



Talbot County Board of Appeals
215 Bay Street, Suite 2
Easton, Maryland 21601
410-770-8040

Procedure for Non-Critical Area Variance Application

Please read the attached material thoroughly. The documents in the application packet should be completed and delivered to the Talbot County Board of Appeals located in the Department of Planning and Zoning. The filing fee is \$700.00, which includes a \$400.00 review fee & a \$300.00 deposit for advertising. Any portion of the advertising deposit not utilized will be returned. Checks shall be made payable to **Talbot County**, Maryland. Postage stamps or the cost of mailing associated with the attached adjacent property owners list shall be provided at the filing fee is paid with submittal of this application.

At the time the application is deemed complete with all forms signed and dated, dates will be scheduled for your hearing, sign posting and other pertinent dates. The applicant/agent is responsible for noting and complying with these dates. Direct any questions to Chris Corkell, Administrative Assistant to the Board of Appeals Office at **(410) 770-8040**.

Application for Variance: Complete the "Purpose of Appeal". This informs the Board what application is for. You may attach a typewritten sheet if additional space is needed. Please give a **detailed description** of your request.

Non-Critical Area Variance Requirements: These documents contain standards as defined in § 190-58.3 of the *Talbot County Code* that you will be required to address during the hearing. They are the basis for the appeal. All questions must be addressed in full detail, do not provide yes/no Responses or leave any questions unanswered.

Adjacent Property Owners: The Applicant/Agent is responsible for obtaining the names and addresses of all property owners contiguous to the subject property as stated in Chapter 20, § 20-10 of the *Talbot County Code*. For purposes of this Section, contiguous means all properties adjacent to and opposite said property, measured at right angles to any intervening road or street. Said mailed notice shall be directed to the address to which the real estate tax bill on property is sent. This information can be obtained by contacting Maryland Department of Assessment and Taxation at 410-819-5920 or on their web site at <http://www.dat.state.md.us>. A copy of the tax map is needed with subject property highlighted.

Water Front Property

For parcels fronting on the water, contiguous property owner(s) also include owners of property within 1,000 feet of the subject property, whose line of sight to the subject property is entirely over water.

Posting Property, Chapter 20, § 20-9: This statement informs the Applicant/Agent when and where a sign is to be posted. Should two signs be necessary, the Department of Planning and Zoning will inform the Applicant/Agent and posting locations will be designated.

Sign Maintenance Agreement: This agreement is signed by the Applicant/Agent. The sign is to be continuously maintained in a conspicuous location on the property for 15 days prior to the hearing and returned to the Department of Planning and Zoning within 5 days after the hearing date, or a substantial fine may be imposed. See insert in this package for posting of the sign.

Location Directions: The Applicant/Agent is responsible for providing detailed directions to the property in question.

Site Plan: The Applicant is responsible for preparing a site plan which includes: dimensions of property, location of all existing and proposed buildings, tree lines and proposed additions showing setbacks from property lines and names of adjoining roads, streams, or bodies of water. The site plan must be drawn to scale. Contact the Board of Appeals Office for number of site plans needed for your project along with (1) additional copy if within the 100' buffer, (1) additional copy if property is located on a state highway and (1) additional copy for any other agency that may need a copy for review.

Written Acknowledgement: When the Applicant is someone other than the owner of the property for which the variance is requested, the Applicant shall attach to the application a letter of authorization from the owner stating that he/she has reviewed the application and concurs with its content.

Incomplete Application: The application shall be delivered to the Talbot County Board of Appeals located in the Department of Planning and Zoning. If the application is deemed incomplete in any respect, it will be returned to the applicant, and shall not be considered filed with the Department. Federal, State and/or local permits or approvals may be required to be obtained prior to application submittal.

Covenants: If your property has a covenant please provide a copy when application is submitted to this office.

Public Hearing Notice: Public notice shall be given for a public hearing on an application for a variance by the Board of Appeals in accordance with the provisions set forth in Chapter 20, § 20-11 of the *Talbot County Code*.

