

**SUMNER COUNTY ZONING BOARD OF APPEALS
MINUTES
6:00 P.M.
NOVEMBER 13, 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
SANDY WEBSTER
ALTON PERDUE

MEMBERS ABSENT:

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

MOTION FOR APPROVAL OF THE OCTOBER MINUTES BY MS. WEBSTER, SECONDED BY MR. PERDUE. MOTION PASSED UNANIMOUSLY.

1. **DAVID CLINE** WAS CONSIDERING THE PURCHASE OF THE PAULA KIZER RICE PROPERTY TO STORE ELECTRICAL MATERIALS AND WILL BE REQUESTING A CONDITIONAL USE VARIANCE. THEY WILL BE REQUESTING TO CONSTRUCT A NEW BUILDING 100' X 150' FOR THE STORAGE AND WAREHOUSE OF ELECTRICAL MATERIALS, WILL HAVE SIX (6) EMPLOYEES, HOURS OF OPERATION WILL BE MONDAY THROUGH FRIDAY 7:00 AM. TO 5:00 P.M., THERE WILL BE NO OUTSIDE SALES AND THERE WILL BE U.P.S. DELIVERIES APPROXIMATELY TWO (2) TIMES A WEEK. SUBJECT PROPERTY IS LOCATED AT 3711 LONG HOLLOW PIKE, GOODLETTSVILLE, TN., IS ON TAX MAP 139, PARCEL 52.02, CONTAINS 5 ACRES, AND IS ZONED RESIDENTIAL A.

THIS WAS ADVERTISED IN THE NEWS EXAMINER ON OCTOBER 24, 2008. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.

DAVID CLINE CAME FORWARD TO EXPLAIN THIS REQUEST AND TO ANSWER ANY QUESTIONS. MR. CLINE STATED THAT HE IS AN ELECTRICAL CONTRACTOR AND REALLY DOES NOT OPERATE OUT OF A PLACE. THE WAY WE OPERATE IS TO BE ON THE JOB SITE ITSELF. THERE WILL NOT BE A CONTINUOUS FLOW OF TRAFFIC. THERE IS NO RETAIL BUSINESS INVOLVED AT ALL.

MIKE MOULTON READ ALOUD THE USE PERMITTED IN THE RA ZONING IN THE SUMNER COUNTY ZONING RESOLUTION. THIS WAS EXPLAINED TO ME THAT THIS WOULD BE THE HOME BASE FOR THE ELECTRICAL BUSINESS.

MR. RAINEY ASKED MR. CLINE IF HE WOULD BE LIVING IN THE HOUSE AND WOULD THIS BE HIS PRIMARY RESIDENCE AND WILL NOT BE LIVING ANY WHERE ELSE. MR. CLINE RESPONDED TO MR. RAINEY BY SAYING "YES SIR THAT IS MY INTENT".

MR. RAINEY STATED THAT YOU HAVE TO LIVE IN THE HOUSE FOR US TO CONSIDER THIS REQUEST. MR. CLINE RESPONDED TO MR. RAINEY BY SAYING, "I AM GOING TO LIVE IN THE HOUSE".

MR. RAINEY QUESTIONED MR. CLINE BY ASKING WHERE ARE YOU GOING TO SEND YOUR ROOF DRAINS FROM THE PROPOSED BUILDING?

MR. CLINE STATED THAT HE WOULD JUST LET IT SPREAD OUT OVER THE LOT.

MR. RAINEY EXPLAINED THAT IF THIS REQUEST IS GRANTED YOU WOULD HAVE TO APPEAR BEFORE THIS BODY EVERY TWO (2) YEARS FOR US TO RECONSIDER THIS REQUEST.

MR. MOULTON EXPLAINED THAT REZONING THIS PROPERTY WAS RULED OUT BECAUSE THAT WOULD CONSTITUTE SPOT ZONING.

MR. CLINE ASKED IF HE WAS DENIED THIS REQUEST COULD HE BUILD THE BUILDING TO STORE HIS VEHICLES AND CONTAIN A HOBBY ROOM FOR HIS WIFE.

MR. MOULTON REPLIED TO MR. CLINE BY SAYING HE WOULD HAVE TO MEET THE REQUIRED SETBACKS FOR A STORAGE BUILDING.

