

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**September 9, 2004**

The Spalding County Appeals Board held its regular monthly meeting on September 9, 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, Charles Heggie, and J. D. Smith. Allan McCallum, Greg Pruitt and Dennis Richardson were not present.

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

Mr. Hart called the meeting to order and introduced the members of the Appeals Board. 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. He advised that there would be time limitations on each application and the people signed to speak would be heard in the order in which they signed in. He requested those present to please try not to repeat what had already been said. He turned the meeting over to Mr. Taylor for comments before the business of the meeting.

Mr. Taylor introduced Mr. Chad Jacobs, new Senior Planner for Spalding County. He also commented on the new equipment that had been purchased to making viewing of the plans easier for all the audience.

**Application #04-39V:** Village Partners, LLC, Owner – 113 Kingston Court (Lot 137 – 1.11 acres, more or less, located in Land Lot 93 of the 3<sup>rd</sup> Land District) – requesting a Variance from front yard setback in the R-4 District.

**Application #04-40V:** Village Partners, LLC, Owner – 119 Kingston Court (Lot 140 – 1 acre, more or less, located in Land Lot 93 of the 3<sup>rd</sup> Land District) – requesting a Variance from front yard setback in the R-4 District.

Mr. Taylor said Applications #04-39V and #04-40V needed to be tabled because the variance, if granted, would also require a variance for the lot width of the building line. The application needed to be amended to cover this additional variance and would need to be advertised and considered at the next meeting.

**MOTION**

Mr. Baird made a motion, seconded by Mr. Smith, to table Application #04-39V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

## **MOTION**

Mr. Baird made a motion, seconded by Mr. Smith to table Application #04-40V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

Each person speaking for the evening came forward was sworn and stated his name and address.

**Application #04-41S:** Janie M. Davis, owner – 227 Birdie Road (1.147 acres located in Land Lot 105 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a general home occupation in the AR-1 District.

Janie M. Davis – 227 Birdie Road

Ms. Davis said this is a request to have a daycare in her home for 3 to 6 children. She is aware that the staff recommendation is for denial and she would like to know why. She has approval from the Department of Human Resources (DHR) and does not know what requirements the county has that would not allow approval. The DHR requires 35 SF per child. They visited her home and found that she met their requirements.

Mr. Taylor said, in reviewing the application, they found that the home is 1325 SF. The ordinance requires that no more than 25% of the gross floor area of the home can be used for a home occupation. This home is not large enough to accommodate the proposed use in the 331 SF that can be used.

Ms. Davis asked if they had taken into account that her garage has been enclosed as more living space. The garage is a 12' x 24'.

Mr. Taylor said the tax record indicates that at this location there is 1325 SF of heated space. He does not know whether that includes the garage or not.

Mr. Hart questioned whether or not she got a permit to make the improvements to the garage. If it was permitted then the square footage should be included.

Ms. Davis said she did have a permit.

Mr. Taylor said if Ms. Davis feels the square footage of 1325 is not accurate then she needs to provide information to correct that information.

Discussion was held and it was noted that Ms. Davis had a license from the State of Georgia. It was noted that the County does not have an ordinance requiring a minimum number of square feet per child for a daycare. Ms. Davis said the garage is heated and air conditioned and has bathroom facilities, and a wash area. There was some question regarding whether the county had a record of the improvements to the garage.

## **MOTION**

Mr. Baird made a motion to approve Application #04-41S conditioned on a copy of the approval from the DHR, what the state requires, and a confirmation that the building improvements were permitted and inspected and passed inspection. The motion passed on a second by Mr. Heggie with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

**Application #04-42S:** Big Pines Farm, L.L.L.P., Owner – Robert S. Hockett, Agent – Smoak Road (262.25 acres, more or less, located in Land Lots 198, 218, 219, and 220 of the 3<sup>rd</sup> land District) – requesting a Special Exception to allow zero lot line dwellings in the R-2 District.

