



STAFFORD COUNTY
DEPARTMENT OF PLANNING AND ZONING

1300 Courthouse Road, Stafford VA 22554

Phone: 540-658-8668 Fax: 540-658-6824

www.staffordcountyva.gov

VARIANCE
APPLICATION PACKET

- The following items are included within this packet:
 1. Pre-Application Conference Sheet
 2. Zoning Variance Application Question and Answers
 3. Stafford County Code Section 28-350
 4. Application
 5. Owners Consent Form
 6. Application Affidavit
- Please be advised that applicants are required to schedule a pre-application meeting with the Zoning staff prior to submitting their application. The applicant would then need to schedule a second meeting to officially submit their application. ***Failure to comply with the application requirements, including providing all of the required information, may result in the matter being delayed until such time as all requirements have been fulfilled.*** Appointments may be scheduled by calling the office of Planning and Zoning at 540-658-8668.
- If an application is withdrawn prior to the first public hearing, fifty (50) percent of the amount of the application fee may be refunded to the applicant.

Fees are as follows: *Residential \$600.00 per Variance*
Commercial/Industrial \$1,375.00 per Variance

* Beginning July 1, 2012, per Ordinance O12-19, a 2.75% technology fee will be assessed and collected on the total fees for all new and resubmitted applications or requests. This fee will be in effect until June 18, 2017

- The Board of Zoning Appeals meets the fourth Tuesday of every month. Applications must be received the fourth Tuesday one month prior to the scheduled meeting.

April 2019

NOTICE

Stafford County treats all applications and applicants equally. The County does not discriminate against religion, or on the basis of race, sex, age, national origin, or disability, in its planning, permitting, utilities, and land use processes.

Under the laws of the United States and the Commonwealth of Virginia, no government may discriminate against any religion or on the basis of race, sex, age, national origin, or disability, in its planning, permitting, utilities, and land use processes.

Under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), no government may apply its zoning or land use laws, or its policies and procedures in a manner that unjustifiably imposes a substantial burden on the religious exercise of a person, assembly, or institution.

RLUIPA also provides that no government may apply its zoning or land use laws in a manner that treats a religious assembly or institution on unequal terms with a non-religious institution or assembly.

Finally, RLUIPA provides that no government may impose or implement a land use regulation in a manner that discriminates against a religious assembly or institution.

Stafford County does not discriminate in its planning, permitting, utilities, and land use processes, practices, and policies. Stafford County treats all applications and applicants equally.



STAFFORD COUNTY
DEPARTMENT OF PLANNING AND ZONING

ZONING VARIANCE APPLICATION

1. **What is a variance?** – A reasonable deviation from those provisions in the Zoning Ordinance regulating the size, area, bulk or location of a building or structure when the strict application of the Zoning Ordinance would result in unnecessary or unreasonable hardship to the property owner, and the need for this type of variance is not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the Zoning Ordinance. A variance is based on the land itself, and employed to alleviate a physical condition of the property that would unreasonably prevent or inhibit its use. It is not used for the sole purpose of enhancing the value of a property, increasing the profitability of a business, or making a property more convenient or comfortable to the owner. It shall not include a change in use which could be accomplished by a rezoning, or a conditional use permit. Once a variance has been approved for a property, it runs with the land forever, independent of the owner of the property.

The threshold for the BZA in considering an application for a variance is whether the effect of the zoning ordinance upon the property under consideration interferes with “all reasonable beneficial uses of the property, taken as a whole.” If the answer is negative, the BZA may not have the authority to grant a variance.

2. **Who can grant a variance?** – The Board of Zoning Appeals has the authority to grant variances in cases where strict application of the Zoning Ordinance would result in unnecessary hardship for the property owner.
3. **What is the Board of Zoning Appeals (BZA)?** – The BZA is a seven-member board comprised of volunteer County residents and appointed by the Circuit Court. The BZA will hear and consider requests for variances, special exceptions to the Stafford County Zoning Ordinance and appeals of the Zoning Administrator’s decisions.
4. **What is the basis for a variance?** – The BZA must make the following three findings, as set forth in the Code of Virginia §15.2-2309(2), in order to grant a variance:
 - The strict application of the ordinance would produce undue hardship;
 - The hardship is not shared generally by other properties in the same zoning district and the same vicinity, it is not personal in nature, and it is not self-imposed; and
 - The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
5. **How do I prove a hardship?** – To prove hardship, a property owner must show that the strict application of the terms of the ordinance effectively prohibits or unreasonably restricts the use of the property. A variance may be justified by (1) the exceptional size or shape of a property at the time of the effective date of the ordinance, or by (2) exceptional topographic conditions or other extraordinary

