

# Variance Application Process

All applications and plans must be submitted through the Project Portal

<https://Cityworks.BrookhavenGA.gov/ProjectPortal>



## Variations in General

The City of Brookhaven offers two types of variances: a Variance with the Board of Appeals and an Administrative Variance. The Board of Appeals shall determine whether the requested Variance or Special Exception meets the applicable requirements. The Community Development Director shall determine whether the requested Administrative Variance meets the applicable requirements.

### **Both types of variances require a pre-application meeting.**

Some aspects of development are not eligible for variances, including requests that would:

1. Allow a structure or use not authorized in the subject zoning district or a residential density of development that is not authorized within the subject district;
2. Allow an increase in maximum building height;
3. Waive, vary, modify or otherwise override a condition of approval attached to an amendment, special land use permit or other development approval under this zoning ordinance;
4. Reduce, waive or modify in any manner the minimum lot area or lot width required for any lot;
5. Allow the reestablishment of any nonconforming use that has been abandoned or lost its nonconforming rights;
6. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the community development director;
7. Increase lot coverage more than three and one-half percent over the applicable district limit for the installation or construction of a backyard cottage;
8. Decrease open space requirement in the Peachtree Road district, unless approved by city council;
9. Allow the expansion or enlargement of any nonconforming use; or
10. Allow customer contact for a home occupation authorized by this zoning ordinance.

## Pre-Application Meetings

All types of variances and special exceptions require a pre-application meeting. To initiate a request for a Variance or Special Exception within the City of Brookhaven, an applicant must schedule and hold a pre-application meeting with the Planning & Zoning staff. Pre-Application meetings can be scheduled by emailing [planning@brookhavenga.gov](mailto:planning@brookhavenga.gov)

Pre-Application meetings for BOA Variances **must take place by the deadline of 4pm on the Friday** preceding the application submission deadline on the last Wednesday of the month. These meetings are scheduled as needed and the purpose of the pre-application meeting is to establish an expectation on the part of both staff and the applicant for the zoning appeal process.

The **applicant shall provide preliminary/finalized site plans, a letter of intent regarding the request, and/or other illustrative documents as necessary at the time of the pre-application meeting.** The applicant will then provide an overview of their proposed application and their reasoning for why the application is necessary. Staff can then inform the applicant of the City's process to consider the proposed change, and offer a preliminary analysis for strength and/or weakness of the proposal.

Following the pre-application meeting, applicants can submit their application and required supplemental materials (detailed in the following checklist) by the deadline of 4pm on the last Wednesday of each month online at:

<https://cityworks.brookhavenga.gov/ProjectPortal>

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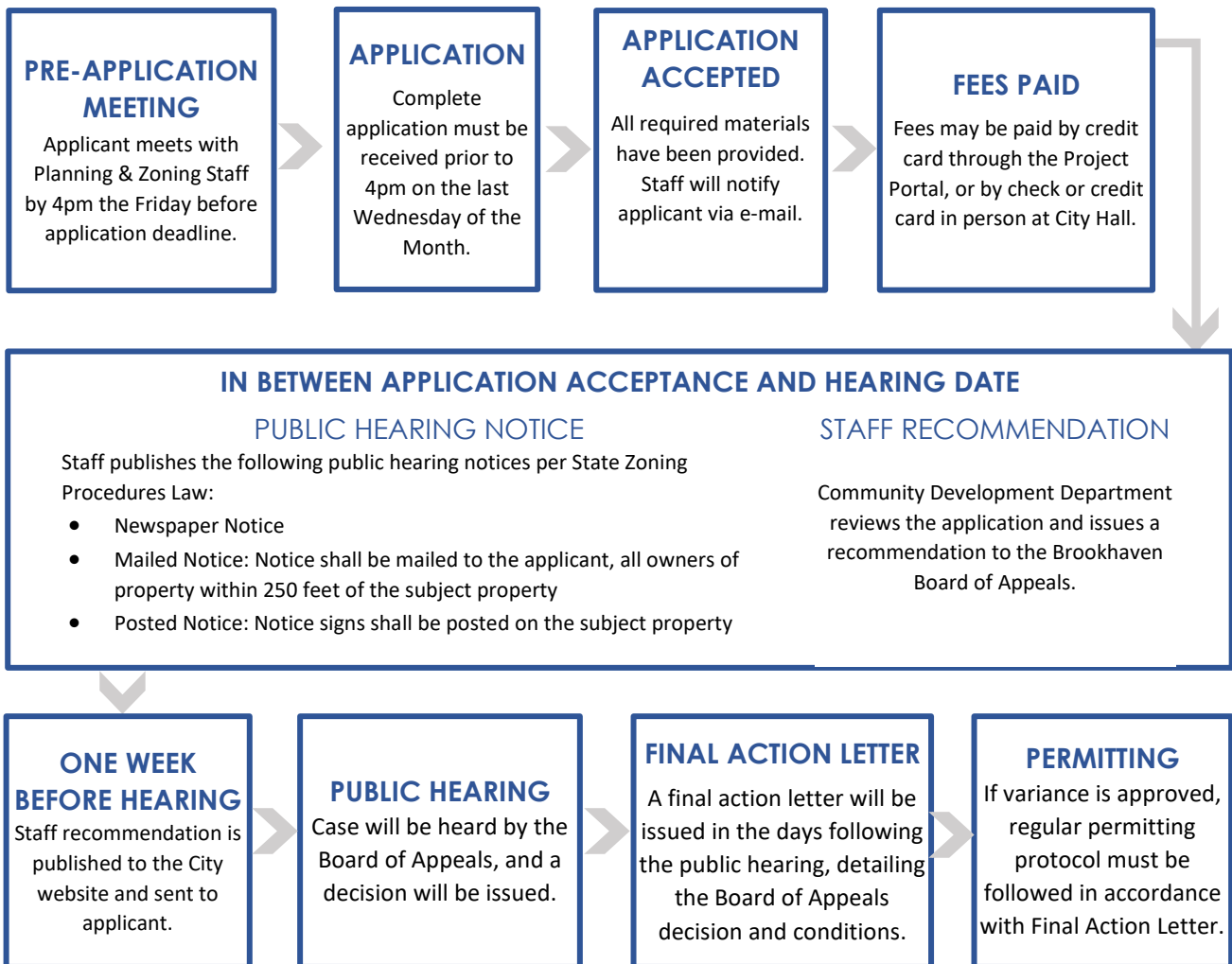
## Board of Appeals Variances

