

SPALDING COUNTY APPEALS BOARD
Regular Meeting
February 12, 2004

The Spalding County Appeals Board held its regular monthly meeting on February 12, 2004 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were Bobby Hart, Vice-chairman, presiding, Jon Baird, Dennis Richardson and J. D. Smith. Greg Pruitt, Allan McCallum and Charles Heggie were not present.

Also present were Charles Taylor, Community Development Director, Lee Craig, Senior Planner, Newton Galloway, Attorney, and Yvonne Langford to record the minutes.

Mr. Hart called the meeting to order and introduced the members of the Appeals Board recognizing J. D. Smith as a new member. He read the rules for conducting business with the Appeals Board which included inviting 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 #04-01V: Greg Pruitt Construction Company, Inc., Owner – Stanfield West Subdivision Phase V off Rover-Zetella Road – (64.8-acres, more or less, located in Land Lots 12 and 21 of the 2nd Land District) – requesting Variance from detention pond fencing in the R-5 District.

Mr. Hart advised that Mr. Pruitt could not be present and had requested his application be tabled.

MOTION

Mr. Richardson made a motion to table Application #04-01V until the March meeting. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Richardson and Mr. Smith voting for the motion.

Application #04-02V: Alan R. Mobley, Owner – Chester Woods Subdivision off Kilgore Road (27.9-acres located in Land Lot 124 of the 3rd Land District) – requesting a Variance from detention pond fencing in the R-2 District.

Alan R. Mobley – 262 Mobley Road

Mr. Mobley said this variance is to eliminate the fencing around detention ponds in his subdivision. The issue is not financial but for cosmetic reasons. The detention ponds are part of the lots. They are moderate in size and will not be very visible except when the vegetation is sparse as in the winter. The grass is established and he will plant trees to make them even less visible. He understands that the staff recommendation is for denial and that is because that is what the ordinance requires. One pond is 5.2' and the other is 4.25'. The staff said they are both at least 6' but that is from the bottom of the structure to the top of the pond dam. They are designed from the bottom of the structure to the top

of the structure because both ponds have an overflow. These are privately owned because they are part of the lots and the county should not require a fence. A fence will make them stand out more.

Mr. Taylor said the staff is in the process of writing an ordinance that would eliminate pond fences from lots in subdivisions. The draft ordinance is structured so that if the distance from the invert to the top of the berm of the pond is five feet or less, the fence would be eliminated. There are a number of options the Planning Commission wants to consider so there is no way to know what will be the outcome of the final ordinance. When these detention ponds are measured according to the draft ordinance they are higher than the five feet. This Board has eliminated one pond fence being in the Raventree Subdivision. The pond depth there was two feet. County Commissioner Eddie Goss requested Mr. Galloway to look into the county liability if they eliminated pond fences. Mr. Galloway reported to the Planning Commission and he will address that for the Appeals Board.

Mr. Galloway said he had been asked for an assessment of what other jurisdictions require and what liability the county might have if the fencing is eliminated. He went over what the surrounding counties require regarding fencing for detention ponds. Spalding County, at a six-foot fence, has the highest fencing requirement with the others areas at about a 4-foot in height. The county does not own or maintain the detention ponds but even if they did they are protected from suit under the document of sovereign immunity which says you cannot sue the state with regard to the negligence claim except in limited instances where the constitution of the state allows a waiver of sovereign immunity which does not apply to this situation. There is little or no risk of legal liability to the county. County Commissioners Morrow and Goss appeared before the Planning Commission on Tuesday night regarding this matter. Mr. Morrow is of the opinion that the fencing is a private matter and should be resolved between the developer or property owner and their insurance company. Mr. Goss is of the opinion that even though the county might not have a legal liability they have a moral responsibility to require the fencing for safety issues.

Discussion followed regarding the detention pond and structure. It was noted that if safety is the issue regarding detention ponds then why is fencing not required around ponds, lakes, and ditches.

MOTION

Mr. Baird made a motion to approve Application #04-02V. The motion passed on a second by Mr. Richardson with Mr. Baird, Mr. Hart, Mr. Richardson and Mr. Smith voting for the motion.

MOTION

Mr. Richardson made a motion, seconded by Mr. Hart, to approve the minutes of the January 8, 2004 meeting. The motion passed with Mr. Hart and Mr. Richardson voting for the motion and Mr. Baird and Mr. Smith abstaining since they were not present.

AGENDA

Mr. Hart said the agenda needs to be amended to include discussion of the one-acre lot special exception rules and to discuss a minor change in the rules for the Board of Appeals meetings.

MOTION

Mr. Richardson made a motion to amend the agenda to discuss special exception rules and to discuss a minor change in the rules for the Board of Appeals. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Richardson and Mr. Smith voting for the motion.

RULES FOR THE BOARD OF APPEALS MEETING

Mr. Hart said in the first paragraph the word “now” needs to be inserted. It was thought that if they were not advised to sign in “now” they might think they were to sign in at the time they are ready to speak.

MOTION

Mr. Baird made a motion to add the word “now” to the first paragraph of the Appeals Board rules for public meetings. The motion passed on a second by Mr. Richardson with Mr. Baird, Mr. Hart, Mr. Richardson and Mr. Smith voting for the motion.

SPECIAL EXCEPTION RULES FOR ONE-ACRE LOTS.

In anticipation of several applications that will be considered by the Appeals Board at the March meeting, a lengthy “workshop” was held regarding special exception criteria for one-acre lots.

Mr. Galloway went over the history of subdivision regulations and how it has evolved over the years. He said in March, the Appeals Board is going to have their first special exception applications seeking approval of subdivisions with one-acre lots. The zoning is approved for the subdivision. They are applying for greater density with one-acre lots. They can make the request under R-1, R-2, R-4, R-5 and the new 2500 SF R-1A classification. He discussed what the Appeals Board will have to consider to allow the special exception. He discussed under what conditions the special exception can be approved.

Mr. Taylor reviewed four types of neighborhoods for the Appeals Board, Traditional Neighborhoods, Country Club Neighborhoods, Urban Proximity Neighborhoods and Estate Life Neighborhoods. He had samples of the four different type neighborhoods that can be approved with the one-acre subdivisions. He went over the criteria for the different neighborhoods and how they each fit into the subdivision concept. He noted that these were examples but they are not to be considered as the benchmark for all subdivisions that fall into each type. Developers should be creative and bring new ideas that are appropriate for the type development they want to build. Mr. Taylor reviewed some of the applications that will be considered in March.

MOTION

The meeting was adjourned on a motion by Mr. Richardson and a second by Mr. Smith with Mr. Baird, Mr. Hart, Mr. Richardson and Mr. Smith voting for the motion.

Bobby Hart – Vice-chairman

Yvonne M. Langford - Recorder