

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
August 9, 2017

I. Call to order

Chairman Tracy Ward called to order the meeting of the Unified Board of Zoning Appeals at 12:00 PM on Wednesday, August 9, 2017 in the council chambers at Dalton City Hall.

II. Roll call

The following persons were present:

Board members:

Kenneth Harless

Austin King

Debby Peppers

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Tracey Crawley, Engineering

Others:

Sarah McCown

Gary Jarrett

John Voyles

Doug Brown

Patricia Epperson

III. Approval of minutes from last BZA meeting

Motion to approve the minutes of the May 10, 2017 Unified Board of Zoning Appeals meeting was made by Austin King and seconded by Kenneth Harless. The motion was approved 4-0.

IV. New Business

Appeal Hearing # 1

Applicant/Property Owner: Sarah McCown; 1722 Brighton Way (Dalton)

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 consists of approximately 4700 square feet and is designated as Lot 27 of the North Oaks Crossing townhouse complex on the west side of Cleveland Highway approximately 1/2-mile north of the North Bypass. The owner's townhouse is located on the property which is served by public water and sewer. The property is zoned R-5, Rural Residential in the city of Dalton.

The applicant wishes to apply for a building permit to construct a heated space addition/screened porch on top of an existing 12x12 concrete patio located off the rear side of her home. It is her intention to provide additional privacy and space from the commercial parking lot adjacent to her property. The addition would also give the flexibility to provide one-level living in the future if

needed for health and safety issues. The rear building setback in the R-5 zoning district is fifteen feet. The proposed addition would encroach five feet into the rear building setback area. There is no other space available on the site for the addition/screened porch without encroaching into the rear building setback area.

Staff noted at least seven other residents on the same road in the North Oaks complex have received variances to construct additions or screened porches which encroach into the rear building setback area. Each townhouse in the complex is completely surrounded by a six to eight-foot-high wooden fence providing some privacy to the residents and also to their adjacent residential neighbors. Staff also noted the addition/screened porch would not be visible from the road.

Ms. McCown explained the proposed addition would be ten feet from the fence at the rear of her property. She further explained it was her understanding the fence was completely within her property boundary and possibly one to two feet inside her property line.

The applicant requested a variance from Chart 3.7 of the Unified Zoning Ordinance to allow the construction of a residential addition to encroach five feet within the 15-foot building setback from the rear property line of a parcel in the R-5, Rural Residential zoning district.

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

Appeal Hearing #2

Applicant: Gary Jarrett

Property Owner: Full Bible Trinity Church; Eber Road (unincorporated county)

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 consists of a vacant one-acre lot located west of Carbondale Road at the northwest intersection of Eber Road and the Norfolk Southern Railroad. The church belonging to the property owner is located west and adjacent to the vacant lot. The property is zoned R-5, Rural Residential in the unincorporated area of Whitfield County.

The applicant is the church pastor. The church wishes to use a recently purchased 1-acre vacant lot which is adjacent to the church property for parking and a cemetery for its members. The Unified Zoning Ordinance requires a minimum site area of five acres for a cemetery established as an accessory use to a church.

Mr. Jarrett explained that before the church purchased the one-acre lot, it was covered in trees and contained an abandoned house which was used by squatters. The church removed the trees and house which resulted in three favorable outcomes – making the church visible to travelers, making beneficial an otherwise rundown property, providing the church with an opportunity to create a parking area and cemetery for its members.

Mr. Jarrett stated the church had been at its current location for 31 years and had a membership of 32 members. He stated it was the church's intention to provide free burial plots for those members

who were on the membership roll at the time of the 1-acre purchase, and to sell burial plots to others. He explained he believed the church could create up to fifty burial plots.

John Voyles spoke in opposition to the variance request. He explained he was not opposed to the proposed cemetery at the site, but would prefer it be located closer to the church building and not in the middle of the open vacant field. He said he had read on the internet that cemeteries could harm property values.

Doug Brown also spoke in opposition and reiterated the same objections as Mr. Voyles. Mr. Brown suggested the cemetery could be situated where the parking area is currently laid out.

Debby Peppers noted moving the cemetery closer to the church would not reduce any negative effect the cemetery may have on surrounding property. Tracy Ward asked the opponents if they had any evidence to support their claims the cemetery would reduce their property values. Mr. Doug Brown said he did not believe people would be interested in buying property which was next to a cemetery.

Patricia Epperson also spoke in opposition to the request. She stated she did not want the cemetery at the location at all. She explained a real estate agent told her the cemetery would lower surrounding property values.

Mr. Jarrett noted the neighbors did not object when the 1-acre lot was being used as a drug house. Mr. Jarrett stated he believed the objections were about more than the effect the cemetery would have on surrounding property values. Mr. Voyles stated he was willing to buy the open field and put up a privacy fence to block the cemetery from the neighboring properties.

The applicant requested a **variance from Section 4-6-5 of the Unified Zoning Ordinance to allow a church cemetery where the site area available for the cemetery is less than the required minimum five acres.**

Noting the conditions for granting a variance had been met, Debby Peppers made a motion, seconded by Kenneth Harless to grant the variance request. The motion passed 4-0.

V. Other business

Staff reported there was no other business to discuss.

VI. Adjournment

Chairman Tracy Ward adjourned the meeting at 12:29 PM.

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