

NOTICE OF APPEAL FROM THE COURT OF COMMON PLEAS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS
Hon Martha M Rivers Presiding

Case No. 22025 CP 02 02626

Mary K Moulton

Appellant,

v.

The City of Aiken

Respondent

NOTICE OF APPEAL

Mary K Moulton appeals the Order dated May 26, 2026 issued by the Honorable Martha M. Rivers in the above styled action. The Order being filed and served on May 27, 2026

s/ John W. Harte, Esquire
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June 17, 2026

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Aiken Common Pleas

Case Caption: Mary Kate Moulton VS City Of Aiken
Case Number: 2025CP0202626
Type: Order/Electronic Form 4

IT IS SO ORDERED.

/s/ Hon. Martha M. Rivers (2788)

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP0202626

Mary Kate Moulton
PLAINTIFF(S)

City Of Aiken
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Appellant/petitioner appeals the decision of the Aiken County Board of Zoning Appeals ("BZA"). Both parties agree that the appropriate respondent is the BZA and not the County of Aiken as originally captioned. The county is dismissed as a separate named party.

Appellant Moulton alleges that the variance requested (to allow a 6 foot high gate to her fence rather than the zoned 4 foot gate) is necessary for her security and privacy. She alleges the denial of this gate is an unnecessary hardship upon her as property owner and alleges that there is selective enforcement of the ordinance as a neighboring property was allowed a variance. Based upon a review of the record as well as the arguments of counsel, the court denies this appeal.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/26/2026 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

The written record shows that the BZA considered the arguments of Appellant Moulton. She was afforded ample opportunity to present her arguments in her request for a variance and she noted that one of her neighbors had a higher fence and/or gate. The BZA delineated these arguments in its record, including staff recommendations, when issuing its final ruling. This court finds no error of law or other basis for reversing that decision. The court finds that one instance of a variance to another homeowner in the neighborhood does not constitute selective or spot enforcement of the zoning restriction. Furthermore, the court is not swayed by appellant's argument that she is not subject to the restriction because her gates are a different material and/or design from the rail fencing around her property. The court finds these gates are a part of the perimeter fencing and are subject to the zoning restrictions. It is also noted the restrictions predate her ownership. There is no other evidence that would amount to an unnecessary hardship.

Therefore, the appeal is denied.