

**Blount County Board of Zoning Appeals**  
**Regular Session**  
**Tuesday November 30, 2004**  
**6:00 P.M.**

The Blount County Board of Zoning Appeals met in regular session on Tuesday November 30, 2004, at 6:00 pm at the Courthouse. Staff was represented by: Roger Fields, Building Commissioner.

Members of the Board of Zoning Appeals present: Bill Marrison, Stanley Headrick, Kathy Lovingood, Harold Brown, Rob Walker.

Mr. Headrick made a motion to approve the minutes of the November 4<sup>th</sup>, 2004 meeting. Second was made by Mr. Brown. The motion received unanimous approval.

**Cases Being Heard**

**1. APPEALS:**

**Gina French- 5223 Highway 411 South:**

This appeal was brought before the board at the October meeting and a motion to deny the appeal was made. The motion received a tie vote. At the meeting the tie vote was interpreted as an automatic passing of the motion. A tie vote actually means that the motion dies due to there not being a majority vote. Mr. Fields added the item back to the agenda this month for two reasons. One is to inform the board that no action was taken on the item at the previous meeting. The second is to give the board an opportunity to take action if that is what the board wishes. Mr. Fields also wanted to point out that since the time the appeal was submitted the property in question was rezoned. The original request was the appeal of a site plan that was approved by the Blount County Planning Commission on August 26, 2004. The site plan was for the expansion of an existing car dealership. The plan shows the addition of a showroom and service building. The site plan was approved in accordance with Section 6 of the Blount County zoning regulations. This piece of property has multiple uses that do confuse this situation. Originally this car lot was the existing small building and the larger garage area behind it. The previous owner switched the uses without the BZA's approval to a boat tower shop and retail store. The retail store was changed back to a car dealership and a change of use was granted for the garage to be used for the tower shop. The car lot was one of the original grand-fathered uses and is why the site plan was granted. Mr. Fields also included a letter from Norman Newton concerning the matter. Ms. French was present to speak in favor of the appeal. She had prepared packets explaining her appeal. She is appealing based on the fact that the approval violates state statute that states the business is grand-fathered provided that no change in use of the land is undertaken by such industry or business. Ms. French is maintaining that the property is not grand-fathered due to two past changes in use. The Blount County code only addresses the loss of grand-fathered standing if the business is abandoned for more than thirty months. Ms. French maintains that the county code cannot override state statute. Ms. French did research and found an old case that was similar where the

use was changed and the property was found not to be grand-fathered. Ms. French is opposing the business because it is next to a National Register site. Also, she feels that the industrial and metal buildings devalue the surrounding land especially the historical buildings. There is no sewer, and there are no commercial plumbing codes so the wells that are used for drinking water in that area have the potential to be contaminated. Mrs. Laurie Leslie also spoke in favor of the appeal. She also feels that the approval of the appeal does not conform with the state law. Ms. Lovingood commented on the rezoning action taken by the Blount County Commission. She did not understand how it was possible for the property in question to be rezoned. Because nothing was posted on the property saying it was going to be rezoned, and nothing was included on the agenda for the commission meeting. She spoke with her commissioners and John Lamb about why the legal requirements for rezoning were not met with this property. She was told that the requirements were met, but they were met approximately nine months ago. Due to this she does not feel that this appeal is a moot point. She questions whether the proper procedures were followed and therefore the BZA must not dismiss this as a moot point. She would like to defer this until these questions can be answered. Mr. Larry Campbell was present to speak in favor of Ms. French's appeal. He pointed out that the notice for the rezoning was not put in the proper place in the newspaper, and the commission was not made aware of the fact that there was an appeal pending on this property. Ms. Leslie pointed out that there are a number of commissioners working to invalidate the rezoning decision. Ms. Lovingood made a motion to delay the decision on the appeal until the next meeting. Mr. Brown seconded the motion. A roll call vote was taken:

- Bill Marrison – Yes
- Stanley Headrick – No
- Kathy Lovingood – Yes
- Harold Brown – Yes

The motion to defer the appeal to the next meeting passed.

**Scott Lyons- 6430 Crye Road:**

Mr. Lyons is appealing a stop work order that was issued by Roger Fields on October 26, 2004. Mr. Lyons is operating a fiberglass shop out of a residential related structure. On January 1, 2003 Mr. Lyons applied for a permit for a residential garage. That permit was granted for residential use only and that is noted on the permit. (Copies were supplied to the BZA.) Mr. Fields received complaints that Mr. Lyons was operating a business out of his new garage and upon inspection Mr. Fields found the complaint to be valid. Mr. Lyons was producing fiberglass truck bumpers at the location. This is an area of moderately dense residential use. The shop has been said to produce strong odors at times. Mr. Lyons is planning to show that the use was established prior to our zoning regulations. If that is proven, it does not change the fact that the building was built to residential setback requirements and no buffering was established. Had he applied for an expansion of an existing use the setbacks would have been greater. At the time the permit was issued Mr. Lyons business was located somewhere other than this property. Mr. Lyons was present to speak in favor of

