

**SPALDING COUNTY APPEALS BOARD**  
**MINUTES**  
**September 8, 2005**

The Spalding County Appeals Board held its regular monthly meeting in room 108 of the Spalding County Courthouse Annex on September 8, 2005. Members present were: Dennis Richardson, chairman, presiding Keith Dryden, Doug Hardwick, Charles Perdue, and JoAnne Phinazee. Jon Baird and Allan McCallum were not present.

Also present were: Charles Taylor, Community Development Director, Chad Jacobs, Senior Planner, Newton Galloway, Zoning Attorney, and Yvonne Langford to record the minutes.

Mr. Richardson called the meeting to order and requested anyone present wishing to address comments to the Appeals Board regarding any of the applications to come forward and sign-in on the appropriate form.

**Application #05-17V: Lift from the table** – Brea Homes, LLC, Owner – 15 Liberty Hill Road (1.206 acres located in Land Lot 57 of the 3<sup>rd</sup> Land District) – requesting a Variance from minimum front yard setback and minimum lot area in the AR-1 District.

**MOTION**

Mr. Hardwick made a motion, seconded by Mr. Perdue, to lift Application #05-17V. The motion passed with Mr. Dryden, Mr. Hardwick, Mr. Perdue, Ms. Phinazee and Mr. Richardson voting for the motion.

Dick Mullins – 676 Brook Circle

Mr. Mullins requested that this application be tabled one more time so that the full board could be present to consider the application. He said the application is important, and he wants the opportunity to present it to the full board in October.

Mr. Dryden said there is a quorum of the Appeals Board present and there are people present to address this matter. These people were present last month, and the request to table was approved. This has been on the agenda for the last several months, and it is not fair to those present to continue this again.

**MOTION**

Mr. Dryden made a motion to deny the request to continue Application #05-17V until October. The motion passed on a second by Ms. Phinazee with Mr. Dryden, Mr. Hardwick, Mr. Perdue, Ms. Phinazee and Mr. Richardson voting for the motion.

Mr. Mullins had a copy of the tax map of the property. He identified property and said the property was purchased as one tract. It was a rectangular tract for many years. It happened that 1.26 acres lies on the other side of Liberty Hill Road. When Mr. Kenney sold the lot to Brea Homes, they thought the 1.26 acres was a separate lot. They did not think the 1.26 was part of the property across the road. They thought the lot would be

grandfathered because it has been on the tax map for 20, 30 40 years. The lot is 170' deep at its widest point. A house could be located 71 feet off the right of way, 100' off the pavement at one location and 130' off the pavement at another point and 100' off the right of way at another point. When the house is built, it will look like a house on Woodmont or Bobolink. Those lots are 90' x 150', and the houses are about 60' off the road. This will look like a normal residential lot. Mr. Kenney nor his predecessor created this lot. This lot was created by Liberty Hill Road many years ago. The house that will be built will comply with the county ordinances. Mr. Schubert is planning to build a 1600 SF house. The Health Department has already approved a septic tank. There have been allegations of water problems which do not have anything to do with zoning, but he does have Health Department approval, and he has a place to put his septic tank. If he is not allowed to build on this property, then it is a hardship that was not created by him. It is a good building lot similar to hundreds of lots all over the county. They do not see how it will hurt anyone to allow them to build on the property. The staff has recommended approval of the application. They have studied and researched this, and they have come to the conclusion that it will hurt no one except Mr. Schubert if the house is not built. It will hurt no one at all if the house is built. He requested approval for the application.

Carey Curry – 190 Liberty Hill

Mr. Curry requested that the Appeals Board support of the residents in the area. Even though Brea Homes claims a hardship, they are a business corporation with interest and profits. They can put their losses on their yearly taxes. The residents have no means to offset hardship. Brea Homes motives are strictly financial and have already put up the property for sale for an even higher profit margin whereas the residents plan to live there the rest of their lives and do not wish to compromise their rural community.

