

**CITY OF MURFREESBORO  
BOARD OF ZONING APPEALS**

Regular Meeting, December 21, 2020, at 1:00 p.m.  
City Hall, 111 West Vine Street, Council Chambers, 1<sup>st</sup> Floor

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**A G E N D A**

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1. Call to order
2. Determination of a quorum
3. Consideration of minutes for the regular meeting on November 23, 2020
4. New Business

*Special Use Permit Request*

- a. **Application Z-20-034 by Ms. Amphorn Facunla**, is requesting a special use permit in order to conduct a home occupation (a beauty shop) at her residence located at 1065 Warrior Drive. The property is located in a Residential Single-Family (RS-15) zone. (Project Planner: Jafar Ware)
5. Staff Reports and Other Business
6. Adjourn

# Regular Meeting Minutes of the Murfreesboro Board of Zoning Appeals

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November 23, 2020 – 1:00 P.M.  
Council Chambers

MEMBERS VIDEO PRESENT

Davis Young, Chair

Misty Foy

Tim Tipps

Ken Halliburton, Vice-Chair (participating electronically by video)

Julie King (participating electronically by video)

MEMBERS ABSENT

None

STAFF PRESENT

Brad Barbee, *Planner*

Roman Hankins, *Assistant City Attorney*

Matthew Blomeley, *Assistant Planning Director*

Brenda Davis, *Recording Assistant*

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Chairman Young called the meeting to order at 1:00 P.M.

Chairman Young determined there was a quorum and stated that three members of the Board were present in person and Vice-Chairman Halliburton and Ms. King were present via Zoom video. Chairman Young said all votes will be by roll call.

The minutes from the September 23, 2020 regular meeting were approved as submitted.

**New Business**

***Special Use Permits***

**Application Z-20-031** by **Mr. R. Lyle Lynch of Johnson & Bailey Architects, PC, for Calvary Baptist Church**, is requesting a special use permit in order to expand an existing institutional group assembly use (a church) for property located in a Single-Family Residential (RS-15) zone at 431 Dejarnette Lane.

Mr. Barbee reviewed the application and staff comments. If the Board approves this request, Staff recommends the following conditions of approval:

- 1) A site plan shall be submitted to the Planning Department for review and approval prior to the issuance of a building permit. The site plan submittal shall include civil plans, landscape plan, photometric lighting plan, and building

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elevations and any other plans necessary to demonstrate compliance with the Zoning Ordinance and Design Guidelines.

- 2) The solid waste enclosure must be constructed as a component of this expansion and shall be of masonry construction and designed and constructed to meet minimum requirements in the Zoning Ordinance and Design Guidelines.
- 3) The existing gravel parking and maneuvering areas shall be removed and restored to a green condition prior to the issuance of the certificate of occupancy.

The church's representative and architect, Mr. R. Lyle Lynch, was present to answer any questions.

Chairman Young opened the public hearing. There being no one to speak, Chairman Young closed the public hearing.

Ms. King stated that she would abstain from voting because the Pastor is her neighbor.

**Mr. Tipps made a motion to approve the request with the following conditions:**

- 1) A site plan shall be submitted to the Planning Department for review and approval prior to the issuance of a building permit. The site plan submittal shall include civil plans, landscape plan, photometric lighting plan, and building elevations and any other plans necessary to demonstrate compliance with the Zoning Ordinance and Design Guidelines.
- 2) The solid waste enclosure must be constructed as a component of this expansion and shall be of masonry construction and designed and constructed to meet minimum requirements in the Zoning Ordinance and Design Guidelines.
- 3) The existing gravel parking and maneuvering areas shall be removed and restored to a green condition prior to the issuance of the certificate of occupancy.

