

**SUMNER COUNTY BOARD OF ZONING APPEALS  
MINUTES  
SEPTMEBER 12, 2019**

**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**

**STAFF PRFESENT:**

**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 all members were present.

Mr. Rainey stated that changes to the agenda are as follows:

Item #4 - Toni Murray, Conditional Use Permit, has been withdrawn by the applicant.  
Item #6 – Justin and Tyra Palmer, Conditional Use Permit, has been withdrawn by the applicant.  
Item #3 – Charles and Kathy Stuart, Hardship Variance, has been deferred, at the request of the applicant.

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

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

1. **BRANDON SCHELL** was requesting a Conditional Use Permit to house an office for a construction business. This request was accompanied by a request for a Variance from requirements in the County Zoning Code at Article IV, Section 15 related to utilizing a mobile home for a non-residential purpose. Mr. Schell was also requesting a Sign Variance and a Dust-free Variance. Subject property is located at **1567 Brinkley Branch Rd., Hendersonville, TN, 37075**, is on Tax Map 116, Parcel 008.04, contains 16.9 acres, is zoned A (Agricultural) and R1A (Residential A) and is in the 11th Commission Voting District (Scott Langford and Jeremy Mansfield).  
**This is a public hearing and was advertised in the Gallatin News on August 15, 2019. The adjoining property owners were notified by certified mail.**

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Mr. Suddath provided an overview of this item, providing an aerial photo of the property. Mr. Suddath displayed a site plan and cover letter provided by the applicant as well as a picture of the structure, existing sign and gravel parking, Mr. Suddath explained that in the County's Zoning Regulations, a mobile home may not be used for anything other than a residence and the automobile storage area must be a dust-free or paved area. At this time, Mr. Suddath concluded his presentation with sample motions to the Board.

**Mr. Brandon Schell of 1567 Brinkley Branch Rd, Hendersonville, TN, 37075**, came forward to explain that in a desire to keep the surrounding land undeveloped, he purchased the property, further explaining that the existing mobile home would be a desirable office space.

Mr. Rainey opened the floor for public hearing, asking if anyone would like to speak to this request.

Mr. Stamper asked if there had been any public comments regarding this property.

Mr. Suddath replied that one person called in opposition to the request, but called the following day stating approval.

Mr. Stamper asked for clarification of the term "Dust-free Variance".

To explain, Mr. Suddath stated that according to the Zoning Code, commercial and non-residential use parking for customers and/or employees must be dust-free. Mr. Suddath explained that "dust-free" usually means paved, but in some rural settings it may be a gravel that has been spray-treated with Pensupress which is sprayed on the gravel and soaks in to create a dust-free surface.

Mr. Suddath explained that the Dust-free Variance, would be requesting to keep the existing gravel drive as it is.

At this time, Mr., Rainey stated that the structure on this property is not visible from the road. Mr. Rainey went on to give a brief history of the Dust-free Provisions in the Zoning Resolution.

**Mr. Holt made a motion to approve a Conditional Use Permit to house an office for a construction business as well as a request for a Variance from requirements in the County Zoning Code at Article IV, Section 15 related to utilizing a mobile home for a non-residential purpose as well as a Sign Variance and a Dust-free Variance with the following conditions**

**a) Applicant shall obtain any applicable building and zoning permits from the County Building and Codes Department**

**b) Applicant shall obtain any required permits from the Tennessee Department of Environment and Conservation related to septic disposal.**

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

Mr. Rainey introduced the next agenda item and turned the meeting over to Mr. Suddath for staff presentation.

2. **LYTONIO B WINSTON** was requesting a variance from requirements contained at Article VI, 1.4(2), of the Sumner County Zoning Resolution, related to placement of an addition to a primary structure within a required front yard setback. Subject property is located at **1701 Andy Jackson Trail, Gallatin, TN, 37066** is on Tax Map 158EC, Parcel 021.00, being Lot No.147 on the plan of Grasslands Ranch and Landings, Section III, is zoned Residential A (RA) and is in the 6th Commission Voting District (Deanne Dewitt and Luke Tinsley).

**This is a public hearing and was advertised in the Gallatin News on August 1, 2019. The adjoining property owners were notified by certified mail.**

Mr. Suddath stated that there was one adjoining property owner who called regarding this request. Mr. Suddath gave an overview of the property, providing a copy of the public notice and the plat that was originally approved in 1976 as the Grasslands Ranch and Landing Subdivision.

