

VARIANCE

Application Information



ZONING EVALUATION DIVISION
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway,
Suite 801
Fairfax, VA 22035
703-324-1290

<https://www.fairfaxcounty.gov/planning-zoning>

January 2018



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days Advance notice.
For additional information on ADA call (703) 324-1334 or TTY 771 (Virginia Relay Center).

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VARIANCES APPLICATION INFORMATION

This publication contains information on how to process a variance application in Fairfax County. It includes instructions and suggestions, a detailed list of submission requirements, an application form, an affidavit form, and a fee schedule. Additional copies of this publication are available from the Zoning Evaluation Division, Department of Planning and Zoning (see address below), or from the County's web site at <https://www.fairfaxcounty.gov/planning-zoning/zoning/application-review>.

VARIANCE: A Variance is a request to vary certain requirements of the Zoning Ordinance where, due to special conditions of the property, strict enforcement of the Ordinance would, among other standards, effectively prohibit or unreasonably restrict all reasonable use of the property. Examples include, but are not limited to, requests to permit construction of a structure closer to a lot line than allowed by the Zoning Ordinance (variance to minimum yard requirement), requests to permit a subdivision of a lot which would result in new lots that do not meet minimum lot width requirements (variance to minimum lot width), or requests to increase the height of a fence (variance to fence height).

CONSIDERATIONS: In considering proposals for a structure such as a building addition, deck, accessory storage structure, fence or lot width variance, a property owner should do the following

1. Review the house location plat for the property. Generally, such plats may be obtained from the Zoning Permit Review Branch on the second floor of the Herrity Building at 12055 Government Center Parkway, Fairfax, VA, either by visiting the office or by calling 703-222-1082 and requesting a copy be faxed. Faxed copies will not be as clear or accurate as a Xeroxed copy picked up in person.
2. Review the zoning of the property by checking a zoning map at a local public library or on the web site <https://www.fairfaxcounty.gov/gisapps/DMV/Default.aspx> or by going to the web site <http://icare.fairfaxcounty.gov/ffxcare/Main/Home.aspx> and entering the property address number and street name.
3. Obtain the required setbacks for the zoning district in which the property is located by checking the Zoning Ordinance at a local public library or by going to the web site <https://www.fairfaxcounty.gov/planning-zoning/zoning-ordinance>, and looking at Article 3 bulk regulations for the front, side and rear yards. In addition, some properties are governed by proffers or development conditions that may further restrict setbacks and what can be done on the property. You may get that information by calling 703-324-1290.
4. Using the information obtained, develop designs that would meet the required setbacks or minimum yard requirements.

As a variance can only be approved if it meets the very restrictive 9 variance standards as found on page 3, consideration should be given as to whether a proposed structure could be placed in another location or designed to alleviate the need for a variance. A variance request should be considered only as a last resort to be used after all design alternatives have been considered and there is no alternative solution.

BOARD OF ZONING APPEALS: The Board of Zoning Appeals (BZA) is a quasi-judicial body comprised of Fairfax County citizens who are appointed by the Circuit Court. There are seven members, with each member serving in an at-large capacity for a term of five years. The BZA has the authority, among other powers, to approve variances of the Zoning Ordinance. The powers of the BZA are defined by the Zoning Ordinance and the State enabling legislation.

WHO CAN FILE A REQUEST FOR A VARIANCE: A variance can be filed by a property owner, tenant, or a designated authorized agent, a government official, a department, a board or a bureau. An agent cannot be an applicant but can be authorized to act on the applicant's behalf. If the applicant is not the owner of the property, evidence must be submitted showing that the applicant will have the right to use the property as proposed.

SUBMISSION REQUIREMENTS: A variance application must meet submission requirements as specified in the Zoning Ordinance. A synopsis of the submission requirements is presented on pages 7 and 8 of this publication in a checklist format to provide a convenient way to ensure that all required portions of the application package are submitted.

