

**UNIFIED BOARD OF ZONING APPEALS**  
**Meeting Minutes**  
**December 15, 2021**

**I. Call to order**

Chairman Mike Brown called to order the meeting of the Unified Board of Zoning Appeals at 12:00 Noon Wednesday, December 15, 2021 in the 5<sup>th</sup> floor conference room of the Wells Fargo building located at 201 South Hamilton Street, Dalton, Georgia.

**II. Roll call**

The following persons were present at the meeting

Board members:

*Mike Brown*

*Kenneth Harless*

*Austin King*

*Debby Peppers*

Staff members:

*Jean Price-Garland, Dalton-Whitfield Zoning*

*Robert Smalley, County Attorney*

*Mike Fowler, Chief Building Official*

*Cathy Taylor, Code Enforcement Officer*

Others:

*Blake Brody*

*Tyler Hurd*

*Mika Caldwell*

*Christopher Caldwell*

*Jack Townsend*

*Yvonne Shelton*

*Terry Shelton*

*Greg Sutton*

**III. Approval of minutes from October 13, 2021 BZA meeting**

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for September 8, 2021 made by Austin King and seconded by Debby Peppers. The motion passed 4-0.

**IV. New Business**

**Appeal Hearing # 1**

**Applicant: Mika Caldwell**

**Owner: Christopher Caldwell**

**Property Address: 135 Lloyd Way (unincorporated county jurisdiction)**

The applicant and property owner were present at the hearing. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property is located on the east side of South Dixie Highway approximately one mile north of its intersection with West Nance Springs Road. The 2-acre parcel is zoned R-5, Rural Residential and is located within unincorporated Whitfield County. Located on the property are the owner's manufactured home and a camper that is the subject of the variance request.

Earlier this summer, the applicant moved her grandmother into the camper on the property. Since August, the applicant has been the focus of a code enforcement case to cease use of the camper as permanent living quarters. The camper has an electrical line running along the ground and leading

from the applicant's manufactured home. There is no septic system for the camper; instead the waste is transported to the nearby Flying J service station for disposal. The county code does not allow a camper to be used as living quarters unless such is located inside an approved RV park or campground, and then only for a maximum of two weeks.

Mrs. Caldwell explained she was attempting to care for her grandmother and thought purchasing the camper and placing it on her property would be an acceptable choice. She explained other living alternatives for the grandmother were more costly than either of them could afford.

**The applicant requested a variance from Section 5-122 of the Whitfield County Code of Ordinances to allow a camper as living quarters.**

Mike Fowler presented the board with a list of life safety issues associated with occupying a camper on a permanent basis. He stated campers are designed for recreational use only. He expounded on the issues of campers and fire safety, emergency ingress/egress, insufficient electrical and heating connection systems, and ground anchoring.

Cathy Taylor stated she had been working an enforcement case with the applicant since August. She stated the applicant's arraignment is scheduled in Magistrate Court later this month with a trial date of January 6, 2022.

Debby Peppers asked the applicant what steps she had taken to move the grandmother out of the camper and into an acceptable living arrangement. Mrs. Peppers asked had she researched the cost of installing a septic system, or purchasing a manufactured home, or surveying the property for subdividing? The applicant stated she had not researched any options as she was hoping her grandmother could live in the camper for the remainder of her life.

Yvonne Shelton, mother of Christopher Caldwell, said she was opposed to the variance due to safety concerns.

Board members expressed their willingness to provide a temporary stay but only if the applicant could provide evidence of plans for moving the grandmother to an approved location, whether that be into another manufactured home at the site or into an addition built onto the applicant's home.

After some discussion, Kenneth Harless made a motion, seconded by Debby Peppers, to postpone the variance decision until February 9, 2022. At that time the applicant will be expected to provide documentation showing the efforts which have been made toward replacing the living arrangement for the grandmother, such as a contract to construct an addition onto the home, or plans in place to replace the camper with a manufactured home, septic system, and survey to subdivide the parcel. Motion to postpone carried by a vote of 4-0.

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## **Appeal Hearing # 2**

**Applicant/Owner: Jack Townsend**

**Property Address: 209 North Frederick Street (unincorporated 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 on the west side of Old Ringgold Road just north of its intersection with Dunnagan Road. The property is a 10-acre rectangle, 325'x1300'. A barn is currently under construction on the site. The property is zoned GA, General Agriculture and is located within unincorporated Whitfield County in a sparsely populated area.

