

**SUMNER COUNTY BOARD OF ZONING APPEALS  
MINUTES  
SEPTEMBER 13, 2018  
5:00 p.m.**

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

**MEMBERS PRESENT:**

MARK MCKEE, JR. CHAIRMAN  
BRUCE RAINEY, VICE-CHAIRMAN  
SANDY WEBSTER  
DON DICKERSON  
JOHN WESLEY JONES

**MEMBERS ABSENT:**

**STAFF PRESENT:**

JOSH SUDDATH, DIRECTOR OF PLANNING & STORMWATER  
LINDA MCCULLOUGH, ASSISTANT TO THE DIRECTOR OF PLANNING & STORMWATER

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

Mr. Suddath started the meeting with a brief presentation of the explanation of a Conditional Use Permit according to the Sumner County Zoning Resolution.

1. **Jackie Ray Gambrell** is requesting a continuation for the Conditional Use Permit granted on August 14, 2003, to conduct an automobile repair and dismantling shop. Subject property is located at **3706 Highway 76, Cottontown, TN 37048**, is on Tax Map 074, Parcel 031.00, contains 1.10 acres, is zoned Residential A (RA), and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper). **Adjoining property owners were notified by regular mail.**

Mr. Suddath stated that this is a continuation of a Conditional Use Permit granted to Mr. Grambrell in 2003 to allow him to conduct an automobile repair and dismantle shop in a Residential area. Mr. Suddath stated that the original motion was that zero (0) dismantled vehicles be on site at any time, no piles of visible car parts (can be in dumpster), and a Site Plan to be approved by the Sumner County Planning Commission.

Mr. McKee opened the floor for the public hearing.

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

Mr. Jackie Ray Gambrell came forward to explain and represent this request.

Mr. Rainey asked Mr. Suddath if he saw anything on the property that would violate the current Conditional Use Permit.

Mr. Suddath stated that the original Conditional Use Permit stated that there should be no dismantled vehicles on the property at any time. Mr. Suddath stated that he did not see any dismantled cars; however, there were numerous cars on the property.

Mr. Jones asked Mr. Gambrell if he was staying in compliance with his permit.

Mr. Gambrell stated that he was and that there were no junk cars sitting around.

Mr. Jones stated that he was the person that sent Mr. Gambrell to get a Conditional Use Permit instead of going to court and the Board put in the conditions for this permit. Mr. Jones asked Mr. Gambrell if he was familiar with those conditions.

Mr. Gambrell stated that he was familiar with the conditions.

Mr. Jones stated that the last time Mr. Gambrell was before the Board, he was granted approval as long as he stayed in compliance.

Mr. Gambrell stated that he was not in the shop much anymore, that his son was doing most of the shop work and he was driving the tow truck. Mr. Gambrell went on to say that due to family issues, he might have to close the shop soon.

Mr. Jones stated that he did not have a chance to drive by and look at Mr. Gambrell's property, but when he does, if Mr. Gambrell is not complying with the conditions, he will request that Mr. Gambrell come back before the Board.

Mr. Gambrell stated that he mostly ran the tow truck now.

Mr. Jones asked Mr. Gambrell if he had gotten a dumpster on the property to store parts in.

Mr. Gambrell stated that the dumpster was on the corner of the lot.

There was discussion concerning the corner lot that is zoned commercial and is owned by Mr. Gambrell.

**Motion to approve the continuation of the Conditional Use Permit for two years by Mr. Rainey, seconded by Mr. Dickerson. Motion passed unanimously.**

2. **David and Yvonne Pierson** are requesting a continuation for the Conditional Use Permit granted on September 11, 2014, to conduct a screen printing business in a 30X50 detached building. Subject property is located on **3760 Highway 76, Cottontown, TN 37048**, is on Tax Map 074, Parcel 029.00, contains 5.00 acres, is zoned Residential A and Agricultural, and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper).

