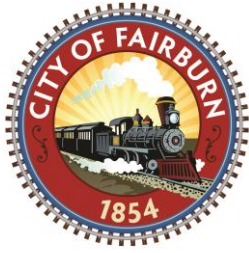




VARIANCE APPLICATION PACKET



PROCEDURES AND INFORMATION FOR FILING A VARIANCE

Applications are available at the Office of Planning and Zoning, 26 West Campbellton Street, Fairburn, GA 30213 or online at www.fairburn.com. **Read the following instructions prior to filing and refer to the included filing schedule.**

A PRE-APPLICATION MEETING IS REQUIRED PRIOR TO FILING. To schedule a meeting, please contact the Planning and Zoning Office at 770-964-2244.

TYPES OF VARIANCES:

Listed below are the types of variances. Please identify the type of variance requested and check the appropriate box in Section I or Section II of the VARIANCE APPLICATION.

VARIANCES THAT DO NOT REQUIRE A PUBLIC HEARING:

The following variances are handled administratively by the City's Office of Planning and Zoning.

1. **MINOR VARIANCES:** Administrative relief can only be sought from the minimum yard requirements of the zoning district not to exceed 10% of the setback. (Example: 35-foot front yard = 3.5-foot variance). Letters from adjoining property owners are required at the time of filing.
2. **ADMINISTRATIVE MINOR VARIANCE:** Administrative relief from the minimum yard setback requirements for one foot or less.

VARIANCES THAT REQUIRE A PUBLIC HEARING:

The following variances require a public hearing and action by the Planning and Zoning Commission:

1. **PRIMARY VARIANCE:** Applicant seeks relief from the provisions of the Zoning Ordinance. All such appeals shall be heard by the Planning and Zoning Commission and shall be accompanied with a statement of hardship (See the Variance Considerations below).
2. **SECONDARY VARIANCE:** Applicant seeks to appeal a decision of the Zoning Administrator or seeks to appeal a decision on an Minor Variance or Administrative Minor Variance.

The following variances require a public hearing and action by the City Council:

3. **CONCURRENT VARIANCE:** Applicant seeks a variance in conjunction with a rezoning, use permit or zoning modification request on the same property, based, on the conceptual plan submitted with the petition for the same agenda.

FILING REQUIREMENTS FOR ALL VARIANCES:

1. **APPLICATION CHECKLIST:** See enclosed Variance Application Checklist. **Contact Staff at 770-964-2244 to schedule an appointment for a variance pre-application review meeting.**
2. **APPLICATION FORM:** Variance Applications must have an **original NOTARIZED SIGNATURE** of the property owner(s) of record or a notarized statement by the appellant acting as power of attorney for the property owner. Where there are multiple owners, a notarized signature of each and all owners must be submitted with the application.
1. **SURVEY:** An accurate, to scale, up-to-date certified survey of the property shown with metes and bounds must be submitted with the Variance Application. The survey should include existing thoroughfares; existing drainage areas; existing buildings, structures and facilities; existing utilities on or adjacent to the property; and ownership, zoning and uses of all property adjacent to or within 200 feet of the property. must establish a point of beginning and from said point of beginning, give each dimension bounding the property, calling the directions (such as north, northeasterly, etc.) and returning to the point of beginning. The property’s address must also be identified.
2. **LEGAL DESCRIPTION:** A legal description of the subject property must be submitted with the Variance Application. Legal Descriptions must establish a point of beginning and from said point of beginning, give each dimension bounding the property, calling the directions (such as north, northeasterly, etc.) and returning to the point of beginning. The property’s address must also be identified.
3. **WARRANTY DEED:** A copy of the warranty deed must be submitted with the Variance Application.
4. **LEASE AGREEMENT:** When applicable, a copy of the lease agreement between the property owner and the applicant must be included with the Variance Application. The lease must identify the party responsible for the reclamation of the property.
5. **LETTER OF INTENT:** The letter of appeal shall state in detail the proposed project, the variance request, and a hardship statement stating that the granting of a variance will alleviate some demonstrated and unusual hardship for which a variance is warranted.
6. **CONCEPTUAL SITE PLAN:** The conceptual site plan must be drawn in accordance with the *Code of Ordinances, Chapter 62, Article V. The Building Process*. Site plan must include the following items:

1.	An accurate, up-to-date and certified survey of the property on which the project is to be built.
2.	A vicinity map showing the property in relation to the general area of the city in which it is located.
3.	The name of the proposed project.
4.	Name, address, phone number, and fax number of the owner, the developer and the designer who prepared the plan.
5.	Graphic scale, north arrow, and date of preparation.
6.	Zoning of the property with required setbacks shown.
7.	Zoning, use, and ownership of all adjoining property
8.	Total area of the site, and the area of the site proposed to be devoted to impervious surfaces.
9.	Approximate topography of the site.
10.	Significant natural features on and adjacent to the site, including the 100-year floodplain, if appropriate.
11.	Existing manmade features on the site.

