

ENVIRONMENTAL ENFORCEMENT BOARD

Mailing address:

ENVIRONMENTAL BOARD
CITY HALL
300 SOUTH ADAMS STREET, B-28
TALLAHASSEE, FLORIDA 32301

Location address:

ENVIRONMENTAL BOARD
435 N. MACOMB ST., 3RD FLOOR
TALLAHASSEE, FLORIDA 32301
(850) 891-7108

ENVIRONMENTAL VARIANCE APPLICATION PROCESS

Applications for Environmental Variances to be considered by the Tallahassee Environmental Board are processed through the Environmental Board office located at 435 N. Macomb Street, 3rd Floor. This handout is intended to acquaint the applicant with the variance application process and the requirements for filing the application.

The Environmental Board was appointed by the City Commission to provide a hearing mechanism for applicants who seek a variance from the provisions of the Tallahassee Environmental Management Ordinance (EMO). The Board has no authority to change the ordinance; that can only be done by the City Commission. The Environmental Board may grant a variance if:

- (a) a project's site location, size, shape, topography, or condition, owing to conditions not the result of the applicant's action, prevents the applicant from complying with the Environmental code, or;
- (b) the health, welfare and safety of the public are seriously jeopardized meriting a consideration for a variance of the provisions of this ordinance, or;
- (c) deviations from the standards for conservation and preservation areas will not substantially impact the functions of those areas, or;
- (d) the provisions of the EMO, excluding those applicable only to vested development, prohibit the construction of vested development on the vested property. Any variance granted under this subparagraph shall not authorize more development than is vested.

The burden of proof in showing that the criterion for the approval of a variance by the Board rests with the applicant. Decisions of the Environmental Board may be appealed to the Circuit Court within thirty (30) days of the execution of the order. The appeal cannot go before the City Commission.

Any witnesses proposed by the Applicant and those proposed by the Department of Growth Management, will be sworn or affirmed to tell the truth. The applicant will present his/her case in its entirety. The Growth Management Department in response will present its analysis. Each party may then cross-examine the other party's witnesses. At the close of all testimony and evidence on the case, the Environmental Board will make a decision and an Order will be entered.

GENERAL APPLICATION REQUIREMENTS FOR ENVIRONMENTAL VARIANCES

Please read and follow these directions carefully as the Environmental Board office reserves the right to reject any application, which is improperly filled out or incomplete.

The following **MUST** be included on all applications:

- (1) The signature of the property owner or person with documented power of attorney is required. If the applicant is other than the property owner, he/she should fill in the information requested under "Agent".
- (2) The mailing address and daytime telephone number of both the property owner and agent is required.
- (3) The property description must include the street address, the Leon County Property Appraiser's tax parcel identification number, or legal description of the subject property.
- (4) A description of the provisions of the ordinance and the section requested to be varied is required.
- (5) A non-refundable filing fee of \$1695 plus the actual cost of direct notices and legal advertising fees.
- (6) The variance application shall be submitted to the Environmental Board office; the Environmental Board office will submit the application to the Department of Growth Management for an analysis. Upon completion, the analysis shall be provided to the applicant. **Within forty-eight hours, the applicant must provide any additional information to the Department of Growth Management that would support the approval of the application.** If this condition is not met, the Board may continue the case to allow for appropriate review or analysis of any additional information.
- (7) A sign or signs posted on site, a sign posting affidavit and two (2) photos of each sign (one up close and one from a distance) are also required to complete this submittal. Once the application is received, a sign in pdf format and sign posting affidavit form will be sent to the applicant via email. See sign specifications below:
 - Print the sign on corrugated plastic at a minimum of 28 by 22 inches using the PDF file with no alterations;
 - Post one sign per street frontage on the ground using a wire frame stand so that the sign is prominently displayed in an area that is clearly visible and is centrally located along each street frontage immediately adjacent to the subject property; and
 - Remove all signs from the site no later than 10 days after all applicable approvals have been obtained.

TALLAHASSEE ENVIRONMENTAL BOARD
POLICIES & PROCEDURE

POLICIES

- (1) The time allowed for presentation of the applicant's case and the environmental staff's analysis shall be fifteen (15) minutes maximum each.
- (2) Large exhibits requiring display on an easel shall be set-up thirty (30) minutes prior to the start of the meeting
- (3) The time allowed for presentation of the public shall be three (3) minutes maximum each.

PROCEDURES

- (1) Environmental staff presents their analysis.
- (2) The public is given time to speak.
- (3) The applicant presents their case.
- (4) The Environmental Board will have the opportunity to question both applicant and staff.
- (5) The Environmental Board will deliberate the variance request and shall:
 - a. approve the variance request or any portion thereof; or
 - b. approve the variance request subject to conditions; or
 - c. deny the variance request, specifying the reasons therefore in writing; or
 - d. continue consideration of the variance request to a time certain.