**Adjoining property owners were notified by regular mail.**

**This item was moved to the end of the agenda since the applicant was not present for the meeting.**

3. **Timothy W. Pharris** is requesting a continuation for the Conditional Use Permit granted on September 8, 2016, to conduct a small gun shop in a residence. Subject property is located at **255 West Hester Road, Cottontown, TN 37048**, is on Tax Map 074, Parcel 119.02, contains 1 acre, is zoned Agricultural, and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper).

**Adjoining property owners were notified by regular mail.**

Mr. Suddath stated that this is a continuation of a Condition Use Permit granted on September 8, 2016, to conduct a small gun shop on the premises. Mr. Suddath stated that there have been no comments or complaints reported to his office concerning this item.

Mr. McKee opened the floor for the public hearing.

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

Mr. Timothy Pharris came forward to explain and represent this request.

**Motion to approve the continuation of the Conditional Use Permit for two years by Mr. Dickerson, seconded by Mr. Rainey. Motion passed unanimously.**

4. **Charles M Letterman** is requesting a Conditional Use Permit to operate an Internet based business for the sale and purchase of Class I firearms. This business will be Internet based only and will not be open to the public. Subject property is located at **967 Weeping Willow Road, Hendersonville, TN 37075**, is on Tax Map 101, Parcel 017.06, contains 5.79 acres, is zoned Agricultural, and is in the 4<sup>th</sup> 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, August 30, 2018.**

Mr. Suddath stated that this Conditional Use Permit would allow the applicant to operate an Internet based business for the purchase and sale of firearms. Mr. Suddath stated that there have been no comments or complaints reported to his office concerning this item.

Mr. McKee opened the floor for the public hearing.

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

Mr. Charles Letterman came forward to explain and represent this request.

**Motion to approve the Conditional Use Permit for two years by Mr. Rainey, seconded by Ms. Webster. Motion passed unanimously.**

5. **Baker Donelson (Harold & Carol Akins, property owner)** is requesting a Conditional Use Permit to construct a 255' wireless telecommunications tower with a 100' X 100' lease area. This tower will be lighted per FAA Regulations. Subject property is located at **3811 Highway 52E, Bethpage, TN 37022**, is on Tax Map 029, Parcel 061.01, Contains **P/O** 71.50 acres, is zoned Agricultural, and is in the 1<sup>st</sup> Commission Voting District (Moe Taylor & Terry Wright).

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, August 30, 2018.**

Mr. Suddath stated that this Conditional Use Permit would allow the property owners to lease a 100' X 100' space to Verizon Communications. This tower will be a 255' lighted telecommunications tower that meets FAA regulations. Mr. Suddath stated that that Baker Donelson, representative for Verizon Communications, has submitted a complete set of construction plans including the fall radius. Mr. Suddath stated that there has been a couple of calls to the planning office concerning this item, but were not complaints, just requests for more information.

Mr. Suddath stated that the next steps for applicant is:

- This item will need to come before the Sumner County Regional Planning Commission at their October meeting in order to receive Final Site Plan approval.
- After receiving Planning Commission approval, the project may move forward, and a Building Permit may be obtained
- After getting a Building Permit, construction may begin.

Mr. McKee opened the floor for the public hearing.

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

Mr. Joey Hargis with Baker Donelson came forward to explain and represent this request.

Motion to approve a request for a Conditional Use Permit for Verizon Communications to construct and operate a cell tower at 3811 Highway 52E, Bethpage, TN 37022, and to provide a positive recommendation to the Sumner County Regional Planning Commission, contingent upon:

- Submission of a letter from a licensed engineer certifying that the tower meets most recent design requirements and standards of the Electronics Industries Association with application for a building permit
- Submission of a “Determination of No Hazard” letter from the Federal Aviation Administration concurrent with application for a building permit

by Mr. Jones, seconded by Mr. Rainey. Motion passed unanimously.

