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GAZA
Georgia Association of Zoning Administrators

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First- how did we get here?

2017, the Supreme Court issues 3 big decisions

- HB 1405
- Writs of certiorari
- Petitions for Review
- HB 155



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O.C.G.A. § 36-66-3

(1.1) "Quasi-judicial boards or agencies" means any board or agency designated by ordinance to make quasi-judicial decisions.


(1.2) "Quasi-judicial decision" means a final quasi-judicial action that is the exercise of quasi-judicial land use powers, including hearing appeals of administrative decisions and hearing and rendering decisions on applications for variances, administrative permits, or other similar permits not enumerated herein as a zoning decision, pursuant to standards for the exercise of such quasi-judicial authority adopted by a local government. Such term does not include permits issued or decisions made by administrative staff pursuant to the authority designated by ordinance which contains an express right to appeal to a local government board or authority which is subject to these provisions applicable to quasi-judicial decisions.



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O.C.G.A. § 36-66-3

- (4) "Zoning decision" means final legislative action by a local government which results in:
- (A) The adoption or repeal of a zoning ordinance;
 - (B) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
 - (C) The adoption or denial of an amendment to a zoning ordinance to rezone property from one zoning classification to another;
 - (D) The adoption or denial of an amendment to a zoning ordinance by a municipal local government to zone property to be annexed into the municipality;
 - (E) The grant or denial of an application for a special use of property; or
 - (F) The grant or denial of an application for a variance or the imposition or modification of conditions concurrent and in conjunction with a decision pursuant to subparagraphs (C) or (E) of this paragraph, or a subsequent modification to such a variance or condition.



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O.C.G.A. § 36-66-4

- (b) If a zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then:
- (1) The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and
 - (2) A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days nor more than 45 days prior to the date of the hearing.



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O.C.G.A. § 36-66-4

- (c) If the zoning decision of a local government is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is denied by the local government, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the denial of the rezoning by the local government or the conclusion of related judicial proceedings.



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O.C.G.A. § 36-66-4

(g) A local government delegating decision-making power to a quasi-judicial board or agency shall provide for a hearing on each proposed action described in paragraph (1.2) of Code Section 36-66-3. Notice of such hearing shall be provided at least 15 but not more than 45 days prior to the quasi-judicial hearing, with such notice being made as provided for in subsection (a) of this Code section and with additional notice being mailed to the owner of the property that is the subject of the proposed action.



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O.C.G.A. § 36-66-4

(h)(1) Notwithstanding any other provisions of this chapter to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or



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O.C.G.A. § 36-66-4

(h)(3) This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property or when the local government adopts a zoning ordinance or zoning map applicable to the entire land area under the governance of the local government, as opposed to a subset of parcels of land under the governance of the local government.



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**O.C.G.A. § 36-66-5 Policies, Procedures
and Standards for the Exercise**

- (b.1) In addition to policies and procedures required by subsection (a) of this Code section, each local government providing for a quasi-judicial board's or agency's grant, denial, or review of a quasi-judicial matter shall adopt specific standards and criteria governing the exercise of such quasi-judicial decision-making authority, and such standards shall include the factors by which the local government directs the evaluation of a quasi-judicial matter. Such standards shall be printed and copies thereof made available for distribution to the general public.



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**O.C.G.A. § 36-66-5 Policies, Procedures
and Standards for the Exercise**

- (c) The policies and procedures required by subsection (a) of this Code section and the adoption of standards required by subsections (b) and (b.1) of this Code section shall be included in and adopted as part of the zoning ordinance. Prior to the adoption of any zoning ordinance enacted on or after July 1, 2022, a local government shall conduct a public hearing on a proposed action which may be advertised and held concurrent with the hearing required by subsection (a) of Code Section 36-66-4 for the adoption of a zoning ordinance. The provisions of subsection (a) of Code Section 36-66-4 relating to notices of public hearings for the purposes of that subsection shall also apply to public hearings required by this subsection.



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O.C.G.A. § 36-66-5.1

- (a)(2) Quasi-judicial decisions as described in this chapter shall be subject to appellate review by the superior court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided for in Title 5. Such matters shall be reviewed on the record which shall be brought to the superior court as provided in Title 5.



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Effective Dates

- HB 155: Part II of this Act shall become effective on July 1, 2025, and shall apply to all zoning and quasi-judicial decisions occurring on and after such date; provided, however, that no zoning or quasi-judicial decision occurring prior to December 31, 2026, shall be rendered invalid or void if a local government fails to implement the provisions set out in Code Section 36-66-5.1.



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1. The appeal of a rezoning decision is the same as it used to be... a de novo bench trial in front of the Superior Court. The legal standard also remains the same: whether the existing zoning is a significant detriment to the property which is not justified by a substantial public benefit.
2. The appeal of a special use permit is now also subject to de novo review.
3. Appeals of variances and decisions on administrative appeals are record reviews by petition for review.
4. Record review means that it is incumbent upon the party who wishes to appeal to make sure that she gets her evidence in the record prior to the decision being made. Having a transcript or at least a recording of the hearing is also a good idea.



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5. The rule of raising constitutional objections likely still applies to all zoning decisions up for appeal.
6. For rezoning of property, notice must be given 15-45 days before the hearing. For quasi-judicial decisions there is a requirement of notice 15-45 days before the hearing.
7. Where there is a delegation of zoning power to an official or board, then there needs to be policies and procedures that apply, and also standards and criteria that guide the decision.
8. Administrative decisions are not subject to the ZPL procedures **if** there is a designated appeal mechanism to BZA, city council, board of commissioners etc. ...



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Query?

Does the special use permit / conditional use permit still have value?



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How do Overlay Districts work?

Base zoning still applies
Certain uses which are permitted in the base district may not be permissible.
Certain uses which are not permitted in the base district may be permissible.
Some Examples:
Data centers; Mixed uses; Downtown Districts; Architectural Design Criteria



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Recent Zoning Cases of Interest

- Bailey v. McIntosh County, 921 S.E. 2d 382 (2025) – ordinance increasing maximum allowable dwelling size was subject to a referendum under the Georgia Constitution's Home Rule Provision (See Ga. Const. of 1983, Art. IX, Sec. II, Par. IV).
- Tiny House Hand Up, Inc. v. City of Calhoun (Gordon County Superior Court, Sep 11, 2025) – city officials committed a procedural due process violation by misrepresenting the requirements of a zoning district (stating it did not allow homes smaller than 1150 square feet) to a tiny home nonprofit's detriment.



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Questions?

Feel free to call or email me!

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GAZA
Georgia Association of Zoning Administrators

The Georgia Association of Zoning Administrators, also known as GAZA, was founded in 1985 to provide education, training and networking opportunities in order to support and promote professional development in zoning and related fields. GAZA has been created to be a resource specifically to the local planning and zoning professional throughout the state of Georgia.

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