

**SUMNER COUNTY ZONING BOARD OF APPEALS  
MINUTES  
6:00 P.M.  
JUNE 12, 2008**

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

**MEMBERS PRESENT:**  
MARK MCKEE JR., CHAIRMAN  
BRUCE RAINEY, VICE-CHAIRMAN  
JAMES COLE  
ALTON PERDUE  
MIKE WILLIAMS, ALTERNATE

**MEMBERS ABSENT:**  
SANDY WEBSTER

**OTHERS PRESENT:**  
MIKE MOULTON, PLANNING DIRECTOR  
LISA WILLIAMS, ADMINISTRATIVE ASSISTANT

**MOTION FOR APPROVAL OF THE MAY MINUTES BY MR. COLE, SECONDED BY MR. PERDUE. MOTION PASSED UNANIMOUSLY.**

1. **MARK K. BROWN** WAS REQUESTING A CONDITIONAL USE PERMIT TO HAVE A FAMILY CEMETERY (CEMETERY WILL BE 100' X 100') ON HIS PROPERTY WHICH IS LOCATED AT 1427 KANSAS LANE, GALLATIN, TN, REQUESTING PERMISSION FOR ONE (1) UN-ILLUMINATED METAL SIGN WHICH WOULD BE LOCATED ON HIS FENCE AND FOR A DUST FREE PARKING VARIANCE. THIS PROPERTY IS VACANT WITH NO IMPROVEMENTS. SUBJECT PROPERTY IS LOCATED ON TAX MAP 91, PARCEL 15.00, CONTAINS 4.05 ACRES AND IS ZONED AGRICULTURAL. THERE WILL BE NO RETAIL SALES OF ANY LOTS CONTAINED IN THE BROWN CEMETERY. THIS WAS ADVERTISED IN THE GALLATIN NEWS EXAMINER ON **MAY 16, 2008**. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.

MR. BROWN WAS NOT PRESENT, SO THIS ITEM WAS MOVED TO THE REAR OF THE AGENDA.

*FYI: AT 6: 45 P.M. WHEN ALL OF THE OTHER AGENDA ITEMS HAD BEEN ADDRESSED MR. BROWN HAD STILL NOT ARRIVED AT THE MEETING. MR. MOULTON STATED THAT WE MAY WANT TO DEFER THIS UNTIL NEXT MONTH. SINCE THIS MEETING WAS PUBLICALLY NOTICED, MR. MOULTON STATED THAT WE SHOULD HAVE A PUBLIC HEARING.*

CHAIRMAN MCKEE OPENED THE PUBLIC HEARING.

JONAH ROGAN CAME FORWARD TO ADDRESS THIS REQUEST. MR. ROGAN STATED THAT THEIR FAMILY OWNED PROPERTY NEXT TO THE SUBJECT PROPERTY. FOR YEARS THERE HAS BEEN A DISPUTE OF WHO OWNS THIS PROPERTY. WE HAVE BEEN FIGHTING THIS FOR YEARS, BUT DID NOT HAVE THE FUNDS TO FIGHT THIS IN COURT. I HAVE SPOKEN TO COUNCIL AND THEY ADVISED ME TO DO THE RESEARCH AND WHEN I GOT ALL THE PAPER WORK TOGETHER WE COULD COME TO COUNCIL.

MR. ROGAN GAVE THIS BODY A LITTLE BIT OF HISTORY ABOUT THIS PROPERTY. MR. ROGAN STATED THAT HIS FATHER TENDED THIS PROPERTY FOR YEARS. MR. PORTER WOMACK, TAX ASSESSOR, YEARS AGO ACQUIRED PROPERTY ON KANSAS LANE IN SUMNER COUNTY, SOME OF THE PROPERTY HE ACQUIRED ILLEGALLY. ORIGINALLY THIS 100' X 100' PIECE OF PROPERTY WAS PUT OVER ON OUR PIECE OF LAND.

