

DALTON-WHITFIELD BOARD OF ZONING APPEALS
Meeting Minutes
May 11, 2016

I. Call to order

Chairman Kenneth Harless called to order the meeting of the unified Dalton-Whitfield Board of Zoning Appeals at 12:00 PM on Wednesday, May 11, 2016 in the council chambers at Dalton City Hall.

II. Roll call

The following persons were present:

Board members:

Mike Brown

Kenneth Harless

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Kent Benson, County Engineer

Greg Williams, County Building Official

Others:

Kevin Silvey

Mike Elrod

Tara Elrod

Sherwood Jones

Frank Mitchell

Ray Dilbeck

Rick Bartlett

III. Approval of minutes from last BZA meeting

Motion to approve the minutes of the April 13, 2016 Dalton-Whitfield Board of Zoning Appeals meeting was made by Tracy Ward and seconded by Mike Brown. The motion was approved 3-0.

IV. New Business

Appeal Hearing #1:

Applicant/Owner: Charles Guess; 4243 Jimmy Drive, Rocky Face (Whitfield County)

Charles Guess was present at the hearing and represented by his attorney, Kevin Silvey. Staff presented a GIS layout of the property, and county engineer Kent Benson explained the circumstances surrounding the case. The subject property consists of approximately 4.40 acres located off Jimmy Drive in C&C Estates Subdivision. The property fronts along a dead end road bed maintained by the county (shown as a 50-foot r/w on the C&C Estates plat.) An outbuilding is located on the property along with a camper shed which is the subject of the variance request. The property owner's home is located on an adjacent parcel north of the subject property. The property is served by public water and private septic system, and is within the unincorporated area of the county.

In 2015, Mr. Guess applied for a building permit to construct a 16'x50' camper shed in the southeast corner of his property. Mr. Guess told the inspections office the road bed was a private drive maintained by Mr. Guess. Building inspector Brent Hullender did not find the road listed in the county right of way records, and as such, the inspector treated the road as a private drive and issued the building permit. Mr. Benson explained that after further research, the road was found to have public water installed and striping by the road department, all which indicated the road

qualified as a public right of way. It was determined the building inspector had made an error in issuing the permit. Building Official Greg Williams further explained Mr. Guess had told the inspections office he planned to construct the camper shed on property he owned further to the north and not close to the road bed. However, Mr. Williams noted Mr. Guess constructed the camper shed at the edge of the pavement such that the shed encroaches approximately thirteen (13) feet into the right-of-way for the county road bed. Mr. Benson explained the applicant had been ordered by the building inspections office to move the camper shed out of the right-of-way and building setback area. Mr. Benson said the county acknowledged the building permit was issued in error and had offered Mr. Guess financial assistance to move the building. Mr. Benson stated Mr. Guess had refused the county's offer, so the county filed a case with Superior Court to force a settlement. Mr. Guess then filed the current variance request to move the building to the edge of the right of way with a zero foot building setback.

Mr. Silvey, as attorney for Mr. Guess, questioned the county's assertion the road bed was actually owned by the county. Mr. Silvey stated the only viable option at this point was to grant the zero foot variance and allow the shed to be moved back an additional twelve feet so that it is off the right of way. Mr. Silvey stated moving the building back any further would be cost prohibitive since the topography of the land would require considerable fill to be added to level the property in order to support the building.

Adjacent property owners, Mike and Tara Elrod, stated their objection to the variance. They claimed the building devalues their vacant lots which front along the county right of way in question.

The applicant requested a variance from Section 3.7 of the Unified Zoning Ordinance to allow a twenty-five foot encroachment into the front building setback area for a residential accessory building on a parcel in the R-1, Estate Residential zoning district.

Tracy Ward made a motion, seconded by Mike Brown, to grant the variance to allow the shed to be relocated with a zero foot building setback if it is determined the road bed is a county-owned right of way.

The motion passed 3-0.

Appeal Hearing #2:

Applicant: Vance Brown; 706 Valley Drive (city of Dalton)

Owners: Vance & Valerie Brown

Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property consists of approximately 0.23 acres located along the west right of way of Valley Drive between W Walnut Avenue and E Franklin Street. The property owner's home and an outbuilding are located on the property. The property is served by public water and sewer, and is located within the city limits of Dalton. The existing outbuilding is proposed to be removed and replaced with a larger garage apartment.

The owner wishes to provide housing for his elderly mother-in-law who can no longer live alone. It is the owner's plan to include a dwelling unit in the second story of a new garage proposed to be located in the rear corner of his property where the existing outbuilding is currently located.

The proposed garage apartment will encroach into the side and rear building setbacks but will encroach no further into the setback area than is already encroached by the existing outbuilding.

Mr. Brown explained the proposed garage will not be visible from Valley Drive. He explained the existing home does not have an extra bedroom/bath to accommodate his mother-in-law. His plan is to move his teenage son out of the house and into the garage apartment in order to move his mother-in-law into the main house. He explained the garage needed to be situated as far back as possible due to drainage ditch running through the rear of the lot, and the need to provide the turning radius necessary to pull a vehicle into the garage.

Building official Greg Williams stated the use of the garage as living quarters for Mr. Brown's son would be considered minimal as it was for temporary personal use. Mr. Williams noted many of the older homes along Valley Drive did not have garages, and had only one or two bathrooms.

The applicant requested a variance from Section 3.7 of the Unified Zoning Ordinance to allow encroachment into the side and rear building setback area for a structure on a parcel in the R-2, Low Density Residential zoning district. Secondly, the applicant is requested a variance from Section 4-1-4 of the Unified Zoning Ordinance to allow a second dwelling unit on a parcel in the R-2 zoning district.

Mike Brown made a motion, seconded by Tracy Ward, to grant both variances as requested. The motion passed 3-0.

Appeal Hearing #3:

Applicant/Owner: Jackie Hall; 706 Lenna Lane (city of Dalton)

Staff presented a GIS layout of the property, and explained the circumstances surrounding the case. The subject property consists of approximately 0.55 acres located at the southwest intersection of Lenna Lane and Sheryl Drive in Judd Subdivision. The property owner's home is located on the property. The property is served by public water and sewer, and is located within the city limits of Dalton.

The owner wishes to expand the driveway and construct an attached garage onto the rear of the home. The proposed garage addition will line up with the wall of the existing house which already encroaches approximately six (6) feet into the required twenty-five (25) foot building setback for Sheryl Drive. It was noted the topography of the property along with the location of existing house does not allow an attached garage in any other location except for the one proposed by the applicant.

Ms. Hall explained the driveway for the existing home is very short and steep and does not provide adequate or safe off street parking. She further explained the existing retaining wall in the rear of the property is crumbling and needs to be replaced. She explained the proposed construction and landscaping project will additionally help to control erosion and stormwater problems. She stated her plan is to build the proposed garage addition using the brick removed from the retaining wall, and to pour additional paving to create a flatter and larger driveway pad. She explained the proposed garage will not encroach any further into the building setback area than has already been encroached by the existing home.

The applicant requested a **variance from Section 3.7 of the Unified Zoning Ordinance to allow encroachment into the front building setback area for a residential accessory building on a parcel in the R-1, Estate Residential zoning district.**

Tracy Ward made a motion, seconded by Mike Brown, to grant the variance as requested.
The motion passed 3-0.

V. Other business

Staff reported there was no other business to discuss.

VI. Adjournment

Chairman Kenneth Harless adjourned the meeting at 12:45 PM.

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