

**SUMNER COUNTY BOARD OF ZONING APPEALS  
MINUTES  
JANUARY 13, 2022  
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, DIRECTOR OF BUILDING AND CODES

Mr. Rainey called the meeting to order and asked for approval of the November Minutes.

Mr. Rainey then asked if there were any changes to the Agenda.

Mr. Suddath stated that Item #8, Richard Eaton, 1009 Kidron Way, has requested a 60-day deferral as he is pursuing an alternative solution that will require an agreement with the HOA.

**Ms. Webster made a motion to accept the Agenda with the Item #8 receiving a 60-day deferral. Mr. Harrison seconded the motion and the motion passed unanimously.**

Mr. Rainey called for approval of the previous minutes.

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

**CONSENT AGENDA:**

At this time, Mr. Rainey introduced the Consent Agenda.

- 1. Derek and Amanda Preston** are requesting a continuation of their Conditional Use Permit to operate an event venue. Subject property is located at **939 Newton Lane, Gallatin, TN, 37066**, is on Tax Map 149, Parcel 023.02, contains 8.73 acres, is zoned Rural Residential (RR) and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).  
**The adjoining property owners were notified by regular mail.**
- 2. Robert Blankenship** is requesting a continuation of a Conditional Use Permit originally granted October 2009 to operate a gun manufacturing business. Subject property is located at **145 B&L Lane, Portland, TN, 37148**, is on Tax Map 059, Parcel 078.00, contains 14.3 acres, is zoned

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Rural Residential (RR) and is in the 12th Commission Voting District (Michael Guthrie and Justin Nipper).

**The adjoining property owners were notified by mail.**

- 3. Ralph Cook** is requesting a continuation of a Conditional Use Permit granted on June 11, 2009, to operate an ice cream shop/restaurant that would include birthday parties/socials with sandwiches, soup and extra food in an existing building. Subject property is located at **186 Wilkerson Lane, Portland, TN 37148**, is on Tax Map 053, Parcel 005.00, contains 87.02 acres, is zoned Rural Residential (RR), and is in the 12<sup>th</sup> Commission Voting District (Michael Guthrie and Justin Nipper).

**This item was deferred at the July 8, 2021 and October 14, 2021 meetings.**

**The adjoining property owners were notified by regular mail.**

Mr. Suddath provided an update for this property, stating that the vent hood has been installed, and the Codes Department has issued a C.O for the property.

**There being no one wishing to remove or discuss any of the Consent Agenda items, Mr. Utley made a motion:**

- a) To approve a request for a two year continuation of a Conditional Use Permit to conduct an event venue at 939 Newton Lane, Gallatin**
- b) To approve a request to continue a Conditional Use Permit for 145 B&L Lane, Portland for a period of two years, allowing the property owner to conduct a gun manufacturing business on the premises**
- c) To approve a two year continuation of a Conditional Use Permit for 186 Wilkerson Lane, Portland, allowing the property owner to operate an ice cream shop/restaurant that includes birthday parties/socials with sandwiches, soup and extra food in an existing building.**

**Ms. Webster seconded the motion.**

**The motion passed unanimously.**

**REGULAR AGENDA:**

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

- 1. Mitchellville General Baptist Church** is requesting a variance from County requirements contained at Chapter 12, Section 1205, Subsection B of the Sumner County Zoning Resolution related to a proposed ground (freestanding) sign on the property. Subject property is located at **603 Highway 259, Portland, TN, 37148**, is on Tax Map 001, Parcel 037.00, contains 1.8 acres, is zoned Rural Residential (RR) and is in the 2<sup>nd</sup> Commission Voting District (Billy Geminden and Larry Hinton).

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

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Mr. Suddath provided an overview of the property, stating that the request is to replace an existing sign. The property owner is seeking a variance from County Sign Requirements in the County Zoning Resolution, Chapter 12, Section 1205 B, that prohibit internally lit signage and that limit changeable copy to 50% of the sign area in Residential Zoning Districts.

Mr. Suddath stated that the proposed sign would replace an existing internally lit sign. The existing sign, which is approximately 6.5 feet tall x 5.5 feet side, has been deemed by staff to be legally nonconforming signage. Mr. Suddath displayed an aerial view of the property, the Public Notice and the Site Plan, including the location of the existing sign, which was approved in 2006. Mr. Suddath displayed the stated reason for the request to replace a currently illuminated sign with an LED internally illuminated sign, of which, more that 50% of the sign is changeable.

Mr. Suddath stated that applicant provided additional grounds for the request, including: 1)) the proposed sign is smaller than the existing sign and 2) there is a significant hill and curve located to the west of church, makes it hard to note that church is there until very close to the entrance, particularly in the evenings. Mr. Suddath displayed photos of the property, the current sign, the Public Notice sign, and the road.

Next, Mr. Suddath displayed a picture of the proposed sign. Mr. Suddath displayed the denied Zoning Compliance form for this request and then displayed and reviewed the State laws and County Zoning Regulations regarding grounds for a sign variance. Mr. Suddath explained possible mitigations that the BZA could stipulate.

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

Mr. Rainey disclosed that he completed a survey for this property 16 years ago, and stated that he will vote on this request.

Mr. Larry Hinton stated that he agrees to any mitigations that might be imposed by the BZA. Mr. Hinton added that the sign will be used to communicate church and religious messages, and not for advertisements.

Mr. Rainey opened the Public Hearing.

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

Mr. Utley asked if this is a rolling sign.

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Mr. Hinton stated that it is not rolling, adding that it is a programmable sign. Mr. Hinton added that the messages will be mostly static, and designed so as not to provide a distraction to drivers.

Mr. Utley asked why this request must be addressed, as there is an existing, grandfathered sign.

Mr. Suddath explained that sign codes are fairly standardized across the state, stating that the County's regulations, like those of other jurisdictions require an existing, non-conforming signs must be replaced by a conforming sign.

**Mr. Holt made a motion to approve a request for a sign variance in accordance with the submitted sign application for 603 Highway 259, Portland contingent upon:**

- a) All required Zoning, Building and Land Disturbance Permits must be obtained from the applicable County departments**
- b) No scrolling or flashing messages**
- c) Message may change only once (1x) daily**
- d) Brightness no more than 0.5 lumens at property line.**

**Mr. Utley seconded the motion. The motion passed unanimously.**

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

- 2. Rodney Nannini** is requesting a continuation of Conditional Use Permit, to operate a wedding and reception venue and a bed and breakfast, as well as a dust free parking variance received on September 12, 2013. Subject property is located at **475 Dry Fork Creek Road, Gallatin, TN, 37066**, is on Tax Map 083, Parcel 020.06, contains 34.75 acres, is zoned Rural Residential (RR) and is in the 3<sup>rd</sup> Commission Voting District (Alan Driver and Steve Graves).

