

**VARIANCE**

**BOARD OF APPEALS**  
**Dorchester County, Maryland**

Appeal Case No.  
Date Filed:  
Fee Paid:

To the Board of Appeals:

Pursuant to Article V, §155-21 of the Dorchester County Zoning Code, adopted November 24, 1998, effective January 1, 1999, a request is hereby made for:

- Variation from strict application of said ordinance
- Decision on allegation of error
- Special Exception
- Amend stipulations of previous appeal case

Purpose of Appeal: (Describe variance requested or alleged error. If Special Exception Requested state fully the kind of exception desired and reasons therefore).

Applicable Section(s) of Code: **Section 155-20;** \_\_\_\_\_

Zoned:            Road Classification:            Tax ID #

Property Located:    Containing:    acre(s):

Map:    Block:    Parcel:    Lot:

Owner of property:

Address if owner:    Telephone #

Applicant's name and address if different from above: \_\_\_\_\_

\_\_\_\_\_ Telephone # \_\_\_\_\_

Has property in question ever been subject of previous appeal:           #           Date:

FLOODPLAIN: YES   NO   EXEMPT       CRITICAL AREA: YES       NO

Permission is hereby granted to conduct necessary inspections of these premises for which this Appeal is requested.

No fees shall be refunded if an application is withdrawn after the publication of the public hearing notice.

Solely in the case of a Critical Area variance request, is the request in any way related to a disability of the applicant or anyone in the applicant's household? Yes       No

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Signature of Owner

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Signature of Applicant

**IMPORTANT:** A sketch of the property with proposed buildings or use must be submitted by the applicant. Applications on which all required information is not furnished will be returned for completion before processing.

## **VARIANCES – CRITERIA FOR REVIEW BY THE BOARD OF APPEALS**

This Guide is intended to assist you in preparing for your zoning appeal case.

Parties interested in an appeal to the Board of Appeals for their project under the variance section of the Dorchester County Zoning Ordinance should understand the parameters used by the Appeals Board in their decision.

A Variance is defined as:

Variance – A modification only of density, bulk or area requirements in the zoning ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the ordinance would result in unnecessary hardship or practical difficulty.

The key words are underlined and are consistent with the restriction that apply under each zoning district in the Zoning Ordinance, or example the minimum setbacks permitted in that District.

The Board of Appeals uses the following guidelines in deciding each case under the variance section:

1. The variance is not contrary to the public interest;
  - a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved;
  - b. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance;
  - c. The special conditions or circumstances did not result from action of applicant;
  - d. Granting the variance will not confer upon the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures or buildings in the same district.

The key words under this section are hardship and practical difficulty. The burden is placed on the applicant to prove to the Board that by not receiving their approval, it would be an unnecessary hardship, including financial hardship or practical difficulty, on them. All other sections as described are important to the applicant for making his/her case.

**PLEASE NOTE:** You may elect to be represented by legal counsel or you may represent yourself. If you choose to represent yourself, please be prepared to address the issues outlined above.

**VARANCE CRITERIA**

**APPLICANT:**

**DATE:**

1. The variance (**will**) (**will not**) be contrary to the public interest.

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- a. Special conditions and circumstances (**do**) (**do not**) exist which are peculiar to the structure or building involved.

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- b. Literal interpretation of the provisions of this ordinance (**would**) (**would not**) deprive the applicant of rights commonly enjoyed by other properties in the in the same district under the terms of the Dorchester County Zoning Ordinance.

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- c. The special conditions or circumstances (**did**) (**did not**) result from actions of the applicant.

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- d. Granting the variance requested (**will**) (**will not**) confer upon the applicant any privilege that is denied by the Dorchester County Zoning Ordinance to other land, structure or buildings in the same district.

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## How To Prepare and Present a Case For A Variance or Special Exception

Definitions: Criterion – *requirement or standard* which must be met in order to achieve a certain result or for evaluation or testing something.

Criteria – plural of criterion – more than one criterion.

