

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**April 14, 2005**

The Spalding County Appeals Board held its regular monthly meeting on April 14, 2005 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Dennis Richardson, Chairman, presiding, Jon Baird, Doug Hardwick, Charles Perdue, JoAnne Phinazee, Allan McCallum, and J. D. Smith.

Also present were: Chad Jacobs, Senior Planner, Newton Galloway, Attorney, and Yvonne Langford to record the minutes.

Mr. Richardson called the meeting to order and had the members of the Appeals Board introduce themselves. He invited anyone present that was not the applicant and wanted to address the Board on any of the applications to come forward and sign the request form.

**Application #05-05S:** Lee Wall, Owner – Lakeside Road (204.996 acres located in Land Lots 74 & 75 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow one-acre lots (Country Club) in the R-2 district.

Lee Wall – 5650 Highway 42, Ellenwood, Georgia

Mr. Wall had a copy of his proposed subdivision site plan. He requested a special exception for one-acre lots using the Country Club design. The property is located on the southeast corner of Aerodrome Way and Lakeside Drive. The development will consist of 205 acres which includes 52 acres of green space. He went over the plans for the development. There will be three access points to the property. Where feasible, he has put buffers around the perimeter of the property. The main portion of the green space is in the center of the property and includes a lake. The amenities are a picnic area, walking trail, clubhouse, and playground for children. The walking trail will connect with the sidewalk system throughout the neighborhood and the smaller green space area. There is a 13-acre open, flat area that can be used for whatever the community chooses. The staff recommendation is for approval based on five conditions which are acceptable to him. The conditions are:

1. Front porches will be finished in character with the design of the houses.
2. Provide new house design to replace the split level foyer design.
3. The clubhouse will be a minimum of 1750 SF in size.
4. A streetscape plan will be submitted
5. The playground will meet county's playground design criteria.

He requested the Board to accept the staff recommendation and approve the application.

Discussion was held, and it was noted that there were only three house plans submitted and that this would be the definition of a "cookie cutter" subdivision. Mr. Wall said he would submit additional house plans.

H. Russell Byrd – 404 Country Club Drive

Mr. Byrd said he used to live in this area and still owns property. He supported Mr. Wall in this project.

Althea Nance – 611 South Hill Street

Ms. Nance said she owns the property across the street from Oak Hill Baptist Church which is in this area. She wants the zoning to remain as it is where there is more land and fewer houses. There is a church across the street from this property, and they are working hard to make it a contribution to the county and to make it a beautiful area. They do not want a lot of little houses across the street and diminish what they have done.

Michael Scibetta – 501 Lakeside

Mr. Scibetta said he owns the property adjacent to this tract of land and opposes the zoning change. There is screening on some of the lots but there is no screening on the lots that are adjacent to his property. His house and property is valued in excess of \$1,000,000 and represents his life's work. If small houses are put on the property adjacent to his property, his home will be devalued. Mr. Wall has indicated that he will restrict the building sites to 2000 SF on all the lots that border his property. He would like for that to go on public record. He is additionally concerned that there are too many lots along his property line. The lots are too small. There is no green space along the property line adjacent to his subdivision. Mr. Lonnie Spangler owns property adjacent to this property also and there is no buffer on that border either. He and Mr. Spangler could be appeased if 60' of Mr. Wall's property was planted in specimen trees that would totally obscure the view of the subdivision from the properties within three years or if all of the lots that are adjacent to his property are increased to the current standard for R-1 which is two acres. Mr. Wall has expressed verbally that he would bear the expense of planting 60' of trees on his land.

Discussion was held regarding the lot sizes. It was noted that the Planning Commission has recommended this project be approved for R-1 zoning rather than the R-2. The County Commission will consider this at their meeting in April. They will also consider the recommendation from the Appeals Board regarding this project.

Mr. Scibetta confirmed, on question, that his house is presently for sale.

Mr. Wall said that the only agreement that he had discussed with Mr. Scibetta is that he would build a minimum of 2000 SF houses on Lots 1-6/8. Anything else that might have been discussed there was no agreement reached.

Mr. Jacobs said this project is contingent on a successful sewer. They will have to tap into the sewer system.

John Stover – Paragon – 539 Brook Circle

Mr. Stover said he is the engineer for this project. The lots average right at 2/3's of an acre or more. The density is equal to one unit per acre; 205 lots for the 205 acres. For this increased density they will have to have a sewer connection. They will have to have a sewer pump station.