situation of such property. The hardship must be the result of a characteristic of the land; it cannot be personal in nature or self-inflicted. The BZA must be satisfied, upon the evidence heard, that granting a variance will alleviate a clearly demonstrated hardship, as distinguished from a special privilege or convenience sought by the applicant.

6. **What will be the extent of the variance?** – If the BZA approves a variance for a property, it will approve only the minimum required to alleviate the hardship. In addition, the BZA may attach conditions the variance.

If the remedy can be sought by requesting a Special Exception¹, that avenue will be pursued rather than a variance.

7. **What is the application process?** – Variance applications must be filed with the Department of Planning and Zoning.

- A pre-application conference is held between the applicant and a staff member from the Planning and Zoning Department. A solution may be discovered without the need for a variance.
- A complete variance application with original signatures, all associated materials and the application fee by the established deadline.
- The Department of Planning and Zoning will advertise the variance request as a notice of public hearing once a week for two consecutive weeks prior to the hearing date in the local newspaper. The notice will specify the date, time and place of the hearing so persons affected may appear and present their views. In addition, the Planning and Zoning Department will notify adjacent property owners of the requested variance and hearing date.
- A member of the Planning and Zoning Department will prepare a staff report that will accompany the variance application and both will be forwarded to the members of the BZA for their review before the meeting date.
- At the public hearing the BZA will approve, deny or defer the variance request until a later date after hearing the applicant and all interested parties.

8. **How long does a typical variance process take?** – The average variance process is approximately four weeks from submission to action.

9. **What if I want to appeal the decision of the BZA?** – Any one aggrieved by a decision of the BZA has thirty (30) days to appeal the decision to the Stafford County Circuit Court.

RECONSIDERATION OF AN APPLICATION

If an application for a variance is denied, the Board of Zoning Appeals shall not consider an application for the same variance on the same site again for one year unless the new application differs in a substantial and material way from the old one. The one year shall be counted from the date of the Board's denial.

For assistance with any of these procedures or processes, please call the Department of Planning and Zoning at 540-658-8668

¹ A Special Exception is required when a requested use of land is not specifically called out as "by right" in the relevant section of the zoning ordinance. The Special Exception has its own application packet and also goes before the BZA for approval.

STAFFORD COUNTY ZONING ORDINANCE

Sec 28-350. Grant of Variances

- (a) The Board of Zoning Appeals may authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done.
- (b) The Board of Zoning Appeals may authorize a variance under this section when a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at time of the effective date of the ordinance from which this chapter derives, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or the use of development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonable restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant; provided, that the variances shall be in harmony with the intended spirit and purpose of this chapter.
- (c) No variance shall be authorized by the Board of Zoning Appeals, unless it finds:
 - (1) That the strict application of the provisions of this chapter would produce undue hardship;
 - (2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - (3) That the authorization of such variance shall not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
 - (4) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (d) Should an application for a variance be denied, the board shall not consider substantially the same application for at least one year. The one year shall be counted from the date of the board's denial.

STAFFORD COUNTY
 Department of Planning and Zoning
 VARIANCE APPLICATION



RECEIVED BUT NOT OFFICIALLY SUBMITTED
 DATE: _____ INITIALS _____

OFFICIALLY SUBMITTED

DATE: _____ INITIALS _____

VARIANCE: COMMERCIAL RESIDENTIAL _____
 TYPE OF APPLICATION APPLICATION NUMBER

APPLICANT INFORMATION

NAME _____
 STREET ADDRESS _____
 CITY STATE ZIP _____
 PHONE CELL FAX _____
 EMAIL _____

OWNER INFORMATION (If different from the Applicant)

NAME _____
 ADDRESS CITY STATE ZIP _____
 PHONE NUMBER CELL FAX NUMBER _____
 EMAIL ADDRESS _____

PROPERTY INFORMATION

TAX MAP SECTION PARCEL/LOT# LOT SIZE _____
 SUBDIVISION ZONING DISTRICT _____
 EXISTING USE PROPOSED USE _____
 COMPREHENSIVE PLAN DESIGNATION MAGISTERIAL DISTRICT _____

FOR OFFICE USE ONLY

APPLICATION APPROVED BY DATE _____
 CASE # _____
 FEES PAID: YES NO

GENERAL INFORMATION

- ❖ What code section of the zoning ordinance is the applicant seeking relief from as a result of a variance?