Site Visit: A majority of the members of the Board of Appeals shall be required to visit the site for which the variance is requested before a hearing. All structures and piers must be staked when application is submitted to this office. However, a decision on a variance shall be decided upon the basis of the evidence of record.

Variance Time Limited: The Board of Appeals may impose a time limit within which a variance must be put into effect.

Recommendation of Department of Planning and Zoning: Before deciding any application for a variance the Board of Appeals shall seek the recommendation of the Department of Planning and Zoning Office. The Department of Planning and Zoning shall concern itself with the necessary findings when formulating its recommendations for a variance. The recommendations shall be considered by the Board of Appeals, and shall become a part of the record but shall not be binding upon the Board of Appeals. The Board of Appeals may request from the Department of Planning and Zoning such technical service, data, or factual evidence as will further assist the Board of Appeals in reaching decisions.

Board of Appeals Conditions of Approval: In granting variances, the Board of Appeals may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surroundings properties. Violations of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and shall be subject to the provisions of Article VII, §190-64 of the *Talbot County Code* and at the discretion of the Board of Appeals after notice and hearing, shall be grounds for termination or revocation of the variance.

The Administrative Assistant to the Board of Appeals may not give advice with regard to this application nor is she permitted to assist in the preparation.

This original package must be returned with original signatures and dates, please contact Board's Secretary for amount of copies needed.