**Application #04-43S:** Robert S. Hockett, Owner – Smoak Road (5 acres, more or less, located in Land Lot 230 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow zero lot line dwellings.

**Application #04-44S:** Elizabeth C. H. Dupree, Owner – Robert S. Hockett, Agent – Smoak Road (1 acre, more or less, located in Land Lot 219 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow zero lot line dwellings.

**Application #04-45S:** Robert S. Hockett and Carrie F. Hockett, Owners – Smoak Road (17.09 acres, more or less, located in Land Lots 198 and 219 of the 3<sup>rd</sup> Land District – requesting a Special Exception to allow zero lot line dwellings.

Mr. Hart announced that Applications #04-42S, #04-43S, #04-44S and #04-45S will be heard together and voted separately.

Robert Hockett – 497 Smoak Road

Mr. Hockett said he is the applicant and/or agent for the applicants in these applications.

Andrew Welch – 2200 Keys Ferry – McDonough, Georgia

Mr. Welch said that he was representing Mr. Hockett in this development. He said he would like to reserve any time remaining from his presentation to speak after those in opposition have spoken.

This request is for a special exception for the development of this property. This will consist of 278.6 acres located on Smoak Road. It is a planned project and has been put together as a planned development district. The special exception they are requesting is for lot size of no less than 7,250 SF, minimum lot width will be 60', minimum front yard setback 15' with front entry garages, and zero lot line side setback with a minimum of 8' between dwellings. On the corner lots, they are requesting a 12' corner setback. They have met or exceeded the minimum requirements for the setbacks. They have met all the requirements for the special exceptions and where they have not they have submitted a request for variance. He addressed the staff report that had been prepared for the Planning Commission meeting. The R-2 zoning requires that the minimum building

space be 1,750 SF. They intend to meet that ordinance. At the time of the staff report, the DRI report was not in. Since that time, the report has been received. McIntosh Trail has found that this project is in the states best interest and has written a letter accordingly. The site includes an elementary school site of 12 acres. This will be donated to the county for use as an elementary school. He requested that the Special Exception be recommended for approval to the County Commissioners because they had met the terms of the Special Exception Ordinance except where they are requesting a variance.

Mr. Taylor said the staff recommendation is for denial. In reviewing the application, they have not indicated a development theme so they were not able to judge the layout of the development based on the requirements of the special exception design criteria. The application is missing any type building elevations. There is no detail of the types of amenities that are being proposed or detail plans of those amenities which are things that are reviewed as part of the special exception requirement. The location of the project is on Smoak Road which, shortly north of the development, becomes a narrow gravel road with a very narrow bridge. There is a poor intersection with Teamon Road. The road is insufficient for the traffic that will be generated considering commuting patterns and bus routes to the school. The density of the development is not supported by the land use map of the county's comprehensive map.

Mr. Welch said the application that the staff provided to the applicant did not request building elevations, and the staff is fully aware that elevations were presented. They have put together a master plan which includes elevations. The report states that they cite the specific sections they intend to comply with so there should be no confusion regarding what they intend. They have a plan to show the amenities. The amenities are not listed in the application although it is discussed in the master plan. The staff is correct regarding the dirt road. However, Mr. Hockett's daughter catches the school bus and it goes across the bridge and across the dirt road. The road should be improved and is on the SPLOST list to be improved. This project is less dense than the Spring Lake Subdivision that is 500' away from this property. This development is less intense than that development. They have preserved over 40% of this area for open space that will stay in its natural state. The common space is required at a minimum of 25% which they have exceeded.

Mr. Hockett said they have included a swim/tennis green space community in the amenities. There will be four tennis courts, a four lane, junior Olympic swimming pool, a kiddy pool and a clubhouse area with ample parking space. There are 3.5 miles of trails and 10 miles of sidewalks.

