

SPALDING COUNTY APPEALS BOARD
Regular Meeting
May 8, 2003

The Spalding County Appeals Board held its regular monthly meeting on May 8, 2003 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were Dennis Richardson, Chairman, presiding, Jon Baird, Ray Browning, Keith Dryden, Bobby Hart, Charles Heggie, and Greg Pruitt. Mose Stogner was 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. Richardson called the meeting to order and introduced the members of the Appeals Board. 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 #03-06V: Lift from the table – Southside Developers, Inc., owner – Mark Whitley, agent – 111 Huntington Terrace (1.48 acres located in Land Lot 105 of the 2nd Land District) – requesting a variance from minimum front yard setback in the R-2 District.

MOTION

Mr. Pruitt made a motion to lift Application #03-06V from the table. The motion passed on a second by Mr. Dryden with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Mr. Galloway said he has a conflict of interest and recused himself from any participation in this application.

All speakers at this meeting came forward, stated their name and address, and were sworn.

Bill Johnston – 124 North Hill Street

Mr. Johnston said this is a variance application and the house has already been built and the garage setback is 35 feet rather than the 50 feet required. There is a 15’ variance which they are requesting. He read the purpose of the zoning ordinance as in the UDO, Section 104. He said the only condition that is applicable to this variance is “to protect property against blight and depreciation” or “to promote adequate living conditions and sustain suitability of neighborhoods”. None of the other purposes touch this provision. An argument could possibly be made to “reduce the occurrence of hazardous traffic patterns and general congestion”. However, this is a subdivision which has one way of ingress and one way of egress. There is not going to be a tremendous amount of traffic such as a thoroughfare might have. Since the building is up the variance states that you cannot apply for a variance when you are in violation. This is in violation now; however,

that violation is not a self-created violation. The violation is a result of either a mistake on behalf of the developer or a mistake on behalf of the building official. He cannot say who is at fault. He read the powers of the building official from the code in Section 2403. He said the building official is the person that must enforce the setbacks, not the general public. It states that the administrative officer will issue the certificate of occupancy upon notification by the building official that all applicable building codes and other uniform development standards and ordinances have been met. He did that and a CO was issued. There is a problem with them allowing the house to be built. There is one inspection before the concrete is poured. The developer or builder, at that time, has already incurred some expense. If the inspection is done properly and the setback is caught then the economic cost to the builder is negligible in the overall cost of the building. In this instance it is going to cause more of an economic hardship for them to have to move this garage for a 15' setback. In this same subdivision, and for this same builder, a variance was allowed by this same board on the same issue. They were in a setback line by 2'. The question is, if two feet is allowed for a variance, but 15' is not allowed, there is a 13' window. Where is the line? If this is denied on the same reasons you granted the other then, at that point in time, your decision is arbitrary and capricious, as referenced in his letter, and it might also be unconstitutional. The developer has advised him that this will involve a substantial amount of money to move the garage. All the people in the neighborhood, except for one, have signed a petition approving the variance. The builder has agreed to put up a buffer, if desired. He was not able to locate a definition of setback. If there is not a definition of the purpose of the setback you surmise that it is for aesthetic reasons. Aesthetic reasons might go for the public good. There is no detriment to the public good because the people that are going see it have already signed something stating they do not have a problem with it. Some of the people are present to speak in favor and there has been no opposition to the application. Given the fact that it was a unanimous vote to grant the variance on the same issue, for the same developers in the same subdivision it is going to create a problem and we will have to take you to Superior Court. He asked the Appeals Board to look very hard at the ordinance as to the duties of the building official. There was a letter sent in by the prospective homeowner for this particular house requesting that the house be left as is. He requested the developer come forward and advise the Board of the economic cost in the event this application is denied. He will have legal fees, because we are going across the street. He is going to have the actual cost, if he decides not to go across the street, because he will have to pay \$40,000 to \$50,000 to restructure the house, and then sell it for whatever he can get. There are a number of lots in this subdivision with variances that have been approved. The majority involve setback lines. Most of them were granted before they incurred any building expense. This one was an oversight. Was the oversight on their part or on the county's part or both? If it is on the county's part shouldn't the variance be approved so they can move forward? He has seen the plan and if you are not paying close attention it can be misleading. Someone made a mistake but it is not fair to make them tear it down.

