

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**October 14, 2004**

The Spalding County Appeals Board held its regular monthly meeting on October 14, 2004 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were Greg Pruitt, Chairman, presiding, Jon Baird, Bobby Hart, Allan McCallum, and Dennis Richardson. Charles Heggie and J. D. Smith were not present.

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

Mr. Pruitt called the meeting to order and invited anyone present that was not the applicant wanting to address the Board on any of the applications to come forward and sign the request form.

**Application #04-37S: Lift from the table** – Inland Empire, Inc., Owner – The Lord’s House, Inc., Agent – North Second Street Extension (6.18 Acres located In Land Lot 197 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a Church in the AR-1 District.

**MOTION**

Application #04-37S was lifted from the table on a motion by Mr. Richardson and a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

Everyone speaking came forward, was sworn, and stated their name and address.

Lillie Crawford – 250 Armistead Circle

Ms. Crawford said they want to build a 20,000 SF church facility. They will have only one building that will house a sanctuary and a family life center or fellowship hall. The plan is for the church sanctuary to seat about 500. They do not have a drawn plan so that might change. They are not even certain that it will be 20,000 SF.

Community Development Director, Chuck Taylor, said the initial application for this facility was for 3500 SF. The night of the last meeting it was revealed that the plan was for a much larger facility. With a larger church, the impact to the infrastructure and the general neighborhood is different than for the smaller church. Staff has reviewed the application with the increased square footage and analyzed the impact on the neighborhood. The recommendation is for conditional approval with the conditions being that the special exception be limited to a church building of a size not to exceed 20,000 SF, any expansion of the structure or any additional structures or the expansion of the use will require another special exception approved by the county, the church will be responsible for paving North Second Street Extension up to the church entrance to County standards, and the church will be responsible for improving the railroad crossing

in order to handle the additional traffic burden. Sunday traffic will involve 733 trips that will be generated by this church. This is still a gravel road. The road should not be subjected to those trips without paving to county standards.

Sharen Neill – 2115 North Second Street Extension

Ms. Neill said she does not disapprove of the church but disapproves of the impact on the community due to the road conditions and the amount of traffic and noise. Her house is almost directly across the street from this location. She has a handicapped daughter that is blind in one eye and has an artificial hip. She is scheduled for two more surgeries and her nerves will not accept a whole lot of noise. She has two small children that live with her that will be traveling up and down the street. She is worried about them being on the street. On a rainy day, the road becomes impossible to travel without sliding. The cars will “fishtail” on the dirt road. The county puts gravel on the road which helps but the gravel is loose and the cars still slip. This road has become a trash dump. This may increase the litter. She is opposed to this application. For her family, this is not a good thing.

Elton Roser – Roosevelt Railroad – 3030 Teamon Road

Mr. Roser said he represented the Roosevelt Railroad, and they own property right next to the proposed development. As it stands now, the railroad crossing supports the present traffic on the road. They have to continue to upgrade and maintain now as a volunteer organization. If they develop, this the railroad does not have the money to maintain the crossing. This will be a strain on them. There is also the issue of a fence because they do not need the children on the railroad tracks. They are running trains now and can run them 24 hours a day 7 days a week. They do not but they can. If there are complaints, he wants to establish that the railroad was there first.

Sylvia Avery – North Second Street Extension.

Ms. Avery said she is opposed to this application.

John Scott – 1906 North Second Street Extension

Mr. Scott said he owns the land on the other side of the railroad. He is concerned regarding where the support for a church of this size is going to come from. There are already two churches there plus three more down McIntosh Road. He feels this is not really going to be a church but will be some sort of business. This is a huge granite field which is going to require massive grading. He said he does not even think it will qualify for a septic tank.

James E. Avery – 1861 North Second Street Extension

Mr. Avery said he is against the special exception due to the increased traffic.

Josephine Scott – 1906 North Second Street Extension

Ms. Scott said Spalding County has just approved a 20-year land plan for the future. The plan states that streams and creeks will not be developed within 150’ of their borders so there will be clean water and there is a wildlife corridor. Also, it states that watersheds should be undeveloped and agricultural for the same reasons, to protect the water supply.

The current zoning protects the watershed. Right now this area is beautiful. It is in pine trees and supports wildlife. There is a pond on this property that may have a natural spring which is not indicated on the site plan. This area needs massive grading. There will be nothing left of the habitat that is there. We are going from a pristine watershed to lots of pollution. With all of this traffic and a huge massive parking lot, cars are notorious for pollution. You also have the septic tank to worry about. There will be nothing left. You will have to have fertilizers and pesticides that are not good for a watershed. When considering a special exception, you have to say, "Is it really for the good of the community?" This one is not for the good of the community, because it is going to destroy and degrade a water source. You are not being good to the church because a church needs a large, flat area. Suppose the church fails then there is a huge building and who is going to want to buy the building? She was not opposed to the smaller church but she is opposed to this.

