

SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
SEPTEMBER 9, 2021
5:00 p.m.

SUMNER COUNTY ADMINISTRATION BUILDING
ROOM 112
355 N. BELVEDERE DRIVE
GALLATIN, TN. 37066

MEMBERS:

BRUCE RAINEY, CHAIRMAN
SANDY WEBSTER, VICE-CHAIRMAN
MAC HOLT
SHAWN UTLEY
JIM HARRISON

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 and stated that all members are present.
Mr. Rainey then asked if there were any changes to the Agenda.

Mr. Suddath stated that there were no changes to the Agenda.

Mr. Rainey called for approval of the August Minutes.

**Ms. Webster made a motion to approve the August Minutes, seconded by Mr. Harrison.
Motion passed unanimously.**

At this time, Mr. Rainey introduced each of the Consent Agenda items, asking if anyone wished to remove an item from the Consent Agenda.

CONSENT AGENDA:

1. **FRANK AND DONNA KIRKBRIDE** are requesting a continuation of a Conditional Use Permit granted on August 15, 2015, to operate a wedding and event venue with a dust free parking variance. Subject property is located **at 318 Corinth Road, Portland TN 37148**, is on Tax Map 31, Parcel 79, contains 92.5 acres, is zoned Rural Residential (RR) and is in the 1st Voting District (Moe Taylor and Terry Wright). The adjoining property owners were notified by regular mail.
2. **DEREK JAWORSKI** is requesting a continuation of a Conditional Use Permit granted on August 10, 2017, 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 Rural Residential (RR) and is in the 11th Commission Voting District (Scott Langford and Jeremy Mansfield).

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The adjoining property owners were notified by mail.

There being no request to remove a Consent Agenda item, Mr. Harrison made a motion to approve the Consent Agenda requests, as follows:

- 1. To approve a request for a two-year continuation of a Conditional Use Permit for 318 Corinth Road, Portland, authorizing the operation of a wedding and event venue.**
- 2. To approve a request for a two-year continuation of a Conditional Use Permit for 401 Happy Hollow Road, Goodlettsville, authorizing the operation of a Hair Salon and Gym in an existing structure,**

Seconded by Ms. Webster. Motion passed unanimously.

REGULAR AGENDA:

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

- 1. NICHOLAS AND TEENA THOMPSON** are requesting a variance from County requirements contained at Chapter 4, Section 404 of the Sumner County Zoning Resolution related to encroachment of a pool within a rear yard setback. Variance is being requested in accordance with Chapter 14, Section 1410 of the County Zoning Resolution. Subject property is located at **123 Rustic Lane, Gallatin, TN, 37066**, is on Tax Map 157J, Group A, Parcel 018.00, contains approximately .53 acres, is zoned Rural Residential (RR), 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 26, 2021. The adjoining property owners were notified by certified mail.

Mr. Suddath provided an overview of the property, explaining that approval of this request will allow a swimming pool to be located within the rear-yard setback.

Providing a brief history of this property, Mr. Suddath explained that an existing utility easement, at the rear lot line, was removed by action of the Sumner County Regional Planning Commission in July 2021.

Next, Mr. Suddath provided an aerial photo of the property and the Public Notice that was published in the newspaper.

Referencing Chapter 11, Section 1101, Subsection D of the County Zoning Resolution, Mr. Suddath stated that an accessory structure “*shall not be located within five (5) feet of any side or rear lot lines*”. Mr. Suddath then displayed the Sunset Bay Resort Subdivision Plat, dated 1961, and explained that this Plat does not meet our current subdivision standards. Mr. Suddath then pointed out the 10’ PUDE that ran along the back of the property line, stating that it appears to have never been used. Mr. Suddath went on to explain that the Planning Commission approved the removal of that easement on July 27, 2021.

Mr. Suddath then displayed the Plot Plan that was submitted by Steve Bridges, showing the proposed pool located 2 feet from the property line, with the apron encroaching up to the property line, which backs up to the Corps of Engineer property line. Mr. Suddath displayed the applicant’s reason for the Variance Request and photos of the property, including the BZA sign posted at the property entrance.