David Rutledge – 229 Green Circle – McDonough, Georgia

Mr. Rutledge said the plat that was drawn for this development was on two pages rather than one. The superintendent that was working from this plat was not a professional

builder. This was probably only the second house that he laid out. He showed from the plat how the error was made. Since this incident they have changed their procedures to avoid this happening again. This was a major mistake on the part of the superintendent. They went all the way through and got the CO on the house. They realized there was a problem and brought it to the Board. At the time there was not a buyer for the home. Since that time they have a buyer for this house. They have offered to build this same house on a different lot but they want this particular house. They like the location. The house is 100% complete and is ready for occupancy. The cost to tear the garage off, remove the debris, reform it, re-pour it, could run up to \$60,000 - \$70,000. Other variances were granted and he feels a self-created hardship is not a valid reason for not granting this application. The economic feasibility is 70% of the house value and that is not the intent of the ordinance. This is a hardship and he believes they are entitled to the variance and he requested the variance be granted.

Mr. Richardson called for a recess to allow the Board of Appeals to discuss this application. He was advised that any discussion would have to be held in an open forum and the call for recess was rescinded.

Mr. Richardson said he has a question, as chair, and needs to discuss this application with the county representatives. The Appeals Board attorney has had to recuse himself for a potential conflict of interest. He asked Mr. Taylor what authority the building inspector has.

Mr. Taylor said the building inspector enforces the building codes of the county. He issues a CO on finding that the codes and UDO have been met. When it was appropriate he inspected the footings for code compliance not zoning setback compliance. That is important. The CO has never been issued for this house.

Mr. Dryden said he has served on this board for several years and he has never been affected by threats of his decision being taken to Superior Court. He is not worried about this at the present time but since there are some issues regarding the legality of some ordinances he would like to have time to confer with legal authority.

MOTION

Mr. Dryden made a motion to table until such time as legal authority can be consulted. The motion passed on a second by Mr. Heggie with Mr. Dryden, Mr. Heggie, Mr. Pruitt and Mr. Richardson voting for the motion and Mr. Baird, Mr. Browning, and Mr. Hart voting against.

Application #03-07S: Lift from the table – Clara Company, owner – Triad Investments, LLC, agent – Teamon Road (70.321 acres located in Land Lot 201 of the 3rd Land District) – requesting a special exception to allow 1 acre lots in the R-2 District.

MOTION

Mr. Browning made a motion to lift Application #03-07S from the table. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Steve Moore – Moore-Bass Consulting – 165 Forest Drive – Locust Grove, Georgia
Mr. Moore said they have 70 acres ± located on Teamon Road just east of the Seven Forks Subdivision. They are proposing 55 single-family residential lots, all one-acre minimum. They have been to the Planning Commission and after making some modifications to the original proposal they received approval from them. They are seeking approval for one-acre minimum lots. Mr. Moore said he is aware of conditions and is prepared to meet the conditions.

In discussion there was one condition that Mr. Moore was not aware of regarding streetlights and sidewalks. Mr. Moore said he would like to keep the conditions as they were when the Planning Commission was considering the application.

MOTION

Mr. Browning made a motion to approve Application #03-07S conditioned that the park design and landscaping of the buffer design will be included on the preliminary plat and the lots along Teamon Road shall be developed with the houses facing Teamon Road and shall be accessed with an “alley” along the rear of the dwellings. The motion passed on a second by Mr. Pruitt with Mr. Baird, Mr. Browning, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion and Mr. Dryden voting against.

Application #03-10S: Lift from the table – Crescendo Land, LLC, Owner – Next Generation Properties, agent – Georgia Highway 155 (41.26 acres, more or less, located in Land Lot 111 of the 2nd Land District) – requesting a special exception to allow 1 acre lots in the R-2 District.

MOTION

Mr. Pruitt made a motion to lift Application #03-10S from the table. The motion passed on a second by Mr. Heggie with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Michael Harris – 252 Key West Drive – Stockbridge, Georgia
Mr. Harris said they were requesting a special exception to allow one-acre lots in an R-2 district. They went before the Planning Commission with their original plan showing ¾ acre lots. They were given the option to go with the one-acre lots with 10% green space. They have done a level one soil study.

Mr. Browning said he believes there are some soil issues and questions whether or not the land can be developed as proposed.

Mr. Harris said those issues have been raised by others and they are aware of his concerns.

