

**CITY OF MURFREESBORO
BOARD OF ZONING APPEALS**

Regular Meeting, November 22, 2021, at 1:00 p.m.
City Hall, 111 West Vine Street, Council Chambers, 1st Floor

A G E N D A

1. Call to order
2. Determination of a quorum
3. Consideration of minutes:
 - a. Minutes for the regular meeting on August 25, 2021
 - b. Minutes for the regular meeting on September 22, 2021
4. New Business
 - Special Use Permit*
 - a. **Application Z-21-026 by North Shore Medical Labs.**, is requesting a special use permit to operate a temporary outdoor vending establishment (mobile Covid-19 testing site) in a Commercial Highway (CH) zone for property located at 1630 S Church Street. (Project Planner: Joel Aguilera)
5. Staff Reports and Other Business
6. Adjourn

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MINUTES OF THE CITY OF MURFREESBORO BOARD OF ZONING APPEALS

City Hall, 111 W. Vine Street, Council Chambers

August 25, 2021, 1:00 PM

Members Present:

Davis Young, Chair
Ken Halliburton, Vice-Chair
Julie King
Tim Tipps
Misty Foy

Staff Present:

Marina Rush, *Principal Planner*
Matthew Blomeley, *Assistant Planning Director*
Greg McKnight, *Planning Director*
Joel Aguilera, *Planner*
Amelia Kerr, *Planner*
Roman Hankins, *Assistant City Attorney*
Serena Harris, *Recording Assistant*

1. Call to order:

Chair Young called the meeting to order at 1:00 pm.

2. Determination of a quorum:

Chair Young determined that a quorum was present.

3. Consideration of Minutes:

With there being no objection by any of the Board members, the minutes of the July 28, 2021 BZA meeting were approved as submitted.

4. New Business:

- a. **Zoning application [2021-023] for Dish Wireless, requesting an amendment to a special use permit that was approved on October 24, 2018 allowing the establishment of a wireless telecommunication facility. A condition was placed on the special use permit that applicants shall use conceal wrap material around the antennas to help the aesthetics of the facility.**

The applicant seeks an amendment of the original special use permit to eliminate the condition of approval requiring the conceal wrap material. Property is zoned Commercial Highway (CH), located at 1631-1633 Northwest Broad Street. (Project Planner: Amelia Kerr):

Amelia Kerr presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

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Vice-Chair Halliburton requested images of existing site and clarification of stealth towers, including the proposed monopole and antenna setup.

Ms. Kerr Addressed Vice-Chair Halliburton's questions.

Chair Young requested clarification of responsibility for maintenance of landscape buffer.

Mr. Matthew Blomeley addressed Chair Young's questions.

Ms. Julie King and Vice-Chair Halliburton inquired about the history of concealment wrap requirements for this project.

Ms. Kerr and Mr. Blomeley addressed the Board's questions.

Chair Young opened the public hearing.

There being no one else to speak for or against the request, Chair Young closed the public hearing.

There being no further discussion, Misty Foy moved to approve the special use permit application subject to all staff recommendations; The motion was seconded by Tim Tipps and carried by the following vote:

Aye: Tim Tipps
Julie King
Misty Foy
Vice-Chair Ken Halliburton
Chair Davis Young

Nay: None

5. Staff Reports and Other Business:

None.

6. Adjourn.

There being no further business, Chair Young adjourned the meeting at 1:14 p.m.

CHAIRMAN

SECRETARY

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MINUTES OF THE CITY OF MURFREESBORO BOARD OF ZONING APPEALS

City Hall, 111 W. Vine Street, Council Chambers

September 22, 2021, 1:00 PM

Members Present:

Ken Halliburton, Vice-Chair
Misty Foy
Tim Tipps
Julie King

Staff Present:

Marina Rush, *Principal Planner*
Matthew Blomeley, *Assistant Planning Director*
Joel Aguilera, *Planner*
Abraham Farias, *Engineer in Training*
Roman Hankins, *Assistant City Attorney*
Serena Harris, *Recording Assistant*

1. Call to order:

Vice-Chair Halliburton called the meeting to order at 1:00 pm.

2. Determination of a quorum:

Vice-Chair Halliburton determined that a quorum was present.

3. New Business:

Zoning application [2021-024] for Alviri Hamid Mehryar, represented by Clyde Rountree, Huddleston-Steele Engineering, Inc., requesting a front setback variance of 17.5 feet from the required 25 feet front yard setback along Maitland Drive to allow a 7.5 feet front setback. Property is zoned Residential Single Family (RS-8). (Project Planner: Joel Aguilera)

Joel Aguilera presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these minutes by reference.