12.	Proposed site layout including buildings, drives, parking, walkways, landscaped-areas, tree save areas, buffers, easements, utilities and any other features necessary to properly present the concept.
13.	Proposed off-site improvements which may be necessary to properly develop the site.
14.	Architectural elevations to show the intended architectural character of the proposed building and the nature of the materials to be used.
15.	If the site plan is for an addition to or a change in an existing site plan, the drawings must clearly show the changes that are being proposed.

7. **VARIANCE APPLICATION FEE:**

\$350.00, payable by cash, check, money order or credit card (*except American Express*), plus **\$31.00** Notice of Public Hearing Sign

ALL CHECKS PAYABLE TO THE "CITY OF FAIRBURN." VARIANCE APPLICATION FEES ARE NON-REFUNDABLE

ALL REQUESTS FOR VARIANCES SHALL HAVE A STATEMENT OF HARDSHIP. THE FOLLOWING CONSIDERATIONS SHALL BE USED IN JUSTIFYING THE HARDSHIP.

VARIANCE CONSIDERATIONS: Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:

- Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this Chapter or;
- The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or
- Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

Should a variance request impact approved zoning conditions, a separate Zoning Modification Application may be necessary.

VARIANCE LIMITATIONS: Please note that *no* variances shall be allowed for the following:

- Permitted uses or accessory uses for the zoning district
- Minimum lot area, minimum lot frontage on a street or minimum district size required in each zoning district
- Relief from the standards of Article VI (*The Appeals Process*) or Article VIII (*The Rezoning Process*)

PROCEDURES FOR FILING ALL VARIANCE APPLICATIONS:

1. **PRE-APPLICATION MEETING:** The property owner or applicant should schedule a pre-application meeting with the Zoning Administrator or his/her designee to discuss the request and necessary documents, fees and schedules pertinent to the request.
2. **APPLICATION SUBMITTAL:** The property owner or applicant shall submit a complete application to the Planning and Zoning Office.

3. **INITIAL STAFF REVIEW:** Completed applications will be distributed to appropriate city staff for review and comment. All staff comments will be submitted to the Planning and Zoning Office within 10 business days.
4. **RESUBMITTAL:** Upon receipt of staff comments, all comments will be consolidated into a single report for distribution to the applicant. The applicant should revise plans according to the comments received and resubmit plans to the Planning and Zoning Office.
5. **PUBLIC NOTICE:** The Planning and Zoning Office staff will prepare newspaper ads and property signs to assure proper notice of public hearings. Property signs must be placed on the site between 15 to 45 days before the date of the public hearing.
6. **STAFF EVALUATION:** A staff analysis report with a recommendation to the Planning and Zoning Commission will be prepared.
7. **PLANNING & ZONING COMMISSION:** The Planning and Zoning Commission shall hold a public hearing on the application and make a decision on the request. Conditions may be included as part of the decision. The Planning & Zoning Commission meets on the first Tuesday of each month (as needed) at Fairburn City Hall, 56 Malone Street, Fairburn, GA 30213.
8. **APPEALS.** Appeals of primary variance decisions shall be filed with the Fulton County Superior Court within 30 days of the Planning and Zoning Commission decision. Appeals to decisions of the Zoning Administrator (also called secondary variances/interpretations) shall be filed within 30 days of the decision to the Planning and Zoning Commission.



VARIANCE PUBLIC HEARING INFORMATION

Public hearings are required for Primary Variances and Secondary Variances. Public notification is required for Minor Variances.

Public Hearings for Primary Variances and Secondary Variances must be advertised in the manner listed below. Public Hearings for Concurrent Variances must be advertised with their associated rezoning, use permit or zoning modification requests.

POSTING OF PUBLIC HEARING SIGNS:

- **PLANNING AND ZONING COMMISSION PUBLIC HEARING NOTICE SIGN:** Signs posted along the frontages of Properties subject to variances that notify area residents of the Planning and Zoning Commission public hearing. **Applicants are required to post the public hearing sign in a conspicuous place along the property's public street frontage, no later than 20 days before the Planning and Zoning Commission hearing.** *Failure to post the signs by this deadline will result in the administrative removal of the public hearing from the agenda.* The sign must remain posted on-site until final action by the Planning and Zoning Commission. If the sign is mutilated and/or removed, the applicant is responsible for obtaining and re-posting a new sign.

OTHER PUBLIC NOTIFICATION FOR VARIANCES:

- Notice is mailed (via U.S. Mail) by City of Fairburn to all property owners within a 500-foot radius of the subject property. Said notice is postmarked no later than 15 days prior to the public hearing to property owners of record as shown on the real estate tax records of Fulton County as retrieved by the County's Geographic Information Systems.
- A published notice in a newspaper of general circulation is done by the City of Fairburn no later than 15 days prior to the public hearing. The published notice contains the time, place, purpose of the hearing and the location of the property.
- Minor variances require the applicant to notify the immediately adjacent property owners via email and/or certified mail.

PUBLIC HEARING DATES:

- **APPLICATION DEADLINES:** A schedule with deadlines and public hearing dates for all Variances can be found on the final page of this application packet.
- **PLANNING AND ZONING COMMISSION MEETING:** Primary and Secondary Variances are decided by the Planning and Zoning Commission. The Planning and Zoning Commission holds public hearings on the first Tuesday of each month at 7:00 p.m.

