

## ZONING PUBLIC HEARING

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 in the Courthouse Annex, Thursday, October 28, 2010, beginning at 6:00 p.m. with Commission Chairman Edward Goss, Jr. presiding and Commissioners Eddie L. Freeman, David Phillips and Bob Gilreath in attendance. Gwen Flowers-Taylor arrived at 6:33 P.M. Also present were Interim County Manager Tim Whalen, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway, and Executive Secretary Glinda Robertson.

### A. Call to Order:

**Note: Persons desiring to speak must sign in for the appropriate application. When called, speakers must state their names and addresses and direct all comments to the Board only. Time allotted to speakers will be five minutes each, unless otherwise noted at the Board's discretion. No speakers will be allowed to readdress the Board without express consent from a Board member. Outbursts from the audience will not be tolerated. Common courtesy and civility area expected at all times.**

### B. New Business:

- 1. Application #10-11S:** David Lusk and Martha C. Lusk, Owners – W. Edward Brown, Agent – 815 North Pomona Road (11.526 acres, more or less, located in Land Lot 139 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a general home occupation in the AR-1 District.

Chuck Taylor addressed the board regarding this item. Mr. Taylor stated he had provided the board with a revised staff report with additional information that had come to light since the last meeting on this issue. He commented that in review of the application it does meet the criteria for special exception. He stated the county has historically been gracious in allowing home occupations to flourish. The recommendation by staff was for conditional approval of the request. The Board of appeals recommended denial of this request. Mr. Taylor further stated that Ms. Hearn had come into his office and asked about a discrepancy in the amount of acreage shown on the plat vs. the acreage showing on the application. Chuck stated that after looking into this they discovered there is a property line that is still in existence. The properties were combined last year for tax purposes. There are actually two tracts of property. It does not apply to zoning. Mr. Taylor stated it is not illegal to move forward with the application. He advised the commissioners they can make a decision on this matter tonight. He further stated the most immediate thing he saw that is affected is the amount of square footage of the barn that will be allowed to be used for the business. The ordinance says overall only 25% of the gross floor area of all of the buildings on the property is allowed to be used for a home business. He can now use approximately 710 feet of the 1200 square foot barn that he has on the property.

Mr. Taylor stated that in a conversation earlier today, Mr. Lusk informed him there are additional buildings on the property that weren't showing on the plat and are not part of the tax assessor's records. Mr. Lusk is going to add them to the plat and the tax assessor's records. Mr. Taylor stated that if this happens, his square footage that he will be allowed to use will increase incrementally.

Commissioner Freeman stated if this changes the plan he does not see how it can be voted on tonight. Mr. Taylor stated that has a result of the changes he has added two more recommended conditions one of which is asking Mr. Lusk to submit another site plan that shows the property delineation better and asking not to issue a business license until there is confirmation that he is meeting that 25% requirement.

Speaking in favor of the application:

#### **William Edward Brown – 132 King Richard – Griffin**

Mr. Brown stated he was present on behalf of Mr. and Mrs. Lusk. Mr. Lusk was unable to be at the meeting due to back problems his son is having. Mr. Brown stated that Mr. Lusk will not have any problems with meeting the recommendations of staff. Mr. Brown further stated that in a previous meeting there were concerns about hazardous material however that is not an issue. Mr. Lusk does have an air agency certificate which was issued by the FAA.

Opposing the application were the following people:

**Michael Leach – 781 North Pamona Rd. - Griffin**

Mr. Leach stated he works as an engineer at the Caterpillar plant here in Griffin. He has an appreciation for someone to make money on their land. He stated the more you look at things the more complicated they are. He is not an expert but he is concerned with what it takes to make fiberglass parts and using acetone. Mr. Leach further stated that Mr. Lusk has been a good neighbor to him. Mr. Leach has four small children in his home and he has concerns with any health problems this business may cause his children. He is also concerned with flushing issues that might arise. Mr. Leach is counting on the board to help him answer these questions. Mr. Leach spoke with his realtor who told him this would affect his property value. Mr. Leach stated he has a lot of questions about the operation such as how is the dust collected, is it collected and will his family smell the fumes from this operation? What assurances does he have of inspections? He would like to see Mr. Lusk do well and prosper.

