

Pertaining to the Amendments of the Calvert County Zoning Ordinance  
(Calvert County Zoning Ordinance Section 11-3 Administrative Variances: Sections 11-3.01.A Purpose and 11-3.01.D Criteria)

**RE: Administrative Variances**  
(Text Amendment Case No.15-01)

**WHEREAS**, Title 4 of the *Land Use Article* of the Maryland Annotated Code, as amended, empowers the Board of County Commissioners of Calvert County, Maryland (the "Board of County Commissioners") to enact a Zoning Ordinance to promote the health, safety and welfare of the citizens of Calvert County, and to provide for its administration, enforcement and amendment;

**WHEREAS**, by Ordinance 35-06, the Board of County Commissioners of Calvert County, Maryland has heretofore adopted the Calvert County Zoning Ordinance;

**WHEREAS**, after study and evaluation, the Calvert County Department of Community Planning & Building recommended to the Planning Commission and the Board of County Commissioners text amendments to the Calvert County Zoning Ordinance ("CCZO"), to Section 11-3 Administrative Variances: Sections 11-3.01.A Purpose and 11-3.01.D Criteria;

**WHEREAS**, after due notice was published, the Board of County Commissioners and the Planning Commission of Calvert County, Maryland (hereinafter, the "Planning Commission") conducted a joint public hearing on June 9, 2015, at which time the proposed amendments were discussed, staff's recommendations were considered, and public comment was solicited;

**WHEREAS**, at the conclusion of said public hearing the Planning Commission voted to recommend adoption of the amendments and conveyed its recommendation to the Board of County Commissioners by resolution; and

**WHEREAS**, after considering the evidence which had been presented at the public hearing regarding the proposed text amendments and the recommendation of the Planning Commission, and in furtherance of the public health, safety and welfare, the Board of County Commissioners of Calvert County, Maryland determined it is in the best interest of the citizens of the County to enact the text amendments to the Calvert County Zoning Ordinance as set forth in Exhibit A, attached hereto and made a part hereof.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Calvert County, Maryland, that Section 11-3 Administrative Variances: Sections 11-3.01.A Purpose and 11-3.01.D Criteria of the CCZO **BE**, and hereby **IS**, amended by adopting the text amendments as shown in attached Exhibit A hereto and made a part hereof (Exhibit B depicts the amendments as they will actually appear in the Zoning Ordinance).

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance or the Calvert County Zoning Ordinance, are found to be unconstitutional, illegal, null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid.

EX 00047349

Ordinance No. 27-15

RE: Text Amendment Case No. 15-01  
Amendments to the Calvert County Zoning Ordinance  
RE: Administrative Variances  
Page 2 of 2

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that this amendatory Ordinance shall be effective upon recordation without publication of a fair summary, but not sooner than ten (10) days following adoption in accordance with Maryland Annotated Code, Land Use Article, §4-203(b)(3).

**DONE**, this 9<sup>th</sup> day of June 2015 by the Board of County Commissioners of Calvert County, Maryland.

Aye: 5  
Nay: 0  
Absent/Abstain: 0

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
OF CALVERT COUNTY, MARYLAND**

Maureen L. Frederick  
Maureen L. Frederick, Clerk

Steven R. Weems  
Steven R. Weems, President

Approved for form and legal  
sufficiency by:

Evan K. Slaughenaupt Jr.  
Evan K. Slaughenaupt Jr., Vice-President

Mike Hart  
Mike Hart

John B. Norris, III  
John B. Norris, III, County Attorney

Tom Hejl  
Tom Hejl

Pat Nutter  
Pat Nutter

Received for Record July 1 2015  
at 11:20 o'clock A M. Same day  
recorded in Liber KPS No. 47  
Folio 348 COUNTY COMMISSIONERS  
ORDINANCES AND RESOLUTION.