- I A variance or special exception request must meet certain criteria in order to be approved. you should have received a copy of the criteria for your case with these instructions.
- II Failure to meet even one criterion can cause the variance or special exception to be denied!
- III A criterion is a statement, which the Board of Appeals in its own mind will answer positively or negatively after hearing the proof offered as to each criterion.
- IV You must supply the proof of each of the criteria required for your type of case at the hearing. **Also, before we can accept your application, we must receive a printed or typed complete response to each criteria applicable to your case.**
- V It is **not** sufficient to simply read the criteria in the best light for your case.
  - A. For example: in a **variance** it is not sufficient to just read criteria “a saying” special conditions or circumstances do exist which are peculiar to the land, structure or building involved”.
  - B. Rather you must prove the truth of that statement.  
For example: “When I bought property the ordinance wasn’t yet in effect. Now the tidewater buffer zone covers 90% of the property so that I cannot build a deck (or garage etc.) without interfering with the zone. The way only I can use my property normally is with a variance from the strict rules which were not in force when I bought it”.
  - C. It is not sufficient in a **special exception** to simply read criteria “e which says” it will not cause objectionable noise, vibration, fumes, odors, dust glare or physical activity”.
  - D. Rather you must prove that statement by testifying for example that; “My home occupation of mail order sales will be entirely conducted inside my house. The only noise will be the phone ringing and my talking which no one outside can hear. No vibration,, fumes, odors, dust glare or physical activity will be generated by my sitting in a chair talking to customers on the telephone.
- VI If there is opposition to your request it would be wise to anticipate their objections to your request and offer to take specific actions to make your request less objectionable to your neighbors.
- VII Likewise – if the Board of Appeals is hesitant to give you exactly what you asked for (such as nighttime operation of sawmill in a residential neighborhood) you might want to offer to accept something less (such as operating hours from 9 a.m. to 5 p.m.) which may relieve their hesitation.
- VIII If there are permits or inspections required from other state or federal agencies for your variance or special exception, you may wish to have these completed **before** appealing at the Board of Appeals, to avoid having to come back at a later time when they are completed.

APPEAL OR REZONING CASE NO. \_\_\_\_\_

**SIGN MAINTENANCE AGREEMENT**

I (we), the petitioner(s) of this appeal, agree that I (we) will be responsible for the continuous maintenance, during the period prior to the hearing date, of the sign which I(we) agree to have posted on the property for purposes of this hearing. I (we) further agree to notify the Planning and Zoning Office at 410-228-3234 if at any time during the required posting period this sign is not properly posted.

A check for \$50.00 made payable to Dorchester County Planning and Zoning will be taken by Dorchester County Planning and Zoning staff to insure return of the zoning notice sign. Said sign is to be returned to the Dorchester County Planning and Zoning Office the night of the hearing or within five (5) days after the hearing. Your check will be returned upon receipt of the sign in same condition in which it was lent.

\_\_\_\_\_  
**Filing Date**  
**(Completed by Staff)**

\_\_\_\_\_  
**Applicant's/Agent Signature**

\_\_\_\_\_  
**Posting Date**  
**(Completed by Staff)**

\_\_\_\_\_  
**Applicant's/Agent's Signature**

Lower section to be completed the night of the hearing

**Sign Affidavit**

I hereby affirm under penalties of perjury that the subject was posted as required on \_\_\_\_\_ (date) and to the best of my knowledge, information and belief the posting remained in place until \_\_\_\_\_ (date).

\_\_\_\_\_ Check if sign was returned the night of the Applicant's hearing.

\_\_\_\_\_  
Signature of Applicant/Agent

## INFORMATION REGARDING POSTING OF SIGN

### Notification:

Unless otherwise expressly provided by law, all notices to the general public required by the terms of Dorchester County Zoning Ordinance shall be accomplished as follows:

**Posting of Property:** Posting of property shall be effected as least fifteen (15) days prior to hearing date by erecting a sign to be furnished by the Director of Planning. **Such signs shall be erected, by the person(s) making application, within ten feet of whatever boundary line of such land abuts the most traveled public road so as to be clearly visible to the public and, if no public road abuts thereon, then facing in such a manner as most readily may be seen by the public, and designated by the Director of Planning. The bottom of the sign shall not be less than two and one-half (2½) feet from the ground. *The sign furnished by the Director of Planning shall bear the words: NOTICE, ZONING APPLICATION PENDING, For More Information call 410-228-3234.*** If the applicant is a person other than the owner, his attorney, agent or a person otherwise privy with the owner and the applicant files an affidavit stating that the owner is unwilling to permit the posting of any such sign, the posting shall be made by the Planning Director. At the hearing, it shall be the duty of the applicant to prove by affidavit that he or she has fully complied with this provision and has continuously maintained the sign or other posting in compliance with the provision up to the time of the hearing.

**ANY SIGN REQUIRED TO BE POSTED BY THE PROVISION SHALL BE MAINTAINED IN A VISIBLE LOCATION AND FREE FROM OBSTRUCTION BY VEGETATION UNTIL AFTER THE PUBLIC HEARING IS HELD, AND SUCH SIGN SHALL BE REMOVED AND RETURNED TO THE PLANNING AND ZONING OFFICE WITHIN FIVE DAYS OF THE PUBLIC HEARING.**