



Fee (\$450 for Individual Single-Family Lot / \$700 for all others): _____

App No. _____

Community Planning & Building Department
601 Caroline Street, Suite 400
Fredericksburg, Virginia 22401
540-372-1179
planning@fredericksburgva.gov

BOARD OF ZONING APPEALS - ZONING VARIANCE

What is a variance? A reasonable deviation from those provisions in the Zoning Ordinance regulating the shape, size or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the Zoning Ordinance would unreasonable restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such a variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning,

What is the Board of Zoning Appeals (BZA)? The BZA is a five-member board comprised of City residents and appointed by the Circuit Court. The BZA will hear and consider requests for variances to the City of Fredericksburg Zoning Ordinance, and appeals of the Zoning Administrator’s decisions.

The policy of the Board of Zoning Appeals is that members will not discuss variance cases with applicants prior to a scheduled public hearing of the Board of Zoning Appeals.

What is the basis for a variance? Applicant must submit sufficient information for the BZA to make a determination that a variance is warranted. A variance is warranted when it meets the criteria on Page 3.

What is the application process? Variance applications must be filed with the Community Planning & Building Department.

- A pre-submission conference is held between the applicant and a Planning Services Division staff member. A solution may be discovered without the need for a variance.
- Applications must include the application fee, as well as the original application with original signatures. 2 paper copies of the application and all supporting documentation must be submitted. In addition, one complete copy of the application and supporting documentation must be uploaded to the City’s FTP website.
- The complete list of application requirements is contained in the UDO Procedures Manual and attached to this application for your convenience.
- After the application is deemed complete and review comments have been provided (if applicable), seven additional paper copies will be required prior to Public Hearing.

How long does a typical variance process take? The average variance process is approximately six to eight weeks from submission to action.

What if I want to appeal the decision of the BZA? Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled “In Re: date Decision of the Board of Zoning Appeals of the City of Fredericksburg” specifying the ground on which aggrieved within 30 days after the final decision of the Board, pursuant to Code of Virginia, § 15.2-2314.

BOARD OF ZONING APPEALS - ZONING VARIANCE

Name of Applicant: _____

Telephone: _____ Email _____

Mailing Address: _____

Interest in Property: _____

If the Applicant is not the Property Owner, complete the Affidavit for Special Power of Attorney Owner Consent Form (attached).

Name of Property Owner (if different from applicant): _____

Mailing Address: _____

_____ Telephone _____

Property Description

The property is described as follows: _____

Street Address: _____ Zoning District: _____

GPIN No. _____

Legal Description (include subdivision and lot number): _____

OWNERSHIP

Applicant is (Circle One):

Property Owner Agent of Owner Lessee Property Purchaser Other

If 'Other', describe: _____

Source of Property Title / Instrument #:

If Property is owned by a Limited Liability Corporation (LLC):

- 1. Attach a "Certificate of Fact of Existence" from the State Corporation Commission; and
- 2. List the names and titles with authority to sign on behalf of the LLC (add additional sheets if needed):

OR

If Property is owned by a Corporation (Inc.):

- 1. Attach a "Certificate of Good Standing" from the State Corporation Commission; and
- 2. List the names and titles with authority to sign on behalf of the corporation (add additional sheets if needed):

VARIANCE CRITERIA

This is a request for a variance to Section _____ of the Zoning Ordinance. Only those items previously listed in the definition of a variance may be requested. Describe the proposed variance and the reason(s) such a variance is necessary. The following items must be specifically addressed for this application to be considered complete:

- A. Would your request meet the definition of a variance? § 15.2-2201 defines a Variance in part as “a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure...”**
- B. Does your request meet one of the following: the strict application of the terms of the ordinance would either (Code of Virginia, § 15.2-2309):**
- {1} Would the request “alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance...”?
 - {2} Does the strict application of the terms of the ordinance “unreasonably restrict the utilization of the property”?
- C. How does your request meet the following five criteria (Code of Virginia § 15.2-2309.2 and § 15.2-2201 have been included as appropriate).**
- a) Was “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”?
 - b) § 15.2-2309.2 states that, “the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area” and § 15.2-2201 states that, “the character of the district will not be changed by the granting of the variance.”
 - c) § 15.2-2309.2 states that, “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 the ordinance” and § 15.2-2201 states that, “the hardship will not be shared generally by other properties;”
 - d) Does the granting of the variance result “in a use that is not otherwise permitted on such property or a change in the zoning classification of the property”?
 - e) Is “the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application”?

