

DeKalb County Zoning Board of Appeals
Manual Maloof Auditorium
Wednesday, January 13, 2016
1:00 P.M.

Decisions

Meeting called to order

Members

Rick Callihan, District 1	Present
Larry Smith, District 2	Present
Darryl K. Jennings, Sr., District 3	Leave of Absence
Nadine Rivers-Johnson, District 4	Present
Gina Smith-Mangham, District 5	Present
Dan Wright, District 6	Present
Lois Keith, District 7	Present

A quorum was present

County Representatives: Mike Lober, Counsel for the ZBOA
 Sheree Greenidge, Planning Assistant
 Betsy Stark, Senior Planner

New Business

1. Members discussed a letter to be sent to Commissioner Larry Johnson, representing District 3 on behalf DeKalb County Board of Appeals regarding the extended leave of absence of member Darryl K. Jennings, Sr. A one-page version of the inter-office memo was discussed. It was decided, with a few edits, to copy all members of the Board of Commissioners and that the inter-office memo did not need to be signed by zboa members. A motion was made by Dan Wright to approve the wording. Larry Smith seconded the motion. Lois Keith abstained. Gina Smith-Mangham opposed the motion to send an inter-office mem rather than a letter. Rick Callihan, Dan Wright, Larry Smith and Nadine Rivers-Johnson supported the motion. The motion passed.

2. Rick Callihan made a motion to nominate Nadine Rivers-Johnson, member for District 4, as chair of the Zoning Board of Appeals. Mr. Dan Wright seconded the motion. All members voted in favor of the motion. Ms. Nadine Rivers-Johnson made a motion that Mr. Dan Wright serve as vice-chair. Lois Keith and Gina Smith-Mangham seconded the motion. All members voted in favor of the nomination. It was discussed that if there was a time when both the Chair and Vice-Chair were absent, the members present would decide who would chair the meeting that day.

Rick Callihan, District 1
Larry Smith, District 2
Darryl K. Jennings, Sr., District 3
Nadine Rivers-Johnson, District 4, Chairperson
Gina Smith-Mangham, District 5
Dan Wright, District 6, Vice-Chairperson
Lois Keith, District 7

3. There was discussion regarding some of the wording of the Zoning Ordinance as well as the proposed bylaws. Attention was focused on several areas, to be refined:

a. The bylaws should reference the zoning code by section but should not repeat the code, in the event of future changes.

b. Section 27-7.2.2 E.7 states: "Quorum, voting, and actions by board. A quorum of the zoning board of appeals shall consist of at least four (4) members of the board, except that a lesser amount shall be sufficient to recess or adjourn any meeting; **but no official action shall be taken except upon the affirmative vote of at least four members of the zoning board of appeals**".

Members, including the Board attorney, believe that this wording means that each vote should have four votes to approve or deny. For example if only four members are present but have a split vote of 3-2, the application would be deferred for 30 days.

c. The following section of the code was discussed:

1. Section 27-7.5.2.A. states: "Appeals of decisions of administrative officials.

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 181st 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".

Dan Wright believes that the highlighted area appears to be too long a time period for an administrative decision to be pending and questions if that was the Board of Commissioners intention.

d. Members discussed having a special call meeting to address the bylaws, tweak the preamble, and perhaps prepare a list of recommended changes to the zoning ordinance to present to the Commissioners. Member Dan Wright wants a draft of the bylaws to be available for public comment.

The meeting was adjourned around 4:00 p.m.



Submitted by Betsy Stark, Senior Planner

DEFERRED FROM NOVEMBER 12, 2015 PUBLIC HEARING

D-1 Application No: A-15-20259 Parcel ID: 15-154-08-028

Commission District: 3 Super District: 7

Applicant: Patrick Bohler
3161 Sandusky Drive
Decatur, GEORGIA 30032

Owner: Patrick Bohler

Project Name: 3161 Sandusky Drive

Zoning: R-75 (S-Fam Res. Min Lot 10000 Sq.Ft);

Location: The property is located at the southeast corner of Sandusky Drive and Barbara Lane, at 3161 Sandusky Drive.

