



Michael L. Thurmond

Chief Executive Officer

**DeKalb County Zoning Board of Appeals**  
Department of Planning & Sustainability  
178 Sams Street,  
Decatur, GA 30030

**Wednesday, January 10<sup>th</sup>, 2023, at 1:00 PM**

**Planning Department Staff Analysis**



Cedric Hudson

Interim Director

**N1. Case No: A-23-1246770**

**Parcel ID(s): 18 054 05 005**

**Commission District 02 Super District 06**

**Applicant:** Peter Densmore  
1206 Oakdale Road  
Atlanta, GA 30307

**Owner:** Peter and Sally Densmore  
1206 Oakdale Road  
Atlanta, GA 30307

**Project Name:** 1206 Oakdale Road -Shed

**Location:** 1206 Oakdale Road -Shed

**Request:** Variance from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to reduce the side-yard from 8.5 feet to 3-feet and the rear yard setback from ten (10) feet to three (3) feet for a shed replacement within the R-85 (Residential Medium Lot-85) zoning district and the Druid Hills Historic District.

**Staff Recommendation:** Denial.

## **Staff Findings:**

The applicant is requesting a variance from Section 27-5.4.3 of the DeKalb County Zoning Ordinance to reduce side-yard from eight and half (8.5) feet to three (3) feet and the rear yard setback from ten (10) feet to three (3) feet for a shed replacement within the R-85 (Residential Medium Lot-85) zoning district and the Druid Hills Historic District. The replacement shed has already been constructed.

**1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), 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, as distinguished from a special privilege or convenience sought by the property owner.**

The property at 1206 Oakdale Road is located within the R-85 (Residential Medium Lot-85) Zoning District and the Druid Hills Historic District. The applicant received a retroactive approval for the replacement shed from the Historic Preservation Committee in September 2023. The subject site meets the size and shape requirements of the district. There does not appear to be any exceptional topographic conditions on the property. However, there is a large magnolia tree in the northwest corner of the yard which may limit the buildable envelope for an accessory structure(s). This may present a physical hardship(s) that supports the inability to construct a structure that would be in conformance with the current zoning. The strict application of the requirements of Chapter 27 may deprive the property owner of rights and privileges enjoyed by other property owners within the R-85 Zoning District.

**2. The requested variances for the property may not go beyond the minimum necessary to afford relief, given the property's constraints. The updated proposal has been carefully tailored to adapt to the narrow and small size of the lot while ensuring the construction of a viable residential unit. The applicant is proposing a single solution, crafted to provide a feasible solution that meets the owner's needs without excessively infringing upon zoning guidelines.**

The proposed variance may not go beyond the minimum necessary as there does not appear to be an alternate location within the permitted setbacks. The applicant has specified there is an existing carriage house (labeled "SHED" on the site plan) which appears to be within the buildable area in the rear yard. Therefore, the requested variance may go beyond the minimum necessary to afford relief by allowing two (2) accessory structures within a spatially limited rear yard.

**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:**

Granting the requested variance(s) for the subject site may be materially detrimental to the public welfare or injurious to the property or improvements of the zoning district. Section 4.2.2 (C3) states *accessory structures shall meet the minimum side yard setback for the district or ten (10) feet, whichever is less, and shall not be located closer than ten (10) feet*. Although not visible from the street, the structure abuts two properties. The applicant has stated they have undertaken mitigation efforts with the adjacent neighbor. Such efforts include painting the shed a desired color of the neighbor's choice to minimize the view. The applicant has also received two (2) letters of support from impacted neighbors.

**4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:**

The literal interpretation and strict application of the provisions or requirements of this chapter may result in undue and unnecessary hardship. The combination of the large Magnolia tree and pre-existing carriage house constraint the buildable envelope for the applicant to construct any structure to be able to store belongings.

