



MINUTES FOR OCTOBER 26, 2015

Acting Chair Mary Sneed called the meeting to order at 6:05 p.m.

Burt Adcock led the Pledge of Allegiance.

Roy Miles led the prayer.

Building Commissioner Franklin Wilkinson called the Roll of Members

Members Present: Roy Miles, Mark Whitworth, Burt Adcock, Mary Sneed

Members Absent: Larry Nash

Acting Chair Mary Sneed declared a quorum present.

Others Present: Barbra Ellis, Alex Ellis, Cynthia Odom, Henry Odem, Paul Mahaney, Connie C. Allen, Owen S Carroll III, Linda Balthrop, Marth Brook Perry, George Woods, Jean Woods, Curtis Craig, Meredith Craig, James Kong, Kason Kong, James Kong, Steven Clark, Stan Lovell, Diana Head, Eric Crabtree, Gary Binkley.

Approval of Minutes and Agenda

Acting Chair Mary Sneed called for a motion to approve the minutes from the last meeting (i.e. September 28, 2015) and to approve the agenda for tonight's meeting. ****Motion**** made by Burt Adcock to approve the minutes from the meeting from September 28, 2015 and to approve the agenda for October 26, 2015; second by Roy Miles; Voice Vote Taken; Motion carried unanimously by all members present; Motion passed; Minutes from September 28, 2015 approved and the agenda for October 26, 2015 approved.

Agenda Items to be Heard:

ITEM#1:

Acting Chair read item #1 into the record. Stan Lovell requesting a variance of 1.5 acres from section 3.100 ACCESSORY USE REGULATIONS F. Within any Agricultural or Residential Districts, accessory structures will be permitted on lots with a minimum of fifteen (15) acres prior to the construction of a principal building on the lot. Any accessory use or building located on a lot under this section shall conform to provisions of this resolution as related to use and dimensional requirements. (Added by Resolution 16, Dated May 21, 2001) To be able to construct an accessory structure, primarily for agricultural uses, on a 13.5 acre lot zoned agricultural. Property is located on Dry Creek Rd, Ashland City, TN; map 66 parcel 24. Property is in the 5th voting district and is in the AE Special Flood Hazard Area. Stan Lovell addressed the Board and stated that he would like to build an accessory structure on the property to store his tractor and other equipment. The structure will be approximately 40' x 60'. Mr. Lovell stated that he plans to build a house on the property in the next two or three years. After further discussion a ****MOTION**** to grant the variance was made by Roy Miles; second by Burt Adcock. The motion to grant the variance was approved by roll call vote; Roy Miles - yes, Mark Whitworth - yes, Burt Adcock - yes, Mary Sneed - yes.

ITEM#2:

Acting Chair Mary Sneed read item #2 into the record. Curtis Craig requesting a special exception in the Cheatham County Zoning Resolution Section 5.041 A, Agriculture District for 8. Animal Care and Veterinarian Services - Include the provision of animal care, treatment, and boarding services. Veterinarian Clinics and Kennels. Property is located at 1985 Country View, Chapmansboro, TN; map 7 parcel 26.01. Property is in the