Ms. Phinazee raised the issue regarding the average square footage of the homes in the area. Mr. Wall said according to the calculations from the county it was 1734 SF, and he is requesting to build a minimum of 1750 SF. The startling price of the houses, if they were being built today, would be \$185,000. The proposed build-out will be from 10 to 15 years. They anticipate selling from 10 to 15 houses per year.

Mr. Jacobs said the staff recommendation is for conditional approval. He went over the conditions.

### **MOTION**

Mr. Baird made a motion to approve Application #05-05S with the following conditions:

1. Front porches will be finished in character with the design of the houses.
2. Provide new house design to replace the split level foyer design.
3. The clubhouse will be a minimum of 1750 SF in size.
4. A streetscape plan will be submitted
5. The playground will meet county's playground design criteria.
6. A minimum of 6 house plans will be submitted.
7. Homes on lots 1-26 and 69-75 will be a minimum of 2000 SF.

The motion passed on a second by Mr. Perdue with Mr. Baird, Mr. Perdue, Mr. Richardson and Mr. Smith voting for the motion and Mr. Hardwick, Mr. McCallum and Mr. Phinazee voting against.

**Application #05-07V:** Kelli G. Bell, Owner – Allen Wimpy, Agent – 660 Barnesville Road (2.401 acres located in Land Lot 85 of the 3<sup>rd</sup> Land District – requesting a Variance to extend or alter a non-conforming use in the AR-1 District.

Kelli Bell – 660 Barnesville Road

Ms. Bell said they need to make an addition to their mobile home in anticipation of her parents coming to live with her. The proposed addition plans have been submitted to the county. They will make the addition and then remodel the rest of the house. The addition will be made to the side of the present building. She purchased the property three years ago.

Mr. Jacobs said the staff recommendation is for conditional approval. An economic hardship has been shown for this application. The conditions are:

1. The new addition will be constructed so that it will match the existing exterior design and appearance.
2. No portion will be rented out as a duplex use, but must be used as a single-family home.

Allen Wimpy – 124 Central Lake Circle

Mr. Wimpy said they will comply with the recommendations of the staff and be a credit to the neighborhood.

**MOTION**

Mr. Hardwick made a motion, seconded by Ms. Phinazee, to approve Application #05-07 conditioned on the staff recommendations. The motion passed with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

**Application #05-08V:** Griffin Real Estate Investments, L.L.C., Owner – Apollo Signs, Agent – 1655 Zebulon Road (1.738 acres located in Land Lot 119 of the 2<sup>nd</sup> Land District) – requesting a Variance from minimum wall sign square footage and total sign area.

Stephanie Schleicher – 2206 Lake Ridge – Lawrenceville, Georgia  
Ms. Schleicher said a year and a half ago CVS purchased all of the Eckerd’s Pharmacies and want to have new signs. They have decided to maintain the Eckerd name but to add the word Pharmacy to the sign. The name has been officially changed to Eckerd’s Pharmacy and they will be changing the signs on all of the stores by adding the word Pharmacy under the word Eckerd’s. In Spalding County, this will exceed the square footage allowed for the sign area. They are requesting an exemption to the allowable square footage for this property in order to use the new name brand. They can change the sign but it will involve the installation of a completely new sign with new holes in the building and they prefer to have the variance.

Discussion was held regarding changes that could be made that would keep the sign in compliance. It was noted that if the sign was on the front elevation only, they would be in compliance, or if it was on the front elevation and the side elevation that gets the most exposure, they would only be slightly over the allowed 200 SF total aggregate.

Mr. Jacobs said the staff recommendation is for denial because it will impair the spirit of the ordinance. The applicant has not shown a hardship other than one that is self-created. He cautioned regarding setting a precedent if the variance is approved.

Mr. Galloway said the sign ordinance has very limited variance authority.

**MOTION**

Mr. Hardwick made a motion to deny application #05-08V. The motion passed on a second by Mr. McCallum with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

**Application #05-09S:** Walker Concrete Company, Inc., Owner – 1634 Williamson Road (8.68 acres located in Land Lots 84 & 85 of the 2nd Land District – requesting a Special Exception to expand an existing concrete facility in the C-2 District.

