

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
September 12, 2018

I. Call to order

Acting Chairman Austin King called to order the meeting of the Unified Board of Zoning Appeals at 12:00 PM on Wednesday, September 12, 2018 in the council chambers at Dalton City Hall.

II. Roll call

The following persons were present:

Board members:

Mike Brown

Kenneth Harless

Austin King

Debby Peppers

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Tracey Crawley, Engineering

Greg Williams, Inspections & Enforcement

Matt Daniel, Dalton Fire Department

Others:

Jason Jackson

Paul Belk

Billy Vinyard

Martha Piccola

Trent Williams

III. Approval of minutes from last BZA meeting

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for July 11, 2018 was made by Kenneth Harless and seconded by Debby Peppers. The motion was approved 4-0.

IV. New Business

**Appeal Hearing # 1: Applicant: Jason Jackson; Property Owner: S&S Property Holdings
Property Address: 400 S Hamilton Street (City of Dalton 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 at the southwest intersection of West Morris Street and South Hamilton Street. The 0.34-acre tract is zoned C-4, Transitional Commercial, and is located within the city limits of Dalton.

The applicant/tenant is proposing to build a 35'X40' addition on the west side of the existing commercial building on the site. His plan is to construct the addition the same depth as the existing building and also at the same setback distance from the south property line as the existing building. The existing building is only three feet from the south property line. Staff noted most

buildings in the downtown Dalton area have historically been constructed very close to interior property lines. Staff further noted building setbacks are not even required in the Central Business zoning district across West Morris Street from the site in question. The existing building on this site and on all the parcels on this particular city block are very close to the interior property lines. Staff pointed out the existence of a solid wooden fence between the south property line of the site in question and the adjacent restaurant (Lisa's Café.)

Mr. Jackson explained he planned to add a stock room and two additional garage bays in order to accommodate his expanding business. He explained he wanted to match the width and depth of the existing two-bay garage on the site. In order to meet the front building setback, Mr. Jackson stated it would be necessary for the addition to encroach into the building setback area on the south property line. He noted the structure would have metal siding and roof.

Matt Daniel, fire prevention coordinator with the Dalton Fire Department stated he had no objection to the variance request. Greg Williams, Chief Building Official for Dalton-Whitfield County stated he did not object to the variance but informed the Board the building code regulations would require the rear wall of the structure have a two-hour fire rating with no openings in the wall.

The applicant requested a variance from Chart 3-7 of the Unified Zoning Ordinance to allow construction of a commercial addition which will encroach seven feet into the required minimum ten-foot building setback for a property in the C-4, Transitional Commercial zoning district.

Kenneth Harless made a motion, seconded by Debby Peppers, to grant the variance request to allow the construction of a commercial addition which encroaches seven feet into the required minimum building setback area along the south property line of the property in question, and conditioned upon compliance with the building code with regard to the fire safety requirements for the south building wall. The motion passed 4-0.

**Appeal Hearing # 2: Applicant: Paul Belk; Property Owner: Overlook Builders LLC
Property Address: W Walnut Avenue (City of Dalton 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 along the west right-of-way of West Walnut Avenue just north of the intersection of West Walnut Avenue and Judd Terrace. The 12,000-square foot lot is currently zoned R-1, Estate Residential and is located within the city of Dalton. A new single family home is under construction on the site.

The lot in question is part of the Ingraham Estate plat which was approved by the Planning Commission in 1990. According to city attorney Jim Bisson, 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 December 2017, the owner was granted a rear setback variance for the new construction on the adjacent lot to the north (Lot 2 of the Ingraham Estate). The owner is now asking for a similar variance for the deck under construction on the home for the site currently under appeal (Lot 3 of

the Ingraham Estate). The twelve-foot deck encroaches ten (10 feet) into the required 25-foot minimum rear building setback area. It was noted the builder had designed the house construction as far back from the front of the property as possible due to the steep topography and GDOT required shared driveway with the adjacent property.

Property owner Paul Belk stated he mistakenly assumed the variance issued in December 2017 was for both Lots 2 and 3 under construction. Additionally, builder Billy Vinyard stated he thought decks were not subject to the building setback requirement and knowingly encroached into the rear setback area when constructing the deck on the rear of the homes on both lots.

Martha Piccola addressed the Board with a complaint about the deck on the adjacent Lot 2 also being in the setback area even after the Board had granted the 2017 variance. The Board explained the variance under consideration at this hearing was for the deck encroachment on Lot 3 and not for house or deck on Lot 2. She stated she will continue to pursue her complaint with the building official.

Trent Williams addressed the Board and stated that he had expressed his concerns at the 2017 variance hearing that the Lot 3 house and deck now under consideration would also end up encroaching into the setback area. He stated he had been assured at the 2017 hearing that the deck on Lot 3 could not be built in the setback area.

It was noted the deck could be replaced with a concrete patio which is not considered a structure and therefore not subject to the setback requirement. Greg Williams explained the rear door entry would require a three-foot wide landing but the patio could be constructed up to the landing and all the way to the property line if desired.

The applicant requested a variance to allow a reduction in the required minimum rear building line setback for a property currently located in the R-1, Estate Residential zoning district.

Noting the conditions for granting a variance had not been met, Kenneth Harless made a motion, seconded by Debby Peppers, to deny the variance request. The motion passed 4-0.

V. Other business

Staff reported there was no other business to discuss.

VI. Adjournment

Acting Chairman Austin King adjourned the meeting at 12:28 PM.

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