

**SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
MARCH 14, 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
MATT STAMPER

MEMBERS ABSENT:

STAFF PRESENT:

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

Motion for approval of the February minutes by Mr. Dickerson, seconded by Mr. Stamper.
Motion passed unanimously.

Motion for approval of the March Agenda. Mr. Rainey asked if there were any changes that needed to be made. Mr. Suddath stated that the applicant for item #3 has not paid the application fee for the continuation of his Conditional Use Permit. Mr. Suddath stated that his office has been in contact with the applicant and made him aware that the fee needs to be paid before the item can be heard by the Board. Mr. Suddath stated that he will defer to the Board whether to discuss the item or to defer it.

1. **Wade Lyles** is requesting a continuation of a Conditional Use Permit granted on February 1, 1994 to conduct an auto shop with tire sales. Subject property is located at **2048 Scotty Parker Road, Gallatin, TN 37066**, is on Tax Map 092, Parcel 006.04, contains 8.51 acres, is zoned Agricultural, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).
The adjoining property owners were notified by mail.

Mr. Suddath presented an overview of this item stating that this is a continuation of a Conditional Use Permit granted in 1994 and that the Planning office has not received any comments from the neighbors concerning this item. Mr. Suddath stated that at the 2017 meeting, part of the motion was to remove the signage on new SR-109. Mr. Suddath stated that it has been removed and only the permitted sign on Scotty Parker Road remains. Mr. Suddath stated that Mr. Lyles called him and had a family emergency and was not able to attend the meeting. Mr. Suddath stated that since this item was a long standing CUP, if it be the will of the Board, he suggests that approval of the item be

granted. Mr. Suddath also stated that Mr. Lyles stated that if the item needs to be deferred to the April meeting, he was agreeable with that motion.

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.

Motion to approve a two (2) year continuation of a Conditional Use Permit by Mr. Dickerson, seconded by Ms. Webster. Motion passed unanimously.

2. **Don G. Mercer, Owner of THE PICK INN**, is requesting a continuation of a Conditional Use Permit granted on March 9, 2017 to conduct an event venue. Subject property is located at **550 Zieglers Fort Road, Gallatin, TN 37066**, is on Tax Map 128, Parcel 040.02, contains 12.49 acres, is zoned Residential-1A, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves). The adjoining property owners were notified by mail.

Mr. Suddath presented an overview of this item stating that this is a continuation of a Conditional Use Permit granted in 2017 and that the Planning office has not received any comments from the neighbors concerning this item.

Mr. Rainey opened the floor for the public hearing.

Mr. Don Mercer came forward to explain and represent this request.

Mr. Marshall Wright stated to the Board that whenever an event center comes before the Board that the Codes Department be allow to do a courtesy walk thru to make sure there are no life safety issues with the building.

Mr. Suddath stated that this is something new that his office is requiring that all event venues receive a Certificate of Occupancy from the Codes Department.

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

Motion to approve a two (2) year continuation of a Conditional Use Permit allowing Marshall Wright, Codes Director, to do a courtesy walk thru by Mr. Stamper, seconded by Mr. Holt. Motion passed unanimously.

3. **Mark Farr** is requesting a continuation of a Conditional Use Permit granted on March 9, 2017 to conduct an event venue. Subject property is located at **1249 Willis Branch Road, Goodlettsville, TN 37072** is on Tax Map 143, Parcel 045.01, contains 7.18 acres, is zoned Residential A, and is in the 11th Commission Voting District (Scott Langford and Jeremy Mansfield). Mr. Suddath stated that the adjoining property owners have not been notified since payment was not received. Mr. Suddath stated that this item should probably be deferred.

Motion to defer the continuation of a Conditional Use Permit for 30 days in order to receive payment and get paperwork in order by Mr. Dickerson, seconded by Mr. Holt. Motion passed unanimously.

