

MINUTES

Valdosta-Lowndes Zoning Board of Appeals

Valdosta City Hall Annex Multi-Purpose Room
300 North Lee Street, Valdosta, Georgia

February 3, 2015

2:30 p.m.

MEMBERS PRESENT

Paul Alvarado
Laverne Gaskins
Nancy Hobby
Dr. Willie Houseal
John "Mac" McCall

Satrina Plyler
Gretchen Quarterman
Allan Strickland

MEMBERS ABSENT

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STAFF PRESENT

Ted Bilak
Carmella Braswell
Jason Davenport
Mike Fletcher
Michael Hokanson
Tracy Tolley
Debra Tulloch

VISITORS PRESENT

James Rouse Carter
Julian Cloud
Carolyn Dinkins
Robert Dinkins

Tony Green
James McGuire
James Rankhorn
Laci Rankhorn

Agenda Item # 1: CALL TO ORDER

The meeting was called to order by Chairman Strickland at 2:30 pm and it was determined that a quorum of members was present. Chairman Strickland thanked everyone for coming and reviewed the meeting procedures with those in attendance today.

LOWNDES COUNTY CASES

Agenda Item # 2: VAR-2015-01 --- Robert Dinkins (Lake Alapaha Boulevard, Naylor)

Mrs. Braswell stated that the applicant is requesting Variances to ULDC Chapter 6.03.03(D) and 4.04.02(F) as they pertain to the County's water system connection requirements. The subject properties are located along Lake Alapaha Boulevard, in R-21, C-C, and CON zoning districts. Section 6.03.03(D) of the ULDC provides that "all development shall be required to connect to a public water system when the County's water system is within a 1,000 feet radius of the parent tract of the new subdivision and/or development." Additionally, Section 4.04.02(F) provides that "all subdivisions shall be required to connect to a public water system when the County's water system is within 1,000 feet radius of the parent tract of a lot created by a new subdivision development." In this case, the 5 subject parcels were a part of a larger parent tract prior to their division. Staff is requiring the owner/developer to construct a 6" water line before being allowed to subdivide or further develop his properties. The applicant desires to utilize a private well rather than connect to County water because, according to the applicant, the costs associated with constructing water lines to the parcels are cost prohibitive. Therefore, the applicant is seeking a variance to the water connection requirement so that they may develop the subject properties with private wells.

One of the more recent developments in this community was a land auction in 2007. The auction provided several fairly large tracts of land, some of which remained large tracts and some which were further divided into smaller tracts of land and developed into what is known as the Hidden Cove Subdivision. Staff contends that the public documents and previous discussions with the developer/property owners made known that any newly created tracts of land would be required to be serviced with Lowndes County water. A survey plant entitled "Lake Alapaha Plantation" was recorded in public records on March 1, 2007 which allowed the auctioneer to sell the newly created tracts as opposed to requiring them to construct the water lines prior to the recordation of the survey. The arrangement, in this case, is as each tract of land was developed and/or subdivided, the water lines would be constructed. According to staff, this arrangement was agreed upon by all parties and was sealed on the

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survey plat with a note that reads "This property will be served by County water to be provided by the owners, and served by individual septic systems." Additionally, the Lake Alapaha community's water system was initially a private system, but with various circumstances, the Environmental Protection Division required Lowndes County to take possession of and manage the water system through a trust indenture.

After the EPD's involvement, the County is making a substantial investment to improve a water system in the Lake Alapaha community. Staff encourages the use of existing water and sewer services where appropriate. The precedent has been set for several other adjacent property owners who were also required to connect to the County's water system, both in the immediate area and in the overall community. Lastly, staff contends that the public was made aware that County water was available to the proposed lots during the 2007 land auction. For those reasons, staff is recommending denial of the requested variance with a TRC vote of 6-1. This case presents a situation of being "development driven." Staff contends that the application of the ULDC in this case will not create an unnecessary hardship, that the granting of the variance will confer special privileges which were denied to other adjacent properties, and this request is the result of the actions by the applicant.

