

## **ADMINISTRATIVE APPEAL INSTRUCTIONS**

**Prior to submitting your application, it is very important for you to make an appointment to discuss the application and any possible alternatives. This will prevent any unnecessary expenditure of funds to third parties (i.e. title company, postage, etc.) in the event it is determined that there is an alternative. No refunds will be given for third party fees. Please call 595-3475 and ask for the Planner who coordinates Administrative Appeals.**

In order for the Appeal request to proceed in a timely manner, the application forms must be completed and all items on the checklist must be submitted prior to the deadline, which is within 15 days of the administrative decision. Any application submitted incomplete or after the deadline will not be accepted by staff. Meeting dates and submittal deadlines may be found on the Development Services Bureau web site under meeting schedules. **NOTE: The Applicant or Agent must be present at the meeting.**

**THE BURDEN OF PROOF IS UPON THE APPLICANT.** Staff cannot draw the site plan, write the letter of request, or give legal advice. Fees cannot be waived and are non-refundable regardless of the BOA's decision. *No guarantee is made for approval of the appeal. An application is not considered complete until all the following information is received.*

1. A detailed letter of request (dated, signed, and notarized.) In writing the letter of request, the applicant should follow the Appeals procedure information on page 2. Be as detailed as possible. This procedure is the basis of the Board's ruling and is taken directly from the Escambia County Land Development Code, Ordinance 96-3 as amended.
2. Original application form.
3. Completed certification form on page 4. If an agent is handling the request, the owner must sign the application and affidavit authorizing said agent to act in his/her behalf.
4. Completed Affidavit of Owner and Limited Power of Attorney on page 5, if owner is assigning an agent to act in his/her behalf.
5. Any evidence necessary to support the appeal, as noted in the procedures on page 2, and any attachments listed in the checklist on page 3; 15 copies of each **color copies**.
6. One CD in PDF format to include items 1 through 5 above. (Including any additional evidence submitted).
7. Certified mailings, see top of page 6.
8. Application fee of \$800.00

**NOTE: Whenever an applicant would like any County staff member to appear and testify at a hearing, advance notice is required. Both the Department and the individual staff member must be notified in writing 10 days in advance of the hearing.**

## APPEALS PROCEDURE - From the Land Development Code of Escambia County

**Section 2.04.00. Appeal of Administrative Decisions.** When it is alleged that there is an error in any order, requirement, decision or determination regarding issuance or denial of a land use certificate or permit made by an administrative official in the administration of this ordinance, the issue in dispute shall be taken before the Board of Adjustment. For cases on Pensacola Beach, the appeal shall first be reviewed by the Santa Rosa Island Authority Board, which shall then recommend to the BOA. An action sufficient to confer standing on a person aggrieved by an administrative decision, or administration of the Land Development Code would be an official action granting, denying or granting with conditions an application for a development permit. This section shall not apply to citations issued by Code Enforcement officers.

**2.04.01. Appeals procedure.** To initiate the appeals process, the person appealing the administrative decision must make written application for such appeal to the Planning and Zoning Department within 15 days of the administrative decision. **Said application shall be accompanied by sufficient and adequate information to define and describe the alleged error, the proposed remedies, and any other pertinent information the applicant wishes to have considered.**

- A. Appeals. The BOA is authorized to hear and to rule upon any appeal made by those persons aggrieved by administration of this code. An administrative decision or interpretation shall not be reversed, altered, or modified by the BOA unless it finds:
1. That a written application for the appeal was submitted within 15 days of the administrative decision or action indicating the section of this code under which said appeal applies together with a statement of the grounds on which the appeal is based; and
  2. That the person filing said appeal has established that there was no factual or legal basis to support the decision or action of the administrative official.
- B. Hearing of appeal; notice required. The BOA shall schedule the hearing for the appeal to occur within 30 days after the filing of the notice of appeal, give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The BOA hearing may be continued or postponed by vote of the BOA or by the property owner, or his agent or attorney, upon his written request.
- C. Decision of the BOA. In applying the provisions of this code, said provisions shall be held to be minimum provisions. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer to whom the appeal is directed. The concurring vote of a majority of the members of the BOA shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to vote.