WHERE TO SUBMIT: Variance application packages may be submitted by mail or in person to:

Fairfax County Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

ASSISTANCE: For clarification of these instructions, to obtain other information related to the application process, or to request help in filing your application, please call the Zoning Evaluation Division at 703-324-1290, TTY 711 (VA Relay), or visit the web site at <https://www.fairfaxcounty.gov/planning-zoning>.

BOARD OF ZONING APPEALS DECISION: The BZA may approve, deny, or approve-in-part, a variance request. The BZA may approve a variance only upon a finding that the request meets **all of the required standards for a variance** as outlined in Sect. 18-404 of the Zoning Ordinance. These Standards are found on page 3 of this publication and are based upon the Code of Virginia Section 15.2309 – Powers and Duties of the BZA.

ZONING ORDINANCE STANDARDS FOR A VARIANCE

Pursuant to Section 18-404 of the Zoning Ordinance, in considering a variance, the Board of Zoning Appeals (BZA) makes specific findings based on the evidence before it. The BZA can approve a variance only when it finds that the application satisfies **all of the following enumerated requirements**. *In support of a request for a variance, a detailed explanation of how each of these standards is met should be provided in writing and submitted with the application by the applicant.*

18-404 Required Standards for Variances

In furtherance of the requirements of §15.2-2309 of the Code of Virginia, to grant a variance, the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.
2. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
3. That the strict application of this Ordinance would unreasonably restrict the utilization of the subject property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the subject property or improvements thereon at the time of the effective date of the Ordinance.
4. That such unreasonable restriction or hardship is not shared generally by other properties in the same zoning district and the same vicinity.
5. That the granting of the variance will not be of substantial detriment to adjacent property.
6. That the variance will be in harmony with the purposes of this Ordinance and will not be contrary to the public interest.

Application for a Variance – Statement of Justification

The standards that the BZA must consider when reviewing an application for a variance are provided in this document. These criteria became effective on October 19, 2016 with the adoption of Zoning Ordinance Amendment ZO 16-456. The approval of a variance is also governed by sections §15.2-2201 and §15.2-2309(2) of the Code of Virginia which was revised on July 1, 2015. These standards are summarized and paraphrased here as a guide for illustrative purposes only and do not substitute for the officially adopted text published in Section 18-404 of the Fairfax County Zoning Ordinance and Title 15.2 of the Code of Virginia.

Justifying an application for a variance has two parts: **Part A.** – You must prove that the request qualifies under the definition of a variance as defined in State code, and **Part B.** – You must prove that all of the elements necessary for the BZA to grant a variance are satisfied. Your statement of justification must address both parts.

Part A – Definition of a Variance

Your statement must explain in detail how the request qualifies for relief under the definition of a variance which State Code defines as follows:

A reasonable deviation from those provisions regulating the size, height, area, bulk, or location of a building or structure when the strict application of the terms of the zoning ordinance would unreasonably restrict the utilization of the property.

Part B – Elements Necessary to Grant a Variance

The criteria that the BZA must consider when reviewing an application for a variance are listed below. Your statement of justification must explain in detail how your request meets **ALL** of the following **SIX** criteria:

- 1.) **That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.**
- 2.) **That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.**
- 3.) **That the strict application of this Ordinance would unreasonably restrict the utilization of the subject property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the subject property or improvements thereon at the time of the effective date of the Ordinance.**
- 4.) **That such unreasonable restriction or hardship is not shared generally by other properties in the same zoning district and the same vicinity.**
- 5.) **That the granting of the variance will not be of substantial detriment to adjacent property.**
- 6.) **That the variance will be in harmony with the purposes of this Ordinance and will not be contrary to the public interest. (must address all six criteria)**

PROCESSING OF THE APPLICATION

STEP 1 - SUBMISSION OF THE APPLICATION: A complete variance application package, containing all of the required items, must be submitted by mail or in person to the Zoning Evaluation Division (ZED) in the Department of Planning and Zoning (DPZ). The office is open Monday through Friday from 8:00 a.m. to 4:30 p.m. An application will be reviewed for acceptance only when a complete application package that contains all required submission items is submitted.

