

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**December 11, 2003**

The Spalding County Appeals Board held its regular monthly meeting on December 11, 2003 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were Jon Baird, Bobby Hart, Charles Heggie, and Allan McCallum. Mr. Pruitt and Mr. Richardson were not present.

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

Mr. Taylor said the chairman and vice-chairman could not be present and the first order of business was to elect an acting chairman.

**MOTION**

Mr. Baird made a motion, seconded by Mr. McCallum to elect Mr. Heggie acting-chairman for the meeting. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

Mr. Heggie called the meeting to order and introduced the members of the Appeals Board. He invited anyone present that was not the applicant that wanted to address the Board on any of the applications to come forward and sign the request form.

**Application #03-37V:** James H. Morris, Owner – 157 Kay Road (2.005 acres located in Land Lot 43 of the 3<sup>rd</sup> Land District) – requesting a Variance from minimum front yard setback in the AR-1 District.

Mr. Taylor said the staff had reviewed the application and found that the lot does drop off meriting the request for variance. The recommendation is for approval due to the topography.

James H. Morris said he had nothing further to say.

**MOTION**

Mr. McCallum made a motion, seconded by Mr. Baird, to approve Application #03-37V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**Application #03-38V:** Jack R. and Kay Poore, Owners – Lot 7 Quail Road (1.15 acres located in Land Lot 44 of the 4<sup>th</sup> Land District) requesting a Variance from Minimum side yard setback in the AR-2 District.

Mr. Taylor said the staff recommendation is for approval. These lots were apparently created prior to an ordinance changing the present setbacks and adhering to the setbacks would make

building on the lot impossible. A neighbor, Ms. Louise Benefield, called to say that she is in favor of the variance. She is elderly and cannot attend the meeting.

Mr. Poore said his son wants to build on this lot.

**MOTION**

Mr. Hart made a motion to approve Application #03-38V. The motion passed on a second by Mr. McCallum with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

Mr. Davison had not arrived and Applications #03-39V, #03-40V, and #03-40AV were moved to later on the agenda.

**MOTION**

Mr. Baird made a motion to change the order of the agenda and move applications #03-39V, #03-40V and #03-40AV to last on the agenda. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**Application #03-41V:** T. Shane and Rhonda L. Bowman, Owners – 399 South Walkers Mill Road (3 acres located in Land Lot 46 of the 3<sup>rd</sup> Land District) – requesting a Variance from planned development requirement and to extend or alter a non-conforming use in AKB Overlay District.

Mr. Taylor said the Bowmans own property in the Arthur K. Bolton Overlay District, which allows for single-family homes and the expansion of homes. However, because such expansion is defined as development, a very expensive engineering report and site plan are required. They are only proposing a one-room addition to their home and the engineering report makes the expansion cost prohibitive. This creates a hardship and the recommendation is for approval.

T. Shane Bowman – 399 South Walkers Mill Road  
Mr. Bowman was sworn.

Mr. Bowman was concerned over his treatment in the office when he tried to get his permit. He gave an accounting of his treatment.

Mr. Heggie advised him that the Appeals Board can only consider his application and has no authority over the staff. He suggested that he write to the County Manager and give an accounting of the incident.

Mr. Bowman threatened litigation on this matter.

Mr. Heggie asked, under the threat of litigation, if it was appropriate to give further consideration to this application.

Mr. Taylor advised that if the decision is denial, it might be best to delay action, but if the recommendation is for approval, there would not be a need to delay.

Mr. Bowman had some additional plans and requested that consideration be given to approving his further plans.

Discussion was held regarding whether or not the other requests could be considered without applications.

Mr. Taylor said he feels the Appeals Board could grant a variance that would keep him from having to make another application.

Mr. Heggie advised Mr. Bowman that the Appeals Board takes very seriously the recommendation from the staff. In light of the recommendation from the staff, some of his words and comments impacted the Board adversely. It would have been appropriate for Mr. Bowman to listen to the staff recommendation and not antagonize the Board.

Mr. Baird said he is prepared to vote only on the particular application for the variance that was requested in the application. He is not prepared to give a blanket approval for other changes. It has never been done before.

#### **MOTION**

Mr. Baird made a motion to approve Application #03-41V for the expansion of the existing dwelling. The motion passed on a second by Mr. Hart with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**Application #03-39V:** Cole Tract Associates, L.P., Owner – 210 acres, more or less, on Trestle Road located in Land Lots 145, 247, 248 and 234 of the 2<sup>nd</sup> and 3<sup>rd</sup> Land District – requesting a Variance to allow cul-de-sac streets to exceed 500 linear feet, from setback requirements on lots with multiple frontage, and from required front yard and rear yard setbacks to allow private roads.

Mr. Taylor went over the proposed changes and said the staff recommendation is for approval of the reduction in setbacks with the following condition:

All corner lots shall have a minimum twenty (25) foot setback on side where the garage and driveway are located and a minimum twenty (20) foot on the secondary side road frontage.

Mr. Taylor said the staff recommendation is for denial of the application for allowing private roads in pods DD (1) and DD (2) of the development for the following reasons.

Allowing private roads with gates could pose a safety problem.  
Gated communities tend to decentralize a community rather than bring it together.

Brian Davison – 2292 Henderson Mill Road – Atlanta, Georgia  
Mr. Davison came forward, was sworn and stated his name and address.

