

SPALDING COUNTY APPEALS BOARD
Regular Meeting
October 12, 2006

The Spalding County Appeals Board held its regular monthly meeting on October 12, 2006 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Jon Baird, Chairman, presiding; Keith Dryden; Doug Hardwick; Richard Ingram; Charles Perdue; JoAnne Phinazee and Allan McCallum.

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

Mr. Baird called the meeting to order and invited anyone present that was not the applicant and wanted to address the Board on any of the application's to come forward and sign the request form.

Mr. Baird said he would entertain a motion to put Application #06-28S first on the agenda.

MOTION

Mr. McCallum made a motion to amend the agenda to take Application #06-28S first. The motion passed on a second by Mr. Ingram with Mr. Baird, Mr. Dryden, Mr. Hardwick, Mr. Ingram, Mr. Perdue, Ms. Phinazee and Mr. McCallum voting for the motion.

Application #06-28S: Alan Mobley, Owner – 1295 Minter Road (39.96 acres located in Land Lot 42 of the 3rd Land District) – requesting a Special Exception to allow 1-acre lots (Estate Life Neighborhood) in the R-2 District.

Alan Mobley – 262 Mobley Road

Mr. Mobley said this is a 25-lot subdivision. The homes will be 1750 SF minimum. The price of the homes will be in the high \$160's. They have support from several of the neighbors. The Duncans spoke in favor at the last meeting. He did not ask them to come, because this is one of three meetings regarding this project. They will attend the Commissioner's meeting in November. The Mays Family, owners of the property, spoke in favor of the project. The staff is recommending conditional approval, and it agrees with the future land use map. He was available for questions.

Charles Love – 115 Covington Road

Mr. Love said he has lived at 115 Covington Road for 28 years. The average land owner around this proposed development has greater than five acres. This is not prosperous or necessary for the environment or the community. This is mostly larger land owners, and he believes the two-acre minimum is more than adequate for a small development. He knows that Spalding County needs to grow and growth is good for the County as a whole. This area has larger acreage; well over five acres. He does not believe that the one acre is necessary or needed in this area. The issues being the water, increased crime in the area. He does not see how the smaller lots will benefit the area. The AR-1 is what it is for. You can have hogs 100' from people's houses.

There is more potential for conflict which is not needed. If you use two-acre lots, you have more positions for the houses, quieter neighborhoods. You do not have to worry about people walking through your yards. More quality, better life scenario on larger acreage lots. He understands that there is another meeting or two on this so he will attend both of those. He asked what he needed to do in the proper manner.

Mr. Taylor said the future land use map was recently amended to show this area as low-density residential. It was previously shown as agricultural. The recommendation from staff is for conditional approval. The conditions are:

1. A variance shall be applied for cul-de-sac length.
2. A new house design is to be submitted to replace the Oxford design which they feel does not meet the criteria of the special exception.
3. House plan shall be submitted to the Community Development Department for each building permit indicating the areas of façade that will have the 50% brick or stone and meet the design details submitted by the developer.

Mr. Mobley said he has agreed to the staff recommendations.

MOTION

Mr. Hardwick made a motion to approve Application #06-28S with the conditions as recommended by the staff. The motion passed on a second by Mr. Dryden with Mr. Baird, Mr. Dryden, Mr. Hardwick, Mr. Perdue and Mr. McCallum voting for the motion and Mr. Ingram and Ms. Phinazee voting against.

Application #06-18S: Lift from the table – Florida Rock Industries, Inc., Owner – Richard L. Mullins, Agent – Rover-Zetella Road (42.11 acres located in Land Lot 96 of the 1st Land District) – requesting a Special Exception to expand the operation of a granite quarry in the AR-1 District.

Application #06-19S: Lift from the table – Florida Rock Industries, Inc., Owner – Richard L. Mullins, Agent – Rover-Zetella Road (3.761 acres located in Land Lot 66 of the 1st Land District) – requesting a Special Exception to expand the operation of a granite quarry in the AR-1 District.

