



**CHEATHAM COUNTY BOARD OF ZONING APPEALS
MINUTES FOR AUGUST 24, 2015**

Acting Chairman, Mary Sneed called the meeting to order at 6:09 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, Burt Adcock, Mary Sneed,

Members Absent: Mark Whitworth, Larry Nash

Acting Chairman, Mary Sneed declared a quorum present.

Others Present: Bo Larson, Killie Jones, Janie Sanders, Max Schroeder, Dennis Williams, Diane Williams, Betty Ramsey, David Mixon, Donna Mixon, Dixiet Perry, Alice Lindahl, John Lindahl, Charles King, David Bibee, Steven Clark, E. Charles Biederman, Bu Larssen, Ann Binkley, Roger Binkley, Robin Kevin Mathis, David Clark, Bob Keenan, Perry Tilghman, Linda Tilghman, Edwin Hogan, PJ Duncan, Debbie Keenan

Approval of Minutes and Agenda

Mary Sneed called for a motion to approve the minutes for the last meeting (i.e. July 27, 2015) and to approve the agenda for tonight's meeting. ****Motion**** made by Roy Miles to approve the minutes from the meeting from July 27, 2015 and to approve the agenda for August 24, 2015; second by Burt Adcock; Voice Vote Taken; Motion carried unanimously by all members present; Motion passed; Minutes from July 27, 2015 approved and the agenda for August 24, 2015 approved.

Agenda Items to be Heard:

ITEM#1:

Mary Sneed read item #1 into the record. Bo & Karen Larsen, requesting a determination of an Incidental Home Occupation per section 5.043 C 4. and section 4.040 of the Cheatham County Zoning Resolution. Property is located at 1101 Hunters Lane, Ashland City, TN 37015. Map 37H, Group A, Parcel 2. Property is in the 2nd voting district and is not in a Special Flood Hazard Area.

Bo Larson addressed the Board and stated that he and his wife have just recently moved to the area from New Jersey. His wife has an online fabric trend business. It is not the kind of business that will generate customers coming to the house. The only traffic associated with the business is UPS, Fed-Ex, and the US postal Service. We want to make sure the business does not affect the residential neighborhood. What we want to do is use the existing RV pad, extend it, and build an accessory structure. Approximately a 30' x 40' structure that sits on the back bark of the property. We want to construct something that is aesthetically pleasing and fits into the residential area. Johnny Lindahl, 1007 Hunter Lane, addressed the Board and stated that they want to be good neighbors but have concerns about conducting the business in the neighborhood. Bo wants to build a 30' x 50' building, and put it between my house and his house. He wants it 14' in height with a roll up door. It is without question a warehouse. He wants to have the same color as his home but with an aluminum exterior. The subdivision covenants and regulations don't have to be approved by Roger Binkley. From the

