

Appeal A15090009

Staff Analysis

Board of Appeals Hearing Date: 11-17-2015

Parcel ID: Map N65A Parcel 10

Acreage: 2.96 acres

Applicant

Edward Doss

49 Barrett Woods Road
Covington GA 30014

Owner:

Edward & Judy Doss

same

Property Location: 49 Barrett Woods Road

Current Zoning: A1

Request: Appeal decision regarding parking of one commercial vehicle at 49 Barrett Woods Road.

Site Analysis:

This appeal is the result of a code enforcement complaint received on 9-14-15 that a tractor trailer was parking on the property at 49 Barrett Woods Road.

Mr. Doss is appealing the administrative decision that a commercial vehicle cannot be parked in a platted subdivision. Mr. Doss states that he verified there was no problem with parking his commercial vehicle on the property prior to purchasing in 1998 and he has been parking it there since then.

Staff Comments

- In reviewing the 1998 ordinance and those permitted uses allowed in the A1 zoning district, the department finds there was no provision to allow the parking of commercial vehicles with the A1 zoning district. (* Article 7 A1 Permitted Uses)
- The current ordinance specifically states that commercial vehicles are not allowed in platted subdivision (*Article 7 Part 1 Section 100 C.2)
- The current ordinance prohibits the Board of Appeals from granting a use that is not allowed (*Article 14, Section 110. 4)

*copy attached

Approval of this appeal would set precedence for allowing commercial vehicles within a platted subdivision which is specifically prohibited and would be in direct violation of Article 7 Part 1 Section 100.C.2 and Article 14 Section 110. 4

Article 3 Part 2 Board of Appeals

Section 100 Duties and Powers of the Board of Appeals

The Board of Appeals shall have the following powers, as well as others significantly authorized in this Ordinance:

A. Appeals

To hear and decide appeals where it is alleged there is an error in any order, requirement, permit, decision, determination or refusal made by an administrative officer in the enforcement of this Ordinance. The Board of appeals shall have additional powers as may be granted to it by any other ordinance, including, but not limited to, determination of appeals from the refusal of an administrative official to issue a license or permit. A failure to act shall not be construed to be an order, requirement or decision within the meaning of this Article.

Excerpt from WCLDO dated 7-1-1997. Permitted uses and Conditional uses are listed herein:

ARTICLE VII: Use Requirements by Districts

Section 7.0 A-1 Agricultural District

The A-1 Agricultural District is composed chiefly of the open farm areas where a more intensive use of land is unlikely to occur in the near future. The regulations for the District are designed to encourage the maintenance of a rural character until more intensive development is feasible.

* **7.01 Permitted Uses.** In the A-1 Agricultural District only the following uses are permitted:

- (1) Single Family Dwellings complying with minimum requirements of Article VIII
- (2) Manufactured Homes complying with minimum requirements of Article VIII and Article IX, Section 9.1, Sub-section 9.12
- (3) Major Single Family Subdivisions, subject to the following regulations under A or B:
 - A. Major Single Family Subdivision:
 - a. density shall equal one (1) dwelling per two (2) acres
 - b. a 20' non-buildable buffer on sides and rear of
 - c. a 100' non-buildable buffer off of existing county roads
 - d. subdivision shall be subject to the provisions of
 - B. Major Single Family Private Drive Subdivision:
 - a. house size shall be a minimum of 1800 sq ft
 - b. no more than 10 tracts (lots) in subdivision
 - c. Tracts (lots) must be 5 acres or larger
 - d. Private road, drainage easements, drainage
 - e. All private roads shall have no less than 40 feet right-of-way width at existing public road
 - f. Gated entrances will be allowed
 - g. All tracts must display street address
 - h. A 50' non-buildable buffer to be maintained around subdivision
 - i. Items to be located on the final plat:
 1. Final plat shall show and read "Private Drive"
 2. Final plat shall state that "Tracts shall not be

3. Drainage easements, structures, ditches, and pipes will

4. Certificate of Health Department, directly on the plans:

"The lots shown hereon have been reviewed by the Walton County Health Department and, with the exception of lots _____, are approved for development. Each lot is to be reviewed by the Walton County Health Department and approved for septic tank installation prior to the issuance of a building permit.

Health Department Officer Date

5. Certificate of Approval for Recording, directly on the plans:

"I hereby certify that the subdivision plat shown herein has been Walton County, Georgia."

