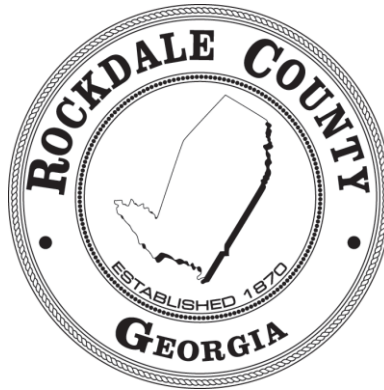


ROCKDALE COUNTY
DEPARTMENT OF PLANNING & DEVELOPMENT



VARIANCE APPLICATION
UNIFIED DEVELOPMENT ORDINANCE
TITLE II, SECTION 238-9

DEPARTMENT OF
PLANNING AND DEVELOPMENT

958 Milstead Avenue
Conyers, Georgia 30012

Phone: 770-278-7100
Fax: 770-278-8940
www.rockdalecounty.org

ROCKDALE COUNTY
BOARD OF ADJUSTMENT

DOCUMENTS REQUIRED

Purpose of Request:

- Variance Request Form (p.4):** Address the nature of your variance request and the circumstances surrounding it. It may be hand written or typed.

- Owner statement:** Address each of the Standards for granting Variances in sub-section 238-9(h)1 of the Unified Development Code (see p.5). It may be typed or handwritten. The application is evaluated on this justification, please provide complete and detailed answers.

Site:

- Survey plat:** Drawn to scale, showing all existing property improvements, signed and sealed by an architect, engineer, landscape architect or land surveyor. If the survey is no greater in size than 11" x 17", only 1 legible copy is needed. If larger than 11"x17" provide 10 copies. You may find a copy of the survey plat at the county courthouse in the Real Estate Records Room, located on the 1st floor of the Courthouse.

- Site plan:** Drawn to scale, showing all existing property improvements, and all proposed improvements. Clearly indicate where the variance is requested. If the site plan is no greater in size than 11" x 17", only 1 legible copy is needed. If larger than 11"x17" provide 10 copies.

- Legal description of the property:** This written description, usually found on the property deed, contains the metes & bounds of the site.

Legal Statements:

- Ownership Statement (p.6):** If the property is listed in the name of the husband and wife, each must sign all documents. The property owner's signature(s) must be notarized. If the property has been sold within the last 90 days, submit a copy of the deed which shows the new owners name. Ownership of property will be verified against county tax records by staff.

- Owner's Campaign Contribution Disclosure Statement (p.6):** The owner(s) of the property is required to disclose political campaign contributions. It must be notarized.

- Agent Authorization Form and Campaign Disclosure Statement (optional - p.7):** If the owner of the property wishes to have someone represent his/her interest in all matters relating to this application, the current owner(s) of the property and their agent must sign this document. The authorized agent is required to disclose political campaign contributions. All signatures must also be notarized.

- Attorney Authorization Form and Campaign Disclosure Statement (optional - p.8):** If the owner of the property wishes to have an attorney represent his/her interest in all matters relating to this application, the current owner(s) of the property and their attorney must sign this document. The authorized attorney is required to disclose political campaign contributions. All signatures must also be notarized.

Payment:

- Payment:** The \$250.00 non-refundable filing fee is payable at the time of application. It can be paid by check, credit card or money order payable to Rockdale County.

APPLICATION PROCESSING

Filing:

Applications must be received by the first day of the month to be considered at the following month's meeting of the Board of Adjustment.

One application is required for each individually owned or recorded parcel of land.

Completed applications must be returned in person or by mail to the Department of Planning and Development:
958 Milstead Avenue, Conyers, Georgia 30012 (in person, Monday – Friday, 8am – 5pm)
P.O. Box 289, Conyers, Georgia 30012 (by mail)

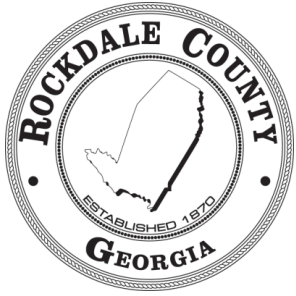
Upon receipt of the application, it will be reviewed for completeness. If it does not meet all the requirements, you will be notified and asked to re-submit for the following month's deadline.

Hearing:

Once accepted, your application will become public record. Your property will be posted with a Public Notice sign and letters will be sent to adjoining and/or affected property owners. These letters will provide information regarding your request for a variance, give the date and time of the hearing, and notify the addressee of their right to attend the meeting and make comments. You will also receive written notification of the meeting. Public notices will be published in the Rockdale Citizen as well.

