



**CHEATHAM COUNTY BOARD OF ZONING APPEALS
MINUTES FOR FEBRUARY 25, 2014**

Chairman Nash called the meeting to order at 6:03 p.m..

Mr. Adcock led the Pledge of Allegiance.

Mr. Whitworth led the prayer.

Chairman Nash acknowledged that all members of the board were present.

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

Members Absent: None

Chairman Nash declared a quorum present.

Approval of Minutes and Agenda

Chairman Nash asked if there was a motion to approve the minutes for the last meeting (i.e. December 23, 2013) and the agenda for tonight's meeting. ****Motion** made by Mr. Miles to approve the minutes for the December 23, 2013 meeting and the agenda for tonight's meeting as presented and circulated; second by Mr. Adcock; Voice Vote Taken; Motion carried unanimously by all members present; Motion passed; Minutes for the December 23, 2013 meeting and the Agenda for tonight's meeting approved as presented and circulated**

Agenda Items to be Heard:

1. Mr. Bradley Hunter, applicant, requesting a 36' variance from the minimum front setback required of 50' for Agriculture zoning and a variance to allow the placement of an accessory structure in the required front yard to accommodate the construction of a new garage. Such is being requested due to topographic constraints. This is in reference to the Cheatham County Zoning Resolution, Sections 5.040, 5.041 (F) (2), 5.041 (F) (6a), 8.050 and 8.060. Property is located at 1014 Greenbrier Rd., Ashland City, TN, map 48 parcel 59. Property is in the 5th voting district and is not in a flood area.
2. Mr. Larry Raybon on behalf of Faulk & Foster, applicant, representing Cingular Wireless PCS, LLC and AT&T Mobility Corporation, Lessee, requesting approval of a Special Exception for the construction of a new 195' monopole telecommunications tower site. This is in reference to the Cheatham County Zoning Resolution, Sections 5.040, 5.041 (D) (5), 8.050 and 8.070. Property is located at 1106 Street Rd., Kingston Springs, TN, map 91 parcel 30.02 and is zoned Agriculture. Property is in the 6th voting district and is partially in the A and AE flood areas.
3. Mr. Larry Raybon on behalf of Faulk & Foster, applicant, representing Cingular Wireless PCS, LLC and AT&T Mobility Corporation, Lessee, requesting approval of a Special Exception for construction of a new 195' monopole telecommunications tower site. This is in reference to the Cheatham County Zoning Resolution, Sections 5.040, 5.041 (D) (5), 8.050 and 8.070. Property is located on Thrasher Dr. (off Jackson Cabin Rd.), Kingston Springs, TN, map 97 parcel 46 and is zoned Agriculture. Property is in the 6th voting district and is not in a flood area.
4. Mr. Brian McCain, applicant, representing William B. Payne, owner, requesting variances due to insufficient lot size relative to E-1 zoning for three separate parcels of land. Such parcels lie in the unrecorded section "C" of the Interstate West Ranchettes subdivision. This is in reference to the Cheatham County Zoning Resolution, Sections 5.042 (F) (1), 7.040 (A), 8.050 and 8.060. Properties are located on Bald Eagle Dr., Kingston Springs, TN, map 98 parcels 313, 314 & 316. Properties are in the 6th voting district and are not in a flood area.

Agenda Items to be Heard (cont.):

5. Mr. Jerry Binkley, applicant, on behalf of the estate of the deceased Ms. Ethel Binkley, requesting a Variance due to insufficient lot size for one proposed lot. Such proposed lot is to be created pursuant to the will of Ms. Ethel Binkley and shall contain one existing dwelling and two accessory structures for the use of her heirs. This is in reference to the Cheatham County Zoning Resolution, Sections 5.042 (F) (1), 8.050 and 8.060. Property is located on Hwy. 41-A, Joelton, TN, map 24 parcel 21.00 and is zoned E-1. Property is in the 2nd voting district and is not in a flood area.

