

Stream Protection Buffer Variance Request



CITY OF GAINESVILLE
APPLICATION FOR A VARIANCE REQUEST

For Application Requirements, Refer to Chapter 9-16-3
of the Unified Land Development Code

Date Application Made _____

Meeting Date _____

Applicant Information

Name	
Address	
City/State/Zip	
Phone	
Cell	
Email	

Property Owner Information

Name	
Address	
City/State/Zip	
Phone	
Cell	
Email	

Status of Applicant

<input type="checkbox"/>	Current Property Owner
<input type="checkbox"/>	Option to Purchase
<input type="checkbox"/>	Area Resident
<input type="checkbox"/>	Other (Explain)

Variance Request(s)

Describe Type Variance(s) Requested	
Vary From	
Vary To	

Zoning Information

Current Zoning Classification(s)	

Parcel Information

Tax Parcel Number(s)		Ward No.	
Location (Street Address)		Acres	
Existing Structure(s)			
Description of Proposed Use			

Fee Information

Variance Fee	If work not in progress	\$ 300.00
	If work in progress	\$ 600.00
Amount Due	Include all fees required	\$

Supporting Documents Required*

Site Plan(s) – (Sec. 9-16-3-8) Prepared by a Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect. One full scale, One reduced to 8.5 x 11 & a PDF, TIFF or JPEG format
Plat One full scale, One reduced to 8.5 x 11 & a PDF, TIFF or JPEG format
Statement of Hardship – PDF format
Architectural Rendering One full scale, One reduced to 8.5 x 11 & a PDF, TIFF or JPEG format
Meet Buffer Variance Requirements (Per Section 9-16-3-8)

* All documentation must be attached with submittal.

Applicant's Certification: I hereby certify the above information, and all attached information, is true and correct; and that I have read, understand, and have received a copy of the **Public Notice Requirements**.

Signature of Applicant _____

Date _____

Application Taken By _____

Date _____

Application **WITHDRAWAL** Notification: I hereby withdraw the above application.

Signature of Applicant _____

Date _____

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PROPERTY OWNER AUTHORIZATION

As the owner of the subject property, I hereby authorize the person named below to act on my behalf as Applicant in the pursuit of a Stream Protection Buffer Variance for this property.

Applicant's Name, if not Owner	
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OWNER INFORMATION CERTIFICATION

I swear that I am the owner of the property which is the subject matter of this application, as shown in the records of Hall County, Georgia:

Name of Owner	
Owner's Address	
City / State / Zip Code	
Owner's Phone Number	
Owner's Cell Phone Number	

NOTARY PUBLIC CERTIFICATION

Personally appeared before me the following:

Signature of Property Owner

who swears that the information contained in this authorization is true and correct to the best of his or her knowledge and belief.

Notary Public

Date

In the event there is more than one property owner, a separate **Property Owner Authorization** page must be completed by each property owner.

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CAMPAIGN CONTRIBUTIONS DISCLOSURE FORM

NOTE: This form is required for all annexation and/or zoning actions

- (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 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 opponent 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.
- (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 or any of its agencies on the rezoning application.

APPLICANT'S CERTIFICATION

I hereby certify that I have read the above campaign disclosure information and declare that (select have or have not)

_____ I **have** within the two years immediately preceding this date made any campaign contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

_____ I **have not** within the two years immediately preceding this date made any campaign contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

***NOTE:** If you are an applicant and you have made any such contribution(s), you must provide the information required in subsection (a) above within ten (10) days after the rezoning action is first filed. If you are an opponent and you have made a contribution, you must provide the information required in subsection (c) above at least five (5) calendar days prior to the **public** hearing by the City Council or any of its agencies on the rezoning application.

(1) _____
(Name and official position of the City Council Member of the City of Gainesville, Georgia to whom campaign contribution was made)

(2) Amount: \$ _____ Date of Contribution: _____

Signature of Applicant _____ **Date:** _____

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STREAM PROTECTION VARIANCE BUFFER CRITERIA (Sec. 9-16-3-7)

STATEMENT OF HARDSHIP

The Gainesville Planning and Appeals Board has the authority, in specific cases, to grant variances from the terms of the Unified Land Development Code of the City of Gainesville, Georgia, when the variance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Unified Land Development Code will, in specific cases, result in unnecessary hardship and so that the resolution shall be observed, public safety and welfare secured, and substantial justice done. The authority to grant such variances shall be limited to those instances where a hardship is clearly established as required by the Unified Land Development Code. Variances may be granted only upon a finding by the Gainesville Planning and Appeals Board that:

Describe in sequence and in narrative format how each statement/question listed below relates to your application.

