

**BOARD OF ZONING APPEALS
MINUTES
SEPTEMBER 12, 2019**

The Board of Zoning Appeals met on Thursday, September 12, 2019, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Nancy Bohannon, James Dial, Elwood Ervin, Sid Gilbreath, & Connie McCormick

MEMBERS ABSENT: None

STAFF PRESENT: Jon Ward & Ken Young, James Mills & Haley Dickson

OTHERS PRESENT: Mike & Joyce Lambert, J.T. & Ann Bennett, Burrell Johnson, Jamie Long, Vickie Fredebeil, Paul Jackson, Eric McCormick, Chandler Johns, Jerry Gaw, Kathy & Freddie Nelson, Hubert Qualls, Scott & Alyssa Stenson

ELECTION OF VICE CHAIRMAN. Elwood Ervin made the motion to appoint James Dial as Vice Chairman. Nancy Bohannon seconded the motion and the motion carried unanimously. **JAMES DIAL ELECTED AS VICE CHAIRMAN.**

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Elwood Ervin made the motion to approve the agenda as submitted. James Dial seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR APPROVAL THE MINUTES OF JULY 11, 2019. Nancy Bohannon made the motion to approve the minutes of July 11, 2019 as submitted. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A SPECIAL EXCEPTION TO ALLOW SELF-STORAGE FACILITIES IN A CR (REGIONAL COMMERCIAL) DISTRICT ON PROPERTY LOCATED ON HIGHWAY 111 AND OXFORD PLACE. Property owner Mr. Jerry Gaw, and co-applicant Mr. Paul Gaw submitted a special exception request to allow self-storage facilities on property located on Highway 111 and Oxford Place.

Analysis: The subject property is further identified as parcel 040.00 on tax map 067A, group F. The property is zoned CR, Regional Commercial and consists of approximately 22.51 acres. The property is bordered by CR zoning to the north and west, CR and RD, Single Family and Duplex Residential to the south, and RD, Single Family and Duplex Residential to the east.

Self-service storage facilities (mini-warehouses) are a use permitted on appeal (special exception) in the CR, Regional Commercial District, meeting the conditions of Section 206.13 (Additional Standards for Certain Uses) of the Zoning Code.

SECTION 206.13 SELF-SERVICE STORAGE FACILITIES (MINI-WAREHOUSES)

The following additional standards shall apply to all self-service storage facilities:

206.13A Parking shall be provided in parking/driving lanes adjacent to the storage buildings. These lanes shall be at least twenty-six (26) feet wide when storage cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane. Said lanes shall be surfaced with asphalt or concrete.

206.13B A minimum of two (2) parking spaces plus one (1) additional space for every two hundred (200) storage cubicles shall be located adjacent to the facility's office.

206.13C No self-service storage facility shall exceed eighteen (18) feet in height.

206.13D Except for the sale or auction of items foreclosed upon by the owner of the facility, the sale or auction of any item is specifically prohibited.

206.13E The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is specifically prohibited and all rental contracts shall include clauses prohibiting such storage.

206.13F The servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment is specifically prohibited.

206.13G No outdoor storage shall be permitted.

Mr. Jerry Gaw provided a sketch site plan for the first phase of self-storage facilities on the subject property, consisting of 173 units. According to Mr. Gaw, the proposed development will be accessed off Highway 111. The property has an existing access point on Highway 111 and the applicant has submitted an application for an access permit to TDOT. The property also has additional access off Oxford Place, which will not be utilized to access the proposed self-storage units. Mr. Gaw has requested approval of the special exception for the property, subject to the facilities meeting the conditions of the Zoning Code. The site has ample area to meet the design requirements of Section 206.13. In addition, the development will be required to meet all applicable screening and buffer yard requirements of Section 208 of the Zoning Code.

In the opinion of the Planning Department all established conditions can be met and the property appears suitable for the proposed use.

Staff Recommendation: Approval of request, subject to compliance with all applicable provisions of the Zoning Code

Chandler Johns asked what would prevent Mr. Gaw from later deciding to create an easement in the neighborhood and how would this affect the property value?

Jon Ward explained that the neighborhood only has one ingress/egress point and the Planning Department sees that as a potential safety issue for the subdivision. He explained that storage units are a low generating traffic use and there is no real way to measure the effects this project has on property value.

Chandler Johns expressed his concern about the large vehicles that come to storage units and how the neighborhood has families with children and pets that are often out walking the streets along with the cars that are parked along the streets. Mr. Johns is opposed to this proposal.

Elwood Ervin asked Mr. Johns to point out his parcel on the map and asked Mr. Gaw to point out where the storage units are being proposed. The storage units are going on the far west side of the parcel and the existing neighborhood is on east side of Mr. Gaw's parcel. Mr. Gaw explained that he maintained the parcel within the neighborhood to create an utility easement instead of going through Highway 111. Mr. Gaw stated that he is in negotiation with Cedar Hills Retirement to build cottages on the parcel of land that backs up directly to the existing neighborhood.