Mr. Aguilera stated for the record that there was not enough time to notify Mr. Rountree to update the front setbacks, per the new RS-8 update in August 2021 that requires the front setback to be 25 feet from the front property line. It was previously required to be 35 feet from the front property line. The exhibits presented in agenda packet are incorrect; however, the corrected plans are shown in today's presentation. The applicant will submit a hard copy of the corrected exhibit for Planning Department records as a condition of approval.

Vice-Chair Halliburton opened the public hearing.

There being no one else to speak for or against the request, Vice-Chair Halliburton closed the public hearing.

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There being no further discussion, Tim Tipps moved to approve the variance application subject to all staff recommendations; The motion was seconded by Misty Foy and carried by the following vote:

Aye: Tim Tipps
Julie King
Misty Foy
Vice-Chair Ken Halliburton

Nay: None

4. Staff Reports and Other Business:

Marina Rush reviewed the proposed 2022 Board of Zoning Appeals calendar.

There being no further discussion, Misty Foy moved to approve the 2022 Board of Zoning Appeals calendar. The motion was seconded by Tim Tipps and carried by the following vote:

Aye: Tim Tipps
Julie King
Misty Foy
Vice-Chair Ken Halliburton

Nay: None

5. Adjourn.

There being no further business, Vice-Chair Halliburton adjourned the meeting at 1:14 p.m.

CHAIRMAN

SECRETARY

**CITY OF MURFREESBORO
2022 BOARD OF ZONING APPEALS (BZA) CALENDAR**

Monthly Submittal Deadline (3:00 PM)	BZA Meeting Date (1:00 PM)
January 10	January 26
February 7	February 23
March 7	March 23
April 11	April 27
May 9	May 25
June 6	June 22
July 11	July 27
August 8	August 24
September 12	September 28
October 10	October 26
November 3	November 21
December 1	December 19

