

### **15A NCAC 02C .0118 VARIANCE**

(a) The Secretary may grant a variance from any construction standard under the rules of this Section, as set forth in Rule .0119 of this Section. Any variance request shall be submitted using the official form approved the Division as set forth in Paragraph (b) of this Rule and may be granted by the Secretary to the person responsible for the construction of the well for which the variance is sought, if:

- (1) the use of the well will not endanger human health and welfare or the groundwaters; and
- (2) construction in accordance with the standards is not technically feasible in such a manner as to afford a reasonable water supply at a reasonable cost.

(b) The variance request application form shall be submitted to the Division and shall include the following:

- (1) the owner's name, mailing address, and Email address;
- (2) the owner's telephone number(s);
- (3) the physical location of the well site;
- (4) the well contractor's name and State certification number;
- (5) the well contractor's mailing address and Email address;
- (6) the well contractor's telephone number(s);
- (7) a map of the site, to scale, showing the locations of all existing and proposed well(s) in relation to:
  - (A) road names and property boundaries;
  - (B) buildings and structures;
  - (C) other wells;
  - (D) surface water bodies; and
  - (E) known sources of contamination;
- (8) the reason for the variance request;
- (9) a construction diagram of the proposed well(s) including specifications describing all atypical materials or methods to be used and means for assuring the integrity and quality of the finished well(s);
- (10) a copy of the local well application and permit, if applicable;
- (11) the signatures of the well contractor and well owner(s); and
- (12) after submittal of form, any other information necessary as requested by the Department to ensure compliance with G.S. 87-84.

(c) The Secretary may impose such conditions on a variance or the use of a well for which a variance is granted and is necessary to ensure compliance with G.S. 87-84. The facts supporting any variance under this Rule shall be in writing and made part of the variance.

(d) The Secretary shall respond in writing to a request for a variance within 30 days after the receipt of the variance request.

(e) A variance applicant who is dissatisfied with the decision of the Secretary may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

*History Note:* Authority G.S. 87-84; 87-87; 87-88; 143-215.3(a)(4);

*Eff. April 20, 1978;*

*Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; September 1, 1988;*

*September 1, 1984;*

*Readopted Eff. September 1, 2019.*