

**SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
JANUARY 10, 2019
5:00 p.m.**

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

MEMBERS PRESENT:

BRUCE RAINEY, CHAIRMAN
SANDY WEBSTER, VICE CHAIRMAN
DON DICKERSON
JOHN WESLEY JONES

MEMBERS ABSENT:

STAFF PRESENT:

JOSH SUDDATH, DIRECTOR OF PLANNING & STORMWATER
LINDA MCCULLOUGH, ASSISTANT TO THE DIRECTOR OF PLANNING & STORMWATER
MARSHALL WRIGHT, BUILDING & CODES DIRECTOR

Motion for approval of the December 2018 minutes by Ms. Webster, seconded by Mr. Dickerson. Motion passed unanimously.

Mr. Rainey turned the meeting over to Josh Suddath.

Mr. Suddath stated that with the resignation of Mr. Mark McKee, Roberts Rules of Order stated that the Vice Chairman will automatically become the Chairman. Mr. Suddath stated that Mr. Bruce Rainey will now become the Chairman. Mr. Suddath stated that a new Vice Chairman will need to be appointed in case Mr. Rainey has to recuse himself from an item.

Mr. Suddath turned the meeting back over to Mr. Rainey for a nomination and vote for a new Vice Chairman.

Mr. Dickerson nominated Mr. Jones.

Mr. Jones had to decline the nomination and stated to the Board that he will be resigning his position on the Board as soon as a replacement is appointed.

Mr. Dickerson stated that he was not able to take that responsibility so Mr. Dickerson nominated Ms. Webster.

Motion to elect Ms. Sandy Webster as Vice Chairman by Mr. Rainey, seconded by Mr. Dickerson. Motion passed unanimously.

Mr. Suddath addressed the crowd by stating that if anyone wants to speak, please sign up and do not speak among yourselves, when you are speaking, please address the Board, not the applicant, and please be respectful to everyone.

1. **Michael Wayne Wilson** is requesting a Hardship Variance for a relative to live in an existing structure on subject property due to medical circumstances. Subject **property is** located at **2323 Highway 76, Portland, TN 37148** is on Tax Map 053 Parcel 034.04, contains .92 acres, is zoned Agricultural, and is in the 12th Commission Voting District (Michael Guthrie and Justin Nipper).
This item was deferred for 30 days at the December meeting in order to get test results back from the County Environmentalist. Since there are no conclusive results back from the County Environmentalist, Mr. Suddath asked that this item be deferred to the February meeting.

Motion to defer item to the February meeting by Mr. Dickerson, seconded by Mr. Jones. Motion passed unanimously.

2. **Christian Sandu** is requesting a variance from County requirements related to placement of an accessory structure within a required front yard. Subject property is located at **199 Lawrencetown Road, Gallatin, TN 37066**, is on Tax Map 103, Parcel 052.05, contains 7.16 acres, is zoned Residential 1A, and is in the 4th Commission Voting District (Jerry Foster and Leslie Schell).
Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 27, 2018.

Mr. Suddath stated that this property has been tracted off from a larger piece of property creating five new lots. Mr. Suddath stated that these lots are over five acre lots but are still in the zoning of Residential 1A (R1A), which makes you tend to think of suburban lots. Mr. Suddath stated that accessory structures in the front yard of those type lots are frowned upon but since this lot is over five acres, it could be possible. Mr. Suddath stated that according to the site plan presented to his office, the accessory structure would be in the front of this lot and the house closer to the septic area.

Mr. Rainey opened the floor for the public hearing.

After confirming that no one in the audience wished to speak, Mr. Rainey closed the public hearing

Mr. Rainey stated that a front yard would be the area between the house and the road. Mr. Rainey stated that he understands how Mr. Wright's interpretation of the front yard according to the Zoning Resolution, but our Zoning Resolution is outdated and needs some new wording in keeping with today's times.

Mr. Marshall Wright stated that he agreed with Mr. Rainey and that there is a difference between a required front yard and a front yard.

Mr. Suddath stated that on a property such as this one, an accessory structure would look different than on a one acre lot in a subdivision. Mr. Suddath stated that there is no leeway on larger acres of property in the Zoning Resolution so every property is treated the same. Mr. Suddath stated that this is an area to be addressed when the zoning code is revised in the future.

Motion to approve variance by Ms. Webster, seconded by Mr. Dickerson. Motion passed unanimously.

