

SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
October 8, 2020
5:00 p.m.

SUMNER COUNTY ADMINISTRATION BUILDING
BETHEL BROWN COMMISSION CHAMBERS
355 N. BELVEDERE DRIVE
GALLATIN, TN. 37066

MEMBERS PRESENT:

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

STAFF PRESENT:

JOSH SUDDATH, DIRECTOR OF DEVELOPMENT SERVICES
KATHY YOUNG, ASSISTANT TO THE DIRECTOR OF DEVELOPMENT SERVICES
TERRY HAYNES, DEPUTY BUILDING INSPECTOR

Mr. Rainey called the meeting to order and asked if there were any changes to be made to the agenda. There being no changes, Mr. Rainey stated that the Agenda stands as presented. Next, Mr. Rainey asked for approval of the September minutes.

Ms. Webster made a motion to approve the September Minutes, seconded by Mr. Stamper. Motion passed unanimously.

At this time, Mr. Rainey turned the meeting over to Mr. Suddath for staff presentation.

- 1. Liliana Silva** (Randall Beach, landowner) is requesting a Temporary Use Permit to conduct a one-day Rodeo on subject property. Subject property is located at **3542 Hartsville Pike, Castalian Springs, TN, 37031**, is on Tax Map 130, Parcel 007.02, contains 5.01 acres, is zoned Rural Residential (RR) and is in the 3rd Voting District (Alan Driver and Steve Graves). **The adjoining property owners were notified by certified mail and was advertised in The Gallatin News on Thursday, September 24, 2020.**

Mr. Suddath provided an overview of the property, stating that the applicant is requesting a Temporary Use Permit from the BZA to authorize the conducting of a one-time Rodeo to be held on October 25, 2020. Mr. Suddath explained that the application has been submitted under Chapter 11, Section 1101, Subsection N, of the County Zoning Resolution, which provides criteria for “Temporary Use Permits”, which are processed as Special Exceptions.

Mr. Suddath stated that several comments and questions have been received related to this item. Next, Mr. Suddath displayed an aerial photo of the property, a photo of the posted BZA sign, a letter of agency and multiple photos of the property. Mr. Suddath explained that the access for this property is actually located on the adjoining property, adding that the ingress/egress easement is recorded on the deed. Additionally, Mr. Suddath stated that the adjoining land owner, whose land the easement is on, has expressed opposition to this event request.

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Further, Mr. Suddath explained that to access the property, one must drive between two stone pedestals. Mr. Suddath explained that the driveway on the subject property has steep banks on either side that will make turn-around difficult. Mr. Suddath stated that the event is proposed to be held on the back of the property.

Next, Mr. Suddath explained that under the previous Zoning Resolution, no provisions were made for the BZA to consider applications for nonpermanent “Special Event” type applications. However, under the current Zoning Resolution, Mr. Suddath explained that provisions provided at Chapter 11, Section 1101, N make allowance for these types of events, which must go to the BZA for a Special Exception. Mr. Suddath then listed several categories of “Temporary Uses” which include:

- Carnival, Circus, or Fair
- Sales of Foods or Merchandise
- ***Outdoor Performances (This application categorized by staff under this category) Live music is part of application, in addition to other activities***
- Seasonal Attractions
- Fireworks Sales Tents
- Community Events and Tent Assemblies
- Borrow Pits

Mr. Suddath explained that the requested use is categorized as Outdoor Performances, and stated that *temporary use permits may be issued for outdoor plays or musical performances in any residential or institutions district provided that any traffic generated by the temporary use shall not use minor residential or neighborhood streets and can be accommodated on arterial or collector streets, and provided further that in the event amplified sound systems are used, such sound shall not be a public nuisance nor be conducted later than 10:00 PM. Such permits shall be limited to two (2) days, The Board of Zoning Appeals may consider requests for extensions, per the Zoning Resolution requirements.*

With regards to those requirements, Mr. Suddath explained how this request will meet these requirements:

- 1) Property is zoned “Rural Residential”
- 2) All traffic proposed to access SR-25 (Hartsville Pike) which is categorized as a major arterial roadway
- 3) Sound amplification propose, applicant agrees to cease amplification by 10:00 PM
- 4) Event is scheduled to last one day
- 5) Applicant proposes to make this an annual event
- 6) Outdoor performances approvals may not be renewed administratively; Item must return to the BZA prior to any additional similar events.

Mr. Suddath then displayed the Event Summary provided by the applicant, the Public Notice published in The Gallatin News and a hand-drawn Site Plan, which was accepted in lieu of a professional site plan due to time constraints. Mr. Suddath then explained the Site Plan.