**5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:**

The 2050 *Unified Plan* describes the future land use designation of this property as Traditional Neighborhood (TN). The intent of the Traditional Neighborhoods Character Area is to preserve the style and appeal of older traditional neighborhood communities. These

areas primarily consist of residential areas in older parts of the community that were typically developed prior to WWII. The requested variance may not impact the character of the neighborhood.

**FINAL STAFF ANALYSIS:**

The proposed redevelopment does not follow the current R-85 standards nor the specifications of accessory structures. The requested variance may also go beyond the minimum necessary to afford relief and may constitute a grant of special privilege. Therefore, staff recommends denial of the variance.

**Staff Recommendations:** Denial.

Chief Executive Officer  
Michael Thurmond

## DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director  
Cedric Hudson

### ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING (VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

Applicant and/or  
Authorized Representative: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone Home: \_\_\_\_\_ Business: \_\_\_\_\_

#### OWNER OF RECORD OF SUBJECT PROPERTY

Owner: \_\_\_\_\_

Address (Mailing): \_\_\_\_\_

Email: \_\_\_\_\_ Telephone Home: \_\_\_\_\_ Business: \_\_\_\_\_

#### ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

District(s): \_\_\_\_\_ Land Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Parcel: \_\_\_\_\_

Zoning Classification: \_\_\_\_\_ Commission District & Super District: \_\_\_\_\_

#### CHECK TYPE OF HEARING REQUESTED:

\_\_\_\_\_ VARIANCE (From Development Standards causing undue hardship upon owners of property.)

\_\_\_\_\_ SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)

\_\_\_\_\_ OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

**\*PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS.\***

Email [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov) with any questions.

---

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

---

**ZONING BOARD OF APPEALS APPLICATION**

**AUTHORIZATION OF THE PROPERTY OWNER**

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: \_\_\_\_\_ Applicant \_\_\_\_\_  
Signature: \_\_\_\_\_

DATE: \_\_\_\_\_ Applicant \_\_\_\_\_  
Signature: \_\_\_\_\_

---

DEPARTMENT OF PLANNING & SUSTAINABILITY

---

**ZONING BOARD OF APPEALS APPLICATION**

**AUTHORIZATION TO REPRESENT THE PROPERTY OWNER**

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application.

DATE: \_\_\_\_\_ Applicant/Agent \_\_\_\_\_  
Signature:

TO WHOM IT MAY CONCERN:

(I)/ (WE): \_\_\_\_\_  
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to the above signed agent/applicant.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner Signature

## Filing Guidelines for Applications to the Zoning Board of Appeals

### 1. Submit Application Materials:

- a. To ensure proper processing and payment, please create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted).
  - If you have an existing account, you may use that account and create a *new application number* by selecting the proper application type.
  - Fill out *all* Account Portal Questions
  - Put your **email address under “WEB ACCOUNT”**
  - **SAVE APPLICATION NUMBER (1246XXX)** – send to staff when you email your complete application.
- b. After portal submittal, email one (1) combined PDF document of the completed application and materials to [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov) and [ljcarter@dekalbcountyga.gov](mailto:ljcarter@dekalbcountyga.gov) along with application number.
- c. Please confirm we have received your application.
- d. For any questions, please contact [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov)

### 2. Order of Submitted Materials:

- a. Application Form
- b. Signatures and authorization (including permission to go on property)
- c. Letter of Intent
- d. Surveys, site plans.
- e. Other relevant materials (e.g., photographs, letters of support, citation, etc.)

### 3. Authorization:

- a. If property owner is different from the applicant, the form to authorize the application must be signed by the owner and stamped by a notary.
- b. If property is owned by more than one property owner, all property owners must authorize the request.

### 4. Letter of Intent:

- a. **Explain what you are asking for and why.**
- b. A typed statement indicating the request and clarifying justification for the proposal based on the criteria as indicated in Section 27-7.5.3 or 7.5.4 of the DeKalb County Zoning Ordinance (see attached information).
- c. Reference the section of the code you are requesting to vary and the amount of requested change, (such as to reduce the rear yard setback from forty (40) feet to twenty (20) feet to construct an addition).

