

Variations

A variance is a request for permission to deviate from the guidelines outlined in Section 27-442 (the "Regulation Tables") of the Prince George's County Zoning Ordinance. These guidelines regulate lot size, lot width, building height, building setbacks from property lines, and the percentage of property covered with parking and structures.

Section 27-230 of the Zoning Ordinance states that ***a variance may only be granted when the Board of Zoning Appeals finds that: (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topo-graphic conditions, or other extraordinary situations or conditions; (2) The strict application of this subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon the owner of the property; and (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. All of these criteria must apply.***

Under certain circumstances, the Board of Zoning Appeals (or the Planning Board or District Council in conjunction with certain zoning cases) may grant the property owner relief from the strict application of the Zoning Ordinance. Such relief may be granted on the basis of facts presented at a public hearing, when the Board, Council or Planning Board finds that there exists exceptional conditions of shape, topography, or other extraordinary situations peculiar to the specific property which could result in unusual practical difficulties or undue hardship to the property owner, provided that such variance may be granted without causing substantial impairment to the intent, purpose and integrity of the General Plan.

A variance is distinguished from a special exception by virtue of the fact that a variance depends upon a finding of the existence of practical difficulty or unusual hardships in the application of the Zoning Ordinance to a particular piece of property by reasons of conditions unique to that property. A special exception requires no such finding, merely a finding that the conditions stated in the Zoning Ordinance have been satisfied.

Where the granting of a variance is dependent upon practical difficulties or unnecessary hardship, the **evidence must be substantial and should not be merely for the convenience of an applicant.** The phrase "practical difficulties or unnecessary hardships" sufficient for the granting of a variance from the Zoning Ordinance means difficulties or hardships which are peculiar to the situation of the applicant and are of such degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant.

The criteria for determining unusual hardship as grounds for granting a variance, is whether the zoning restrictions in question, when applied to the particular property and its surrounding environment, constitute an unreasonable (arbitrary and capricious) interference to the basic right of ownership. The plight of the owner of real property seeking a variance must be due to the unique circumstances and not the general conditions in the neighborhood. ***Mere financial hardship is not sufficient, and the fact that the variance will make realty more valuable is not sufficient grounds to justify the variance. In addition, any self-imposed hardship, a hardship caused by any action(s) of property owner, must be disregarded by the Board of Zoning Appeals when evaluating the evidence presented.***

If a variance is approved that permits the erection of a building or structure, the variance will not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit. If a variance is denied, a variance request covering the same subject may not be filed within a 12-month period, and following a second denial, the request may be not be filed within an 18-month period.

Within thirty (30) days from the date the Board issues a variance decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

INSTRUCTIONS TO APPLICANTS
FOR VARIANCES FROM THE BOARD OF ZONING APPEALS

The County Zoning Ordinance states that a variance may only be granted when the Board of Appeals finds that:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;
- (2) The strict application of this Subtitle 27-230 will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and
- (3) The variance will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan.

An application requesting a variance shall be filed with the Board of Appeals for Prince George's County, County Administration Building, Upper Marlboro, Maryland 20772. (*Approval of a variance is not a guarantee that further review will not be necessary by other governmental authorities.*) Applications must contain all required information. **One (1) copy of the subdivision plat*** (if a cluster, a copy of the cluster's modifications), **five (5) copies of the site plan or plat****, **three (3) copies of the building elevation plan(s)**, **one (1) or more photographs** illustrating conditions on the property that might cause the need for a variance and/or showing the character of the surrounding neighborhood, and **one (1) copy of any violation notice** (if the need for a variance is due to the violation). All applications shall be accompanied by the required filing fee or financial statement (for a fee waiver due to hardship) and posting fee. (*See reverse side for filing, posting and other fee related information.*)

A copy of the Tree Conservation Plan or a Letter of Exemption is required if a grading permit will be required and 5,000 square feet or more of land will be disturbed.

