

Department of Planning & Community Development



A public meeting of the Franklin County Board of Zoning Appeals was held April 6, 2021 at 6:00 p.m. in the Franklin County Board of Supervisors meeting room located in the Franklin County Government Center.

THOSE PRESENT:

William Lee, Chairman
Eric Ferguson, Vice-Chairman
Kevin Hunt
Wayne Worley
Billy Kingery
Pamela Washington
William Cooper

THOSE ABSENT:

OTHERS PRESENT:

Steven Sandy, Director/Zoning Administrator
Hannah Powell, Clerk
William Raney, Development Review Specialist II

The meeting was called to order by Chairman Lee at 6:00 p.m. The first order of business was the roll call. The next item on the agenda was the approval of the minutes from the March 2, 2021 meeting. The March 2, 2021 minutes were approved by unanimous consent.

Chairman Lee announced the first item on the agenda and asked for the staff report.

APPLICATION to APPEAL – Application of Kenneth Lee Hurt, Applicant and Owner, to appeal the Zoning Administrator’s decision dated January 18, 2021. The purpose of this application is to appeal the Zoning Administrator’s determination that a Special Use Permit must be issued by the Board of Supervisors to operate an automobile graveyard on property zoned A-1, Agricultural. The properties are currently zoned A-1, Agricultural and located at 528 and 650 Landmark Road in the Boone District of Franklin County and further identified in Franklin County Real Estate Records as Tax Map/Parcel #s 0280001800 and 0280001803 (Case # APRQ-02-21-16839).

Mr. Sandy began by explaining that in March 2020, the Department of Planning and Community Development received a complaint from the VA Department of Environmental Quality (DEQ) concerning property along Landmark Road that may be being used as a junkyard/automobile graveyard. Staff sent a letter to the property owner on March 18, 2020 (see attached) explaining the complaint and the result of the inspection. Staff noted that there were numerous inoperable vehicles on the property representing an automobile graveyard, but staff was unable to find any documentation at that time to indicate it was a legally permitted use.

Mr. Sandy went on to explain that on March 23, 2020, the owner did contact Mr. William Raney in the Planning Department to discuss the letter. In discussion, Mr. Hurt stated it was a legally existing use that

was “grandfathered” by the County. Mr. Raney found an appeal that was filed in 2005 regarding this same case. However, this appeal appears to have been withdrawn and the fee was returned to the owner. The property owner was asked to provide documentation that he or his attorney had received from the county indicating that this was in fact a lawfully existing non-conforming use.

Mr. Sandy stated that in April, a follow up letter was sent to the owner since no response had been received since the March 23rd discussion. On May 14, 2020, the County received a handwritten letter dated May 8, 2020 stating that his attorney didn’t keep records that long and that he felt he didn’t need to comply with the automobile graveyard license or special use permit because the vehicles had been there for over 50 years. Upon reviewing the county records concerning the case from 2005, the zoning administrator determined that a portion of the auto graveyard was an existing lawful non-conforming use with respect to the Zoning Ordinance.

Mr. Sandy continued by saying that it would need to be brought into compliance with section 20-223 and 20-224 of the County Code for automobile graveyards. In December 2020, a neighboring property owner filed a complaint that the site was still not in compliance with Chapter 20 of the County Code and also noted that the automobile graveyard use on the site had been expanded. An initial notice of violation was issued by the zoning administrator on January 18, 2021 determining that the property was in violation of sections 20-223 and 20-224 of the code relative to automobile licensing as well as sections 25-16, 25-164 and 25-179 of the county code because the existing non-conforming graveyard use had been expanded. A second notice of violation was issued on February 5, 2021. An appeal was subsequently filed by Mr. Hurt’s attorney.

Mr. Sandy said that on February 8, 2021, Mr. Hurt submitted a letter to file an appeal of the zoning administrator’s decision stating that the automobile graveyard is a lawful nonconforming use, and no special use permit was required. This request is not a request for a variance but rather an appeal of the Zoning Administrator’s decision. The decision on such appeal shall be based on the board of zoning appeals’ judgment of whether the administrative officer was correct. The board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from.

Mr. Sandy stated that staff believes the information is enough to demonstrate that a special use permit is required for the expansion of the automobile graveyard use as noted in the Administrator’s determination dated January 18, 2021.

Mr. Sandy concluded that staff recommends, based on information and evidence presented, that the Board of Zoning Appeals affirm and uphold the Zoning Administrator’s decision because the petitioner/appellant has not demonstrated by a preponderance of evidence that the Zoning Administrator erred in his decision of January 18, 2021 that a special use permit is required for the expansion of the automobile graveyard use.

Mr. Sandy offered to answer any questions.

With no questions, Chairman Lee asked to hear from the appellant.

Mr. David Furrow, attorney for the property owner, said he had questions for Mr. Sandy. He went on to ask if Mr. Sandy knew how many automobiles were on the property in 1988 when zoning went into effect.

Mr. Sandy answered that he did not.

Mr. Furrow wanted clarification as to the definition of an automobile graveyard in the County Code.

Mr. Lee asked why Mr. Furrow had waited until now to start asking Mr. Sandy questions. He added that it seemed that he needed more time to prepare in order to effectively represent his client.

Mr. Furrow stated that he would appreciate rescheduling this case so that he would have time to discuss with Mr. Sandy. He noted that there was a court case going on that is related to this issue. It is scheduled to come back to the court in August. Due to this court case he suggested that this appeal could be tabled until then.

Chairman Lee opened the public hearing and asked if there was anyone present that would like to speak; there was not. Chairman Lee closed the public hearing.

Chairman Lee made a motion to DELAY ACTION until May meeting allowing the appellant's attorney time to prepare his client's case.

Mr. Kingery seconded the motion. The motion to delay action was approved. Voting on the motion was as follows:

AYES: Cooper, Kingery, Washington, Hunt, Worley, Ferguson, Lee
NAYES: None
ABSENT: None
ABSTAIN: None

Chairman Lee announced the last item as citizen comment and asked if there was anyone present that would like to speak on any topic; there was not.

With no other business, the meeting was adjourned at 6:58.

Hannah L. Powell, Clerk
Franklin County Board of Zoning Appeals

March 3, 2021
Date

