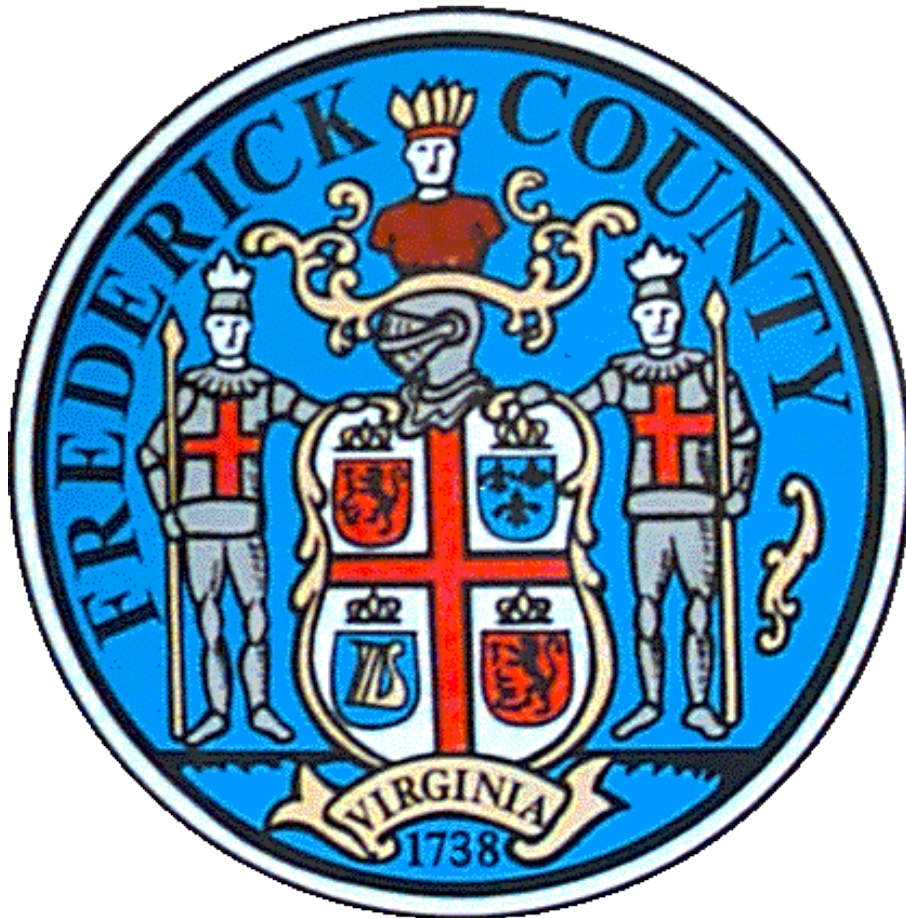


BOARD OF ZONING APPEALS VARIANCE APPLICATION PACKAGE



Frederick County, Virginia

Department of Planning and Development
107 North Kent Street
North Building, 2nd Floor
Winchester, Virginia 22601
Telephone: (540) 665-5651 - FAX: (540) 665-6395

Website: www.co.frederick.va.us/PlanningAndDevelopment/PlanningandDev.htm

(Revised 2/23/11)

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BOARD OF ZONING APPEALS - VARIANCE
FREDERICK COUNTY, VIRGINIA

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APPLICATION INSTRUCTIONS FOR A VARIANCE

It is the responsibility of the applicant to complete this form in its entirety and as precisely as possible. In order to be heard by the Board of Zoning Appeals on a particular date, all materials must be submitted prior to a cut-off date established during the previous month. The specific cut-off date is established each month in order to meet advertising requirements specified by the Code of Virginia. You can obtain this date from the Planning and Development Department.

Because applications are photocopied for Board members, **they must be completed in ink or typed**. All supporting materials must also be able to be legibly photocopied.