Has any previous application or appeal been filed in connection with this property?

No Yes

If yes, provide the date and type of application: _____

If necessary, additional sheets may be used



**AFFIDAVIT FOR SPECIAL POWER OF ATTORNEY
OWNER CONSENT FORM**

I, _____ the owner of the property located at

Make, constitute, and appoint _____,
special power of attorney to do and perform all acts, and make all representation necessary, without any
limitation whatsoever, to make application for said variance. The rights, powers, and authority of said
attorney-in-fact herein granted shall commence and be in force and effect on

_____.

Property Owner

**Commonwealth of Virginia
City of Fredericksburg**

Subscribed and sworn before me this _____ day of _____, 20 _____

Notary Signature

Registration Number

Commission Expiration

PUBLIC NOTIFICATION REQUIREMENTS

Written Notice: Written notice of an application initiated by a property owner or contract purchaser shall be provided to adjacent property owners by certified return receipt mail **by the applicant at least five calendar days prior** to the public hearing (not counting the date of the hearing) and **not more than 15 days prior** to the hearing. Applicants may use the notice form supplied with the application forms. In the event the application is deferred indefinitely, notification shall be given when the application is rescheduled.

Evidence of the receipt of such notice shall be provided to the Zoning Administrator prior to the public hearing. In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

The following notice documents must be submitted to the office of the Zoning Administrator at least 5 days prior to the public hearing:

1. a copy of the notice letter sent
2. a list of the names and addresses of those persons to whom notice was sent
3. a copy of the post office receipts for the certified or return receipt mail
4. "Certification of Notice" form found at the back of this application

Posted Notice: The applicant shall post a sign provided by the Zoning Administrator on each parcel of land involved in an application for zoning map amendment (when 25 or fewer parcels are affected), **Posted notice shall be erected at least five days before the BZA public hearing and before the City Council public hearing.**

Failure to send accurate or correct notices will result in deferral of the application to a later hearing date. Property ownership information is to be obtained from the City Real Estate Office, Room 107, City Hall, 715 Princess Anne Street or online at Fredericksburgva.gov

APPLICANT to mail this notice by certified return receipt mail to adjoining and abutting property owners between 15 and 5 days prior to the scheduled hearing.

Dear Property Owner:

You are hereby notified of the following public hearing to be held by the City of Fredericksburg Board of Zoning Appeals on the issues described below.

PUBLIC MEETING DATE: _____

**AT
4:00 PM, CITY HALL
715 PRINCESS ANNE STREET
COUNCIL CHAMBERS (LOWER LEVEL)
FREDERICKSBURG, VA 22401**

ISSUE

DESCRIPTION: _____

PROPERTY ADDRESS: _____

GPIN NUMBER: _____

As a citizen and party of interest, you are invited to attend the meeting and express your views concerning the above issue. If you have questions regarding the request, you can reach me at _____.

