**City of White House**

**Municipal Board of Zoning Appeals**

**Tuesday, July 21, 2020**

**7:00 p.m.**

Call to Order:

Roll Call:

Approval of prior minutes*:* **May 19, 2020**

**AGENDA**

**{Public Hearing}**

**Item #1**  **Edward Simpson:** Requests a special exception for a residential agricultural use on 2.5 acres. Property is referenced as Robertson County Tax Map 107A, Group B, Parcel 094.00. Property is zoned R-20, Low Density Residential and is located at 408 Hillwood Drive.

**STAFF NOTES:** This property is 2.5 acres on Hillwood Dr, zoned R-20 Low Density Residential. The zoning district permits residential agricultural uses as a use permitted by special exception with review and approval by the Board of Zoning of Appeals. Special exception reviews include both the general criteria per Zoning Ordinance Section 9.070 (F) (General Requirements) and specific use criteria per Zoning Ordinance Section 4.170 (Regulations for properties between (1) and (5) acres).

The Board will need to review the proposed request in relation to the Zoning Ordinance Sections 9.070 (F) and 4.170 to determine if the request meets the requirements. The motion to approve or deny the request including any approval stipulations/conditions per the provisions of 9.070 (B)(Restrictions) will need to be included in the motion.

**070 Procedure for Authorizing Special Exceptions (Amended Special**

**Exception Land Use Table, Items 20 and 21 by Ordinance 05-09, May 19, 2005)**

A. Application

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended uses of the site, the names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Board may require.

B. Restrictions

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

C. A fee of one hundred-fifty dollars ($150.00) shall be charged to cover review and processing of each application for a special exception.

D. Validity of Plans

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

E. Time Limit

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

F. General Requirements

A special exception shall be granted provided the Board finds that the activity:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

2. Will not adversely affect other property in the area in which it is located.

3. Is within the provision of "Special Exceptions" as set forth in this ordinance.

4. Conforms to all applicable provisions of this ordinance for the district in which it is to be located and is necessary for public convenience in that location.

5. Determine that the means of ingress and egress to the property and proposed structures can safely accommodate the traffic generated by the facility.

6. Off-street parking and loading areas as required by the ordinance that protect the surrounding areas from noise, vibration, glare and odor.

7. Properly screened refuse and service areas.

8. Screening and buffering that meet the requirements established in Section 3.120, of this ordinance.

G. Special Exceptions Appeals

Any person or agency of the county government may appeal to a court of competent jurisdiction from the Board's decision as provided under statutes of the State of Tennessee. The judgement and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this article shall be final, and subject to review only for illegality or want of jurisdiction.

* 1. **Residential Agricultural Uses (Added by Ordinance 06-06, February**

**16, 2006**

Regulations for properties between (1) and (5) acres:

1. Residential property must be designated as R-40, R-20, and R-15,

Residential Zoning Districts on the official zoning map.

1. Property must be over one (1) acre in size.
2. Agricultural use shall be an accessory to residential use and shall only be a personal use by residents of the property.
3. Property must not be located within a suburban or urban residential and commercial area as determined by the Board of Zoning and Appeals to prevent adverse effects to adjoining properties and uses, including but not limited to, odors and rodents infestation.
4. The land area reserved for the agricultural use and number of animals shall be determined by the Board of Zoning based on type of agricultural use proposed, acreage of the property, and adjoining property uses.
5. The agricultural use of the property shall not injuriously affect public health or become a nuisance because of noise, odor, etc.
6. All animals shall be within an enclosure and shall not run at large. The locations of enclosures and cages shall be determined by Board of Zoning and Appeals including preventing animal cages from being located in front yard and requiring adequate setbacks of animal enclosures from adjacent houses and property lines. No enclosure of poultry shall be within 10 ft of property line.

**Staff Recommendation:** Approval with owner maintaining coop to prevent excessive noise, odor, or rodents and the applicant adheres to the following language in the zoning ordinance section 4.170.

**{Public Hearing}**

**Item #2 Corey Jones:** Requests a variance regarding the location for an accessory use building on 1.23 acres. Property is referenced as Sumner County Tax Map 097, Parcel 007.03. Property is zoned R-20, Low Density Residential and is located at 761 McCurdy Road.

**Staff Notes:** The property is on 1.23 acres on McCurdy Rd. Provision for accessory buildings (3.100 F listed below) that permits reduced minimum building setbacks for detached accessory buildings. The minimum reduced accessory building setback for the R-20, Low Density Residential zoning district is ten (10’) feet. The homeowner is requesting to place the accessory building would be on the side yard requesting approximately a 5’ variance.

The Board will need to review the proposed request in relation to the Zoning Ordinance Section

***9.060 Variances***during the meeting. The motion to approve or deny the request including any

approval stipulations/conditions will need to be included in the motion.

