



## County of Culpeper & Town of Culpeper Variance Process

### What is a variance and when should one be approved?

A variance is an approval of the size of a lot, or the size or location of a structure that does not meet the requirements of the zoning ordinance. The Board of Zoning Appeals, a body of five citizens appointed by the Circuit Court, may grant a variance if they find that, because of some unusual characteristic of the property, a strict application of the zoning ordinance would result in a hardship so severe that it was almost the same as taking the property.

Before a variance can be granted, the applicant (usually the owner of the property) must show the zoning regulations "actually prohibit or unreasonably restrict" the use of the property. In other words, it must be impossible or unreasonable to use the property without the variance. Mere convenience, or a desire to maximize profit, does not justify a variance. If the applicant caused the hardship, the hardship is considered "self-imposed," and a variance is not justified.

The Supreme Court of Virginia has determined that "[t]he threshold question of the BZA in considering an application for variance as well as for a court reviewing its decision, is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with 'all reasonable beneficial uses of the property, taken as a whole.' If the answer is in the negative, the BZA has no authority to go further." The board has no authority to grant a variance where the owner is able to make reasonable beneficial use of the property without it. The BZA can grant a variance only if the applicant demonstrates that the zoning ordinance interferes with all reasonable beneficial uses of the property.

If the board finds evidence of a hardship approaching confiscation, it must consider three other factors. There must be some exceptional condition of size, shape or topography; the variance must not cause substantial detriment to adjacent property; and the circumstances must not be shared generally by other properties in the vicinity.

### Board of Zoning Appeals Procedure

All variance requests must be filed on the attached form. Applications are processed according to a schedule of deadlines and public hearing dates, which is published each year. The Town/County is required to advertise applications in the Star Exponent and mail notices to the owners of all adjoining property.

The application fee covers a portion of the cost of advertising, researching, reviewing and processing the application. If an application is withdrawn before the advertisement is prepared, the Town/County may refund part of the fee. After the advertisement has been prepared, the fee cannot be refunded.

The applicant or a representative is required to attend the public hearing. At the hearing anyone may speak in favor of, or in opposition to, any application. Written comments may also be submitted.



# COUNTY OF CULPEPER- Department of Development

302 N. Main Street, Culpeper, VA 22701



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# TOWN OF CULPEPER-Planning & Community Development

400 S. Main Street, Suite 301, Culpeper, VA 22701

## Application for Variance

Property Address: \_\_\_\_\_

Current Zoning: \_\_\_\_\_

Parcel Number: \_\_\_\_\_

Magisterial District: \_\_\_\_\_

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

Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Request for variance in order to build:

fill in only the line(s) that apply to your request(s)	Code Section	Applicant has	Code requires	Variance requested
Total area				
Lot width				
Front yard setback				
Minimum side yard setback				
Total side yard setback				
Rear yard setback				
Public street frontage				
Other (write in)				

One copy of a plan must be submitted with this application, showing size and location of the lot, dimensions and location of the proposed building or structure, and the dimensions and location of the existing structures on the lot.

**Applicant:**

**Representative:**

Address:

Address:

Phone:

Fax:

Phone:

Fax:

e-mail:

e-mail:

By signing this application, the property owner authorizes the Board of Zoning Appeals and Town and County employees to enter the property during the normal discharge of their duties in regard to this request.

**Owner's Signature:** \_\_\_\_\_

Print name: \_\_\_\_\_

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

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

Date of BZA Public Hearing: \_\_\_\_\_

Action Taken: \_\_\_\_\_

### OFFICE USE

Date Received:	Time Received:
Case #:	Fee: \$
Accepted By:	Town or County Case (Please Circle)

The Code of Virginia, 1950, as amended, Section 15.2-2309 authorizes the Board of Zoning Appeals to grant variances in the following circumstances:

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 the piece of property, or of the condition, situation, 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 -- 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.

To assist you in addressing the pertinent issues, please answer the following questions (attach additional sheets if necessary):

1. How does the zoning ordinance prohibit, or unreasonably restrict, the use of this property? Is there a hardship so severe that it keeps you from using the property? **IF NOT, DO NOT CONTINUE.**

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2. What is the problem with the size, shape or topography of this property that does not apply generally to other property in the area?

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3. How would this variance affect other property in the area? Would the building, if any, be visible from neighboring property?

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4. Describe why you cannot make other arrangements to comply with the Zoning Ordinance without a variance

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