

UNIFIED BOARD OF ZONING APPEALS
Meeting Minutes
November 14, 2018

I. Call to order

Chairman Tracy Ward called to order the meeting of the Unified Board of Zoning Appeals at 12:05 PM on Wednesday, November 14, 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

Tracy Ward

Staff members:

Jean Price-Garland, Dalton-Whitfield Zoning

Robert Smalley, County Attorney

Kent Benson, Engineering

Tracey Crawley, Engineering

Others:

Zach Hash

Brandon Harrison

Rusty Lount

Donna Witt

III. Approval of minutes from last BZA meeting

Motion to approve the minutes of the Unified Board of Zoning Appeals meeting for October 17, 2018 was made by Kenneth Harless and seconded by Debby Peppers. The motion was approved 5-0.

IV. New Business

Appeal Hearing # 1:

Applicant/Property Owner: Zach Hash

Property Address: 615 Sam Love Road, Rocky Face (Whitfield County 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 east right of way of Sam Love Road in Rocky Face on a residential lot in the Green Valley Subdivision. The 1.01-acre lot is zoned R-1, Estate Residential, and is located within the unincorporated area of Whitfield County. The property owner's personal home is located on the property which is served by public water and an on-site septic system.

Staff explained the property owner is proposing to build a two-story 18'x25' detached garage at the end of his driveway. The zoning ordinance limits the maximum allowable gross floor area for a detached structure to 1000 square feet. The gross floor area for the proposed two-story garage is 594 square feet per floor for a total of 1188 square feet. Additionally, the R-1 zoning district has a 25-foot side setback. The garage is proposed to be placed only ten feet from the side property line. Staff explained there is a natural drainage way through the north side of the property carrying storm water from the subdivision and roads in the area. In addition, placing the garage in the north side of the property would compromise the existing septic system. The only area available for the new 2nd septic system is in the east side area of the property. The owner wants to place the proposed one-car garage at the end of his driveway so he can enter directly into the garage with a minimal extension of his drive.

Staff further noted the side setback was increased from ten feet to twenty-five when the zoning was changed in 2015 from R-2 to R-1 for lots in Green Valley Subdivision. The side setback in this area was ten feet until the UZO was adopted in 2015. It was noted there are many outbuildings in this subdivision which are within ten feet of the side or rear property line. The Board was provided evidence the Environmental Health Department will issue a permit for a 2nd septic system on the property exclusively for the bathroom in the garage.

When questioned, Mr. Hash stated the garage would not be used for living quarters but would be used for auto storage on the ground floor with one large room and bathroom on the upper floor.

The applicant requested two variances with respect to the proposed construction of a detached garage; (1) a variance from Section 4-6-10 of the Unified Zoning Ordinance to allow a 118 square foot increase over the maximum allowable 1000 feet of gross floor area, and (2) a variance from Chart 3.7 of the Unified Zoning Ordinance to allow a side setback of 10 feet instead of the required twenty-five-foot setback for a structure in the R-1, Estate Residential zoning district.

Noting the conditions for granting a variance had been met, Austin King made a motion, seconded by Debby Peppers, to grant both variances as requested. The motion passed 5-0.

Appeal Hearing # 2:

Applicant/Property Owner: Brass Holdings (Brandon Harrison & Rusty Lount)

Property Address: Crow Valley Road (Whitfield County jurisdiction)

The applicants 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 east right of way of Crow Valley Road and north of Willowdale Road. The 3.14-acre lot is zoned R-7, High Density Residential, and is located within the unincorporated area of Whitfield County. A small home is located on the property which is served by public water and public sewer. The property is surrounded on three sides by the city of Dalton jurisdiction.

The property owners are currently involved in a rezoning request to change the zoning to R-4, Zero Lot Line Residential. At question is the right of way width of the new proposed road for the single family subdivision development. The owners have designed a 22-lot subdivision such that the

new road right of way is only 34 feet in width. County road construction regulations require a minimum right of way width of 50 feet for a local street with curb and gutter.

County Engineer Kent Benson attempted to explain the county's reasoning for the 50-foot minimum right of way width. He explained 50 feet was the minimum width required but the width may increase with this particular project due to the topography and 20% grade change for the site. Mr. Benson pointed out the maximum grade allowed is 18%, and gave Dug Gap Mountain Road by the Trade Center as an example of a 9% grade. When questioned by board members, Mr. Benson stated the steeper the grade, the harder it is to maintain the right of way, and reducing the right of way would reduce the area a backhoe could maneuver without damaging private property. He further explained when the utilities are placed within the right of way, they are allowed by permit, and any future costs for utility alteration resulting in road repair would then be borne by the utility company. If the right of way is reduced and utilities are allowed to be constructed inside easements on individually owned property, it would greatly increase the liability the county would incur if the utilities had to be moved. It would also mean liability for the county if property outside the right of way was damaged due to road repair/maintenance.

It was noted the city of Dalton public works would likely accept the 34-foot road right of way width if the property were annexed into the city. The likelihood of annexation is high since the property is surrounded on 3 sides by property within the city. One board member remarked annexation would be easiest from a practical standpoint.

Brandon Harrison explained he would lose up to 3 subdivision lots and potentially \$75,000 revenue if he had to meet the county minimum right of way requirements. He asked if the utilities (water and sewer) could be placed in the right of way. Mr. Benson stated that would not be allowed. Mr. Harrison noted it would be easier to sell lots/houses if they were inside the city and owners could send their children to city schools.

The applicant requested a variance from Section 14-49 of the Whitfield County Site Design Ordinance to allow a 34-foot right of way width for a proposed new road construction for a residential subdivision.

Noting the conditions for granting a variance had not been met, Debby Peppers made a motion, seconded by Kenneth Harless, to deny the variance request. The motion passed 3-1 with Tracy Ward voting against the denial. Mike Brown recused himself from the vote.

V. Other business

Staff had no other business to report.

VI. Adjournment

Chairman Tracy Ward adjourned the meeting at 1:07 PM.

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