The Board of Appeals (BOA) is a body of 7 residents in the City of Brookhaven who are appointed by the Brookhaven Mayor & City Council, and volunteer their time to evaluate variance requests. The Board of Appeals meets on the third Wednesday of each month at 7:00 PM in the Brookhaven City Hall Council Chambers, located at 4362 Peachtree Road, Brookhaven, GA 30319.

The Board of Appeals Variance process for the City of Brookhaven takes approximately 2 months and involves one public hearing, where the item(s) will be heard and a decision will be made in front of the public. Processing schedules are dictated by The State of Georgia (O.C.G.A. § 36-66-1) which regulates zoning hearings procedures and sets the minimum and maximum amounts of time for public notice. Applications cannot be expedited due the state minimum notification requirements.

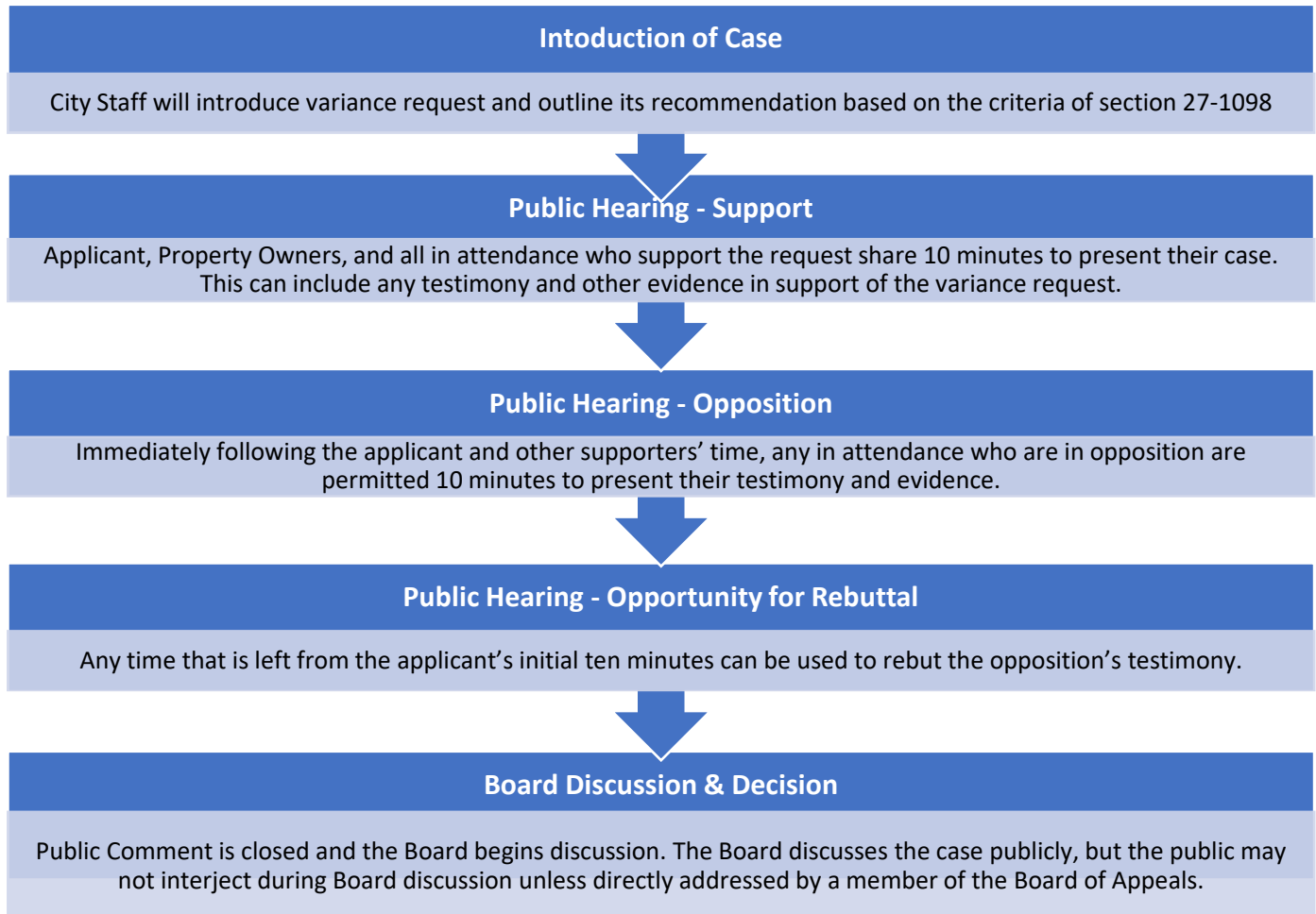
The Board of Appeals can grant variances from the Zoning Ordinance, Stream Buffer Ordinance, Sign Ordinance, and other exceptions within the Land Development Code.

Decisions by the Board of Appeals are based on the applicant’s submittal information, the Staff Recommendation, and feedback from the public. The Community Development Department Recommendation weighs the variance request(s) against the applicable criteria outlined on page 2 of the Variance Application Checklist packet, based on application submission, City & County records, outside research, and feedback from the surrounding community.



## Details about the Public Hearing

At the Public Hearing, the Chair of the Board of Appeals will call the meeting to order. Each case on the agenda will be called individually and follow the outline below:



Potential Outcomes include:

- **Approval** – what has been presented is approved as is
- **Approval Conditional** – what has been presented is approved subject to conditions outlined by the Board of Appeals
- **Denial** – what has been presented is denied and the same variance cannot be requested for 2 years
- **Withdrawal without Prejudice** – applicant wishes to withdraw their application without damaging their right to have the matter heard at a later date
