SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
APRIL 14, 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
JIM HARRISON

MEMBERS ABSENT:
SHAWN UTLEY

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.

Ms. Webster made a motion to approve the March minutes. Mr. Harrison seconded the motion. The motion was approved unanimously.

Mr. Rainey asked if there are any changes to the Agenda.

Mr. Suddath stated that there are no changes.

Mr. Rainey stated that the Agenda stands as presented, without exception.

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

REGULAR AGENDA:

1. **Glenn and Pamela Duvall d.b.a. 5 Star Transmission,** are requesting a Special Exception for a major home-based business to operate an auto repair shop from an existing accessory structure. This request is made pursuant to Chapter 14, Section 1411 E.2 of the County Zoning Resolution. Subject property is located at **383 West Hester Road, Cottontown, TN, 37048** is on Tax Map 078, Parcel 011.02, contains 1.28 acres, is in the 12th Commission Voting District (Michael Guthrie and Justin Nipper), and is zoned Rural Residential (RR).
   Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, March 10, 2022.

Mr. Suddath presented an overview of the property, explaining that this is an ongoing business that was identified as a "hotspot" by Stormwater staff. Mr. Suddath displayed an aerial photo of the property and stated that the accessory structure and pool did receive building permits.

Mr. Suddath displayed the Public Notice that was printed in The Gallatin News, the noted purpose for application and photos of the Public Notice sign posted on the property. Mr. Suddath then displayed the Plot Plan that was provided by the applicant, and explained that the Plot Plan depicts the parking/storage areas for the business. Mr. Suddath displayed photo of the property, including the parking areas and an area at the back of the property where oil and auto parts are stored.

Next, Mr. Suddath explained the eight specific requirements for Major Home-Based Businesses that must be met. Mr. Suddath stated that this request meets all eight of those requirements.

Mr. Suddath then explained the four general requirements for a Special Exception to be granted; and how this property conforms. Mr. Suddath stated that a Special Exception stall only be granted, provided that 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 Hester Road can be accomplished without safety concerns which would warrant a traffic study.

Mr. Suddath concluded his presentation with example motions. Mr. Suddath explained that the BZA may wish to require conditions, including: a) Chemical containers must be stored indoors, or must have the proper safeguards installed to protect against illicit discharges b) A maximum number of customer vehicles that may be on site at any given time c) Installation of a fence that meets county requirements to be installed along the road frontage in order to screen the operation from view or d) All areas to be utilized for customer vehicle parking must be surfaced with gravel, asphalt, or concrete.

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

Mr. Rainey opened the floor for Public Hearing.

Glenn Duvall, stated that there is a minimal number of vehicles usually stored on the property.

Mr. Rainey asked for the minimum number of vehicles stored on the property at any given time.

Mr. Duvall answered five, adding that customers are on the property no longer than 10 minutes, while dropping off or picking up vehicles.

Mr. Holt asked if the parking areas are grass.

Mr. Duvall stated that most of the cars are parked on dirt, beside a line of trees located on the property line. Mr. Duvall added that those pine trees and two large trees in the front yard block the view from adjoining properties and the road.

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

There was discussion regarding the conditions that would be imposed.

Mr. Holt made a motion to approve a Special Exception for a Major Home-Based Business at 383 West Hester Road, to operate 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 the required building and zoning permits, to include a certificate of occupancy from the Sumner County Building and Codes Department if deemed necessary by the Director of Building Codes.**
c) **Total customer vehicles on site at any given time shall not exceed five (5).**
d) **An opaque fence meeting county requirements shall be installed around the oil storage/parts storage area.**
e) **Outdoor storage of chemical containers shall be inspected and approved annually by County Stormwater Staff**
f) **All areas to be utilized for customer vehicle parking must be surfaced with either gravel, asphalt, or concrete.**

Mr. Harrison seconded the motion.
The motion was approved unanimously.

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

2. **John and Kim Rowland** are 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 and side yard setback. Variance is being requested in accordance with Chapter 14, Section 1410 of the County Zoning Resolution. Subject property is located at **709 Zieglers Fort Road, Gallatin, TN 37066** is on Tax Map 133, Parcel 027.01, contains .81 acres, is in the 3rd Commission Voting District (Alan Driver and Steve Graves) and is zoned Rural Residential (RR).
Adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, March 31 2022.

Mr. Suddath provided an overview of the property, stating a request to expand the existing footprint, which would further encroach into the front and side yard setbacks, in order to remove and rebuild an existing residence. Mr. Suddath explained that the lot is an existing lot of record, which was created prior to zoning.

Mr. Suddath displayed an aerial view of the property, adding that the adjacent property, also owned by the applicant, contains an old church. Mr. Suddath then displayed the Public Notice printed in the newspaper, and the completed application.