### 5. Surveys and site plans of the Subject Property:

- a. Must be stamped by a professional engineer or surveyor, registered in the State of Georgia.
- b. All plans and surveys must include the following information:
  1. Must show all property lines with dimensions.
  2. Must show the location of all existing and proposed buildings, structures, parking and setbacks (their relationship to the property boundaries).
  3. Must show any other features related to the request such as trees, fences, topography, streams, etc.
  4. Must be to-scale
  5. Must show lot area and lot coverage (impervious materials, including paving and structures).

6. **Application Fee is \$300.** You will be able to pay by credit card on the epermitting portal. A receipt will be provided.

## Writing the Letter of Intent

Please address the following criteria as appropriate:

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

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this chapter and chapter 21 where the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in this section to the facts of each case. The board may attach reasonable conditions to any approved variance in accordance with section 7.3.9. Once imposed, conditions shall become an integral part of the approved variance and shall be enforced as such. No changes to an approved condition attached to a variance shall be authorized except by re- application to the zoning board of appeals in full compliance with the applicable provisions of this division. No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter and the comprehensive plan. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

- 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. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), 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, as distinguished from a special privilege or convenience sought by the property owner.
  - 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.
- B. Appeals of decisions regarding building architectural design standards shall be evaluated using the same criteria as section 7.6.7(B).



---

DEPARTMENT OF PLANNING & SUSTAINABILITY

---

- C. Appeals to the height standards, but not to add stories, shall be evaluated using the criteria as follows:
1. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.
  2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.
  3. Adequacy of public services, public facilities, and utilities to serve the proposed use.
  4. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.
  5. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.
  6. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

**7.5.2** Applications for variances to reduce or waive off-street parking or loading space requirements.

The zoning board of appeals shall hear and decide applications for variances to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section. All such applications shall be heard and decided based on the notice requirements of section 7.2.4. The zoning board of appeals may waive or reduce the required number of parking or loading spaces in any district only upon an expressed finding that:

- A. The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces;
- B. The lot upon which the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA RapidTransit Station;
- C. The provision of the full number of parking spaces would have a deleterious effect on a historic building, site, district or archaeological resource;
- D. The use has a characteristic that differentiates it from the typical use example used in the formulation of this Zoning Ordinance;
- E. The location of the proposed development is relatively isolated where the opportunity for diversity of use, pedestrian access, and alternative modes is not available; or
- F. The developer is providing the additional spaces for general public parking (for hourly or daily parking charges) to serve surrounding development.

### Section 21-27. Sign Variances.

- (a) Where a literal application of this article, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the zoning board of appeals after receiving evidence that the applicant meets all of the following criteria:
  - 1. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area;
  - 2. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;
  - 3. The exceptional circumstances are not the result of action by the applicant;
  - 4. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;
  - 5. Granting of the variance would not violate more than one (1) standard of this article; and
  - 6. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.
- (b) No variance shall be granted to the height of a sign or the aggregate area of signs permitted on a lot.
- (c) No variance shall be granted which increases the size of a sign more than twenty (20) percent of that allowed by this chapter. (Ord. No. 13-03, Pt. I, 6-10-03)

### 7.5.3 Appeals of decisions of administrative officials.

- A. *General Power.* The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of this Zoning Ordinance or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. Administrative officials must make final decisions covered by this section within one hundred and eighty (180) days of receipt of all necessary information to make such decision. A failure to act prior to the passage of one hundred and eighty (180) days shall not be construed to be a final order, requirement or decision within the meaning of this division. If a decision is not made by the 181<sup>st</sup> day, the requested decision is deemed denied, and becomes appealable. All such appeals shall be heard and decided following the notice requirements of section 7.2.4, and pursuant to the following criteria and procedural requirements.
- B. *Appeals of decisions of administrative officials.* Appeals of decisions of administrative officials may be filed by (1) any person aggrieved by; (2) any elected member of the DeKalb County Governing Authority affected by; or (3) an owner of property within two hundred and fifty (250) feet of the nearest property line of the property that is the subject of any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this Zoning Ordinance, or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. by filing with the secretary of the zoning board of appeals an application for appeal, specifying the grounds thereof, within fifteen (15) days after the action was taken by the official that is the subject of the appeal.
- C. *Appeal stays all legal proceedings.* An appeal of a decision of an administrative official stays all legal proceedings in furtherance of the action or decision appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life or property. In such a case, legal proceedings shall be stayed only pursuant to a restraining order granted by a court of competent jurisdiction directed to the officer from whom the appeal is taken and

