

**SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
FEBRUARY 13, 2020**

SUMNER COUNTY ADMINISTRATION BUILDING
ROOM 112
355 N. BELVEDERE DRIVE
GALLATIN, TN. 37066

MEMBERS PRESENT:

BRUCE RAINEY, CHAIRMAN
SANDY WEBSTER, VICE-CHAIRMAN
MAC HOLT
MATT STAMPER
SHAWN UTLEY

STAFF PRESENT:

JOSH SUDDATH, DIRECTOR OF DEVELOPMENT SERVICES
KATHY YOUNG, ASSISTANT TO THE DIRECTOR
MARSHALL WRIGHT, CODES DIRECTOR

Mr. Rainey called the meeting to order.

APPROVAL OF JANUARY MINUTES

Ms. Webster made a motion to approve the January, 2020 Minutes, seconded by Mr. Stamper. Motion passed unanimously with Mr. Utley abstaining.

After confirming that there were no changes to the Agenda, Mr. Rainey turned the floor over to Mr. Suddath for staff presentation.

- 1. Wesley Reade** was requesting a continuation of a Conditional Use Permit granted on March 8, 2018, to conduct a dog kennel business from an existing structure. Subject property is located at **2923 Oak Grove Church Road, Bethpage, TN 37022**, is on Tax Map 042, Parcel 004.03 contains 5.68 acres, is zoned Agricultural and is in the 1st Voting District (Moe Taylor and Terry Wright).

Mr. Suddath began the presentation by stating that adjoining property owners had been notified by regular mail, and adding that his office had received several letters regarding this request. Ms. Young confirmed that there were 5 letters of support and 1 letter against the Conditional Use Permit.

Mr. Suddath provided an overview of the property, including a copy of the Minutes from the original BZA approval, an aerial photo of the property, and photos of signage, structures and the outside dog area.

Mr. Suddath concluded his presentation with example motions.

Mr. Rainey called Mr. Reade forward.

Mr. Wesley Reade, 2923 Oak Grove Church Road, Bethpage, TN, stated that he is passionate about the animals under his care. Mr. Reade added that he has taken several measures to relieve the dog's stress, including building a privacy fence, resulting in less barking. Mr. Reade stated

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that he wished to keep the rural atmosphere of the property. Mr. Reade added that he employs several people and fills a need for the people of the county.

Mr. Rainey opened the public hearing.

Upon confirming that no one wished to speak, Mr. Rainey closed the public hearing.

Mr. Utley made a motion to approve a request to continue a Conditional Use Permit for 2923 Oak Grove Church Road, Bethpage for a period of two years, allowing the property owner to conduct a dog kennel business on the premises, seconded by Ms. Webster. Motion passed unanimously.

Mr. Rainey turned the floor over to Mr. Suddath for staff presentation.

- 2. Jeremy and Courtney Ledford** were requesting a continuation of a Conditional Use Permit granted on February 8, 2018, to conduct a small body shop, Ledford's Classic Autobody, LLC. Subject property is located at **207 Pond Road, Cottontown, TN 37048**, is on Tax Map 074, Parcel 147.00 contains .91 acres, is zoned Agricultural and is in the 12th Voting District (Michael Guthrie and Justin Nipper).

Mr. Suddath provided an overview of the property, displaying the Minutes from the original BZA Approval of the Conditional Use Permit, stating that the applicant received staff approval in 11/2019 to add an office area to the detached structure.

Mr. Suddath stated that the adjoining property owners were notified by regular mail and confirmed that no comments have been received regarding this request.

Mr. Suddath provided an aerial photo of the property as well as photos of the structures on the property and concluded his presentation with example motions.

Mr. Rainey called Mr. Ledford forward.

Mr. Jeremy Ledford, 207 Pond Road, Cottontown, TN, stated that the addition to the shop was to also store a trailer.

Mr. Rainey opened the public hearing. Confirming that no one wished to speak, Mr. Rainey closed the public hearing and asked Mr. Wright if he had anything to add.

Mr. Wright stated that he had nothing to add.

Mr. Stamper made a motion to approve a request to continue a Conditional Use Permit for 207 Pond Road, Cottontown for a period of two years, allowing the property owner to conduct a small body shop on the premises, seconded by Mr. Holt.

At this point, Mr. Utley asked for clarification, if the Conditional Use Permits were reviewed every two years.

Mr. Rainey stated that yes, these permits are reviewed every two years, supplying a brief history of the requirement.

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Mr. Suddath added that it provides an opportunity to make sure that any conditions imposed on the approval are being adhered to.

Motion passed unanimously.

Mr. Rainey turned the floor over to Mr. Suddath for staff presentation.