Gary P. Smith

(06/10/08)  
(09/21/10)

**11-3 ADMINISTRATIVE VARIANCES**

**11-3.01 Administrative Variances**

A. Purpose.

The purpose of this Section is to delegate to the Administrative Variance Officer approval authority to grant **variances from the strict application of the sign height, setback, and parking requirements of this Ordinance.** ~~variances for single-family residences, accessory residential structures, and additions to residences and accessory structures. The Administrative Variance Officer is also authorized to grant variances from the parking requirements for Single-Family Detached Dwellings and Apartments Accessory to a Single-Family Dwelling (See Section 5-1.12 of this Ordinance).~~

B. Application.

1. An applicant seeking a variance may request the same of the Board of Appeals, pursuant to Section 11-1.01.A of this Ordinance, without first applying for an administrative variance.
2. A person requesting an administrative variance must file the required application with the Department of Planning and Zoning.
3. The application consists of the following:
  - a. an application form;
  - b. application fee;
  - c. written documents bearing the signatures of all affected property owners demonstrating that they agree with the requested variance for the specific, proposed development activity. Affected property owners include all owners of all properties that abut the side or rear property line from which an administrative variance is sought; or in the case of an administrative variance request for front setback adjustment, all owners of all properties that abut a side property line of the subject property and those whose properties lie directly across the street from the subject property; and
  - d. a scale-drawing of the property showing the location and size of proposed structures and any additions to existing structures, as well as the distance between those structures and/or additions and all property boundaries.

C. Procedure.

The Administrative Variance Officer shall establish and publish procedures for the processing of applications including, but not limited to, the following:

1. Upon acceptance of the application, the Administrative Variance Officer shall mail a confirmatory notice to all affected property owners providing them with an opportunity to comment on the request within a specified time period.
2. The applicant shall post the property with a notice of the variance request for a period of 10 days after acceptance of the application by the Administrative Variance Officer.
3. If adverse comments are received from any property owners objecting to the variance request, the applicant shall be required to withdraw the application and submit a variance request to the Board of Appeals.

4. Prior to making a decision, the Administrative Variance Officer may visit the property to verify information contained in the application.

D. Criteria.

The Administrative Variance Officer may grant **sign height**, setback and/or parking variances only where it is demonstrated that peculiar and unusual practical difficulties exist on the parcel which warrant a **sign height**, setback and/or parking variance, and such difficulties are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. **Extraordinary situations for sign height and parking variances shall include meeting national corporate standards.** The applicant shall demonstrate that the following additional criteria have been met:

1. **The requested variance shall not increase the maximum sign height by more than 30 percent.**
- ~~1.2.~~ The requested variance shall not reduce required setbacks by more than 50 percent and in no case shall the required setback be reduced to less than five feet. **For parking variances, the number of parking spaces may be reduced to a minimum of two spaces for single-family detached dwellings, and a minimum of one space for accessory apartments.**
3. **For residential parking variances, the number of parking spaces may be reduced to a minimum of one space for single-family detached dwellings if there is an existing usable garage. The parking requirements for non-residential uses may be reduced up to 15% as specified in Section 6-3.01.E of this Ordinance. An administrative variance can be requested to reduce the required parking, up to 15%, if the site cannot accommodate the additional parking spaces as required by Section 6-3.01E.**
- ~~2.4.~~ **The p**Proposed **residential accessory** structures for which a variance is requested shall not exceed 1000 square feet in gross floor area.
- ~~3.5.~~ Nothing in this Section is intended to authorize the Administrative Variance Officer to grant variances to State or local requirements that are intended to protect environmentally sensitive areas, such as streams, slopes, wetlands, natural heritage areas, or critical areas.
- ~~4.6~~ Administrative variances may not be granted for after-the-fact variance requests or to correct a zoning violation. Such variance requests shall be made to the Board of Appeals.

E. Decisions.

Unless delayed by actions of the applicant or affected property owners, the Administrative Variance Officer shall decide the issue raised by the application within 30 days of acceptance of the application. The decision shall be in writing and shall include findings of fact that support the decision. In granting an administrative variance, the Administrative Variance Officer may impose conditions that are reasonable or necessary for the protection of surrounding and neighboring properties.

F. Denials.

If the application is denied, all future variance applications involving substantially the same proposal on the same property shall be submitted to the Board of Appeals.

G. Appeals.

1. Any applicant aggrieved by a decision made pursuant to this Section may apply for a variance from the Board of Appeals in accordance with Section 11-1.01.A of this Ordinance.
2. Any person or persons, other than the applicant, aggrieved by a decision made pursuant to this Section may file an appeal with the Clerk to the Board of Appeals no later than 30 days from the date of the Administrative Variance Officer's decision. The Board of Appeals Clerk will schedule the appeal for the next available Board of Appeals public hearing. Such an appeal will be heard de novo in accordance with Section 11-1.04 of this Ordinance.

H. Fees.

The Board of County Commissioners shall be responsible for establishing the fee schedule for administrative variances, in accordance with Section 1-5 of this Ordinance.

