

FOREST MANAGEMENT ACTIVITY WAIVER INFORMATION FOR HEARINGS BOARD REVIEW

FEE: \$200 per variance request *(Cash/check only – make check payable to ACC)*

Athens-Clarke County Planning Department – athensclarkecounty.com/planning
120 West Dougherty Street · Athens, Georgia 30601 · 706-613-3515 · (F) 706-613-3844

The Hearings Board established under Chapter 4 of Title 9 of the Code may grant waivers from application of the limitation of development activity imposed by paragraph (1) of section 8-7-18(i) Development Limitations, if the property owner demonstrates that special constraints on the site required the removal of standing timber to allow applicant's proposed use of such site in accordance with applicable zoning and development standards, that the removal of such standing timber was the minimum necessary for such proposed use, and that the proposed development will at a minimum meet the tree conservation requirements as set forth in section 8-7-15.

The Hearings Board shall be authorized to add conditions to the grant of a waiver to promote the conservation and regeneration of trees on the site, including but not limited to, requirements for conservation of existing trees, establishment of natural forest regeneration areas, and technical standards for the planting and maintenance of trees.

APPLICATION - TYPE IV PROCEDURE:

Except as otherwise specifically provided for in this Title waivers shall be a Type IV procedure. Such application shall be accompanied by a legal description of the property and plans necessary to show the proposed timber harvest (see Submission of Materials.) Also to be included with such application shall be a statement and evidence showing that all of the following circumstances exist:

1. That special constraints on the site required the removal of standing timber to allow applicants proposed use of such site in accordance with applicable zoning and development standards;
2. That the removal of such standing timber was the minimum necessary for such proposed use;
3. That the proposed development will, at a minimum, meet the tree conservation requirements as set forth in Section 8-7-15.

The applicant is responsible for providing justification for the requested waiver for consideration by the Hearings Board.

Complete applications shall include all of the required information for the specific action requested, on a signed application form, and tender of the appropriate application fee. Incomplete applications are subject to return to the applicant. The Planning Staff will inform the applicant of deficiencies within five (5) days of initial submission. The incomplete application will be held until all deficiencies are addressed. The applicant has thirty (30) days in which to submit a complete application or the application will be returned to the applicant and will not be placed upon Hearings Board agendas. If a complete application is received, it will be placed upon the next Hearings Board agenda as determined by the Hearings Board Application schedule. If a complete application is not received within the thirty (30) day timeframe, a new application, complete with filing fees, must be submitted if the applicant wishes to pursue the request for a waiver. No application shall be deemed accepted until the Planning Director, or his/her designee, has certified that it is complete.

Submission of Materials:

All applications and materials for waiver requests must be submitted to the Planning Department staff. (See Hearings Board Application Schedule.)

Complete applications for waivers requiring a decision of the Hearings Board must be submitted at least thirty (30) days prior to the next regular monthly hearing calendar of the Hearings Board in order to be assigned to that calendar.

A complete application must contain the following:

1. Twenty (20) completed, collated, and signed copies of the application;
2. Twenty (20) site plans, collated if more than one page;
3. Twenty (20) tree management plans, collated if more than one page;
4. Legal description of the property (metes and bound description);
5. An 11" x 17" (**to scale**) reduction of the site plan if the site plan is full scale;
6. Filing fee (see fee schedule);
7. Power of Attorney from property owner designating a specific individual to handle the request, if applicable; and
8. One (1) electronic copy on a CD in .pdf format (*if plans are under 10 pages*); or in .dwf format (*if plans are over 10 pages*).

Standards for the Review of Waivers:

The Hearings Board may authorize such a waiver from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of provisions of this Title will, in an individual case, result in unnecessary hardship. The Hearings Board may grant such waiver in such individual case of unnecessary hardship upon a finding:

1. That special constraints on the site required the removal of standing timber to allow applicant's proposed use of such site in accordance with applicable zoning and development standards;
2. That the removal of such standing timber was the minimum necessary for such proposed use; and
3. That the proposed development will, at a minimum, meet the tree conservation requirements as set forth in Section 8-7-15.

Meeting Dates:

Please see the schedule for the Hearings Board's regular meetings.

Procedure:

It is the responsibility of the applicant to present the request and demonstrate hardship within the application and to justify the granting of a waiver. Approval of waivers is not a Building Permit or Certificate of Zoning Compliance. It does not relieve the owner/agent of the responsibility for filing for and obtaining a Building Permit, Site Review permit or Certificate of Appropriateness and following all other applicable codes and ordinances of Athens-Clarke County, Georgia.