Mr. Dryden made a motion, seconded by Mr. McCallum, to lift Application #06-18S and Application #06-19S from the table. The motion passed with Mr. Baird, Mr. Dryden, Mr. Hardwick, Mr. Ingram, Mr. Perdue, Ms. Phinazee and Mr. McCallum voting for the motion.

It was noted that the two applications will be discussed together but voted separately.

Richard L. Mullins – 676 Brook Circle

Mr. Mullins said he is the attorney representing Florida Rock. Mr. Roebuck with Florida Rock will be presenting the information. He reminded the Board of Appeals that this tract has been mined for approximately 35 years. It is there. It has been there. All the neighbors came to it. The quarry was not placed in the middle of some populated area. Unfortunately, people that

oppose it moved there many years after the quarry was in operation. All they are requesting is that overburden be allowed on the 42.11-acre tract. He said Mr. Roebuck was present to go over the proposed 25-year plan.

Ben Roebuck – 23 Brookwood Drive – Newnan, Georgia

Mr. Roebuck went over the proposed development plan for this application. He noted that the staff is recommending acceptance of the plan.

Kathy Pruitt – 893 Rover-Zetella Road

Ms. Pruitt said she and her husband live right across the street from the quarry. They have lived there since June of 1992. They had some problems with some rock that came across the road and damaged property in the area. They did not incur damage from that incident, but they have had problems there. They have doors, going off the back of the house with double panes, and one of the doors is shattered. They have had problems with the water line coming from the road to the house. One time it was on the County side and many times on their side. Approximately six months ago, they had to have the water line completely redone from the house to the road. They did not see the water leak so the bill was \$750. The neighbor on the other side has also had water problems but theirs was on the County side. They have had some issues, and they feel it definitely could be coming from across the road. She would not like to see them expand until they have taken care of the problems they have. If they are creating problems, they feel it needs to be fixed. This is not a good time for them to expand.

Tim Dingler – 889 Rover-Zetella Road

Mr. Dingler said he lives next door to Ms. Pruitt. There have been several houses up and down the area that have had water problems; broken lines. He does not know whether or not the quarry has caused the problem. He asked Mr. Pruitt who was the builder whether or not it was common to have problems with the water lines in any subdivision. He advised him definitely not. They have a cracked foundation and cracked sheet rock. He does not know whether or not it is the quarry's fault. Mr. Mullins is correct; they were there when they all moved there. The only problem he has is the dust. There is some type by-product from the gravel that is like silver dust. It floats in the air. When he first moved there, the pile was fairly small. You could hardly see it from the road. Now the pile is gigantic and continues to grow. The gutters are falling off of his house because of the dust that accumulates in them. He has had to replace them twice, and they are about to fall off again. He was the first home that was built out there and soon after the other houses were built. The rock quarry purchased several of the other houses because the rocks flew into their yard and on top of these houses. If the property was not fit to be that close to the quarry with the quarry as small as it was then if they are going to expand, why is it still suitable for the other houses to exist? The rock quarry has been good neighbors to him, and they have been nice when he has called and talked to them. The blasting does not bother him, because he is not home during the day. The pile is so huge you can see it way up Rover-Zetella Road. That is his biggest complaint with the quarry. What is going to happen to that thing? It continues to get bigger and bigger and bigger. It is a problem when the winds blow, and in his area, it doesn't rain any more. He does not know why. The Pruitts have a small ½ acre pond four or five feet deep at the most. It is down a foot and a half, maybe two feet. The rock quarry has a pond across the street that is an acre and a half or two acres, and it is down six or seven feet. With the rain problems that we have now, it is just constant dust when the wind is blowing.

You can feel it in your teeth, and it gets in your eyes when you walk to the mail box. When they moved there, the quarry was there but that big pile was not. That is their biggest problem. What are they going to do with it? He does not want to stop them from working but has this thing grown to a point that it is no longer suitable to have the few houses that are left. They purchased some of the houses, and he wonders if it has gotten to a point bigger than they imagined at the time those houses were built? When they purchased those houses, they were told that the quarry would be gone within ten years and now 15 years later it is twice as big.

Greg Pruitt – 55 Partridge Path

Mr. Pruitt said Mr. Dinger's house was one of the first that he built out there. He said he thought this was leased property. Do they own this property?