Grace Dougherty – 1374 North Second Street  
Ms. Dougherty said she is opposed to this application

Ricardo Morales – 2079 North Second Street Extension  
Mr. Morales said he is opposed to this application.

Barb Morales – 2079 North Second Street Extension  
Ms. Morales said she agrees with all the neighbors and with everything they have said. She is concerned about the pollution and the extra traffic. The church entrance is directly across from her driveway. She wants peace and quiet and does not want to have to fight the traffic. She asked that the commission oppose this application.

Discussion was held regarding what conditions could be put on this application if it is approved and how the road improvements and the railroad crossing improvements would be handled.

#### **MOTION**

Mr. McCallum made a motion to deny Application #04-37S. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**Application #04-39V: Lift from the table** – 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: Lift from the table** – 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. Richardson made a motion to lift Application #04-39V and Application #04-40V from the table. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

These applications were discussed together but voted separately.

Mr. Tom Smith – Managing Partner of Village Partners – 2255 Emerald Drive – Jonesboro, Georgia

Mr. Smith said they inherited the second phase of a subdivision on Cowan Road. This was developed from a subdivision map dated 1989. As they put in the streets, they did not realize the situation. Back in 1989, there was no such thing as a flood plain line, and they have encountered a flood plain line on lots # 137 and #140 which have a 70' setback. There is no room to get the house on the lot. The house is 33' wide and 46' deep. It is a nice house that will fit on the lot if the variance is granted. The subdivision looks good. They are substantially exceeding the minimum square footage required for this subdivision. He showed the facsimile plans that are proposed for these two lots.

Community Development Director, Chuck Taylor, reported that they are recommending that the setback be reduced to 50'. This will keep the houses looking appropriate with the balance of the subdivision. Any shorter setback will detract from the neighborhood.

Mr. Smith said he thinks that the 50' will work for the houses they have planned.

**MOTION**

Mr. Baird made a motion to approve Application #04-39V conditioned on the staff recommendation. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**MOTION**

Mr. Richardson made a motion to approve Application #04-40V conditioned on the staff recommendation. The motion passed on a second by Mr. McCallum with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**Application #04-50V:** Lisa Michelle Carter, Owner – 40 Windsor Drive (3.647 acres located in Land Lot 70 of the 3<sup>rd</sup> Land District) – requesting a Variance to extend or alter a non-conforming use in the AR-1 District.

Mr. Pruitt left the meeting temporarily and Mr. Hart chaired the meeting.

Lisa Michelle Carter – 40 Windsor Drive

Ms. Carter said they want to add an extension to their home. The family has grown, and they need additional space. They presently have only two bedrooms.

Community Development Director, Chuck Taylor, said the staff recommendation is for conditional approval. The applicant has presented a hardship with the family growth. The condition is that the new addition be constructed so that it will match the existing exterior in design and appearance.

**MOTION**

Mr. McCallum made a motion to approve Application #04-50V conditioned on the addition being constructed so that it matches the existing exterior in design and appearance. The motion carried on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. McCallum, and Mr. Richardson voting for the motion. Mr. Pruitt was not present for this vote.

Mr. Pruitt returned to the meeting.

**Application #04-51S:** Walter E. Jones, Jr., Owner – Alan Mobley, Agent – South Walkers Mill Road (106.90 acres located in Land Lots 11 and 22 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow 1-acre lots (Country Club Subdivision) in the R-4 District.

Alan Mobley – 262 Mobley Road

Mr. Mobley said this is going to be similar to Sunshine Ridge. They propose the Country Club theme. They will be putting in tennis courts, a playground, walking trails and green space. The recommendation from Planning and Zoning is for 1750 SF homes. He has reservations about that, but the Board was unanimous in the increased square footage and he will probably have to conform. This tract is fully wooded, and they intend to cut only the timber needed for the right of way and for the houses and driveways. The houses will be priced at \$160,000.

Discussion was held regarding the need for a streetscape plan prior to this application being considered by the Commissioners on October 28, 2004. The plan needs to be submitted by October 20 to meet the deadline. Mr. Hart, also, said there is a problem regarding the “500’ foot rule” on the common space. Lots 21 – 23 and 46 – 57 do not meet the requirements. Mr. Mobley said he would take care of the streetscape plan and the common space deficiencies prior to the October 20 deadline.

Mr. Richardson said he is looking at the impact of this development on the school system with all the growth that is being proposed for this area. He has not heard of any plans for building schools or fire houses or anything else to take care of these proposed houses. He feels this is going to be nice but if it is built and filled within the next year to year and a half the school system is going to have to use trailers at Futral Road School and Taylor Street School. Taylor Street can’t take any more trailers. Is the county considering this?