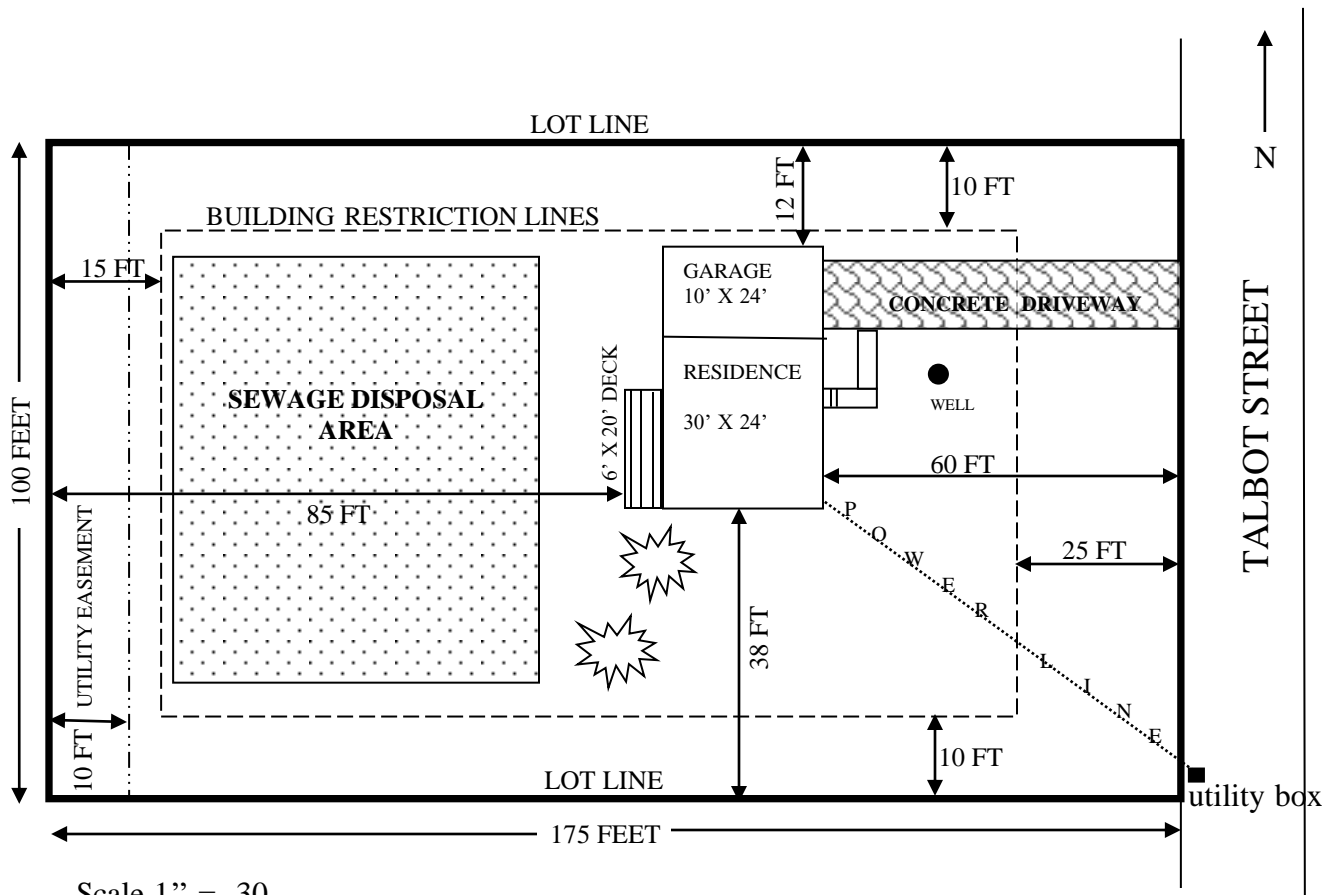


Site Plan Requirements

(Residential Variances, Nonconforming Uses and Special Exceptions)

- Drawing must be to scale. The scale of the drawing and an arrow showing a direction of North, must be noted on the plan.
- Show all boundary lines and lot size.
- Location and dimensions and use of all existing and proposed buildings and structures on the site. Distances from property lines, or setback (setbacks from tidal and non tidal wetlands, 100 foot shoreline development buffer from Mean High Water, streams, steep slopes, state highway, etc.) to the proposed structure. Measurements need to be taken from the closest point of the structure. Measurements from decks only if structurally connected to the dwelling. Show streams and label bodies of water.
- Show location of underground power lines and all other utility lines & boxes.
- Show forest cover on site, individual standing mature trees and all areas of forest to be cleared.
- Location, name or number of all streets and alleys adjacent to the site. Show any on site or off site easements or private roads that provide access between the site and public road.
- Location of on-site parking and driveways (provide space for at least two cars).
- Show location of well and proposed or existing location of septic tank and drain field (and reserve drain field), as specified by the Health Department.

EXAMPLE SITE PLAN



Scale 1" = 30

= Oak trees (mature)

EXAMPLE Not to Scale



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Examples for Public Notice

(The sections listed below are samples only)

Special Exception: Applicant(s), (Name of Applicant/Business) is seeking a special exception to establish two (2) commercial green houses and a plant nursery for retail use. Request is made in accordance with Chapter 190, Article VII, § 190-56 of the *Talbot County Code*.

Special Exception & C/A Variance: Applicant(s), (Name of Applicant/Business) is requesting a Special Exception to construct a 190 foot high wireless telecommunications tower with an 8 foot lightning rod for a total of 198 feet and equipment shelter within a 30' x 80' fenced area. Applicant is also requesting a variance of the 25 foot non-tidal wetland buffer to 0 feet to upgrade an existing road to provide access to the proposed tower. Request is made in accordance with Chapter 190, Article IV, § 190-25, §190-32.3, Article III, § 190-15.11, Article VII, §190-56 and § 190-58 of the *Talbot County Code*.

Floodplain Variance: Applicant(s), (Name of Applicant/Business) is seeking a variance of the strict elevation requirements for the lowest floor of their renovated accessory structure which constitutes substantial improvements in a floodplain. The flood protection elevation for this structure is 8 feet; the accessory structure floor height is built at 6.34'. Request is made in accordance with Section 70-21 B of the *Talbot County Floodplain Management Ordinance*.