PLEASE ATTACH THE FOLLOWING IN SUPPORT OF THIS APPLICATION:

1. A plot plan of the property, acceptable to the Zoning Administrator, showing:
 - A. Existing structures.
 - B. Measurements from existing structures to all property lines.
 - C. Measurements to all property lines from the addition for which a variance is requested and to the nearest structure(s) on an adjoining property.
2. A copy of the deed to the property, which may be obtained from the Clerk of the Circuit Court at the Judicial Center, 5 North Kent Street, Winchester, Virginia.
3. All other evidence or exhibits should be submitted along with this application.

Information to complete items 4 and 5 on the application may be obtained from the Deed to the property. Information for items 6, 7 and 14 may be obtained from the office of the Commissioner of the Revenue (located directly across from the side entrance of the old County Courthouse). Current property zoning for items 8 and 10 may be obtained from the Office of Planning and Development.

If the applicant is not the property owner, the application must be signed by both parties. The title of the representative for an organization, church, etc. shall be shown on the application.

The fee for this application is \$400.⁰⁰ and a \$50.⁰⁰ refundable fee is required for a public hearing sign. Upon submittal of your completed application, a sign will be provided to you. At least seven days before the public hearing, the sign must be placed at the property line and be maintained so as to be visible from the road or right-of-way until after the public hearing. **Failure to post the sign will result in your application being tabled.** After the public hearing, please return the sign and the \$50.⁰⁰ will be refunded to you by mail. Both the \$400.⁰⁰ application fee and the \$50.⁰⁰

refundable sign fee are due upon submittal of the completed application. Please make checks payable to "**Treasurer of Frederick County**".

Notification of the Board of Zoning Appeals public hearing will be mailed to you. Board of Zoning Appeals public hearings are generally held the third Tuesday of each month at 3:25 p.m. in the Board of Supervisors' meeting room in the Frederick County Administration Building, 107 North Kent Street, Winchester, Virginia.

The applicant (or a representative) must be present at the Board of Zoning Appeals public hearing when the request is to be considered. If the applicant (or the representative) is not present, the variance application will then be tabled until the next regular meeting. If the application is not represented for two consecutive meetings, the Board may remove the application from consideration.

IF YOU HAVE ANY GENERAL QUESTIONS OR NEED ASSISTANCE IN COMPLETING THIS APPLICATION, PLEASE CONTACT THE DEPARTMENT OF PLANNING & DEVELOPMENT AT 540-665-5651.

FREDERICK COUNTY BOARD OF ZONING APPEALS POLICIES

The Board of Zoning Appeals (BZA) has the following policies under which it operates:

1. Your application for variance allows inspection of your property by the members of the BZA and the staff of the Planning and Development Department.
2. Applications submitted **after** the announced deadline or cut-off date for a specific meeting will not be heard at that meeting unless approved by the Zoning Administrator or Chairperson of the BZA.
3. The schedule of meeting dates will not be altered for individual variance applications except for reasons of public health, safety and welfare. In the event that a full quorum of the BZA is lacking, the Chairperson may call a special meeting to hear pending variance applications.
4. Each application will be reviewed based on its own merits.
5. Proof of ownership of the property for which the variance is being requested is required.
6. There is a time limit for presentations to the BZA. Representatives of both sides of a case will be allowed a maximum of 20 minutes each for their presentation and each side will be allowed a maximum of 10 minutes each for rebutting the opposing side. Discussion in excess of this time will be allowed only upon a motion duly made and passed by the BZA.
7. The applicant's evidence, exhibits, etc., should be submitted with the application to allow for prior consideration by the BZA. This also expedites the public hearing, since BZA members receive copies of application materials.
8. A "variance public hearing" sign shall be posted for all variances. This sign shall be placed so as to be visible from the road or right-of-way, at least seven days before the public hearing and maintained until after the public hearing. **Failure to post the sign will result in your application being tabled.**

With regard to variances, the BZA has the following powers and duties as outlined in the Frederick County Zoning Ordinance and the Code of Virginia, as amended:

To authorize variances from the terms of the Zoning Ordinance that will not be contrary to public interest, when a literal enforcement of the ordinance will result in unnecessary

hardship, provided that the spirit of the zoning ordinance is observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of 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 evidence heard by it, that the granting of such variance would 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.