Mr. Ward explained that the parcel is zoned CR (Regional Commercial) which allows for numerous high traffic generating uses and that storage units will be one of the least impactful uses.

Vickie Fredebeil addressed several issues with the area, but expressed concern with the type of people that rent storage facilities and how she does not want them anywhere near the neighborhood. Ms. Fredebeil expressed her concern for the aesthetic of the area if storage units are built. Ms. Fredebeil is opposed to the proposal.

Mr. Gaw explained the architectural standards that will be in place for the units and that they will not be simple metal buildings. Mr. Ward explained that the Planning Department requires buffer and screening standards.

Mr. Ervin asked Mr. Gaw if there will be a security fence around the units. Mr. Gaw confirmed there will be.

Scott Stenson expressed his concerned about the landscaping of the neighborhood to keep property values up. Mr. Stenson asked what is going to happen to the pond since the proposed property is encroaching on the body of water behind his house.

Mr. Gaw confirmed that the pond will not be encroached upon with the project. Mr. Ward explained that the City of Cookeville Public Works reviews all engineering for projects and any development wouldn't be able to impact the area environmentally without meeting the set requirements.

James Dial made the motion to approve the request as submitted subject to staff's recommendation. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW TO DETERMINE WHETHER THE PLANNING DEPARTMENT ERRED IN ITS DECISION THAT PROPERTY LOCATED ON ROCKWELL DRIVE (TAX MAP 0520, GROUP C PARCEL 012.01) IN A RS-20 (SINGLE-FAMILY RESIDENTIAL) DISTRICT IS NOT A LEGAL LOT OF RECORD. REQUEST SUBMITTED BY TIM HUDDLESTON. Property owner Mr. Tim Huddleston submitted a request for an administrative review to determine whether the Planning Department erred in its decision that property located on Rockwell Drive is not a legal lot of record.

Analysis: The subject property is further identified as parcel 012.01 on tax map 0520, group C. The property is zoned RS-20, Single-Family Residential and consists of approximately 0.3 acres or approximately 13,000 square feet. The property is bordered by RS-20 to the north, east and south and RS-10 and RS-20 to the west.

The subject property consists of a portion of lot 28 of the Poinsetta Subdivision. The City of Cookeville maintained a Municipal Regional Planning Commission at the time when the Poinsetta Subdivision was developed, where the city exercised subdivision regulatory authority outside of the city limits, but within a defined planning region. The Poinsetta Subdivision was located outside of the corporate limits of Cookeville, but within the established Cookeville Planning Region. The Cookeville Municipal Regional Planning Commission granted final approval of lots 24 through 40 of the Poinsetta Subdivision on August 25, 1975. The majority of the lots included in the Poinsetta Subdivision, excluding some of the corner lots, were 100 feet in width, and from approximately 165 feet to 175 feet in depth, consisting of approximately 16,500 square feet to 17,500 square feet in size.

Lots 28 and 29 of the Poinsetta Subdivision were transferred from developers, M. N. Hargrove, C. F. Maxwell and M. D. Judd to Marion Letcher Dishman and wife Brenda Dishman on February 9, 1977. Tax records indicate a single family home was constructed on the property in 1977. The Dishman's conveyed the property to the First Church of the Nazarene on August 27, 1993. The First Church of the Nazarene conveyed the property to Gerald W. and Christine Whitaker on July 9, 1999. Each of these transfers included both lots 28 and 29 as recorded on the Poinsetta Subdivision plat. On March 31, 2000, the Whitakers transferred a portion of lot 28 to Arnold Robinson, Wilma Down, Joyce Duke, Edward Robinson, Donald Robinson, and Freda Poston. This conveyance, by deed, was an unplatted re-division of the lot. The platted lot 28 consisted of 100 feet in width, and was approximately 167 feet in depth, consisting of approximately 16,700 square feet. The lot was reduced to 80 feet of width by this conveyance. It appears that the lot was altered to accommodate an existing driveway for the home constructed in 1977 at 545 Rockwall Drive. The Whitaker's transferred the home and property on May 23, 2000 to current owners Steve and Elaine Herda, as lots 28 and 29 of the Poinsetta Subdivision, excluding the re-division. These actions occurred by deed, and no plat was submitted in conjunction with either.

The Statement of Jurisdiction for the City of Cookeville Subdivision Regulations that was in force when lot 28 was re-divided read as follows:

“The regulations contained in this document shall apply to all subdivision of land, as defined below within the corporate limits of the City of Cookeville. Further, said regulations shall apply to all subdivision of land, as defined below, within the boundaries of the Cookeville Planning Region. Any owner of land, or his designated agent, within the area of jurisdiction of these regulations wishing to subdivide land shall do so in accordance with the rules and regulations herein contained.”

