

**SPALDING COUNTY APPEALS BOARD**  
**MINUTES**  
**December 9, 2004**

The Spalding County Appeals Board held its regular monthly meeting in room 108 of the Spalding County Courthouse Annex on December 9, 2004. Members present were: Greg Pruitt chairman, presiding Jon Baird, Bobby Hart, Charles Heggie, and J. D. Smith. Allan McCallum and Dennis Richardson 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 requested anyone present wishing to address comments to the Planning Commission regarding any of the applications to come forward and sign-in on the appropriate form.

**Application #04-64V:** Lift from the table: Multi-Spec, Inc., Owner – 104 Shadow Creek Drive (Lot 56 – 0.53 acres located in Land Lot 204 of the 2<sup>nd</sup> Land District) – requesting a Variance from Minimum front yard setback in the R-4 District.

**Application #04-65V:** Lift from the table: Multi-Spec, Inc., Owner – 106 Shadow Creek Drive (Lot 57 – 0.579 acres located in Land Lot 204 of the 2<sup>nd</sup> Land District) – requesting a Variance from Minimum front yard setback in the R-4 District.

**Application #04-66V:** Lift from the table: Multi-Spec, Inc., Owner – 107 Shadow Creek Drive (Lot 58 – 0.602 acres located in Land Lot 204 of the 2<sup>nd</sup> Land District) – requesting a Variance from Minimum front yard setback in the R-4 District.

**MOTION**

Mr. Hart made a motion to lift Application #04-64V, Application #04-65V and Application #04-66V from the table. The motion passed on a second by Mr. Smith with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

Doug Wesley – 1421 Southworth Drive

Mr. Wesley said he was representing Multi-Spec, Inc. They need this variance because of the topography of the land on these lots. The land slopes drastically at the back of the lots. The houses will fit on the lots the way they are a planned, but they are trying to bring the houses forward so the landowners will have a more useable backyard. They wanted to reduce lot number 58 from 78' to 50' but will go to 58' and want to reduce lots number 56 and 57 to 50 feet.

Community Development Director Taylor said the staff recommendation is for conditional approval on all the applications. They recommend the front yards be sodded to the curb and that lot number 58 be reduced to 58; rather than the 50' because it will be more in line with the other houses in the cul-de-sac.

## **MOTION**

Mr. Baird made a motion to approve Application #04-64V conditioned on the front yards being sodded to the curb. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

## **MOTION**

Mr. Baird made a motion to approve Application #04-65V conditioned on the front yards being sodded to the curb. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

## **MOTION**

Mr. Baird made a motion to approve Application #04-66V conditioned on the front yards being sodded to the curb and the setback be 58'. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

**Application #04-67V:** Ginger Ray Smith, Owner – Edward R. T. Bullard, Agent – Intersection of Arthur K. Bolton Parkway and High Falls Road (2 acres located in Land Lot 50 of the 3<sup>rd</sup> Land District) – requesting a Variance from the two-year notice provision in order to develop in the Arthur K. Bolton Parkway Overlay.

Edward Bullard – 423 Forrest Avenue

Mr. Bullard said he was representing Ms. Smith in the application. All the members of the Appeals Board had been furnished a plat of this property. It is a site plan for a filling station that Mr. Dan Smith, Jr. had drawn in 1998. Prior to February 1998, the property was zoned R-2. This was during the time of the discussions of the Arthur K. Bolton Overlay Zone plan which would require a minimum of five acres for commercial development. Mr. Smith submitted a rezoning application #97-38Z to have the property rezoned to C-1. On January 27, 1998, the Planning Commission gave a unanimous recommendation for approval of this zoning. The Board of Commissioners approved the rezoning on February 26, 1998. On February 24, 1998, two days prior to the approval by the Board of Commissioners, Planning and Zoning recommended a moratorium on development in the Arthur K. Bolton Overlay District. On June 5, 1998, the Arthur K. Bolton Overlay Ordinance was approved by the Board of Commissioners. The Arthur K. Bolton Overlay Ordinance had a two year notice provision which allowed property owners to give notice that there was an intent to develop under the prior zoning within two years of the enactment of the Overlay Zone Plan then you could develop under the existing provisions. Mr. Smith became ill and ultimately died. The property was tied up in his estate. His wife received the property in the settlement of the estate. A five acre tract is required for a commercial development. They request a variance from the requirement of notice and allow them to give notice now and develop the property C-1 on two acres rather than five. They want this variance to go to any successor or assigns should she pass away. They will meet all the other conditions of zoning. They want to develop this as it was zoned C-1 on the two-acre tract.

Mr. Hart questioned whether or not the property went back to the fence on the rear of the property.

Ms. Ginger Smith came forward and was sworn. She advised the Appeals Board that she was not certain whether or not the property went all the way to the fence.

Community Development Director, Charles Taylor, said the issue with the property is the size. The staff recommendation is for approval provided they hold to the design standards of the Overlay District. This will meet the intent of the ordinance. The recommendation is for approval with conditions. The conditions are as follows:

1. The lights arrangements for the purpose of advertising, security or night operations must be directed away from adjoining or nearby residentially zoned lots.
2. The canopy shall be constructed so as to blend in with the architecture of the convenience store.

Discussion was held regarding the design of the property and the canopy. It was noted that this will be the first development on this corridor and the architectural design is important. It was noted that Mr. Pruitt wanted the staff to be able to approve the design of the building so that it was in keeping with the rural character of the area. Consideration was given to requiring approval of the staff, but if an agreement could not be reached, the Appeals Board would review.

Mr. Galloway confirmed the history of the property as outlined by Mr. Bullard.

Discussion was held regarding whether this would be setting a precedent, and it was considered to be a very unique situation and would not set a precedent.

#### **MOTION**

Mr. Hart made a motion to approve Application #04-67V with the staff recommendations and the staff to approve the architecture of the building and the canopy to blend in with the nature of the adjoining properties with the provision that if they cannot agree it will come back to the Board of Zoning Appeals. The motion passed on a second by Mr. Heggie with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

#### **MINUTES**

Mr. Smith made a motion, seconded by Mr. Baird, to approve the minutes of the November 11, 2004 meeting. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, Mr. Pruitt and Mr. Smith voting for the motion.

#### **ADJOURN**

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

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Greg Pruitt – Chairman

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Yvonne M Langford - Recorder