IF YOU HAVE ANY QUESTIONS CONCERNING THESE VARIANCE FILING PROCEDURES, PLEASE CONTACT THE PLANNING AND ZONING OFFICE AT 770-964-2244.



VARIANCE APPLICATION CHECKLIST

Please submit one (1) copy of the following documents and information.

ITEM #	REQUIRED ITEM	CHECK <input type="checkbox"/> (Office Use Only)
1.	Application Checklist	
2.	Application Form	
3.	Survey	
4.	Legal Description	
5.	Warranty Deed	
6.	Lease Agreement	
7.	Letter of Intent	
8.	Conceptual Site Plan	

Fees: \$350 per variance application and \$31 public hearing sign

For any documents that are larger than 11" x 17," a copy reduced to 11" x 17" shall also be required.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

APPLICATIONS ARE ACCEPTED MONDAY – FRIDAY FROM 9:00 A.M. TO 3:00 P.M.



APPLICATION FOR VARIANCES

Date Received: _____

VARIANCE #: _____
(Office Use Only)

SECTION I – GENERAL INFORMATION

APPLICANT INFORMATION

Applicant Name: _____
Address: _____
Phone: _____ Cell: _____ Fax: _____
Email Address: _____

OWNER INFORMATION (If different from Applicant)

Owner Name: _____
Address: _____
Phone: _____ Cell: _____ Fax: _____
Email Address: _____

PROPERTY INFORMATION

Address: _____
Parcel ID#: _____ Land Lot: _____ District: _____ Acreage: _____
Request: _____

CHECK ONE OF THE FOLLOWING REQUESTED VARIANCE TYPES IN SECTION II.

SECTION II VARIANCES REQUIRING PUBLIC HEARING BY THE PLANNING AND ZONING COMMISSION OR CITY COUNCIL

- 1) **PRIMARY VARIANCE:** Seeks relief from any provision in the Zoning Ordinance that is not being handled as a minor variance or administrative minor variance.
- 2) **SECONDARY VARIANCE:** Seeks relief from variance decisions and interpretations made by the zoning administrator or relief from minor variance or administrative minor variance requests.
- 2) **CONCURRENT VARIANCE:** Seeks relief from any provision in the Zoning Ordinance when filed simultaneously with a rezoning, use permit, or zoning modification request on the same property.

**MINOR & ADMINISTRATIVE MINOR VARIANCES
[NO PUBLIC HEARING REQUIRED]**

- 1) **MINOR VARIANCE:** Seeks relief from the minimum yard requirements, not to exceed 10% of required setback (example: 35-foot front yard = 3.5-foot variance)
- 2) **ADMINISTRATIVE MINOR VARIANCE:** Relief requiring 1 foot or less from required building setback

VARIANCE CONSIDERATIONS:

1) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter; or

2) The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or

3) Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

SECTION III LEGAL DESCRIPTION OF PROPERTY (Legal description/survey must match submitted site plan.)

SUBDIVISION _____ UNIT/PHASE: _____ LOT NO(S): _____

LAND LOT(S): _____ DISTRICT: _____ TAX ID: _____

PROPERTY ADDRESS _____

SECTION IV AUTHORITY TO PURSUE VARIANCE

NOTICE: Part 1 and/or Part 2 below must be signed and notarized when the petition is submitted. Please complete Section IV as follows:

- a) If you are the sole owner of the property and not the petitioner complete Part 1.
- b) If you are the petitioner and not the sole owner of the property complete Part 2.
- c) If you are the sole owner and petitioner complete Part 1.
- d) If there are multiple owners each must complete a separate Part 1 and include it in the application.

Part 1. OWNER INFORMATION

Owner states under an oath that he or she is the owner of the property described in the attached legal description. **[EACH OWNER’S SIGNATURE MUST BE NOTARIZED]**

TYPE OR PRINT OWNER'S NAME

Sworn to and subscribed before me this _____ day of

ADDRESS

_____ 20 _____

CITY, STATE & ZIP CODE

NOTARY PUBLIC

OWNER’S SIGNATURE
()

AREA CODE/ PHONE NUMBER

EMAIL ADDRESS

Part 2. APPLICANT INFORMATION

Petitioner states under oath that: (1) he/she is the executor or Attorney-in-fact under a Power-of-Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as “Owner”); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as “Owner”); or (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as “Owner”).

TYPE OR PRINT PETITIONER’S NAME

Sworn to and subscribed before me this the

ADDRESS

_____ Day of _____ 20 _____

CITY & STATE ZIP CODE

NOTARY PUBLIC

PETITIONER'S SIGNATURE

PHONE NUMBER

EMAIL ADDRESS

V. ATTORNEY/AGENT INFORMATION

CHECK ONE: ATTORNEY AGENT

TYPE OR PRINT ATTORNEY/AGENT NAME

ADDRESS

CITY, STATE & ZIP CODE

[_____]
AREA CODE/PHONE NUMBER

EMAIL ADDRESS

SIGNATURE OF ATTORNEY/AGENT