

**SUMNER COUNTY BOARD OF ZONING APPEALS**  
**MINUTES**  
**JUNE 10, 2021**  
**4:00 P.M. Work Study**  
**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  
SHAWN UTLEY  
JIM HARRISON

**MEMBER ABSENT:**  
MAC HOLT

**STAFF PRESENT:**  
JOSH SUDDATH, DIRECTOR OF DEVELOPMENT SERVICES  
KATHY YOUNG, ASSISTANT TO THE DIRECTOR OF DEVELOPMENT SERVICES  
TODD HUBBARD, INSPECTOR

Mr. Rainey called the meeting to order, and stated that a quorum is present with one member absent. Mr. Rainey asked if there were any changes to the Agenda.

Mr. Suddath stated that there were no changes.

At this time, Mr. Rainey welcomed Mr. Jim Harrison to the Board, stating that he replaces Mr. Stamper.

Mr. Rainey called for a motion on the May 2021 Minutes.

**Ms. Webster made a motion to approve the May 2021 Minutes, seconded by Mr. Utley. Motion passed unanimously.**

Next, Mr. Rainey introduced and summarized the Consent Agenda.

**CONSENT AGENDA**

1. **Stephen A. and Patricia Gay Claypool** are requesting a continuation of a Conditional Use Permit that was granted on May 10, 2007, to be utilized by Trinity Ministries as office space for up to six employees. Subject property is located at **365 Lee Road, White House, TN 37188**, is on Tax Map 075, Parcel 019.00, contains .92 acres, is zoned Rural Residential (RR), and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper). **The adjoining property owners were notified by regular mail.**
2. **Brian Seehafer** is requesting a continuation of a Conditional Use Permit to conduct a fabrication and mechanical repair shop in an existing building at the subject property. This shop services the farming and light commercial communities in the repair and fabrication of working components. Subject property is located at **1019A Dobbins Pike, Gallatin, TN**

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37066, is on Tax Map 092, Parcel 012.04, contains 9.22 acres, is zoned Rural Residential (RR) and is in the 3<sup>rd</sup> Commission Voting District (Alan Driver and Steve Graves).

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

3. **Gregory & Demetra Covrig** are requesting a continuation of a Hardship Variance for a relative to live in a detached structure on the subject property due to medical circumstances. Subject property is located at **425A Thompson Lane, Portland, TN 37148**, is on Tax Map 073, Parcel 032.01, contains 21.26 acres, is zoned Rural Residential (RR) 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. Utley asked staff if there have been any issues with these properties.

Mr. Suddath stated that there have been no complaints or issues raised concerning these Conditional Use Permits.

**A motion to approve the Consent Agenda, allowing:**

- a. a continuation of a Hardship Variance for 425A Thompson Lane, Portland Tennessee.**
- b. a continuation of a Conditional Use Permit to conduct a fabrication and mechanical repair shop in an existing building on the subject property at 1019A Dobbins Pike, Gallatin for a period of two years**
- c. a continuation of a Conditional Use Permit to conduct a fabrication and mechanical repair shop in an existing building on the subject property at 1019A Dobbins Pike, Gallatin for a period of two years,**

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

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

**REGULAR AGENDA**

1. **3 Boys Enterprises, LLC. dba Thunderdome Fireworks** (Steve Fann, landowner) is requesting a Special Exception to conduct a temporary fireworks stand on subject property. Special exception is being requested in accordance with Chapter 11, Section 1101, Subsection N.5 of the Sumner County Zoning Resolution, related to Fireworks Sales Tents. Subject property is located at **3901 Highway 31E, Bethpage, TN, 37022**, is on Tax Map 067, Parcel 002.01, contains 1.1 acres, and is zoned Commercial Neighborhood (CN) and is in the 1st Commission Voting District (Terry Wright and Moe Taylor). **The adjoining property owners were notified by certified mail and this item was advertised in The Gallatin News on Thursday, May 27, 2021.**

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Mr. Suddath provided an overview of the property and provided an aerial photo of the property and a copy of the Public Notice, published in The Gallatin News. Next, Mr. Suddath displayed the Plot Plan, provided by the applicant, depicting the fireworks tent, a portable storage building and a portable restroom. Mr. Suddath explained that everything is contained within the required setbacks, as required for the Commercial Neighborhood Zone.

Mr. Suddath stated that staff took pictures of the property, and added that the Board may need to look at the current ongoing use of the property. Mr. Suddath explained that a determination will need to be made whether the current use may need to be discontinued while the fireworks stand is being operated. Mr. Suddath went on to display the property photos, explaining that there are items for sale that include playsets, portable buildings, dog kennels and swings.

Mr. Suddath expressed two concerns: 1) he is not sure that a permit was obtained from the county to conduct the current business and 2) he does not believe that the site is adequate to conduct both businesses at the same time, and this use may need to be discontinued or permits obtained.

