



Application for

# Zoning Variance

# Administrative Adjustment or Nonconforming Alteration

# VAR

2/09

## City of Rockville

Department of Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: pds@ockvillemd.gov • Web site: www.rockvillemd.gov

Type of Application being applied for:    Zoning Variance    Administrative Adjustment    Nonconforming Alteration

### *Please Print Clearly or Type*

Property Address Information: \_\_\_\_\_

Subdivision \_\_\_\_\_ Lot (s) \_\_\_\_\_ Block \_\_\_\_\_

Zoning \_\_\_\_\_ Tax Account (s) \_\_\_\_\_ , \_\_\_\_\_ , \_\_\_\_\_

### **Applicant Information:**

*Please supply Name, Address, Phone Number and E-mail Address*

Applicant \_\_\_\_\_

Property Owner \_\_\_\_\_

Architect \_\_\_\_\_

Engineer \_\_\_\_\_

Attorney \_\_\_\_\_

Property Name: \_\_\_\_\_

Project Description: \_\_\_\_\_

#### **STAFF USE ONLY**

##### **Application Acceptance**

Application # \_\_\_\_\_

Pre-Application: \_\_\_\_\_

Date Accepted: \_\_\_\_\_

Staff Contact: \_\_\_\_\_

##### **Application Intake**

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

Reviewed by: \_\_\_\_\_

Date of Checklist Review: \_\_\_\_\_

Deemed Complete: Yes  No

Property Size (in square feet) \_\_\_\_\_

Please describe the current use or uses on the subject property and any nonconforming uses currently occupying the site.

If a non-conforming use, please explain: \_\_\_\_\_

From what Zoning Ordinance requirement(s) is the Variance, Administrative Adjustment or Nonconforming Alteration being requested? \_\_\_\_\_

Please describe the exact amount of Variance(s) or Administrative Adjustment requested in feet or inches \_\_\_\_\_

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<b>Previous Approvals: (if any)</b>		
Application Number	Date	Action Taken
_____	_____	_____
_____	_____	_____

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***A letter of authorization from the owner must be submitted if this application is filed by anyone other than the owner.***  
I hereby certify that I have the authority to make this application, that the application is complete and correct and that I have read and understand all procedures for filing this application.

\_\_\_\_\_  
Please sign and date

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### **Variance Application Compliance**

The Board cannot grant a variance unless the definition for a variance is met. The Zoning defines a variance as follows: "A modification only of density, bulk or area requirements in the Zoning Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of any action taken by the applicant, a literal enforcement of this Chapter would result in practical difficulty."

Answers to the following questions must be full and complete. If more space is needed, please attach additional pages:

1. Explain why the granting of the variance is necessitated by conditions unique to the property \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Explain why the granting of the variance will not be contrary to the public interest or injurious to the neighborhood

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Explain why not granting the variance would result in practical difficulty in the use of the property \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. Explain why the approval of the variance is not inconsistent with the purposes of the Zoning Ordinance \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Pre-Submission Meeting:**

A pre-submission meeting with the Development Review Committee or a member of Planning staff is recommended prior to filing all applications.

**Submission Requirements**

**Variance Application Submittal Requirements**

- Complete Application
- Filing Fee, including sign fee
- Pre-Submission Meeting conducted. Date:\_\_\_\_\_.
- A House Location Survey or site plan showing the location of the proposed structure.
- A plan showing how the variance will affect the surrounding properties. This plan should include the following:
  1. For a variance in SIDE OR REAR YARD SETBACKS, the location and existing setback measurements of all buildings on adjacent properties.
  2. For variances from MAXIMUM HEIGHT LIMITATIONS, a cross section with heights of existing buildings on adjacent properties.
  3. For variances in FRONT YARD SETBACK, the front yard setback measurements of all buildings on the same side of the street as the applicant's property.
- Elevations of proposed structure that include the height of the proposed structure.
- A list of property owners as listed in the official tax records whose properties are located within 500 feet of the boundaries of the subject property.

**Variance Application Processing:**

Each applicant needs to be aware of the following about the processing of this application. After reading the following information, please sign on the next page to acknowledge your understanding.

