



e s t a b l i s h e d 1 8 2 3

CLARKESVILLE

— We Call it Home. —

Zoning Variance Application Requirements & Process

The following information **MUST** be included with the application. Omission of any of these item may result in delaying the application process.

- a) Zoning Change Application
- b) Letter of Intent
- c) Recorded Legal Description of property
- d) Site Plan

Professional site plans and drawings are highly suggested, and shall be required for requests located in any of the Clarkesville Preservation Districts and on **ALL** commercial requests.

Zoning Process:

All requests are public and follow the guidance of Appendix D of the Zoning Ordinance of the City of Clarkesville. Meeting times are:

Planning Commission on the 2nd Tuesday of the month and then by the Mayor and Council on the 1st Monday of the following month.

A Gentle-Friendly Place

Zoning Change Application

(Annexation, Map Amendment, Conditional Use and Variance)
for

(address)

City of Clarkesville, PO. Box 21 Clarkesville, GA 30523
Tel: 706-754-4216 Fax: 706-754-9316



PROPERTY OWNER/APPLICANT	APPLICANT	REPRESENTATIVE	OWNER
PROPERTY OWNER/APPLICANT	Name:	Name:	Name:
	Address:	Address:	Address:
	City/State/Zip:	City/State/Zip:	City/State/Zip:
	Telephone:	Telephone:	Telephone:
	Fax:	Fax:	Fax:
	Cell:	Cell:	Cell:
	Email:	Email:	Email:

	Applicant's Signature	Representative's Signature	Owner's Signature
ACTION REQUESTED	<input type="checkbox"/> Annexation: Request rezoning from county _____ to _____		
	<input type="checkbox"/> Map Amendment: Request rezoning from _____ to _____ <div style="display: flex; justify-content: space-around; width: 100%;"> (current) (proposed) </div>		
	<input type="checkbox"/> Conditional Use: Zoning district: _____ Conditional Use Requested: _____		
	<input type="checkbox"/> Variance: Zoning district: _____ Variance Requested: _____		

PROPERTY RECORDS	A <u>recorded</u> Legal Description of the property, reflecting current ownership, for which action is requested by one or more of the following:
	<input type="checkbox"/> Metes and Bounds (attach copy of recorded document)
	<input type="checkbox"/> Boundary Survey (attach copy of recorded survey, showing all easements, crossings or other appurtenances)
	<input type="checkbox"/> Tax Plat (attach certified copy of plat from Habersham County Tax Commissioner's office)

FOR OFFICE USE ONLY (DO NOT WRITE BELOW)		
General Zoning Change	Commercial Zoning Change	Disposition
Signature(s) and form(s) <input type="checkbox"/>	Signature(s) and form(s) <input type="checkbox"/>	Application Filed: __/__/__ Rcvd by: __
Letter of Intent <input type="checkbox"/>	Letter of Intent <input type="checkbox"/>	Fee Paid \$_____ on __/__/__
Maps & Plats <input type="checkbox"/>	Maps & Plats <input type="checkbox"/>	Public Notice: __/__/__ News Signs
Tax Records/Liens <input type="checkbox"/>	Tax Records/Liens <input type="checkbox"/>	Zoning Admin: __/__/__ Action: _____
Parking & Access <input type="checkbox"/>	Parking & Access <input type="checkbox"/>	Planning Comm: __/__/__ Action: _____
Floodplain Zone <input type="checkbox"/>	Floodplain Zone <input type="checkbox"/>	Governing Body: __/__/__ Action: _____
Landscaping <input type="checkbox"/>	Landscaping <input type="checkbox"/>	Letter of Determination: __/__/__
Twelve-Month Rule <input type="checkbox"/>	Concept Plans <input type="checkbox"/>	Eligible Filing Date: __/__/__

**Application for Variance
City of Clarkesville, Georgia**



Name of Applicant: _____

Address: _____

Telephone: _____

Name of Property Owner: _____

Property Owner Address: _____

Property Owner Telephone: _____

Address and Map & Parcel No. of Property for which variance is sought: _____

Fee: Please include a check in the amount of \$625 payable to the City of Clarkesville. Credit Card payment may be made at City Hall.