6. **Thomas Harris** is requesting a Conditional Use Permit to operate an Internet based business for the sale and purchase of firearms. Subject property is located at **854 Calvert Ridge Road, Westmoreland, TN 37186**, is on Tax Map 011, Parcel 042.00, contains 21.95 acres, is zoned Agricultural, and is in the 1<sup>st</sup> 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, August 30, 2018.**

Mr. Suddath stated that this Conditional Use Permit would allow the applicant to operate an Internet based business for the purchase and sale of firearms. Mr. Suddath stated that there have been no comments or complaints reported to his office concerning this item.

Mr. McKee opened the floor for the public hearing.

**Ms. Gidget Leonard, 900 Calvert Ridge Road**, came forward to express her concern about having selling and buying firearms so close to her children and their home.

Mr. Suddath asked to Mr. McKee if in fairness to the applicant, he could explain this business and how it will be conducted.

Mr. Thomas Harris came forward to explain and represent this request.

**Ms. Diana Anderson & Mr. Jason Anderson, Calvert Ridge Road**, came forward to express their concerns about the applicant having inventory of firearms on this property and customers coming to the property. Mr. Anderson also asked Mr. Harris if there would be a shooting range on the property to test the firearms.

Mr. Harris stated that there would not be any inventory stored on the property. Mr. Harris stated that the firearms would be shipped to the property and shipped back out.

Mr. Harris expressed that he did not want people coming and going like that and there would not be any firing range on the property.

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

**Motion to approve the Conditional Use Permit for two years by Mr. Rainey, seconded by Ms. Webster. Motion passed unanimously.**

- 7. Church at Bledsoe Creek** is requesting a Dust Free Parking Variance for a proposed parking lot expansion at the subject property. Subject property is located at **101 Harsh Lane, Castalian Springs, TN 37031**, is on Tax Map 111, Parcel 043.01, contains 6.28 acres, is zoned Residential 1A (R1A), and is in the 3<sup>rd</sup> 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, August 30, 2018.**

Applicant is requesting a Dust Free Parking Variance to add an additional 88 parking spaces to allow member a place to park for church services. The parking lot currently contains 81 parking spaces and due to the growing of church members, the additional spaces would allow members a place to park. The applicant will be replacing the gravel with asphalt as financial means become available.

Mr. McKee opened the floor for the public hearing.

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

Mr. Chad Ashman came forward to explain and represent this request.

Mr. Rainey stated that his calculations show that with 81 parking spaces and two (2) people per car, that would be about 240 members.

Mr. Ashman stated that the count that he has taken over the past 18 months was an average of 1.9 to 2.5 people per vehicle.

Mr. Rainey asked Mr. Ashman if the church took a count every Sunday.

Mr. Ashman stated that there was a count of people and vehicles every Sunday.

Mr. Rainey asked Mr. Ashman if the church anticipated the growth of 176 new members.

Mr. Ashman stated that now they have an average of 85-90 vehicles parking in the grass. Mr. Ashman stated that to have the new parking area paved would cost around \$95,000.00 and that the church does not have the funds to spend at this time. Mr. Ashman stated that adding the gravel now would be the first step of having the parking lot paved.

Mr. Rainey asked Mr. Suddath if this item has been heard by the Planning Commission.

Mr. Suddath stated that it had not.

Mr. Rainey asked Mr. Suddath if any engineering plans of drainage calculations had been turned in.

Mr. Suddath stated that no plans had been submitted.

Mr. Rainey asked Mr. Ashman if the church had considered doing the drive in sections instead of at one time.

Mr. Ashman stated that they had talked about it and decided that it would make better sense to do the gravel at one time when all the equipment was there. Mr. Ashman stated that the church only had approval to add the gravel at this time.

Mr. Rainey asked Mr. Ashman if there was a contingency plan for the parking lot if the dust becomes a problem.

