



# BOARD OF ZONING ADJUSTMENT APPLICATION


The Zoning Board of Adjustment is regulated by section 2.3.3 of the City of Athens Zoning Ordinance (all references are to this ordinance). Excerpts from that ordinance are provided at the end of the application for the applicant’s records.

All of these cases are heard by the Zoning Board of Adjustment on a regular meeting date. The application submittal date is 21 days prior to the meeting date (it may be more due to a holiday coinciding with the submittal date). A schedule of meeting and submittal dates is on the City of Athens website on the Board Zoning of Adjustment page or from our office. For appeals, special exception, and variance cases, a public hearing will be held at the Commission meeting to allow others to express their input on this request.

## Submission Checklist

- Application (this form)
- Application Fee - \$20 (cash or check)

Due when the application is turned in.



A fillable PDF form is available on the City of Athens website [www.AthensAlabama.us](http://www.AthensAlabama.us) under the "Services" menu under "Applications & Forms".

- Legal Standing

Generally, the property owner should make a request to the Zoning Board of Adjustment. If the applicant is not the property owner, he/she must have legal standing to make request. An agent working for the property owner must provide an affidavit (sec. 2.4.1.B). have legal standing

- Property Owner Notification List

A list of all adjacent property owners (including directly across any right-of-way) of subject property. These names and addresses can be obtained from the Limestone County Revenue Commissioner’s Office located in the Clinton Street Courthouse Annex on the 1<sup>st</sup> floor. (sec. 2.4.8.D[1][b])

- Signed Copy of the Notification Letter

Notification Letters must be sent by 1<sup>st</sup> Class Mail by applicant at least 14 days prior to the meeting. This letter may be put on letterhead, if desired.

- Notification Affidavit - signed & notarized

- Conceptual Site Drawing

- **Required** for Special Exception Use and Variance, and in instances that the Zoning Official requires a drawing.
- Must be a scaled drawing.
- Showing any and all buildings exactly as they exist on the property
- Show any proposed construction and identify.
- The plan must show all adjoining property, buildings and property owners’ names. This plan shall also show the distance on all adjoining property of the front yard, rear yard and adjacent side yard of the main building and the distance of all other buildings nearer than the main building.
- Drawing must *not* be on cardboard.

- Include any additional documents that help communicate the intent of the case.

Note: Interpretation of Boundary cases only require the application and fee.

The applicant must make a personal appearance, or designate a representative to appear on his/her behalf, at the Board meeting and must be prepared to justify to the Board why the variance or special exception use should be granted.

**Information**

Application Date \_\_\_\_\_

Property's Street address \_\_\_\_\_

Business Name (if applicable) \_\_\_\_\_

Zoning District \_\_\_\_\_

**Request(s)**

Appeal (§2.6)

Appeal \_\_\_\_\_

Boundary Interpretation of Zoning Map (§3.3.4)

Information Pertaining to Request \_\_\_\_\_

Special Exception Use (§2.5.2)

**Land Use**

Existing \_\_\_\_\_

Proposed \_\_\_\_\_

Is this request regarding a Major Home Occupation?  Yes  No

Variance (§2.5.5)

**Type of Request**

- Building Setback  Accessory Building Setback  Maximum Build Area  Required Parking Spaces
- Number/Location of Signs  Type of Sign  Area of Sign Face  Reduction Landscaping/Buffering/Lighting
- Traffic Circulation Standards  Other Regulation (specify ZO section) § \_\_\_\_\_

Requirement (per Zoning Ord. or other Regs.) \_\_\_\_\_

Request \_\_\_\_\_

Hardship \_\_\_\_\_

Refer to below definition of Hardship and § 2.5.5.C "Variance Review Standards" of Zoning Ordinance, attach an additional sheet if additional explanation is needed. Economic or self-created hardships are **not** eligible.

**Applicant**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Number \_\_\_\_\_

Is the applicant also the property owner?  Yes  No

If **NO**, fill in the Property Owner section.

**Property Owner**

Name(s) \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Relationship to Applicant \_\_\_\_\_

I certify the above-stated information is true. I also understand that I, or my representative, must be present at the hearing before the Zoning Board of Adjustment will consider my application.

X \_\_\_\_\_  
Applicant's Signature

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public\*  
My Commission Expires: \_\_\_\_\_

\* During normal office hours, City Hall usually has a notary available. Any public notary may notarize this form.

