



LUMPKIN COUNTY
Board of Commissioners
Appeal Hearing Agenda
Commissioners Boardroom
99 Courthouse Hill
Dahlonega, GA 30533

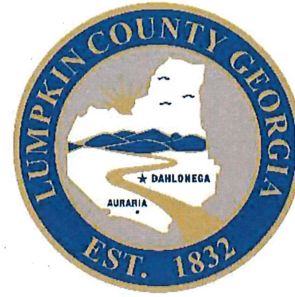
November 7, 2023
4:30 PM

- **Call to Order**
- **Appeal Hearing**

Appeal for Planning Commission Denial of Building Setback Lines Variance Request for a Tiny Home at 615 Laurel Point East

- **Adjournment**

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Call to Order

The meeting was called to order at 5:01 pm. Present were Chairman Chris Dockery and Commissioners Tucker Greene, Bobby Mayfield, Rhett Stringer, and Jeff Moran.

***Motion:** Commissioner Stringer moved to approve the agenda and was seconded by Commissioner Mayfield. The motion was approved and carried.*

Appeal Hearing

Appeal for Planning Commission Denial of Building Setback Lines Variance Request for a Tiny Home at 615 Laurel Point East

Chairman Dockery explained the purpose of the meeting and the process for the appeal hearing. He read aloud the section from the Code of Ordinances pertaining to appeal hearings. Planning Director Rebecca Mincey presented the appeal packet from the applicants, Mario Boles and Angie Rink. She read aloud the minutes from the September 11, 2023 Planning Commission meeting where the variance request was initially denied, and she read the appeal statement letter from attorney George Butler, who was representing the appellants.

Chairman Dockery then stated the procedural rules of the hearing and allowed Mr. Butler to speak on behalf of the appellant. Mr. Butler stated he is here to prevent a lawsuit. He argued that the County validly issued his clients a building permit, and he is not claiming that the Planning Commission denied them a variance erroneously. Instead, he argues that both the Planning Commission and the Planning Department staff were misled by certain language in section 26 -253, causing them to think a variance was needed. Mr. Butler said reading the ordinance shows that his clients were entitled to their building permit and all they required was a 20-foot setback. Their tiny home is 28 feet from the side lot line. Instead, staff believed they have an easement and have to be 50 feet off of the easement. Mr. Butler argued there has been a loss of institutional knowledge since the departure of Planning Director Bruce Georgia and Public Works Director Larry Reiter, leading to the confusion. He spoke to Larry Reiter to confirm his understanding that there are multiple reasons a 50-foot setback does not apply here. He submitted a signed affidavit by Larry Reiter with a statement and documents supporting his position to the County Clerk for the record.

Mr. Butler continued. Based on his consultation with Mr. Reiter, he argued that there was no need to seek a variance in the first place. He went over the sections of the code that discuss setback requirements. Mr. Butler made several arguments about the required setbacks and the nature of the easement. He argued that this easement is not actually an ingress- egress easement, as it was the original surveyor, not the County, that labeled it as such on the plat. It does not give principal access, nor is it frontage. Additionally, the property in question is not a Class I or Class II subdivision.

Matthew Dominick, the attorney representing the appellant's neighbors, spoke in opposition to the variance. He complimented Mr. Butler and said the appellants could not have hired a better attorney. He said Mr. Butler's argument is that the ordinance needs to be rewritten, but Mr. Dominick said the ordinance is what it is. He argued that the minimum setback here should be 50 feet, and it is called an ingress-egress easement on the plat itself. Mr. Dominick also discussed the covenants for the neighborhood, which states you have to stay at least 35 feet from the property lines. He asserted that the applicants were aware of these covenants and ignored them. The matter has now escalated into a lawsuit between the applicants and their neighbor. Mr. Dominick said the applicants should have sought a variance before beginning construction. He asked for a show of hands from the audience from neighbors who were against the variance, and multiple people raised their hands.

Brian Hollis, a resident at 289 Laurel Pointe East, was opposed to the granting of the variance. He empathized with the challenges that the applicants have had to face, but he believes their hardship is self-imposed. There was some important information that was not disclosed in their variance request application, including some information about the topography and covenants. Mr. Hollis said this could affect the future rights of everyone in the neighborhood, and not all avenues have been explored to resolve the situation.

Julie Lester of 115 River Shoals Road said she does not agree with the tiny home idea at all, and the covenants are still in place.

After comments from those opposed to the variance, George Butler was given an opportunity for his rebuttal. He said there may be covenant issues, but those would be settled in the court as part of the lawsuit. The County Commissioners cannot remedy all of these ills; their job is to oversee administration of the ordinances. Mr. Butler said he has shown three different reasons why the variance is unnecessary and how no new setbacks are created in this situation. The appellants were entitled to their building permit. That does not mean they win the lawsuit, as the HOA requirements may be different. In conclusion, Mr. Butler argued that the variance was not necessary, and he urged the Commissioners to carefully consider the matter before rendering a decision.

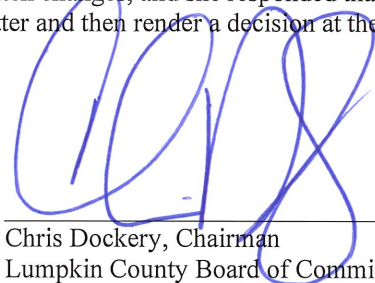
Chairman Dockery made some observations about discrepancies on the application about the square footage and estimated cost of the project. He also noted where the applicant signed the statements certifying everything in the application was true, and it is the applicant's responsibility to notify the Planning Department of any changes. He asked the Planning Director if there had been any submitted written changes, and she responded that there had not been. Chairman Dockery said they will need to research the matter and then render a decision at the regular meeting.

Adjournment

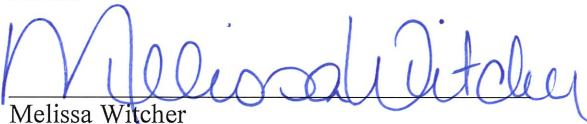
The meeting was adjourned at 6:24 pm.

December 19, 2023

Date


Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:



Melissa Witcher
Clerk, Lumpkin County