

**SUMNER COUNTY BOARD OF ZONING APPEALS
MINUTES
JULY 12, 2018
5:00 p.m.**

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

MEMBERS PRESENT:

MARK MCKEE, JR. CHAIRMAN
BRUCE RAINEY, VICE-CHAIRMAN
SANDY WEBSTER
DON DICKERSON
JOHN WESLEY JONES

MEMBERS ABSENT:

STAFF PRESENT:

JOSH SUDDATH, DIRECTOR OF PLANNING & STORMWATER
LINDA MCCULLOUGH, ASSISTANT TO THE DIRECTOR OF PLANNING & STORMWATER

Motion for approval of the June 2018 minutes by Ms. Webster, seconded by Mr. Dickerson.
Motion passed unanimously.

Motion for approval of the June 2018 Special Called Meeting minutes by Ms. Webster, seconded by Mr. Jones. Motion passed unanimously.

- 1. Christopher Brown** is requesting a continuation of a Conditional Use Permit granted on July 10, 2008, to operate "Highway 259 Auto Garage". Subject property is located at **1911 Highway 259, Portland, TN 37066**, is on Tax Map 014, Parcel 054.00, is zoned Agricultural, contains 1.05 acres, and is in the 2nd Commission Voting District (Billy Geminden and Larry Hinton).
The adjoining property owners were notified by regular mail.

Mr. Suddath stated that the applicant is requesting a continuation of a Conditional Use Permit granted in July of 2008 to operate "Highway 259 Auto Garage" with conditions of no dismantling vehicles, only tune-ups, brakes, etc. and no more than 3 vehicles at a time. The property owner also agreed to construct a wooden fence around the customer parking area. This permit has been renewed every two years since 2008, and no comments have been received concerning this permit continuation.

Mr. Christopher Brown came forward to explain and represent this request.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Mr. Bruce Rainey asked Mr. Brown why was there more than 3 cars in pictures provided by staff and aerial photos.

Mr. Brown stated that customers will drop off the vehicles to be repaired and sometimes takes a while for them to pick up the vehicles after repairs have been done.

Mr. Rainey asked if there could be any kind of policy change in order to assist this situation.

Mr. Brown stated that he would do whatever the Board asks him to do. Mr. Brown also stated that 5 of the vehicles are his family's personal vehicles.

Mr. Rainey suggested to Mr. Brown that he provide a separate parking area for his personal vehicles and keep his customer's vehicles in the fenced area.

Mr. Jones asked Mr. Brown if his customers came inside and a service ticket was filled out.

Mr. Brown stated that his customers do not fill out a service ticket.

Mr. Jones suggested to Mr. Brown that a service ticket be filled out and state that the vehicle needs to be picked up within 24 hours.

Motion to approve the continuation of the Conditional Use Permit by Mr. Rainey with the following conditions:

- A. Staff will make unannounced visits.**
- B. Mr. Brown to place tags on vehicles to let staff know if the vehicles are repaired, to be repaired, or personal vehicles.**
- C. At any time if staff sees more than 3 vehicles in area to be repaired, Mr. Brown will be required to come before the Board.**

seconded by Ms. Webster. Motion passed unanimously.

- 2. Katherine Cox is requesting a continuation of a Conditional Use Permit granted on July 14, 2016, to conduct a business making jewelry and metal armor for film and theater. Also requesting a dust free parking variance and permission for one detached sign. Subject property is located at 1998 Pleasant Grove Road, Westmoreland, TN 37186, is on Tax Map 026, Parcel 031.01, is zoned Agricultural, contains 66.18 acres, and is in the 1st Commission Voting District (Mike Akins and Moe Taylor)
The adjoining property owners were notified by regular mail.**

Mr. Suddath stated that the applicant is requesting a continuation of a Conditional Use Permit granted in July 14, 2016 to continue to conduct a business making jewelry and metal armor for film and theater. The applicant would also continue with a dust free parking variance with no signage. This is the first renewal for the Conditional Use Permit and no comments have been received concerning this issue.

Ms. Katherine Cox came forward to explain and represent this request.

Ms. Cox stated that her business is conducted online and that no customers come to her house.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Motion to approve the continuation of the Conditional Use Permit with a dust free parking variance by Mr. Rainey, seconded by Mr. Jones. Motion passed unanimously.

- 3. Kristen Intress and Joyce Williams** are requesting a continuation of a Conditional Use Permit granted on July 14, 2016, to conduct a live-in fitness camp for a maximum of 24 guests. Also requesting a dust free parking variance. Subject property is located at **732B Rock Springs Road Castalian Springs, TN 37031**, is on Tap Map 089, Parcel 055.00, is zoned Agricultural, contains 156.06 acres, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).