Critical Area Variance: Applicant(s), (Name of Applicant/Business) is requesting five (5) variances of the Shoreline Development Buffer to (1) Convert an existing patio to a screened porch with deck above, located 34'-8" from Mean High Water; (2) In ground pool 16' x 30' located 39'-7" from MHW; (3) Concrete deck located 36'-5" from MHW; (4) Construct a 24' x 24' detached garage with attached 6' x 12' storage building located 63'-4" from MHW; (5) Vertical expansion and additions no closer than 40'-8". The current residence is 42'-7" from Mean High Water. Request is made in accordance with Chapter 190, Article IV, § 190-25, Article III, § 190-15.11 and Article VII, § 190-58 of the *Talbot County Code*.

Non-Critical Area Variance: Applicant(s), (Name of Applicant/Business) is requesting a variance of the required 50' side yard setback to 33' to construct a 1,700 square foot deck connected to the residence including an octagon gazebo. Request is made in accordance with Chapter 190, Article II, § 190-8 and Article VII, § 190-58 of the *Talbot County Code*.

Reasonable Accommodations for a Disabled Citizen & Critical Area Variance: Applicant(s), (Name of Applicant/Business) are requesting a variance of the Shoreline Development Buffer for an existing concrete walkway located 0' from Mean High Water. Request for the walkway is to allow for the reasonable accommodations of a disabled citizen. Request is made in accordance with Chapter 190, Article III, § 190-15, Article VII, § 190-57 of the *Talbot County Code*.

Administrative Appeal: Applicant(s), (Name of Applicant/Business) have filed an administrative Appeal under § 134-17 of the *Talbot County Code*, contending that the Talbot County Engineer, _____ erred by denying a waiver of § 134-16, private road standards. Request is made in accordance with Chapter 190, Article VII, § 190-54.6 of the *Talbot County Code*.



Appeal Number: _____

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IMPORTANT: Please submit one (1) copy of the following information for initial review for completeness. The Department will determine within fifteen (15) days of submission if the application is complete. No application shall be deemed complete for processing unless all the information below has been included, and all filing fees have been paid. Upon determination that the following items have been deemed complete by the Department of Planning and Zoning, your application will be scheduled for the Board of Appeals hearing.

Checklist

All Applications must be completed, signed and dated with the following submitted: If filing an Administrative Appeal please follow those guidelines. Note that a pre-application meeting is required before submittal to the Board of Appeals for commercial expansions.

The Agent/Representative/Surveyor will review the Site Plan submission & application for completeness and accuracy and each item shall be checked as follows:

- Y = Information Complete and accurate
- N/A = Information Not Applicable
- W = Waiver of required information. A separate request shall be submitted with this application in writing to the Planning Officer.

Based on unique characteristics of each parcel and use, the Technical Advisory Committee and/or the Planning Officer may require additional information to be submitted during the review and approval process.

- _____ 1. Check made payable to Talbot County for \$700.00.
- _____ 2. Postage Stamps or a check made payable to Talbot County for amount of the postage for the mailing of the Public Notice to adjacent property owners.
- _____ 3. Application page along with a written, detailed explanation for the Purpose of Appeal. The explanation may be typed on a separate sheet and labeled as Attachment A. For variances, list each variance that is being requested. For Special Exceptions or Modifications, complete details of the use(s). The information will need will need to be shown on the site plan (see #6 below). *Note that the original application, signed by the Applicant or Agent, must be submitted (not a copy).*
- _____ 4. Floor plans, elevations, and other miscellaneous documents. These plans **must** be drawn to scale.
- _____ 5. Site Plan **drawn to scale** to include at a minimum dimensions of the property, location of all existing and proposed buildings and outdoor use areas, setbacks from property lines (including mean high water if within the 100' buffer) to the closest point of the proposed structures, names of adjoining roads, streams, or bodies of waters, and existing tidal and non-tidal wetlands (*see application for any additional site plan requirements*).
- _____ 6. Critical Area Lot Coverage Computation Worksheets if property is located in the critical area.
- _____ 7. Copy of recorded covenants or any other restrictions on the property.
- _____ 8. Tax Map with subject property highlighted.
- _____ 9. Aerial Photo of the subject property.

