

BOARD OF APPEALS
Regular Meeting
Open Session
May 9, 2002

The Spalding County Board of Appeals held its regular meeting on May 9, 2002 at 7:00 p.m. in the County Commission Meeting Room #108, Spalding County Courthouse Annex. Members present were: Chairman Margaret Palmer, presiding, Keith Dryden, Mose Stogner, Greg Pruitt, and John Youmans. Frank Harris, Dennis Richardson, and Charles Heggie were not present.

Also, present were Assistant County Manager Michael E. Sabine, Senior Planner Lee Craig, and Cindy McDaniel to record the minutes. Zoning Attorney Newton Galloway was not present at the meeting.

Ms. Palmer called the meeting to order, introduced the members of the Appeals Board, and gave the procedure for handling the applications.

Application #02-08V: Melvin M. and Deborah J. McBurnett, Owners – James M. McBurnett, Agent – 19.5619 acres off Bailey Jester Road located in Land Lot(s) 113 & 144 of the 3rd Land District – requesting a Variance from minimum lot width and frontage width in the AR-1 District.

James M. McBurnett came forward, was sworn, gave his name, and address as 76 April Avenue, Stockbridge.

Mr. McBurnett stated he is asking for a variance so he can build a house next to his mom and dad. Mr. McBurnett stated at the time the property was purchased, he was unaware of the regulations required in the AR-1 district. Mr. McBurnett stated he would like to build the house between his parent's house and the neighbor next door. There will be only 1 house per lot.

Mr. Dryden stated he did not see a problem with approval of this application in that specific area.

MOTION

Mr. Dryden made a motion to approve Application #02-08V. The motion passed on a second by Mr. Stogner with Margaret Palmer, Keith Dryden, Mose Stogner, Greg Pruitt, and John Youmans voting for the motion.

Ms. Palmer advised Mr. McBurnett that the Board of Appeals had unanimously approved his variance application, and he would be receiving a letter from the Community Development office.

Application #02-09V: Hazel Gilliland, Owner – Cathy K. Banks, Agent – 114 Rider Road (located in Land Lot 102 of the 3rd Land District) – requesting a Variance to extend or alter a non-conforming use in the C-1 District.

Hazel Gilliland came forward, was sworn, gave her name, and address as 10268 Fox Fire Terrace, Jonesboro.

Ms. Gilliland stated she would like to build a single-family home on the property for personal use. Ms. Gilliland stated she has owned the property approximately 4 or 5 years. Ms. Gilliland stated there was a manufactured home on the property at one time. Ms. Gilliland stated the manufactured home was repossessed. Ms. Gilliland stated the property has been vacant for the past 2 years.

Mr. Sabine stated this application is to extend or alter a non-conforming use. Mr. Sabine stated in this case, the approval would reactivate the use. Mr. Sabine stated Rider Road is in a commercial zone, but is essentially a residential street. Mr. Sabine stated to introduce a commercial use on this part of Rider Road would be inappropriate with the residential character in the area. Mr. Sabine stated staff recommends approval for the variance. Mr. Sabine stated the approval would need to be conditioned since the property is within a commercial zone. The condition needs to state as follows: site built home with a minimum of 1,250 square feet heated area. Mr. Sabine stated there is no underlying zoning relative to single-family construction in the C-1 district.

Mr. Youmans stated he felt building a house on the property would be good for the neighborhood.

Mr. Dryden asked if approving to build a house on the property would create an issue for the property owner at a later date. Mr. Sabine stated the use would still be a non-conforming use, and could still be rezoned if rezoning was the wishes of the Board of Appeals. Mr. Sabine stated the variance approval is the simplest route since there was a previous residence on the property.

MOTION

Mr. Youmans made a motion to approve Application #02-09V conditioned to site built home with a minimum of 1,250 square feet heated. The motion passed on a second by Mr. Pruitt with Margaret Palmer, Keith Dryden, Mose Stogner, Greg Pruitt, and John Youmans voting for the motion.

Ms. Palmer advised Ms. Gilliland that the Board of Appeals had unanimously approved her variance application, and she would be receiving a letter from the Community Development office.

Application #02-10S: Johnny M. and Nancy L. Fredrick, Owners – Mark Moody, Agent – 1.991 acres off Jonan Road located in Land Lot 20 of the 3rd Land District – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mark Moody came forward, was sworn, gave his name, and address as 814 Ashton Place, Griffin, Georgia.