ITEM #1:

Chairman Nash read the item into the record as advertised. Mr. Hunter spoke and made presentation of his evidence to the board. Mr. Hunter's presentation indicated that in order to construct his new garage without any variances it would be much farther from the road and well down the hill below his home. His presentation also evidenced the steep change of topography to the side and behind his home that ends in a ravine behind his house. Mr. Hunter stated that constructing his garage in such locations would make keeping stormwater out of it impossible; hence, he needed to construct it closer to the road and needed the requested variances to do so. Chairman Nash asked if there was anyone who wished to speak on this issue. Ms. Diane Travis spoke on her and Ms. Mildred Osborne's behalf. She presented pictures showing the manner in which she believed the garage would be constructed with the requested variances. She asserted that such would block their view of the area beyond and possibly create a traffic safety problem. The validity of where Ms. Travis showed the garage to be proposed in her pictures was challenged. It was determined that her asserted proposed location of the garage in the pictures she presented was incorrect due to using stakes installed by Mr. Hunter for the location of the existing ROW of the road in error. Ms. Travis expressed concern over the existing well and line that is located on Mr. Hunter's property that supplies potable water to their home. She stated that Mr. Hunter knew of the well and it's purpose at the time he bought his home. Mr. Hunter responded by saying that one of the reasons he wanted to put the garage closer to the road with the requested variances was to keep the garage above and away from the well and line and not disturb them. Ms. Travis stated that she did not believe there was an easement protecting the well and line. It was determined that the proposed garage would be approximately 24'-26' from the edge of pavement of the road. Mr. Hunter also stated that the garage would be at least 35'-40' from the well. Building Director Atkins stated that he would verify that the garage is installed a safe distance from the well during construction inspections.

****Motion** made by Ms. Sneed to approve a variance of 36' from the minimum front setback required of 50' for Agriculture zoning and a variance to allow the placement of an accessory structure in the required front yard to accommodate construction of a new garage due to topographic gradient and features causing a hardship to meet setback requirements in accordance with Section 8.060 (C) of the Cheatham County Zoning Resolution; second by Mr. Adcock; Question Called by Mr. Miles; Roll Call Vote Taken; Voting Yes – Larry Nash, Roy Miles, Mark Whitworth, Mary Sneed and Burt Adcock; Voting No – None; Absent – None; Yes – 5, No – 0, Absent – 0; Motion Passed; Variances Approved.** Director Atkins told Mr. Hunter that he would need an exact dimension from the well and line to the garage for the building permit issuance.

ITEM #2:

Chairman Nash read the item into the record as advertised. Mr. Raybon addressed the board. He explained that the need for this site and other sites is to upgrade the AT&T network to the higher speed required for the bandwidth to accommodate not just cellphone use, but also internet, data transmission, etc.. Several individuals were allowed to speak by Chairman Nash. Their concerns ranged from

impairment to the natural surroundings, to cellphone service is already adequate and other services not needed, to detrimental effects on wild animals and game trails, to possible decreases in surrounding property values, to the possibility of the tower falling down, to having greater possibility of attracting lightning to the area, to the fear of tornadoes damaging it and causing damage to other homes in so doing. In the absence of Brett Smith, Director Atkins presented the planning and engineering review findings from Ragan-Smith-Associates. Director Atkins stated that all engineering requirements have been met to allow approval of the Special Exception. Chairman Nash asked Mr. Raybon what the fall radius of the tower was. Mr. Raybon stated that the tower is built in sections such that it would collapse rather than fall over a coverage radius of 195'. Chairman Nash asked about the method of electrical grounding for the pole being struck by lightning. Mr. Raybon responded that the plans presented clearly depict the grounding method for the pole, which incorporates a suitable grounding mat in construction. Mr. Raybon described the method by which suitable sites are chosen by AT&T. Discussion was had concerning other possible alternative sites. It was determined that Mr. Raybon would bring evidence of other sites considered to the next meeting. A petition was presented to the board against this cell tower site. Director Atkins stated that this cell tower proposal meets the standards set by the County for a cell tower site. ****Motion** made by Mr. Miles to approve the cell tower proposal as a Special Exception in accordance with the conditions stipulated in the engineering review; second by Mr. Whitworth; Ms. Sneed called for the question; Voting Yes – Larry Nash, Roy Miles, Mark Whitworth and Burt Adcock; Voting No – None; Abstain – Mary Sneed; Absent – None; Yes – 4, No – 0, Abstain – 1, Absent – 0; Motion Passed; Special Exception Approved**

