

**Fee (\$400 for Individual Single-Family Lot / \$600 for all others):** \_\_\_\_\_

**App No.** \_\_\_\_\_



**City of Fredericksburg  
BOARD OF ZONING APPEALS  
Community Planning & Building Department  
715 Princess Anne Street, P.O. Box 7447  
Fredericksburg, Virginia 22404**

## **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. Please see the attached instructions on how to **upload the application to the City's FTP website (Attachment A).**
- **The complete list of application requirements is contained in the UDO Procedures Manual and attached to this application for your convenience (Attachment B).**
- 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.

*Revised: December 2017*

# 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): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 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](http://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 \_\_\_\_\_.**

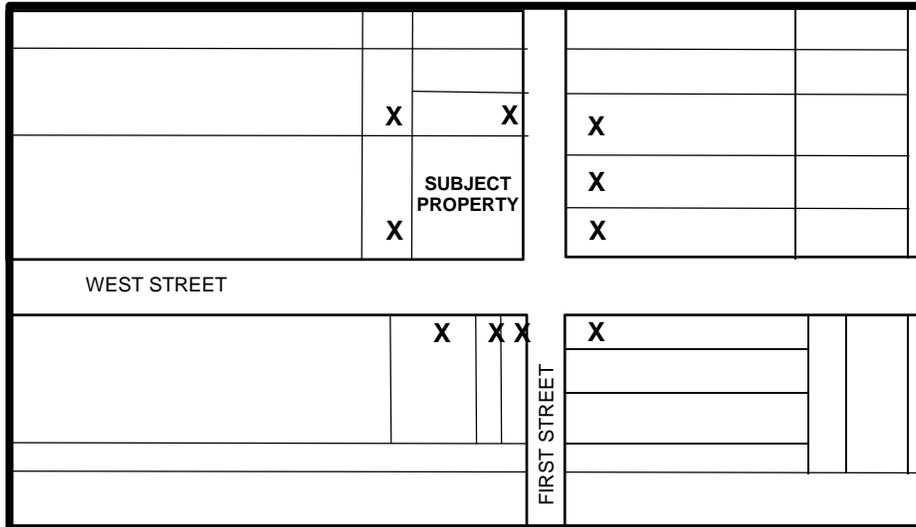
Sincerely,

\_\_\_\_\_  
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](http://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**

<b>Property Address</b>		
<b>Owner Name</b>		<b>GPIN NUMBER</b>
<b>Mailing Address</b>		
<b>City, State, Zip</b>		

<b>Property Address</b>		
<b>Owner Name</b>		<b>GPIN NUMBER</b>
<b>Mailing Address</b>		
<b>City, State, Zip</b>		

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<b>Mailing Address</b>		
<b>City, State, Zip</b>		

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<b>City, State, Zip</b>		

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<b>Mailing Address</b>		
<b>City, State, Zip</b>		

<b>Property Address</b>		
<b>Owner Name</b>		<b>GPIN NUMBER</b>
<b>Mailing Address</b>		
<b>City, State, Zip</b>		

**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, 715 Princess Anne Street, Fredericksburg, VA 22401**



Variance # \_\_\_\_\_

## CERTIFICATION OF NOTICE

**TO: Zoning Administrator  
715 Princess Anne Street  
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, 715 Princess Anne Street, 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).**