Walton County Planning & Dev. Designee Date

Chairman, Walton County Board of Commissioners Date

- (4) Caretaker houses
- (5) Public utility stations, buildings, structures provided no office or equipment is located or stored on site.
- (6) Kennels complying with minimum requirements of Article IX, Section 9.10
- (7) Feedlots and other buildings housing commercial livestock shall not be located within two hundred (200) feet of a property line.
- (8) Home occupation subject to the provisions of Article IX, Section 9.5
- (9) Signs subject to the provisions of Article IX, Section 9.7
- (10) Accessory and temporary buildings subject to the provisions of Article IX, Section 9.3
- (11) Storm shelters subject to the provisions of Article IX, Section 9.4
- (12) Home swimming pools subject to the provisions of Article X, Section 10.4
- (13) Non-commercial portable sawmills and planing mills used for removing and processing timber provided that the mill is not located closer than five hundred (500) feet from a residential structure not on same property as the mill.
- (14) Structures housing livestock (excluding feedlots, poultry productions and

commercial livestock) provided, however; that said structure shall not be located on less than two (2) acres with a setback of fifty (50) feet from any side or rear property line.

*** 7.02 Conditional Uses.** The following uses shall be a conditional use in the A-1 District subject to the criteria outlined in Article IX, Section 9.11.

- (1) Commercial auctions
- (2) Equestrian training and sales facility with customary tack sales subject to Section 7.0, sub-section 7.01, item 7
- (3) Commercial sawmills and commercial planing mills used for removing and processing timber provided that the mill and storage are not located closer than four hundred (400) feet to any property line and closer than five hundred (500) feet from any house or residential structure.
- (4) Construction/Demolition Landfills subject to the provisions of Article IX, Section 9.9
- (5) Apartments for Retired Persons using the following criteria:
 - a. All residents must be adults who have reached *retirement age who have the ability to move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches or hand rails, or by propelling a wheelchair; and can perceive an emergency condition, whether caused by fire or otherwise and escape without human assistance, using the normal means of egress.
 - b. a dining area and/ or meeting room shall contain seating no less than 40% of tenants.
 - c. facility shall use municipal or community sewer and municipal or community water.
 - d. Eighty percent (80%) of the residents must be at least 65 years of age, and 100% of the residents must be at least 55 years of age.
*For the intent of this ordinance, retirement age will be 55 years of age or older.
- (6) Churches subject to the provisions of Article X, Section 10.0
- (7) Cemeteries, public and private, subject to the provisions of Article IX, Section 9.8
- (8) Inert Landfills subject to the provisions of Article IX, Section 9.9
- (9) Salvage Yards subject to the provisions of Article IX, Section 9.0

- (10) Taxidermy
- (11) Family Personal Care Home if licensed by the State of Georgia under Chapter 290-5-35 of O.C.G.A.
- (12) Slaughter houses subject to the provisions of Article X, Section 10.9

Current Ordinance in Place:

Article 7 Parking and Loading Space

Part 1 Off-Street Vehicular Parking

Section 100 General Requirements

Off-street automobile parking space shall be provided for every permitted or conditional use established in accordance with this Ordinance. For the purpose of this Ordinance, the following general requirements shall be met:

- A. If an off-street parking space cannot be reasonably provided on the same lot on which the principal use is conducted, the Director may permit such space to be provided on other off-street property, provided such space lies within six hundred (600) feet of the property of such principal use.
- B. The required number of parking spaces for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.
- C. Commercial vehicles, light duty business vehicles and recreational vehicles may be parked in residentially zoned districts with the following provisions:
 - 1. Vehicles shall not be parked in required front yard building setback lines.
 - 2. Commercial vehicle shall not be allowed in any "R" zoning district or within a platted subdivision in "A" zoning districts.
 - 3. A maximum of one light duty business vehicle, one commercial vehicle, and one recreational vehicle is allowed per lot.
 - 4. On street parking of vehicles shall not be permitted on streets abutting residentially zoned property.
 - 5. Vehicles may be enclosed in accessory structures provided that such structures meet all provisions outlined herein and in other applicable ordinances.
 - 6. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a lot, or in any location not approved for such uses.

Current Ordinance in Place:

Section 110 Variances to Board of Appeals

A. The Board of Appeals shall hear and decide applications for variances as listed under Power and Duties in Article 3, Part 2, Section 100 B.

