

Bond Case Briefs

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ZONING & PLANNING - GEORGIA

City of Cumming v. Flowers

Supreme Court of Georgia - March 6, 2017 - S.E.2d - 2017 WL 875041

Homeowners filed a complaint seeking a writ of mandamus and an injunction in order to appeal the decision of the city's board of zoning appeals to grant a setback variance to neighboring developer.

The Superior Court, Forsyth County, Philip C. Smith, J., denied city's and developer's motion for summary judgment, but granted their requests for certificates of immediate review. City's and developer's applications for interlocutory appeal were transferred to the Supreme Court and granted.

The Supreme Court of Georgia held that:

- Board decision was quasi-judicial, and thus statute allowing a petition for certiorari applied;
- Local ordinances cannot create means of appeal to the superior court that are not authorized by statute, disapproving *Dougherty County v. Webb*, 256 Ga. 474, 350 S.E.2d 457; and
- A quasi-judicial decision of a zoning board may be appealed by certiorari even if the local ordinance does not so provide, disapproving *Jackson v. Spalding County*, 265 Ga. 792, 462 S.E.2d 361, *Shockley v. Fayette County*, 260 Ga. 489, 396 S.E.2d 883, *City of Atlanta v. Wansley Moving & Storage Co.*, 245 Ga. 794, 267 S.E.2d 234.