
INTEROFFICE MEMORANDUM

TO: MAYOR AND COUNCIL

FROM: DINA RIMI, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: VARIANCE

DATE: 1/24/2022

CC: HAROLD SIMMONS

During a training class on 1/18/22 members of the council directed staff to put together a draft document addressing amending the review and approval process for an applicant requesting a variance.

The current standard is for the request to be heard only by the Mayor and Council. The requested amendment was for this to be changed to have the variance heard and decided by the Planning Commission and any appeals to be addressed by the Mayor and Council.

Staff amended the following ordinances as directed.

Article XVI Streambank Protection and Regulations (Land Development Regulations) – Exhibit A

Article XII Appeals and Variance (Land Development Regulations) Exhibit B

ARTICLE XIV. ADDITIONAL POWERS AND DUTIES OF THE CITY COUNCIL (Zoning Ordinance) Exhibit C

ARTICLE XII. - APPEALS AND VARIANCE (Land Development) Exhibit D



**SUBMITTED
FOR REVIEW**

ARTICLE XVI. STREAMBANK PROTECTION REGULATIONS

Exhibit A

Sec. 40-321. Title.

This article shall be known as the "City of Senoia Stream Buffer Protection Ordinance."

(Ord. No. 06-05, § 1(1), 4-3-2006)

Sec. 40-322. Findings and purposes.

- (a) *Findings.* Whereas, the mayor and council of the city finds that buffers adjacent to streams provide numerous benefits including:
- (1) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources.
 - (2) Removing pollutants delivered in urban stormwater.
 - (3) Reducing erosion and controlling sedimentation.
 - (4) Protecting and stabilizing stream banks.
 - (5) Providing for infiltration of stormwater runoff.
 - (6) Maintaining base flow of streams.
 - (7) Contributing organic matter that is a source of food and energy for the aquatic ecosystem.
 - (8) Providing tree canopy to shade streams and promote desirable aquatic habitat.
 - (9) Providing riparian wildlife habitat.
 - (10) Furnishing scenic value and recreational opportunity.
 - (11) Providing opportunities for the protection and restoration of greenspace.
- (b) *Purposes.* It is the purpose of this article is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:
- (1) Create buffer zones along the streams of city for the protection of water resources; and,
 - (2) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

(Ord. No. 06-05, § 1(2), 4-3-2006)

Sec. 40-323. Definitions.

Buffer means, with respect to a stream, a natural or enhanced vegetated area (established by Section 5.1.1 below), lying adjacent to the stream.

Impervious cover means any manmade paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

Land development means any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land development activity means those actions or activities which comprise, facilitate or result in land development.

Land disturbance means any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land disturbance activity means those actions or activities which comprise, facilitate or result in land disturbance.

Floodplain means any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

Parcel means any plot, lot or acreage shown as a unit on the latest county tax assessment records.

Permit means the permit issued by the city required for undertaking any land development activity.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

Protection area or stream protection area means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

Riparian means belonging or related to the bank of a river, stream, lake, pond or impoundment.

Setback means, with respect to a stream, the area established by section 40-325(a)(2) extending beyond any buffer applicable to the stream.

Stream means any stream, beginning at:

- (1) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
- (2) A point in the stream channel with a drainage area of 25 acres or more; or
- (3) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the city may require field studies to verify the existence of a stream.

Streambank means the sloping land that contains the stream channel and the normal flows of the stream.

Stream channel means the portion of a watercourse that contains the base flow of the stream.

Watershed means the land area that drains into a particular stream.

(Ord. No. 06-05, § 1(3), 4-3-2006)

Sec. 40-324. Applicability.

This article shall apply to all land development activity on property containing a stream protection area as defined in section 40-323. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements

do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

- (1) *Grandfather provisions.* This article shall not apply to the following activities:
- a. Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this article.
 - b. Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
 - c. Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this article.
 - d. Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of this article.
- (2) *Exemptions.* The following specific activities are exempt from this article. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.
- a. Activities for the purpose of building one of the following:
 - A stream crossing by a driveway, transportation route or utility line;
 - Public water supply intake or public wastewater outfall structures;
 - Intrusions necessary to provide access to a property;
 - Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - Unpaved foot trails and paths;
 - Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
 - b. Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in subsection a., above.
 - c. Land development activities within a right-of-way existing at the time this article takes effect or approved under the terms of this article.
 - d. Within an easement of any utility existing at the time this article takes effect or approved under the terms of this article, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
 - e. Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the (review and permitting authority) on the next business day after commencement of the work. Within ten

days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the (review and permitting authority) to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

- f. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land-disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.