Mr. Suddath displayed the reviewed Zoning Compliance, on which the applicant stated intent to remodel the existing residence. The findings stated that remodeling would meet zoning, as long as the renovation was done on the existing home footprint, with a note that any additional encroachment into the side or front setback must obtain a variance from the BZA.
Mr. Suddath also noted that the applicant had initially contacted the County about having the volunteer fire department burn the house down for training purposes, and then rebuild it. They were informed that any voluntary removal of the home would result in the structure needing to be replaced in a location that meets current requirements.

Next, Mr. Suddath displayed the application and the Plot Plan, explaining that the front yard setback is 50 feet, side yard setback is 10 feet and the rear yard setback is 20 feet.

Mr. Suddath stated that per Chapter 13, Section 1303 of the Zoning Resolution, "Nonconforming structures shall not be enlarged, extended of modified unless such alteration is in full compliance with all requirements of this Resolution…"

Mr. Suddath then displayed photos of the property, including the Public Notice sign.
Mr. Suddath stated that an email had been received stating opposition to this request.

Mr. Suddath reviewed the Eight Standards for Variances, explaining that the first two standards do not appear to be met. Mr. Suddath added that there is a default easement across this property to access the cemetery behind this property.

Mr. Suddath added that although this request is not a Use Variance, the property owner has inquired about utilizing a vacant church on an adjoining property (which they also own) for uses that the County would term a "Retreat", including weddings, events, recreational activities, nonprofit organization gatherings etc.

Mr. Suddath stressed that this variance would not authorize any similar activities on the subject property, which will require a rezoning by the Sumner County Commission for this subject property, and the adjacent subject property.
Mr. Suddath emphasized that this variance is related solely to the residential use of this subject property, which is allowed by right.

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

Mr. Rainey entered an email from Richard Hutchinson into the record expressing objection to the request, dated April 14m, 2022, and then opened the floor for Public Hearing.

John Rowland stated that they do own both properties. Mr. Rowland added that he has spoken with Mr. Hutchinson who had concerns of unsupervised children. Mr. Rowland stated that the proposed use of the adjoining property will include utilizing an area for kids to kayak and fish on the property, as part of the backpack program for Trousdale County.

Mr. Rainey stated that that property use is not before the Board.

Mr. Rowland stated that the intent to rebuild the house.

Mr. Rainey stated that he understands wishing to build on the existing foundation, but asked if the house could be rebuilt meeting zoning compliance.

Mr. Rowland stated that if the request were denied, he would have to rebuild a one-story house.

Mr. Rainey asked if the house location could be moved.

Ms. Kim Rowland stated that she did not think the county would allow them to relocate the house.

Mr. Suddath stated that the county always prefers that a building location is sought that meets the County Zoning Resolution requirements. As a lot of record, Mr. Suddath stated that they may place the house in a location that meets current zoning requirements. Mr. Suddath added that that has not been proposed to his department.

Ms. Rowland stated that there are overhead power lines that CEMC said could not be moved.

Mr. Harrison asked for the location of the power lines.

Mr. Rowland asked that the Plot Plan be displayed and then he pointed out the location.

Mr. Harrison stated that the septic appears to be behind the house.

Mr. Rowland confirmed that it is 6-8 feet off the back of the house.

Mr. Harrison asked if they had considered moving the house to the left.

Ms. Rowland stated that the electric lines are close to the left side.

Mr. Rowland referenced the location of the electric lines. Mr. Rowland added that he thought they had to rebuild on the existing footprint.

Mr. Holt asked if they might like to defer the request, in order to seek a new location for the house.

Mr. Rowland stated that they could possibly move the house to the left.

Mr. Rainey asked if they are stating they could move the house to the left, eliminating problems with the side yard setback, but still have a front yard setback issue.

Mr. Rowland answered yes.

There was discussion regarding deferral to allow time to research moving the house and obtaining a revised plot plan containing the power line.

Mr. Suddath stated that it is always preferred that a house be rebuilt to meet current zoning regulations.

Mr. Rainey asked Marshall Wright if he had any input.

Mr. Wright stated that a demolition permit would be required if they seek to tear down the existing structure, if it is over 1000 feet.

Mr. Rowland stated that he has a demolition permit.

Mr. Holt made a motion to defer the decision for a request for a variance allowing encroachment of a primary structure within a required front yard and side yard setback at 709 Ziegler's Fort Road, Gallatin, TN, in order for the applicant to explore other alternatives for their property.
Mr. Harrison 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. This request is made pursuant to Chapter 14, Sections 1410 & 1411 of the County Zoning Resolution. Subject property is located at **3555 Hwy. 31E, Bethpage, TN, 37022,** 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, March 31, 2022.
This item was deferred at the March 10, 2022 meeting.

Mr. Suddath provided an overview of the property, and displayed an aerial view of the property, the Public Notice printed in the newspaper and the provided Plot Plan. Mr. Suddath explained that this revised Site Plan depicts the Equestrian Facility riding area expansion as being located 100 feet from the side property line.