---

DEPARTMENT OF PLANNING & SUSTAINABILITY

---

- D. *Appeal stays land disturbance or construction activity in certain situations.* If the action or decision appealed from permits land disturbance or construction activity to commence or continue on residentially zoned property, the appeal stays the land disturbance or construction activity until the zoning board of appeals issues a decision on the appeal. Thereafter, land disturbance or construction activity in such cases shall only be stayed by an order from a court of competent jurisdiction. In all cases involving non-residentially zoned property, the appeal to the zoning board of appeals does not stay land disturbance or construction activity; such activity shall only be stayed by an order from a court of competent jurisdiction.
- E. Thereafter, in such situations land disturbance or construction activity shall only be stayed by an order granted by a court of competent jurisdiction.
- F. *Time of hearing.* The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of section 7.2.4 as well as written notice to the appellant. Any party may appear at the hearing in person, by an agent, by an attorney, or by the submission of written documentation.
- G. *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal and shall issue a written decision explaining the reasons for its decision. The zoning board of appeals shall decide the appeal within a reasonable time, but in no event more than sixty (60) days from the date of the hearing. An appeal shall be sustained only upon an expressed finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, erroneously applied the Zoning Ordinance to the facts, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by any applicable laws are met.

---

DEPARTMENT OF PLANNING & SUSTAINABILITY

---

**7.5.4** Limitations of authority of the zoning board of appeals.

No variance shall be granted by the zoning board of appeals to:

- A. Allow a structure or use not listed as a permitted use or a special use in the applicable zoning district or a density of development that is not authorized within such district. This prohibition does not apply to any variance from the supplemental regulations of Article 4 of this Zoning Ordinance or from any other accessory feature or characteristic of a permitted or special use, unless said variance is otherwise prohibited by the regulations of this chapter.
- B. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the board of commissioners.
- C. Reduce, waive or modify in any manner the minimum lot width unless the purpose is to reverse a lot merger.
- D. Reduce, waive or modify in any manner the minimum lot area established by this chapter.
- E. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of planning.
- F. Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit.
- G. Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of Article 8 of this chapter.
- H. Permit customer contact for a home occupation authorized by this chapter.
- I. Allow any variance to increase the height of a building which will result in adding a story.