1) Provide the locations of all streams on the property, including along property boundaries.
2) Does the property's shape, size, topography, slope, soils, vegetation or other physical conditions existing at the time of the adoption of this chapter prevent land development unless a stream buffer protection variance is granted?
3) Show the location and extent of the proposed buffer or setback intrusion.
4) Are there unusual circumstances that would create extreme hardship when there is strict adherence to the minimal buffer requirements in the ordinance?
5) Variances are not to be considered when, following original adoption of this chapter, actions of any property owner of a given property have created conditions of a hardship on that property. Does this apply?
6) Are there alternative designs possible which require less intrusion or no intrusion?
7) Are there long-term and construction water-quality impacts of the proposed variance? Explain.
8) Would the issuance of the variance be at least as protective of natural resources and the environment? Explain.

I hereby certify that the above information and all attached information is true and correct.

Signature of Applicant _____

Date _____

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PUBLIC NOTICE REQUIREMENTS

City of Gainesville zoning regulations require public notice to be given on all zoning applications as follows:

1. A **legal advertisement** shall be published no less than fifteen (15) days and no more than forty-five (45) days prior to the public hearing. (This requirement is covered by Planning Division staff.)
2. A **public notice sign** shall be placed in a conspicuous location on the property which is subject to the zoning application. The original public notice sign will be posted by Planning Division staff.
3. It is City policy to **notify, by letter**, the surrounding property owners within three hundred feet (300') of the applicant's property that an application has been filed and when it will be considered. (This requirement is covered by Planning Division staff.)

As the applicant, you are responsible for ensuring the public notice sign remains on the site during the entire zoning process. The Planning Division staff will prepare and place a sign (or signs) for you. If any problem arises with regard to the sign, notify the City of Gainesville Community Development Department immediately by calling 770-531-6570 so the sign can be replaced. Failure to report problems with the sign during the entire period of the hearings will also result in a delay.

The purpose of the public notice sign is to inform the surrounding property owners that an application has been filed. Placement of the sign in a manner that is not clearly visible violates the requirements. Failure to place the sign in a conspicuous location will result in your request being tabled until the sign is posted as required. Failure to ensure the sign remains posted on the site during the entire zoning process means there will be a delay in the hearing date set for your request. Legally, the City cannot consider a request until proper notice has been given. If it is determined at any time during the zoning process that the sign is not properly placed on the site, the Gainesville Planning and Appeals Board has no choice but to table the request, even if there is no opposition to the application. Many of the board members, as well as the planning staff, visit the sites and will be looking for the sign. Additionally, local citizens, particularly those who receive notice letters, often report when a sign is not visible. The City will not consider your request until it is satisfied that proper public notice has been given.

Multiple sign postings on a site may be required if it is so determined by Planning Division staff to be necessary. Signs should be placed as near to the road as possible so they are clearly visible. The sign(s) cannot be obstructed by vegetation, etc.; may not be placed at an inappropriate distance from the road; or placed on something in such a manner so as to blend into the scenery.

When the zoning process is complete and final action has been taken by the Gainesville City Council, it is the responsibility of the applicant to remove the sign (or signs).

Applicant's Certification: *I hereby certify the above information, and all attached information, is true and correct; and that I have read, understand, and have received a copy of the **Public Notice Requirements**.*

Signature of Applicant _____

Date _____

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Section 9-16-3-6. Stream Protection Buffer Variances.

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

- (a) Where a parcel was platted prior to the effective date of this chapter as originally adopted, and its shape, topography or other existing physical condition prevents land development consistent with this chapter, and the Community Development Director finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the Board of Planning and Appeals of the City of Gainesville may grant a variance from these requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
- (b) Except as provided in paragraph (a) of this section, the Board of Planning and Appeals of the City of Gainesville shall grant no variance from any provision of this chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Planning and Appeals. The City of Gainesville shall give public notice of each such public hearing in the local newspaper of record and shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.

Section 9-16-3-8. Variance Application Requirements.

In addition to the requirements for variance applications specified generally by this Unified Land Development Code, a request to vary the provisions of this chapter shall at minimum include the following information:

- (a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
- (b) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- (c) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed 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;
- (d) Documentation of unusual hardship should the buffer be maintained;
- (e) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
- (f) A calculation of the total area and length of the proposed intrusion;
- (g) A stormwater management site plan, if applicable; and
- (h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.