- 3. Laura Galbraith and Elisha Payne** were requesting a continuation of a Hardship Variance for Elisha Payne to live in an existing structure on subject property to assist in the day to day care of parent. Subject property is located at **1050 Old Hopewell Road, Castalian Springs, TN 37031**, is on Tax Map 089, Parcel 063.00, contains 12.95 acres, is zoned Agricultural (A) and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).

Mr. Suddath provided an overview of this property, displaying the original approval minutes, an aerial photo of the property and the County Zoning Code wording from Article IX Section 1.1, regarding the “Number of Structures and Uses Associated with a Lot”

Mr. Suddath stated that the adjoining property owners were notified by mail, adding that no comments had been received.

Mr. Suddath displayed photos of the structures and a bus on the property and concluded his presentation with example motions.

Mr. Rainey called the applicant forward.

Elisha Payne, 1050 Old Hopewell Road, Castalian Springs, TN, came forward.

Mr. Rainey asked Ms. Payne where she lives.

Ms. Payne identified and stated that she lives in the structure with the red garage door, adding that it was a barn, which has been converted into a house. Ms. Payne added that her mother lives in the log house, and requires aid.

Mr. Rainey opened the public hearing. Upon confirming that no one wished to speak, Mr. Rainey closed the public hearing.

At this time, Mr. Rainey asked Mr. Wright if the house is safe.

Mr. Wright asked Ms. Payne how old the house is.

Ms. Payne stated that the house was built around 2011.

Mr. Wright stated that he would like to review the Codes records for a Certificate of Occupancy.

Mr. Rainey stated that if no permits are found, an inspection should be required by this Board, for safety purposes.

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Mr. Stamper made a motion to approve a continuation of a Hardship Variance for 1050 Old Hopewell Road, Castalian Springs for term of two years, adding a condition:

- **the applicant must obtain a certificate of occupancy from the County Building and Codes office as well as any required electrical permits from the State of Tennessee, seconded by Ms. Webster.**

Mr. Utley asked if a Certificate of Occupancy would have been required upon the original granting of this Hardship Variance.

Mr. Suddath stated that ideally, yes, it would have been required prior to the issuance of the Variance, but explained that the requirement has not been enforced until the past 18 months or so.

Mr. Rainey added that the Board and Staff are now working together to coordinate and enforce the requirements.

Mr. Holt asked if the third structure is a storage barn and does it have electricity.

Ms. Utley stated that yes, it is a portable storage building that does have electricity.

Mr. Utley asked for clarification that the structure to be inspected for a Certificate of Occupancy is the barn that was converted into a house.

Mr. Rainey confirmed.

Motion passed unanimously.

Mr. Rainey turned the floor over to Mr. Suddath for staff presentation.

- 4. Jeff Brigstock/Inside Out, LLC** was requesting a Variance from county parking requirements and a Sign Variance related to a proposed commercial site plan. Subject property is located at **New Hope Road, Hendersonville, TN 37075**, is on Tax Map 122, Parcel 068.00 contains 1.73 acres, is zoned Commercial B (CB) and is in the 12th Voting District (Michael Guthrie and Justin Nipper).

Mr. Suddath provided an overview of the property and provided an aerial photo of the site. Mr. Suddath then displayed a copy of the Public Notice, stating that the office has received only one inquiry, from the Sumner County School system.

Next, Mr. Suddath displayed the proposed floor plans of the first and second floors and the site plan, proposing access off of Stated Route 258.

Explaining the Site Plan, Mr. Suddath stated that there are 7800 square feet of proposed floor space and 21 proposed parking spaces, 1 of which is handicapped.

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At this point, Mr. Suddath displayed the County Parking Requirements from the Zoning Code which states the minimum requirements for parking at Dining Places as “Three (3) square feet of automobile storage area for every square foot of customer service area; plus one parking space for every four (4) employees”, the minimum parking requirements for Retail Businesses and Shopping Centers as: “Four (4) square feet of automobile storage area for every square foot of customer service area; plus one (1) parking space for every three (3) employees”.

Mr. Suddath stated that the proposed building plans to house all three types of businesses.

Mr. Suddath stated that the applicant is proposing a total of 21 parking spaces; 20 standard/1 handicap. Mr. Suddath then explained that because the County requirements appear to require the equivalent of approximately 125 parking spaces (however actual requirement is for total parking area rather than # of spaces), the applicant states that the site is not adequate to meet these requirements, and therefore proposes to utilize Gallatin Parking Requirements as an alternative plan.

Mr. Suddath then provided a diagram showing the County Parking Requirements compared to the City of Gallatin Parking Requirements.