Request: Variance requests from the DeKalb County Zoning Ordinance, to:(1) Increase the height of fence from four (4) to five (5) feet in the front yard (Section 27-5.4.7.B.1); (2) Reduce setbacks for attached decks from five feet to zero feet along the east property line (Section 27-5.2.1); (3) Reduce the building setback from Barbara Lane from 12 feet to one foot from the west property line (Section 27-5.1.4); (4) Reduce the rear and side yard setbacks from 15 feet and 7.5 feet respectfully to zero feet (Section 27-4.2.2.D), to bring existing decks, additions, and a detached carport into compliance with the zoning ordinance and construct a new fence in the front yard, relating to the R-75 zoning district.

BOA Action: Denial, of variances to:(1) Increase the height of fence from four (4) to five (5) feet in the front yard; (2) Reduce setbacks for attached decks from five feet to zero feet along the east property line; (3) Reduce the building setback from Barbara Lane from 12 feet to one foot from the west property line; (4) Reduce the rear and side yard setbacks from 15 feet and 7.5 feet respectfully to zero feet, to bring existing decks, additions, and a detached carport into compliance with the zoning ordinance and construct a new fence in the front yard. R. Callihan made a motion to deny all variances. L. Smith seconded. Vote was unanimous to deny.

NEW HEARING ITEMS

N-1 Application No: A-16-20447 Parcel ID: 18-210-02-001

Commission District: 2 Super District: 7

Applicant: Aldi Inc.
1597 Dry Pond Road
Jefferson, GEORGIA 30549

Owner: Northlake Square Llc

Project Name: 4135 Lavista Road

Zoning: C-1 (Local Commercial District);

Location: The property is located on the south side of Lavista Road and Parklake Drive, between Weems Road and I-285.

Request: Variance requests from Section 27-35.1 of the DeKalb County Zoning Code and

Section 21-23(d) of the DeKalb County Sign Code to accommodate proposed signs for Aldi's grocery store, relating to the C-1 and Northlake Overlay District.

BOA Action: Approval, of variances to Section 27-3.35.1.K of the DeKalb County Zoning Code (Northlake overlay district) to waive the requirement that the Aldi wall signs be composed of channel cut letters and from Section 21-23(d) of the DeKalb County Sign Ordinance to change the shape, size and design of an existing ground sign based on the submitted materials received on December 14, 2015. G.S. Mangham made a motion to approve both variances due to the exceptional conditions pertaining to the property as a result of its size, shape and topography. L. Keith seconded the motion. R. Callihan, G. S. Mangham, N. Rivers-Johnson and L. Keith voted to approve the variances. D. Wright and L. Smith voted to deny the variances. The variances were approved by a vote of 4-2.

NEW HEARING ITEMS

N-2 Application No: A-16-20456 Parcel ID: 15-251-01-020, 15-251-01-027, 15-251-01-028

Commission District: 4 Super District: 6

Applicant: Felipe Castellano
133 Johnson Ferry Road
Marietta, GEORGIA 30068

Owner: Metro Atlanta Property Holding

Project Name: Avondale Park Llc

Zoning: C-1 (Local Commercial District);

Location The property is located on the north side of Mountain Drive, approximately 250 feet east of Farrar Court at 3458, 3468, and 3478 Mountain Drive in Decatur, Georgia.

Request: Variance requests from the DeKalb County Zoning Ordinance, to: 1. Reduce the transitional buffer from 50 feet to 25 feet along the west property line (Section 27-5.4.5); and 2. Reduce the rear yard setback for attached single family units from 10 feet to five feet (Section 27-2.23), relating to the MU-5 zoning district (pursuant to CZ-15-19943).

