

**SUMNER COUNTY BOARD OF ZONING APPEALS  
MINUTES  
OCTOBER 10, 2019**

**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**

**MEMBERS ABSENT:  
DON DICKERSON**

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

Mr. Rainey called the meeting to order, noting that Mr. Dickerson is absent.

**Motion for approval of the August 2019 Minutes made by Ms. Webster, seconded by Mr. Stamper. Passed unanimously.**

**Confirming there being were no changes to the agenda, Mr. Rainey stated the agenda stands as approved.**

Mr. Rainey introduced the first agenda item, requesting that Mr. Suddath provide staff presentation.

- 1. CHARLES AND KATHY STUART** were requesting a Hardship Variance for a relative to live in a proposed structure on the subject property to care for a relative due to medical circumstances. Subject property is located at **1116B Littleton Ranch Rd, Castalian Springs, TN, 37031** is on Tax Map 109 Parcel 009.07, contains 6.29 acres, is zoned Residential 1A (R1A), and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).  
**This was a public hearing and was advertised in the Gallatin News on September 26, 2019. The adjoining property owners were notified by certified mail.**

Mr. Suddath stated that the landowners are requesting a variance from Requirements contained in Article 4, Section 2.2 of the County Zoning Code related to the number of principal structures allowed on a lot, due to medical necessity. Mr. Suddath stated that such medical necessity must be explained by a doctor's letter.

Mr. Suddath stated that the Planning office has received one call in opposition to the requested Variance.

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Mr. Suddath explained that this request was to have been heard at the September BZA meeting, but was deferred by the applicant.

Mr. Suddath provided an overview of the item, displaying the site plan, public notice, and aerial photos. In conclusion, Mr. Suddath provided example motions, including conditions of approval.

At this time, Mr. Rainey called the applicant forward.

Mr. Charles Stuart came forward and stated the request for approval of a 740 square foot structure. Mr. Stuart stated that TDEC approval for septic has already been approved.

Mr. Rainey opened the floor for Public Hearing.

**Mr. Raymond Suddarth, 1040 Littleton Ranch Rd., Castalian Springs, TN 37031** came forward, stating that the applicant's property is on the south side and east side of his land. Mr. Suddarth stated that the applicant's property does not have direct access to the county road, but rather has an easement over another neighbor's property.

Mr. Suddarth stated opposition to the Variance request out of concern for the possible effect to his property value and concern for future use of the proposed structure as the main residence, while renting out the current structure.

Continuing, Mr. Suddarth stated that he was told by Mr. Jeremiah, a neighbor to the north of Mr. Stuart's property, that Mr. Marshall Wright told him he could get him approval for a second house on his property, also, if he wanted, because of his connections.

**Ms. Linda Suddarth, 1040 Littleton Ranch Rd., Castalian Springs, TN 37031**, came forward, stating opposition, by explaining that the proposed structure will block their view and if the structure is not removed, it could create a potential rental property.

**Mr. Joseph D. Cason, 1112 Littleton Ranch Rd., Castalian Springs, TN 37031**, stated favor of the Variance, commenting that the Stuarts are good neighbors. Mr. Cason also stated that the value of the property should be positively affected, going on to state that the proposed placement of the structure will not affect the Suddarth's view.

Confirming that no one else wished to speak, Mr. Rainey closed the public hearing.

At this point, Mr. Marshall Wright stated that he would like to go on the record as stating that he and Mr. Stuart have had no conversations regarding the neighbor obtaining a building permit to build a second house.

Mr. Rainey summarized that there has been a concern that the Variance would change property value, but there is no evidence to substantiate such a concern.

Addressing additional issues, Mr. Rainey stated that if a motion is made, as written, the secondary structure would be removed upon termination of the Hardship.

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**Mr. Stamper made a Motion to Approve with Conditions:**

- a) Structures must meet applicable setback requirements**
- b) Applicant must receive TDEC approval to all septic system improvements prior to construction**
- c) Applicant must obtain a Certificate of Occupancy for any new structure**
- d) Upon resolution of the hardship, the structure must be removed at the owner's expense.**

**Seconded by Mr. Holt. Motion passed unanimously.**

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

- 2. MICHAEL AND NANCY DOBBS** were requesting a variance from County requirements contained in the County Zoning Resolution Article VI Section 1.4 related to placement of a proposed accessory structure within a side yard setback and related to placement of a proposed accessory structure within a required front yard. Subject property is located at **104 Sunset Island Trail, Gallatin, TN 37066**, is on Tax Map 157-O Parcel 005.00, contains .95 acres and is zoned Residential A (RA) and in the 6th Commission Voting District (Deanne Dewitt and Luke Tinsley).