- _____ 10. Applicant response to standards (*do not leave any questions unanswered*).
- _____ 11. Adjacent Property Owner(s) form filled out, signed and dated with the mailing addressees listed.
- _____ 12. Sign Maintenance Agreement.
- _____ 13. If the application is a result of a violation, provide a copy of the letter from the Talbot County Code Compliance Office. A local jurisdiction may not accept an application for a variance to legalize a violation including an unpermitted structure or development activity, unless the jurisdiction has first issued a notice of violation, including assessment of a penalty.
- _____ 14. Notice of Public Hearing for Advertisement.
- _____ 15. Independent Procedures Disclosure and Acknowledgement Form.
- _____ 16. Authorization letter from property owner(s).
- _____ 17. Directions to the property.
- _____ 18. MDE/Army Corp permits if required for your project.

Upon determination that the following items have been deemed complete by the Department of Planning and Zoning, please assemble and submit an original and eight (8) hard copy packets of Items 3-10. Please provide one (1) additional assembled package each if the project is within the 100' buffer and/or located within a state highway setback. If the application requires a review and recommendation from the Planning Commission, please provide ten (10) additional, fully assembled copies.

Also, please provide single hard copies of the remaining items. If produced electronically, one electronic copy of the required submission materials, in pdf format, shall also be submitted.

Please note that a greater or a fewer number of copies may be required to be submitted, as determined by the Department to be appropriate. A determination of completeness does not constitute a determination that the application meets the requirements for approval and does not preclude the Department from requesting additional information or materials in the future to complete the review of the application.

Applicant failure to adequately address all application and checklist items and those specifications in accordance with Chapter 190 of the *Talbot County Code*, may result in a project being considered incomplete or inaccurate, any such deficiencies may result in return of application without proceeding through the review process.

Applicant(s)/Agent Signature

Date



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Notice of Public Hearing for Advertisement

In accordance with Chapter 20, of the *Talbot County Code*, notice is hereby given that a public hearing will be held in the **Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland** on **(Date & Time)** by the Talbot County Board of Appeals to hear the following petition:

Applicant(s), Name(s) _____

_____ are/is requesting a (Variance, Special Exception or Administrative Appeal)

Please provide name and email address of contact person _____

***Define Specific Request – see reverse side for examples:**

Request is made in accordance with Chapter 190 Zoning, Subdivision and Land Development Article, _____ §190-_____ of the *Talbot County Code*. Property is located on _____ in the _____ Zone, (**Refer to Talbot County Zoning Maps**). Property owner(s) are/is (Names on Deed) _____ and the property is located on Tax Map _____ Grid _____ Parcel _____, Lot _____. All persons are notified of said hearing and invited to attend. **The Board reserves the right to close a portion of this hearing as authorized by Section 10-508 (a) of the Maryland Annotated Code.**

(See examples on next page)



Appeal Number: _____

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Non-Critical Area Variance Application

Office Use Only:

B.O.A. Hearing Date: _____ Fee Paid: _____

Filing Date: _____ Time: _____

Planning Commission Date: _____ Notices Mailed: _____

Place Ad Date: _____ Dates of Ads: _____

To the Honorable, the Talbot County Board of Appeals

Pursuant to the provisions of the Talbot County Zoning Ordinance for Talbot County, Maryland, or as amended, from time to time request is hereby made for:

- _____ **Variances (Critical Area)**
- _____ **Variances (Non-Critical Area)**
- _____ **Administrative Appeal**
- _____ **Special Exception or Modification**
- _____ **Nonconforming Uses**
- _____ **Nonconforming Structures or Lots**

Purpose of Appeal: State fully the kind of relief sought and reasons therefore. Please give a detailed description, may be written or typed on a separate page if needed, label as Attachment A.

