

**SPALDING COUNTY APPEALS BOARD**  
**Regular Meeting**  
**June 14, 2012**

The Spalding County Appeals Board held its regular monthly meeting on June 14, 2012 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Doug Hardwick, Chairman, presiding; Michelle Cannon; Robert Lattimore; Allan McCallum; Charles Perdue and Bill Slaughter. Bryan Clanton was not present.

Also present were: Chad Jacobs, Community Development Director; Newton Galloway, Attorney and Yvonne Langford to record the minutes.

Mr. Hardwick called the meeting to order and invited 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.

**Application #12-03V:** Susan S. Byous, Owner – 3714 Fayetteville Road (1 acre located in Land Lot 6 of the 3<sup>rd</sup> Land District) – requesting a Variance from front yard setback in the R-2 District.

Susan Byous – 3714 Fayetteville Road  
William Byous – 3714 Fayetteville Road  
Ms. Byous said they need this variance to add a front porch onto their home.

Mr. Jacobs said the staff recommendation is for approval.

**MOTION**

Mr. McCallum made a motion to approve Application #12-03V. The motion passed on a second by Ms. Cannon with Ms. Cannon, Mr. Lattimore, Mr. Hardwick, Mr. McCallum, Mr. Perdue and Mr. Slaughter voting for the motion.

**Application #12-04V:** William T. Nix and Carol L. Hardy, Owners – 5 Teamon Circle (2 acres located in Land Lot 202 of the 3<sup>rd</sup> Land District) – requesting a Variance from front yard setback in the AR-1 District.

William Nix – 5 Teamon Circle  
Mr. Nix said he moved to this location 9 years ago. This is a 70's model manufactured home and it had a lot of leaks. He got a permit and did the work then it was realized by the county that it was a little too close to the road. All of the neighbors are satisfied with the work and have said it looks good. He cannot move the trailer back because of the location of the septic tank.

Mr. Jacobs said the staff recommendation is for approval.

**MOTION**

Mr. McCallum made a motion to approve Application #12-04V. The motion passed on a second by Ms. Cannon with Ms. Cannon, Mr. Hardwick, Mr. Lattimore, Mr. McCallum, Mr. Perdue, and Mr. Slaughter voting for the motion.

**Application #11-09S:** Wat Phramahajanaka, Inc., Owner – Michael Goode, ESQ. Agent – 498 Steele Road (17.563 acres located on Land Lot 39 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to expand an existing church, synagogue, chapel, or other place of religious worship in the AR-1 District.

Richard Calhoun - 49 Atlanta Street – Marietta, Georgia  
Michael Goode – 49 Atlanta Street - Marietta, Georgia  
Franklin Ly – 220 Suwanee Avenue – Suwanee, Georgia

Mr. Calhoun said they were attorneys and were representing Wat Phramahajanaka, Inc. regarding this matter. This special exception is for a religious use. They presented a site plan and said the special exception is subject to the site plan. The pavilion that encroached into the buffer has been moved and will be relocated and is so identified on the site plan. The plan includes connecting two buildings with a breezeway. They understand the county has requested that prior to construction of the meditation/dining hall a hydrology study will be required. They do not have an issue with that. The staff is recommending an accel/decel lane. They do not feel there is a real need for that requirement. All the traffic comes from the north onto the property. There are 25 people per weekend coming to this location with occasionally as many as 100. They have read the staff conditions and do not have any issues except the accel/decel lane. There was an issue with the use of one of the buildings that was constructed for storage and was being used for a meeting facility. They have corrected that and have been issued a certificate of occupancy.

A lengthy discussion was held with questions and answers to get a clear understanding of the proposal as identified on the site plan. Discussion was also held regarding the need for the hydrology study.

Terry Sweatt – 1315 Manley Road

Mr. Sweatt questioned the fact that they had been able to get a certificate of occupancy when the building is not on the five-acres that was approved for the worship center. This building is on the residential part of the property. They acquired this property knowing what they intended to do and did not let the county know their plans. They are sliding everything in under the radar.

Mr. Hardwick advised Mr. Sweatt that there is no zoning for a church. Churches are authorized on application under certain zonings.

Mr. Sweatt said five-acres was approved for the worship center. The building that was approved for storage and has now been able to get the certificate of occupancy for worship is not on the five-acres that was approved for the worship center. That building is on the residential part of the property.

Mr. Jacobs said the certificate of occupancy does not give them approval to use it as a place of worship. It only declares the building life-safe and structurally sound.