## Summary of Zoning Board of Appeals Application Process:

1. **Timeline.** It takes ~45-60 days to submit your application and receive an initial decision from the Zoning Board of Appeals regarding your request.
2. **Pre-application Meetings.** DeKalb County now mandates pre-application meetings. Please email [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov) to schedule a virtual appointment to meet with a Planner assigned to the Zoning Board of Appeals. During the virtual meeting, we will review and provide feedback regarding your request, review the application process, and answer any questions.
3. **Application Submittals.** Create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted). Email a combined PDF document of the completed application and materials to [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov) and [ljcarter@dekalbcountyga.gov](mailto:ljcarter@dekalbcountyga.gov) along with the application number.
4. **Public Hearing Signs.** You will need to post at least one sign per street frontage of the property. Staff will prepare a sign template. You will need to coordinate sign printing and posting with a sign company of your choice, at least 30 days prior to the ZBA hearing. Sign(s) must remain posted until final Board of Appeals action regarding the request. If the application is deferred, you may update the sign(s).
5. **Revisions or amendments.** An application must be submitted in writing and must be received a least 14-days before the scheduled meeting to be addressed by the staff report.
6. **Staff Report.** Staff prepares reports and recommendations for each application. These recommendations are based on the attached criteria established by the [DeKalb County Zoning Code](#). Final staff reports are available to the applicant and the public prior to the scheduled Board of Appeals meeting. Find current reports on our website, here: <https://www.dekalbcountyga.gov/planning-and-sustainability/public-hearing-agendas-info>
7. **Monthly Meetings.** The Zoning Board of Appeals meets once a month, generally on the second Tuesday of each month at 1:00 P.M., via Zoom. Find agendas on our website, [HERE](#).
8. **Applicant and/or Representative must be Present.** Applicants or their representatives must be present at the public hearing to present the request to the Zoning Board of Appeals.
9. **Public Hearing portion of Meeting.** Applicants and others in favor of an application are given a total of five (5) minutes to present to the Board. That is five minutes combined, no matter how many people wish to speak. Applicants should be prepared to explain their variance, why they are requesting it and answer questions from the board. Anyone speaking in opposition also has a total of five (5) minutes to address the application in front of the board. Be prepared to raise your hand or announce yourself when the chair asks for those in support or opposition to the application.
10. **Applicant and/or Representative must be Present.** Applicants or their representative must be present at the public hearing to present the request to the Zoning Board of Appeals.
11. **Executive Session.** After the public hearing, the Board of Appeals will close the public hearing, go into executive session for discussion, and will then take an action on an application. Applicants are not allowed to address the Board of Appeals during Executive Session unless they are asked questions by members of the Board of Appeals.

---

DEPARTMENT OF PLANNING & SUSTAINABILITY

---

12. **Zoning Board of Appeals Actions.** The Board of Appeals is authorized to:
  - a. Approve the application as submitted;
  - b. Approve a revised application;
  - c. Approve an application with conditions;
  - d. Deny an application (if an application is denied, no variance can be considered on the same site within 24 months);
  - e. Allow an application to be "Withdrawn without Prejudice" at the request of the applicant.
13. **Compliance with standards upon denial.** In such case that a variance request is initiated due to an existing code violation and such application is denied, the violation shall be required to be brought into compliance within thirty (30) days of such denial or as specified by the board if a greater time period is approved.
14. **Successive applications.** Section 27-920 of the DeKalb County Zoning Ordinance states: An application for a variance or special exception affecting all or a portion of the same property which was denied by the Zoning Board of Appeals shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the zoning board of appeals. The Zoning Board of Appeals may waive or reduce this twenty-four-month time interval by resolution provided that if the application for a variance or special exception was denied by the Zoning Board of Appeals, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.
15. **Appeals of Decisions.** Any person aggrieved by a final decision of the board, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County. Such petition shall be filed within 30 days after the final decision of the board is rendered.

## **Letter of Intent**

I am Pete Densmore and moved, along with my wife Sally, to Druid Hills last October. We like the neighborhood and our house more with each day.

I'm applying for a set-back variance on a shed that is approximately 110 square feet, that replaced an old rusted shed that was over 30 years old. The old shed was not usable, with a poor appearance. The new shed is in the same location as the old shed and is approximately 4 feet from the side property line and 5 feet from the back property line - with much of the shed hidden behind a fence. We do our lawn work and needed a secure location to store lawn equipment.

With the size of the shed being less than 120 square feet a building permit is not required. At that time I was not aware of the County Historic Preservation Committee. I was also not aware of a need for a set-back variance as the shed was located in the same location as the old shed. Failure to get the Historic Preservation Committee and variance approvals prior to constructing the shed, was a mistake on my part.

A neighbor did not like the new shed, for she feels the shed is more visible than the old shed, and filed a formal complaint. We met with her and asked what could we do to mitigate her concern. She asked us to re-paint the shed to match the color of the fence and her garage - which we did. It's our understanding she withdrew her complaint.