No 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.
- That the authorization of such variance will not be of substantial detriment to adjacent property.
- That the character of the district will not be changed by the granting of the variance.

No variance shall be authorized unless the Board finds that the conditions 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.

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 guarantee or bond to ensure that the conditions imposed are complied with.

THESE REQUIREMENTS ARE SPELLED OUT IN CHAPTER 165 OF THE FREDERICK COUNTY CODE, ZONING ORDINANCE, ARTICLE XIX, BOARD OF ZONING APPEALS, SECTION 139 AND TITLE 15.2-2309, LOCAL PLANNING LEGISLATION, CODE OF VIRGINIA, 1950, AS AMENDED.

Decisions of the BZA may be appealed to the Circuit Court within 30 days of the decision. See Code of Virginia (15.2-2314) for details.



**APPLICATION FOR VARIANCE
FREDERICK COUNTY, VIRGINIA**

-OFFICE USE ONLY-

Variance Application # _____ Submittal Deadline _____
Submittal Date _____ For the BZA Meeting of _____
Fee Amount Paid _____ Initials: _____ Receipt # _____
Sign Deposit Paid _____

MUST BE TYPED OR FILLED OUT IN INK – PLEASE PRINT

1. The applicant is the owner _____ other _____. (Check one) Please list all owners, occupants (adult individuals as well as any entities occupying the property), or parties in interest of the property.

2. APPLICANT:

OCCUPANT: (if different)

NAME: _____

NAME: _____

ADDRESS: _____

ADDRESS: _____

TELEPHONE: _____

TELEPHONE: _____

3. The property is located at (give exact directions and include State Route Numbers):

4. The property has a road frontage of _____ feet and a depth of _____ feet and consists of _____ acres (please be exact).

5. The property is owned by _____ as evidenced by deed from _____ recorded (previous owner) in deed book no. _____ on page _____ or instrument number _____ of the deed books of the Clerk

of the Court for Frederick County. **Please attach a copy of the recorded deed.**

6. Magisterial District: _____

7. Property Identification Number (P.I.N.): _____

8. The existing zoning of the property is: _____

9. The existing use of the property is: _____

10. Adjoining Property:

	<u>USE</u>	<u>ZONING</u>
North	_____	_____
East	_____	_____
South	_____	_____
West	_____	_____

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

12. List specific reason(s) why the variance is being sought in terms of, such as:

- ▶ Exceptional narrowness, shallowness, size or shape of property, or
- ▶ Exceptional topographic conditions or other extraordinary situation or condition of property, or
- ▶ The use or development of property immediately adjacent thereto

13. Additional comments, if any:

14. The following names and addresses are all of the individuals, firms, or corporations owning property adjacent to the property for which the variance is being sought, including properties at the sides, rear and in front of (across street from) the subject property. (Use additional pages if necessary.) These people will be notified by mail of this application:

Name and Property Identification Number		Address
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		

15. Provide a sketch of the property (you may use this page or attach engineer's drawing). Show proposed and/or existing structures on the property, including measurements to all property lines and to the nearest structure(s) on adjoining properties. Please include any other exhibits, drawings or photographs with this application.

AGREEMENT

VARIANCE # _____
(Number to be assigned by the Planning Dept.)

I (we), the undersigned, do hereby respectfully make application, and petition the Frederick County Board of Zoning Appeals (BZA) to grant a variance to the terms of the Frederick County Zoning Ordinance as described herein. I agree to comply with any conditions for the variance required by the BZA.

I authorize the members of the BZA and Frederick County officials to go upon the property for site inspection purposes.

I understand that the sign issued to me when this application is submitted must be placed at the front property line at least seven (7) days prior to the BZA public hearing and maintained so as to be visible from the road or right-of-way until the hearing.

I hereby certify that all of the statements and information contained herein are, to the best of my knowledge, true.

