

BOARD OF ZONING APPEALS VARIANCE APPLICATION PACKAGE



PAGE COUNTY, VIRGINIA

Planning & Community Development Department

103 S Court Street, Suite B

Luray, VA 22835

Phone: (540) 743-1324

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www.pagecounty.virginia.gov

(Updated 05/2018)

COUNTY OF PAGE VARIANCE APPLICATION INSTRUCTIONS

IT IS THE RESPONSIBILITY OF THE APPLICANT TO COMPLETE THIS PACKET IN ITS ENTIRETY AND AS PRECISELY AS POSSIBLE. VARIANCE APPLICATIONS ARE REVIEWED BY THE BOARD OF ZONING APPEALS AND/OR THE PAGE COUNTY PLANNING COMMISSION.

This packet is considered complete when the following have been received:

- Completed variance application.
- A copy of the deed to the property (may be obtained from the Circuit Court of Page County).
- A copy of the paid real estate tax receipt for the property (may be obtained from the Page County Treasurer's Office).
- You must have comments from all applicable agencies, including the property owners association of the subdivision **PRIOR** to submitting this application.
- A copy of the survey plat by a land surveyor (licensed in Virginia) **OR** a hand drawn sketch of the property. On this plat or survey, draw all existing structures and the proposed structure(s), including measurements to the property lines and any roads/right-of-ways/easements/driveways.
- A vicinity map showing land use surrounding the property within 500 feet, existing zoning of the tract and abutting lots, an indication of the availability of water and sewer facilities, and principle highway access to the property.
- All other evidence or exhibits should be submitted along with this application.
- A \$500.00 non-refundable fee is due when this application is returned. Please make checks payable to "County of Page". There is also a \$50.00 refundable deposit for a public hearing sign. Upon submittal of your application, a sign will be provided to you (if available). The sign is to be posted on the land that is to have the variance request so that it is visible from adjoining roads and property. It must be posted at least 14 days prior to the public hearing. Failure to post the sign will result in your application being tabled. The sign is to be returned to our office after the Board of Zoning Appeals acts on the variance application.

ADDITIONAL INFORMATION MAY BE REQUIRED IF THE ZONING ADMINISTRATOR DETERMINES IT NECESSARY TO ENSURE CONFORMANCE AND TO PROVIDE ENFORCEMENT OF THE ORDINANCE.

If you have any questions, please call the Planning & Community Development Office at (540) 743-1324, Monday through Friday, 8:00 a.m. to 4:00 p.m.

PAGE COUNTY VARIANCE APPLICATION TO THE BOARD OF ZONING APPEALS

1) **The applicant is the:** Owner Lessee Agent for Owner

| Owner | Lessee (if applicable) |
|-------------------|------------------------|
| Name: | Name: |
| Mailing Address: | Mailing Address: |
| | |
| Phone Number: | Phone Number: |
| Email (Optional): | Email (Optional): |

2) **Site of Construction:** _____

3) **Please provide detailed directions to the site:** _____

4) **Tax Map Number (Office staff can look this up for you):** _____

5) **Size of Property:** _____

6) **Magisterial District:** _____

7) **How is this property Zoned (Office staff can look this up for you):**

- Agriculture (A-1) Woodland-Conservation (W-C) Residential (R)
 Commercial (C-1) Industrial (I-1) Park-Recreation (P-R)

8) **Water and sewage disposal source for the property:**

- Private Well Private Septic Public Water Public Sewer None

9) **It is desired and requested that the property be varied from _____ to _____.**

10) **It is proposed that the property will be put to the following use:** _____

11) **It is proposed that the following structure(s) will be constructed:** _____

12) **Applicants additional comments, if any:** _____

SUBMIT NAMES AND COMPLETE MAILING ADDRESSES OF ALL ADJOINING LANDOWNERS, INCLUDING LANDOWNERS ACROSS ANY ROAD OR RIGHT-OF-WAY. NAMES AND ADDRESSES OF OWNERS MAY BE FOUND IN THE REAL ESTATE AND LAND USE OFFICE IN THE COMMISSIONER OF REVENUE'S OFFICE.

