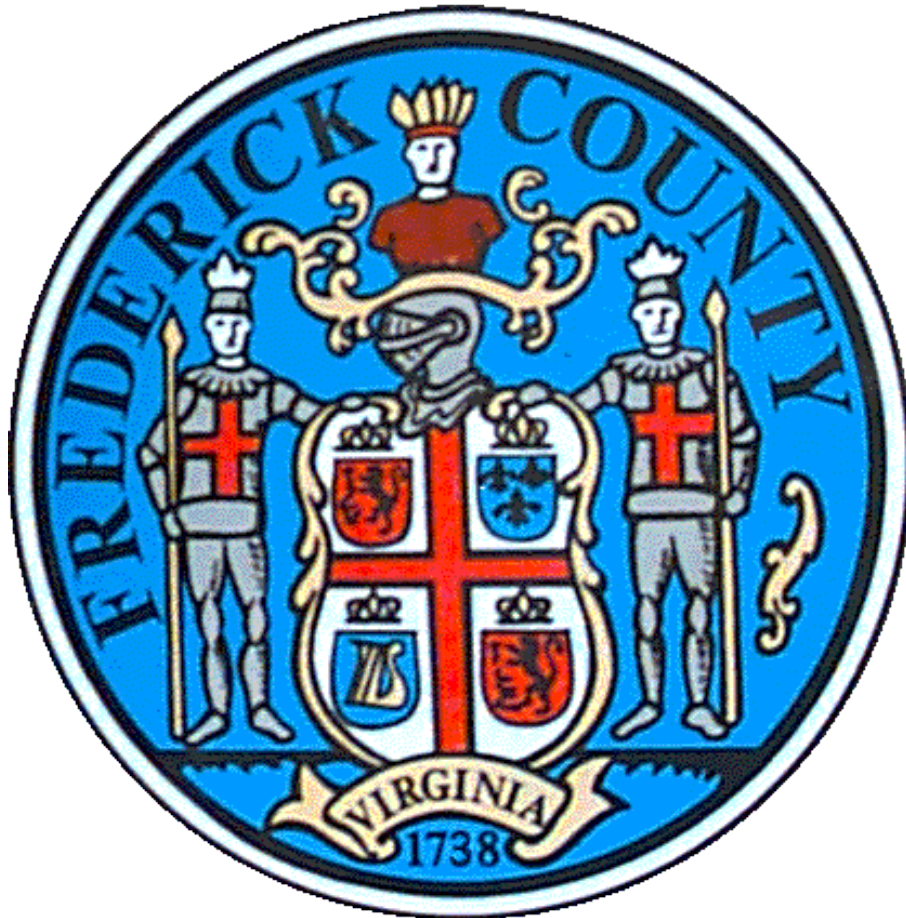


# BOARD OF ZONING APPEALS VARIANCE APPLICATION PACKAGE



## Frederick County, Virginia

Department of Planning and Development  
107 North Kent Street Suite 202  
Winchester, Virginia 22601  
Telephone: (540) 665-5651 - FAX: (540) 665-6395

Website: [www.fcva.us](http://www.fcva.us)

(Revised 11/8/2023)

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**BOARD OF ZONING APPEALS - VARIANCE**  
**FREDERICK COUNTY, VIRGINIA**

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## **APPLICATION INSTRUCTIONS FOR A VARIANCE**

It is the responsibility of the applicant to complete this form in its entirety and as precisely as possible. In order to be heard by the Board of Zoning Appeals on a particular date, all materials must be submitted prior to a cut-off date established during the previous month. The specific cut-off date is established each month in order to meet advertising requirements specified by the Code of Virginia. You can obtain this date from the Planning and Development Department.

Because applications are photocopied for Board members, **they must be completed in ink or typed**. All supporting materials must also be able to be legibly photocopied.

### **PLEASE ATTACH THE FOLLOWING IN SUPPORT OF THIS APPLICATION:**

1. A plot plan of the property, acceptable to the Zoning Administrator, showing:
  - A. Existing structures.
  - B. Measurements from existing structures to all property lines.
  - C. Measurements to all property lines from the addition for which a variance is requested and to the nearest structure(s) on an adjoining property.
2. A copy of the deed to the property, which may be obtained from the Clerk of the Circuit Court at the Judicial Center, 5 North Kent Street, Winchester, Virginia.
3. All other evidence or exhibits should be submitted along with this application.

Information to complete items 4 and 5 on the application may be obtained from the Deed to the property. Information for items 6, 7 and 14 may be obtained from the office of the Commissioner of the Revenue (located directly across from the side entrance of the old County Courthouse). Current property zoning for items 8 and 10 may be obtained from the Office of Planning and Development.

