



### Section. 1204 Variances.

- a. Administration by the Community and Economic Development Department – The Community and Economic Development Department has the responsibility for administration of this chapter.
- b. Purpose - The purpose of a variance is to provide relief when the strict application of the statutes, codes or policies imposes unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the:
  1. Size, shape or dimensions of the site; or
  2. Locations of existing structures; or
  3. Geographic, topographic or other conditions on the site or in the immediate vicinity.
- c. Criteria for granting a variance:
  1. Based on the application, evidence submitted by the applicant, investigations by the Director of Community and Economic Development or Planning Commission or Board of Commissioners, all six (6) of the following findings shall exist in order to grant a variance:
    - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography; and
    - b. The application of this chapter to the particular piece of property would create an unnecessary hardship; and
    - c. Relief, if granted, would not cause substantial detriment to the water quality of Turner Creek or the Chattahoochee River or impair the purposes and intent of this chapter; and
    - d. The special circumstances surrounding the request for a variance are not the result of acts by the applicant; and
    - e. The variance is not a request to permit a use of land, buildings or structures that are not permissible under other resolutions; and
    - f. The variance will not result in an increase of the impervious surface of the development beyond that prescribed in this article.
  2. Variances shall not be granted:
    - a. If the special circumstances on which the applicant relies are a result of the actions of the applicant, owner or previous owners; or
    - b. To allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.
- d. Application requirements - The owner or duly authorized agent shall file an Application for Variances with the Community and Economic Development department on the prescribed form. A complete application shall consist of:
  1. Variance Request Form
  2. Copy of code section from which the variance is being requested
  3. Correspondence clearly stating the basis for the variance request
  4. Supporting documentation necessary to give the Director of Community and Economic Development a clear understanding of the request
- e. Submission to the Planning Commission
  1. The Request for Variance is reviewable by the Planning Commission if the Director of Community and Economic Development determines that the request for variance meets the criteria.
  2. The Planning Commission shall review the request for variance upon receipt of the following within ten (10) days of the determination of the Director of Community and Economic Development.
    - a. Correspondence clearly stating the basis for the request for Planning Commission review
    - b. Director of Community and Economic Development recommendation
    - c. Supporting documentation necessary to give the Planning Commissioner a clear understanding of the appeal
    - d. A review fee of \$100.00
  3. The Planning Commission shall review the application and staff investigation report and determine whether the evidence supports a finding that the required criteria has been met and approve with or without conditions or deny the application. However, the determination of the Director of Community and Economic Development shall remain in full force and effect pending such review.

f. Appeal to the Board of Commissioners

Decisions or actions of the Planning Commission are subject to an appeal to the Board of Commissioners. However, the Planning Commission's action or decision shall remain in full force and effect pending such appeal.

g. If an applicant desires to appeal a decision or action of the Planning Commission, the applicant shall notify the Board of Commissioners in writing within ten (10) days of the action or decision of the Planning Commission. Upon receipt of this notice, the Board of Commissioners shall establish a date and time to hear the appeal. The request shall include:

1. Correspondence stating the basis for the appeal of the Planning Commission action or decision
2. Applicable Planning Commission minutes
3. Supporting documentation necessary to give the Board of Commissioners a clear understanding of the request
4. Appeal fee of \$50.00.

h. Conditions

1. Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter.

2. Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.

i. Compliance with conditions approval - Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.

j. Vested interest in approved variances - A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.

k. Investigations and reports - The Director of Community and Economic Development shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.

l. Revocation - Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.

m. Limitations on reapplication - The Planning Commission shall not hear denied applications for the same or substantially similar variance application until a period of six (6) months has elapsed.