

VARIANCES

Sec. 130.0.B.2 authorizes the Hearing Authority to adjust parking requirements, bulk regulations of a zoning district, and bulk regulations in the supplementary zoning district regulations where there are unique physical conditions associated with the lot that result in practical difficulties or unnecessary hardships.

Requirements which may be considered for variances:

- Minimum/Maximum Height of Structures
- Minimum Lot Width
- Minimum Setbacks
- Maximum Lot Coverage
- Sec. 128.0.A Supplementary Regulations – Bulk Regulations
- Parking Requirements

Requirements which may not be considered for variances:

- Density Requirements
- Lot Area Requirements
- Conditional Use Criteria
- Prohibited Uses

PROCESS

Submission

Petitions are submitted to the Department of Planning and Zoning. A plan that contains the items listed on the petition checklist must accompany the petition. At submission, a staff member briefly checks the petition for completeness.

Completeness Review

A DPZ planner reviews the petition in more detail to determine if it includes adequate information for an evaluation of all criteria. If deficiencies are identified, the applicant is notified in writing and given the opportunity to correct or supplement the information provided in the petition. Once the petition is complete, it is forwarded to the Hearing Authority for scheduling.

Scheduling

The Hearing Authority schedules the hearing date based upon public notice requirements and the number of cases in review.

Correspondence

Public Service and Zoning Administration Division staff within the Department of Planning Zoning are designated as the Clerk to the Hearing Authority prior to scheduling of the hearing and after the hearing is concluded and receives all correspondence/documentation during these times.

After the case is scheduled and prior to conclusion of the hearing, the Board Administrator/Secretary is designated as the Clerk to the Hearing Authority and receives all motions, correspondence/documentation, including revised petitions/plans, during this time.

Public Hearing Sign

A public hearing sign must be posted on the property prior to the hearing. Property zoned commercial or industrial must be posted at least 30 days prior to the hearing. Property zoned as residential must be posted 15 days prior to hearing. The Department of Planning and Zoning supplies the posters to the petitioner, who is responsible for erecting and maintaining them. Prior to the hearing the petitioner must sign an affidavit attesting that the property has been posted in accordance with the applicable requirements

Advertising

The petitioner, at his/her own expense, must advertise the date, time and place of the hearing in at least two newspapers of general circulation in Howard County. The ad must appear at least 30 days prior to the hearing for commercial and industrial zoning and at least 15 days prior to the hearing for residential zoning. The Department of Planning and Zoning provides the text for advertising.

Technical Staff Report

The Department of Planning and Zoning issues a Technical Staff Report only for variances in non-residential zoning districts. The report includes an evaluation of the following:

1. The site has unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography, or other existing features which result in practical difficulties or unnecessary hardships in complying strictly with the bulk provisions of the Zoning Regulations.
2. The variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
3. Such practical difficulties or hardships have not been created by the owner; provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
4. Within the intent and purpose of the Zoning Regulations, the variance, if granted, is the minimum variance necessary to afford relief.

Included in this report are comments from other agencies, which may have an interest in the case. The report is provided to the Hearing Authority at least 14 days prior to the hearing. The report is posted on the Howard County website and is available for review at the DPZ Front Counter.

Hearing

The Hearing Examiner conducts all variance hearings unless there is a conflict of interest, then the petition is heard by the Board of Appeals. The petitioner must attend the public hearing, present his or her petition, and answer any questions. Petitioners may choose to represent themselves or engage an attorney or other competent professional to present the case. Interested parties may attend the hearing and present testimony relevant to the criteria as permitted in the Hearing Examiner's Rules of Procedure.

Decision

The Hearing Examiner issues a written Decision and Order containing Findings of Fact, Conclusions of Law, the Decision and any conditions the Hearing Examiner finds appropriate.

Reconsideration

Within 15 days of the issuance of a Decision and Order any party may request that the Hearing Examiner suspend and reconsider the Decision. The Hearing Examiner may reconsider the Decision only under limited circumstances such as cases of fraud, mistake or irregularity, to correct a clerical error, or for other good cause shown. The Hearing Examiner shall not rehear a matter unless new evidence is submitted which could not reasonably have been presented at the original hearing.

Appeal

A decision rendered by the Hearing Examiner may be appealed to the Board of Appeals of Howard County within 30 days of the issuance of the Decision and Order. Information concerning this appeal process may be obtained from the Clerk of the Board of Appeals.

Expiration

An approved variance becomes void unless a building permit conforming to the conditional use plan is obtained within two years, and substantial construction is completed within three years from the date of the decision.