



Z-21-27: Administrative Variance - Tree Ordinance

Overview

What: This Ordinance will delete Section 16-26.003(2) *Exceptions for Preservation of Mature Trees* in its entirety. Further the Ordinance will add Section 16-26.008. The text will allow an administrative variance to zoning setbacks for the preservation of trees in R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4, R-4A, R-4B, R-5, PD-H and R-5 zoning districts.

Why: This ordinance will allow the staff of the Office of Zoning and Development to reduce the required setback on property administratively to preserve trees. This Ordinance is companion legislation to 21-O-0063 the Tree Protection Ordinance rewrite.

Section 1. Section 16-26.003 is being deleted in its entirety. ~~(2) Exceptions for Preservation of Mature Trees: Variances to reduce required setbacks may be granted for the sole purpose of preserving mature trees upon making the following findings:~~

~~(a) That the variance is necessary in order to preserve a mature tree (or trees) with a caliper diameter of eight (8) inches or more which would be lost if the setback requirements were strictly applied. Such a variance may only be granted if the city arborist certifies to the board of zoning adjustment in writing that such tree(s) will be lost either by necessary removal for construction or as a consequence of adjacent construction having an adverse impact on the survivability of the tree by virtue of damage to the root system of the tree(s) or similar dysfunction.~~

~~(b) Any variance granted under the provisions of this section shall include a condition that should the subject tree (s) die as a consequence, direct or indirect, of construction despite the granting of the variance, they shall be replaced, at the property owner's or applicant's expense, in accordance with a tree replacement plan prepared by the city arborist. The property owner or applicant shall be required to notify the city arborist of the death of the tree(s) within 30 days.~~

~~(c) Variances granted under the provisions of this section may be granted by the board only upon its finding that relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.~~

~~(d) Variances granted under these provisions are specifically exempt from the provisions of subsection (1)(a) (c).~~

Section 2: Section 16-26.008 shall read - Administrative zoning setback variances for the preservation of trees.

The Department of City Planning, Office of Zoning & Development is authorized to approve administrative variances on single-family or two-family residential lots to reduce zoning setbacks by up to 80% of their width if recommended by the City Arborist to allow for the preservation of trees.

The City Arborist's recommendation must find that the variance is necessary to preserve trees with a diameter at breast height of six (6) inches or more which would be lost if the setback requirements were strictly applied. Such a variance may only be granted if the City Arborist certifies to the Department of City Planning, Office of Zoning & Development in writing that such tree(s) will be lost either by necessary removal for construction or as a consequence of adjacent construction having an adverse impact on the survivability of the tree by virtue of damage to the root system of the tree(s) or similar dysfunction.

Example: Property zoned R-4.

Front yard setback: 35 ft up to 80% (28 ft) = 7 ft front yard setback

Side yard setback: 7ft up to 80% (5.6 ft) = 1.4 ft side yard setback

Rear yard setback: 15 up to 80% (12 ft) = 3 ft rear yard setback

When: The Zoning Review Board (ZRB) is scheduled to hold a public hearing on May 6, 2021 or May 13, 2021.