

Response to Questions on the FY 2006 Advertised Budget Plan

Request By: Chairman Connolly

Question: Explain why an additional position is included in the Department of Planning and Zoning to review special permits for the Board of Zoning Appeals as opposed to the agency absorbing the workload.

Response: Due to a pending amendment to the Zoning Ordinance, there is an anticipated increase in the number of special permit applications, and a potential decrease in the number of variance applications received by the Department of Planning and Zoning. Currently, processing variances requires moderate research and no site visits, while special permits are much more time consuming as a result of the specific components of the review noted below. Similarly, administrative variances are projected to be more time consuming than the current variance request because this type of variance will require a significant amount of staff time, including time spent on site visits, public notice verification and interaction with adjacent property owners, which is not required for the current variances. Depending upon the final result of this amendment, there are several possible outcomes for the processing of special permits/variances, each with associated workload issues. Depending upon the final outcome, this position would either be located in the Zoning Evaluation Division or the Zoning Administration Division. The request for one position was a conservative request, as current staff will also be involved in the workload distribution when a final resolution is found.

The initial request for an additional position was made at a time when it was anticipated that as many as 75 percent or more of the approximately 200–225 variance applications received annually would become applications for special permits in lieu of the variances. Since that time, the General Assembly passed legislation that creates additional uncertainty regarding the appropriate resolution of this issue, and it is now likely that the County will adopt a combination of approaches (variances, special permits and administrative determinations), with likely impacts as addressed below.

If some or all variances become special permits, the position would be located in the Zoning Evaluation Division, and would be needed for the following reasons:

- Variances require much less research, and no site visits; the application is simple; the staff report is checklist-like; simple variances are not pre-staffed or staffed and do not contain a substantive analysis of the proposal. Existing staff have been able to handle the large volume (+/- 200 per year) of these requests due to the less extensive amount of work entailed.
- Special permits require additional research, often multiple site visits, and a detailed analysis. As such, they are more time consuming. Time is required to work with applicants; there is typically greater citizen interest; staff work includes staffing sessions, coordination with other departments, negotiation with applicants, and review of multiple revised submissions; staff reports are longer/more involved, and contain development conditions tailored to the request. Processing any number of special permits will necessitate more staff hours than processing the same number of variances.

- There is a backlog of variances, many of which will likely be resubmitted as special permits. The transition to special permits may be difficult and will require up-front work to effectuate the transition. The applicants will want to be heard as quickly as possible, since many have waited a long time for the ability to process their applications. It will be difficult to accommodate the backlog and also process new applications, all within the state-mandated 90-day time period.
- Special permits require evaluation and analysis, documentation and a rationale to support a recommendation; variances do not have staff recommendations.
- Special permits will require additional coordination from other divisions and agencies (i.e., determination whether the proposal is in harmony with the Comprehensive Plan and whether it impacts adjacent properties).
- At the same time, there has been an increase in larger special permits, such as churches (in one-month period, staff held eight pre-application meetings just for churches alone). Most church applications are complicated and generate significant citizen opposition. These cases take a significant amount of staff resources. These are handled by the same staff that process other special permits and variances.

If some or all variances become administrative variances granted by the Zoning Administrator, the position would be located in the Zoning Administration Division, and would be needed for the following reasons:

- The Zoning Administration Division does not currently have the staff capability to handle the additional work required for this function. These administrative variances will require a significant amount of staff time, including time spent on site visits, public notice verification and interaction with adjacent property owners. It is anticipated that, given the elimination of the public hearing process, the number of variance requests would increase from the 200-250 applications previously received on an annual basis.
- It is further anticipated that these administrative variances will result in an increase in the overall number of appeal applications filed to the BZA of the Zoning Administrator's decision. Currently variance decisions by the BZA are appealed to the Circuit Court. Given the relative ease and minimal cost of filing an appeal to the BZA as opposed to the Circuit Court, it is likely that many people who are aggrieved by the Zoning Administrator's decision will opt to challenge that decision. The same staff within the Zoning Administration Division that would handle the variance requests also currently handle between 50 and 60 appeals per year and it is conceivable that this number could more than double as a result of administrative variances. The impact on staff will be significant especially considering that appeals must be heard within the state-mandated 90-day time period.
- The same staff is also currently responsible for responding to an ever increasing volume of inquiries for zoning information including requests for compliance letters, use determinations, zoning interpretations, and issues relating to buildable lots, nonconformities, and yard matters. In FY 2004, 1,076 such requests were received and given the year-to-date indicators for FY 2005, that number will be exceeded.

It should be noted that as a result of budget reductions in FY 2003 and FY 2004 10/10.0 SYE positions were eliminated from DPZ, which has lessened the Department's ability to absorb the additional work required for the proposed changes to the variance/special permit processes, as well as other new initiatives.