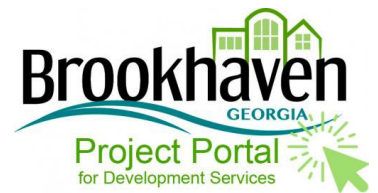


Variance Application Packet

All applications must be submitted through the Project Portal
<https://Cityworks.BrookhavenGA.gov/ProjectPortal>



Variances

To vary from the text of the Zoning, Development, and Sign Ordinances, a variance application can seek to modify or waive zoning regulations such as setbacks, buffers, coverages, parking, and others. Variance applications can be submitted concurrently with a land use map amendment or modification of conditions via the rezoning application process. Variances and the following procedures outlined herein are granted and guided by the minimum requirements of the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1). All applicants are entitled to due process of the law.

Submission deadlines are the 3rd Wednesday of every month. The full schedule of deadlines and hearing meetings can be found on our website [here](#).

For questions about variance applications, please contact the Planning and Zoning Division via email at Planning@BrookhavenGa.Gov or by telephone at 404-637-0650 and you will be directed to a Planner for assistance.

Variance Application Checklist

(Incomplete applications will not be accepted)

- ☐ Pre-Application Meeting (A staff-signed pre-application form must be submitted with application – this will be provided by staff after the meeting occurs)
 - Pre-Application meeting may be scheduled by emailing a proposal site plan to Planning@BrookhavenGA.Gov
 - Pre-application meeting shall be held by the Friday preceding the submission deadline
- ☐ Completed Application (Notarized) – Page 8
- ☐ Property Owner(s) Notarized Certification (Notarized) – Page 9
- ☐ Campaign Disclosure Statement (Signed) – Pages 10 – 11
 - A signed campaign disclosure statement must be provided for each individual owner and applicant*
- ☐ Written legal description narrative of the metes and bounds of the property
- ☐ Letter of Intent – Applicant shall provide a letter of intent which **describes how the variance request relates to each of the variance criteria for consideration** – *Criteria listed on Page 2*
- ☐ Site Plan in accordance with the site plan checklist depending on variance type – Pages 3 – 5
- ☐ Relevant Site Photos (*Optional*)
- ☐ Level 2 Health Assessment for each tree proposed for removal (*Specimen Tree Variances Only*)

Additional Information may be requested if determined necessary by Staff

Letter of Intent – Criteria for Consideration

CHAPTER 27 – ZONING	1) The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements; 2) The variance request is based on conditions that are: a. Unique to the subject property; b. Not generally applicable to other properties in the same zoning district; c. Not the result of the subject property owner's or applicant's actions; 3) Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners; 4) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; 5) The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and; 6) The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.
CHAPTER 14 – SPECIMEN TREE	For the consideration of the removal of specimen trees outside the buildable area, the provisions and criteria of Chapter 27, Article X, Division 6 shall be applied (the 6 criteria listed above), in addition to the following: 1) The age, size, health, and significance of the trees in question; 2) The feasibility of alternate design; and 3) The due diligence performed on the project before purchase to include tree surveys, ordinance review, and design review to minimize impact on specimen trees.
CHAPTER 14 – STREAM BUFFER	1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the parcel; 2) The locations of all streams on the parcel, including along parcel boundaries and within adjacent parcels; 3) The location and extent of the proposed buffer or setback intrusion; 4) Whether alternative designs are possible which require less intrusion or no intrusion; 5) The water-quality impacts of the proposed variance; and 6) Whether the proposed mitigation compensates for the lost buffer or setback functions and otherwise maintains the function of the required buffer or setback at the same site where the impact will occur and provides at least the same protection of the water as provided by the natural features to be disturbed or removed.
CHAPTER 21 – SIGNS	1) Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area; 2) Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated; 3) The exceptional circumstances are not the result of action by the applicant; 4) The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated; 5) Granting the variance would not violate more than one (1) standard of this article; and 6) Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstructs or otherwise interferes with the safe and orderly movement of traffic.

