

TOWN OF WINDSOR, VIRGINIA

APPLICATION PROCEDURE FOR A VARIANCE OR APPEAL HEARING BEFORE THE BOARD OF ZONING APPEALS (BZA)

PRE-APPLICATION CONFERENCE

The applicant must schedule a pre-application conference with a member of the Planning Department staff to discuss the proposed variance or appeal, how to complete the attached forms, and the steps in the review.

* **Variance** - It is helpful to have a sketch to show the proposed changes to occur on the property.

* **Appeal** - An appeal of the Zoning Administrator's decision must be filed within thirty (30) days from the date the decision was rendered.

APPLICATION FORM

The applicant then completes the attached forms, prepares other required information, and submits the completed form and pays the filing fee. Any missing information will delay being scheduled for a hearing before the Board of Zoning Appeals (BZA).

NOTIFICATION, ANALYSIS

The applicant will be notified of the date of the next BZA meeting. All variance and appeal requests are advertised in the local newspaper. Adjacent property owners are notified. A sign concerning the request will be posted on the property. Staff will analyze the request and prepare a report on the request with a recommendation for the BZA.

BZA HEARING

The BZA meets on as needed basis at 7:00 P.M. in the Town of Windsor Council Chamber. Notification will be given as to the date. The applicant must be present. The BZA will hear the Planning Staff's report, accept testimony from both proponents and opponents of the proposal, and will conduct a public hearing. The BZA then will take action either to approve, deny, or defer the requested variance or appeal.

WRITTEN DECISION, APPEAL

The Planning Staff will notify the applicant by letter of the BZA's decision. The applicant or any opponent may appeal the decision within 30 days to the Circuit Court.

ACCOMPANYING THIS APPLICATION ARE THE FOLLOWING:

For a Variance:

1. Completed application.
2. Plat showing all proposed changes to occur on the property including all the dimensions of the lot and existing or proposed structures on the lot and their setbacks from property lines.
3. The required fee: **\$800.00, made payable to Treasurer, Town of Windsor**

For an Appeal:

1. Date of action from which appeal is requested.
2. Completed Application.
3. The required fee. **\$800.00 made payable to Treasurer, Town of Windsor**

ABOUT VARIANCES

A Variance is the special permission granted by the Board of Zoning Appeals to a property owner to not have to comply with a particular Zoning rule concerning the size of a lot or the size, area, height, or location of a building or other structure. Otherwise, a hardship beyond the control of the applicant would result. A Variance cannot allow a land use that is not permitted in the Zoning district.

Here are some examples of instances when a variance might be warranted:

- ⌘ When the rear of a lot is extremely steep and the only way to construct a home is to build part of it in a portion of the required front yard.
- ⌘ When an existing garage is too small and cannot be practically used without enlarging it into a required yard.
- ⌘ When a piece of property slopes so steeply in either the front or back yard that a height variance is needed to build a house on the property.

VARIANCE CRITERIA

The **first consideration** is this: Are there such unusual circumstances about the particular property that applying the Zoning requirements strictly would cause an undue hardship to the individual?

A hardship is a condition that occurs because of some unique characteristic of the property. For example, this could be a very narrow platted lot or an older structure built too close to the property line or a commercial lot that is so low in relation to the road that their sign could not be easily seen.

A hardship is not a problem that you create yourself. For example, if you build your new house in such a manner that you cannot expand the living room without encroaching on a required side yard, you have created that situation, and the ordinance does not recognize that as a legitimate hardship. Likewise, if you build a structure too close to a property line due to your failure to check with Town Officials first about Zoning rules, you have brought on the hardship.

The **second test** of a variance is this: Is the number of feet of land needed to remove your hardship the least possible amount being requested in the proposed variance? This means that if your back yard drops off steeply and you need to move your house two feet into the required front yard to compensate for this, request a variance for only two feet, not six feet.

The **third test** is: Would the extent of the variance have a considerable adverse impact on your neighbors? A variance to reduce the required number of parking spaces could lead to cars being parked in the road or on someone else's parking lot. This could result in a sufficient impact on the neighbors to cause the variance to be denied.

**TOWN OF WINDSOR,
VIRGINIA**

VARIANCE [] APPEAL []

**APPLICATION FOR A HEARING BEFORE THE BOARD OF ZONING APPEALS
PLEASE TYPE OR PRINT**

Name of Applicant _____ Telephone _____

Address: _____

Owner of Record _____ Telephone _____

Address _____

Tax Map, Section: _____ Zoning _____

Existing Use of Property: _____

Property Location: _____
(Example: "North side of Windsor Blvd. Approx. 100' South of Court
Street)

Total Area (Acres/Sq. Ft.) _____

VARIANCE

Describe the variance sought in terms of distance and type.
(For example: "A 3.5 foot rear yard variance for an attached two car garage").

What provision of the Zoning Ordinance is a variance requested?
(For example, "the 25 foot rear yard requirement in the R-1 District").

List the reasons why the variance is being sought. What hardship would occur on your use of the property?
(Please read the attached overview on reasons for approving a variance).

APPEAL

If the applicant is appealing the Zoning Administrator's decision, please write in the date of the decision from which the appeal is requested and then state the reasons for requesting the appeal.

Date of the Decision from which Appeal is Requested: _____

REASONS YOU ARE REQUESTING THE APPEAL:

ADJOINING PROPERTY OWNERS

Tax Map Number Name Address

STATEMENT FOR VALIDITY OF INFORMATION

Every applicant shall sign the following document to substantiate the validity of submitted information.

Commonwealth of Virginia

Town of Windsor to wit

I, _____ declare that I have familiarized myself with the rules and procedure pertaining to preparing and filing this application. I further declare that the foregoing statements and answers provided throughout the various sections of this application are in all respects true and correct to the best of my knowledge and belief.

Signed _____

Print Name _____

Subscribed and sworn to before me this _____ day of _____, 201__.

Notary Public _____

My Commission Expires _____

ZONING DISCLOSURE

Both the Code of Virginia and the Town of Windsor's Land Development Code allow the County to request full disclosure of ownership in properties subject to this request. To assist us in obtaining this information, please complete this form in full.

Please list below the names and addresses of all owners or parties in interest to this variance request. If additional space is needed please list on the back of this page:

NAME ADDRESS (Include Zip Code)

NOTE: If this request is in the name of a corporation, artificial person, joint venture, trust, or other form of ownership, all persons must be listed.

I, _____, do hereby swear and affirm that to the best of my knowledge and belief, the above information is true and that I am the applicant for the variance/appeal request for parcel number(s) _____ of tax map number(s) _____ requesting
If the above information changes at any time while this case is being considered, I will provide the Town with an updated list.

Signature

STATE OF VIRGINIA
COUNTY OF ISLE OF WIGHT, to wit:

This day _____ personally appeared before me, _____, a Notary Public in and for the County and State aforesaid, and swore or affirmed that the matters stated in the foregoing Zoning Disclosure Affidavit are true to the best of his/her knowledge and belief.

Given under my hand this _____ day of _____, 201____

Notary Public

My commission expires:

APPLICANT'S PERMISSION FOR INSPECTION OF PROPERTY

I, _____, hereby grant access to the Zoning Administrator, or assigns thereof, to enter my property during reasonable hours without prior notice to make inspections as deemed necessary for the evaluation of my application for _____ (Specify type of request – variance or appeal hearing).

Applicant's Signature Date

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public's Signature

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