A subdivision was defined as:

Subdivision – The division, re-division, or re-subdivision, of a tract or parcel of land into two (2) or more lots, sites, or other divisions that:

1. Is for the purpose, whether immediate or future, of sale or building development and
2. Is five (5) acres or less in size.
3. Is greater than five (5) acres in size and involves the construction of new streets and/or utilities.

The re-division of lot 28 was subject to the subdivision regulations as this was a re-division consisting of less than five (5) acres. A plat was required for all re-divisions of less than five (5) acres. A plat should have been submitted for approval for lots 28 and 29 depicting the re-division. The re-division reduced the area of lot 28 to approximately 13,000 square feet. When lot 28 was altered from the original lot included with the Poinsetta Subdivision, without a plat submitted to the Cookeville Municipal Regional Planning Commission, the illegal subdivision occurred. The subdivision regulations at the time required a minimum lot size of 15,000 square feet for lots served without sanitary sewer. Sewer was installed to serve the property in February 2012.

The current owner, Mr. Tim Huddleston, purchased the lot from Arnold Robinson, Wilma Doan (a/k/a Wilma Down), Joyce Duke, Edward Robinson, Donald Robinson and Freida (Freda) Poston on December 21, 2012. Mr. Huddleston was unaware that the property had been subdivided without an approved plat. A potential buyer contacted the Planning Department to inquire about the property to construct a single-family residence. Shortly after this inquiry, a property owner in the area reported that the property was subdivided illegally, which led to the Planning Departments research and determination that the lot was not a legal lot of record, although it was depicted as a tax parcel on the Putnam County tax map.

While uncommon, one of the duties of the Board of Zoning Appeals is to hear administrative review request. The Board of Zoning Appeals is charged with hearing and deciding appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Building Official or other administrative official in the enforcement of the Zoning Code or the interpretation of the Zoning Map.

The area was annexed by the City of Cookeville, effective January 7, 2001, and lot 28 was re-divided on March 31, 2000. The current area is zoned RS-20, single family residential. The RS-20 District requires a minimum lots size of 20,000 square feet. Some of the lots of the Poinsetta Subdivision have been combined, but the majority of the lots consist of from approximately 16,000 to 17,000 square feet in size, which are all nonconforming to the RS-20 zoning district. These lots, while non-conforming to the lot size requirement are legal nonconforming lots as the lots were approved and recorded by a legal plat, the Poinsetta Subdivision plat.

The property was annexed into the city limits at the current dimensions, depicted as parcel 012.01 on tax map 052O group C. The Zoning Code defines a lot of record as a lot which is shown as a part of a subdivision plat of record in the register's Office of Putnam County, Tennessee or otherwise legally established as of the effective date of the Zoning Code. Remedies to make the lot a legal lot of record include bringing the lot back to the original dimension of the Poinsetta Subdivision, or to obtain additional area from neighboring properties to bring the lot into compliance with the RS-20 Zoning District, either option being unlikely. To bring the property back to the original dimensions of the Poinsetta Plat would require the relocation of a driveway for an existing home, or could potentially be accomplished by providing a driveway easement. Bringing the lot into conformity with the RS-20 District would be difficult, as the only property with excess area that could be combined with the existing lot would be the property to the north, which would require an agreement with the property owner to sell a portion of property to Mr. Huddleston. There may be justification to provide relief as the property was annexed at the current measurements. Consideration may be further justified in that the current owner bought the lot as shown on the Putnam County tax maps and did not create nor contribute to the non-conformity of the lot as relates to any City of Cookeville rules or regulations. Without providing some relief, the property could remain a vacant tract in perpetuity.

While the Planning Department has made a determination that the lot is not a legal lot of record, it is the Planning Department's opinion that consideration is justified due to the lot being established prior to annexation into the City and the low feasibility of any other remedy. The Planning Department would also recommend that no variances should be approved to any setback requirements.

Recommendation: Approval of the request.

Hubert Qualls explained that it was his understanding that the lot was purchased for access to the Cottages and to be used for access only. Mr. Qualls believes that Mr. Huddleston purchased the lot as it is and he prefers to keep the lot an illegal lot.

Mike Lambert was not aware of what was going on with the lot since it has been vacant and unkempt. Mr. Lambert explained that he was not initially opposed to the lot being built upon but after hearing about the situation, that the lot is illegal and asked what kind of structure will be built on the lot. He expressed concern that property values might fall.

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Tim Huddleston explained that he did not anticipate that 20 feet of the property had been cut off of the lot. Mr. Huddleston explained that since sewer has been drawn to the neighborhood, there is not a need to have a septic system and reserve for septic, so there is no detriment to the development.

Mr. Ward explained that the lot is zoned single family and that it can accommodate a single-family structure.

Elwood Ervin made the motion to approve the request as submitted subject to staff's recommendation. Connie McCormick seconded the motion and the motion carried unanimously. **APPROVED.**

ADJOURNMENT: 6:03 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING



**HALEY DICKSON
PLANNING ASSISTANT**



**SID GILBREATH, CHAIRMAN
BOARD OF ZONING APPEALS**