

Pertaining to the Amendments of the Calvert County Zoning Ordinance
(Calvert County Zoning Ordinance Section 11-3, Administrative Variances)
RE: Forest Conservation Regulations and Reinstating Ordinance 27-15
(Text Amendment Case No.14-03R)

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 ("CCZO");

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 "CCZO", Section 11-3, Administrative Variances;

WHEREAS, this amendment will also reinstate the amendments previously adopted by Ordinance 27-15, that were undone by Ordinance 08-17;

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 April 11, 2017, 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 close the record and approve the amendments and conveyed its recommendation to the Board of County Commissioners by resolution;

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 "CCZO" as set forth in Exhibits A, attached hereto and made a part hereof; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calvert County, Maryland, that Section 11-3, Administrative Variances 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.

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 and without publication of a fair summary.

DONE, this 11th day of April 2017 by the Board of County Commissioners of Calvert County, Maryland.

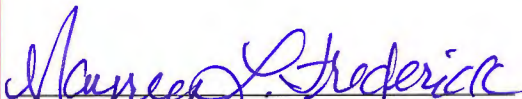
Aye: Tom Hejl, Evan K Slaughenhaupt Jr., Mike Hart, Pat Nutter

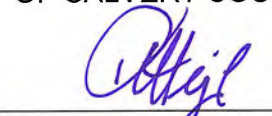
Nay: _____

Absent/Abstain: Steven R. Weems

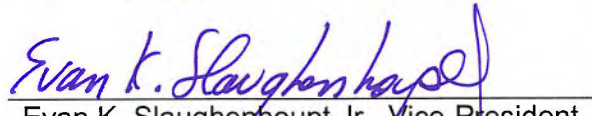
ATTEST:

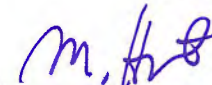
BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND


Maureen L. Frederick, Clerk

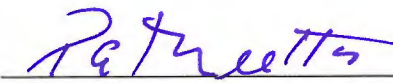

Tom Hejl, President

APPROVED FOR LEGAL
SUFFICIENCY:

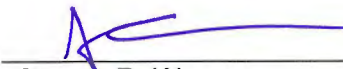

Evan K. Slaughenhaupt Jr., Vice-President

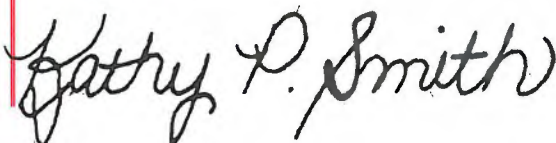

Mike Hart


John B. Norris, III, County Attorney


Pat Nutter

Filed for Record April 26, 2017
9:55 o'clock A.M. Same day
Recorded in Liber KPS No. 54
olio 427 COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.


Steven R. Weems



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 **parking requirements for Single-Family Detached Dwellings (See Section 5-1.12 of this Ordinance), and** disturbance of trees, shrubs, plants, and specific areas considered priority for retention and protection under the forest conservation regulations (See Section 8-3.04.H.1.**bc-e**).

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 Community Planning and Building.
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.

Proposed Deleted Text based on DNR comments

New Text based on DNR comments

Replacing and ~~Deleting~~ Text previously recorded as Ordinance 27-15

2. The Department of Planning and Zoning shall send notice of a request for a variance to the forest conservation regulations in Section 8-3.04.H.1.~~bc-e~~ to the Maryland Department of Natural Resources within 15 days of receipt of a request for a variance. In addition, a copy of the final administrative variance order shall be sent to the DNR Forestry Service.
3. 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.
4. 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.
5. 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 and variances to the forest conservation regulations found in 8-3.04.H.1.~~bc-e~~ only where it is demonstrated that peculiar and unusual practical difficulties exist on the parcel which warrant a **sign height**, setback and/or parking or forest conservation 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.**
- 4.2. The requested setback ~~and/or parking~~ 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.~~
- ~~2. For variances from forest conservation regulations found in 8-3.04.H.1.b the comments from the Maryland Department of Natural Resources (DNR) must be addressed to the satisfaction of DNR or the applicant shall be required to withdraw the application and submit a variance request to the Board of Appeals.~~
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.**

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- ~~34.~~ **The pProposed residential accessory** structures for which a setback ~~and or parking~~ variance is requested shall not exceed 1000 square feet in gross floor area.
- ~~45.~~ 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 except for forest conservation priority retention requirements in Section 8-3.04.H.1.~~bc-e~~.
- ~~56.~~ 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, ~~or DNR,~~ 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.

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11-3 ADMINISTRATIVE VARIANCES**11-3.01 Administrative Variances****A. Purpose.**

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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 Community Planning and Building.
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.

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

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1. The requested variance shall not increase the maximum sign height by more than 30 percent.
2. The requested setback 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 setback 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 except for forest conservation priority retention requirements in Section 8-3.04.H.1.c-e.
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.

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