MURFREESBORO BOARD OF ZONING APPEALS

STAFF REPORT

NOVEMBER 22, 2020

PROJECT PLANNER: JOEL AGUILERA

Application: Z-21-026

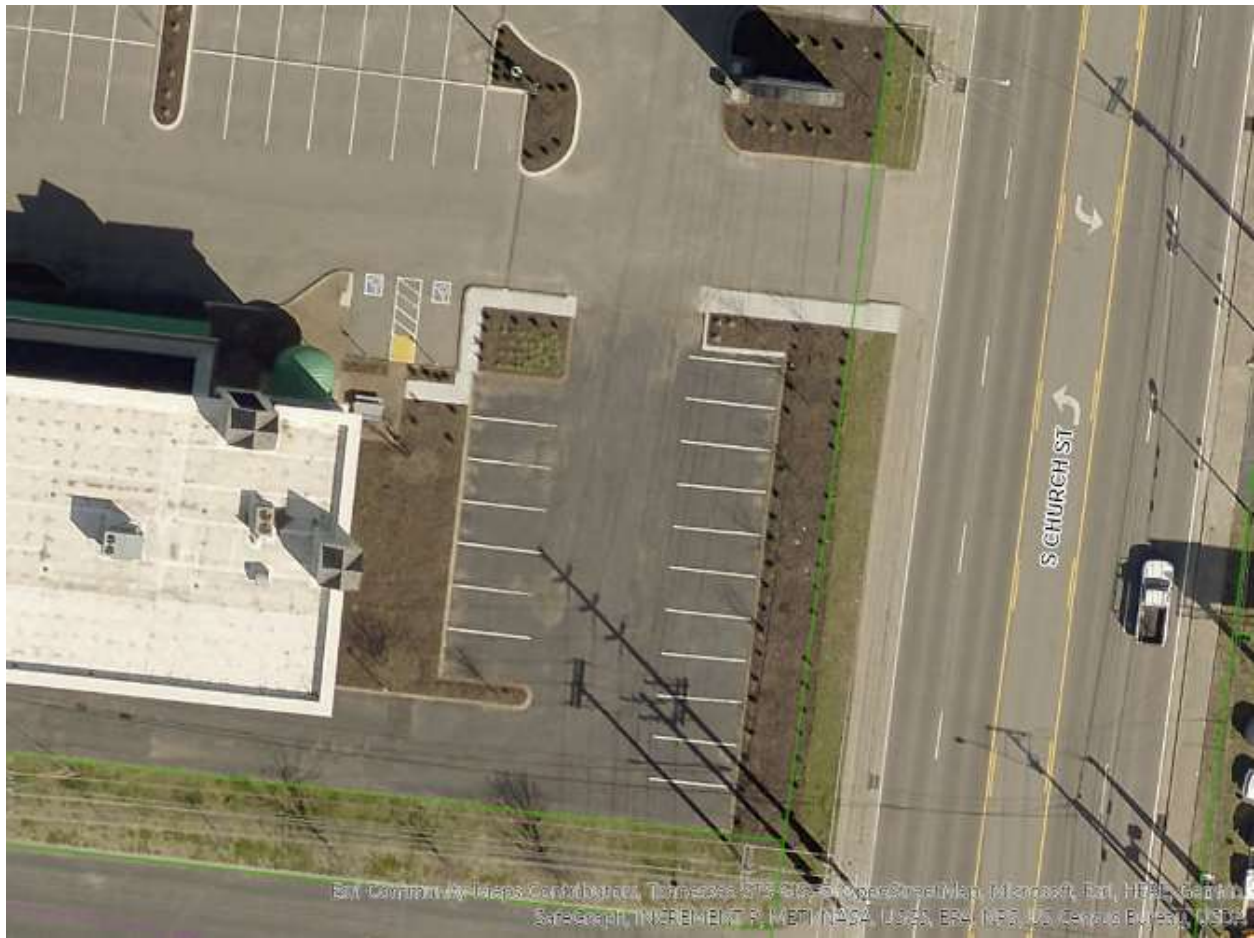
Location: 1630 S Church Street

Applicant: Brey Oalman

Owner: Cheng Peng

Zoning: CH (Commercial Highway)

Requests: A special use permit to operate a temporary outdoor mobile testing site for Covid-19



Overview of Request

Brey Oalman, with North Shore Medical Labs, is requesting a Special Use Permit to operate a temporary outdoor vending for a mobile Covid-19 testing site in the parking lot of the South Church Centre at 1630 S Church Street. The subject property is zoned Commercial Highway (CH) and surrounded Light Industrial (L-I) zoning. The request will be to operate for 70 days, the start date November 23, 2021 and conclude January 31, 2022, where they will provide a service to people who wish to be tested for Covid-19. They will offer testing from 8am to 5pm, Monday through Sunday, and will have employees be present at the site from 7am to 7pm. The tent and van, used for storage of the test samples, will be located on the southwest corner parking lot of the South Church Centre.

Relevant Zoning Ordinance Section

Section 25(D)(5) of the City of Murfreesboro Zoning Ordinance allows temporary vending establishments as a special use in the CH district. City of Murfreesboro Zoning Ordinance Section 9(D)(2)(eeee) sets forth standards for temporary vendors in addition to the Standards of General Applicability in Section 9(C).

The applicable standards are listed below with information from Staff on how the applicant intends to address them. After reviewing the criteria for the special use requirements for temporary vending uses, this project appears to meet the criteria.

Standards of General Applicability with Staff Analysis:

- 1. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare;**
 - Location of testing site is situated in parking lot where van, tent, and generator, will not impact the character of the commercial center, or traffic flow to the center.
- 2. That the proposed building or use will be constructed, arranged, and operated so as to be compatible with the immediate vicinity and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations;**
 - The temporary testing site would not interfere with the regular operations of the South Church Centre and any commercial tenants.
- 3. That the proposed buildings or use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, drainage structures, refuse disposal, fire protection, water and sewers; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services;**
 - The application includes an agreement from the landlord allowing the applicants to use two restroom facilities, located in the building. Additionally, the landlord has granted the applicants permission to use the on-site dumpster for garbage removal.

4. **That the proposed building or use will not result in the destruction, loss, or damage of any feature determined by the BZA to be of significant natural, scenic, or historic importance;**
 - In reviewing the use and application, there are no known features on-site or nearby that will be negatively impacted.
5. **The proposed building or use complies with all additional standards imposed on it by the particular provision of this section authorizing such use:**
 - Additional standards for temporary vendors are discussed below.