After the effective date of this article, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to section 40-325(b).

Sec. 40-325. Land development requirements.

- (a) *Buffer and setback requirements.* All land development activity subject to this article shall meet the following requirements:

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

- (b) *Variance procedures.* A minimum 25-foot buffer requirement is established by state law and the city has no authority to grant variances or exemptions therefrom. Otherwise, variances from the above setback requirements may be granted in accordance with the following provisions:

- (1) Where a parcel was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, so as to prohibit the otherwise lawful use of the property by the owner, the ~~mayor and council~~ planning commission— of city may grant a variance from the setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
- (2) Except as provided above, the ~~mayor and council~~ planning commission shall grant no variance from any provision of this article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the ~~mayor and council~~ planning commission . The city shall give public notice of each such public hearing in a newspaper of general circulation within city. The city 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. Variances will be considered only in the following cases:
 - a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a setback variance is granted.
 - b. Unusual circumstances when strict adherence to the minimal setback requirements in the ordinance would create an extreme hardship. Variances will not be considered when, following adoption of this article, actions of any property owner of a given property have created conditions of a hardship on that property.

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- (3) At a minimum, a variance request shall 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.
- (4) The following factors will be considered in determining whether to issue a variance:
- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - b. The locations of all streams on the property, including along property boundaries;
 - c. The location and extent of the proposed buffer or setback intrusion;
 - d. Whether alternative designs are possible which require less intrusion or no intrusion;
 - e. The long-term and construction water-quality impacts of the proposed variance; and
 - f. Whether issuance of the variance is at least as protective of natural resources and the environment.
- (5) A written decision of the ~~mayer and council~~ planning commission on the petition for setback variance shall be deemed final. A copy of the decision shall be served on the person seeking the variance. Any person aggrieved by a final decision of the ~~mayer and council~~ planning commission, shall, within 30 days of receipt of the decision, have the right to petition the superior court of Coweta County for writ of certiorari. (should this be changed to Mayor and Council)

(Ord. No. 06-05, § 1(5), 4-3-2006)

Sec. 40-326. Compatibility with other buffer regulations and requirements.

This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. No. 06-05, § 1(6), 4-3-2006)

Sec. 40-327. Additional information requirements for development on buffer zone properties.

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- (1) A site plan showing:
 - a. The location of all streams on the property;
 - b. Limits of required stream buffers and setbacks on the property;
 - c. Buffer zone topography with contour lines at no greater than five-foot contour intervals;
 - d. Delineation of forested and open areas in the buffer zone; and,
 - e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (2) A description of all proposed land development within the buffer and setback; and,
- (3) Any other documentation that the (review and permitting authority) may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process. All buffer and setback areas must be recorded on the final plat of the property following plan approval.

(Ord. No. 06-05, § 1(7), 4-3-2006)

Sec. 40-328. Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon [the] city, its officers or employees, for injury or damage to persons or property.

(Ord. No. 06-05, § 1(8), 4-3-2006)

Sec. 40-329. Inspection.

The city administrator or his designee may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the city administrator or his designee in making such inspections. The city shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area. No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

(Ord. No. 06-05, § 1(9), 4-3-2006)

Sec. 40-330. Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this article or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or

other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- (1) *Notice of violation.* If the city administrator determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured the appropriate permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- a. The name and address of the owner or the applicant or the responsible person;
 - b. The address or other description of the site upon which the violation is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this article and the date for the completion of such remedial action; and
 - e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
- (2) *Enforcement actions.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions, the city administrator shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city administrator may take any one or more of the following actions.
- a. *Stop work order:* The city administrator may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
 - b. *Withhold certificate of occupancy:* The city administrator may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - c. *Suspension, revocation or modification of permit:* The city administrator may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the city administrator may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (3) *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein

within ten days (or such greater period as the city administrator shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the city administrator has taken one or more of the actions described above, the city administrator may file a complaint for nuisance against the applicant or other responsible person in municipal court; upon finding a nuisance to exist by reason of the condition, the court shall order the nuisance abated within a reasonable time. In addition thereto, the court may impose a civil penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- (4) *Criminal penalties.* For intentional and flagrant violations of this article, the city administrator may issue a citation to the applicant or other responsible person, requiring such person to appear before the municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00, six months imprisonment, or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 06-05, § 1(10), 4-3-2006)

Secs. 40-331—40-340. Reserved.