**Posting of Sign:**

A sign must be posted on the property to provide notification of the application to the community. The City provides this sign to the applicant within 3 days of receiving the sign from the City. It must remain posted until the Board of Appeals takes final action on the application. An affidavit of posting must be completed by the applicant to certify that the sign was posted for the required time.

**Inspection of the Property:**

The members of the Board of Appeals, the Planning Commission and City staff members must be given the opportunity to physically inspect the subject property to help them reach a decision on the application. This access must be granted provided a reasonable notice is given for said inspection.

**Revisions:**

Revisions to the site plan or application may be made up to the filing date (40 working days before the scheduled hearing date for Residential & 60 for Non Residential). Revisions made after the closing date may result in hearing postponement and/or the re-posting of the subject property if the Planning Division or the Chairman of the Board of Appeals decides that inadequate review or notification would result from the revisions, especially if the amount of the variance is increased.

**Hearing/Meeting Appearance:**

The applicant must be prepared to present his/her case before the Planning Commission and/or Board of Appeals .

**The Decision:**

Submission of this application with the filing fee is not a permit. The Board of Appeals will make the final decision (Approval/ Denial/Dismissal) on this application. While the Planning Division and the Planning Commission may make recommendations to the Board on this application, these recommendations are advisory only and are not binding on the Board.

**Refunds:**

The filing fee is not refundable regardless of whether the application is approved or denied.

Signature of applicant \_\_\_\_\_

Date \_\_\_\_\_

**Administrative Adjustments in Single Dwelling Unit Residential Zones:**

The Chief of Planning is authorized to make administrative adjustments for setback (up to ten (10) percent of this minimum requirement), lot coverage and landscaping requirements (up to ten (10) percent of the requirements), when certain criteria can be met. Please provide a statement as to how the following criteria and findings are met:

1. Good Cause Shown – Please state the reason(s) that the administrative adjustment is needed, including any extenuating circumstances and a justification for the adjustment request;
2. Consistency with Purpose – Please state how the adjustment is not inconsistent with the purposes of Section 25.01.02, which provides-
  - a. The purposes of this Chapter are to:
    - i. Provide for appropriately scaled, designed, and sited buildings and other structures that are compatible with the natural and built environments;
    - ii. Promote environmentally sustainable developments and otherwise provide for the conservation of natural resources and the environment;
    - iii. Promote the City as an inclusive community by facilitating diversity in housing , building design, and land use;
    - iv. Promotes alternative modes of transportation by providing convenient, safe, and connected accessibility to public transportation, pedestrian and bicycle systems, inviting streetscapes, and a mixtures of uses;
    - v. Ensure that development occurs in an orderly fashion consistent with the Master Plan (the “Plan”) and the availability of adequate infrastructure capacity and other public facilities;
    - vi. Ensure the most appropriate use of land throughout the City;
    - vii. Protect and enhance the aesthetic and visual character of the City and its residential neighborhoods;
    - viii. Preserve site, structures, and districts of historical, archeological, or architectural significance, and their appurtenances and environmental settings;
    - ix. Secure the public safety;
    - x. Provide adequate light and air;
    - xi. Foster innovative, creative, sustainable, and flexible building and site design;
    - xii. Provide attractive, high quality development and design that enhances the community’s quality of life; and
    - xiii. Otherwise protect and promote the health, safety, comfort, convenience, welfare, and happiness of the Rockville community through the comprehensive regulation of the use and development of the land and structures.

3. Total Cumulative Adjustment – How the total cumulative adjustment to the regulation that is the subject of the application does not exceed ten (10) percent. In evaluating the adjustment, address any additional adjustments that may have been made to the property and the effect the total adjustment may or may not have on the property.
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**Application Checklist:**

**Pre-Submission Meeting:**

A pre-submission meeting with the Development Review Committee or a member of Planning staff is recommended prior to filing all applications.

**Administrative Adjustment Application Submittal Requirements**

- Complete Application
- Filing Fee including sign fee
- Pre-submission meeting conducted. Date:\_\_\_\_\_.
- Completed statement addressing the criteria, along with the justification for the proposal.