**Gary Hearn – 825 North Pamona Rd. – Griffin**

Mr. Hearn asked if he could request this item be tabled until January 1<sup>st</sup>. Mr. Goss informed him it would have to be a motion from the board to table. Mr. Goss stated they will hear everyone and then make a decision to approve, deny or table. Mr. Hearn wanted to know how many days any of them would have to appeal the decision. Mr. Galloway informed Mr. Hearn he would have 30 days.

Mr. Hearn and his family are aware of the rumors being spread about them. He stated nothing could be further from the truth. They are all trying to live like Christians. He stated you cannot be a Christian and do what people say they are doing. All his family is asking is for the board to listen to the facts as they are presented and let their conscience be their guide when making their decision. Mr. Hearn went on to say that apparently Mr. Lusk knew something that no one else knew. He stated this was an attempt to circumvent the laws already in place. First Mr. Lusk applied for a business license for 815 North Pamona Road on March 26, 2010. On April 5, 2010 he applied for a certificate of compliance and a building permit for a pole barn on a property that was zoned AR-1. Mr. Hearn stated he would like to sell his house and build himself a nice pole barn. He could save thousands of dollars in taxes every year.

**Lisa Hearn – 825 North Pamona Rd. – Griffin**

Ms. Hearn began by saying she is well aware of Mr. Lusk's son's problems with his back. She too has back issues. She is fully aware of the things you go through with your back. She asked why Mr. Lusk needs to put his business in this agricultural district. Why is it necessary for the development of this property when there are plenty of commercial properties in the city and county already zoned for business? She had photographs of what the surrounding land looks like that surrounds this business. They were photographs of her land. She stated there is a lot of wild life in this area. Ms. Hearn stated that Mr. Lusk has built a pole barn and has stated he did this due to the health of his son. She further stated that his son is a 21 year old man and his condition is short term. She commented that for him to claim hardship and need this business to be beside his house is irrelevant. Ms Hearn had a copy of an ad that was placed on the Internet. The ad said that his annual sales are a half a million to a million dollars. Ms. Hearn stated that if he had that kind of money he could hire around the clock nursing care. She stated his wife is a nurse. Ms. Hearn stated that Mr. Lusk is already advertising at 815 North Pamona Rd. She asked does he know something I don't know about the commissioners. Does he know something about the decision to be made tonight? She asked why he is already advertising on this website that he is already located there. She asked why did he go ahead and get his business permit. She stated he already has the business license at this address and the business listed on the Internet. She stated if you look at his website under Aero Glass contact information, it lists him at 815 North Pamona Rd. She asked again why he is showing that he is operating a business at this location. Ms. Hearn stated this is agricultural farm and rural forestry land. This is not a proper place for a business.

**Crystal Barnett – 80 Liberty Lane – Covington, Georgia**

Ms. Barnett also owns property that is adjacent to Mr. Lusk's property. Her concern is also the environment. At the previous meeting she was told fiberglass does not have that much of an impact. She did research on the Internet and through the EPD. She found out through her research there is a lot of impact. She asked the commissioners if they have checked with the EPD about the hazards of fiberglass manufacturing and repair shops. She asked if they got a list of the chemicals that are used in the manufacturing process and the clean-up process

which includes acetone which is flammable. She asked if they had read the MSDS sheets. She asked if any of the chemicals are listed on the MACT Standard List. She stated Mr. Lusk will be sanding some of the different materials and one of the chemicals called styrene which is extremely hazardous. Ms. Barnett stated that Mr. Lusk will not know what the parts will be made of until he has received them to repair. How will he know whether its styrene or not? Who will be following up with this? Where do all the cleaning solvents that have been used go? Is there a recycle plan? Is it just going down the drain? If it goes down the drain it is going into the ground water and into the environment. This will hurt the land and the animals in the area. What about an air filtration system for the dust going out into the environment? What happens when it rains? A lot of people have wells in the area. This is a concern.