4. **Jack & Kristie Varret** are requesting a Conditional Use Permit to conduct a privately owned campground for churches, business, and family retreats. Subject property is located at **325 Lake Westmoreland Road, Westmoreland, TN 37186**, is on Tax Map 027, Parcel 026.00, contains 10.55 acres, is zoned Agricultural, and is in the 1st Commission Voting District (Moe Taylor and Terry Wright). **Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, February 28, 2019.**

Mr. Suddath presented an overview of this item stating that the applicant is requesting a privately owned campground. Mr. Suddath presented the regulations to the Board concerning private campgrounds as it states in Article IV, Section 13 of the County Zoning Code to include:

13. **Privately owned and commercially operated recreation areas and facilities and similar uses shall meet the following requirements:**
 - 13.1 **Any such site shall have a minimum of fifteen (15) acres under one ownership.**
 - 13.2 **The facilities to be made available are limited to those of an open area nature such as fold, swimming, ball fields, tennis, camping, and boating, but excluding other motor drive activities.**
 - 13.3 **That no building or structure is located closer than fifty (50) feet from any exterior boundary line.**
 - 13.4 **That no activity or use, including off-street parking is located closer than fifty (50) feet from any boundary line.**
 - 13.5 **That accessory buildings and use shall be incidental to the above permitted activities.**
 - 13.6 **Adequate and properly located space is made available on the site for off-street parking for the proposed activities.**
 - 13.7 **The site plan of the proposed recreation area shall first have been approved by the Sumner County Regional Planning Commission taking into account the foregoing and adequacy of ingress and egress from the site.**

- 13.8 It is the finding of the Board that such use or building(s) will not impair an adequate supply of light and air adjacent property, or materially increase congestion beyond the capacity of existing public streets, or increase the danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair or adversely affect the public safety, comfort, morals, and welfare.**

Mr. Suddath stated that the County adopted the zoning code in 1973 and the subject property has been utilized as a campground since before the zoning code. Mr. Suddath stated that the applicant submitted evidence that the campground started about 1970, which was before the current requirements were in place, and has had activity at the campground well into 2017 and some activity in 2018. Mr. Suddath stated that he concurred with the applicant that the campground has been grandfathered in and is a legal nonconforming use. Mr. Suddath stated that the campground would not be subject to the zoning restrictions under Article IV, Section 13. Mr. Suddath stated that this Conditional Use Permit would give the Board an opportunity to require that other relevant provision be met, such as, septic permits and certificate of occupancy for the existing buildings. Mr. Suddath stated that the applicant has agreed to meet these requirements.

Mr. Rainey opened the floor for the public hearing.

Mr. Max Graves, came forward in favor of this item.

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

Mr. Rainey stated that the first item would be to determine if this request can be grandfathered in.

Mr. Suddath stated that with all the research and evidence that has been found, there is no reason to believe that this request cannot be grandfathered in.

Mr. Rainey stated that in order to confirm on record that this item can be grandfathered in, he would like to have a motion to allow the grandfathered status.

Mr. Holt asked if there was documentation of when the camp was last used.

Mr. Suddath stated that a list of activities held at the campground showed the last activity was held in June of 2017.

Motion to accept this item to allow grandfathered status by Ms. Webster, seconded by Mr. Dickerson. Motion passed unanimously.

Mr. Rainey stated that the next question is concerning the two (2) year approval. Mr. Rainey stated that the applicant has met most of the requirements and has agreed to meet the other requirements as needed. Mr. Rainey stated that if a motion is made to approve, it should include all compliance with County Codes including a walk thru by the Codes Department, and a plan to go to Planning if needed.

Motion to approve a request for a Conditional Use Permit for 325 Lake Westmoreland Road, Westmoreland to conduct a privately operated campground for churches, businesses and family retreats Subject to the following conditions:

- **All buildings on site must obtain a certificate of occupancy from the County Building and Codes Department prior to public use**
- **All relevant septic permits must be obtained from the County Environmentalist**
- **Plan to go to the Planning Commission, if needed**

by Mr. Dickerson, seconded by Mr. Stamper. Motion passed unanimously.

Mr. Holt asked if this would include parking.

Mr. Suddath stated that with this property being grandfathered in, the property would be exempt from any parking requirements adopted in the subsequent years. Mr. Suddath stated that by accepting the grandfathered status, the Board is basically accepting this. If the Board had not accepted the grandfathered status, then the applicant would have to ask for a parking variance, or submit a parking plan.

Mr. Holt stated that he was just curious of the parking just by looking at the plan submitted.

Mr. Suddath stated that the applicants were in the audience.

Mr. & Ms. Varret came forward to explain and represent this request.

Mr. Holt stated that his concern was the parking capacity.

Ms. Varret stated that there was a level spot where campers used to hook up and that is where they will use for parking. Ms. Varret also stated that there is a spot near the dining hall that can be used for parking too.

Mr. Holt asked if they anticipate any parking on the street.

Ms. Varret stated that there will not be any parking on the street. Ms. Varret stated that there will not a lot of driving thru, once the guests are there they stay.

