



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development
Applicant's Agent:
Zoning Ordinance: Morgan County Zoning Ordinance
Article 20 Variance Procedures

Summary

As mentioned in a Planning Commission training session, Staff has been working on updating the applications for zoning actions (rezonings, text amendments, variances, and conditional uses). Specifically, the goal was to make the applications more explicit regarding the information needed from the applicant. The current applications do not elaborate regarding necessary information and do not reference the applicant to the applicable Article in the Morgan County Zoning Ordinance. As a result, the information submitted by applicants has varied widely from detailed drawings and descriptions, to one sentence requests and scrap paper depictions. Staff is frequently left to fill in the informational gaps in the staff report. In order for the updated applications to be effective, the language in the Ordinance must also be updated to prevent any contradiction between the documents.

Modifications are also proposed to the time limitations in Section 20.2.6 to have such time frames match those allotted for building permits.

Proposed Language

See attached.

Article 20 Variance Procedures

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Chapter 20.1 Purpose

The Morgan County Board of Commissioners may, in specific cases, approve such variance from the terms of this Ordinance as will not be contrary to the public interest where, due to special circumstances, a literal enforcement of the Ordinance will in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance may be observed, public safety and welfare secured, and substantial justice done. A non-conforming use of neighboring land, buildings, or structures in the same district or permitted non-conforming uses in other districts shall not constitute a reason for the requested variance.

Chapter 20.2 Procedure for a Variance

Section 20.2.1 Application

Any person or persons desiring to submit a petition requesting a variance shall file such petition, with a ~~deed to the property and a plat~~ of the property by a Georgia registered land surveyor of the property attached thereto, together with a fee as determined by the Morgan County Board of Commissioners to cover administrative and advertising costs, ~~with the Director or a designate~~ and any other information as may be required by this Ordinance or as specified by the Planning and Development Staff to evaluate compliance with this Ordinance.

Section 20.2.2 Application Requirements

Each application for a variance must be submitted to the Planning and Development Office at least forty-five (45) days before the hearing by the Planning Commission. Each application shall include the following information:

- Name and address of the applicant;
- Location of structure and/or use for which the variance is sought, as shown on a plat by a licensed surveyor;
- Relationship of structure and/or use to existing structures and use on adjacent lots;
- Specific sections of this zoning ordinance which would cause hardship;
- Characteristics of property relating to its size, shape or topography that prevent compliance with the Ordinance;
- The particular hardship that would result from a strict application of this Ordinance;
- Any other pertinent information that the Planning and Development Staff, Planning Commission or Board of Commissioners may require, including but not limited to topographic maps, photographs, designs and plans.

~~Applications which are incomplete at the date of submission may be postponed or withheld from a Planning Commission meeting, at the discretion of Planning and Development Staff, until all required materials are received.~~ The application must address the criteria for granting a variance, as found in this Article. Incomplete applications will not be accepted.

Section 20.2.3 Notice of Public Hearing

Upon the filing of a petition for a variance, the Office of Planning and Development shall erect a sign, no less than 15 days and no more than 45 days before the public hearing, in a conspicuous place on the property in questions, which shall read more or less as follows:

PUBLIC NOTICE OF VARIANCE REQUEST

An application has been filed with the Morgan County Board of Commissioners requesting a variance be granted for this property located on Map _____, Tax Parcel _____.

PUBLIC MEETINGS REGARDING THIS REQUEST WILL BE HELD ON:

Date: _____, 20__

Date: _____, 20__

Time.

Time:

Morgan County Planning Commission Suite 201 150 E. Washington St. Madison, GA 30650

Board of Commissioners BOC Conference Room 150 E. Washington St. Madison, GA 30650

FOR FURTHER INFORMATION CALL: (706) 342 - 4373

THIS SIGN IS NOT TO BE REMOVED WITHOUT AUTHORIZATION FROM MORGAN COUNTY DIRECTOR OF PLANNING AND DEVELOPMENT

Upon the filing of a petition for a variance, the Office of Planning and Development shall place an advertisement in the legal organ of Morgan County, no less than 15 days and no more than 45 days prior to the public hearing, indicating that a variance has been requested, the purpose of the request, the location of the property (listed as street address and tax map/parcel number), the person/organization requesting the variance, and the dates, times, and locations of all public hearings regarding the request.

Section 20.2.4 Submission of Inaccurate/Incomplete Information

The submission of inaccurate or incomplete information may be cause for denial of the request, or if said discrepancies are realized after the approval of the petition or issuance of relevant local permits, cause the revocation of the approval and any related permits by the Board of Commissioners.

Section 20.2.5 Future Expansion Not Approved

Approval of a proposed variance by the Board of Commissioners does not constitute an approval for future expansion of or additions or changes to the initially approved project whereby a variance may be required. Any future phases or changes not included in the original approval are subject to the provisions of this Article and the review of new detailed plans and reports for said alterations by the Board of Commissioners.