If the applicant is not the property owner, the application must be signed by both parties. The title of the representative for an organization, church, etc. shall be shown on the application.

The fee for this application is **\$400**. Upon submittal of your completed application, a sign will be provided to you. At least seven days before the public hearing, the sign must be placed at the property line and be maintained so as to be visible from the road or right-of-way until after the public hearing. **Failure to post the sign will result in your application being tabled.** The \$400.<sup>00</sup> application fee is due upon submittal of the completed application. Please make checks payable to the **"Treasurer of Frederick County"**.

Notification of the Board of Zoning Appeals public hearing will be emailed to you. Board of Zoning

Appeals public hearings are generally held the third Tuesday of each month at 3:25 p.m. in the Board of Supervisors' meeting room in the Frederick County Administration Building, 107 North Kent Street, Winchester, Virginia.

**The applicant (or a representative) must be present at the Board of Zoning Appeals public hearing** when the request is to be considered. If the applicant (or the representative) is not present, the variance application will then be tabled until the next regular meeting. If the application is not represented for two consecutive meetings, the Board may remove the application from consideration.

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**IF YOU HAVE ANY GENERAL QUESTIONS OR NEED ASSISTANCE IN COMPLETING THIS APPLICATION, PLEASE CONTACT THE DEPARTMENT OF PLANNING & DEVELOPMENT AT 540-665-5651.**

**FREDERICK COUNTY  
BOARD OF ZONING APPEALS POLICIES**

The Board of Zoning Appeals (BZA) has the following policies under which it operates:

1. Your application for variance allows inspection of your property by the members of the BZA and the staff of the Planning and Development Department.
2. Applications submitted **after** the announced deadline or cut-off date for a specific meeting will not be heard at that meeting unless approved by the Zoning Administrator or Chairperson of the BZA.
3. The schedule of meeting dates will not be altered for individual variance applications except for reasons of public health, safety and welfare. In the event that a full quorum of the BZA is lacking, the Chairperson may call a special meeting to hear pending variance applications.
4. Each application will be reviewed based on its own merits.
5. Proof of ownership of the property for which the variance is being requested is required.
6. There is a time limit for presentations to the BZA. Representatives of both sides of a case will be allowed a maximum of 20 minutes each for their presentation and each side will be allowed a maximum of 10 minutes each for rebutting the opposing side. Discussion in excess of this time will be allowed only upon a motion duly made and passed by the BZA.
7. The applicant's evidence, exhibits, etc., should be submitted with the application to

allow for prior consideration by the BZA. This also expedites the public hearing, since BZA members receive copies of application materials.

8. A "variance public hearing" sign shall be posted for all variances. This sign shall be placed so as to be visible from the road or right-of-way, at least seven days before the public hearing and maintained until after the public hearing. **Failure to post the sign will result in your application being tabled.**

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With regard to variances, the BZA has the following powers and duties as outlined in the Frederick County Zoning Ordinance and the Code of Virginia, as amended:

To authorize variances from the terms of the Zoning Ordinance 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 a physical condition relating to the property or improvements.

**No variance shall be authorized by the Board unless it finds:**

- 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;
- The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- 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;
- 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
- The relief or remedy sought by the variance application is not available through a Conditional Use Permit process or the process for modification of a zoning ordinance.

In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are complied with.

THESE REQUIREMENTS ARE SPELLED OUT IN CHAPTER 165 OF THE FREDERICK COUNTY CODE, ZONING ORDINANCE, ARTICLE X, BOARD OF ZONING APPEALS, SECTION 165-1001.02C AND TITLE 15.2-2309, LOCAL PLANNING LEGISLATION, CODE OF VIRGINIA, 1950, AS AMENDED.

Decisions of the BZA may be appealed to the Circuit Court within 30 days of the decision. See Code of Virginia (15.2-2314) for details.



**APPLICATION FOR VARIANCE  
FREDERICK COUNTY, VIRGINIA**

**-OFFICE USE ONLY-**

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

Submittal Deadline \_\_\_\_\_

Submittal Date \_\_\_\_\_

For the BZA Meeting of \_\_\_\_\_

Fee Amount Paid \_\_\_\_\_

Initials: \_\_\_\_\_

Receipt # \_\_\_\_\_

**MUST BE TYPED OR FILLED OUT IN INK – PLEASE PRINT**

1. The applicant is the owner \_\_\_\_ other \_\_\_\_\_. (Check one) Please list all owners, occupants (adult individuals as well as any entities occupying the property), or parties in interest of the property.