Next, addressing the Sign Request, Mr. Suddath stated that The County’s Zoning Resolution does not contain sign guidelines for the Commercial B district, and commercial signage appears by implication to not be permitted. Mr. Suddath added that the County’s Zoning Resolution does not appear to contain a sign permitting process or procedure, and also does not contain criteria for obtaining sign variances. Yet, Mr. Suddath stated, in the past, practice has been to obtain a sign variance from the Board of Zoning Appeals in order to place commercial signage in most zones in the County.

Mr. Suddath then displayed the applicant’s signage request form, depicting the dimensions of the two (2) proposed signs as 6’x 6’8” (building-mounted) and 8’x 7’ (ground-mounted). Mr. Suddath then displayed artist’s renderings of the structure exterior and street view photos of the property from New Hope Road and Ward Lane.

Mr. Suddath completed his presentation with example motions.

Mr. Rainey called Mr. Brigstock forward.

Mr. Brigstock stated that the presentation by Mr. Suddath was well done; then introduced the project engineer, Mr. Nathan Grassfedder.

At this time, Mr. Rainey opened the Public Hearing.

After confirming that no one wished to speak, Mr. Rainey closed the Public Hearing.

Mr. Rainey asked the applicant for information regarding the 6 areas within the structure labeled as “Tenant Spaces”.

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Mr. Brigstock stated that they plan to rent out six retail units, 500 square feet each, to be used for businesses such as florists, jewelry shop, clothing boutique, wedding planner office space, etc.

Mr. Rainey stated that his concern is that the retail tenant needs to be defined, as it will create different parking demands.

Mr. Rainey then explained that the County's Parking Requirements included all impervious parking area, adding the driveway aisles, and not just the parking slots. Mr. Rainey stated that there appears to be around 20,000 square feet of impervious area on the site plan.

Mr. Grassfedder stated that there is approximately 8,000-10,000 square feet of asphalt area proposed.

Mr. Rainey then stated that he doesn't understand the submittal calculations which shows that there are 25,300 square feet of impervious surface and the building is 7,800 square feet.

Mr. Grassfedder added that the bio-retention area has been added into the impervious area.

Mr. Rainey expressed concern for the amount of parking that a tenant might generate.

Mr. Brigstock stated that the prospective retail tenant would be related to the home goods use.

Mr. Suddath and Mr. Rainey explained the possibility of adding restrictions on the type of business that could operate from this location.

Mr. Utley asked for information regarding the type of business use listed, in applying the Gallatin Parking formula.

Mr. Suddath stated that Gallatin uses a table based on a retail use and square footage of a structure.

Mr. Utley stated that this doesn't offer much guidance to this application in determining the type of conditional use.

Mr. Stamper stated a concern over the parking that a coffee shop may generate.

Mr. Rainey asked how many square feet are dedicated to the coffee shop.

Mr. Brigstock answered that the coffee shop area is 1500 square feet, including the bathrooms, with seating for 16.

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Mr. Rainey commented that that would potentially use 12 of the parking spaces.

Mr. Suddath stated that, using the Gallatin Parking Calculations, the areas were factored by function.

Mr. Stamper asked about the employee parking.

Mr. Brigstock stated that there would be 4-5 employees for the furniture store and coffee shop, plus 6 employees for the additional retail areas, totaling 11 employees.

Mr. Brigstock added that the receiving dock area could be used for employee parking.

Mr. Rainey asked if there was a back-up plan for overflow parking.

Discussion ensued regarding the safety of using property across the street, taking into account the concern for safety of crossing the Highway.

Mr. Rainey asked if there was too much building for the lot.

Mr. Brigstock stated no, the septic field is so large, that it eats up a large portion of the lot, adding that it is not feasible to connect to sewer.

Mr. Holt asked about a motion to defer, pending an overflow parking plan.

Mr. Suddath stated that if the BZA wants to request a supplemental parking plan, they may.

Mr. Stamper stated opposition to people crossing the highway with regards to safety.

Mr. Rainey stated that an alternative would be to restrict the types and/or numbers of businesses operating from this structure.

Mr. Utley stated that this is a difficult, broad request, stating that the required parking for this proposed building is around 70 slots and this has only 21 slots.

Mr. Utley made a motion to deny a request for a variance from the County's parking requirements and sign requirements for property located on New Hope Road (Map 122, Parcel 068.00), seconded by Mr. Holt.

In favor of denial: Holt, Stamper, Utley and Webster

Against a denial: Rainey

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Motion passed 4-1.

Mr. Rainey turned the floor over to Mr. Suddath for staff presentation.

