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**Zoning Board of Appeals –
 Relief for Nonconforming Uses and
 Structures (Sec. 3.24) and Extension of
 ZBA Approval Checklist**



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Pursuant to **O.C.G.A. § 8-2-26**, this checklist must be completed and submitted with each permit application. Please check **every** item as either “Y” for items that are included with the application or “N” for items that are not included with the application. Items without an “N” checkbox are minimum requirements initially due with the application if applicable.

Required Forms & Documents

Y N

- Signed Application;
- Complete Application Checklist (*This Form*);
- Relief for Nonconforming Uses and Structures Review Criteria Form (*This Form*);
- Letter of Authorization: If the applicant is the agent of the property owner, the agent shall file, simultaneously with the petition, a notarized letter signed by the owner, authorizing the agent to file on his behalf. No application shall be accepted which fails to meet this requirements;
- Decision being requested to be extended;
- A scaled dimensioned map, plat or sketch of the subject property of the application, all adjoining lots or land which are in the same ownership and indicate nearby public roads in common use;
- A legal description of the subject property by lot, block, and subdivision designations, or if none, by metes and bounds (Electronic or digital Word document).

All Required Meetings

Y N

- Prior to the submittal of an application for an Appeal, the applicant shall participate in a pre-application conference with the MPC and City planning staff.

All Required Information

Y N

- Date of Decision being requested to be extended;
- Applications shall be signed and shall state the name and address of the applicant, who must be the owner of the property or the authorized agent or attorney of the owner of the subject property;
- The name and address of the owners of the subject property;
- The property identification number from the tax records of Chatham County;
- The present zoning district for the subject property;
- The type of Nonconformity;
- The type of Relief for Nonconforming Uses and Structures;

Y N

- Description of the request for the Relief for Nonconforming Uses and Structures;
- The reasons for requesting the Relief for Nonconforming Uses and Structures;
- The area of the subject property proposed to obtain a Relief for Nonconforming Uses and Structures stated in SF if less than one acre and in acres if one or more;
- The present and proposed land uses of the property petitioned for the Relief for Nonconforming Uses and Structures and all adjoining properties if under the same ownership;
- The community or area in which is located the subject property proposed obtain a Relief for Nonconforming Uses and Structures and the street number, if any, or if none, the location of nearby public roads in common use.

Optional

Y N

- Neighborhood Meeting Form at least 14 days before the Planning Commission Meeting;
- The Neighborhood Meeting shall occur at least 7 days before the Planning Commission Meeting;
- Concept Plan.

Electronic or Digital

Y N

- A scaled dimensioned map, plat or sketch of the subject property referred to in the application, all adjoining lots or land which are in the same ownership and indicate nearby public roads in common use (Original not scanned if produced electronically and not recorded);
- A legal description of the subject property by lot, block, and subdivision designations, or if none, by metes and bounds (Electronic or digital Word document);
- Concept Plan (Original not scanned if produced electronically).

Please note: Supplemental information may be required during plan review to address deficiencies.

Sec. 3.24 Relief for Nonconforming Uses and Structures

3.24.1 – Purpose

This Section establishes procedures for the change, re-establishment or expansion of a nonconforming use of land or buildings, as well as the reconstruction of certain nonconforming structures.

3.24.2 – Applicability

- a. Any use of a building or land that lawfully existed prior to the adoption of this Ordinance but which fails to comply with one or more of the applicable regulations or standards of this Ordinance; and
- b. The reconstruction of a nonconforming structure that has been damaged beyond 75% of its replacement cost at the time of the damage.

3.24.3 – Types of Reviews

- a. Change of a Nonconforming Use;
- b. Re-establishment of a Nonconforming Use;
- c. Expansion of a Nonconforming Use;

d. Reconstruction of a Nonconforming Structure.

3.24.4 – Reserved

3.24.5 – Burden of Proof

The applicant shall have the burden of presenting evidence sufficient to allow the Zoning Board of Appeals to render a decision.

3.24.6 – Change of a Nonconforming Use

A change from one nonconforming use to a use permitted in the base district shall be permitted.

Relief for Nonconforming Uses and Structures Review Criteria Form

Describe how the requested Relief for Nonconforming Uses and Structures satisfies all of the following criteria:

3.24.7 – Re-establishment of a Nonconforming Use

The re-establishment of a nonconforming use shall be permitted only with the approval of the Zoning Board of Appeals in accordance with the following:

a. Criteria for the Re-establishment of a Nonconforming Use

The Zoning Board of Appeals shall make a finding that the request does comply or does not comply with each individual criterion provided below. If there is non-compliance with at least one of the criteria below, the request shall not be approved.

i. The design of the building cannot readily accommodate a permitted use of the zoning district in which it is located:

ii. The building has not been subsequently redesigned to house other uses:

iii. The proposed re-established use is not detrimental to the public interest, health, safety, welfare, function, and to the adjacent uses or general vicinity by reason of any one or more of the following: the number, area, location, height, orientation, intensity (such as traffic, noise, odor, hours of operation), or relation to the neighborhood or other adjacent uses:

iv. The proposed use is the same as the most recent nonconforming use:

v. The General Site Standards comply with this Ordinance to the extent reasonably possible:

b. Criteria for the Re-establishment of a Nonconforming Use Due to Damage

The Zoning Board of Appeals shall make a finding that the request does comply or does not comply with each individual criterion provided below. If there is non-compliance with at least one of the criteria below, the request shall not be approved.