Doug Walker – 171 County Line Road – Fayetteville, Georgia  
Mr. Walker said he is the president of Walker Concrete and they recently purchased this facility. They have been in business 52 years and have a total of 9 locations including this one. The business was started in Fayetteville. They have made some improvements to the plant and due to the growth in Spalding County and the desire to do a good job for their customers they need to put in a new batch plant on the existing site that would be close to the present plant. He identified the location they want to use. This would allow them to load the trucks faster. They

would like to build a 15' high dirt, landscaped berm around the property to protect the neighbors. They have improved the property.

Henry Kelley – 1614 Brentwood Drive

Mr. Kelley gave a history regarding the neighborhood that is being directly impacted by this concrete plant. Brentwood Subdivision is on a dead end road. The homes were built there in the early 70's. He and his wife purchased their home in 1973. When the property was purchased, it was zoned R-1 and without any notice the zoning was changed to C-1. Then the concrete company was built. There was a special hearing when that was done. They wanted the tower to be twice as high as it is presently but they opposed it and prevailed. When the concrete company built the tower, they assured everyone in the neighborhood they would maintain trees that would block out the neighborhood view of the plant. It would filter the noise and the dust from the concrete company. When Mr. Walker purchased the property, he came in and cleared all the property and cut down all of the trees. Mr. Kelley had pictures of the area since the trees have been cut. He said they propose to put in a 15' dirt pile. There are children in the neighborhood and this creates a danger to them. He is not against progress but is against progress that negatively impacts an established neighborhood such as this.

Deborah Kelley – 1614 Brentwood Drive.

Ms. Kelley expressed appreciation for the opportunity to speak. She purchased her home in 1973. Prior to the clearing of this property, there was dense woods that blocked the view and there was minimal sound. Now you hear them crank up the plant at 6:00 a.m. and the machines continue to mix all night. She submitted pictures of the area since the woods were cut. They requested that the Board of Appeals recommended that the trees be replaced. They want a privacy fence to protect the children in addition to the berm.

Susan Aleshire – 1615 Brentwood Drive

Ms. Aleshire said she and her husband purchased their home approximately 4 ½ years ago. When they purchased the property, dense woods screened the concrete plant and blocked most of the noise. A few months ago Walker purchased the plant and cut the trees. They all disappeared in a day and a half. She came home from work one day and all the trees were gone. A gentleman came by a few weeks ago and told them they were going to put up a 20' berm and plant trees. He said they wanted to be good neighbors. This is a very ugly site. It has degraded the property value. There is a lot of noise. She hears it at midnight with her door shut and the TV on. At 6 o'clock, on the dot, you can hear the trucks and mixers. They want a 20' berm with trees and a fence.

S. J. Overstreet – 1617 Brentwood Drive

Ms. Overstreet said she does not know about zoning laws or business. She moved to this location in 1982. In 2002, she was diagnosed with severe asthma with allergies. She has to take three shots a week and five daily prescriptions just to breathe. She has a filter under her house and in four rooms in her house. The previous concrete company promised to be good neighbors and the Spalding County Board, at that time, promised to look out for the interest of the community on Brentwood Drive. It is now difficult to live on Brentwood Drive. It is hard to breathe.

John Kimball – 1107 Maple Drive

Mr. Kimball said he and his wife have owned the property at 1616 Brentwood Drive for 20 years. Walker Concrete has left one or two scattered trees with all the debris left piled on the property. It is a complete mess. Since the trees were removed, the noise factor is much greater; the pollution, the dust, in addition to being unsightly. You walk out the door and all you see is the tower, there is no protection from that. There are 31 houses in the area that are affected to the east of Walker Concrete. This is in addition to the number that is west of Walker Concrete. He is opposed to the expansion. He wanted to know where the berm would be located. This has been a very desirable neighborhood for 35 years and it needs to be protected.

Mr. Jacobs said there would be a 25 foot buffer and then the berm would begin.

Mr. Walker apologized to the neighbors for taking too many trees down. He is supposed to know what is going on but too many trees were taken down before he realized what was happening. He agrees that it does look bad, and it needs to be fixed properly and he agrees to fix it right. They cannot do anything until they get the appropriate permits. He was there and children were playing and he agrees that they need to be protected. He will put up a fence. They want to make it look better than it did. The new concrete plant will generate less dust than the old one. It will have the most modern dust collection system. The old plant can be fitted with a better dust collection system but it would be difficult to fit it with the most modern dust collection system as will be put on the new plant. The new plant will certainly have less dust than the old plant. They want to continue to use the old plant also. The new plant will be used more than the old plant. He does not like the way it looks now and they want to make an improvement.

