

**SUMNER COUNTY BOARD OF ZONING APPEALS  
MINUTES  
JULY 11, 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  
MAC HOLT**

**MEMBERS ABSENT:  
MATT STAMPER**

**STAFF PRESENT:  
JOSH SUDDATH, DIRECTOR OF PLANNING & STORMWATER  
KATHY YOUNG, ASSISTANT TO THE DIRECTOR  
MARSHALL WRIGHT, BUILDING AND CODES DIRECTOR  
LISA DIORIO, ADMINISTRATIVE ASSISTANT**

**Motion for approval of the June 2019 minutes by Ms. Webster, seconded by Mr. Dickerson,  
Motion passed unanimously.**

At this time, Mr. Rainey requested that Mr. Suddath provide a staff presentation on the agenda items.

1. **Alan Driver** was requesting a continuation of a Hardship Variance granted on June 8, 2017 for a relative to live in a detached structure due to medical issues. Subject property is located at **135 Mount Vernon Road, Bethpage, TN 37022.** Subject property is on Tax Map 068, Parcel 113.03, contains 1.5 acres, is zoned Agricultural, and in the 3<sup>rd</sup> voting district (Alan Driver and Steve Graves).  
**The adjoining property owners were notified by mail and the agenda item was advertised in The Gallatin News.**

Mr. Suddath gave an overview of this item stating that county requires a continuation of a previously approved hardship variance as a way to formally follow-up on variances. Mr. Suddath noted that there have been no public comments regarding this property. Mr. Suddath provided an aerial view of the property.  
Mr. Suddath concluded his presentation with example motions to the Board.

Mr. Rainey opened the floor for public hearing.

**Mr. Alan Driver** came forward to explain and represent the request that his mother now requires constant care.

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

**Motion to approve a request for a continuation of a Hardship Variance for 135 Mount Vernon Road, Bethpage, TN by Mr. Dickerson, seconded by Mr. Holt. Motion passed unanimously.**

2. **Kenneth Maxwell** was requesting a continuation of a Hardship Variance granted on August 10, 2017 for a relative to live in a detached structure due to medical issues. Subject property located at **1121 Windsor Drive, Gallatin, TN 37066**. Subject property is on Tax Map 147M, Group A, Parcel 006.00, contains 1 acre, is zoned Residential-A, and is in the 6<sup>th</sup> Voting District (Deanne Dewitt and Luke Tinsley). **The adjoining property owners were notified by mail and the agenda item was advertised in The Gallatin News.**

Mr. Suddath gave an overview of this item. Notice was provided via regular mail and no comments have been received. Mr. Suddath provided an aerial view of the property and a photo of the property from the street.

Mr. Rainey asked Mr. Wright if he had information to add. Mr. Wright stated that he did not have anything to add.

Mr. Rainey opened the floor for public hearing.

**Mr. Kenneth Maxwell** came forward to explain and represent the request that his mother-in-law has medical issues requiring supervision.

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

**Motion to approve a request for a continuation of a Hardship Variance for 1121 Windsor Drive, Gallatin, by Ms. Webster, seconded by Mr. Dickerson and Mr. Holt. Motion passed unanimously.**

3. **Ralph Cook** was requesting a continuation of a Conditional Use Permit granted on June 11, 2009, to operate an ice cream shop/restaurant that would include birthday parties/socials with sandwiches, soup and extra food in an existing building. Subject property is located at **186 Wilkerson Lane, Portland, TN 37148**, is on Tax Map 053, Parcel 005.00, contains 87.02 acres, is zoned Agricultural, and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper). **The adjoining property owners were notified by mail.**

Mr. Suddath gave an overview of this item stating that this was a renewal of a previously approved conditional use permit that was issued in 2009. Notice was provided via regular mail, and no comments had been received related to it. Mr. Suddath provided an aerial view of the property, stating that is a significant traffic generator with parking for events. Mr. Suddath explained that this property received a conditional use permit years before the county required them to be renewed. This permit covered the other event based uses for the property.

Mr. Suddath presented some example motions.

Mr. Rainey asked Mr. Wright if he had any additional information to add.

Mr., Wright stated that he talked with the County Attorney regarding the Continuation of Conditional Use Permit properties, whether the county should do a walk-through of these properties to issue a Certificate of Occupancy, if that had never been granted a Certificate of Occupancy before.

Mr. Wright stated that the County Attorney said that yes, we need to, but this should be done on a case by case basis because some cases may not warrant it.

Mr. Wright stated that he believes this is something we need to do.

Mr. Rainey opened the floor for public hearing.