The following is provided to assist applicants in completing the corresponding sections of the application:

1. Location of Property:

(a) List the address of the property on the appropriate line. If you do not have the house/ building number, indicate the hundred block, street name and town. Fill in the exact zoning classification of the property. If you do not know the present zoning of the property, contact the Zoning Information Center, M-NCPPC, at (301) 952-3208 for assistance.

(b) List the lot and block numbers *or* parcel number, tax map and grid numbers, as well as any Homeowners Association and/or Citizens/Civic Association, with address(es). **Any recommendation(s) made by an Association affecting the property should be provided to the Board prior to a decision being rendered.**

(c) Give the name of the municipality if the property is located within city or town limits. If not within a city or town, indicate "N/A" (not applicable). ***The Cities of Greenbelt, Bowie, College Park and New Carrollton have jurisdiction to hear variance requests for properties located within those municipalities and applicants must apply with the appropriate City.***

2. The purpose or reason for the variance request must be explained on all applications. State what is being done and/or why you are before the Board. (Example: To obtain a permit to construct a 10' x 12' one-story addition.)

3. List any County Zoning Ordinance section from which a variance is requested.

4. List the amount and type of each variance requested. The amount will be the difference between what the law requires and what exists or will exist on the property. (Example: 8 feet rear yard)

5. List the names and addresses of all adjoining property owners (***NO SIGNATURES, PLEASE!***). Be sure to include any property that actually touches your property, as well as any property that would border your land if a street, alley or stream did not exist, *including property that is undeveloped*. Assistance can be obtained from the Zoning Information Center, Maryland-National Capital Park & Planning Commission (M-NCPPC), Lower Level, County Administration Building, Upper Marlboro, (301) 952-3208.

NOTES: * If the property is not located within a subdivision, or is only part of a lot, a copy of the current deed AND copy of the oldest deed matching the current property description must be submitted.

** Site plans/plats must be drawn by a certified engineer/surveyor/architect (with official seal or State of Maryland registration number shown on the plan/plat), show all structures, ***to scale***, off-street parking and any proposed construction on the property.

FILING FEE SCHEDULE: The following schedule of filing fees applies to all variance applications submitted to the Board of Appeals. Payment must be in the form of a check or money order (no cash payments accepted) made payable to "**PRINCE GEORGE'S COUNTY.**"

- (1) Variances
 - (a) Existing single-family attached and detached residences \$ 200.00
 - (b) Single-family attached and detached residences that are proposed, newly constructed or under construction \$ 500.00
 - (c) All other structures \$1,500.00

SIGN POSTING FEES: The following is a schedule of sign posting fees. One sign per abutting street, for frontage 1,000 feet or less in length, is required, with an additional sign for each additional 1,000 feet. Checks or money orders shall be made payable to "**M-NCPPC.**"

- (1) Sign for posting on properties in all zones (per sign) \$ 30.00
- (2) Each additional sign over four (4) when application involves a public utility right-of-way (per sign) \$ 5.00
- (3) The Department of Environmental Resources shall not be required to pay sign posting fees

OTHER FEE RELATED INFORMATION:

- (1) Appellant shall pay any costs related to initial advertisement of a hearing in excess of the applicable filing fee
- (2) Appellant shall pay any costs related to readvertisement of a hearing unless the need for readvertisement is caused by governmental error/action
- (3) If arranged in advance, foreign language interpreter assistance is available for hearings at an additional cost of \$30.00 per appeal/variance application

Once a variance application is filed, it will be several weeks before a property owner's request will come before the Board at a public hearing. Application for a variance is no assurance that it will be granted. The public hearing provides the opportunity for owners and other interested persons to give testimony in support of their positions. As required by law, notices of the public hearing will be sent by certified mail, return receipt requested, to the property owner, all adjoining property owners, and any municipality at least fifteen (15) days prior to the scheduled hearing. Notices will be sent to any listed homeowners, citizens or civic association and other listed interested parties by regular first-class mail. The law requires that the owner of the property appear at the hearing, where the Board will expect the owner to explain the need for the variance, give reasons why the requirements of the Code cannot be met, and state any hardship that will be suffered if the variance is not granted. Owners who are unable to be present, corporations, limited liability companies, or other business entities *must* be represented by an attorney, licensed to practice in the State of Maryland, at any hearing before the Board.