The adjoining property owners were notified by regular mail.

Mr. Suddath stated that the applicant is requesting a continuation of a Conditional Use Permit granted in July 14, 2016 to continue to conduct a live-in fitness camp for a maximum of 24 guests. Applicant is also requesting a continuation of a dust free variance and would have to report back to the Board if any expansion would take place. This is the first renewal for the Conditional Use Permit and the Planning office has received one comment concerning this issue.

Mr. Joseph Frasca and Ms. Joyce Williams came forward to explain and represent this request.

Mr. Suddath asked the Board if he could ask the applicant a couple of questions about concerns that have been brought to his attention.

Mr. Suddath asked the applicant if there was any plans on expanding and that the Planning office has been told that adjoining property was being bought to accommodate more guests.

Mr. Frasca stated that there is no expansion in the plans and that the farm is only accommodating the maximum guest that was approved for. Mr. Frasca stated that the adjoining property that has been purchased was a personal purchase and will possibly move into one of them and rent out the other property. Mr. Frasca stated that the purchase of these properties were just an personal investment.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Motion to approve the continuation of the Conditional Use Permit by Mr. Rainey, seconded by Mr. Dickerson. Motion passed unanimously.

- 4. Frank and Donna Kirkbride** are requesting a continuation of a Conditional Use Permit to operate a winery in a proposed 2,500 square foot building originally granted on July 14, 2011. Subject property is located at **318 Corinth Road, Portland, TN 37148.**, is on Tax Map 031, Parcel 079.00, is zoned Agricultural, contains 92.45 acres, and is in the 1st Commission Voting District (Mike Akins and Moe Taylor).

The adjoining property owners were notified by regular mail.

Mr. Suddath stated that the applicant is requesting a continuation of a Conditional Use Permit granted in July 14, 2011 to continue to operate a winery in a 2500 square foot building. The winery is not operational at this time and the building has not been constructed. The applicant would also continue with a dust free parking variance with a turnaround on Corinth Road and one sign on Corinth Road. The winery would be open to the public one day per quarter. This property is served by a 20 foot easement giving the applicant access to Corinth Road. No comments have been received concerning this issue.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Motion to approve the continuation of the Conditional Use Permit by Mr. Rainey, seconded by Ms. Webster. Motion passed unanimously.

- 5. Holly Meyer will represent Providence Baptist Church** and is requesting a Conditional Use Permit in order to operate a daycare center at the church. Subject property is located at **1100 Keen Hollow Road, Westmoreland, TN 37186**, is on Tax Map 024, Parcel 060.00, is zoned Agricultural, contains 4.10 acres, and is in the 1st Commission Voting District (Mike Akins and Moe Taylor).
The adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, June 28, 2018.

Mr. Suddath stated that the applicant is requesting a Conditional Use Permit for the church to conduct a daycare on its property. Mr. Suddath stated that daycares are not explicitly mentioned in the Zoning Resolution but does grant the Board discretion in determining uses that are essential to the community. Mr. Suddath stated that the applicant did not provide information at the time the packets were mailed out but has since submitted the required information which is provided to the Board describing the proposed business more. Mr. Suddath stated that one concern with daycares could be traffic patterns but since this is such a rural area, he does not see a problem at this facility. No comments have been concerning this issue.

Mr. Rainey asked Mr. Suddath if they were going to build an additional building.

Mr. Suddath stated that there was no indication of new construction and that the daycare would be held in an existing building.

Mr. Rainey asked Mr. Suddath if there would be any reason for this item to go before the Planning Commission.

Mr. Suddath stated there would not since no construction or rezoning was proposed.

Ms. Holly Meyer with Providence Baptist Church came forward to explain and represent this request.

Mr. Jones asked Ms. Meyer if the facility had to be licensed by the State of Tennessee.

Ms. Meyer stated that since this would be a full time daycare, the facility would have to be licensed by the State of Tennessee.

Mr. Rainey asked Ms. Meyer if anyone has talked to the Environmental Department about the current septic.

Ms. Meyer stated that she is not a member of the Church Board, but the Board is looking at all the issues.

Mr. Rainey suggested to Ms. Meyer that she mention this issue to the Church Board.

Ms. Meyer stated that she knew the tank had just been emptied and that they will probably need to keep an eye on this to make sure the tank does not become a problem.