4th voting district and is not in a flood area. Curtis Craig addressed the Board and stated that he basically trains and rehabilitates family pets. People bring us their pets and we keep them anywhere from two weeks to two months to try to remove anxiety and nervousness. Martha Brooke Perry addressed the Board and stated that she is representing many of the neighbors in the Country View Road area that are in opposition to the special exception. Mrs. Perry presented a packet of materials to the Board including a petition, map, photographs, and materials taken from the Calm K9 website. Mrs. Perry stated that the posting of the sign on the property as required for public notice of the special exception did not happen as required by the zoning resolution for the 15 day period prior to the meeting. The sign was first posted on Friday, October 21, 2015. Also, a certified letter was not sent to the property owner directly across the street. Mrs. Brooke stated that the neighbors also have an issue with the interpretation from the County regarding the special exception of Animal Care and Veterinarian Services – Include the provision of animal care, treatment, and boarding services. Veterinarian Clinics and Kennels, and that the requested special exception before the Board does not fit the use as defined in the zoning regulations. The actual intent of this facility does not qualify for a special exception. This is a training facility for the retraining of aggressive animals. As presented in the packet from the applicant's website, these are dogs that have aggressive behavior towards other dogs, people, and references to dogs that have bitten persons and have attempted to bite trainers. Dogs that society would qualify as bad dogs. These dogs come from all over the county to be trained. They have a personal pack of 20 dogs that they use to interact with these dogs that are brought in for the training. They specialize in getting the dogs to go off leash. You see numerous pictures in your packet that show dogs off leash on the property of the 20 foot easement that is used by other property owners and some of the adjoining land owners to access parts of their property. The first objection is that this use does not meet the definition of a kennel. If the Board disagrees and finds that this particular activity does fall within the definition of a kennel, then we consider if it can be a special exception for this property. The first threshold would be as to whether this use is dangerous, noxious, or offensive. This facility is dangerous to surrounding property owners. In addition to the information in the packet from the website you have letters from walkers that are property owners in the area that worry about getting bit especially when these dogs are going off leash. Mrs. Perry presented a picture showing the close proximity to the Odem property next door and the danger that the dogs would be off leash. These dogs are very aggressive dogs and unpredictable in their behavior. The Odem family has a daughter that has special needs. The letter in the packet indicates her special needs and she needs a lot of quiet time and not a lot of extra sensory stimulation. The 20 dogs in the owners personal pack, in addition to the other dogs brought in, creates a lot of barking. Mrs. Perry stated that they do have cell phone clips that will let you hear what the barking sounds like. Serious injury could occur to human life if those dogs go off property individually or in a pack and could kill a small child. In addition to the potential damage, you have the noxious condition for the disposal of the waste. The applicant did not present a site plan to show how they will dispose of the waste. That number of dogs on a 2.5 acre property could create an odor that will build up over time. The County would need to get over the hurdle of showing that the activity is not noxious, dangerous or offensive. Designed, operated and proposed that the public health, safety and welfare is protected. Another concern would be the property values. Would this use be a deterrent to an adjacent property owner trying to sell their property? The barking and K9 waste could effectively diminish the property values and prevent the adjacent property owners from enjoying their property. Does the property conform to all applicable provisions of the resolution for the district in which it is to be located? This is a 2.4 acre piece of property. The very dimensions do not lend itself to this agricultural type of use. The minimum lot size in the Agricultural zoning is 4 acres with city water. Additionally this is not necessary for public convenience in this area. 1. Procedure was not followed, 2. It does not meet the definition for uses allowed per the zoning regulations. 3. Does not meet the requirements of a special exception because of the requirements of the public health, safety, and welfare, 4. It does not meet the minimum lot size for an agricultural zoning. After further discussion, Alex Ellis, across the road and down from the subject property, addressed the Board and stated that a person has the right to peace and quiet and feels that this use would be a disturbance to his peace and quiet and the dogs raise quiet a racket when he is out walking in his driveway. Linda Balthrop, owns 64 acres with one property between her property and the Craig's, addressed the Board and stated that she is concerned that the dog would get loose and attack her livestock of cattle goats and chickens and for the safety of her niece and nephew.

George Wade, resident of Cheatham Co, addressed the Board and stated that he is friends of the Odems and does not think it is right that these property owners would have to endure excessive noise and should have a reasonable expectation of enjoying the quiet of their home. The commercial venture near their home would destroy that expectation. Eric Crabtree, adjoining property owner, he hears the dogs barking at all times of the night and day. The use of the dog training facility will diminish the enjoyment and value of the land for him and his heirs. He enjoys watching the deer and when the dogs start barking the deer are gone. It has changed everything on the property and has already devalued his property in his mind. Diana Head, lives in the 2 acres in the middle of the Head estate, was not aware the property was sold till she heard all the barking noise. She would rather not have the business out there because one of the reasons they built there is that it is in the country and you could do what you wanted and enjoy the quiet. Barbra Ellis, across the road& two houses down, she is concerned with safety and that as her and her neighbors get older they don't move as fast and a she is in fear of the dogs walking off leash. They have broken every rule by coming into the community without permits, without zoning change, without posting the signs, and are not the type of people that would call their neighbors or proper authorities if a vicious dog got loose. I could see them waiting till tragedy happens. We do not want a child or elderly person mauled. We just want a rural community without this use there. This use should be in an industrial zoning where people don't try to sleep at night. It is not if it happens, it is when it happens. Mr. Craig addressed the Board and stated that he does not consider the animals aggressive. A pet owner searches the internet looking for help with a pet regarding nervousness, anxiety, and fear. We promote the ability to remedy aggression but I do not consider these dogs vicious or aggressive. The only dogs that are ever off leash are our dogs and we are in control of them at all times. We own the property all the way to the street so the dogs are never off our property. We are now using bark collars to help control the barking during the day. Once we learned of the barking at night we started bringing our dogs in at night. We only work with one client dog at a time and that dog is never off leash. We are also in the process of installing sound panels. We have 15 bark boxes installed on the fence that is supposed to stop barking. Client dogs are always kenneled indoors and are supervised. The only dogs off leash are our personal dogs and on our property. Mark Withworth asked how long have they been operating before they were aware that they needed the special exception. Mr. Craig stated that as soon as it was brought to their attention they made every effort to comply. Mr. Craig stated; they have been in the business for 3 years and previously trained in Clarksville. They started in a neighborhood training about three dogs at a time. As the business grew they decided to move to the country to be able to train more dogs. They never had any complaints at their previous location. The new location being a farm area they were not aware of any special zoning to comply with. Mrs. Brooke addressed the Board to clarify that the applicant does not own the property to the road and the 2 acre lot is actually land locked. We have found no deed of record showing that Mr. Craig owns the 9 acres out front. Mr. Craig stated that they do own the property in front of the house all the way to the road. After further discussion Mr. Craig stated that they dispose of the waste in scoop bags and place them in the trash. They also have a person that comes in to clean and sanitize the area where the dogs are kenneled. Growing the business does not mean more dogs but training other trainers to help more families that are struggling with pet behavior. Alex Ellis addressed the Board and stated that he lives right next to the property and is concerned with the health and safety of his family. After further discussion the Board concluded that more information is needed, including a site plan, to make a determination on the special exception. Mrs. Perry state that she would like to register an objection on the fact that the Board is allowing the applicant to come back to the Board because they did not properly follow the rules and give them an opportunity to bring back additional evidence. ****MOTION**** to defer the request for special exception till the November meeting was made by Mark Whitworth; second by Roy Miles. Motion to defer pass by roll call vote; Roy Miles - yes, Mark Whitworth - yes, Burt Adcock - no, Mary Sneed - yes.