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At this time, Mr. Suddath reviewed the eight required Standards for Variances, explaining that this property meets all standards, is not a use variance and meets Plot Plan requirements. Concluding his presentation with example motions, Mr. Suddath turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

Mr. Nicholas Thompson, 123 Rustic Lane, stated that his request to obtain the variance in order to build the pool was due to the size of the lot and septic constraints. Mr. Thompson added that six of his neighbors have provided letters of support.

Mr. Suddath provided copies of those letters to the Board members.

Mr. Thompson stated the plan to have a combined pool wall and retaining wall as close to the Corps property, as possible.

Seeing no one else wishing to speak, Mr. Rainey closed the Public Hearing and entered the neighbor's letters into the record.

Mr. Utley asked if there are any requirements or special permission required from the Corps, for this request.

Mr. Suddath stated not that he is aware of, unless it is on the Corps property.

Mr. Rainey agreed and asked Mr. Harrison if he is aware of any Corps requirements.

Mr. Harrison stated that he is not aware of any Corps requirements and added that the line is not the 100-year line, adding that this is above the 100-year flood line.

Mr. Harrison made a motion to find that all County variance standards are met and to approve a request for a variance allowing a swimming pool to be placed within a rear yard setback in accordance with the submitted plot plan for 123 Rustic Lane, Gallatin contingent upon:

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

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

- 2. PAUL MICHAEL HERMAN** is requesting a Special Exception for a major home-based business to operate a car-restoration business from an existing structure. This request is made pursuant to Chapter 14, Section 1411, Subsection E of the County Zoning Resolution. Subject property is located at **1003 Dobbins Pike, Gallatin, TN, 37066**, is on Tax Map 092, Parcel

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012.00, contains 4.85 acres, is zoned Rural Residential (RR) 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 26, 2021. The adjoining property owners were notified by certified mail.

Mr. Suddath provided an overview of the property, stating that the applicant is seeking legal approval to operate a Major Home-Based Business. Mr. Suddath stated that the existing Car Restoration Business has been in operation for 21 years, and the owner has recently subdivided the property.

Mr. Suddath displayed an aerial photo of the property and then explained the differences between minor and major home-based businesses. Next, Mr. Suddath displayed the Public Notice from the newspaper, the applicant's purpose for their request and the Plot Plan submitted by the applicant. Mr. Suddath explained that this is essentially a Home-Based Business request for a proposed home site, as Mr. Herman is trying to obtain a building permit for the house. Zooming in on the Plot Plan, Mr. Suddath pointed out a shared driveway configuration, which was previously approved by the Planning Commission.

Mr. Suddath then displayed photos of the property. Next, Mr. Suddath explained the Specific Requirements for Major Home-Based Business, per Chapter 14, Section 1411 of the Zoning Resolution, and explained how this request fills those requirements.

Additionally, Mr. Suddath reviewed that Key Requirements/Required Findings for Special Exceptions, stating that a Special Exception may 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: Details related to the proposed use are limited; however, given the size of the proposed building, and the type of use proposed, impacts on the public's health and safety due to traffic, pollutant or other concerns are not likely.

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

Staff Interpretation: The use is has been in existence for some time, and has not resulted in noted issues. Offsite impacts are not anticipated from the proposed use.

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.

Staff Interpretation: The use appears to conform to applicable provisions of the County Zoning Resolution, and will need to meet all applicable requirements for Major Home Based Businesses as far as customer visits, merchandise delivery, etc.

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 will not result in the construction of new or incompatible structures; ingress and egress onto Dobbins Pike can be accomplished without safety concerns which would warrant a traffic study.

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

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Mr. Rainey opened the Public Hearing

Mr. Paul Michael Herman, 1003 Dobbins Pike, stated that he has operated the car-restoration business for 21 years, explaining that he restores only 3-4 cars per year. Mr. Herman added that he does not want a sign on the property.

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

Mr. Holt asked about the storage of parts and old vehicles on the property.

Mr. Herman stated that there is not much storage, adding that there is a small area behind the building where there are some old parts, including a 26-foot enclosed car trailer, in which some parts are stored.

Mr. Holt asked if old cars were stored on the property.

Mr. Herman stated no.