**The adjoining property owners were notified by mail.**

This item was deferred at the November and December 2021 BZA meetings.

Mr. Suddath provided a brief history of this property. Mr. Suddath stated that while this is being treated as a renewal, there are concerns with the use of a small portion of the property. Mr. Suddath explained noted issues on the property, including:

- a) Future building construction
- b) Septic for the B&B/Wedding Venue Use
- c) Storage of Tractor Trailers and other items on site visible from the public right of way.

Mr. Suddath explained that staff has received numerous calls related to the storage of equipment on this property. Mr. Suddath explained that the applicant states that these items are being used to store equipment related to the rental business. Mr. Suddath explained that exterior storage of items was not approved as part of original approval, and is not allowed in the Rural Residential Zone for uses approved upon appeal.

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Next, Mr. Suddath displayed the Plot Plan provided by the applicant, an aerial view of the property, the original Site Plan (2013) and original Conditional Use Approval granted on September 12, 2013. Mr. Suddath then displayed photos of the area of concern, shown containing a graveled area with tractor-trailers, wedding event equipment, and tarped objects. Mr. Suddath completed his presentation with example motions and turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

Rodney Nannini, 475 Dry Fork Creek Road, stated that he has met the Plot Plan requirement, and stated that they are no longer conducting a Bed & Breakfast from the property. Mr. Nannini stated that the outdoor storage is a temporary situation to store all the equipment he brought when he moved his business from California. He added that the septic area has been noted on the Plot Plan.

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

Mr. Holt asked how long the temporary storage is proposed.

Mr. Rainey stated that this could be a stipulation of the motions, adding concern raised by surrounding property owners.

Mr. Nannini stated that he is in the process of cleaning up the area, citing weather as a factor.

Mr. Utley asked if the only violations are the trailers and the construction entrance

Mr. Suddath confirmed that those are the only noted violations, adding that there is a wire fence, also. Mr. Suddath stated that the exterior storage is not allowed per the County Zoning Resolution and per the existing permit for this use, and must be removed off-site or placed inside a building.

There was discussion regarding wording and compliance time frame.

There was discussion that if the imposed time frame is not met, the Board will initiate Show Cause procedures to revoke the Conditional Use Permit.

**Mr. Utley made a motion to approve a two (2) year continuation of a Conditional Use Permit authorizing the operation of a wedding and reception venue and bed and breakfast, with the following conditions:**

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- a) **The property must be brought into compliance within 60 days (before March 10, 2022) by removing the items currently being stored exteriorly, including trailers, storage pods, equipment, and debris.**
- b) **Any future construction on site related in any way to the ongoing wedding and event venue must obtain the approval of the Sumner County Board of Zoning Appeals followed by approval of a Site Plan by the County Planning Commission.**

**Motion seconded by Mr. Holt.**

Mr. Rainey asked if this motion allows the business to continue operation during the 60 days. There was discussion to hold the approval for 60 days, or until the exterior storage is removed from the property.

**The motion passed unanimously.**

Referencing the next item, Mr. Rainey stated that he recently surveyed this property and will abstain from voting on this item. Mr. Rainey then turned the meeting over to Mr. Suddath for staff presentation.

- 3. Bryan Cox** is requesting a Special Exception from County requirements contained at Chapter 11, Section 1101, Subsection D of the Sumner County Zoning Resolution related to placement of an accessory structure on the property. Subject property is located at **1456 New Deal Potts Road, Portland, TN, 37148**, is Part Of Tax Map 038, Parcel 011.00, contains .93 acres, is zoned Rural Residential (RR) and is in the 2<sup>nd</sup> Commission Voting District (Billy Geminden and Larry Hinton).

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 16, 2021.**

Mr. Suddath provided an overview of this property, stating that the property owner is requesting to construct an accessory structure as a stand-alone structure. Mr. Suddath displayed the Public Notice, an aerial photo and the Plat of the property. Mr. Suddath provided a brief background of the property, stating that the property was subdivided by the previous property owner on May 27, 2021. Mr. Suddath explained that a Plat amendment, intended to alter the soil area for an unlabeled building, was submitted for the property, September 1, 2021. No information related to the building itself was provided.

Mr. Suddath explained that a Zoning Compliance form was submitted for construction of the building on 11/24/2021, and stated that staff denied the application on 11/29/2021, due to it being a standalone accessory structure. Mr. Suddath stated that the property owner states that mortgages encumber the property, and so it cannot be resubdivided (combined).

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Next, Mr. Suddath displayed the Zoning Compliance application, the Plat Amendment and photos of the property and Public Notice sign.

Mr. Suddath then reviewed the four (4) required findings for the granting of a Special Exception related to this property, and stated that a Special Exception shall only be granted provided the Board makes specific findings that it:

- 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.*

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

*Staff Interpretation: The structure will meet applicable setback requirements, and will not be utilized for business purposes. A Land Disturbance Permit will be required, and any construction site runoff must be mitigated. Adverse impacts are not anticipated.*

- 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.*

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

*Staff Interpretation: Proposed construction is of a residential scale, and will be compatible with the surrounding area. No safety impacts anticipated.*

Mr. Suddath completed 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 confirmation that the applicant owns both platted lots, which cannot be combined for mortgage purposes.

Mr. Suddath confirmed that the applicant owns both lots.

Mr. Rainey stated that the value of the separate lots is higher than the value of one combined lot.

Mr. Utley asked to view the section of the Zoning Resolution that allows Special Exceptions.

Referencing Chapter 11, Section 1101, Subsection D of the Zoning Resolution, Mr. Suddath stated that when there is a stand-alone accessory structure, it may not be used for any of the following activities: living quarters, commercial activities, or storage for businesses that occur off the property, including home-based businesses.

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Mr. Utley asked if this is granted, should it be reviewed in two years.