Attachments: Attach a survey of the property and scale drawings showing existing and proposed improvements. Provide one full-size copy of all plans, as well as one copy of all plans in an 8-1/2" x11" format. It is helpful to include floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner.

Please provide the following information. All questions must be answered.

1. What is the variance requested? What code requirement do you wish to vary from?

2. What are the extraordinary and exceptional conditions pertaining to the particular piece of property in question (size, shape, topography) that are not applicable to other land or structures in the same district?
3. Explain how a literal interpretation of the provision of the zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located.
4. Does the granting of the variance requested confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located?
5. Will the granting of a variance be in harmony with the purpose and intent of the zoning regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value?
6. Are the special circumstances from which the variance is sought result from the actions of the applicant?

APPENDIX D – ZONING PROCEDURES

AN ORDINANCE ADOPTING STANDARDS GOVERNING THE EXERCISE OF ZONING POWER, PROCEDURES FOR THE CALLING AND CONDUCTING OF PUBLIC HEARINGS AND FOR OTHER PURPOSES.

Section 1 Zoning Ordinance Amendments.

- 1.1 **Authority.** The Council may amend the text of this Ordinance from time to time. Such amendments require a public hearing by the Planning Commission and Council.
- 1.2 **Initiation of Zoning Amendments.** An application to amend this Ordinance may be initiated by the Council, by the owner of the subject property, or by the owner's designee.
- 1.3 **Frequency of Applications.** After an application for a text amendment has been considered, no application pertaining to the same or similar use requested shall be accepted within twelve (12) months from the date of the application. A text amendment may be initiated by the City at any time.
- 1.4 **Application Procedure.**
 - (1) Pre-application Conference. All applicants must meet with the Building and Zoning Administrator to discuss the application procedures, the public hearing process, and any other information which may be pertinent to the proposed request. Applications will not be accepted until a pre-application conference has been held.
 - (2) Application Contents. Each application for a rezoning must be submitted to the Building and Zoning Administrator at least forty-five (45) days before any hearing by the Planning Commission. Unless waived by the Building & Zoning Administrator, each application submitted by a person other than the City shall include all the following information about the subject property:
 - (a) A statement of intent explaining in detail the requested change, the proposed use, and any special or unusual parts of the request;
 - (b) A statement explaining why the subject property is not suitable for development under existing zoning as well as

- an explanation of the hardship which will result if the amendment is not granted;
- (c) Any other information as may be reasonably required by the Building & Zoning Administrator, Planning Commission or Council.
- (3) Filing Fee. All applications for zoning amendment shall be accompanied by payment of a non-refundable fee as established by the City of Clarkesville.
 - (4) Disclosure Report. The requirements of Section 7 apply.
 - (5) Withdrawal of Amendment Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to the Zoning & Planning Official, prior to a decision by the Council.
 - (6) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid any appearance of impropriety in the decision-making process, there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the Building and Zoning Administrator and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the Zoning Administrator, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the Zoning Administrator, City Manager and City Attorney and advise the person of upcoming

public hearings, and disclose such to the Mayor and Council at the public hearing.

- 1.5 **Notice Procedure.** The requirements of Section 5 apply.
- 1.6 **Planning Commission Hearing and Recommendation.** The Planning Commission shall consider the standards in Section 1.8 prior to any recommendation. Hearings shall comply with Section 6.
- 1.7 **City Council Hearing and Decision.** Before taking action on a zoning amendment application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 1.8. At the conclusion of the public hearing, the Council may approve or deny the application, approve with modifications or conditions, or defer a decision until a specified meeting date.
- 1.8 **Standards for Zoning Amendment Application Decisions.** The Planning Commission and the Council shall consider the following:
 - (1) The location, present use and zoning classification of the subject property, and its suitability and economic viability for use as currently zoned;
 - (2) The proposed use and zoning classification of the subject property;
 - (3) The existing land uses and zoning classification of nearby property, whether the zoning proposal seeks a use consistent with the use and development of adjacent and nearby property, and to what extent the zoning proposal will adversely affect adjacent or nearby property;
 - (4) Whether the zoning proposal will result in a use which could adversely affect existing infrastructure including without limitation streets, transportation facilities, utilities, schools, police and fire protection, and municipal personnel;
 - (5) Whether the zoning proposal is consistent with the Comprehensive Plan; and,
 - (6) Whether there are other factors or existing or changing conditions regarding the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Section 4 Variances.