Mr. Suddath then pointed out a road (Steeplechase North) that was originally platted, with a temporary turn-around to be used during construction of the subdivision. Because the road was never developed, the resulting road stub was platted and dedicated to the county by the developer, with the intent of developing out the road in the future. Mr. Suddath explained that due to surrounding lot development and construction, the road stub will never be developed into a road, but that because the road stub is shown on the plat, it must be treated as a road, and therefore must be protected by the setback requirements.

Mr. Suddath provided an aerial of the site plan and photos of the house, explaining that the addition to the existing structure will encroach 20 feet into the 50 foot required front yard setback.

At this point, Mr. Suddath informed the assembly that the property owner on the other side of aforementioned road stub (Steeplechase North) presented a Quitclaim Deed to the Office of Planning and Stormwater showing ownership of the road stub.

Mr. Suddath completed his presentation with sample motions.

Mr. Rainey asked if the requestor was present.

**Mr. Lytonio Winston of 1701 Andy Jackson Trail, Gallatin, TN 37066**, came forward to state his request for the Setback Variance to build an addition to his house. Mr. Winston further stated that he is aware that the neighbor possesses a Quitclaim Deed to the road stub.

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At this time, Mr. Rainey opened the floor for public hearing.

**Mr. Brent Fuqua, 2547 Steeplechase Road North, Gallatin, TN 37066**, came forward, identifying himself as the neighbor with the quitclaim deed to the road stub. Mr. Fuqua stated that he has no issue with the request for the 20 foot encroachment into the 50 foot setback.

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

In order to understand the presence of the road stub on the plat, Mr. Rainey gave a little background of the Grasslands Ranch and Landing subdivision, stating that 5-7 years after this subdivision was developed, an adjoining property owner got his land re-surveyed which effectively killed that “future roadway” that was included on the plat. Mr. Rainey stated that the developer did not want a cut-through to his property, so the County Commission stopped it. Mr. Rainey further explained that a land-locked lot had been created, which would only have road frontage from the road stub that was never developed. Mr. Rainey stated that therefore, it is conceivable, that the developer could have conveyed that strip of land.

**Mr. Stamper made a motion to approve a request for a front yard setback for 1701 Andy Jackson Trail, Gallatin, TN, 37066, allowing a 20 foot encroachment into required front yard setback subject to the following condition:**

**a) Applicant must obtain all relevant building/zoning permits from the County Building Codes Office.**

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

At this time, Mr. Rainey stated that the next agenda item had been deferred by the applicant.

3. **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 is a public hearing and was advertised in the Gallatin News on August 15, 2019. The adjoining property owners were notified by certified mail.**

**Deferred by applicant.**

Mr. Rainey stated that the next agenda item has been withdrawn by the applicant.

4. **TONI MURRAY** was requesting a Conditional Use Permit to conduct a horse boarding facility and an event center in an existing structure. Subject property is located at **328 West Lee Etta (formerly Douglas Bend Road), Gallatin, TN 37066** is on Tax Map 147 Parcel

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011.06, contains 5.4 acres, is zoned Residential A (RA), and is in the 6<sup>th</sup> Commission Voting District (Deanne Dewitt and Luke Tinsley)

**This is a public hearing and was advertised in the Gallatin News on Thursday, August 29, 2019. The adjoining property owners were notified by certified mail.**

**Withdrawn by the applicant.**

5. **DEREK JAWORSKI** was requesting a continuation of a Conditional Use Permit to conduct a Hair Salon and Gym. Subject property is located at **401 Happy Hollow Road, Goodlettsville, TN 37072**, is on Tax Map 122, Parcel 035.00, contains 4 acres, is zoned Residential 1-A (R1A), and is in the 11<sup>th</sup> Commission Voting District (Scott Langford and Jeremy Mansfield).

The adjoining property owners were notified by mail.

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

**Mr. Derek Jaworski of 401 Happy Hollow Road, Goodlettsville, TN 37072**, came forward to state his request for a continuation of a Conditional Use Permit to conduct a Hair Salon and Gym.

Mr. Rainey opened the floor for public hearing.

Mr. Marshall Wright requested that the Board require that the Building and Codes Department conduct an inspection and issue a C.O. for this structure.

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

**Motion to approve a request for a continuation of a Conditional Use Permit to conduct a Hair Salon and Gym at 401 Happy Hollow Road, Goodlettsville, TN 37072, contingent upon obtaining a Certificate of Occupancy from the Building and Codes Department, by Mr. Dickerson.  
Seconded by Ms. Webster. Motion passed unanimously.**

Mr. Rainey stated that the next agenda item has been withdrawn by the applicant.

