

11-0-1291

(Do Not Write Above This Line)

AN ORDINANCE BY
COMMUNITY
DEVELOPMENT/HUMAN
RESOURCES COMMITTEE

AN ORDINANCE AMENDING
Sec. 6-4029 OF THE CODE OF
THE CITY OF ATLANTA
RELATING TO THE "POWERS
DUTIES AND FUNCTIONS"
OF THE BOARD OF ZONING
ADJUSTMENT FOR THE
PURPOSE OF DEFINING THE
JURISDICTION OF THE
BOARD AFTER THE
CREATION OF THE
BUILDINGS ENTERPRISE
FUND; CLARIFYING
CERTAIN OTHER LANGUAGE
OF Sec. 6-4029; AND FOR
OTHER PURPOSES.

ADOPTED BY

OCT 17 2011

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

9/13/11

Referred To:

CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred To

CD/HR
9/13/11
CD/HR
CD/HR

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)
Other

Members

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Refer To

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)
Other

Members

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Refer To

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote
- Readings

CERTIFIED
OCT 17 2011
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
OCT 17 2011
Randy Davenport Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

OCT 26 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW



**AN ORDINANCE BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

AN ORDINANCE AMENDING Sec. 6-4029 OF THE CODE OF THE CITY OF ATLANTA RELATING TO THE "POWERS DUTIES AND FUNCTIONS" OF THE BOARD OF ZONING ADJUSTMENT FOR THE PURPOSE OF DEFINING THE JURISDICTION OF THE BOARD AFTER THE CREATION OF THE BUILDINGS ENTERPRISE FUND; CLARIFYING CERTAIN OTHER LANGUAGE OF Sec. 6-4029; AND FOR OTHER PURPOSES.

WHEREAS, to better serve the citizens of the City of Atlanta and those developers and builders who seek permission to perform construction related activities, the consolidation of the functions of various agencies that now regulate those activities such as the Atlanta Fire Rescue Department and the Department of Watershed Management into the Office of Buildings (also from time to time referred to the Code of Ordinances as the "bureau of buildings") is being undertaken; and

WHEREAS, this consolidation of functions into a single operating unit may lead to confusion with respect to the jurisdiction of the Board of Zoning Adjustment; and

WHEREAS, those administrative decisions made with respect to the chapters of the City Code which relate to the regulatory activities for which the Atlanta Fire Rescue Department and the Department of Watershed Management have been never been appealable to the Board of Zoning Adjustment; and

WHEREAS, decisions on whether building permit applications and plans comply with to the chapters of the City Code which relate to the regulatory activities which are under the purview of the Atlanta Fire Rescue Department and the Department of Watershed Management should not be appealable to the Board of Zoning Adjustment even after the consolidation of functions; and

WHEREAS, additional language clarifying the jurisdiction of the Board of Zoning Adjustment will better serve the citizens of the City of Atlanta and those developers and builders who seek permission to perform construction related activities; and

WHEREAS, certain additional language clarifying the terms of Sec. 6-4029 will better serve the citizens of the City of Atlanta and those developers and builders who seek relief from the Board of Zoning Adjustment ; and

NOW THEREFORE, the City Council of the City of Atlanta, Georgia, hereby ordains as follows:

SECTION 1: Section 6-4029 of the Code of Ordinances, City of Atlanta, Georgia, as it currently exists is hereby amended to read as follows with the present language to be stricken indicated by a ~~strikethrough~~ and the language to be added indicated by underlined text as follows:



The board shall have the following powers, duties and functions:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official of the executive branch in the enforcement of the Zoning Ordinance of the City of Atlanta or in the enforcement of any ordinance adopted or amended pursuant to Georgia Code Annotated, Chapter 69-12, as now or hereafter amended (Ga. L. 1957, p. 420, as amended);

a. The board is only empowered to hear appeals which arise from any order, requirement decision, or determination of any administrative official of the executive branch the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) as they may be from time to time amended or renumbered.

b. The board is not empowered to hear appeals concerning any violation of the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) for which a citation has been issued and is currently pending in Municipal Court.

c. The board is not empowered to hear appeals as to whether any administrative official of the executive branch should have provided opportunity or time for any person or entity to correct or remediate any violation of the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) for which a citation was issued.