Mr. Suddath stated to Mr. Rainey that Staff will communicate with the environmental department to confirm that the septic is capable to handle the extra people other than just the church service.

Mr. Rainey stated that his other concern is for fire safety with the structure. Mr. Rainey stated that he would like for the Codes Department to do an inspection to assure that the structure is sound enough for the daycare.

Ms. Meyer stated that they have been in contact with the State Fire Marshall because the water is through Portland even though the church is located in Westmoreland and they will not put fire hydrants outside the city limits. Ms. Meyer stated that the engineer is drawing up plans that will show the fire exits and sprinkler system. Ms. Meyer stated that everything is in contingent that they receive the Conditional Use Permit.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Motion to approve the continuation of the Conditional Use Permit by Mr. Rainey with the following conditions:

- A. Contact Environmental Department to go out to look at septic.**
- B. Codes Department to go out and inspect the building to check for structure and fire safety.**

seconded by Ms. Webster. Motion passed unanimously.

- 6. William Georges** is requesting a Variance in order to construct a proposed pole barn/garage within a required front yard. Subject property is located at **277 Rock Bridge Road, Gallatin, TN 37066**, is on Tax Map 090, Parcel 003.09, is zoned Estate B, contains 10.6 acres, and is in the 3rd Commission Voting District (Alan Driver and Steve Graves).

The adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, June 28, 2018.

Mr. Suddath stated that the applicant is requesting a variance in order to construct a proposed pole barn/garage within a required front yard. The property is zoned Estate B and accessory structures are not permitted in the front of the primary structure. The existing home sits 1,000 feet from Rock Bridge Road and the proposed structure would

be 31 feet from the property line. Mr. Suddath stated that the Planning office has not received any comments on this item.

Mr. William Georges came forward to explain and represent this request.

Mr. McKee opened the floor for the public hearing.

After confirming that no one else in the audience wished to speak, Mr. McKee closed the public hearing.

Mr. Rainey stated that Mr. Georges has a unique situation since the front of his house does not face the road. Mr. Rainey stated that technically the front of a house is whichever side faces the road which would be the side of Mr. Georges' house. The neighbor has an accessory structure in the rear of his property that is less than 30 feet or close to it.

Motion to approve the variance by Mr. Rainey, seconded by Mr. Dickerson. Motion passed unanimously.

- 7. Kyle Mahaney** is requesting a Hardship Variance for a relative to live in an existing structure on subject property due to unforeseen circumstances. Subject property is located at **2530 Long Hollow Pike, Hendersonville, TN 37075**, is on Tax Map 123, Parcel 013.00, is zoned Residential 1A, contains 4.93 acres, and is in the 7th Commission Voting District (Loren Echols and Trish Lemarbre).

The adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, June 28, 2018.

Mr. Suddath stated that the applicant is requesting a Hardship Variance that would allow a relative of the property owner to live in an existing accessory structure on the subject property. Zoning codes does not allow detached structures to be utilized as a residence. Mr. Suddath stated that the applicant received a building permit on October 3, 2017, by the Codes Department to build an accessory structure only. Mr. Suddath stated that when the state electrical inspector was at the property for inspection, he noticed that the building was being framed up for a living area. The inspector then contact the Codes Department to ask for a permit, at which there was no permit for a living area applied for. Mr. Suddath stated that at this time it is unclear of what improvement would need to be done to this structure. Mr. Suddath stated that the septic permit has been applied for and that the Planning Office has not received any comments on this item.

Mr. Rainey asked Mr. Suddath if the applicant applied for a building permit for an accessory structure only, with no living quarters.

Mr. Suddath stated that was correct.

Mr. Rainey went on to ask Mr. Suddath that the only way the Codes Department knew that there was a living quarters being constructed in the accessory structure was when the state electrical inspector called them. Mr. Rainey also stated that there could have possibly been an illegal septic system put in too.

Mr. Suddath stated that was correct about the building permit but stated that he was not sure about the septic.

Mr. Rainey stated that he has concerns that the applicant started the process of making the accessory structure a living quarters without getting any permits until now, after he was reported to the Codes Department. Now in June, the applicant applies for a permit to add a living quarters in the structure and applies for a hardship variance. Mr. Rainey stated that the applicant is asking for forgiveness instead of permission.

Mr. Rainey asked Mr. Suddath what would happen if the Board should deny the request.

Mr. Suddath stated that the county would work with the applicant to try to find options such as subdividing the property, removing any part of the structure that would make it a living space, or removing the building. Mr. Suddath stated that the applicant signed an affidavit that this structure would not be a living space, when he applied for the zoning request to construct the garage.