**This was a public hearing and was advertised in the Gallatin News on September 26, 2019. The adjoining property owners were notified by certified mail.**

Mr. Suddath confirmed that there had been one call to the Planning Office, expressing approval for the Variance. Mr. Suddath provided an overview of the agenda item, displaying the public notice, the 1961 plat, the lot configuration, plot plan and photos. Mr. Suddath described the topography, which is grounds for a variance, which will allow an encroachment of 10 feet within the required side yard setback and will be within the required front yard.

Upon completion of the presentation, Mr. Rainey asked Mr. Wright if he had any comments to add to the request.

Mr. Wright stated that he had no further comment.

At this time, Mr. Rainey called Mr. Dobbs forward.

Mr. Michael Dobbs, 104 Sunset Island Trail, Gallatin, TN 37066, stated that he had nothing to add to the staff's presentation.

Mr. Rainey opened the floor for Public Hearing.

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

Mr. Rainey stated that many properties in this old subdivision have built additional structures in the front yards because of topographical issues.

Mr. Holt asked for confirmation of the topography being the concern for the Variance request.

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Mr. Rainey confirmed.

Mr. Rainey asked Mr. Suddath about the setback requirement.

Mr. Suddath stated that an accessory structure may be 5 feet from the property line, so long as it is behind the house. Mr. Wright concurred.

**Motion to approve a variance from County requirements contained in the County Zoning Resolution Article VI Section 1.4 related to placement of a proposed accessory structure within a side yard setback and related to placement of a proposed accessory structure within a required front yard with the following condition:**

- **that all relevant building permits required by the county Building and Codes Department are obtained**

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

Mr. Rainey introduced the next item, turning the floor over to Mr. Suddath for presentation.

- 3. MARY KATHERINE LORANCE** was requesting a continuation of Conditional Use Permit, to operate a wedding and reception venue and a bed and breakfast, as well as a dust free parking variance received on September 12, 2013. Subject property is located at **475 Dry Fork Creek Road, Gallatin, TN, 37066**, is on Tax Map 83, Parcel 20.06, contains 34.75 acres, is zoned Agricultural, and is in the 3<sup>rd</sup> Voting District (Alan Driver and Steve Graves) The adjoining property owners were notified by regular mail.

Mr. Suddath stated that this request is a renewal and has received no comments.

Mr. Suddath reviewed the original approval made in 2013, stating that a condition of that approval was the obtaining of required septic approval.

Mr. Suddath provided an aerial view of the property, ground-level photos and example motions.

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

Mr. Wright stated that his Department has not issued a Certificate of Occupancy for this property, stating that a walk-through inspection would be required, if the Continuation is granted.

Mr. Suddath stated that it would be beneficial to require a letter from the Environmental Department stating that TDEC permits have been obtained.

Stating that this is a public hearing, Mr. Rainey opened the floor for public comment.

Mary Katherine Lorance, 475 Dry Fork Creek Road, Gallatin, TN, 37066, came forward

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to state that she had nothing to add.

Confirming there were no further comments, Mr. Rainey entertained a motion.

**Motion to grant a 2-year continuation of Conditional Use Permit, to operate a wedding and reception venue and a bed and breakfast, as well as a dust free parking variance with the following conditions:**

- **the applicant obtain a Certificate of Occupancy**
  - **the applicant obtain a letter from the Environmental Department stating that TDEC permits have been obtained**
- by Mr. Holt, seconded by Ms. Webster. Motion passed unanimously.**

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

- 4. FRANK AND DONNA KIRKBRIDE** were requesting a continuation of a Conditional Use Permit granted on August 15, 2015, to operate a wedding and event venue with a dust free parking variance. Subject property is located at **318 Corinth Road, Portland TN 37148**, is on Tax Map 31, Parcel 79, contains 92.5 acres, is zoned Agricultural, and is in the 1<sup>st</sup> Voting District (Moe Taylor and Terry Wright).

The adjoining property owners were notified by regular mail.

Mr. Suddath stated that this request is a renewal and his staff has not received any calls regarding it. Mr. Suddath provided an overview of the item, providing a site plan, photos and example motions.