Chapter 28, Section _____ which pertains to _____

- ❖ Has a previous application been filed for a variance in connection with this property? Yes No

If yes, please provide the date of application _____.

- ❖ Has a Conditional Use Permit been issued for the existing/proposed use? Yes No Not Required

- ❖ Are there any proffers associated with this property? Yes No *If yes, please provide a copy.*

- ❖ Is the subject property located within a flood district? Yes No

If yes, please specify which one _____

- ❖ Is the subject property located within a Resource Protection Area? Yes No

- ❖ Is the subject property located within an Overlay District? Yes No

If yes, please specify which one _____

- ❖ County Water & Sewer? Private Well & Septic?

VARIANCE JUSTIFICATION

PART A

NOTE: The Board of Zoning Appeals may grant a variance only if the applicant can clearly demonstrate a hardship. A demonstrated hardship refers to the shape and topographical conditions, or to some other unique physical characteristic of the property; for example, if a rear yard has sharp drop-off or hilly terrain where an addition could otherwise be located legally, or if the property has three front yards. A demonstrated hardship is NOT, for example, having a large family in a two-bedroom house, or that you need a first-floor bedroom and bath. (These may be personal reasons for a variance, but do not constitute a hardship having to do with specific conditions of the land, as required by the ordinance.) Furthermore, the need for a variance must not be for a person's convenience or caused as the result of one's own actions.

The threshold for the BZA in considering an application for a variance is whether the effect of the zoning ordinance upon the property under consideration interferes with "all reasonable beneficial uses of the property, taken as a whole." If the answer is negative, the BZA may not have the authority to grant a variance.

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please print clearly and use additional pages where necessary.)

1. Does strict application of the zoning ordinance to the subject property result in a hardship to the owner?
(Answer A or B).

A. Explain how granting a variance would alleviate a hardship caused by the physical characteristics of the property.

B. Explain how enforcement of the zoning ordinance unreasonably restricts the applicant's use of the property.

2. Is this hardship unique to the property?

A. Explain if the hardship shared by other properties in the neighborhood.

B. Explain how this situation or condition of the property (on which this application is based) applies generally to other properties in the same zone.

3. Was the hardship caused by the applicant?

A. Did the condition exist when the property was purchased?

B. Did the applicant purchase the property without knowing of this hardship?

C. How and when did the condition, which created the hardship, first occur?

D. Did the applicant create the hardship and, if so, how was it created?

E. What could the applicant have done to avoid the hardship?

4. Will the variance, if granted, be harmful to others?

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general.

B. Explain how the proposed variance will affect the value of the adjacent and nearby properties.

C. Has the applicant shown the proposed plans to adjacent neighbors and other affected property owners? Have any of them objected to the proposed variance, or have any of them written a letter of support of the proposed variance? If so, please attach the letter or submit at the time of the hearing.

D. Explain how the proposed variance will change the character of the neighborhood.

5. Is there any other administrative or procedural remedy to relieve the hardship?

PART B

1. Have alternative plans or solutions been considered so that a variance would not be needed? Please explain each alternative and why it is unsatisfactory.

