

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
December 13, 2017

I. Call to order

Chairman Tracy Ward called to order the meeting of the Unified Board of Zoning Appeals at 11:57 AM on Wednesday, December 13, 2017 in the council chambers at Dalton City Hall.

II. Roll call

The following persons were present:

Board members:

Mike Brown

Austin King

Debby Peppers

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Tracey Crawley, Engineering

Greg Williams, Building Inspection

Others:

Paul Belk

Billy Vinyard

Henry Tharpe

Trent Williams

Robert Jenkins

Vicky Paniagua

Jim Cole

Judy Pair

III. Approval of minutes from last BZA meeting

Motion to approve the minutes of the October 11, 2017 Unified Board of Zoning Appeals meeting was made by Debby Peppers and seconded by Austin King. The motion was approved 4-0.

IV. New Business

Appeal Hearing #1

Applicant/Owner: Overlook Builders; W Walnut Avenue (Dalton)

Chairman Tracy Ward recused himself from this public hearing explaining his firm is representing the applicant. Vice Chairman Austin King presided over the hearing.

The property owner, Paul Belk, his attorney, Henry Tharpe, and his builder, Billy Vinyard 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 right-of-way of West Walnut Avenue just north of the intersection of West Walnut Avenue and Judd Terrace. The 0.30-acre vacant lot is currently zoned R-1, Estate Residential and is located within the city of Dalton.

The lot in question was platted and approved by the Planning Commission in 1990. It was noted city attorney Jim Bisson had advised staff that setbacks in effect at the time of plat approval are still valid. Setbacks in 1990 for this lot were front-35 feet, sides-10 feet, and rear-25 feet.

In September 2017, the builder was informed by the zoning administrator of the minimum required building setbacks for the lot in question. On October 12, 2017, the builder applied for a permit for a single family dwelling for the lot. Board members were provided a copy of site plan drawn by the builder showing the proposed location of the house within the required building setback area. However, during a subsequent phone call between the zoning administrator and builder on October 16, the zoning administrator provided erroneous information to the builder by telling him the rear setback was only 10 feet. As a result, footings were dug at the 10-foot rear building setback line.

Mr. Vinyard explained the rear wall of the proposed house will be 12 feet inside the rear property line. He estimated the adjacent owner's house was approximately 40 feet from their common property line. Mr. Vinyard explained GDOT is requiring this proposed house on Lot 2 and the house under construction on Lot 1 share a single common driveway. He stated that when he prepared the lots for construction he discovered the topography would not allow the house on Lot 2 to be as close to Walnut Avenue as he originally planned. Given the topography and driveway limitations, he will not be able to fit the house on Lot 2 without the variance.

Trent Williams questioned whether the house under construction on Lot 1 could add onto the rear of the house and place it closer to the property line shared by his lot. He was told the house under construction is 27 feet from the shared property line and no deck or addition can be constructed closer than 25 feet to the property line. It was explained to Mr. Williams the variance request is not for the house under construction on Lot 1.

The applicant requested a variance from required minimum twenty five-foot rear line building setback for a property currently in the R-1, Estate Residential zoning district.

Noting the extraordinary circumstances of the site, Debby Peppers made a motion, seconded by Mike Brown, to grant the variance to allow construction of the house on Lot 2 to proceed with the footings currently in place. The motion passed 3-0.

Appeal Hearing #2

Applicant: Robert Jenkins, attorney

Property Owner: Dorothy Cole Hall Estate; N Grimes Street/Foster Street (Dalton)

The executor of the estate, Jim Cole, and his attorney, Robert Jenkins, and the real estate agent, Vicky Paniagua 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 at the southeast intersection of Foster Street and N Grimes Street. The 0.37-acre lot is currently zoned R-3, Medium Density Residential and is located within the city of Dalton. There are two single family dwellings and one outbuilding located on the property.

The executor of the estate is attempting to subdivide the property such that each single family dwelling is situated on its own stand-alone lot. Because there is only 19 feet distance between the existing houses, it would be impossible to provide the required minimum 10-foot side building

setback between each house and the proposed property line which will separate the two lots. The subdivided parcel as proposed will provide the minimum required lot size for each single family dwelling.

Mr. Jenkins explained the structures in question had been on the property for more than 50 years, and had been occupied as dwellings for more than 30 years. He explained if they were granted the variance, they would come back with a formal plat for signature approval.

The applicant requested a variance from Chart 3.7 of the Unified Zoning Ordinance to allow a reduction in the required minimum ten-foot side line building setback for a property in the R-3, Medium Density Residential zoning district.

Austin King made a motion, seconded by Mike Brown, to grant the variance to allow a subdivision of the property where the property line separating the two existing dwellings will show a side building setback of less than ten feet. The motion passed 4-0.

Appeal Hearing #3

Applicant/Owner: Judy Pair; S Dixie Highway

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 at the southeast intersection of Sherwood Drive and S Dixie Highway approximately ½ mile north of the Carbondale interchange. The 0.96-acre lot is currently zoned C-2, General Commercial and is located within the unincorporated area of the county. A commercial beauty shop, a single family dwelling with swimming pool, and two manufactured homes are located on the property.

The property owner is attempting to convey the entire parcel to her son-in-law. His mortgage company is requiring the single family dwelling and pool be located on its own stand-alone lot. Because there is no distance between the concrete lip of the pool and the beauty shop, it would be impossible to provide the required minimum 15-foot side building setback between the shop and the proposed property line which will separate the shop lot from the dwelling lot. The subdivided parcel as proposed will provide the minimum required lot size for each structure.

Mrs. Pair explained she would be petitioning the Board of Commissioners to rezone the house lot to residential once she was able to subdivide the house and pool from the remainder of the property.

The applicant requested a variance from Chart 3.7 of the Unified Zoning Ordinance required minimum fifteen-foot side line building setback for a property in the C-2, General Commercial zoning district.

Tracy Ward made a motion, seconded by Debby Peppers, to grant the variance to allow a division of the property by survey plat such that the beauty shop building will have a zero-foot setback from the property line separating the beauty shop lot from the single-family dwelling lot. 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 12:35 PM.

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