



FAIRFAX COUNTY

VARIANCE: A Variance is a request to vary certain requirements of the Zoning Ordinance where, due to special conditions of the property, strict enforcement of the Ordinance would, among other standards, effectively prohibit or unreasonably restrict all reasonable use of the property. Examples include, but are not limited to, requests to permit construction of a structure closer to a lot line than allowed by the Zoning Ordinance (variance to minimum yard requirement), requests to permit a subdivision of a lot which would result in new lots that do not meet minimum lot width requirements (variance to minimum lot width), or requests to increase the height of a fence (variance to fence height).

SPECIAL EXCEPTION: Section 9-001 of the Zoning Ordinance states that there are certain uses which by their nature or design can have an undue impact upon, or be incompatible with, other uses of land. In addition, there are times when standards and regulations specified for certain uses allowed within a given zoning district should be allowed to be modified, within limitations, in the interest of sound development. These uses, described as special exception uses in the Zoning Ordinance, may be allowed to locate within designated zoning districts under the controls, limitations and regulations of a special exception approved by the Board of Supervisors. The Board of Supervisors may approve a special exception under the provisions of Article 9 of the Zoning Ordinance, when it concludes that the proposed use complies with all specified standards, including the standards that such use will be in harmony with the Comprehensive Plan and will be compatible with existing and/or planned development in the general area. In addition, in approving a special exception, the Board may impose conditions and restrictions to ensure that the standards will be met. Where such cannot be accomplished, or when it is determined that the use is not in accordance with all applicable standards of the Zoning Ordinance, the Board will deny the special exception. In order to request consideration of a special exception, an application must be filed with the County by the owners, lessee, or contract purchasers of the land, or their designated agents. A special exception must meet specific submission requirements, including the provision of a fee and an affidavit, as set forth in the Zoning Ordinance.

FAIRFAX COUNTY (CONTINUED)

- Special Exception Application Package ([Special Exception Application Package - Fairfax County, VA](#))
 - Special Exceptions require a Public Hearing with the Planning Commission. Which, makes a Recommendation to the Board of Supervisors – for the BOS to consider at the BOS Public Hearing
 - Special Exception can be processed (to be heard at both a Planning Commission and BOS public hearings) would be 4 months from the date of “Acceptance”
 - can take between 4 to 6 months, from the time of Acceptance – to the time of the Board of Supervisor’s Public Hearing.
- Special Permit and Variance Applications - are assigned a Board of Zoning Appeals (BZA) Public Hearing Date.
 - Special Permit and Variance Applications are accepted, they are assigned a Board of Zoning Appeals (BZA) Public Hearing Date
 - It usually takes 3 months or 90 days, from the date of Acceptance to the date of the BZA Public Hearing.
 - [FAIRFAX COUNTY Special Permit Application Package](#)
- Filing Fees for Variances, Special Permits, and Special Exceptions
 - Filing Fees for Variances, Special Permits, and Special Exceptions
 - The Application Fee is Non-Refundable. If an Application is Denied, the Applicants do not receive a Refund.
 - [Variance Application Package - Fairfax County, VA](#)

If a property owner was requesting to construct a building that exceeded the maximum allowable height – that would require a Special Exception, pursuant to **Sect. 9-601.3**. The Special Exception (requesting an increase in building height) would require a public hearing in front of the Planning Commission (who would make a Recommendation to the Board of Supervisors), and a second public hearing in front of the Board of Supervisors. Then, the Board of Supervisors would make a Decision to Approve or Deny.

Any proposal that requests an increase of the height of a building in a historic overlay district and has a height restriction included in the zoning ordinance (ex. woodlawn HOD), **requires a zoning ordinance amendment**. The zoning ordinance amendment process requires justification for why the modification is needed, support from a board of supervisors member, a full staff report, and public hearings at the Architectural Review Board, the Planning Commission and the Board of Supervisors.

CONCLUSION:

My research has shown many the Jurisdictions in the Commonwealth processing of Special Exception rulings and decisions reside with the Town Council and Planning Commission since these two bodies are responsible for the creation of a broader legislation. The Planning Commissions interpretation and rewriting of C-4 Zoning District Text Amendments ZTA21-01, ZTA21-03, and ZTA21-04 reflects what other jurisdictions currently follow.