

COURT OF APPEALS OF GEORGIA

Cobb County v. Murphy

Cobb County · No. A25A1508 · Decided March 16, 2026

SUMMARY

The Georgia Court of Appeals reviewed Cobb County's interlocutory appeal from an order denying dismissal of Ray Murphy's challenges to the rezoning of his property and denial of a special land use permit. The court held that Murphy's challenge to the May 2022 rezoning was untimely and that review of the June 2023 special land use permit denial was limited to the administrative record, precluding discovery. The court reversed in part, vacated in part, and remanded.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Doyle, Presiding Judge; Markle, Judge; Padgett, Judge
JURISDICTION	Court of Appeals of Georgia
DECIDED	March 16, 2026
DOCKET	A25A1508
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from an order denying Cobb County's renewed motion to dismiss and allowing discovery in Murphy's challenge to a zoning reclassification and denial of a special land use permit renewal.
STANDARD OF REVIEW	A ruling on a motion to dismiss is reviewed de novo. Well-pleaded material allegations are viewed as true, but the court need not accept legal conclusions based on those facts.
PRECEDENTIAL VALUE	Published
PARTIES	Cobb County v. Ray Murphy

TOPICS

- zoning
- statutory interpretation
- interlocutory appeal
- writ of certiorari
- discovery dispute

PRACTICE AREAS

- zoning
- administrative law
- appellate procedure
- civil procedure
- municipal law

QUESTIONS PRESENTED

1. Whether Murphy's challenges to the May 2022 rezoning decision were timely when first raised in July 2023.
2. Whether the trial court could permit discovery in a petition seeking review of the Board of Commissioners' denial of a special land use permit renewal.

HOLDINGS

1. A challenge to a zoning decision must be brought within 30 days of the written decision, and that deadline is jurisdictional. Because Murphy did not appeal the May 2022 rezoning within 30 days, the trial court lacked jurisdiction over claims challenging that decision and was required to dismiss them.
2. A challenge to the denial of a special land use permit must proceed by petition for review, and review is limited to the record developed before the local zoning authority. Discovery is therefore not authorized in the proceeding.

KEY QUOTATIONS

“To permit discovery in connection with such a petition is inconsistent with the plain statutory language requiring the trial court to limit its consideration to the facts and evidence presented to the local zoning authority.” (6-8)

FACTUAL BACKGROUND

Murphy owns property in Cobb County that was zoned General Commercial in 1986 and used as an automobile storage yard. In May 2022, the Cobb County Board of Commissioners rezoned the property to Neighborhood Retail and granted Murphy a 12-month special land use permit allowing the existing use to continue; Murphy did not appeal either decision. In June 2023, the Board denied Murphy's application to renew the permit and ordered him to remove the vehicles, prompting his complaint and petition.

PROCEDURAL HISTORY

Murphy filed a complaint and petition for certiorari challenging Cobb County's May 2022 rezoning decision and the June 2023 denial of his special land use permit renewal. After Cobb County moved to dismiss on sovereign-immunity and other grounds, Murphy amended the pleading to remove all defendants except Cobb County. The trial court denied the renewed motion to dismiss, allowed all claims to proceed, and authorized full discovery. After the trial court certified the order for immediate review, the Court of Appeals granted Cobb County's interlocutory appeal; the Georgia Supreme Court had previously returned the application after resolving the constitutional amendment issue in *Warbler Investment, LLC v. City of Social Circle*.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Dismiss the claims tied to the May 2022 rezoning decision and proceed only with Murphy's challenge to the June 2023 special land use permit decision, without discovery and with review limited to the local zoning proceeding's record.

CASES CITED

- Gonzalez v. Miller, 320 Ga. 170, 170(1) (907 S.E.2d 859) (2024)
- Auto-Owners Ins. Co. v. Tracy, 344 Ga. App. 53, 54 (806 S.E.2d 653) (2017)
- Warbler Inv., LLC v. City of Social Circle, 321 Ga. 125 (913 S.E.2d 674) (2025)
- Rowell v. Parker, 192 Ga. App. 215, 216(2) (384 S.E.2d 396) (1989)
- City of Cumming v. Flowers, 300 Ga. 820, 823-24(3) (797 S.E.2d 846) (2017)
- Jackson v. Spalding County, 265 Ga. 792, 793(2) (462 S.E.2d 361) (1995)
- Druid Hills Civic Ass'n, Inc. v. Buckler, 328 Ga. App. 485, 494(3) (760 S.E.2d 194) (2014)
- RCG Props., LLC v. City of Atlanta Bd. of Zoning Adjustment, 260 Ga. App. 355, 361-62(1) (579 S.E.2d 782) (2003)