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**Applicant Signature**

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**Date**

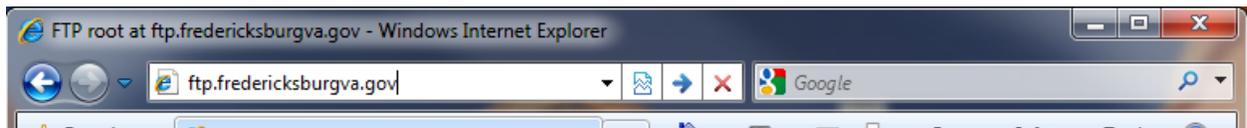


## Public FTP Access for the City of Fredericksburg

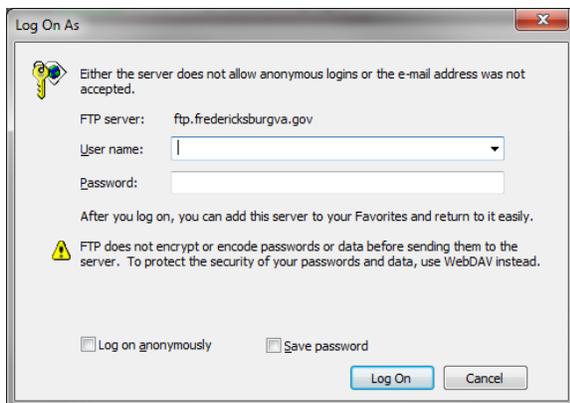
In order to share (upload or retrieve) electronic documents with the City of Fredericksburg, you may use the City's Public FTP site.

### Step 1 – Logging into the FTP Site

- Open your default internet browser. Typically this is Internet Explorer.
- In the address bar at the top of the screen you will type in the url <ftp.fredericksburgva.gov>



- Hit "Go" or press enter and you should see a login screen prompting you for the username and password.



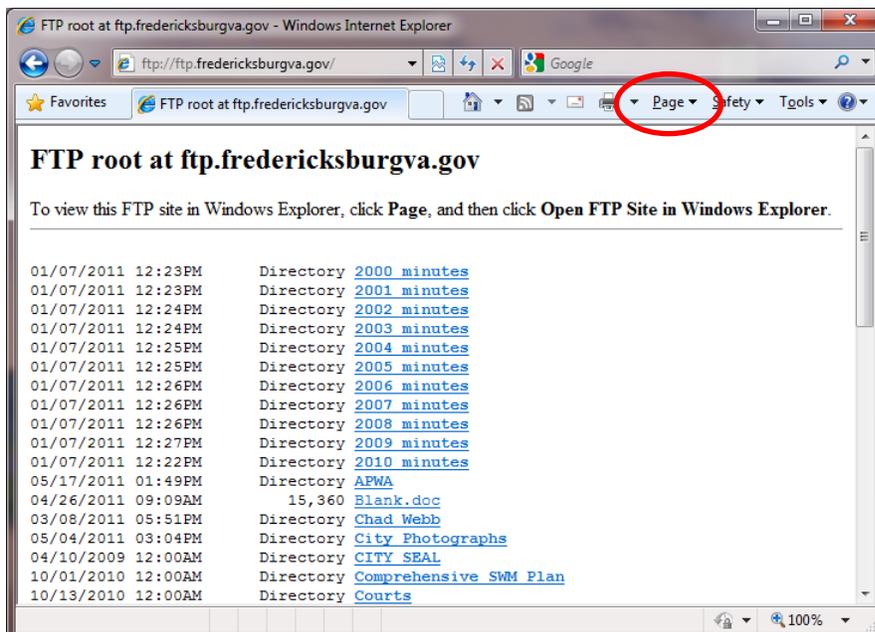
Username: fred

Password: guest

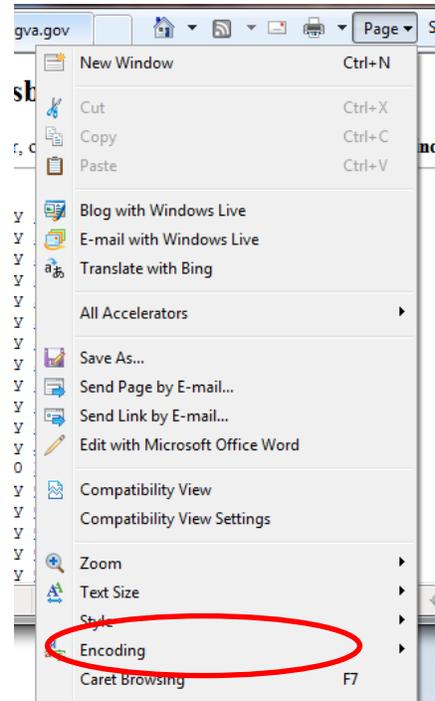
Hit "Log On" and you will be brought to the FTP site.