BOA Action: Deferral, to the February 10, 2016 Zoning Board of Appeals meeting. D. Wright made motion for a 30 day deferral. L. Smith seconded. G.S. Mangham abstained. R. Callihan, L.Keith and N. Rivers Johnson voted against deferral. Motion failed. After further discussion, D. Wright again made a motion to defer for 30 days. L. Smith seconded. The vote was unanimous to defer for 30 days.

NEW HEARING ITEMS

N-3 Application No: A-16-20466 Parcel ID: 18-210-03-047

Commission District: 1 Super District: 7

Applicant: Lavista Office Park, L L C
19241 Birmingham Hghwy.
Alpharetta, GA 30004

Owner: Office Park Lic Lavista; Lavista Office Park; Distributors Showcase

Project Name: Lavista Office Park

Zoning: O-I (Office Institutional District);

Location: The property is located on the north side of Lavista Road, approximately 160 feet west of Winding Way at 2163 Northlake Parkway in Tucker, Georgia.

Request: **Variance requests from the DeKalb County Zoning Ordinance, to:**
(1) Increase the letter height for wall signage from 42 inches to 84 inches (Northlake Design Guidelines) for a Sprouts Grocery Store; and
(2) Increase the maximum front yard from 30 feet to 50 feet (Section 27-3.35.9.B.2.a) for two outparcels to accommodate an existing cell tower and provide required sidewalk, relating to the O-I/Northlake Overlay District.

BOA Action: **Approval, of variances to: (1) Increase the letter height for wall signage from 42 inches to 84 inches for a Sprouts Grocery Store; and (2) Increase the maximum front yard from 30 feet to 50 feet for two outparcels based on the submitted sign graphic and site plan received on December 3, 2015. R. Callihan made a motion to approve, based on criteria #2 finding that the requests do not go beyond the minimum necessary to provide relief and do not constitute a grant of special privilege. L. Keith seconded the motion. The members voted unanimously to approve the requested variances.**

NEW HEARING ITEMS

N-4 Application No: A-16-20468 Parcel ID: 18-158-03-033

Commission District: 2 Super District: 6

Applicant: William Franklin
1688 Bridgeport Dr
Atlanta, GA 30329

Owner: Jennifer Franklin

Project Name: 1688 Bridgeport Drive

Zoning: R-85 (S-Fam Res. Min Lot 12000 Sq.Ft);

Location: The property is located on the west side of Bridgeport Circle, about 380 feet north of Belle Isle Circle (at 1688 Bridgeport Dr.)

Request: **Variance request from Section 27-2.6.4 of the DeKalb County Zoning Code, to increase lot coverage from 35% to 41% to build a detached garage, relating to the R-85 zoning district.**

BOA Action: **Approval, of a variance to increase lot coverage from 35% to 41% to build a detached garage, based on the submitted site plan received on December 3,**

2015. D. Wright made a motion to approve the request based on the criteria that the request does not go beyond the minimum to provide relief. G. S. Mangham seconded the motion. Members voted unanimously to approve the variance request.

NEW HEARING ITEMS

N-5 Application No: A-16-20470 Parcel ID: 18-111-04-006

Commission District: 2 Super District: 6

Applicant: Primrose School
1230 Peachtree Street Suite 1200
Atlanta, GEORGIA 30309

Owner: Mark Safra; Toco Medical Llc

Project Name: 2910 N Druid Hills Rd

Zoning: O-I (Office Institutional District);

Location The property is located on the east side of North Druid Hills Road, about 439 feet south of Lavista Road, at 2910 N. Druid Hills Rd.