ITEM #3:

It was decided to postpone action on item #3 until next month due to a lack of certified notification being provided. Due to the large number of adjoining property owners involved with this item and the impact on the county's postage ability all at once, Director Atkins instructed the applicant to send out the certified letters himself and provide evidence of their return receipts next month. ****Action on Item Postponed until Next Month****

Chairman Nash declared a 5 minute recess.

Chairman Nash reconvened the meeting from recess.

ITEM #4:

Chairman Nash read the item into the record as advertised. Mr. McCain addressed the board. He stated that he was approached to perform survey work to establish if one of the vacant lots would perk for a septic system. He said in so doing he talked to the owner who said he would be wanting to sell his existing home and lot as well. He said he told the owner he should verify that he has sufficient soils for a secondary septic field so he began the surveying work necessary for such. In performing such surveying work, he discovered that the existing home was encroaching on the rear setback line by at least 20'. He said that in order to correct the situation, he needed to move the common boundary line between the three existing parcels and such a change would require a subdivision plat amendment approved by the Town of Kingston Springs. The Town of Kingston Springs said that before they would take action, he would need the Cheatham County Board of Zoning Appeals to approve a variance for the lot sizes being too small; hence, this item is before this board for consideration. It was determined that this proposal is not requesting the creation of any new parcels or lots, simply realigning the existing boundary lines between the three parcels to get the parcel with the existing home compliant. Sherry Payne, wife of William Payne, spoke. It was determined that the Paynes filed and recorded a boundary plat for these affected lots back in 2004 at the request of then County Attorney Bob Perry in

lieu of the unrecorded plat to substantiate the parcels in question. It was evidenced that such boundary plat detailed the two vacant lots as buildable lots. Director Atkins stated that platting authority lies with the Town of Kingston Springs due to the area lying within the urban growth boundary of the Town of Kingston Springs. Various members of the public spoke with the permission of Chairman Nash. Director Atkins stated that both of the two existing vacant parcels are buildable lots at this time. Discussion was had concerning what the required setbacks were when these lots were created originally. It was discussed that this action was a matter of technical cleanup. ****Motion** made by Mr. Miles to approve variances of 0.72, 2.11 and 2.12 acres respectively from the 3.0 acre minimum size for E-1 zoning with public water available for lots 1,2 and 3 as shown on the proposed final plat in accordance with Section 8.060 (C) of the Cheatham County Zoning Resolution; second by Mr. Whitworth; Roll Call Vote Taken; Voting Yes – Larry Nash, Roy Miles, Mark Whitworth, Mary Sneed and Burt Adcock; Voting No – None; Absent – None; Yes – 5, No – 0, Absent – 0; Motion Passed; Variances Approved**

ITEM #5:

Chairman Nash read the item into the record as advertised. After discussion and analysis with the applicant and his attorney, Martha Brooke Perry, it was determined that the board had problems with approving the variance for a lot that has yet to be created and stipulated to be created at this presented size per the details of the will of the deceased property owner. It was requested by the applicant that action on this item be postponed until next month's meeting to give time to see if an increase to the proposed lot size is possible among the heirs. ****Action on Item Postponed Until Next Month****

There being no further business, motion was made to adjourn the meeting by Mr. Adcock with a second by Mr. Miles. Voice vote carried unanimously by all members present. Motion passed. Meeting adjourned.

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