ARTICLE XII. APPEALS AND VARIANCE

Exhibit B

Sec. 40-251. Appeals.

These land development regulations shall be administered by the zoning administrator and other staff members, along with the planning commission and city council. However, should an issue concerning these regulations remain unresolved by the city staff and planning commission, or if a written request for appeal should be filed with the zoning administrator or by any interested party within five working days of any action, a hearing shall be held by ~~the city council~~ planning commission for final resolution of the dispute. Sufficient information shall be provided by the applicant and affected city staff members, to ensure a timely decision by the Planning Commission. For purposes of this section, an interested party shall be an applicant or a city resident who lives within 300 feet of the proposed subdivision or development at issue on appeal.

(Ord. of 7-1-2002, § 1201)

Sec. 40-252. Variance.

The purpose of this section is to authorize variance from the terms of this chapter as will not be contrary to the public interest so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Only the owner of the property of which a variance is desired, or his agent may submit an application for a variance.

- (1) Variance application shall be filled with the zoning administrator on forms provided by the zoning administrator.
- (2) Any communication relative to a variance request will be guarded as information only until a proper application is made in the form required.
- (3) An application of 50 dollars must accompany each variance application.
- (4) Upon receiving an application, the zoning administrator shall schedule a public hearing on the request before the city council within 45 days after receipt.
- (5) A sign displaying the hearing date and the nature of the hearing shall be placed in a conspicuous location on the property not less than 15 days prior to the hearing date.
- (6) A notice of the public hearing date and the nature of the hearing shall be published in the newspaper of general circulation, which serves as the legal organ for the city. The newspaper notice shall appear at least 15 days prior to the date of the hearing date.
- (7) At the public hearing before ~~the city council~~ planning commission the applicant may appear in person or be represented by an agent of attorney.
- (8) Variance from the provisions of this chapter may be approved by the ~~city council~~ planning commission if it is determined that they will not cause substantial detriment to other parties or impair the purpose of intent of this chapter; provided, however that no variance can be granted for a use that is specifically prohibited by this chapter within the zoning in which the property is located.
- (9) In making a determination on a variance request, the ~~city council~~ planning commission shall consider the following factors:

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- a. Whether or not the special circumstances contributing to the request are peculiar to the property involved;
 - b. Whether or not the situation for which the request is being made poses an unnecessary hardship for the applicant; and
 - c. Whether or not the request is due to an intentional action of the applicant to violate the requirement of this chapter.

(Ord. of 7-1-2002, § 1202)

Secs. 40-253—40-270. Reserved.

1/24/2022

Exhibit C



DRAFT

- CODE OF ORDINANCES

Chapter 74 - ZONING

ARTICLE XIV. ADDITIONAL POWERS AND DUTIES OF THE PLANNING COMMISSION

SUBMITTED



SCANNED

FOR REVIEW

ARTICLE XIV. ADDITIONAL POWERS AND DUTIES OF THE ~~CITY COUNCIL~~ Planning Commission

Sec. 74-300. Additional powers and duties of the ~~planning commission~~ Planning Commission.

The planning commission shall have the following powers and duties:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of this article.
- (2) To authorize upon application a variance from the terms of the article, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, which, at the time of adoption of this article was a lot or plat of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of a piece of property, or where by reason of other extraordinary or exceptional circumstances the strict application of the requirements of this article would result in practical difficulties of, or undue hardship upon, the owner of this property, provided that this relief may be granted without substantially impairing the intent and purpose of this article. In granting a variance, the planning commission may attach such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable so that the purpose of this article will be served, public safety and welfare secured and substantial justice done. However, the planning commission shall not be authorized to grant a use variance to permit a use in a district in which the use is prohibited.