At this time, Mr. Suddath displayed the photo of the property.

Mr. Holt made a motion to approve a request for a Special Exception for a Major Home Based Business to be operated at 1003 Dobbins Pike, Gallatin authorizing the operation of a car restoration business, subject to the following conditions:

- a) The proposed use shall meet all requirements for Major Home Based Businesses contained at Chapter 14, Section 1411, Subsection E(2) of the County Zoning Resolution.**
- b) Any structures to be utilized for the proposed use shall obtain a certificate of occupancy from the Sumner County Building and Codes Department if deemed necessary by the Director of Building Codes,**

Seconded by Ms. Webster.

Mr. Harrison asked if the request for dust-free parking should be addressed.

Mr. Suddath stated that as this is an existing, gravel driveway, the BZA has the right to waive the request.

Mr. Harrison amended the motion to add:

- c) the dust-free variance is granted.**

Motion passed unanimously.

After introducing the next item, Mr. Rainey turned the meeting over to Mr. Suddath for staff presentation.

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3. TERESA MCCORMACK is requesting a Special Exception from County requirements contained at Chapter 11, Section 1101, Subsection R of the Sumner County Zoning Resolution related to the size of an attached Accessory Dwelling Unit in relation to the primary dwelling. This request is made pursuant to Chapter 14, Section 1411 of the County Zoning Resolution. Subject property is located at **110 Herman Harrison Drive, Hendersonville, TN, 37075**, is on Tax Map 138N, Group B, Parcel 005.00, contains .92 acres, is zoned Rural Residential (RR) and is in the 7th Commission Voting District (Gene Rhodes and Brian Stewart).

This is a public hearing and was advertised in the Gallatin News on August 26, 2021. The adjoining property owners were notified by certified mail.

Mr. Suddath provided an overview of the property, stating that the applicant is seeking to renovate the existing dwelling to add a dwelling for a family member. Mr. Suddath explained that the Special Exception being requested is related to the size of the attached dwelling unit in relation to the Primary Structure. Mr. Suddath stated that a maximum of 25% of the residence is allowed as an ADU, however this request exceeds the maximum by 365 square feet. Mr. Suddath explained that this was one of the first ADU requests in the county.

Mr. Suddath displayed an aerial of the property, noting that there is an accessory structure under construction, on the property, that may need to be addressed. Mr. Suddath then displayed the Public Notice published in the newspaper and the Purpose of the Application submitted by the applicant. Noting that the size of the ADU is a Particular By-Right Standard that cannot be met, the applicant must seek a Special Exception from the BZA, explained Mr. Suddath. Next, Mr. Suddath displayed the Plot Plan submitted by the applicant, noting that a proposed building is not a dwelling unit, per the applicant.

Mr. Suddath summarized the request as follows:

- Regulations allow the attached ADU to be 25% of overall living area of remainder of the house.
- Overall House is approx. 2,900 square feet
- This would allow an approximate ADU size of 750 square feet
- Proposed ADU contains 1115 sq. ft.

Mr. Suddath then displayed photos of the property including the BZA sign in the yard, the residence and the accessory structure. Mr. Suddath then reviewed the 4 Key Requirements/Key Findings regarding this request:

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

Staff Interpretation: No impacts to the public's health and safety due to traffic, pollutant or other concerns are anticipated as a result of this project.

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

Staff Interpretation: The new structure should not adversely affect other property in the area, and the ADU will not alter the exterior appearance of the house.

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.

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Staff Interpretation: The spirit and intent of the Zoning Resolution seems to indicate that the size limitations on "Accessory Dwellings" are intended to keep the houses from being transformed into a Duplex type structure. This would not be the case in this instance, as the overall integrity of the Single Family Dwelling would not be compromised.

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

Staff Interpretation: Proposed use is residential, and the area surrounding it is also residential. All applicable permits and inspections by the County Building Codes office would be required for this project.

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

Mr. Rainey opened the Public Hearing.

Chantel Huddleston, 110 Herman Harrison Drive, stated that she is Ms. McCormack's daughter. Ms. Huddleston stated that her mother is not in good health. Ms. Huddleston then addressed the aforementioned accessory structure (shed), stating that it will not be lived in, adding that it will be used for storage. Ms. Huddleston explained that the conversion part follows the natural area of the bonus room and garage. Ms. Huddleston added that this would not be rented out.