**Administrative Adjustment Application Processing:**

Each applicant needs to be aware of the following facts about the processing of this application. After reading the following information, please sign below to acknowledge your understanding.

**Posting of Sign:**

A sign must be posted on the property to provide notification of the application to the community. The City provides this sign to the applicant within 3 days of receiving the sign from the City. It must remain posted until the Chief of Planning takes final action on the application. An affidavit of posting must be completed to certify that the sign was posted for the required time.

**Inspection of the Property:**

The members of the Board of Appeals, the Planning Commission and/or the City staff members must be given the opportunity to physically inspect the subject property to help them reach a decision on the application. This access must be granted provided a reasonable notice is given for said inspection.

**The Decision:**

Submission of this application with the filing fee is not a permit. The Chief of Planning will make the final decision (Approval/ Denial/Dismissal) on this application.

**Refunds:**

The filing fee is not refundable regardless of whether the application is approved or denied.

Signature of applicant \_\_\_\_\_

Date \_\_\_\_\_

**Nonconforming Alteration Application:**

**Detached or Semi-Detached Single Unit Residential**

According to the Zoning Ordinance, alterations, expansions, and enlargements may be made to a nonconforming building or structure only if they do not expand or extend the development standards nonconformity. Improvement of the facade or structure so as to enhance its appearance and alterations necessary to comply with the Americans with Disabilities Act are two areas where the Chief of Planning may grant a Nonconforming Alteration Application approval for structural modifications to a building containing a Development Standards Nonconformity. Answers to the following must be provided in order for the application to be considered. If more space is needed, please attach additional pages.

1. Please provide documentation of the existence and extent of the nonconforming development standard(s) being requested.  
\_\_\_\_\_  
\_\_\_\_\_
2. Please explain how the proposed Nonconforming Alteration does not exceed the amount reasonably necessary to accomplish the purpose of the alteration. \_\_\_\_\_  
\_\_\_\_\_
3. Please explain how the proposed Nonconforming Alteration is compatible with the general character of the surrounding neighborhood or zone. \_\_\_\_\_  
\_\_\_\_\_
4. Please explain how the proposed Nonconforming Alteration will not have negative impacts on the public health, safety, aesthetics, and welfare of the nearby properties. \_\_\_\_\_  
\_\_\_\_\_
5. Please explain how the proposed Nonconforming Alteration will be consistent with the purpose and intent of the zone.  
\_\_\_\_\_  
\_\_\_\_\_

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**Pre-Submission Meeting:**

A pre-submission meeting with the Planning staff is required prior to filing this application.

**Application Checklist:**

- Complete Application
- Filing Fee, including sign fee.
- Pre-submission meeting conducted. Date: \_\_\_\_\_.
- A house location survey or a site plan drawn to scale showing the locations of all existing and proposed buildings, yards, driveways and parking areas and the proposed alteration.
- Floor plans showing the location of uses in the structures and on the site.
- Such other information as may be required by the Chief of Planning.
- A list of all of the owners of property within 750 feet of the subject property.

**Please acknowledge that you have read and understand the following information by signing below.**

**Posting of Sign:**

A sign must be posted on the property to provide notification of the application to the community. The City provides this sign to the applicant within 3 days of receiving the sign from the City. It must remain posted until the Chief of Planning takes final action on the application. An affidavit of posting must be completed to certify that the sign was posted for the required time.

**Inspection of the Property:**

The City staff members must be given the opportunity to physically inspect the subject property to help them reach a decision on the application. This access must be granted provided a reasonable notice is given for said inspection.

**The Decision:**

Submission of this application with the filing fee is not a permit. The Chief of Planning may not grant a Nonconforming Alteration Application for an alteration or expansion that exceeds the amount reasonably necessary to accomplish the purpose of the alteration or expansion. The Chief of Planning has 30 days from when the notices are sent to approve the application, approve the application with conditions or to deny the application. Decisions by the Chief of Planning may be appealed to the Planning Commission

**Refunds:**

The filing fee is not refundable regardless of whether the application is approved or denied.