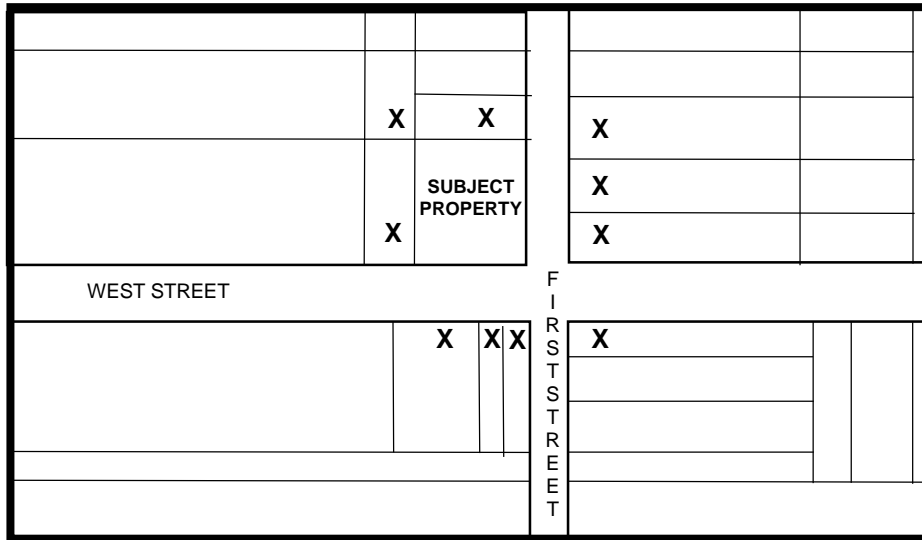
Sincerely,

Applicant signature

Applicant printed name

EXAMPLE DIAGRAM OF ADJOINING PROPERTY OWNERS

X = Property owners to be notified



PROPERTY OWNERS LIST

SUBJECT ADDRESS **GPIN #**

Adjoining property owner names and addresses can be obtained by visiting the City website at www.fredericksburgva.gov and following the link to GIS, or by visiting the Office of Real Estate at City Hall, 715 Princess Anne Street, Room 107.

Adjoining Property Owner’s Name and Mailing Address

| | | |
|-------------------------|--|--------------------|
| Property Address | | |
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

| | | |
|-------------------------|--|--------------------|
| Property Address | | |
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | |
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | |
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| City, State, Zip | | |

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| City, State, Zip | | |

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| Property Address | | |
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | |
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | |
|-------------------------|--|--|

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|-------------------------|--|--------------------|
| Owner Name | | GPIN NUMBER |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | GPIN NUMBER |
| Owner Name | | |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | GPIN NUMBER |
| Owner Name | | |
| Mailing Address | | |
| City, State, Zip | | |

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| Property Address | | GPIN NUMBER |
| Owner Name | | |
| Mailing Address | | |
| City, State, Zip | | |

| | | |
|-------------------------|--|--------------------|
| Property Address | | GPIN NUMBER |
| Owner Name | | |
| Mailing Address | | |
| City, State, Zip | | |

ATTACH ADDITIONAL SHEETS IF NECESSARY

NOTE: Applicant to return all notice documents at least five days or prior to the public hearing to: Office of the Zoning Administrator, 601 Caroline Street, Suite 400 Fredericksburg, VA 22401.



Variance # _____

CERTIFICATION OF NOTICE

**TO: Zoning Administrator
601 Caroline Street, Suite 400
Fredericksburg, VA 22401**

At least five days or prior to the public hearing, the applicant shall supply the Zoning Administrator with the following notice documents:

- 1. A copy of the notice sent**
- 2. A list of the names of those persons to whom notice has been given**
- 3. Copies of the post office receipts for certified or registered mail.**
- 4. A certification statement that notice has been sent by certified or registered mail to those to whom notice is required to be given.**

The applicant shall use the records and maps maintained in the City’s office of real estate or GIS to determine the proper recipients of notice and reliance upon such records shall constitute compliance with the requirements of the UDO.

The undersigned hereby certifies that the notice to adjoining property owners (copy attached), as required, was sent to the attached list of property owners concerning the following issue on (DATE)_____.

PROPERTY ADDRESS:_____

ISSUE DESCRIPTION:_____

Applicant Signature

Applicant Printed Name

Telephone Number

Date

NOTE: Applicant to return all notice documents at least five days or prior to the public hearing to: Office of the Zoning Administrator, 601 Caroline Street, Suite 400, Fredericksburg, VA 22401.

