

**BLOUNT COUNTY BOARD OF ZONING APPEALS  
REGULAR MEETING  
THURSDAY, May 7, 2015**

BZA MEMBERS PRESENT: Larry Chesney, Bruce Damrow, Stanley Headrick, and Brian King.

Brian King entertained a vote to approve last month minutes and seconded was made by Stanley Headrick. The vote received a unanimous approval.

**CASES BEING HEARD AND ACTIONS TAKEN:**

1. **SPECIAL EXCEPTION: Five**  
3812 Big Springs Ridge Road  
750 Jennings Road  
2237 Big Springs Road  
949 Carrs Creek Road  
129 Gary Jarvis Drive
  
2. **APPEAL: One**  
1228 Applecreek Drive
  
3. **VARIANCE: Two**  
231 W Millers Cove Road  
4009 Old Niles Ferry Road

***Special Exception:***

**3812 Big Springs Ridge Road**

This request is for a change of use at 3812 Big Springs Ridge Road. The property is identifies on tax map 055, parcel 108.00 and is zoned R-1. The current use of this property is a metal shop that fabricates metal products for the building industry. The owner would like to build a 23 feet by 33 feet shed to put an incinerator under, and use it for a pet crematorium. The applicant would like to phase this new use in and phase out the metal fabrication in order to keep employees working during the transition. Metal Craft was a pre-existing non-conforming use that predates our zoning regulations. The site plan shows a portion of the new use to be located within the existing structure and then the addition of the incinerator shed. All building setback requirements will be met according to the site plan. Mr. Hodge does own the properties that abut this parcel on one side and the rear.

Cliff Hodge spoke in favor of the request. He spoke to Jarrod Rudd who is an environmental specialist in air pollution control division to

clarify any state restriction. Mr. Rudd related to him that the state didn't have any recommendations. He did suggest that they put a plan into place in case of a pollution situation. Mr. Hodge also stated that the he would have to follow a process through the State and his contact would be Jarrod Rudd. This process is not something that is quick and there are procedures he had to follow to obtain all his appropriate permits.

No one spoke in opposition.

Stanley Headrick made a motion to approve the special exception.

Brian King seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

### **750 Jennings Road**

This is a special exception request for a cellular tower at 750 Jennings Road. The property is identified on tax map 045, parcel 027.03 and is zoned S-suburbanizing. Branch Towers is requesting a 150 feet tower to support a T-Mobile antenna and have room for three additional antennas to co-locate. The applicant has submitted a completed application for this request. The board was provided a site plant along with Mr. Perry's technical review and supporting information.

Mary Miller spoke in favor of the request and provided the board with information to enter into the record. She stated that the owners do have authorization to give Branch Towers use of the road per Greg Shanks, expert witness with real estate law. She stated that Mr. Shanks is willing to give testimony to the use of the road and the usage would not burden the easement. Ms. Miller also stated that a meeting was held April 23 at the Blount County Library with surrounding property owners. She stated that some of the property owners still just did not want the tower. After the meeting, she met with Julie Watson and Karen Branch to work out an agreement regarding the road. Branch Tower will enter agreement with anyone on Jennings Road. They will put \$15,000 for the maintenance of the road. This is for on going maintenance. There will be written documents on this. Branch Tower has agreed to pay for the attorney to draw up the paperwork. This will cover Jennings Road to the edge of Carrington property. In addition to this, Branch Tower has agreed to post a bond or letter of credit with beneficiaries as Mrs. Branch and

Mrs. Watson as agents for the group. The amount will be \$65,000 and put into place when construction was done on the tower. The bond will go for one year after issuance of the building permit. There will be a mutually agreed upon person to inspect the road prior to construction and after construction.

Gregory Shanks an attorney from Knoxville spoke in regards to the quality of the easements to this property. He stated that it is a non-exclusive easement. This means that the easement is granted with the knowledge that others may use the easement for ingress and egress. He also stated that the easement is assignable. Therefore it is transferrable and can be loaned to others. He stated that the use by the cell company will not materially increase the burden on the easement.