The City Council may in specific cases approve such variance from the terms of this Ordinance as will not be contrary to the public interest where, due to special circumstances, a literal enforcement of the Ordinance in an individual case, will result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A non-conforming use of neighboring land, buildings, or structures in the same district or permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance.

4.1 Use Variance Prohibited. No variance may be granted that would permit a use not permitted by right or as a conditional use in the district.

4.2 Application Procedure.

- (1) Application Contents. Each application for a variance must be submitted to the Zoning & Planning Official at least forty-five (45) days before any hearing by the Planning Commission. Each application shall include all the following information about the subject property:
 - (a) Name and address of applicant;
 - (b) Location of structure and/or use for which the variance is sought, as shown on a plat by a licensed surveyor;
 - (c) Relationship of structure and/or use to existing structures and uses on adjacent lots;
 - (d) Specific sections of this Ordinance which would cause hardship;
 - (e) Characteristics of property relating to its size, shape or topography that prevent compliance with this Ordinance;
 - (f) The particular hardship that would result from strict application of this Ordinance;
 - (g) For any application for an overlay district, a Certificate of Appropriateness or a letter of support from the Better Hometown Design Committee; and,
 - (h) Any other pertinent information that the Building & Zoning Administrator, Planning Commission or

Council may require, including without limitation the application contents required by 2.4(1).

- (2) Filing Fee. All applications for variance shall be accompanied by payment of a non-refundable fee as established by the City of Clarkesville.
- (3) Disclosure Report. The requirements of Section 7 apply.
- (4) Withdrawal of Variance Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to Zoning Administrator, prior to a decision by the Council.
- (5) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid any appearance of impropriety in the decision-making process, there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the City Planner and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the Zoning Administrator, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the City Planner, City Manager and City Attorney and advise the person of upcoming public hearings, and disclose such to the Mayor and Council at the public hearing.

4.3 **Notice Procedure.** The requirements of Section 4 apply.

- 4.4 **Planning Commission Hearing and Recommendations.** The Planning Commission shall consider the standards in Section 4.6 prior to making any recommendation. Hearings shall comply with Section 6.
- 4.5 **City Council Hearing and Decision.** Before taking action on a variance application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 4.6. At the conclusion of the public hearing, the Council may approve or deny the application, approve with modifications or conditions, or defer a decision until a specified meeting date.
- 4.6 **Required Findings for Variance Approval.**
- (1) There are extraordinary and exceptional conditions pertaining to the property because of size, shape, or topography;
 - (2) The literal application of this Ordinance would create an unnecessary hardship;
 - (3) Variance would not cause substantial detriment to public good or impair the purposes or intent of this Ordinance;
 - (4) A variance will not confer upon the property of the applicant any special privilege denied to other properties in the district;
 - (5) The special circumstances surrounding the request for the variance are not the result of acts by the applicant;
 - (6) The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
 - (7) The zoning proposal is consistent with the construction and design standards and design criteria adopted by the City of Clarkesville; and,
 - (8) The variance is the minimum variance that will make possible an economically viable use of the land, building, or structure.

Section 5 - Notice Provision

Whenever a public hearing is required, posted and published notice shall be given as provided for in this Section.

5.1 Published Notice.

- (1) **Planning Commission Hearing.** A public notice shall be published in the official legal organ of Habersham County, Georgia, or in a newspaper of general circulation in Clarkesville at least fifteen (15) days and not more than forty-five (45) days prior to the

scheduled meeting of the Clarkesville Planning Commission, stating that the Planning Commission will hold a hearing and stating the purpose, time, date, and location of the hearing, the tax parcel number of the property, the present zoning classification, and a brief description of the nature of the zoning action proposed.

- (2) City Council Hearing. A public notice shall be published in the official legal organ of Habersham County, Georgia, or in a newspaper of general circulation in Clarkesville at least fifteen (15) days and not more than forty-five (45) days prior to the scheduled meeting of the Council, stating that the Council will hold a hearing and stating the purpose, time, date, and location of the hearing, the tax parcel number of the property, the present zoning classification, and a brief description of the nature of the zoning action proposed.