Mr. Ashman stated that the parking lot would only be used on Sundays between 9 am to noon and on Wednesday night.

Mr. Rainey asked Mr. Ashman if there were provisions in place should the dust become a problem.

Mr. Ashman stated there was not.

Mr. Rainey stated that he would like to see a plan in place if the dust should become a problem because if complaints were made then the Board would have no choice but to shut the parking lot down. Mr. Rainey stated that this puts the Board in a bad situation since there are no engineering plans or drainage calculations.

Mr. Dickerson asked when the parking lot was paved.

Mr. Ashman stated that the current parking lot was put in late 80's and remained gravel until 3 years ago when it was paved.

Mr. Dickerson asked if there were any complaints.

Mr. Ashman stated that there were no complaints that he is aware of.

Mr. Suddath stated that the dust is an issue but one solution would be that when the church is ready to pave the drive, they must submit engineering plans and drainage calculations. The Planning Commission could also hear this at that time.

Mr. Rainey stated that if this variance was approved, what stops the church from going ahead and paving the parking lots without the Board knowing about it and no engineering plans or drainage calculations done.

Mr. Rainey asked Mr. Ashman how soon they want to put down the gravel.

Mr. Ashman stated that as soon as they can. Mr. Ashman stated that the excavating company that they would be using is about 4 weeks out on jobs and it would at least be then.

Mr. Jones asked Mr. Ashman if they could do the area for 50 spaces and see how that works out.

Mr. Ashman stated that could be possible.

Mr. Jones stated that if the area for the 50 spaces were used, that would give them approximately 100 new members.

Mr. Ashman stated that they now are averaging about 250 members and will be having upcoming events that many will attend.

**Motion to approve a request for a Dust Free Parking Variance contingent upon:**

- **Applicant must go before the Planning Commission before paving begins with drainage calculations, and construction plans.**
- **Applicant must come back before the Board if the dust in the parking lot becomes a problem.**

**by Mr. Rainey, seconded by Mr. Jones. Motion passed unanimously.**

- 8. John D Davis is requesting a 14 foot Front Yard Setback Variance for a detached structure. Subject property is located at 1000 Deann Court, Cottontown, TN 37048, is on Tax Map 037H, Group A, Parcel 010.00, contains .92 acres, is zoned Agricultural, and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper). **Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, August 30, 2018****

Applicant is requesting a 14 foot Front Yard Setback for a detached structure on .92 acres. Mr. Suddath stated that on August 18, 2018, a County Staff observed a newly constructed 1,300 square foot detached structure after a citizen complaint. Staff noted that no permits had been pulled for this structure and that the structure was encroaching 14 feet into the required front yard setback. Staff contacted applicant, and at that, time the applicant stated that he was under the impression at the structure was in the side yard and that the edge of the road was the beginning of the setback. Since this property is a corner lot, both the east and the south property lines are considered “front yards” per the Zoning Resolution. The side of the home where the structure has been constructed is considered the front yard by the county since that’s where the driveway is and it’s where the home’s address is. The applicant then requested the variance.

Mr. McKee opened the floor for the public hearing.

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

Mr. John Davis & Ms. Lisa Walton (also a resident at 1000 Deann Court) came forward to explain and represent this request.

Mr. Rainey asked Mr. Davis if he had a contractor to build the structure.

Mr. Davis stated that he did.

Mr. Rainey asked who the contractor was.

Mr. Davis stated that the contractor was Max Steel Builders. Mr. Davis also stated that he did not know that he needed a permit to build a carport nor did he realize that since he lived on a corner lot, that he had two front yards.

Mr. Rainey asked Mr. Suddath if the contractor was legal.

Mr. Suddath stated that he did not know but many contractors that specialize in these types of structures will build the structure but do not obtain the permits themselves. They put that burden on the homeowner and the contractor consider them as the builder.

Mr. Rainey stated that he would like to request that the Codes Department or the Planning Department file a written complaint with the Board of Licensing against this contractor.