STEP 2 - APPLICATION ACCEPTANCE: The Applications Acceptance Section of the Zoning Evaluation Division will review all complete application packages in the order in which they are received. If deficiencies are found, a letter will be sent to the applicant, or authorized agent, regarding deficiencies that must be corrected. The variance application will be accepted when all Zoning Ordinance submission requirements are met, including payment of the applicable fee. Once the variance application has been accepted, a letter will be sent to the applicant/agent verifying such acceptance.

STEP 3 – SPECIAL PERMIT/VARIANCE BRANCH: After a variance application is accepted, it is forwarded to the Special Permit/Variance Branch of the Zoning Evaluation Division for processing. At that time, a public hearing date will be scheduled and a Staff Coordinator will be assigned to the application. A letter will be sent to the applicant/agent confirming this information. By State law, the public hearing date must be held within 90 days after the application is accepted, unless a deferral is requested by the applicant. If you have any questions about your application once it has been accepted, please call 703-324-1280 – TTY 711.

STEP 4 – STAFF REVIEW: The Staff Coordinator will contact the applicant/agent to introduce him or herself and to discuss the application. The Staff Coordinator may request more information, such as drawings or photographs, which are necessary to understand and evaluate the request fully. The applicant/agent can contact the Staff Coordinator at 703-324-1280 regarding any questions or comments during the processing of the application. The Staff Coordinator will prepare a staff report which presents the variance request, background information and other relevant research. The staff report is published one week before the public hearing, at which time it is mailed to the applicant/agent, delivered to the BZA, and made available to the public. The staff report is also available on-line the week prior to the public hearing at site <http://ldsnet.fairfaxcounty.gov/ldsnet/>.

STEP 5 - NOTIFICATION: Between 30 and 40 days prior to the public hearing, a package will be sent to the applicant/agent, by certified mail, outlining the procedures for notifying surrounding property owners of the public hearing on the variance request. Providing notification is a State and County legal requirement. The applicant/agent **must follow the directions contained in the notice package** including sending the specified written notice to a minimum of 10 different property owners abutting, across the street from, and/or in the immediate vicinity of the property. A public hearing cannot be conducted unless the notification process is completed correctly and within the mandated timeframe. Failure to adhere to the procedures contained in the notification package will jeopardize the scheduled public hearing date. Questions regarding the legal notification should be addressed to the Clerk of the Board of Zoning Appeals at 703-324-1280 – TTY 711.

Between 21 and 14 days prior to the public hearing, County staff will advertise the public hearing in a local newspaper. A minimum of 15 days prior to the public hearing, County staff will also place one or more yellow sign boards on the application property notifying the public of the public hearing. The sign boards must not be moved or removed from the property. After the public hearing, the sign boards will be removed by County staff.

STEP 6 - PUBLIC HEARING: BZA public hearings are open to the public and are held most Tuesday mornings at 9 a.m. in the Board Auditorium in the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Va. Check the Board Agenda on the County web site at <https://www.fairfaxcounty.gov/planning-zoning/board-zoning-appeals/weekly-agendas> or call 703-324-1280, TTY 711 (VA Relay) for specific meeting dates.

To learn more about the public hearing process, applicants may want to view a meeting prior to their hearing date.

Televised Meetings: Fairfax County Cable Channel 16 broadcasts all BZA meetings live. For program listings, check the viewing guide at <https://www.fairfaxcounty.gov/cableconsumer/channel-16/fairfax-county-government-television/>, or call 703-324-5930, TTY 711 (VA Relay).

Telephone Access: To listen by telephone while the public hearings are underway call 703-324-7700, TTY 711.

Public Access: For special accommodations or alternative information formats, call 703-324-3151, TTY 711.