5. **Jerry & LeAnne Apple** 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 **1098 Dutch Creek Road, Westmoreland, TN 37186** is on Tax Map 029 Parcel 040.07, contains 5.02 acres, is zoned Agricultural and is in the 1st Commission Voting District (Moe Taylor and Terry Wright).
Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, February 28, 2019.

Mr. Suddath presented an overview of this item stating that the applicant is requesting a Hardship Variance. Mr. Suddath stated that the applicant has provided a letter from the doctor stating the need for the hardship. Mr. Suddath stated that Staff has not received any comments concerning this item.

Mr. Rainey opened the floor for the public hearing.

Mr. Jerry Apple came forward to explain and represent this request.

Mr. Apple stated that the proposed structure will be attached to the existing dwelling.

Mr. Rainey asked Mr. Wright if he had seen any plans for the attached structure.

Mr. Wright stated that if the proposed structure is a prefab structure, it will need to be built according to the 2015 International Residential Codes and be certified before the structure is put in place.

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

Mr. Rainey stated to the Board that if this structure is indeed attached, the applicant would not have to come back to the Board but that will have to be determined after construction.

Mr. Rainey stated that if the Board agrees to approve this item, it needs to be with conditions or not.

Mr. Stamper asked if the proposed structure ends up being attached, will the applicant still need to come back every two years.

Mr. Rainey stated that if the structure is attached it will not, but if it is detached, it will.

Motion to approve a request for a hardship variance for 1098 Dutch Creek Road, Westmoreland authorizing a relative to live in a proposed mobile home due to medical circumstances with the following conditions:

- **Proposed structure must meet all County setback requirements**
- **Proposed structure must obtain a certificate of occupancy from the County Building and Codes Department**
- **Permit must be obtained from State of Tennessee related to Septic for the proposed structure**

by Mr. Stamper, seconded by Ms. Webster. Motion passed unanimously.

6. **Donnie & Linda Manning** 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 **253 Chipman Road, Bethpage, TN 37022** is on Tax Map 084 Parcel 070.03, contains 5.47 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, February 28, 2019.

Mr. Suddath presented an overview of this item stating that the applicant is requesting a Hardship Variance. Mr. Suddath stated that the applicant has provided a letter from the doctor stating the need for the hardship. Mr. Suddath stated that Staff has not received any comments concerning this item.

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 asked Mr. Wright that if this item it approved, how his department will know where the property line is.

Mr. Wright stated that the property owner will need to put up a string where the surveyor's stake is. Mr. Wright stated that if it's obvious that it's not over the setback, then they let it go but if there is a question of the property line, the property owner will have to get a plot plan from a surveyor.

Motion to approve a request for a hardship variance for 253 Chipman Road, Bethpage, authorizing a relative to live in a proposed mobile home due to medical circumstances with the following conditions:

- **Proposed structure must meet all County setback requirements**
- **Proposed structure must obtain a certificate of occupancy from the County Building and Codes Department**
- **Permit must be obtained from State of Tennessee related to Septic for the proposed structure**

by Mr. Holt, seconded by Mr. Stamper. Motion passed unanimously.

7. **David & Benita Newland** are requesting a Hardship Variance for a relative with medical circumstances to live in an existing structure with plans to construct a second single family dwelling on the subject property to care for the relative. Subject property is located at **120 Mitchell Road, Portland, TN 37148** is on Tax Map 072 Parcel 061.00, contains 3.80 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, February 28, 2019.

Mr. Suddath presented an overview of this item stating that the applicant is requesting a Hardship Variance. Mr. Suddath stated that this request is a little different than most requests. Mr. Suddath stated that if approved, the applicant will build a stick built home behind the mobile home that is currently on the property and that the relative that need is the hardship will live in the mobile home. Mr. Suddath stated that the applicant has provided a letter from the doctor stating the need for the hardship. Mr. Suddath stated that Staff has not received any comments concerning this item.

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 asked Mr. Suddath that once the home is built, which dwelling becomes the primary structure.

Mr. Suddath stated that with any hardship, once the hardship is no longer needed, the structure that's being used for the hardship will need to be removed. Mr. Suddath stated that he would assume that the property owners would want to remove the mobile home.

Mr. Rainey stated that since the proposed house has not been built, that could be addressed in two years when applicant will renew the hardship variance.

Mr. Suddath stated that was correct.

Mr. David Newland came forward to explain and represent this request.