**Mr. Utley made a motion to approve a Special Exception allowing an accessory structure to be constructed prior to the principal structure in accordance with the submitted plot plan for 1456 New Deal Potts Road, contingent upon:**

- a) All required Building and Land Disturbance Permits must be obtained from the Sumner County Building Codes Office**
- b) All requirements of Chapter 11, Section 1101, Subsection D Part 7 of the County Zoning Resolution shall be met**
- c) Must return in two (2) years for staff review.**

**Mr. Holt seconded the motion. The motion passed unanimously, with Mr. Rainey abstaining.**

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

- 4. Christopher Henderson** is requesting a Special Exception to conduct a Federal Firearms License (FFL) from an existing accessory structure on subject property. Subject property is located at **593A Pee Dee Branch Road, Cottontown, TN, 37048**, is on Tax Map 095, Parcel 013.02, contains 17.62 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 certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

Mr. Suddath provided an overview of the property, stating that the proposed use is classified as a Gunsmith Shop. Mr. Suddath stated that the Bureau of Alcohol, Tobacco, Explosives and Firearms closely watches and requires zoning approval from the local governing bod, as part of the issuance of any FFL permit. Mr. Suddath provided an aerial photo of the property, Public Notice, the denied Zoning Compliance application and the provided Plot Plan, depicting the existing shop and the proposed home location.

Mr. Suddath stated that the Gunsmith Use is classified as a Consumer Repair Service, per the County Zoning Resolution. Mr. Suddath stated that Consumer Repair Services must meet specific conditions in order to be granted a Special Exception. This property meets all of those conditions, except the requirement for a Type 1 Landscape Buffer screening at the property line.

Mr. Suddath stated that the property owner may need to address the activities, to clarify no hazardous materials are onsite. Next, Mr. Suddath displayed photo of the property and the Public Notice sign.

Mr. Suddath then reviewed the four (4) required findings for the granting of a Special Exception related to this property, and stated that a Special Exception shall only be granted provided the Board makes specific findings that it:

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

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*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 use.*

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

*Staff Interpretation: The structure will meet applicable setback requirements. It will be located a considerable distance from any current residential use. Adverse impacts are not anticipated.*

- 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. Installation of a Type 1 buffer in this context may not be necessary due to the considerable distance to any other residential structure*

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

*Staff Interpretation: Proposed construction is of a residential scale, and will be compatible with the surrounding area. No safety impacts anticipated.*

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

Mr. Rainey opened the floor for Public Hearing.

Chris Henderson stated that he had nothing to add to the presentation.

Mr. Suddath stated that Mr. Henderson's representative, Van Oldham, is in attendance.

Van Oldham, Evergreen Site Solutions, stated that he would answer any questions.

There being no questions, Mr. Rainey closed the Public Hearing.

Mr. Utley asked if the proposed house location would pose a problem, as it is located behind the existing accessory structure.

Mr. Suddath stated that because the house will be located at least 500 feet from the front property line, the placement of the accessory structure is fine.

**Mr. Harrison made a motion to approve a Special Exception allowing a Federal Firearms Licensing (FFL) business from an existing structure, contingent upon:**

- a) All required Building and Land Disturbance Permits must be obtained from the Sumner County Building Codes Office**
- b) A Type 1 Landscape Buffer shall be planted to the rear of the existing shop along the south property line**
- c) Approval shall be for a renewable period of two years, or until such time as a house is constructed, at which time the applicant shall apply for a Home Based Business Permit.**

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**d) Applicant shall clean up noted junk pile prior to issuance of a zoning compliance certificate.**

**Mr. Utley seconded the motion. The motion passed unanimously.**

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

**5. Estates of Charles Wilbur Gourley & Janette G. Stephens & Charles Stephens** is requesting a Variance regarding County requirements contained at Chapter 11, Section 1101, Subsection H of the Sumner County Zoning Resolution related to easements. Property is located at **Hollis Chapel Road, Portland, TN, 37148**, on Tax Map 072, Parcel 089.00 contains 91.9 acres, is zoned Rural Residential (RR) 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, December 30, 2021.**

Mr. Suddath began his overview of this property by stating that this is a very complicated case. Mr. Suddath stated that there have been multiple inquiries from the public regarding this request. The applicant is requesting a variance to utilize a 10-foot Ingress Egress Easement in order to obtain a building permit for a 91.9 acre tract.

Mr. Suddath noted the following information regarding this property:

- County regulations in place since June of 1980 require a standalone easement 50 feet in width or 50 feet of road frontage in order to obtain a building permit.
- Judge's Order dated 10/27/2017 indicates that this property ("Gourley Property") has a 10 foot easement across the property to the north ("Stout Property")
- This easement appears to be part of an abandoned County roadbed.
- Boundary surveys provided by the applicant indicate this, and indicate that the easement continues through the "Gourley Property" to serve several other tracts to the south, none of which appear to have a house on them at this time.
- At this time the property owner is wishing to sell the "Gourley Property" to a buyer who wishes to construct one (1) single family home.
- In order to obtain a building permit, the property must possess an easement meeting County Zoning Standards.
- Staff determined that the easement, though legal for access purposes, did not meet these standards. (Zoning Compliance Form denied 12/6/2021)

Mr. Suddath displayed an aerial photo of the property (depicting an old house on the property), the Public Notice, and the applicant's reasons for requesting the Variance. Mr. Suddath also displayed the Zoning Compliance application, the Boundary Survey, an additional Boundary Survey provided by the applicant, and the Judge's Order dated October 27, 2017.

Mr. Suddath stated that the additional boundary survey indicates that the easement extends further on the property, serving other tracts, none of which has a house on them at this time.

Mr. Suddath displayed photos of the property and the Public Notice sign posted on the property. Mr. Suddath stated that the easement is less than 50 feet wide and provides access to multiple

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properties and explained that these are both in opposition to the requirements for structures to have access, found in Chapter 11, Section 1101 Subsection H of the County Zoning Resolution. Mr. Suddath reviewed the eight standards for variances that must be met, explaining that this request does meet those standards.

Mr. Suddath stated that the Plot Plan has been provided and this is not a Use Variance.

Mr. Suddath then summarized that the questions for the BZA are:

- Does proposed easement meet county requirements beyond the width issue? Multiple property owners also appear to have a right to utilize the easement.
- Property owners state that there is an existing house on the property. Building is visible from aerials, is not habitable and is not assigned a value by the Assessor's site.
  - Can existing house could be replaced with a new structure with the caveat that the existing easement is not adequate for any "new" building permits in the future, for this property or other properties using the easement?

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

Mr. Rainey stated that he vaguely remembers doing a survey for this property, at the request of an attorney, who was going to court. Mr. Rainey stated that he will be voting on this item.

Mr. Rainey opened the floor for Public Hearing.