Mr. Rainey stated that he is sorry for the owner, but the Board has seen similar cases in the past years and stated that to be fair to the others with the same situation, he cannot approve this.

Mr. Davis stated that they did not mean to violate any setback rules and stated that with other issues with the property, there was nowhere else the structure could go.

Mr. Rainey stated that was why he has a huge complaint with the contractor. Mr. Rainey stated that the contractor should know these things.

Mr. Davis stated that it was his understanding that he was the contractor and the builder would be the sub-contractor.

Mr. Rainey stated that this is not the way business should be conducted.

Mr. Davis stated that this is their fault, but had no idea that he did not have a side yard. The thought where he was putting the carport was the side yard and had to put the carport where it is because of the field lines and septic.

Mr. Rainey asked Mr. Davis about a permit.

Mr. Davis stated that he did not know that he needed a permit for a carport.

Mr. Davis stated that he has several letters from neighbors in support for this item to be approved. Mr. Davis submitted those for the records.

Mr. Davis stated that he bought the house two years ago and rented the house before that and that he has done improvements on the house since purchasing the house.

Ms. Lisa Walton stated that they did not mean to break any rules but just wanted a carport to keep vehicles out of the weather and a building for Mr. Davis to work on their motorcycles and other things upon his retirement.

Mr. Davis stated that with the septic challenges, there was nowhere else to put the carport.

Mr. Rainey stated that Mr. Davis comment was true, but still does not give him the right to build without a permit.

Mr. Jones asked Mr. Davis if the contractor was from Sumner County.

Mr. Davis stated that the company is out of Murfreesboro but has a retail store in Gallatin.

Mr. Jones asked if the company mentioned to them that they needed a permit to build this carport.

Mr. Davis stated that they did not.

Mr. Jones asked if this company poured the concrete.

Ms. Walton stated that she had a different company to pour the concrete. Ms. Walton stated that no one told her she had to have a permit or she would have gotten one.

Mr. Jones stated that just about everything now needs to be permitted.

Mr. Jones stated that if their neighbors want to build a carport and they do not get a permit, come to this Board for approval after the carport is there, it puts the Board in a position of approving the whole neighborhood. By doing this, it makes the rules and restrictions non-existing.

Mr. Davis and Ms. Walton stated that they understood, but just did not know the procedure.

Mr. Dickerson asked Mr. Rainey if a breezeway could be a solution.

Mr. Rainey stated that it would not help this situation.

Mr. Rainey asked Mr. Suddath if the setback would be 40 feet.

Mr. Suddath stated that most setbacks are 40 feet with the exception of some state routes. Mr. Suddath also stated that in most every county, there is flexibility with rear and side yard setbacks but almost never with front yard setbacks due to safety concerns.

Mr. Jones asked if Deann Court was a dead end road.

Mr. Davis stated that it was.

Mr. Jones asked if Deann Court was a thoroughfare.

Mr. Davis stated that it was not.

Mr. Dickerson asked if Deann Court was a dead end or ended in a cul-de-sac.

Ms. Walton stated that it ended in a cul-de-sac.

Mr. Jones asked how many feet from the edge of the road to the carport.

Mr. Davis stated that it was 40 feet on the Deann Court side.

Mr. Jones stated that it was still 14 feet too close.

Mr. Jones asked if Deann Court was a county road.

Mr. Suddath stated that it was a county road.

Mr. Jones asked Mr. Rainey if there was any other way this could work. Mr. Jones stated that he would hate to see them have to tear this down.

Mr. Rainey stated he would hate that too.

Mr. Davis asked if there could be any kind of prevision that if there were any kind of a problem those 40 feet was needed, he would make it right. Mr. Davis stated that he would do whatever it takes from keep from having to tear it down.

