

SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
September 10, 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
MARSHALL WRIGHT, CODES DIRECTOR

Mr. Rainey called the meeting to order.

Ms. Webster made a motion to approve the August Minutes as written, seconded by Mr. Utley.

Motion passed unanimously with Mr. Stamper abstaining.

Mr. Rainey introduced the Consent Agenda and stated that there had been a request to move Consent Agenda Item #4 to the Regular Agenda.

At this time, Mr. Rainey read the following consent agenda items:

CONSENT AGENDA:

- 1. Timothy Pharris** is requesting a continuation of a Conditional Use Permit originally granted on September 8, 2016, to conduct a small gun shop in residence. Subject property is located at **255 West Hester Road, Cottontown, TN, 37048**, is on Tax Map 074, Parcel 119.02, contains 9.49 acres, is zoned Rural Residential (RR) and is in the 12th Voting District (Michael Guthrie and Justin Nipper). **The adjoining property owners were notified by regular mail.**

- 2. Thomas Harris** is requesting a continuation of a Conditional Use Permit originally granted on September 13, 2018, to operate an Internet business for the purchase and sale of firearms. Subject property is located at **854 Calvert Ridge Road, Westmoreland, TN, 37048**, is on Tax Map 011, Parcel 042.00, contains 21.95 acres, is zoned Rural Residential (RR) and is in the 1st Voting District (Terry Wright and Moe Taylor). **The adjoining property owners were notified by regular mail.**

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- 3. Charles Letterman** is requesting a continuation of a Conditional Use Permit originally granted on September 13, 2018, to operate an Internet based business for the sale and purchase of Class I firearms. 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 Rural Residential (RR) and is in the 4th Voting District (Jerry Foster and Leslie Schell). **The adjoining property owners were notified by regular mail.**

Ms. Webster made a motion to approve the Consent Agenda, seconded by Mr. Stamper. Motion passed unanimously, approving a two year continuation of the Conditional Use Permits for the three properties listed above.

REGULAR AGENDA:

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

- 4. Jackie Ray Gambrell** is requesting a continuation of a Conditional Use Permit originally granted on August 14, 2003, to conduct an automobile repair and dismantling shop. Subject property is located at **3706 HWY 76, Cottontown, TN 37048**, is on Tax Map 074, Parcel 031.00, contains 1.10 acres, is zoned Rural Residential (RR) and is in the 12th Voting District (Michael Guthrie and Justin Nipper). **The adjoining property owners were notified by regular mail.**

Mr. Suddath began his presentation by providing a brief history of the property and displaying the original motion to approve the Conditional Use Permit which was granted on August 14, 2003. Mr. Suddath explained that the original conditions of approval included:

- 1) *“That there be zero (0) dismantled vehicles on site at any time, not even for a minute or for an hour*
- 2) *That there be no piles of car parts, he can have a dumpster delivered to put the car parts in, but these parts cannot be outside*
- 3) *And he will have to prepare a site plan to be approved by the Sumner County Regional Planning Commission as to his parking, etc... Let them (PC) look at his site plan and let them (PC) control this,*
- 4) *That this use on appeal will cease within twenty-four hours of the time that anybody that is an official that works for Sumner County sees a dismantled vehicle on site,*
- 5) *And that this body at least have an annual report from the codes department on the status of Mr. Gambrell’s property.”*

Mr. Suddath displayed an aerial photo of the property, the business sign (approved in 2003), and multiple photos of the property. Mr. Suddath pointed out the presence of an RV that appears to have electricity, with electric lines visible.

Mr. Suddath concluded his presentation with example motions.

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Mr. Rainey opened the Public Hearing and called Mr. Jackie Ray Gambrell forward.

Mr. Rainey asked Mr. Gambrell if all the vehicles on the property are operable and licensed.

Mr. Gambrell stated that all but one vehicle works.

Mr. Rainey reminded Mr. Gambrell of the original condition of approval that no dismantled vehicles may be outside.

Mr. Gambrell stated that he thought it was ok if it had a license plate on it.