Site Plan Checklist

- ☐ Site plan must be conveyed on a closed-boundary survey, including bearings and distances along all property lines.
- ☐ Site plan must be stamped by a Registered Land Surveyor, licensed by the State of Georgia.
- ☐ Dimensions along property lines shall match the metes and bounds of the written legal description, with the point of beginning clearly indicated.
- ☐ Key and/or legend, scale of drawing, and site location map with North arrow.
- ☐ Current zoning of the subject site and adjoining properties; Location of land lot lines and identification of land lots.
- ☐ Topography on the subject site and adjacent property up to 200 feet as required to assess runoff effects.
- ☐ A delineation of the limits of disturbance; Total & Disturbed site acreage or square footage.
- ☐ Building envelope establishing all required setbacks (front street, average front, side street, interior side, rear). Show minimum distances of proposed structures from the lot boundaries.
- ☐ Existing & Proposed new dedicated and future reserved rights-of-way of all streets, roads, railroads, and easements adjacent to and on the subject property.
- ☐ Existing & Proposed buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property or within 200 feet.
- ☐ Existing & Proposed Impervious Coverage Tables; Tables shall list all impervious features in square feet (such as house, front porch, rear porch, driveway, walkway, retaining walls, swimming pool, pool equipment, ac/mech units, window wells, etc.), a summation of all features, the total lot size, and the total impervious coverage in percentage format (sum of features divided by total lot size).
- ☐ Delineation of all state waters on the subject property and of all state waters within 75-feet of property boundaries, as well as state waters wrested vegetation, state water buffers (including 25-foot state buffer, 50-foot and 75-foot city buffers), floodways and floodplain boundaries. If no such streams and/or stream buffers exist, note their absence on the plans.
- ☐ Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed.
- ☐ Required and proposed parking spaces; Loading and unloading facilities. (Not applicable for single-family residential)
- ☐ Proposed stormwater management facilities.
- ☐ Availability of water system and sanitary sewer system.
- ☐ To-scale exact locations of all existing trees >4" DBH on/adjacent to the property, with the following information:
 - ☐ Species & Diameter in Inches (DBH)
 - ☐ Critical root zone (CRZ) for every tree (1.3 -foot radius for every diameter inch, shown by a circle around the center point of the trunk);
 - ☐ Structural root plate for every tree (0.5-foot radius for every diameter inch, shown by a circle around the center point of the trunk);
 - ☐ Trees proposed to be removed; shown on plan with an 'X' overlaid on the tree symbol and listed on the tree calculation table;
 - ☐ Trees proposed to be preserved; shown on plan with tree protection fencing, CRZ impact percent, and listed on the tree calculation table;
 - ☐ Tree Calculations: Required Density, Specimen Tree Removal, Trees of Quality, Recompense Fees (Sec. 14-51 & 14-52)

Additional Information may be requested if determined necessary by Staff

Additional Requirements for Stream Buffer Variances

Stream Buffer Variance – Additional Site Plan Requirements:

1. Delineation of the stream buffer (state, 50-foot undisturbed and 25-foot additional setback) and the limits of all existing and proposed land development or land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated in a table as follows:

Buffer Area	Land Disturbance	Impervious Coverage	
	Proposed Encroachment (Square Feet)	Existing Encroachment (Square Feet)	Proposed Encroachment (Square Feet)
25-foot (State Buffer)			
50-foot (City Buffer)			
75-foot (City Buffer)			

2. At least one alternative plan, which does not include a buffer or setback intrusion, and includes an explanation of why such alternative plan is not feasible;

3. A calculation of the total area and length of the proposed intrusion;

4. A stormwater management site plan; and,

5. Required stormwater mitigation for the intrusion as outlined in Section 14-153(b)(1):

(a) The provision for storm water management and water quality control measures pursuant to Article IV, Stormwater Management, and Article V, Water Quality Control, of Chapter 14, Land Disturbance and Subdivisions, for 100% of the total existing and proposed impervious areas on the parcel; provided, however, in adopting such measures, the exemptions in Sec. 14-79(c) of the code are not available for purposes of this Sec. 14-153(b); and

(b) The planting of one 2-1/2" caliper tree of a similar type on the parcel, in addition to any other tree(s) that are required to satisfy the landscape or tree ordinances of the city, for each tree having a diameter of eight (8) inches or greater at breast height that is removed from the buffer or setback area pursuant to an approved variance under this ordinance.

For Grandfather Provisions, refer to Section 14-151 of the Stream Buffer Protection Ordinance

For Exemptions, refer to Section 14-152 of the Stream Buffer Protection Ordinance

For Additional Information Requirements, refer to Section 14-155 of the Stream Buffer Protection Ordinance

Requirements for Sign Variances

- ☐ A full-color, scaled rendering of the proposed signage, including the type of sign to be erected, the area of the sign, the height of the sign, the shape of the sign, how the sign is to be illuminated (if at all) and an explanation of how the sign is to be mounted or erected.
- ☐ Wall sign applications will provide an elevation of the proposed sign on the structure and indicate the width in linear feet of the wall or canopy on which the sign will be mounted, and the height above grade at which the sign will be mounted.
- ☐ Application for ground signs shall include a site plan drawn to scale, with the additional following information, including a closed boundary and topography survey of the property, gross acreage, the proposed location of subject sign, location of all ground signs on the property, entrance driveways from public streets, street rights-of-way, public or private easements, building locations, gross area of buildings and floor area occupied by subject owner or tenants.

LEGAL NOTICE REQUIREMENTS

POSTED NOTICE ON PROPERTY

- Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1) requires signage to be posted on any property requesting a Land Use Petition or Variance. There shall be at least one sign for each 500-feet of street frontage, or fraction thereof.
- The City will order signs and place them on the subject property on your behalf.
- **It is the responsibility of the property owner or applicant to ensure that signage *remains* posted on the subject property until *after* a decision is rendered by the Board of Appeals.**
- If the case is deferred to a different hearing date, **DO NOT** discard the sign; the sign will be updated by City Staff.
- After a decision is made by the Board, City Staff will collect the sign from the property in the following weeks to be recycled.