Brenda Cobb – 150 Carriage Circle – Stockbridge, Georgia

Ms. Cobb said she and her husband own the property directly across from the main entrance. They have worked for 30 years to save up the money to purchase this property and she takes exception to their claim that it will not depreciate the adjacent value because they would never have purchased the property with this development. The land is nice and hilly with beautiful topography. It will be largely leveled to do this construction. The congestion is of concern. In the exception, it states that it must be

served by public water and sewer. The UDO defines public water and public sewer as water and sanitary service provided by Spalding County or the City of Griffin. She does not understand why this is being considered. She and her husband are against. It is too much density and too much congestion. It does not meet the guidelines.

Elton Rosser – 3030 Teamon Road

He is with the Roosevelt Railroad. They are right between the two developments. His main concern is the railroad crossing on Smoak Drive. At the current time, the crossing is sufficient for the traffic. If you add a lot of cars and a schoolhouse, somebody is going to have to spend a lot of money improving the crossing. He is against this project. He has a question regarding the property line at the trestle. They own some of the land which he identified on the plat. He hates to see this area get overgrown like this.

Joan and Shane Jones – 233 Smoak Road

Ms. Jones said she, her husband and daughter speak against this development.

Mrs. Ralph Daugherty – 1374 North Second Street Extension

Mrs. Daugherty said she is opposed to the high density in a rural area of Spalding County. It is too much in a nice area that does not need this high density.

James E. Avery – 1861 North Second Street Extension

Mr. Avery said he is against the rezoning of the property.

Josephine Scott – 1906 North Second Street Extension

Ms. Scott said they own approximately 1/7 of the border with the Hockett. They have been farming for 30 years, and the farm has been in business for 70 years. They have a cattle operation against the fence and do not need the high density subdivision against their cattle operation. She is concerned about the watershed. They are within 7 miles of a drinking water intake for Henry County. The sewer is a dream. There is no storm water management. The UDO says it should remain in agriculture or estate residential. Keep it as one house per two acres or even better one house per three acres. Drinking water is too valuable a resource to pollute by extremely dense developments.

John D. Scott – 1906 North Second Street Extension

Mr. Scott said he yielded to Tilman Blakely.

Robert Warr – 360 Smoak Road

Mr. Warr said he recently built a house across the street from this proposed subdivision. He spent several months looking for property and the last 9 months working hard on building. His children can run around and not worry about the high density traffic and a lot of population. These houses are not far apart. He passed up many opportunities to live in a subdivision in Pike County because he did not want the high density housing. He works in McDonough and has seen Henry County “blow up”. The government here promised to manage the growth so they would not make the mistakes of the surrounding counties. He hopes the county will stick to this.

Laura Blauser – 207 Smoak Road

Ms. Blauser said she lives on a country road and rides her horses down the road. Kids ride their bikes down the road. This development is going to ruin the lifestyle.

Jill Emerson – 187 Smoak Road

Ms. Emerson said she agrees with what has already been said.

Tilman Blakely – 599 Smoak Road

Mr. Blakely provided copies of a map of Smoak Road. He called attention to the area where Smoak Road comes into McIntosh and where it comes into Teamon Road. Smoak Road is just under two mile long with half paved and half dirt. He had identified the 23 residences on Smoak Road. The lots are anywhere from two acres to around 15 acres and on up to 50 acres. If you consider the houses in the Camp Cecil Jackson area, there are an additional 21 houses. In the whole area that is larger than the Hockett plan, there are 44 houses and they want to put in 427, almost ten fold over what they presently have. 95% of the proposed lots are 1/3 acre or less. This plan is not in concert and not consistent with the development presently there. You are talking about over 900 cars that will be on the road. That is 4000 car trips per week. Can you imagine, on a road like that, having 4000 trips that will be flowing on to Teamon and McIntosh Roads and all the other roads. The planning department has recommended denial of this. The Planning and Zoning Commission recommended 5 to 0 to deny. At that time, 529 houses were planned. They recommended denial, because it was not appropriate density for this area and because it is against the current and proposed land use plan. When they met together to look at the new land use plan, the common thread that spread among everybody in the room was that they wanted Spalding County to maintain the rural atmosphere and rural character that it presently enjoys. The plan that is hopefully going to be considered in the next couple of months is going to reflect that. This is a rural part of Spalding County and it would be absolutely devastating to the neighborhood to have something like this. People have said they do not want to look like Henry County or Clayton County. This is exactly what that is. It looks like what we are trying not to become. He requested that consideration be given to how they would feel if they lived on a road like Smoak Road and this development was proposed for that road. What would it do to that neighborhood? Preserve the neighborhood, preserve the rural character of the county and uphold the land use plan that is in effect now and the proposed land use map and deny this application. He had 346 signatures on a petitions and cards that have been signed in opposition.