The location of the shed is the only site on the property where a shed could be located. A large magnolia tree is located in the opposite side of the yard - making that location unworkable for a shed.

The requested variance is the minimum needed for the shed. The shed is located where the prior shed was located. Many of the buildings in the neighborhood are older and are located close to the property lines.

The impact of the shed on the community and neighborhood is minimal. The County Historic Preservation Committee approved the shed; "the shed will not have a substantial adverse affect on the aesthetic, historic or architectural significance and value on the historic district...." The appearance of the new shed is a significant improvement over the old shed. The shed cannot be seen from the Oakdale sidewalk. The shed roof is visible from Oxford - a picture is below.

If the variance is not approved I likely will not be able to have a shed on my property. This could potentially result in me needing to tear down the new shed.

I made a mistake in not getting the required approvals, prior to building the shed. Once I became aware of my mistake I have tried to mitigate my mistake as best I could. I have fully cooperated with Officer Wright in Code Enforcement. I have re-painted the shed at my neighbor's request. I applied for and received the approval of the shed from the County Historic

Preservation Committee. I have worked with the county planner and followed the process to submit this variance request. I will be answering a court summons scheduled for November 28<sup>th</sup>. An approval of this variance request is consistent with the land use for the neighborhood and would be a reasonable accommodation to the county zoning laws and guidelines.

Thank you for your time and consideration.

Pete and Sally Densmore



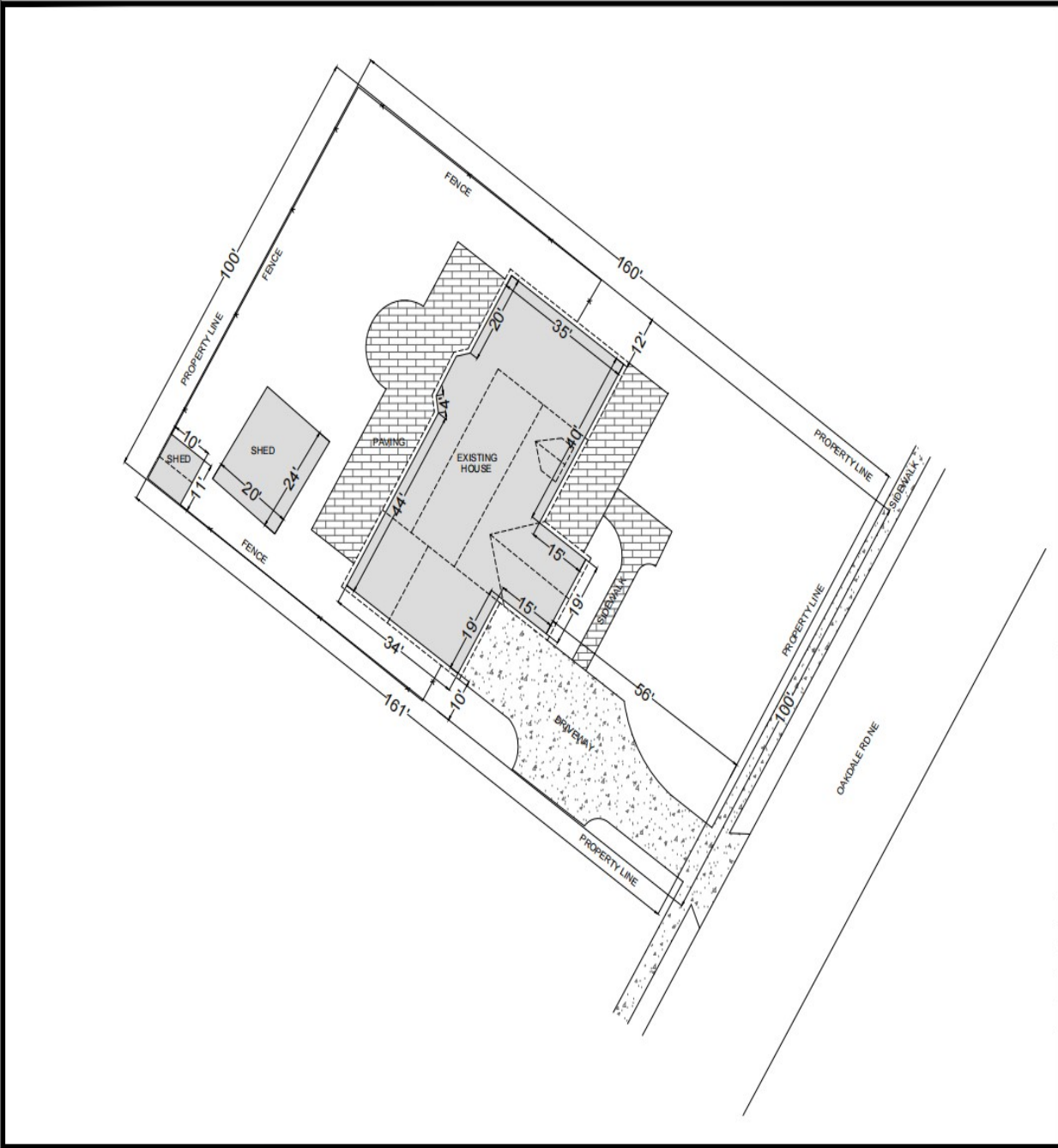
# **Variance Request for 1206 Oakdale Road**