- 5. Michelle and Dustin Wilcox** were requesting a Conditional Use Permit to use an existing detached shop, on the subject property, as an office and storage facility for lubricants. Applicants are also requesting a Sign Variance related to the proposed business. Subject property is located at **714 Greenfield Lane, Castalian Springs, TN, 37031**, is on Tax Map 089, Parcel 161.00, contains 1.60 acres, is zoned Agricultural (A) and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).

Mr. Suddath provided an overview for this property, stating that there have been several comments received by his office, both in support and in opposition.

Displaying an aerial of the property, the Plat, the Public Notice and the Plot Plan, Mr. Suddath stated that although the accessory structure is shown in the front yard setback, it was approved and permitted in July 2017. Mr. Suddath added that that would not have been allowed now without a Variance.

Next, Mr. Suddath displayed a cover letter from the applicant, stating a business summary. Mr. Suddath also displayed the Neighborhood Private Restrictions which states that all lots shall be used for residential purposes only. Mr. Suddath stated that the County may not legally enforce private restrictions, but that the BZA should be aware they exist.

Mr. Suddath then provided photos of the property showing structures and signage already on the property.

Next, addressing the Sign Request, Mr. Suddath stated that The County's zoning resolution does not contain sign guidelines for the Agricultural district, and commercial signage appears by implication to not be permitted. Mr. Suddath added that the County's zoning resolution does not appear to contain a sign permitting process or procedure, and also does not contain criteria for obtaining sign variances. Yet, Mr. Suddath stated, in the past, practice has been to obtain a sign variance from the Board of Zoning Appeals in order to place commercial signage in most zones in the County.

Mr. Suddath then displayed the applicant's Sign Request and photos of the existing sign that is placed in the front yard.

Mr. Suddath completed his presentation with example motions.

Mr. Rainey called Mr. and Mrs. Wilcox forward.

Mr. Dustin Wilcox, 714 Greenfield Lane, Castalian Springs, TN, stated that he is the sole proprietor of the business, and he was unaware of the requirement to obtain approval from the BZA for the business and the sign. Mr. Wilcox stated that he wishes to be complaint.

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Mr. Wilcox explained that he feels he supplies needed services to the community. Mr. Wilcox stated that while he does carry some product on site, most is ordered online and drop-shipped. Mr. Wilcox also stated that he has supplied a petition, signed by neighbors, stating that they are fine with the business being conducted from his property. Mr. Wilcox added that traffic generated by his business is minimal, being less than 5 customers per month.

Mr. Rainey opened the floor for Public Hearing.

Ms. Juanita Sallee, 715 Greenfield Lane, Castalian Springs, TN, stated that she lives across the street from the applicant. Ms. Juanita is against the request, stating that businesses should be conducted from a business district and only homes should be in a residential district. Then, Ms. Sallee stated that she has asked Mr. George Buck to speak on her behalf.

Mr. George Buck, 715 Greenfield Lane, Castalian Springs, TN, stated that Greenfield Lane is highly traveled, adding that Mr. Wilcox's driveway is only feet from the intersection of Greenfield Lane and Pinnacle Way. Mr. Buck provided photos of the property and intersection. Next, Mr. Buck stated that Ms. Sallee's mailbox has been hit four times within the past year and a half and a large fireworks display was hosted on Mr. Wilcox' property last 4th of July. Mr. Buck raised concern over the flammability of petroleum products as well as people backing out of the driveway.

Ms. Sallee again stated that she is against the business.

Mr. Ed Blochowiak, 1720 Greenfield Lane, Castalian Springs, TN, stated that he is a neighbor to Mr. Wilcox. Mr. Blochowiak stated that there is little to no traffic coming out of Mr. Wilcox's driveway, as most of his business is online orders. Mr. Blochowiak added that the only oil in the garage is used in displays like the Fall Festival, Spring Fest, etc. Mr. Blochowiak stated that the people who have hit Ms. Sallee's mailbox were a lawn care man and a babysitter, adding that mailboxes on that road are right against the road, and hit frequently.

At this point, Mr. Rainey closed the Public Hearing and asked Mr. Wright if there was anything he wished to add.

Mr. Wright stated that this is a good example of why a Conditional Use Permit should come to the BZA for renewal every two years.

Mr. Rainey called Mr. and Ms. Wilcox forward for questioning.

Mr. Holt asked how much inventory is stored in the structure.

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Mr. Wilcox stated that the office and storage area is about 100 square feet and he stores only quart and gallon bottles shipped via UPS in boxes, totaling about 40 gallons.

At this point, Mr. Wilcox stated that he could address the earlier accusations, if relevant.