6. **JUSTIN AND TYRA PALMER** were requesting a Conditional Use Permit to conduct an event venue. Subject property is located at **221 Cassandra Drive, Cottontown, TN 37048** is on Tax Map 075 Parcel 024.04, contains 23.24 acres, is zoned Residential A (RA), and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper).

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**This is a public hearing and was advertised in the Gallatin News on Thursday, August 29, 2019. The adjoining property owners were notified by certified mail.**

**Withdrawn by the applicant.**

7. **COREY GARDNER with C G DEVELOPMENT COMPANY, LLC** was requesting a Conditional Use Permit to use an existing structure as office space, as well as to store masonry equipment and supplies at the subject property. Subject property is located at **2451 Scotty Parker Road, Portland, TN, 37148** is on Tax Map 080 Parcel 017.00, contains .84 acres, is zoned Agricultural (A), and is in the 4th Commission Voting District (Jerry Foster and Leslie Schell).

**This is a public hearing and was advertised in the Gallatin News on Thursday, August 29, 2019. The adjoining property owners were notified by certified mail.**

Mr. Suddath gave an overview of this item, providing a history of this property, stating that it is classified as Commercial, by the County Assessor, because the structure has previously been used as a gas station and convenience store, known as The Town and Country Market.

Mr. Suddath stated that staff has received several inquiry calls regarding this property.

Mr. Suddath displayed aerial photos of the property as well as the public notice, site plan and other photos. Mr. Suddath concluded his presentation with example motions and Conditions of Approval.

Mr. Rainey asked if the requestor was present.

**Mr. Corey Gardner of 2451 Scotty Parker Road, Portland, TN, 37148**, came forward and stated that he had nothing to add.

Mr. Rainey opened the floor for public hearing.

**Mr. Larry Bandy**, a neighbor to the north, stated that the building and property are an eyesore, stating that Mr. Gardner brings loads of junk and dumps it on the property and stores it all around the building.

After confirming that no one else in the audience wished to speak, Mr. Rainey closed the public hearing and asked Mr. Wright if he had knowledge of this property.

Mr. Wright stated that he has seen the aerial views of the property and that his Department does have some property maintenance concerns. Mr. Wright stated that if a privacy fence is a requirement for this property, the specifics and restrictions need to be considered.

Mr. Rainey stressed that the structure must be inspected for safety and Code compliance.

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Mr. Rainey went on to state that the property must have some screening to block the view of the supplies being stored on the property.

**Mr. Stamper made a motion to approve a Conditional Use Permit at 2451 Scotty Parker Road, Portland, TN, 37148 to use an existing structure as office space, as well as to store masonry equipment and supplies at the subject property with conditions a-d.**

**Seconded by Mr. Rainey for a point of discussion.**

At this point, Mr. Dickerson asked for definition of the required screening, including height and transparency.

Mr. Rainey asked if Mr. Dickerson would like to make an amendment to the motion, defining the required screening.

In response, Mr. Dickerson confirmed, at which point, discussion ensued resulting in the specifics of the fence to require a minimum height of 6 feet and to be a 2-sided wooden, 2:1 vertical construction.

**Mr. Stamper stated his desire to amend his motion with the aforementioned fence requirements added to condition c).**

- a) Property owner shall obtain any applicable building and/or zoning permits from the County Building and Codes Department, to include issuance of a certificate of occupancy**
- b) Property owner shall obtain any required septic permits from the Tennessee Department of Environment and Conservation**
- c) Within 60 days of approval, property owner shall construct fence to screen the property in accordance with submitted site plan. Fence shall be a minimum height of 6 feet, 2-sided wooden 2:1 vertical construction.**
- d) Within 60 days of approval, property owner shall address any existing property maintenance issues to the satisfaction of the County Building and Codes Department.**

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

**8. Board of Zoning Appeals Resolution 2019-01, related to Plot Plan requirements for items appearing for consideration before the Board of Zoning Appeals.**

As an introduction to this item, Mr. Rainey stated that during the August BZA Meeting, the Board expressed the desire to have a Plot Plan requirement resolution brought before the Board for approval.

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At this time, Mr. Suddath explained the need for a formal Zoning Resolution requiring a professional Plot Plan to accompany all Appeals going before the Board. Mr. Suddath stated that without the requirement of a professional Plot Plan, in the past, the BZA has been expected to make decisions based upon hand-drawn and often-times speculative plans which may be missing important information required to make a well-informed decision. Mr. Suddath further explained that a Professional Plot Plan protects the County in that it reveals setbacks, easements, septic area and building footprints to the inch, thereby avoiding future issues. Mr. Suddath added that it also provides an exhibit, in hand, to hold the developer/contractor to.

