

CITY OF ABERDEEN
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

APPLICATION FOR THE BOARD OF APPEALS

APPLICANT'S NAME _____

APPLICANT'S ADDRESS _____

PROPERTY OWNER'S NAME _____

VARIANCE REQUESTD FOR

SPECIAL EXCEPTION REQUESTED FOR

SIGNATURE OF APPLICANT _____

DATE SUBMITTED _____

PLEASE NOTE: The Applicant(s) must file this application with the following information:

- 1. Payment of the filing fee: variances are \$200 for residential uses and \$500 for non-residential uses. Special exceptions are \$500. Publication and posting fee is \$100, in addition to the filing fees for variances and special exceptions**

- 2. The principal points on which this application is made:**
 - a. Variances, criteria for approval. Variances from the provisions or requirements of this chapter may be granted if the Board finds that:**
 - (1) The literal enforcement of the code would result in undue hardship**
 - (2) The variance will not be substantially detrimental to adjacent properties, will not materially impair the purpose of this chapter or the public interest, and the character of a district will not be changed by the granting of the variance**

(3) No variance shall exceed minimum adjustment necessary to relieve the hardship imposed by the literal enforcement of this chapter

b. Special Exception, criteria for approval. A special exception use may be granted by the Board only upon proof by the applicant that:

(1) The proposed use is compatible with the principal permitted uses within the district

(2) The use does not adversely affect public health, safety, or welfare of the adjoining or neighboring properties

3. Reference to the section of the Development Code or Sign Code under which you are applying for a building permit or sign permit.

4. Names and addresses of all adjoining property owners.

5. For a variance request, submit a copy of the location survey or other plans drawn to scale showing the proposed improvement and the building setbacks.

OFFICE USE ONLY

VARIANCE

SPECIAL EXCEPTION

INTERPRETATION OF DEVELOPMENT CODE OF ZONING MAP

CASE NO. _____

AMOUNT PAID _____

HAVING DULY HAEARD AND CONSIDERED THIS CASE, THE BOARD OF APPEALS FINDS AS FOLLOWS:

GRANTED _____

DENIED _____

DATE OF OPINION _____

ABERDEEN DEVELOPMENT CODE, SECTION 235-11, BOARD OF APPEALS

- A. The Board of Appeals is established pursuant to the Land Use Article of the Annotated Code of Maryland.
- B. The Board of Appeals shall consist of five members and one alternate member, who may be empowered to sit on the Board in the absence of any member of the Board, who shall serve without compensation. The terms of all members shall be three years. If a seat on the Board of Appeals becomes vacant, the Mayor will appoint a member, with concurrence of the Council, to fill the remaining term of the vacancy. All members may be eligible for reappointment.
- C. The Board of Appeals shall elect a Chairperson and a Deputy Chairperson from its members for terms of one year with eligibility for reelection.
- D. The Board shall:
 - (1) Administer oaths and conduct hearings, including receipt of evidence and stipulations.
 - (2) Adopt rules and regulations for the conduct of its hearings.
 - (3) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (4) Hear and decide applications for special exceptions and variances as authorized under this chapter.
 - (5) Issues subpoenas for and compel the attendance of witnesses.
- E. Meetings, notice and hearings.
 - (1) The Board shall adopt rules for the conduct of its business, which shall be made available to the public. A quorum shall not be fewer than three members, and an affirmative vote of three members of the Board shall be required to reverse any decision, ruling or determination of the Zoning Administrator or to approve any special exception or variance. All hearings and deliberations shall be open to the public, unless permitted to be closed under the Open Meetings Act.
 - (2) The Board shall hold meetings at the call of the Chairperson and at such other times as the Board may determine.
 - (3) The Board shall keep minutes of its proceedings and other actions, showing the vote of each member upon each question. The Board shall keep records of its examination and other official actions, all of which shall be filed in the City office and shall be a public record. The Chairperson or, in his/her absence, the Deputy Chairperson may administer oaths and compel the attendance of witnesses.
 - (4) Upon receipt of a completed application, the Board shall schedule a public hearing and provide notice in one newspaper of general circulation in the City at least 14 days prior to the hearing and on the City's website.
 - (5) All contiguous property owners shall be notified of the public hearing date by regular and certified mail.

F. In addition to such other rules and regulations as may be adopted by the Board, the hearing shall be conducted as follows:

- (1) Applicant's case.
- (2) Report of the Department of Planning and Community Development and other public agency representatives.
- (3) Any opponent's case in chief.
- (4) Applicant's case in rebuttal.

G. The Board may impose such conditions regarding the locations and other features of the proposed structures or uses as it may deem necessary, consistent with the purposes of the code, the limitations, guides, and standards and the laws of the City and State of Maryland.

H. Decision of the Board.

- (1) Lapse of special exception or variance. After the Board of Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of two years if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted or if the Board does not specify some longer period than two years for good cause shown, and the provision of these regulations shall thereafter govern.
- (2) The Board shall issue a written decision or determination on any application or appeal within 30 days following the close of the record. This time may be extended by the Chairperson for an additional 60 days.

I. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of a court of competent jurisdiction after notice to the Zoning Administrator and on good cause shown.

J. If the application is disapproved by the Board or is dismissed for failure of the applicant to pay costs, then the Board shall take no further action on another application for substantially the same relief until six months from the date of such disapproval or dismissal, whichever shall last occur.

K. A special exception use may be granted by the Board only upon proof by the applicant that:

- (1) The proposed use is compatible with the principal permitted uses within the district.
- (2) The use does not adversely affect public health, safety and welfare of adjoining or neighboring properties.

L. Criteria for approval of variances. Variances from the provisions or requirements of this chapter may be granted if the Board finds that:

- (1) The literal enforcement of the code would result in undue hardship.
- (2) The variance will not be substantially detrimental to adjacent properties and will not materially impair the purpose of this chapter or the public interest and the character of a district will not be changed by the granting of the variance.
- (3) No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by the literal enforcement of this chapter.

M. Appeals from a decision of the Board may be filed by any interested person to the Circuit Court in the manner prescribed by law within 30 days from the date of the Board's decision.

N. A fee shall be charged for filing and handling each application or appeal provided for in this article, in an amount to be determined by the Council. All costs associated with the application must be paid to the City when the application is filed. The costs of appeal, including the copy of the transcript, shall be borne by the applicant.

O. The Board, upon application for an interpretation of the Development Code or Zoning Map, after notice to the owners of the properties affected and public hearing, may render an interpretation.