### Step 2 – Uploading Documents

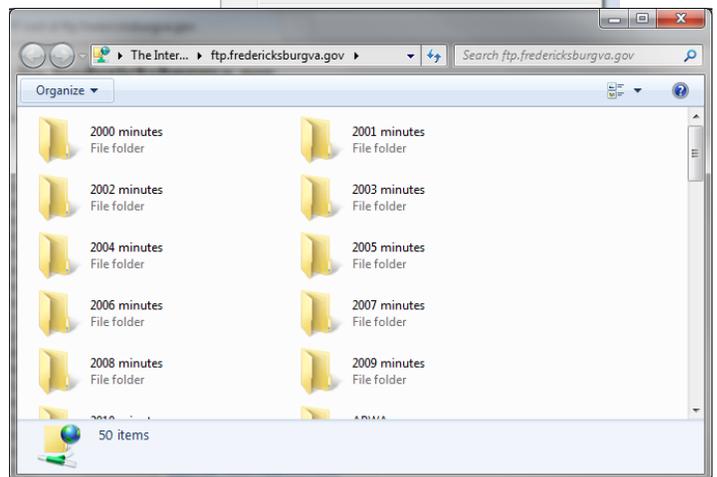
- Click on the "Page" dropdown menu at the top of your screen.



- In the dropdown locate the option to “Open FTP Site in Windows Explorer”, clicking on this option will ask you to login again at which time you will use the same credentials as before.



- You will then be shown the FTP site in a typical folder/file layout. You can simply drag-and-drop the files you wish to upload into the Electronic Application Materials folder. Click on the folder and then the applicable year and month in which you are filing the application. Create a new folder within the month you are filing the application, with the name of the applicant, and put all documents in this folder.
- All information shall be submitted in a pdf format.



**PLEASE NOTE:**

\*\*The City’s FTP site is for temporary transfer of documents ONLY; it is not for permanent record storage. Items older than 30 days will be **DELETED** without notice.

\*\*This is a **PUBLIC** FTP so be cautious before utilizing this site. If your documents contain sensitive or confidential information then please seek other means in order to submit your documents.

## S. Zoning Variance

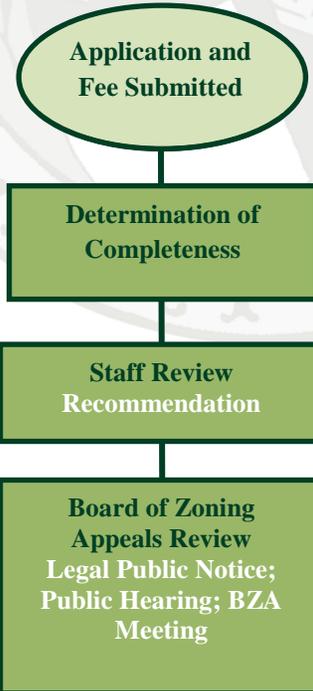
### 1. General Description

The Board of Zoning Appeals (BZA) may authorize a Zoning Variance in accordance with UDO Section 72-22.8, when a literal enforcement of the provisions will result in unnecessary hardship experienced by a single property due to unique circumstances associated with the property (not those created by the action of the property owner).

### Process Flow Chart Zoning Variance

### 2. Review Procedure

- a. Applicant may request a pre-application conference with the Zoning Administrator prior to submitting an application for a zoning variance.
- b. Applicant submits an application, written narrative, and fee, to the office of the Zoning Administrator.
- c. The Zoning Administrator reviews the application for completeness within ten (10) days, and notifies the applicant, by mail, if the application is not complete and describes the additional information needed for resubmission.
- d. The applicant has thirty (30) days to provide the additional information and resubmit the application or request, in writing, that the application be re-reviewed as is. Failure of the applicant to respond within the specified time shall be considered a withdrawal of the application.
- e. Once determined complete, the Zoning Administrator will commence review of the application and schedule the item for a Board of Zoning Appeals meeting.
- f. The Zoning Administrator prepares the staff report, provides required public notification, and forwards the application and staff report to the Board of Zoning Appeals.
- g. The Board of Zoning Appeals shall review the application and may approve, approve with conditions, or deny the request.
- h. If application is denied, the applicant may appeal to Circuit Court.