Mr. Mullins said they own some and lease some.

Mr. Pruitt said the man that talked him into building the houses across the street and told him the quarry would be gone in ten years. He put his brother right in the middle of this. That is not something he would have done. He is representing his brother, because he does not like to speak in public. He has a lot of history because he built each and every one of the houses. The quarry did purchase some of the houses where rock was blasted over them and went through some of the roofs. They have told his sister-in-law that they will have an engineer at their expense if they choose one from their list. He is a developer but he understands because he has been in situations with engineers where his engineer will say what he wants and their engineer will say what they want. They have mentioned about bringing a monitor over there, and he would have loved to see a monitor the day the boulders flew across the road. If they are going to set up a monitor and monitor one of their blasts, would you not monitor the blast also? That does not hold a lot of weight. He does know about construction. They did purchase a lot of houses out there. The quarry has grown and it seems it is going to grow for quite some time. He does not understand because settlement in your house is not going to cause your panes to explode. The door might not shut from settlement, but it has taken a jar to bust glass out of windows and doors like his brother has at his house. The water lines were PVC. He has never heard of so many PVC lines in one area having problems with water lines. He has never had call back like that. He does not feel the Board should do anything with this application until they have a meeting out there with the homeowners and get something worked out.

Mr. Taylor said the 24 year plan reflects the expansion that was explained at the last meeting. It goes into further detail including the berm. On the 3.7-acre tract, the staff recommends approval with the condition that the property be used only for undisturbed buffer.

On the 40-acres tract the staff recommends conditional approval. The conditions are:

1. Mining activities shall be prohibited on that site.
2. A vegetated berm shall be constructed along Rover-Zetella Road beginning 50' from the right of way. The first 50' shall remain undisturbed. Said berm shall be at least 20' in height with vegetative screening on top consisting of Leyland Cypress.
3. A 100' undisturbed buffer shall be maintained on both sides of the creeks that traverse the property.

Mr. Roebuck was questioned about possibilities for the large pile of by-product. He said that is referred to as an 8:10 screening pile. It is the primary ingredient used in an asphalt plant. It is also used as landfill cover. It is used for fill. They have suggested that the county use it to gravel roads. It is less expensive than a base product. They have donated it to the Boy Scouts' and Girl Scouts' Camps to gravel their roads. They would love to find other uses. From a sales perspective, he would like to see it gone. To go back and back fill into the pit would be premature, because they are still mining, and they still anticipate going back to mine the areas again. They cannot do anything with the pile, because they cannot touch the land that is under consideration now with these applications. They either have to sell the "pile" or it sits. The plan, once they get the permitting from the State, is to take current production and put in on the other side of the road. Mr. Roebuck went into detail regarding the blasting that they do. He said they are regulated by the state, and they are always within the guidelines set by the government. The blast that sprayed onto the homes was done by an independent company that is no longer under contract with Florida Rock.

Discussion was held regarding the effort that Florida Rock makes to keep the area watered to keep the dust down. Mr. McCallum also questioned them on when the map had been prepared and whether or not the quarry is living up to its responsibility regarding the permits they have received.

Mr. Pruitt raised the issue regarding the initial application for the quarry and whether or not it was expanded.

Mr. Galloway went over the information that he had available. In 1994, the quarry became a non-conforming use and became a special exception use in the AR-1 Zone. The quarry made a request to expand pursuant to a similar request to DNR to expand the basic pit in 1997. At that time, the Board of Commissioners had two applications. One was to expand the quarry to enlarge the pit and the other was for an asphalt plant. Both would require a special exception approval. They allowed the expansion of the pit and denied the asphalt plant. The applications were very controversial applications.

Mr. Pruitt urged the Board to require Florida Rock to work with the neighbors to resolve the issues they have before approving the applications. It is the only recourse the neighbors have.

Mr. Hardwick said the Appeals Board is not charged with debating with whether or not the quarry is legitimate. The issue before the Board is whether or not they are going to be allowed to put dirt on the 42 acres. We are not here to say whether the quarry is a good thing or a bad thing. The application is to determine whether they can put dirt on these 42 acres which they own.