Motion to approve a request for a hardship variance for 120 Mitchell Road, Portland authorizing a relative to live in an existing structure due to medical circumstances, and to authorize construction of a second single family dwelling on the subject property, with the following conditions:

- **All proposed structures must meet all County setback requirements**
- **Permit must be obtained from State of Tennessee related to Septic for all existing and proposed structures**
- **Proposed single family home must obtain a Certificate of Occupancy from the County Building and Codes Department**

by Ms. Webster, seconded by Mr. Holt. Motion passed unanimously.

8. Update on Goldie Upchurch Property.

Mr. Suddath gave a brief update on property owned by Ms. Goldie Upchurch. Mr. Suddath stated that in the 80's, the BZA granted a hardship for a mobile home to be placed on the property. Once the hardship was no longer needed, the mobile home was never removed. Mr. Suddath stated that this property has been sold a couple of times since the hardship was granted. Mr. Suddath stated that the additional dwelling was brought to his office's attention when Ms. Upchurch put the property on the market and listed it as the second dwelling being a rental. Ms. Upchurch came to the BZA in February to ask for a variance to allow the dwelling to remain on the property. The request was denied by the BZA so Ms. Upchurch was told that the dwelling had to be removed or would need to alter the dwelling so it no longer is considered a dwelling by the Codes Department. Mr. Suddath stated that Ms. Upchurch met with Mr. Wright and worked with him to get the mobile home up to the Codes Department standards.

Mr. Wright stated that Ms. Upchurch removed the range and dismantled the closet and that his department no longer considers the mobile home as a dwelling.

Due to a conflict, Chairman Rainey recused himself from the next 3 items on the agenda and turned the meeting over to Vice-Chairman Webster.

9. **Robert Adcock, Jr.** is requesting a variance from County requirements contained in the County Zoning Resolution Article IX Section 1.4 Subsection 1.4(1) related to placement of an accessory structure within a required side yard. Subject property is located at **3545 New Hope Road, Hendersonville, TN 37075**, is on Tax Map 101 Parcel 002.03, contains 10.98 acres, is zoned Agricultural, 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, February 28, 2019.

Mr. Suddath presented an overview of this item stating that the applicant is requesting a variance for placement of an accessory structure in a required side yard. Mr. Suddath stated that this request has some challenges. Mr. Suddath stated that there was an accessory structure on the property when purchased and that it has now been removed. Mr. Suddath stated that the foundation of the new accessory structure has already been installed and sits on the property line. Mr. Suddath stated that the property owner had a survey done and realized that the foundation was on the property line +/- one inch. Mr. Suddath stated that the required setback for this zoning is 20 feet and the applicant is requesting the variance for the entire 20 feet.

Ms. Webster opened the floor for the public hearing.

Mr. Robert Adcock, Jr. came forward to explain and represent this request.

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

Ms. Webster stated that that no one knows if it's on the line or not so she doesn't feel that the Board can approve this variance.

Mr. Suddath stated that Ms. Webster is correct. Setback variances can be granted but they are granted upon a certain distance from the property line. Mr. Suddath stated that he does not feel that this was done intentionally but it is an illegal structure in an illegal location and states that he doesn't feel that there is any action that the Board can take to make it legal. Mr. Suddath stated that the only recourse that the Board can take is that it can't be approved because it is on the line or possibly over and the only recourse is to remove it.

Mr. Stamper asked if there was any possibility of the setback being from the property line. Could there be a 15 or 5 foot variance.

Mr. Suddath stated that it could. Mr. Suddath stated that the required setback is 20 feet from the property line and in order to deviate from that for topographical or septic issues that cause the structure to encroach into the setback line, it can be approved by the BZA. Mr. Suddath stated that the structure that the applicant was requesting a variance for is on the line and that is beyond the scope of what the BZA typically allows.

Mr. Adcock stated that there is only one corner that is encroaching into the setback and that the rest of the slab meets the setbacks. Mr. Adcock stated that the property owner that the slab sets on is aware of the issue and states that he has no problem with the slab staying in the current location.

Ms. Webster stated that she didn't see that the Board has any other decision but to turn it down.

Mr. Suddath stated that whatever action the Board needed to take, Staff will work with the applicant to help figure out a way so the whole foundation does not have to be removed.