Jennifer Moss, 215 Link Road, stated that she is the listing agent for this property. Ms. Moss confirmed that the proposed buyers wish to purchase the property to construct one house and conduct light farming on the property. Ms. Moss stated that as the Chancery Court has deemed the easement as adequate for the historic use of the property. Stating that the historic use of the property is a mini farm and past home location, this request to build a house is in keeping with the historic use. Ms. Moss added that there is electricity to the property.

Alan Stout, 356 West Hollis Chapel Road, stated that he owns half of the ingress/egress for this property. Mr. Stout asked if this variance request is approved, would the other properties, served by this easement, also be granted a variance.

Mr. Rainey stated they could not answer that question.

Mr. Stout then stated that there are no utilities to the property. Mr. Stout expressed concern that the current road/ingress has current erosion problems which he maintains, adding that this will create a long list of problems for him.

Mr. Kevin Tabb, 365 W. Hollis Chapel Road, asked if they are allowed to build a house, will all the properties serviced by the easement be allowed to build?

Mr. Rainey asked Mr. Tabb if he has a house on his property.

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Mr. Tabb stated no.

Mr. Rainey asked if he could put a house back there.

Mr. Tabb stated no, not with current regulations. Mr. Tabb added that if these landowners are granted a Variance for the 10-foot easement, he would request one also, to build a house.

Ronnie Gourley, stated that is the Great-grandson of the owner of this property. Mr. Gourley stated that he has lived on the property and had electric and a septic tank. Mr. Gourley stated that he does not understand why a house cannot be built on 91 acres.

Mr. Utley asked Mr. Gourley if the property has water available.

Mr. Gourley stated that there is a well.

Glenda Stephens, 2021 Castleman, Nashville, stated that she is the granddaughter of Claudia and Cliff Gourley. Ms. Stephens stated that Ella Johnson lived in the house on that farm when she was a child, adding that Ronnie lived there after she died. Ms. Stephens stated that the fact that there has been, and is, a house on the property, should be considered in this decision.

Keith McIntyre, 624 Hollis Chapel Road, stated that the house on the property was there long before any houses around there. Mr. McIntyre stated that the Stouts have a self-interest in purchasing the property, as they have previously made an offer on the property.

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

Mr. Utley asked does this easement allow for utility easement, if there is no electricity, now.

Mr. Suddath stated that it appears to be for ingress/egress. Mr. Rainey added that the BZA is to determine if the 10-foot easement will allow a building permit for a house.

Mr. Suddath stated that when someone comes in to get permit on an over 5-acre tract of land, we do not inquire if the property can get electrical or water service for the purposes of determining zoning compliance. Mr. Suddath added that we do require septic availability in the form of a septic permit for the property.

Mr. Utley referenced the original boundary survey, stating confusion over the easement and the lots it services.

Mr. Suddath displayed the Boundary survey and clarified the easement over the Gourley property to three other properties.

Mr. Utley asked if the three properties appeared to be the properties reference in the judge's ruling.

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Mr. Suddath stated that he believed so.

Mr. Utley asked if the ruling for the Gourley property was also for the three other properties.

Mr. Suddath stated that he does not believe so, as the ruling was between two plaintiffs only.

Mr. Utley asked if this plat was part of the judgement.

Mr. Suddath stated yes, it was apparently referred to in the judgement.

Mr. Rainey stated that historically, a judges' ruling guarantees access to this property, but does not guarantee the ability to build a house. Mr. Rainey stated that the County holds to strict adherence of the 50-foot easement requirement. Mr. Rainey added, however, that the existing house predates that requirement. Mr. Rainey stated that example Motion #3 may be worth consideration, allowing the replacement of the existing house, adding that it would not negate any prior rulings that he is aware of.

Mr. Harrison asked if the house is replaced, would codes require confirmation of a septic system.

Mr. Suddath confirmed that a septic permit would be required for a building permit for a house.

**Mr. Harrison made a motion to allow replacement of the existing residential structure on site, on the grounds that the structure predates zoning in Sumner County, but to find that the noted 10 foot easement crossing this property does not meet County permitting requirements.**

**Mr. Utley seconded the motion. Motion passed unanimously.**

Mr. Utley asked if water and electricity would be required to gain occupancy of the house.

Mr. Suddath confirmed that to receive a Certificate of Occupancy, water and electricity must be provided.

Marshall Wright confirmed that requirement.

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

- 6. James and Gretchen Scott are requesting an expansion of an existing Conditional Use Permit, adding 5-6 pens to an existing structure, for their boarding kennel. Subject property is located at 986 Fowler Ford Road, Portland, TN, 37148, is on Tax Map 040, Parcel 030.00, contains 5.02 acres, is zoned Rural Residential (RR) and is in the 2<sup>nd</sup> Commission Voting District (Billy Geminden and Larry Hinton).**

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

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Mr. Suddath explained that this current Conditional Use Permit is due for renewal and has requested an expansion by adding 5-6 kennels within an existing structure. Mr. Suddath displayed an aerial view of the property, the Public Notice and the Plot Plan provided by the applicant. Mr. Suddath stated that an original condition of approval for this property in 2019, was that the outdoor kennel areas needed to be cleaned up. Mr. Suddath stated that the property owners have met that condition.

Next, Mr. Suddath provided photos of the property, including the posted Public Notice sign. Mr. Suddath concluded his presentation with example motions and turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

James and Gretchen Scott stated that the presentation was thorough.

Chris Eckert, 974 Fowler Ford Road, expressed support of the property.

Mr. Rainey closed the Public Hearing.

Mr. Holt asked if the expansion is located away from the setbacks.

Mr. Suddath confirmed that this expansion is internal and would not require a buffer.

**Mr. Holt made a motion to allow an expansion of a Conditional Use Permit for 986 Fowler Ford Road, Portland allowing the operation of a boarding kennel on the subject property subject to the following conditions:**

- a) All required Zoning, Building and Land Disturbance Permits must be obtained from the applicable County departments for any future construction**
- b) Any outdoor dog areas shall continue to be:**
  - i. Fenced and adequately drained**
  - ii. Kept seeded or sodded, with a permanent stand of grass;**
  - iii. Shall only be for short term animal exercise and relief purposes.**

**Ms. Webster seconded the motion.**

Mr. Utley asked for confirmation that there have been no issues.

Mr. Suddath confirmed that there have been no complaints and added that they are in compliance.