CHAIRMAN MCKEE OPENED THE FLOOR FOR THE PUBLIC HEARING.

JERRY STONE, COUNTY COMMISSIONER FOR THIS AREA, CAME FORWARD TO SPEAK AGAINST THIS REQUEST, AND STATED HE WAS ALSO SPEAKING FOR PAUL FREELS COUNTY COMMISSIONER. MR. STONE STATED THAT THEY ARE BOTH OPPOSED TO GRANTING THIS APPEAL. THIS BUILDING WOULD BE BUILT RIGHT IN FRONT OF PEOPLE'S HOMES. THESE REQUESTS ARE APPROVED *ONLY* IF THE NEIGHBORS APPROVE OF THIS. MR. STONE HANDED EACH MEMBER A LETTER FROM FRANK HARTMAN, ADJOINING PROPERTY OWNER, WHO WAS OPPOSED TO THIS REQUEST AND COULD NOT ATTEND THE MEETING. MR. STONE URGED THE BOARD TO DENY THIS APPEAL.

HARRY KIZER SPOKE AGAINST THIS REQUEST. HE STATED A BUILDING OF THIS SIZE SHOULD BELONG ON SOMETHING THAT IS ZONED COMMERCIAL. MR. KIZER ASKED MR. CLINE IF HE REALIZED THAT PROPERTY IS LOCATED ON A SWAMP. MR. KIZER STATED HE WAS NOT IN FAVOR OF THIS REQUEST AND DID NOT WANT TO LOOK AT THIS BUILDING.

JOANNE HAYES CAME FORWARD TO SPEAK IN OPPOSITION TO THIS REQUEST. SHE STATED THAT SHE WANTED LONG HOLLOW PIKE TO STAY A RESIDENTIAL AREA.

ALVIN SUTTON CAME FORWARD TO SPEAK IN FAVOR OF THIS REQUEST. HE STATED HE COULD NOT SEE HARM IN THE PROPOSED BUILDING.

RON HELTON CAME FORWARD TO SPEAK IN OPPOSITION TO THIS REQUEST. THIS SIZE PROPOSED BUILDING SAYS COMMERCIAL TO ME REGARDLESS OF WHAT HE USES THIS FOR.

BILLY CLARK CAME FORWARD TO SPEAK FOR HIS AUNT WHO HAS CANCER. WOULD YOU WANT A COMMERCIAL BUILDING NEXT TO YOUR DRIVEWAY? COMMERCIAL IS COMMERCIAL AND RESIDENTIAL IS RESIDENTIAL. I DO NOT WANT TO SEE THAT BIG BUILDING NEXT TO MY PROPERTY.

JIM BRINKLEY CAME FORWARD TO SPEAK. MR. BRINKLEY ASKED MR. MOULTON "WHAT IF THIS MAN OR ANYONE ELSE WANTS TO BUILD A 15,000 SQUARE FOOT BUILDING ON THIS LOT?"

MR. MOULTON RESPONDED TO MR. BRINKLEY BY SAYING IN HIS OPINION IF THEY MEET THE REQUIREMENTS IN THE BUILDING PERMITTING PROCESS AND MEET SETBACKS, ETC., YES THEY COULD BUILD A 15,000 SQUARE FOOT BUILDING.

JIM BRINKLEY ASKED IF MR. CLINE DECIDES NOT TO PUT THIS COMMERCIAL BUSINESS IN THE BUILDING CAN THEY STILL BUILD THIS BUILDING IF HE MEETS ALL THE OTHER REQUIREMENTS?

MR. MOULTON RESPONDED TO MR. BRINKLEY BY SAYING YES, AS LONG AS ANYONE MEETS THE CRITERIA FOR THE BUILDING PERMIT AND SETBACKS, ETC. THAT WOULD BE A RIGHT OF ZONING. THE APPEALS PROCESS TONIGHT IS ALL ABOUT THE PROPOSED BUSINESS BEING ALLOWED IN THE PROPOSED 15,000 SQUARE FOOT BUILDING.

CHAIRMAN MCKEE CLOSED THE PUBLIC HEARING.

MR. RAINEY STATED THAT WE CAN NOT STOP HIM FROM BUILDING THAT BUILDING, BUT IF HE SHOULD EVER USE THIS BUILDING FOR ANYTHING OTHER THAN PERSONAL USE, THERE WOULD BE CONSEQUENCES.

