

**CITY OF METTER  
PUBLIC HEARING  
MONDAY, MAY 9, 2022  
5:15 P.M.**

A public hearing was held on Monday, May 9, 2022, at 5:15 p.m. in the Training Room at the Metter Police Department located at 805 E. Lillian St.

Attending the hearing were the following officials:

Mayor Edwin O. Boyd  
Councilwoman Rashida Taylor  
Councilwoman Chyrileen Kilcrease  
Councilman James McKie  
Councilman Brandon Sikes  
Councilman Gregg Stewart  
City Manager Carter Crawford  
City Attorney Brent Carter  
Public Works Director Cliff Hendrix  
Police Chief Robert Shore  
City Clerk Angie Conner  
Fire Chief Jason Douglas  
Jerri Goodman – Metter Advertiser

Guests included the following:

Gary Lescak and partner  
Bryan Aasheim – Candler County Administrator  
Glyn Thrift – Chairman, Board of Commissioners of Candler County  
Greg Strickland  
Tammy Strickland  
Richard Salva  
Dylan Joiner

**CALL TO ORDER AND WELCOME**

Mayor Boyd called the hearing to order and welcomed everyone.

**PURPOSE**

To consider an appeal made by Gary Lescak, Lescak Enterprises, Inc. at 18 SE Broad Street, Metter, Georgia requesting to rescind the notice of violation and cease and desist order from the City Attorney dated March 9, 2022.

## **PRESENTATIONS**

Mr. Lescak said that he disagrees with the city attorney. He said that he consulted with legal counsel, and he did not understand the problem or why there is an issue. He said that what I am doing is permissible and that there must be some kind of mistake or misunderstanding.

Mr. Lescak said that he paid a fee to present this appeal. He said that this discriminates against people who can't afford to pay the fee to stand up for their rights. Mr. Lescak said that the city ordinance does not mention a fee for an appeal. There is no reason I should have to pay to give my side of the story. This is not very fair to have to pay to answer allegations.

Mr. Lescak also had a problem with the public notice. He thinks the notice undermines the power of authority of the board because it is supposed to be the zoning board. He also thinks it includes misinformation that might influence the decision.

Mr. Lescak said he has never discussed a conditional use permit or never requested a conditional use permit. He said that he does not need a conditional use permit for a permissible use. He said it states that Gary Lescak is using the property as a dwelling without obtaining a conditional use permit. There was no mention of a conditional use permit in the Cease and Desist (C and D) letter. Introducing a conditional use permit implies that it has already been decided that my use is not permissible. That should not be part of the public notice. When in fact that is what we are here for is to decide. He said that you are supposed to be the public authority here for a dispute on the zoning ordinance and be the expert in the zoning ordinance and how it is interpreted. What they are making there is an allegation and drawing a conclusion.

Brent Carter, City Attorney asked Mr. Lescak to wrap it up since he was already over his time limit. Mr. Carter said he would give Mr. Lescak a little more time but not 30 minutes. Mr. Lescak said that the announcement says he has ample time. I haven't gotten to the C&D part yet. Mr. Lescak questioned getting 5 minutes for #100. He doesn't think the city should have charged. Everything he is saying is relevant. If you are in that big of a hurry and can't hear the appeal, then it doesn't seem like much of a process here. Even the notice itself is unfair. It is an allegation with a conclusion. The conclusion is only valid if the allegation is true. That shouldn't even be in the public notice.

The other thing is you are inviting public comment. The purpose of this meeting is to hear public comments. Mr. Lescak disagrees. The purpose of this meeting is for the board to determine what the ordinance says as the appealing authority. He thinks public comment is inappropriate. Allowing for public comment means this board can be swayed by the public's opinion of what the ordinance says.

Mr. Lescak said that the C&D letter references a nonconforming use. A very broad topic, specifically when you allege a nonconforming use as a dwelling. The city attorney stated

that he sent the letter, but the allegations were not made by him. Mr. Lescak asked is there a specific ordinance that does not allow dwellings in the CBD. City Manager Crawford said yes it does. In the zoning ordinance it says conditional use only for residence in CBD. City Manager Crawford said there is a listing in the zoning ordinance for each zoning category and it lists what can be in each category. In a CBD residential has to be a conditional use passed by council. City Attorney Carter said that is located on page 182.19 in the ordinance book. A dwelling in the CBD district is only allowed by a conditional use approved by city council.

Mr. Lescak said that this is the wrong section. If you go to Article 6 List of Permissible and Conditional Uses, it is very clear on that. Mr. Lescak said that boarding – rooming house is permissible in CBD according to this Article. This is not a personal matter but a business matter. The C& D was addressed to Gary Lescak Martial Arts Academy. That is neither the owner nor the principal occupant. The owner of the property is Lescak Enterprises, Inc. It is a Chapter S Corporation registered with the State. The main tenant there is Lescak Enterprises, Inc. corporate office. One of the uses there is boarding-rooming house. The last 3 ½ years Lescak and his partner have been paying rent.

