SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
MARCH 10, 2022
5:00 p.m.

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

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

MEMBERS ABSENT:

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 stated that with three members present, there is a quorum. Mr. Rainey then called for approval of the February 2022 Minutes.

Ms. Webster made a motion to approve the February 2022 Minutes.
Mr. Harrison seconded the motion.
The motion passed unanimously.

Mr. Rainey stated the following changes regarding the Agenda:
- Item #4 has been requested for removal by the applicant
- Item #3 has been moved to first on the Agenda by request of Staff.

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

1. **Mid America Distributors** was requesting a continuation of their Conditional Use Permit to operate a seasonal fireworks stand. Subject property is located at **Highway 25E, Gallatin, TN, 37066**, on Tax Map 112NA, Parcel 001.00, containing 1.15 acres, is zoned Rural Residential (RR) and is in the 3rd Commission Voting District (Alan Driver and Steve Graves). Adjoining property owners were notified by regular mail.

Mr. Suddath provided an overview of the property, stating that this item came before the Board in February 20, 2021. Mr. Suddath displayed aerial and street views of the property. Mr. Suddath explained that the findings from the 2021 BZA meeting were that the use as a fireworks stand was a Legal Nonconforming or a "Grandfathered" use, subject to conditions related to the lease of the property.

Mr. Suddath stated that Mid-America has since purchased the property, resulting in there no longer being a lease. This would appear to render the conditions imposed by the BZA related to the lease

term to be moot, stated Mr. Suddath, explaining that this essentially leaves the BZA's initial approval of the site as a legally nonconforming, or "Grandfathered" Use standing, without additional conditions. Mr. Suddath stated that the change in ownership does not affect the status of the "Grandfathered" Use per state law and the County's Zoning Resolution, which requires that such entitlements "run with the property".

Mr. Suddath explained that the applicant is seeking to renew the permit, utilizing the BZA's previous finding that it is in fact a "Grandfathered" Legal Nonconforming Use. In addition, the applicant is seeking to obtain the BZA's approval to allow the Temporary Use to be renewed administratively going forward as is allowed by the County Zoning Resolution at Chapter 11, Section 1101, Subsection O.

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

Mr. Rainey opened the Public Hearing.

Nate Musfeldt, Mid-America Distributors, stated that Mr. Suddath provided a thorough overview. Mr. Musfeldt requested the opportunity to continue the temporary permit approval and be granted that same continuation process as other temporary uses, going forward.

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

Mr. Holt asked if there are any inspections required for a Temporary Permit.

Mr. Suddath stated yes, however, the County has not yet adopted a Fire Code.

Mr. Wright stated that the County plans to have a Fire Code adopted this year.

Mr. Utley made a motion to approve a request for a Continuation of a Special Exception/ Temporary Use Permit authorizing a Seasonal Fireworks Stand conducted at Tax Map 112N, Group A, Parcel 001.00 subject to the following:

a) This Seasonal Fireworks Stand is hereby deemed to be a Legally Nonconforming or "Grandfathered" Use in accordance with the BZA's previous 2/2021 decision;
b) Going forward, this Special Exception/Temporary Use Permit may be renewed and approved administratively in accordance with Temporary Use Renewal Provisions contained at Chapter 11, Section 1101, Subsection O of the County Zoning Resolution;
c) All relevant provisions for Temporary Use Permits and Fireworks Sales Tents shall be strictly met on an ongoing and continual basis by the applicant; failure to do so will result in the application being forwarded to the BZA for action by County Staff.

Mr. Holt seconded the motion.
The motion passed unanimously.

Mr. Rainey turned the meeting over to Mr. Suddath.

2. **Derek Drilling** is requesting a variance from County requirements contained at Chapter 11, Section 1101, Subsection B of the Sumner County Zoning Resolution related to encroachment of a privacy fence within a required front yard setback. Variance is being requested in accordance with Chapter 14, Section 1410 of the County Zoning Resolution. Subject property is located at **100 Timber Trails, Hendersonville, TN, 37075,** is on Tax Map 116, Parcel 043.02, contains 1.24 acres, is zoned Rural Residential (RR), and is in the 11th 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, February 24, 2022.

Mr. Suddath provided an overview of the property, stating that the applicant is seeking a variance to place a privacy fence within a required front yard setback/vision triangle. Mr. Suddath explained that the encroachment into the front yard would be allowable, if the fence were of transparent materials, such as split rail or picket.

Mr. Suddath displayed an aerial view of the property and the Public Notice advertised in The Gallatin News. Next, Mr. Suddath displayed the provided Plot Plan, noting the 30-foot encroachment into the front yard setback.

Referencing the Zoning Resolution, Mr. Suddath explained that nothing may be allowed to impede the vision triangle at intersections. Mr. Suddath explained that the proposed fence will impede the vision triangle.

