

Public Hearing: YES  NO

Department: Planning & Sustainability

**SUBJECT:**

**COMMISSION DISTRICT(S): All Districts**

**Application of the Director of Planning and Sustainability to amend Section 27-7.5.3 (A)(1) of the DeKalb County Zoning Ordinance to refine variance criteria for the Zoning Board of Appeals. This text amendment is County-wide..**

**PETITION NO: D7. TA-21-1245114 (2021-3160)**

**PROPOSED USE: To refine variance criteria for the Zoning Board of Appeals.**

**LOCATION:** County-wide.

**PARCEL NO. :** N/A

**INFO. CONTACT:** Jeremy McNeil, Sr. Planner/Brandon White, Current Planning Manager

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of the Director of Planning and Sustainability to amend Section 27-7.5.3 (A)(1) of the DeKalb County Zoning Ordinance to refine variance criteria for the Zoning Board of Appeals. This text amendment is County-wide.

**RECOMMENDATION:**

**COMMUNITY COUNCIL: (Dec. 2021) CC-1: Approval; CC-2: Approval; CC-3: Deferral; CC-4: Denial; CC-5: Deferral. (Oct. 2021) CC-1: No Quorum; CC-2: Deferral; CC-3: Full Cycle Deferral; CC-4: Denial; CC-5: Approval.**

**PLANNING COMMISSION: (Jan. 6, 2022) Pending. (Nov. 4, 2021) Full Cycle Deferral.**

**PLANNING STAFF:** Approval.

**STAFF ANALYSIS:** See attachments.

**PLANNING COMMISSION VOTE: (Jan. 6, 2022) Pending. (Nov. 4, 2021) Full Cycle Deferral 8-0-0.** Gwendolyn McCoy moved, LaSonya Osler seconded for Full Cycle Deferral, per staff recommendation.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: (Dec. 2021) CC-1: Approval 4-0-0; CC-2: Approval 7-0-1; CC-3: Full Cycle Deferral 8-0-0; CC-4: Denial 12-0-0.** The Board prefers to delete these phrases: “specimen tree(s)... or preservation of historic characteristics of the property” because the language’s intent places an undue burden on the Zoning Board of Appeals to make determinations that the Board may not be qualified to make. The additions also allow both specimen trees and historic characteristics to be hardships for any property owner and can nullify the county tree ordinance and the role of the Historic Preservation Commission to exert influence over a particular property; **CC-5: Deferral 9-0-0. (Oct. 2021) CC-1: No Quorum; members present voted for Full Cycle Deferral 2-0-0; CC-2: Deferral 7-0-0; CC-3: Full Cycle Deferral 8-0-0; CC-4: Denial 10-0-0; CC-5: Approval 8-0-0.**



**DeKalb County Department of Planning & Sustainability**

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Michael Thurmond  
Chief Executive Officer

**Planning Commission Hearing Date: January 6, 2022**  
**Board of Commissioners Hearing Date: January 27, 2022**

**TEXT AMENDMENT ANALYSIS**

**AGENDA NO.:** D7

**ZONING CASE NO.:** TA-21-1245114

**COMMISSION DISTRICTS:**

Districts 1, 2, 3, 4, & 5

Super Districts 6 & 7

**APPLICANT:** Department of Planning & Sustainability

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**SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS:** Section 27-7.5.3. A1 - Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.

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**REASON FOR REQUEST:**

The Department is proposing to amend the language in the first criterion to provide clarity to applicants who are filing applications before the Zoning Board of Appeals as well as to aide members of the Zoning Board of Appeals in evaluating applications.

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**Attachments:**

- 1. Revised Sections of the Zoning Ordinance (Revisions are highlighted in red or blue)

**Sec. 7.5.3 Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.**

A. Variances from the provisions or requirements of this chapter other than variances described in section 7.5.4 shall be authorized only upon making all of the following findings in writing:

1. ~~By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions~~ There are extraordinary or exceptional conditions pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, ~~floodplain, major stand of trees,~~ specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which were not created by the owner or applicant; ~~by reason of such conditions,~~ the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.
2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.
3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.
4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.
5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.