

**Minutes
Williamson County
Board of Zoning Appeals
7:00 P.M. January 26, 2017**

Members Present

David Ausbrooks, Chairman
Don Crohan, Secretary
Sue Workman
Karen Emerson-McPeak

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Kristi Ransom, Attorney
Mike Matteson, Planning Director
Floyd Heflin, County Engineer

The Williamson County Board of Zoning Appeals met in regular session on January 26, 2017 in the Auditorium of the Williamson County Administrative Complex. Chairman David Ausbrooks began the meeting by reading a public statement stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor and confirmed by the County Commission. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have a direct bearing on the item or issue being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks then asked the members to consider the minutes. Don Crohan made the motion to approve the minutes of the November 17, 2016 meeting, as presented, and Sue Workman seconded the motion. The motion was unanimously approved by voice vote.

ITEM 1

A request by Marcus Shute, Jr., Attorney (Jimmy and Melissa Harris, property owners) for an Appeal of Administrative Interpretation of the definition of heavy equipment in order to allow a Special Use, for a Residential Business permit application to be made at 5008 McKee-Padilla Road. The property is zoned Rural Development 1 (RD-1) and is located in the 5th district.

Linda Hodges read the staff report and reviewed the background documentation (see agenda report). Lee Sanders announced to the Board that Mike Matteson, Director of Planning is available to answer any questions that the Board had and explain his interpretation of heavy equipment. He then pointed out the adjoining properties and showed an aerial photo of the site using the overhead projector.

Mike Matteson stated he was asked to provide an interpretation of the definition of heavy equipment as used in the Residential Business regulations of Williamson County Zoning Ordinance Section 11.04. He stated Section 23.02 (L) gives him the authorization to determine terms that are not defined through the Interpretation Procedure of Article 9. Mike Matteson stated that dump trucks do come under the definition of heavy equipment. He stated heavy equipment is for a business use that cannot be permitted as a Residential Business.

Mr. Shute stated that his belief is that machinery that cannot be driven can only be considered heavy equipment. He stated the crawler and other trucks on the property are considered agricultural equipment.

Chairman Ausbrooks opened the meeting to the public.

Peggy and Mark Zukas of 6606 Eudailey-Covington Road stepped up to speak. Peggy Zukas stated she was afraid that if the large dump trucks were allowed to remain at Mr. Harris' site, this would only allow more businesses to begin in the area. Mark Zukas stated he had spoken earlier to Mr. Sanders about Mr. Harris' business and had sent an email/letter explaining his concerns.

Mr. Sanders then submitted a copy of the Zukas' email to the Chairman.

After looking over the letter, Chairman Ausbrooks asked if anyone else in the audience wanted to speak. Seeing no one else, he then closed the public hearing.

Mr. Shute presented letters from neighboring property owners in supporting his client's request.

The Board then took time to review the letters.

Chairman Ausbrooks stated he has driven heavy construction equipment in the past and dump trucks are considered heavy equipment. He then asked what kind of business Mr. Harris has.

Mr. Shute stated a dirt moving company with trucks. He stated the small white truck (in one of the photos) is not part of the company.

Chairman Ausbrooks asked Mr. Shute what the weight of each photographed truck was and what they were used for. He then asked if they were classified between the Classes of 7 and 10.

Mr. Sanders stated that Jason McGee, Sergeant of the Tennessee Highway Patrol Commercial Vehicle Administration sent a copy of classifications for trucks and it is in the agenda packet.

Don Crohan noted the photo of a truck that displayed a farm name on the door. He asked what the name of the farm is and what class of license does the employees have in order to drive the big trucks. He stated Class B is for a special class of equipment.

Mr. Shute stated the previous owner's name is on the truck, and wasn't sure about the driver licenses of the employees.

Sue Workman stated she was confused about the term of heavy equipment from Mr. Shute. She also asked where the trucks are parked.