Discussion was held regarding the planning and what impact it will have if consideration is not given to these issues.

Community Development Director, Chuck Taylor, said the staff recommendation is for approval with the conditions that the exteriors of the homes will be brick, stone or stucco and the applicant will correct the 500’ distance maximum to common space and amenities. They want these conditions met prior to the County Commissioners consideration of the application.

Gwen Pyron – 1345 South Walkers Mill Road

Ms. Pyron said she is representing a lot of people in her family. They would like to have a development but would like for the requirement to be for 3-acre lots. This is too drastic a change for what is presently in the area.

Jimmy G. Whitley – 1765 South Walkers Mill Road

Mr. Whitley presented a petition signed by 74 people opposing this development. They are opposed to the one-acre lots. They would be happy with two-acre lots and the 1750 SF homes. If this is allowed, there will be more wanting to develop their land using the same one-acre lots. The traffic will be increased. Water is restricted now. Where will the water come from to supply these new houses? Where is the fire protection?

Annie M. Hixson – 1384 South Walkers Mill Road

Ms. Hixson said she is opposed to the number of houses. It will be too much. She would like to see two to three acre lots. She likes the atmosphere that is there and hopefully something can be worked out for the two acres.

Letters in opposition to this development were received from the following:

Derek H. Jones  
365 Dix Leon Drive  
Fairburn, Georgia

Don Martin  
1401 South McDonough Road  
Griffin, Georgia

Mr. Richardson said he has been contacted by his neighbors and their concern is that the one-acre lots will have an adverse impact on their community in all areas. They have requested that he convey to the Board that they want the area to remain two-acre lots.

#### **MOTION**

Mr. Baird made a motion to approve Application #04-51S conditioned on the exteriors of the homes being brick, stone or stucco, and the 500' maximum distance to common space and amenities deficiency be corrected prior to the application being considered by the County Commissioners. The motion passed on a second by Mr. McCallum with Mr. Baird, Mr. McCallum and Mr. Pruitt voting for the motion and Mr. Hart and Mr. Richardson voting against.

**Application #04-52V:** David H. Duke, Trustee, Owner – Minerva Properties, L.L.L., Owner - Johnson Road (76.97 acres located in Land Lot 143 of the 2<sup>nd</sup> Land District) – requesting a Variance from common space criteria for Country Club Subdivision Design.

**Application #04-53V:** Minerva Properties, L.L.P., Owner – Johnston Road (old rail line - .207 acres located in Land Lots 143, 144, 145 and 146 of the 2<sup>nd</sup> Land District) – requesting a Variance from common space criteria for Country Club Subdivision Design.

Applications #04-52V and #04-53V will be discussed together and voted separately.

Jane Curtis – Minerva Properties – 2292 Henderson Mill Road – Atlanta, Georgia  
Ms. Curtis said this is for a variance to include the amenities for the entire Heron Bay Subdivision, with what they have designated as the Duke Tract. Heron Bay has extensive walking trails, open space, three pools, commercial grade playground, four tennis courts, and a clubhouse. There will be an additional amenities package that will be down the road from this new section which will contain a junior Olympic sized swimming pool, tennis courts and walking trails. They want the new section to be tied to the entire amenities package of the Heron Bay development.

Community Development Director, Chuck Taylor, said the staff recommendation is for approval.

**MOTION**

Mr. Hart made a motion, seconded by Mr. Richardson, to approve Application #04-52V. The motion passed with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**MOTION**

Mr. Hart made a motion, seconded by Mr. Richardson, to approve Application #04-53V. The motion passed with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**Application #04-54V:** Kapila M. Patel, Owner – Kevin and Laurie Lynch, Agents – North Expressway (1.011 acres located in Land Lot 100 of the 3<sup>rd</sup> Land District) – requesting a Variance from required buffer and rear yard set back in the C-1 District.

Kevin Lynch – 390 Anglin Road

Mr. Lynch said they have a great opportunity to develop and manage a new hotel at this site. They are requesting a variance of the rear yard 30' setback and 25 foot buffer. They want a 10' buffer with a 15' setback. They read the staff comments to deny the application. Their architect is present to answer any questions regarding the reason they need the setback for development of this property.

David Hewell – 1285 Old Woodbine Road – Atlanta, Georgia

Mr. Hewell said they want to keep to scale with the adjoining property and continue the appearance along the main road. The building will be two-story as the adjacent motel is. They want it back from the road to give in a spacious, open field atmosphere. They will not have a swimming pool. The rear buffer will be heavily planted with a dense buffer on the ten feet.

Community Development Director, Chuck Taylor, stated that the staff recommendation is for denial. This is a self-created hardship. The two-story building will have with 44 rooms will require 46 parking spaces. The parcel seems inadequate in size for the intense use. A one story facility with fewer rooms would decrease the number of parking spaces

required and would have a lesser impact and could possibly negate the need for a variance. A one-story building would have a lesser impact on the adjacent property. The two-story building is massive and would have a significant impact on the adjacent property owner.