## **Summary of Request**

- Replaced old non-historic shed with a new shed that is around 110 square feet
- New shed is located in same location as old shed but does not meet the set back requirements
- Shed is approximately 4 and 5 feet from property lines
- Shed was approved by the County Historic Preservation Commission
- Property Owners of 2 abutting properties support the variance
- Received Citation and Court Summons

Site Plan

New shed is the far left building. The other building (that is 20 X 24) titled “shed” is the carriage house.



NOTES:

ADDRESS:  
1206 OAKDALE  
ATLANTA, GA 30309

SITE PLAN


PARCEL ID: 18 054

LOT AREA: 0.37 A

PLOT SIZE: 8.5" X

DRAWING SCALE:

● Citation



**CODE ORDINANCE CITATION, SUMMONS AND ACCUSATION**

DEKALB COUNTY, STATE OF GEORGIA CITATION NUMBER **050933**

---

VIOLATOR

VIOLATION

SUMMONS

SERVICE

NAME: Densmore Peter

LAST FIRST MIDDLE

ADDRESS 1206 Oakdale Rd

NUMBER STREET NAME APARTMENT NO.

Atlanta GA 30307

CITY STATE ZIPCODE

M 4/17/1957 05129692 GA 5'11" 230

SEX DOB ID/LICENSE NUMBER STATE HT WT

THE UNDERSIGNED STATES THAT HE / SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE THAT THE PERSON NAMED HEREIN HAS COMMITTED THE OFFENSE(S) HEREIN SET FORTH, CONTRARY TO LAW, IN THAT:

ON THE 3 DAY OF Oct, 2023 AT 9:05 AM / PM IN UNINCORPORATED DEKALB COUNTY THE ABOVE DID COMMIT THE FOLLOWING OFFENSE:

27-5.4.7 (10) Min. Setback

SECTION / CODE TITLE OF SECTION

REMARKS

Failed to meet the minimum setback requirements.

WARNING NOTICE ISSUED ☒

PLACE OF OFFENSE: 1206 Oakdale Rd

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

OFFICER/INSPECTOR (PRINT) C. WRIGHT BADGE NO. 11130

YOU ARE HEREBY ORDERED TO APPEAR AT THE MAGISTRATE COURT OF DEKALB COUNTY GEORGIA LOCATED AT:  
**3630 CAMP CIRCLE, DECATUR GA 30032**

ON THE 28 DAY OF November, 2023, AT 9:00 AM / PM

(X) I HAVE THIS DAY SERVED THE DEFENDANT, Peter Densmore PERSONALLY WITH THE FOREGOING CITATION THIS 3 DAY OF October, 2023.