Thomas Spangler - 107 Paul Circle

Mr. Spangler said the reason they want to get the one-acre lots is to get more houses on this land. He owns 80 acres adjacent to this property and there is a gully on this property that is about a quarter of a mile wide and 300' to 400' deep. There is a creek they are trying to span that goes through his property and it ends in Troublesome Creek that is on his property. The other creek goes through his property and goes down to Troublesome Creek all on his property. If they have to maintain the two-acre lots they will be able to get from 18 to 20 houses and if they get the one-acre lots there will be 40 to 41 houses there. Since the creeks run down through his land if there are 41 houses if they have septic tanks it will contaminate that area. His land is the lower land in the area and has been declared wetlands. He opposed this application.

Tilman Blakely – 599 Smoak Road

Mr. Blakely said this project appears to be a bad idea. The drainage is a problem. This is high-density with no green space with one way in and out. This does not appear to be beneficial to Spalding County. He is disturbed because the Board is asking this to be reduced to one-acre lots. There is over 1000 undeveloped acres in this area. This is a very rural area and it is a dangerous precedent to establish one-acre lots with this much rural area. The staff has recommended denial and he requested denial.

Debra Jo Steele – 1819 North Walker's Mill Road

Ms. Steele said she had a meeting on March 28 at her house with the landowners in the area and representatives from Crescendo Land, LLC. She made a written record of that meeting, a copy of which is attached to and becomes a part of these minutes. She went over that report and the information they received. One of their concerns is that there is a very lovely lake that is very deep and they are concerned about the safety regarding children that will be coming with new development. They have proposed 33 homes, not 41. There will be septic systems but public water. They like the proposed project and requested that the variance be granted.

Mr. Browning asked whether or not, when this was purchased, was it not zoned for one-acre lots with water provided with 125' frontage.

Andre Davis asked if he could address the Board regarding that question.

Andre Davis – Crescendo Land, LLC –

Mr. Davis said before purchasing the property they did their due diligence and met with Michael Sabine. They came up with green space and one-acre lots. The purchase was based on the one-acre lots. When they got through with the engineers and came back to the staff to proceed with the plans at that time it was noted the reconstruction of the zoning, or whatever was done with the zoning, and that is why they are here again today. They have closed on the property and have the development funds available to move forward. To do anything else they would lose a tremendous amount of money.

Mr. Galloway said the deed shows that Crescendo obtained the property on June 12, 2002. The ordinance for the conservation subdivisions was adopted first in October 2001 and by December the design criteria and densities in the other zoning districts were modified to require two-acre lots. By the time Crescendo acquired the land the two-acre minimum was adopted according to the deed information he has.

Ms. Craig said that in October 2001 the conservation subdivision was adopted. There was a window of January 2002 in which, if the development plan was in, they could go in with the one-acre lots. They came to the Planning Commission in March 2002 with a concept plan for a conservation subdivision. They were showing one-acre lots at that time. At that meeting it was discussed and Mr. Sabine noted that the conservation subdivision allowed potentially one-half acre lots. This was prior to the Board of Health changing that to a one-acre minimum. They left the Planning Commission meeting, not with a vote of approval, but with the consensus that they had a pretty good design so they went forward with the purchase. When they spoke with her and Mr. Taylor in January 2003 the plan showed less than one-acre lots based on their meeting with the Planning Commission. They were advised at that time that it was not allowed in Spalding County and a one-acre lot is required to be considered for a septic permit.

Jzonn Cureton - 4727 Eagles Ridge Loop– Lithonia

Mr. Cureton said he is an engineer with Crescendo Land and wanted to address the flood plain and the creeks. Basically he is looking at different technology for a span bridge that comes already pre-made. This is new technology and they do not have to get in the creek and will not mess up the environment and not cause any silt to go on anyone else's property.

MOTION

Mr. Browning made a motion to approve Application #03-10S. The motion passed on a second by Mr. Pruitt with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Application #03-11S: Lift from the table – Byron F. Smith, owner – McKinley Drive (3.61 acres, more or less, located in Land Lot 150 of the 2nd Land District) – requesting a special exception to allow condominium dwelling, patio dwelling, or zero lot line dwelling in the R-1 District.

