



County of Culpeper – Planning Commission Subdivision Waiver Process

What is a subdivision variation or “waiver” and when should such requests be approved?

A subdivision variation, commonly referred to as a waiver, is an approval of a subdivision which is not in compliance with one or more of the provisions of the Subdivision Ordinance. This should not be confused with a variance from the Zoning Ordinance, which is granted by the Board of Zoning Appeals. The Planning Commission, a body of nine citizens appointed by the Board of Supervisors, may grant a variation for a minor subdivision if they find that:

“An unusual situation exists which makes it necessary or desirable to vary one or more standards or procedures, or when strict adherence to the general regulations would result in substantial injustice or hardship.”

Further:

“Any such variation from the prescribed standards shall be shown to be in the public interest, and the reasons therefor shall be stated in the minutes.”

Before a variation can be granted, the applicant (usually the owner of the property) must show that the criteria above have been met by demonstrating how they will be worse off as a result of being denied the waiver. The burden of proof is on the applicant, and it must be shown that there will be *substantial* injustice *and* substantial hardship. Mere convenience, or a desire to maximize profit, does not justify a waiver. If the applicant has caused the hardship, the hardship is considered “self-imposed,” and a waiver is not generally justified. Similarly, if there are other options available, it stands to reason that the burden of proof cannot be met.

Note that the Planning Commission has sole authority in considering and acting upon waivers for minor subdivisions. Major subdivision waivers would be under the authority of the Board of Supervisors. Also note that if a provision found in the Subdivision Ordinance is also found in the Zoning Ordinance, the Planning Commission would not have the authority to consider a variation, or waiver.

Planning Commission Procedure

All variation requests must be filed on the attached form. Applications are processed according to a schedule of deadlines and meeting dates, which is published each year.

The applicant or a representative is required to attend the meeting. Additional written comments may also be submitted.



COUNTY OF CULPEPER- Department of Development
302 N. Main Street, Culpeper, VA 22701

Application for Subdivision Variation or Waiver

Property Address: _____

Current Zoning: _____

Parcel Number: _____

Magisterial District: _____

Subdivision: _____

Request for variation:

Fill in only the line(s) that apply to your request(s)	Code Section	Summary of Request
Family Division		
Lot Width		
Length of Cul-De-Sac		
R-O-W Width		
Other (write in)		

One copy of a plan must be submitted with this application, showing size and location of the lots proposed

Applicant:	Representative:
Address:	Address:
Phone: Fax:	Phone: Fax:
e-mail:	e-mail:

By signing this application, the property owner authorizes the Planning Commission and County employees to enter the property during the normal discharge of their duties in regard to this request.

Signature: _____

Print name: _____

OFFICE USE

Date Received:	Fee: \$
Accepted By:	Received By:

Date of Planning Commission Meeting: _____

Action Taken: _____

The Culpeper County Subdivision Ordinance, Section 960 authorizes the Planning Commission to grant variations under the following circumstances:

Where an unusual situation exists which makes it necessary or desirable to vary one or more standards or procedures, or when strict adherence to the general regulations would result in substantial injustice or hardship. Additionally, any such variation from the prescribed standards shall be shown to be in the public interest, and the reasons therefor shall be stated in the minutes.

To assist you in addressing the pertinent issues, please answer the following questions (attach additional sheets if necessary):

1. How does the subdivision ordinance prohibit, or unreasonably restrict, the use of this property? How is this situation *unique or unusual*?

2. What is the *substantial* injustice that will occur if the ordinance is strictly enforced? What is the *substantial* hardship that will be suffered?

3. How would the applicant and/or owner be worse off than they are *currently* if this variation to the subdivision ordinance is not granted?

4. Describe what is being provided to the Planning Commission in order to meet the required burden of proof for this request (written testimony, documentation of hardship, etc.).
