



TOWN OF ABINGDON, VIRGINIA

APPEAL TO THE BOARD OF ZONING APPEALS

APPLICATION FOR VARIANCE

To The Town of Abingdon, Virginia Board of Zoning Appeals:

I (we) _____ of _____
respectfully request a determination on the following appeal / variance request, the Building Permit
for which was denied by Building or Zoning Official on _____, 20____.
Reason(s) for denial of Building Permit on the above date [to be filled in by appropriate official of the
Town]:

CASE NO.	BUILDING PERMIT NO.	TAX MAP NO.
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The request herein presented is for:

- an appeal for an interpretation of the:
 - Zoning Ordinance, section _____.
 - Official Zoning Map, section _____.
 - Administrative decision relating to _____.
- an appeal for a variance relating to:
 - Area regulations in the _____ Zoning District, section _____ of the Zoning Ordinance.
 - Frontage regulations in the _____ Zoning District, section _____ of the Zoning Ordinance.
 - Yard regulations in the _____ Zoning District, section _____ of the Zoning Ordinance.
 - _____ provision in the _____ Zoning District, section _____ of the Zoning Ordinance.

Explanation of request (attach separate sheet if necessary):

The specific premises affected by this request is located at

_____ in the _____ Zoning District. A legal description of the property involved in this appeal is as follows:

The applicant's interest in this property is Owner Lessee Other, please specify:

The proposed use of this property is

The approximate cost of such proposed development is \$_____.

Plot or Site Plan attached? Yes No, explain

Ground Plan and elevation attached? Yes No, explain

Have any previous applications or appeals been filed in connection with these premises? Please give details:

Names, addresses and tax map numbers of adjacent property owners (including owners across the street):

TAX MAP NO.	NAME	ADDRESS

The undersigned certifies that by affixing their signature below, they are allowing any agent or official of the Town to visit the property(ies) in question to investigate into the matter of which this petition represents. Also that this petition and the foregoing answers, statements and other information herewith submitted are in all respects true and correct to the best of their knowledge. Also, the petitioner understands that a "Notice of Zoning Request" sign will be posted on the property by the Town and is not to be removed until after the hearing and then, by a Town Official only and that the required advertizing of the request will be paid prior to such ad being published.

Signature of owner, agent or representative.

Date

IMPORTANT Please see pages 3 and 4 of this form for Zoning Ordinance requirements as to variances and appeals-

Filing Fee:

___ Regular Meeting \$100 Paid on _____, 20__ by _____

___ Special Meeting \$125 Paid on _____, 20__ by _____

Notice Fee:

___ Newspaper Ad _____ Paid on _____, 20__ by _____
Cost of newspaper ad varies. Pricing established by newspaper per line.

FOR BOARD OF ZONING APPEALS STAFF USE ONLY
SUMMARY

Case Number _____.

Zoning District _____.

Applicant _____
_____.

<u>Section Number</u>	<u>Pertaining To</u>	<u>Ordinance Requirement</u>	<u>Available to Applicant</u>	<u>Amount of Variance (Percentage)</u>

FOR BOARD OF ZONING APPEALS USE ONLY

Dates hearing advertised: _____.

Hearing held on: _____.

Fee paid _____.

Receipt No. _____.

Decision of the Board of Zoning Appeals

Reasons for such decision:

1.

2.

3.
4.
5.
<hr/> Signature Chairman / Secretary

**PLEASE READ THIS
VARIANCES IN GENERAL**

The Board of Zoning Appeals may only approve a variance when the following conditions exist, according to the Code of Virginia (1950, as amended) Section 15.2-2309:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or;
 - G. An extraordinary situation or condition or development of property immediately adjacent to the subject property that the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property.
3. That the strict application of the Ordinance would produce undue hardship.
4. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
5. That authorization of such variance will not be of substantial detriment to adjacent property.
6. That the character of the district will not be changed by the granting of the variance.
7. That the condition or situation of the subject 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.
8. That the variance is not of such a scope as to amount to a rezoning of the property.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to public interest..

EXCERPTS FROM THE ZONING ORDINANCE OF THE TOWN OF ABINGDON

Section 22-2 Powers of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

22-2-1 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.

22-2-2 To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant provided that all variances shall be in harmony with the intended spirit of the ordinance.

No such variance shall be authorized by the board unless it finds:

- (a) That the strict application of the ordinance would produce undue hardship.
- (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized except after notice and hearing as required by section 15.1-431 of the Code of Virginia, as amended.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property 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.

In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

Section 22-4 Appeal to the board of zoning appeals.

An appeal to the board may be taken by any person aggrieved or by any officer, department or board of the municipality affected by any decision of the zoning administrator. Such appeal shall be taken within thirty days after the decision appealed from by filing with the administrator, and with the board, a notice of appeal specifying the grounds thereof. The administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrator certifies to the board that by reason of facts stated in a certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by restraining order granted by the board or by a court of record, on application and on notice to the administrator and for good cause shown.

Section 22-5 Appeal procedure.

22-5-1 Appeals shall be mailed to the board of zoning appeals c/o the administrator and a copy of the appeal mailed to the secretary of the planning commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any.

22-5-2 All appeals requiring an advertised public hearing shall be accompanied by a certified check for one hundred dollars (\$100) payable to the treasurer. If a special hearing is requested, a certified check for one hundred and twenty-five dollars (\$125) shall also accompany said appeal.

Article 26 Definitions.

For the purpose of this ordinance, certain words and terms are defined as follows. Words in the present tense include the future tense; words in the singular include the plural; and the plural includes the singular.

26-381 **Variance** means, in the application of the zoning ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure, when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of the ordinance and would result in substantial justice being done. It shall not include a change in use.