Temporary Vendor – Additional Standards

1. **The application for a temporary vendor Special Use Permit shall include the signature of the owner of the property or the owner’s authorized agent. The owner of the property may be the applicant if the owner is to be the operator of the temporary use.**
 - Included in the application (see attachment #4)
2. **The site for a temporary vendor shall be improved to provide adequate parking as determined by the BZA and shall provide for an on-site turn around area so that backing onto the street will not be necessary. Parking areas shall have an asphalt, concrete, or other hard dustless surface. In the event the proposed location will be on the site of an existing permanent business, the applicant must provide verification that the parking spaces displaced by the temporary vendor (including areas for tents, trailers, inventory, and parking for the temporary vendor) will not total more than 25% of the total parking available on the site.**
 - There is ample paved parking in the South Church Centre to accommodate the proposed use in addition to the existing permanent uses. The temporary tent and applicant vehicle will use up to 8 parking spaces and customers will use 1-4 parking spaces. This is less than the 25% available spaces on site.
3. **Traffic control measures may be required by the BZA. These may include a requirement that the applicant make provisions for directing traffic during expected peak hours of operation.**
 - The applicant is aware that additional traffic control measures could be required by the BZA. The testing for Covid-19 and sample collection is anticipated to generate approximately ten vehicles per hour or less. There is ample space on site for parking and queuing of cars.
4. **Temporary facilities, including vehicles, trailers or tents, will be permitted provided they are erected or placed in conformance with all applicable Codes. Any tent must provide an emergency exit remote from the point of entrance into the tent. Vehicles, trailers and tents must be located on an asphalt, concrete or hard dustless surface and in no event may be erected or placed on a gravel or grass area. All approved vehicles, trailers or tents must be maintained in good condition. Any vehicle, trailer or other moveable equipment used in connection with such temporary vendor shall be removed from the site at the**

conclusion of each business day. No such vehicle, trailer or equipment shall be removed and then be parked or stored in a residential area where such parking or storage is prohibited by ordinance or restrictive covenant. A vehicle or trailer may remain on the site overnight only if it is being used to provide security for items for sale remaining on the site, which items are not in a vehicle or trailer, provided the vehicle or trailer is constantly occupied or attended. The applicant shall be required to identify any vehicle, trailer or equipment to be used, and its overnight use and location, in the application.

- The applicant has confirmed that the equipment, including the tent, will be erected and taken down daily. All materials and equipment will be stored in the van, and no biohazardous material will be stored in the van. The vehicle, and equipment, will not be parked or stored in a residential area.
- 5. Any site used for a temporary vendor must be located so that all parts of all facilities and sales inventory on the site are no more than five hundred feet from an operable fire hydrant.**
- The site is about 256 feet from an operable fire hydrant.
- 6. A deposit in the amount of five hundred dollars (\$500) per site shall be made with the Building and Codes Department. In the event the site has not been cleared and cleaned within the time specified, the deposit shall not be refunded. Additionally, unless the owner (and permit holder, if different) can prove good cause, the site shall not be eligible for other permits for temporary vendors, and the permit holder shall not be eligible for another temporary vendor Special Use Permit, for six (6) months for the first offense, twelve (12) months for the second offense and eighteen (18) months for the third and all subsequent offenses. Except as otherwise specifically provided herein in subsection [10], all sites must be cleared and cleaned within five (5) days after the expiration of the Special Use Permit.**
- The applicant is aware of the deposit and the requirement to clean up the site after their approval expires.
- 7. Adequate provision shall be made for restroom facilities on the property. Restroom facilities must be located on-site for all temporary vendor locations that include on-site overnight security. Portable toilets, if used, shall be located on the site and may not be located in any required front setback or in any required side yard. The BZA may approve the use of off-site restroom facilities provided they will be available during all business hours and provided that the applicant provides the written permission of the owner or manager of the off-site facilities.**
- Restroom facilities are located within the building and the applicant has confirmed that the landlord will allow access to the building. Written permission for use of the restrooms has been provided by the applicant (see attachment #3).
- 8. The applicant shall post on the property documentation of the BZA's granting of a temporary vendor Special Use Permit for inspection by City officials or others during the course of the temporary use.**
- The applicant states that she will comply with this requirement.

- 9. No special use permit shall be granted to any applicant who occupies or proposes to occupy premises for the temporary vendor where conditions exist on the site which are in violation of the sign, building, fire, electrical, or other ordinances of the City. If any such violations occur after the issuance of the temporary vendor Special Use Permit and same are not cured within 24 hours after notice, the Special Use Permit may be suspended, revoked or terminated by written notice, any temporary electrical service may be interrupted, and the deposit may be forfeited. The written notice referenced in the previous sentence may be given by the Director of the Planning and Zoning Department, the Director of the Building and Codes Department, the City Manager or the Assistant City Manager. The City may, in addition, initiate any other enforcement remedies with respect to such violations as may be provided by law.**

 - The applicant states that she understands these requirements.
- 10. Any electric meter installed on a freestanding permanent pole and/or any temporary pole installed to supply power to a temporary vendor shall be removed within 14 days after the Special Use Permit expires.**

 - The applicant states that she will be using their own generator for the temporary testing facility.
- 11. Any site for a temporary vendor must be located so that all parts of all facilities and/or tents and all inventories are outside of any easements for electric power transmission or distribution.**