Mr. Suddath then reviewed the requirements for a Special Exception for an equestrian facility, per the County Zoning Resolution. Mr. Suddath stated that this request meets the requirements, with the exception of an existing structure that is too close to the property line.
Mr. Suddath stated that it is understood that the applicant will exclude that structure from the use of the equestrian facility, adding that the applicant will need to clarify. Mr. Suddath stated that a Variance for that structure is not being requested, however, a Variance had previously been requested at the March meeting.

Next, Mr. Suddath displayed photos of the property. Mr. Suddath then explained the four (4) Required Findings, stating that a Special Exception shall only be granted provide that 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 has been relocated to comply with the County Zoning Resolution. There are questions about the use of other accessory structures on site, which do not meet requirements. 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 has been relocated to comply with the County Zoning Resolution. There are questions about the use of other accessory

structures on site, which do not meet requirements. 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 proposed riding area does appear to conform to applicable provisions of the County Zoning Resolution. There are questions related to the existing accessory structures on site.

- 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 of existing structures related to this use to the property line is a concern.

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

Mr. Rainey opened the Public Hearing.

Douglas Adams, 3545 Hwy 31E, stated concern with water runoff. Mr. Adams supplied the Board with multiple photos of the property, depicting silt building up from the Duemigs property. Mr. Adams stated that there are no silt fences in place.

Mr. Rainey stated that nothing should be under construction, as no permits have been issued.

Mr. Adams stated that the silt has darkened the pond.

Mr. Rainey asked Andy Leath if he had anything to add.

Mr. Andy Leath, GreenLID Design, stated that the property owner would explain the use of the existing structure that is located within the setback. Mr. Leath stated that his office noticed the erosion upon visiting the site, explaining that it appears to be from where the Duemig's added onto the existing arena. Mr. Leath added that the erosion should be able to be controlled with grass and straw. Then, Mr. Leath stated that the erosion is not related to the Special Exception request. Mr. Leath stated that Mr. Duemig could answer any questions regarding the use of the structure.

Mr. Harrison asked to see the grading plan, asking if this project will require a Land Disturbance Permit.

Mr. Suddath confirmed that this would require a Land Disturbance Permit, adding that silt fencing will be required, as there are already runoff issues.

There was discussion of the water flow.

Mr. Harrison asked what impact this project would have on erosion.

Mr. Leath stated that once grass is in place, there should be no problem with erosion.

Mr. Leath asked what kind of surface is used for an equestrian facility.

Mr. Duemig stated that sand is used: coarse aggregate sand with grass, up to the footings.

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

Mr. Duemig stated that the existing tobacco barn would be used for general agricultural use, and not for the equestrian facility.

Mr. Holt asked for confirmation that there will be no P.A. system.

Mr. Duemig confirmed that there will be no P.A. and events will be limited to 100 attendees.

Mr. Harrison made a motion to approve a request for a Special Exception to conduct an outdoor equestrian facility in accordance with the submitted site plan for 3555 Hwy 31E, Bethpage, contingent upon:

a) **All required Building and Land Disturbance Permits must be obtained from the Sumner County Building Codes Office**
b) **Approval shall be for a renewable period of two years.**
c) **All applicable conditions for Equestrian Facilities shall be met on a continuing basis.**

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

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

4. **Mary Elizabeth Nelson** is requesting to discontinue a Conditional Use Permit granted on February 8, 2018, to conduct an event venue on the subject property to host weddings, family

reunions, picnics, etc. Subject property is located at **300 Hurt Road, Hendersonville, TN 37075,** is on Tax Map 139, Parcel 082.00 contains 74 acres, is zoned Residential and is in the 11th Voting District (Scott Langford and Jeremy Mansfield).
Adjoining property owners were notified by regular mail.

Mr. Suddath stated that this request is being brought before the Board as a discontinuation. Mr. Suddath provided a brief history of the property and stated that the two-year renewal of the Conditional Use Permit was due. When contacted to renew, Ms. Nelson stated that she did not wish to renew, and sent an email stating such.

Mr. Suddath explained that there is a general misunderstanding of a "grandfathered use" and stated that this formal request is to clarify that there is no grandfathered use or Conditional Use Permit for this property following the discontinuation of the permit. Mr. Suddath stated that if anyone wished to conduct a wedding venue at this property, they must meet current regulations.

Mr. Suddath concluded his presentation 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. Holt made a motion to approve a request to discontinue a Conditional Use Permit for 300 Hurt Road, Hendersonville with the following condition:

a) **Any similar request for the subject property in the future by any property owner shall meet all current applicable conditions for "Retreats" contained in the Sumner County Zoning Resolution.**

Ms. Webster seconded the motion. The motion passed unanimously.

There being no further business before the Board,
Ms. Webster made a motion to adjourn, seconded by Mr. Harrison.
The meeting adjourned at 5:55 p.m.

MINUTES APPROVED BY J. Bruce Rainey **DATE** 5-12-22
(Chairman)

Sandra L. Webster **DATE** 5-12-22
(Vice-Chair)