# ADMINISTRATIVE APPEAL

APPLICATION NUMBER \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Street address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_ - \_\_\_\_\_ Fax: (    ) \_\_\_\_\_ - \_\_\_\_\_

## LOCATION OF PROPERTY:

Subdivision name: \_\_\_\_\_

Street address: \_\_\_\_\_

Property Reference. No.: (can be obtained at the Property Appraiser's office at 434-2735)

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ Parcel # \_\_\_\_\_

Zoning \_\_\_\_\_ Future Land Use Classification: \_\_\_\_\_

## BRIEF DESCRIPTION OF REQUEST (LDC SECTION 2.04.00- Appeal of Administrative Decision) (please be more detailed in your letter of request)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENTS CHECK LIST

- \_\_\_\_\_ Legal Description      \_\_\_\_\_ Proof of Ownership      \_\_\_\_\_ Site Plan
- \_\_\_\_\_ Survey      \_\_\_\_\_ Letter of request (Dated, signed, & notarized)
- \_\_\_\_\_ Certified Mailings
- \_\_\_\_\_ Current section map(s) with subject property identified. Section map(s) must include a minimum 500' radius beyond the subject property borders. Adjacent section maps are required when necessary to include to the minimum 500' radius. (Maps can be obtained at the Property Appraiser's office at 434-2735)

## FEES

Appeals      -      Application fee + Legal Ads & Notices = **\$800.00 total**

**CERTIFICATION AND AUTHORIZATION**

**By my signature, I hereby certify that:**

- 1) I am duly qualified as owner or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection; and
- 5) I authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff.

\_\_\_\_\_  
Owner's signature \_\_\_\_\_  
Date

\_\_\_\_\_  
Agent's signature \_\_\_\_\_  
Date

Name of agent: \_\_\_\_\_  
(print or type)

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip \_\_\_\_\_ Telephone ( ) \_\_\_\_\_ - \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_ by \_\_\_\_\_, who ( ) did ( ) did not take an oath. He/she is ( ) personally known to me, ( ) produced current Florida/Other driver's license, and/or ( ) produced current \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Name of Notary Printed \_\_\_\_\_  
Date

\_\_\_\_\_  
My Commission Expires

\_\_\_\_\_  
Commission No. (Notary seal must be affixed)

**AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY**

As owner of the property located at \_\_\_\_\_, Pensacola,  
Florida, property reference number \_\_\_\_\_, I hereby designate  
\_\_\_\_\_, for the sole purpose of completing this  
application

and making a presentation to the Board of Adjustment, to request an Administrative Appeal.

This Limited Power of Attorney is granted on the \_\_\_\_\_ day of \_\_\_\_\_, the year  
of \_\_\_\_\_, and is effective until the BOA has rendered a decision on this request and any appeal  
period has expired. The owner reserves the right to rescind this Limited Power of Attorney at any  
time with a written notarized notice to the Development Services Bureau.

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Print Property Owner Name

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
year of \_\_\_\_\_ by \_\_\_\_\_, who ( ) did ( ) did not take an oath.  
He/she is ( ) personally known to me, ( ) produced current Florida/Other driver's license, and/or  
( ) produced current \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Name of Notary Printed

\_\_\_\_\_  
Date

\_\_\_\_\_  
My Commission Expires

\_\_\_\_\_  
Commission No. (Notary seal must be affixed)

**ADMINISTRATIVE APPEAL CERTIFIED MAILING REQUIREMENTS**

I FURTHER CERTIFY THAT I AM FULLY AWARE THAT IT IS MY RESPONSIBILITY AS THE APPLICANT AND/OR AGENT TO PROVIDE THE FOLLOWING AT MY EXPENSE:

- A. A Certified list of the current property owners within a 500 foot radius of the property the subject of the Appeal. **(from a company licensed to do such work, at the applicant's/agent's expense)**
- B. ADDRESSED AND **STAMPED (not metered)** envelopes, with certified mail cards, return receipt requested, and payment receipts, showing the names and addresses of those on the above referenced list. **To be secured at the applicant's/agent's expense.** The return address to be used is:

Development Service Bureau  
1190 W. Leonard Street  
Pensacola, Florida 32501

I AM AWARE THAT PUBLIC HEARING NOTICES FOR THE REQUEST SHALL BE PROVIDED, FOR MAIL-OUT PURPOSES, BY THE DEVELOPMENT SERVICES BUREAU.