**Mr. Ralph Cook** came forward to say that he would like to keep operating his business.

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

**Motion to accept a request for a Continuation of a Conditional Use Permit for 186 Wilkerson Lane, Portland, TN, approved contingent upon:**

- **The applicant obtaining a Certificate of Occupancy from the County Building and Codes office for the structure.**

**By Mr. Dickerson, seconded by Mr. Holt. Motion passed unanimously.**

**Mr. Ralph Cook** asked for clarification of what he is required to do.

Mr. Wright informed Mr. Cook that the Codes Department will schedule a meeting to do a walk-through of the structure to look at supplies and safety issues in order to grant the Certificate of Occupancy.

4. **Thomas Boslett** was requesting a variance from County requirements contained in the County Zoning Resolution Article VI, Section 7.6 (1), related to the placement of an proposed accessory structure within a required front yard. Subject property is located at **412 Lakeview Road, Gallatin, TN 37066**, is on Tax Map 133, Parcel 096.00, contains

5.02 acres and is zoned Residential 1A (R1A) and in the 3<sup>rd</sup> voting district (Alan Driver and Steve Graves). **This was advertised in the Gallatin News on June 27, 2019, and the adjoining property owners were notified by certified mail.**

Mr. Suddath provided an overview of this item. Public notice was provided to the adjoining property owners and there have been no comments received. Mr. Suddath explained that this is a challenging lot in regards to the shape, septic area and topography. Mr. Suddath explained that a front yard is interpreted, according to the county zoning code, as the required open landscape space between the lot line and the front of the house and the nearest point of the building.

Mr. Suddath presented example motions that require that the condition of approval be contingent upon the proper building permits being obtained.

Mr. Wright stated that records show that part of this property is in a flood hazard area. Mr. Wright stated that a plot plan would be required from the surveyor showing whether this property is in a flood hazard area or not. If it is in that flood hazard area, there would be some FEMA regulations that would have to be adhered to.

Mr. Rainey asked if, assuming we make the proposed motion, a contingency, requiring all county regulations be adhered to, be included in the motion.

Mr. Wright responded yes.

Mr. Rainey opened the floor for public hearing.

**Mr. Thomas Boslett** stated that his lot is wooded on three sides and the opposite lot is Corps of Engineers property. Mr. Boslett stated that the proposed placement of this structure is the least obtrusive and best location to avoid wooded area and the septic area.

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

Mr. Holt asked Mr. Suddath for clarification if this proposed site is considered to be located in the front yard. Mr. Suddath verified that yes it is considered to be in the required front yard but it is not in the front yard setback, and would therefore meet the setback requirements. Mr. Suddath went on to explain that these setback requirements for accessory structures are in place for all lots, regardless of size, with the only exception being an agricultural barn listed on greenbelt property.

Mr. Rainey noted that because of the shape of this lot, the proposed site could technically be considered a side yard because that part of the property does not adjoin the road. He felt that the shape of the lot would indicate a reason for approval of this variance.

Mr. Suddath stated that proving a hardship, particular to the lot, is a prerequisite to approve any variance. This lot has the hardship aspects of the shape, topography and

several flood hazard zones around it, demonstrating quite a few rationales for approving this variance.

**Motion to approve a variance from County requirements contained in the County Zoning Resolution Article VI, Section 7.6 (1), related to the placement of an proposed accessory structure within a required front yard located at 412 Lakeview Road, Gallatin, TN 37066, contingent upon:**

- **meeting all county codes and regulations**

**By Ms. Webster, seconded by Mr. Dickerson.**

**Motion passed unanimously.**

5. **John Thomas** was requesting a variance from County requirements contained in the County Zoning Resolution Article VI, Section 7.6 (2), related to minimum rear yard setback requirements for accessory structures. Subject property is located at **109 Terry Lynn Drive, Hendersonville, TN 37075**, is on Tax Map 123F, Group D, Parcel 010.00, contains .88 acres and is zoned Residential 1A (R1A) and is in the 7<sup>th</sup> voting district (Loren S. Echols and Gene Rhodes). This was advertised in the Gallatin News on June 27, 2019, and the adjoining property owners were notified by certified mail.

Mr. Suddath provided a review of this item. Public notice was provided to adjoining property owners and there have been no comments received.

Mr. Suddath provided an aerial photo showing that there is an accessory structure already on the lot. He pointed out that the western portion of the property is consumed by the soils area, making it impossible to put an accessory structure there.

Mr. Suddath explained that Mr. Thomas' plot plan shows that he proposes to remove the existing structure and foundation and replace it with a larger structure that will encroach to within 3' 3" of the property line. The county requirements say that an accessory structure can be no closer than 5 feet to the property line.

Mr. Suddath concluded his presentation.

Mr. Rainey asked Mr. Wright if he had anything to add. Mr. Wright did not have anything to add.