MR. MOULTON STATED THAT IF THIS BUILDING WAS USED FOR ANYTHING OTHER THAN PERSONAL USE, WE WOULD CITE HIM AS USING A RESIDENTIAL PIECE OF PROPERTY FOR A BUSINESS.

MR. RAINEY ASKED EVERYONE THAT WAS OPPOSED AND IN FAVOR OF THIS REQUEST TO RAISE THEIR HANDS.

THERE WAS APPROXIMATELY 20 AGAINST AND 5 IN FAVOR ACCORDING TO THE HANDS RAISED.

MR. COLE STATED THAT THIS IS A RESIDENTIAL AREA, AND STATED HE DID NOT THINK A PERSON HERE WOULD WANT THIS BUILDING NEXT TO THEIR PROPERTY.

MOTION TO DENY BY MR. COLE, SECONDED BY MR. PERDUE. MOTION PASSED UNANIMOUSLY.

- **PHILIP PROCTOR** WAS REQUESTING A CONTINUATION OF THE CONDITIONAL USE PERMIT HE RECEIVED ON NOVEMBER 8, 2007, FOR A PERIOD OF ONE YEAR TO OPERATE A WATER PURIFICATION BUSINESS LOCATED WITHIN A PROPOSED NEW STRUCTURE, APPROXIMATELY 24 X 30 FEET, WITH THREE (3) EMPLOYEES. THERE WILL BE NO SIGNS AND NO ON SITE RETAIL SALES, ONLY OCCASIONAL DELIVERIES. SUBJECT PROPERTY IS LOCATED AT 200 HESTER ROAD, PORTLAND, TN., IS ON TAX MAP 51, PARCEL 23. LOT SIZE IS APPROXIMATELY 4.75 ACRES AND IS ZONED AGRICULTURAL. THE ADJOINING NEIGHBORS WERE NOTIFIED OF THIS MEETING.

THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL

MR. PROCTOR CAME FORWARD TO REPRESENT THIS REQUEST

MR. MOULTON ASKED MR. PROCTOR WHEN HE ANTICIPATES MOVING HIS WATER PURIFICATION BUSINESS INTO THE NEW STRUCTURE.

MR. PROCTOR STATING HE IS STILL BUYING 99% OF THE WATER FROM THE ORIGINAL SUPPLIER. HE STATED HE HAS NOT GOTTEN ALL THE PERMITTING COMPLETED.

MR. MOULTON REMINDED MR. PROCTOR THAT ONE OF THE CONDITIONS ON GRANTING THIS CONDITIONAL USE PERMIT LAST YEAR WAS THE SHIPPING CONTAINER WOULD BE REMOVED FROM THE PROPERTY.

MR. PROCTOR STATED HE THOUGHT HE HAD TO MOVE THE CONTAINER FROM THE LINE, NOT REMOVE IT FROM THE PROPERTY. THIS CONTAINER IS NOT USED FOR MY BUSINESS, THIS IS SIMPLY FOR STORAGE.

MR. MOULTON STATED THAT SHIPPING CONTAINERS ARE A ZONING VIOLATION.

THERE WAS DISCUSSION.

THERE WAS NO ONE PRESENT TO SPEAK FOR OR AGAINST.

MR. MOULTON ASKED MR. PROCTOR TO GIVE THIS BOARD A TIME THAT HE WOULD HAVE THIS SHIPPING CONTAINER REMOVED FROM THIS PROPERTY.

MR. PROCTOR STATED HE DID NOT KNOW HOW LONG IT WOULD TAKE HIM TO GET RID OF THE SHIPPING CONTAINER.

MR. MOULTON STATED THAT THIS IS A ZONING VIOLATION AND WILL MOVE THIS OVER TO THE ZONING SIDE OF THE OFFICE AND WOULD FOLLOW UP WITH MR. PROCTOR CONCERNING THE SHIPPING CONTAINER.

MOTION TO CONTINUE THIS CONDITIONAL USE PERMIT FOR TWO (2) YEARS WITH PROVISION THAT CONTAINER BE REMOVED IN A TIMELY MANNER BY THE ZONING DEPARTMENT BY MR. RAINEY, SECONDED BY MS. WEBSTER. MOTION PASSED UNANIMOUSLY.

