



ORDINANCE NO. 20-492  
TOWN OF MOUNT CARMEL, TENNESSEE  
AN ORDINANCE AUTHORIZING THE BOARD OF ZONING  
APPEALS TO AUTHORIZE SPECIAL EXCEPTIONS FOR LOTS OF  
RECORD HOLDING ONLY AN EASEMENT CONNECTING IT TO  
A PUBLIC RIGHT-OF-WAY

**WHEREAS**, the Tennessee Code Annotated § 13-3-411(A) and (B) authorize the Board of Zoning Appeals to grant special exceptions; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of Mayor and Alderman of the Town of Mount Carmel, Tennessee, that:

**Section 1.** The Code of Ordinances shall be and is hereby amended by adding a new Section, Section 14-606,(b) which shall read as follows:

**b. Special Exception to Street Frontage.** The Board of Zoning Appeals may authorize, as a special exception to *Tennessee Code Annotated* § 13-3-411(A) and (B), the building inspector to issue a building permit when a lot of record fronts upon a permanent easement which conforms to all rules and regulations as specified herein and the permanent easement has access to an existing highway, street, or thoroughfare.

**(1) Special Exception Procedures:**

**i.** A property owner or legal representative may petition the Board of Zoning Appeals to consider a special exception through administrative review of the building official's denial of a building permit due to the lack of public road frontage.

**ii.** An application must be filed with the Town by the 20th of the month prior to the month in which the special exception is to be considered.

**(2) In the case of a request for a special exception building permit the following shall apply:**

**i.** Pursuant to *Tennessee Code Annotated* §§ 13-7-206 and 207(2), the Board of Zoning Appeals shall hear and decide applications for special exception building permits. A special exception building permit shall not be considered an entitlement and shall be granted by the Board of Zoning Appeals only after the applicant has demonstrated to the satisfaction of the Board of Zoning Appeals that all of the required standards have been met.

**ii.** In granting any special exception building permit, the Board of Zoning Appeals may impose conditions, restrictions, or time limits considered necessary to protect surrounding properties and better carry out the general intent of this zoning ordinance.

**iii.** A special exception building permit may, consistent with *Tennessee Code Annotated* § 13-7-206, be made to the street access requirements upon a determination that the proposed permanent easement is so designed, located, and proposed to be operated such that the public health, safety, and welfare will be protected and the special exception is the minimum necessary deviation from the requirements of this ordinance to accommodate the specific character of the proposed street access.

**iv.** An approval of a special exception building permit by the Board of Zoning Appeals shall state the section of this code under which the permit was considered, a copy of the building inspector's denial of a building permit due to lack of public road frontage, and the findings of fact relating to the applicable approval standards. In the case of a denial, the findings shall specifically identify the

standards not satisfied and shall be specifically reflected in the minutes of the Board of Zoning Appeals.

v. In passing an application under this section, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, and;

1. The permanent easement relied upon must be:

- (a) Accepted by all property owners whom share an interest, responsibility or real property with the permanent easement;
- (b) Shown to exist in a subdivision plat of the properties;
- (c) Referenced in the deed of the property requesting the special exception;
- (d) Referenced in the deed of all properties that are affected by the permanent easement; and
- (e) Maintained by the private parties whom the permanent easement affects so as to provide continuous and acceptable traverse to ordinary emergency, utility or municipal vehicles, personnel and/or equipment. Maintenance shall not be the responsibility of the Town of Mount Carmel.

2. All standards specified in other sections of the Zoning Ordinance;

3. The integrity of adjacent properties, such that the street access is so designated, located and proposed to be operated that the public health, safety and welfare of residents and/or property owners will be protected.;

4. The design and architectural compatibility of the street access, such that the operational and physical characteristics of the permanent; easement shall not adversely affect abutting properties, including those located across street frontages, and have site design and architectural features which contribute to compatibility, including but not limited to: landscape, drainage, access and circulation or building orientation;

5. Natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of any permanent easement;

6. Traffic impact, such that the applicant shall demonstrate how the proposed permanent easement will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area;

7. Hazard protection, such that the proposed permanent easement shall reasonably protect persons and property from hazards;

8. The need for special conditions such that notwithstanding a finding by the Board of Zoning Appeals that an application satisfies the minimum street access standards, the Board of Zoning Appeals may restrict the number of properties served by a permanent easement or require extraordinary features and impose other reasonable conditions necessary to protect the public health, safety and welfare;

9. The safety of access to the property for ordinary and emergency vehicles;

10. The costs of providing governmental services, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and street bridges.

vi. Upon consideration of the factors listed above, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of a special exception as it deems necessary to effectuate the purposes of this section.

vii. Conditions for special Exceptions:

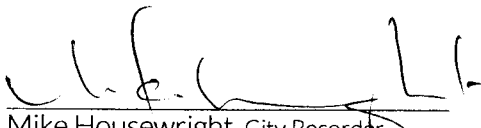
1. Special exceptions shall be issued upon a determination that the variance is the minimum relief necessary, considering the factors listed herein.
2. Special exceptions shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the special exception would result in exceptional hardship; or a determination that the granting of a special exception will not result in additional threats to public safety, extraordinary public expense, the creation of a nuisance, or irreconcilable conflict with other parts of the Zoning Code.
3. The Secretary, or other Staff so designated by the Planning Commission shall maintain the records of all appeal actions and report any special exception to the Board of Mayor and Aldermen upon request.

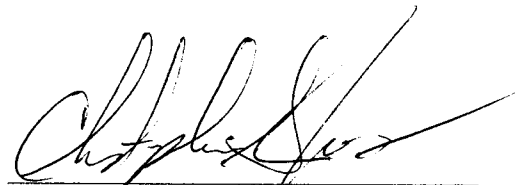
c. A special exception to street frontage requirements may be granted by the Board of Zoning Appeals for the purposes of obtaining a building permit where the circumstances of the land are deemed exception by the Board of Zoning Appeals. These exceptions may include but are not limited to: a documented permanent easement is noted in the deed(s) associated with the property for the purposes of ingress and egress, the subdivision of land was completed prior to annexation, and the parcel is a lot of record. Proof of permanent utility easements may also be required.

**Section 2.** If any provision within this Ordinance is found to be in conflict with any prior Ordinances, the contents and provisions of this Ordinance shall be deemed to prevail.

**Section 3.** This Ordinance shall take effect upon its passage, the public welfare requiring it.

ATTEST:

  
Mike Housewright, City Recorder

  
Christopher S. Jones, Mayor

APPROVED AS TO FORM:

  
John E. Pevy, City Attorney

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|------------------------------|------|------|-------|
| Motion:                      |      |      |       |
| Second:                      |      |      |       |
|                              | AYES | NAYS | OTHER |
| Alderman Wanda Davidson      |      |      |       |
| Alderman Jim Gillam          |      |      |       |
| Alderman Steven McLain       |      |      |       |
| Alderman Pat Stilwell        |      |      |       |
| Alderman Carl Wolfe          |      |      |       |
| Vice-Mayor Jennifer Williams |      |      |       |
| Mayor Christopher Jones      |      |      |       |
| TOTALS:                      |      |      |       |

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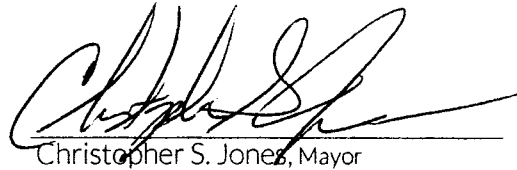
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John E. Pevy, City Attorney

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