the appeal. He said he has ample records to prove that in 1993 he started a business in his garage. He continued to do business there until 1997 when the business grew enough that he needed a larger a facility. He rented a building on Highway 411 in which to conduct business. He maintains that he was still working out of his garage as well as in the rented building for the next seven years. When he started his business he went to the chamber of commerce to find out what he had to do to start a business. He was told he did not need a business license because he was using his hands and raw materials. So he has been running his business until Mr. Fields told him he had to discontinue his business. He applied for the building permit to build a garage for his son and himself to go into the auto body business. He planned on selling the existing fiberglass business. However, the sale of the fiberglass business was never completed. The people who were supposed to buy the fiberglass business were paying his rent at the location on 411, and he continued to work in his garage. When the financing on the sale fell through he was evicted from the building on 411. He planned on himself and his son working in the 30x60 building which he obtained the residential building permit for. He told Roger he was building it for residential use for himself and his son to work on cars. Roger told him that was fine, but there were certain things that were not allowed. Seven months later he was evicted from the building on 411 so he had to remove all of his belongings from that building. He put it in the building he had built for storage. When his production fell behind he moved his equipment to the building he had built to use for car repairs. He felt that since it was on his property he could utilize it how he saw fit. Then Roger told him he could not do that. He feels that Roger was misinformed. He is here to ask that he be allowed to continue his business. There was no one present to speak in opposition. Ms. Lovingood made a motion to deny the appeal. Mr. Marrison seconded the motion.

A roll call vote was taken:

- Bill Marrison - Yes
- Stanley Headrick - Yes
- Kathy Lonvingood - Yes
- Harold Brown - -Yes
- Rob Walker – Yes

The motion to deny the appeal passed.

## 2. **VARIANCES:**

### **Jean Meadows- Big Valley Campground Lot 101B:**

This request was deferred from last months meeting, due to the fact that the property owner was not present to answer some questions the board had. It is for a 3' variance from the side setback requirements on lot 101B of Big Valley Campground. This is a small camper lot and the unit with its pop-out sides extended, will be 2' from the property line. The lot does slope steeply to one side. The property already has a concrete slab poured and the property owner has placed the camper unit on this pad. There is room on the lot to move the unit away form the sideline, but it would require additional lot preparation. Mr. Fields did not recommend approval of the variance. Mr. Fields pointed out that the pop-

out requires more of a 2' variance instead of a 3' variance. Ms. Meadows was present. Jim Rogers, Ms. Meadow's contractor was present to speak in favor of the variance. There was no opposition. There was discussion by the board as to whether the pop-out constitutes a vertical wall. Mr. Rogers pointed out that they are planning on placing skirting all the way around the camper including the pop-out which would make a vertical wall. Mr. Headrick made a motion to approve the variance. Ms. Lovingood seconded the motion

A roll call vote was taken:

- Bill Marrison – No
- Stanley Headrick – Yes
- Rob Walker - No
- Kathy Lovingood – Yes
- Harold Brown - No

The motion to approve the variance did not pass.

### 3. **SPECIAL EXCEPTIONS:**

#### **Shore Walker Properties- 1016 I.C. King Road:**

This is a special exception request to have a residential facility with special services, treatment, and supervision to be located at 1016 I. C. King Road. It is a voluntary recovery center. This use is permitted as a special exception in section 9.2-B of the zoning regulations. This facility will be located in existing structures located on the property. All building setback requirements will be met by the existing buildings. Buffering would be required to shield any abutting residential use. Existing buffering can be used if it is maintained. Mr. Fields recommended approval of the special exception. Representatives from Shore Walker Properties were present. Steve Grey asked what type of services would be provided. Services would be available to anyone with a chemical dependency except methadone. Mr. Brown made a motion to approve the special exception. Mr. Walker seconded.

A roll call vote was taken:

- Bill Marrison – Yes
- Rob Walker – Yes
- Stanley Headrick - Yes
- Kathy Lovingood - Yes
- Harold Brown - Yes

The motion to approve the special exception passed.

#### **Joe Narby- 5050 Old Walland Highway:**

This is a special exception request for a 212 lot R.V. campground to be located at 5050 Old Walland Highway. There is also an existing lodge, two cabins, and a barn. Three more manufactured homes are also proposed on this 42-acre tract. This request is a special exception with limitations. The limitation being frontage

on a collector or arterial road. Old Walland Highway has been added to the collector road list for the county. All building setback requirements will be met according to the site plan. Buffering will be required to shield any abutting residential use. Existing buffers are acceptable as long as they are maintained. The internal road meets the requirements for the zoning regulations. The standards for vacation rental cabins allows up to ten units on a gravel surface. There are only six rental units on this property. A majority of this property is located in a flood zone. All structures that are built on this property must meet the FEMA regulations associated with the flood zone. Mr. Fields recommended approval of the request if all specific requirements are approved by the Blount County Environmental Health Department. Mr. Narby was present to speak in favor of the request. Mr. Irwin was also present to speak in favor of the request. There was no opposition. Mr. Headrick made a motion to approve the request. Mr. Brown seconded the motion.

A roll call vote was taken:

- Bill Marrison – Yes
- Rob Walker – No
- Stanley Headrick - Yes
- Kathy Lovingood - Yes
- Harold Brown - Yes

The motion to approve the special exception passed.

4. **OTHER BUSINESS:**

5. **ADJOURNMENT:**

There being no further business to conduct, the Chairman declared the meeting adjourned.



Secretary, Board of Zoning Appeals