Location of Property: _____

Tax Map _____ Grid _____ Parcel _____ Lot _____ Size _____ Zone _____

Property Owner: _____ Email: _____

Address of Owner: _____

Telephone Number: _____ Cell Number: _____

Applicant's Name, Address, Phone No. & Email if different from property owner: _____

Has above property ever been subject of previous Board of Appeals Proceeding?
If so, give Application number(s) and date(s) _____

I (we) hereby certify, under penalty of perjury, that the matters and facts set forth in the a foregoing Appeal are true to best the best of my (our) knowledge and belief.

Applicant's/Agent's Signature

Date

Important: Applications on which all required information is not furnished will be returned for completion before processing, and shall not be considered filed with this department.

Appeal Number: _____



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Adjacent Property Owner List

Name(s) and Addresses of the adjacent property owner(s) as required by Chapter 20, § 20-10 of the *Talbot County Code*. Said mailed notice shall be directed to the address to which the real estate tax bill on property is sent. This information can be obtained by contacting Maryland Department of Assessment and Taxation at 410-819-5920 or on their web site at <http://www.dat.state.md.us>.

Name and Address	Map	Grid	Parcel & Lot #

Applicant's/Agent Signature

Date



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Non-Critical Area Variance Standards

Chapter 190 Zoning – Talbot County Code

Talbot County Board of Appeals – see Chapter 20
Article VII, § 190-58 - Variances

Variances: To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance shall not be granted unless and until the applicant has demonstrated that:

The applicant for a variance shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion to all questions of fact, which are to be determined by the Board of Appeals. All questions must be addressed in full detail, do not provide yes/no responses or leave any questions unanswered.

In order to vary or modify the non-critical area variance provisions of Chapter 190, the Planning Director or Board of Appeals must determine that the application meets all of the following criteria:

- A. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of this chapter would result in practical difficulty or unreasonable hardship in enabling the applicant to develop or use the property.

Applicant Response:

- B. The need for the variance is not based upon circumstances which are self-created or self-imposed;

Applicant Response:

- C. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

Applicant Response:

D. The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties; and

Applicant Response:

E. The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship.

Applicant Response:

All standards above must be addressed, do not leave any questions unanswered.

County action will be predicated upon the applicant's compliance with the above.

The Applicant shall provide evidence of compliance with Chapter 190, Article IV, Regulations for specific land uses and § 190-25 as applicable.

The Applicant is responsible for providing compliance with each finding and requirement, and consistency with Chapter 190 of the *Talbot County Code* and the intent of the critical area law.

Applicant's/Agent Signature

Date

References:

1. Talbot County Comprehensive Plan
2. Talbot County Code
3. File

Location of all proposed structures must be staked out prior to the Board's site visit.



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Sign Maintenance Agreement

<i>Office Use Only:</i> Applicant: _____
Sign No.: _____ Sign Condition Posting: _____ Sign Condition Return: _____
Damages: _____

I (we), the petitioner(s) of this appeal, agree that I (we) will be responsible for the continuous maintenance, during the period prior to the hearing date, of the sign which I (we) agree to have posted on the property for purposes of this hearing. I (we) further agree to notify the Board of Appeals if at any time during the required posting period this sign is not properly posted.

Said sign is to be returned to Department of Planning and Zoning within five (5) days after the hearing.

Applicant's/Agent Signature

Filing Date

Applicant's/Agent Signature

Posting Date of Sign

Section below to be completed the night of the hearing

Sign Affidavit

I hereby affirm under penalties of perjury that the subject property was posted as required on _____ (date) and to the best of my knowledge, information and belief the posting remained in place until _____ (date).