- 5.2 **Notice Posted on Property.** Upon the filing of an application for any zoning action, the applicant shall cause to be erected in a conspicuous place on the subject property, no less than fifteen (15) days prior to the scheduled hearings, one (1) or more sign(s) furnished by the City, each of which shall contain information as to the proposed change and the date and time of the public hearings before the Council and Planning Commission. No such public hearing shall take place until said signs have been posted for at least fifteen (15) days. The sign shall read more or less as follows:

NOTICE TO PUBLIC

An application has been filed regarding this property requesting (FILL IN THE ZONING ACTION REQUESTED, for example: “a rezoning from [insert present zone] to [insert zone requested]”; or “application for a conditional use to use the property as (insert proposed use)”; or “application for a variance to allow [insert proposed use]”, or “application for a text amendment to allow (insert proposed use)”). A public hearing will be held by the Clarkesville Planning Commission to review and consider a recommendation to the Clarkesville City Council at [LOCATION], on [DATE], at [TIME]. The Clarkesville City Council will hold a public hearing and a decision will be made at [LOCATION] on [DATE], at [TIME]. All persons having an interest in this application should be at both of these public hearings to voice their interest. Call 706-754-4216, for more details. Such posting of the property is not required when the City enacts a new zoning map or initiates a text amendment. Nor is it necessary

for the City to give actual written notice directly to the individual property owner. In such cases of City initiated zoning actions, the notice published pursuant to Section 5.1 shall make express reference to “adoption of official zoning district map for Clarkesville, Georgia” or “amendment to the text of the City of Clarkesville Zoning Ordinance at section _____”, as the case may be. No further detail as to the new zoning district map will be necessary.

Section 6 - Public Hearing Procedure

Whenever a public hearing is required by this Ordinance or by state law to be held by the Planning Commission or Council prior to a proposed zoning action, such hearing, whether conducted by the Planning Commission or the Council, shall be governed by this Section, which is adopted pursuant to O.C.G.A. Section 36-66-5(a).

- 6.1 **Administrative Record.** Minutes of the meeting will be taken by a secretary to the Planning Commission or the City Clerk. A complete tape recording of a public hearing may be requested and will be available at the expense of a party making a timely request.
- 6.2 **Presiding Officer to Call the Meeting to Order.** The public hearing shall be called to order by the presiding officer, who shall summarize the requirements as to speakers’ conduct and time limits, and other matters of procedure.
- 6.3 **Staff Report.** The Zoning Administrator, or his/her designee, shall report on the following:
 - (1) Location of the property, present zoning classification, and description of requested zoning action;
 - (2) Any report, investigation, or recommendations of the Zoning Administrator or his/her designee;
 - (3) For hearings before the Council, the recommendation of the Clarkesville Planning Commission and any additional information designated by the Planning Commission to be presented to the Council; and,
 - (4) Any other information as may be reasonably required by Zoning Administrator, Planning Commission or Council.
- 6.4 **Speakers’ Conduct.** All speakers shall speak only from the podium, shall address only the merits of the pending application, and shall address remarks only to the Planning Commission or Council. Each speaker shall refrain from

personal attacks on any other speaker, any discussion irrelevant to the pending application, or any other inappropriate behavior. No debate or argument between speakers or with Commission or Council members will be allowed. Speakers shall not repeat previous comments, as repetition deprives other speakers of valuable time to provide new information.

The presiding officer or his/her designee shall refuse a speaker the right to continue, if the speaker, after once being cautioned, continues to violate any section of this Ordinance. Speakers should provide supporting documentation prior to the date of the hearing. Speakers shall sign the speaker list prior to the hearing.