**The vote was taken and the request was approved unanimously.**

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

- 7. Music City Builders, LLC, is requesting an Administrative Appeal of Staff decision regarding County requirements contained at Chapter 11, Section 1101, Subsection H of the Sumner County**

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Zoning Resolution related to easements. Property is located at 112 John Wayne Drive, Goodlettsville, TN, 37072, on Tax Map 139, Parcel 052.01 containing 5.07 acres, is zoned Rural Residential (RR) and is in the 11<sup>th</sup> Commission Voting District (Scott Langford and Jeremy Mansfield).

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 16, 2021.**

Mr. Suddath stated that the applicant is appealing a staff determination related to whether an existing lot of record has sufficient road access in order to obtain a building permit. Mr. Suddath explained that an administrative appeal application is to be accompanied by a specific reason why the applicant believes that staff decision was not in accordance with the Zoning Resolution. Mr. Suddath stated that he does not believe a reason was stated by the applicant upon the application, but added that the applicant may explain.

Mr. Suddath displayed an aerial photo of the vacant property and the Public Notice posted in the newspaper.

Mr. Suddath then noted the following facts regarding the property:

- County regulations in place since June of 1980 require a standalone easement 50 feet in width or 50 feet of road frontage in order to obtain a building permit.
- Recorded deeds are clear that an easement exists on the Western property line. However, the deed language is unclear as to the size of the easement, where the easement actually is, and how many other properties it serves.
- A private road (John Wayne Drive) exists on the Eastern property line that serves numerous other residential properties. This private road does not meet requirements for new building permits, and it is not clear whether this property may utilize the private drive.
- A letter has been provided that was sent by applicant's legal representatives to the property just to the south, which is asserted to have the easement running over its property. The letter appears to threaten legal action between the parties in order to clarify the easement, but none has been taken at this time. Mr. Suddath stated that he is unsure why this was presented to the BZA, as it is a legal assertion that has not been litigated at this time.
- Staff received a zoning compliance application on 12/6/2021, and provided a response 12/7/2021.

Mr. Suddath then displayed the denied Zoning Compliance application and the Administrative Appeals application. Mr. Suddath stated that there was no justification for the appeal listed on the application.

Mr. Suddath explained that according to the Zoning Resolution, "...it shall be incumbent upon the party seeking a building permit to prove adequate road access in the form of an easement where physical road frontage is contained". Mr. Suddath stated that he did not see anything in the application meeting this required burden of proof.

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Mr. Suddath reviewed regulations regarding the requirement of 50 feet ingress/egress easement.

Next, Mr. Suddath displayed two Boundary Surveys of the property, stating that there is no easement shown for subject property.

Mr. Suddath displayed photos of the property and completed his presentation with example motions. Mr. Suddath stated that it was his understanding that the property owner is in attendance.

Mr. Rainey opened the Public Hearing.

Patricia Dickerson, 150 John Wayne Drive, stated that she owns the driveway and expressed confusion at how the subject received a “John Wayne” address, as this is her private drive. She raised questions regarding if they are requesting permission to use her driveway. Ms. Dickerson stated that she would like to speak again after hearing from the applicant.

Billy Clark and Donna Clark, 141 John Wayne Drive, stated that they wished to speak after hearing from the applicant, as well.

Randy Deason, 3603 Long Hollow Pike, stated that the subject property is swampy and may not perk.

Mike Hartman, 295 Hurt Road, stated that his brother sold this property to the current owners. Mr. Hartman stated that the land does perk. Mr. Hartman stated that his lawyers said that the easement to this property is down the east side, not down John Wayne Drive. Mr. Hartman stated that the E-911 office assigned a John Wayne address to this property.

Mr. Rainey asked Mr. Hartman if he is the applicant.

Mr. Hartman answered no; the applicant is prospective buyers, Music City Builders.

Mr. Rainey asked the requestor to come forward.

Mr. Larry Dickerson, 150 John Wayne Drive, stated that he is the property owner of John Wayne Drive. Mr. Dickerson stated that the original deed stated a 10-foot easement. Mr. Dickerson asked whom Music City Builders, LLC is. Mr. Dickerson then asked if the property was sold without an easement, and if so, is that legal? Mr. Dickerson expressed concern that, as the owner, he was not notified of this request. *[NOTE: Mr. Dickerson apparently owns John Wayne Private Drive, but does not own the parcel in question for this agenda item.]*

Mr. Rainey asked if the requestor is present. There was no response from the audience, and the Board concluded that the applicant was not present.

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Mr. Suddath stated that the first people who signed up to speak, wished to do so after hearing others speak.

Mr. Holt stated a desire to hear them speak.

Patricia Dickerson stated concerns regarding the address, notification and the type of structure requested to be built.

Mr. Rainey explained that the applicant is appealing the staff decision and stated that the question to consider is whether the Board has been presented with enough evidence to overturn the staff decision.

Mr. Utley stated that the applicant, Music City Builders, LLC, is not present to state their case, and made a motion to **affirm** the staff determination, and to find that County requirements found at Chapter 11, Section 1101 Subsection H of the County Zoning Resolution related to Public Street Access **are not met**.

Ms. Webster and Mr. Holt seconded the motion. The motions passed unanimously.

- 8. Richard Eaton** is requesting a variance from County requirements contained at Chapter 11, Section 1101, Subsection D.1 of the Sumner County Zoning Resolution related to placement of a pool on the property. Subject property is located at **1009 Kidron Way, Hendersonville, TN, 37075**, is on Tax Map 123G, Group D, Parcel 040.00, contains .46 acres, is zoned Planned Unit Development (PUD) and is in the 7<sup>th</sup> Commission Voting District (Brian Stewart and Gene Rhodes).

**Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

**This item has been deferred for 60 days at the owner's request.**

Mr. Rainey stated that the next item was denied previously, but was granted a requested to be reheard at the December 2021 meeting. Mr. Rainey turned the meeting over to Mr. Suddath for staff presentation.

- 9. Lea Monahan** is requesting a Special Exception for a major home-based business to operate a food service warehouse and distribution business from an existing accessory structure. Subject property is located at **232 Bowling Branch Road, Cottontown, TN, 37048** is on Tax Map 056F, Group A, Parcel 006.01, contains 1.66 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 certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 16, 2021.**

Mr. Suddath affirmed that this item received permission to return to the BZA at the December 2021 meeting.

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Mr. Suddath then provided an overview of the property, stating that the applicant is requesting BZA authorization to legally conduct a warehousing/distribution activity from an existing structure located upon the subject property. Mr. Suddath stated that this proposed use may be classified a “Major Home Based Business”. Mr. Suddath stated that the business has been in operation for some time, explaining that the property owner is seeking to get it permitted following inquiries received by the County related to an unpermitted business being conducted on site.

