

Fee
Commercial \$500
Residential \$200



CITY OF TYBEE ISLAND
VARIANCE APPLICATION from the Tybee Island Land Development Code

Applicant: _____

Telephone #: _____ Email Address: _____

Mailing Address _____

*Note: If the applicant is not the property owner as listed on the property deed, a letter from the listed owner(s), including a telephone number and address along with any other relevant information, authorizing the applicant to act in their behalf must be included in the application.

PROCEDURE

Application Requirements

All applications must be complete, including required supporting documents. **Drawings or surveys will be 11" X 17" or larger.** Incomplete applications will not be accepted and will delay review.

Application Deadline

Applications are due by 4:00 p.m. of the last day of the month before the next scheduled Planning Commission meeting.

Application Submittal

Return one copy of this completed application and all supporting documents to: Tybee Island Planning and Zoning, City Hall, 404 Butler Avenue / P.O. Box 2749 City of Tybee Island, GA 31328

Application Public Hearings

Applications will be heard at a public hearing before the Planning Commission on the third Monday of each month, followed by a final decision by City Council at another public hearing on the second Tuesday of the following month. Each hearing will be held at 7 p.m. at the Public Safety Building, 78 Van Horn Dr.

Property Address (Or General Location Description if no Address Assigned): _____

Tax Map/Parcel ID#: _____ Current Zoning: _____

Existing use of Property: _____

Proposed use of Property: _____

Has the property been denied a variance in the past 12 months? If so, please provide brief details:

Variance Questionnaire:

1. Does the requested variance change the Tybee Island character designation for the property as described in the Master Plan? If so, provide a brief explanation.

2. Please explain the purpose of the requested variance and the intended development of the subject property if the variance is granted.

3. Please explain the specific provision within the Tybee Island Land Development Code from which the variance is requested.

4. Per the Tybee Island Land Development Code, the Tybee Island Planning Commission shall not make a recommendation on a variance from the terms of the Land Development Code unless it has met the following. Please explain how the requested variance meets each of the following:

A. The need for a variance arises from the condition that is unique and peculiar to the land, structures and buildings involved.

B. The variance is necessary because the particular physical surroundings, the size, shape or topographical condition of the property involved would result in unnecessary hardship for the owner, lessee or occupants as distinguished from a mere inconvenience.

C. The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.

D. The condition is created by the regulation in the Tybee Island Land Development Code and not by the action of the property owner or applicant.

E. The granting of the requested variance will not conflict with Sec. 26-70-Amendments and modifications to the Fire Prevention Code of the Tybee Island Code of Ordinances or endanger the public.

F. The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structures.

Adjacent Property Owners

Please list all current owners of properties located immediately adjacent to or directly across the street from the subject property. This information may be obtained from the Chatham County Tax Assessor's office (912) 652-7271 or by using the website at www.boa.chathamcounty.org. The accuracy and completeness of this information shall be the responsibility of the applicant.

Property owners name and mailing address:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____

NOTE: This application must be accompanied by additional documentation, including drawings that include or illustrate the information outlined below.

<u>REFERENCE</u>	<u>DESCRIPTION</u>
5-040 (D) (1)	Site plan and/or architectural rendering of the proposed development depicting the location of lot restrictions.
5-040 (D) (2)	Narrative describing the hardship and the reason for the variance request. (<i>Hardship means the circumstances where special conditions, which were not self-created or created by a prior owner, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this code. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.</i>) Explain the hardship: _____ _____
5-040 (D) (3) 5-090 (A) (1)	A survey of the property signed and stamped by a State of Georgia certified land surveyor. That there are unique physical circumstances or conditions beyond that of surrounding properties, including: ____ irregularity; ____ narrowness; or, ____ shallowness of the lot shape; or, ____ exceptional topographical or other physical circumstances, conditions, or considerations related to the environment, or the safety, or to historical significance, that is peculiar to the particular property; and;
5-090 (A) (2)	Because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the Land Development Code, without undue hardship to the property. <u>NOTE: Provide attachments illustrating conditions on surrounding properties and on the subject property, indicating uniqueness, etc.</u>
5-090 (B)	<i>Height.</i> No part of any structure shall project beyond 35-feet above the average adjacent grade of a property except: (1) See <u>section 2-010</u> , terms and definitions; height of building. (2) The following items that were existing on the date of the adoption of this section; flag poles, television aerials, water towers and tanks, steeples and bell towers, broadcasting and relay towers, transmission line towers, and electric substation structures.

The Applicant certifies that he/she has read the requirements for Variances and has provided the required information to the best of his/her ability in a truthful and honest manner.

Signature of Applicant

Date

5-090(C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.

CERTIFICATION AND AUTHORIZATION

I hereby certify that, to the best of my knowledge and belief, the above listed information and all attached supporting documents are complete and accurate. I understand that this application will require public hearings by the Tybee Island Planning Commission and City Council. I have been made aware and I hereby acknowledge the scheduled hearing dates/times and location where this application will be considered. I also understand that review of this application will require a site visit, and I hereby authorize City staff and members of the Planning Commission and City Council to inspect the property which is the subject of this application.

Signature of Applicant _____ Date _____

If within two (2) years immediately preceding the filing of the applicant’s application for a zoning action, the applicant has made campaign contributions aggregating more than \$250 to the mayor and any member of Council or any member of the Planning Commission, the applicant and the Attorney representing the Applicant must disclose the following:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action, and the date of each contribution;
- c. An enumeration and description of each gift having a value of \$250 or more made by the Applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action.