Mr. Rainey then asked if anyone lives in the camper on the property.

Mr. Gambrell stated that no one lives in the campers.

There being no one else wishing to speak, Mr. Rainey closed the public hearing.

Mr. Utley asked Mr. Suddath about the electricity running to the camper.

Mr. Suddath stated that there was an observation of the electric lines running to the camper, but unsure of how they were connected.

At this point, Mr. Rainey referenced a photo showing cars in the trees, and asked Mr. Gambrell to come forward, again.

Mr. Rainey asked whether the two vehicles in the photo were licensed and running.

Mr. Gambrell stated that the Thunderbird runs, but the second car is not safe to drive. Mr. Gambrell added that the electrical cords running to the camper are to run the refrigerator and that “the other white cords...ehhh...we don’t need to dig into that one”. Mr. Gambrell added that there are some problems on his property that he wanted to stop.

Mr. Suddath stated that he believes that what Mr. Gambrell is referring to are cameras located on the property.

Mr. Utley asked staff if all five of the original conditions are being met.

Mr. Suddath stated that the conditions seem to be worded to include mainly dismantled vehicles, with concern that this may become an auto salvage lot. Mr. Suddath added that while there were quite a few vehicles at different levels of operability on the lot, they did not appear to be dismantled and scattered.

At this point, Mr. Rainey asked Mr. Marshall Wright if he had been to this property.

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Mr. Wright, Codes Director, stated that although it has been a while since he had been there, the property has always been a problem. Mr. Wright stated that the debris is much more visible in the winter, when the foliage is gone. Mr. Wright stated that in the winter, one can see an excessive amount of machinery parts on the property, in the back woods. Mr. Wright added that his department has receive multiple complaints regarding this property, over the years. Then, Mr. Wright recommended that there be confirmation that the property is cleaned up before receiving the continuation of this conditional use permit.

Mr. Holt asked about the original condition of approval #5.

Mr. Suddath stated that it appears that the original intent was to keep an eye on the property, requiring an annual renewal of the permit. Mr. Suddath stated that it has instead been reviewed every two years, adding however, that if required, this permit may be reviewed annually.

Mr. Holt stated that this condition hasn't been met.

Mr. Rainey pointed out that staff has contradicted what the property owner has told the Board, regarding miscellaneous parts strewn on the grounds of the property. Suggesting fairness to all parties, Mr. Rainey stated that it may be best to defer this item until the first of the year, allowing staff the time to see that the property is cleaned up and return to the Board with a report of compliance and action.

Mr. Stamper asked if this deferral would preclude Mr. Gambrell from conducting business.

Mr. Rainey stated that this will be the will of the Board, adding that the property looks better than when it first came to the BZA. Mr. Rainey stated that he believes that if a timetable is set for around the first of the year, Mr. Gambrell could be allowed to continue business, until such time as the board review the property for full compliance.

Mr. Stamper made a motion to continue this item until the January, 2021 BZA meeting, with the following conditions:

- a) that the property owner clean up the property**
 - b) an understanding that the Codes department will inspect the property and provide a letter of compliance**
 - c) no fees or public notice letters must be sent for the January meeting,**
- seconded by Mr. Holt. Motion passed unanimously.**

Mr. Suddath clarified that Mr. Gambrell will be required to return to the BZA in January, 2021.

There was discussion related to allowing Mr. Gambrell to continue operation of the business.

Before turning the meeting over to Mr. Suddath for staff presentation, Mr. Rainey stated his intent to abstain from voting on the next item, as Mr. Henry is a former client of his.

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5. Michael and Judy Henry are requesting a variance from County requirements at Chapter 4, Section 404 of the Sumner County Zoning Resolution related to encroachment of a primary structure within a required side yard. Subject property is located at **1082 Hickory Harbor Drive, Gallatin, TN, 37066** is on Tax Map 157FA, Parcel 011.00, contains 0.62 acres, is zoned Rural Residential (RR) and is in the 6th Voting District (Luke Tinsley and Deanne Dewitt). **The adjoining property owners were notified by certified mail and was advertised in The Gallatin News on Thursday, August 27, 2020.**

Mr. Suddath provided an overview of the property and provided an aerial photo of the property, the public notice, and photos of the property with a photo of the BZA sign posted on the property. Mr. Suddath confirmed that staff had received two calls regarding this request.