VARIATIONS AND MODIFICATIONS AUTHORIZED

- (1) The Environmental Board, when so appealed to and after a hearing, may vary the application of any provision of the Tallahassee Environmental Management Ordinance to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, owing to special or unique circumstances peculiar to the property and would be contrary to the spirit and purpose of the Environmental code or to the public interest.
- (2) *Criteria for granting variances.* The Environmental Board may grant the request if it determines:
 - a. The land contained within the area which is the subject of an environmental permit application is of such size, shape, topography, location or condition that it is impossible for the applicant to conform to the provisions of this ordinance, provided the conditions cited as causing the need for the variance are not the result of action or inaction of the applicant, or
 - b. That conditions exist where the health, welfare, and safety of the public are seriously jeopardized and the jeopardy cannot be eliminated unless a variance from the provisions of this ordinance is approved, or
 - c. The applicant satisfactorily demonstrates that a deviation from the standards associated with preservation and conservation areas set forth in this chapter will not substantially impact the function of the preservation or conservation areas, or

- d. The provisions of this chapter, excluding those applicable only to vested development, prohibit the construction of vested development on vested property. Any variance granted under this subparagraph shall not authorize more development than is vested.
- (3) A variance is hereby defined as a relaxation of the terms of the Environmental code or ordinance involved where such variance will not be contrary to the public interest and, where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Environmental involved would make compliance impossible.
- (4) Please note that the Environmental Board is prohibited by Policy 1.3.11[c] of the conservation element of the Comprehensive Plan from approving a variance that exceeds five percent of the development standards associated with conservation or preservation areas identified in section 5-81 of the Tallahassee Land Development Code.

TIME LIMITS ON VARIANCES

- (1) In granting any variance, the Board shall establish an expiration date for the variance granted.
- (2) Any variance granted shall expire within twelve (12) months from the date of the grant unless a permit based upon and incorporating the variance is issued within the twelve-month period, and substantial development has begun and is continuing in good faith. Failure to meet both permitting and construction requirements within the twelve-month period shall cause the variance to become void.

APPEALS

An aggrieved party, including the City, may appeal a final administrative order of the Environmental Board to the Circuit Court. An appeal shall be filed within thirty (30) days of the entry of the order to be appealed.

APPLICATION FOR VARIANCE BEFORE THE CITY OF TALLAHASSEE

ENVIRONMENTAL BOARD

(Please print or type)

THE UNDERSIGNED OWNER/OWNERS OF THE FOLLOWING DESCRIBED PROPERTY DO HEREBY PETITION THE ENVIRONMENTAL BOARD TO MAKE A DETERMINATION ON THE GRANTING OR DENIAL OF A VARIANCE TO THE ENVIRONMENTAL MANAGEMENT ORDINANCE:

| | |
|-------------------------|------------------|
| <u>PROPERTY:</u> | |
| OWNER'S NAME: _____ | Address: _____ |
| Daytime Phone: _____ | Fax Phone: _____ |
| | E-mail: _____ |
| AGENT'S NAME: _____ | Address: _____ |
| Daytime Phone: _____ | Fax Phone: _____ |
| | E-mail: _____ |

| | |
|--|--------------------------|
| <u>DESCRIPTION OF PROPERTY:</u> | |
| STREET: _____ | TAX PARCEL NUMBER: _____ |
| SUBDIVISION: _____ | LOT: _____ BLOCK: _____ |
| LEGAL DESCRIPTION: (Please Attach) | |
| GENERAL DESCRIPTION: | |
| _____ | |
| _____ | |
| _____ | |

AFFECTED ORDINANCE AND SECTION: _____

I PETITION THE BOARD THAT THE TERMS OF THE SAID ORDINANCE BE VARIED AS FOLLOWS: (ATTACH ADDITIONAL SHEET IF NECESSARY)

EXHIBITS ATTACHED: YES NO

EACH EXHIBIT MUST BE APPROPRIATELY IDENTIFIED. PLEASE LIST EXHIBITS BELOW:

NOTE: MATERIALS AND/OR EXHIBITS NOT LISTED ABOVE MAY NOT BE ADMISSIBLE AT THE HEARING.

THIS APPLICATION IS NOT IN CONFLICT WITH ANY EXISTING DEED COVENANTS OR OTHER CITY, COUNTY, OR STATE REGULATIONS APPLICABLE.

THE APPLICANT ASSUMES RESPONSIBILITY FOR THE ACCURACY OF THE LEGAL DESCRIPTION AND INFORMATION CONTAINED HEREIN.

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY INVOLVED IN THE ABOVE DESCRIBED VARIANCE REQUEST, AND THAT THE INFORMATION SET FORTH IS TRUE AND CORRECT.

BY: _____
(NAME - PLEASE PRINT)

(SIGNATURE OF THE PROPERTY OWNER OR AUTHORIZED AGENT **REQUIRED**)

CASE NO: _____

FILED IN THE OFFICE AND FEE RECEIVED BY:

THE CITY OF TALLAHASSEE ENVIRONMENTAL BOARD ON THE _____ DAY OF _____, 20_____.

BY: STEPHANIE HOWARD,
ENVIRONMENTAL BOARD COORDINATOR

THIS APPLICATION WILL BE PRESENTED TO THE CITY OF TALLAHASSEE ENVIRONMENTAL BOARD ON _____ FOR PUBLIC HEARING.

PLEASE MAKE CHECK PAYABLE TO THE CITY OF TALLAHASSEE AND REMIT WITH APPLICATION TO THE ENVIRONMENTAL BOARD OFFICE, 435 N. MACOMB STREET, 3RD FLOOR, TALLAHASSEE, FLORIDA 32301. FOR ADDITIONAL INFORMATION, PLEASE CALL (850) 891-7108.