

## ARTICLE XVI

### ZONING BOARD OF APPEALS

#### Section 1600. Zoning Board of Appeals Created

A Zoning Board of Appeals is hereby created.

#### Section 1601. Membership and Appointment

The Zoning Board of Appeals shall consist of five (5) members residing within the City of Buford, Gwinnett County, Georgia appointed by the City Commissioners of the City of Buford, Gwinnett County, Georgia. One member of the Zoning Board of Appeals may be a member of the Planning Commission. No other member of the Zoning Board of Appeals shall hold any other public office in the City of Buford, Gwinnett County, Georgia.

#### Section 1602. Terms of Office

The term of office of each member of the Zoning Board of Appeals shall be for three (3) years, or thereafter until his successor is appointed. However, the terms of the original members of the Zoning Board of Appeals shall be as follows: two (2) shall serve for terms of three (3) years, two for terms of two (2) years and one (1) for a term of one (1) year. Thereafter, each member shall be appointed to serve a term of three (3) years. Members may be re-appointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

Members shall be removable for cause by the City Commissioners of the City of Buford, Gwinnett County, Georgia upon written charges and after a public hearing.

Any member of the Zoning Board of Appeals shall be disqualified to act upon a matter in which the member has an interest.

Zoning Board of Appeals members shall be paid fifty (50) dollars per meeting attended as reimbursement for their services and any expenses incurred in connection with their official duties.

### Section 1603. Officers

The Zoning Board of Appeals shall elect one of its members, other than the member of the Planning Commission, as Chairman and a second one as Vice-Chairman. The Chairman and Vice-Chairman shall serve for one (1) year or until re-elected or until successors are elected. The Zoning Board of Appeals shall appoint a Secretary who may be an employee of the City of Buford, Gwinnett County, Georgia or of the Planning Commission.

### Section 1604. Procedure

The Zoning Board of Appeals shall adopt rules of procedure. Meetings of the Zoning Board of Appeals shall be at the call of the Chairman and at such other times as the members of the Zoning Board of Appeals may determine. The Chairman or, in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witness by subpoena.

The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The Zoning Board of Appeals shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Board of Appeals and shall be a public record.

### Section 1605. Powers of the Zoning Board of Appeals

The Zoning Board of Appeals shall have the following powers:

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the City Manager in the enforcement of this Zoning Ordinance.
2. To hear and decide requests for the Special Exceptions of the Zoning Ordinance upon which the Zoning Board of Appeals is required to pass.
3. To authorize, upon appeal in specific cases, such variances from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Zoning Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship upon finding by the Zoning Board of Appeals that:
  - (a) There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and

- (b) The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and
  - (c) Such conditions are peculiar to the particular piece of property involved, and
  - (d) Such conditions are not the result of any actions of the property owner, and
  - (e) Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Ordinance, and
  - (f) No variance may be granted for a use of land or building or structure that is prohibited by this Ordinance.
4. In exercising the above powers, the Zoning Board of Appeals may, in conformity with the provisions of this Ordinance, reverse decisions or determinations from which the appeal is taken and, to that end, shall have all the powers of the City Manager from who the appeal is taken and may issue or direct the issuance of a Building or Occupancy permit.

#### Section 1606. Appeals to the Zoning Board of Appeals

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any official of the City affected by any decision of the City Manager. Such appeal shall be taken within fifteen (15) days after the decision appealed from by filing with the City Manager and with the Zoning Board of Appeals, a Notice of Appeal specifying the grounds thereof. The City Manager shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Manager certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by the Zoning Board of Appeals or by a restraining order granted by a court of record on application, and notice to the City Manager, and on due cause shown.

#### Section 1607. Required Public Hearings By the Zoning Board of Appeals

Before the Zoning Board of Appeals acts upon an application for a Variance or a Special Exception, it shall hold a public hearing thereon. The notice of the time and place of such hearing shall be published at least fifteen (15) days prior to the hearing in the official organ of the City of Buford, Gwinnett County, Georgia. At the hearing, any party may appear in person or by agent or attorney.

In addition, the City of Buford, Gwinnett County, Georgia shall erect in a conspicuous place on the property involved, a sign which shall contain information as to the Variance or Special Use Exception applied for and the time and place of hearing. Failure to erect and maintain the sign as specified above shall not invalidate the subsequent determination of the Zoning Board of Appeals.