Ms. Barnett read an item to the commissioners: "The fiberglass reinforced corporate plastic industries generate waste including air emissions. During fabrication processes and from the use of solvents for clean up tools and spraying equipment the waste generated are partially solidified resins; Contaminated solvent from equipment clean-up; scrap coded fiber and resin steams and volatile organic emissions." She stated it is dangerous for the neighbors. There is a home next door to this site that has four small children. This home is only a couple of hundred feet from the pole barn. Her concern is what this will do to their land. This will also devalue their land by letting him have this special exception.

**Tony Barnett – 80 Liberty Lane – Covington, Georgia**

Mr. Barnett stated his name is actually George Anthony. He goes by Tony Barnett. His wife is a co-owner of property in this area. They noticed that the exemption was asked for 11.526 acres. There are two lots on Mr. Lusk's property. The business will be located on one of these properties. It will be on the bigger of the two lots. His home is on the other property. Mr. Barnett is questioning if his request is legitimate because he does not live on the property where the business will be. He questioned the fact there are no bathrooms or running water in this pole barn. He stated it will be hard to run a business without water and toilets. What will he do when he is cleaning up? He stated any business requires water and sewer. Will he add water and a bathroom later? He asked the commissioners to follow the recommendation of the appeals board to deny this request.

Commissioner Phillips asked Mr. Brown if he had any comments on the waste and air filtration concerns. Mr. Brown stated that based on the operation Mr. Lusk had in the city he used a broom and vacuum cleaner. The resins that he uses with his fiberglass is ammonia based and it is like house cleaner. Once it is dry there are no toxins. He has the license and permits for the EPD which he has to have to dispose of his hazards. He is required by the FAA to keep records of his materials. He has to keep records for 15 years of any waste materials he has. The FAA will be inspecting his business.

Mr. Freeman asked if EPD will be inspecting the building. Mr. Brown stated that Mr. Lusk has all the EPD and records that are governed by the DEA for disposal and purchase of these acetone chemicals. He stated acetone is nothing more than fingernail polish remover. Mr. Freeman asked if it is disposed of in a drum. Mr. Brown stated it should be disposed of in a 55 gallon drum. The FAA will come in from time to time for an inspection. He will also be subjected to fire inspections from the city. To Mr. Brown's knowledge he has never failed any of these fire inspections. The dust apparatus he wears is nothing more than someone would use cutting grass.

Mr. Gilreath asked Chuck Taylor to come back and go over his statements again. Mr. Taylor stated that as far as the square footage is concerned Mr. Lusk on the original application had two houses and six out buildings. One of the houses dropped out as a result of the property line. Mr. Taylor added the new figures together and the result was that Mr. Lusk can as it stands now use 710 feet approximately of his 1200 square foot barn for his business. That equals to 25% of the gross square footage of all the buildings that he is allowed to use. This is subject to any others that are added to the plat. As a result of the revised report the staff's recommendation is for conditional approval with the conditions that an annual fire inspection, including pre-planning for fire hazards shall be required for this use; that 25 percent of the total gross floor area limitation must be met; and that a revised site plan showing all the lot lines and any additional buildings shall be submitted prior to approval of a business license.

Mr. Gilreath asked if this is approved tonight who is going to check on the 25% of the floor space and other conditions that must be met. Mr. Taylor stated that zoning enforcement will check on this upon any complaints.

Mr. Freeman stated he had never seen a pole barn that looks like a real barn and he shares some of the neighbor's concerns.

***Motion/second by Commissioners Freeman/Flowers-Taylor to deny the application. Motion failed with a vote of 2 to 3. Gilreath, Goss and Phillips opposed.***

Mr. Phillips stated that he has neighbors who have pole barns similar to the one Mr. Lusk has. He added that he could not afford to have his business in the city, so he can understand Mr. Lusk's desire to be in the county. He further stated he has seen Mr. Lusk's business and the loudest thing out there is a shop vac.