SIGNATURE OF APPLICANT _____

DATE _____

SIGNATURE OF OWNER _____ **DATE** _____
(if other than applicant)

-OFFICE USE ONLY-	
BZA PUBLIC HEARING OF _____ ACTION:	
-DATE-	
<input type="checkbox"/>	APPROVAL
<input type="checkbox"/>	DENIAL
SIGNED: _____	
BZA CHAIRMAN	
DATE: _____	



**Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Website: www.co.frederick.va.us**

**Department of Planning & Development, County of Frederick, Virginia
107 North Kent Street, Winchester, Virginia 22601
Phone (540) 665-5651 Facsimile (540) 665-6395**

Know All Men By These Presents: 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 Frederick, Virginia, by

Instrument No. _____ on Page _____, and is described as

Parcel: _____ Lot: _____ Block: _____ Section: _____ Subdivision: _____
do hereby make, constitute and appoint:

(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 (including proffers)**
- _____ **Conditional Use Permit**
- _____ **Master Development Plan (Preliminary and Final)**
- _____ **Subdivision**
- _____ **Site Plan**
- _____ **Variance or Appeal**

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.

In 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____.

_____ My Commission Expires: _____

Notary Public

**FREDERICK COUNTY
DEVELOPMENT REVIEW FEES**

Adopted April 23, 2008 – Effective May 1, 2008, Revised 2/24/2010, 4/28/2010

COMPREHENSIVE POLICY PLAN

\$ 3,000 non-refundable

REZONING

\$ 5,000 base + \$100/acre – 2 acres or less

\$ 10,000 base + \$100/acre
more than 2, less than 150

\$ 10,000 base + \$100/acre first 150
+ \$50/acre over 150 acres

SUBDIVISION

Non-Residential \$1,000 base

Design Plan \$ 200/lot

Plat \$ 100/lot

Residential (RP, R4, R5)

Design Plan \$ 2,500/base \$100/lot

Plat \$ 200/lot to 50 lots

\$ 100/lot over 50 lots

Rural Areas (RA)

Sketch (Design) \$ 2,500 base \$200/acre

Plat \$ 200/lot

Rural Areas (RA)

Minor – 3 lots or less \$ 200/lot

Lot Consolidation \$ 200/lot

Boundary Line Adj. \$ 200/lot

VARIANCE \$ 400

BZA APPEAL \$ 250

ZONING CERTIFICATION LETTER \$ 250

ZONING DETERMINATION LETTER \$ 100

SUBDIVISION ORDINANCE

EXCEPTION \$ 500

MASTER DEVELOPMENT PLAN

\$ 3,000 base + \$100/acre for first 150
+\$50/acre over 150 acres

CONDITIONAL USE PERMIT

Cottage Occupation \$ 75

Telecommunication Tower \$ 1,000

Other \$ 750

SITE PLAN

Non-residential \$ 2,500 base

\$ 200/acre to 5 acres

\$ 100/acre over 5 acres

Residential \$ 3,500 base

\$ 300/unit to 20 units

\$ 100/unit over 20 units

Minor Site Plan \$ 500 for revision that
increases existing structure area by 20% or less &
does not exceed 5,000sf.

POSTPONEMENT of any Public Hearing or
Public Meeting by Applicant after Advertisement,
to include Applicant requests to **TABLE** an
agenda item \$ 500/occurrence.

THIRD & SUBSEQUENT PLAN REVIEWS

(including County Attorney review) for a single
development application \$ 500/review.

BOND MANAGEMENT

Establishment of bond \$ 500

Reduction/Release \$ 300

Replacement \$ 500

TDR PROGRAM

TDR Application Review \$300

TDR Letter of Intent \$100

TDR Certificate \$200

Certificate Ownership Transfer \$50

Receiving Property Approval \$200

Recordation of Sending Property

Deed Covenant \$100

Recordation of Extinguishment Document \$100

CHAPTER 161 FEES

Installation License \$300

Septic Haulers Permit \$200

Residential Pump and Haul \$50

Commercial Pump and Haul \$500