Mr. Suddath summarized that this item was denied at the November 2021 BZA meeting; the applicant petitioned the BZA to reconsider the item at the December 2021 BZA meeting, on the grounds that they had not communicated all information and/or things had changed. The BZA agreed to do so.

At this time, Mr. Suddath stated that the applicant has provided a letter stating that three items have changed. Mr. Suddath provided portions of that letter and summarized the changes:

- 1) Status of residency: Lea Monahan stated that 232 Bowling Branch Road has been her permanent address since 2015. Ms. Monahan stated that while her property was undergoing renovations, she lived on an adjoining property.
- 2) Status of ownership: Lea Monahan stated that as of May 2021, she has been a shareholder of Food Service of Middle Tennessee, Inc and has been added to the Articles of Incorporation as of 05/01/2021.
- 3) Neighbor complaints related to cardboard and other trash: Lea Monahan stated that the trash issue has been resolved by placing a coded lock on the barn door.

Mr. Suddath explained that requirements of a Major Home-Based Business are that the owner must live on the property and be the primary practitioner of the business.

Mr. Suddath then displayed the TN Corporation Annual Report Form for the business, listing Roger Hall as the CEO, with Lea and Angie Monahan being on the Board of Directors for the company.

Mr. Suddath then displayed an aerial photo of the property, the Public Notice and the noted purpose of the original application. Mr. Suddath displayed the Plot Plan provided by the applicant and photos of the property. Mr. Suddath stated that the specific requirements for Major Home-based businesses, listed in Chapter 14, Section 1411 E.2 of the Zoning Resolution, appear to be met.

Mr. Suddath stated that the Zoning Resolution requires that a Special Exception shall only be granted provided that 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;

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*Staff Interpretation: The use is has been in existence for some time. The County has received calls about the use. Specific 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 Bowling Branch Road for limited amount of traffic proposed would appear to be accomplished without safety concerns which would warrant a traffic study.*

Mr. Suddath concluded his presentation with example motions. Mr. Suddath added that the applicant has stated that they would be open to terms being imposed on this use related to a specific ending date for this permit. Mr. Suddath then turned the meeting over to Mr. Rainey.

Mr. Rainey reaffirmed that he abstained from discussion the first time and will abstain this time, as well. Mr. Rainey called Lea Monahan forward.

Lea Monahan, 232 Bowling Branch Road, stated that she is co-owner of the business, adding that she does have paperwork confirming this. Ms. Monahan stated that now that the house renovation is complete, she does live in the house full-time. Ms. Monahan stated that she has made attempts to reach out to the neighbors to discuss this business, but have not been answered.

Mr. Rainey called Angie Monahan forward.

Angie Monahan, 220 Bowling Branch Road, stated that she is Lea's mother and neighbor. Ms. Monahan stated that before locating the business to 232 Bowling Branch Road, the business was in a Commercial building on Highway 31. Ms. Monahan stated that the owner sold the commercial property. Ms. Monahan explained that as they have a barn on the property located at 232 Bowling Branch, they moved the business into that barn. Ms. Monahan stated that she helps manage the business and they store product in the barn. Ms. Monahan stated that Lea, her brother and she own the business, and stated that they have four employees. Ms. Monahan described the traffic related to the business, stating that on Mondays, there are deliveries to the property by box truck, on Tuesdays, employees are in the business from 8am-3pm, and on delivery days, the truck is backed into the barn for loading. Ms. Monahan stated that the only vendors delivering to the property are FedEx and UPS and a box truck delivery once a month.

Ms. Monahan stated that the trash issue has been addressed and then confirmed there will never be an expansion of this business. Ms. Monahan stated that this location was never intended to be a permanent location and added that they are in agreement for any term limit imposed by the BZA.

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Gerard Monahan, 220 Bowling Branch Road, stated that Lea's house needed extensive plumbing repairs. Mr. Monahan stated that the repairs have been made and she is now living in the house.

Casey Barnes, 232 Bowling Branch Road stated that all previously mentioned issues have been resolved, except the security light, which is necessary for security.

Delle Ann Duke, 236 Bowling Branch Road, stated concern with occupancy of the house at the time that the barn was built and the driveway paved. She raised concern that the barn was built specifically for this business. Ms. Duke raised concern of issues with noise, traffic, boxes delivered outside and the potential diminishment of her property value.

Mr. Rainey closed the Public Hearing.

Mr. Utley asked for clarification that the previous issues with this property were concerns that the landowner did not live on the property and the owner of the business did not own the property. Mr. Utley then stated that this meeting has revealed that the landowner owns the business and lives on the property. Mr. Utley asked if that allows a Conditional Use Permit.

Mr. Suddath stated that the original denial was because the principal practitioner did not live on the property. Mr. Suddath explained that the applicant stated that they originally failed to produce the sufficient information to the Board.

Mr. Utley asked if there was one delivery on Monday.

Angie Monahan answered there is one delivery on Monday.

Mr. Utley asked how many workers come on Tuesdays.

Ms. Manahan answered that there are four workers.

Mr. Utley asked if that is four separate cars.

Ms. Monahan stated yes.

Mr. Utley asked about the delivery on Thursdays.

Ms. Monahan stated that they own a company delivery truck that is stored at her house, and explained that on Thursday, they place bins in the trailer, which they take to Robertson County Jail for delivery.

Mr. Holt asked how the Principal Practitioner is determined when there are several members on the Board.

Mr. Suddath stated that that is not a defined term, adding that the Board must make a determination on that issue.

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Mr. Utley asked if this business is required to have parking.

Mr. Suddath stated yes, and noted that the Site Plan mentions two parking spaces. Mr. Suddath stated that the BZA has the discretion to require more, if they wish to do so.

Mr. Suddath added that if the BZA feels a degree of discomfort, they are empowered to impose a term of years and state that the Special Exception is not renewable.

Mr. Harrison asked if the business were to be there for some time, would a landscape buffer be an option.

Mr. Suddath stated that the BZA could impose a landscape buffer.