Julie Watson spoke in favor of the motion and stated that the discussion between her and Ms. Miller was good. She stated that she was acceptable with the terms of the agreement in maintaining Jennings Road.

Shannon Green spoke in opposition of the cell tower. She doesn't live on Jennings Road but she is within 1,000 feet of the tower. She stated that the tower would have a negative impact on the property values around the area. She stated that the tax assessor told her that 75% of the properties in Blount County is holding steady or lowering. She said she would like to have some statistics on how cell towers affect subdivision and health issues.

Fred McCarter of 750 Ecco Way spoke in opposition. He stated that three additional antennas can be place. He said that the bond for \$65,000 would be for year and would not be in place when these additional antennas were added.

Mary Miller clarified that a bond or letter of credit would be issued each time antennas are added. The initial bond would be place for one year for issuance of the building permit. Each time a building permit is issued for additional antennae a bond would be issued for one year. The agreement to this will be recorded so others could obtain copies of this. Ms. Miller addressed the questions asked by Ms. Green regarding the tower.

Larry Chesney made a motion to approve the special exception. Stanley Headrick seconded the motion.

Vote: Larry Chesney	YES
Stanley Headrick	YES

Brian King	YES
Bruce Damrow	YES

## **2237 Big Springs Road**

This is a special exception request for a cellular tower at 2237 Big Springs Road. The property is identified on tax map 056, parcel 107.00 and is zoned S-suburbanizing. Branch Towers is requesting a 150 foot tower to support a T-Mobile antenna and have a room for three additional antennas to co-locate. The applicant has submitted a complete application for this request. The board was provided with a site plan along with Mr. Perry's technical review.

Roger Fields presented an engineer letter that stated if the tower fell it would fall in an area of 66 feet and Brian Sullivan stated that they did their due diligence in looking for additional structures in the area to be able to co-locate. Roger also clarified a variance could be issued via section 11.6 F1, 2, 3, 4, 5.

Larry Perry explained to the board how a 150 foot tower could collapse into a 60 foot radius. He also stated there is not a lot of information on the failure of towers falling.

Sam Norton spoke in regards to section 7.4. He spoke in regards to the setback requirements for cell tower. He stated that the back property line is 74 feet short in the separation requirements. Therefore, he stated the cell tower didn't meet the requirements in the regulations.

S.M. Johnson Atchley spoke in opposition of the tower. She stated that this is an eyesore and it doesn't meet the requirements for a cell tower. She also stated the cell tower would hurt the property values in William Brook Subdivision.

John Crabtree of 2303 Big Springs Rd spoke in opposition and he is the adjacent property of the site. He stated that he is 125 feet from the tower site and he is not in favor of the tower.

The setback back behind should the tower is 112 feet and the company is actually asking for 32 feet. The separation should be 160 feet from the adjacent property and it is actually 66 feet. The tower to the road should be 112 feet but it is 88 feet.

Roger Fields stated that he did take the request to the Planning Commission and they did not wish to revisit the setback requirements.

Mary Miller stated that there is a gap in coverage in this area. They have tried to co-locate in the area but were unable to locate a tower to do this. They also contacted the larger property owners in the area and were unable to get a larger acreage tract. Ms. Miller also provided a fall letter to state that if the tower fell it would fall in an area of approximately 66 feet. The tower could be lowered to 135 feet but doing this it would reduce the amount of co-locates that tower could handle. Ms. Miller also stated the federal government mandates that if a shortfall of coverage is noted a tower must be constructed to cover the shortfall.

Larry Perry stated that there is nothing on the horizon to cover the cell data transmission without using the large towers. He stated there is an experimental program being looked at in Knoxville. However, this would put a small antenna on a telephone pole. This would give a small area of coverage and doesn't work for a sparsely populated area. It would work better in an area like Knoxville because of the large concentration of people in a small area. Mr. Perry also stated that there must be 1500 feet between towers.

John Crabtree spoke about a hot spot. He stated that by using a hot spot you are able to get coverage where ever you need it. He also stated that by issuing this exception this will set precedence. By making them meet our requirements, Mr. Crabtree stated that it would create less risk for the county to be sued do to following our regulations.

