

# What The Board Considers: Variance Criteria

Every variance request is reviewed using criteria established in the DeKalb County Zoning Ordinance. These criteria help the Zoning Board of Appeals decide whether limited relief from a zoning requirement is justified.

A variance is not granted simply because a project is desirable, convenient, or like something nearby. The Board must find that the request is tied to the property, limited in scope, and consistent with the purpose of the zoning regulations.

A strong variance request should answer five questions:

- Physical Conditions — What is physically unusual about the property?
- Minimum Relief — Are you asking for only what you need?
- Public Welfare — Will the request avoid harm to nearby properties and the public?
- Ordinance Hardship — Would strict application of the ordinance create an undue and unnecessary hardship?
- Spirit and Purpose — Does the request still fit the intent of the zoning ordinance and the Comprehensive Plan?

If the answer to one or more of these questions is weak, the likelihood of approval may be lower.

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## 1. Physical Conditions

### **Ordinance concept:**

The property must have an exceptional physical condition, such as unusual narrowness, shallowness, shape, topography, floodplain, major trees, steep slope, or other site condition. The condition must not have been created by the owner or applicant.

### **In Layman's Terms:**

*There needs to be something about the property itself that makes it difficult to meet the zoning requirement.*

This could include an unusually narrow lot, an irregular shape, steep topography, floodplain, stream buffer, major stand of trees, existing site constraints, or another physical condition that affects where or how something can be built.

This criterion is about the land, not just the project design. The Board is looking for a condition that is specific to the property and not merely a preference of the applicant.

### **Applicant question:**

What is different about this property compared to a typical property in the same zoning district?

**Helpful evidence may include:**

A survey, site plan, topographic information, photos, tree locations, stream or floodplain information, existing structure locations, or other documentation showing the physical constraint.

**Weak argument:**

“I want to build it this way because it looks better.”

**Stronger argument:**

“The lot is unusually narrow, and the existing house location limits the ability to construct an addition that meets both side yard setbacks.”

## 2. Minimum Relief

The requested variance must be limited to the minimum necessary to provide relief.

The Board may consider whether the project could be redesigned, reduced, relocated, or otherwise adjusted to lessen the need for a variance. A variance should not grant a special privilege that is inconsistent with the limitations placed on other properties in the same zoning district.

In Layman’s Terms:

*Are you asking for only what you need?*

**Weak argument:**

“We are requesting a 15-foot setback reduction because that gives us the largest possible addition.”

**Why this is weak:**

This suggests the request is based on maximizing the project, not limiting the variance to what is necessary.

**Strong argument:**

“The original design required a 15-foot setback reduction. After reviewing alternatives, the applicant reduced the addition and shifted it farther from the property line. The current request is for a 7-foot reduction, which is the smallest amount of relief needed to allow the addition while avoiding the steepest portion of the lot.”

**Why this is stronger:**

This shows that alternatives were considered and that the request was narrowed.

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## 3. Public Welfare

The variance must not be materially detrimental to the public welfare or injurious to nearby property or improvements.

The Board may consider whether the request could affect surrounding properties, neighborhood character, safety, access, light, air, privacy, drainage, or other public concerns.

Plain-language question:

**Will this request avoid harm to nearby properties and the public?**

**Weak argument:**

“We do not think this will bother anyone.”

**Why this is weak:**

This is too general and does not address specific public welfare concerns.

**Strong argument:**

“The proposed structure will remain behind the front building line, will not block sight distance, will not change driveway access, and will direct stormwater away from neighboring properties. The addition is one story and located where it will not create significant privacy, light, or air impacts for adjacent homes.”

**Why this is stronger:**

This addresses specific impacts the Board may consider, including access, drainage, privacy, and neighborhood compatibility

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## 4. Ordinance Hardship

Strict application of the zoning ordinance must cause undue and unnecessary hardship.

A hardship is not the same as inconvenience. It is not enough to say that compliance would cost more, take longer, or require a less preferred design. The hardship should result from the way the ordinance applies to the specific property.

Plain-language question:

**Would strict application of the ordinance create an undue and unnecessary hardship?**

**Weak argument:**

“Meeting the ordinance would make the project more expensive and less attractive.”

**Why this is weak:**

Cost and preference alone usually do not establish hardship.

**Strong argument:**

“Strict application of the setback requirement would push the addition into the steepest portion of

the lot and require greater land disturbance, retaining walls, and tree removal. The hardship results from the combination of the required setback, existing house location, and site topography.”

**Why this is stronger:**

This explains how the ordinance creates hardship when applied to the specific property.

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## 5. Spirit and Purpose

The requested variance must be consistent with the spirit and purpose of the DeKalb County Zoning Ordinance and the DeKalb County Comprehensive Plan.

A variance should provide limited flexibility while still respecting the intent of the zoning district, the surrounding development pattern, and the County’s broader planning goals. It should not function as a workaround to avoid the zoning regulations.

Plain-language question:

**Does the request still fit the intent of the zoning ordinance and the Comprehensive Plan?**

**Weak argument:**

“The zoning rule should not apply because this project would be better for the owner.”

**Why this is weak:**

This treats the variance as an exemption from the ordinance rather than limited relief consistent with its purpose.

**Strong argument:**

“The requested relief would allow reasonable residential use of the property while maintaining the established residential character of the area. The proposal remains consistent with the zoning district’s intent, does not introduce a new use, and does not undermine the development pattern or broader planning goals for the surrounding neighborhood.”

**Why this is stronger:**

This connects the request to the purpose of the zoning district, surrounding character, and Comprehensive Plan consistency.

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### How to Use This Information

A strong application clearly addresses each of these criteria as part of the Letter of Intent (LOI)

If one or more criteria cannot be met, the likelihood of approval is low.

Pre-application meetings are recommended to review your request against these standards before applying.