



# ZONING BOARD OF ADJUSTMENT APPLICATION

The Zoning Board of Adjustment is regulated by Article 16 of the City of Athens Zoning Ordinance (see pages 6-9 of this application).

All of these cases are heard by the Zoning Board of Adjustment on a regular meeting date. The application submittal date is approximately three (3) weeks prior to the meeting date. A schedule of meeting and submittal dates is on the City of Athens website on the Zoning Board of Adjustment page or from our office. For 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 form is available on the City of Athens website [www.AthensAL.us](http://www.AthensAL.us) under the "Online Services" menu under "Applications and 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. This can be achieved by a notarized letter from the property owner granting applicant permission to make the request or a notarized power of attorney.

- Property Owner Notification List

A list of all adjacent property owners 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.

- Signed Copy of the Notification Letter

Notification Letters must be sent by 1<sup>st</sup> Class Mail by applicant at least 15 days prior to the Planning Commission Meeting

- 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.

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)

**Administrative Appeal**

Appeal \_\_\_\_\_

**Boundary Interpretation of Zoning Map**

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

**Special Exception Use**

Land Use

**Existing** \_\_\_\_\_

**Proposed** \_\_\_\_\_

Is this request regarding a Major Home Occupation?  Yes  No

**Variance**

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 ZO or other Regs.) \_\_\_\_\_

Request \_\_\_\_\_

Hardship \_\_\_\_\_

Refer to below definition of Hardship and 16.4.3 "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

ZBA 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 16.7). Rehearing a case is allowed under certain condition, see Zoning Ordinance section 16.6.

Approved  Disapproved

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

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

# ZBA NOTIFICATION AFFIDAVIT

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

\_\_\_\_\_ (Street address)

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 fifteen (15) 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.

# ZBA NOTIFICATION LETTER

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

To Whom It May Concern:

I, \_\_\_\_\_, am applying the City of Athens Zoning Board of  
(Applicant's Name)  
Adjustment for a ( Special Exception /  Variance), according to the Athens Zoning Ordinance  
Article 16 "Zoning Board of Adjustment", for the property located at (Address) \_\_\_\_\_  
\_\_\_\_\_ and this  
property is zoned as \_\_\_\_\_ Zoning District. I am  
requesting the following (Explanation of request):

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

The Zoning Board of 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 at 256-233-2224.

Thank you,

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

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

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

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

# ZONING ORDINANCE EXCERPTS

Relevant excerpts from Athens Zoning Ordinance, Article 2, "Definitions", Section 12.1 "Home Occupations", and Article 16, "Zoning Board of Adjustment." Emphasis has been added

**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 [§16.4](#), 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. As used in this Ordinance, a variance may be authorized only for height, area, and size of structure or size of yards and open spaces.

**§12.1.4.B. Major home occupations.** In addition to applying for a home occupation permit, an applicant for a major home occupation shall also apply for a **Special Exception Use** in accordance with [§16.5](#). If a Special Exception Use is granted, and after confirming that the conditions of the Board have been satisfied, the Zoning Official shall issue the permit. Such review of the application may require the Zoning Official to visit the dwelling if deemed necessary.

## ARTICLE 16. ZONING BOARD OF ADJUSTMENT

**§16.1. Establishment of a Zoning Board of Adjustment.** A Zoning Board of Adjustment is hereby established in accordance with §11-52-80 of the State Code of Alabama.

[...]

**16.1.1. Meeting, Procedures, and Records.** Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

The Board shall adopt and publish its own rules of procedure and keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall be immediately filed in the office of the Board and shall be public record.

The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give due notice thereto to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appeal in person, or by agent or by attorney.

**16.1.2. Notices.** The property owner or authorized agent shall file the application for appeal, variance, or special exception on a form made available by the Zoning Official. **At least fifteen (15) days prior to the scheduled hearing of the Board, the applicant shall give written notice of the application to all adjacent property owners.** Such notice shall be deemed given

when deposited in the U.S. mail, first class postage prepared, addressed to such property owners at their addresses as submitted with the appeal. Such addresses shall be obtained by the applicant from the most recent records of the County Tax Assessor and submitted as part of the appeal.

**§16.2. Powers and Duties.** The Board shall have the following powers and duties:

**16.2.1. Interpretation of Boundaries.** To hear and decide upon interpretation of the boundaries of districts established and shown on the map in accord with §3-4 Official Zoning Map.

**16.2.2. Administrative Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Official in the enforcement of this Ordinance.

**16.2.3. Variances.** 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, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

**16.2.4. Special Exception Uses.** To hear and decide special exceptions upon which the Board is required to act for uses designated as Special Exception Uses in the district regulations.

**§16.3. Administrative Appeals.** Appeals to the Board may be taken by any person aggrieved by an officer, department, board or bureau of the City of Athens affected by a decision of the Zoning Official or any other city officials based on this Ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Official a written notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the Board.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Official certifies to the Board after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Official and on due cause shown.

**§16.4. 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.**

[...]

**16.4.3. 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:

A. 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.

B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- H. The variance is not a request to permit a use of land, building or structures which is not permitted in the district involved.

**§16.5. 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.

**16.5.1. Application and Procedure.**

- A. A written application for a Special Exception Use shall be submitted indicating the section of this Ordinance under which the Special Exception Use is requested.
- B. Notice shall be given at least two (2) weeks in advance of public hearings.
- C. A Public Hearing shall be held before the Board, in which any party may appear in person, or by agent, or attorney.

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

- A. 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.
- B. Before any Special Exception Use approval is issued, the Board shall make written findings certifying compliance with the specific rules governing individual Special Exception Uses and shall consider the proposal in the context of the review standards of §4.6.6 and the potential arrangement and provisions for the following:
  - 1) Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control
  - 2) Provision of off-street parking and loading areas where required, with particular attention to the items in (1) and the economic, noise, glare, and odor effects of the use on adjoining properties in the area
  - 3) Location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties

- 4) Utilities, with reference to locations, availability and compatibility
- 5) Screening and buffering of potentially adverse views and activities from surrounding properties with reference to type, location, and dimensions
- 6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district
- 7) Location, use, plan, elevations and dimensions of each building or structure to be constructed
- 8) 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
- 9) General compatibility with adjacent properties and other property in the district

**16.5.3. 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.

**§16.6. Rehearings.** All decisions rendered by the Board 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:

- 16.6.1.** 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.
- 16.6.2.** The decision resulted from an error in procedures required by this Ordinance or State law and made by the Board, the Zoning Official, or any other City Officials.
- 16.6.3.** 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 Board.** Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed above.

If the Board 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 Board meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

**§16.7. Appeals From Action of the Board.** Any party aggrieved by any final judgment or decision of the Board may, within fifteen (15) days thereafter appeal therefrom 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 Board 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*.