

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
October 14, 2020

I. Call to order

Chairman Mike Brown called to order the meeting of the Unified Board of Zoning Appeals at 12:02 PM on Wednesday, October 14, 2020 in the 5th floor conference room of the Wells Fargo building located at 201 South Hamilton Street.

II. Roll call

The following persons were confirmed as present at the meeting or via the Zoom video platform:

Board members:

Mike Brown

Kenneth Harless

Austin King

Debby Peppers (via Zoom)

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Greg Williams, Chief Building Official

Robert Smalley, County Attorney (via Zoom)

Others:

Scott Braud

Rickie Autry

Bobby Howard

Don Carter

Todd Harrison

Carl Campbell

III. Approval of minutes from July 8, 2020 BZA meeting

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for July 8, 2020 made by Austin King and seconded by Kenneth Harless. The motion was approved 4-0.

IV. New Business

Appeal Hearing #1

Applicant: Rickie Autry

Property Owner: J & J Properties

Property Address: 4111 South Dixie Hwy (unincorporated Whitfield County jurisdiction)

The applicant was present at the hearing. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is located almost immediately south of the southeast intersection of Carbondale Road and South Dixie Highway and south of the new GDOT roundabout. The 2.38-acre lot contains a strip mall, storage warehouse, and a restaurant. The property is zoned C-2, General Commercial and is located in the unincorporated area of Whitfield County.

Staff explained the owner of the restaurant in the southwest corner of the strip mall constructed a 23'x23' roofed open area for outdoor customer seating. The applicant did not obtain a permit prior to construction but claims his discussions with the building inspection officers led him to believe

he would be able to meet the building setback requirements. After construction, the applicant was informed the building is actually encroaching four (4) feet inside the r/w of South Dixie Highway. The applicant has agreed to remove the portion of the building that encroaches in the r/w but is asking permission to allow the balance of the building to remain. As it currently stands, the entire structure encroaches into the 25-foot front building setback area.

Mr. Autry explained his indoor seating had been reduced from 37 seats to 25 seats due to COVID-19 restrictions. He asked that he be allowed to keep the outdoor seating area to bring his seating back to full capacity. He explained the roofed area sits atop a concrete pad which had been used for parking spaces previous to his construction. Mr. Autry noted even after 4 feet is removed from the new structure, it will be situated approximately thirty (30) feet from the pavement edge of South Dixie Highway.

The applicant requested a **variance from Chart 3.7 of the Unified Zoning Ordinance to eliminate the minimum front building setback for an open structure in the C-2 zoning district.**

Chief building official Greg Williams told the Board he could consider the roofed area as a temporary structure and suggested the Board add conditions if they chose to grant the variance.

After some discussion, Tracy Ward made a motion, seconded by Kenneth Harless, to grant the variance with the following conditions:

1. No part of the structure can encroach on the right of way.
2. It is an accessory structure and not permanent and shall be removed when your business leaves the center.
3. The exterior walls are not to be enclosed with anything other than screen.

The motion passed 4-0.

Appeal Hearing #2

Applicant: Hibbymo Properties

Property Owner: James E. Caylor

Property Address: Towles Way/Cleveland Highway (unincorporated Whitfield County jurisdiction)

The applicant was present at the hearing. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is located along the east side of Cleveland Highway and at the northeast intersection of Maple Grove Road/Cleveland Highway and the planned road entry for the new North Whitfield Middle School. The 2-acre lot is currently vacant but is the site for a proposed 9100 square foot Dollar General Store. The property is zoned C-2, General Commercial and is located in the unincorporated area of Whitfield County.

Staff explained the current zoning regulations for a retail store are 5 parking spaces per 1000 square feet of ground floor area. In this instance, 45 spaces would be the required minimum. It was noted DG corporate offices use a standard parking requirement for their customer base and are proposing 30 parking spaces for a store of this size.

Mr. Howard explained that GDOT has approved only one Cleveland Highway entrance to the retail site which will include a decal lane. The entrance is located in the northern area of the property. A large vacant area will remain south of the proposed building and adjacent to the new entry road for the middle school which is still under construction. Mr. Howard stated he is proposing to fill the vacant remainder area with vegetation instead of asphalt since additional asphalt is not necessary for their parking demand. The vegetation will also provide an additional buffer between the entry road to the new middle school and the proposed retail store

The applicant requested **a variance from Section 5.4 of the Unified Zoning Ordinance to allow a reduction in the number of required parking spaces for a proposed Dollar General store from 45 to 30 spaces.**

Austin King made a motion, seconded by Tracy Ward, to grant the variance as requested.
The motion passed 4-0.

Appeal Hearing #3

Applicant/Property Owner: Hamilton Medical Center

Property Owner: James E. Caylor

Property Address: Towles Way/Cleveland Highway (unincorporated Whitfield County jurisdiction)

The applicant was represented at the hearing by Don Carter with Carter Engineering Group and Todd Harrison with HMC. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is located along the west side of Broadrick Drive and north of Professional Boulevard and the Hamilton Medical Center hospital complex. The 14.63-acre lot is currently vacant, but is the site for a proposed 218-unit apartment complex. The property is zoned R-7, High Density Residential and is located in the unincorporated area of Whitfield County.

Staff noted current zoning regulations allow a thirty-five (35) foot maximum height for a multi-family structure. The site plan describes four apartment buildings with a maximum height of sixty (60) feet. The fire department provided written confirmation they have the firefighting equipment available for use if the 60-foot building height variance is granted. Additionally, a structural/vegetative buffer will be required between the proposed apartment complex and the residential subdivision bordering on the west.

Mr. Carter explained the steep topography of the site requires significant slope areas in order to achieve a level building and parking area. As a result, and in order to achieve a feasible density, two of the buildings will be 4-story and 48 feet in height, and the final two buildings will be 4-story on one end and 5-story on the other end with a total height of 58 feet. Mr. Carter noted the state fire marshall and county fire department had approved his building plans. It was noted that more than the minimum required number of parking spaces will be provided.

Mr. Harrison described the construction as top quality and high end. He explained the hospital anticipates the occupants will include physicians, medical technicians, and nurses.

The applicant requested a **variance from Chart 3.7 of the Unified Zoning Ordinance to allow an increase in the maximum height of an apartment building from 35 to 60 feet.**

Kenneth Harless made a motion, seconded by Tracy Ward, to grant the variance as requested.
The motion passed 4-0.

V. Other business

Staff had no additional business to report.

VI. Adjournment

Chairman Mike Brown adjourned the meeting at 12:45 PM.

Minutes respectfully submitted by: **Jean Price-Garland**