Mr. Jacobs said the staff recommendation is for conditional approval. The conditions are:

1. The 15' berm will be landscaped with a mixture of evergreen and deciduous trees and shrubs so as to provide sufficient opacity from neighboring property.
2. Site lighting shall be designed so as not to glare into adjacent residential areas or into traffic.
3. A 30' undisturbed buffer shall be established around the perimeter of the property where the property abuts residential uses. The berm described above shall not encroach into said buffer.

Discussion was held regarding the location of the buffer and the berm. An agreement was reached regarding how the berm would be formed in the area adjacent to the residential area. Additionally, a triangular shaped piece of property, owned by Walker Concrete and located behind the residential area, was identified for landscaping by Walker Concrete for use of the neighborhood. Mr. Walker said he had no use for that portion of the property and it will be outside the berm area.

## **MOTION**

Mr. Hardwick made a motion to approve Application #05-09S conditioned on the following:

1. The 15' berm will be landscaped with a mixture of evergreens and deciduous trees and shrubs so as to provide sufficient opacity from neighboring property.

2. Site lighting shall be designed so as not to glare into adjacent residential areas or into traffic.
3. A 30' undisturbed buffer shall be established around the perimeter of the property where the property abuts residential uses. The berm described above shall not encroach into said buffer.
4. The berm shall be brought to the road as discussed and agreed.
5. A 6' chain link fence will be installed on the property line.
6. The identified triangular area shall be landscaped for the use of the neighbors.

The motion passed on a second by Mr. McCallum with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

The Appeals Board took a 10 minute recess.

**Application #05-10S:** Thomas J. and Suan P. Hunt, Brent Scarbrough and Shane Waters, Owners – Johnscar, LLC, Agent – Macon Road (21.885 acres located in Land Lots 181, 203 & 204 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow condominium dwelling, patio dwelling or zero lot line dwelling meeting development standards (County Club) in the R-2 District.

Courtney J. Nolan – Paragon – 199 Grant Road – Fayetteville, Georgia

Ms. Nolan said she worked for Paragon Consulting Group, and they have done the development plans for this project. They are proposing 32 lots ranging in size from 5300 SF to the 12,000 SF range. At the Planning Commission meeting, they agreed to 1800 SF homes with 6 lots having 2000 SF homes with the Country Club Theme. Approximately half of the property is being kept in green space with 3200 feet of walking trails. There will be a tennis court and a commercial playground in accordance with the Spalding County regulations. The entrance of the subdivision will have a landscaped berm so the back yards of the homes are not visible from the road.

Mr. Jacobs said the recommendation is for conditional approval with the conditions as follows:

1. Front porches to be finished in character with the design of the houses.
2. Streetscape plan will be submitted
3. The playground will meet county's playground design criteria
4. A terminating vista/landscape strip will be installed abutting lots 32 and 27.

Ms. Nolan said they will meet the recommended conditions.

Mr. Jacobs said they had submitted five house plan designs.

The question was raised as to the price of the homes.

Mr. James - 307 Malone Road – Fayetteville

Mr. James said he is not certain of the price of the homes. They will follow the criteria as set forth in the County Club plan. Any homes that can be seen from more than one street will be brick on three sides. Some of the homes will have brick only on the front. The price will depend

on what the owner wants. If they want more expensive finish on the inside the house will sell for more. His guess is that the price will be in the \$215,000 to \$235,000 price range.

On question it was noted that these houses will all be single-family residences.

### **MOTION**

Mr. Smith made a motion, seconded by Mr. Perdue, to approve Application #05-10S with the conditions as stated by the staff. The motion passed with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

**Application #05-11S:** Trinity Baptist of Spalding, Owner – Fred White, Agent – 601 Jenkinsburg Road (3.34 acres locate in Land Lot 56 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a Church in the AR-1 District.