Mr. Suddath displayed the Staff denial of the Zoning Compliance application and the reason for the variance request, provided by the applicant. Mr. Suddath then displayed photos of the applicant's property and the Public Notice sign posted in the yard.

Next, Mr. Suddath reviewed the eight Standards for Variances that must be met, adding that the characteristics of the lot must be the main grounds for the granting of a variance. Mr. Suddath stated that for this request, there are no unique lot-specific characteristics. Mr. Suddath added that the request for the variance is to construct a privacy fence to block view of the traffic which will be generated by the new school. Mr. Suddath explained that there are alternatives available to the privacy fence and added that the construction of the fence would obstruct a small portion of the vision triangle at the driveway, which is not allowed by the County Zoning Resolution. Mr. Suddath concluded his presentation with example motions and turned the meeting over to Mr. Rainey.

Mr. Rainey opened the Public Hearing.

Derek Drilling, 100 Timber Trails, stated that the fence would be out of the waterline easement. Mr. Drilling stated that only two driveways would be impeded: his and his father's. Mr. Drilling

stated the desire to have a privacy fence, due to the future traffic that will be generated with the completion of the new school.

Dan Drilling, 102 Timber Trails, stated that his driveway is the only one that would be affected by the impeded vision triangle, adding that he has no concern of that.

Mr. Suddath stated that if platted today, there would be at least a 20-foot Public Utility Drainage Easement along this road.

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

Mr. Utley asked to see the vision triangle depiction and asked for clarification that the vision triangle is for both the driveway and the road.

Mr. Suddath confirmed.

Mr. Utley asked if the triangles sizes are the same.

Mr. Suddath stated no and explained that for intersecting streets, the triangle is 30 feet in each direction along the right-of-way; and at the driveway, the triangle is 20-feet along the right-of-way and 15 feet deep.

Mr. Suddath stated that the fence is in contradiction regarding two requirements of the Zoning Regulation: 1) a non-transparent fence in the front yard setback and 2) the encroachment of the fence within the vision triangle.

Mr. Utley asked if the fence would be in zoning compliance if it were placed 15 feet from the from the property line and was not in the front yard.

Mr. Suddath stated yes.

Mr. Utley made a motion to deny a request for a fence variance for 100 Timber Trail Hendersonville.
Mr. Holt seconded the motion.
The motion passed unanimously.

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

3. **Mark and Cindi Duehmig, d.b.a. Tharpe Family Co. LP/Saddle & Vine, LLC** is requesting a Special Exception to conduct an outdoor equestrian facility on subject property. Applicant is also requesting a side yard setback Variance for a proposed equestrian facility riding area expansion. These requests are made pursuant to Chapter 14, Sections 1410 & 1411 of the County Zoning Resolution. Subject property is located at **3555 Hwy. 31E, Bethpage,** is on Tax Map 068,

Parcels 006.01 & 115.00, contains 75.7 acres, is zoned Rural Residential (RR), and is in the 1st Commission Voting District (Terry Wright and Moe Taylor).
Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, February 24, 2022.

Mr. Suddath provided an overview of the property and displayed an aerial photo of the property, the public notice published in The Gallatin News and the Site Plan.

Mr. Suddath explained the location of the proposed riding area expansion and the proposed 90-foot encroachment into the 100-foot equestrian facility setback.
Mr. Suddath displayed the notes from the Plot Plan which state:

1) *This site will serve as an outdoor entertainment and amusement service. It will facilitate recreational activities to the patrons.*
2) *A setback variance has been requested for the property riding area…*
3) *The adjacent neighbors are approximately 125 feet away from the equestrian facility, with an existing tree line and vegetation in between as a buffer*
4) *Equestrian facilities must have a minimum lot area of 10 acres*
5) *A public address system is not being proposed at this time, If public address system is to be utilized, no sound shall be audible from the property line* (Mr. Suddath expressed concerns as to how this could be possible)
6) *Attendance at special events is limited to 100 people*
7) *Existing gravel drive and parking must have a dust-free surface.*

Mr. Suddath stated that the BZA has a duty to grant a Conditional Use or Special Exception, if the proposed use complies with **all** the conditions set forth in the ordinance. Mr. Suddath likewise stated that it is the applicant's duty to demonstrate that they meet all the requirements for the Special Exception.

Mr. Suddath then reviewed the Zoning Resolution Equestrian Facility requirements that must be met. Mr. Suddath stated that this request does not meet the minimum setback requirements, as set forth in the County Zoning Resolution, Chapter 14, Section 1411, which states:
"Outdoor corrals, riding areas, piles of manure, fee, and bedding shall be setback a minimum of 100 feet from the property line" and
"All roofed structures shall be a minimum of 150 feet from the property lines".

Next, Mr. Suddath displayed photo of the property and the Public Notice sign posted on the property.