Typically public hearings are conducted as follows:

- The Chairman of the BZA will call an application to be heard.
- The applicant/agent is required to be present at the public hearing and will be asked to come to the podium to state his/her name and address and to reaffirm the affidavit.
- Staff will describe the location of the property and the request, and will present other pertinent information.
- The applicant/agent will present the justification for the variance request, including how the application meets the Required Standards for a Variance.
- The BZA will open the public hearing for testimony in support of, or in opposition to, the request. Anyone wanting to speak may do so at the public hearing or may submit written testimony to the Clerk to the BZA. Although not mandatory, as a courtesy and to ensure the accuracy of the record, those who wish to speak on a particular case are requested to sign up on the speaker's list prior to the day of the meeting by contacting the Clerk to the Board of Zoning Appeals at 703-324-1280 – TTY 711 or via an e-mail (to BZAClerkMail@fairfaxcounty.gov) and identifying the following:
 - application number,
 - the speaker's name,
 - the speaker's address and telephone number.

Speakers will not be called upon by name, but should make their presence known when the Chairman asks for speakers in support of, or in opposition, to the specific application.

- At any time during the public hearing, a member of the BZA may ask questions of the applicant/agent, staff or a speaker.
- The BZA makes its determination based on whether it finds that the application meets **all of the Zoning Ordinance Required Standards for a Variance** as found on page 3 of this publication. The BZA may impose conditions on a variance, as it deems necessary.
- The BZA will close the public hearing and may approve, deny, approve-in-part; may continue the hearing to another date if it needs additional information; or, may defer decision to a later date. Decisions of the BZA are typically not final until eight days following the decision.

STEP 7 - LETTER OF APPROVAL OR DENIAL: The Clerk to the BZA mails a letter containing the final decision of the BZA and a copy of the adopted Resolution to the applicant/agent immediately after the final BZA decision. If the BZA denies a variance request, a new variance application cannot be filed on the same property for a year, unless a waiver of the one-year wait period is granted by the BZA.

STEP 8 – IMPLEMENTATION: If a variance is approved by the BZA, the variance must be implemented within the time period specified by the BZA, or the approval will expire. The approved time period is usually 30 months from the date of approval, unless otherwise stated. The amount of time originally granted is contained in the Resolution attached to the Clerk to the Board’s letter of approval, as are conditions which must occur to implement the variance.

The BZA may grant additional time beyond the originally established time period to implement a variance. Should additional time be necessary to establish the approved variance, a letter requesting additional time must be filed with the Zoning Administrator prior to the date of expiration of the variance. The additional time request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation as to why additional time is required.

Subsequent to the approval of a variance, all applicable County regulations and processes must be followed. Depending upon the type of variance approved, these may include, among others, the requirement to file for a building permit (Department of Public Works and Environmental Services in Room 224 at 12055 Government Center Parkway, Fairfax, Va. 22035, 703-222-0801 – TTY 711) or for a subdivision plat (Department of Public Works and Environmental Services, Site Plan Control Office on the 5th floor at 12055 Government Center Parkway, Fairfax, Va. 22035, 703-324-1575 – TTY 711).

SYNOPSIS OF THE SUBMISSION REQUIREMENTS FOR VARIANCE APPLICATIONS

A variance application must meet the submission requirements specified below in order to be accepted for processing. Complete application packages containing all eight items must be submitted before the application will be reviewed for compliance with the submission requirements by the Applications Acceptance Section of the Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ). If the application does not meet the submission requirements, a checklist letter outlining the deficiencies will be sent to the applicant or designated agent. The application will not be accepted and scheduled for a public hearing until all deficiencies have been resolved.

To assist in ensuring that you have submitted a complete application, please check the box provided for each item included in your application.