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_

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**Nonconforming Alteration Application:  
Non-Residential Use or Structure**

According to the Zoning Ordinance, alterations, expansions, and enlargements may be made to nonconforming buildings or structures only if they do not expand or extend the development standards nonconformity. Additionally, a nonconforming use may be extended throughout those parts of a building or structure specifically designed or constructed for such use prior to the adoption of the current regulations and standards.

- Alteration of a Nonconforming Use – Acted on by the Chief of Planning, review is limited to the expansion of the nonconforming use into those parts of the building or structure which were substantially constructed prior to the change in permitted uses which caused the nonconformity and which were specifically designed or constructed but not occupied by such use.
- Alteration of a Development Standards Nonconformity – Acted on by the Planning Commission, review is limited to maintaining the building or structure in safe repair, improvement of the facade or structural improvements so as to enhance its appearance, and alterations necessary to comply with the Americans with Disabilities Act. Alterations, expansions, and enlargements to the building or structure may be permitted as long as they do not expand or extend the development standards nonconformity.

In evaluating and approving a Nonconforming Alteration application, the following findings must be addressed.

1. Please provide documentation of the existence and extent of the nonconforming development standards being requested.  
\_\_\_\_\_  
\_\_\_\_\_
2. Please explain how the proposed Nonconforming Alteration does not exceed the amount reasonably necessary to accomplish the purpose of the alteration. \_\_\_\_\_  
\_\_\_\_\_

3. Please explain how the proposed Nonconforming Alteration is compatible with the general character of the surrounding neighborhood or zone. \_\_\_\_\_  
\_\_\_\_\_
4. Please explain how the proposed Nonconforming Alteration will not have negative impacts on the public health, safety, aesthetics, and welfare of the nearby properties. \_\_\_\_\_  
\_\_\_\_\_
5. Please explain how the proposed Nonconforming Alteration will be consistent with the purpose and intent of the zone.  
\_\_\_\_\_  
\_\_\_\_\_
6. For Nonconforming Alteration approvals that trigger conformance with current parking requirements pursuant to Article 16, the Planning commission may waive the current parking requirement and allow the maintenance of the existing nonconforming parking entitlements through the grant of the Nonconforming Alteration approval, if the Commission finds that:
  - a. It is not practicable to provide the required parking onsite in a manner that preserves neighborhood character;
  - b. Preserving the nonconforming parking entitlements is the best solution to provide consistency with the goals, policies, and intent of the Plan.

Please address, if applicable, how this finding is met.

\_\_\_\_\_  
\_\_\_\_\_

**Pre-Submission Meeting:**

A pre-submission meeting with the Planning staff is required prior to filing this application.

**Application Checklist:**

- Complete Application
- Filing Fee, including sign fee.
- Pre-submission meeting conducted. Date \_\_\_\_\_.
- A house location survey or a site plan drawn to scale showing the locations of all existing and proposed buildings, yards, driveways and parking areas and the proposed alteration.
- Floor plans showing the location of uses in the structures and on the site.
- Such other information as may be required by the Chief of Planning.
- A list of all of the owners of property within 750 feet of the subject property.



***Please acknowledge that you have read and understand the following information by signing below.***

**Posting of Sign:**

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**Inspection of the Property:**

The members of the Planning Commission and the City staff members must be given the opportunity to physically inspect the subject property to help them reach a decision on the application. This access must be granted provided a reasonable notice is given for said inspection.

**The Decision:**

Submission of this application with the filing fee is not a permit. The Chief of Planning will make the final decision (Approval/Denial/Dismissal) on this application.

The Chief of Planning may not grant approval of a Nonconforming Alteration application for an alteration or expansion that exceeds the amount reasonably necessary to accomplish the purpose of the alteration or expansion. The Chief of Planning has 30 days from when the notices are sent to approve the application, approve the application with conditions, or to deny the application. Nonconforming Alteration applications requiring Chief of Planning review are processed like a Level 1 Site Plan. Decisions by the Chief of Planning may be appealed to the Planning Commission.

Nonconforming Alteration applications requiring Planning Commission review are processed like a Level 2 Site Plan application. Decisions of the Planning Commission may be appealed to the Circuit Court.

**Refunds:**

The filing fee is not refundable regardless of whether the application is approved or denied.

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_

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**Comments on Submittal: (For Staff Use Only)**

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