#### Section 1608. Reapplication to the Zoning Board of Appeals

If an application for a Special Exception or Variance is denied by the Zoning Board of Appeals, a reapplication for such Special Exception or Variance may not be made earlier than twelve (12) months from the date of the original application.

#### Section 1609. Appeals from Decisions of the Zoning Board of Appeals

Any person or persons severally or jointly aggrieved by a decision of the Zoning Board of Appeals may present an appeal to the Superior Court. Such an appeal to the Superior Court shall be the same as an appeal to the Superior Court from any decision made by the Court of Ordinary and as specified in Chapter 6-2 of the official code of Georgia except, however, that the appeal shall be filed within thirty (30) days from the date of the decision of the Zoning Board of Appeals. Upon failure to file the appeal within thirty (30) days, the decision of the Zoning Board of Appeals shall be final.

On appeal, the case shall be heard by the Judge of the Superior Court without a jury unless one (1) of the parties files a written demand for a jury trial within thirty (30) days from the filing of the appeal.

#### Section 1610. Administrative Variances

The Director of Planning and Development shall have the power to grant variances (except for density and use variances) from the development standards of this ordinance where, in his opinion, the intent of the ordinance can be achieved and equal performance obtained by granting a variance. The authority to grant such variances shall be limited to variances from the following requirements:

- (a) Front yard or yard adjacent to public street – variance not to exceed ten (10) feet.
- (b) Side yard – variance not to exceed five (5) feet.
- (c) Rear yard – variance not to exceed ten (10) feet.
- (d) Height – variance not to equal or exceed ten (10) feet, provided that no increase in the height for a sign may be granted nor may the variance result in an increase in the number of stories that would otherwise be allowed under the applicable zoning district.

- (e) Buffers – the dimensions or screening treatment of a buffer as required under Section 606 may be reduced by no more than fifty (50) percent where the Comprehensive Plan recommends a more compatible land use on the neighboring property than that for which said property is actually zoned, or in other situations where the achieved; provided, however, that no buffer required as a condition of zoning shall be modified.
- (f) Demarcation of parking spaces – parking spaces may be left unmarked, provided all of the following conditions are present:
  - 1. The parking lot must be designated to serve only a multi-family residential project which is designed and intended for rental occupancy.
  - 2. The parking lots must be designed in relation to the internal circulation system such that the areas reserved for parking are easily identified and clearly distinct from the interior driveways because of their location, design, orientation, or configuration, such as in parking areas with a single interior driveway having parking spaces located perpendicular to and along the sides to delineate the exterior dimension of the single parking bay.
  - 3. Approval for the elimination of the striping has been obtained by the applicant, in writing, from the Traffic Engineering Division of the Engineering Department and the Fire Services Division of the Public Safety Department.
- (g) Accessory structures allowed within the front yard – accessory structures may be allowed within the front yard of residential zoning districts provided all the following conditions are met:
  - 1. The residentially-zoned property contains at least three (3) acres.
  - 2. The accessory structures are limited to a swimming pool, garage/carport, barn, storage building, or other similar structures.
  - 3. The accessory structure is setback a minimum of one hundred (100) feet from the right-of-way and located no closer than forty (40) feet to any side property line. (If the accessory use is for animal quarters, this must be a minimum of one hundred (100) feet from any property line.)
  - 4. The accessory structure shall be screened with walls, fences, or suitable landscaping so that it is not visible from the street.

The Development Director shall have the power to grant variances from the requirements of the Amendment to the 1985 Zoning Ordinance of the City of Buford regarding the keeping of livestock and household pets within residential zoning districts, where, in his opinion, the intent of the amendment can be achieved and equal performance be obtained by granting a variance. Other than for conditions of zoning which specified a minimum area or distances for animal quarters, the Development Director may grant the following variances:

- (a) For livestock or cattery, a reduction of no more than twenty-five (25) feet in the minimum distance to any property line.
- (b) For kennels and fur farms, a reduction of no more than fifty (50) feet in the minimum distance to any property line.
- (c) The minimum distance to any property line for any animal quarters may be further reduced when a property line abuts a flood hazard area, steep slopes, ravines or other features which would provide a separation between the animal quarters and the uses on abutting property equal to or exceeding the minimum requirements of the zoning ordinance.
- (d) The reduction of the minimum area required for the keeping of livestock as specified within the R-100 Single-Family Residence district up to a maximum of ten (10) percent of the minimum area required.
- (e) A reduction of the minimum distance to any property line for animal quarters for wild animals up to a maximum of fifty (50) feet.