

# Town of Garrett Park



## Town Office

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## **BUILDING IN GARRETT PARK**

### **GUIDE TO FILING FOR VARIANCES**

The entire Town of Garrett Park is an Overlay District established by Section 59-C-18.11 of the Montgomery County Code Zoning Ordinance. This Overlay District gives the Town the authority to establish a number of stricter requirements for building or enlarging any building within the Town. The Town Office can provide copies of Section 59-C-18.11 of the Montgomery County Code and the Garrett Park Building Code. The Town Building Code provides for the granting of variances by the Town Council under certain circumstances after a public hearing. To obtain a variance an applicant must:

1. Have filed a Garrett Park building permit application that has been denied.
2. File an application for a variance, providing all information requested.
3. Allow a sign to be posted on the property notifying residents that a variance has been requested.

**PLEASE REVIEW THE VARIANCE APPLICATION FORM CAREFULLY  
AND SUBMIT ALL REQUESTED INFORMATION. CONTACT THE  
TOWN OFFICE FOR ADDITIONAL INFORMATION.**

**APPLICATIONS WILL NOT BE PROCESSED UNTIL ACCEPTED  
AS COMPLETE**

## **PUBLIC NOTICE**

As indicated above, a sign notifying Town residents that a variance has been requested must be placed on the property and similar notice mailed to direct abutters by the Town Office as soon as the application is accepted as complete. Both must take place at least twenty-one (21) days prior to a public hearing before the Town Council.

## **PUBLIC HEARING**

The Garrett Park Code of Ordinances requires that the Town Council hold a public hearing before granting or denying a variance to the Building Code. At this hearing, which is usually held as part of a regular Town Council meeting (2nd Monday of every month at 8:00 p.m.) the Council reviews the application for completeness [Section 403(b)], documentation of exceptional characteristics [Section 403(a)], description of the hardship imposed, and the appropriateness of the relief sought [Section 403(c)]. The Council will also consider the report of the Setback Advisory Committee, take testimony from the applicant, residents, and other interested parties.

At the end of the hearing the Council may:

- 1) Continue the hearing to another date for the purpose of obtaining more information from the applicant;
- 2) Continue the hearing to another date for the purpose of obtaining legal advise from the Town lawyer; or
- 3) Approve (with or without conditions) or deny the requested variance, in which case the Clerk-Treasurer will prepare a written opinion for the record to be ratified at the next Council meeting and made part of the application record.

Upon approval, the initial building permit application will be reinstated and approved with such amendments and conditions as may have resulted from the variance review, and the Town Office will then issue a building permit.

## **VARIANCE REVIEW PROCESS**

(1) Does the lot have unusual dimensions, shape, topography or other exceptional characteristics, for which a variance is sought?

IF "NO" – Variance cannot be granted [no further inquiry].

IF "YES" – Continue

(2) Do the unusual dimensions, shape, topography or other exceptional characteristics prevent the accommodation of the building sought to be erected if the setback requirements of Section 402 are strictly applied to the construction?

IF "NO" – Variance cannot be granted [no further inquiry].

IF "YES" – Continue

(3) Does the strict and literal application of Section 402 to the lot result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property?

IF "NO" – Variance cannot be granted [no further inquiry].

IF "YES" – Continue

(4) Does the proposed new construction, including existing structures and accessory buildings, cause the floor area ratio to be in excess of 0.375?

IF "YES" – Variance cannot be granted [no further inquiry]

IF "NO" – Continue

(5) Does the increase in the net lot area to be covered by buildings, including accessory buildings, exceed twenty (20) per cent of the net lot area?

IF "YES" – Variance cannot be granted [no further inquiry]

IF "NO" – Continue

(6) Will approval of the variance be in harmony with the general purposes of the Ordinance and not contrary to the public interest?

IF "NO" (to either) – Variance cannot be granted.

IF "YES" (to both) – Variance can be granted

### **Section 403(d) Exemptions**

(1) Existing Buildings. An existing building which was lawful when established, but which no longer conforms to the requirements of this Chapter because of the amendment of this Chapter, may continue as built and may be replaced or repaired, but may not be expanded, except to the extent that such expansion meets the requirements of this Chapter.

(2) Existing Building Permits. Construction for which a building permit was granted both by Montgomery County and by the Town before May 2, 1994 may proceed under the regulations and conditions that prevailed when the permits were granted provided, however, that any such construction that does not comply with the provisions of this Chapter shall have begun within twenty-four (24) months of May 2, 1994.