

**OFFICIAL MINUTES OF THE GOODLETTSVILLE
BOARD OF ZONING APPEALS**

Date: August 13, 2007

Time: 5:00 PM

Place: Massie Chambers - Goodlettsville City Hall

Members Present: Tom Mosier, Owen Sanders, Al Jernigan, Glen Garrett, Ed Lowe

Also Present: Rick Gregory, Vicky Ignatz, Bennie Lane, Nazifa Atmar, Richard & Lori Tharp, Jennifer Stein, Ron & Karen Smith, Frank Hernandez, Heather Benjamin and others

The meeting was called to order by Tom Mosier, Chairman.

Motion by Jernigan to approve, as written, the minutes of the June 18, 2007 Board of Zoning and Sign Appeals. Motion seconded by Sanders. Motion passed unanimously, 5-0.

CASE NO. 07-08-527 Consider the request for a variance to the Goodlettsville Zoning Ordinance regulation prohibiting the raising of fowl in a residential zoning district. The applicant is Nazifa Atmar, 601 Elba Drive, Goodlettsville, TN 37072.

Analysis – Staff reviewed. Gregory reported the object of this appeal is the keeping of fowl on a R-15 residential district lot on Elba Drive. The applicant states that the keeping of fowl is a therapy project for her son. The treating physician's letter addressed to the Board stated that the son is being treated for major depression and it would be beneficial for his recovery if he were able to occupy his time with his pets (birds). The placement of an accessory structure within the required five (5) feet setback and the failure to obtain a building permit for said structure is also part of a violation notice issued July 5, 2007 by the Codes Administrator.

The Goodlettsville Zoning Ordinance prohibits farm animal raising in residential zoning districts with the exception of the R-40 zoning district which requires a Conditional Use Permit. Chapter 3, Section 14-309 lists the provisions for keeping animals inside the city of Goodlettsville. All instances are associated with agricultural or veterinary endeavors. Agricultural uses require a minimum of five (5) acres. Within the agricultural zoning districts raising of animals are permitted; however, Section 14-1409(g)(1) Specific Conditions for Crop and Animal Raising denotes that "chicken houses shall be prohibited" in agricultural zoning districts.

In order for the relief sought by the applicant to be granted, the applicant has the burden of proof that the Codes Administrator has erred or has acted in an arbitrary manner. That burden clearly has not been met. A need for therapy is understandable, but does not serve to set aside the requirements of the Goodlettsville Zoning Ordinance, which applies to all properties within the city. The keeping of fowl should cease immediately. The non-complying structure should be brought into immediate compliance with all applicable codes and ordinances.

Discussion – Nazifa Atmar stated that her sixteen (16) year old son suffers from severe depression and the doctor recommended the bird therapy. She stated that she was unaware of the laws when she erected the building and acquired the birds. The bird shelter is a temporary structure based on her son's therapy and she is concerned with the effect the removal of the birds will have on her son's recovery. Mrs. Atmar acknowledged that she granted an inspection of the property and that she received a notice of code violations dated July 5, 2007 relating to the outside structure and keeping of birds. She stated that if laws are being broken and the neighbors are unhappy, she agrees to remove the birds asking for a reasonable amount of time to take care of the situation. Mosier questioned the numbers and types of birds on the premises and whether other therapy options were suggested by the physician. Mrs. Atmar stated there are chickens, doves, a duck and other birds with approximately twenty (20) birds on the premises and that medication and taking care of the birds were the only therapies recommended by the physician. Mosier asked Gregory what a reasonable amount of time to require compliance with codes requirements taking into consideration the son's medical situation. Gregory stated the zoning ordinance gives no relief regarding compliance and requires immediately removal of the fowl from the property. One option the Board may consider is to contact the physician to obtain his professional opinion as to what would be a reasonable time frame to remove the fowl from the property. However, this would be contrary to July 5, 2007 letter from the Codes Administrator requiring immediate abatement of the ongoing violations.