Mr. Rainey stated that was not necessary, then asked what percentage of the business is walk-in.

Mr. Wilcox stated that walk-in business is minimal.

Mr. Stamper asked why a sign is needed.

Mr. Wilcox stated that he uses the sign to attract business from people who get his phone number or email from it, stating that his corner location is good for that.

Mr. Suddath mentioned that under the proposed new zoning code, home-based business signage would be discouraged

The board members discussed their concern with the sign presence.

Mr. Stamper made a Motion to approve a request for a Conditional Use Permit for 714 Greenfield Lane, Castalian Springs subject to the following conditions:

a) Applicant shall obtain any applicable building and zoning permits from the County Building and Codes Department

b) Applicant shall obtain any required permits from the Tennessee Department of Environment and Conservation related to septic disposal.

c) Applicant shall remove the sign within 30 days.

Seconded by Ms. Webster.

Voting in favor: Stamper, Webster, Holt and Rainey

Voting against: Utley

Motion passed 4-1.

Mr. Rainey turned the meeting over to Mr. Suddath for staff presentation.

- 6. James and Gretchen Scott** were requesting a Conditional Use Permit to conduct a boarding kennel in an existing building at the subject property. Applicant is also requesting a Dust-free Parking Variance and a Sign Variance related to the proposed business. Subject property is located at **986 Fowler Ford Road, Portland, TN 37148,** is on Tax Map 040, Parcel 030.00, contains 5.02 acres and is zoned Agricultural (A) and is in the 1st Commission Voting District (Moe Taylor and Terry Wright).

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Mr. Suddath provided an overview of the property, stating that this is an existing kennel and the applicants are seeking to purchase the property and take ownership of this business. Mr. Suddath confirmed that no comments have been made to his office regarding this property.

Mr. Suddath displayed an aerial photo of the property, the Public Notice, a Plot Plan, a cover letter from the applicants and a Signage Request Form for a 30"x30" free-standing, non-illuminated sign.

Mr. Suddath explained that the cover letter states the kennel capacity at seven dogs.

Next, Mr. Suddath displayed photos of the property and structures. Mr. Suddath clarified that the County would not support the mud outdoor dog-run areas, as shown in the photos. Mr. Suddath stated that the BZA does have the discretion to take safety and health of the animals into account when making their decisions.

Mr. Suddath completed his presentation with example motions.

Mr. Rainey asked Mr. and Mr. Scott forward.

Mr. James Scott, 986 Fowler Ford Road, Portland, TN, stated their intention to board 7-8 dogs maximum. Mr. Scott stated that there is an existing gravel area that they plan to fence in as the dog-run area. Mr. Scott added that the inside of the controlled-environment kennel will have metal dog kennels with exterior access doors. Mr. Scott stated that they do live there and plan to clean it up.

Mr. Rainey opened the floor for Public Comment.

Seeing that no one wished to speak, Mr. Rainey closed the Public Comment.

Mr. Utley asked for clarification as to the history of a kennel being operated in this location, previously.

Mr. Suddath stated that the previous owners were operating a kennel without a permit, but the Scotts are seeking to permit the business.

Mr. Utley asked about the property surrounding the Scott's land.

Mr. Suddath stated that the surrounding property is vacant farmland, with the closest residence being around 1000 feet away.

Mr. Utley asked about neighbors across the road.

Mr. Suddath stated that he doesn't recall.

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Mr. Rainey asked Mr. Wright if he had anything to add.

Mr. Wright stated that he had nothing to add.

Ms. Webster asked about the nearest neighbor to the kennels.

Mr. Utley stated that the closest neighbor is over a quarter a mile away.

Mr. Suddath verified distance of roughly 1000 feet to the nearest neighbor.

Conversation ensued regarding that there had been no comments or complaints from the neighbors.

Mr. Stamper made a Motion to approve a request for a Conditional Use Permit for 986 Fowler Ford Road, Portland allowing the operation of a boarding kennel on the subject property, as well as a dust free parking variance and a sign variance subject to the following conditions:

- a) Applicant shall obtain any applicable building and zoning permits from the County Building and Codes Department**
- b) Applicant shall obtain any required permits from the Tennessee Department of Environment and Conservation related to septic disposal.**
- c) Any outdoor dog areas shall be:**
 - i. Fenced and adequately drained**
 - ii. Kept seeded or sodded, with a permanent stand of grass or covered in gravel or turf material;**
 - iii. Shall only be for short term animal exercise and relief purposes.**

Seconded by Mr. Utley. Motion passed unanimously.

There being no further business, Ms. Webster made a motion to adjourn, seconded by Mr. Utley. Meeting adjourned at 6:42 pm.