MOTION

Mr. Pruitt made a motion to lift Application #03-11S from the table. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Byron F. Smith – 490 North Pine Hill Road

Mr. Smith said he has 18 acres in a subdivision that was developed in the 70's. He has a lot of road frontage and wants to take one of the streets and divide it into 100' x 175' lots, which is the same size as the average lot in the neighborhood. There will be nine lots and the houses will be single-family. He compiled the square footage of all the houses in the

area and he will be increasing the size of the average home by 90 SF. He said subdivisions require street lighting but this subdivision already has three streetlights within the nine lots. He requested that he not be required to put in streetlights. Sidewalks are also required. The neighborhood is like a rural neighborhood without any sidewalks. He requested that the sidewalks be eliminated so as to be like the balance of the neighborhood. He also said one of the recommended conditions is that there be a 10' access easement located between lots 4 and 5 for pedestrian access to future potential development and green space. Mr. Smith said he does not feel the people that purchase lots 4 and 5 would want people using the space between their houses for a walk. He has met with the Army Corp of Engineers and there are some wetlands issues. He provided a copy of a report regarding the wetlands. The report said with the site plan that was discussed no disturbance will be necessary to accomplish this project. There is one corner of one lot that will have some wetlands. He was advised not to build on that part of the land. He requested approval.

Mr. Taylor said streetlights and sidewalks are required by the ordinance. A variance will have to be granted to omit those requirements. He further commented that due to the wetlands the recommendation for the access between lots 4 and 5 is still pertinent.

Mr. Smith said he would be willing, if he develops the balance of the property, to put some access if the staff still wants it. He does not feel that access is appropriate between these two lots.

The following comments were made by those in attendance.

Roxie Shirey – 104 McKinley Drive

Ms. Shirey said she would like to reserve the right to speak later if she desired

Margaret Varnon – 111 McKinley Drive

Ms. Varnon said they were present a year ago with this incident. After that occurred one of the committee was campaigning on the street and made the comment that we did not really know what was going on and we were lucky. She is firmly convinced that there is still something underlying in this. Now that it involves only the 3.61 they are concerned about the acreage that lies behind those acres. How easily can he come back in and get that acreage so there is a humongous community in a small rural neighborhood? When he talks about the green space you look at what he has done in the past year and a half. There is very little green space left because he has already destroyed it all. They are opposed to this variance because they are concerned about what will happen.

Joe Conkle – 145 McKinley Drive

Mr. Conkle said he is amazed that Mr. Smith has not already been fined because he has destroyed wetlands. He dug up the springs and filled them in with rock. He also put a thin layer of soil over the “muck”. He did not even use silt screen until after the fact, just before we had the last meeting. How about the trees and stumps that are over there? Did he have any permits? I don't think so, if he did I have not seen them. There are houses on McKinley Drive that already have water problems. When it rains water stands under

the houses and in the yards. Houses that he is proposing now are in a lower section than what they are in now. What is going to happen after Mr. Smith builds those houses and sells them to unsuspecting people? Is the county going to come in and try to straighten up the mess or is Mr. Smith coming back? Are we going to do it at taxpayers expense? There are some problems on Carver Road at Carriage Hills where water is in the yards and the county is having to straighten that out. Are we going to do that at McKinley Drive? Why should our neighborhood have to take devaluation on our property so Mr. Smith can make money? I can't believe that this board would allow him to build on anything like this swamp. He knew it was swampland when he bought it. The only part that is suitable for houses is the southeast corner. Maybe a sign should be erected that states this is swampland and the houses are being built on "muck". Something to warn the potential buyers of these problems. The board should not grant Mr. Smith any exceptions. There was a piece in the Griffin paper about it being time for the boards to stand up to the unwanted developers and tell them no.

Glenda Browning – 151 McKinley – reserved the right to talk later.

Frank Robertson – 133 McKinley

Mr. Robertson said he wanted to second what Mr. Conkle had said. There is an 18-acre tract of land and he proposes to develop houses on 3.61 acres along the street. According to the sign to get to this special exception you had to go to condominiums, zero lot lines, patio type houses. At this meeting you have been talking about going from two acres to one acre and now you are talking about going to .4 of an acre. That is what is there now but it is not what the present ordinance allows. You are really moving down. If you make this exception you probably have opened the door to the rest of the property to develop the same way. They will probably build a set of condominiums or apartments. They are concerned that you will open this up for future exceptions that you might not be able to get out of and you will penalize the neighbors. Why "piece meal"? If you are going to develop a piece of property why don't you present a plan for the total acres? He should have to give a plan for the whole 18 acres. Most of the developers tonight have had detailed plans. It does not seem to make sense the way he is going about it. How did it get to the Board of Appeals? It was at the Planning Commission last year and the members gave them approval for agricultural reserve. He withdrew it. How did it get here without going back to Planning and Zoning? It seems to be confused. Someone said that he had said he was going to sell the land. Mr. McKinley did not develop this land because it was wetlands with water standing on most of the property. He was grading the property and cutting down the trees. He requested that this not be considered on a "piece meal" basis. It is not good business sense.

