

Land Development Ordinance Section 3.19.3

DATE: _____

SUBJECT ADDRESS: _____

SUBDIVISION: _____ **LOT NO.:** _____

ZONING: _____ **WAKE COUNTY PIN:** _____

APPLICANT: (*print name*) _____

ADDRESS: _____

PHONE NUMBER: _____ E-MAIL: _____

APPLICANT'S SIGNATURE: _____

PROPERTY OWNER(S): (*print names*)

ADDRESS: _____

PHONE NUMBER: _____ E-MAIL: _____

PROPERTY OWNER(S) SIGNATURE (S):

TITLE OF PLAN: _____ DATE OF PLAN: _____

SURVEYOR: _____

OFFICE USE ONLY

Field Inspection _____ Director Approval: _____ Recorded _____

STATEMENT OF JUSTIFICATION

Section 3.19.3 of the Town of Cary Land Development Ordinance (LDO) allows the Planning Director to administratively approve encroachments of a principal building into any applicable required setback, provided that:

1. The encroachments of a principal building into any required setback up to a maximum of ten percent (10%) of the applicable required setback; and
2. The request involves encroachment into two or fewer required setbacks per lot; and
3. The encroachment is a result of a construction error by the property owner or a person acting on his or her behalf whether discovered during the construction process or afterwards; or special circumstances or conditions exist (e.g., narrowness, exceptional topographic conditions, or the shape of the property) that are not common to other areas or buildings that are similarly situated and practical difficulty may result from strict compliance with this Ordinance's standards, provided that the requested encroachment will not have the effect of nullifying or impairing the intent and purposes of either the specific standards, this Ordinance, or the Comprehensive Plan; and
4. The encroachment cannot be corrected without substantial hardship and expense to the property owner; and
5. The encroachment, if approved, will not substantially interfere with the convenient and enjoyable use of adjacent properties and will not pose any substantial danger to the public health and safety.
6. The Director may grant additional encroachments for structures that were constructed prior to May 13, 1999 which do not meet the setback and other requirements of this ordinance provided that items (3) through (5) are met above and building permits were obtained and approved for the structure.

In the space below or on a separate piece of paper, explain why your request meets these standards. **Make sure a copy of the formal survey showing the encroachment is attached to this application.**

APPLICANTS' CERTIFICATION

I, _____, the undersigned, being first duly sworn, depose and say that I am the _____ owner, _____ attorney, _____ attorney-in-fact, _____ agent, _____ lessee, or _____ representative of the owner(s) of the property described and which is the subject matter of this application; that all answers to the questions in this application, and all sketches, data and other supplementary information attached to this application are honest and true to the best of my knowledge and belief. If I am not the owner of the property, I have attached a notarized authorization from the owner(s) to submit with this application.

Date

Signature

_____ **COUNTY, STATE OF NORTH CAROLINA**

Signed and sworn to or affirmed before me this day by _____.

Date

Notary Public

(Official Seal)

My commission expires: _____

NOTARIZED AUTHORIZATION OF ALL OWNERS

I/We certify that I/we am/are all of the Owner(s) of the property which is the subject of this application, that I/we have authorized the applicant to make this application and that I/we agree to be bound by the application, the representations made and the decision in the same manner as if I/we were the applicant.

- [If the owner is:
- a corporation, this must be signed by an, authorized corporate officer;
 - a partnership, this must be signed by a general partner;
 - 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.]

Date

Signature of Owner(s)

Date

Signature of Owner(s)

_____ **COUNTY, STATE OF NORTH CAROLINA**

Signed and sworn to or affirmed before me this day by _____.

Date

Notary Public

(Official Seal)

My commission expires: _____