Keith Kenney – Did not wish to speak

Ed Kronewitter – 502 McKneely Road

Mr. Kronewitter said this is 1.26 acres and Liberty Hill Road was put in 100 years ago and that was not a separate parcel for just three or four months. It went with a big tract of land. He requested to purchase the land from Ms. Beasley years ago, and she said it went with a tract of land with the house at that time. Spalding is supposed to be 3 acres per lot, and he does not understand how you can change that. There is an old house across the street that is close to the road but it is 100 years old, and he does not see why that should have any bearing on the new house. The reason there are zoning laws and rules is to have it stay like it is supposed to be.

Ken Bradley – 265 Liberty Bell Lane

Mr. Bradley said he was at the last meeting where this was discussed. His concern is that Bruce Grading, that did the grading on this property, did some grading for him after he had done some grading on this site. The grader told him that he had covered a wet weather spring, run across it with his tractor, pack it down and that is where they have dug the foundation to build the house. There are other people present that know there is a wet weather spring on the property, Mr. Curry and Mr. Kronewitter. Mr. Curry said he

knows there is a cold weather spring. Mr. Kronewitter has cut the grass on this property because it is next to his driveway. Mr. Kronewitter said he does not know that it is a wet weather spring but it does stay wet all the time. Mr. Bradley said he would hate to allow someone to build a house with a wet weather spring under the foundation or so close to the foundation that it would create some problems for someone living in the house. He said Mr. Mullins was comparing this lot to lots that are built on in Spalding County that are 90' wide. These are not lots that were built on six months ago, three months ago, today. These are lots that are in a subdivision or were built on before the laws came in to have three-acre lots.

#### Don Phelps – 498 McKneely Road

Mr. Phelps said he is opposed to granting a setback variance for this house. His property will be the most affected by this house. His house is just south of the proposed house. One reason for the setback is so that adjacent houses are not built with one ahead of the other. If you grant this variance, you will be doing just that. The front of the proposed house appears to be less than 75' from the edge of the road right of way and the rear is about 120'. His living area begins at 136' from the edge of the right of way and that exposes the rear of this proposed two-story house to viewing from his windows and from his porch. This would hurt him. This is not Woodmont or some other neighborhood, this is Liberty Hill Road. His setback is generally typical of the nearby properties. His lot is 340' deep. The lot in question is only 172' at the deepest point. It appears they intend to build a narrow, 27' wide, 45' deep, two-story house on the widest part of a triangle which is too shallow to support it at the end closest to his house. The requested variance is for 30' from 100'. There is one other home nearby that is an older home and was built prior to the 100' rule. Mr. Taylor recommends approval because of hardship. He disagrees. When this land was originally split, consider that the owner, at that time, was probably compensated by the county for such an oddly shaped remnant that should not be considered as a building lot. The recent buyer should not be rewarded for failure to check for applicable regulations regarding setbacks. The builder should have known better before purchasing this building site. He began construction on this site March 19. The land was bulldozed, trenches dug for the foundation. The variance was not submitted until May 5. The variance request should not be necessary. This plot is bounded by vacant land. It is not landlocked. The vacant land could be purchased to make the remnant suitable for building. It would meet the standards. He has expressed his opposition to the variance with two letters that should have been sent to the members of the Appeals Board. He, along with much of the neighborhood, has been before the board in opposition during the three previous meetings. He is glad this is being considered tonight. If other meetings are necessary, they will be back. At the July meeting, this variance was voted and did not pass. He questions the legality of bringing this up again. They are not against a house being built but they expect the Board to hold the builder to the code which exists for the protection of the neighborhood. This has been his family's home since its completion in December of 2002.

#### Sinclair Hollberg – 3335 Jackson Road

Was not present when called.