Glen Adcox – 2640 Teamon Road

Mr. Adcox said he is against the application 100%. There is not sufficient fire protection. A house across the street from him burned to the ground. The fire department took 31 minutes to respond to that fire. The first fireman arrived 5 minutes after he turned in the call. It took the fire truck 31 minutes. The house burned to the ground before the truck ever arrived. Eight feet or 15 feet between dwellings can cause tremendous fire for a community like this. It is not acceptable to him and it should not be to the county. Additionally, he lives on the corner of Smoak and Teamon Roads. There is a terrible curve and on any given month they will have 5 to 6 wrecks in the area. Trucks fly down the road. The asphalt is just about all skid marks from this area. The density of these

houses and with other stuff that is going on there is just not enough highway and not enough road to handle this area. The county attorney referred to Spring Lake, and he said he would not accept any more comparison to Spring Lake.

Rufus Holloway – 296 Smoak Road

Mr. Holloway asked if Mr. Hockett was going to build this subdivision. He also asked if Mr. Hockett was going to live in the subdivision.

Mr. Hockett said he was in negotiations with several national and regional developers to go into partnership to build the project. Mr. Hockett said that, not knowing the future, his house was the one acre lot in the middle of the project and it is one of the larger lots.

Mr. Holloway said his is against the project.

Betty Holloway – 396 Smoak Road

Ms. Holloway said she was against the project.

Time was up for comments from the opposition.

Mr. Welch returned for additional comments. The concerns raised are valid concerns. The intent is not to level and clear cut the property. The intent is for a swim/tennis development with a substantial portion being conserved as it is in its timbered form. They are willing for approval to be conditioned on that. Spring Lake extends all the way to within 500 feet of this development. That is a more dense development than this proposal. Minerva is a large developer that is developing Spring Lake and it abuts Mr. Blakely's property. They deviated greatly allowing for 2,200 lots on that tract of land and that is substantial development in this area. That decision to zone the property has tremendously changed the nature of this community. The proposed land use map has designation Teamon Road/Smoak Road as a development node. This is what has been decided. Spring Lake borders 1/3 of Smoak Road on the unpaved portion. Their development is not on the unpaved portion. They have done an exhausted title search on the property, and the railroad has been in discussions with them to provide an easement through the railroad tract and was willing to do that and now have shied away from it. It is peculiar that they now speak out and say that they own property that Mr. Hockett owns or controls. They have done a title search on the railroad and there is no substantial portion of the railroad extending into Mr. Hockett's property. They have also had the property surveyed. If there is a mistake on the title records, they will resolve it. They are not going to take anyone's property rights. He asked whether Mr. Blakely spoke in opposition to the Spring Lake Development at the Board of Commissioner's meeting.

Mr. Blakely said with the decision they had to make with the ordinances that were in place at that time they decided to accept the proposal from Minerva. If they had to make that decision today with the changes in the ordinances that have occurred, they probably would make a different decision. Some of the Spring Lake development is on Smoak Road, but there is not access onto Smoak Road.