people he has talked to in the neighborhood, we just don't want a warehouse in a residential area. John presented a copy of the neighborhood restrictions and covenants to Mary Sneed. Mary Sneed indicated that the County Building Department does not enforce subdivision restrictions and covenants. Mary Sneed observed that the application for the home occupation indicated a smaller structure than what is being discussed tonight. Mr. Larson stated that the move and meeting date happened so quickly that some of the plans have been changed. Some of the details still need to be worked out and we are willing to do whatever it takes to comply with the restrictions and covenants of the neighborhood. Roger Binkley, 1201 Hunters Lane, addressed the Board and stated that he is concerned about what kind of online fabrication business will be conducted. Mr. Larson stated that most of the products are iron on patches and accessories that are put on dresses. The largest box shipped would average around 5 pounds. Most of the orders are picked up by the US Postal Service during a regular pick up. The sewing and manufacturing does not take place in the home. She has over 10,000 marketable items that consist mainly of patchwork or small accessories that are shipped, and to be sewn onto a garment by the buyer. Roger Binkley stated that the accessory building would have to be built with the same material as the house, which is brick. Mr. Larson agreed he will meet the design requirements of the neighborhood. Debbie Keenan addressed the Board and asked if this meeting was to grant a home based business or is it for a variance to have a commercial business in a residential area. Mary Sneed stated that the applicant is here to seek approval of a home based business. Mr. Larson stated that the web address of the business is patchworkpandatrim.com. Denis Williams, Sycamore Valley Rd., addressed the Board and stated that the application was made for an in home business however, the applicant wants to build a commercial building to facilitate this business. It seems the board should be looking at the zoning which is residential. The neighborhood does not have the road infrastructure to accommodate a commercial business. With all the commercial property available would it not be advantageous for the applicant to conduct the business in a commercial zoning? Charlie King addressed the Board and stated that the home has a two car garage. They don't manufacture anything. Mr. Larson's wife ships patches and pins to customers. My recommendation would be to use the existing garage to stock items and not build an accessory structure. The US Postal Service, UPS, and Fed-Ex only run once per day if needed. After further discussion, Michael Bligh read into the record Section 4.040 of the Cheatham County zoning resolution. "A customary incidental home occupation is a gainful occupation or profession (including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty and tailor shops) conducted by member of a family residing on the premises or only one person in addition to those persons residing therein and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. An announcement sign of not more than four (4) square feet in area is permitted." After further discussion, A ****MOTION**** was made by Roy Miles and 2nd by Burt Adcock to allow the home occupation that will be conducted by a family member inside the principal structure and will not generate any retail traffic. The motion to allow the home occupation passed by roll call vote. Roy Miles - yes, Burt Adcock - yes, Mary Sneed- yes.

ITEM#2:

Mary Sneed read Item #2 into the record. Janie Sanders, 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 1485 Chapmansboro Rd., Chapmansboro, TN 37035. Map 44P, Group A, Parcel

26. Property is in the 1st voting district and is in AE Special Flood Hazard Area.

Janie Sanders addressed the Board and stated; she has been down at Sycamore Creek since 1955. Her family has owned the property at 1485 Chapmansboro Rd. for 50 years. We had a house there. We have been through five floods. Four of the floods were not that severe but the May 2010 flood got my house, my dad's house, and my daughter's house. My dad's house was the one at 1485 Chapmansboro Rd. It was made out of creosote cross ties. I could have got an engineer to fix it but it had three roofs on it. My granddaughter was diagnosed with cancer in 2009 and she could not have come in the house so I had it torn down. That is where we had all our family reunions, where I was raised, and where I raised my three children. I would like to use the property like it has always been used. I cannot afford to build a house. I have a recreational vehicle there now and it is hooked to a septic tank on the property. I would like for everyone in the family to use it like we have always used it. I did help some people out in 2013 and let them rent out a trailer on the property after the flood. They did not treat the property like they should have so I had to do away with that. I will not be renting the property. I am asking to be able to put the trailer there and put the property back to like it was growing up. Mary Sneed asked Mrs. Sanders, how long do you plan to stay there? Mrs. Sanders stated; for a couple of weeks at a time or on the weekends or whenever she can get her family together for reunions. Mrs. Sanders went around the neighborhood and got a signed petition of 34 people in support of allowing her to have the RV on the site. The area started out as a dirt road crossing the old iron bridge and every property down there were fishing camps with camping trailers. There were only three houses at that time and my mom lived in one of the houses. If I am allowed to keep the trailer, the next time it floods, I can hook up the trailer and move out. David Mixon, 1714 Sycamore Beech Lane, addressed the Board and stated; I have been before this Board many times and will eliminate some of the redundant history leading up to this point. The issue of the RVs came up in the Fall of 2013. Several members of the neighborhood called me to represent them in their opposition to allowing RVs or campers in the R-2 zoning. I am here tonight in a continuing effort to represent those living in the area, that are still in opposition to the RVs and campers. This property has been the source of the issue in Sycamore Harbor from the beginning. It started over this one piece of property when it was cited years ago for a violation and more recently cited for a FEMA violation. The RV was removed. I was surprised this spring when a RV showed back up on the property. Then another month or so later, another trailer showed up on the same piece of property. About 10 days ago, one of the RVs went away and the other remained. After meetings in 2013 through the Planning Commission, Calendar of Rules Committee, County Commission, and special workshops, the County decided to leave the R-2 zoning in place and allow the zoning processes to work. If that does not work, then allow the appellant to go to a higher court. The fact that there have been trailers on and off the property since the flood does not make it right. There was a home on the property in the time of the flood. Mrs. Sanders does not reside on the property. She lives on a water front property down the road. She can still enjoy family reunions and the amenities she is looking for. She has not suffered any hardship to receive a variance other than losing a family home. Though it may be a hardship of the heart, it does not qualify for a variance from the zoning regulations. If approve it could open a can of worms in other R-2 zoning across the County. After further discussion regarding the issue of granting a variance, Kellie Jones, Janie Sander's Daughter, addressed the Board and stated; Mr. Mixon has never come to us and talked about any of the things he just stated. Mrs. Sanders stated that she was not aware of the number of people that were in opposition to the RV. After further discussion, Mary Sneed asked what percentage of the lots are single family dwellings in the area and what percentage are RVs? Mr. Mixon stated that he know of about three RVs in the Sycamore Harbor area. After further discussion Mary Sneed asked County Commissioner Wilkinson if he could answer the question as to how many trailer are down there. Wilkinson stated that there are three down there