**Mr. Harrison made a motion to approve a Special Exception for a Major Home Based Business, authorizing the operation of a warehousing 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**
- c) Any proposed expansion of the use shall be approved by the Board of Zoning Appeals prior to being undertaken by the applicant/property owner**
- d) Permit shall be for a period of two (2) years only**
- e) A landscape buffer shall be planted along the eastern property line, consisting of one evergreen tree (minimum height of 4' tall), planted every 10 feet. This buffer is to be completed within 6 months of approval date.**

**Mr. Utley seconded the motion.**

**The motion passed unanimously, with Mr. Rainey abstaining.**

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

**10. Todd Abraham** is requesting a variance from County requirements contained at Chapter 11, Section 1101, Subsection D of the Sumner County Zoning Resolution related to percentage of lot area that may be covered by accessory structures on the property. Subject property is located at **3031 Tyree Springs Road, Hendersonville, TN, 37075**, is on Tax Map 117, Parcel 022.01, contains 1.43 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 certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

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Mr. Suddath provided an overview of the property, stating that the applicant is seeking to build an accessory structure that will cover more than the 5% maximum lot coverage requirement. Mr. Suddath displayed an aerial photo of the property, depicting semi-trailers on the rear of the lot, and depicting approximately half of the property in the 100-year floodplain. Mr. Suddath displayed the Public Notice from the newspaper.

Next, Mr. Suddath explained a portion of Chapter 11, Section 1101, Subsection D of the County Zoning Resolution, which states that a lot size of 40,000 sq. ft. or more may have a maximum of 5% of the lot covered by accessory structures.

Mr. Suddath stated that this property contains 62,690.8 square feet. Mr. Suddath explained that 5% of that area is 3,114.54 sq. ft., which is the maximum size of accessory structures that may be allowed on this property. Mr. Suddath stated that the applicant is seeking to build a 7,200 sq. ft. accessory structure which would require a 4,085.45 sq. ft. variance from County Zoning Regulations.

Mr. Suddath displayed the Plot Plan and stated that the applicant has applied for a Floodplain Development Permit. Mr. Suddath displayed the denied Zoning Compliance Application and the reasons for the requested variance, which included 1) to store antique cars and trucks and 2) the project started in February 2020 and has been delayed due to Covid shutdowns, FEMA changes, material shortages and survey delays.

Mr. Suddath then displayed photos of the property and the Public Notice sign posted on the property.

Mr. Suddath reviewed the Standards for Variances that must be met. Mr. Suddath explained that Staff interpretation finds that Standards 1, 2, 6, 7 and 8 are not met with this request. Mr. Suddath confirmed that a Plot Plan has been provided by the applicant and this variance is not a use variance. Mr. Suddath concluded his presentation with example motions and turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

Todd Abraham, 3031 Tyree Springs Road, asked when the percentage of lot coverage rules changed.

Mr. Suddath stated that the current Zoning Resolution took effect July 1, 2020.

Mr. Abraham asked what the requirement was before that.

Mr. Suddath stated that he does not know for the specific lot in question.

Mr. Abraham stated that this project has been ongoing for 2 years and asked if there would be any consideration for materials being accumulated during this time.

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Mr. Rainey told Mr. Abraham that it is incumbent upon him to explain why he is requesting this variance.

Mr. Abraham stated that he has collected antique cars since he was 14 years old, and needs a place to store and/or restore these vehicles.

Mr. Utley asked what the delay for the project was.

Mr. Abraham stated that the project started in 2020 and stated that FEMA problems were an issue. Mr. Abraham added that other delays were caused by Covid shut-downs, FEMA staff was changed, survey delays and material shortages.

Mr. Utley asked if the land percentage coverage rules were changed during that time.

Mr. Suddath stated that staff did not receive an application for this project until August 5, 2021, and added that until an application is made, a request is not active.

Mr. Suddath added that if the Board wished to defer this, staff could look into whether a floodplain development application was applied for, prior to the adoption of the new Zoning Code. Mr. Suddath added that one must submit an application in order to be vested under any Zoning Code.

Mr. Abraham asked when the new Zoning Codes took effect.

Mr. Suddath answered July 2020.

Mr. Suddath stated that if the Board wished a deferral in order for staff to look at previous regulations, they could do so.

Mr. Rainey closed the Public Hearing.

**Mr. Utley made a motion to deny a request for a variance from County requirements contained at Chapter 11, Section 1101, Subsection D of the Sumner County Zoning Resolution, related to percentage of lot area that may be covered by accessory structures, for the property located at 3031 Tyree Springs Road, Hendersonville, TN, based upon determination that the eight (8) minimum requirements for issuance of a variance were not met.**

Mr. Suddath stated that if the applicant is able to produce an active application prior to change in Zoning, he might file an Administrative Appeal.

**Mr. Harrison seconded the motion. The motion was approved unanimously, denying the request, with Mr. Rainey abstaining.**

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At this time, Mr. Abraham asked what is meant by a permit, adding that a survey and FEMA procedure was in the works before the Zoning Regulation changes.

Mr. Suddath stated that in all fairness, if people have spent money under the old regulations, with a good-faith effort to submit applications, staff has a track record of working with people. However, added Mr. Suddath, many people have been denied applications very similar to this one due to the proposal of exceeding maximum lot coverage requirements. Those denials typically result in the applicant submitting a revised application that meets the percentage of lot area coverage.

Mr. Abraham thanked Mr. Suddath.

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

**11. Jetton Property Group, LLC** is requesting a variance from County requirements contained at Chapter 4, Section 404 of the Sumner County Zoning Resolution related to encroachment of a primary structure within a required front yard setback. Subject property is located at **1466 Shell Road, Goodlettsville, TN, 37072** is on Tax Map 117, Parcel 060.03, contains 1.9 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 certified mail and the agenda item was advertised in The Gallatin News on Thursday, December 30, 2021.**

Mr. Suddath provided an overview of the property, explaining that the structure's foundation has been installed at this time. Mr. Suddath provided an aerial photo of the property and stressed that the GIS contains a disclaimer that states that this site is for informational purposes only and that a land use decision should never be based on anything shown on the site.

Mr. Suddath displayed the Public Notice, the Setback Table for the RR zoning from the Zoning Resolution, which notes the required property setbacks as: Front yard – 40', Rear yard – 30' and Side yard – 20'.

Mr. Suddath stated that this lot was created in the 1950s and has a highly irregular shape.

Mr. Suddath displayed the Zoning Compliance for this property. Mr. Suddath explained that as we cannot require a surveyed Plot Plan for all Building Permits, there are times when we can only review what the applicant has provided to us, in the form of a hand-drawn Site Plan. Upon review, the Site Plan appeared to meet the setback requirements and received approval.