| REQUIREMENT | SUBMITTED |
|--|--------------------------|
| <p>1. Four (4) copies of the Variance Application Form, as provided by Fairfax County, completed and signed by the applicant or authorized agent. The applicant or authorized agent can use the form found on page 9 of this Application Package or use a copy from the website. In order to fill out the application form, the Department of Tax Administration records at http://icare.fairfaxcounty.gov/ffxcare/Main/Home.aspx may be used to search, by using the property address, the tax map number, subdivision name, Magisterial District and zoning district. The land area of the application property must match that shown on the variance plat.</p> | <input type="checkbox"/> |
| <p>2. One (1) original Variance Plat that is prepared and sealed by a professional land surveyor, engineer, architect or landscape architect licensed in the State of Virginia. See the detailed Requirements for Variance Plats found on pages 10 and 11 of this package.</p> | <input type="checkbox"/> |
| <p>3. One (1) copy of the current Fairfax County Official Zoning Map, showing the subject property and an area of at least a 500 foot radius around the property. If more than one (1) Zoning Map sheet is required to cover the area, such sheets shall be combined to create a single readable map. The boundaries of the subject site must be outlined in red.</p> <p>Fairfax County Official Zoning Map Sheet(s) can be obtained from the web at https://www.fairfaxcounty.gov/gisapps/DMV/Default.aspx by selecting Zoning Map and the appropriate map grid (such as 045-2).</p> | <input type="checkbox"/> |
| <p>4. Photographs of the property showing <u>all</u> existing structures, terrain, vegetation, and the proposed location of any new structures. This usually includes photographs of the front, side and rear yards of the property. The subject property address should be printed on the back of the photographs and the viewpoint from which the photos were taken should be identified.</p> | <input type="checkbox"/> |

| REQUIREMENT | SUBMITTED |
|---|-----------|
| <p>5. A written statement of justification addressing in detail how the application complies with all required standards for a variance as set forth in Section 18-404 of the Zoning Ordinance (see page 3 of this publication). If the proposal includes the request for a variance of the yard regulations for yards abutting certain principal arterial highways and railroad tracks pursuant to Sect. 2-414, a study showing projected noise impacts, proposed mitigation measures and the effectiveness of such measures shall be submitted.</p> | |
| <p>6. An original notarized affidavit, completed and signed by the applicant or the applicant’s authorized agent. If the applicant’s authorized agent completes the application or affidavit on the applicant’s behalf, a certified statement from the applicant must be submitted authorizing the agent to complete the affidavit on the applicants behalf. The affidavit must be updated if there are any changes in the information. All affidavits are reviewed by the Office of the County Attorney for completeness and accuracy. A copy of the affidavit form is included starting on page 12 of this publication and is also available on the web. Please note that for additions to most single family residences, only pages 1 – 5 of the affidavit form must be completed. Please put N/A for sections on the affidavit form that do not apply. <i>Prior to each public hearing on the application, the applicant or authorized agent is required to verbally reaffirm the affidavit.</i></p> | |
| <p>7. A notarized original signed statement which confirms the ownership of the subject property, and the nature of the applicant’s interest in the property. If the applicant is not the owner of the property involved in the application, evidence must be submitted showing that the applicant will have the right to use the property as proposed.</p> | |
| <p>8. A check written to the County of Fairfax in the amount shown on the fee schedule as set forth on page 23 of this package.</p> <p>Checks returned due to insufficient funds are subject to a \$50 fee (Fairfax County Code, §1-1-17; Va. Code § 15.2-106).</p> | |
| <p>9. Please refer to page 24 regarding Va. Code § 57-15 which references “Proceeding by trustees or members for similar purposes, exception for certain transfers.” If applicable, please provide this documentation.</p> | |



COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Evaluation Division
 12055 Government Center Parkway, Suite 801
 Fairfax, VA 22035 (703) 324-1290
 TTY 711 (VA Relay)
<https://www.fairfaxcounty.gov/planning-zoning/zoning/application-packages>

APPLICATION No: _____
 (Staff will assign)

APPLICATION FOR A VARIANCE

(PLEASE TYPE or PRINT IN BLACK INK)

