

BOARD OF ZONING APPEALS APPLICATION

DELIVER TO: Department of Planning and Community Development
Secretary, Board of Zoning Appeals
442 W. Washington Street
Suffolk, VA 23434

DEADLINE: The Board meets on the **2nd Tuesday of each month at 2:00 p.m.** in the City Council Chambers. Applications with all attachments, along with the application fee of **\$551**, must be received by noon on the last working day of the month, approximately 6 weeks before the meeting. If the applications are to be mailed, they must be received no later than the last working day of the month. **FACSIMILES ARE NOT ACCEPTED.** If you are uncertain about a meeting date or deadline, please call the **Secretary of the Board (514-4154)**. The Board reserves the right to adjust the meeting schedule as necessary.

BOARD OF ZONING APPEALS: Chairman, Howard C. Benton; Vice-Chairman, Melissa Venable; Peter C. Jackson; Daniel Frohman; Richard Esleck

In accordance with State Code § 15.2-2309, applications for variances will be reviewed as indicated below:

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider—any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § **15.2-2201**, provided that the burden of proof shall be on the applicant for a variance to prove by a

preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted 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 thereon at the time of the effective date of the ordinance, and **(i) 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; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) 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; (iv) 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 (v) 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 A4 of § 15.2-2286 at the time of the filing of the variance application.**

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting 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 being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

BOARD OF ZONING APPEALS APPLICATION INSTRUCTIONS

Items 1-3. Complete information for applicant, property owner and property specifics.

Item 4. The filing fee is MANDATORY. NO ACTION WILL BE TAKEN ON THE APPLICATION WITHOUT A FILING FEE.

Item 5. The Secretary to the Board will assist applicants in determining whether the application is a variance request, CBPA exception request, or an appeal of the Zoning Administrator's decision/zoning violation letter. The Secretary is unable to assist applicants in detailed preparations.

Item 6. **Survey plats of the property are required.** Plats, plans and other illustrations of your situation will be of great help to the Board of Zoning Appeals in determining the outcome of your request. For an exception within the Chesapeake Bay Preservation Area, a Water Quality Impact Assessment (WQIA) is required. The WQIA must include:

- Plat of the property
- Location of proposed structure
- Resource Management Area Boundary and a 100-year flood plain
- Septic/drainfield and reserve drainfield (if applicable)
- Stormwater runoff pollutant loading index per attached calculation sheet
- Exception area being requested

Item 7. Provide all pertinent information regarding the nature and scope of your project.

For a *variance*, explain how the physical characteristics of your property prevent use of the property when required to comply with the Ordinance section. If your property has no unusual physical features, explain the other circumstances that make your property useless when complying with the Ordinance section. See highlighted § 15.2-2309 attached

Variance example: Allow me to have a 20-foot front yard setback instead of the 30-foot setback in the Ordinance section.

For a *CBPA exception*, explain how the request is the minimum necessary to accommodate the proposed structure and is consistent with the intent of the Resource Management/Protection Overlay District.

CBPA exception example: Allow me to have the 100-foot RPA buffer reduced to 50 feet.

For an *appeal of the Zoning Administrator's decision/zoning violation letter*, explain why you think the Zoning Administrator is mistaken in believing that

you are violating the Zoning Ordinance on your property, or why you think the Zoning Administrator's decision was not in conformance with the intent and requirements of this ordinance.

For a *special exception*, explain why the granting of the special exception will not have adverse impact on adjacent properties and how the character of the vicinity will not be changed.

Special Exception Example: Allow me to expand my legal nonconforming use by adding an addition to the rear of the structure along the existing nonconforming side setback.

Item 8. Identify the specific section in the Zoning Ordinance that is causing you to file this application.

Example: Zoning Ordinance Section 31-405. If more than once section is involved, use the continuation sheets provided.

Item 9. Explain where relief is requested – example front, side, rear setbacks.

Item 10. List current use of property – example, 1 dwelling and 1 detached garage.

Item 11. Describe in detail the proposed request for a variance and explain how your request meets the hardship criteria as outlined in the attached State code .

Item 12. When did you purchase the property?

Item 13. Indicate if an appeal has been made to the BZA within the past year.

Item 14. Has a Notice of Violation been issued against this property?

Item 15. Sign and Date the application

**If you are unsure how to answer any of the questions on this application, the Board's Secretary will be glad to assist you
(757-514-4154)**



**CITY OF SUFFOLK BOARD OF ZONING APPEALS
APPLICATION**

APPLICATION NUMBER _____

1. Name of Applicant: _____
Address: _____
Phone Number: _____

2. Name of property owner if different from applicant:

Owner: _____
Address: _____
Phone Number: _____

3. Property Specifics:

Address: _____
Location/Neighborhood: _____
Tax Map: _____ Parcel Number: _____

4. A check for \$551.00, payable to "City of Suffolk", is attached to this application for the filing fee. ____ Yes ____ No, explain: _____

5. I/we have had a pre-application conference with the Secretary of the Board to confirm the type of application. ____ Yes ____ No
If no, explain: _____

6. I/We have provided plats, plan or other documents needed for this application.
____ Yes ____ No, explain: _____

7. I/we request that a hearing be scheduled before the Board of Zoning Appeals to hear a request for (check all that apply)

- Variance Request
- Chesapeake Bay Exception Request
- Special Exception
- Appeal of the Zoning Administrator's decision/violation letter dated _____ (attach copy of correspondence)

8. The following Ordinance section(s) apply to this application: Zoning Ordinance Section(s)

9. In the section(s) mentioned in item 8 above, what do you need relief from (example - side yard setback)

10. Current use of the property (residential, commercial, etc.) Number of structures on site

11. Describe in detail the nature of your appeal and/or request for a variance. Include in your explanation how your request reflects the 5 elements of a hardship as listed in § 15.2-2309 of the Code of Virginia:

(i) 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;

- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

- (iii) 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;

- (iv) 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;

- (v) 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 A4 of § 15.2-2286 at the time of the filing of the variance application.

12. When did you acquire the property and from whom?

13. Has an appeal been filed for this property within the last year?
 Yes No

14. Is this property currently under any legal action (i.e., violation notice for non-compliance with construction codes, zoning regulations, court order, etc.)?
 Yes No

If yes, explain _____

15. I/we certify that, to the best of my/our knowledge, the information above is complete and accurate.

I/we hereby grant the right of trespass to any party essential to the review of this application.

Applicant's Signature _____ Date _____
Applicant's Signature _____ Date _____

Property Owner _____ Date _____
Property Owner _____ Date _____