Mr. Shute stated the adjoining properties belong to other family members and the trucks are parked over 200 ft. from the road.

Karen Emerson-McPeak asked Chairman Ausbrooks to clarify what the Board is supposed to be determining.

Chairman Ausbrooks stated Mike Matteson's interpretation the definition of heavy equipment in a residential area.

Don Crohan made a motion to agree with Mike Matteson's decision stating it met with Sections 5.03 (D) (3) (c). Karen Emerson-McPeak seconded the motion. Motion was approved by a 3-1 vote with Sue Workman voting in opposition to the motion.

Item 2

A request by William J. Curran, Sr. for an Appeal of Administrative Decision to deny a permit for a structure built in the floodway at 5125 Old Harding Road. The property is zoned Rural Preservation 5 (RP-5) and is located in the 1st district.

Linda Hodges read the staff report and reviewed the background documentation (see agenda report). Lee Sanders presented the adjoining property owners and a map of the floodplain using the overhead projector. He stated the site is located on Old Harding Road with the South Harpeth River bounding the back of the parcel. Mr. Sanders stated he found no permit for the structure which is built on stilts and the location is in the floodway. He did a close approximation of the floodway and pointed it out to the Board using the overhead projector. Mr. Sanders stated the river channel is 30 to 35 feet from the unpermitted structure. He stated Mr. Curran made an application after he was notified that he was in violation of building without a permit and the application was denied. Mr. Sanders stated the County Engineer, Floyd Heflin is in charge of determining the floodway and is available to answer any questions the Board has for him. He is the County's Federal Emergency Management Agency (FEMA) Floodplain Administrator.

Mr. and Mrs. Curran represented the item. Mr. Curran stated he started building the structure 1 ½ years ago for recreational pleasure. He stated the structure does not have electricity or plumbing and he knew it was in the floodway, but didn't think that was a problem because it was on stilts. Mr. Curran stated the generator is used for working on the treehouse. Mr. Curran stated the same two trees helping to hold up the treehouse were there during the last flood and when the river floods the current of the water goes between his residence and the treehouse. He went on to note that he has talked to his neighbors and they would be upset if he had to tear it down.

Mrs. Curran stated there would not be anyone in the treehouse if there was another flood. She stated nobody from the County saved her and her daughter from their residence during the last big flood. She stated if the water starts ponding again in their yard, she would leave the residence.

Chairman Ausbrooks opened the meeting to the public.

Bill Summerall, an adjoining neighbor at 5122 Old Harding Road stated he lives across from Mr. Curran and he wants the children to have the treehouse. He stated it is simply a treehouse and to forget all the rules and regulations of the zoning ordinance and the ruling of the County Engineer and grant approval for it to remain.

There being no one else to speak, Chairman Ausbrooks closed the public hearing.

Chairman Ausbrooks asked Floyd Heflin that if the Board allows the structure, would this affect the public flood insurance rates.

Floyd Heflin stated the state could suspend Williamson County from FEMA help if the County allows people to build in the floodway.

Karen Emerson-McPeak asked staff what the second structure is next to the treehouse.

Floyd Heflin stated this structure could be considered a second violation, but he is not sure when it was built.

Karen Emerson-McPeak asked if the house is also in the floodway and why Mr. Curran didn't get any permits.

Mr. Curran stated the house is partially in the floodway and after the last flood, he raised the foundation to his house seven feet. He stated he didn't know he had to obtain permits because the structure has no electricity or plumbing.

Don Crohan stated the structure is definitely a new structure and will therefore have to make a motion to affirm the administration's decision and go by the requirements of the zoning ordinance. Karen Emerson-McPeak seconded the motion based on Section 23.04 because this is a new structure.

Chairman Ausbrooks explained to the applicant that the County has to keep premiums down for other County homeowners and this structure affects everyone in the floodplain. Motion was approved by unanimous voice vote.

There being no further business to come before the Board, the meeting was adjourned.

Secretary's Signature

Date