



CITY OF MANASSAS, VIRGINIA

Community Development • 9027 Center Street, Manassas, VA 20110 • 703-257-8223

BOARD OF ZONING APPEALS REVIEW PROCESS

This document describes the process for filing a case before the Board of Zoning Appeals (BZA). The City Zoning Ordinance, forms, and additional information are available in the Department of Community Development office or online: www.manassascity.org/planningzoning.

The BZA is a quasi-judicial body appointed by the Circuit Court. In general, the BZA hears two types of cases:

1. Requests for a variance from any requirement of the zoning ordinance (Chapter 130 of the City Code).
2. Appeals of a zoning enforcement action or zoning ordinance interpretation of a City administrative officer such as the Zoning Administrator or a Code Enforcement Officer.

Application Package Submission/Acceptance

Completed application packages may be submitted to the Department of Community Development. Applications will not be accepted for review without all mandatory items identified on the application checklist, included in Attachment 1. Staff will review the application for completeness and send a formal letter of acceptance with information concerning the meeting date and time to the applicant identified on the application form.

Standard for BZA Review of Variances

The BZA will make a decision to approve or deny a variance application based on specific criteria set out in State Code Sec. 15.2-2309 (Attachment 3). It is important, when preparing a variance application, to demonstrate that all of the items listed below have been satisfied:

1. The strict application of zoning ordinance requirement 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 its improvements.
2. The property for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
3. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
4. 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;
5. 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
6. The relief or remedy sought by the variance application is not available through a special use permit or the modification process allowed under Zoning Ordinance Secs. 130-59 or 130-206(h).

BOARD OF ZONING APPEALS REVIEW PROCESS

Public Hearing

BZA applications are reviewed at a public hearing. During the public hearing, staff reviews the project and provides recommendations to the Board of Zoning Appeals. The applicant also typically makes a separate presentation.

Prior to each hearing, the applicant will be notified in writing to obtain signs from the Department of Community Development to post on the property. The property must be posted for a 15-day period prior to the public hearing and a notarized affidavit of sign posting must be returned to the Department of Community Development within three days of the posting. Staff will mail the notices of public hearing to surrounding property owners and will advertise the hearing in the newspaper. Please note that the applicant will be billed for the cost of BZA advertising requirements.

During the meeting, the BZA will consider the issues raised during the public hearing and will either approve or deny the variance as proposed or modified or uphold or overturn the administrative action. The BZA may impose conditions of approval.

Notification of BZA Action and Closeout

Staff will notify the applicant of BZA's action, provide a copy of the recorded action, and bill the applicant for advertising costs. Upon completion of the BZA process, the applicant may need to take additional steps to implement the approval, including application for site plan approval, building permits and inspections, and/or a Certificate of Use or Occupancy. The Development Services Division (703) 257-8278 is the City's one-stop shop for these submissions.

Attachments:

1. Application and Checklist
2. Special/Limited Power of Attorney Form
3. Virginia State Code Excerpt



CITY OF MANASSAS

Department of Community Development

BOARD OF ZONING APPEALS

APPLICATION

BZA #: _____

DATE: _____
(Completed by City Staff)

Site Address: _____ Manassas, VA 20110
Street

Tax Map No(s): _____

Site Acreage: _____ Zoning District: _____

This is an application to the Board of Zoning Appeals for a variance from the following section(s) of the Zoning Ordinance (use additional pages if necessary):

This is an application to the Board of Zoning Appeals for an appeal from the following notice of violation or action by an administrative officer of the City (use additional pages if necessary):

APPLICANT

Name (Please Print)

Signature

Address

City State Zip Code

Phone # Fax #

E-mail Address

OWNER

(Leave Blank if Same as Applicant)

Name

Company

Address

City State Zip Code

Phone # Fax #

E-mail Address

BOARD OF ZONING APPEALS APPLICATION CHECKLIST

Forms and Fees

- Completed Application
- Special/Limited Power of Attorney Form (When applicant acts on behalf of the property owner)
- \$500 Application Fee. Note: Applicant will also be billed for the cost of the newspaper advertising after the public hearing.

Variance Request

- Drawings showing all existing and proposed improvements on the property, with dimensions and distances to property lines, all abutting streets, and any special conditions of the property that may justify the request.
- Justification statement describing how the request satisfies the criteria set forth in State Code Sec. 15.2-2309 (Provided in Instruction Packet).

Appeal Request

- For an appeal of an action by an administrative officer of the City, include a complete justification statement describing the property or site (if applicable), background information, and the rationale for the appeal.
- For appeal of a notice of violation, include a description of the alleged violation, appropriate drawings showing applicable setbacks and other dimensions associated with the structure or use that is the subject of the violation, and the rationale for the appeal.



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CASE # _____
(Completed by City Staff)

SPECIAL/LIMITED POWER OF ATTORNEY

THIS _____ day of _____, 20____, I, _____, the owner of Tax Map Number _____, make, constitute and appoint _____, my true and lawful attorney-in-fact, and in my name, place and stead giving unto said _____ full power and authority to do and perform all acts and make all representation necessary, without any limitation whatsoever, to make application for **(circle one) (Special Use Permit), (Rezoning), (Architectural Review Board), (Board of Zoning Appeals)** in connection with the above described real property.

The right, powers and authority of said attorney-in-fact herein granted shall commence and be in full force and effect on _____, 20____, and shall remain in full force and effect thereafter until actual notice, by certified mail, return receipt requested is received by the Office of Community Development of the City of Manassas stating that the terms of this power have been revoked or modified.

Owner's Name (Please Print)

Owner's Signature

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public in and for the State and County aforesaid, do hereby certify that _____ whose name is signed to the foregoing, this day personally appeared before me in my State and County aforesaid and acknowledged the same.

Given under my hand this _____ day of _____, 20_____.

Notary Public

My Commission expires: _____

ID: _____

§ 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 A 4 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.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c. 587; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597.