2. APPLICANT:

OCCUPANT: (if different)

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EMAIL: \_\_\_\_\_

EMAIL: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

3. The property is located at (give exact directions and include State Route Numbers):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The property has a road frontage of \_\_\_\_\_ feet and a depth of \_\_\_\_\_ feet and consists of \_\_\_\_\_ acres (please be exact).

5. The property is owned by \_\_\_\_\_ as evidenced by deed from \_\_\_\_\_ recorded (previous owner) in deed book no. \_\_\_\_\_ on page \_\_\_\_\_

\_\_\_\_\_ or instrument number \_\_\_\_\_ of the deed books of the Clerk of the Court for Frederick County. **Please attach a copy of the recorded deed.**

6. Magisterial District: \_\_\_\_\_

7. Property Identification Number (P.I.N.): \_\_\_\_\_

8. The existing zoning of the property is: \_\_\_\_\_

9. The existing use of the property is: \_\_\_\_\_

10. Adjoining Property:

	<u>USE</u>	<u>ZONING</u>
North	_____	_____
East	_____	_____
South	_____	_____
West	_____	_____

11. Describe the variance sought in terms of distance and type. (For example: "A 3.5' rear yard variance for an attached two-car garage.")

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. List specific reason(s) why the variance is being sought in terms of, such as:

- ▶ Exceptional narrowness, shallowness, size or shape of property, or
- ▶ Exceptional topographic conditions or other extraordinary situation or condition of property, or
- ▶ The use or development of property immediately adjacent thereto

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Additional comments, if any:

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14. The following names and addresses are all of the individuals, firms, or corporations owning property adjacent to the property for which the variance is being sought, including properties at the sides, rear and in front of (across street from) the subject property. (Use additional pages if necessary.) These people will be notified by mail of this application:

Name and Property Identification Number		Address
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		



15. Provide a sketch of the property (you may use this page or attach engineer's drawing). Show proposed and/or existing structures on the property, including measurements to all property lines and to the nearest structure(s) on adjoining properties. Please include any other exhibits, drawings or photographs with this application.

# AGREEMENT

VARIANCE # \_\_\_\_\_  
(Number to be assigned by the Planning Dept.)

I (we), the undersigned, do hereby respectfully make an application, and petition the Frederick County Board of Zoning Appeals (BZA) to grant a variance to the terms of the Frederick County Zoning Ordinance as described herein. I agree to comply with any conditions for the variance required by the BZA.

I authorize the members of the BZA and Frederick County officials to go upon the property for site inspection purposes.

I understand that the sign issued to me when this application is submitted must be placed at the front property line at least seven (7) days prior to the BZA public hearing and maintained so as to be visible from the road or right-of-way until the hearing.

I hereby certify that all of the statements and information contained herein are, to the best of my knowledge, true.

**SIGNATURE OF APPLICANT** \_\_\_\_\_

**DATE** \_\_\_\_\_

**SIGNATURE OF OWNER** \_\_\_\_\_ **DATE** \_\_\_\_\_

(if other than applicant)

## -OFFICE USE ONLY-

BZA PUBLIC HEARING OF \_\_\_\_\_ ACTION:

-DATE-

**APPROVAL**

**DENIAL**

**SIGNED:** \_\_\_\_\_

**BZA CHAIRMAN**

**DATE:** \_\_\_\_\_



**Special Limited Power of Attorney  
County of Frederick, Virginia  
Frederick Planning Website: [www.fcva.us](http://www.fcva.us)**

**Department of Planning & Development, County of Frederick, Virginia  
107 North Kent Street, Winchester, Virginia 22601  
Phone (540) 665-5651 Facsimile (540) 665-6395**

**Know All Men By These Presents That:**

\_\_\_\_\_  
Name of Property Owner/Applicant

Please note: If the property owner/applicant is an entity, the name of the entity should appear above.  
If multiple persons own the property or are applicants, an executed power of attorney from each owner will be needed.