B. Standards of Review

In ruling on any application for a variance, the Board of Appeals shall act in the best interest of the health, safety, morals, and general welfare of the county. In doing so, the Board of Appeals may grant variances in individual cases of practical difficulty or unnecessary hardship upon a finding that all the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
2. The strict application of the Ordinance to this particular piece of property would create practical difficulty or unnecessary hardship; and
3. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.
4. No variance may be granted for a use of land or buildings or structure that is prohibited by this Ordinance or to change the density of a use allowed by this ordinance or to grant a development right or standard in conflict with a condition of zoning imposed by the Board of Commissioners.

Walton County Board of Appeals Application

Please Type or Print Legibly

Variance/Special Exception/Appeal # A15090009

Board of Appeals Meeting Date 11/17/15 at 6:00PM held at WC Board of Comm. Meeting Room

DOCUMENTS TO BE SUBMITTED WITH APPLICATION

Recorded Deed Survey Plat Site Plan _____ Proof of Paid Property Taxes

Map/Parcel N65A-6 Zoning District: A-1 Commission District: 3

Applicant Name/Address/Phone #

Property Owner Name/Address/Phone

Edward Doss
49 Barnett woods Rd
Covington, GA. 30014
Phone # 770-784-7479

Edward Doss
49 Barnett woods Rd
Covington, GA. 30014
770-307-1723
Phone # 770-784-7479

Type Request: _____ VARIANCE SPECIAL EXCEPTION APPEAL _____

Property Location 49 Barnett woods Rd Acreage 2.96

Describe Variance/Special Exception/Appeal: see Attachment

State Reason for request and how these reasons satisfy Article 14 Standards of Review:

Public Water: _____ Well: _____ Public Sewer: _____ Septic Tank: _____

The above statements and accompanying materials are complete and accurate. Applicant hereby grants permission for Planning and Development personnel to enter upon and inspect the property for all purposes allowed and required by the Comprehensive Land Development Ordinance.

Signature Edub Doss Date 9/30/15 Fee Paid: \$ 150.00

PUBLIC NOTICE SIGN WILL BE PLACED AND REMOVED BY P & D OFFICE

Administrative Variance granted per Article 14 Section 180

P & D Official: _____ Date: _____

I HEREBY WITHDRAW THE ABOVE APPLICATION _____ Date _____

9/27/15

To: Walton County Board of Appeals

On 9/24/15, I received a warning saying I was in violation of Ordinance Article 7, Part 1, Section 100 relating to Commercial Vehicles.

I verified zoning before purchasing home in 1998. I was advised that is was zoned agriculture and commercial vehicles were allowed. I have continued to bring my truck and trailer on the property since that time.

I have had no complaints except for 1 previous neighbor who complained about the noise from my refrigerated trailer in 2007 that I had at that time. We appeared before a judge after being issued a citation for violation of the noise ordinance and judge dismissed the charge because I put extra insulation on my unit to quiet the noise and was in compliance with neighbors request to resolve the issue.

At that time Mr. Autry from Planning board advised that truck was not allowed on this property according to a 2001 ordinance. He advised I may have to appeal. I told him that I had already been on the property for 3 years when that ordinance was passed and that I had obtained petitions from all homes in the neighborhood and some from adjoining roads as well that they had no problem with truck being on this property. After I told Mr. Autry this, there was no further discussion and I never received a request from the County to move my truck.

Since my truck has continuously been allowed on my property and is my sole source of income for the past 17 years, I request that I be exempt from the Ordinance that was passed 3 years (without any knowledge to me) after I moved into the neighborhood.

Since all but 1 neighbor on my street has no objection to my truck, I feel the existing complaint evolves from disagreement and involvement of authorities with that 1 new neighbor over the restraint of his vicious dogs and the noise of their continuous barking on some nights. He even asked me to withdraw my complaint that was made to County authorities and my life would be easier. This is also after an attack on another neighbors daughter and the dogs aggression towards painters at the home of another neighbor of which neither filed any complaint.

The current complaint filed with County stated they my refrigeration unit runs all during the night and keeps them awake. I have not had a refrigerated unit for about 7 years and no noise from my truck or trailer are being emitted in the neighborhood.

I am asking the County to consider grandfathering my truck and giving me a physical variance in writing so the presence of my truck on my property is not questioned in the future.

Sincerely

Edward Doss

AUTHORIZATION
BY PROPERTY OWNER

I swear that I am the property owner of the property which is the subject matter of the attached Petition for Variance/Appeal Application, as is shown in the records of Walton County, Georgia.

I authorize the named below to act as Applicant in the pursuit of a Petition for Variance/Appeal Application.

