

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
October 12, 2022

I. Call to order

Chair Kenneth Harless called to order the meeting of the Unified Board of Zoning Appeals at 12:00 Noon on Wednesday, October 12, 2022 in the 5th 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:

Kenneth Harless, chair

Austin King, vice-chair

Debby Peppers

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Mike Fowler, Chief Building Official

Jake Bearden, County Engineering

Cathy Taylor, County Code Enforcement

Jake Hollis, Dalton City Code Enforcement

Others:

Bobby Howard

David Buckel

Chuck Dobson

Mirna Castellenas

Trevor Brown

Alys Brown

III. Approval of minutes from September 14, 2022 BZA meeting

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for September 14, 2022 made by Tracy Ward and seconded by Austin King. The motion passed 4-0.

IV. New Business

Appeal Hearing #1

Applicant/Owner: Trevor & Alys Brown

Property Address: 907 Dogwood Lane (city of Dalton jurisdiction)

Mr. & Mrs. Brown 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 along the south side of Dogwood Lane in Judd Estates Subdivision. The 0.54-acre lot is currently zoned R-1, Estate Residential and is located within the city limits of Dalton.

The applicants' home is located on the property. The applicants wish to increase the size of the master closet and bath with an 8-foot addition onto the west side of their home. The home is currently sitting 22 feet from the side property line. The owners will need variance to allow a 14-foot building setback off their west property line.

Staff noted the old Dalton Zoning Ordinance only required a 10-foot side building setback. With the adoption of the Unified Zoning Map and Ordinance in 2015, this parcel was rezoned to from R-1A to R-1 which increased the required side building setback to 25 feet.

Mr. Brown stated their plan is to add an 8'x18.5' addition onto the side of their home. The original home was constructed in 1963, and his family is trying to make improvements to increase the value and functionality of the home. He also explained the proposed addition would not be out character for the Judd Estate Subdivision area. Many other residential dwellings and accessory structures in the subdivision are now non-compliant with respect to today's building setback requirements in the R-1, Estate Residential zoning district.

The applicants requested **a variance from Chart 3.7 of the Unified Zoning Ordinance to reduce the required twenty five-foot side yard building setback for a proposed residential addition in the R-1 zoning district.**

After some discussion, Austin King made a motion, seconded by Debby Peppers, to approve the variance as requested to allow an eleven (11) foot encroachment into the west property line building setback.

The motion passed 4-0.

Appeal Hearing #2

Applicant: Hibbymo Properties

Property Owner: John Davis

Property Address: Lake Kathy Road (unincorporated county jurisdiction)

Bobby Howard representing Hibbymo Properties 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 at the northwest intersection of Lake Kathy Road and Tunnel Hill Varnell Road. The 3.2-acre lot will soon be vacant and is the site for a proposed 10,640 square foot Dollar General Store. The property is zoned C-2, General Commercial and is located in the unincorporated area of Whitfield County. The site will be served by public water and public sewer.

Staff explained current zoning regulations for a retail store are 5 parking spaces per 1000 square feet of ground floor area. In this instance, 54 spaces would be the required minimum. DG corporate offices use a standard parking requirement for their customer base and are proposing only 35 parking spaces. The site plan shows a single entrance off Lake Kathy with parking in front of the store and along Tunnel Hill Varnell Road. All truck traffic will be routed along the eastern side of the building with any required storm water controls in the rear.

Mr. Howard explained Dollar General customer parking demand did not exceed 35 spaces. He stated he could squeeze more parking spaces on the site but the additional spaces would be unsafe for customers exiting their cars traveling to the store entrance. He further explained the unneeded extraneous parking spaces would require more storm water detention which would be impractical.

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 retail store.**

After some discussion, Tracy Ward made a motion, seconded by Debby Peppers, to grant the variance to reduce the required number of parking spaces to 35 for the proposed Dollar General store.

The motion passed 4-0.