\_\_\_\_\_  
Mailing Address of Property Owner/Applicant

\_\_\_\_\_  
Telephone Number

**as owner of, or applicant with respect to, the tract(s) or parcel(s) of land in Frederick County, Virginia, identified by following property identification numbers:**

\_\_\_\_\_

**do hereby make, constitute, and appoint:**

\_\_\_\_\_  
Name of Attorney-In-Fact

\_\_\_\_\_  
Mailing Address of Attorney-In-Fact

\_\_\_\_\_  
Telephone Number

**to act as my true and lawful attorney-in-fact for and in my name, place, and stead, with the same full power and authority I would have if acting personally, to file and act on my behalf with respect to application with Frederick County, Virginia for the following, for the above identified property:**

- |  |   |
|--|---|
| <input type="checkbox"/> <b>Rezoning</b>                                   | <input type="checkbox"/> <b>Subdivision</b>               |
| <input type="checkbox"/> <b>Conditional Use Permit</b>                     | <input type="checkbox"/> <b>Site Plan</b>                 |
| <input type="checkbox"/> <b>Master Development Plan (prelim. or final)</b> | <input type="checkbox"/> <b>Variance or Zoning Appeal</b> |

**and, further, my attorney-in-fact shall have the authority to offer proffered conditions and to make amendments to previously approved proffered conditions except as follows:**

\_\_\_\_\_.

**This appointment shall expire one year from the day that it is signed, or at such sooner time as I otherwise rescind or modify it.**

Signature \_\_\_\_\_

Title (if signing on behalf of an entity) \_\_\_\_\_

State of \_\_\_\_\_, County/City of \_\_\_\_\_, To wit:

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, certify that the person who signed the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
Registration Number: \_\_\_\_\_

**FREDERICK COUNTY  
DEVELOPMENT REVIEW FEES**

Revised - 03/21/2023

**COMPREHENSIVE PLAN AMENDMENT**

\$3,000 non-refundable

**REZONING**

\$1,000 – Proffer amendments not requiring a public hearing  
 \$5,000 base + \$100/acre – 2 acres or less  
 \$10,000 base + \$100/acre  
 More than 2, less than 150  
 \$10,000 base + \$100/acre first 150  
 + \$50/acre over 150 acres

**SUBDIVISION**

**Non-Residential** \$1,000 base  
 Design Plan \$200/lot  
 Plat \$100/lot

**Residential (RP, R4, R5)**

Design Plan \$2,500/base \$100/lot  
 Plat \$200/lot to 50 lots  
 \$100/lot over 50 lots

**Rural Areas (RA)**

Sketch (Design) \$2,500 base \$200/acre  
 Plat \$200/lot

**Rural Areas (RA)**

**Minor** – 3 lots or less \$200/lot  
**Lot Consolidation** \$200/lot  
**Boundary Line Adj.** \$200/lot

**VARIANCE** \$400

**BZA APPEAL** \$250

**ZONING CERTIFICATION LETTER** \$250

**ZONING DETERMINATION LETTER** \$100

**SUBDIVISION ORDINANCE  
EXCEPTION** \$500

**MASTER DEVELOPMENT PLAN**

\$3,000 base + \$100/acre for first 150  
 +\$50/acre over 150 acres

**CONDITIONAL USE PERMIT**

Cottage Occupation \$75  
 Telecommunication Tower greater than 50-FT in height \$750  
 Other \$750

**ADMINISTRATIVE TOWERS PER 165-204.19**

Up to five facilities/structures \$100  
 Each additional facility \$50  
 Small Cell Facilities \$50  
 Co-location on an existing wireless structure \$50

**SITE PLAN**

**Non-residential:** \$2,500 base  
 \$200/acre to 5 acres  
 \$100/acre over 5 acres

**Residential:** \$3,500 base  
 \$300/unit to 20 units  
 \$100/unit over 20 units

**Minor Site Plan:** \$500 for a new site plan that does not exceed 10,000 SF of disturbed area and/or that increases existing structure area by 20% or less.

**POSTPONEMENT** of any Public Hearing or Public Meeting by Applicant after Advertisement, to include Applicant requests to **TABLE** an agenda item \$750/occurrence.

**THIRD & SUBSEQUENT PLAN REVIEWS**

(Including County Attorney review) for a single development application \$500/review.

**BOND MANAGEMENT**

Establishment of bond \$ 500  
 Reduction/Release \$ 300  
 Replacement \$ 300

**TDR PROGRAM**

TDR Application Review \$300  
 (\*Review includes TDR Letter of Intent)  
 TDR Certificate \$200  
 Certificate Ownership Transfer \$50  
 Receiving Property Approval \$200  
 Review of Sending Property  
 Deed Covenant \$100  
 Review of Deed of Transfer (Extinguishment Document) \$100

**CHAPTER 161 FEES**

Installation License \$300  
 Septic Haulers Permit \$200  
 Residential Pump and Haul \$50  
 Commercial Pump and Haul \$500

**SHORT-TERM LODGING (STL)**

Permit \$200  
 STL Permit Renewals \$100