

Zoning Variance Application

Community Development | Planning & Zoning Division
5 West Main Street, Suite 112, Fincastle, VA 24090
P: 540.928.2080
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What is a Zoning Variance?

A variance is a deviation from the requirements of the zoning ordinance. Applications for variances are reviewed by the Board of Zoning Appeals (BZA), a body of five citizens appointed by the Circuit Court. The BZA may grant a variance if it finds that, because of some physical characteristic of the property or the buildings or structures on it, the strict application of the zoning ordinance would unreasonably restrict the use of the property, or that granting a variance would alleviate a hardship.

How does the BZA evaluate a request for variance?

The BZA will consider the below criteria when determining if the zoning ordinance unreasonably restricts the use of the property:

- A. 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;
- B. The granting of the variance would not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- C. 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;
- D. 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
- E. The relief or remedy sought by the variance application is not available through a special exception permit.

What is the application process?

Step 1: Initial submittal requirements/checklist

Once an application is submitted, Staff will review for completeness. An application must be complete before it is officially accepted. If an application is deemed incomplete, a letter specifying the deficiencies will be emailed to the property owner or designated agent. The following elements constitute a complete application:

- Payment in the amount of \$150.00 payable to the Treasurer of Botetourt County.
- A copy of the recorded deed to the property, indicating the current, legal ownership.
- One hardcopy of a certified plat prepared by a licensed land surveyor, which includes the layout and location of all existing structures, any proposed structures and the setbacks from all property lines (front, sides and rear).
- Include photographs of the property (with property identification, and vantage point from which the photos were taken).
- The variance application must be filled out completely, signed and notarized by the owner of the subject property.
- When notified by Staff that the application is complete, proceed to Step 2.

Step 2: Final submittal requirements/checklist

- If staff require revisions, resubmit the application for review. If no revisions are required, proceed to the next step.
- Submit the final variance application, certified plat, photos and any other supporting documentation. They must be assembled into eight (8) separate hardcopies; one (1) digital PDF is also required.

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Step 3: Notification process

After the complete application and supporting documents have been submitted to the Zoning Administrator, these steps will be followed by the Planning and Zoning Department:

- A. The Board of Zoning Appeals public hearing will be scheduled. Applicants will be notified of the date, time and location.
- B. Notice shall be given of the public hearing in accordance with the requirement of the Code of Virginia (Title 15.2-2204). A legal advertisement will be prepared and submitted to The Fincastle Herald to run for two (2) consecutive weeks prior to the public hearing.
- C. Adjacent property owners and the applicant shall be notified in writing via certified mail as to the date, time and location of the public hearing. **The applicant will pay all costs associated with certified mail notification to adjacent property owners. An invoice will be sent to the applicant following the mailing of the certified letters.**

Step 4: Public hearing

- A. The Board of Zoning Appeals shall hold a public hearing, which meets on the second Tuesday of the month. The applicant and/or his/her representative **must appear** at this meeting.
- B. During the public hearing, Staff will present the application and take questions from the Board of Zoning Appeals
- C. The applicant will then present their request, and answer questions from the Board of Zoning Appeals. The owner/applicant may be accompanied by legal or other representatives, such as an engineer, architect or surveyor.
- D. The public hearing is then opened to receive any public comments. Adjacent property owners and all other interested parties may appear in person and present their views/opinions or may submit written comments via phone, mail, or email.
- E. Afterwards, the public hearing will be closed. The Board of Zoning Appeals may discuss the application, then approve, deny, or partially approve a variance request.
- F. Upon denial of any application filed, no subsequent application concerning any or all of the same property shall be filed in less than twelve (12) months from the time of the denial by the Board of Zoning Appeals. [§25-551 (f)]

Step 5: Letter of Decision.

- A. Following the public hearing, a Board of Zoning Appeals decision letter will be mailed to the property owner/applicant containing the final decision. The letter will be mailed to the address shown on the application.

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Variance Request		
I/We request a variance(s) to Section 25- _____ of the Botetourt County Zoning Ordinance.		
Property Information		
Physical Address:	City:	Zip:
Tax Map Number:	Acreage:	Zoning:
Instrument Number of Deed Book/Page #:		
This property contains conditions from the Board of Supervisors: Yes No		
This property has a previously approved variance from the Board of Zoning Appeals: Yes No		
Owner Information		
Name:	Phone #:	
Mailing Address:	Email:	
Applicant Information (if different from above)		
Name:	Phone #	
Mailing Address:	Email:	
Representative Information (if different from above)		
Name:	Phone #	
Mailing Address:	Email:	
Property Owner Statement & Notarized Signatures		
<p>I/We, _____ am/are the current property owner(s) and have read the above-referenced information and understand the submission requirements. By signing below, signature(s) indicate consent for county officials to conduct site reviews on this property. I/we further understand that incomplete applications will result in a delay in the process.</p>		
_____ Signature and printed name of property owners		_____ Date
_____ Signature and printed name of property owners		_____ Date
State of Virginia		
County of Botetourt to Wit:		
The foregoing instrument was acknowledged before me this _____ day of _____ 2____ by _____.		
Printed name of property owners		
My commission expires: _____ Date		
_____ Notary Public printed name and registration number		_____ Notary Public signature

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The following questions are intended to help the applicant show that a variance is appropriate.

Please answer all six questions as completely as possible. Attach additional pages if necessary.

1. How does the zoning ordinance unreasonably restrict the use of this property?

2. What hardship would the requested variance alleviate?

3. Was the hardship created by the applicant?

4. What physical conditions of the property make the variance necessary?

5. Is the condition or situation unique to this property, or is it common among other property in the area?

6. Would the variance have a negative effect on other property in the area?