Jewel Adams – 135 McKinley – Reserved the right to speak later.

Patricia Bender – 127 McKinley

Ms. Bender said they are concerned about this issue because they have been told everything "under the sun" from the "word go". Each person has been told a different thing that he proposed to do with the property. They have watched it go through all the different changes. It is wetland. They have watched the tractors be "soaked up" over

there again and again and have to be pulled out. It has to be a wetland property for all of this to go on. He was given the opportunity to build three houses there last year. The first thing Mr. Smith told them was that his wife had a dream of having a beautiful home with a lake. That was exciting. Then he was granted the opportunity to build three houses and he was going to build a house for his wife and children with some horses. He withdrew that. The man cannot be trusted. They don't know what he wants to do with this property. She has put her life savings in her little "mansion" on McKinley Drive. Mr. Smith has a really nice home on Pine Hill Road and she does not think he would want someone to come in and ruin the adjacent property. They do not want him ruining the little bit of property they have. If he would do something that would be equal to what is there that would be fine. Mr. Smith has a real bad disease called the "love of money". They would like to have something positive for their little community.

Dickienna Baughman – 141 McKinley – Reserved the right to speak later.

Lanny and Shirley Hook – 148 McKinley

Mr. Hook said he is happy where he is. He wants to live there the rest of his life. Mr. McKinley knew this land was low. The lots won't perk. Lots 1, 2, and 3 have no sewer available to them right now. There may not be enough fall on those lots to get to the sewer. A pump station may have to be built. There should be only seven houses there. He is more concerned about the 15.25 acres that will remain. They have all lived with this for 10 years. They watched the man purchase the land and totally destroy the wetland and take the trees out. They like the neighborhood. He does not see a reason to change the standards the county has already set. A doctor purchased this land and made a mistake and he got out. The second buyer made a mistake also. Sometimes the street is a river. There is no way the neighbors can compensate for what Mr. Smith has lost. Another mistake will not make this any better.

Jerry Martin – 143 McKinley – Reserved the right to speak later.

Mark Rogers – 130 Woodmont

Mr. Rogers said he was a newcomer to the area. He is across the street and likes to walk over to McKinley for a stroll. This used to be a quiet neighborhood, heavily wooded and he remembers how nice it was because it was swampy and would never be used for anything. Apparently someone thinks he can develop a swamp which does not make much sense. He is baffled that it is for condos and he has said he is going to increase the size of the average home in the neighborhood. He is concerned about the traffic. Why is he requesting a condo type development and what are the plans for the development of the entire tract? It is not appropriate to have that kind of traffic coming out on Ethridge Mill Road.

Larry and Marsha Huckaby – 106 McKinley Drive

Mr. Huckaby said he has lived here for 31 years and has the same concerns as the neighbors. What will be built? What is the present average size of the houses now?

Mr. Smith said there are 42 houses and the average size is 1663.12 SF.

Mr. Huckaby said they want to be certain that the property values hold and they can continue to live their lives in a way that is not detrimental to the community. He wants homes to be built that are equal to the homes in their neighborhood. He requested just consideration for the present residents.

Dennis McGee – 202 McKinley

Mr. McGee said he is concerned that they will build more houses than the ones that are planned. This is wetland.

Patsy Stuart – 123 McKinley

Ms. Stuart referred to the letter that Mr. Smith left in some of the mailboxes on the street. Mr. Smith said the reason the date for this meeting was changed from April 10 to the present date was because the county had put the incorrect sign on the property. When she called to find out why the meeting was cancelled they were told because of ongoing wetland issues on this property. She asked if the county had received the delineation map from the Corp of Engineers or EPD.