SIGN POSTING PROCEDURES

Instructions

It is the applicant's responsibility to ensure that the sign(s) remain on the project site for the required time and are maintained in good/legible condition until after the public hearing date.

Site Posting Procedure

Sign(s) shall be posted at least five (5) business days before the public hearing/meeting. The applicant shall complete a notarized affidavit stating the sign(s) shall be posted in accordance with these procedures. Within three (3) days of posting the sign the applicant shall provide a photograph of the posted sign to the Community Planning and Building Department. **Failure to submit a notarized affidavit and/or photograph of the posted sign may result in the removal of the application from the scheduled meeting agenda.**

Information required on the sign(s) shall be completed by a member of the planning staff and provided to the applicant for posting. Signs shall be removed within three (3) days of the public hearing/meeting. Sign(s) should **not** be returned to the Community Planning & Building Department.

A minimum of one sign shall be placed along any adjacent arterial street. Signs should be posted every 600 feet when a street frontage adjacent to a project exceeds that distance. Sign(s) shall be placed parallel to the roadway.

Sign(s) shall be placed on the property in the most visible location available in such a manner that landscaping or other obstructions do not impair the visibility of the sign(s) from the street. The sign(s) shall not be placed on the public street right-of-way. The sign(s) should not be placed more than 10 feet behind the property line adjacent to the street.

The Community Planning and Building Department may vary any of the above guidelines where there are special circumstances in order to ensure that the sign(s) will be visible to the general public.

The undersigned acknowledges that he/she has read this procedure and understands how and where to post the required sign(s).

Applicant Signature

Date



Variance # _____

SIGN POSTING AFFIDAVIT

_____, being duly sworn, deposes and says as follows:

(Name of Affiant)

On the _____ day of _____, 20____, public hearing/notice sign(s), as supplied by the Office of the Zoning Administrator, Community Planning and Building Department. shall be posted in accordance with City sign posting procedures as stated on the reverse of this affidavit, on the property that is the subject of this application. The sign(s) shall be maintained in good condition on said property until after the public hearing/meeting.

Signature of Affiant

Date

____ Planning Commission meeting

____ City Council meeting

____ ARB meeting

____ BZA meeting

Commonwealth of Virginia
City of Fredericksburg

I, _____, a Notary Public in and for the State and City aforesaid, do hereby certify that _____ appeared before me and acknowledged the same.

Subscribed and sworn before me this _____ day of _____, 20_____.

Notary Signature _____

Notary Registration # _____

Commission expires: _____

Checklist for Zoning Variance

| A. General Information | | |
|-------------------------------|--|--|
| 1 | Application, fee, and background materials loaded to the City's FTP website. | |
| 2 | Per §72-21.6.A.(5), the applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid. | |
| 3 | <p>Certified boundary survey of the property signed and sealed by a professional surveyor, engineer and/or architect showing the:</p> <p>a. Total area of the property.</p> <p>b. If applicable, the location, dimensions, and setbacks of all existing structures.</p> | |
| 4 | <p>A written narrative that addresses the following:</p> <p>a. How your request meet the definition of a variance? § 15.2-2201 defines a Variance in part as "a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure..." How your request meets one of the following: the strict application of the terms of the ordinance would either (Code of Virginia, § 15.2-2309):</p> <ol style="list-style-type: none"> 1. Would the request "alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance..." 2. Does the strict application of the terms of the ordinance "unreasonably restrict the utilization of the property." <p>b. How does your request meet the following five criteria (Code of Virginia § 15.2-2309.2 and § 15.2-2201 have been included as appropriate).</p> <ol style="list-style-type: none"> 1. Was "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"? 2. § 15.2-2309.2 states that, "the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area" and § 15.2-2201 states that, "the character of the district will not be changed by the granting of the variance." 3. § 15.2-2309.2 states that, "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 the ordinance" and § 15.2-2201 states that, "the hardship will not be shared generally by other properties;" 4. Does the granting of the variance result "in a use that is not otherwise permitted on such property or a change in the zoning classification of the property"? 5. Is "the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application"? | |