JONAH ROGAN EXPLAINED THAT HIS BROTHER HAD PAPERWORK DATING BACK YEARS AGO SHOWING AERIAL VIEWS THAT THIS 100' X 100' PIECE OF PROPERTY WAS NOT EVEN OVER THERE. WHEN MY DADDY'S COUSIN DIED, WHO OWNED THE PROPERTY AT THE TIME, MR. PORTER WOMACK KEPT THE PROPERTY FOR HIMSELF AND STARTED TENDING IT, SINCE THERE WAS NO DEEDS TO PROPERTY BACK THEN. MR. WOMACK THEN TOOK THE 2 ACRES AND REDUCED IT TO A 100' X 100' PIECE OF PROPERTY AND MOVED IT OVER TO OUR PROPERTY, SO THAT WOULD GIVE HIM A CLEAR TRACT TO THIS LAND. BUT WHEN THEY MOVED THIS LAND BACK, IT HAS BEEN SETTING UP IN COUNTY RECORDS WITH NO COUNTY TAXES BEING COLLECTED ON IT FOR FIFTEEN OR SIXTEEN YEARS. MY MOTHER PAID TAXES ON THIS PROPERTY UNTIL SHE FOUND OUT THAT SHE DID NOT EVEN OWN THIS PROPERTY. THIS IS A BIG MESS. WE ARE ASKING THAT YOU DENY THIS REQUEST UNTIL WE CAN GET TIME TO HAVE THIS WORKED OUT. MR. ROGAN STATED THAT THE LAND MR. BROWN OWNS IS IN DISPUTE. MR. ROGAN STATES THAT EVERY OWNER OF THIS PROPERTY HAS ASKED US FOR A RELEASE FOR THIS 100' X 100' PIECE OF PROPERTY.

MR. RAINEY SAID TO MR. ROGAN, SO WHAT YOU ARE SAYING IS THE LAND THAT MR. MARK BROWN CLAIMS HE OWNERS IS IN DISPUTE.

MR. ROGAN SAID HE RECEIVED A TELEPHONE CALL FROM A MAN REPRESENTING COLLEGE HEIGHTS PRIOR TO THEM SELLING THIS LAND TO MR. MARK BROWN, ASKING IF OUR FAMILY WOULD RELEASE THIS 100' X 100' BECAUSE THEY COULD NOT GET A CLEAR TITLE FOR THIS PIECE OF LAND. THEY CAN NOT TAKE THIS TRACT OFF THE BOOKS AND ACTUALLY THIS IS PROPERTY IS ACTUALLY TWO (2) ACRES, NOT 100' X 100'.

MR. RICHARD ROGAN CAME FORWARD TO SPEAK. RICHARD STATED THAT THERE IS NO CEMETERY THERE, BUT MR. BROWN WANTS TO MAKE ONE.

THERE WAS EXTENSIVE DISCUSSION.

**MOTION TO DENY THE CEMETERY REQUEST BY MR. RAINEY, SECONDED BY MR. WILLIAMS. MOTION PASSED UNANIMOUSLY.**

**2. GEORGE RICKY AND ERICA M. MCGUIRE** WERE REQUESTING TO EXPAND A CONDITIONAL USE PERMIT TO HAVE TWO (2) NEW ACCESSORY STRUCTURES FOR MISCELLANEOUS USE. SUBJECT PROPERTY IS LOCATED ON TAX MAP 74, PARCEL 39.00, CONTAINS 1.49 DEEDED ACRES, AND IS ZONED RA. THIS IS JUST FOR THE PURPOSE OF EXPANDING THE FOOTPRINT OF THE JOHNSON'S CROSSROADS MARKET (EXISTING) AT THE CORNER OF HWY 25 WEST AND HWY 76, COTTONTOWN, TN.

THIS WAS ADVERTISED IN THE GALLATIN NEWS EXAMINER ON **MAY 28, 2008**. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.

ERICA MCGUIRE CAME FORWARD TO EXPLAIN THIS REQUEST. MRS. MCGUIRE EXPLAINED THAT THEY ARE EXPANDING FOR MISCELLANEOUS USE.

MR. MCGUIRE STATED THAT THE ACCESSORY STRUCTURES WOULD BE USED AS STORAGE FOR NOW.

MR. RAINEY QUESTIONED MR. MCGUIRE SAYING THAT THIS WOULD BE USED FOR STORAGE FOR NOW.

MR. MCGUIRE STATED THAT PEOPLE LOVE US IN THE AREA AND WE ARE THINKING ABOUT PUTTING UP A LITTLE ICE CREAM PARLOR ON THE SIDE THAT WOULD BE OPEN FIVE (5) MONTHS OUT OF THE YEAR.

MR. MOULTON STATED THE REASON THE MCGUIRE'S ARE HERE TONIGHT IS BECAUSE THIS IS AN EXPANSION OF THE FOOT PRINT OF THE EXISTING MARKET THAT RECEIVED A CONDITIONAL USE PERMIT ON NOVEMBER 2004.