Mr. Sweatt said this application was denied in August of last year. At that time, Mr. Goode stated that he was committed to being in compliance with any zoning requirements set by Spalding County. Mr. Goode said that he has also gone to the site personally to make certain that property permits were in place. He advised he made certain that the storage building was not being used as a place of assembly. He stated that he would obey any other stipulations set forth by the Board. Mr. Sweatt said they have been worshipping inside the building ever since that meeting. He said he had a picture of people worshipping taken inside the 50 x 60 building and advised that Mr. Goode was part of that picture. Mr. Goode stated that he did not know what was going on in that building and he went there to take charge. Ever since that building was built, they have been using it as a worship hall and they continued to worship in it up until two weeks ago. He said he had pictures available with different dates on them. He said the most recent one was taken two and a half weeks ago. For some reason, they have a hard time going by what the county tells them they can do and can't do. He does not want any neighbors that feel like they can do what they want to do even after the county has told them not to. It is pretty much a losing battle as far as he can see. Things keep changing and changing and changing. Maybe one day they can get it right.

Troy Hulon – 393 Steele Road

Mr. Hulon said since this has been going on, he is working with Jake Garner to get his creek rerouted because of the water that is coming down through there washing his property away. The reservoir is filling up with silt. That is his property too. They are going to keep expanding. Like he said on January 25, 2007, they will be back again and again until you stop these people. This is not about their right to practice religion it is about expanding in an AR-1 zone, our country neighborhood, and not complying with state and Spalding County rules and laws. What is compliance? "The act or process of doing what

you have been asked or ordered to do; the act or process of complying in a way that is required by a rule or law.” Have they complied as they have signed and said? Three buildings built without permits, practicing Buddhism outside the special exception boundaries, said they built a storage building when they in fact they advertised online using it as a public place of worship, a chapel, built a bathroom on a five-acre lot when the permit was taken out to build on a six-acre lot, built buildings in buffer zones, used erosion causing chemicals in the main branch of the Griffin reservoir, rerouting of state water runoff, land disturbance within 25 feet of state waters (these are not in compliance with the Georgia Soil and Water Conservation Committee). If it wasn’t for the neighborhood reporting these infractions that the permit department has allowed and did not know about, would have gone unnoticed. They were told not to use the storage chapel this past year due to the denial of the last application, but they still use it. They were caught by the permit department. They cannot even be trusted on a probationary period. They have not complied until they got caught. The message that is being sent by the county is to build first, wherever, whatever, lie, deceive, cover-up, don’t obey rules and laws and then ask for forgiveness and try to comply only if you get caught. They have a lawyer, Mr. Goode, that knows how to file a lawsuit. He has openly admitted that he does not know what is going on. Evidently, from the pictures that were shown, he does know what is going on. He does not see how they can bring on a lawsuit and sue the county for breaking rules and laws. That is not denying them the right to religion. If this passes, the permit department needs to know that Tract F, noted on court documents and paperwork, is unbuildable. This is where the building is set. From the Georgia Water and Soil Conservation Committee, future work being done in the buffer may require an Army Corps of Engineer permit. Future work in the buffer of a parental stream may require a buffer variance and a permit from the Corps of Engineers. If this passes, they don’t need to go out of here and celebrate, as they have done before, but to be saddened for our county government which has failed to represent and uphold their own rules and laws. Please stop expanding and building and abide by the state and county rules as their neighbors around have to. The people of Spalding County voted for the commissioners, not the people of metro Atlanta. Represent our people and say no again.

Mr. Jacobs said the staff recommendation is for conditional approval. The following conditions are recommended:

1. Site lighting shall be designed so that it will not glare into adjacent residential areas or public rights-of-way
2. The 25-foot planted buffer shall be extended along the northern property line to the street right-of-way. Said buffer shall be kept natural and undisturbed except for additional planting to cover gaps in the existing vegetation.
3. A deceleration lane shall be added to the entrance of the site prior to any future site development plan or building permit approval, separate of the construction of the 40’ x 40’ pavilion that has been moved out of the setback.
4. A proper development plan and hydrology study shall be performed for the development prior to any future site development or building permit approval.
5. An addition or expansion of the use in excess of the submitted plan dated June 5, 2012 shall require an additional special exception.

Discussion was held regarding what can legally be done when they are found in violation. Mr. Galloway reviewed the legal questions regarding this application. A review was given of the process regarding the additions and uses on this property that have evolved since this property was acquired by Wat Phramahjanaka, Inc.

