



Michael L. Thurmond
Chief Executive Officer

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



Cedric Hudson
Interim Director

Planning Department Staff Analysis

N2. Case No: A-24-1246946 Parcel ID(s): 18 009 26 009

Commission District 04 Super District 06

Applicant: Innocent Nwachukwu
2550 Sandy Plains Road
Marietta, GA 30066

Owner: Dewalton Global Enterprise
3340 Cameron Trail
Norcross, GA 30092

Project Name: 393 Ohm Avenue – Single-Family Residential Construction

Location: 293 Ohm Avenue Avondale Estates, GA 30002

Request: Variance from Section 27-3.36.12 to reduce sidewalk requirement in the Scottdale Tier II Overlay

Staff Recommendation: Approval with condition

Condition: The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance and condition(s) of approval.

STAFF FINDINGS:

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.

A healthy specimen tree, measuring 64" and in diameter and aged approximately 65 years is positioned centrally within the area where the Scottdale Tier II overlay district mandates the installation of a sidewalk and landscape strip. This constitutes an extraordinary physical condition specific to the property. Their placement was not orchestrated by the current owner, previous owner, or applicant, and their preservation aligns with the preservation of natural elements within the neighborhood and this criteria.

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:

The requested variance affords relief without granting undue privilege to the property owner. The applicant has demonstrated a willingness to accommodate either scenario—preserving the specimen trees and forgoing the sidewalk or removing the trees to facilitate sidewalk installation. The proposed sidewalk length of 65' as shown on the site plan is the maximum allowable without damaging the subject tree's root system. Staff recommends the preservation of the specimen trees this complements the aesthetic integrity of the Scottdale Overlay district.

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:

The grant of the variance is unlikely to result in material detriment to public welfare or property within the zoning district. Ohm Avenue and Chestnut Street experiences low traffic and the absence of a sidewalk would not significantly impede pedestrian movement or compromise public safety. The preservation of the specimen trees aligns with the objectives outlined in DeKalb County's ordinance Chapter 14 Article II Section 14-39, which emphasizes the importance of tree preservation for the public welfare. Recognizing trees as vital contributors to environmental health, aesthetic appeal, and community well-being, the ordinance outlines multiple benefits derived from their conservation.

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

The strict interpretation of the ordinance would mandate the removal of two healthy specimen trees, contradicting the community's interest in preserving natural assets and promoting environmental sustainability. While the applicant could proceed with construction with a denial of the variance, the broader implications for public welfare and environmental conservation undermines community interests.

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

The property falls within the TN (Traditional Neighborhood) land use designation, aligning with the overarching goal of preserving the style and appeal of older, traditional neighborhood communities. This designation is in line with the purpose and intent outlined by the Scottdale Overlay District which aims to preserve, protect, and enhance the existing character of the Scottdale Community, while encouraging new development that maintains this character. Granting the variance to preserve the specimen trees rather than mandating sidewalk installation could be seen as preserving neighborhood character.

FINAL STAFF ANALYSIS:

Staff analysis concludes that the application is aligned with the principles outlined in the ordinance and the DeKalb County Unified Plan. The presence of a healthy specimen tree presents an extraordinary physical condition that warrants relief from the strict application of sidewalk requirements. Granting the variance not only avoids unnecessary hardship by preserving these trees but also upholds the spirit of the Traditional Neighborhoods Character Area and the Scottdale Overlay, emphasizing the importance of maintaining the style and appeal of this older residential community. The variance promotes public welfare by conserving natural assets and contributing to environmental sustainability. Therefore, staff recommends approval with condition of the application.

Staff Recommendation: Approval with condition

Condition: The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance and condition(s) of approval.

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: INNOCENT NWACHUKWU
Mailing Address: 2550 SANDY PLAINS RD
City/State/Zip Code: MARIETTA GA 30066
Email: imc.construction@gmail.com
Telephone Home: (678) 698-3816 Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: DEWALTON GLOBAL ENTERPRISE
Address (Mailing): 3340 CAMERON TRL NORCROSS GA 30092
Email: info@dewaltonglobalinc.com Telephone Home: (770)906-6918 Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 293 OHM AVE City: AVONDALE ESTATES State: GA Zip: 30002
District(s): 18 Land Lot(s): 009 Block: 26 Parcel: 009
Zoning Classification: R - 75 Commission District & Super District: SCOTTDAL TIER II

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 with any questions.