Section 20.2.6 Time Limitation of Approval

All uses, construction or building approved in the variance must begin within ~~sixty (60) days~~ **six (6) months** of approval of the Board of Commissioners and be fully completed within one (1) year of approval. If construction or building is not begun within ~~sixty (60) days~~ **six (6) months**, it is the responsibility of the applicant to appeal in writing to the Director of Planning and Development for an extension to start the construction. The applicant will be notified within seven (7) days if this appeal is granted. If not fully completed within one (1) year, it is the responsibility of the applicant to appeal in writing to the Director of Planning and Development for a renewal of approval. This appeal should include, at a minimum, statements of fact demonstrating that the applicant is still invested in the project; the project is still moving forward in a reasonable manner; and the project has not deviated from the approved plan; and any other information that is pertinent to the appeal. The applicant will be notified within seven (7) days from the date of the receipt of their appeal if their variance approval has been extended for another ~~twelve (12)~~ **six (6)** months. Any applicant aggrieved by the decision of the Morgan County Office of Planning and Development in regard to this appeal may file an appeal in accordance with this Article.

Chapter 20.3 Criteria for Granting a Variance

Section 20.3.1 Required Findings for Variance Approval

Variances may be granted in such individual cases of practical difficulty or unnecessary hardship only upon finding by the Board of Commissioners that the following conditions exist:

- There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography;
- The literal application of this Ordinance would create an unnecessary hardship;
- A variance would not cause substantial detriment to public good and impair the purposes and intent of this Ordinance;
- A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district;
- The special circumstances surrounding the request for the variance are not the result of acts of the applicant;
- The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
- The zoning proposal is consistent with all standards and criteria adopted by Morgan County;
- The variance is the minimum variance that will make possible an economically viable use of the land, building or structure.

Chapter 20.4 Use Variance Prohibited

No variance may be granted for (1) a use that is not a permitted use or a conditional use in the zoning district with respect to which the variance is being sought; (2) an increase in density of dwelling units or floor area, and (3) a reduction in minimum lot size.

Chapter 20.5 Application Review and Recommendation

Section 20.5.1 Public Hearing Requirements

The public hearing shall be held in accordance to the provisions of this Ordinance.

Section 20.5.2 Disclosure Requirements

- All persons and/or organizations requesting a variance must meet the disclosure requirements of this Ordinance.
- All members of the Planning Commission or Board of Commissioners must meet the disclosure requirements of this Ordinance, in regard to each application.

Section 20.5.3 Criteria for Consideration

Each application will be reviewed and considered in accordance with the conditions of this Article.

Section 20.5.4 Submission of Additional Information

- In addition to the materials required for an application for a variance request specified in this Article, the applicant may submit any additional materials for consideration up to 14 days prior to the scheduled Planning Commission meeting where the variance will be heard. Materials submitted after the 14 days will be accepted only at the discretion of the Chairman of the Morgan County Planning Commission;
- Once the application has been presented for public hearing by the Planning Commission, additional materials may only be submitted at the discretion of the Chairman of the Planning Commission, the Chairman of the Board of Commissioners, and/or staff of the Office of Planning and Development;
- If additional materials are submitted after the public hearing of the Planning Commission, and the content of these materials does not substantially change the content of the application, the conditions for which the variance is requested, and/or the nature of the variance requested, the Chairman of the Board of Commissioners may: consider the additional materials at his/her discretion; or may remand the application to the Planning Commission for reconsideration;
- If additional materials are submitted after the public hearing of the Planning Commission, and the content of these additional materials substantially changes the content of the application, the conditions for which the variance is requested, and/or the nature of the variance requested, the Chairman of the Board of Commissioners may: consider the additional materials at his/her discretion; may remand the application to the Planning Commission for reconsideration; or may request that the applicant withdraw its/his/her application.

Section 20.5.5 Withdrawal of Variance Application

Any application may be withdrawn without prejudice at any time at the discretion of the applicant, upon written notice to the Planning and Development Office, prior to the decision of the Morgan County Board of Commissioners.

Chapter 20.6 Appeals

Section 20.6.1 Appeals from Office of Planning and Development

Any persons/organization jointly or severally aggrieved by any decision of the Morgan County Office of Planning and Development shall have the right to file an appeal in accordance with this Ordinance.

Section 20.6.2 Appeal from Board of Commissioners

Any persons/organizations jointly or severally aggrieved by any decision of the Morgan County Board of Commissioners shall have the right to file an appeal in accordance with this Ordinance.

Section 20.6.3 Stay of Proceedings

An appeal to a Court of Record stays all proceedings in furtherance of the action appealed from, unless the director certifies that a stay would, in his/her opinion, cause imminent peril to life or property.

Chapter 20.7 Limitation on New Applications

In a case where an application for a variance is denied by the Morgan County Board of Commissioners, the same or substantially similar application shall not be eligible to be resubmitted for reconsideration until twelve (12) months has elapsed for the date of said denial.