that we know of that are going through this same process. The County is enforcing the zoning in R-2. As far as any other RVs in the agricultural zoning, we would treat it the same way as to enforce the zoning. I cannot speak to the history of which properties were granted a legally nonconforming status to the RVs. By the R-2 zoning the use, occupancy, and storage of an RV is not allowed. Michael Bligh summarized the issue as how the RV use relates to the permitted use in an R-2 zoning district. The Board of Zoning Appeals does not have the authority to grant a use variance. Even if other properties are used the same way, that is not grounds for a variance. A nonconforming use must be demonstrated that it is a legal nonconforming use by using the property in this manner since before the zoning resolution took effect. Discontinuing the use for a period of six months will terminate the legal nonconforming use. Betty Ramsey, 1st district Commissioner addressed the Board and stated that the use of RVs has been before the County Commission and the ruling was; after the flood, if there was a house there, the mobile home was allowed to stay there until a new house was built. If the mobile home was not there before the flood then a mobile home could not permanently stay there. There was a period of 18 months that the mobile homes were allowed to stay there while homes were being built. Donna Mixon, 1714 Sycamore Beech Ln., addressed the Board and stated that prior to the flood there was a home on the property. Mrs. Sanders step father owned the property and when he died the deed was transferred to Jaine Sanders on September 30th, 2011. The house was torn down after the flood and there was a 6 month period where there was nothing on the lot. After further discussion, Steve Clark, 1700 Sycamore Beach Ct., addressed the Board and stated that he bought his property in 2012, and researched the R-2 zoning. His decision to purchase was based on the permitted use allowed in the R-2 zoning. Mr. Clark encouraged the Board to uphold the permitted uses allowed in the R-2 zoning and not allow camping and RVs in that area. David Bibee, 1530 Matlock Dr., addressed the Board and stated that he is a member of the Planning Commission. The Planning Commission has voted to uphold the regulations of the R-2 zoning district and that includes the Sycamore Harbor area of Chapmansboro. There was a similar case at 1529 Chapmansboro Rd. and the applicant was denied the use of the RV. Gary Binkley addressed the Board and stated that he lives in the neighborhood and serves as a County Commissioner in the 1st district, and has known the appellant and her family for many years. Mr. Binkley asked; if this use is allowed will other homes that have been torn down be allowed to place RVs and campers on the properties? Mr. Bligh responded and stated that each property would be considered on a case by case basis. Approving or denying a particular property does not necessarily approve or deny another property. It would depend on the facts of each particular case. Pam Binkley, 1427 Chapmansboro Rd., stated that she lost her house during the May 2010 Flood. When I came back, I was told that the only way I could come back was to build a house that complied with the R-2 zoning, the local floodplain regulations, and FEMA standards. Others that want to live in that area should be held to the same standards. David Clark, 1532 Matlock Dr., addressed the Board and stated that he is in favor of allowing Mrs. Sanders the ability to occupy the RV on her property. After further discussion, a ****Motion**** was made by Roy Miles and second by Burt Adcock to overturn the decision of the Building Commissioner and allow the use and occupancy of the RV based on a legally nonconforming status of the use of the property per section 7.020 . Roy Miles - yes, Burt Adcock - yes, Mary Sneed- no. The motion to allow the use failed by roll call vote. Without a majority of yes votes by three of the five members of the Board of Zoning Appeals the motion failed.