(2) To authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance of the City of Atlanta as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance of the City of Atlanta will, in an individual case, result in unnecessary hardship, so that the spirit of the Zoning Ordinance of the City of Atlanta shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in an individual case of unnecessary hardship upon a finding by the board on each of the following enumerated factors that:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

b. The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship;

c. These conditions are peculiar to the particular piece of property involved;

d. 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; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the Zoning Ordinance of the City of Atlanta. In



order to prevent substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta, when the relief is granted, the board's relief may reduce the variance requested or include reasonable conditions.

(3) To hear and decide such exceptions to the terms of the Zoning Ordinance of the City of Atlanta, as specified in section 16-28.001 of this code, and in any ordinance adopted or amended pursuant to Georgia Code Annotated, chapter 69-12, as now or hereafter amended (Ga. L. 1957, p. 420, as amended). ~~and No exception may be granted for a use of land or building or structure that is prohibited by the Zoning Ordinance of the City of Atlanta.~~ In order to prevent substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta, when the exception is granted, the board's relief may include reasonable conditions.

(4) In exercising the powers, duties and functions set forth in this section, the board may, in conformity with the provisions of Georgia Code Annotated, chapter 69-12 (Ga. L. 1957, p. 420, as amended), reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may ~~issue or~~ direct the issuance of a permit.

(5) The board shall set forth findings of fact and conclusions with each action of the board under this section; provided however that such findings of fact need not be specifically stated in any particular manner so long as any evidence exists in the record which is sufficient to support its conclusions.

(6) Where any person other than the property owner brings an appeal to the board, the property owner shall be permitted to be heard under such rules as the board may establish.

(7) With respect to an individual parcel, the board may establish such rules as are necessary to prevent substantially the same matter from being heard with one year of the date of its previous finding.

(8) The board will not hear or decide constitutional issues but such issues must be preserved on the record before the board no later than the time of the hearing in order for the issues to be considered on an appeal to the Superior Court of Fulton County.

Section 2: That this ordinance shall become effective upon the Mayor's signature or as specified by City Charter Sec. 2-403.

A true copy,


Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

Oct. 17, 2011
Oct. 26, 2011

RCS# 1478
10/17/11
2:41 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
OCTOBER 17, 2011
ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

Y Smith	NV Archibong	Y Moore	Y Bond
NV Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	NV Mitchell

ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	10-17-11 ITEMS ADVERSED ON CONSENT
1. 11-O-1292 2. 11-O-1383 3. 11-O-1483 4. 11-O-1380 5. 11-O-1371 6. 11-O-1372 7. 11-O-1421 8. 11-O-0815 9. 11-O-1234 10. 11-O-1290 11. 11-O-1291 12. 11-O-1235 13. 11-O-1375 14. 11-O-1376 15. 11-R-1443 16. 11-R-1471 17. 11-R-1444 18. 11-R-1445 19. 11-R-1472 20. 11-R-1485 21. 11-R-1438 22. 11-R-1439 23. 11-R-1440 24. 11-R-1481 25. 11-R-1482 26. 11-R-1406 27. 11-R-1448 28. 11-R-1449 29. 11-R-1450 30. 11-R-1451 31. 11-R-1452 32. 11-R-1453 33. 11-R-1454 34. 11-R-1455 35. 11-R-1456 36. 11-R-1457	37. 11-R-1458 38. 11-R-1459 39. 11-R-1460 40. 11-R-1461 41. 11-R-1462 42. 11-R-1463 43. 11-R-1464 44. 11-R-1465 45. 11-R-1466 46. 11-R-1467	47. 11-R-1468 48. 11-R-1469 49. 11-R-1470