Mr. Rainey called on Mr. Wright for comment.

Mr. Wright stated that his Department has not issued a Certificate of Occupancy for this property, stating that a walk-through inspection would be required, if the Continuation is granted.

At this time, Mr. Rainey called the applicants, Mr. and Mrs. Kirkbride forward.

Mr. Frank Kirkbride, 318 Corinth Road, Portland TN 37148, stated that the venue has not been used yet. Mr. Kirkbride went on to state that they have been improving the property by replacing the roof and cleaning.

Mr. Rainey opened the public hearing.

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

**Motion to grant a 2-year continuation of Conditional Use Permit, to operate a wedding and reception venue, as well as a dust free parking variance with the following conditions:**

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- **the applicant obtain a Certificate of Occupancy by Mr. Stamper, seconded by Ms. Webster. Motion passed unanimously.**

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

- 5. COY GAMMON** was requesting a continuation of a Conditional Use Permit granted on October 12, 2017, to conduct a lawn care and landscaping business. Subject property is located at **1219 Willis Branch Road, Goodlettsville, TN 37072**, is on Tax Map 143, Parcel 047.00, contains .92 acres, is zoned Residential A and is in the Goodlettsville Planning Region, and is in the 11<sup>th</sup> Voting District (Scott Langford and Jeremy Mansfield). The adjoining property owners were notified by regular mail.

Mr. Suddath stated that the Planning Office has received a letter concerning this request, which appears to express opposition to this item. Mr. Suddath added that the Board Members have been supplied a copy of said letter.

Mr. Suddath provided an overview of the item, supplying photos and example motions.

Mr. Rainey called the applicant forward.

Coy Gammon of 1219 Willis Branch Road, Goodlettsville, TN 37072, stated that he had nothing further to add.

Mr. Rainey asked Mr. Wright if he had any comments.

Mr. Wright stated that if the general public were to come in and out of the property, the Building and Codes Department would need to get involved.

In response, Mr. Gammon stated that there is no general public activity on the property.

Mr. Rainey called Rebecca Ownby forward to speak.

Ms. Ownby stated that although her letter seems to express opposition, it is mostly a search for answers to questions. Ms. Ownby asked if a Conditional Use Permit were the correct permit for this business because of the size of the business. Ms. Ownby stated that she felt that incorrect information was provided at the meeting during which the original Conditional Use Permit was granted.

Mr. Rainey stated that he has read Ms. Ownby's letter.

Ms. Ownby asked for the parameters of a Conditional Use Permit, and asked if a business this large can operate outside of a Commercial Zone.

Mr. Rainey replied that the original permit request was presented as a landscaping business with the buildings, having multiple employees that come and go. When the request states that

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there are employees other than the occupant, unless specifically talked about, this Board doesn't regulate the number of employees or size of a business.

Mr. Rainey asked Mr. Suddath if he had any information to add.

Mr. Suddath stated that it is a great question regarding at what point is it appropriate to seek a rezoning. Mr. Suddath stated that the decision is based on context, location and the Land Use Plan for an area.

Mr. Suddath stated that this Permit is an example of why the details of an application, such as hours of operation, number of employees and types of activities that are proposed are important.

In addition, Mr. Suddath stated that there are times when a rezoning is appropriate, however, this property owner was granted the Conditional Use Permit originally without aforementioned details.

Ms. Ownby asked if a Conditional Use Permit is only granted to homeowners who are occupants of the property.

Mr. Suddath replied that is not a requirement, as it is when obtaining a home-based business.

Ms. Ownby asked what a home-based business is.

Mr. Suddath replied that a home-based business is defined as being conducted within the principal structure, but only by a person resident of the premise; provided, that not more than one person, not a resident of the premise, is employed. Further, Mr. Suddath stated that this business does not meet this criteria and therefore, falls under the definition of a Conditional Use Permit.

Mr. Rainey asked Ms. Ownby if that was the end of her comments.

Ms. Ownby stated she did not have all her questions answered.

Mr. Rainey directed Ms. Ownby to contact Staff during business hours for the answers to her questions. Mr. Rainey explained that the original Permit was granted before the current staff was in position and the only information the current staff has to refer to for guidance, is the minutes from the original meeting.