- **DAVID LATIMER** WAS REQUESTING A CONTINUATION OF THE CONDITIONAL USE PERMIT HE RECEIVED ON NOVEMBER 9, 2006, FOR A TWO YEAR PERIOD TO OPERATE A WHOLESALE MACHINE SHOP IN AN EXISTING BUILDING; AND A VARIANCE FROM DUST FREE PARKING. SUBJECT PROPERTY IS LOCATED AT 1024 OPOSSUM LANE, PORTLAND, TN. IS ON TAX MAP 51, PARCEL 21, CONTAINS APPROXIMATELY 1 ACRE AND IS ZONED AGRICULTURAL. THE ADJOINING NEIGHBORS WERE NOTIFIED OF THIS MEETING.

MR. LATIMER CAME FORWARD TO REPRESENT THIS REQUEST.

THERE WAS NO ONE PRESENT TO SPEAK FOR OR AGAINST.

THERE WAS DISCUSSION.

MOTION TO CONTINUE THIS CONDITIONAL USE PERMIT FOR TWO (2) YEARS BY MR. RAINEY, SECONDED BY MR. PERDUE. MOTION PASSED UNANIMOUSLY.

OTHER BUSINESS CONTINUED:

- **PAUL SCOTT WEBSTER**-WAS REQUESTING A CONTINUANCE OF THE SPECIAL USE PERMIT HE RECEIVED ON NOVEMBER 13, 2003, WITH CONDITIONS. THE LAST TIME HE RECEIVED A CONTINUATION FOR ANOTHER TWO YEARS WAS ON NOVEMBER 9, 2006. MR. WEBSTER WAS GRANTED A SPECIAL USE PERMIT TO STORE MATERIALS, AS WELL AS, DISPLAY MODELS AND TO MAINTAIN OFFICE SPACE FOR A CUSTOM SIDING BUSINESS IN AN EXISTING BARN ON HIS PROPERTY. SUBJECT PROPERTY IS LOCATED AT 1398 HIGHWAY 25, GALLATIN, TN., CONTAINS 5.56 ACRES, IS ON TAX MAP 114, PARCEL 6.01 AND IS ZONED R1A. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.

MR. PERRY NESS CAME FORWARD TO REPRESENT THIS REQUEST.

MR. MOULTON INQUIRED ABOUT THE HEAVY DUTY EQUIPMENT THAT IS ON THE PROPERTY CURRENTLY.

MR. NESS STATED THAT THEY WERE REBUILDING THE TRANSMISSION ON THE HEAVY DUTY EQUIPMENT AND IT WOULD BE A TEMPORARY SITUATION.

THERE WAS NO ONE PRESENT TO SPEAK FOR OR AGAINST.

THERE WAS DISCUSSION.

MOTION TO CONTINUE THE CONDITIONAL USE PERMIT FOR TWO (2) YEARS, AND THE LOADER MUST BE REMOVED FROM THE PROPERTY IN A TIMELY MANNER (MR. MOULTON WILL DO THE FOLLOW UP), BY MR. RAINEY, SECONDED TO MR. COLE. MOTION PASSED UNANIMOUSLY.

- **JOSEPH HOWARD** WAS REQUESTING A NINE (9) FOOT REAR YARD SETBACK VARIANCE FOR AN EXISTING HOME. SUBJECT PROPERTY IS LOCATED ON 2458 CENTER POINT ROAD, HENDERSONVILLE, TN., BEING LOT NO. 2, EARL LORENZ PROPERTY, IS ON TAX MAP 139, PARCEL 26.01, CONTAINS 2.62 ACRES, AND IS ZONED RA.
THIS WAS ADVERTISED IN THE GALLATIN NEWS ON **JULY 30, 2008**. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.
THIS WAS DEFERRED AT THE AUGUST, SEPTEMBER, AND OCTOBER 2008 ZBA MEETING DUE TO THE FACT THE MINOR PLAT WAS IN THE PROCESS OF BEING SIGNED AND RECORDED.

MIKE MOULTON TO UPDATE THIS BODY ON THE STATUS OF THIS REQUEST.