**Property Dimension:** 24,500 sq. ft.

**Existing Primary Structure/House** (Under Roof) 2,300 sq. ft. – Nine (9%) percent total

building lot coverage

**Existing Accessory Building sq. ft**. 120 sq. ft.

**Proposed Accessory Building sq. ft.** 720 sq. ft.

**Total Existing and Proposed Accessory Building sq. ft.:** 840 sq.ft.

**Total Building Lot Coverage Proposed (Primary/Accessory Building sq.ft.)**: 3,140 sq. ft. or

thirteen (13%) percent of lot- R-20 maximum lot coverage permitted thirty-five (35%)

percent

**Total Accessory Building sq. ft/Primary Building sq.ft. Percentage Ratio:** Thirty-seven

(37%) percent- maximum seventy (70%) percent per the Zoning Ordinance Accessory

Building Section

**STAFF RECOMMENDATION:** Approval, due to the property grades and wetlands that are in the rear of the property (topographical conditions) The variance request would allow a reasonable use of the property since the proposed total building lot coverage and accessory building/primary building percentage ratio are both below the minimum requirements of the zoning ordinance.

**Referenced Zoning Ordinance Sections:**

**3.100 Accessory Use Regulations**

The use of land, buildings, and other structures permitted in each of the districts established by this Zoning Ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

A. Be customarily incidental to the principal use established on the same lot.

B. Be subordinate to and serve such principal use.

C. Be subordinate in area, intent, and purpose to such principal use.

D. Contribute to the comfort, convenience, or necessity of users of such principal use.

E. Total accessory use in residential areas shall be limited to covering no more than seventy (70%) percent of the size of the principal use on any lot. The Board of Zoning Appeals may review a larger percentage depending on special conditions relating to the property, including but not limited to, the property and primary building size in relation to the minimum lot size and maximum lot coverage provisions of the zoning district.

***F. Accessory buildings shall be located in the rear yard or side yard. Buildings located in the rear year shall be ten (10) feet off the property lines for low and medium density zoned districts*** and five (5) feet off the property lines for high-density, planned unit development districts, and alternative lot size developments in low and medium-density zoning districts. Buildings located in the side yard shall be determined by the side yard setback requirements of the zoning district.

G. Residential zoned properties five (5) acres and larger special square footage and classification provisions: The maximum accessory building(s) square footage may be allowed to be three (3) times the primary building square footage not to exceed total square footage of 6,000 sq. ft. A building not constructed as a single-family dwelling may be permitted on an undeveloped property not exceeding 1,000 sq. ft. The building shall be constructed on the back half of the property to permit future primary single dwelling unit construction on the property unless scaled plans are provided to show a planned area for a single-family dwelling unit meeting setback requirement in front of the proposed building. Buildings constructed under this section are for private non-commercial use. The Board of Zoning Appeals may review variance requests for increased square footage based on the defined conditions of a property.

**9.060 Variances**

***The purpose of this procedure is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.***

A. Application

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Hearings

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below. A fee of one hundred-fifty dollars ($150.00) shall be charged to cover review and processing of each application for a variance, except that the fee shall be waived for a governmental agency. Before a variance is granted, relative to a parcel of land containing a structure, a permit fee of five hundred dollars ($500.00) shall be paid, which is nonrefundable, in order for the Board of Zoning Appeals to hear the request. The Board of Mayor and Aldermen by resolution may waive the permit fee if found justifiable.

C***. Standards for Variances***

***The Board shall not grant a variance, except where special circumstances or conditions, fully described in the findings of the Board, do not apply generally in the district. The burden of showing that the variance should be granted shall be upon the person applying for the variance. In granting a variance, the Board shall ascertain that the following criteria are met:***

***1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated.***

***2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.***

***3. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance, to other land structures, or buildings in the same district.***

***4. Financial returns only shall not be considered as a basis for granting a variance.***

***5. The variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.***

***6. The variance will not authorize activities otherwise excluded from the particular district in which requested.***

1. ***That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning***
2. ***district wherein such property is located or of the general provisions of this ordinance.***

***8. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, endanger the public safety.***

***9. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.***

**D. Restrictions and Variances**

1. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

2. Under no circumstances shall the Board of Appeals grant a variance to allow a "USE" not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

3. The Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out in Section 9.070, C., above, to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this ordinance. The Board may establish expiration dates as a condition or as a part of any variances.

**{Public Hearing}**

**Item #3 Sean Hagan:** Requests a (5’) five-foot side setback variance. Property is referenced as Sumner County Tax Map 096, Parcel 019.11 and is zoned R-20, Low Density Residential. Property consists of 1.01 acres and is located at 737 North Palmers Chapel Road.

**Staff Notes:** The applicant is requesting 5’ variance on the side of the home. The property is zoned R-20 Low Density Residential on 1.01 Acres. The property has sloping issues at the rear of the property.

**Staff Recommendation**- Approval, due to the property grades in the rear of the property.

**Referenced Zoning Ordinance Sections:**

**3.100 Accessory Use Regulations**

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