| | |
|---|---|
| APPLICANT | NAME |
| | BUSINESS NAME (e.g., d/b/a; aka; LLC; trading as, etc.) |
| | PHONE HOME () WORK () |
| PROPERTY INFORMATION | PROPERTY ADDRESS |
| | TAX MAP NO. SIZE (ACRES/SQ FT) |
| | ZONING DISTRICT MAGISTERIAL DISTRICT |
| VARIANCE REQUEST INFORMATION | ZONING ORDINANCE SECTION (staff will fill this out) |
| | NATURE OF REQUEST [circle the item(s) and fill in as appropriate] |
| | A. To permit construction of [circle the appropriate item(s)]: _____ <u>story dwelling</u> , <u>addition</u> , <u>deck</u> , <u>roofed deck</u> , <u>accessory storage structure</u> , <u>accessory structure</u> , _____ feet from the: <u>front</u> , <u>side</u> , <u>rear</u> lot line _____ _____ |
| | B. To permit the construction of a fence greater than _____ ft. in height in the [circle the appropriate item(s)]: <u>front yard</u> , <u>side yard</u> or <u>rear yard</u> _____ |
| C. Other _____ | |
| AGENT/CONTACT INFORMATION | NAME |
| | MAILING ADDRESS |
| | PHONE HOME () WORK () |
| MAILING | Send all correspondence to (check one): <input type="checkbox"/> Applicant -- or -- <input type="checkbox"/> Agent/Contact |
| <p>The name(s) and addresses of owner(s) of record shall be provided on the affidavit form attached and made part of this application. The undersigned has the power to authorize and does hereby authorize Fairfax County staff representatives on official business to enter onto the subject property as necessary to process the application.</p> | |
| _____ TYPE/PRINT NAME OF APPLICANT/AGENT | _____ SIGNATURE OF APPLICANT/AGENT |

DO NOT WRITE IN THIS SPACE

Date application received: _____ Date application accepted: _____

Application Fee Paid: \$ _____

REQUIREMENTS FOR VARIANCE PLATS

An application for a variance must include a Variance Plat as set forth below.

Number and size of the Variance Plats to be submitted:

- One (1) signed and sealed original Variance Plat presented on a sheet having a maximum size of 24” x 36” and a maximum scale of 1” = 50’.
- Nine (9) copies, or additionally signed and sealed original Variance Plats, when the requested variance is for reduction of minimum yard width or fence height; OR
- Twenty-one (21) copies, or additional signed and sealed original Variance Plats, when the requested variance is for a reduction of minimum lot width.
- One (1) 8.5” x 11” reduction of the original Variance Plat.

If the proposal cannot be accommodated on a single 24” x 36” sheet at the scale of 1” = 50’, a scale of not less than 1” = 100’ may be used. If presented on more than one (1) sheet, match lines shall clearly indicate where the sheets join. All scaled dimensions shall be provided in English units.

A copy of the following Variance Plat requirements should be provided to the certified professional engineer, architect, landscape architect or land surveyor licensed in the Commonwealth of Virginia who is preparing the Variance Plat. No application will be accepted unless all of the requirements are met. However, upon receipt of a written request from the applicant/agent with justification, a modification or waiver of a Variance Plat, or one or more of its component submission requirements, may be approved, if it is determined by the Director of the Zoning Evaluation Division (ZED) that the requirement is clearly not necessary for the review of the application.

| REQUIREMENT | SUBMITTED |
|---|-----------|
| I. Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each zoning district. | |
| II. Total area of the property and of each zoning district in square feet (if less than an acre) or in acres. | |
| III. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat; and any supporting graphics. | |
| IV. Location of all existing and proposed structures, with dimensions, including height in feet of any structure and/or penthouse. | |
| V. All minimum required front, side, and rear yards and a graphic depiction of the angle of bulk plane, if applicable; transitional yards; and, the distances from all existing and proposed structures to lot lines. | |

| REQUIREMENT | SUBMITTED |
|--|-----------|
| <p>VI. Public right(s)-of-way, indicating name, route number, and width and, where applicable, required and/or proposed improvements to public right(s)-of-way. This requirement shall not be applicable for an application to vary the minimum yard requirements for dwellings.</p> | |
| <p>VII. Proposed ingress and egress to the property from a public street(s).</p> | |
| <p>VIII. Location of parking spaces, existing and/or proposed, indicating minimum distance from nearest property line(s). This requirement shall not be applicable for an application to vary the minimum yard requirements for dwellings.</p> | |
| <p>IX. Location of well and/or septic field, or indication that the property is served by public water and/or sewer, as applicable.</p> | |
| <p>X. The location of all existing public utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements, regardless of width.</p> | |
| <p>XI. Approximate delineation of any grave, object or structure marking a place of burial, if known, and a statement indicating how the proposed development will impact the burial site. This requirement shall not be applicable for an application to vary the minimum yard requirements for dwellings.</p> | |
| <p>XII. In addition to the above, if the proposal involves a variance of the minimum lot width requirements:</p> <ol style="list-style-type: none"> (1) Delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way; (2) Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County; the delineation of any Resource Protection Area and Resource Management Area; and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan; and (3) When there is 2500 square feet or more of land disturbing activity, an existing vegetation map. | |
| <p>XIII. Seal and signature of professional person certifying the plat.</p> | |