Mr. Moody stated he is before the Board of Appeals requesting a special exception approval to allow a manufactured home in the AR-1 zoning for his aunt and uncle, Nancy and Johnny Fredrick. Mr. Moody stated Mr. Fredrick retired from the U.S. Army and then from the Spalding County Sheriff's Department. Mr. Moody stated Mr. Fredrick suffered a major stroke last year, and is now in need of special care, and, also, have a home that is handicap accessible. Mr. Moody stated Mr. and Mrs. Fredrick have 34 acres that has been divided into 5 different parcels. Mr. Moody stated Mr. and Mrs. Fredrick's current home is on parcel 83 with a manufactured home on the same parcel.

Mr. Moody stated in January of this year, Mr. and Mrs. Fredrick applied for a special exception and a variance to replace the manufactured home on parcel 83. Mr. Moody stated he was advised the staff was going to recommend denial of the applications. Mr. Moody stated he withdrew the applications. Mr. Moody stated after re-evaluating the situation, Mr. and Mrs. Fredrick decided to put a manufactured home on parcel 82. Mr. Moody stated there is currently a manufactured home on parcel 81 and vacant on parcel 80. Mr. Moody stated his sister currently lives in the manufactured home on parcel 83 so she can help take care of his uncle.

Ms. Palmer stated she had read the letter than Ms. Fredrick had submitted and wanted to commend each of them.

Bob Edwards came forward, was sworn, gave his name, and address as 1599 Rehoboth Road.

Mr. Edwards stated his property is located approximately 200 yards south of the proposed site for the manufactured home. Mr. Edwards stated he stands opposed to the request for the following reason. Mr. Edwards stated there is now a valuable and rare sewage line, of approximately 2,000 feet, that runs through the southern portion of his property. Mr. Edwards stated several different people concerning building project have approached him. Mr. Edwards stated one development just south of him features homes with approximately \$120,000 to \$140,000. Mr. Edwards stated this type of construction would greatly add to Spalding County's tax base, which is definitely needed. Mr. Edwards stated the property in the area is wide open for opportunity, but Spalding County needs to be a little tougher concerning manufactured homes particularly in a prime spot where opportunity is just knocking on the door. Mr. Edwards stated developers who have contacted him have very nice developments proposed. Mr. Edwards stated these types of developments would not come to Spalding County, if the door were left open for too much variance, too much substandard buildings, or possible manufactured homes. Mr. Edwards stated he is concerned for Mr. and Mrs. Fredrick, but these types of development is what Spalding County needs for better tax base. Mr. Edwards stated every time an exception is made, Spalding County could be closing a door for opportunity.

Mr. Pruitt asked if putting one manufactured home on the property would really affect the area. Mr. Edwards stated any one exception can be picked out and wouldn't make any difference, but somewhere along the line exceptions need to stop.

Mr. Pruitt stated if all site built homes were on Jonan Road, then there might be a problem with putting a manufactured home on the property. Mr. Pruitt stated since there is a manufactured home and a site built home on one side of this property, and another manufactured home on the other side, he did not have a problem with a manufactured home being put on this property. Mr. Pruitt stated this home is not for a young couple to move in, but for somebody who has some situations and want to be near their family. Mr. Pruitt stated this is more of a hardship.

Mr. Youmans advised Mr. Edwards the type of development that his sewer line would bring would be a cluster home type of development.

Mr. Edwards stated that someone had just built a \$200,000 or \$300,000 home on Walkers Mill Road. Mr. Youmans asked Mr. Edwards what his point was. Mr. Edwards stated his point is that Spalding County will stop people who want to build larger homes if more manufactured home are allowed in the area. Mr. Edwards stated exceptions needs to be limited.

Nancy Fredrick came forward, was sworn, gave her name, and gave her address as 82 Jonan Road.

Ms. Fredrick stated in 1980 she and her husband purchased 6 acres on Jonan Road. Ms. Fredrick stated several years ago she and her husband found out that the end of the road was going to be developed. Ms. Fredrick stated they bought all of the property just to keep development out of the area. Ms. Fredrick stated her elderly aunt resides in the first manufactured home seen on Jonan Road. Ms. Fredrick stated she had her husband have lived in the home for 22 years. Ms. Fredrick stated due to her husband having a stroke, he is unable to do upkeep on the home and the property. Ms. Fredrick stated their children are grown and have moved on. Ms. Fredrick stated she would love to have a small home built on the property. Ms. Fredrick stated due to unforeseen things happening, there are no funds available. Ms. Fredrick stated she did try and sell the property and the home, and nobody wanted to purchase at the market price. Ms. Fredrick stated nobody wants to live on a road with a recycling center close by. Ms. Fredrick stated the only people who see them are the mailman, some people who come to the recycling center, and the cows across the road. Ms. Fredrick stated nobody wants this land, but she and her husband want it. Ms. Fredrick stated she and her husband are not substandard people, and would like to spend the rest of their days in comfort. Ms. Fredrick stated a new-handicapped accessible Class A Manufactured home would give plenty of room for her husband.

