



Department of Planning and Zoning



Variances

A variance is a grant of relief from or modification to requirements of the Howard County Zoning Regulations relating to the size or location of a structure or use. Requirements, which may be considered for variances, include:

- maximum height of structures
- minimum lot size and width
- minimum setbacks from public street rights-of-way and property lines

Applications

Variance application forms may be obtained from the Department of Planning and Zoning and from the Internet. Applications must be completely and accurately filled out. They must also include a variance plan containing those items listed on the application checklist. Department personnel are available to assist in explaining the variance process and ensuring that petitions are properly filed.

The County Council establishes filing fees. The current fees are listed on the application form.

Criteria

The Zoning Regulations contain four general standards that all variance requests must conform to in order to be granted. The four general standards are:

1. The site has unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography, or other existing features which result in practical difficulties or unnecessary hardships in complying strictly with the bulk provisions of the Zoning Regulations.
2. The variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
3. Such practical difficulties or hardships have not been created by the owner; provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

4. Within the intent and purpose of the Zoning Regulations, the variance, if granted, is the minimum variance necessary to afford relief.

Variance Petition Process

1. Submission

An applicant who is ready to submit a variance petition should call the Department of Planning and Zoning for an appointment. At the submission appointment, a staff member briefly checks the petition for completeness. Once submitted, staff reviews the petition in more detail to check for errors or discrepancies and to determine whether it includes adequate information for an evaluation of all criteria. If the staff notes any such items in this pre-acceptance review, the applicant is notified in writing and given the opportunity to correct or supplement the information provided in the petition. Once the applicant responds with the corrections or additional material, or if the staff did not find a need for these, the petition is accepted for scheduling.

2. Scheduling

After a petition has been accepted, a hearing is scheduled. The date scheduled is based upon the requirements for public notice and the number of cases currently on the docket.

3. Posting

Property zoned as commercial or industrial must be posted at least 30 days immediately prior to the hearing. Property zoned as residential must be posted 15 days prior to hearing. The Department of Planning and Zoning will supply the posters but the petitioner will be responsible for erecting and maintaining them. Prior to the hearing the petitioner must sign an affidavit attesting that the property has been posted in accordance with the applicable requirements.

4. Advertising

The petitioner, at his/her own expense, must advertise the date, time and place of the hearing in at least 2 newspapers of general circulation in Howard County. The ad must appear at least 30 days prior to the hearing for commercial and industrial zoning and at least 15 days prior to the hearing for residential. The Department of Planning and Zoning will provide the petitioner with the advertisement to be delivered to the newspapers.

5. Technical Staff Report

The Department of Planning and Zoning issues a Technical Staff Report, which evaluates the petition and recommends approval or denial. Included in this report are comments from other agencies, which may have an interest in the case. The report is typically issued on a Friday at least 11 days prior to the hearing, but copies may not be available on that date due to staffing and time constraints. Please call the Department to check on the availability of copies. For variance petitions in residential zoning districts, a Technical Staff Report is not required. However, the Hearing Examiner may request that the Planning Board hold a public meeting and make a recommendation on a particular petition. If this occurs, a Technical Staff Report will also be prepared.

6. Hearings

The Hearing Examiner at a public hearing hears all petitions. The date and time of the hearing is advertised to the public by means of the local newspapers and a sign that is placed on the property. The petitioner must attend the public hearing and be prepared to present his or her petition and answer any questions. Petitioners may choose to represent themselves or engage an attorney or other competent professional to present the case. Other people who are interested in the petition may attend the hearing and present testimony as permitted in the Hearing Examiner's Rules of Procedure.

7. Decision

The Hearing Examiner makes the final decision on a variance petition. The Hearing Examiner in the form of a written Decision and Order containing Findings of Fact, Conclusions of Law, the Decision and any conditions the Hearing Examiner finds appropriate issues the decision.

8. Reconsideration

Within 15 days of the issuance of a Decision and Order any party may request that the Hearing Examiner suspend and reconsider the Decision. The Hearing Examiner may reconsider the Decision only under limited circumstances such as cases of fraud, mistake or irregularity, to correct a clerical error, or for other good cause shown. The Hearing Examiner shall not rehear a matter unless new evidence is submitted which could not reasonably have been presented at the original hearing.

9. Appeals

A decision rendered by the Hearing Examiner may be appealed to the Board of Appeals of Howard County within 30 days of the issuance of the Decision and Order. Information concerning this appeal process should be obtained from private counsel or the Clerk of the Board of Appeals.

Additional Requirements

Building permits and other required plan approvals must be obtained prior to beginning construction on a project for which a variance has been granted. For development in commercial and industrial districts, and for some types of development in residential districts, approval of a site development plan is required before building permits are issued. All approved permits and plans must conform to the approved variance plan. Information on site development plan requirements may be obtained from the Department of Planning and Zoning.

A variance becomes void unless a building permit conforming to the variance plan is obtained within two years, and substantial construction is completed within three years from the date of the decision. There is no established process for extending variance approvals. Sale of the property during this time period does not affect the validity of the variance.

An important note...

This information is not to be considered legal advice. Additional information concerning the variance process is contained in Section 130 of the Zoning Regulations and the Rules of Procedure of the respective Boards. These documents are available through the Department of Planning and Zoning.

For more information contact:

The Howard County Department of Planning and Zoning
(410) 313-2350, TTY 410-313-2323 or www.howardcountymd.gov or visit Planning & Zoning's Customer Service Center on the first floor of the George Howard Building, 3430 Courthouse Drive, Ellicott City, Maryland, 212043.

Office Hours are:

Monday through Friday

8:00 a.m. to 5:00 p.m.

Written inquiries may also be sent to our office at the above address.

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