Fred White – 515 Ridgeway Road – Jackson, Georgia

Mr. White gave a history of the church. They purchased the building on this site from Ms. Donna Betsill and have renovated the facility. They have cleaned the property to make it better for the community. Four weeks ago they cleared two of the acres that had been undeveloped. They received a grant from Wal-Mart and have been able to give food and clothes to some of the neighbors that were in need. They are trying to be a good neighbor. They are requesting a special exception to save on property taxes and use that money to be able to help the neighborhood. One of the property owners that is adjacent to this property has said the land had been infested with rats, and they feel they have been able to help the community environmentally by cleaning the area. It has helped improve the site. The building had a kitchen and dining area which they remodeled and a classroom and a nursery were added. The sanctuary is small and can only hold 85 to 100 people. When they purchased the property, there was a building that had a barbecue pit where they had cookouts. It was approximately 20' x 50' with a metal roof. The building was damaged and they removed the walls and roof and left the poles. They would like to put a metal roof back on the building and use the facility so they will be able to get out of the sun and rain when they have meetings outside. They want to be a good neighbor and benefit the area. They requested approval of the special exception.

Gerald Talbot – 213 Oxford Road

Mr. Talbot requested approval for this special exception. They have the minimum amount of land available. They have 3.3 acres and he understands they need a minimum of 2 acres for a church. They will be planting a buffer. They would like to be a safe haven for the community. This will look good rather than being an eyesore.

Jack Fogarty

Mr. Fogarty declined to speak. He said he felt what had already been said represented his feelings.

Alexis Brookens – 944 Hemphill Road

Ms. Brookens said she is a member of Trinity Baptist Church and is speaking on behalf of the church. The church will bring young adults “out of the street” and into a safe and protected environment. It is a wonderful and admirable proposition for this community. As a young

person in the community, she feels the church will provide opportunities for other young people in the area.

Donna Betsill – 107 Ginny Lane

Ms. Betsill said she had sold this property to the church. She and her husband had a music barn in this facility. Her husband died four years ago, and she did not continue the use of the building. She needed to sell some of the property for financial reasons. She had many opportunities to sell the facility for different uses. This request from the church was the request she decided would be the best use of the property. They have fixed up the interior and it is beautiful. She still owns the adjoining property and they have helped her take care of her property. This has been a blessing for the entire area.

Mr. Jacobs said the staff recommends approval conditioned on any expansion of the structure, any additional structures or the expansion of the use will require another special exception being approved by the county.

Mr. Baird raised the issue of the roof they want to add to an existing place. He does not want to limit this change.

Mr. Jacobs said that would be treated as an accessory use and will have to meet those requirements. This should not hinder the improvements they want to make.

#### **MOTION**

Mr. Baird made a motion, seconded by Mr. Smith, to approve Application #05-11S conditioned on any expansion of the structure, any additional structures or the expansion of the use will require another special exception being approved by the county. The motion passed with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

**Application #05-12S:** Palm Harbor Homes, Inc., Owner – Kathleen E. Hockinson, Agent – 211 West Teamon Circle (1.9744 acres located in Land Lot 202 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Kathleen E. Hockinson – 106 Aiken Road

Ms. Hockinson said on the property there is an existing home consisting of two single-wide homes connected, forming an L-shaped residence. She wants to remove those and put a double wide manufactured home in that area.

Mr. Jacobs said the staff recommends approval of the application.

#### **MOTION**

Mr. Smith made a motion to approve Application #05-12S. The motion passed on a second by Mr. Hardwick with Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion and Mr. Baird voting against.

**MINUTES**

Ms. Phinazee said the motion made regarding Mr. Pruitt’s application does not state that the setback would only be 35’.

Ms. Phinazee was advised that the length of the setback was not included in the motion and the minutes have to reflect the motion as made. Mr. Galloway said if Ms. Phinazee wants to file an exception to the minutes he will be happy to advise her of the appropriate procedure if she will contact him.

Mr. Baird made a motion, seconded by Mr. Perdue to approve the minutes of the January 13, 2005 meeting. The motion passed with Mr. Baird, Mr. Hardwick, Mr. Perdue, Mr. McCallum, and Mr. Richardson voting for the motion Ms. Phinazee voting against and Mr. Smith abstaining because he was not present.

**MOTION**

The meeting was adjourned on a motion by Mr. McCallum and a second by Mr. Perdue with Mr. Baird, Mr. Hardwick, Mr. Perdue, Ms. Phinazee Mr. McCallum, Mr. Richardson and Mr. Smith voting for the motion.

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Dennis Richardson – Chairman

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Yvonne M. Langford - Recorder