At the meeting, you and your supporters will have ten (10) minutes to present your case to the Board of Adjustment. The members of the board may ask questions, at which point the timer will be stopped. The remaining time, if any, can be used for rebuttal to the opposition. Opponents to your request will share a total time of ten (10) minutes as well. You will receive a decision the night of the meeting, but there will be a ten (10) day waiting period before the decision becomes final.

The meeting is held on the first Monday of the month at 6:00 p.m., at the Rockdale County Assembly Hall located at 901 North Main Street, Conyers, Georgia.



Filing date:	_____
Case number:	_____
Parcel number:	_____
Planning Commission date:	_____
BOC Public Hearing date:	_____

VARIANCE REQUEST FORM

PROPERTY INFORMATION

Property location:	_____
Subdivision:	_____
Land Lot(s):	District(s): _____
Property acreage:	Zoning: _____
Are there conditions of zoning for the property? If so, please list:	

Variance requested and purpose:	

CONTACT INFORMATION

Property owner(s):	_____
Owner's address:	_____
Telephone:	Email: _____
Agent's Name:	_____
Telephone:	Email: _____

I have read and understood the applicable sections of the Rockdale County Unified Development Code, as provided in annex of this application.

Name:	Signature:
Title:	Date:

JUSTIFICATION

In your own words, explain why a variance is requested. Please address each of the following standards (Sec. 238-9), as they are the basis for evaluation by the Department of Planning and Development and the Board of Adjustment.

1. Are there particular and unique conditions to the land or buildings involved?

2. Why is a variance necessary? Is it because of the physical surroundings, the size, shape or topography of the property? How does it cause unnecessary hardship? Does it only cause an inconvenience?

3. How is this situation unique, compared to nearby properties or properties located in the same zoning district?

4. Are the conditions resulting from the regulations of the Unified Development Ordinance, or from the actions of the property owner/occupant?

5. Would the variance cause any negative impact on neighboring properties, including supply of light and air, traffic and congestion, danger of fire or other hazard?

6. Is a variance necessary to the reasonable use of the property?

7. Is the variance in the general spirit and intent of the Unified Development Ordinance and the Comprehensive Land Use Plan?

OWNERSHIP STATEMENT & OWNER'S CAMPAIGN DISCLOSURE STATEMENT

To be completed by each owner of the property as it appears on the Rockdale County Tax Records. Husband and wife or other individuals shall each sign individually. Make copies if needed.

As the current owner(s) of the subject property, I (We) respectfully request a variance(s) for the subject property.

Owner's name: _____

Owner's signature: _____ Date: _____

Owner's address: _____

<input type="checkbox"/>	No, I have not made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.
<input type="checkbox"/>	Yes, I have made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.

If yes, provide the name and official position of the local government official to whom the campaign contribution during the two years immediately preceding the filing of the application, the dollar amount, description of each contribution, and the date each contribution was made. Use the back of this sheet, and continue on a separate sheet if necessary, in the following format:

Name	Position	Amount	Description	Date

Notary's Seal:

Notary's Signature: _____

Commission expires: _____ Date: _____

APPLICANT AUTHORIZATION FORM

To be completed by the property owner, if they wish to have an agent represent them in all matters related to this application.

I hereby certify that the information provided in this application is true and correct and that I have authorized the following agent to make the request, claims and representation pursuing this application.

Applicant's name: _____

Applicant's signature: _____ Date: _____

Owner's name: _____

Owner's signature: _____ Date: _____

APPLICANT'S CAMPAIGN CONTRIBUTION DISCLOSURE STATEMENT

<input type="checkbox"/>	No, I have not made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.
<input type="checkbox"/>	Yes, I have made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.

Applicant's signature: _____ Date: _____

If yes, provide the name and official position of the local government official to whom the campaign contribution during the two years immediately preceding the filing of the application, the dollar amount, description of each contribution, and the date each contribution was made. Use the back of this sheet, and continue on a separate sheet if necessary, in the following format:

Name	Position	Amount	Description	Date

Notary's Seal:

Notary's Signature: _____

Commission expires: _____ Date: _____

ATTORNEY AUTHORIZATION FORM

To be completed by the property owner, if they wish to have an agent represent them in all matters related to this application.

I hereby certify that the information provided in this application is true and correct and that I have authorized the following attorney to make the request, claims and representation pursuing this application.

Attorney's name: _____

Name of Practice: _____

Attorney's signature: _____ Date: _____

Owner's name: _____

Owner's signature: _____ Date: _____

ATTORNEY'S CAMPAIGN CONTRIBUTION DISCLOSURE STATEMENT

<input type="checkbox"/>	No, I have not made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.
<input type="checkbox"/>	Yes, I have made, within two (2) years immediately preceding the filing of this application, campaign contributions or gifts of \$250.00 or more to a local government official of Rockdale County, Georgia.