Mr. Welch said they will not access Smoak Road on the dirt portion. Their access is on the paved portion. The present ordinance is far more comprehensive than the one at the time Minerva received their approval. They have complied with all the ordinances that are in place at the present time. The law states that these are the requirements for the development and they are exceeding the requirements.

Mr. Blakely requested permission to address the Board again.

Mr. Hart requested the Board to make the decision.

### **MOTION**

Mr. Heggie made a motion to allow Mr. Blakely to speak again. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. Smith voting for the motion.

Mr. Blakely said that there was no one in the local neighborhood that was brought into the planning on this development. It was always high density from the beginning. They started with approximately 600 lots and it is now down to 427 lots. Everything on the west side of Smoak Road is zoned R-1. Everything on the east side of the road is AR-1. When the last development was made on Smoak Road and Cecil Jackson Road, they were put into three to nine and one-half acre lots. They were developed in concert with what is happening there on Smoak Road. They are being forced into something. Think what an additional 900 cars plus school buses plus all the people will do to a local neighborhood. It doesn't belong. He is not saying this is not a nice development. It is not appropriate in this area and he requested denial.

Mr. Hockett said that Mr. Blakely did not feel they had involved members of the community but he met with him and showed him a copy of the 598-unit plan. He asked for Mr. and Mrs. Blakely's feelings on the project. They mailed out 400+ letters and received one response. On the new land use map, some of the property in the area is proposed medium density.

Some of the people expressed concern that they had not been allowed to speak. Mr. Hart advised them that they had used all the allotted time for the opposition to these Applications.

Mr. Hart said he had several concerns because the staff has not been provided with the theme detail, the building detail, and the amenity detail. The dirt road and the bridge are additional concerns. 600 additional cars per day, 4000 trips per week is a lot of cars. When this is complete, the people are going to be on the Commissioners to pave the road. The developers have no obligation. They are out of the project. The Commissioners will have to deal with this.

### **MOTION**

Mr. Heggie made a motion to deny Application #04-42S. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. Smith voting for the motion.

**MOTION**

Mr. Heggie made a motion to deny Application #04-43S. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. Smith voting for the motion.

**MOTION**

Mr. Heggie made a motion to deny Application #04-44S. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. Smith voting for the motion.

**MOTION**

Mr. Heggie made a motion to deny Application #04-45S. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. Smith voting for the motion.

Mr. Hart said one letter in opposition to this application had been received from Mr. Burton L. Wilson of 91 Smoak Road. A copy of that letter is attached to and becomes a part of these minutes.

**Application #04-46V:** Big Pines Farm, L.L.L.P., Owner – Robert S. Hockett, Agent – Smoak Road (262.25 acres, more or less, located in Land Lots 198, 218, 219, and 220 of the 3<sup>rd</sup> land District) – requesting a Variance from location of garage entrances, to allow cul-de-sac streets to exceed 300 linear feet and setback requirements on lots with multiple frontages.

**Application #04-47V:** Robert S. Hockett, Owner – Smoak Road (5 acres, more or less, located in Land Lot 230 of the 3<sup>rd</sup> Land District) – requesting a Variance from location of garage entrances, to allow cul-de-sac streets to exceed 300 linear feet and setback requirements on lots with multiple frontages.

**Application #04-48V:** Elizabeth C. H. Dupree, Owner – Robert S. Hockett, Agent – Smoak Road (1 acre, more or less, located in Land Lot 219 of the 3<sup>rd</sup> Land District) – requesting a Variance from location of garage entrances, to allow cul-de-sac streets to exceed 300 linear feet and setback requirements on lots with multiple frontages.

**Application #04-49V:** Robert S. Hockett and Carrie F. Hockett, Owners – Smoak Road (17.09 acres, more or less, located in Land Lots 198 and 219 of the 3<sup>rd</sup> Land District) – requesting a Variance from location of garage entrances, to allow cul-de-sac streets to exceed 300 linear feet and setback requirements on lots with multiple frontages.