Mr. Suddath then reviewed the four Required Findings for Special Exceptions, and Staff Interpretation, stating 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: The proposed location of the equestrian facility is 90 feet closer to the property line than is allowed. Any impacts (sound, light etc) cannot be mitigated due to the proximity to the property line. It would appear that the use could be conducted at another location on the sizeable property. Another option could be the acquisition of additional property that would help this application to meet specific requirements for equestrian facilities in Sumner County.

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

Staff Interpretation: The proposed location of the equestrian facility is 90 feet closer to the property line than is allowed. Any impacts (sound, light etc) cannot be mitigated due to the proximity to the property line. It would appear that the use could be conducted at another location on the sizeable property. Another option could be the acquisition of additional property that would help this application to meet specific requirements for equestrian facilities in Sumner County.

- 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 does not appear to conform to applicable provisions of the County Zoning Resolution. The use could be conducted at another location on the property, which is sizable. Alternatively, additional property could potentially be acquired that would help this application to meet specific requirements for equestrian facilities in Sumner County

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

Staff Interpretation: Proposed activity (equestrian activities) is compatible with the surrounding rural area in general. Sight distance calculations are provided by the applicant on the site plan. As noted, proximity to the property line is a concern, and is not allowed by the Zoning Resolution.

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

Mr. Rainey opened the Public Hearing.

Debra Dobbs, 250 Mount Vernon Road, stated concern of future development, as her property is adjacent to the back of the subject property.

Mr. Suddath stated that the applicant could only do what is approved tonight. Any further addition or expansion of the use must come back before the BZA for approval or to the County Commission for a rezoning.

Jay Tucker, 3325 Highway 31E, stated opposition to events being held on the property, citing traffic concerns.

Douglas Adams, 155 Mount Vernon Road, referenced Peggy Adam's (his mother) property at 3545 Highway 31E, stated concern with erosion from 3555 Highway 31E, onto her property. Mr. Adams supplied photo of the area of concern, showing erosion and the proximity of the existing barn to their property. Mr. Adams stated the concern of this problem increasing. Mr. Adams also expressed concerns of events, including septic, noise, traffic, and lights.

Peggy Adams, 155 Mount Vernon Road, expressed concern of animal waste, smells and pests.

Brian Dobbs, 250 Mount Vernon Road, stated concern of future development. Mr. Dobbs stated that his family enjoys riding motorcycles on his property, and does not want this to affect that.

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

Andy Leath, GreenLID Design, representing the Duemig family, provided an explanation of the plan for the property, stating that the plan is to operate an equestrian facility. Mr. Leath stated that there is no plan to add a new structure to the area requesting the variance, adding that the request is to expand the existing arena. Mr. Leath stated that the applicants would be willing to move the arena over, to comply with the distance requirements of 100 feet from the property line. Mr. Leath added that the horses in the barn might need to be located to a different facility. Mr. Leath stated the desire to be good neighbors, and stated availability to answer any questions.

Mr. Rainey asked if the equestrian area was moved over 90 feet, meeting setback requirements, would the applicant still be before the BZA.

Mr. Suddath stated yes, as the Special Exception requires BZA approval.

There was discussion to have the requestor speak.

Mr. Duemig stated that the arena required flat space, adding that to move it would be impossible, as there is a hill.

At this time, Mr. Suddath left the meeting.

Mr. Mark Duemig stated that currently, the arena is 55 feet from the edge of the hill, which is the farthest it can be moved.

Mr. Rainey asked Mr. Leath if there was anything that could be done to alleviate some of the runoff.

Mr. Leath stated that he is sure there is, possibly creating berms to redirect the runoff.

Mr. Harrison asked if an alternative location could be considered.

Mr. Leath stated that they could consider alternatives.

Mr. Utley asked if the BZA is considering the Special Exception and a variance request.

Mr. Rainey stated yes, the request is for a Special Exception and a setback variance.

Mr. Leath asked how long the requestor would have to wait to return to the BZA, if the Body chose to take negative action tonight.
There was discussion regarding requesting a deferral.

At this point, Mr. Leath and the Duemig's requested a one-month deferral.

Mr. Utley made a motion to accept the applicant request to defer for 30 days.
Mr. Holt seconded the motion.
The motion was approved unanimously.

4. **Sumner County Staff** is requesting a Board of Zoning Appeals interpretation of the County Zoning Resolution related to a request to build a detached garage with living space above. Property is owned by **Joshua and Allison Frappier** and is located at **1554 Latimer Lane, Hendersonville, TN, 37075**, on Tax Map 116, Parcel 073.00, contains 9.1 acres, is zoned Rural Residential (RR), and is in the 11th 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, February 24, 2022.
This item was removed from the Agenda.

There being no further business before the Board, Ms. Webster made a motion to adjourn.
Mr. Holt seconded the motion.
The meeting adjourned at 5:56 pm.

APPROVED BY _____ **DATE** 4-14-22
(Chairman)

_____ **DATE** 4-14-22
(Vice-Chair)