At this time, Mr. Suddath stated that the Zoning Resolution contains provisions provided at Chapter 11; Section 1101 makes allowances for “Temporary Use” applications, which must go to the BZA for a Special Exception prior to issuance of Temporary Use Permit. Mr. Suddath then provided several categories of “Temporary Uses” that are listed in the provisions, and explained that Fireworks Sales Tents are one of the uses listed.

Mr. Suddath explained the zoning resolution requirements regarding fireworks sales tents, including that it must be placed in a commercial or industrial district for up to two weeks prior to July 4th and January 1<sup>st</sup>. Mr. Suddath further stated that it must be removed no later than seven (7) days after July 4<sup>th</sup> or January 1<sup>st</sup>. Additionally, Mr. Suddath stated that all stands and tents must comply with all state and local codes, prior to obtaining a temporary use permit and all stands and tents must set back a minimum of forty (40) feet from the front property line.

Mr. Suddath stated that the State Fire Marshall will be conducting the inspections for this tent.

Mr. Suddath then reviewed the four general requirements/findings that must be met for Special Exceptions:

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

*Staff Interpretation: Fireworks stand is located in a location that is served by two adequately sized roads. Site has adequate ingress and egress. Any state and local permits related to on-the operation of the fireworks stand must be obtained.*

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

*Staff Interpretation: The proposed fireworks stand should **not adversely affect property in the vicinity**. Adjacent parcels appear to contain existing “Grandfathered” uses that do not conform to the County’s standards at this time. Adverse impacts are not anticipated.*

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- 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.

*Staff Interpretation: The item appears to conform to all applicable provisions of the County Zoning Resolution, and is located in a Commercial Zoning District, which is required for the Fireworks stand to be granted a Special Exception by the Board of Zoning Appeals. All stands and tents are at least 40 feet from any property line, although a temporary office is located closer to the property line, it is still within the required setback for the CN district.*

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

*Staff Interpretation: Fireworks stand is located in a location that is served by two adequately sized roads. Site has adequate ingress and egress. Any state and local permits related to on-the operation of the fireworks stand must be obtained.*

Mr. Suddath concluded his presentation with example motions and turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

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

Mr. Utley asked for the property owner to speak to this request.

Mr. Rainey stated that the property owner is not present.

**Mr. Utley made a motion to approve a request for a Special Exception allowing the issuance of a Temporary Use Permit related to the operation of a Fireworks Sales Tent at 3901 Highway 31E, Bethpage contingent upon:**

- a) Any existing commercial uses on site shall be terminated prior to the installation of any fireworks sales tent components.**
- b) All applicable requirements for Temporary Use Permits shall be met**
- c) Item shall obtain a Zoning Compliance and Building and Occupancy certification from the County and State Fire Marshal prior to operation, seconded by Mr. Harrison.**

At this point, Mr. Suddath stated that there may be someone in the audience that could speak to this request, as staff is interested in what is currently being conducted on this property.

Mr. Rainey asked if there is anyone present, that could speak to this request.

Jeff Christian, 3 Boys Enterprises, came forward and stated that they are requesting a temporary fireworks stand through July 6. Mr. Christian stated that he is not sure if the current business being conducted on the property is the landowner or someone else who has been allowed to use it.

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Mr. Rainey asked whom he is renting the property from.

Mr. Christian stated that he is renting the property from Mr. Fann, for 30 days.

Mr. Rainey suggested that Mr. Christian contact the landlord and have him contact staff to discuss concerns of the ongoing business.

Ms. Webster stated that a restaurant used to be on the property.

Mr. Rainey stated that it is incumbent on Mr. Christian to find out, because the motion on the floor is to approve his requested use and for the other use to discontinue.

Mr. Christian stated that the man who will operate their fireworks tent is the same man who sells the other things on the lot now.

Mr. Rainey stated that unless the current items are removed from the property, permission will not be granted to operate the fireworks stand.

Mr. Christian asked if that meant that the current items must be removed from the property.

Mr. Rainey confirmed that is correct; the removal of the current items from the property is a condition of the fireworks stand approval.

Mr. Suddath clarified that if both the fireworks stand and the current business items are on the property at the same time, this will be turned over to the law office for further action. Mr. Suddath added that the current business operator should go through this same process, to be approved to conduct business at this location.

Mr. Christian stated that he will let the current business operator know.

Mr. Suddath stated that the Fire Marshall will be contacted and asked to not issue the permit.

Mr. Suddath stated that he is not confident that this condition of approval will be adhered to; adding that the County has an obligation to ensure public safety, with regards to the access to and from this property.

**Mr. Rainey moved to amend the motion, adding:**

**d) the requestor has one (1) week from today to remove the items, related to the current, ongoing business, from the property, seconded by Ms. Webster.**

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Mr. Utley stated that he did not understand the amendment, as it is his understanding that a permit will not be issued until the current activity is ceased.

Ms. Webster stated that this is to give a 1-week time limit.