At this point, Mr. Rainey stated that Mr. Gammon has returned on the two-year anniversary of his Conditional Use Permit as required. Mr. Rainey expanded that if Mr. Gammon were to be applying for the first time, under the current regulations, he may not be granted the Conditional Use Permit, but the Board is under obligation, in absence of violations or complaints, to grant the Continuation.

Ms. Ownby stated that it is her understanding that the Conditional Use Permits are revisited every two years, to address any changes.

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Mr. Rainey asked Ms. Ownby what her specific complaint is.

Ms. Ownby mentioned that there is a new structure on the property and asked if that were allowed.

Mr. Rainey stated that a landowner has rights, and a new structure can be added to property, if the proper procedures are followed.

Mr. Suddath stated that he is willing to meet with Ms. Ownby during office hours to address her questions, stating that these meetings are not forums for a Q and A.

Mr. Rainey opened the public hearing.

After confirming that no one wished to speak, Mr. Rainey closed the public hearing and called for discussion.

Mr. Holt asked if there were any restrictions, such as hours of operation imposed on the Conditional Use Permit.

Mr. Rainey stated there are no restrictions on the existing permit, however this Board has the authority to impose restrictions on the Continuation, if it deems them necessary.

Mr. Suddath stated that all new applications are required to provide detailed information including parking, hours of operation and number of employees.

Mr. Rainey stated that, as a Board, we have the right to make additional requirements of the requestor, if the Board so wishes.

At the Board's request, Mr. Rainey called Mr. Gammon forward.

Mr. Gammon stated that the hours of operation vary from 6:00-4:00 Monday-Friday, and occasionally on Saturday.

Mr. Gammon explained that the property is mainly a holding unit, where the employees come get equipment and are gone within 15 minutes. Mr. Gammon also stated that there are no new structures on the property.

Mr. Rainey asked, on average, how many people are employed.

In response, Mr. Gammon stated that the number of employees ranges between 29-33. Mr. Gammon stated that there is a privacy fence that hides the cars from the street and the company trucks are stored in a building.

Mr. Gammon added that he tries to be very considerate to his neighbors, requiring that his crew get on and off the property in a short amount of time.

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Mr. Rainey asked if Mr. Gammon's family still owns the property behind his.

Mr. Gammon replied that yes, he and his father own it.

At this point, Mr. Stamper, inquired about a possible new structure on the property that Ms. Ownby had mentioned.

Mr. Gammon stated that there has only been two buildings on the property, further explaining that one of the buildings was in poor shape and rebuilt over the same footprint.

**Mr. Holt made a motion to approve a two-year continuation of a Conditional Use Permit, to conduct a lawn care and landscaping business.**

Board members discussed the letter received from Ms. Ownby, noting that while there are many questions that she is seeking answers to, there appears to be no complaint therein.

Mr. Suddath stated that a landowner residing on the premises is not a condition of a Conditional Use Permit and Ms. Ownby could set up a meeting to get answers to her questions.

**Motion seconded by Ms. Webster. Motion passed unanimously.**

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

- 6. LAURA PORTER** was requesting a continuation of a Conditional Use Permit granted on October 12, 2017, to conduct a clothing and accessory store. Subject property is located at **3803 New Highway 52, Bethpage, TN 37022**, is on Tax Map 029, Parcel 061.04, contains 6 acres, is zoned Agricultural (A), and is in the 1<sup>st</sup> Voting District (Moe Taylor and Terry Wright).

The adjoining property owners were notified by regular mail.

Upon confirming that no comments regarding this property have been received, Mr. Suddath provided an overview of this item by presenting an aerial photo, the original site plan and photos of the building and signage. Mr. Suddath concluded with example motions.

Mr. Rainey called Ms. Laura Porter, 3803 New Highway 52, Bethpage, TN 37022, forward.

Ms. Porter stated that she had nothing to add to the presentation.

Mr. Wright stated that if a Certificate of Occupancy has not previously issued on this property, his Staff would need to do a walk-through inspection to issue one.

Mr. Rainey added that the obtaining of a Certificate of Occupancy should be added as a condition of approval, if the continuation is granted.

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Mr. Rainey opened the public hearing.

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

Ms. Webster made a motion to approve a two-year continuation of the Conditional Use Permit with the following condition:

- the applicant obtain a Certificate of Occupancy, seconded by Mr. Stamper. Motion passed unanimously.