Mr. Suddath clarified that applications generally must provide a Plot Plan per the current zoning code. This Resolution would restate this requirement, which has been long-standing but sometimes not enforced.

Mr. Suddath explained that for Conditional Uses upon appeal, the Professional Plot Plan forms the basis of the approval and allows the BZA to understand the scope of the proposed business, as well as provides a scale to identify if a business is expanded illegally, thereby protecting the County as well as the property owner.

Mr. Suddath stressed that the requirement for the Professional Plot Plan puts the onus or responsibility on the surveyor, not the property owner to get the Plot Plan correct.

Mr. Suddath explained that the Resolution would clarify the BZA policy of requirement of a Plot Plan, prepared by a licensed professional surveyor, to accompany all requests for Conditional Use Permits and Variances that involve construction or placement of a new building or expansion of an existing building.

Mr. Suddath added that the Resolution also directs staff only to place items on the agenda that have fulfilled the required criteria, and to consider incomplete any application not meeting these requirements.

Concluding his presentation, Mr. Suddath presented sample motions to the Board.

Mr. Rainey opened the floor for public hearing.

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

Mr. Rainey stated that this Resolution has been needed for a long time, elaborating that he, “wanted to state, for the record, that he is not for this because he is a surveyor, he is in favor of this as a member of this Board”. He further explained that he is in favor of this Board making decisions based on fact instead of fantasy or supposition. Mr. Rainey stated that if he knows of a job coming to the BZA, he normally turns down that job.

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**Motion by Mr. Holt to approve Board of Zoning Appeals Resolution 2019-01, related to plot plan requirements for items appearing before the Sumner County Board of Zoning Appeals.  
Seconded by Mr. Stamper.**

At this point, Mr. Dickerson asked if, hypothetically, there were a concrete slab only, is this construed as a building.

Mr. Suddath explained that, in general, the Zoning Codes states that porches, patios and other extensions from a building, are included in setback requirements, yet driveways are treated differently.

Mr. Rainey asked if free-standing concrete slabs fall under that requirement.

Mr. Suddath stated that, if behind the house, it could probably go 5 feet from the property line, but he would have to research that further to see how that would be addressed.

Mr. Rainey stated that most concrete slabs end up with a structure over it at some point.

Expressing concern, Mr. Stamper asked whether some applicants may not submit a professional plot plan due to the cost, further asking if this could present a financial burden for some applicants.

Mr. Suddath stated that it could be a financial burden in some instances.

Mr. Rainey added that while it does cost money to get a professional plot plan, the money spent is inconsequential compared to the devastating consequences of having to tear down or repair mistakes.

**Motion passed unanimously.**

**Other Business**

Mr. Rainey stated a need, regarding any potential event venues that are located on a minor road, for approval from the Planning Commission before coming before the BZA for approval. He further stated that when a venue is on a minor road, there is always an issue of access and potential traffic.

Mr. Rainey went on to express a need for a formal resolution to state that any Agri-tourism or event center that is not on a major thoroughfare or a collector road, must first go before the Planning Commission for access approval before coming to the BZA.

Mr. Suddath informed the Board that there is a provision in the Codes that makes allowances for sending an item to the Planning Commission regarding ingress/egress issues, therefore this Board has justification, in the Zoning Code, to require that these items go before the Planning Commission prior to coming to the BZA.

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Mr. Stamper asked if the BZA would still have the final say in the issuance of the Conditional Use Permits.

Mr. Rainey stated that the BZA would not be thwarting any responsibilities, it would simply be asking the Planning Commission to use their expertise to help make a well-informed decision.

Mr. Suddath displayed Zoning Code Article IV, Section 13.7, stating, *“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”*.

Mr. Rainey stated that at a minimum, potential event venue first be required to go to the Planning Commission for access adequacy and to address any issues early in the process.

Mr. Suddath stated that the Planning Commission is the expert body that can make determinations about ingress/ingress, traffic, road access and interpreting the major thoroughfare plan. Having the finding of the Planning Commission will back up the BZA decisions.

**At this point, Mr., Stamper made a motion to prepare a Resolution requiring all event venue/entertainment Conditional Use applications to be presented to the Planning Commission for ingress/egress approval prior to submission before the BZA. Seconded by Ms. Webster. Motion passed unanimously.**

Mr. Suddath stated that the Hardship Variance granted on June 13, 2019, at 1016 North Sugartree Lane for Eileen Giadone is no longer needed.

There being no further business, Ms. Webster made a motion to adjourn. Seconded by Mr. Dickerson. Meeting was adjourned at 6:05 pm.