

**TOWN OF MIDDLEBURG**  
**Office of the**  
**Zoning Administrator**

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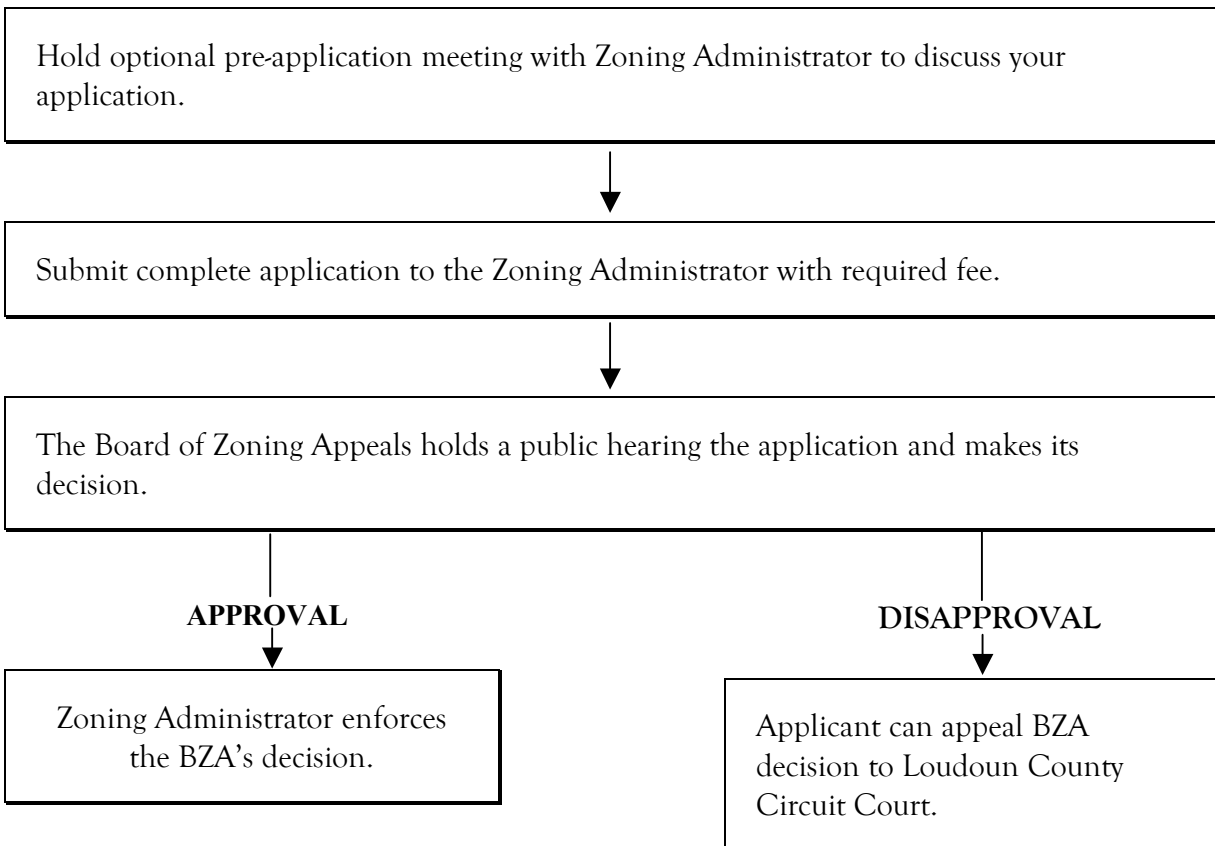
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## **How to Apply for a VARIANCE or ADMINISTRATIVE APPEAL**

**Variance** applications can be submitted to the Board of Zoning Appeals (BZA) when the Zoning Administrator has determined that particular provisions of the Zoning Ordinance cannot be met. Use variances are not permitted. The BZA can grant variances only in very limited circumstances defined by State law (see back of this sheet for complete explanation of State law).

**Administrative Appeals** to the BZA can be filed by anyone aggrieved by a determination made by the Zoning Administrator in the administration or enforcement of the zoning ordinance. The BZA can reverse or affirm, wholly or partly, or may modify the Zoning Administrator's decision.

### **APPLICATION PROCESS**



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**State Standards for Variances**  
(See Section 15.2-2309, 1950 Code of Virginia, as amended)

In presenting a variance request. The property owner has the burden of showing all of the following:

1. The Property was acquired in good faith. Self-imposed hardship, whether knowingly incurred or not, affords no basis for the granting of a variance.
2. One or more of the following conditions are met:
  - ❖ Strict compliance with the zoning ordinance would effectively prohibit or unreasonably restrict the use of the property because of the property's exceptional narrowness, shallowness, size or shape; exceptional topographic conditions or other extraordinary condition or situation; or extraordinary situation or condition of the property immediately adjacent.
  - ❖ The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

AND

3. The variance is in harmony with the intended spirit and purpose of the ordinance and comprehensive plan.

The BZA cannot authorize a variance unless it finds that:

1. The Strict application of the ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changes; and
4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

The Board may impose conditions regarding the location, character and other feature of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.