ITEM#3:

Mary Sneed read Item #3 into the record. E.C. Biederman, 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 1555 Matlock Dr. Chapmansboro, TN 37035. Map 44P, Group A, Parcel 62.

Property is in the 1st voting district and is in an AE Special Flood Hazard Area.

Jennifer Noe, legal counsel for Mr. Biederman, addressed the Board and directed the Board to the application and explained that this is an accurate description of the history of the property. Mr. Biederman purchased the property, 1555 Matlock Dr., approximately one month before the adoption of the Zoning Regulations in March 1991. The closing date of the property was delayed due to scheduling a survey and a title search. The property has always been used as a camp site for Recreational Vehicles. The Assistant Building Commissioner at that time, Del Knight, approved the site for a Recreational Vehicle use and occupancy per a meeting prior to purchasing the property and negotiating with the previous owner, in September 14, 1990. The use and intent from the time of purchase has been for Recreational Vehicle Use. Mr. Biederman would like to be able to continue this use. The Recreational Vehicle is never on the site for more than 180 consecutive days. The property has been used for a Recreational Vehicle for 25 years. After further discussion, Brian Shearon, Chapmansboro Rd., addressed the Board and stated that he and his dad built the house that was sold to Mr. Biederman. There has always been a recreational vehicle occupied on this site. Mrs. Noe stated that it has been a legally nonconforming use since 1991. After further discussion, a ****Motion**** was made by Burt Adcock and second by Roy Miles to overturn the decision of the Building Commissioner and allow Mr. Biederman to continue the legally nonconforming use and occupancy of the Recreational Vehicle per section 7.020. Roy Miles - yes, Burt Adcock - yes, Mary Sneed- yes. The motion passed by a majority yes vote.

ITEM#4:

Mary Sneed read Item #4 into the record. Pleasant View Volunteer Fire Department, requesting a A 2.5 acre variance from section 5.041 F 1. Dimensional Requirements, minimum lots size to make a 1.5 acre lot. A special exception per 5.041D. 1. Administrative Services, for the use of a Fire Department Facilities. Site plan approval per 8.070 A. B. C. D.E. F. G. 1. Special Conditions for Administrative Services. Property is located on Mosley Ferry / Thomasville Rd., Map 12, Parcel 18.05. Property is in the 4th voting district and is not in a Special Flood Hazard Area.

Edwin Hogan, Cheatham County Emergency Management Director, addressed the Board and stated that this project is another joint venture to construct a fire hall in a rural fire service district and is similar to the Pegram Fire Station #2 that was previously approved by this board. We are requesting the variance on having the gravel parking lot and on the landscaping requirements. Mr. Hogan stated that all the site plan comments have been addressed. After further discussion a ****Motion**** was made by Roy Miles and second by Burt Adcock, to approve the Special Exception for the use of a Fire Department Facility. Roy Miles - yes, Burt Adcock - yes, Mary Sneed- yes. The motion passed by a majority yes vote.

A ****Motion**** was made by Burt Adcock and second by Roy Miles, to grant a variance on the minimum lot size in an Agricultural zoning district and approve the site plan with an allowance of a 2/3rd reduction of the required landscaping material, and to allow a portion of the parking lot to be gravel as noted on the site plan. Roy Miles - yes, Burt Adcock - yes, Mary Sneed- yes. The motion passed by a majority yes vote.

OTHER: None

There being no further business, ****Motion**** was made to adjourn the meeting by Roy Miles with a second by Burt Adcock . Voice vote carried unanimously by all members present. Motion passed. Meeting adjourned at 7:53 PM.

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