



# BOARD OF APPEALS APPLICATION

## APPLICATION FOR VARIANCE, WAIVER OR APPEAL

**City of Snellville**  
**Planning & Development Department**  
2342 Oak Road, 2<sup>nd</sup> Floor  
Snellville, GA 30078  
Phone 770.985.3515 Fax 770.985.3551 [www.snellville.org](http://www.snellville.org)

DATE RECEIVED: \_\_\_\_\_

CASE # **BOA** \_\_\_\_\_

rev 10-27-2020

**Applicant** is: (check one)  
 Owner's Agent  
 Contract Purchaser  
 Property Owner

**Owner** (if not the applicant):  check here if there are additional property owners and attach additional sheets.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number(s)

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Phone Number(s)

\_\_\_\_\_  
Fax

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Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_  
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**Application for:** (check one)

- Appeal (describe): \_\_\_\_\_
- Variance or Waiver from Unified Development Ordinance (describe below)

UDO Section requested for VARIANCE or WAIVER consideration: : \_\_\_\_\_ Describe Request: \_\_\_\_\_

Property Address/Location: \_\_\_\_\_ Tax Parcel Number(s) \_\_\_\_\_

State the purpose of this request: \_\_\_\_\_  
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**At a minimum, the following items are required with submittal of this application. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.**

- Letter of Intent explaining the reason (and demonstrated hardships) for the request for the variance, appeal, or waiver.
- Attachment A - Analysis of impact (if variance application) or details of grievance (if appeal) or details of waiver request (if waiver).
- Attachment B – Certifications: the names, addresses, and original notarized signatures of the applicant and/or property owner(s).
- Recorded Warranty Deed, Security Deed, or Quit Claim Deed including property legal description demonstrating evidence of property ownership;
- Verification by Gwinnett County that all property taxes owed have been paid.
- VARIANCE or WAIVER applications only: As-Built, Site or Concept Plan drawn to scale, showing: (a) north arrow; (b) district, land lot(s) and parcel number(s); (c) the dimensions with bearing and distance; (d) acreage; (e) location of the tract(s), (f) the present zoning and land use classification of all adjacent parcels, (g) the proposed location of structures, driveways, parking and loading areas; (h) the location and extent of required buffer areas; and (i) location of floodplains. Site and Concept Plan shall be prepared by an architect, engineer, landscape architect, or land surveyor whose Georgia state registration is current and valid. Site plan must be stamped and sealed by one of the four above-mentioned professionals no more than six (6) months prior to the date of submittal. All documents must be folded to 8-1/2" x 11";
- Exhibits and accompany documentation to support application and request for variance, appeal, or waiver.
- Nine (9) stapled or bound copies of: the application original and one (1) unbound application (original) bearing original signatures and all other required documents.
- A USB flash drive or CD-ROM containing a digital .pdf file of the application submittal.
- Payment of the appropriate application, public notice sign, and adjoining property owner notification fees. Make checks payable to *City of Snellville*;

**Pre-submittal appointment recommended a minimum of five (5) business days prior to Application deadline to ensure application is complete, accurate, and includes all required attachments/exhibits and required signatures**

If request is for an APPEAL, please discuss your grievance in detail. You may attach additional sheets and provide additional documentation as appropriate:

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A VARIANCE from the terms of the Unified Development Ordinance shall not be granted by the Board of Appeals unless and until the applicant has **demonstrated and explained** the following. You may attach additional sheets and provide additional documentation as appropriate:

1) **Demonstrate and explain** how special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.

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2) **Demonstrate and explain** how literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the UDO.

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3) **Demonstrate and explain** how the special conditions and circumstances do not result from the actions of the applicant.

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4) **Demonstrate and explain** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the UDO to other lands, structures, or buildings in the same zoning district.

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**Please Note:** No non-conforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted or nonconforming use of lands, will be considered grounds for issuance of a variance or waiver. Peculiar conditions or circumstances which are the result of actions of the owner of property covered by this application cannot be considered as grounds justifying a variance. A "use variance", i.e. a variance for the purpose of using land or a structure, or combination thereof for a purpose prohibited by the present zoning classification of the property covered by this application will not be considered.