Application No.(s): _____
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

I, _____, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

=====

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application, and, if any of the foregoing is a **TRUSTEE***, each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

| NAME | ADDRESS | RELATIONSHIP(S) |
|---|---|--|
| (enter first name, middle initial, and last name) | (enter number, street, city, state, and zip code) | (enter applicable relationships listed in BOLD above) |

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

1(b). The following constitutes a listing** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a “Special Permit/Variance Attachment 1(b)” form.

** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

=====

1(c). The following constitutes a listing** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter “**NONE**” on the line below.)

(check if applicable) There are more interests to be listed and Par. 2 is continued on a “Special Permit/Variance Attachment to Par. 2” form.

Application No.(s): _____
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature:

(check one) Applicant Applicant's Authorized Agent

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this _____ day of _____, 20____, in the State/Comm. of _____, County/City of _____.

Notary Public

My commission expires: _____

Application No.(s): _____
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Page _____ of _____

Special Permit/Variance Attachment to Par. 1(a)

DATE: _____
(enter date affidavit is notarized)

(NOTE): All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

| NAME (enter first name, middle initial, and last name) | ADDRESS (enter number, street, city, state, and zip code) | RELATIONSHIP(S) (enter applicable relationships listed in BOLD above) |
|--|---|--|
|--|---|--|

(check if applicable)

There are more relationships to be listed and Par. 1(a) is continued further on a "Special Permit/Variance Attachment to Par. 1(a)" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

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Special Permit/Variance Attachment to Par. 1(b)

DATE: _____
(enter date affidavit is notarized)

=====

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

=====

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

=====

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): _____
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Special Permit/Variance Attachment to Par. 1(c)

DATE: _____
(enter date affidavit is notarized)

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g., **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a “Special Permit/Variance Attachment to Par. 1(c)” form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

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Special Permit/Variance Attachment to Par. 2

DATE: _____
(enter date affidavit is notarized)

(check if applicable)

There are more financial interests in the subject land to be listed and Par. 2 is continued further on a “Special Permit/Variance Attachment to Par. 2” form.

Special Permit/Variance Attachment to Par. 3

DATE: _____
(enter date affidavit is notarized)

for Application No. (s): _____
(enter County-assigned application number (s))

(check if applicable)

There are more disclosures to be listed for Par. 3, and Par. 3 is continued further on a “Special Permit/Variance Attachment to Par. 3” form.

FEE SCHEDULE FOR VARIANCE APPLICATIONS

Pursuant to Section 18-106 of the Zoning Ordinance, the following fees are to be submitted with each variance application.

| <u>Type of Variance Application</u> | <u>Filing Fee</u> |
|-------------------------------------|-------------------|
|-------------------------------------|-------------------|

Application for a variance

- | | |
|--|------------------------------------|
| • Increase in maximum fence and/or wall height in residential districts | \$435 |
| • Increase in maximum fence and/or wall height in non-residential districts | \$2500 |
| • Residential minimum yard variance; modification of location regulations or use limitations for residential accessory structures or uses; modification of grade or increase in building height for single family detached dwellings | \$910 |
| • All other variances | \$8180 |
| • Amendment to a pending application for a variance | 1/10 of prevailing fee |
| • Amendment to a previously approved and currently valid variance with new construction | Prevailing fee for new application |
| • Amendment to a previously approved and currently valid variance with no new construction | 1/2 of prevailing fee |

Note: When one application is filed by one applicant for two (2) or more variances on the same lot, only one filing fee shall be required. Such fee shall be the highest of the fee required for the individual uses.