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

Mr. Holt asked if approval of this would provide a precedent.

Mr. Suddath stated that it could, however, each request is reviewed in its own context; adding that the presence of a kitchen, signifies a second dwelling.

Mr. Rainey asked if there were any proposed exterior changes.

Mr. Suddath stated that there are no proposed exterior changes. Mr. Suddath added that some other questions that might be looked at are: Is this property going to have another address...Water meter...Own mailbox?

Mr. Rainey stated that is not the case in this instance.

Mr. Suddath concurred.

Mr. Harrison asked for confirmation of the ADU square footage that would be allowed.

Mr. Suddath stated that 725 square feet would be allowed by-right, and stated that the request is for 1115 square feet. Mr. Suddath added that this is one of the first ADUs that has come through for review.

Mr. Harrison asked if it would be appropriate to add to the first motion that this is specific to this site only, as designed.

Mr. Suddath confirmed that would be appropriate, stating that a term could be attached.

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Mr. Rainey stated that the requirement for a timely re-inspection could also be required.

Mr. Harrison made a motion to find that County requirements for Special Exceptions are met, and to approve a request for a Special Exception for an Accessory Dwelling Unit permit application for 110 Herman Harrison Road, Hendersonville with the following conditions:

- a) All other applicable requirements for Attached Accessory Dwelling Units shall be met;**
 - b) A new Zoning Compliance certificate shall be obtained from the Planning Director's Office prior to obtaining a Building Permit;**
 - c) The structure shall meet all requirements for dwellings contained in the International Building Code and shall receive a Certificate of Occupancy from the County Building and Codes Department;**
 - d) Improvements shall be installed in accordance with the submitted plot plan;**
 - e) Codes will re-inspect the house in 2 (two) years,**
- Seconded by Mr. Holt. Motion passed unanimously.**

Discussion ensued regarding the possibility of revisiting the Attached ADU percentage size requirements.

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

- 4. COREY GARDNER with C G DEVELOPMENT COMPANY, LLC** is requesting a continuation of a Conditional Use Permit granted on September 12, 2019, 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 Rural Residential (RR) and is in the 4th Commission Voting District (Jerry Foster and Leslie Schell). The adjoining property owners were notified by mail.

Mr. Suddath provided an overview of the property, stating that while this is a request for a continuation, it has been placed on the Regular Agenda. Mr. Suddath stated that this property is a legal, non-conforming lot that was used as a gas station/convenience store prior to the current use, which is now office space and the storage of masonry equipment and supplies. Mr. Suddath stated that pictures of the property have been supplied to the BZA members and added that more recent pictures from the last couple of days will be displayed during the meeting.

Mr. Suddath explained that the current use is "grandfathered in" as it was approved under the old Zoning Resolution. Further, Mr. Suddath stated that if a property meets requirements on an ongoing basis, they may keep the permit; if not, then the permit is subject to scrutiny by the BZA.

At this time, Mr. Suddath displayed an aerial photo of the property, pointing out ongoing site issues and noting that cleanup of the property was a condition of original approval.

Mr. Suddath then displayed the hand-drawn Site Plan.

Next, Mr. Suddath reviewed the four original Conditions of Approval approved by the BZA on September 12, 2019, as well as the status of each:

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- 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
Mr. Suddath stated this has not been addressed by the property owner at the time the BZA packets were sent out, adding there has been some progress in the past several days.
- b) Property owner shall obtain any required septic permits from the Tennessee Department of Environment and Conservation
Mr. Suddath stated this has not been addressed by the property owner at the time the BZA packets were sent out, adding there has been some progress in the past several days.
- 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.
Mr. Suddath stated this has not been addressed by the property owner at the time the BZA packets were sent out, adding there has been some progress in the past several days.
- 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.
Mr. Suddath stated this has not been addressed by the property owner at the time the BZA packets were sent out.

Next, Mr. Suddath explained that, as this property was coming up for renewal, the Development Services Department sent the property owner a letter and photos of the property, stating that progress must be made toward compliance with previously imposed conditions, or face a revocation of the permit.