S. M. Johnson Atchley stated that there are guidelines that must be met. She stated that she understood the cell tower companies have rights but she also thought the property owner's rights need to be looked at as well.

Sam Norton spoke again that he there are many additional areas where a cell tower could be located. He also stated that this location is a largely populated area.

Mary Miller spoke again and stated that they have not been able to find a site in the area to provide coverage.

Yamil Suarz stated that there is a coverage gap in their network. He said they have a commitment to their customers to provide the best coverage they can. He stated that they currently have many

complaints in this area. He stated they need this tower to get to the FCC requirements.

John Crabtree stated that at the last meeting they stated that many people complaint about lack of coverage. He said that the company should have come back with a number at this meeting.

Roger Fields explained that the Planning Commission makes recommendations to change the zoning requirements.

Larry Chesney made a motion to deny based on setback not being met and the fact that the Planning Commission had no interest revisiting the setback regulations on cell towers. Stanley Headrick seconded the motion

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

### **949 Carrs Creek Road**

This is a special exception request is to use an existing home located at 949 Carrs Creek Road as a bed and breakfast. This property is identified on tax map 084 parcel 017.00 and has a split zoning of R-1 and R-2. The majority of this property, including where the house is located, is zoned R-2. The requested use is permitted within both zones as a special exception. This is a 39 acre tract of land with the home being located pretty close tot the middle of the property. The site plan does not show the property boundaries due to the size of the property, but it does reference distances to the closest property boundaries. Based on the site plan and GIS images all building setback requirements are met. The house is located within a densely forested area that is sufficiently buffered from any neighboring properties. The parking will be handles by 9 parking spaces, which is within the range for a bed and breakfast according to “Parking Standards” from the American Planning Association. The existing septic system will be used at this location.

Larry Chesney made a motion to approve the special exception. Brian King seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

## **129 Gary Jarvis Drive**

This is a special exception request for a family commercial enterprise to be located at 129 Gary Jarvis Drive. The proposed use is for an automobile repair shop. The property is identified on tax map 101, parcel 006.04 and is zoned R-1. The requested use is one that may be approved as a family commercial enterprise through the special exception process. The applicant has already been operating this business and was issued a stop work/use order in January. The applicant did respond and needed time to get a site plan put together and now he has made his application. The site plan does show a 30' x 36' garage that houses the requested use. The structure meets our minimum setback for a residential accessory building of 10', but does not meet the 20' required for commercially used structures. This accessory building is an existing building originally used for residential use. The site plan shows an addition on the back of this structure that is claimed to be used for residential purposes. No buffer is indicated on the site plan, but will be required if this use is approved. The buffer should screen this use from all abutting residentially used properties.

Roger Fields stated that section 7.10A states that nothing should be stored on the outside of the property.

James Baker spoke in favor of the request. He stated that he built the garage with the intention of being nothing but personal use. Due to change in circumstances, he quit his job and started an automobile business at his residence. He stated that he didn't wish to do anything to be a bad neighbor. He stated that his neighbors have been inconvenienced a time or two due to a car being dropped off. He said that he has apologized for the inconvenience that he caused. He stated his business is to work on trucks; mainly transmissions. He stated that he is willing to make any changes that are needed.

Terry Wells spoke in opposition of the request. His property is at the end of the street. He stated that there is a restrictive covenant on the subdivision. Number 7 of the covenant states that no commercial business will be allowed. He also stated that there would only be 4 cars in the driveway and that the lot would be kept clean. He also stated that the zoning regulation stated that nothing is to be kept out and that there are no smells or odors to affect adjacent properties. He also stated that the additional usage of the road is causing wear and tear. The road is to be maintained by the property owners. He also stated that the small road makes it hard for a rollback to deliver a car.

The business would also cause the surrounding property values to decrease. Mr. Wells entered some pictures and the subdivision covenant into the record.