Ms. Taylor told Mr. Brown that she challenges the fact that he says acetone is no more than nail polish. It is a serious flammable solution according to MSDS and is not suppose to be poured into the ground. It is poisonous. Her biggest concern is how this got to the place where at the last minute they had to adjust the lot lines. It should have never gone this far with an error like this. She asked if this is a home occupation why is the primary home not on the lot where the business is going to be.

Chuck Taylor stated that Mr. Lusk has to conduct his business on the same property he lives on or the owner of the business has to be the person who lives on the property. Chuck stated he does not know which of the houses Mr. Lusk lives in. Ms. Taylor stated if there is no running water or sewer she is concerned about the disposal of waste. She stated there is no inspection process in place and there are no safeguards. If you are sanding fiberglass and other chemicals particles are going to get in the soil. There is no way to measure that. She is afraid at some point someone's water source is going to be affected.

Newton Galloway stated that Mr. Taylor is correct in saying that the home occupation would have to be approved for the tract on which Mr. Lusk resides. Mr. Galloway's understanding is there is not a separate address for the two houses. He stated that whoever is in the house that is on the 11.526 acre tract could apply for the exception. He further stated that Mr. Taylor asked him earlier today about the discrepancy between the application and the amount of acreage shown on the plat. Mr. Galloway stated the bottom line to that is you have an application which was specifically for the 11.526 acre tract so he is taking the position that the application is identified within the property that has been identified with the notices that have been sent out. This is consistent with what they have done in the past. Mr. Galloway informed the commissioners that they have a valid application in front of them for 11.526 acres for whoever lives on this tract.

Mr. Taylor stated that if Mr. Lusk does not live on the property he will have to figure out a way to make that happen. Mr. Galloway stated if Mr. Lusk does not live on the property the application for the 11.526 acres is essentially null.

Ms. Taylor commented that she does not have a problem with Mr. Lusk having a home occupation. She does not recall ever having an incident where there is this many issues that are not completely clear and resolved. She further stated that certain information has come to light that the board of appeals has not been privy to. She believes there are still too many questions to make a decision tonight.

Mr. Taylor stated it is legal to proceed with a vote. Mr. Galloway agreed with this point.

Ms. Taylor asked if the folks in the meeting that were opposed to the application were related to Mr. Lusk. A couple of them stated they are but it has nothing to do with any sort of family issues as to why they are against this application. Ms. Hearn stated she does not want to deny Mr. Lusk the right to earn a living. She just doesn't understand why he wants to do so in an agricultural area where he could do damage to the environment.

***Motion/second by Commissioners Phillips/Gilreath to approve the application with staff recommended conditions and carried by a vote of 3-2. Flowers-Taylor and Freeman opposed.***

2. **Amendment to UDO #A-10-10:** Appendix K. Landscape and Tree Preservation Ordinance – Section 102:C & K – amend definitions to require specimen trees.

Chuck Taylor stated that a couple of months ago the Planning Commission looked at the landscape ordinance and asked if the board could look at the definition of canopy trees. They asked the board to beef up the landscaping requirement. This resulted from years past when a developer came in and built a building and for his landscaping he planted dead Bradford pears. There was nothing in the ordinance that staff could find to keep him from doing this.

The new ordinance will say that all canopy trees planted shall be landscape quality specimen trees. According to the intern working for Community Development this language allows the county to say you cannot plant dead trees. The ordinance has been recommended for approval by the planning commission.

Chairman Goss asked how this would affect cost to the average developer. Mr. Taylor stated it will not make a difference.

*Motion/second to approve by Commissioners Phillips/Gilreath and carried by all.*

**C. Other Business:**

Executive session requested by Zoning Attorney Newton Galloway to discuss pending litigation.

*Motion/second by Commissioners Freeman/Phillips to go into Executive session at 7:03 p.m. and carried by all.*

*Motion/second by Commissioners Freeman/Phillips to come out of Executive session at 7:12 p.m. and carried by all.*

**D. Adjournment.**

*Motion/second by Commissioners Freeman/Gilreath to adjourn at 7:12 p.m. and carried by all.*

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Chairman

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Interim County Clerk

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