

FRANKLIN COUNTY

ORDINANCE NO. 2004-41

AN ORDINANCE AMENDING SECTION 315 OF THE FRANKLIN COUNTY ZONING CODE; PROVIDING TERMS AND CONDITIONS; PROVIDING SEVERABILITY AND REPEALER AND PROVIDING AN EFFECTIVE DATE

315 BOARD OF ADJUSTMENT

315.01 ESTABLISHMENT AND COMPOSITION- The Franklin County Board of Adjustment (BOA) shall be composed of the Board of County Commissioners.

315.03 OFFICERS, RULES OF PROCEDURE, EMPLOYEES AND SALARIES - The Board of Adjustment shall elect a chairman and vice chairman from among its members and shall appoint a secretary who may be an officer or employee of the governing body or the Commission; unless otherwise determined, the Chairman of the Board of County Commissioners shall be the chairman of the Board of Adjustment.. The Board of Adjustment may create and fill such other offices as it may determine to be necessary for the conduct of its duties. The Board of Adjustment shall adopt rules as necessary to exercise its powers and duties as prescribed in Section 315.04 of this ordinance and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall become public record. Meetings of the Board of Adjustment shall be held on the third Tuesdays of each month and at such times as the members may determine.

315.04 BOARD OF ADJUSTMENT-POWERS AND DUTIES-In addition to any other duties assigned by the Board of County Commissioners through the adoption of ordinances the Board of Adjustment shall have the following powers and duties:

- a. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this zoning ordinance or any other applicable regulation or ordinance promulgated by the Franklin County Board of County Commissioners.
- b. Special Exceptions:
  1. To hear and decide such special exceptions as the Board of Adjustment is specifically authorized to pass on under the terms of this zoning ordinance; to decide such questions as are involved in the determination of when special exceptions should be granted; and to grant special exceptions with appropriate conditions and safeguards and to deny such requests when not in harmony with the purpose and intent served by this ordinance.

2. In granting any special exception, the Board of Adjustment shall find that such grant will not adversely affect the public interest.
3. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the standards set forth in this ordinance, the Franklin County Comprehensive Plan, and any other applicable land development regulation adopted by the Board. Violation of such conditions and adopted by the Board. Violation of such conditions and safeguards, when made part of the terms under which the special exception is granted, shall be deem a violation of this ordinance.
4. The Board of Adjustment may prescribe a reasonable time limit within which the action for which the special exception was granted shall be commenced, completed, or both. Unless some other period is prescribed by the Board, the special exception shall expire six months after its grant unless such action has commenced..
5. The Board of Adjustment shall confer with the Planning and Zoning Commission in all cases involving requests for special exceptions.

C. Variances:

1. To authorize upon appeal such variance from the terms of this ordinance as will not be contrary to the public interest when owning to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of this ordinance, the Board of Adjustment must find:
  - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
  - (b) The special conditions and circumstances are not the result of an action by the applicant;
  - (c) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;
  - (d) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant;
  - (e) That the variance granted is the minimum variance that will make possible

the reasonable use of the land, building, or structure;

(f) That the grant of the variance will be in harmony with the general intent and purpose of this ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

2. In granting any variance, the board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the standards of this ordinance, the Franklin County Comprehensive Plan, and any other applicable land development regulation adopted by the Board. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.
3. The Board of Adjustment may prescribe a reasonable time limit within which the action for which the variance was granted shall be commenced, completed, or both. Unless some other period is prescribed by the Board, the special exception shall expire six months after its grant unless such action has commenced..
4. Under no circumstances, except as permitted in this section, shall the Board of Adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this ordinance in the zoning district. No nonconforming use of neighboring lands, structure, or buildings in the same zoning district and no permitted use of lands, structures, or building in other zoning districts shall be considered grounds for the authorization of a variance.

315.05 APPEALS TO THE BOARD OF ADJUSTMENT-Any person aggrieved or affected by any decision of an administration official pursuant to this ordinance may appeal that decision to the Board of Adjustment within 30 days after rendition of such order, requirement, or determination by filing a notice of appeal specifying the grounds thereof. The administrative official from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the Board of Adjustment all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was taken. An appeal to the Board of Adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the Board of Adjustment that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by restraining order which may be granted by the Board of Adjustment or by a court or record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

315.06 HEARING OF APPEALS- The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any interested party may appear at the hearing in person or through an agent or attorney. Appellants may

be required to assume such reasonable costs in connection with appeals as by be determined by the Board through action in setting of fees to be charged for appeals.

- 315.07 REVIEW OF DECISIONS OF THE BOARD OF ADJUSTMENT-Unless superseded by other provisions of state or local law, a person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment may seek judicial relief by filing a petition with the circuit court within 30 days after rendition of the decision by the Board of Adjustment. Review by the court shall be either by a trial de novo, which shall be governed by the Florida Rules of Civil Procedure, or by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules. The election of remedies shall lie with the appellant.
- 330 PENALTIES FOR VIOLATION - Any person found guilty of violating any of the provisions of this ordinance shall be guilty of a misdemeanor and subject to such penalties as prescribed in Chapter 125.69, Florida Statutes. Each day that a violation of this ordinance exists shall constitute a separate offense.
- 340 SEVERABILITY CLAUSE - Should section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- 350 AMENDMENTS - The Board of County Commissioners from time to time, on its own action or petition by county property owners after public notice and hearings as provided by law, and after report by the Commission, may amend, supplement or change the boundaries or regulations herein or subsequently established. Such amendment shall not become effective except by the favorable vote of a majority of all the members of the Board of County Commissioners.
- 360 CONFLICT - Should this ordinance come into conflict with any existing or future ordinance, the more strict shall apply.


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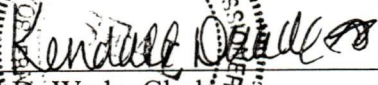
REPEALER - The prior section 315 is hereby repealed and replaced by this ordinance.

THIS ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY LAW

This ordinance was adopted this 17<sup>th</sup> day of August, 2004.

FRANKLIN COUNTY BOARD OF  
COUNTY COMMISSIONERS

By:   
Cheryl Sanders, Chairman

Attest:   
Kendall D. Wade, Clerk