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Next, Mr. Suddath explained the 4 (four) required findings for special exceptions, in Chapter 14, Section 1411, Subsection D of the Zoning Resolution which states that a Special Exception shall only be granted provided the Board makes specific findings that it:

1) Is so designed, located, and proposed to be operated so that the public health, safety and welfare will be protected;

Staff Interpretation: The event is proposed to accommodate approximately 250-300 people. It will access a Major Arterial Road as is required by the Zoning Resolution. Means of ingress and egress into the site are of concern. The driveway into the site is rough and narrow. Turnaround is impossible at some locations. Emergency vehicles would likely have difficulty getting into and out of the event location.

The County is currently under a State of Emergency related to the COVID 19 Pandemic. Such gatherings as this one are likely not in the interest of the public health generally at this time.

2) Will not adversely affect other property in the area in which it is located;

Staff Interpretation: Applicant has made an effort to concentrate activity to the south of the property to be as far away from neighboring residences as possible. Applicant has agreed to end the event and all sound amplification by 10:00 pm, as per the Zoning Resolution. Item is proposed to last one day, with the potential for renewals in the future if specifically granted by the BZA.

3) Conforms to all applicable provisions of this Resolution for the district in which it is to be located and is necessary for public convenience in that location and if applicable, meets the specific standards below (in Chapter 14).

Staff Interpretation: The use appears to conform to applicable provisions of the County Zoning Resolution for Temporary Use Permits categorized under the "Outdoor Performances" category. Such Temporary Uses are allowed in the Rural Residential Zone if granted a Special Exception by the BZA.

4) Shall be located so as to be compatible with the surrounding area and provide safety to those using the facility.

Staff Interpretation: The proposed use is a one day rodeo proposed to be located in a largely Agricultural and Residential area. Means of ingress and egress into the site are of concern. The driveway into the site is rough and narrow. Turnaround is impossible at some locations.

Emergency vehicles would likely have difficulty getting into and out of the event location.

The County is currently under a State of Emergency related to the COVID 19 Pandemic. Such gatherings as this one are likely not in the interest of the public health generally at this time.

Mr. Suddath completed his presentation with example motions.

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

Mr. Stamper asked how the applicant plans to resolve some of the issues.

Mr. Rainey called the applicant forward.

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Ms. Liliana Silva stepped forward.

Mr. Rainey stated that the road on the property appears to be rough and narrow, and asked if the landowner proposes to improve the road.

Ms. Silva stated that they plan to widen and gravel the road, if they are granted the Special Exception.

Mr. Rainey asked how wide they plan to widen the road.

Ms. Silva stated that it is wide enough for one vehicle.

Mr. Rainey stated that in order for emergency vehicles to pass, the road width must be 20 feet. Mr. Rainey asked Mr. Terry Haynes for confirmation of the width.

Mr. Haynes confirmed the 20 foot required width for emergency vehicles.

Mr. Stamper asked if there were plans for traffic control.

Ms. Silva stated that they will speak with the sheriff's department to hire security and traffic control.

Mr. Rainey stated that the entrance to the property is located over someone else's property via an easement, and then asked Ms. Silva if she had contacted the land owner regarding the commercial use of the easement and asked if there had been provisions to repair the driveway if it is damaged.

Ms. Silva stated that she has spoken with Mr. Rudy and he said they may use it, with an agreement that they will repair any damage done.

Mr. Rainey asked if they have permission to widen the driveway.

Ms. Silva stated that she will ask the city for permission to widen the driveway.

Mr. Suddath stated that there will be no special approvals required to improve the driveway.

Mr. Holt asked for the timeframe to do the required improvements, given the planned event date.

Ms. Silva stated that they could reschedule the date of the event in order to complete the required improvements.

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Mr. Holt asked about the entrance width between the brick posts at the entrance.

Ms. Silva stated it is only wide enough for one vehicle.

Mr. Holt raised concern of emergency personnel access.

Mr. Suddath stated that the bigger concern is the steep banks of the driveway which prevent turn around. Mr. Suddath stated that a fire truck would not be able to get on the property.

There was discussion.

Mr. Holt asked if there are any provisions in place due to the Covid-19 pandemic.

Ms. Silva stated that they will follow the safety guidelines for Covid-19 including the mask requirement, hand sanitizing stations, taking temperatures and keeping distance. Ms. Silva stated they will have signs posted stating these guidelines.

There was discussion as how these guidelines would be enforced.

Next, Mr. Holt asked if the adjacent landowner had given written permission for the attendees, to this event, to utilize their driveway.

