



Dorchester County Critical Area Administrative Variance Application Instructions

1. Application for Variance: Complete the Administrative Variance Application form. This application informs the Planning Director of the purposes of the application and provides general information. You may attach additional typewritten pages if more space is needed.
2. Variance Criteria & Written Statements: This portion of the application sets forth the legal findings on which the Planning Director will base their decision. Please respond in writing to each of the warrants. The Director and Planning Commission will use this information to help better understand your request. They are the basis for the Variance.
4. Site Plan: The applicant is responsible for preparing a site plan which included: dimensions of the property; location of all existing buildings and proposed additions or relocation showing setbacks from property lines; lot coverage calculations; buffer lines.
5. Notification of Administrative Variance request sent to Surrounding Property Owners by mail.
6. Fee: Application fee of \$150 made out to Dorchester County.

**The following criteria are for informational purposes only.
Please read and if you have any questions please ask for clarification.**

Meeting Notice: Public notice shall be given for a public meeting for an Administrative Variance application requesting recommendation by the Planning Commission.

Planning Director Staff Report: Before making a recommendation for any application for an Administrative Variance the Planning Commission shall seek staff comments from the Planning Director. The Commission may request from the Planning Director such technical service, data, or factual evidence as will further assist them in reaching decisions.

Planning Director Conditions of Approval: In granting Administrative Variances, the Planning Director may impose reasonable conditions as to ensure that the use of the property to which the Variance applies will be as practicable with the surrounding properties.

Variance Time Limit: The Planning Officer may impose a time limit to which an approved Administrative Variance must be executed.

Planning Officer Decision: The decision and supported findings, along with any conditions

attached to the decision shall be entered into and become part of the written record of the

Critical Area Notification: The Planning Director shall forward a copy of all Critical Area Administrative Variance applications to the Chesapeake Bay Critical Area Commission prior to Planning Commission review. Any comments received from the Critical Area Commission in response to an application for an Administrative Variance shall be forwarded to the Planning Commission and Planning Officer for consideration.

Appeal of Planning Officer Decision: Upon a determination by the Planning Director that the proposed Administrative Variance does not meet the criteria the applicant may file for an appeal within 30 days in the form of an application for a Variance by the Board of Appeals.

ADMINISTRATIVE VARIANCES IN THE CRITICAL AREA STANDARDS:

On a lot or parcel that was recorded before January 1, 2010, an administrative variance in the critical area may be granted for the **replacement, expansion, or relocation of a legally existing, nonconforming structure, the construction of a new accessory structure, or the construction of a new primary structure within the buffer that meets the following conditions:** All properties will comply with the lot coverage restrictions in § 155-38.O

Replacement of a structure or the expansion of a structure in the 100-foot tidewater buffer:

- [a] The replacement or expansion does not encroach any further than the existing structure into the 100-foot tidewater buffer, unless the proposed development is restricted by more than one buffer; in this case, the proposed expansion may not encroach any further than 50 feet into any one of the buffers;
- [b] The proposed expansion will not enlarge the existing footprint of the structure by greater than 30% of what existed on March 8, 2010, or 500 square feet, whichever is greater; and

Replacement of a structure or the expansion of a structure in the expanded buffer (Except as in COMAR 27.01.09.01.E.8 (75% rule))

- [a] The replacement or expansion does not encroach into the 100-foot tidewater buffer;
- [b] the proposed expansion will not enlarge the existing footprint of the structure by greater than 30% of what existed on March 8, 2010, or 500 square feet, whichever is greater

Relocation in the 100-foot or expanded buffer:

- [a] the relocated structure lessens the extent of the nonconformity, unless the proposed development is restricted by more than one buffer; in this case the proposed relocation may not encroach any further than 50 feet into any one of the buffers;

New accessory structure in the 100-foot or expanded buffer:

- [a] The new accessory structure will not be located any further shoreward than the closest point of the existing primary structure, unless the proposed development is restricted by more than one buffer; in this case the proposed expansion may not encroach any further than 50 feet into any one of the buffers;
- [b] The size of the new accessory structure will not exceed 30% of the footprint of the primary structure as it existed on March 8, 2010;
- [c] If no lot coverage associated with a primary structure existed on the site as of March 8, 2010, the size of the new accessory structure will not exceed 500 square feet; and

- [d] The property will comply with the lot coverage restrictions in § 155-38.O and accessory structure limitations in § 155-50.A.
- [e] The footprint of any new accessory structure approved by an administrative variance shall be counted against the expansion of a primary structure allowed under § 155-38.m.9(b)[1][b] and § 155-38.m.9(b)[2][b].

New principal in the expanded buffer (Except as in COMAR 27.01.09.01.E.8, 75% rule);

- [a] The new principal structure and any associated parking pad or accessory structure shall not encroach into the 100-foot tidewater buffer;
- [b] The footprint of the new principal structure and any associated parking pad and/or accessory structure within the expanded buffer shall not exceed 2,500 square feet;
- [c] The width of a proposed driveway within the expanded buffer shall not exceed 12 feet.

PLANTINGS MITIGATION: Any approved Administrative Variance in the Critical Area for buffer encroachment under the provisions of §155-38.M (9) of the Dorchester County Zoning Ordinance shall be mitigated as per §155-38.M (9)(d).

CRITERIA: The applicant shall provide **written statements** and has the burden of proof to satisfy each of the following variance provisions below: (see form)

- (1) Due to special features of the site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the local Critical Area program would result in unwarranted hardship to the applicant;
- (2) A literal interpretation of the local Critical Area program would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program;
- (3) The granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of the local Critical Area program;
- (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;
- (5) The variance request does not arise from any conforming or nonconforming condition on any neighboring property;
- (6) The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's local Critical Area; and
- (7) The granting of the variance would be in harmony with the general spirit and intent of the Critical Area law, and the local Critical Area program.