**Motion to approve the 14-foot Front Yard Setback Variance by Mr. Jones, seconded by Mr. McKee. A voice vote was not unanimous, therefore a roll call vote was taken:**

**Mr. McKee – Yes Mr. Rainey – No Ms. Webster – No**

**Mr. Dickerson – No Mr. Jones – Yes**

**Motion did not pass.**

Mr. Davis and Ms. Walton asked the Board to not make them tear the carport down.

Mr. Rainey stated that this situation is terrible and has heart felt sympathy for them, but on the other hand, they have had to make other people tear down structures that were not in compliance. Mr. Rainey stated that he could not rule in favor of them knowing that he had turned down others in the past.

There was discussion.

Mr. Rainey stated that if Mr. Davis had come before the Board beforehand, they would have found ways to make the carport in compliance. However, to build the structure and then ask for forgiveness makes it hard to do anything about it.

Mr. Rainey asked Mr. Suddath if there was any other way of making this work.

Mr. Suddath stated that he could not think of any other way to make this work.

There was discussion about a possibility of moving the structure.

Mr. Rainey stated to Mr. Davis that he has the right to take this matter to court and get the Board's decision over ruled.

Mr. Suddath stated that Mr. Davis could take this matter to Chancery Court to appeal the Board's decision, since Chancery Court is the only avenue allowed by State Law to appeal a BZA decision.

There was more discussion.

Mr. Jones asked if there could be a stipulation that as long as Mr. Davis occupied this property, the carport could stay, but if he sold the house, the carport would have to be removed. Discussion followed.

Mr. Suddath stated that per Roberts Rules of Order, there was a motion on the item, a vote was taken, and the motion did not pass, therefore the item before the Board of Zoning Appeals is decided at this time. There is no further action that needs to be made by the Board of Zoning Appeals. The motion was denied.

Mr. Jones stated that under the Roberts Rules of Order the motion could be brought back up.

Mr. Suddath stated that he was not totally sure as to the procedure outlined in Roberts Rules, but it was his understanding that the item can be brought back up but at a separate meeting with 3/5 concurrence. Roberts Rules is in place to keep a motion from being brought up repeatedly. Mr. Suddath stated that it was his understanding that Roberts Rule does not allow an item to be brought back at the same meeting by members not on the prevailing side of the original motion. Mr. Suddath stated that he can email the members what Roberts Rules stated and if the BZA members want to bring this item back, they have that right.

Mr. Jones asked how this item could be put back on the agenda.

Mr. Suddath stated that if this it was to be put back on the agenda for next month, the applicant would have to start the procedure all over with the public notice and letters sent to the adjoining property owners.

Mr. Rainey stated that he would consider putting this back on the agenda after counseling with the County Attorney and asking that she be present.

**Motion to allow this item to be heard at the October meeting by Mr. Rainey with the following condition:**

- **Staff talk to the County Attorney and forward the BZA's request that she be present at the October meeting.**

**seconded by Mr. Dickerson. Motion passed unanimously.**

Mr. Suddath stated that the applicant will need to advertise the public notice again, resubmit the application with the fee, and adjoining property owners be notified.

There was discussion concerning the motion.

2. **David and Yvonne Pierson** are requesting a continuation for the Conditional Use Permit granted on September 11, 2014, to conduct a screen printing business in a 30X50 detached building. Subject property is located on **3760 Highway 76, Cottontown, TN 37048**, is on Tax Map 074, Parcel 029.00, contains 5.00 acres, is zoned Residential A and Agricultural, and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper).  
**Adjoining property owners were notified by regular mail.**

The applicant was not in attendance.

**Motion to disapprove the continuation of the Conditional Use Permit without prejudice by Mr. Rainey with the following condition:**

- **Applicant must start over with the process for approval of a Conditional Use Permit seconded by Mr. Jones. Motion passed unanimously.**

**Motion to adjourn by Ms. Webster, seconded by Mr. Rainey. Motion passed unanimously.**

Meeting Adjourned at 6:40 p.m.