Mr. Taylor said the county did put up an incorrect sign and as a result had to move the meeting forward. They were asked about wetland issues on this property and wetland issues will be considered as part of the review. They did get a letter from the Corp of Engineers regarding those issues. Mr. Smith had a wetland study done and they were made aware that the county had done a wetland study last year and he sees from those studies that the wetlands are basically limited to that area that still has the trees and shrubs. The Corp of Engineers does not send maps that delineate wetlands. That is a requirement of the property owners.

Ms. Stuart said she had talked with Mr. Miller with the Corp of Engineers yesterday and to Mr. Summerville with the EPD and they stated that there are ongoing wetland issues there and that the county will be notified as soon as they can.

Ms. Craig said she spoke with Mr. Miller last week and he said he was gathering data from Mr. Smith and his review of the site was that the wetlands were limited to that area where the trees are left. Mr. Miller said the wetlands are not in the area of this proposed development of 3.61 acres.

Ms. Stuart said they are aware that the wetlands is in the remainder of the property but their concern is future development of the balance of the property which is wetland.

Mr. Taylor said they can only deal with the land that is part of this proposal which is the 3.61 acres. This proposal does not include anything but the 3.61 acres. If he wants to develop the balance of the land as he has proposed for this, he will have to bring it to the Board of Appeals.

Michael Carr – 163 McKinley Road

Mr. Carr said he and his wife have one of the larger homes set on two lots so they have already lost on the property values. If the lot sizes are lowered then it will affect him even more. When the property was for sale he inquired because he was considering developing it himself. The price was approximately \$40,000. He went to his financial partner and suggested they pick this parcel up and he did a study and decided that it was not monetarily feasible to develop the property. A lot of this land was designated wetlands. The area that he is proposing to build is the best area. He is not opposed to this and he does not care if there are no sidewalks because there are no sidewalks now. The streetlights are not an issue either. His issue is that if the variance is given on the 3.61 acres it will leave it open for development of the rest of the property.

John Stuart – 123 McKinley Road

Mr. Stuart said he does not have any objections as long as he builds comparable type houses and the size of the lots is similar. His concern is the wording for condominiums, patio dwellings, and zero lot line dwellings. If that is deleted he does not object.

Mr. Richardson offered to let anyone speak that had reserved the right to speak. None wanted to speak.

Mr. Taylor said, under the special exception criteria, the homes will have to be a minimum of 1750 SF. There is architectural criteria including a roof pitch of 7:12, brick accents that have to be met, there cannot be exposed foundations, and each house has to have a two-car garage.

Mr. Galloway went over the reasons the special exception was required. The staff has proposed conditions on the zoning which he read.

MOTION

Mr. Dryden made a motion to deny Application #03-11S. The motion died for lack of a second.

MOTION

Mr. Pruitt made a motion, seconded by Mr. Browning, to approve Application #03-11S limited to the 3.61 acres conditioned as follows:

1. Lots shall be 100' in width and 175' in length.
2. The minimum front yard setback shall be fifty (50) feet.
3. The front yards shall be sodded.
4. The homes shall meet the architectural guidelines as required within Appendix A: Subdivision Ordinance.
5. Only detached single-family residential dwellings shall be constructed.

The motion passed with Mr. Baird, Mr. Browning, Mr. Hart, and Mr. Pruitt, voting for the motion and Mr. Dryden, Mr. Heggie, and Mr. Richardson voting against.

Before the vote Mr. Browning asked if the Appeals Board could except out the sidewalks and streetlights at this time.

Mr. Galloway said in his opinion Mr. Smith will have to file for a variance if he does not want to meet those requirements.

Application #03-14V: Alan R. Mobley, owner – Kilgore Road (32.1 acres, more or less, located in Land Lot 124 of the 3rd Land District) – requesting a variance to allow cul-de-sac street to exceed 300 linear feet in the R-2 District.

Alan R. Mobley – 262 Mobley Road

Mr. Mobley said he needs a variance on the street length for cul-de-sac.

MOTION

Mr. Hart made a motion to approve Application #03-14V. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

Application #03-15V: Griffin Area Habitat for Humanity, owner – Mark Staples, Agent – Fourth Street (1.27 acres Located in Land Lot 207 of the 2nd Land District) requesting a variance from minimum lot width and minimum acreage in the R-5 District.

This application was withdrawn.