Mr. Rainey asked for clarification of the rear yard setback variance.

Mr. Suddath explained that Mr. Thomas is asking to put the structure 3 feet, 3 inches from the lot line, a variance from the required 5 feet from the lot line. Mr. Suddath explained that the proposed structure will be 3 feet, 3 inches from the lot line, therefore requiring a 1.75 foot rear yard setback variance to place the proposed structure where it is to be placed.

Mr. Rainey asked Mr. Suddath to display the subdivision plat and asked if he has checked the property plat for any easements on that lot.

Mr. Suddath stated he did not notice any easements. Mr. Rainey inquired if there could have been any easements by note. Mr. Suddath said there may have been, but he didn't notice any.

Mr. Rainey stated that when this subdivision was developed, easements were often created and therefore, existence of one on this lot would need to be checked.

Mr. Rainey opened the floor for public hearing.

**Mr. Martin Perdue with Outback Builders**, identified himself as the contractor for this project for Mr. Thomas. He stated that Mr. Thomas apologized for not being present, as he is out of the state. Mr. Perdue stated that this is the only placement of the structure that is practical with regards to the required setback from home.

Mr. Rainey asked for confirmation of the request for 1.75 feet.

**Mr. Perdue** confirmed.

Mr. Holt asked if the structure could be placed closer to the concrete drive.

Mr. Perdue stated that the structure is 9 feet from the house and if it is placed forward, it will block the drive and will encroach on the setback requirements from the house.

Mr. Rainey asked what specifically, besides convenience, is the logic for the granting of this variance. A valid reason must be provided to approve this variance.

**Mr. Perdue** stated that the septic field location makes this the only logical placement. He stated that it also made sense from a cost efficiency standpoint.

Mr. Rainey pointed out that this board cannot legally consider cost efficiency when making any judgement.

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

Mr. Rainey opened discussion for the board.

Mr. Dickerson raised the possibility of rotating the footprint of the proposed structure as a solution to the setback requirements.

Mr. Rainey pointed out that there is a discrepancy in the plans. Mr. Rainey stated that the submitted site plan shows the building 17.5 feet from the rear line. He went on to state that the sketch that Mr. Perdue has is different from the site plan presented. Mr. Rainey stated that there is a discrepancy in which there is a 30 rear setback and a 20 foot building which should leave 10 feet.

Mr. Rainey asked Mr. Suddath for clarification.

Mr. Suddath stated that he would defer to the applicant to explain that discrepancy, because it appears that two different site plans have been submitted.

**Mr. Perdue** displayed the site plan that should be considered, stating that there had been an original site plan submitted, followed by a revision.

Mr. Rainey stated that the date is the same on both plans.

**Mr. Perdue** stated that the surveyor said that he turned in the correct plan.

Mr. Rainey stated that the site plan included in the board meeting packet has no mention of why it was changed. The document is noticed as being the same date, no revisions.

**Mr. Perdue** stated that he can't see what the change is.

Mr. Rainey stated that he can obviously see what the change is. He noted that the whole house had been relocated by 10-15 feet on the revised site plan.

Mr. Suddath stated that he did not see that two site plans had been submitted.

Mr. Dickerson stated we would need further clarification.

Mr. Rainey stated that he sees two questions that remain:

1. Which lie of the house is correct?
2. Is there an easement in the notes on the plat that could affect the layout?

Mr. Suddath stated that he could find out the answers to those questions and we can get clarification from the applicant's representative, as well.

Mr. Rainey asked Mr. Perdue if the owner had provided him with the recorded plat. Mr. Perdue displayed an enlargement of the plat.

Mr. Rainey, upon reviewing the plat notes stated that the only mention of an easement is regarding overhead tree trimming.

**Mr. Holt made a motion to defer the request for a variance from County requirements contained in the County Zoning Resolution Article VI, Section 7.6 (2), related to minimum rear yard setback requirements for accessory structures to the August meeting, seconded by Mr. Dickerson.**

Mr. Suddath explained that if this is deferred, the applicant must begin the process of requesting a variance again.

Ms. Lisa DiOrio informed everyone that the process would include filling out a new application, publishing the public notice in the newspaper for \$175 and sending a public notice to all adjoining land owners via certified mail.

Mr. Rainey stated that the reason for deferral is a discrepancy of documentation provided in the packet and an update provided with no clarification.

**Motion passed unanimously.**

Ms. DiOrio requested that Mr. Perdue contact the Planning Office if the owner, Mr. Boslett wishes to reapply for the variance.

Mr. Rainey asked if there was any other business. After confirming there was no other business, Mr. Dickerson made a motion to adjourn, seconded by Mr. Holt.

**There being no further business to come before the Board, the Meeting was adjourned at approximately 5:40 P.M.**