Attorney's signature: _____ Date: _____

If yes, provide the name and official position of the local government official to whom the campaign contribution during the two years immediately preceding the filing of the application, the dollar amount, description of each contribution, and the date each contribution was made. Use the back of this sheet, and continue on a separate sheet if necessary, in the following format:

Name	Position	Amount	Description	Date

Notary's Seal:

Notary's Signature: _____

Commission expires: _____ Date: _____

UNIFIED DEVELOPMENT ORDINANCE

SEC. 238-9 STANDARDS FOR GRANTING VARIANCES

(a) Authority

Unless otherwise provided for in the UDO, the board of adjustment shall have authority to grant variances from the dimensional requirements of Title 2, in accordance with the standards and procedures as set forth in this section.

(b) Purpose

The purpose of a variance is to provide a mechanism when, owing to special conditions, the strict application of Title 2 would impose on a landowner exceptional and undue hardship that can be mitigated without conferring on the applicant special privilege.

(c) Initiation

A written petition for a variance is to be initiated by the owner(s) of the subject property or the authorized agent(s) of the owner(s) of the property for which relief is sought. Applications shall be filed on forms provided by the department and shall not be considered accepted unless complete in every respect. Application fees shall be as established by the board of commissioners.

(d) Application procedures

An application for a variance shall be filed with the department, accompanied by a non-refundable fee, as established from time to time by the board of commissioners, to defray the actual cost of processing the application. The application shall be in such form and shall contain at least such following information and documentation:

- (1) Name, address, telephone number, fax number and email address of owner(s) and applicant, if not owner.
- (2) Legal description, street address, lot number and subdivision name, if any, of the property that is the subject of the application.
- (3) The size of the subject property.
- (4) The purpose for the requested variance, and a statement of the intended development of the property if the variance is granted.
- (5) The specific provision of Title 2 from which a variance is requested.
- (6) A statement concerning each of the Standards for granting variances in subsection (h) of this section.
- (7) A statement explaining how the proposed variance is consistent with the general spirit and intent of Title 2 of the UDO and the comprehensive plan.

(e) Staff report

The staff of the department shall conduct a site inspection and shall prepare an analysis of each application for variance applying the criteria and standards set forth in subsection (h) of this section. The staff report shall be presented in written form to the board of adjustment at least seven days prior to the scheduled hearing date.

(f) Public notice procedures

The public notice procedures for a variance application shall be in conformance with subsection 238-4(e)(1)-(4).

(g) Public hearing procedures

The public hearing procedures for a variance application shall be in conformance with subsection 238-4(f) of this chapter. However, all testimony before the board of adjustment shall be taken as if under oath, regardless of whether a formal oath or affirmation is administered. The chair, or in his/her absence, the vice chair, may administer oaths and compel attendance of witnesses by subpoena.

(h) Standards for granting variances

(1) *Granting variances.* The board of adjustment shall not grant a variance unless it has, in each case, make specific findings of fact based directly upon the particular evidence presented supporting written conclusions that the variance meets each of the following criteria:

- a. Arises from a condition that is unique and peculiar to the land, structures and buildings involved.
- b. Is necessary because the particular physical surroundings, the size, shape or topographical condition of the specific property involved would result in unnecessary hardship for the owner, lessee or occupants; as distinguished from a mere inconvenience, if the provisions of Title 2 of the UDO are literally enforced.
- 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 regulations of Title 2 of the UDO and not by an action or actions of the property owner or the applicant.
- e. The granting of the variance will not impair or injure other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, create a hazard to air navigation, endanger the public safety or substantially diminish or impair property values within the neighborhood.
- f. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structures.

- g. The variance desired will not be opposed to the general spirit and intent of Title 2 of the UDO or the purpose and intent of the comprehensive plan.
- (2) *No variance shall be authorized to:*
- Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district.
 - Allow an increase in maximum height of building.
 - Allow any variance that conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the board of commissioners.
 - Reduce, waive or modify in any manner the minimum lot area established by the UDO in any zoning district.
 - Reduce, waive or modify in any manner the minimum lot area established by the board of commissioners through a special condition of approval.
 - Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, non-conforming use of land and structures in combination or nonconforming use requiring a special use permit.
 - Permit the re-establishment of any non-conforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring a special use permit where such use has lapsed.
- (3) *Ability to impose special conditions.* The board of adjustment may attach reasonable conditions to a variance when necessary to prevent or minimize adverse impacts upon property or the environment.
(Ord. No. 0-2006-32, §§ 1--3, 11-28-2006)

SEC. 238-12. EFFECT OF DECISIONS OF BOARD OF ADJUSTMENT

(a) Compliance with standards upon denial

If an application to the board of adjustment is initiated as a result of an existing violation of the UDO, and the application is denied, the violation shall be required to be corrected within 15 days of the denial or as specified by the board of adjustment if a greater time period is required. The maximum extension of time the board of adjustment may grant for correction shall not exceed 90 days.