ADDITIONAL INFORMATION (ADD ADDITIONAL PAGES AS NEEDED)

AUTHORIZATION

- ❖ *The undersigned declares that the above statements and those contained in any exhibits transmitted to the Board of Zoning Appeals are true.*
- ❖ *The applicant or a representative for the applicant must attend the meeting.*

Owner / Applicant's Signature (Circle One)

Date

Owner / Applicant's Signature (Circle One)

Date

- ❖ Was an Owner's Consent form provided? *Yes* *No* *Not Required*

Owner's Consent Form

(All owners must sign)

I/We, the Owner(s) of the property listed below, hereby grant permission for the Applicant,

_____ to seek a

_____ as requested in

the Board of Zoning Appeals application relating to property located at ____

_____ on Assessor's Parcel(s)

_____.

Date

Signature

Printed Name

Date

Signature

Printed Name

~Notary~

SUBSCRIBED & SWORN TO Before me this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

APPLICATION AFFIDAVIT

This form to be filed with:

**BOARD OF ZONING APPEALS
1300 COURTHOUSE ROAD
STAFFORD, VIRGINIA 22555**

Internal Use Only	
Project Name:	_____
A/P #:	_____
Date:	_____

All applicants for a special exception, a special use permit, conditional use permit, amendment to the zoning ordinance or variance shall make complete disclosure of the equitable ownership of the real estate involved in the application, including in the case of corporate ownership, limited liability company ownership or similar business ownership, the name of stockholders, officers, managing partners, general partners, owners and members, and in any case the names and addresses of all of the real parties in interest. The requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the event the ownership of the involved real estate changes in any respect during the time the application is pending, the applicant shall make complete disclosure of the new equitable ownership of the real estate involved in the application as required herein. If the applicant is a contract purchaser, the ownership information required herein shall be provided for the contract purchaser in addition to the owner of the real estate involved in the application. This section applies to applications before the board of supervisors, planning commission and board of zoning appeals.

See Section 15.2-2289 for State Enabling Authority

1. Applicant information

Name of Applicant _____
Name of Company _____
Address of Applicant _____

Applicant's Signature _____

Name of Agent _____
Address of Agent _____

2. Type of Application

- | | |
|--|---|
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Rezoning | <input type="checkbox"/> Special Exception |

Application Affidavit

Page 2

Applicant: _____

Project Name: _____

A/P #: _____

3. Property Information

Assessor's Parcel(s) _____

Address _____

4. Unless the equitable ownership is a corporation, limited liability company or similar business ownership, list all equitable owners of the property.

Name of owners

Address

_____	_____
_____	_____
_____	_____
_____	_____

5. If the equitable ownership of the property is a corporation, limited liability company or similar business ownership, list all officers, managing partners, general partners, shareholders, owners and members. This provision shall not apply if the corporation is listed on a national or local stock exchange and has more than 500 shareholders.

Name of Members

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. Unless the applicant is a contract purchaser and is a corporation, limited liability company or similar business ownership, list all individuals involved with the purchase of the property.

Name of owners

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Application Affidavit

Page 3

Applicant: _____

Project Name: _____
A/P #: _____

7. If the applicant is a contract purchaser and is a corporation, limited liability company or similar business ownership, list all officers, managing partners, general partners, shareholders, owners and members. This provision shall not apply if the corporation is listed on a national or local stock exchange and has more than 500 shareholders.

Name of Members

_____	_____
_____	_____
_____	_____
_____	_____

8. Have all individuals listed on this affidavit been notified of the purpose of the application?

Yes **No**

9. If #8 is No, list all individuals who have not been notified about this application plus submit the cost required for the Department of Planning and Community Development or Code Administration to send certified letters notifying those listed below of this application prior to the public hearing.

<u>Name</u>	<u>Address, including zip code, no P.O. Box please</u>
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_____	_____
_____	_____
_____	_____
_____	_____

Number of owners to be notified: _____ **X**

Cost for certified letters \$ _____ (cost as of the day of submittal)

Total due: \$ _____ (Make checks payable to County of Stafford)

Please submit a check in the amount due with this application to cover the cost of serving the individuals listed in this section.

Application Affidavit

Page 4

Applicant: _____

Project Name: _____
A/P #: _____

10. Affirmation & Witness

I hereby make oath or affirmation that the contents of this affidavit are true and correct to the best of my knowledge, information and belief. In the event the ownership of the involved real estate changes during the time the application is pending, I shall make complete disclosure of the new equitable ownership of the real estate involved in the application as required herein.

Printed name of Signer _____

Corporate Office of Signer _____

Signature _____

Date _____

COMMONWEALTH OF VIRGINIA
COUNTY OF STAFFORD, to wit:

The forgoing affidavit was acknowledged before me this _____ day of _____, _____,
by _____ owner/applicant.

Notary Public

My commission expires: _____