MR. BOSTICK CAME FORWARD TO PLEAD HIS CASE ONCE AGAIN.

THERE WAS EXTENSIVE DISCUSSION.

MR. MOULTON STATED THAT THE ONLY WAY THIS BOARD COULD GRANT A VARIANCE WOULD BE IF YOU WERE ABLE TO SHOW THAT THIS WAS THE ONLY PLACE THAT THIS HOUSE COULD BE PLACED DUE TO THE SEPTIC FIELD LINES. IF THIS WAS THE CASE YOU NEED TO BE ABLE TO PROVE THIS.

MR. BOSTICK STATED THAT THIS WAS HIS IGNORANCE OF THE ZONING BOARD OF APPEALS VARIANCE. MR. BOSTICK STATED THAT HE KNEW OTHER CONTRACTORS THAT HAD MESSED UP ON SETBACKS AND HAD GOTTEN THESE VARIANCES GRANTED. HAS ANY ONE EVERY DONE THIS AND HAD THIS TYPE OF VARIANCE APPROVED?

MR. RAINEY STATED YES, THESE TYPE OF VARIANCES WERE GRANTED IF THEY MEET THE CONDITIONS SET FORTH IN OUR ORDINANCE.

MR. MOULTON STATED THAT WE ARE NOT SUPPOSE TO GRANT VARIANCES BASED ON ECONOMIC SITUATION.

THERE WAS EXTENSIVE DISCUSSION.

MR. HOWARD CAME FORWARD TO EXPLAIN THE FINANCIAL DIFFICULTY OF PAYING ON A CONSTRUCTION LOAN AND EXPENSE OF ANOTHER HOUSEHOLD. MR. HOWARD EXPLAINED THAT THEY HAD AN ESCROW AGREEMENT DRAWN UP.

MR. BOSTICK EXPLAINED THAT THE ONLY REASON WE ARE HERE THIS EVENING IS THE DELAY IN GETTING THE RELEASE FROM THE MORTGAGE COMPANY.

IKE MILLS, SELLER OF ADJOINING PARCEL, EXPLAINED THAT WE HAVE SPOKEN TO THE MORTGAGE COMPANY AND DO NOT FORESEE ANY PROBLEMS, THE ONLY THING THEY ARE PROMISING US IS THAT THEY WILL TRY TO PROCESS THIS IN 45 DAYS FROM RECEIPT OF ALL REQUIRED ITEMS. WE STILL HAVE ALL THE PAPERWORK BECAUSE IT HAS NOT BEEN PRESENTED TO THE BANK YET. THEY WANT \$700.00 IN FEES TO TAKE IT OUT OF THE PACKET AND LOOK AT IT. WE DO NOT HAVE ANY PROBLEMS IN THE SELL OF THE SLIVER OF LAND, BUT I CAN NOT GUARANTEE THAT THE BANK WILL SAY OK. THERE SHOULD NOT BE ANY PROBLEM IN THE SELL OF THE LAND AND GETTING A RELEASE FROM THE MORTGAGE COMPANY.

MR. BOSTICK ASKED IF THERE WAS ANY WAY TO GET THESE PEOPLE IN THIS HOUSE AND RECEIVE AND CERTIFICATE OF OCCUPANCY.

MR. MOULTON EXPLAINED THAT THE CODES DIRECTOR, GARY HAMMOCK, IS THE ONE THAT WOULD ISSUE THE CERTIFICATE OF OCCUPANCY. I WOULD SUGGEST THAT YOU ASK MR. HAMMOCK THAT BASED ON AN EXTENUATING SET OF CIRCUMSTANCES IF HE WOULD HAVE ANY PROBLEM WITH THE OWNERS MOVING INTO THE HOUSE WITHOUT A CERTIFICATE OF OCCUPANCY. THE CERTIFICATE OF OCCUPANCY IS TO CERTIFY THAT MR. BOSTICK, CONTRACTOR, HAS DONE EVERYTHING ACCORDING TO CODES. MR. MOULTON CAUTIONED THEM ABOUT MOVING INTO A HOME WITHOUT A CERTIFICATE OF OCCUPANCY.

MR. BOSTICK WITHDREW HIS REQUEST FOR A VARIANCE.

MEETING ADJOURNED AT 6:15 P.M.