___ Check if sign was returned the night of Applicant's hearing.

Signature of Applicant's/Agent

Information Purposes Only (Posting of Sign)

Notification: Unless otherwise expressly provided by law, all notices to the general public required by the terms of the *Talbot County Code*, Chapter 20, shall be accomplished as follows:

Posting of Property: The applicant shall post the property by erecting a sign furnished by the Board of Appeals Office at least 15 days prior to the public hearing. The sign shall be located on the property, nearly centered between its two side property lines, and within 10 feet from the most traveled public road. If no public road abuts the property, the sign shall be located so that the public will most readily see it. Signs shall be posted conspicuously and continuously maintained upright, visible, and free from obstruction by vegetation or otherwise, through the conclusion of all public hearings. The sign furnished by the Department of Planning and Zoning shall not be less than two (2) feet high and two (2) feet wide, and shall bear the words: Notice Zoning Application Pending. Phone 410-770-8030 for information.

At the hearing, it shall be the duty of the applicant to prove by affidavit that he has fully complied with this provision and has continuously maintained the sign or other posting in compliance with this provision up to the time of the hearing.

If the applicant is a person other than the owner, his attorney, agent or a person otherwise privy with the owner and the applicant files an affidavit stating that the owner is unwilling to permit the posting of any such sign, the posting shall be made by the Planning Officer.



Appeal Number: _____

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Independent Procedures Disclosure and Acknowledgement Form

Proposed Project Name: _____

Physical Address of Property: _____

Tax Map: _____ Grid: _____ Parcel: _____ Lot: _____ Zone: _____

Name of Applicant: _____

Phone Number(s): _____

Agent/Attorney: _____

Phone Number(s): _____

Applicant's Email Address: _____

Agent's Email Address: _____

Property Owner: _____

Phone Number(s): _____

Applicant acknowledges and understands:

1. This Application may be subject to local, state and federal laws, ordinances, rules, or regulations (hereafter "Laws") other than those that the Department of Planning and Zoning, Planning Commission or Board of Appeals reviews, administers, or applies in connection with this review.
2. Other agencies, including but not limited to the Talbot County Health Department, Division of Environmental Health, Maryland Department of the Environment, U.S. Army Corps of Engineers, Maryland Department of Natural Resources, US Fish and Wildlife Service and others may also have review authority over the project or development proposed in the application.
3. Applicant remains solely responsible for compliance with all applicable laws, ordinances, rules, or regulations.
4. Applicant understands that review of this Application does not necessarily include review of any other applicable laws.
5. Applicant understands that neither the Department of Planning and Zoning nor any of its employees has authority to grant permission or approval of any project or proposed development that violates any applicable law, ordinance, rule, or regulation of Talbot County, Maryland, and that any such approval issued in error has no enforceable legal effect.
6. Applicant understands that any decision issued by the Department of Planning and Zoning, Planning Commission or by the Board of Appeals does not necessarily guarantee or assure the applicant that this project or proposed development may proceed.

I HEREBY CERTIFY that I have read, acknowledge, and understand the foregoing.

Applicant's Signature

Date

Attorney/Agent Signature

Date

Appeal Number: _____



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Property Directions

Directions to the Applicant's Property. Please Print Legible.

All Structures and Additions must be staked out upon submittal prior to the Department of Planning and Zoning and Board of Appeals site visit.

Site Visits: A majority of the members of the Board of Appeals shall be required to visit the site before a hearing. However, a decision on an appeal before the Board of Appeals shall be decided upon the basis of the evidence of the record.

Decision: A written decision will be prepared containing a statement as to the findings of fact and the conclusions of law upon which such decision is based. The Board's Attorney will render a written decision within 30 days after completion of the hearing. Any person aggrieved by any decision of the Board may appeal the same to the Talbot County Circuit Court within thirty (30) days of the Board's written decision.

Building Permit: Upon the Written Decision from the Board of Appeals and compliance of any conditions imposed you may then apply for your building permit. Permit Applications need to be submitted to Talbot County Permits and Inspections Office.