- 6.5 **Applicant's Initial Presentation.** The applicant or applicant's representative shall present and explain the application after being permitted to proceed. The applicant will be allowed not less than ten (10) minutes combined total to make an initial presentation and subsequent rebuttal, but the applicant and all supporters shall have a combined time limit of no more than fifteen (15) minutes.
- 6.6 **Other Interested Parties.** After the applicant's presentation, interested persons who support the application, after being permitted to speak by the presiding officer, may address the proposed application by standing and stating their name, address, and interest and any comments on the pending application. Persons other than the applicant who support the application are allowed to speak in support of the pending application for no more than two (2) minutes each, and are also subject to the fifteen (15) minute combined total time limit. Persons opposing an application are allowed at least ten (10) minutes total as a group (and in no event less than the combined time used by the applicant and supporters), to address their opposition to the application. The opponents shall have a combined total time limit of no more than fifteen (15) minutes. It is suggested that supporters and opponents each obtain one (1) spokesperson to present their views. No individual except the applicant, or an attorney, or a designated representative of a group, shall speak longer than two (2) minutes or more than one time.
- 6.7 **Applicant's Summary.** The applicant may make brief summary remarks using any reserved time, after which the presiding officer shall close the public hearing.
- 6.8 **Deliberation and Action by the Planning Commission or City Council; Appeal.** At the close of the public hearing, the Planning Commission or

Council shall deliberate and take action. Deliberation may include questions to applicants, supporters and/or opponents. Actions shall be by majority vote. The Chairman and Mayor may vote only in the event of a tie. Any person aggrieved by a decision of the Council shall have the right of appeal to a court of law if such appeal is filed within thirty (30) days of the decision of the Council.

Section 7 Disclosure of Campaign Contributions and/or Gifts.

When any applicant for any zoning action, or any supporter or opponent of any zoning action who has contacted the City to express an opinion or who wishes to speak at a public hearing or submit written opinion, has made within two (2) years immediately preceding the filing of that application campaign contributions totaling two hundred and fifty dollars (\$250.00) or more to an official of the City of Clarkesville, it shall be the duty of said person to file a disclosure report with the City. In the case of the applicant, filing shall be within ten (10) days after the application is made, and in the case of a supporter or opponent, filing shall be at least five (5) days before the first public hearing. Such disclosure report shall include the name and official position of the official to whom the campaign contribution and/or gift was made, and the dollar amount, date, and description of each campaign contribution and/or gift made during the two (2) years immediately preceding the filing of the application.

Section 8 Conflict of Interest In Zoning Decisions.

Any City Official who has a property interest in any real property affected by a zoning action which the City will consider, or has a financial interest in any business entity which has a property interest in any real property affected by a zoning action which the City will consider, or has a member of the family having any such interest, shall immediately disclose the nature and extent of such interest, in writing, to the Council. Such City Official shall disqualify himself from attending, participating in or voting on the zoning action. Disclosures made in accordance with this Section shall be public record and available for public inspection during normal business hours. Terms used herein are defined below.

(1) BUSINESS INTEREST: Any corporation, partnership, limited liability company, limited partnership, limited liability partnership, firm, enterprise, franchise, association, or trust.

(2) FINANCIAL INTEREST: All direct ownership interests of total assets or capital stock of a business entity of ten percent (10%) or more.

(3) CITY OFFICIAL. The Mayor, Council member, or any member of the Planning Commission.

(4) MEMBER OF THE FAMILY. The spouse, parent, sibling, or child of a City Official.

(5) PROPERTY INTEREST: The direct ownership of real property, including any percentage of ownership.

Section 9: LEGAL PROVISIONS

Section 9.1 Conflict with Other Laws.

When the regulations of this Ordinance impose more restrictive standards than under other laws, this Ordinance shall govern. When the provisions of any other law impose more restrictive standards than this Ordinance, such other law shall govern.

Section 9.2 Severability.

If any part of this Ordinance is found invalid, such invalidity shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

Section 9.3 Repeal of Conflicting Ordinances.

All ordinances and resolutions and parts thereof in conflict with this Ordinance are hereby repealed.

Section 9.4 Effective Date.

This Ordinance shall take effect and be in force from and after its adoption, the public welfare demanding it. Read and approved this __3rd__ day of October, 2011, after public notice and a public hearing.

CITY OF Clarkesville, GEORGIA Attest: _____

[AFFIX CITY SEAL]

Elizabeth Kemp, City Clerk

J. Terry Greene, Mayor