**SUBMIT TO:**

Engineering Services & Community Development Department,  
Athens City Hall, 200 Hobbs ST West, Athens, AL 35611  
Phone: 256-233-2224 Fax: 256-262-1405

**BZA Meeting Location**

at 5:30 p.m.  
City Hall Council Chambers  
200 Hobbs Street West, Athens, AL

**Appeal/Rehearing**

Any party aggrieved by any final judgment or decision of the Board may, within fifteen (15) days thereafter may appeal to circuit court or court of like jurisdiction (Zoning Ordinance section 2.3.3.C). Rehearing a case is allowed under certain conditions, see Zoning Ordinance § 2.3.3.B.

Approved  Disapproved

Signature of Chairperson X \_\_\_\_\_ Date \_\_\_\_\_

Board's Comments \_\_\_\_\_

# BZA NOTIFICATION AFFIDAVIT

I ( have notified /  will notify) all adjacent property owners of all property lines of the property at:

\_\_\_\_\_  
(Street address or nearest cross street)

that a public hearing will be held in the City Council Chambers of the Athens City Hall, 200 Hobbs Street West, at 5:30 P.M. on

\_\_\_\_\_, 20\_\_\_\_\_, which informs owners their right to attend the public hearing in order to express their opinion on my conditional use request. The attached list constitutes all of the adjacent owners of real property of all property lines for which I am requesting such conditional use. I ( have notified /  will notify) these owners by First Class U.S. Mail at least fourteen (14) days before the above meeting date.

Applicant's Name (printed): \_\_\_\_\_

\_\_\_\_\_  
(Applicant's Signature) (Date)

Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public\*

My Commission Expires on \_\_\_\_\_

\* During normal office hours, the City Hall usually has a notary available. Any public notary may notarize this form.

# BZA NOTIFICATION LETTER

Date: \_\_\_\_\_

To Whom It May Concern:

I, \_\_\_\_\_, am applying the City of Athens Board Zoning of  
(Applicant's Name)  
Adjustment for a(n)  Appeal /  Special Exception /  Variance, according to the Athens Zoning  
Ordinance Section 2.3.3 "Zoning Board of Adjustment", for the property located at (Address or nearest cross  
street) \_\_\_\_\_,  
which contains approximately \_\_\_\_\_ acres and this property is zoned as \_\_\_\_\_ Zoning District.  
I am requesting the following (explanation of request):

\_\_\_\_\_  
\_\_\_\_\_

The Board of Zoning Adjustment will hold a public hearing in the **City Council Chambers at  
the Athens City Hall, located at 200 Hobbs Street West**, on \_\_\_\_\_  
[Month/Day/Year]

at 5:30 P.M. to hear this request. This letter is to notify you of my request and to inform you of your  
right to attend this meeting, should you have any comments or questions concerning my request. If you  
need more information, please contact me at the number below or the City of Athens Engineering  
Services & Community Development Department ("ES&CD Dept.") at 256-233-2224. The application  
and related documents may be viewed at the ES&CD Dept. at City Hall during normal business hours (8  
am-4:30 pm). Written comments regarding this request may be mail to the ES&CD Dept. at P.O. Box  
1089 Athens, AL 35611; dropped off at the office; or presented at the public hearing.

Thank you,

\_\_\_\_\_  
Applicant's Signature

Address: \_\_\_\_\_

City, State ZIP: \_\_\_\_\_

Phone Num.: \_\_\_\_\_

# ZONING ORDINANCE EXCERPTS

Hardship. A circumstance existing when the conditions imposed by the Zoning Ordinance would deprive a property owner of certain development rights that are enjoyed by other property owners within the same zoning district. The standards for determining if a hardship justifies a variance is contained in Section 2.5.5, which excludes self-created and economic hardships.

Special Exception Use. A use that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare of the community. Such uses may be permitted upon review by the Board only if specific provision for such a use is made in the applicable district regulations.

Variance. A relaxation of the terms of this Ordinance where such will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action(s) of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

## ARTICLE 2. ADMINISTRATION AND PROCEDURES

### §2.3. Decision Making and Reviewing.

[...]

