



Legislation Details (With Text)

File #: 2021-3160 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 9/24/2021 **In control:** Board of Commissioners
On agenda: 3/22/2022 **Final action:**
Title: 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.

Indexes:

Attachments: 1. Substitute 2022 03.22 Item 2021-3160, 2. TA-21-1245114 ZBOA Criteria Text Amendment Jan 2022, 3. Dir. P&S ZBOA Criterial Text Amendment TA-21-1245114 2021-3160 Staff Report BOC Nov. 2021

Date	Ver.	Action By	Action	Result
3/22/2022	1	Board of Commissioners	approved substitute	Pass
3/8/2022	1	Board of Commissioners	deferred to the next meeting	Pass
1/27/2022	1	Board of Commissioners - Zoning Meeting	deferred for 45 days	Pass
1/25/2022	1	PECS-Planning, Economic Development & Community Services Committee	no official recommendation	
1/6/2022	1	Planning Commission	approval per staff recommendation	Pass
11/18/2021	1	Board of Commissioners - Zoning Meeting		
11/4/2021	1	Planning Commission	deferred for a full cycle	Pass

Substitute

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.

PETITION NO: TA-21-1245114 (2021-3160)

PROPOSED USE: N/A

LOCATION: N/A

PARCEL NO. : N/A

INFO. CONTACT: 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.

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) Approval. (Nov. 4, 2021) Full Cycle Deferral.

PLANNING STAFF: Approval.

STAFF ANALYSIS: 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. The amendments to the first criterion clarify the basis for relief from the *Zoning Ordinance* in the form of an exceptional physical condition which justifies the need for a variance as compared to a favor or special privilege. Additionally, the concept and proposed nomenclature are consistent with local and national planning practice.

Jurisdictions	
Cobb County	"There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;"
Fayette County	"There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;"
City of Atlanta	"There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;"
State of South Carolina	"There are extraordinary and exceptional conditions pertaining to the particular piece of property;"

PLANNING COMMISSION VOTE: (Jan. 6, 2022) Approval 9-0-0. Jana Johnson moved, Gwendolyn McCoy seconded for Approval, per Staff recommendation. **(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: (December 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.