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION

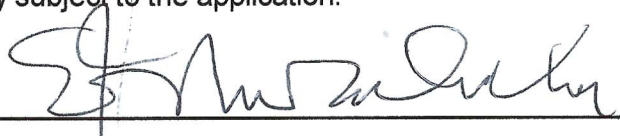
AUTHORIZATION OF THE PROPERTY OWNER

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

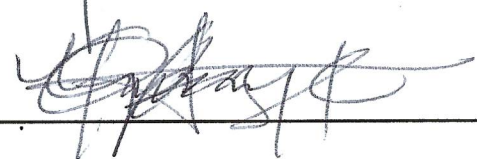
I hereby certify that the information provided in the application is true and correct.

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

DATE: 3/13/24

Applicant Signature: 

DATE: 03/13/24

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: 3/13/24

Applicant/Agent Signature: [Signature]

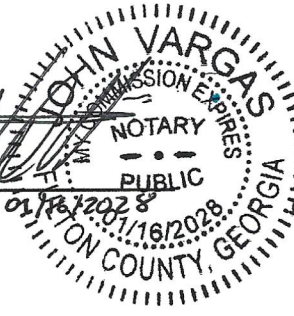
TO WHOM IT MAY CONCERN:

(I)/ (WE): ADELANWA OPADEYI
(Name of Owners)

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

[Signature]
Notary Public

[Signature]
Owner Signature



Notary Public

Owner Signature

Notary Public

Owner Signature

LETTER OF INTENT

Variance Request for 293 Ohm Ave Avondale Estates Ga

Dear Members of the Zoning Board of Appeals,
Please consider this letter as a petition to Dekalb County Zoning Board for a Variance that pertains to the Reduction the sidewalk

Section 3.36.12 of the DeKalb County Zoning Ordinance, on Sidewalk requirements.

There shall be a public sidewalk constructed along all public street frontages contiguous to all properties within all tiers of the Scottdale Overlay District. New sidewalks shall match the predominant pattern of existing sidewalks on contiguous properties. If there is no existing sidewalk contiguous to the property, sidewalks shall be located a minimum of four (4) feet from the curb. In places where sidewalks are not present, new sidewalks shall be established.

If matching predominant pattern of existing sidewalks on contiguous properties causes the area between the sidewalk and the curb to be less than four (4) feet in width, the street trees shall be planted between the sidewalk and the structure. For properties where there are overhead utility lines, the director of planning or their designee may authorize exceptions to allow for a landscape plan that will not interfere with such utilities. All such conditions will be subject to review and approval by the director of planning or they're designee in addition to the Dekalb County Arborist.

Sidewalk widths

Sidewalks are required to be installed in all Tiers, except for Tier III, pursuant to all land disturbance permits, new building permits or major changes or re-development of non-residential, multi-family residential, mixed use and individual detached single family homes, as defined by chapter 27.

On the subject property, there is a Very healthy Specimen tree that exist on the right side of Property (on Chestnut Street) installation of a full length sidewalk. This actual trees would have to be removed in order to install a full length sidewalk. The Location of this Tree affect the mandatory 5 feet required Landscape Strip. The Tree Size is about 64" and is about 65 years old. It is situated in between where the landscape/ sidewalk are supposed to be positioned. We want to preserve the Tree so we are asking to a reduction in the length

1. The physical condition of this Site- There is a big healthy Tree in the way! 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. This particular tree was not planted by us, the current owner, or the owner from whom we purchased the property.

We didn't create this situation by planting the Specimen tree. It is In the middle of the right of way and is preventing the installation of a full sidewalk. We are not requesting any privilege or convenience in this situation, rather we want to save this Big healthy specimen trees and to do that we need to do and not install a full length sidewalk in this right of way.

We are not in any way opposed to the installation of a sidewalk as a part of building a new single family home in the Scottdale Tier 2 district and would gladly install a sidewalk in this right of way where there is no healthy specimen trees located in the right of way.