Mr. Utley asked about the aerial photo, asking for confirmation of the tree line between properties.

Mr. Suddath confirmed and then displayed the Plot Plan, noting the absence of the surveyor's stamp. Mr. Suddath stated that a revised Plot Plan with the surveyor's stamp would be required. Mr. Suddath explained that the proposed addition to the house will encroach to within 5 feet of the property line.

Next, Mr. Suddath explained that for lots less than 40,000 square feet, that were created prior to the adoption of zoning, the setbacks shall be the same as for Subdivisions located within the Suburban Residential District, which declares the side yard setback at 10 feet.

Mr. Suddath then displayed the original plat, recorded in July of 1964 and a resubdivision of the property, recorded in October of 1996, stating that this may have invalidated the previous "grandfathered status". In addition, Mr. Suddath displayed a Plat Amendment, adjusting the lot line for septic purposes, which was approved by the Planning Commission on July 28, 2020.

Mr. Suddath concluded his presentation with example motions

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

Mr. Wright stated that he had nothing to add.

At this time, Mr. Rainey opened the Public Hearing.

Mr. Andy Leath, representative for the applicant, stated that Mr. and Mrs. Henry own both of the lots affected by this variance. Mr. Leath stated that the landowner's intention is to sell the larger lot in the future. Mr. Leath explained that the lot line could not originally be moved further, to avoid a variance, because it would have been encroaching into the septic area.

There being no one else wishing to speak, Mr. Rainey closed the Public Hearing.

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Mr. Utley made a motion to approve a request for a variance allowing an encroachment into a side yard setback to within 5 feet of a side property line for 1082 Hickory Harbor Drive, in accordance with a submitted plot plan contingent upon:

a) All required permits must be obtained from the Sumner County Building Codes Office, seconded by Ms. Webster. Motion passed unanimously with Mr. Rainey abstaining.

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

6. Vasile and Lidia Stremciuc are requesting to appeal a staff decision denying a building permit due to front yard setback encroachment. Subject property is located at 191A Lawrencetown Road, Gallatin, TN 37066 is on Tax Map 103, Parcel 081.00, contains 6.26 acres, is zoned Rural Residential (RR) and is in the 4th Voting District (Jerry Foster and Leslie Schell). **The adjoining property owners were notified by certified mail and was advertised in The Gallatin News on Thursday, August 27, 2020.**

Mr. Suddath provided an overview of the property, and the request to encroach in the required yard.

Mr. Suddath confirmed that there had been several calls regarding this request upon seeing the public notice sign posted on the property.

Mr. Suddath displayed the Public Notice, photos of the property and the Plot Plan submitted by the applicant. Mr. Suddath stated that the plot plan has the front setback inaccurately labeled as the side setback. Mr. Suddath went on to state that the setbacks for the Rural Residential Zoning are as follows: Front yard – 40 feet, Side yard – 20 feet and Rear yard – 30 feet.

Mr. Suddath then displayed the setback diagrams used by staff as guidance for understanding setbacks.

Mr. Suddath concluded his presentation with example motions.

Mr. Rainey asked for confirmation that, if the variance were allowed, the house would be only 6 feet from the easement.

Mr. Suddath stated that the actual driveway is on an adjoining easement. Mr. Suddath explained that, yes, if the driveway was moved over into the easement for this property, then the house, if allowed this variance, would be located only 6 feet from the easement. Mr. Suddath added that the flag stem of this lot contains a pond. Mr. Suddath also added that neither the previous nor the current zoning code specifies a distance that the house must be from the ingress/egress easement. Mr. Suddath added that a structure may never be placed within an ingress/egress easement.

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

Mr. Wright stated that he had nothing to add.

At this time, Mr. Rainey opened the Public Hearing.

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Mr. Suddath called the first speaker forward.