Mr. Galloway said the lawsuit that Mr. Hulon was referring to is largely unrelated to the permits involved in this application. Their claim is that the county violated a statute and the county denies their claim.

Mr. Galloway said when there is a non-compliance issue, the county tries to resolve the issue by getting them in compliance rather than getting involved in a lawsuit regarding undoing what was done. There were two non-compliance issues. One was the building that was constructed for storage and was being used for meetings and the other was the structure that was in the setback. The building that was for

storage has been made safe for uses other than storage and the non-conforming structure in the setback has been removed and will be relocated to another part of the property.

Ms. Cannon advised Mr. Goode that he had declared under oath that he would comply with what was requested that day. He then walked out and chose to act differently.

Mr. Goode said the pictures that have been shown are from 2010 and are not current.

Ms. Cannon said it makes it very hard to keep telling them everything is ok and forgive their “sins” and approve what they are requesting if they will stay in compliance and then they go out and “sin” some more. It is not working. The Board has been willing to support the application and give them a place to worship and to do the things they need to do and should have the right to do and then they turn around and defy the Board.

Mr. Goode said he strongly disagrees. They have done everything they need to do to get all the permitting, jumped through all the hoops for this. They agreed to remove the building that was in the setback. They have not built any additional structures. They had a festival there and did everything they could to keep in compliance by staying in contact with the county and keeping them informed regarding the festival.

Ms. Cannon said they are not trustworthy. They do not do what they say they are going to do. The trail of half-truths is long and well documented.

Mr. Goode said he takes issue with that statement. They have not continued to build buildings.

Ms. Cannon said they were told they could not worship in the building and they have continued to do that. That is why the neighbors are upset.

Mr. Ly said since last August, they have not used the building. Probably there were people in and out taking the pillows out and then putting them up. They did not use the building as a worship place. They worshiped in another location outside. For the worship outside, they had to take the pillows outside. They may have been sitting and chanting but it was not used for worship.

Ms. Cannon said her point is that the trust is gone. The worship community has some “fence mending” to do by being good, trustworthy neighbors. You owe it to the neighbors to come back with a different act and prove that you are going to be good neighbors.

Mr. Ly said they have worshiped outside at this location all the time and it was cold. Sometime at lunchtime it was cold outside and a couple of people sneaked in and ate inside. It was not worship.

Mr. Hardwick said he feels the Board should discuss and address Mr. Hulon’s comments regarding the erosion of his property. This should be addressed prior to any further development of the property. He would like to consider tabling the application until this has been resolved. He said this has nothing to do with religion.

Mr. Calhoun said he was on the property today, and he did not see any evidence of damage. If there is some inspection or study that needs to be done, they will get that done. They need to know what it is that needs to be reviewed. Mr. Hulon has talked about erosion and he has a hard time believing that there is any erosion occurring but he has not walked every inch of the property.

Discussion was held regarding the erosion and diversion of the water on Mr. Hulon’s property. It was noted that another stipulation could be added that the property must pass the inspection by the ERC and the EPD and that there are no issues regarding erosion/sedimentation. If they determine there are any issues, then they would have to be resolved in a timely manner.

**MOTION**

Ms. Cannon made a motion to approve Application #11-09S with the conditions as recommended by the staff. The condition regarding the accel/decel lane will not be imposed until the proposed 5000 SF building is permitted. It is further conditioned on an evaluation by the Environmental Resource Coordinator of the EPD regarding the runoff/erosion/sedimentation from this facility to adjacent properties and any damage or issues found will be resolved in a timely manner. The motion passed on a second by Mr. McCallum with Ms. Cannon, Mr. Lattimore, Mr. Hardwick, Mr. McCallum, Mr. Perdue and Mr. Slaughter voting for the motion.

**MINUTES**

Mr. Hardwick made a motion, seconded by Mr. Perdue, to approve the minutes of the April 12, 2012 meeting. The motion passed with Mr. Hardwick, Mr. McCallum, Mr. Perdue and Mr. Slaughter voting for the motion and Ms. Cannon and Mr. Lattimore abstaining because they were not present.

**ADJOURN**

The meeting was adjourned on a motion by Mr. McCallum and a second by Ms. Cannon with Ms. Cannon, Mr. Lattimore, Mr. Hardwick, Mr. McCallum, Mr. Perdue and Mr. Slaughter voting for the motion.

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Doug Hardwick – Chairman

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Yvonne M. Langford - Recorder