**Exhibit B****(06/10/08) 11-3 ADMINISTRATIVE VARIANCES****(09/21/10)****11-3.01 Administrative Variances****A. Purpose.**

The purpose of this Section is to delegate to the Administrative Variance Officer approval authority to grant variances from the strict application of the sign height, setback, and parking requirements of this Ordinance.

**B. Application.**

1. An applicant seeking a variance may request the same of the Board of Appeals, pursuant to Section 11-1.01.A of this Ordinance, without first applying for an administrative variance.
2. A person requesting an administrative variance must file the required application with the Department of Planning and Zoning.
3. The application consists of the following:
  - a. an application form;
  - b. application fee;
  - c. written documents bearing the signatures of all affected property owners demonstrating that they agree with the requested variance for the specific, proposed development activity. Affected property owners include all owners of all properties that abut the side or rear property line from which an administrative variance is sought; or in the case of an administrative variance request for front setback adjustment, all owners of all properties that abut a side property line of the subject property and those whose properties lie directly across the street from the subject property; and
  - d. a scale-drawing of the property showing the location and size of proposed structures and any additions to existing structures, as well as the distance between those structures and/or additions and all property boundaries.

**C. Procedure.**

The Administrative Variance Officer shall establish and publish procedures for the processing of applications including, but not limited to, the following:

1. Upon acceptance of the application, the Administrative Variance Officer shall mail a confirmatory notice to all affected property owners providing them with an opportunity to comment on the request within a specified time period.
2. The applicant shall post the property with a notice of the variance request for a period of 10 days after acceptance of the application by the Administrative Variance Officer.
3. If adverse comments are received from any property owners objecting to the variance request, the applicant shall be required to withdraw the application and submit a variance request to the Board of Appeals.
4. Prior to making a decision, the Administrative Variance Officer may visit the property to verify information contained in the application.

D. Criteria.

The Administrative Variance Officer may grant sign height, setback and/or parking variances only where it is demonstrated that peculiar and unusual practical difficulties exist on the parcel which warrant a sign height, setback and/or parking variance, and such difficulties are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. Extraordinary situations for sign height and parking variances shall include meeting national corporate standards. The applicant shall demonstrate that the following additional criteria have been met:

1. The requested variance shall not increase the maximum sign height by more than 30 percent.
2. The requested variance shall not reduce required setbacks by more than 50 percent and in no case shall the required setback be reduced to less than five feet.
3. For residential parking variances, the number of parking spaces may be reduced to a minimum of one space for single-family detached dwellings if there is an existing usable garage. The parking requirements for non-residential uses may be reduced up to 15% as specified in Section 6-3.01.E of this Ordinance. An administrative variance can be requested to reduce the required parking, up to 15%, if the site cannot accommodate the additional parking spaces as required by Section 6-3.01E.
4. Proposed residential accessory structures for which a variance is requested shall not exceed 1000 square feet in gross floor area.
5. Nothing in this Section is intended to authorize the Administrative Variance Officer to grant variances to State or local requirements that are intended to protect environmentally sensitive areas, such as streams, slopes, wetlands, natural heritage areas, or critical areas.
6. Administrative variances may not be granted for after-the-fact variance requests or to correct a zoning violation. Such variance requests shall be made to the Board of Appeals.

E. Decisions.

Unless delayed by actions of the applicant or affected property owners, the Administrative Variance Officer shall decide the issue raised by the application within 30 days of acceptance of the application. The decision shall be in writing and shall include findings of fact that support the decision. In granting an administrative variance, the Administrative Variance Officer may impose conditions that are reasonable or necessary for the protection of surrounding and neighboring properties.

F. Denials.

If the application is denied, all future variance applications involving substantially the same proposal on the same property shall be submitted to the Board of Appeals.

G. Appeals.

1. Any applicant aggrieved by a decision made pursuant to this Section may apply for a variance from the Board of Appeals in accordance with Section 11-1.01.A of this Ordinance.
2. Any person or persons, other than the applicant, aggrieved by a decision made pursuant to this Section may file an appeal with the Clerk to the Board of Appeals no later than 30

000476355

days from the date of the Administrative Variance Officer's decision. The Board of Appeals Clerk will schedule the appeal for the next available Board of Appeals public hearing. Such an appeal will be heard de novo in accordance with Section 11-1.04 of this Ordinance.

H. Fees.

The Board of County Commissioners shall be responsible for establishing the fee schedule for administrative variances, in accordance with Section 1-5 of this Ordinance.