(b) Successive applications

An application for a variance affecting all or a portion of the same property that was denied by the board of adjustment shall not be accepted sooner than 12 months after the date of final decision by the board of adjustment. However, the board of adjustment may reduce this time interval by majority vote, provided that if the application for a variance was denied by the board of adjustment, the time interval between the date of the initial denial and any subsequent application or amendment affecting the same property shall be no less than six months.

(Ord. No. 0-2006-32, §§ 1--3, 11-28-2006)

SEC. 238-13. APPEALS OF DECISIONS OF THE BOARD OF ADJUSTMENT

Appeals of all final decisions of the board of adjustment under the provisions of this chapter shall be as follows:

(a) Review of decisions

Any person aggrieved by a final decision of the board of adjustment, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of Rockdale County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within 30 days after the final decision of the board of adjustment is rendered.

(b) Notice to the board

In any such petition filed, the board of adjustment shall be designated the respondent in certiorari and Rockdale County the defendant in certiorari. The secretary of the board of adjustment shall be authorized to acknowledge service of a copy of the petition and writ for the board of adjustment as respondent. Service upon the county as defendant shall be as otherwise provided by law. Within the time prescribed by law, the board of adjustment shall cause to be filed with the clerk of Rockdale County Superior Court a duly certified record of the proceedings had before the board of adjustment, including a transcript of the evidence heard before it, if any, and the decision of the board of adjustment.

(Ord. No. 0-2006-32, §§ 1--3, 11-28-2006)

SEC. 238-14. ADMINISTRATIVE VARIANCES

(a) Procedure

The following administrative variances may be submitted to the department, which shall grant the variance, grant the variance with conditions or deny the variance with reasons clearly stated.

- (1) *Administrative variances to the required minimum yard setback standards.* A person desiring to decrease any required minimum yard setback on the effective date of the UDO by no more than 50 percent of the minimum standard in the zoning district.

Variance Application

Rockdale County

- (2) *Administrative variance to the required minimum distance between buildings on the same lot.* Any person desiring to decrease the required minimum distance between buildings on the same lot by no more than two feet.
- (3) *Administrative variance from the required parking standards.* Any person desiring to reduce the amount of parking spaces required by no more than 20 percent shall apply to the director as provided in subsection 222-3(f).
- (4) *Administrative variance from the parking requirements for front yards.* Any person desiring to obtain approval for parking in a required front yard where it is otherwise prohibited or restricted, provided that no such request shall be approved unless, in addition to any other requirements, a ten-foot landscape buffer be provided between the public or private street right-of-way and the parking area.
- (5) *Administrative variance.* The department shall be authorized to approve an administrative variance, as follows, if necessary to allow reasonable use following a public road right-of-way donation or acquisition:
 - a. To reduce required minimum lot size by up to 50 percent.
 - b. To reduce required setbacks for a permitted or existing structure on a lot in the event of public road right-of-way donations or acquisition that would otherwise cause the lot to be nonconforming with respect to the minimum setback standards of this Title 2.
 - c. To reduce the number of parking spaces for any existing or permitted structure below the minimum required parking spaces applicable to the use.

(b) Application procedures

- (1) *Form.* An application shall be submitted on a form provided by the department.
- (2) *Fees.* A nonrefundable application fee shall accompany the application, as established from time to time by the board of commissioners, to defray the actual cost of processing the application.
- (3) *Documentation.* The application shall be in such a form and contain such information and documentation as shall be prescribed by the department, but shall contain at least the following:
 - a. Name and address of the applicant.
 - b. Legal description of the subject property.
 - c. Size of the subject property.
 - d. A statement of the hardship imposed on the applicant by the UDO and a statement of why the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located.
- (4) Within 15 business days after an application has been determined to be complete, the department shall either grant the variance, grant the variance with conditions or deny the variance with reasons clearly stated in accordance with the standards set forth in subsection (c).

(c) Standards for issuance of administrative variances

In deciding whether to grant an application for an administrative variance, the department shall consider all of the applicable standards provided in subsection 238-9(h) of Title 2.

(d) Appeals of decisions by the board of adjustment

Appeals from a final decision of the department made pursuant to the provisions of section 238-14 shall be to the board of adjustment pursuant to section 238-8. Decisions made by the board of adjustment shall be final. All appeals of decisions made by the board of adjustment shall be by writ of certiorari from the Rockdale County Superior Court pursuant to section 238-13.

(Ord. No. 0-2006-32, §§ 1--3, 11-28-2006)