Mr. Rainey stated that it looks like enough real estate that the property could be subdivided as an option.

Mr. Kyle Mahaney came forward to explain and represent this request.

Mr. Rainey asked Mr. Mahaney if he was aware that if the Board should approve this request, if his mother-in-law should no longer have the need to live in that structure, the living area would have to be gutted.

Mr. Mahaney stated that he was aware of this.

Mr. Rainey stated that he was concerned about his mother-in-law's situation, however in October 2017, when you filled out the permit for the structure, you stated that there would not be a living space in the structure. You then stated that when you built the structure in 2017, your mother-in-law's problems had already started and that your hope was to allow her to live in the structure.

Mr. Mahaney stated that when he got his permit it was only for the accessory structure with the hopes of putting the living area in there for his mother-in-law. Mr. Mahaney

stated that the living area is only roughed in because he knew he would have to come before the BZA.

Mr. Rainey asked Mr. Mahaney if he had explored the idea of subdividing his property.

Mr. Mahaney stated that he is not sure his mortgage company would allow him to do that.

Mr. Rainey asked Mr. Suddath if he knew if the Codes Department has done any interior inspections on the structure.

Mr. Suddath stated that he did not believe they have since it is an accessory structure.

Mr. Rainey stated that he had concerns with the soil in this area, concerns with the timing, concerns with inspections, and concerns for Mr. Mahaney's mother-in-law. Mr. Rainey stated that at this time he did not feel comfortable approving this request with the information he has in hand.

Mr. Jones asked Mr. Mahaney what did he put on the application that he was building when he applied for the permit.

Mr. Mahaney stated that he thinks it was for a garage but the contractor did most of the paperwork at the Codes Department.

Mr. Jones asked Mr. Mahaney that he applied for a permit to build an accessory structure then found out that you needed to put a living area in it.

Mr. Mahaney stated that was correct.

Mr. Jones stated that when he applied for the hardship variance for an existing structure, that information was not true because you had already started turning it into a living structure. Mr. Jones stated that Mr. Mahaney got a building permit for a garage not a living structure. Mr. Jones stated that he was not sure how Mr. Mahaney was able to start building the living area without any inspections. Mr. Jones asked Mr. Mahaney if anyone came out to do inspections.

Mr. Suddath stated that when the Codes Department came out to inspect, they only did an exterior inspection. Accessory structures are not inspected like a home would be. Mr. Suddath added that it was only when the state electrical inspector contacted the Codes Department that a living area was being constructed that the Director of Codes made a site visit.

Mr. Jones asked Mr. Mahaney if he continued with the construction after the state electrical inspector contacted the Codes Department.

Mr. Mahaney stated that the electrical inspector let them continue to do a rough in to have power in the structure.

Mr. Jones stated that if someone had to come out and certify that the structure was fit to live in. Mr. Jones stated that Mr. Mahaney only applied for a permit for a garage, not a living area and that he started building the living area without the permit.

Mr. Mahaney stated that the walls and everything that is there existing now was originally approved when he got his permit.

Mr. Jones asked Mr. Mahaney if the walls were approved.

Mr. Mahaney said yes.

Mr. Jones asked Mr. Mahaney if the Codes Department knew he was going to put a kitchen and bedroom in this garage.

Mr. Mahaney stated that the plans were all in there and the Codes Department told him he could have a kitchenette but no tub. Mr. Mahaney stated that he had never built anything before and that he was new to this process.

Mr. Jones asked Mr. Mahaney if it would be fair to say that he applied to build a garage but all the time knowing he was going to build a living area in the garage.

Mr. Mahaney stated that yes, that was his hope.

Mr. Dickerson asked Mr. Mahaney what was the status of the HVAC unit and when was it installed.

Mr. Mahaney stated that the HVAC unit was installed a few months ago and it is just roughed in.

Mr. Dickerson asked Mr. Mahaney when did he start roughing in the HVAC unit.

Mr. Mahaney stated that it was in April.

Mr. Rainey stated that he wants to deny this item but has concerns about Mr. Mahaney's mother-in-law.

Motion to defer the Hardship Variance for 30 days by Mr. Rainey with the following conditions:

- A. Septic approval by Environment Department.
- B. Codes Department to go out and inspect the structure.
- C. Applicant look into subdividing property.

seconded by Ms. Webster. Motion passed unanimously.

Motion to adjourn by Mr. Jones, seconded by Mr. Dickerson. Motion passed unanimously.

Meeting Adjourned at 6:10 p.m.