Name of Applicant: Edward Doss
Address: 49 Barnett woods rd Covington, GA 30014
Telephone: 770-784-7479 - 770-307-7723
Location of Property: 49 Barnett woods rd Covington, GA.
Map/Parcel Number: N65A-10

Edward Doss
Property Owner Signature

Property Owner Signature

Print Name: Edward Doss

Print Name: _____

Address: 49 Barnett woods rd

Address: _____

Phone #: 770-307-7723
770-784-7479

Phone #: _____

Personally appeared before me and who swears that the information contained in this authorization is true and correct to the best of his/her knowledge.

Trace S. Malcom
Notary Public

9/30/2015
Date



I, Edward K Doss, have received a warning from Walton County Planning about my commercial truck being on my property because of a complaint that was recently made to the county.

The truck has been on this property since 1998 and they passed an ordinance in 2001 disallowing it. I was never given any notification of violation nor had any complaints other than a noise complaint in 2007 that was resolved through the court after I modified my refrigeration unit I had at that time.

As a surrounding neighbor, I am asking if you have any complaints or objection to my truck and trailer being on my property as it has for the last 17 years.

Please sign and comment if needed.

M. K. Boyd 3175 Maughon Rd 7-891-0913
Name Address Phone

Mr. Doss's truck is absolutely no bother
Comment
to me. I hear no noise.

Mrs Mrs Ronald Moore 3145 Maughon Rd 404-376-6210
Name Address Phone

Never had a problem!
Comment

Mr. + Mrs Kevin Hightower 89 Barrett Woods Rd 770-385-9774
Name Address Phone

Never a problem
Comment

Name Address Phone

Comment

9/28/15

I, Edward K Doss, have received a warning from Walton County Planning about my commercial truck being on my property because of a complaint that was recently made to the county.

The truck has been on this property since 1998 and they passed an ordinance in 2001 disallowing it. I was never given any notification of violation nor had any complaints other than a noise complaint in 2007 that was resolved through the court after I modified my refrigeration unit I had at that time.

As a surrounding neighbor, I am asking if you have any complaints or objection to my truck and trailer being on my property as it has for the last 17 years.

Please sign and comment if needed.

Robin Cagle 109 Barrett Woods Rd. 770-784-1381
Name Address Covington, GA 30014 Phone

We have had no problems with Mr. Doss's
Comment truck!

Shyla Miller 90 BARRETT Woods Rd 770-786-4122
Name Address COWINGTON, GA 30014 Phone

MR DOSS'S TRUCK DOES NOT BOTHER ME
Comment

[Signature] 30 Barrett Woods Rd Covington GA 30014 770-788-7893
Name Address Phone

I have no problem with the noise from Ed Doss'
Comment truck.

Wanda Miller 70 Barrett Woods Rd 678-978-0812
Name Address COWINGTON, GA 30014 Phone

I live directly across the street from the
Comment truck + have never heard noise. The truck
doesn't bother me or anyone in my household.

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As a surrounding neighbor, I am asking if you have any complaints or objection to my truck and trailer being on my property as it has for the last 17 years.

Please sign and comment if needed.

Thomas E. Moon 3135 Maughon Rd 770-786-3224
Name Address Covington, GA 30014 Phone

I have had no problem with his truck or any
Comment thing else in my entire life at this address

Daniel W. Vining 3160 Maughon Rd. 678-625-2537
Name Address Covington, GA 30014 Phone

Comment

Marcellene Brown 3170 Maughon Rd. 770-786-8875
Name Address Cov. GA 30014 Phone

I have NO problem or complaint.
Comment

Herb Weaver, Sr 50 Barrett Woods Rd (770) 784-6544
Name Address Covington, GA 30014 Phone

I've no problem with Mr. Doss having his truck in the neighborhood
Comment

9/28/15

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As a surrounding neighbor, I am asking if you have any complaints or objection to my truck and trailer being on my property as it has for the last 17 years.

Please sign and comment if needed.

~~9/28/15~~ 3225 Maughon Rd Covington 7) 377-0621
 Name Address Phone
Doree Goen

Comment

Tom Peters 3185 Maughon Rd. Covington Home 678-342-7897
 Name Address Phone cell 678-763-9409

Comment

Doug Myers 3150 Maughon Rd Covington H 770 788-1926
 Name Address Phone C 770 298-2848

Has been a good neighbor since 2002
Comment

Traci Myers 3150 Maughon Road H - 770-788-1926
 Name Address Phone C - 770-298-2887
Covington, GA 30014

I have no issue w/ Mr. Doss, his commercial truck, etc
being kept at his home on his own property.
 Comment