- 3. Lynn & Ed Sekula are asking for a continuation of a Conditional Use Permit granted December 11, 2008, to conduct an auto paint and body shop. Subject property is located at 390 Rock Bridge Road, Gallatin, TN 37066, is on Tax Map 083, Parcel 040.01, contains 15.00 acres, is zoned Agricultural, and is in the 3rd Commission Voting District (Alan Driver and Steve **This item has been deferred to the February meeting at the request of the applicant.****

Motion to defer item to the February meeting by Mr. Dickerson, seconded by Ms. Webster. Motion passed unanimously.

- 4. Jackie & Tangela Leath is requesting a Conditional Use Permit to conduct an event venue in an existing structure at the subject property. Subject property is located at 143 Alexander Lane, Bethpage, TN 37022, is on Tax Map 084, Parcel 090.08, contains 5.01 acres, is zoned Agricultural, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves). **Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 27, 2018.****

Mr. Suddath stated that the applicant is requesting a Conditional Use Permit to conduct an event venue, however several issues have been brought to the attention of the Planning Department and to the Codes Department. Mr. Suddath stated that those issues are the following:

1. No building permit was obtained for the existing accessory structure that is currently being utilized for an event center
 - Substantial interior improvements; HVAC system installed; no permits issued for any portion of the building
2. TDEC states that no septic permits have been applied for or obtained for the event center;
 - It appears that Men's and Women's restrooms have been installed
 - Unclear whether a separate septic tank has been installed to accommodate this venue, or if it is utilizing the home's septic system

3. An in-ground pool has been installed on site; no permits have been obtained
 - Inspections also required to ensure that children can't access the pool, and to ensure compliance with "Kate's Law". This law was passed by the Tennessee General Assembly in 2010 and requires swimming pools to have an electrical alarm installed and be inspected to ensure proper fence height etc.

Mr. Marshall Wright stated that the in-ground pool has been mitigated.

Mr. Suddath asked Mr. Wright if permits were pulled for the pool.

Mr. Wright stated that the pool has been permitted and that all electrical inspections and permits have been issued.

Mr. Suddath stated that the codes department denied the building permit due to the commercial use of the building and sent the property owner to the Planning office to apply for the Conditional Use Permit.

Mr. Suddath presented pictures taken by the Planning office and the Assessor's office showing the HVAC system, the restrooms, and the access to the event venue through a lean-to which could be on the neighbor's property.

Mr. Rainey opened the floor for the public hearing.

Veit Spero, 276 Alexander Lane, came forward with concerns of the extra traffic on Alexander Lane and the danger of pulling out on Highway 31. Mr. Spero was also concerned with the noise the venue generates.

Steve Harris, 197 Alexander Lane, came forward with concerns of the following:

- 1) Increased Traffic/Loud Trucks
- 2) Using his driveway as a turnaround
- 3) Cars left overnight/alcohol
- 4) Trash blowing onto his property
- 5) People on his property to take pictures
- 6) Loud music from venue 6:00-10:00 p.m.
- 7) Access thru a lean-to built on his property
- 8) Building codes not followed/septic installed
- 9) Property values

Mary Eldridge, 139 Alexander Lane, come forward in favor of the venue stating that her house is close to the venue and the noise is not an issue for her.

Tangie Leath, 143 Alexander Lane, (property owner), came forward to explain and represent her request.

Mr. Rainey asked Ms. Leath if she charged money for people to use the barn.

Ms. Leath stated she has had people give her money.

Mr. Dickerson stated that was not Mr. Rainey's question.

Ms. Leath stated that she has received money for the barn.

Mr. Rainey stated that this makes this barn a commercial venue.

Mr. Jones stated that Mr. Suddath stated that this building was built without any permits.

Ms. Leath stated that they were under the impression that if a building was going to be used for storage, a permit was not required.

Mr. Rainey asked Ms. Leath if the answer is no.

Ms. Leath stated that the answer is no but that they do not have an issue of getting a permit.

Mr. Jones asked Ms. Leath if they thought they had to get a permit when the HVAC system was installed.

Ms. Leath stated they did not think they needed one if the building was going to be used for their personal use.

Mr. Jones asked Ms. Leath if she had events with no septic system even though there are bathrooms.

Ms. Leath stated that there is no septic system however the bathroom is plumbed and capped off until they know what direction to go.

Mr. Jones stated that Ms. Leath had also built a pool without a permit or inspections until all of this recent activity took place.

Ms. Leath stated that they did not know they needed a permit for the pool since they had already had an above ground pool.

Mr. Jones asked Ms. Leath that when she rented the building out and was given money, that became a business.

Ms. Leath stated yes.

Mr. Jones asked Ms. Leath if she knew that she needed to get licenses and permits from the federal, state, and local government.

Ms. Leath stated that she did not know she needed to get a Conditional Use Permit when she applied for her business license.