#### 2.3.3. Board of Zoning Adjustment (BZA)

A. Establishment of a Board of Zoning Adjustment. The Athens Board of Zoning Adjustment was established pursuant to section 11-52-80, Code of Alabama 1975; and shall have all powers and duties delegated to boards of adjustment by said code, which generally are:

- 1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.
- 2) To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass under this ordinance.
- 3) To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

B. Rehearings. All decisions rendered by the BZA shall be final and binding upon all parties. No appeal of an administrative decision or decision on an application for a variance or a special exception shall be reheard, and no further application shall be accepted once a decision has been rendered except under one or more of the following conditions:

- 1) New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
- 2) The decision resulted from an error in procedures required by this Ordinance or State law and made by the BZA, the Zoning Official, or any other City Officials.
- 3) The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama, 1975, as amended.

Where no error is alleged and no new evidence is available, a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the BZA. Any applicant wishing a rehearing shall appear before the BZA to present one or more of the qualifying conditions listed above.

If the BZA finds that one or more of the qualifying conditions exist, the applicant shall be permitted to submit a new application. This new application shall be heard at a subsequent BZA meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the BZA to grant the request.

C. Appeals From Action of the BZA. Any party aggrieved by any final judgment or decision of the BZA may, within fifteen (15) days thereafter appeal there from to the circuit court or court of like jurisdiction, by filing with the Board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the BZA shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the cause in such court shall be tried *de novo*.

2.3.4. Withdrawal of an Application. A request for withdrawal of an application shall be submitted in writing to Engineering Services and Community Development. If the request of withdrawal comes on the evening of the meeting, the applicant shall communicate the request to the Commission/Board/Council at the public meeting.

§2.4. **Common Development Review Requirements.** The requirements of this section shall apply to all development review applications and procedures subject to development review under this ordinance, unless otherwise stated.

[...]

2.4.8. Public Notification. Applications for development approval shall comply with the Code of Alabama 1975, as amended, and the provisions of this Ordinance. No notice standard or notice requirement shall be required with respect to that which is provided by this Ordinance and/or State law that is in addition to, different from, or in conflict with the provisions of this Ordinance and/or State law.

A. Content. Notices for public meetings or hearings, whether by publication or mail (written notice), shall, at a minimum:

- 1) Identify the Application. Identify the address or location of the property subject to the application and the name, address, and telephone number of the applicant or the applicant's agent.
- 2) Specify the Date, Time, and Place of the Public Meeting or Hearing. Indicate the date, time, and place of the public meeting or hearing.
- 3) Describe the Subject Property. Describe the subject property(ies) involved by street address, or by legal description and the nearest cross street, and project area (size).
- 4) Describe the Nature and Scope of the Application. Describe the nature, scope, and purpose of the application or proposal.
- 5) Notify the Public Where to View the Application. Identify the location (e.g., the offices of Engineering and Community Development) where the public may view the application and related documents.

- 6) Notify the Public Where They May be Heard. Include a statement that the public may appear at the public meeting or hearing, be heard, and submit evidence and written comments with respect to the application.
- 7) Allow for Written Comments. Include a statement describing where written comments will be received prior to the public meeting or hearing.

B. Timing of the Notice.

- 1) Unless otherwise expressly provided in the Code of Alabama or this ordinance, notice, when required, shall be postmarked or published (as the case may be) at least 10 days prior to the hearing or matter that is the subject of the notice.

C. Published Notice. When the provisions of this ordinance require that notice be published, the Engineering Services and Community Development shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation. The content and form of the published notice shall be consistent with the requirements of Subsection 2.4.8(A), and state law.

D. Written (Mailed) Notice.

- 1) Required Written Notice. Written notice shall be required in the following circumstances by the party indicated in the time allotted:
  - a) Subdivision of Property. Provided by the City via certified mail to owners of all adjoining properties at least 5 days prior to the public hearing.
  - b) Variance, Special Exception, or Appeal of Administrative Decision. Provided by the applicant to owners of all adjacent properties (including directly across any right-of-way) via regular US mail, postmarked at least 14 days prior to the public hearing. An affidavit stating that required written notice will be mailed in a timely fashion must be filled out and notarized in order to complete the application.
  - c) Conditional Use. Provided by the applicant to owners of all properties within 500 feet of the site via regular US mail, postmarked at least 14 days prior to the public hearing. An affidavit stating that required written notice will be mailed in a timely fashion must be filled out and notarized in order to complete the application.
- 2) Application of Written Notice. The notification of property owners shall apply only to the initial presentation of the proposed development to the Planning Commission or the BZA.
  - a) If, for any reason, an item scheduled for initial presentation before the Planning Commission or BZA is withdrawn without having been presented or a meeting is canceled, then the party responsible for the initial written notice shall re-notify all appropriate parties.
  - b) The applicant shall be responsible for re-notifying property owners pursuant to Subsection 2.4.8, Public Notification, if the hearing or meeting is deferred or continued at the applicant's request.