Roger Fields stated that the short comings are the following:

Side setback is 10 feet and the regulation require 20 feet

The structure is 80 feet over the square feet requirements

Business must store all things inside

Mr. Baker stated that he has been trying to work the business and keeping all the vehicles inside. The problem is that people are not always quick about coming to pickup their vehicles. This causes a problem because the car must be picked up prior to another car being taken.

Stanley Headrick made a motion to deny the special exception based on section 7.10-A. Larry Chesney seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

***Appeal:***

**1128 Applecreek Road**

This is an appeal to a stop work/use orders issued to Sandra Scarbro for commercial activities at 1228 Applecreek Drive. On January 21, 2015 Roger Fields issued the stop work/use that is being appealed. A complaint came into Roger's office about commercial activity going on at the address in question. Roger made a site visit and there were several box trucks parked on the property and based on the complaint off site workers would come in the morning and get into the trucks; returning later the same day. After issuing the stop work/use order, Roger spoke to the owner and others to find the following information: An offsite business that has a warehouse is using this location park their trucks because one of the businesses employees lives at this residence. The employee is not the property owner.

John Hayes, who lives at the residence, spoke in favor of the appeal. He is part owner of a courier business and parks his trucks on the property. He stated that he didn't see why he was in violation because he is in compliance with the home owner's association regulations.

Bryan Garner spoke in opposition of the appeal. He stated that he lived across the street from this residence. He has been in the home for 26 years and stated that he had never seen a business run out of the subdivision. Mr. Garner says that he has a special needs child and the trucks are started at early hours in the morning and the lights shine into his son's room. With his son's seizure disorder, this is not good for the lights to be shining into his room like they do. Mr. Garner submitted pictures and documentation for the record. He also gave information about a pit bull dog that is kept on the property. He stated his worries about the dog attacking.

John Hayes answered the question that the trucks have been parked there for 2 years. He also stated that the pictures submitted are old because some work has been done to clean up the area. Mr. Hayes submitted the subdivision by-laws into the record. Mr. Hayes also stated that there is another homeowner who has trucks and trailers in and out of the subdivision all day. This property owner parks his vehicles on the street. He stated that the vehicles he parks are placed on his property.

Stanley Headrick made a motion to uphold the decision made by Roger Fields. Larry Chesney seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

***Variance:***

**231 W Millers Cove Road**

This request is for a variance from the front setback requirements. This property is identified on tax map 083, parcel 011.02 and is zoned R-1. The required setback is 60 feet from the property line running along Hwy 321. The requested setback is thirty (30) feet to match up with the existing storage building that are located on the property. These building predate our zoning regulations. This property is on quite a high elevation than the highway. The proposed site is the only location that has a favorable grade for an additional building.

Stanley Headrick abstained from this request due to his personal interest.

Stan Headrick spoke in favor of the request. He stated the property is bordered by two county roads and state park. The property was built prior to zoning regulations.

No one spoke in opposition of the request.

Larry Chesney made a motion to approve the variance. Brian King seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	ABSTAINED
	Brian King	YES
	Bruce Damrow	YES

### **4009 Old Niles Ferry Road**

This request is for a variance from the front setback requirements. This property is identified on 090J, group A, parcel 005.00 and is zoned R-1. The required setback is 30 feet from the property line running along Leyte Drive. The variance is being requested for a detached garage. The requested setback is thirty-one (31) feet from the curb of Leyte Drive. This is a corner lot that has two front setback requirements. The hardship is the area reserved for the septic field and repair area is much of the property behind the house. That leaves the area between the house and Leyte Drive as the most suitable for the addition of the garage.

Justin Richmond, the contractor, spoke in favor of the request. He stated that he measured for a side setback and thought he had plenty of room.

No one spoke in opposition of the appeal.

Roger Fields did state that he had some neighbors call the office once the sign was put up. The neighbors had no opposition once he explained what the request was for.

Larry Chesney made a motion to approve the variance. Brian King seconded the motion.

Vote:	Larry Chesney	YES
	Stanley Headrick	YES
	Brian King	YES
	Bruce Damrow	YES

***Other Business:***

None

THE MEETING WAS ADJOURNED.