Mr. Davison said the one issue he needs to address is the gate. They are working in Heron Bay to create a series of sub neighborhoods. The concept of the development is the main central parkway that works its way through the whole neighborhood. Off of that are sub neighborhoods. They are bringing together a wide range of price points and homes. The homes range from the low end of \$160,000 to homes in excess of one million. The amenities are all connected. When you live in any place in Heron Bay, you are a member of the main recreational facilities. There are sub parks in each pod that are open to everyone in the community. The custom homes sections will be \$400,000 and up homes. There have been requests from people to be in gated areas and some requests for non-gated areas. There are pros and cons both ways. There are a lot of people that want to be in a gated community with the main asset being it eliminates the drive-through traffic. They want to gate two areas with one in Spalding County and one in Henry County. He identified those areas. The roads become private roads that will require funds for the maintenance. Initially, Minerva will set up a fund but the homeowner's association will have to provide for future road repairs.

Doreen Palmer and Ed Palmer – 417 Johnson Road – Locust Grove

Mr. and Mrs. Palmer were sworn – they wanted to discuss all of the remaining applications.

Ms. Palmer said the grading on Trestle Road behind Johnson Road is causing washout of the gravel road, and the road now floods when it rains. There is a huge hole. There is a problem with the driveways and mailboxes. They are not certain where the flooding is originating.

Mr. Taylor said he visits the site every two weeks for erosion control inspection. He is due to go again tomorrow, and he will look for the deficiencies.

Ms. Palmer said she is concerned about this same problem when they begin grading on the property that is right adjacent to them. She is concerned about the safety issue with the new traffic that will be routed onto Johnson Road to 155. There is a blind hill. She also wants to know about the width of the buffers between her property and the subdivision. She wanted to know about the width of the road.

Mr. Taylor said they probably needed to attend the County Commission meeting in January to address the issues on Johnson Road. There probably is going to be a need for improvements on Johnson Road that will be discussed at that meeting. They will receive a letter regarding the date of that meeting. The meeting they want to attend is the one where the rezoning of the Fincher property will be discussed. He offered to sit down with anyone and discuss the issue. They are trying to work with the developer to come up with the best solution for this road.

Discussion was held regarding the gated community and Mr. Davison said they want the gated community due to the market demand. It is more expensive for them and it is strictly for a marketing tool. Members of the Appeals Board expressed personal pros and cons regarding the gated community. Mr. Taylor spoke regarding the staff recommendation to not allow the gated community.

**MOTION**

Mr. Hart made a motion to approve Application #03-39V with the staff recommendations to deny the gated community. The motion failed to pass on a second by Mr. McCallum with Mr. Hart and Mr. McCallum voting for the motion and Mr. Baird and Mr. Heggie voting against.

**MOTION**

Mr. McCallum made a motion to approve the setbacks and the sidewalks in Application #03-39V conditioned as follows:

All corner lots shall have a minimum twenty (25) foot setback on side where the garage and driveway are located and a minimum twenty (20) foot on the secondary side road frontage.

The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

It was decided to table the portion of the application regarding the gated community and private roads until more members of the Board are present.

**MOTION**

Mr. Hart made a motion to table the portion of the application regarding the private roads and gated community. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**Application #03-40V:** Minerva Properties, L.L.P., Owner – 7.675 acres on Johnson Road (old railway line) located in Land Lot 146 of the 2<sup>nd</sup> Land District) – requesting a Variance from minimum front and side yard setbacks, from setback requirements on lots with multiple frontage, from cul-de-sac diameter requirements, and to allow cul-de-sac streets to exceed 500 linear feet.

**Application #03-40AV:** Jefferson David Fincher, et al, Owner 0- Minerva Properties, L.L.P., Agent – 199.669 acres on Johnson Road located in Land Lot 146 of the 2<sup>nd</sup> Land District - requesting a Variance from minimum front and side yard setbacks, from setback requirements on lots with multiple frontage, from cul-de-sac diameter requirements, and to allow cul-de-sac streets to exceed 500 linear feet.

These applications were discussed together and voted separately.

Mr. Taylor said the staff recommendation is the same for both of these applications. The recommendation is for conditional approval with the conditions as follows:

1. The Variance is subject to the approval of the pending rezoning and pending preliminary plat approval.
2. The pavement width in cul-de-sacs shall be maintained at a minimum of 80 foot in diameter.
3. The utilities in cul-de-sac streets shall be completely in the right of way and shall not be under pavement or sidewalks.

**MOTION**

Mr. Hart made a motion, seconded by Mr. Baird, to approve Application #03-40V conditioned as follows:

1. The Variance is subject to the approval of the pending rezoning and pending preliminary plat approval.
2. The pavement width in cul-de-sacs shall be maintained at a minimum of 80 foot in diameter.
3. The utilities in cul-de-sac streets shall be completely in the right of way and shall not be under pavement or sidewalks.

The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**MOTION**

Mr. Hart made a motion, seconded by Mr. Baird, to approve Application #03-40AV with the same conditions as #03-40V. The motion passed with Mr. Baird, Mr. Hart, Mr. Heggie, and Mr. McCallum voting for the motion.

**MINUTES**

Mr. Hart said there was one correction to the minutes on page 1 under the application from Mr. Mobley it states that he was 11 feet short on road frontage and it should be 11 feet per tract on the two tracts.

**MOTION**

Mr. Hart made a motion to approve the minutes of the November 13, 2003 meeting with one correction. The motion passed on a second by Mr. Baird with Mr. Baird, Mr. Hart, and Mr. McCallum voting for the motion and Mr. Heggie abstaining since he was not present.

**MOTION**

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

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Dennis Richardson – Chairman

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Yvonne M. Langford - Recorder