Andrew Welch – 2200 Keys Ferry – McDonough, Georgia

Mr. Welch said the staff report recommends that this be tabled until the Board of Commissioners has made a determination regarding the Special Exceptions on this property. This seems to be logical.

Mr. Taylor said there were speakers signed to address the Board regarding these applications and it might be appropriate to hear from them. It is the opinion of the staff to table the variance portion of these applications pending a decision by the County Commission regarding the Special Exceptions.

Mr. Hart said the opposition will have 20 minutes to speak.

Danny Hunter – 15 Experiment Court

Mr. Hunter said he is opposed.

Terri and Barry Smith – 511 Smoak Road

Ms. Smith said they are opposed

Ed Johnson – 600 Hamil Road

Mr. Johnson had left the meeting.

Marta Johnson – 600 Hamil Road

Ms. Johnson had left the meeting.

Kerry Sampler – 785 Smoak Road

Mr. Sampler said he had no comment at this time.

Stanley Prussia – 220 Smoak Road

Mr. Prussia said he is opposed to the development. His real concern is the amount of earth moving that would have to be done. They will have to do a tremendous amount of earth moving to have that many houses that close together. He is not opposed to some development there if they put in houses on two or three acres and leave the terrain as it is. The disturbance to the land of this magnitude leads to all the environmental concerns. There is also concern about the intersection of Smoak Road and McIntosh Road. He does not think a school bus or fire trucks could make the turn going east. The road is low quality. It would not take much traffic for a demand to be made of the Commissioners to improve the roads.

Mollie Prussia – 220 Smoak Road

Dr. Prussia said she has lived on Smoak Road for 23/24 years. She uses Smoak Road as a walking track and this development will eliminated that. They enjoy living on Smoak Road. The dogs can run in the yard and bark without the neighbors complaining. They have enough room so they do not have to keep up with the neighbors. That will all change with this development.

Mr. Taylor noted that this portion of the meeting was for addressing the Variances. The Appeals Board has already voted to recommend denial of the Special Exceptions.

Barb Morales – 2079 North Second Street Extension

Ms. Morales said she had no comment on the variances.

Ricardo Morales – 2079 North Second Street Extension

Mr. Morales said he had no comment at this time.

Diane McGahee – 55 Smoak Road

Ms. McGahee said she has been on Smoak Road since 1972. This is just a little two mile road, half paved and half not.

Mr. Hart advised those speaking that the Appeals Board had already voted to deny the Special Exception and this discussion is regarding the Variances.

Tim McGahee – 55 Smoak Road

Mr. McGahee called attention to all the people in attendance. He commented that this is his neighborhood. The neighborhood is saying no. Please, let their vote count.

Mr. Hart said that issue had already been decided and this discussion was regarding the Variances. He asked if anyone present wanted to comment regarding the Variance applications.

Mr. Blakely said he thought it would be appropriate to table these variance applications and let the remainder of the people signed up to speak make their comments to the County Commissioners at their meeting when they consider these applications.

Mr. Taylor commented on the process necessary to get approval of an application.

**MOTION**

Mr. Smith made a motion, seconded by Mr. Smith, to table Application #04-46V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

**MOTION**

Mr. Smith made a motion, seconded by Mr. Smith, to table Application #04-47V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

**MOTION**

Mr. Smith made a motion, seconded by Mr. Smith, to table Application #04-48V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

**MOTION**

Mr. Smith made a motion, seconded by Mr. Smith, to table Application #04-49V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion.

**MINUTES**

Mr. Smith made a motion, seconded by Mr. Heggie, to approve the minutes of the August 12, 2004 meeting. The motion passed with Mr. Hart, Mr. Heggie and Mr. Smith voting for the motion and Mr. Baird abstaining because he was not present.

**MOTION**

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

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Bobby Hart – Vice-chairman

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Yvonne M. Langford - Recorder