The fee for an amendment to a pending application for a variance is only applicable when the amendment request results in a substantial revision, as determined by the Zoning Administrator.

§ 57-15. Proceedings by trustees or members for similar purposes, exception for certain transfers.

A. The trustees of such a church diocese, congregation, or church or religious denomination, or society or branch or division thereof, in whom is vested the legal title to such land held for any of the purposes mentioned in § [57-7.1](#), may file their petition in the circuit court of the county or the city wherein the land, or the greater part thereof held by them as trustees, lies, or before the judge of such court in vacation, asking leave to sell, encumber, extend encumbrances, improve, make a gift of, or exchange the land, or a part thereof, or to settle boundaries between adjoining property by agreement. Upon evidence being produced before the court that it is the wish of the congregation, or church or religious denomination or society, or branch or division thereof, or the constituted authorities thereof having jurisdiction in the premises, or of the governing body of any church diocese, to sell, exchange, encumber, extend encumbrances, make a gift of, or improve the property or settle boundaries by agreement, the court shall make such order as may be proper, providing for the sale of such land, or a part thereof, or that the same may be exchanged, encumbered, improved, or given as a gift, or that encumbrances thereon be extended, and in case of sale for the proper investment of the proceeds or for the settlement of such boundaries by agreement.

When any such religious congregation has become extinct or has ceased to occupy such property as a place of worship, so that it may be regarded as abandoned property, the petition may be filed either by the surviving trustee or trustees, should there be any, or by any one or more members of such congregation, should there be any, or by the religious body which by the laws of the church or denomination to which the congregation belongs has the charge or custody of the property, or in which it may be vested by the laws of such church or denomination. The court shall either (i) make a decree for the sale of the property or the settlement of boundaries between adjoining properties by agreement, and the disposition of the proceeds in accordance with the laws of the denomination and the printed acts of the church or denomination issued by its authority, embodied in book or pamphlet form, shall be taken and regarded as the law and acts of such denomination or religious body or (ii) at the request of the surviving trustees and after notice in accordance with law to all necessary parties, make such order as may be proper providing for the gift of such property to any willing local, state or federal entity or to a willing private, nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, provided the court finds that (a) the property includes a historic building or landmark so designated by the Commonwealth and (b) the purpose of such gift is historical preservation of the property.

The court may make such order as to the costs in all these proceedings as may seem proper.

B. As an alternative to proceeding under subsection A, (i) the trustees of a church or religious body that incorporate may transfer the title to the real and personal property of the church or religious body held by them to the incorporated church or religious body; and (ii) the trustees of a church or religious body that do not incorporate under subdivision (i) hereof may transfer title to the real and personal property of the church or religious body held by them to a corporation created pursuant to § [57-16.1](#) without, in either instance, obtaining court permission if the transfer is authorized in accordance with the church's or religious body's polity. If no petition seeking to set such a transfer aside is filed within one year of the recordation of the trustees' deed transferring title to the real estate, or the date of the transfer of any personal property, it shall be conclusively presumed that the transfer was made in accordance with the church's or religious body's polity insofar as a good faith purchaser or lender is concerned.

C. No transfer made pursuant to subsection A or B shall operate as a transfer for purposes of a provision contained in any note or deed of trust that purports to accelerate an indebtedness upon a transfer of title. Any such transfers of real estate shall be entitled to the exemptions set forth in § [58.1-811](#).

D. Any transfer of real or personal property made pursuant to subsection B, and any similar transfer made pursuant to subsection A after April 23, 2002, shall be deemed to assign to the incorporated church or religious body, or the corporation created pursuant to § [57-16.1](#), as the case may be, the beneficial interest in every policy of insurance of every kind, type, and description, relating to the property transferred, contemporaneously with the transfer, and the transferee shall have all of the rights and obligations of the transferor relating thereto.

(Code 1919, § 46; 1924, p. 535; 1938, p. 179; 1962, c. 516; 1974, c. 138; 1983, c. 542; 1993, c. 370; 1998, c. [258](#); 2005, c. [772](#).)