Mr. Jones asked Ms. Leath how did she know she needed a business license for her beauty salon.

Ms. Leath stated that she just applied for it.

Mr. Jones asked Ms. Leath if she knew she had to have a permit to run a business.

Ms. Leath stated that she did not have to have any permits to run her beauty salon and stated she had a business license for the venue.

Mr. Rainey asked Ms. Leath if the beauty salon was at this location.

Ms. Leath stated that her hair salon is in Westmoreland.

Lexi Amos, 1026 Pinnacle Way, came forward in favor of the venue.

Jamie Smith, 199 Fields Lane, came forward with concerns of noise.

After confirming that no one else in the audience wished to speak, Mr. Rainey closed the public hearing

Mr. Suddath stated that there are two different kinds of uses in any zoning, there is a use permitted by right and a use permitted on appeal. Mrs. Suddath stated that in the zoning of this agenda item, they have the right for single-family and two-family dwellings. The reason to issue Conditional Use Permits is for uses that can be permitted upon appeal.

Mr. Suddath provided a brief presentation on the general provisions that apply to privately owned and commercially operated recreation areas and similar uses per the Sumner County Zoning Resolution. Article IV, Section 13, Subsection 13.1, stated that a site for such recreational use shall have a minimum of fifteen (15) acres under one ownership. Mr. Suddath stated that this event venue is only 5.01 acres so it does not meet the criteria under the current resolution.

Mr. Jones stated that a property owner should have the right to do whatever they want on their property but the truth of the matter is that the zoning regulations are in place for a good reason. Commercial buildings such as this can be attractive and can start out as just

a barn to park an RV, and then it evolves into an event venue. Mr. Jones stated that there are rules and permits involved and inspections to be done. Mr. Jones stated that since none of these were done and then you find all this out, the applicant expects the Zoning Board to cure everything. Mr. Jones stated that he doesn't feel that the Board should approve all of this just because they failed to get all the permits. Mr. Jones stated that a property owner should do their due diligence in going through the proper process for permitting. Mr. Jones stated that he did not feel that the Board should approve this item and would make a motion to that effect.

Mr. Dickerson stated that he would seconded the motion.

Mr. Rainey stated that he would like to make a statement before the motion was on the table. Mr. Rainey stated that in addition to what Mr. Jones stated, life safety issues goes along with what Mr. Jones had stated. Mr. Rainey stated that there is a structure on the property with no inspections, no one knows if the structure is sound, or if the electrical is sound. Mr. Rainey stated that the Board has every reason to deny the request and no reason to compel them to approve it.

Motion to deny the event venue by Mr. Jones, seconded by Mr. Dickerson. Motion passed unanimously.

5. **Karen & Tony Privitera** are requesting a Conditional Use Permit to conduct a venue to provide traveling clients with space for overnight accommodation for horses and owners. The proposed venue will include two (2) stables in an existing garage and an area for horse trailer/camper parking that would allow clients to stay for a maximum of seven (7) days. The applicant is also requesting a proposed event venue in an existing garage. Subject property is located at **443 Ben Albert Road, Cottontown, TN 37048**, is on Tax Map 100, Parcel 007.04, contains 7.50 acres, is zoned Residential A (RA), and is in the 12th Commission Voting District (Michael Guthrie and Justin Nipper). **Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 27, 2018.**

Mr. Suddath stated that the applicant is requesting approval for a "Horse Motel" for traveling clients to allow their horses a stall to stay overnight for a maximum of 7 days. The clients could also rent a bedroom in the existing house for overnight accommodations. The applicant is also requesting permission to use the existing garage as an event venue for small gatherings up to 40 people.

Mr. Suddath stated that these types of venues could fall under the provisions of Article IV related to campgrounds, recreational, and other similar uses if the property was zoned Agricultural, contained 15 plus acres, and was in the Green Belt. Mr. Suddath stated that this property is only 7.5 acres so it does not meet the criteria.

Mr. Rainey opened the floor for the public hearing.

Mr. Steven Ward, representing Mr. James Blaylock, came forward to state that the fence line encroaches onto Mr. Blaylock and are requesting that that fence line be straightened out. Mr. Ward stated that they have talked to the property owner when they first moved there to let them know about the fence line. Mr. Ward stated that they would like to see the property line straighten out to prevent the right of adverse possession.

Ms. Karen Privitera, (property owner), came forward to explain and represent her request.

Ms. Tonya Albert, came forward to ask the Board if this item could be deferred to the February meeting because neighbors were not notified and they did not have time to discuss this item.