Chairman Strickland asked if a parcel was supposed to connect to Lowndes County water if it was within 1,000 feet? Mrs. Braswell stated it was. Chairman Strickland then asked if the parent parcel was within 1,000 feet of County water. Mrs. Braswell stated it was, and the parcels in question were currently between 1,200 and 1,800 feet from County water.

Mrs. Quarterman asked if the 1,000 feet requirement was coming into consideration because of the parent tract in 2007. Mrs. Braswell stated it was. Mrs. Quarterman then asked if the County was in charge of the well in 2007. Mr. Mike Fletcher, County Engineer, stated he believed the County was in charge of the well in 2007 and pointed out in an aerial on the PowerPoint presentation approximately where the waterline ended. Chairman Strickland asked if the waterline was a 6" waterline. Mr. Fletcher said he believed it was. Chairman Strickland asked if the County wanted the 6" line to be extended. Mr. Fletcher said yes.

Mrs. Gaskins asked if the public was aware of the requirement to connect. Mrs. Braswell stated staff believed the public was aware of the requirement due to the note on the plat. Mrs. Quarterman asked if they had to connect to both water and sewer, or just water only. Mrs. Braswell stated that they had to connect to water only. Mrs. Braswell stated the lots were large enough to accommodate private wells, but believed they still needed to connect to County water due to the regulations.

Mrs. Hobby asked Mrs. Braswell to point out in the aerial where the existing waterline ended. Mrs. Braswell pointed out where the waterline ended. Mrs. Hobby pointed out that there were parcels between the end of the waterline and Mr. Dinkins' parcels. Mrs. Braswell stated there may be a way to recoup the costs if Mr. Dinkins ran the waterline past those particular properties; however, she did not believe Mr. Dinkins owned those particular properties.

Being no further questions from the Board at this time, Chairman Strickland asked if there was anyone present who wished to speak in favor of this request.

Mr. Robert Dinkins, 1319 Madison Highway, spoke as applicant on behalf of his wife, Carolyn Dinkins, who owns the property. Mr. Dinkins stated they were unaware of the requirement until their client tried to apply for a building permit, and was unable to do so. Mr. Dinkins stated they didn't own any other parcels, other than those mentioned in the application. Mr. Dinkins mentioned the note written on the plat, that the parcels will be served by County water, but that he thought that when the water was run past their parcels they would have to connect to the County water at that time. Or if they subdivided the larger tracts, then they would have to run water. It was never his understanding that when one of those tracts was developed that the owner would have to run water at his/her expense. Mr. Dinkins stated that he got an estimate on running water to his particular parcels, and that cost was about \$37,500 to run the water 1,800 feet. Mr. Dinkins stated it would be a burden to run water to a larger tract, because the buyer of the tract might want a garden or horses and the property would be large enough for a well and septic. Mr. Dinkins stated he had written a letter and would like to read it for the record. Chairman Strickland stated noted that the letter was included in the agenda packets and that it will be made part of the meeting minutes (see attachment).

Mr Dinkins stated that he would like to point out what was happening in Hidden Cove near the southern end of Lake Alapaha. There are 51 lots in that subdivision and the County is consistently running water through the lines because the water becomes stale and stagnant. Mr. Dinkins provided pictures to the Board which depict

chlorinated water running from the lines into Lake Alapaha. He stated that fish are unable to survive due to the chlorination. Mr. Dinkins stated that a couple of parcels had already been subdivided from the parent tract and the County had not made them run water to that particular area.

Mrs. Quarterman asked why the water line quote was for 1,800 feet. Mr. Dinkins stated that at the time he obtained the quote, he had a customer interested in a 20-acre tract on the northern end that was about 1,800 feet from the closest water connection. Mrs. Quarterman asked how close his property was to the waterline. Mr. Dinkins stated that Mrs. Braswell said it was about 1,200 – 1,800 feet from the water line, depending on the specific area they were referring. Mrs. Quarterman asked Mr. Fletcher how far the property was from the water connection. Mr. Fletcher stated it was about 1,200 feet from the closest corner of the property, and the County didn't make them connect to County water at the time of the auction, in part due to bankruptcy related issues. Mrs. Quarterman verified that because the parent tract was less than 1,000 feet from the closest water connection, and these 3 parcels being part of the original parent tract, that this was the reason why the Variance was being requested.