David Traer – 1400 Swint Road

Mr. Traer said he reserves his constitutional rights in this matter. This community is made up of citizens of Spalding and Lamar County as it is on the county line. He said the Board has heard from people tonight regarding all the reasons this variance should not be granted. This application requires the property be zoned residential. It is zoned AR-1 which means that no house can be built on it unless it has three acres as required by the County Ordinance. The County Ordinance requires an amendment to the Land Use Plan be approved before rezoning property. He requests the application be tabled until there is an amendment to the Land Use Plan in accordance with the county ordinance. This claim that the county created the hardship bothers him. He has done a lot of research. The claim is that the county created the hardship by cutting the road at an angle or diagonally through a piece of property in creating this 1.2 acre lot. He has consulted with several historians, records keepers, and a lot of elderly people that live in the neighborhood that are in their 80's and 90's. For as long as they can remember, that road has been there. It is on a map that he showed dated 1883, which shows the road in the present location. This was a rectangular piece of property that, as near as he can determine, was an Indian Trail before it was ceded to what is now the State of Georgia. This piece of property was created by the buyer and seller. They created their own hardship and it was not created by the county. He requested denial of the application.

Michael Ledford – 497 McKneely Road

Mr. Ledford said the road has been there forever. It got its name from Sherman when he went through Georgia. It has been there that long. That lot is the lowest lying area. All the water drains right there. He sees hardship for whoever buys the house. He does not see how they were able to get a septic tank approval.

Mr. Taylor said the staff recommendation is for approval. Due to the bisection of the subject property from its parent tract with Liberty Hill Road a valid hardship has been presented.

Mr. Hardwick raised the issue in view of Mr. Traer's comments whether or not this could be considered.

Mr. Taylor said the Land Use Map would have to be amended to change the zoning but his is a request for a variance. He said there is a moratorium on amending the Land Use Map.

Mr. Galloway said the Appeals Board has to determine whether or not a hardship exists. If a variance is granted the zoning does not change. The Appeals Board has the authority to grant a variance by a majority vote. If a rezoning is requested then the Land Use Map would have to be amended as a precursor to rezoning.

Mr. Hardwick said he visited the site and it is low but it falls off a "mile" behind it so that, to him, does not create the water problem that some people mentioned. Also, he understands the original contract to purchase this house is no longer in effect so anyone buying the house will be able to see what they are purchasing prior to the purchase.

**MOTION**

Mr. Dryden made a motion to deny Application #05-17V. The motion passed on a second by Ms. Phinazee with Mr. Dryden, Ms. Phinazee and Mr. Richardson voting for the motion and Mr. Hardwick and Mr. Perdue voting against.

**Application #05-28V:** John G. Pruitt, Charles G. Pruitt and Chad D. Pruitt, Owners – North Pomona Road and Pomona Road (15.96 acres located in Land Lot 120 of the 3<sup>rd</sup> Land District) – requesting a Variance from minimum front yard setback in the R-2, R-4 and R-5 Districts

Greg Pruitt – 55 Partridge Path

Mr. Pruitt said this is the second phase of a development. This property has a lake at the rear of these properties which necessitates the need to move the houses closer to the road. Lots 8, 9, 10, 14 & 15 could possibly be set back 100’ but for uniformity they want to have them set back the same as the other lots. He said he probably should have requested the variance for lot 7 but it is part of phase 1. The lake is approximately 3 acres, and he does not want to drain the lake.

Mr. Taylor said the recommendation is for conditional approval with the following conditions:

- a. Front setback of 50’ shall only apply to lots 10, 11, 12, 13, 14, and 15. Lots 8 and 9 shall remain the 100’ setback for uniformity along North Pomona Road.
- b. All lot with 50’ front setbacks shall have sodded front yards.
- c. Each lot will have a paved driveway.

He said that lots 8 and 9 are on North Pomona Road and should have the 100’ setback as the other houses on North Pomona Road have.

Mr. Pruitt said he thinks that there might be a problem with lots 8 & 9 that would make the variance desirable for those lots also. He would be glad to make lot 7 a 50’ setback so they would all be on the 50’ setback. These houses are going to be real nice and will sell in the \$160,000 to \$180,000 price range. He has no problems with the other conditions.

Mr. Galloway said the Board would not be able to consider a variance on Lot 7 since the application does not include that lot.

