



Community Development Division of Planning & Zoning

AMHERST COUNTY ADMINISTRATION BUILDING

153 WASHINGTON STREET

P. O. Box 390

AMHERST, VIRGINIA 24521

TELEPHONE (434) 946-9303

www.countyofamherst.com

Procedures

Variance/Map Interpretation/Appeal

WHAT IS A VARIANCE?

A variance is a request to vary certain requirements of the Zoning and Subdivision Ordinance where, due to special conditions of the property, strict enforcement of the Ordinance would, among other standards, effectively prohibit or unreasonably restrict all reasonable use of the property. Examples include, but are not limited to: Requests to permit construction of a structure closer to a lot line than allowed by the Zoning and Subdivision Ordinance or requests to permit a subdivision of a lot which would result in new lots that do not meet minimum lot width requirements.

BOARD OF ZONING APPEALS

The Board of Zoning Appeals (BZA) is a quasi-judicial body comprised of Amherst County citizens who are appointed by the Circuit Court. There are five members, with each member serving in an at-large capacity for a term of five years. The BZA has the authority, among other powers, to approve variances of the Zoning and Subdivision Ordinance and rule on appeals of the Zoning Administrator's decision(s). The powers of the BZA are defined by the Zoning Ordinance and the State's enabling legislation.

WHO CAN FILE A REQUEST FOR A VARIANCE?

A variance can be filed by a property owner, a tenant, a designated authorized agent, a government official, a department, a board, or a bureau. An agent cannot be an applicant but can be authorized to act on the applicant's behalf. If the applicant is not the owner of the property, evidence must be submitted showing that the applicant will have the right to use the property as proposed.

BOARD OF ZONING APPEALS DECISION

The BZA may approve, deny, or approve-in-part a variance request. The BZA may approve a variance only upon a finding that the request meets all of the required standards for a variance as outlined in the Zoning Ordinance. These standards are based upon the Code of Virginia Section 15.2309 – Powers and Duties of the BZA.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to the physical



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condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (iii) the condition or situation of the property concerned 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 ordinance;
- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (v) the relief or remedy sought by the variance application is not available through a special exception.

HOW MUCH WILL IT COST AND HOW LONG DOES IT TAKE?

A decision by the BZA requires a public hearing; all public hearings are subject to a \$300.00 fee. The process takes approximately six (6) weeks once an application is filed. However, the Planning Commission and BZA can delay the process.

WHAT IS THE PROCESS?

The process for a variance/map interpretation/appeal is as follows:

1. Pre-application conference with the Planning and Zoning Division;
2. Completing and filing the application;
3. Staff review and public notice; and
4. Planning Commission recommendation; and
5. BZA public hearing

PRE-APPLICATION CONFERENCE

Applicants must schedule a pre-application conference with the staff prior to submittal of a variance/map interpretation/appeal package. *Staff may reject any application without a pre-application conference.* Please schedule a conference with staff by calling (434) 946-9303. Staff will review submitted applications to ensure all required materials and information are provided. If the application is not complete, the required information must be provided prior to formal staff review and acceptance of the application.



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Applicants are strongly encouraged to discuss the proposed rezoning/conditional zoning with neighboring property owners prior to filing an application.

APPLICATION REQUIREMENTS

A variance/map interpretation/appeal application consists of three parts:

1. Application form;
 2. Site Plan
 3. Public Hearing Fee, \$300
1. **Variance/Map Interpretation/Appeal Application Form:** The application is available in the Community Development Department and may also be found on the department's website at www.countyofamherst.com. It must be signed by all owners of the property. If a legal representative signs for a property owner, a copy of the executed power of attorney is required.
 2. **Site Plan:** An acceptable site plan is required per the requirements outlined in Article XI.
 3. **Public Hearing Fee:** All applicants are required to be advertised following the requirements of the Virginia State Code, 15.2-2204. The Amherst County public hearing fee is \$300.00

POST FILING INFORMATION

1. **Staff Review and Public Notices:** Once staff has accepted the complete application and filing fees have been paid, adjoining property owners are notified that a variance/map interpretation/appeal request has been filed and of the time and date of the public hearing. Notice of public hearing is published as a legal advertisement, and the subject property is posted with a notice for a public hearing. Staff prepares a staff report to the Planning Commission and Board of Zoning Appeals. Reports are available to the applicant and interested citizen(s).
2. **Public Hearing:** At the public hearing, the staff presents the report, and the applicant also presents the request. The BZA takes public comment and discusses the request, and makes a final decision.