ITEM#3:

Acting Chair Mary Sneed read item #3 into the record. Connie Allen & Cerrie M. Gammons (represented by Attorney Martha Brooke Perry) requesting to appeal the decision of the Building Commissioner and allow the use and occupancy of a Recreational Vehicle in an R-2 Medium Density Residential Zoning District per section 5.044 E. of the Cheatham County Zoning Resolution. Property is located at 1439 Chapmansboro Rd.,

Chapmansboro, TN; Map 44I, Group A, Parcel 20 & 21. Property is in the 1st voting district and is in AE Special Flood Hazard Area. Mrs. Perry, representing the applicant, addressed the Board and presented a subdivision plat showing the property owned by her client. Mrs. Perry stated that the property was purchased from Gary Binkley in 2001. The family has had this property in one or the other family member's names since 2001. It was sold as a camping lot. Mr. Carroll put an RV on it till the flood and replaced it after the flood. By the nature of the dimensions as plated in 1954, the width of the lot do not allow for anything to be built on the lot with respect to the requirements of the R-2 zoning. The only use for the property would be for an RV because of the lot dimensions that were in place before the zoning resolutions were established. Mary Sneed asked how long an RV had been on the property. Mr. Carroll stated that there had been something on there since he bought the place back in 2001. Gary Binkley addressed the Board and stated that there used to be a school bus there that people used for camping. He added some fill and made a real nice camping lot. Mr. Cong addressed the Board and said that he lives across the street at 1442 Chapmansboro Rd., and has no complaints about the RV and never stays down there. Mrs. Perry request the Board overturn the ruling from Mr. Wilkinson with respect to the only and best use for the property would be for an RV. Franklin Wilkinson stated that the history in the Sycamore Harbor area indicates some controversy over the use of RV going back to the 1990s. After the May 2010 floods the County considered, through the Planning Commission, a special task force committee, and through the County Commission, be able to allow the use of the RVs primarily in the Sycamore Harbor area. The result of the meetings and consideration produced Resolution # 4, June 2014 to require the Building Commissioner to strictly enforce the R-2 zoning regarding the use of RVs in the Sycamore Harbor area. The only way to continue the use of an RV in the R-2 zoning would be under a legally nonconforming use. Any use not permitted by right of a special exception is not allowed. Google earth photographs of the property show no RV on the site in in 2011, 2013, and no RV in April 2014. The property was purchased in May 2014 and for 4 years prior there was no RV on the property. Connie Allen addressed the Board and stated that in going back to substantiate the date it is her finding that they do not comply with the legally nonconforming status. By not allowing the RV on the site the County has rendered the property unusable for us. After further discussion, Steve Clark addressed the Board and stated that he represents 4 other property owners in the area and is in opposition the RV and campsite and would request that the County enforce the R-2 zoning. After further discussion a ****MOTION**** was made by Roy Miles to grant the legally nonconforming status to the use of the RV and to allow the continuation and use of the RV on the property; second by Burt Adcock. The motion to apply legal non-conforming status to the use of the RV on the site failed by lack of majority vote. Roy Miles - yes, Mark Whitworth - no, Burt Adcock – yes, Mary Sneed – no.

Decision of the Building Official to not allow the use and occupancy of the campsite on the property is upheld.

OTHER: None

There being no further business, ****Motion**** was made to adjourn the meeting by Burt Adcock with a second by Mark Whitworth. Voice vote carried unanimously by all members present. Motion passed. Meeting adjourned at 7:45 PM.

**ROY MILES III – SECRETARY
CHEATHAM COUNTY BOARD OF ZONING APPEALS**