Request: **Variance request from Section 27-6.1.3.B.5 of the DeKalb County Zoning Ordinance, to allow parking in the front yard, relating to the O-I zoning district.**

BOA Action: **Approval, of a variance request to allow parking in the front yard based on the submitted site plan received on December 16, 2015. D. Wright made a motion to approve, based on the finding that granting the variance would not be materially detrimental. L. Smith seconded the motion. Members voted unanimously to approve the request.**

NEW HEARING ITEMS

N-6 Application No: A-16-20471 Parcel ID: 15-183-24-027, 15-183-24-028, 15-183-24-030

Commission District: 3 Super District: 7

Applicant: Michael Sauer And Jessica Doyle, Llc.
331 4th Ave.
Decatur, GEORGIA 30030

Owner: Saint Philip African Methodist; Episcopal Church Inc

Project Name: 2997-3009 Memorial Drive

Zoning: C-1 (Local Commercial District);

Location The property is located on the south side of Memorial Drive, about 299 feet east of Richard Allen Drive.

Request: **Variance request from Section 27-5.4.5 of the DeKalb County Zoning Ordinance, to eliminate the 50 foot transitional buffer to build private swimming pool, relating to the C-1 zoning district.**

BOA Action: **Approval, of a variance from Section 27-5.4.5 of the DeKalb County Zoning Ordinance, to eliminate the 50 foot transitional buffer to build a private swimming pool, based on the submitted site plan received on December 3, 2015. L. Keith made a motion to approve the request, finding that the variance appears to be the minimum to provide relief, would not constitute a grant of special privilege, and would not be materially detrimental. Motion was seconded by G.S. Mangham and D. Wright. Members voted unanimously to approve request.**

NEW HEARING ITEMS

N-7 Application No: A-16-20480 Parcel ID: 18-106-08-033

Commission District: 2 Super District: 6

Applicant: Julio Lasso
86 Daisy Meadow Trail
Lawrenceville, GEORGIA 30044

Owner: Barbara L Fox Revocable Trust; Barbara Fox

Project Name: 1442 Stephens Drive

Zoning: R-85 (S-Fam Res. Min Lot 12000 Sq.Ft);

Location The property is located on the northside of Stephens Drive, about 87.6 feet west of Lively Ridge Road (at 1448 Stephens Drive).

Request: **Variance request from Section 27-2.6.3 of the DeKalb County Zoning Ordinance, to reduce the west side yard setback from 8.5 feet to 4.9 feet to build a second story on an existing house, relating to the R-85 zoning district.**

BOA Action: **Approval, of a variance to reduce the west side yard setback from 8.5 feet to 4.9 feet to build a second story on an existing house based on the submitted site plan received on December 9, 2015 with the condition that no windows be installed along the western facade if the house is less than ten feet from the house to the west located at 1436 Stephens Drive. D. Wright made a motion to**

approve finding that granting the variance would not be materially detrimental. L. Smith seconded the motion. Members voted unanimously to approve the request.

NEW HEARING ITEMS

N-8 Application No: A-16-20482 Parcel ID: 15-174-02-005

Commission District: 3 Super District: 6

Applicant: Merchant Capital Exchange
300 Colonial Center Parkway
Roswell, GEORGIA 30076

Owner: Henri Byrnes; Elizabeth Byrnes

Project Name: 1971 Josephine Avenue

Zoning: R-75 (S-Fam Res. Min Lot 10000 Sq.Ft);

Location The property is located on the west side of Josephine Avenue, about 250 feet south of Braeburn Circle, at 1971 Josephine Avenue.

Request: **Variance request from Section 27-2.7.3 of the DeKalb County Zoning Ordinance, to reduce the south side yard setback from 7.5 feet to three feet to build a second story on an existing house, relating to the R-75 zoning district.**

BOA Action: **Approval, of a variance to reduce the south side yard setback from 7.5 feet to three (3) feet to build a second story on an existing house based on the submitted site plan received on December 9, 2015 with the condition that no windows be installed along the western facade and the walls be made of fire resistant material if the house is less than ten feet from the house to the south located at 1975 Josephine Avenue. L. Keith seconded motion. All members voted to approve except for G.S. Mangham who abstained from voting.**
