

2020

Board of Zoning Appeals

Variance & Appeal

Application Packet



Charles City County Department of Community Development
10900 Courthouse Road
Charles City, VA 22427

WWW.co.charles-city.va.us

Phone: 804-652-4707 Fax: 804-829-5819

Variance/Appeal General Information



The Department of Community Development has established this application packet to provide an overview as to the processes associated with applying for a variance or an appeal in Charles City County.

Variance

1. A variance is defined by the Code of Virginia § 15.2-2201 as:

“A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in an unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.”

Essentially, a variance is a deviation from a particular regulation of the Zoning Ordinance and has very specific guidelines for being granted. The variance process is a public hearing process and is heard by the Board of Zoning Appeals (BZA).

2. Initial Consultation

Call the County Department of Community Development (DCD) to discuss your proposal. The Applicant should discuss the proposed variance with staff prior to initiating any work on the variance application to discuss zoning regulations, the asserted hardship, and potential conditions. The Applicant should bring as much information to this meeting as possible, including site layout, geographical and topographic information, plans, designs, and any other details that might be relevant.

3. Procedure

Once an application is submitted to the County, it will be reviewed by DCD staff to ensure that all required application information has been provided. The application will then be placed on the BZA agenda for public hearing. The date of the public hearing is generally known soon after the application is deemed complete. During the BZA meeting, staff will present a staff report providing general information regarding the application, and a recommendation as to whether staff believes the variance requests meets applicable zoning standards.

The public hearing will then be opened, and the applicant will be allowed to explain its application to the BZA and offer support for its variance request. After the applicant is finished, the public will be allowed to comment on the application, and then public hearing will be closed. The BZA will then discuss and vote on the whether to approve or deny the application. The BZA may impose conditions upon any approved variance.

4. Authority

Section 28 of the Zoning Ordinance provides that variances/appeals may be granted 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, or environmental constraints of a specific piece of property at the time of the effective date of the ordinance, 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 the ordinance 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 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 ordinance.

No such variance shall be authorized by the BZA unless it finds:

1. The strict application of the provisions of the Zoning Ordinance would produce undue hardship and all beneficial use of the property is prevented; and
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. 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; and
4. 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 ordinance.

Prohibited Variances & Limitations

No variance shall be authorized by the BZA that would:

1. Permit the establishment of a use not otherwise permitted in the zoning district as set forth in the Zoning Ordinance.
2. Result in an increase in density from that permitted by the applicable zoning district regulations as set forth in this ordinance.

3. Relate to signs, except as specifically qualified by the provisions of the sign regulations of the Zoning Ordinance.

Whenever an application for a variance has been denied by the BZA, at least one (1) year shall lapse before reconsideration of the same application or one substantially similar.

If you have further questions, please feel free to call the Department of Community Development at (804) 633-4303.

Zoning Appeal

1. The appeal of the zoning administrator's administrative decision is defined by the 15.2-2311 of the Code of Virginia, 1950 as amended:

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286

An appeal must be filed within 30-days of the zoning administrator's decision and that decision is final and unappealable if not appealed within 30 days (15.2-2311 of the Code of Virginia, 1950, as amended).

See items 2, 3, 4 above as to the Appeal Process

Variance Applicant Checklist



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- Payment (Checks payable to Treasurer of Charles City County):
 - \$1,000 per request
 - Completed Land Development Application
 - Narrative to address the following for a variance:
 - The specific provision(s) of the Ordinance from which a variance is sought
 - The natures and extent of the variance sought
 - The special conditions of the property or the nature of the use and/or development of immediately adjacent property which would make such a variance necessary Description of the proposed use
 - Copy of the deed verifying ownership of the property
 - Recent boundary survey
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- Narrative to address the following for an appeal:
 - For an appeal, the specific provision(s) of the zoning administrator's decision that was in error in the application of the ordinance. The zoning administrator is presumed to be correct and the burden of proof is on the appellant.

LAND DEVELOPMENT APPLICATION

Charles City County
Department of Community Development
www.co.charles-city.va.us



Application for (please check one): A plat or site plan must accompany this application

<input type="checkbox"/> Boundary Line Adjustment	<input type="checkbox"/> Site Plan, Major
<input type="checkbox"/> Lot Consolidation	<input type="checkbox"/> Site Plan, Minor
<input type="checkbox"/> Subdivision, Minor (includes Family)	<input type="checkbox"/> Special Use Permit
<input type="checkbox"/> Subdivision, Major	<input type="checkbox"/> Rezoning
<input type="checkbox"/> Preliminary	<input type="checkbox"/> Zoning Text Amendment
<input type="checkbox"/> Final	<input type="checkbox"/> Variance
<input type="checkbox"/> Subdivision, Large Lot	<input type="checkbox"/> Administrative Appeal
<input type="checkbox"/> Subdivision, Commercial	<input type="checkbox"/> Administrative Variance
<input type="checkbox"/> Preliminary	<input type="checkbox"/> Comprehensive Plan Amendment
<input type="checkbox"/> Final	<input type="checkbox"/> WQIA, Major/Minor
<input type="checkbox"/> Bay Act Exception/Administrative Waiver	<input type="checkbox"/> Land Disturbance
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Zoning

This application must be completed in its entirety. Please list *all* owners and applicants. Use additional sheets if needed.

General Project Information:

Project Title: _____

Property Location: _____

Tax Map Number(s): _____

Total Acreage: _____

Acreage to be Developed: _____

Acreage to be Disturbed: _____

Responsible Land Disturber: _____ RLD #: _____

Current Number of Lots: _____

Proposed Number of Lots: _____

Current Zoning: _____

Proposed Zoning: _____

Current Use(s): _____

Proposed Use(s): _____

LAND DEVELOPMENT APPLICATION- (Continued)

Contact Information:

Property Owner: _____

Owner Address: _____

Owner Telephone: _____ Email: _____

Applicant: _____

Applicant Address: _____

Applicant Telephone: _____ Email: _____

Representative: _____

Representative Address: _____

Representative Telephone: _____ Email: _____

Certified Design Professional (CDP) _____

CDP Address: _____

CDP Telephone: _____ Email: _____

Correspondence should be sent to: Applicant Owner Representative/CDP

Note: Unless specified above all correspondence shall be sent to the CDP

Zoning Setback Information:

Front: _____ Feet (from VDOT or road Right-of-way)

Left Side: _____ Feet (from side property line)

Right Side: _____ Feet (from side property line)

Rear: _____ Feet (from rear property line)

From other structure(s): _____ Feet

Other Information/Description: _____

Owner Affidavit:

I have read this application, understand its intent, and freely consent to its filing. The information provided is complete and accurate to the best of my knowledge and capabilities. I understand that the county may deny, approve, or conditionally approve that for which I am applying. Furthermore, I grant permission for county officials or other governmental officials on official business to enter the property to make such investigations and inspections as they deem necessary to process this application and to ensure all requirements, conditions, codes, and proffers are met and continue to be met in perpetually.

Owner's Signature

Date

Owner's Signature

Date

Applicant/CDP/Agent's Signature

Date

Applicant/CDP/Agent's Signature

Date

For Office Use Only:

Application Number: _____

Submission Date: _____

Completeness Date: _____

Application Fee: _____

Date _____

Taxes Paid?

Yes

No

Environmental
Review:

Floodplain

Wetlands

Highly Erodible Soils

Resource Protection

Resource Management

Additional Review Req.:

WQIA

CBPA Board

Wetland Board

Outcome:

Denied

Approved

Conditionally Approved