MR. RAINEY ASKED MR. MOULTON HOW SPECIFIC DO WE HAVE TO BE IN THE MOTION. THEY ARE SAYING THAT THEY ARE USING THESE ACCESSORY STRUCTURES FOR STORAGE NOW AND WILL USE THEM FOR SOMETHING ELSE FOR THE FUTURE. DOES THIS REQUIRE ANY SPECIAL WORDING IN THE MOTION?

MR. MOULTON STATED THAT HE DID NOT THINK IT WOULD REQUIRE ANY SPECIAL WORDING. THEIR INTENT IS TO ADD MORE SQUARE FOOTAGE ASSOCIATED WITH THE RESTAURANT/MARKET.

MR. WILLIAMS ASKED TO PROTECT US, WOULD WE NOT NEED TO KNOW WHAT IS GOING TO GO IN THERE?

MR. RAINEY REPLIED TO MR. WILLIAMS QUESTION BY SAYING, NOT AS LONG AS WE CONSIDER IT AS AN ADDITIONAL USE TO THE RESTAURANT.

CHAIRMAN MCKEE OPENED THE FLOOR FOR THE PUBLIC HEARING.

RAY GAMBRELL CAME FORWARD TO SPEAK ABOUT THIS REQUEST. MR. GAMBRELL STATED THAT HE DID NOT HAVE A PROBLEM WITH THIS REQUEST. THE ONLY THING HE WONDERED ABOUT WAS WHY HE HAD TO DO A SITE PLAN BY A SURVEYOR FOR MY PROPERTY ACROSS THE STREET TO OPERATE MY BUSINESS. THIS SITE PLAN SHOWED MY TREES, HOUSE, PAVEMENT, BUILDING, OUT BUILDING, ETC. MR. GAMBRELL STATED THAT HE WAS MORE CONCERNED ABOUT THE PARKING AT THIS RESTAURANT/ MARKET. MR. GAMBRELL STATED THIS IS WHY HE WOULD LIKE TO SEE A SITE PLAN FOR THIS BUSINESS.

MR. MOULTON POINTED OUT THE ORIGINAL SITE PLAN FOR THE MCGUIRE'S WAS SUBMITTED AND APPROVED IN 2004. MR. MOULTON STATED THAT SOME OF THE CUSTOMERS DO PARK ON MR. GAMBRELL'S PROPERTY (ACROSS THE STREET) FROM TIME TO TIME. MR. MOULTON STATED THAT MR. MCGUIRE'S SITE PLAN DOES SHOW PARKING. THEY ALSO PARK IN THE CHURCH OF CHRIST PARKING LOT WHICH ADJOINS THE RESTAURANT/MARKET. MR. MOULTON STATED THAT WHAT THEY ARE ASKING FOR TONIGHT DOES FIT WITHIN THE DESIGN OF THE CONDITIONAL USE PERMIT.

MRS. MCGUIRE STATED THAT THEY HAVE A LONG STANDING RELATIONSHIP WITH THE CHURCH NEXT DOOR THAT STATES WE CAN USE THE CHURCH FOR OVER FLOW PARKING.

MR. RAINEY STATED THAT MR. GAMBRELL DID BRING UP A GOOD POINT ABOUT HIM BEING REQUIRED TO DO A DETAILED SITE PLAN. MR. RAINEY ASKED STAFF IF THIS SITE PLAN BEFORE US TONIGHT IF FAIR RELATING TO BOTH PARTIES (GAMBRELL AND MCGUIRE).

MR. MOULTON STATED THAT THEY HAVE BEEN OPERATING THIS STORE SINCE 2004, AND HE WOULD LEAVE IT UP TO THIS BODY WHETHER IT SHOULD GO BEFORE THE PLANNING COMMISSION. MR. MOULTON STATED IN HIS OPINION THE ADDITION OF THESE ACCESSORY STRUCTURES DOES NOT WARRANT APPEARING BEFORE THE PLANNING COMMISSION.

THERE WAS DISCUSSION.

**MOTION FOR APPROVAL BY MR. RAINEY FOR TWO YEARS, AND THIS MUST BE KEPT FOR RESTAURANT USE ONLY, SECONDED BY MR. COLE. MOTION PASSED UNANIMOUSLY.**

**3. BEECH CUMBERLAND PRESBYTERIAN CHURCH** WAS REQUESTING TO EXPAND THE EXISTING CEMETERY. SUBJECT PROPERTY IS LOCATED AT 3216 LONG HOLLOW PIKE, HENDERSONVILLE, TN., ON TAX MAP 122, PARCEL 68.03, IS ZONED R1A AND CONTAINS 1.25 ACRES.