Next, Mr. Suddath provided a background for this request, stating that:

- A staking by survey crew indicated that the structure met requirements.
- It was found that the base survey data for the existing lot of record was not correct (common)
- Codes visited the site and noted that the structure appeared very close to the road.
- A resurvey and plot plan showed that the structure's foundation is in fact encroaching approximately 16 feet into a front yard setback.

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Mr. Suddath displayed that Plot Plan, noting that it is an As-Built Survey, as the foundation was in place at the time of the survey. Mr. Suddath zoomed in on the survey to show the building envelope. Mr. Suddath explained that the topography of the property drops off from 810 feet to 790 feet at the back of the lot.

Next, Mr. Suddath displayed the stated reasons for the variance, which include: 1) Odd shaped lot created in 1950, 2) Extreme change in elevation and 3) Location of septic soil area and extreme elevation on northerly part of the lot.

Mr. Suddath displayed photos of the lot, including the posted Public Notice sign, the house foundation, the road and topographical elevation drop. Mr. Suddath then explained the eight standards for variances that must be met, noting that this property meets all these required standards.

Mr. Suddath explained that this is a lot of record that predates zoning in Sumner County. Mr. Suddath stated that other requirements have been met, including that a Plot Plan has been provided and the variance is not a use variance.

Next, Mr. Suddath provided aerial photos of other properties in the vicinity of 1466 Shell Road, and stated that there are several structures that encroach near the road, which would not be allowed today. Mr. Suddath noted that as Shell Road gets closer to the Millersville city limits, the properties have a reduced front yard setback of 25-30 feet.

Mr. Suddath stated that if the variance is granted, the BZA could require a retaining wall, guard rail or tree plantings as a way to mitigate the impact of the variance. Mr. Suddath completed his presentation with example motions and turned the floor over to the chairperson.

Mr. Rainey opened the Public Hearing.

Dr. Andrew Reed, 1454 Shell Road, expressed opposition to the variance and stated that he assumes that the existing homes mentioned within the setback, are grandfathered. Dr. Reed stated concern for the location of the property in a curve in the road where there have been numerous accidents, stating that it poses a safety hazard. Dr. Reed expressed concern for the safety of the future homeowner. Mr. Reed added that the 40-foot setback is in place for a reason and should be abided by.

Glenda Reed, 1520 Shell Road, expressed opposition of the variance and stated that she echoes what Mr. Reed stated. Ms. Reed stated there is a reason no one has built on this lot, including topographical steepness. Ms. Reed also stated concern that if a variance is granted, there are three other lots across the street that may seek the same variance, as they also have steep topography. Ms. Reed stated that building materials continue to be delivered to this site.

Eric Johnson, 176 Keen Road, stated that he is the general contractor and co-owner of Jetton Property Group. Mr. Johnson stated that he did his due diligence for this property to make sure it

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was buildable, including verifying the soil and property boundaries. Mr. Johnson stated that they hired Bruce Rainey to survey the property so that they could make sure the soil would be sufficient for their client's needs. Finding that it would, Mr. Johnson stated that they moved forward with closing the property in December of 2020.

Mr. Johnson explained that there was a discrepancy found not only with the metes and bounds of the property, but also with the point of reference on the original deed from 1950. Mr. Johnson stated that at that point, the house had already been staked. Mr. Johnson stated that due to the steep topography of the property, moving the house would significantly increase the cost of building, if even possible from an engineering standpoint.

Mr. Johnson stated that the house was not placed in the wrong place on purpose, but instead, due to a survey error. Mr. Johnson stated that his company builds many houses and stated that they have never had problems with the Codes Department. Mr. Johnson added that they ceased construction immediately upon being notified of the encroachment into the setback. Mr. Johnson stated that he has removed some building materials and the dumpster from the property. Mr. Johnson stated that if denied the Variance, it would end the construction of the house on this property. Mr. Johnson stated a willingness to answer questions.

Mr. Chuck Thomas, 1008 Forest Pointe, Hendersonville, stated that he is the co-owner of Jetton Property Group, and stated that his company always hires and works with professionals, relying on them for accurate information. Mr. Thomas reiterated what Mr. Johnson stated; that they did not know they were in violation of the setback requirements for this property, during construction.

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

Mr. Rainey stated that his name is involved with this request, and therefore will not speak.

Mr. Utley asked what the front yard setback is.

Mr. Suddath stated 40 feet.

Mr. Utley asked what the other numbers on the Plat are.

Mr. Rainey stated those numbers are the distances of the foundation from the property line.

Mr. Suddath pointed out the depth of encroachment on the plat.

Mr. Utley asked if the encroachment is roughly 16 feet.

Mr. Suddath stated yes.

Mr. Harrison asked if anyone has discussed what the elevation would be if the house was moved back 16 feet.

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**5:00 p.m.**

Mr. Suddath stated that the office has not discussed this, adding that the builder may be able to speak to that.

Mr. Rainey stated that he could speak to this and offer additional information, if he were to step down from the Chair position.

At this time, Mr. Rainey stepped down and Ms. Webster took the floor.

Ms. Webster stated that the Board has questions for Mr. Rainey as he surveyed this property.

Mr. Harrison asked if anyone had explored moving the house back 16 feet, and if so, what the implications are.

Mr. Rainey stated that the builder alluded to issues with the original survey of the property. Mr. Rainey elaborated that at some point during the surveying process, they discovered a 60 to 70 foot error in the original survey of the property. Additionally, they found that the Right-Of-Way for Shell Road was "all over the board". Mr. Rainey stated that the County showed the road as a 30-foot ROW, but the original survey showed it as a 50-foot ROW. Mr. Rainey stated that when the data was used from that original survey, the house fit within the setbacks.

Mr. Rainey stated that to move the house back 16 feet would essentially create a basement house. Mr. Rainey stated that they did look at the possibility of moving it back.

Mr. Utley asked when the original survey was done.

Mr. Rainey stated that it was done about 2016.

Mr. Utley asked what responsibility that original surveyor would hold, in this instance.

Mr. Rainey stated that we had a situation in the county, in which a surveyor had someone doing work under his stamp, that was not licensed. This was unknown to the surveyor, as the individual had stolen his stamp. Mr. Rainey stated that he was brought to justice by the D.A.s office.

**Mr. Holt stated that this is unfortunate for the parties involved, and made a motion deny a request for a front-yard setback variance for 1466 Shell Road, Goodlettsville. Mr. Utley seconded the motion. The motion passed unanimously.**

**There being no further business, Mr. Utley made a motion to adjourn, seconded by Mr. Holt.**

**The meeting adjourned at 8:22 PM.**