Mr. Suddath stated that photos of the property taken several weeks ago, showed the property in worse shape than two years prior. Mr. Suddath added that the property owner has made improvements in the last several days, however.

At this time, Mr. Suddath displayed photos of the property taken in August 2021; pointing out the presence of junk cars, construction equipment, lumber, masonry, gravel piles, pallets, plastic storage containers, metal dumpsters, etc. Mr. Suddath then displayed photos of the property taken on September 8-9, 2021, showing a newly constructed fence, trucks loaded with/moving debris and organized piles of building materials and masonry. Mr. Suddath added that the property owner has said that he can remove one of the metal storage containers, but wishes to relocate one of them to the back of his building on a concrete pad.

Mr. Suddath summarized that the conditions of approval that were imposed were not met and stated that the BZA is empowered to take action or may grant the property owner more time.

Mr. Suddath completed his presentation with example motions.

Mr. Rainey asked if this is a Public Hearing.

Mr. Suddath stated that while not required, renewals have historically been held as Public Hearings.

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Mr. Rainey opened the Public Hearing.

Mr. Brandon Anderson, 2450 Scotty Parker Road, stated that he lives across the street. Mr. Anderson stated that while the property owner has made some good progress on cleaning up the property in the last several days, however, he raised concern that this property will return to the previous state. Mr. Anderson added concern of the noise, stating that for the past four years, the property sounds like a construction zone, seven days a week, starting at 6-7 AM. Mr. Anderson also raised concern of environmental and safety issues, with the presence of small engines, oil leaks, propane tanks (not locked up) and portable gas tanks being close to the creek located behind the property. Mr. Anderson added that he would like this taken care of, and if not, he plans to call the EPA and OSHA; then retain a lawyer. Mr. Anderson stated that he has had two appraisals on his house in the past two years, stating that the value of his house has decreased due to the junk across the street.

Next, Mr. Larry Hall, 2446 Scotty Parker Road, expressed agreement with Mr. Anderson, adding that this property is an eyesore and noise nuisance.

Mr. Rainey called Corey Gardner forward.

Mr. Corey Gardner, 764 Vasser Drive, Gallatin, apologized for the condition of his property, acknowledging that it has gotten out of hand. Mr. Gardner also stated that Mr. Anderson is correct, the property does get cleaned up, returning to an eyesore within several weeks. Mr. Gardner stated that he is now taking this seriously and plans to continue cleaning this up and keeping it cleaned up. Mr. Gardner stated that there is not a lot of traffic in and out of the building, but added that the guys do load and unload equipment on the property. He added that he could try to make sure that it does not happen before 7:00 AM.

Mr. Gardner explained that there are diesel fuel containers on stands that are self-contained; there are some empty propane tanks due to be returned. Mr. Gardner stated that the neighbors do have a legitimate reason to complain, as it has gotten out of control. Mr. Gardner stated that he has told his guys that this is going to get cleaned up and kept that way.

Mr. Rainey stated that he seconded and supported the motion for approval two years ago, based on the same promise that Mr. Gardner is making tonight. After two years, Mr. Rainey told Mr. Gardner, you have not done one thing; adding that when he saw the pictures of the property, he was and is prepared to shut him down. However, added Mr. Rainey, based on staff comments, he is inclined to give the property owner 30 more days, if the Board agrees. Mr. Rainey stressed that if the extension were agreed to, and the property is not 100% compliant within 30 days, the Conditional Use would be revoked. Mr. Rainey added that as a condition, the property owner would have to return to this Board at the end of this year and annually, thereafter, to ensure compliance.

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Mr. Utley stated that the landowner has had 24 months to comply, and feels that 30 more days would not make a difference, and therefore,

**made a motion to deny a request for a continuation of a Conditional Use Permit for 2451 Scotty Parker Road, Portland, and to refer this item to the County Law Office for additional action as appropriate,
seconded by Mr. Holt. Motion passed unanimously.**

There being no more business before the Board, Mr. Harrison made a motion to adjourn, seconded by Mr. Holt. Meeting adjourned unanimously at 5:57 PM.