## **Section 103-7.2. Powers and Duties**

The Board of Appeals has the following powers and duties:

### **A. Administrative Review**

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by a staff member of the Department in the enforcement of this UDO. See Sec. 103-7.3 (Administrative Decision Appeals).

### **B. Variances and Waivers**

To authorize, upon appeal in specific cases, such variance from the terms of this UDO as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the UDO would result in unnecessary hardship. A variance may not be granted by the Board of Appeals unless and until:

- I. A written application for a variance or waiver is submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district;
  - b. That literal interpretation of the provisions of this UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this UDO;
  - c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance or waiver requested will not confer on the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same zoning district.

Any application for an administrative review, variance, and/or waiver must be submitted by noon 36 days before the date on which it is to be considered by the Board of Appeals. The applicant must submit nine stapled or bound copies of the application and any supporting documents, in addition to one unbound application bearing original signatures. In addition, a digital copy in .pdf (and .dwg format, as appropriate) of all materials must be submitted using email, flash drive, or other means approved by the Director. The submitted application must also include: Verification by Gwinnett County that all property taxes owed have been paid; a certificate of title for all lots subject to the application; and a map indicating the subject property(ies) and the adjacent properties, identified by tax parcel number. An initiating party must also file any other information or supporting materials that are required by the City Council, Planning Commission, and/or the Department and must pay any filing fee.

The Department must notify the owners of adjoining properties of the property for which the variance is sought and/or their agent by certified mail with return receipt requested as shown by the Gwinnett County GIS Data Browser. The notification must be mailed not fewer than 15 days, nor more than 45 days before the Board of Appeals hearing. The notification must include a description of the application and the date, time, and place of the public hearing.

2. The City must provide notice of the public hearing at least 15 days before the public hearing. Notice of such hearings must be posted on the property for which the variance or waiver is sought and at city hall.
3. Due notice of the Board of Appeals hearing must be published in the newspaper which carries the legal advertisements of the City, by advertising the application and date, time, place and purpose of the public hearing not fewer than 15 days, nor more than 45 days before the date of the Board of Appeals hearing.
4. The public hearing must be held. Any party may appear in person, or by agent or attorney.
5. The Board of Appeals must further make findings that the requirements of this paragraph B have been met by the applicant for a variance or waiver.
6. The Board of Appeals must further make a finding that the reasons set forth in the application justify the granting of the variance or waiver is the minimum variance that will make possible the reasonable use of the land, building, or structure.
7. The Board of Appeals must further make a finding that the granting of the variance or waiver will be in harmony with the general purpose and intent of this UDO, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this UDO. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, will be deemed a violation of this UDO that is punishable under its provision.

### **Section 103-7.3. Administrative Decision Appeals**

- A. Appeals to the Board of Appeals concerning interpretation or administration of this UDO may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of a staff member of the Department of Planning and Development. Appeals must be filed with the Department within 15 days of said decision on the form/application provided by the City, including payment of fees. The Director must forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from unless the Director certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril, to life or property. In such a case, proceedings may not be stayed otherwise than by the Zoning Board of Appeals or by a restraining order granted by a court of record on application, and notice to the Director for good cause shown.
- C. The person requesting the appeal must first submit to Department a written statement clearly defining the nature of the disagreement, the specific reference to the sections of the regulations at issue, and the applicant's own opinion.
- D. If the Department fails to respond within 10 business days from the date of transmittal of the appeal, the Department must automatically forward a copy of the appeal to the Board of Appeals for final action in their normal course of business.

- E. The Board of Appeals must hear and act upon within 45 days of receipt and give public notice thereof. At the hearing, any party may appear in person or by agent or attorney.
- F. In exercising the above-mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of the this UDO, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end will have the powers of the Department staff member from whom the appeal is taken.

### **Section 103-7.4. Reapplication**

If an application for a variance or waiver is denied by the Board of Appeals, a reapplication for such variance or waiver may not be made earlier than 12 months from the date of the original application.

### **Section 103-7.5. Appeals**

Any person aggrieved by a decision or order of the Board of Appeals may appeal by certiorari to the Superior Court of Gwinnett County. Such appeal must be filed within 30 days from the date of the decision of the Board of Appeals. Upon failure to file the appeal within 30 days, the decision of the Board of Appeals will be final.