Appeal Hearing #3

Applicant: Buckel Design Group

Property Owner: Hammond Creek Properties

Property Address: Pleasant Grove Drive (City of Dalton jurisdiction)

David Buckel representing Buckel Design Group 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 at the northwest intersection of the North Bypass and Pleasant Grove Drive. The vacant 12.99-acre site is currently zoned R-7, High Density Residential, and is located within the city limits of Dalton. The site is planned for construction of a 4-story, multi building, 200-unit apartment complex.

The site design shows several accessory structures planned for the complex encroaching into the required building setback area. Additionally, at least four (4) of the apartment units do not meet the minimum square footage size requirement.

Earlier this year, the Dalton City Council requested an amendment to the Unified Zoning Ordinance which reduced the minimum apartment unit size in the R-7 zoning district only in the city of Dalton. Originally, apartment units in the city were required to be at least 900 square feet in size. The amended ordinance now reads as follows:

70% of the total dwelling units must be 900 SF or larger and no dwelling unit shall be less than 700SF.

Mr. Buckel explained the current topography of the site will require significant cut and fill. The east side of the property is constrained by a creek and wetlands which further limit the development of the property. He explained using a nationally accepted prototype module building plan will significantly reduce building costs and offset the costs of site preparation. He noted the average It was noted the zoning ordinance does not currently require a minimum building setback from a private street. However, since the private street for this complex is planned as a future city street, the variance will provide lasting protection for the development. The garages on the N Bypass side will be located a minimum of 50 feet from the edge of pavement even if the setback variance is granted.

Mr. Buckel further stated garages are an important part of the resident amenities. Additionally, site constraints require the garages to be located along the private and public roadways. Doing so will also provide screening of the complex from roadway traffic. The dumpster location is designed to be out of the flow of residence traffic while still easily accessible to the waste management company.

The applicant requested two variances from Chart 3.7 of the Unified Zoning Ordinance:

- (1) **To allow the construction of several tenant garages and outbuildings which will encroach no more than ten feet into the building setback area along the North Bypass and private (future public) road sides of the complex; and**
- (2) **To reduce the total number of apartment units which must be 900 SF or larger to 60% with the remaining 40% no less than 700 SF.**

After some discussion, Debby Peppers made a motion, seconded by Tracy Ward, to grant the variance requests as follows:

- (1) Approve a reduction in the building setback area to no less than five (5) feet for multiple accessory structures; and
- (2) Approve a reduction in the percentages required for apartment unit sizes to no less than 60% which are greater than 900 square feet and no less than 700 square feet for the remaining 40%.

The motion passed 4-0.

Appeal Hearing #4

Applicant/Owner: Mirna Castellenas

Property Address: Brookstone Circle (unincorporated county jurisdiction)

The applicant and her husband 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 along the west side of Brookstone Circle and designated as Lot 42 in Brookstone Subdivision. The 0.17-acre lot is currently zoned R-2, Low Density Single Family Residential and is located within the unincorporated county. The subdivision is served by public water and public sewer.

The applicant's home is located on the property. More than a year ago, the applicant installed a 12'x20' accessory structure and anchored it to a concrete slab behind the home. The applicant was not aware she needed a building permit for the accessory structure so was also not aware of building setback requirements. The accessory structure is situated only 4 feet from the rear and side property lines. The subdivision plat shows the required setbacks as 10 feet from each of the interior property lines. The owner will need variance to allow a 6-foot building encroachment into the south and west property lines.

Staff reported the applicant has been served a notice of violation for the lack of permit and the setback issue. It was also noted the code enforcement action did not result from a complaint from any neighboring property owner.

The applicant requested a **variance to reduce the required ten-foot side and rear yard building setbacks for an existing residential accessory structure.**

After some discussion, Debby Peppers made a motion, seconded by Austin King, to allow the building to remain in place. It was noted this variance only applies to the existing building and not to any addition or alteration of the building.

The motion passed 4-0.

V. Other business

Staff stated there was no other business to report.

VI. Adjournment

Chair Kenneth Harless adjourned the meeting at 12:41 PM.

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