

SPECIAL CALLED
SUMNER COUNTY ZONING BOARD OF APPEALS
MINUTES
JUNE 25, 2018
5:00 p.m.

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

MEMBERS PRESENT:

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

MEMBERS ABSENT:

DON DICKERSON

STAFF PRESENT:

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

1. **Bettye & Leon Locke** is requesting a 5 foot Side Yard Setback Variance on the Northeast side of the subject property for a proposed single family dwelling. Subject property is located on **1219 Bayview Drive, Gallatin, TN 37066**, is on Tax Map 157J, Group B, Parcel 018.00, contains approximately .46 acres, is zoned Residential A, and is in the 6th Commission Voting District (Kevin Pomeroy and Jim Vaughn).
The adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, June 14, 2018.

Mr. Suddath stated that the applicant is requesting a 5 foot Side Yard setback on the Northeast side of the subject property. The subdivision plat is dated 1961, which was before the adoption of the Zoning Resolution for Sumner County, requiring a 20 foot side yard setback. Existing Plat showed setbacks as 5 foot and homebuilder was under the impression that no other variance was needed. Mr. Suddath stated that there has been one call concerning this variance.

Mr. Rainey asked Mr. Suddath if the homebuilder obtained all the required permits before construction took place.

Mr. Suddath stated that Mr. Riggs, the homebuilder, did obtain all the necessary permits before he stated construction on the home. When the codes department went out for an inspection, they made Mr. Riggs stop working because he was encroaching onto the side yard setback.

Mr. Rainey asked Mr. Suddath if the applicant was requesting a 5 foot setback on each side of the property.

Mr. Suddath stated that on this property, the applicant was only requesting a 5 foot setback on the Northeast side.

Mr. McKee asked Mr. Suddath why wasn't this property grandfathered in.

Mr. Suddath stated that if there was a dwelling on the property, it would be grandfathered in, but since it's an empty lot, the current zoning applies.

There was some discussion about the situation of these subdivisions that was platted before the new Zoning Resolution came into effect. Mr. Rainey suggested that an overlay be put in place for areas like this one and other subdivisions like this one.

Mr. McKee opened the floor for the public hearing.

Mr. Jeremy Riggs came forward to explain and represent this request.

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

Mr. Rainey made a motion to approve the 5 foot Setback Variance due to the narrowness of the lot and the fact that the variance is in keeping with other approved variances in this area, seconded by Mr. Jones. Motion passed unanimously.

Mr. Jones discussed the legality of the wording of may verses shall.

Mr. Suddath stated for the record that the approval was for a 5 foot variance on the North property line.

- 2. Monica McIntyre Badger is requesting a 5 foot Side Yard Setback Variance on the Northeast side and a 5 foot Side Yard Setback Variance on the Southwest side of the subject property for a proposed single family dwelling. Subject property is located on Bayview Drive, Gallatin, TN 37066, is on Tax Map 157J, Group B, Parcel 017.00, contains approximately .52 acres, is zoned Residential A, and is in the 6th Commission Voting District (Kevin Pomeroy and Jim Vaughn). **The adjoining property owners were notified by certified mail and the agenda item was advertised in The Gallatin News on Thursday, June 14, 2018.****

Mr. Suddath stated that the applicant is requesting a 5 foot Side Yard setback on the North and South property lines of the subject property. The subdivision plat is dated 1961, which was before the adoption of the Zoning Resolution for Sumner County, requiring a 20 foot side yard setback. Existing Plat showed setbacks as 5 foot and homebuilder was under the impression that no other variance was needed. The County Building Department saw work being done and placed a stop work order on construction being done on the property.

Mr. McKee opened the floor for the public hearing.

Ms. Anne Hathcote, 1201 Bayview Drive, came forward with a concern with the possibility of the driveway or the HVAC unit being close to her property line causing disruption to her. Ms. Hathcote stated that she has lived on her property for 23 years with peace and quiet. Ms. Hathcote also stated that when property owners buy these lots and know they are small lots, they should plan on building a smaller house so this would not be a problem.

Mr. Jones asked Ms. Hathcote what was her setback from her property line.

Ms. Hathcote stated that she didn't know the exact distance.

Mr. Jones stated that he understood about the driveway and the HVAC unit being close to her property, so Mr. Jones asked Ms. Hathcote if there were any other things she would be objected to.

Ms. Hathcote stated that she would not like to see any building to go out towards her house.

Ms. Hathcote asked if the builder had to stay in that setback which included the driveway and the HVAC unit.

Mr. Rainey stated that the Board has no control where the HVAC or the driveway goes, the Board is only concerned with the structure. Mr. Rainey went on to say that a driveway can be placed right up to the property line. Mr. Rainey stated that the applicant has not proposed an accessory structure, so the Board will not address anything other than the building envelope of the house.

Mr. Suddath stated that if the applicant wanted an accessory structure that was in the setback, they would have to come back to the Board.

Mr. Rainey stated that if there was a precedent set, it was set in 1961 when the subdivision was created. Mr. Rainey stated that there are several subdivisions that were developed in the 60's and 70's that have these problems. Mr. Rainey stated that problems like this has come to the Board on a regular basis.

Ms. Hathcote asked if all of those requests have been granted.

Mr. Rainey stated that every application is looked at on a case by case basis.

Ms. Hathcote stated that it seems like more and more people are getting these variances approved knowing that the houses they want to build are too big for the lots. Ms. Hathcote stated that it seems like the system is a little "willy-nilly".

Mr. Jones stated that the members of the Board take their position very seriously and have a responsibility to property owner to grant the variances if we see it necessary. Mr. Jones stated that the Board does not take their decisions lightly, and that sometimes the decisions the Board makes is not always the most popular decision.

Ms. Lee Ellen Siders, 1108 Lochland Drive, came forward and asked if the contractor should have done his due diligence before he lays the first block.

It was noted that the contractor did get all his paperwork and permits before he started the work.

Ms. Siders stated that the contractor made the mistake, and takes no responsibility.

Mr. Rainey stated that the contractor has the right to come before the Board and request a variance when mistakes are made on their part.

Ms. Siders stated that Mr. Riggs said the he got the ok by word of mouth.

Mr. Suddath stated that he did get confirmation from the previous planner that there was some miscommunication with the contractor. Mr. Suddath also stated that when this Plat was approved, there were no setbacks in place so this is why we are seeing properties in these areas coming before the Board for variances.

Mr. Jones stated that even experienced contractors depend on the Plats to know what the setbacks are and the Codes Department will agree with the setbacks based on the Plat. Mr. Jones stated that there is confusion on these especially on the older Plats.

Mr. Greg Cothron, 130 Walton Trace South, came forward and summarized to the Board the contents of Article XIII, Part 4 of the County Zoning Resolution. Mr. Cothron stated

that the hardship for Ms. Hathcote would be that she would lose the peace and quiet that she has been accustomed to for 23 years.

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

Motion to approve the Setback Variance due to the narrowness of the lot and the fact that the variance is in keeping with other approved variances in this area by Mr. Rainey, seconded by Ms. Webster. Motion passed unanimously

Motion to adjourn by Mr. Rainey, seconded by Ms. Webster. Motion passed unanimously.

Meeting Adjourned at 5:43 p.m.