Ms. Palmer asked if Ms. Fredrick objected to Mr. Edwards seeing the letter she had submitted with the application. Ms. Fredrick stated no.

Ann Edwards came forward, was sworn in, gave her name, and address as 1599 Rehoboth Road.

Ms. Edwards stated she and her husband applaud Mr. and Mrs. Fredrick on what they have been through. Ms. Edwards stated one exception after the other have been made over the years in this area. Ms. Edwards stated if Mr. and Mrs. Fredrick move, something in the area could happen that manufactured homes wouldn't add to the value. Ms. Edwards stated there has to come a time when Spalding County doesn't make an exception for one more manufactured home on property. Ms. Edwards stated the Fredrick's property could be extremely valuable due to the sewer line close by.

MOTION

Mr. Dryden made a motion to approve Application #02-10S. The motion passed on a second Mr. Pruitt with Margaret Palmer, Keith Dryden, Mose Stogner, Greg Pruitt, and John Youmans voting for the motion.

Ms. Palmer advised Ms. Fredrick that the Board of Appeals has recommended unanimous approval for the application, and the Board of Commissioners will consider the application on May 23, 2002 meeting at 6:00 p.m.

MINUTES

The minutes of the April 11, 2002 meeting were approved, with a correction on page 1, on a motion by Mr. Pruitt and second by Mr. Stogner with Margaret Palmer, Keith Dryden, Mose Stogner, and Greg Pruitt voting for the motion with John Youmans abstaining since he was not at the meeting.

OTHER BUSINESS:

David Holloway – discussion on the resubmittal of another variance to allow another principal dwelling on property located on Boynton Road.

Ms. Sabine stated Mr. David Holloway is before the Board of Appeals tonight to speak on his property on Boynton Road. Mr. Sabine stated Mr. Holloway applied to the Board of Appeals to allow a second principal dwelling on this piece of property, and was denied. Mr. Sabine stated the property is located at 89 Boynton Road. There was an older home very close to the road that burned and has been remodeled. Mr. Sabine stated Mr. Holloway was going to remodel the older home for an accessory use, but by the time he completed the remodel, it was to a point where it was not feasible to use for accessory purposes. Mr. Sabine stated Mr. Holloway would still like to build his home on the property. Mr. Sabine stated Mr. Holloway is amenable to keeping both homes on one tract of property. Mr. Sabine stated there would be a larger home with a secondary home, basically a guest home, which would be closer to the road.

Mr. Sabine stated this is not inconsistent with actions that have been taken by the Board of Appeals in the past. Mr. Sabine stated Mr. Holloway would like to reapply and submit another variance request, but Mr. Holloway wanted to speak with the Board of Appeals

and see what the Board of Appeals' wishes were before Mr. Holloway invested the funds and went through the application process again. Mr. Sabine stated he does not feel there is any inconsistency with applying for another variance, and there would be no public good in denying the variance.

Mr. Dryden asked how long ago did the Board of Appeals approve the other variance on Boynton Road. Mr. Sabine stated the variance was to split the property, but reduce the road frontage on one of the lots down to 30 feet. Mr. Sabine stated one variance was to split a lot into two pieces, and in this case, two homes would be on the same lot. Mr. Sabine stated Spalding County would be better off with two homes on the same lot.

Mr. Dryden stated there have been several variance applications during his tenure that have been denied, because of the fact that the Board of Appeals was very concerned about the precedent that would be setting.

Mr. Dryden asked Mr. Holloway who would be occupying this home. Mr. Holloway stated at this time, no one. Mr. Holloway stated he has a son who one day may wish to reside on the property. Mr. Holloway stated he is concerned about his future like everyone else.

Mr. Dryden asked Mr. Holloway how large the structure is that was remodeled. Mr. Holloway stated the structure he remodeled is approximately 850 square feet.