Owner's signature	Date
Agent's signature	Date

***PLEASE TAKE THE TIME TO READ THE FOLLOWING INFORMATION REGARDING HEARING PROCEDURES***

Hearings before the Board of Adjustment are quasi-judicial, which are like evidential hearings in a court of law, but less formal. Nonetheless, all public testimony is taken under Oath and everyone testifying before the BOA is subject to cross examination. All documents and exhibits the BOA considers are entered into evidence and made part of the record of the hearing. The giving of testimony or opinion testimony is limited to experts, and closing arguments are limited to the evidence of record. After hearing testimony and arguments for and against the proposed action and before making its decision, the BOA considers relevant testimony, exhibits entered into evidence and applicable law.

All decisions by the Board are final and appealable. This means anyone who seeks judicial review of the Board's decision must file an appeal in a court of competent jurisdiction within thirty (30) days of the decision of the BOA. Section 2.04.02 of the Land Development code states that: Because decisions of the BOA are final, unless overturned by a court of competent jurisdiction, the county may issue developmental permits for properties in accordance with the decisions of the BOA. However, if a property owner or applicant requests the issuance of any such permit and such permit is issued, the permittee, and not the county, shall bear any risk that such decision may be set aside, the permit may be revoked, or the development may be otherwise enjoined by the reviewing court.

*GUIDELINES REGARDING TESTIMONY  
BEFORE THE ESCAMBIA COUNTY BOARD OF ADJUSTMENT*

The Escambia County Board of County Commissioners adopted Resolution No. R96-34 (3-28-96), creating rules of procedure in accordance with Florida Law following the Florida Supreme Court's decision in Brevard County v. Snyder, 627 So.2d 649 (Fla. 1993). A copy of Resolution #R96-34 can be obtained from the Clerk to the Board of County Commissioners. The following procedural rules govern testimony in a quasi-judicial proceeding:

- 5.4 Laymen and Expert Witnesses: The following rules of evidence shall serve as a Board's guideline when determining how much weight should be afforded the testimony received in a Quasi-Judicial proceeding:
- (a) General: The Board shall not consider the testimony of a witness unless:
    - (1) The witness has personal knowledge of the facts to which the witness will testify, and
    - (2) In the case of testimony consisting of opinions or inferences, the testimony is qualified under paragraph 5.4(b) or (c).
  - (b) Layman Witnesses: Testimony of a witness other than an Expert witness is qualified under paragraph (b) only if:
    - (1) The witness cannot readily, and with equal accuracy and adequacy, communicate what he perceived to the Board without testifying on the form of opinions or inferences; and
    - (2) The opinions and inferences do not require a special knowledge, skill, experience or training.
  - (c) Expert Witnesses: Testimony of an Expert witness is qualified under this paragraph (c) only if the Board determines:
    - (1) Whether the subject matter is proper for Expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or help to establish a fact in issue; and
    - (2) Whether the witness is adequately qualified to express an opinion on the matter.
  - (d) Qualifying a Witness as an Expert: For purposes of paragraph (c) of this section, a witness is qualified as an Expert Witness only if the Board determines so in accordance with the following procedure:
    - (1) An Interested Party has the burden of requesting, and this request shall be made prior to proffering the testimony, the Board to make a determination the witness is an Expert;
    - (2) By majority vote, the Board will determine whether the witness satisfies the criteria in section 5.4(c), supra;
    - (3) If the Board determines the witness is qualified to testify as an Expert, the witness will testify and be cross-examined for the record and the Board may give weight and consideration to the Expert's opinion; or
    - (4) If the Board determines that the witness does not qualify to testify as an Expert, or if an Interested Party fails to request the Board to determine the qualifications of the Expert in accordance with this paragraph, the witness may still testify and be cross-examined for the record, however, the Board shall not give any weight or consideration to the opinion of the witness.
- 5.5 Qualifications of County Staff: County Staff members testifying before a Board in a Quasi-Judicial proceeding must:
- (a) State for the record their qualifications, or
  - (b) Place on record a resume listing their qualifications.