(Ord. No. 07-05, Art. 14, § 14.1, 12-3-2007)

Sec. 74-301. Appeals and hearings.

Applications for an appeal to the planning commission may be taken by any person aggrieved or by any officer, department, board, or bureau of City of Senoia affected by a decision of an official or the city authorized under this zoning article. Such appeal shall be taken with 30 days of said decision by filing with the city clerk a written notice of appeal specifying the grounds thereof. Application for a variance or appeal must be filed with the city clerk at least 21 days before the scheduled public hearing. The contents of the application for variance or appeal shall be determined by the planning commission. The city clerk shall forthwith transmit to the planning commission all documents constituting the record upon which the action appealed from was taken or constituting the record upon which the application for a variance is based.

(Ord. No. 07-05, Art. 14, § 14.2, 12-3-2007)

Sec. 74-302. Notice of hearings.

- (a) Notice of said hearing on said request for a variance or appeal shall be advertised once a week for two consecutive weeks in a Legal Organ of Coweta County. The first date of such publication shall be at least 15 days prior to but not more than 45 days prior to the date of said public hearing. The cost of the advertisement shall be borne by the applicant.
- (b) The applicant for said variance or appeal shall also give notice of said request for variance or appeal and the public hearing thereon to the adjoining property owners of the property subject to the variance application

or appeal by certified mail, return receipt requested, to the last known address of said adjoining property owner as shown upon the county tax records. Notice must be mailed no later than 15 days prior to the date of said scheduled public hearing. Proof of said notice shall be provided to the planning commission. In determining adjoining property owners, street or other right-of-way shall be disregarded and notice shall be given to a property owner whose property adjoins the same right-of-way at the location of the property, which is the subject of an application.

- (c) The notice shall be required herein to be mailed to an adjoining property owner and shall include the following information:
- (1) Name and address of the applicant;
 - (2) Address and location of the property for which the variance or appeal is sought;
 - (3) Current zoning of the property for which the variance or appeal is sought;
 - (4) The variance or appeal requested and the reason for the requested variance or appeal; and
 - (5) The date, time and place of the public hearing on said requested variance or appeal.
- (d) All applications shall be accompanied by a fee of \$50.00, plus advertising costs.

(Ord. No. 07-05, Art. 14, § 14.3, 12-3-2007)

Sec. 74-303. Stay of proceedings.

An appeal stays the enforcement of the provisions of this article under appeal until a final decision on the appeal is made, except the planning commission may revoke the stay of enforcement if such stay would cause immediate peril to life and property.

(Ord. No. 07-05, Art. 14, § 14.4, 12-3-2007)

Sec. 74-304. Decisions of the planning commission.

- (a) In exercising its powers, the planning commission may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the city official whose decision is appealed and may issue or direct the issuance of a building permit.
- (b) On all appeals, applications and other matters brought before the planning commission, said council shall inform, in writing, all the parties involved of its decisions and the reasons therefor. Recourse from a decision by the planning commission shall be to a court of competent jurisdiction by the filing of a writ of certiorari within 30 days of the decision of the planning commission.

(Ord. No. 07-05, Art. 14, § 14.5, 12-3-2007)

Sec. 74-305. Conduct of hearing.

- (a) All persons who wish to testify to the planning commission at a hearing concerning an appeal or variance under consideration by the council shall first sign up on a form to be provided by the city prior to the commencement of the hearing.
- (b) The secretary will read the proposed appeal under consideration. The zoning administrator, or his designee, shall then present the basis of the appeal, along with the pertinent department reviews, if any, prior to receiving testimony on the proposed appeal. Appeals shall be called in the order in which they were filed.

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- (c) The mayor or his or her designee shall then call each person who has signed up to testify on the appeal or variance then before the council in the order in which the persons have signed up to testify, except the applicant and the witnesses for the applicant who may speak first. Prior to testifying, the witness will identify himself or herself and state his/her current address.
 - (d) Each witness shall testify only to the merits of the proposed appeal under consideration and shall address his/her remarks only to the members of the planning commission. Each witness shall refrain from the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The mayor may limit a witness, if after being cautioned, the witness continues to violate this subsection.
 - (e) No person who has an interest in the decision of the council shall be denied the right to be represented by counsel or to examine a witness who addresses the council.
 - (f) Nothing contained herein shall be construed as prohibiting the mayor from conducting the hearing in an orderly and decorous manner to assure that the public hearing on the appeal is conducted in a fair and orderly manner.