- i. The proposed use is not detrimental to the public interest, health, safety, welfare, function, and the adjacent uses or general vicinity by reason of any one or more of the following: the number, area, location, height, orientation, intensity (such as traffic, noise, odor, hours of operation), or relation to the neighborhood or other adjacent uses:

- ii. The use is the same as the most recent nonconforming use:

- iii. The General Site Standards comply with this Ordinance to the extent reasonably possible:

3.24.8 – Expansion of a Nonconforming Use

The expansion of a nonconforming use shall be permitted only with the approval of the Zoning Board of Appeals in accordance with the following:

a. **Criteria for the Expansion of a Nonconforming Use**

The Zoning Board of Appeals shall make a finding that the request does comply or does not comply with each individual criterion provided below. If there is non-compliance with at least one of the criteria below, the request shall not be approved.

i. **Criteria for the Expansion of a Nonconforming Use of Land**

- 1. The proposed expansion is not detrimental to the public interest, health, safety, welfare, function, and the adjacent uses or general vicinity by reason of any one or more of the following: the number, area, location, height, orientation, intensity (such as traffic, noise, odor, hours of operation), or relation to the neighborhood or other adjacent uses:

- 2. The use of the expanded area has the same operational characteristics as the existing nonconforming use:

- 3. The General Site Standards of this Ordinance relating to the original use are complied with to the extent reasonably possible:

ii. **Criteria for Expansion of a Nonconforming Use of a Building**

1. The proposed nonconforming use of a building is not detrimental to the public interest, health, safety, welfare, function, and the adjacent uses or general vicinity by reason of any one or more of the following: the number, area, location, height, orientation, intensity (such as traffic, noise, odor, hours of operation), or relation to the neighborhood or other adjacent uses:

2. The use of the expanded area has the same operational characteristics as the existing nonconforming use:

3. The General Site Standards of this Ordinance relating to the original use are complied with to the extent possible:

4. The design of the building cannot readily accommodate a permitted use of the zoning district in which it is located:

5. The building has not been subsequently redesigned to house other uses:

3.24.9 – Reconstruction of a Nonconforming Structure

The reconstruction of a nonconforming structure due to damage or destruction beyond 75% of its replacement value at the time of such damage or destruction shall be permitted only with the approval of the Zoning Board of Appeals.

a. Criteria

The Zoning Board of Appeals shall make a finding that the request does comply or does not comply with each individual criterion provided below. If there is non-compliance with at least one of the criteria, the request shall not be approved.

- i. The reconstructed structure will not be detrimental to the public interest, health, safety, welfare, function, adjacent uses or general vicinity by reason of one or more of the following: the size, location, height, orientation or relation to the neighborhood or adjacent uses:

- ii. The General Site Standards of this Ordinance are complied with to the extent reasonably possible:

3.24.10 – Public Notice Requirements

- a. After the application has been deemed complete by the Planning Director, the petition will be scheduled for a public hearing before the Zoning Board of Appeals;
- b. Notice shall be required in accordance with the procedures in Sec. 3.2, Public Notice.

3.24.11 – Action by the Zoning Board of Appeals

- a. The Zoning Board of Appeals shall hold a public hearing on the petition and has the authority to approve, approve with conditions or deny the application;
- b. In granting an approval, the Zoning Board of Appeals may prescribe reasonable and appropriate conditions and safeguards, including but not limited to reasonable time limits within which the action for the approval shall begin or be completed, or both.

3.24.12 – Appeals

Final action by the Zoning Board of Appeals may be appealed in accordance with Sec. 3.23, Appeals.

Statement of Application Completeness:

Pursuant to the requirements established by **O.C.G.A. § 8-2-26**, I am submitting all documents checked “Y” above for review and approval.

To facilitate compliance with this law, I am certifying that I understand all of the information and supporting documents required for a complete application, and **I hereby certify one of the following as it applies to this application:**

- All required documents are complete and included with this submittal. I understand the City will determine the completeness of this application and notify me of their finding within five business days;
- One or more documents required for a complete submittal are not included with this application. I request that the City begin the plan review process for this application while the outstanding items are completed. I acknowledge that the plan review times outlined in **O.C.G.A. § 8-2-26** will not apply and the permit cannot be issued until the remaining documents are submitted, reviewed and approved by the City.

Signature of Petitioner or Petitioner’s Agent

Printed Name

Date