#### **BZA DECISION**

If approved, applicant must sign and record a Notice of Zoning Variance (prepared by City Attorney). Proof of recording must be submitted to the Planning Office within 30 days.

### 3. Things to Know

In order for the BZA to grant a variance, the applicant must prove hardship.

To prove hardship, a property owner must show that his property was acquired in good faith but that the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property. A variance may be justified by (1) the exceptional narrowness,

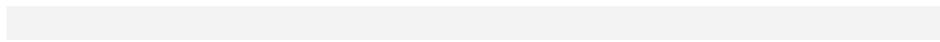
shallowness, size or shape of a property at the time of the effective date of the ordinance, or by (2) other exceptional topographic conditions or other extraordinary situation of such property. The BZA must be satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant.

Only 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 may be the subject of a Zoning Variance application.

The property that is granted a variance shall be treated as conforming for all purposes under State Law and the UDO.

**4. Submittal Requirements**

<b>A. General Information</b>		
1	Application, fee, and background materials loaded to the City's FTP website.	
2	Certified boundary survey of the property signed and sealed by a professional surveyor, engineer and/or architect showing the: <ul style="list-style-type: none"> <li>a. Total area of the property.</li> <li>b. If applicable, the location, dimensions, and setbacks of all existing structures.</li> </ul>	
3	A written narrative that addresses the following: <ul style="list-style-type: none"> <li>a. How the strict application of the UDO would alleviate a clearly demonstrated hardship.</li> <li>b. How the hardship is not shared generally by other properties in the same zoning district and the same vicinity.</li> <li>c. How the authorization of the 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.</li> <li>d. Whether the property is of an exceptional size (small or narrow lot) shape, topographic condition, or has any other extraordinary situation.</li> </ul>	





## City of Fredericksburg, Virginia BOARD OF ZONING APPEALS

### 2018 FILING DEADLINES AND MEETING DATES

FILING DEADLINE	MEETING DATE	PUBLIC NOTICE DATES
December 22, 2017	<b>January 22, 2018*</b>	January 8, 2018 / January 15, 2018
January 15, 2018	<b>February 26, 2018*</b>	February 12, 2018 / February 19, 2018
February 5, 2018	<b>March 19, 2018</b>	March 5, 2018 / March 12, 2018
March 5, 2018	<b>April 16, 2018</b>	April 2, 2018 / April 9, 2018
April 9, 2018	<b>May 21, 2018</b>	May 7, 2018 / May 14, 2018
May 7, 2018	<b>June 18, 2018</b>	June 4, 2018 / June 11, 2018
June 4, 2018	<b>July 16, 2018</b>	July 2, 2018 / July 9, 2018
July 9, 2018	<b>August 20, 2018</b>	August 6, 2018 / August 13, 2018
August 6, 2018	<b>September 17, 2018</b>	September 3, 2018 / September 10, 2018
September 3, 2018	<b>October 15, 2018</b>	October 1, 2018 / October 8, 2018
October 8, 2018	<b>November 19, 2018</b>	November 5, 2018 / November 12, 2018
November 5, 2018	<b>December 17, 2018</b>	December 3, 2018 / December 10, 2018
December 10, 2018	<b>January 21, 2019*</b>	January 7, 2019 / January 14, 2019

The Board of Zoning Appeals meets to conduct a public hearing and to consider applications for variances on the third Monday of each month at 4:00 p.m. in Council Chambers, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia. The applicant or his or her representative should be present to answer questions from the Board.

Applicants must submit the application and accompanying fee (payable to the City of Fredericksburg) to the Office of Community Planning & Building Department, Room 209 City Hall. Office hours are Monday through Friday, 8:00 a.m. to 4:30 p.m.

**\*The Board of Zoning Appeals holds its January and February public hearings on the fourth Monday of the month due to City Offices being closed for holidays.**

\*\* Filing deadlines are established to allow significant time to process applications and comply with public notification requirements. Applications must be **complete** by deadline in order to be heard on the corresponding meeting date. Public notice will appear in the Free Lance Star.