



TOWN OF URBANNA
Application for Zoning Variance

Application No. \_\_\_\_\_

Applicant / Property Owner Information

Applicant Name

Applicant Address City/Town State Zip Code

Applicant phone number Applicant email

You are the ( ) property owner; ( ) agent for the property owner.

Note: If you are the agent for the property owner written consent of the owner must be attached to this application.

Property Owner Name

Property Owner Mailing Address City/Town State Zip Code

Property owner telephone number Property owner email

Legal Description of Property

Street Address Tax parcel ID number

Additional Property Location Information

Request for variance in order to build:

Table with 4 columns: fill in only the line(s) that apply to your request(s), Applicant has, Code requires, Variance requested. Rows include Total area, Lot width, Front yard setback, Minimum side yard setback, Total side yard setback, Rear yard setback, Public street frontage, and Other (write in).

Note: Three copies of a plan must be submitted with this application, showing size and location of the lot, dimensions and location of the proposed building or structure, and the dimensions and location of the existing structures on the lot.

Please provide a narrative statement describing the nature of the variance requested;

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By signing this application, the property owner authorizes the Board of Zoning Appeals and Town employees to enter the property during the normal discharge of their duties in regard to this request.

Owner's Signature: \_\_\_\_\_

Date \_\_\_\_\_

**Please complete entire application**

<b><u>OFFICE USE</u></b>		<b><i>Attach a list of adjacent property owners to this application.</i></b>  Adjacent is defined as lying near or close to; contiguous. For this application's purposes it means either sharing a common property line or being located directly across the street and to the left and right of the applicant property.
Date Received:	Time Received:	
Application #:	Fee: \$	
Accepted By:	:	

Revised 5/2014

The Urbanna Zoning Ordinance authorizes the Board of Zoning Appeals to grant variances in the following circumstances: 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 this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter 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 -- as distinguished from a special privilege or convenience sought by the applicant -- provided, that all variances shall be in harmony with the intended spirit and purpose of this chapter.

To assist you in addressing the pertinent issues, please answer the following questions (attach additional sheets if necessary):

1. How does the zoning ordinance prohibit, or unreasonably restrict, the use of this property? Is there a hardship so severe that it keeps you from using the property?

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2. What is the problem with the size, shape or topography of this property that does not apply generally to other property in the area?

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3. How would this variance affect other property in the area? Would the building, if any, be visible from neighboring property?

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4. Describe why you cannot make other arrangements to comply with the Zoning Ordinance without a variance.

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## **What is a variance and when should one be approved?**

A variance is an approval of the size of a lot, or the size or location of a structure that does not meet the requirements of the zoning ordinance. The Board of Zoning Appeals, a body of citizens appointed by the Circuit Court, may grant a variance if they find that, because of some unusual characteristic of the property, a strict application of the zoning ordinance would result in a hardship so severe that it was almost the same as taking the property.

Before a variance can be granted, the applicant (usually the owner of the property) must show the zoning regulations "actually prohibit or unreasonably restrict" the use of the property. In other words, it must be impossible or unreasonable to use the property without the variance. Mere convenience, or a desire to maximize profit, does not justify a variance. If the applicant caused the hardship, the hardship is considered "self-imposed," and a variance is not justified.

The Supreme Court of Virginia has determined that "[t]he threshold question for the BZA in considering an application for variance as well as for a court reviewing its decision, is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with „all reasonable beneficial uses of the property, taken as a whole.“ If the answer is in the negative, the BZA has no authority to go further." The board has no authority to grant a variance where the owner is able to make reasonable beneficial use of the property without it. The BZA can grant a variance only if the applicant demonstrates that the zoning ordinance interferes with all reasonable beneficial uses of the property.

If the board finds evidence of a hardship approaching confiscation, it must consider three other factors. There must be some exceptional condition of size, shape or topography; the variance must not cause substantial detriment to adjacent property; and the circumstances must not be shared generally by other properties in the vicinity.

### **Board of Zoning Appeals Procedure**

All variance requests must be filed on the attached form. Applications are processed according to a schedule of deadlines and public hearing dates, which is published each year. The Town is required to advertise applications in the Southside Sentinel and mail notices to the owners of all adjoining property. This is accomplished at the applicant's expense.

The fee of \$300 covers a portion of the cost of researching, reviewing and processing the application. If an application is withdrawn before the advertisement is prepared, the Town may refund part of the fee. After the advertisement has been prepared, the fee cannot be refunded.

The applicant or a representative is required to attend the public hearing. At the hearing anyone may speak in favor of, or in opposition to, any application. Written comments may also be submitted. After hearing all comments, the Board will take the matter under advisement. The Board will discuss the matter and vote to accept or reject the request.

## Standard for Review of Variance Applications

The Supreme Court of Virginia recently clarified the legal standard that the Board of Zoning Appeals (BZA) must apply when reviewing variance applications. The court summarized the standard as follows:

“The threshold question for the BZA in considering an application for variance as well as for a court reviewing its decision, is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with „all reasonable beneficial uses of the property, taken as a whole.“ If the answer is in the negative, the BZA has no authority to go further.” *Cochran v. Fairfax County Bd. of Zoning Appeals*, 267 Va. 765 (2004)

The BZA can grant a variance only if the applicant demonstrates that the zoning ordinance interferes with all reasonable beneficial uses of the property. The applicant should be aware of this, as the application fee cannot be refunded once a case has been advertised, regardless of the board’s decision.

I acknowledge that I have reviewed the “Standard for Review of Variance Applications”. If I am not the owner of the property, I agree to give this information to the owner.

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**Signature**

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**Name (please print)**

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**Date**

Owner    Applicant    Agent