( ) I HAVE THIS DAY SERVED THE DEFENDANT, \_\_\_\_\_, A CORPORATION, PERSONALLY BY LEAVING THE FOREGOING CITATION WITH \_\_\_\_\_, AN OFFICER/AGENT OF SAID CORPORATION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

Peter Densmore 404 925-5114

VIOLATOR SIGNATURE PHONE NUMBER SERVING AGENT NAME/TITLE

FAILURE TO APPEAR MAY RESULT IN A WARRANT FOR YOUR ARREST

WHITE COPY: COURT    YELLOW COPY: VIOLATOR    PINK: CASE FILE    AMBER: FILE



Old Shed



New Shed



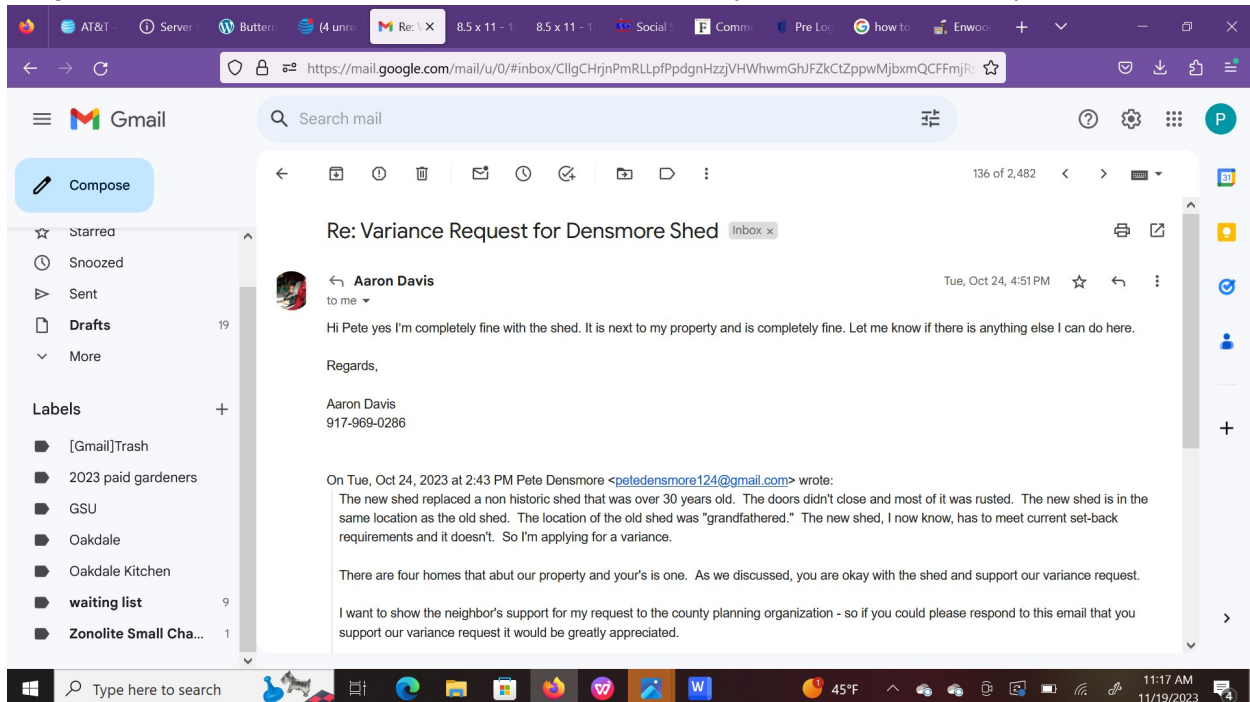


View of Shed from Sidewalk on Oxford - cannot see from Oakdale





## Neighbor's Support For Variance - Shed is approximately 4 feet from his side yard



## Variance support from abutting neighbor