Ms. Silva stated that they do not have written permission, yet.

Mr. Holt asked if the landowner who expressed opposition was the adjacent landowner.

Ms. Silva stated that 3536 is the address that contains the easement and confirmed that it is the address of the complainant.

Mr. Holt asked if this is the landowner who was previously stated to have given permission to use their drive.

Ms. Silva stated yes.

There was discussion of noise.

Mr. Rainey asked about social distancing of the 250-300 proposed attendees on bleachers.

There was discussion.

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Returning to the neighbor's opposition to this request, Mr. Suddath confirmed that Ms. Pavia, 3536 Hartsville Pike, is the landowner of the property on which the easement for the applicant's property is contained. Mr. Suddath explained that Ms. Pavia expressed opposition of this event due to concerns of noise, traffic and Covid-19.

Mr. Utley asked how many bulls would there be in the rodeo.

Ms. Silva stated there would be eight bulls.

Mr. Utley asked about the corral size.

Ms. Silva stated that there would be 20 panels of 10 feet each.

Mr. Utley asked if there is a fence around the property in case the bulls get outside of the corral.

Ms. Silva confirmed there is a fence around the property.

Mr. Rainey asked how tall the corral will be,

Ms. Silva stated that it would be seven feet tall.

Mr. Utley asked if there is a limited number of people that may gather in one place per the emergency resolution for the ongoing pandemic.

Mr. Suddath stated that while he is unsure of the actual wording, the intent of the emergency resolution is to limit large gatherings.

There being no further questions, Mr. Rainey stated that Board must determine if the answers, provided by the applicant, satisfy the concerns of the Board.

Mr. Rainey then stated the following concerns:

- Access over a neighbor's property for a commercial use
- Steepness of the driveway
- Gathering of large group during Covid -19.

Mr. Holt stated similar concerns, adding that the noise level is another concern for the surrounding residents.

Mr. Rainey stated that the event is planned for October 25, and added that the time constraint makes it impossible to get the concerns resolved.

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Mr. Stamper stated that the idea of this event is exciting and has potential to be a good thing for the community, if in a different place, in a different time. Mr. Stamper went on to state that he has concerns with safety issues and there being only two and a half weeks to address those. Therefore, Mr. Stamper suggested that this event may be delayed to allow time to resolve the issues. Mr. Stamper added that he could not support this request at this time.

Mr. Rainey also stated that this could be a great event for Sumner County, adding that he wished circumstances were different. Mr. Rainey stated he would entertain a motion.

Mr. Holt asked if a deferral with conditions is an option.

Mr. Suddath stated that if the applicant were willing to reschedule the event, the concerns of the Board could be addressed. Mr. Suddath stated that the drive could be widened and graveled, and a letter authorizing access from the neighboring property owner whose land contains the easement.

Mr. Rainey called Ms. Silva forward and asked if the event could be postponed until the answers to the question and concerns are resolved.

Ms. Silva stated they could postpone the event.

Mr. Stamper made a motion to defer, seconded by Ms. Webster.

Mr. Rainey asked that this be an indefinite deferral to give the requestor time to work with staff to obtain solutions to the concerns.

Mr. Suddath reiterated that the concerns that must be addressed are:

- The driveway must be regraded and graveled, including cutting down the steep banks. Then, the County Engineer must be able to inspect the driveway.
- Obtaining a written agreement from Ms. Pavia allowing public access to the event, via the private easement.

Ms. Silva stated that she has no problem postponing until the spring of next year.

Mr. Rainey stated that he would also like a more precise plan for Covid preparedness before the next submittal.

Mr. Suddath asked if it would be appropriate to require a formal Site Plan by a surveyor or engineer, before the next submittal, as parking is a concern. The Board expressed that this should be required.

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The motion made by Mr. Stamper was restated as an indefinite deferral, with Ms. Silva's consent, and has been made to allow the applicant time to comply with the BZA's recommendations that she:

- a) Obtain written consent from the adjoining property owner, Rudy and Jessie Pavia, 3526 Hartsville Pike, giving permission for the public to use the easement located on their property.
- b) Widen the driveway to a width of 20' and re-gravel driveway in order to accommodate emergency vehicle access. Staff must inspect and approve driveway upon completion.
- c) Provide plan for Covid-19 safety preparedness
- d) Submit a Site Plan prepared by a professional surveyor or engineer, depicting ingress/egress, rodeo event area, bleacher area, food truck location and public parking, etc.

Ms. Webster made a motion to adjourn, seconded by Mr. Stamper. Meeting was unanimously adjourned at 5:44 pm.