- **Deferral** – The Board, Staff, or applicant may request a deferral if additional information or time is needed

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## Administrative Variances

The Administrative Variance process does not require a public hearing, but does require public notice. The Community Development Director issues a decision within 30 calendar days for an administrative variance or within 45 calendar days for an administrative stream buffer variance. The decision date calendar begins on the date that a complete application is received by City Staff. The public is invited to provide comments to City Staff during the required 15-day public comment period. The Community Development Director shall determine whether the requested administrative variance meets the applicable requirements.

The Community Development Director is authorized to consider the following administrative variances:

- (1) Reduction of front or rear setback requirements by up to ten percent, but not including any transitional buffer;
- (2) Reduction of street side (corner lot) setback requirement in RS-100, RS-85, RS-75 and RS-60 districts by up to five feet on a lot that does not exceed the minimum lot width required in the subject zoning district,
- (3) Reduction of interior side setback requirements by up to one foot or 5%, whichever is greater;
- (4) Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to ten percent as long as the reduction does not reduce the minimum requirement imposed by chapter 7;
- (5) Increase in the maximum retaining wall height by no more than two feet; and
- (6) Reduction of the minimum retaining wall setback and distance requirements by no more than two feet.
- (7) Reduction of minimum off-street parking and loading ratios by up to one space or ten percent, whichever is greater;
- (8) Reduction of minimum off-street parking ratios for any lot located within 1,000 feet of the boundary of a MARTA rapid transit station by up to three spaces or 25 percent, whichever is greater.

