



COUNTY OF AMHERST



Department of Community Development *Division of Planning & Zoning*

TELEPHONE (434) 946-9303

FAX (434) 946-9370

AMHERST COUNTY ADMINISTRATION BUILDING
153 WASHINGTON STREET
P. O. Box 390
AMHERST, VIRGINIA 24521

Variance (Board of Zoning Appeals) Procedures

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 (variance to minimum yard requirement) or requests to permit a subdivision of a lot which would result in new lots that do not meet minimum lot width requirements (variance to minimum lot width).

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 enabling legislation.

WHO CAN FILE A REQUEST FOR A VARIANCE?

A variance can be filed by a property owner, tenant, or 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.

SUBMISSION REQUIREMENTS

A variance application must meet submission requirements as specified in the Zoning and Subdivision Ordinance. A synopsis of the submission requirements is presented on pages 2 and 3 of this publication to provide a convenient way to ensure that all required portions of the application package are submitted.

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.

ASSISTANCE

For clarification of these instructions, to obtain other information related to the application process, or to request help in filing your application, please call the Amherst County Planning/Zoning Department at (434) 946-9303, or visit the web site at www.countyofamherst.com.

HOW LONG DOES IT TAKE?

The process takes approximately 4-6 weeks once an application is filed. However the Planning Commission (PC) and BZA can delay the process if desired.

HOW MUCH WILL IT COST?

A decision by the BZA requires a public hearing; all public hearings are subject to a \$300.00 dollar fee.

WHAT IS THE PROCESS?

A variance/map interpretation/appeal follows the same general process.

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

PRE-APPLICATION CONFERENCE

Applicants should schedule a pre-application conference with staff prior to submittal of the variance/map interpretation/appeal application package. *Staff recommends 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 is provided. If the application is not complete, the required information must be provided prior to formal staff review and acceptance of the application.

Applicants are strongly encouraged to discuss the proposed variance with owners of neighboring properties prior to filing an application.

APPLICATION REQUIREMENTS

An application filed to the BZA consists of three parts:

1. Variance/Map Interpretation/Appeal application form;
 2. Public Hearing Fee, \$300.00;
 3. Site plan; and
1. **Variance / Map Interpretation / Appeal Application Form:** The application is available in the Planning/Zoning 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. **Public Hearing Fee:** All applications are required to be advertised in accordance with the requirements of the Virginia State Code, § 15.2-2204. The Amherst County public hearing fee is \$300.00.
3. **Site Plan:** An acceptable site plan is required per Article XI, Site Plan Review Requirements, of the Amherst County Code.

POST FILING INFORMATION

4. **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 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 public hearing. Staff prepares a report for the PC and BZA.
5. **Public Hearing:** At the public hearing, the staff presents the report; the applicant may also present the request. The BZA takes public comment and discusses the request and makes a final decision.

FILING/FEES/DEADLINES

Variances/Map Interpretations/Appeal applications, and accompanying fees, are filed with the:

Department of Planning/Zoning
P.O. Box 390
Amherst, VA. 24521
(434)946-9303

APPEAL

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



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Variance/Map Interpretation Appeal Application

The undersigned applicant wishes to petition Amherst County Board of Zoning Appeals for a Variance/Map Interpretation/Appeal. Please refer to Section 1006 and 1402 of the zoning ordinance regarding the proper procedure. Please call the Department of Planning and Zoning at 434-946-9303 if you have any questions regarding the County Board of Zoning Appeals duties.

Applicant / Property Owner Information

Applicant Name

Applicant Address City/Town State Zip Code

Applicant phone number Applicant fax 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 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 fax number Property owner E-Mail

Location of Property

Street Address

Tax parcel ID number

General Description of Property

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:

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

Current Zoning:

(Please circle all that apply)

P-1 A-1 R-1 R-2 R-3 V-1 B-2 M-1 FH WS
130 Overlay District 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:				
Public street frontage:				
Other (write in):				

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:

1. That the strict application of this ordinance would produce undue hardship.

2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

3. 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.

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

Proffers and Conditions

List any proffers or conditions currently associated with this property.

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 (Section 1009, Administrative Fee Structure).

A survey plat of the property by a certified land surveyor must accompany this application. The scale should be 1"=100'.

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 PC or BZA during the normal discharge of their duties regarding the above Applicant.

Property Owner Signature Date

Property Owner Signature Date

Agent Signature Date

Agent Signature Date

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

For use by the County of Amherst Department of Planning and Zoning

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 (if applicable)

Date

Action by Board of Zoning Appeals

Date