NAME

MAILING ADDRESS

| | |
|-------|-------|
| _____ | _____ |
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ADJOINING PROPERTY OWNER VERIFICATION:

AS APPLICANT FOR THIS VARIANCE REQUEST, I (WE) _____ HEREBY ACKNOWLEDGE THAT I HAVE FAITHFULLY AND CORRECTLY PROVIDED NAMES AND COMPLETE MAILING ADDRESSES OF ALL OF MY ADJOINING PROPERTY OWNERS AND THOSE DIRECTLY ACROSS THE ROAD OR RIGHT-OR-WAY. I UNDERSTAND THAT FAILURE TO PROVIDE ALL ADJOINING PROPERTY OWNERS WILL LEAVE ME LIABLE FOR ADDITIONAL COSTS FOR RE-ADVERTISEMENT AND NOTICES MAILED, AND THAT MY REQUEST COULD BE DELAYED UNTIL PROPER NOTIFICATION HAS BEEN GIVEN TO ALL ADJOINING PROPERTY OWNERS AND THOSE PROPERTY OWNERS ACROSS THE ROAD OR RIGHT-OF-WAY.

Signature of Owner

Date

Signature of Applicant

Date

PLEASE HAVE THE FOLLOWING AGENCIES ENTER THEIR COMMENTS BELOW PRIOR TO SUBMITTING THIS APPLICATION TO THE ZONING ADMINISTRATOR.

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) - HARRISONBURG RESIDENCY

3536 NORTH VALLEY PIKE
HARRISONBURG, VA 22802
PHONE: (540) 434-2587

VDOT OFFICIAL

DATE

PAGE COUNTY HEALTH DEPARTMENT

75 COURT LANE
LURAY, VIRGINIA 22835
PHONE: (540) 743-6528

HEALTH OFFICIAL

DATE

PAGE COUNTY BUILDING DEPARTMENT

103 S COURT STREET, SUITE B
LURAY, VA 22835
PHONE: (540) 743-6674

BUILDING OFFICIAL

DATE

SUBDIVISON PROPERTY OWNERS ASSOCIATION

PRESIDENT OR SECRETARY

DATE

Special Limited Power of Attorney
County of Page, Virginia

Page County Planning and Community Development
103 S Court Street, Suite B, Luray, Virginia 22835
Phone: (540) 743-1324

Know All Men By Those Present: That I (We),

(Name) _____ (Phone) _____

(Address) _____, the owner(s) of all those tracts or parcels of land ("Property") conveyed to me (us), by deed recorded in the Clerk's Office of the Circuit Court of the County of Page, Virginia, by

Instrument Number _____ on Page _____ and is described as

Parcel: _____ Lot: _____ Block: _____ Section: _____ Subdivision: _____

(Name) _____ (Phone) _____

(Address) _____

To act as my true and lawful attorney-in-fact for and in my (our) name, place, and stead with full power and authority I (we) would have if acting personally to file planning applications for my (our) above described property, including:

- Rezoning
- Special Use Permit
- Variance
- Appeal
- Subdivision Waiver

My attorney-in-fact shall have the authority to offer proffered conditions and to make amendments to previously approved proffered conditions except as follows:

This authorization shall expire one year from the day it is signed, or until it is otherwise rescinded or modified. I witness thereof, I (we) have hereto set my (our) hand and seal this _____ day of _____, 20____,

Signature(s): _____

State of Virginia, City/County of _____, To-wit:

I, _____, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this _____ day of _____, 20____,

Notary Public My Commission Expires: _____

OFFICE USE ONLY- BOARD OF ZONING APPEALS

| | | | |
|----------------------|---|-------------------------------|--------------------------------------|
| Date Received: _____ | Zoning Amendment #: _____ | Density Range: _____ | Staff Initials: _____ |
| Fee: _____ | <input type="checkbox"/> Check #: _____ | <input type="checkbox"/> Cash | <input type="checkbox"/> Debit Card |
| | | | <input type="checkbox"/> Credit Card |

Date of public hearing: _____

Dates public hearing was advertised: _____

Date adjoining land owners were notified: _____

Date of hearing notice to applicant: _____

Date application packet mailed to BZA: _____

Action of Board of Zoning Appeals:

Signature of Chairman, BZA

Date

§ 125-55 **Board of Zoning Appeals.**

A.

