

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**June 11, 2009**

The Spalding County Appeals Board held its regular monthly meeting on June 11, 2009 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Doug Hardwick, Chairman, presiding; Bryan Clanton; Richard Ingram; Charles Perdue; and Allan McCallum. Michelle Cannon and Gail Hackbart were not present.

Also present were: Charles Taylor, Community Development Director and Yvonne Langford to record the minutes. Zoning Attorney Newton Galloway was not present at the meeting.

Mr. Hardwick called the meeting to order and 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 #09-06S:** Mercy Ogbo and Elechi Wordu, Owners – 415 Ashley Trail (0.471 acres located in Land Lots 60 and 69 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a Family Personal Care Home in the R-2 District.

Mercy Ogbo – 415 Ashley Trail

Ms. Ogbo said she is requesting a special exemption to have a personal care home. This location is in Wills Walk Subdivision. She plans to have three clients. She plans to move in the future but not right now. Discussion was held and Ms. Ogbo was advised that the person owning and operating the personal care home has to reside in the personal care home. This home has three bedrooms and three baths and has 2568 SF, heated. Five people presently reside in the home.

Mr. Taylor stated that in reviewing the criteria for special exceptions for personal care homes, the application meets the criteria. The County, in 2006, issued a special exception for this property for use as a day care center. The staff recommendation is for conditional approval. The conditions are as follows:

- The home may not be used for a Day Care Center while being occupied as a Personal Care Home.
- Proof of approval by the Georgia Department of Human Resources must be provided to the County prior to issuance of a license.

Discussion was held regarding the fact that this property already has one special exception and there are no provisions for revoking a special exception. It would require another zoning change.

**MOTION**

Mr. McCallum made a motion to deny Application #09-06S. The motion passed on a second by Mr. Hardwick with Mr. Clanton, Mr. Hardwick, Mr. Ingram, Mr. Perdue, and Mr. McCallum voting for the motion.

Ms. Ogbo was concerned regarding the denial. Mr. Hardwick advised her that the Appeals Board is a recommending body only, and the Board of County Commissioners will have the final decision. The Board of Commissioners will consider this application on June 25, 2009.

**Application #09-07V:** Jerry J. Kent and Vicki Smoot Kent, Owners – Jim Goodson Road (3 acres located in Land Lot 82 of the 4<sup>th</sup> Land District) – requesting a Variance from minimum lot width and minimum frontage width in the AR-1 District.

Vicki Kent – 126 Jim Goodson Road

Ms. Kent said she and her husband are suffering from ill health. She has a brain aneurism and is going to have to undergo surgery which will require an extensive recovery time. Her husband has suffered several strokes and is unable to read or write. They want this variance so that one of her children will be able to build a home to help care for them. They did not want a mobile home because it will downgrade the property value of all of the neighbors as well as theirs. They want to build a 1550 SF home. She showed a plat from a survey done by Mr. Conkle. He located the house at the front center of the property and she advised that they do not want the house built at the front of the property. They plan to locate the house as far to the rear of the property as possible in the wooded area. They do not know whether or not it will be their son or daughter but it will probably be her son. She understands that the ordinances have been changed but there is a property across the road that does not have the required road frontage. Additionally, there is a special exception that was granted for William Kent's son who is opposing this application. She does not know what the circumstances were because she tries to keep out of other people's business and she would appreciate it if they would do the same for her. That does not seem to be the case. After Mr. Conkle did the survey for her, he found out that her opponent stole land from his retarded brother. It was not reported in the courthouse. It is under wraps. Had she been able to locate that retarded person she would have brought him with her today. She said he is mentally challenged. She hates to use the word retarded.

Mr. Hardwick said that no matter what happened across the road it has nothing to do with Ms. Kent in any way. If it was done prior to the current ordinance, it has nothing to do with anything. Everything is done on an individual case by case basis.

Ms. Kent said Mr. Taylor had explained that to her. She requested that the variance be granted.

Mr. Hardwick said this was an unusual way to approach a hardship. There is a way in the ordinance to take care of this through use of a temporary mobile home. This would not impact the surrounding property because it is temporary and must be removed when the hardship no longer exists. If this is approved and a house is put on the property, it is permanent.

Ms. Kent said she did not want to devalue the property with a mobile home, and they want a permanent home.

Mr. Ingram asked Ms. Kent if, when she was in the process of making this application, did she find the staff helpful or did they try to steer her in another direction.

Ms. Kent said that Mr. Taylor advised her that the only other thing she could do, other than this special exception, was the mobile home and it would have to be moved in five years.

Mr. Taylor said that he told her the home would have to be moved within 30 days once the hardship no longer existed.

Ms. Kent said she must have misunderstood. She thought she was told that she could only have the mobile home for five years.

Mr. McCallum said the ordinance will not allow a mobile home older than five years into the county.

William T. Kent, Sr. – 92 Jim Goodson Road

Mr. Kent said word got around that he was opposed to them building anything on their land. He is not. If they have the land, they ought to be able to build the home but they need to follow the rules and regulations. If they split the land, you cannot put it back together because they won't let you. He just wanted to be sure everyone is satisfied. He does not oppose anything. If a man owns the land, he should be able to put anything on it.

Mr. Kent said Jerry Kent is his brother. Ms. Kent is his sister-in-law. She is all upset about the feedback she is getting from other people. He said he went to the zoning office to get it postponed because he had a conflict on the meeting date. He was advised that he could not get it postponed. He changed his plans so he could be at this meeting.

Mr. Taylor said after reviewing the application and the criteria for granting variances, the staff recommendation is for denial.

Discussion was held regarding mobile homes on property due to hardships. Mr. Taylor advised that the timeframe is tied to the hardship. Once the hardship no longer exists, they have 30 days to remove the mobile home. A reminder is sent every year for the parties to come in and verify that the hardship still exists. If there is a very long illness, the mobile home could be there a very long time.

Mr. Perdue asked if it might be better for the neighborhood to have a stick built house there rather than a mobile home.

Mr. Taylor said that might be the finding of the Board but his responsibility is to compare the application to the criteria for granting variances. The Board has the ability to reach a different decision.

#### **MOTION**

Mr. Ingram made a motion to approve Application #09-07V conditioned on it being a stick build home. Mr. Clanton seconded the motion.

Mr. McCallum said he has a problem because this is creating a second lot for a medical hardship. You start doing that instead of allowing a temporary mobile home people will start wanting to split their lot for a second home. There is an alternative. The hardship situation could go on for some time but you are creating a second lot with a variance on minimum frontage. That second lot can be sold with the house on it and still request another exception on the remainder lot for a mobile home.

Mr. Taylor said for a medical hardship you do have to have a doctor's certification that you are in need of treatment.

Mr. Hardwick said the Board needed to keep in mind the precedent that will set. This Board is the final on a variance.

Mr. McCallum said there is a reasonable alternative to this application.

Vicki Kent asked to speak again. She said this has been Kent Family land for generations and it will remain so. She and her husband will keep ownership. Since it has been Kent Family land, it will remain so no matter what. It is very sentimental.

**MOTION (continued)**

The motion passed with Mr. Clanton, Mr. Ingram and Mr. Perdue voting for the motion and Mr. Hardwick and Mr. McCallum voting against.

**MINUTES**

Mr. McCallum made a motion, seconded by Mr. Perdue, to approve the minutes of the May 14, 2009 meeting. The motion passed with Mr. Hardwick, Mr. Ingram, Mr. Perdue and Mr. McCallum voting for the motion and Mr. Clanton abstaining because he was not present.

**ADJOURN**

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

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Doug Hardwick – Chairman

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Yvonne M. Langford - Recorder