(Ord. No. 07-05, Art. 14, § 14.6, 12-3-2007)

Sec. 74-306. Administrative variance.

The zoning administrator is empowered to review and approve a request for an administrative variance. Applications may be considered only if the following requirements are met:

- (1) The request only pertains to a zoning setback requirement; and
- (2) The request is for an encroachment that would not exceed ten percent of the required setback, up to a maximum of ten feet.

In reviewing the application, the zoning administrator shall analyze the application to determine whether granting the request would cause substantial detriment to other property owners in the surrounding area or would impair the purposes of the zoning ordinance. If the request is in conformance with these requirements and does not adversely affect the area, the zoning administrator shall issue an official determination in writing approving the request. The property owner, the town clerk, and the building official shall be provided with a copy of this determination. If the request is not in conformance with these requirements or may possibly have an adverse effect on the surrounding area, the zoning administrator shall deny the appeal in writing, stating the reasons for the denial. The zoning administrator shall act on all requests within 15 working days after the application is filed. If the request is denied by the zoning administrator, the property owner may go through a variance process.

Limitations on authority.

Notwithstanding anything to the contrary provided herein, certain issues are not eligible for variances:

- (1) There shall be no variance to the minimum lot area or size; and
- (2) There shall be no variance to the minimum lot frontage on a street.

(Ord. No. 17-04, 11-6-2017)

Secs. 74-307—74-315. Reserved.



Sec. 40-252. Variance. –(Land Development Regulations)

The purpose of this section is to authorize variance from the terms of this chapter as will not be contrary to the public interest so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Only the owner of the property of which a variance is desired, or his agent may submit an application for a variance.

- (1) Variance application shall be filled with the zoning administrator on forms provided by the zoning administrator.
- (2) Any communication relative to a variance request will be guarded as information only until a proper application is made in the form required.
- (3) An application of 50 dollars must accompany each variance application.
- (4) Upon receiving an application, the zoning administrator shall schedule a public hearing on the request before the ~~city council~~ Planning Commission within 45 days after receipt.
- (5) A sign displaying the hearing date and the nature of the hearing shall be placed in a conspicuous location on the property not less than 15 days prior to the hearing date.
- (6) A notice of the public hearing date and the nature of the hearing shall be published in the newspaper of general circulation, which serves as the legal organ for the city. The newspaper notice shall appear at least 15 days prior to the date of the hearing date.
- (7) At the public hearing before the city council, the applicant may appear in person or be represented by an agent of attorney.
- (8) Variance from the provisions of this chapter may be approved by the city council if it is determined that they will not cause substantial detriment to other parties or impair the purpose of intent of this chapter; provided, however that no variance can be granted for a use that is specifically prohibited by this chapter within the zoning in which the property is located.
- (9) In making a determination on a variance request, the city council Planning Commission shall consider the following factors:
 - a. Whether or not the special circumstances contributing to the request are peculiar to the property involved;
 - b. Whether or not the situation for which the request is being made poses an unnecessary hardship for the applicant; and
 - c. Whether or not the request is due to an intentional action of the applicant to violate the requirement of this chapter.

(Ord. of 7-1-2002, § 1202)

City	Land Development	Zoning	Flood Plain
Peachtree city	Mayor and Council Only Planning Commission (REC)	Mayor and Council Only Planning Commission (REC)	Mayor and Council Only Planning Commission (REC)
Tyrone	Mayor and Council Planning Commission	Mayor and Council Zoning Board of Appeals	Mayor and Council Planning Commission to appeal to Mayor and Council
fayetteville	Planning Commission	Zoning Board of Appeals	Planning Commission to appeal to Mayor and Council
newnan	Zoning Board of Appeals	Zoning Board of Appeals	Zoning Board of Appeals
Coweta	Zoning Board of Appeals & Commission	Zoning Board of Appeals & Commission	Zoning Board of Appeals & Commission