2. Minimum Variance- 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.

We are asking for the side walk approval to be reduced to **65 feet in length.**

The requested variance requests that we are waived from the requirement to install a full length 5" sidewalk in order to save this rare beautiful 64" healthy specimen Tree and reduce the side walk length to **65 feet**

3. Public welfare- The idea of installing the sidewalks still promotes connectivity for the neighborhood And like wise tree preservation is very important. 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.

The granting of this variance will not be detrimental to the neighborhood in any way. In fact, the granting of the variance will be for a very good benefit to the neighborhood as the healthy specimen trees will be saved.

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

Yes, the literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause significant undue and unnecessary hardship to us as the owners and developers as well as the neighborhood as the healthy specimen tree would have to be removed in order to comply with the installation of a sidewalk.

If the variance isn't approved, it would render the lot unbuildable. Not being able to build creates an unnecessary hardship due to the application of this ordinance.

5. Spirit of the law- The requested variance would be consistent with the spirit and purpose of this chapter and the Dekalb County Comprehensive Plan text.

5. Spirit of the law- The requested variance would be consistent with the spirit and purpose of this chapter and the Dekalb County Comprehensive Plan text.

This part of the city of Scottdale is designated as Traditional Neighborhood land use in the 2050 Dekalb County Comprehensive Master Plan. We are proposing a new single family home which is consistent with the Comprehensive plan Traditional Neighborhood land use. This variance request, if granted to us has no adverse effect on the proposed house plan for the subject property and saves a big healthy specimen tree which is in the best interest of this neighborhood and the environment by retaining this particular tree and not replacing them with concrete thereby enhancing the beauty of the lovely neighborhood.

In conclusion, I appreciate your time and consideration of Our variance request. I am committed to working collaboratively to ensure that Our proposed changes align with the broader goals and policies of Dekalb County and the Scottdale District.

Thank you for your attention to this matter.



Return to:
The Fryer Law Firm
70 Lenox Pointe, N.E.
Atlanta, GA 30324
LB

P.I.D. 18-009-26-009

DEED PREPARATION ONLY

LIMITED WARRANTY DEED

STATE OF Georgia
COUNTY OF Fayette

THIS INDENTURE, made this the 8 day of October, two thousand twenty-two, between EE&M, LLC, a Georgia limited liability company, as party or parties of the first part, hereinafter called "Grantor" and Dewalton Global Enterprises, Inc., as party or parties of the second part, hereinafter called "Grantee"; the words "grantor" and "grantee" to include their respective heirs, successors and assigns where the context requires or permits:

WITNESSETH that: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, at and before the sealing and delivery of these presents (the receipt of which is hereby acknowledged), has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell and convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 10, of the 18th District, Dekalb County, Georgia, being Lot 20 & 21, Ingleside Subdivision, Dekalb County, Georgia Records, which plat is incorporated herein by reference and made a part of this description.

BEGINNING at a point on the Northeast corner of the Second Avenue and Chestnut Street (not open) and running thence North along the East side of Second Avenue a distance of fifty (50) feet; running thence East a distance of (130) one hundred thirty to a ten foot alley; thence South along the West side of said 10 foot alley (50) fifty feet to Chestnut Street (not open); thence West one hundred thirty (130) feet along the North side of Chestnut Street to the point of beginning.

THIS DEED IS MADE SUBJECT TO that certain Security Deed from EE&M, LLC, and Dewalton Global Enterprises, Inc. to Groundfloor Real Estate I, LLC in the principal amount of \$313,640.00, being recorded in Deed Book 29561, Page 296, DeKalb County, Georgia records.


This deed was prepared with no title examination performed.


(Continued on Page 2)

Support for 293 Ohm Ave variance request



David Narayan <david.narayan@gmail.com>

To  Carter, Lucas J

Cc  info@dewaltonglobalinc.com

 Follow up. Start by Thursday, March 21, 2024. Due by Thursday, March 21, 2024.



 Reply

 Reply All

 Forward



Thu 3/21/2024 8:22 AM

To whom it may concern:

My name is David Narayan and I live at 297 Ohm Ave, Avondale Estates next to the lot at 293 Ohm where Dewalton Global Enterprise is requesting a variance to keep the large tree at the back of the lot. I'm in support of keeping the tree and for the variance needed to keep the tree and its root system intact.

Thanks,
David