E. Other Notices. Applicants shall be responsible for compliance with any additional notice requirements in this ordinance, other city ordinances, or state law.

F. Constructive Notice.

- 1) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal



description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing or meeting regarding the adequacy of notice, the decision-making body shall direct Engineering Services and Community Development to make a formal finding as to whether there was substantial compliance with the notice requirements of this ordinance, and such finding shall be made available to the decision-making body prior to final action on the request.

- 2) When the records of the city document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.

## §2.5. Specific Review Procedures

[...]

**2.5.4. Special Exception Uses.** All uses permitted by special exception as listed in the district regulations shall require the submission of an application to the Board.

### A. Application and Procedure.

- 1) A written application for a Special Exception Use shall be submitted at least twenty-one (21) days ahead of the regularly scheduled meeting indicating the section of this Ordinance under which the Special Exception Use is requested.
- 2) A Public Hearing shall be held before the Board, in which any party may appear in person, or by agent, or attorney.

### B. Review Standards. A Special Exception Use shall not be granted by the Board unless and until:

- 1) The Board shall find that it is empowered under this Ordinance to grant a Special Exception Use, and that the granting of the Special Exception Use will not adversely affect the public interest.
- 2) Before any Special Exception Use approval is issued, the Board shall find that the proposed use is in compliance with supplemental regulations, if any, governing individual Special Exception Uses and shall consider the potential arrangement and provisions for the following:
  - a) Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control
  - b) Provision of off-street parking and loading areas where required, with particular attention to the items in (a) and the economic, noise, glare, and odor effects of the use on adjoining properties in the area
  - c) Location and accessibility of refuse and service areas and their potentially adverse effects upon surrounding properties
  - d) Utilities, with reference to locations, availability and compatibility
  - e) Screening and buffering of potentially adverse views and activities from surrounding properties with reference to type, location, and dimensions

- f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district
- g) Location, use, plan, elevations and dimensions of each building or structure to be constructed
- h) The bulk, density, and lot coverage of structures and the location, dimension, and arrangement of all open spaces and yards, with reference to their visual compatibility with surrounding properties
- i) General compatibility with adjacent properties and other property in the district

C. Conditions for Approval. The Board may impose such conditions for approval that it deems necessary in the particular case to protect the public interest and the intent of the Comprehensive Master Plan and this Ordinance in relation to the items listed above and as may otherwise be reasonably necessary. Such conditions shall apply to the land, structure, and use for which the special exception is granted and not to a particular person. Violations of conditions lawfully attached to any special exception shall be deemed to be violations of this Ordinance.

**2.5.5. Variances.** The existence of a nonconforming use of neighboring land, building or structures in the same district, or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. **It is the intent of this Ordinance that variances be used only to overcome some physical condition of a parcel of land, which poses a practical difficulty to its development and prevents its owner from using the property in conformance with the provisions of this Ordinance.** [emphasis added]

A. Application. An application for a variance shall be made on forms made available by and filed with the Zoning Official or Secretary of the Board at least twenty-one (21) days before the scheduled hearing date before the Board.

B. Variances within Areas Subject to Flooding. Any application for a variance related to regulations and restrictions to property development and use due to said property's location within a Special Flood Hazard District shall follow the process provided within the City's adopted Flood Ordinance.

C. Variance Review Standards. Variances may be granted in individual cases of unnecessary hardship upon a finding by the Board that *all* of the following conditions exist:

- 1) There are exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- 2) A personal hardship exists on the part of an individual property owner which will not permit him to enjoy the full utilization of his property which is given to others without the city. It is not sufficient proof of hardship to show that greater value or profit would result if the variance were granted.
- 3) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
- 4) A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

- 5) The requested variance will be in harmony with the purpose and intent of this Ordinance and will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- 6) The hardship is not self-created; nor can it be established on this basis by one who purchases the property with or without knowledge of the restrictions.
- 7) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- 8) The variance is not a request to permit a use of land, building or structures which is not permitted in the district involved.

**§2.6. Appeals.** Appeals from the decisions of the Zoning and Building Officials shall be heard by the Board, unless otherwise specified in this Ordinance.