

APPLICATION FOR VARIANCE/APPEAL OF ZONING
ADMINISTRATOR'S DECISION

Applicant1

Name: Phone:

Company: Fax:

Address: Email:

Applicant's Signature: Date:

Property Owner

Name: Phone:

Address: Email:

Owner's Signature: Date:

Proposal Information2

Application Type: [ ] Appeal (attach description of appeal) [ ] Variance3 (complete below)

Address (or location description):

Tax Map: Deed Book and Page #:

Acreage: Zoning (attach any existing zoning conditions or proffers):

The Applicant requests a variance from Section of the City of Lexington

Zoning Ordinance, in respect to the requirement for

in order to build

- 1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.
3. See page 2 of this application for the powers and duties of the Board of Zoning Appeals in granting appeals and variances. If not specifically required in the zoning ordinance, submitting a sketch plan or other visual detail of your variance request is highly encouraged.

## **Powers and Duties of the Board of Zoning Appeals**

Pursuant to § 15.2-2309 of the Code of Virginia, the Board of Zoning Appeals is granted the following powers:

### **Appeals:**

To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant hereto.

### **Variances:**

The Board may authorize variances from the terms of the Zoning Ordinance, as allowed by State Law. When granting variances, the Board must make the following findings:

1. 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, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and;
2. 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;
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 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. *(Neither of these provisions apply in Lexington because the Lexington City Code does not a) authorize the BZA to hear special exception petitions and b) the zoning administrator is not authorized to grant a modification from any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of land.)*

The applicant must demonstrate these findings to the Board of Zoning Appeals. Submit a letter attached to the application, demonstrating findings 1 through 5 listed above.

***Variances: (continued)***

*In addition to the State variance criteria listed on the previous page, please answer the following questions:*

1. *What are the special circumstances that apply to your property?*

---

---

---

---

2. *What are the circumstances that render the property in question undevelopable?*

---

---

---

---

3. *How will the requested variance not alter the character of the neighborhood?*

---

---

---

---

4. *How will the requested variance be the minimum that will afford relief?*

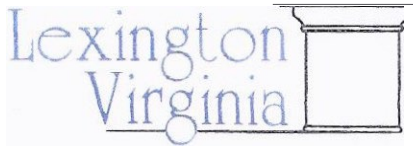
---

---

---

---

*Be aware that conditions may be assigned with any variance approval to meet the purpose of the variance regulations.*



### Notice to Adjacent Property Owners

For variance requests, the City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled public hearings.

### Posting of the Property

For variance requests, the City will place a sign provided by the City on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

### THIS SECTION TO BE COMPLETED BY STAFF ONLY

**Application Fee: \$350** Amount Paid: \_\_\_\_\_ Case Number: BZA- \_\_\_\_\_ - \_\_\_\_\_

Date Received: \_\_\_\_\_ Received By: \_\_\_\_\_

#### Staff Review

Planning: \_\_\_\_\_ Public Works: \_\_\_\_\_

Police: \_\_\_\_\_ Fire/Rescue: \_\_\_\_\_

#### Board of Zoning Appeals

Legal Ad Dates: \_\_\_\_\_ Adj. Property Notifications: \_\_\_\_\_

Public Hearing Date: \_\_\_\_\_ Action: \_\_\_\_\_