Ron Smith, 604 Wallace Drive, adjoining property owner, reported his concerns that the lease-option property he owns at 602 Wallace Drive is degrading in property value due to the appearance of the chicken coop and the fowl in the yard, the increase in the snake population on their private property directly relating to the fowl and the noise annoyance created by the fowl. Jennifer Stein, 603 Elba Drive, adjoining property owner, agreed with Mr. Smith's comments and shared her concern with the fowl traveling into her fenced yard, negative interaction with her dogs and the chickens, no perimeter fencing around the Atmar property, the possibility of a portion of the chicken coop structure lying inside her property line and a sense of urgency for safety due to evidence of coyotes entering the neighborhood. Richard Tharpe, 606 Elba Drive, stated he didn't want this issue prolonged based on the issue of a continuation of medical therapy. Heather Benjamin, real estate agent/business partner with Ron Smith relating to the property at 602 Wallace Drive, reported the neighborhood is sympathetic to the Atmar family regarding their son's condition; however, the chicken coop has continued to grow over a period of a year becoming a negative influence in the neighborhood due to the building's appearance, the noise level resulting from the birds, safety issues relating to snakes and the creation of negative real estate values. Malcolm Murphy, 518 Elba Drive, stated that he is sympathetic to the family; however, he is concerned with decreasing property value and wants the immediate enforcement of the ordinance. Karen Smith, 604 Wallace Drive, reiterated the grievances previously mentioned by other residents. She added there are more than fifty (50) chickens, roosters, pigeons, doves, etc. Mrs. Smith is very concerned with the early morning noise of the roosters, fowl excrement on her vehicles, the physical appearance of the structure and the death of a neighbor's dog by an alleged coyote.

Mosier responded that the board is sympathetic to the Atmar family regarding the medical situation of their son; however, the zoning ordinance is very clear and explicit as to what type animals can be maintained in a residential area. Garrett reiterated that the Board has receipt of a letter from the physician confirming ongoing treatment since 2005 for the Atmar's teenage son and noted his desire to allow a equitable time frame to remove the fowl from the premises and bring the building into compliance. Gregory suggested that the regulatory process which was initiated with the July 5, 2007 Codes Violation Notice continue to proceed as it would have prior to the application and official hearing by the Board of Zoning and Sign Appeals. Lowe recommended the ten (10) day time period noted in the July 5, 2007 Codes Violation Notice should be utilized to allow the property owners sufficient time to bring the property into compliance.

Action of the Board - Motion by Garrett to deny the request for a variance to the Goodlettsville Zoning Ordinance to permit fowl to be raised and/or maintained in a R-15 residential zoning district specific to 601 Elba Drive and directed the property owners at 601 Elba Drive to remove the fowl from the property, obtain a building permit from the Goodlettsville Codes Department in order to bring the accessory building into compliance with all applicable codes and ordinances or remove the building from the premises by August 23, 2007. Motion seconded by Jernigan.

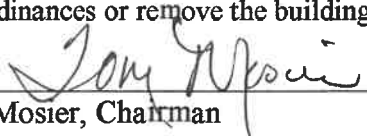
ORDER OF THE BOARD

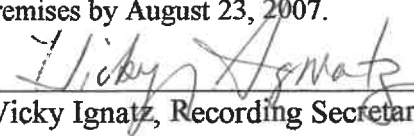
WHEREAS; the public and adjoining property owners have been adequately notified, and

WHEREAS; the Board has determined that the requirements of Chapter 3, Section 14-309 and Section 14-1409(g)(1) Chapter 14-1408(c) of the Goodlettsville Zoning Ordinance have not been met, and

WHEREAS, the Board has determined that adverse impact will occur,

NOW, THEREFORE, BE IT ORDERED, the request for a variance to the Goodlettsville Zoning Ordinance to permit fowl to be raised and/or maintained in the R-15 residential district at 601 Elba Drive is denied based on the applicants inability to provide proof that the Codes Administrator has erred or has acted in an arbitrary manner. The Board directs the applicant to remove the fowl from the property, obtain a building permit from the Goodlettsville Codes Department in order to bring the accessory building into compliance with all applicable codes and ordinances or remove the building from the premises by August 23, 2007.


Tom Mosier, Chairman


Vicky Ignatz, Recording Secretary