Application #03-16S: Ray Alan, Jr. and Tiffany Smith, owners – 19 Ballard Drive (10 acres located in Land Lots 175 and 178 of the 4th Land District) – requesting a special exception to allow a Class A Manufactured Home in the AR-1 District.

Ray Smith – 19 Ballard Drive

Mr. Smith said he wanted to replace an old singlewide mobile home with a new Class A manufactured home that is approximately 1800 SF. The present home is a 1973 model. He has lived on the property for approximately two years.

Mr. Browning said the neighborhood is “swinging toward” site-built homes.

MOTION

Mr. Dryden made a motion, seconded by Mr. Heggie, to approve Application #03-16S conditioned on the existing home being demolished and removed from the property. The motion failed with Mr. Dryden, Mr. Heggie, and Mr. Richardson voting for the motion and Mr. Baird, Mr. Browning, Mr. Hart, and Mr. Pruitt voting against.

MOTION

Mr. Browning made a motion, second by Mr. Pruitt, to deny Application #03-16S. The

motion passed with Mr. Baird, Mr. Browning, Mr. Hart, and Mr. Pruitt voting for the motion and Mr. Dryden, Mr. Heggie, and Mr. Richardson voting against.

Application #03-17S: Ruth Rice Bonnell and Richard Donald Bonnell, et al, owners – Minerva Properties, L.L.P., agent – Teamon Road and Smoak Road (100.67 acres located in Land Lots 231 and 232 of the 3rd Land District) – requesting a special exception to allow 1 acre lots in the R-2 District.

Brian Davidson – Minerva Properties - 2292 Henderson Mill Road

Mr. Davidson said they have recently rezoned a large piece of land to the west side of Smoak Road that fronts on Teamon Road for a large development. They are in the process of preparing for this development. They have had concerns about what will happen with the surrounding property. There was not a lot of development in the area but since they acquired this land there are several projects that have confirmed. They have a lot of money invested in their property and this property is close to their development. When they became aware that the family wanted to sell this property they felt it was in their best interest as a defensive measure. They felt a need to control what was developed at their “front door”. They have tried to find a way to sewer this property but there are issues that made it economically unfeasible. This will be a septic development. They have done a two-acre development and lost money miserably and will not do another. It is a design that is difficult to sell. There is too much maintenance for a single-family homeowner but not enough land for a mini-farm. With 1/2-acre lots they can allocate more funds for the aesthetics. However, the Spalding Health Department will not allow anything less than one-acre lots with a septic development. The proposal is the best they will be able to do with the one-acre requirement. He would like to be more aggressively excited but the limitations of the site make it more restrictive. They will probably have a park within the community which will be \$30,000 to \$40,000.

Tilman Blakely – 599 Smoak Road

Mr. Blakely said he is not excited about the project. He hates to see this approved. He showed an aerial view of the area. He had hoped that Smoak Road could be a farmette community. This is not a high-density area. Spring Lake was approved, which was a special situation. The prospects were to potentially have several different developers come in and “piece meal” the area or have Minerva to develop the property. That does not mean that there is a need for 77 houses on 100 acres and the deforestation to occur. He would like Smoak Road to remain a larger tract area. It appears that they cannot make the development pay for itself with the larger tracts with the price they are having to pay for the property. Is that our problem or theirs? He would like to see this denied and he would like to see Smoak Road and the surrounding area kept at a lower density than this represents.

Glen Adcox – 2640 Teamon Road

Mr. Adcox said the Spring Development with 2200 houses is going to cause quite a problem with ingress and egress to the community. They have heard there are proposals to help that situation. Now we are talking about 77 more houses. He does not see how they can get 77 houses on this property due to the flood plain. He identified an area of 16

acres that will not perk. He discussed properties in the area and the zoning changes that have occurred. He does not feel this change should be allowed. The Roosevelt Railroad goes right behind this property and he does not know what they want to do. They talked about a 50' buffer between the railroad and any houses or other property around there. Is there still going to be the 50' buffer from his property and the railroad property?

Mr. Davison said he does not mind offering the 50' buffer to him but he would hesitate to offer it to the railroad.

Mr. Adcox said it is going to “dump” a lot more traffic in there.

MOTION

Mr. Browning made a motion, seconded by Mr. Hart, to approve Application #03-17S conditioned on a park/playground being as centrally located as possible. The motion passed with Mr. Baird, Mr. Browning, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion and Mr. Dryden voting against.