Mr. Scott Goodwin, Lawrencetown Road, stated that he owns the second and third lot behind Mr. Stremciuc and shares the driveway with him. Mr. Scott Goodwin stated that he is in favor of Mr. Stremciuc's request. However, Mr. Goodwin stated his concern that whatever is done, does not jeopardize the future buildability of 192C and 192D Lawrencetown Road.

Mr. Rainey asked Mr. Goodwin if he owns the property containing the shared driveway.

Mr. Goodwin confirmed that he owns 192C and 192D containing the shared drive.

Mr. Rainey asked if there is a joint maintenance agreement.

Mr. Goodwin confirmed that there is a joint maintenance agreement, in the deed, between lots A-D, and stated that he wishes that whatever is decided, the 4 houses may still be built on the lots.

Mr. Suddath called the next speaker forward.

Mr. Vasile Stremciuc, stated that he is asking for the variance because his lot has a low spot, and the house would not be visible if he built in that low spot.

Mr. Rainey asked Mr. Stremciuc what would prevent him from moving the house back 20 more feet from the lot line.

Mr. Stremciuc stated that it would be 2-3 feet too low.

Mr. Rainey suggested that the height desired could be achieved with the use of 4 blocks.

Mr. Stremciuc stated that the house would not look good with the extra steps.

Mr. Rainey stated that in order to grant a variance, there must be a good reason to grant the request. Other than aesthetics, Mr. Rainey asked if there was any other reason for the request.

Mr. Stremciuc stated that if placed in the lower area, his house will not be visible from the road.

Confirming that no one else wished to speak, Mr. Rainey closed the Public Hearing.

Mr. Rainey stated that while he appreciates the request by Mr. Stremciuc, he sees no reason to disagree with staff.

Mr. Utley asked for the original setbacks on this lot.

Mr. Suddath stated that when lots are created that are over 5 acres, they are created by deed and exempt from Planning review. Therefore, Mr. Suddath stated, flag lots can create problems.

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Mr. Rainey stated that the County had setbacks when these lots were created.

Mr. Suddath stated that on lots under 5 acres, the setbacks must be shown on the plat, however, when tracts over 5 acres are created, the setbacks don't become apparent until you apply for a building permit.

Mr. Rainey stated that the County has setbacks on all lots in the County, however, the staff's interpretation of the location of the front yard is determined upon the permitting process. Mr. Rainey stated that staff has been consistent with the setback determination on these tracts, and explained that the front lot line is located where the lot widens for placement of a structure, with the front being the line parallel to the road.

Mr. Utley stated that a landowner would not have knowledge of where the front lot line is until he goes to build on the property, adding that the creation of these flag lots results in a not good situation, creating a hardship to the person who purchases the lot.

Mr. Suddath explained that lots that are 5+ acres are exempt from staff review or regulation. Mr. Suddath added that state law prohibits Planning review of lots that are 5 or more acres.

Mr. Utley stated that the landowner would not have knowledge of the setback until ready to build.

Mr. Rainey stated that staff has brought continuity to the determination of lot setbacks. Mr. Rainey went on to state that if this lot variance is allowed, there will be concerns of the close proximity of a future driveway and the close location to the lot in front of this lot. Mr. Rainey then asked Mr. Suddath to display the photos of the property.

Mr. Suddath displayed the photos.

Mr. Rainey stated that he does not see any topographical hardship on the property, only a gradual slope.

Mr. Utley asked if there is anything in the Zoning Regulations that clearly states that the front lot line is the road side of the lot.

Mr. Suddath stated yes and referred to the Setback Diagram located in the current Zoning Resolution, Chapter 11, Section 1101, showing the front lot line as being parallel to the road.

Mr. Holt made a motion to confirm staff's determination that a primary structure proposed to be located as depicted upon a plot plan prepared by William Crenshaw is within a required front yard setback, seconded by Mr. Stamper. Motion passed unanimously.

There being no further business, Ms. Webster made a motion to adjourn, seconded by Mr. Stamper. Motion passed unanimously. Meeting adjourned at 5:56 pm.

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