A board consisting of five members shall be appointed by the Circuit Court of Page County. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the Board shall hold no other public office in the County except that one may be a member of the County Planning Commission.

[Amended 3-9-1992]

B.

The terms of office shall be for five years, except that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year. One of the five appointed members may be an active member of the Planning Commission.

[Amended 3-9-1992]

C.

Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.

D.

With the exception of its Secretary, the Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. The Board may elect as its Secretary either one of its members or a qualified individual who is not a member of the Board. A Secretary who is not a member of the Board shall not be entitled to vote on matters before the Board.

E.

The Secretary of the Board shall notify the Court at least 30 days in advance of the expiration of any term of office and shall also notify the Court promptly if any vacancy occurs.

§ 125-56 **Powers of the Board of Zoning Appeals.**

The Board of Zoning Appeals shall have the following powers and duties:

A.

To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto.

B.

To authorize, upon appeal or original application 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 will result in unnecessary hardship, provided that the spirit of this chapter shall be observed and substantial justice done, as follows:

(1)

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 the time of the effective date of this chapter or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably 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 approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

(2)

No such variance shall be authorized by the Board unless it finds that the strict application of this chapter would produce undue hardship, that such hardship is not shared generally by other properties in the same zoning district and the same vicinity and that the authorization of such 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.

(3)

No such variance shall be authorized except after notice and hearing as required by § 15.1-431 of the Code of Virginia 1950, as amended.

(4)

No variance shall be authorized unless the Board finds that the condition or the 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.

(5)

In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guaranty or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

[Amended 9-16-2008]

(6)

The existence of a nonconformance in the same or other zoning district shall in or of itself not be considered grounds for the granting of a variance.

(7)

Economic gain or economic hardship shall not be considered grounds for the granting of a variance.

C.

To hear and decide appeals from the decision of the Zoning Administrator. No such appeal shall be heard except after notice and hearing as provided by § 15.1-431 of the Code of Virginia 1950, as amended.

D.

To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question and after public hearing with notice as required by § 15.1-431, the Board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance, and the Board shall not have authority to rezone property.

§ 125-57 **Rules and regulations.**

A.

The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

B.

The meeting of the Board shall be held at the call of its Chairman or at such times as a quorum of the Board may determine.

C.

The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.

D.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

E.

All meetings of the Board shall be open to the public.

F.

A quorum shall be at least three members.

G.

The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter.

§ 125-58 Appeal to the Board of Zoning Appeals.

[Amended 9-16-2008]

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the County or municipality affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto. Notwithstanding any provision to the contrary, any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the Zoning Administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirement of this section. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

§ 125-59 Appeal procedure.

A.

Appeals and applications for special exceptions shall be mailed to the Board of Zoning Appeals, c/o the Zoning Administrator, and a copy of the appeal mailed to the Secretary of the Planning Commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

B.

The County Planning Commission may send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing.

§ 125-60 Public hearing.

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within 60 days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The Board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body at least once each year. The Chairman of the Board or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All hearings shall be advertised in accordance with § 15.1-431 of the Code of Virginia 1950, as amended.

§ 125-61 Decision of Board of Zoning Appeals.

Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals or any taxpayer or any officer, department, board or bureau of the County or municipality may present to the Circuit Court of the County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

A.

Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings

upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

B.

The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

C.

If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

D.

Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from. In the event that the decision of the Board is affirmed and the Court finds that the appeal was frivolous, the Court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.