Application #03-18V: Ruth Rice Bonnell and Richard Donald Bonnell, et al, owners – Minerva Properties, L.L.P., agent – Teamon Road and Smoak Road (100.67 acres located in Land Lots 231 and 232 of the 3rd Land District) – requesting a variance from minimum lot width, minimum front yard setback, and to allow cul-de-sac streets to exceed 300 linear feet in the R-2 District.

Brian Davidson – Minerva Properties - 2292 Henderson Mill Road

Mr. Davidson said he is requesting this to make the development more aesthetically pleasing. He went over how the plans can be improved if the variances are allowed.

MOTION

Mr. Baird made a motion to approve Application #03-18V conditioned on approval of the special exception by the County Commission. The motion passed on a second by Mr. Pruitt with Mr. Baird, Mr. Browning, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion and Mr. Dryden voting against.

Application #03-19S: Claire Fontaine Rice and Ruth Bonnell, et al, owners – Minerva Properties, L.L.P, agent – Smoak road (173.58 acres located in Land Lots 230 and 231 of the 3rd Land District) – requesting a special exception to allow 1 acre lots in the R-2 District.

This application was withdrawn

Application #03-20V: Claire Fontaine Rice and Ruth Rice Bonnell, et al, owners – Minerva Properties, L.L.P., Inc. agent - Smoak Road (173.58 acres located in Land Lots 230 and 231 of the 3rd Land District) – requesting a variance from minimum lot width, minimum front yard setback, and to allow cul-de-sac streets to exceed 300 linear feet in the R-2 District.

This application was withdrawn

Application #03-21V: Cole Tract Associates, L.P., owner – Minerva Properties, L.L.P., Inc., agent – Trestle Road and Johnson Road Extension (210 acres, more or less, located in Land Lots 145, 247, 248, and 234 of the 2nd and 3rd Land Districts) – requesting a variance from minimum side yard setback in the PD District.

Brian Davidson – Minerva Properties - 2292 Henderson Mill Road

Mr. Davidson said this is for the Heron Bay development, which is already under construction. He presented a map showing the development with a two-mile long parkway, no lots, heavily landscaped with new trees going in daily. They purchased a piece of railway line from Norfolk Southern and removed the rails. It is a development that Henry County has not seen before. They will be starting the golf course soon. Four of the holes will be in Spalding County. The water park is about a 1.8 million dollar aquatic center with water slide and lots of great things for the kids. There will be a 5000 SF resident clubhouse. There will be tennis courts and many, many miles of trails. The Spalding section has been specifically designed for the empty nesters, 45 to 50 years old plus community. They did not realize what a large market there would be for this and they did not give it the attention it needed. The market studies have come back and it has massive interest. There is a web site up and there have been 500 people that have registered and 65% are interested in \$250,000 price range. They tried to do some creative zoning in Henry and they were rigid in their structure and they have the more traditional neighborhoods. He discussed further the plans they have for this development. People want an extremely low-maintenance house. They want smaller houses with all the amenities. They are requesting a variance on the zero lot line. He explained how the houses will be placed on the lots and why the side yard setback is needed for the particular product they want to develop.

MOTION

Mr. Browning made a motion to approve Application # 03-21V conditioned that the garages cannot be setback any closer than the front of the main portion of the house to include the front porch. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

MINUTES

Mr. Hart made a motion to lift the minutes of the March 13, 2003 from the table. The motion passed on a second by Mr. Browning with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Heggie, Mr. Pruitt, and Mr. Richardson voting for the motion.

MOTION

Mr. Pruitt made a motion, seconded by Mr. Browning to approve the minutes of the March 13, 2003. The motion passed with Mr. Baird, Mr. Browning, Mr. Dryden, Mr. Hart, Mr. Pruitt, and Mr. Richardson voting for the motion and Mr. Heggie abstaining because he was not present.

MOTION

Mr. Heggie made a motion, seconded by Mr. Browning, to approve the minutes of the April 10, 2002 meeting. The motion passed with Mr. Baird, Mr. Browning, Mr. Hart, Mr. Heggie, and Mr. Pruitt voting for the motion and Mr. Dryden and Mr. Richardson abstaining because they were not present.

MOTION

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

Dennis Richardson – Chairman

Yvonne M. Langford - Recorder