

Ordinance # 016-24; Adopted 09/17/2024

**AN ORDINANCE OF THE COMMISSIONERS OF COWETA COUNTY, GEORGIA
TO AMEND APPENDIX A. ZONING AND DEVELOPMENT OF THE COWETA
COUNTY CODE OF ORDINANCES, AND FOR OTHER PURPOSES**

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Coweta County, Georgia and it is hereby ordained by the authority of the same that Appendix A. Zoning and Development be amended as follows:

DELETE Article 27. *Administration and Enforcement, Section 276. Duties of Director, Board of Zoning Appeals, Board of Commissioners, and Courts on Matters of Appeal* in its entirety.

AMEND Article 28. *Criteria for Variances and Conditional Uses, Section 280. Procedure* as follows:

Section 280. Board of Zoning Appeals, generally.

AMEND Article 28. *Criteria for Variances and Conditional Uses, Section 281. Appeals, how taken* as follows:

Section 281. Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall review all variance and/or conditional use applications at meetings which are open to the public. At a meeting, any party may appear in person or be represented by an agent or attorney. No member of the Board of Zoning Appeals shall participate in any way in a hearing in which he or she has financial or special interest.

No application or reapplication for any variance and/or conditional use affecting the same land or any portion thereof shall be acted upon within six months following the defeat by the Board of Commissioners. Nothing in the ordinance shall prevent the applicant from withdrawing their application no later than seven calendar days prior to the scheduled public hearing. If an applicant requests to withdraw their application in less than seven calendar days prior to the scheduled public hearing, said withdrawal shall require action by the Board of Zoning Appeals.

AMEND Article 28. *Criteria for Variances and Conditional Uses, Section 284. Powers and Duties of the Board of Zoning Appeals* as follows:

The Board of Zoning Appeals shall have the following powers and duties:

1. *Variance and Conditional Use Applications.* The Board of Zoning Appeals has the power to hear requests for variance and conditional use applications

from the provisions of this ordinance. A variance may be recommended for approval only if the Board of Zoning Appeals finds, and states the basis for said findings on the record, all of the following exist:

- A. That one of the following is true, through no action or fault of the property owner or predecessor:
 - i. The property is exceptionally narrow, shallow, or unusually shaped;
 - ii. The property contains exceptional topographic conditions;
 - iii. The property contains other extraordinary or exceptional conditions; or
 - iv. There are existing other extraordinary or exceptional circumstances; and
- B. That the strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property; and
- C. That the requested variance relief may be recommended for approval without substantially impairing the intent and purpose of this ordinance.

The Board of Zoning Appeals shall issue in writing to applicant, within ten (10) days of the hearing, notification of 1) the recommendation to the Board of Commissioners regarding the application (i.e., approval or denial); and 2) the date and time the final decision will be heard by the Board of Commissioners.

- 2. *Conditions.* In recommending the approval of a variance, the Board of Zoning Appeals may attach such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable so that the purpose of this ordinance will be served, public safety and welfare secured, and substantial justice done. Any deviation or revision from a condition recommended by staff shall be clearly set forth in the minutes of the Board of Zoning Appeals.
- 3. *Limitations on variances; improper variance requests.* Variance cannot be given to totally remove a requirement or to exempt a property or applicant entirely from the requirement. If a variance is being sought that is, in the judgment of the director, a request that would constitute a text amendment, then the application shall not be accepted. Variances can only be recommended for approval to alter a numeric value, such as setback, height limit, area limit, and so forth. Furthermore, the Board of Zoning Appeals shall not be authorized to recommend approval of a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied, or to eliminate rather than modify a requirement or regulation. A variance application shall not be accepted if the variance is contradictory to the ordinance (such as reducing a requirement to zero or totally eliminating a requirement).

4. *Self-inflicted hardship.* The Board of Zoning Appeals shall not recommend approval of variances when the hardship was created by the property owner or

his predecessor and shall not recommend approval of hardship variances based on shape or topography for a lot of record. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that do not justify a variance.

AMEND Article 29. Amendments, Section 295. Conditional Zoning, specifically paragraph four as follows:

If the Board of Commissioners adopts a zoning map amendment which contains conditional requirements, such requirements shall become a part of this ordinance and the official zoning map. Such conditions shall be binding upon all owners of the property until removed or modified by the Board of Commissioners. The director shall so indicate in the records of the zoning actions the existence of conditional requirements. Furthermore, should the Board of Commissioners limit the permitted uses of the zoning district by a zoning condition, such property shall thereafter carry the suffix “c” to indicate such property has been conditionally zoned (e.g. C-6c, LMc, Mc, etc.).

SO ORDAINED IN OPEN SESSION, LAWFULLY ASSEMBLED AFTER PUBLIC NOTICE AND HEARING AS PROVIDED BY GEORGIA LAW, THIS 17th DAY OF SEPTEMBER, 2024.

Chairman

Attest: _____
County Clerk