Disclosure of campaign contributions form attachment hereto: ____Yes

Signature of Applicant _____ Date _____

STAFF USE ONLY

Date received: _____ Received by _____

Fee Amount \$ _____ Check Number _____ Date _____

PUBLIC HEARING DATES:

Planning Commission _____ City Council _____

DECISION: (Circle One) Approved Denied

Approved with Conditions: _____



CITY OF TYBEE ISLAND

CONFLICT OF INTEREST IN ZONING ACTIONS

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you within the past two (2) years made campaign contributions or gave gifts having an aggregate value of \$250.00 or more to a member of the City of Tybee Island Planning Commission, or Mayor and Council or any local government official who will be considering the rezoning application?

YES _____ NO _____

IF YES, PLEASE COMPLETE THE FOLLOWING SECTION:

NAME OF GOVERNMENT OFFICIAL	CONTRIBUTIONS OF \$250.00 OR MORE	GIFTS OF \$250.00 OR MORE	DATE OF CONTRIBUTION

IF YOU WISH TO SPEAK CONCERNING THE ATTACHED REZONING APPLICATION, THIS FORM MUST BE FILED WITH THE ZONING ADMINISTRATOR FIVE (5) DAYS PRIOR TO PLANNING COMMISSION MEETING IF CAMPAIGN CONTRIBUTIONS OR GIFTS IN EXCESS OF \$250.00 HAVE BEEN MADE TO ANY MEMBER OF THE PLANNING COMMISSION OR MAYOR AND COUNCIL.

Signature _____

Printed Name _____

Date _____

Sec. 5-090. Variances.

- (A) *Standards.* After an application has been submitted to the zoning administrator, reviewed by the planning commission, and a public hearing has been held by the mayor and council, the mayor and council may grant a variance from the strict application of the provisions in this Land Development Code only if the following findings are made:
- (1) That there are unique physical circumstances or conditions beyond that of surrounding properties, including irregularity, narrowness, or shallowness of the lot size or shape, or exceptional topographical or other physical conditions, peculiar to the particular property; and,
 - (2) That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of this Land Development Code, without undue hardship to the property.
- (B) *Height variances.* For height variances, in addition to other requirements, the petitioner shall be required to add two feet to each side yard setback for each one foot above 35 feet in height and have safe-guard consisting of sprinkler systems, smoke detectors and any other fire protection equipment deemed necessary at the time by mayor and council. Where a rear yard abuts a side yard of the adjacent lot, the petitioner shall be required to add two feet to the rear setback for each foot above the 35 feet height, and have safe-guards consisting of sprinkler systems, smoke detectors, and any other fire protection deemed necessary at the time by mayor and council.
- (C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.
- (D) *[Reviewing variance applications.]* The staff, planning commission, and governing body, shall consider the factors stated herein in reviewing variance applications in taking action on a particular variance. In exercising the powers to grant variances, the mayor and council may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of these regulations.
- (E) *[Application approval.]* Notwithstanding any other provisions of the Code of Ordinances, the staff of the community development department through its department head may approve applications for variances without the need of public hearings and without the need of review by the planning commission or the mayor and council as follows:
- I. When either of the following circumstances exists:
 - a. The proposed improvement of alteration will not result in an expansion of the existing footprint of the existing structure; or
 - b. No additional encroachment into any setback shall be created by the proposed improvement, construction or addition.
 - II. When each of the following circumstances also exists:
 - a. No encroachment or construction of habitable space or other prohibited improvements will exist beyond the flood elevation; and
 - b. The requested improvements or construction will not violate existing zoning provisions.

This subsection shall have specific application to existing nonconforming structures as referred to in [section 3-020](#).

If the staff of the building and zoning department finds that the request needs or should have additional review for any reason, it may request review by the planning commission and if the request is approved or rejected by the planning commission then the planning commission's determination shall control. For purposes of this section, a public hearing before the planning commission shall not be necessary. If the staff of the building and zoning department declines an applicant's request the applicant may apply for the granting of a variance which will follow the procedures applicable to variances in general specifically, those procedures described in sections [3-020](#) and [3-090](#) as well as the public hearing requirements referred to in [section 5-060](#). In the event the staff request review by the planning commission and the planning commission rejects the request, the applicant may apply for the granting of a variance and follow the procedure applicable to such request before mayor and council.

(F) *Compliance with ordinances.* Notwithstanding any other provision of the Code of Ordinances, no application for a variance may be accepted nor may any variance be granted with respect to any property that is then not in compliance with the requirements of ordinances for the condition on which the variance is sought, unless the applicant files with the application a detailed written explanation of how, when, and by whom the need for a variance was created. In such a case, the planning commission shall make a recommendation to the mayor and council as to whether the variance should be approved or rejected or modified and the mayor and council, following a public hearing, may approve, reject or modify the variance request. In the event property is constructed in violation of the ordinances, the violation status remains until such time as the condition is rectified and placed in conformity with the ordinances. Violations of the ordinances may be subject to the enforcement provisions of this Code and all penalties permissible by law. A variance that is granted under this Ordinance does not excuse prior violations including those that have resulted or may result in enforcement action by the City of Tybee Island.

(Ord. No. 1999-27, 8-12-1999; Ord. No. 2002-08, 5-9-2002; Ord. No. 2002-08 Variances, amended 8-29-2001; Ord. of 8-11-2005; Ord. No.14-2010, 8-26-2010; Ord. No. 57-A-2014, § 1, 12-11-2014)