

What is a Variance?

A variance is a form of relief that is granted when the application of the zoning regulations results in “peculiar or unusual practical difficulties” to a property owner.

Relief:

The Board of Appeals will grant a variance from the applicable zoning regulations by relaxing the standard which has caused the “peculiar or unusual practical difficulties.”

Examples of the zoning standards that may be altered are minimum front, rear, and side yard setbacks, and height requirements.

The Board strictly applies the requirements for a variance because a variance changes the development standards that all other property owners must follow.

Burden of Proof:

An applicant for a variance must prove that:

- There are specific situations or conditions that are peculiar to the property which make it unique or peculiar from neighboring properties.
- Uniqueness for zoning purposes requires that subject property have an inherent characteristic that is not shared by neighboring properties such as:
 - shape (narrowness, shallowness)
 - topography
 - historic significance
 - environmental features
- The requested variance is the minimum necessary to overcome the unique condition of the property.
- The requested variance is not detrimental to neighboring properties.

Basic Rules:

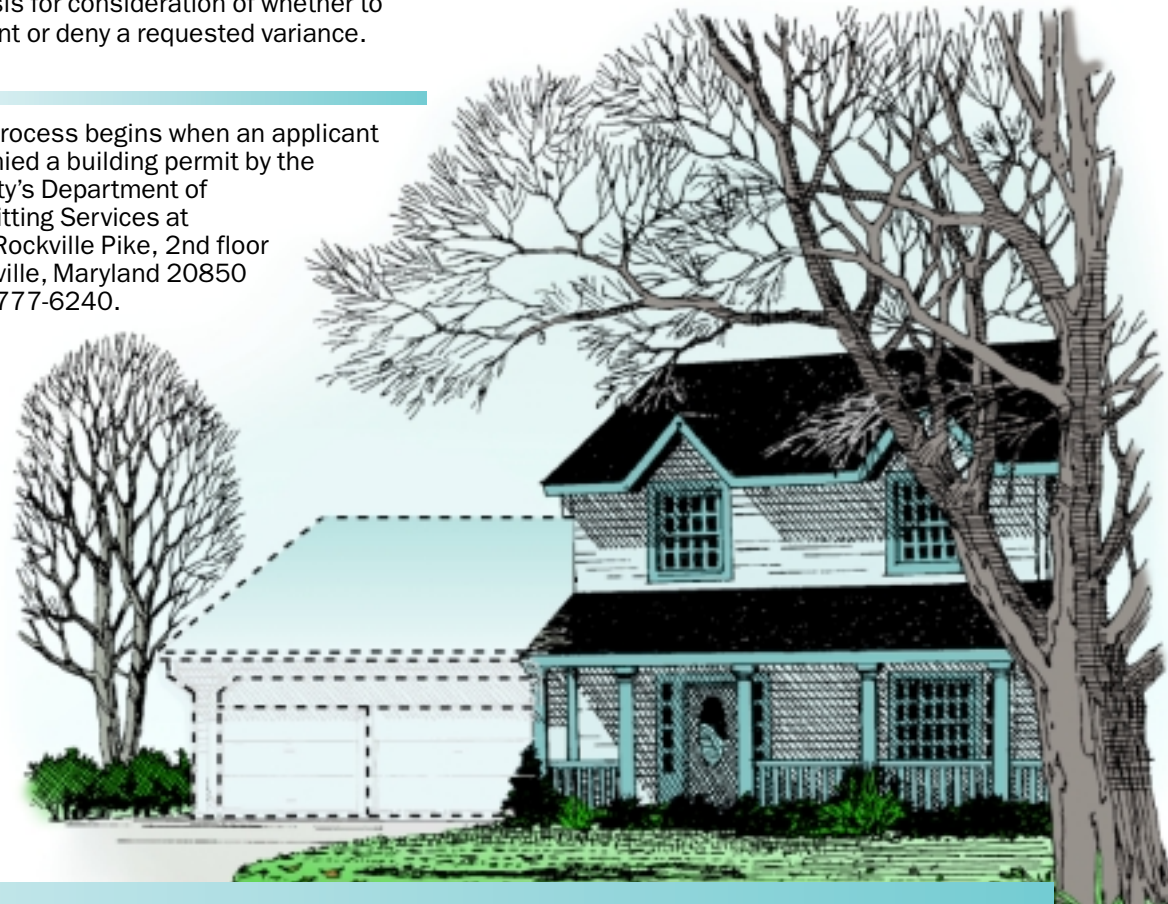
- The location of a house on the property which restricts the buildable area on the property is not a factor which will be considered in the decision on whether to grant or deny.
- The “practical difficulty” must result from the application of zoning standards, not from the action or inaction of the property owner. In other words, the condition which a variance relieves must not be self-inflicted by the owner.
- The Board of Appeals can establish conditions to lessen the effects of a variance on a neighboring property and the community.
- Personal circumstances are not a basis for consideration of whether to grant or deny a requested variance.

Process:

The process begins when an applicant is denied a building permit by the County's Department of Permitting Services at 255 Rockville Pike, 2nd floor Rockville, Maryland 20850 240-777-6240.

The Department issues a Building Permit Denial which indicates that a variance is needed and describes the variance from the zoning regulations that is required before a building permit can be granted.

An applicant then applies for a variance by filing a completed Petition for Variance under the Zoning Ordinance, along with required information, with the Board of Appeals for Montgomery County at 100 Maryland Avenue, Room 217 Rockville, Maryland 20850, 240-777-6600. The application is also available on the Board of Appeals website at: www.co.mo.md.us/council/board.html



The Board will furnish the applicant with a sign to be posted on the property.

The Board holds a public hearing on the variance application. The Board's Rules of Procedure set out all relevant procedures and requirements and are available from the Board.

At the end of the hearing the record is closed. The members of the Board then publicly discuss the merits of the case and vote on whether to grant or deny the variance.

It takes approximately 30 days from the date of the public hearing to when an applicant receives the decision of the Board.

Examples of Variances Granted

- A variance for a new single-family residence was granted due to the uneven terrain of the lot, the shape of the lot, and because the lot was smaller and shallower than neighboring properties.
- A variance to enclose an existing side yard porch was granted due to the existence of the porch for 75 years and because the existing footprint would not change.
- A variance for a one-story sunroom addition to an existing residence was granted because of the shallowness and trapezoidal shape of the lot and the lot's topography.
- Variances for a swimming pool and fence were granted because of rocky, sloping topography and because a 200-foot National Park Service Scenic Easement prevented new construction and tree removal in the rear yard of the site.

Examples of Variances Denied

- A variance for a storage shed was denied because the lot had the same topographic conditions as those located on adjoining and neighboring properties on the same side of the street.
- A variance to enlarge and expand an existing one-story garage for use as garden storage, an art studio, and as a guest room was denied because there were no exceptional topographic conditions and the property was similar in shape and size to the neighboring lots.
- A variance for a one-story addition on the front of an existing residence was denied because the lot was not unique in shape, there were no topographic conditions restricting the buildable envelope.
- Variances for the construction of a pool house and equipment structure were denied even though the lot was oddly shaped because the property was not unique, the proposed structures could be redesigned without need for the variances, and that the variances were "the maximum and not the minimum reasonably necessary."

Questions or More Information

If you have any questions or need more information, please call:

The Office of the
People's Counsel of
Montgomery County
240-777-9700



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**Board of Appeals
Office of the People's Counsel
Montgomery County, Maryland**