City Attorney Carter asked Mr. Lescak to wrap this up. We have given you ample time. You need to let us know what you are appealing. I don't think we have heard yet what you are appealing.

Mr. Lescak said that a boarding house-rooming house is a permissible use in CBD. This cooperation has been accepting rent for 31/2 years and we have been using it for this purpose since 1999 because we have had guest instructors and students that have stayed there. Mr. Lescak said that we have rented a room and that is a permissible use. When you use the word dwelling if you look at your definitions under 2.18 Dwelling, a building or portion of a building arranged or designed to provide living quarters for one or more families. The terms “dwelling”, “Dwelling unit”, and “residence” are synonymous. Also in that same definition boarding, lodging use which is a use or rooming house – a dwelling where meals or lodging are both provided. Now your permissible uses say that you can have a boarding house there as a business. Your definitions link boarding house and dwelling exactly together, so this use has been permitted and in fact you never investigated the matter at all. Nobody ever spoke to me about the situation. You just assumed this and jumped to conclusions that this use strictly residential thing, but I have a business office there and it is a permissible use and by your own definition dwelling is included in that permissible use.

City Attorney Carter said we have procedures, and I am going to ask you to sit down now. He asked council if anyone else had any questions for Mr. Lescak. Councilwoman Kilcrease wanted to know what the appeal is because she doesn't have a clear understanding of what the appeal is. He has quoted all our ordinances and uses but what is he specifically appealing. Mr. Lescak said he is appealing the C&D order that he received from the city attorney. What he is saying is this is a nonconforming use but I'm saying it is permissible. He is saying that I can't exist as a boarding house, but I have shown you in your own ordinance that it is permissible.

City Attorney Carter asked Mr. Lescak if he is considering this as a boarding house and not a dwelling. Mr. Lescak said he is saying it is a boarding house and a boarding house you are dwelling, and you can be dwelling by your own definitions in the code.

Councilwoman Kilcrease said but did you get the special zoning permit to use your property as that? Mr. Lescak said there is no special zoning permit for that. That is a permissible use under Article 6. I have a business there which is one of the uses for this cooperation. This is not a personal residential matter. But that is what they are saying which in fact is not the truth. Councilwoman Kilcrease asked who resides there? Who is boarding there? Mr. Lescak said myself and my partner both pay rent to the cooperation from our personal funds. We pay every month and have since September 2018 for IRS purposes. We use one room that is in the cooperate office which is clearly allowed here by your own ordinance and by your own definition. Councilwoman Kilcrease said you are saying that your boarding room is a house inside your business. Mr. Lescak said yes. Councilwoman Kilcrease said then how can you not be in compliance? Mr. Lescak said that he is in compliance. Councilwoman Kilcrease said how can you use your business as your dwelling? Mr. Lescak said that the business is the corporate office which you can designate a room to be a boarding room. We rent that one room with bathroom privileges. Its really no different than the counselor's office where he is at. If that was in CBD, then he could spend the night there. City Attorney Carter said that his office is not on appeal here your business is, so you don't get to ask me questions. Mr. Lescak said that he was not asking him questions.

City Attorney Carter asked if anyone else has any questions and if not, we are going to move this along. City Manager Crawford asked Mr. Lescak to put in writing how many people are living in your boarding house. Mr. Lescak said he would. There are two of us. City Manager Carter said to put that in writing because there are rules for boarding houses through the state. There are state requirements for boarding houses. Send how many people in writing to me and we will turn it over to the Fire Chief. Mr. Lescak agreed he would.

City Attorney Carter said he personally didn't understand Mr. Lescak's appeal. He was curious as to what Mr. Lescak was appealing but he understands now that Mr. Lescak disagrees with it being classified as a dwelling instead, he feels it is a boarding house. Mr. Lescak said that he is saying that the dwelling and boarding house are compatible. City Attorney Carter said that we can agree to disagree on that, but it doesn't say anything in your appeal regarding a boarding house that's why we were all confused. We understand your appeal now and will have the fire inspector contact you. Your appeal said nothing about a boarding house. There are certain requirements that have to be met for a boarding house. We will have the Fire Chief to follow up on that. That is as far as we can take it right now, unless anyone else has any questions but I think he stated clearly what his appeal is now. Mayor Boyd thanked Mr. Lescak.

Mr. Strickland, who owns a business downtown, requested that if we are going to have residential dwellings-boarding houses downtown then we need to have a time limit on parking. Mayor Boyd thanked Mr. Strickland for his comment.

Public Hearing, May 9, 2022

**ADJOURNMENT**

After no further discussion, Mayor Boyd closed the hearing.

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Angie Conner, City Clerk