**Motion to defer a decision on this item for 30 days by Mr. Holt, seconded by Mr. Stamper.
Motion passed unanimously.**

10. Shannon Westerbeck with SRW Construction will represent Jesse & Samantha Gibson and is requesting a variance from County requirements contained in the County Zoning Resolution Article IX Section 1.4 Subsection 1.4(1) and Article VI Section 7.4 Subsection 7.4(1) related to placement of a covered porch within a required side yard. Subject property is located at **1010 Carolyn Circle, Hendersonville, TN 37075**, is on Tax Map 123A, Group A, Parcel 011.00, contains 2 acres, is zoned Agricultural and Residential 1A, and is in the 11th Commission Voting District (Scott Langford and Jeremy Mansfield)

Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, February 28, 2019.

Mr. Suddath presented an overview of this item stating that the applicant is requesting a variance for placement of a covered porch in a required side yard. Mr. Suddath stated that his office has received comments from an adjoining property owner. Mr. Suddath stated that the Board has a packet from the adjoining property owner in opposition of this variance. Mr. Suddath showed a copy of an affidavit that each property owner must sign stating that you will not encroach into the setbacks and if you do, the County can order to have that structure removed. Mr. Suddath stated that his office requested the property owner to submit a plot plan to show exactly how much the structure will encroach into the setbacks. Mr. Suddath stated that his office was told that the porch had not been constructed but it was brought to his attention that it was being constructed, so a Stop Work Order was placed on the project. Mr. Suddath showed the plot plan which showed that the covered porch is encroaching into the setback by 7 feet. Mr. Suddath stated that the question is, does a covered porch count as an accessory structure and has to meet the required setbacks. Mr. Suddath stated that Article III, Section 15, Subsection 15.2 of the County Zoning Resolution, states that awnings, porches, patios, or similar attachments shall be deemed a part of the principal structure with regard to meeting any yard requirement.

Ms. Webster asked Mr. Suddath if the porch was the only thing over the setback.

Mr. Suddath stated that it was.

Mr. Stamper asked Mr. Suddath if the house was under construction.

Mr. Suddath stated that it was.

Ms. Webster opened the floor for the public hearing.

Mr. Andrew Downing, 1016 Carolyn Circle, came forward in opposition of this setback stating that the gable on the porch is 10 foot over and not 7 and mentioned an additional survey that he had done. Mr. Downing stated that the porch would look into their kitchen so privacy is an issue having the porch that close. Mr. Downing stated that if this variance is approved, he would like to see an evergreen screening along the property line. Mr. Downing also had a concern about the placement of a door on the new construction.

Mr. Shannon Westerbeck, came forward to explain and represent this request.

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

Mr. Suddath stated that there has been mention of other surveys that have been done on this item, however the only survey that was submitted to the Planning office is the one submitted by the applicant. Mr. Suddath stated that the only survey that the BZA can act upon is the one that was submitted not hear say surveys that have not be submitted for record and have not been analyzed by Staff or the Board members. Mr. Suddath stated that the survey submitted to Staff and to the BZA shows the porch encroaching in the setback 7 feet.

Ms. Webster opened the public hearing back up.

Mr. Downing came forward to submit the survey that was completed by their surveyor.

Mr. Stamper stated that the survey submitted in their packet was the only survey to be recognized.

Ms. Webster stated that was correct.

Mr. Suddath stated that the applicant turned in a hand drawn sketch. Mr. Suddath stated that he requested that the applicant turn in a plot plan by a surveyor for more accurate measurements. Mr. Suddath stated that the applicant returned with the submitted plot plan.

Motion to deny variance by Mr. Stamper, seconded by Mr. Dickerson. Motion passed unanimously.

Mr. Suddath stated that with this vote, the covered porch will need to be removed and will be directed to the Codes Department to follow through with the removal.

- 11. Tim Wilson will represent New Hope Senior Living** and is requesting a variance from County requirements contained in the County Zoning Resolution at Article IV General Provisions Section 7.4 Subsection 7.4 (1) related to parking spaces. Subject property is located at **1333 Hogans Branch Road, Hendersonville, TN 37075**, is on Tax Map 117, Parcel 046.02, contains 17.7 acres, is zoned Agricultural and Residential 1A, and is in the 11th Commission Voting District (Scott Langford and Jeremy Mansfield)
Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, February 28, 2019.

Mr. Suddath stated that the applicant is requesting a variance from County requirements related to parking spaces. Mr. Suddath stated that there have been numerous calls concerning this item. Mr. Suddath stated that the use for this property will be a Home for the Aged and that the existing facility will be renovated and upgrades to meet all required life safety and ADA improvements. These improvements will include sprinkler systems, interior elevator and other improvements to meet the standards of the International Building Code. Mr. Suddath stated that the applicant has provided an emergency plan for potential life flights and evacuation plans. Mr. Suddath stated that the applicant has provided to the County Environmentalist plans for a septic system to accommodate the use of the facility. Mr. Suddath stated that the applicant will be required to apply for a Land Disturbance Permit and will require silt screening and other stormwater runoff control measures for parking improvements. Since the site is near a blue line stream, the stormwater safe guards will need to be in place to prevent construction runoff and County staff will be inspecting the site on a regular basis.