Public Notice:

Every waiver application reviewed by the Hearings Board requires public notice. The formats are as follows:

Registry: Every waiver application to the Hearings Board shall be entered in a Registry available to the public in the Planning Department, setting forth:

1. The location of property affected, by street address, tax map number or other easily understood geographic reference to the subject property.
2. The date of the hearing or conference; and the date the decision will be final;
3. A description of the decision to be made.
4. A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria will be made available for inspection at a cost to be determined by Athens-Clarke County.

Hearings Board: Notice shall be published in a newspaper of general circulation in Athens-Clarke County at least fifteen (15) days, but not more than forty-five (45) days, before the date on which the Hearings Board hearing shall be held, and shall contain the location of the property by street address, and in addition, the following information:

1. The date, time, place and purpose of the hearing before the Hearings Board;
2. For Type IV waiver requests, notice containing the same information required above shall be posted on the subject property by the Planning Department at least fifteen (15) days, but not more than forty-five (45) days, prior to the date of the public hearing before the Athens-Clarke County Hearings Board.

Responsibilities of the Hearings Board:

- a. The Hearings Board shall make a written report containing findings and conclusions based upon the applicable criteria found in Chapter 8-7 and other applicable regulations found in Article I Zoning, Article II Development Standards and Maps of the Athens-County Code.
- b. The Hearings Board's report shall be rendered within five (5) business days after the administrative hearing, with proposed conditions of approval attached as appropriate. The Hearings Board shall make written findings and conclusions for each action requested.

Decisions. A zoning decision is determined to be final as follows:

Type IV (Variances reviewed by the Hearings Board) – Decision becomes final, five (5) business days after the date of decision, should no request for administrative hearing before the Planning Commission be filed.

Appeals. The decision of the Planning Commission shall be the final decision of Athens-Clarke County on all planning actions subject to the Type IV Planning Procedure (such as waivers considered by the Hearings Board.)

Appeal Procedures:

Appeals of Type IV decisions shall be heard and decided by the Athens-Clarke County Planning Commission.

- a. The appeal shall be filed within five (5) business days after the final decision is rendered, as defined in 9-4-14.
- b. The appeal shall be in writing and filed with the Athens-Clarke County Planning Department. Such appeal shall include the appellant's name, address, and specifically state the grounds for which the Hearings Board's decision should be overturned, based on the applicable criteria or procedural irregularity.

- c. The appeal hearing shall be scheduled for a regular Athens-Clarke County Planning Commission meeting allowing adequate time to meet the Public Notice requirements of Section 9-4-9.
- d. The Planning Commission shall receive a complete record of the Hearings Board's action, including all information presented by the applicant, proponents, and opponents prior to the appeal hearing. Such record shall also include the adopted findings and conclusions of the Hearings Board.
- e. The hearing before the Athens-Clarke County Planning Commission shall be confined to a review of the record of the administrative hearing for error based on insufficiency of evidence to support the findings and conclusions of the Hearings Board that applicable criteria were or were not met, or based on procedural irregularity. At such hearing, the Athens-Clarke County Planning Commission shall first hear argument from the appellant, then from the appellee, followed by a brief rebuttal from the appellant. Each side shall be confined to ten (10) minutes, with appellant's rebuttal not to exceed three (3) minutes. No new evidence shall be admitted or considered. After concluding the hearing, the Athens-Clarke County Planning Commission may affirm the original planning decision, affirm the decision with conditions, deny the original planning decision, or remand the planning action back to the Hearings Board for further development of the record.

Appeals or petitions for judicial review may only be filed by parties to the planning action. "Parties" shall be defined as the following:

1. The applicant. Parties fitting this description may appeal all planning decision types (Types I-IV and Staff Permits.)
2. Adjoining property owners and owners of properties that are affected by the proposed change differently than the general public as determined by standards set forth in Georgia law. Parties fitting this description may appeal planning decision Types I-IV, including waivers which follow a Type IV procedure.
3. The Unified Government. The Athens-Clarke County Mayor and Commission may appeal all planning decisions made by the Hearings Board.

NOTE: THE APPLICANT IS RESPONSIBLE FOR THE ACCURACY OF ALL INFORMATION ON THE APPLICATION AND FOR REQUESTING ALL NEEDED WAIVERS. PLANS PREPARED BY AN ARCHITECT, ENGINEER, LANDSCAPE ARCHITECT OR SURVEYOR ARE RECOMMENDED FOR SUBMITTAL. THE PERMIT PROCESS IS INITIATED IN THE PLANNING DEPARTMENT.

If you have questions regarding the application or procedures,
please call the Planning staff at (706) 613-3515,
Email at planning@athensclarkecounty.com
or write them at
120 W. Dougherty Street, Athens, GA 30601