Mrs. Quarterman asked what the property was zoned and if horses were allowed. Mrs. Braswell replied that it was zoned R-21 and that horses were not allowed in this zoning. Mr. Dinkins stated that he only mentioned horses in passing; that any new owners could do what they wanted if it was allowed, such as plant a garden, etc... Mrs. Quarterman stated that R-21 lots could be further subdivided to the point where the lots may be too small for wells/septic systems. Mr. Dinkins stated they weren't selling lots that small. Mrs. Quarterman stated that future owners could subdivide the lots by right. Mr. Dinkins stated that if any future owners/developers did that, they could run the County water to serve them. Mr. Dinkins stated that ULDC regulations should not apply to them since they were further than 1,000 feet from the closest point of County water system. Mrs. Quarterman pointed out the note on the plat and the relationship of Mr. Dinkins' parcels to the parent tract. Mr. Dinkins stated he didn't have the plat when he purchased, and the plat didn't say that you had to run a water line to the parcels before you could develop them. Mr. Alvarado stated that Mr. Dinkins knew through the auction advertisement that he would have to connect parcels 3 through 5 to County water. Mr. Dinkins stated he believed that he would have to connect when water was available, not run it from the closest connection.

Mr. Julian Cloud, auctioneer, 1114 Clover Hill Road, Valdosta, stated that his auction company handled the auction for this piece of property. Mr. Cloud stated this was not a bankruptcy-forced auction nor a distressed auction but instead was a court-ordered auction due to the dissolution of a partnership. There was no financial duress involved. Both partners had the opportunities to repurchase any properties they would like to own. Mr. Cloud stated he had discussions with Mr. Joe Pritchard (County Manager), Mr. Jason Davenport (County Planner), and Mr. Mike Allen (Utilities Director) regarding the property north of the water system. Mr. Cloud stated that at the time of the auction, there were neither water lines nor any water capacity to serve the area north of the well. It was questionable to whether water could be provided to an area south of the well. Mr. Cloud stated he had a letter in his office from the County stating that areas south of the well would be serviced with water if people bought them. Mr. Cloud helped the County obtain more land for two more wells and put in a chlorination system to service this area. Mr. Cloud believes the letter stated that the County's intent was to put in two more wells and spend over a million dollars to assist the water situation in this area. Mr. Cloud stated that he did write in the auction brochure that all of the bigger tracts north of the well would be served by the County water system because that was the intent — that the County intended to extend the water lines as needed. He believed that until the time the County could service the area with water, that individual property owners could utilize individual wells. Mr. Cloud said his understanding was that if you bought a larger tract of property, put a street in it, and developed it in half-acre lots, it would be required to be serviced by County water. Mr. Cloud stated that it did not appear that what Mr. Dinkins was being asked to do was in the spirit of the information provided at the auction by the County. Mr. Cloud stated he understands that a regulation cannot be written for every circumstance but that there needs to be some flexibility in the regulations. Mr. Dinkins has larger tracts of land in which there is no County water adjacent. Mr. Cloud stated he doesn't see the benefit to the County in requiring Mr. Dinkins to run County water to his tracts and for the County to maintain this stretch of waterline when the tracts may never be subdivided any smaller. Mr. Cloud asked that the Board grant the variance, and asked if the Board had any questions for him. Chairman Strickland asked Mr. Cloud if he had anything in writing stating the County would run water to Mr. Dinkins' property? Mr. Cloud said he didn't have anything in writing to that effect. Mr. Cloud stated he believed that the 1,000-foot implies that owners would not have to utilize County water until the water ran to or past their property. Mr. Cloud said he doesn't know of any instances in which the County required an owner to run County water lines more than 1,000 feet just to tap into.

There being no further questions for Mr. Cloud, Chairman Strickland asked if there was anyone else present who wished to speak in favor of this request. There was no response. Chairman Strickland then asked if there was anyone present who wished to speak in opposition to the request. There was no response. Chairman Strickland then asked if there was any further questions for staff.