At the conclusion of the public hearing, the Board may or may not vote on the request at that time. If the Board chooses to do so, they may take the case under advisement or hold the record open until a future date. Any case not decided at the conclusion of the public hearing will be brought up for discussion at a future meeting of the Board and a vote on the request will occur in public. Once the Board has voted on the request, a written order will be mailed to all parties. *Before any building permit will be processed by the County Permits Office, a copy of the Board's written order must be presented. Approval of any variance is contingent upon development of the property in compliance with the Board-approved site and elevation plans.*

If additional assistance is needed to complete the application, or for any further information, contact the Board of Appeals office at (301) 952-3220 during business hours (Monday-Friday, 8:30 a.m. – 5:00 p.m.).

IMPORTANT: Applications on which all required information is not furnished will be returned for completion before processing. Make filing fees payable to Prince George's County and sign posting fees payable to M-NCPPC. For further information regarding Board of Zoning Appeals policies and procedures, see Sections 27-229 through 27-234 of the County Zoning Ordinance and/or the Board's website at www.princegeorgescountymd.gov.

(USE BLACK INK ONLY)
PLEASE READ INSTRUCTION SHEET
BEFORE FILLING OUT APPLICATION

**TO: BOARD OF ZONING APPEALS FOR PRINCE
GEORGE'S COUNTY, MARYLAND
County Administration Building, Room 2173
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
(301) 952-3220**

Filing Fee Paid: \$ _____
CK/M.O. # _____
By: _____

Sign Posting Fee Paid: \$ _____
CK/M.O. # _____
By: _____

APPEAL NO. _____
(OFFICE USE ONLY)

APPLICATION FOR A VARIANCE
FROM STRICT APPLICATION OF THE ZONING ORDINANCE

(If variance is being applied for due to receipt of a Violation Notice, a copy of the notice is required.)

Owner(s) of Property _____
(AS SHOWN ON DEED)

Address of Owner(s) _____

City _____ State _____ Zip Code _____

Telephone Number (home) _____ (cell) _____ (work) _____

Applicant/attorney/engineer/contractor's name, address and telephone number if different from above:

Has the property in question ever been subject to a previous Board, County Council or Zoning Hearing Examiner action? _____ Is the property subject to any action by the Planning Board? _____

If so, give Case No.(s)/Decision Date(s) _____

Is grading permit needed for the project? _____ If so, number of square feet of land to be disturbed: _____
(Copy of Tree Conservation Plan or Letter of Exemption required if 5,000+ sq. ft. of land will be disturbed.)

For assistance in completing 1-5 below, see corresponding paragraphs 1-5 on *Instructions to Applicants*, which is designed to help you fill out this form. **SUBMITTED SITE PLANS/PLATS MUST BE DRAWN TO SCALE BY A CERTIFIED ENGINEER, SURVEYOR OR ARCHITECT (WITH OFFICIAL SEAL OR STATE OF MARYLAND REGISTRATION NUMBER SHOWN ON THE SITE PLAN/PLAT).**

1. Location of Property involved: a) Street Address _____

City _____ Property Zone _____

b) Lot(s) _____ Block _____ Parcel _____

Subdivision (name) _____

If the property is located within a recorded subdivision, a copy of the subdivision plat is required. If in a cluster subdivision, a copy of the cluster's modifications is also required. (Subdivision plats are available at the Zoning Information Center, M-NCPPC, Lower Level, County Administration Building, (301) 952-3208)

Name(s) & Address(es) of Community/Citizens/Homeowners and/or Civic Association(s): _____

c) Municipality (City/Town) Name _____