Mr. Suddath asked Mr. Rainey if he could take a moment to explain how people are notified for items on the agenda. Mr. Suddath explained that certified letters are mailed out to the adjoining property owners and the Planning office receives a card back when the letter is signed for. Mr. Suddath discussed the process

Ms. Albert stated that if the Board chooses not to defer, she has concerns about the traffic, noise, safety concerns, and the loss of property value.

Mr. Rainey asked Ms. Albert if she was against the Horse Motel or the venue or both.

Ms. Albert stated that she was against both. She also stated that she does not mind the horses there but would not like to see it become a camp ground.

Ms. Jacqueline Wix Roberson, came forward to state that she owns the property next to Mr. Blaylock's right-of-way and stated that her property is currently for sale and is actively being looked at by developers. Ms. Roberson stated that she is afraid something like this would lower the property values. Ms. Roberson also had a concern with the traffic since Ben Albert Road is so narrow and steep.

After confirming that no one else in the audience wished to speak, Mr. Rainey closed the public hearing.

Mr. Suddath discussed the process of how the property owners are notified. Mr. Suddath stated that the Planning office treats a request for a Conditional Use Permit like a rezoning. State statute mandates that an ad be run in the local newspaper ten (10) days prior to the meeting. The Sumner County Zoning Resolution states that a certified letter also be sent out to the adjoining property owners. Mr. Suddath showed the Board and the audience how his office determines who is sent a certified letter.

Mr. Rainey stated that based upon the last request, he feels the Board should separate the request the Horse Motel and the event venue.

Mr. Jones asked if this was going to be a campground.

There was discussion.

Mr. Suddath stated that the State Legislature has recently weighed in on the Air B&B debate to contradict some of the things Metro Nashville had enacted. Mr. Suddath stated that they allow that type of activity to be regulated, but the statute states that it has to be explicitly regulated so you have to explicitly regulate short term rentals. It would be a specific permitting process.

Motion to separate the Horse Motel and the event venue by Mr. Dickerson, seconded by Ms. Webster. Motion passed unanimously.

Mr. Rainey placed the Horse Motel on the table for the Board to discuss.

Ms. Webster asked if this would determine how many horses could be there at one time.

Mr. Rainey stated that the Board can make that determination.

Mr. Dickerson asked if these were box stables or stalls.

There was discussion among the Board members.

Motion to approve the Horse Motel with up to two (2) inside horses in the stalls and 2 horse trailers at any given time by Mr. Dickerson, seconded by Ms. Webster. Mr. Jones voted no. The motion passed with a 3-1 vote.

Mr. Rainey placed the event venue on the table for the Board to discuss.

There was more discussion by the Board about Air B&B regulations.

Motion to request definite guidelines and regulations for Air B&B to go before the Planning Commission and to the County Commission by Mr. Jones, seconded by Mr. Dickerson. Motion passed unanimously.

Motion to deny the event venue based on the current Zoning Resolution by Ms. Webster, seconded by Mr. Dickerson. Motion passed unanimously.

Due to a conflict, Mr. Rainey recused himself from the next item and turned the meeting over to Ms. Webster.

6. **Larry & Cindy Gillihan** are requesting a Hardship Variance for a relative to live in a proposed structure on the subject property due to medical circumstances. Subject property is located at **250 Keytown Road, Portland, TN 37148** is on Tax Map 071 Parcel 028.01, contains 5.09 acres, is zoned Agricultural, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).

Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 27, 2018.

Mr. Suddath asked the applicant to come forward to show where the second dwelling would be placed.

Ms. Cindy Gillihan came forward to show the Board where the placement of the dwelling would go.

Mr. Suddath stated that this item may need to come back to the Board due to the dwelling encroaching the side setback and being in front of the primary structure. Mr. Suddath stated that it would be his recommendation that the applicant come back to the Board and ask for this at one time.

Mr. Jones asked Ms. Gillihan to come forward. Mr. Jones asked Ms. Gillihan if she understood what Mr. Suddath was saying.

Mr. Jones asked Ms. Gillihan if she knew where the septic was going to be.

Ms. Gillihan stated that they have paid for them to come out and are now just waiting.

Mr. Jones stated that the Board could grant the Hardship Variance but if the only place to put a septic and the dwelling is in the front of the yard, she will need to come back for a variance to do that. Mr. Jones stated that if the item was deferred until the February meeting, she may know more about the septic and the placement of the new dwelling.

Motion to defer item to the February meeting by Mr. Jones, seconded by Mr. Dickerson. Motion passed unanimously.

Motion to adjourn by Mr. Jones, seconded by Mr. Dickerson. Motion passed unanimously.

Meeting Adjourned at 6:42 p.m.