THIS WAS A PUBLIC HEARING AND WAS ADVERTISED IN THE GALLATIN NEWS EXAMINER ON **MAY 28, 2008**. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.

MR. RAINEY DECLARED THAT HE HAS DONE WORK FOR THE CHURCH BEFORE AND DOES NOT SEE THAT THIS WOULD BE A PROBLEM, BUT HE WOULD RECUSE HIMSELF FROM DISCUSSING AND VOTING REGARDLESS.

MR. DWAYNE CALDWELL CAME FORWARD TO REPRESENT AND EXPLAIN THIS REQUEST. MR. CALDWELL EXPLAINED THAT WHAT WE ARE DOING IS AN EXPANSION OF THE ALREADY EXISTING CEMETERY TO THE NORTH. THERE WILL BE 1,020 GRAVE SITES IN THIS ADDITION.

MR. MOULTON STATED THAT THE REASON THAT THEY ARE BEFORE US TONIGHT IS THAT CEMETERIES ACCORDING TO THE SUMNER COUNTY ZONING RESOLUTIONS MUST APPEAR BEFORE THE ZONING BOARD OF APPEALS, GRANTED ON APPEAL ONLY. THIS WILL APPEAR BEFORE THE PLANNING COMMISSION ON JUNE 24, 2008, FOR SITE PLAN APPROVAL.

CHAIRMAN MCKEE OPENED THE PUBLIC HEARING.

JIM BOWMAN CAME FORWARD TO SPEAK. MR. BOWMAN ALSO REPRESENTS HIS BROTHER WHO LIVES BESIDE HIM WHO WAS UNABLE TO ATTEND THIS MEETING. MR. BOWMAN REPORTED THAT A COUPLE YEARS AGO THE CHURCH CAME BEFORE YOU FOR A SPECIAL USE PERMIT FOR A CEMETERY. MR. BOWMAN STATED HE FELT THIS EXPANSION WOULD HURT HIS PROPERTY VALUES BY IT ENCROACHING ON HIS LAND. MR. BOWMAN STATED THAT NO ONE FROM THE CHURCH HAS EXPLAINED TO HIM WHY THEY WANT TO ADD ON MORE CEMETERY PLOTS WHEN THEY HAVE ONLY USED ABOUT SIX (6) PLOTS CURRENTLY. ARE THEY GOING TO COME BACK EVERY YEAR WITH MORE ADDITIONS TO THE CEMETERY? I KNOW YOU WOULD NOT WANT A CEMETERY ADJACENT TO YOUR PROPERTY.

MR. CALDWELL REBUTTAL TO MR. BOWMAN WAS THAT THIS PROPOSED CEMETERY IS SIX FEET FROM YOUR PROPERTY.

CHAIRMAN MCKEE ASKED IF ALL THE APPROVED GRAVE SITES HAD BEEN SOLD.

MR. TOM HUNTER CAME FORWARD TO STATE THAT ALL OF THE GRAVE SITES HAVE NOT BEEN SOLD. IT TOOK A TEENAGER TO SAY THE CEMETERY NEEDS TO GO TO THE TOP OF THE HILL AND FLOW BACK TOWARD THE CHURCH. WE HAVE 27 SITES IN THIS ADDITION SOLD SUBJECT TO THIS APPROVAL TONIGHT. WE WILL SET ASIDE SOME SITES FOR VETERANS. WHEN MR. BOWMAN SITS ON HIS PORCH HE CAN NOT SEE THE CEMETERY, BUT IF HE GOES OVER TO THE FENCE HE COULD SEE THE CEMETERY.

MR. BOWMAN ASKED MR. HUNTER HOW MANY PLOTS ARE LEFT TO BE SOLD?

MR. HUNTER TOLD MR. BOWMAN HE HAS NOT COUNTED THE PLOTS NOT SOLD, BUT THERE WAS QUITE A FEW. THE POINT IS WE CAN ACCOMMODATE SEVERAL CHURCHES IN THE COMMUNITY.