Mr. Rainey stated that although the requestor apparently does not have much control over the current business operator, he does have an investment in the property. Therefore, out of an abundance of fairness to him, stated Mr. Rainey, we are giving him a week to try to get this resolved. Mr. Rainey reiterated that staff has no comfort level whatsoever, that this condition will be abided by, and would prefer we turn this down.

Mr. Utley stated that we would never issue the permit if they did not meet the requirement of removal of the current items from the property.

Mr. Rainey stated appreciation of all input.

Ms. Webster stated that a timeline would hurry this along.

Mr. Rainey called for a vote on the amendment.  
The amendment passed, with Mr. Utley abstaining.

**Mr. Rainey called for a vote to the amended motion, as follows:  
To approve a request for a Special Exception allowing the issuance of a Temporary Use Permit related to the operation of a Fireworks Sales Tent at 3901 Highway 31E, Bethpage contingent upon:**

- a) Any existing commercial uses on site shall be terminated prior to the installation of any fireworks sales tent components.**
- b) All applicable requirements for Temporary Use Permits shall be met**
- c) Item shall obtain a Zoning Compliance and Building and Occupancy certification from the County and State Fire Marshal prior to operation.**
- d) the requestor has one (1) week from today to remove the items, related to the current, ongoing business, from the property.**

**Motion passed unanimously.**

Mr. Rainey explained that if staff is not satisfied in seven (7) days, the motion is gone.

At this time, Mr. Rainey recused himself from the next item, as he supplied the Plot Plan for the requestor.

Ms. Webster introduced the next item and turned the meeting over to staff.

- 2. Jonathan Lee is requesting a variance from County requirements contained at Chapter 13, Section 1304 of the Sumner County Zoning Resolution related to encroachment of a primary**

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structure within a side yard setback. Variance is being requested in accordance with Chapter 14, Section 1410 of the County Zoning Resolution. Subject property is located at **1064 Hickory Harbor Drive, Gallatin, TN, 37066**, is on Tax Map 157F Group A, Parcel 018.00, contains 0.5 acre and is zoned Rural Residential (RR) and is in the 6<sup>th</sup> Commission Voting District (Deanne Dewitt and Luke Tinsley). **The adjoining property owners were notified by certified mail and this item was advertised in The Gallatin News on Thursday, May 27, 2021.**

Mr. Suddath provided an overview of the property, stating that this variance will allow an addition to be constructed on the primary residence that would encroach 4 feet, 9 inches into each of the side yard setbacks.

Mr. Suddath displayed an aerial photo of the property, and the Public Notice that was printed in the newspaper. Mr. Suddath displayed Chapter 4, Section 404 of the Zoning Resolution, depicting the Bulk Regulations. Mr. Suddath stated that this lot was create in the 1960's, prior to subdivision regulations. Mr. Suddath added that this lot is less than 40,000 square feet and explained that the Suburban Residential (SR) side yard setback for non-conforming lots is 10 feet.

Next, Mr. Suddath displayed the Plat that was recorded in 1964 and the submitted Plot Plan that depicts the proposed additions to the house extending 4'9" into each of the side yard setbacks. The variance request states that they are doing a remodel and adding a second story to the existing home, adhering to what they thought was a 5-foot setback, based on similar properties within the neighborhood.

Mr. Suddath then displayed photos of the required Public Notice sign posted on the property, the existing house and topographical slope of the rear yard. Mr. Suddath stated that the county is glad to see the property being renovated

Next, Mr. Suddath reviewed the eight (8) Standards for Variances that must be met, per the County Zoning Resolution and went on to explain that this request meets all eight requirements. Mr. Suddath completed his presentation with example motions and turned the floor over to Ms. Webster.

Ms. Webster opened the Public Hearing.

Mr. Jonathan Lee, 1064 Hickory Harbor Drive, stated that the existing home has been on the property for 50 years and wishes to improve this lot.

There being no one else wishing to speak, Ms. Webster closed the Public Hearing.

Mr. Utley asked to see the Plot Plan and asked Mr. Suddath if the encroachment is on both sides of the property.

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Mr. Suddath displayed the Plot Plan and stated that is correct, adding that the addition will match an existing side yard encroachment present on the north side of the existing structure.

Mr. Utley asked if the original setback was 5 feet.

Mr. Suddath stated that the Plat does not show a side setback, as there were no zoning requirements at the time this subdivision was created.

**A motion was made to approve a request for a variance allowing encroachments into side yard setbacks in accordance with the submitted plot plan for 1064 Hickory Harbor Drive, Gallatin contingent upon:**

**a) All required Zoning, Building and Land Disturbance Permits must be obtained from the applicable County departments, by Mr. Utley, seconded by Mr. Harrison. Motion passed unanimously.**

There being no further business before the Board, Mr. Harrison made a motion to adjourn, seconded by Mr. Utley. Motion passed unanimously.

Meeting adjourned at 5:30 pm.