Mr. Baird said whether these applications are approved, tabled or denied Mr. Roebuck is still entitled to continue mining the rock.

Mr. Dryden said this "boils down" to two things. The houses were built by a builder that knew the rock quarry was there, and the houses were purchased by people that knew the rock quarry was there. He has been involved with citizens calling him regarding applications years ago, and he had a meeting with Florida Rock representatives because he felt it was something he needed

to do. It was probably one of the most professional meetings he has had while being on the Board of Appeals with Spalding County. In talking with the residents, it seems that there are a few minor issues; one being the rock. Bottom line is the rock quarry has been there. It is not that he does not have sympathy for the people across the street, but it was there. They knew that going in. It does not mean they do not need to be good neighbors, but they seem to have done everything they can to be good neighbors. He travels Rover-Zetella quite often and every time he has been down the road in the daytime the driveway has been wet to control the dust.

MOTION

Mr. Dryden made a motion, seconded by Mr. Hardwick, to approve Application #06-18S with the conditions as recommended by the staff as follows:

1. Mining activities shall be prohibited on that site.
2. A vegetated berm shall be constructed along Rover-Zetella Road beginning 50' from the right of way. The first 50' shall remain undisturbed. Said berm shall be at least 20' in height with vegetative screening on top consisting of Leyland Cypress.
3. A 100' undisturbed buffer shall be maintained on both sides of the creeks that traverse the property.

Mr. Baird, Mr. Dryden, Mr. Hardwick and Ms. Phinazee voted for the motion and Mr. Ingram, Mr. McCallum and Mr. Perdue voted against the motion.

Mr. Galloway did not get the vote count and Mr. Baird asked for a recount. On the recount, Ms. Phinazee said she had voted incorrectly and intended to vote against the motion. The motion failed with Mr. Baird, Mr. Dryden and Mr. Hardwick voting for the motion and Mr. Ingram, Mr. McCallum, Mr. Perdue and Ms. Phinazee voting against the motion.

MOTION

Mr. McCallum made a motion to table Application #06-18S until such time as Florida Rock receives, from the State of Georgia, all permits required to conduct activities on the 84-acre tract. At such time, we will reconsider the application for the 42 acres. The motion passed on a second by Ms. Phinazee with Mr. Ingram, Mr. McCallum, Mr. Perdue and Ms. Phinazee voting for the motion and Mr. Baird, Mr. Dryden and Mr. Hardwick voting against.

MOTION

Mr. McCallum made a motion to approve Application #06-19S conditioned on the property being used only as an undisturbed buffer. The motion carried on a second by Ms. Phinazee with Mr. Baird, Mr. Hardwick, Mr. Ingram, Mr. Perdue, Ms. Phinazee and Mr. McCallum voting for the motion and Mr. Dryden voting against.

MINUTES

Mr. Dryden made a motion, seconded by Mr. Perdue, to approve the minutes of the September 14, 2006 meeting. The motion passed with Mr. Baird, Mr. Dryden, Mr. Hardwick, Mr. Ingram, Mr. Perdue, Ms. Phinazee and Mr. McCallum voting for the motion.

Mr. Dryden said he would like to clarify, on the record, if we have set ourselves up into a situation under *Robert's Rules of Order* or other conditions when the motion was presented and a vote was taken, can a person change their vote acknowledging they voted in error? Is the first vote a binding vote or not?

Mr. Galloway said when he looked up, he saw three votes in favor. He did not see Ms. Phinazee's hand. He wrote in his notes the motion fails three to four. He will have to look at the effect of the votes. He was not prepared to answer the question.

Mr. Dryden said he is not being critical, but he wants to be certain things have been done according to *Robert's Rules of Order* and any other conditions set forth for an organized Board of Spalding County. He would like to recommend that a roll call vote be taken to avoid future confusion.

Mr. Galloway said how the vote is taken is discretionary to the Board. He will have to research the issue. This is just a recommending body for the County Commission but further action has been delayed. This is not as significant, since it is for recommendation only, as it would be if it was the County Commission meeting.

ADJOURN

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

Jon Baird – Chairman

Yvonne M. Langford - Recorder