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FILING/FEES/DEADLINES

Variance/Map Interpretation/Appeals applications, and accompanying fees, are filed with the:

Amherst County Community Development
Planning & Zoning Division
153 Washington Street
P.O. Box 390
Amherst, VA. 24521
(434)946-9303

Public hearing fees are \$300 and shall be paid at the time the application is submitted.

APPEAL

A decision by the BZA may be appealed in accordance with Section 1402.06 of the Amherst County Zoning and Subdivision Ordinance. If you choose to appeal the BZA's decision, such action shall occur within 30 days of the date of the Board's action.



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APPLICATION FOR A VARIANCE/MAP INTERPRETATION/APPEAL

The undersigned applicant wishes to petition Amherst County Board of Zoning Appeals for a Variance/Map Interpretation/Appeal. Please refer to Sections 1006 and 1402 of the Zoning and Subdivision Ordinance regarding the proper procedure. Please call the Division of Planning and Zoning at 434-946-9303 if you have any questions regarding Amherst County's Board of Zoning Appeals procedures or duties.

Applicant / Property Owner Information

Applicant Name

Applicant Address City/Town State Zip Code

Applicant phone number

Applicant E-Mail

You are the () property owner; () agent for the property owner.

If you are the agent for the property owner, do you have the consent of the owner attached? Please circle one: Yes/No

Property Owner Name

Property Owner Mailing Address City/Town State Zip Code

Property owner telephone number

Property owner E-Mail

Location of Property

Street Address

Tax Parcel ID No.

General Description of Property



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When and how did you acquire the property?

Current Use(s) of Property

Proposed Use(s) of Property

Total Acreage: _____

Check all categories that apply for the parcels requesting to be heard for special exception:

Public water _____ Private wells _____

Public sewer _____ On-site septic systems _____ Mass drainfield(s) _____

Current Zoning:

(please circle one)

P-1 A-1 R-1 R-2 R-3 V-1 B-2 M-1 MU/TND

Other _____

Request for variance in order to: _____

Fill in only the line(s) that apply to your request	Code Section	Applicant Has	Code Requires	Variance Requested
Total area:				
Lot Width:				
Front Yard Setback:				
Side Yard Setback:				
Rear Yard Setback:				
Other (write in):				



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Section 15.2-2309 of the Code of Virginia requires the Board of Zoning Appeals to make the following findings before a variance can be granted. Please read the factors listed below carefully and, in your own words, describe how your request meets each factor. If additional space is needed, use an additional sheet of paper. Justification shall be based on the following three (3) criteria:

That the strict application of this ordinance 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 and that they character of the district will not be changed by the granting of the variance.

Has the Board of Supervisors heard a request for this property within twelve (12) months of the date of this application? **Yes**_____ **No**_____

Proffers and Conditions

List any conditions or proffers currently associated with this property.



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Application fee and other requirements

A \$300.00 application fee must be paid to the County of Amherst upon submission of this application for the cost of advertising and for expenses of notifying the adjacent property owners and incidental to reviewing, publishing, and processing the application.

Signatures

The undersigned Applicant hereby affirms that all information contained herein is accurate to the best of his/her knowledge and confirms that he/she has read the Application and its Instructions and has paid all fees currently due and is aware of costs which may be assessed to Applicant related to this Application process. The undersigned Applicant (and Landowner, if applicable) also authorizes entry onto the subject property by the Zoning Administrator, Planning Director and/or Board of Zoning Appeals and/or Board of Supervisors during the normal discharge of their duties regarding the above Applicant.

Property Owner Signature	Date	Property Owner Signature	Date
Property Owner Signature	Date	Property Owner Signature	Date
Agent Signature	Date	Agent Signature	Date



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*****DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY*****

For use by the County of Amherst Department of Community Development

Case No. _____

Actions Taken:

County Official Receiving Application

_____ Date

Public Hearing fee received by

_____ Date

Application returned for correction/additional information

_____ Date

Amended application received by

_____ Date

Public Hearing advertised in

_____ Date(s)

Adjacent property owner(s) notified by mail

_____ Date

Action by Planning Commission

_____ Date

Action by Board of Supervisors

_____ Date