Mrs. Hobby asked Mrs. Braswell if there were any circumstances/situations in which a private owner has had to extend a main water line to their property. Mrs. Braswell stated that there were, since this was a County requirement. Mrs. Braswell also stated that there were cases in which variances from this requirement had been requested from the Board. Mrs. Hobby stated she needed more clarification as to why Mr. Dinkins was required to run water to his property when it was more than 1,000 feet away to the closest County water lines. Chairman Strickland stated it was because the parent tract was within the 1,000-foot requirement. Mrs. Plyler stated that there was an effort made in the form of an exception in which the parcels were allowed to be subdivided, but were not required at the time to extend water lines. Mrs. Braswell stated this was correct, in the sense that the County made an effort to assist the property owners by not requiring the water lines to be extended at that time.

Mrs. Quarterman asked how deep the wells were. Mr. Fletcher stated he was not sure, but that the County had spent over a million dollars to upgrade the wells, and were installing a system so the lines would not have to be flushed as often. Mrs. Quarterman stated her concern is that surface water has been seeping into ground water and asked if property owners were allowed to install wells near the lake, and if they could experience the same problem. Mr. Fletcher stated they could.

Dr. Houseal asked about the purpose of EPD's involvement in this. Mr. Fletcher stated that Mr. Dinkins owned the water system with the County holding the trust indenture, and that the county was required to take over the system and be required to upgrade the system. Mr. Dinkins stated that when Lake Alapaha Development Corporation built the water system, it was owned by the Corporation and not by him personally. Mr. Dinkins stated he was a partner in that Corporation. He stated they did a trust indenture with the County and that the indenture stated that if the Corporation was unable to maintain the water or the roads, then the County would take over at their request. The Corporation was having trouble maintaining the water, so they asked the County to take over, and it was not mandated by EPD to relinquish control. Mr. Dinkins stated that ZBOA had the right to consider a variance if there was hardship.

Mrs. Quarterman asked if the variance was granted, and the variance ran with the property, and a developer or owner decided to further subdivide into smaller lots, could a community well be utilized? Mrs. Braswell stated if the variance was granted, a community well could be utilized. Mr. McCall asked if septic systems were utilized in that area and what the minimum lot size was for a septic system. Mrs. Braswell stated that septic systems were already being utilized and that minimum lot size varies, based on the soil involved and whether a public or private water system was being used, but they have seen lot sizes as small as 15,000 square feet with a septic system in conjunction with a community water system. Mrs. Plyler stated that Hamilton Point had lots with about a tenth of an acre, but they utilized a community septic system.

Mr. McCall asked if the property along Highway 84 was still commercially zoned. Mrs. Braswell stated it was zoned Crossroads Commercial. Mrs. Braswell stated she wanted to mention that County staff pulled the records affiliated with the 2008 plat that Mr. Dinkins referenced, and tried to determine why the connection to water wasn't required before. Mrs. Braswell stated that staff determined that these lots in question were not required to connect because they were not considered a part of the parent tract.

Dr. Houseal stated that the Board was working with the difference in interpretation between County staff and Mr. Dinkins, the EPD issue, as well as the financial issues in extending the water lines. Dr. Houseal stated he would rather not vote on the matter until the issues were addressed. Mrs. Gaskins asked how they could get the answers to resolve Dr. Houseal's concerns, and asked Mrs. Braswell if she could address any of the concerns, because she was unsure if there was a method to address the questions. Mrs. Braswell stated she did not have any further information, but she understood. Mrs. Gaskins stated she was concerned about the discrepancies between 2008 and today. Mrs. Quarterman stated she was concerned about further subdividing the lots, as they could by right, into smaller lots as allowed by R-21. Mrs. Plyler asked who owned the parcel across the street. Mrs. Braswell indicated that Mr. Dinkins did.

There being no further discussion, Chairman Strickland called for a motion. Mrs. Gaskins made a motion to deny the request for an exemption to the 1,000-foot water connection requirement. Mrs. Quarterman seconded the motion. Mr. Alvarado asked Mrs. Braswell if anyone had contacted her office. Mrs. Braswell stated there had

