



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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Sample Staff Report – Variance Request For Training Proposes Only

To: Board of Zoning Appeals (BZA)
From: Zoning Staff Member
Date: ##/##/#### (Regular Meeting)
Re: Variance Staff Report Example

Summary:

Owner/Applicant Information: First Name, Last Name (*sometimes you see an LLC or trust*)
Location/Address: (Insert Address)
Tax Map #: ### - # - ###
Zoning District: Zoning District
Lot Area: +/- # of sq. ft.
Variance(s) requested:

***Content:** A brief description of the request will be provided here. It would match the description provided for public advertisement. For example: A variance of 5ft. from the required side yard setback off (insert street name) per Zoning Ordinance Section 10-3-112(2), Modifications and Adjustment – Setbacks, to construct an addition to an existing single-family dwelling for a bedroom.*

Proposal/Background: ← (*Section Title*)

***Content:** This section should provide a more detailed description of the proposal, along with any relevant background information about the property and/or the circumstances leading to the request. For a variance request, this may include plans for future development of the property or a history of how the property has been developed, or why it could not be developed, under current requirements.*

Relevant Sections of the Zoning Ordinance and Definitions:

***Content:** This section will contain excerpts from the Zoning Ordinance sections that are relevant to the request. Below are sections that are related to setbacks in the R-2 District for a corner lot (two street frontages that intersect).*

- **Section 10-3-41, Area and dimensional regulations for the R-2, Residential District**

	Minimum Feet					Maximum	
Lot Area Sq. Ft.	*Lot Width	Lot Depth	Front Yard	Side Yard	Rear Yard	Stories	Heigh Feet
Single Family:7,000	60	100	30	10	20	3	35

*Measured at point of required front setback line.

- Section 10-3-112(2) states: “*Corner lots shall provide a setback equal to the required front setback for all yards adjoining a public street; provided, however, that the setback regulations shall not reduce the buildable width of a lot to less than fifty (50) percent of lot width and measured at the point of required setback line.*”

Qualifying Conditions

Content: This section includes the Code of Virginia standards for variances copied verbatim. Take note that there are two primary sections; 15.2-2201 and 15.2-2309. A variance must meet applicable standards in both sections.

Virginia Code § 15.2-2201 defines a variance as a “*reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure*” when the following conditions are met:

- 1) The strict application of the ordinance would unreasonably restrict the utilization of the property, **and**
- 2) The need for a variance would not be shared generally by other properties, **and**
- 3) Such variance is not contrary to the purpose of the ordinance, **and**
- 4) It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Virginia Code § 15.2-2309(2) states the Board of Zoning Appeals may “*grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.*” The criteria are listed below:

- 1) The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property, **or**

- 2) 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**
- 3) The granting of the variance would 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.
- 4) **And meet all of the following:**
 - i) 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.
 - ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
 - iii) 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.
 - iv) 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.
 - v) The relief or remedy sought by the variance application is not available through a special use permit or special exception (i.e. special use permit) authorized by this chapter when the application is filed or the process for modification of a zoning ordinance.

Staff Analysis:

Content: For a staff report on a variance request, staff will evaluate the application using the variance standards established in the Code of Virginia. Each criterion should be accompanied by an analysis stating whether staff believes the standard has been met. Board members should apply the same reasoning and consider whether or not they agree with the analysis and why.

Virginia Code § 15.2-2201 → (Take careful note of the bold “and” between the criteria.)

- 1) The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.

Staff Analysis Example: Standard not met. The owner already has reasonable use of the property with an existing single-family dwelling. Staff does not believe that the strict application of the ordinance unreasonably restricts the utilization of the property as the dwelling may still retain its use as a single-family residence without the roof over the deck.

And

- 2) The need for a variance would not be shared generally by other properties.

Staff Analysis Example: Standard not met. There are many other lots in the City that front on two public streets and would be subject to the same or similar setbacks because of Sec. 10-3-112(2). These are commonly found at intersections of public streets. Parcels with similar conditions to (insert address) have the same restrictions limiting development.

And

- 3) Such variance is not contrary to the purpose of the ordinance.

Staff Analysis:

And

- 4) It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Staff Analysis:

Virginia Code § 15.2-2309(2) → *(Take careful note of the bold “or” between the criteria.)*

1. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.

Staff Analysis:

Or

2. 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.

Staff Analysis:

Or

3. The granting of the variance would 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.

Staff Analysis:

And meet the following: → *(Take careful note of the bold “and” between the criteria.)*

- i) 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.

Staff Analysis:

And

- ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

Staff Analysis:

And

- iii) 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.

Staff Analysis:

And

- iv) 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.

Staff Analysis:

And

- v) The relief or remedy sought by the variance application is not available through a special use permit or special exception (i.e. special use permit) authorized by this chapter when the application is filed or the process for modification of a zoning ordinance.

Staff Analysis:

Staff Recommendation:

Content: In this section, staff will pull all the information and analysis together and make a recommendation to the Board on whether the variance should be denied, approved, or approved with conditions. The Board must review all the information provided by staff and the applicant and reach a decision on the request.

Proposed Motions:

Content: Staff will recommend motions to the Board to help guide the meeting.

If the Board chooses to deny this variance (staff's recommendation):

Example: I move to deny the variance application for (insert address).

If the Board finds legal grounds to grant the variance:

Example: I move to grant the variance application for (insert address) for a variance of 5ft feet from the required 30-foot side yard setback off (insert street name).

Additionally, the Board should explain the evidence that supports each criterion.

The Board may also impose conditions regarding the location, character, and other features of the proposed structure as deemed necessary in the public interest. For example, the Board could condition that the variance shall only apply to a covered porch located in the general area proposed in the application.

Community Engagement: → (This section is standard on all staff reports)

As required, the request was published in the local newspaper twice advertising for the Board of Zoning Appeals' public hearing. The advertisement was published as shown below:

(Insert copy of request description)

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request, and a notice was provided on the City's website at

<https://www.harrisonburgva.gov/public-hearings>.

Attachments:

1. Site Map and Property Survey
2. Application and Supporting Documents