Mr. Pruitt stated if Mr. Holloway hypothetically came back with an application as one lot with a house and a guesthouse, he did not have a problem with it. Ms. Palmer agreed with Mr. Pruitt. Mr. Pruitt stated Mr. Holloway would never be able to sell the little house; both houses would be under one property deed. Mr. Pruitt stated Mr. Holloway did not have enough road frontage to be able to divide into two lots without some other type of variance, and having to come before the Board of Appeals again.

Mr. Dryden stated if someone else comes in with the same situation, would the Board of Appeals approve the application. Mr. Dryden stated he knows this is not going to happen all over the county, and each application is going to be on it's own merit. Mr. Dryden stated he is a stickler for looking at a precedent. Mr. Dryden stated he would need to review another application before making a decision.

Mr. Sabine stated several variances have been approved across the county, and each application was looked at individually. Mr. Sabine stated Spalding County can have a precedent, but the precedent has to be conditioned on the particulars. Mr. Sabine stated Spalding County can be consistent in comparable circumstances, but at the same time, that doesn't mean every application will be approved or denied.

Mr. Dryden stated if someone would like to resubmit an application before the Board of Appeals, he would look at the application on it's own merit each time. Mr. Dryden stated he does not fall back on previous things. Mr. Dryden stated he agrees with Mr. Sabine and respects his opinion, and has consulted Mr. Sabine several times on different issues.

Mr. Dryden stated the Board of Appeals does look at variances on its own merit, and yes, the word precedent can almost be thrown out of the picture because each application will be considered on its own merit. Mr. Dryden stated he does concern himself with precedent settings in a county that can be swayed in many different directions. Mr. Dryden stated it is important to look at precedent settings whether it is in a negative or positive light. Mr. Dryden stated even if Mr. Holloway resubmits an application, it doesn't mean he will automatically stamp it not getting his vote of approval.

Discussion of attendance at monthly meeting by the Board of Appeals members.

Mr. Dryden stated he doesn't want to go on record as being critical of some of the board members not being able to attend the meetings lately. Mr. Dryden stated he feels like the board members are obligated since the members agreed to serve. Mr. Dryden stated the meeting is only once a month. Mr. Dryden stated if the members cannot make the meetings month after month after month, the member needs to contact somebody and give a reason why the member can't make the meeting. Mr. Dryden stated he understand there will be times when a member can't make a meeting. Mr. Dryden stated the reason could be sudden or well planned out. Mr. Dryden stated communication would be nice. Mr. Dryden stated there are two members that have not been able to make the meetings now several months in a row with no notification. Mr. Dryden stated no notification is unfair to the board members, and especially unfair to the citizens of this county that have to wait to begin a meeting. Mr. Dryden stated he is concerned with the professionalism the Board of Appeals should exhibit, and having to wait 15 to 20 minutes every month to have a quorum present to address their needs, then that is showing anything but professionalism.

Ms. Palmer asked Mr. Dryden is he is suggesting a remedy. Mr. Dryden suggested that the Chairperson of the Board of Appeals, in conjunction with the respective County Commissioner, make contact with these two members just to inquire if they are still interested in serving on the Board of Appeals. If there are other reasons as to why the two members are not in attendance, just communicate the reasons to the board that they are not going to be able to make that certain percentage of the meetings, and maybe consider an appointment later on to request another appointment for their position.

Ms. Palmer asked Mr. Sabine how the ordinance reads on attendance of the board members. Mr. Sabine stated if a board member misses three consecutive meetings, that is grounds of dismissal. Mr. Sabine stated upon the charges for removable for cause, the charges are made in writing, dated, signed, and delivered to the appointing board, which would be the Spalding County Board of Commissioners. A copy of the charge is then sent to the Board of Appeals members, and a public hearing is set forth. The party making the charge is notified of the date, time, and place of the hearing.

Mr. Sabine stated this issue has come up before with one of the board members when Mr. Harris was chairman. The board members was alerted to the necessity to be at meetings, and be at the meetings regularly.

Mr. Dryden stated when the board members are present, the members provide valuable input about the applications.

Mr. Sabine stated if it is amenable to the Board of Appeals, he will notify the Board of Commissioners, and let the Board make a decision since the Board is the appointing authority.

ADJOURNMENT

Mr. Dryden made a motion, seconded by Mr. Stogner, to adjourn the meeting. The motion passed with Margaret Palmer, Keith Dryden, Mose Stogner, Greg Pruitt, and John Youmans voting for the motion.

Margaret Palmer – Chairman

Cindy L. McDaniel – Recorder