**MOTION**

Mr. Dryden made a motion to approve application #05-28V conditioned on all lots with 50’ front setbacks having sodded front yards and each lot will have a paved driveway. The motion passed on a second by Mr. Perdue with Mr. Dryden, Ms. Phinazee, Mr. Perdue and Mr. Richardson voting for the motion and Mr. Hardwick voting against.

**Application #05-29V:** Scarbrough and Rolader Development, LLC, Owner – South 6<sup>th</sup> Street Extension (Flint Mill Estates Subdivision – 96.594 acres located in Land Lot 170

of the 2<sup>nd</sup> Land District) – requesting a Variance to allow cul-de-sac streets to exceed 300 linear feet in the R-1 District.

Donna Black with Scarborough and Rolader Development – 270 North Jeff Davis Drive – Fayetteville

Ms. Black said the request is to approve a variance for the length of cul-de-sac streets in the Flint Mill Estates Subdivision. They, additionally, requested that they not be required to install one of the streets, because it will create four corner lots that are not desirable. It will, additionally, add 15,000 SF of impervious surface and require 35,000 SF of clearing which would not otherwise be necessary. They have discussed with staff the designation of a 50' easement to provide access to the property to the north should it be developed in the future. The residents in the area support the changes.

Mr. Richardson raised the issue regarding other options that might be possible. These were addressed, and it was felt that these options were not feasible.

Mr. Hardwick said he is opposed to the proposed variance, because he considers it a safety issue. The long cul-de-sac streets make it difficult for emergency vehicles to respond. These issues were discussed.

B. Frank Harris, Jr. – 1881 South Sixth Street Extension

Mr. Harris said he is part of the neighborhood group working with the developer on this project. He is requesting approval of this variance. One of the things the neighbors were concerned about was the runoff. There is a problem with runoff and they wanted to minimize that issue. The developers are being cooperative. If you require the additional road, you will increase the impervious surface. He would hate to do anything that was not absolutely necessary and that would increase the problem. The developers have been very cooperative and the neighbors are trying to make this go well.

Elizabeth Chewning – 118 Jewel Drive

Ms. Chewning said she grew up playing on this property which flows downhill. If a road is put in at the propose location, it would direct the water toward Runnymede, which already has water runoff issues. The developers have been cooperative in trying to control the runoff. She requested that the cul-de-sac be approved, because it will help the water runoff. She said she grew up on Runnymede, which is a cul-de-sac road. She loved the neighborhood and the setting. When she returned to Griffin, she started looking at real estate and wanted to be on a cul-de-sac street. She lives on Jewel Drive, which is a cul-de-sac in Lake Louise. It fosters a family environment. They feel a cul-de-sac, as is proposed, is safe for a community with children and they would like to bring that kind of family into Griffin.

Mr. Taylor said the staff recommendation is for conditional approval. The recommended condition is that a 50 foot access easement shall replace the 30' easement as presently shown for possible future development.

Discussion was held regarding the fact that future development would be in the distant future but would benefit interconnectivity between the two developments. Discussion was further held regarding the possibility of a “round about”. Mr. Dryden said he is retired law enforcement and he has been on many emergency scenes and he has never seen a situation where if they needed to get to the house they were not able to get to the house. Fire trucks are big and they can make their way. In his public safety career, it was never an issue. He can understand the thinking regarding the possibility and the need for safety. He says he feels with the factoring of the circumstances this is a good plan.

#### **MOTION**

Mr. Dryden made a motion to approve application #05-29V conditioned on a 50 foot access easement replacing the 30’ easement as presently shown for possible future development. The motion passed on a second by Mr. Perdue with Mr. Dryden, Mr. Perdue, Ms. Phinazee and Mr. Richardson voting for the motion and Mr. Hardwick voting against.

#### **MINUTES**

The minutes of the August 11, 2005 meeting were approved on a motion by Ms. Phinazee and a second by Mr. Dryden with Mr. Dryden, Mr. Perdue and Ms. Phinazee voting for the motion and Mr. Hardwick and Mr. Richardson abstaining because they were not present.

#### **ADJOURN**

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

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Dennis Richardson – Chairman

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Yvonne M Langford - Recorder