The applicant first applied for a barn permit in 2020 but failed to call for any inspections during the 12-month permit time limit so the permit expired. It was not until the applicant recently began constructing side additions without a permit that a stop work order was issued. The outbuilding encroaches approximately 10 feet into the side setback area.

The applicant stated he plans to eventually construct his personal home on the site. He explained that he chose the barn location mistakenly thinking the side building setback was 10 feet instead of the required 25 feet. Mr. Townsend stated he was trying to stay as far as possible away from his to-be-installed septic system for the planned dwelling.

**The applicant requested a variance from Chart 3.7 of the Unified Zoning Ordinance to allow the continued construction of an agricultural outbuilding, which encroaches up to 10 feet within the required minimum 25-foot side building setback area along the south property line.**

After some discussion, Austin King made a motion, seconded by Debby Peppers, to approve the variance and allow construction of the outbuilding to continue in the location where it is currently situated on the property.

The motion passed 4-0.

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## **Appeal Hearing # 3**

**Applicant: W P South Acquisitions**

**Property Owner: Dalton Board of Education**

**Property Address: 501 West Waugh Street (city of Dalton jurisdiction)**

The applicant was represented at the hearing by Tyler Hurd and Blake Brody. Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property consists of two adjacent parcels fronting along the south side of West Waugh Street and the west side of Jones Street. The buildings on the site are FKA the old city jail facility. The total acreage is approximately 5 acres, currently zoned C-1A, Limited Commercial, and located within the city limits of Dalton.

The site is planned for construction of a 5-story, 234-unit apartment complex. Earlier this year, the applicant received variance approval to reduce the number of required parking spaces from 1.5 to 1.25 spaces per unit, and to increase the allowable building height from 40 to 70 feet.

Mr. Hurd explained the current topography of the site and existing site walls have complicated the design plans for a multi-family complex which also fulfills the needed parking ratio and target unit count. He stated in order to achieve those goals, a 15-foot front-yard building setback is being requested for West Waugh Street and Jones Street. Mr. Hurd further explained that while the developer acknowledges the hardship is financial, if the current required front building setbacks are observed, the planned unit count would be 40 units less than needed to make a return on the investment.

Staff noted the city public works director and city fire chief provided written support of the variance request. The encroachment into the front setback along West Waugh Street and Jones Street will be no more than 10 feet. The sidewalks will be maintained at their current width.

**The applicant requested a variance from Chart 3.7 of the Unified Zoning Ordinance for a reduction from 25 feet to 15 feet for the required front-yard building setbacks for a proposed multi-family facility in the C-1A, Limited Commercial zoning district.**

After some discussion, Debby Peppers made a motion, seconded by Kenneth Harless, to approve the variance as requested.

The motion passed 3-0. (Note: Austin King left the meeting before the vote was taken.)

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#### **Appeal Hearing # 4**

**Applicant: Copper Safe Storage**

**Property Owner: Greg Sutton**

**Property Address: 3953 Cleveland Highway (city of Varnell jurisdiction)**

The property owner 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 south side of Ruby Drive just west of Cleveland Highway. A group of mini-warehouses has been constructed at the site. The 7-acre site is currently zoned C-2, General Commercial, and located within the city limits of Varnell.

Mr. Sutton explained the site is planned for mini-warehouse construction in two phases. He stated the Phase 1 has been graded, graveled, and fenced and four buildings have been completed. He explained the front vacant area of Phase 1 is large enough for construction of another warehouse but will require a variance in order to set the building out of the flow of traffic needed for the existing RV/boat storage building. In order to leave as much room as possible for boat/RV access, he noted the proposed building will be within 8 feet of the front property line. Mr. Sutton further stated the proposed structure will be inside the chain link boundary fence with a solid wall facing the street side

Staff noted the storm water pond for Phase 1 was designed and approved to include the additional impervious area for the proposed new building.

**The applicant is seeking a variance from Chart 3.7 of the Unified Zoning Ordinance for a reduction from 25 feet to 8 feet for the required front-yard building setback for a proposed commercial structure in the C-2, General Commercial zoning district.**

After some discussion, Debby Peppers made a motion, seconded by Kenneth Harless, to approve the variance as requested contingent upon approval by the county fire chief for emergency access to the site.

The motion passed 3-0.

**V. Other business**

Staff reported there was no other business to discuss.

**VI. Adjournment**

Chairman Mike Brown adjourned the meeting at 12:57 PM.

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