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

- 7. TISHA NOLEN** was requesting a continuation of a Conditional Use Permit granted to David Castilon on October 9, 2014, to conduct a pet-sitting business in a detached building as well as a dust free parking variance. Subject property is located at **1810A Latimer Lane**, Hendersonville, TN., is on Tax Map 117, Parcel 077.00, contains 4.75 acres, and is zoned Residential 1A (R1A) and Agricultural (A) and is in the 11th Voting District (Scott Langford and Jeremy Mansfield)

The adjoining property owners were notified by regular mail.

Mr. Suddath introduced the item and confirmed that no comments regarding this property have been received. Mr. Suddath stated that the original Conditional Use Permit was issued to David Castilon, who is now Ms. Nolen's ex-husband. The legal issue is the reason this continuation request is one year late in being revisited.

Mr. Suddath provided the site plan and photos of the building and sign.

Mr. Rainey called Ms. Nolen forward.

Ms. Nolen stated that her business is conducted by appointment only, adding that the hours of operation are Monday–Friday 7:30-9:30am and 3:00-6:00pm, Saturdays opened until 5:00pm, with 15 minute drop-offs and pick-ups. Ms. Nolen stated that there are three “yards” to keep dogs separated by size, adding that there is a garden shed on the property.

Mr. Rainey opened the public hearing.

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

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

Mr. Wright stated that he did not.

Mr. Holt stated that the original application is not completely filled out and asked if the fee had been paid.

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Mr. Suddath stated the \$300 renewal fee was paid and explained that, at the time the original request was submitted, the requirements were not as stringent.

Mr. Stamper asked for clarification of the reason for the need of a Conditional Use Permit.

In response, Mr. Suddath stated that it is needed because customers are coming to the house. Mr. Holt asked Mr. Marshall if this property should be inspected by the Codes Department.

Mr. Wright stated that because Ms. Nolen stated that this is a drop-off and pick-up business, no inspection will be required.

**Mr. Stamper made a motion to approve a two-year continuation of the Conditional Use Permit, seconded by Mr. Holt. The motion passed unanimously.**

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

- 8. AAA Auto Glass LLC** was requesting a continuation of a Conditional Use Permit to conduct an auto glass repair shop. Subject property is located at **4030 HWY 31W, Cottontown, TN 37048**, is on Tax Map 056, Parcel 053.01, contains 6.4 acres, is zoned Agricultural (A) and is in the 12<sup>th</sup> Voting District (Michael Guthrie and Justin Nipper). The adjoining property owners were notified by regular mail.

Mr. Suddath provided an aerial, photos of the property and of vehicles parked on the property. Mr. Suddath presented example motions.

Mr. Rainey called on Mr. Wright.

Mr. Wright stated that it would be unfair to retroactively require businesses, currently operating under a Conditional Use Permit, to receive a Certificate of Occupancy, if the general public were not visiting the premises. Mr. Wright stated that it will not be necessary for this business to obtain a Certificate of Occupancy.

Mr. Rainey called Mr. Phillip Fulmer, Jr. forward, and asked if all the cars present on the lot were waiting for glasswork.

Mr. Phillip Fulmer, Jr. stated that on the day the photos were taken, repair work being completed to his driveway.

Mr. Suddath stated that he does not notify landowners of when he will take the photos.

Mr. Rainey opened the public hearing.

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

Mr. Stamper asked if any comments have come in from the public.

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Mr. Suddath stated that no comments have been received.

Motion to approve a two-year continuation of the Conditional Use Permit by Ms. Webster, seconded by Mr. Holt. The motion passed unanimously.

Mr. Suddath stated that he is working on a Resolution that was requested previously by the BZA, for wedding venues to be required to go before the Planning Commission. Mr. Suddath stated that the Resolution will be presented during the November BZA meeting.

Mr. Rainey asked if the Board should require venues that come back for a continuation of their permit, to go through the procedure of Planning Commission approval, which will be a requirement of future venue applications.

Mr. Suddath stated that it would be difficult to impose new conditions on previously granted permits if the original conditions are still being followed.

Mr. Rainey suggested that if a venue receives complaints or violates the original conditions, it may fall under the scrutiny of the new Resolution.

Mr. Suddath stated that the biggest problem is the event venues which have been turned down, but continue to operate illegally.

Mr. Rainey inquired as to why they have not been shut down.

Mr. Suddath stated that they are in the legal process of doing so.

Motion to adjourn by Ms. Webster, seconded by Mr. Holt.

Meeting adjourned at 6:13 pm.