You may also return the sign and metal stakes to the Planning, Engineering & Permitting (PEP) Building located at 2665 Buford Highway NE, Brookhaven, GA 30319 or schedule an appointment to recycle the sign along with other materials such as batteries, appliances, compost, and more at DeKalb County's Center for Hard to Recycle Materials (CHaRM). Locations and appointment information can be found here: <https://livethrive.org/charm/location/>

- All posted signage must comply with the following regulations:
 - Sign(s) must be placed on the property at least 30 days, but not more than 45 days before the scheduled public hearing.
 - Sign(s) must be visible from the road and oriented so that the face of the sign is perpendicular to the street. (See example image to the right)
 - City Staff will update existing signage if public hearing dates are changed or cases are deferred.

In case of damaged or missing signage, replacement signage will be at the applicant's expense.



NEWSPAPER NOTICE

Per Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1), public notice shall be published in a newspaper of general circulation within the city at least 30 days, but not more than 45 days before the hearing with the Board of Appeals. City Staff manages this requirement.

MAILED NOTICE

Per Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1), notice shall be mailed to the applicant and all owners of property within 250 feet of the subject property at least 30 days, but not more than 45 days before the hearing with the Board of Appeals. City Staff manages this requirement.

HELPFUL LINKS

Application Deadlines & Processing Calendar:

<https://www.brookhavenga.gov/320/Meeting-Calendars-Deadline-Schedules>

Guide to Variance Application & Public Hearing Process:

<https://www.brookhavenga.gov/DocumentCenter/View/2665/Variance-Process-Guide>

Fee Schedule:

<https://www.brookhavenga.gov/DocumentCenter/View/423/Current-Fee-Schedule-Effective-October-7-2023-PDF>

Comprehensive Building Permit Checklist:

<https://www.brookhavenga.gov/DocumentCenter/View/426/Comprehensive-Building-Permit-Checklist-PDF?bidId=>

Project Portal:

<https://cityworks.brookhavenga.gov/ProjectPortal>

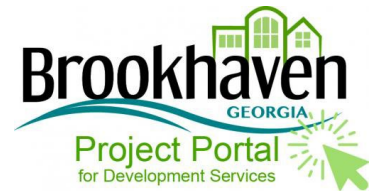
Code of Ordinance:

https://library.municode.com/ga/brookhaven/codes/code_of_ordinances

Variance Application Packet

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Variance Application

PROPERTY			
Site Address:		Parcel #:	Zip:
Project Name (If applicable):		Present Zoning:	
TYPE OF REQUEST (Select only applicable)			
☐ Zoning/Special Exception ☐ Sign ☐ Stream Buffer ☐ Specimen Tree Removal ☐ Administrative (Zoning/Special Exception or Stream Buffer)			
Nature of Request	Required per Code		Proposed
☐ Setback	Front: _____ Side: _____ Rear: _____ Other: _____		Front: _____ Side: _____ Rear: _____ Other: _____
☐ Stream Buffer	75-Foot Buffer		
☐ Impervious Coverage	%		%
☐ Sign			
☐ Specimen Tree			
☐ Other _____			
OWNER INFORMATION			
Name:			
Address:			
Email:		Phone:	
APPLICANT ☐ Same as Owner			
Name:			
Address:			
Email:		Phone:	
AFFIDAVIT			
To the best of my knowledge, this variance application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Brookhaven Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Brookhaven Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included.			
Applicant's Name:			
Applicant's Signature:		Date:	
NOTARY			
Sworn to and subscribed before me this _____ day of _____, 20____			
Notary Public:			

Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this variance application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for variance(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

Property Owner			
Name:			
Address:		City, State:	Zip:
Signature:		Date:	
Sworn to and subscribed before me this _____ day of _____, 20____ Notary Public:			

Additional Property Owner (if applicable)			
Name:			
Address:		City, State:	Zip:
Signature:		Date:	
Sworn to and subscribed before me this _____ day of _____, 20____ Notary Public:			

Additional Property Owner (if applicable)			
Name:			
Address:		City, State:	Zip:
Signature:		Date:	
Sworn to and subscribed before me this _____ day of _____, 20____ Notary Public:			

Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of Campaign Contributions

*38069 Code, 36-67A-3

CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

36-67A-3 Disclosure of Campaign Contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
 - 1. The name and official position of the local government official to whom the campaign contribution was made; and
 - 2. The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
 - 1. The name and official position of the local government official to whom the campaign contribution was made; and
 - 2. The dollar amount and description of each campaign contribution made by the opponent to the local
 - 3. government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

Official Code of Georgia Annotated Copyright 1982 – 2000 State of Georgia

Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Brookhaven City Council or a member of the City of Brookhaven Planning Commission?

☐ Yes

☐ No

Applicant/Property Owner			
Name:			
Address:		City, State:	Zip:
Signature:		Date:	

If the answer above is yes, please complete the following section:

Date	Government Official & Position	Description	Amount