

ATHENS-CLARKE COUNTY PLANNING DEPARTMENT

# PLANNING COMMISSION

## SPECIAL USE VARIANCE APPLICATION

SUBMITTAL REQUIREMENTS: 14x copies of Application, 1x Digital Copy, Fee  
FEE: \$225 per variance requested (Cash/card/check - make check payable to ACC)

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### VARIANCES REQUESTED

List the requested variances, citing the specific section(s) of the Athens-Clarke County Code, the required and proposed standards. Examples: *Sec. 9-7-3 - side yard building setback variance from 10' to 6'* or *Sec 9-25-8-C-2 - waiver of public sidewalk along street frontage*

**Sec. 9-10-2. (L-1)– Permitted Uses. :** a variance is requested to decrease the minimum allowed commercial space on a ground floor from 50% to 11%.

**VARIANCE(S) MAY BE GRANTED IN AN INDIVIDUAL CASE IF IT CAN BE SHOWN THAT A LITERAL ENFORCEMENT OF AN ORDINANCE WILL RESULT IN AN UNNECESSARY HARDSHIP TO THE APPLICANT.**

**In order to determine that an unnecessary hardship might occur, the following questions must be completely answered.**

- 1. Describe the extraordinary and exceptional conditions pertaining to this particular piece of property in question because of its size, shape, character, or topography that do not apply generally to other land in the vicinity :**

The Deupree Building currently occupies the entire parcel. The building has three floors: one facing East Broad Street and two facing East Clayton Street. The Broad Street floor is entirely commercial. The East Clayton Street floors contain one apartment in the back of the ground floor and undeveloped commercial space in front of that apartment that extends to the Clayton Street façade. The second floor contains five apartments. The building was constructed in the early 1900s. The space included a mezzanine of a set height that was expanded in 2015 so that the six apartments could be constructed. This expanded second floor extended the low ceiling at 9.5 feet above the finished first floor elevation to the front. The building did not have sufficient overall building height to create apartments that would be higher than constructed to create a taller first floor in the front. The owner has attempted to rent this space for almost 10 years without success. The main objection from potential tenants is the low ceiling height. The commercial space is approximately 6750 square feet. The low ceiling height creates a claustrophobic feeling and potential leasees are wary that this will impact their sales and possibly make the business unprofitable.

- 2. Explain how the strict application of the provisions of this title to this particular piece of property would create an undue and unnecessary hardship so that the grant of the variance is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant:**

The owner has tried for almost 10 years to lease the commercial space. One additional apartment could be constructed and maintain the overall minimum commercial space of 50%. However, the same objection to leasing the space remains as described in item 1. The owner has invested in additional engineering explorations in sound-proofing the commercial space so that a potential bar could be located in the space. The investment to provide sound proofing between the commercial space and the existing apartments above and in the back was approximately \$450,000. This is a significant expense, and it was seriously considered as an option to get this space under lease. In the end, the bar owner had the same objection to the space – head height of the ceiling would be too low. Other buildings in the downtown area have significantly higher head heights which puts this space at a distinct disadvantage.

**3. Describe how the special conditions and circumstances do not result from the actions of the applicant:**

The owner started with a building that included a mezzanine at the current height today. The owner did fill in the front so that a full floor could be obtained for apartments. That additional floor could not be raised to provide a higher ceiling height for the first floor because the overall ceiling height from the first floor to original ceiling did not allow it. The owner has owned and leased this building since the early 1900s. They managed it as commercial space for many decades. The retail environment was challenging in the mid-2010s. The Junkman's Daughter store which had been a longtime tenant relocated and no other commercial tenant could be found. The owner rightly converted what he could into leasable apartment space. The owner had the full intention to maintain most of the ground floor as commercial space. As the years have shown, no commercial tenants have been convinced to lease the space for their business endeavors.

**4. Explain how the benefits of granting the variance will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of Athens-Clarke County.**

Granting the variance will allow the owner to obtain leases for the ground floor. The smaller commercial space has a better balance of floor area to head height which might entice a commercial tenant. Granting this variance will increase the odds that a small commercial enterprise may rent this space. The owner may provide submarket rates for this space to aid a small business to start in downtown Athens. The apartments behind the commercial space will help offset that below market rent for the commercial space. The apartments do further the intent of this ordinance and the comprehensive plan of Athens Clarke County by providing in-fill housing and maintaining a better commercial space in front capable of being leased.

**5. Explain how the variance, if granted, will represent the minimum variance that will afford relief from the identified hardship and will represent the least deviation possible from the zoning regulation and from the comprehensive plan.**

This variance is the minimum required to afford relief for the owner to use their property. The decrease in commercial space is the amount needed to develop a viable commercial space with the currently available head height. There is no option to raise the second floor to provide a suitable head height that would provide the type of space that could be leased commercially.