



## Legislation Text

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File #: 2021-3160, Version: 1

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### 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.