 - The applicant's tent will not be installed within any easements located on-site.
- 12. Adequate provision shall be made for solid waste management. If a dumpster is to be located on-site, it shall be located in such a manner as to minimize impact on adjoining properties or other businesses on the same lot of record.**

 - The applicant has confirmed that the landlord has granted permission for the on-site dumpster to be used for garbage removal.
- 13. Signage for a temporary vendor shall conform to the requirements of the City's sign regulations including but not limited to an application for a sign permit and payment of applicable sign permit fees. The granting of a temporary vendor Special Use Permit shall not, by itself, allow any signage on the site in addition to that which was allowed prior to the granting of such permit.**

 - The applicant has permission from the landlord to use 1 to 3 signs out front and understands this requirement. Additionally, the applicant will apply for sign permit from the Building and Codes department prior to posting any signs.
- 14. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, live band, amplifiers, loudspeakers, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents at any time with louder volume than is necessary for convenient hearing for the persons responsible for producing or reproducing such sound shall not be permitted.**

- The applicant will not use any noise amplification devices. The applicant has stated that the generator will be quiet and cannot be heard over the traffic on South Church Street.

15. A site may be used for temporary vending for no more than 70 days during any 12-month period. The BZA may approve a site to be used by multiple temporary vendors provided that no site shall be used by more than one temporary vendor at any time. A Special Use Permit for temporary vending shall expire at the end of one year after the date of approval. Notwithstanding the foregoing, a site which was approved by the Board of Zoning Appeals as a location for a temporary vendor of food or retail merchandise during the 12 months immediately preceding the effective date of this ordinance will continue to be an eligible site for a temporary vendor Special Use Permit for up to six months during any 12 month period provided all other conditions for site approval continue to be met, and provided further, that the eligibility of any such site for the issuance of an extended Special Use Permit shall end at the end of any 12 month period during which the site was not given approval for use by a temporary vendor of food or retail merchandise, or on November 14, 2017, whichever shall first occur.

- The application has stated the lease is between 3 - 6 months and will exceed the 70 day limit. If approved by the Board of Zoning Appeals, the application will only be valid from November 23rd, 2021, to January 31st, 2022.

16. The BZA may require additional standards be met in order to assure compatibility of the proposed location with adjoining properties.

- The applicant will adhere to any additional requirements if any are imposed by the BZA.

17. Notwithstanding subsections [2] and [4] above, a temporary vendor may be permitted to locate parking areas, tents and other facilities on lots with gravel surfaces if such gravel surfaced lots were legally established, in existence and had been used for temporary vending purposes prior to January 1, 2007 provided however that the exception in this subsection shall end on November 14, 2017.

- The parking lot consists of paved asphalt, not gravel.

18. The application for and grant of a Special Use Permit for the temporary vending of food, beverages, animals, produce, other merchandise and any other such temporary sales event that is not an accessory use to the principal use on a lot or a portion of a lot shall be subject to the following additional conditions: [aa] Tables, chairs, or other furniture that would allow or facilitate on-site consumption of food or beverages shall not be allowed on the site.

- The applicant will not be selling any furniture, food or beverages.

Staff Comments:

For the special use permit requested for a temporary outdoor Covid-19 testing site, staff recommends approval because the special use permit standards and temporary vending standards will be met, as noted mentioned above.

In addition, staff recommends that if approved, the special use permit be conditionally approved in accordance with Section 9, Subsection B (Conditions on special uses) with the following conditions.

Recommended Conditions of Approval:

1. The special use permit approval is for a special use permit to operate a temporary outdoor mobile testing site for Covid-19 at 1630 South Church Street, from November 23rd, 2021, through January 31st, 2022.
2. The temporary vendor use – Covid-19 test collection, shall not start operations until the temporary vending site has passed inspection and receive approval from Murfreesboro Building and Codes and Murfreesboro Planning Department. A certificate authorizing the operation will be granted upon completion of all inspections by the Planning Department.
3. Prior to the start of any testing or collection operations, applicant shall contact Building and Codes Department to:
 - a. Provide 500 cleaning deposit
 - b. Apply for sign permit for temporary signs
 - c. Apply for tent permit and electrical permit for generator
4. Approval for the Covid-19 testing site shall be valid from November 23rd, 2021 through January 31st, 2022.
5. On January 31st, 2022, at the end of business day, all operations shall cease, and all trash, tent, and generator, must be removed end of business day February 5th, 2022.

Attached Exhibits

1. Application letter
2. Covid-19 testing site map location
3. Lease agreement between applicant and landlord
4. Application