CHUCK GREGORY, ELDER, CAME FORWARD TO SPEAK. WE DO NOT MARKET THESE CEMETERY PLOTS, BECAUSE WE ARE NOT ALLOWED TO. THIS IS JUST STRICTLY WORD OF MOUTH. WE HAVE JUST RECENTLY GOT A ROAD INTO THE CEMETERY THAT WILL MAKE IT MORE ACCESSIBLE, AND AT THIS POINT I WILL BE CONTACTING OTHER CHURCHES IN THE COMMUNITY AND LET THEM KNOW IT IS NOT JUST A COMMUNITY CEMETERY. THE LOTS ON THE TOP OF THE HILL WILL BE MORE VALUABLE.

MR. BOWMAN STATED THAT HE IS CONCERNED ABOUT THE CREEPING OF THE CEMETERY ENCROACHING ON HIS PROPERTY.

MR. MOULTON REPORTED THAT IF THIS BOARD GRANTS THIS APPEAL, THIS WILL GO TO THE PLANNING COMMISSION FOR SITE PLAN APPROVAL AND WE CAN TAKE NOTE OF THE NEIGHBORS CONCERNS ABOUT THE BUFFERING AT THE PLANNING COMMISSION MEETING.

MR. HUNTER EXPLAINED THAT THE PEOPLE INTERESTED IN THE SITES WANT TO MAKE SURE THE EXISTING TREES WILL REMAIN AND WOULD LIKE TO SEE THE TREES THICKER TO PROTECT THESE SITES FROM THE EXISTING HOMES IN THE AREA.

MR. BOWMAN ASKED THAT WHEN THIS SITE PLAN GOES TO THE PLANNING COMMISSION THAT THEY KNOW I AM CONCERNED ABOUT THE BUFFERING OF THIS PROPOSED CEMETERY ADDITION.

CHAIRMAN MCKEE CLOSED THE PUBLIC HEARING.

THERE WAS DISCUSSION.

**MOTION FOR APPROVAL BY MR. WILLIAMS, SECONDED BY MR. COLE. MOTION PASSED.**

**3 AYES: WILLIAMS, COLE AND PERDUE**

**1 ABSTAIN: RAINEY**

MR. MOULTON STATED THAT HE MIGHT SUGGEST TO THE PLANNING COMMISSION WHEN THIS APPEARS BEFORE THEM FOR SITE PLAN APPROVAL, THAT IF THEY CONTINUE TO EXPAND WE MIGHT NEED TO REQUEST THAT THEY DO A MASTER PLAN AND SHOW US WHAT THERE FUTURE PLANS MIGHT BE.

**OTHER BUSINESS:**

- **MRS. JOE WILKES -DISCUSSED THE CONTINUANCE OF A HARDSHIP VARIANCE THAT WAS GRANTED ON MAY 13, 2004. SUBJECT PROPERTY IS LOCATED AT 1765 HIGHWAY 109 NORTH, IS ON TAX MAP 92, PARCEL 52 AND IS ZONED AGRICULTURAL. THIS HARDSHIP WAS FOR SOMEONE TO LIVE IN HER GARAGE TO ASSIST HER. 4-2-08 CALLED MRS. WILKES AND ADVISED HER TO COME TO THE MEETING.**

MR. AND MRS. WILKES CAME FORWARD TO REPRESENT THIS REQUEST. MRS. WILKES STATED THAT THE HARDSHIP WAS STILL NEEDED AND WOULD NOT CHANGE PROBABLY ONLY GET WORSE.

CHAIRMAN MCKEE ASKED IF THEY STILL HAD THE SAME PEOPLE LIVING OVER THE GARAGE.

MRS. WILKES STATED NO, THE SAME PEOPLE DO NOT LIVE THERE. THERE IS A NEW COUPLE LIVING THERE AND SHE IS A REGISTERED NURSE.

THERE WAS DISCUSSION.

MR. WILLIAMS, AND WELL AS MR. MOULTON, STATED THAT MRS. WILKES NEEDS TO PROVIDE A STATEMENT FROM HER DOCTOR THAT THIS HARDSHIP.

MRS. WILKES STATED THAT IT WAS TOUGH TO GET THE DR. TO BE STILL LONG ENOUGH TO GIVE HER A LETTER CONFIRMING THE HARDSHIP.

**MOTION TO CONTINUE THE HARDSHIP BY MR. RAINEY, SECONDED BY MR. WILLIAMS. MOTION PASSED UNANIMOUSLY.**

**MEETING ADJOURNED AT 7:00 P.M.**