Mr. Suddath stated that the item before the BZA is the parking requirements for the proposed use. Mr. Suddath stated that the proposed use of this property is protected by the Federal Fair Housing Amendments Act (FHAA) which supersedes any local or state Regulations under the U. S. Constitution. Mr. Suddath stated that he submitted this item to our County Attorney for review and her office concurs with the conclusions of the applicant's legal representative.

Mr. Suddath stated that the request at hand is the parking variance in which the zoning code requires 16 spaces related to "boarding houses" and the applicant is requesting 11 spaces. Mr. Suddath states that the applicant states that they face topographic challenges in the area that would limit the area for parking and argues that the county's parking requirements would not make sense due to the fact that the residents will have various disabilities and will not be able to drive.

Ms. Webster opened the floor for the public hearing.

Ms. Judith Strange Caneer, 1229 Hogan Branch Road, came forward in opposition of this item stating the pictures presented were not accurate.

Mr. William E Legg, 1377 Hogan Branch Road, came forward in opposition of this item stating that any parking expansion would not be a good idea since there is such a slope at the drive. Mr. Legg stated that there was property behind the house that could be excavated and used for parking if needed. Mr. Legg stated that any parking proposed on this property will cause flooding that runs to a pond on the adjoining property. Mr. Legg states that when that pond crests, his property floods.

Mr. Tim Wilson, came forward to explain and represent this request.

Mr. Legg stated to Mr. Wilson that he cited Tennessee State Code 60 but that it also talks about the care for the aged requiring 24/7 care. Mr. Legg asked Mr. Wilson if they were providing 24/7 care.

Mr. Wilson stated that the care would be 24/7.

Mr. Stamper stated to Ms. Webster that what Mr. Legg was speaking of was not relevant of what was being discussed.

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

Mr. Suddath stated that this item is complicated but wanted the Board to hear it for a number of reasons. Mr. Suddath stated that his office has an absolute commitment to transparency at all times and his greatest fear is something going in next to a property owners house and they not have an opportunity to discuss, and he does not want that to happen. Mr. Suddath stated that the easiest thing to do was for his office to say we agree with their attorneys and let it go but he feels like it needed to be heard since there are items that conflict with the County's code. Mr. Suddath stated that what has been said tonight is that the residents does not want more parking due to flooding issues. Mr. Suddath stated that if this request is denied, the applicant will need to put in 16 parking spaces, so what's before the board tonight is to allow the 11 parking spaces instead.

Mr. Holt asked Mr. Suddath that the current parking submitted has some issues for the plan that was submitted.

Mr. Suddath stated that was correct. Mr. Suddath stated that all his department can do is take what is submitted by the applicant and turn over to the BZA. Mr. Suddath stated

that it has evolved into how many spots they need verses how many spots they want, and how many they can get on site with what they have now.

Mr. Holt asked Mr. Wright on the parking plan do they comply with the legal size of parking spaces.

Mr. Wright stated that the applicant's design specialist will want to comply with the ADA and other standards. Mr. Wright stated that a regular size parking space is 9 X 19, and a handicap parking space is double. Mr. Wright stated that you will know how many you can get by the house because the parking spot has to be at least 20 X 20. Mr. Wright stated that there is so much technology with parking lots now with permeable parking where the water will go into the soil instead of runoff. Mr. Wright stated that might be something to require too.

Mr. Suddath stated that the Stormwater section of his department would concur about the pervious surface rather that asphalt or hard concrete.

Mr. Dickerson stated that he has some experience with this property. Mr. Dickerson stated that there was recently a brush fire behind this house and they were able to turn two big firetrucks around behind this house. Mr. Dickerson stated that he did not know what kind of drainage issues this might cause but he feels that exploring a parking area behind the house would be a good idea.

Mr. Wilson discussed that the project architect is revising the parking request with the potential of not needing the variance.

There was discussion on this item.

Motion to defer variance by Mr. Stamper, seconded by Mr. Dickerson. Motion passed unanimously.

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

Meeting Adjourned at 6:41 p.m.