Mr. Richardson said he realizes that a two-story building being placed here would be seen by the adjacent property owner but there is already a motel in the area. There would be parking available at the adjacent motel and the only time the parking lot would be full is during the racing weeks. He does not see how this would affect the health, safety and welfare of the neighbors. The motel itself will be a buffer against the day to day traffic traveling 19/41. He knows the applicants and knows the integrity of the owner and he will not have riff/raff. He is not going to rent the rooms by the hour. He does not see how the staff can recommend denial because they are going to need 46 parking spaces. He feels this will be an asset to the North Expressway. This is not going to impact another development and he does not see how it is going to impact the neighborhood.

Royce P. Sangster – 2005 Tallwood Place

Mr. Sangster said he was speaking on behalf of his sister Rebecca S. Thompson who owns the property adjacent to this site. They are requesting denial of this application. This will add additional traffic to a high volume area that is already high volume on 19/41 Highway. The back of the two-story motel will back up to Ms. Thompson's property. Being that close it will generate a lot of noise especially on race week-ends. In the past Ms. Thompson has been a good neighbor. She came before this committee earlier and approved a variance and a setback to accommodate Dr. Patel to build his motel. This property adjoins the first motel. This motel is going to be right up to the house and property where a family lives. He requested denial of this application.

## **MOTION**

Mr. Richardson made a motion to approve application #04-54V. The motion passed on a second by Mr. McCallum with Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion and Mr. Baird and Mr. Hart voting against.

**Application #04-55V:** Timothy G. Cato and Melissa H. Cato, Owners – 288 Westmoreland Road (1.10 acres located in Land Lot 61 of the 3<sup>rd</sup> Land District) – requesting a Variance to allow an accessory structure to be located in side yard in the R-2 District.

Timothy and Melissa Cato – 288 Westmoreland Road

Mr. Cato said they are requesting a variance for an in ground pool constructed in a side yard. There is no room in the back for a pool. There is a medical hardship.

Community Development Director, Chuck Taylor, reported that the staff recommendation is for approval conditioned on the applicant enclosing the pool area with a decorative fence.

A letter from Jeff and Patricia Mann was introduced. They are the neighbors that are adjacent to the pool and they advised that they have no objections.

Discussion was held regarding the type fence that will be required.

Mr. Hart commented that this is, he thinks, the fifth project to be on the agenda this year “after the fact”. This is not the fault of the property owners because they hired a contractor that was told he would need a variance and failed to get the appropriate approvals. Something needs to be done about this situation. This needs to be stopped. It is not appropriate for the contractor to expect the homeowners to get the variance after the project is approved.

Discussion was held regarding what would be appropriate action against the contractor.

### **MOTION**

Mr. Hart made a motion to approve Application #04-55V conditioned on a vinyl decorative fence being installed. The motion passed on a second by Mr. Richardson with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**Application #04-56S:** Marshall T. Postin and Lara A. Postin, Owners – 2129 North McDonough Road (18.09 acres located in Land Lot 81 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a general home occupation in the AR-1 District.

Marshall T. Postin and Lora Postin – 2129 North McDonough Road

Mr. Postin said they want to have a home based landscaping business. They originally purchased this property for this use, and before they could move in and establish the business, the ordinance changed, and they now have to get a Special Exception.

The issue of storage on the property was discussed, and Mr. Postin said he was aware of the restrictions on outside storage.

Community Development Director Chuck Taylor said the staff recommendation is for approval. He discussed the issue regarding the portion of the property that can be used for a home based occupation. He also advised that there can be no sign advertising the business.

### **MOTION**

Mr. McCallum made a motion to approve Application #04-56S conditioned on no outside storage, no more than 25% of the structures can be used for the home occupation and no sign advertising the business. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**Application #04-57S:** Westmoreland Properties, LLC, Owner – Vineyard Road (85.51 acres located in Land Lot 37 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow 1-acre lots (Country Club Subdivision) in the R-2 District.

Mr. Taylor said this application needs to be tabled.

**MOTION**

Mr. Baird made a motion, seconded by Mr. McCallum, to table Application #04-57S. The motion passed with Mr. Baird, Mr. Hart, Mr. McCallum, Mr. Pruitt and Mr. Richardson voting for the motion.

**MINUTES**

Mr. Hart made a motion, seconded by Mr. Baird, to approve the minutes of the September 9, 2004 meeting. The motion passed with Mr. Baird, Mr. Hart, and Mr. Richardson voting for the motion and Mr. McCallum and Mr. Pruitt abstaining.

**MOTION**

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

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Greg Pruitt – Chairman

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Yvonne M. Langford - Recorder