**The motion was seconded by Ms. Foy. Upon roll call, the motion was passed by the following vote:**

**Aye:**      Ken Halliburton  
                    Misty Foy  
                    Tim Tipps  
                    Davis Young

**Nay:**      None

**Abstain:** Julie King

**Application Z-20-032 by Mr. Jay B. Jackson, for Mr. Mahesh Patel, is requesting a special use permit in order to establish an accessory apartment for property located in a Residential Single-Family (RS-15) zone at 911 Springleaf Court.**

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Mr. Barbee reviewed the application and staff comments. If the Board approves this request, Staff recommends the following conditions of approval:

- 1) Electrical, gas, and other applicable permits must be obtained for the completion of the second kitchen.
- 2) Any direct connection (e.g., a doorway) from the second kitchen to an adjacent master bedroom area will first require an amendment to this Special Use Permit. Depending on the square-footage of the combined area, a variance to the maximum square-footage of 700 ft<sup>2</sup> may also be required.
- 3) A deed restriction must be recorded stating that the accessory apartment will not be used as a rental unit to non-family members and that it will be used in a manner consistent with the zoning regulations for accessory apartments.

Mr. Jackson and Mr. Patel were both present to answer any questions.

Mr. Blomeley stated that this is an unusual situation as it is not being specifically designed to be an accessory apartment; however, in a single-family home when there is a second kitchen, it begins to mimic what a second dwelling unit might contain. He said that Staff reviewed the floorplan for this house, and if a door was cut between the second kitchen and one of the adjacent master suites, it has everything that would be required to create an independent dwelling unit. Mr. Blomeley said bringing this to the BZA makes the applicant aware of Staff's expectations and will also get something on the record as to how this portion of the home can be used consistent with the zoning regulations.

Mr. Tipps said he did not see think that what was proposed meets the definition of an accessory apartment, given the design, and that he didn't think that it would ever be formally converted in the future to include an accessory apartment.

Mr. Blomeley said Staff thought this process would be preferable as opposed to prohibiting them applicant from having a second kitchen.

Mr. Tipps said he couldn't see how we could prohibit them from having that kitchen. Accessory apartments include areas for food prep, sanitation, and sleeping. He said the only thing they are proposing is to have a sunroom that has a kitchen in it.

Ms. King said her question is consistent with Mr. Tipps as she was more eager to understand what the determination was because the definition is listed as an accessory apartment for food preparation, sanitation, and sleeping. In the Staff report, it specifically has a contingency that would make it an accessory apartment if the second kitchen were to be combined with one of the adjacent two master suites. Ms. King asked if the City would be required to do an inspection if that kind of construction occurred on this property.

Mr. Blomeley said if they were cutting a door, a permit would be required.

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Ms. King asked would the City not be on alert that they are creating a space that is more consistent with an accessory apartment at such time when a building permit was obtained?

Mr. Blomeley said yes, if a permit was obtained.

Mr. Tipps reiterated that he doesn't agree with the City's determination that the proposal constitutes an accessory apartment.

Mr. Blomeley said the accessory apartment isn't required to be totally separate from the main dwelling unit. He said it has all the elements to make it stand alone as a separate accessory apartment. He said adding that second kitchen has been the benchmark for years for what is considered a second dwelling unit because you could take almost any configuration of the home, from that point, and make it into a separate dwelling unit. Mr. Blomeley said the same determination was made back in 2012 or 2013 with a house on Avellino Circle.

Mr. Blomeley said the decision to bring this to the BZA was not taken lightly. He said that when a second kitchen is proposed, he feels it is Staff's duty to protect the integrity of the single-family neighborhood. Staff has seen numerous times where people do work without permits. He repeated: 1) it has all the elements of an accessory apartment; and 2) we don't want to set it up to be used in a manner that is inconsistent with what the zoning regulations would allow. He understands that what Mr. Jackson and Mr. Patel are wanting to do is very reasonable and Staff tried to create a path by which it feels comfortable with them getting there.

Chairman Young said there have been instances previously where going through this process has helped ease the fears of the neighbors.

Mr. Blomeley said he could see Mr. Tipps point and added that Staff doesn't want to do anything that overburdens property owners.

Mr. Tipps said he wasn't on the BZA when the previous application was reviewed. He said since he has been on the Board, he doesn't recall another application quite like this and that is why he made the strong comments.

Ms. King said she agreed with Mr. Tipps stating the language in the staff comments are of concern in this instance given the fact that it is Staff's belief that all the elements of an accessory apartment are present. She indicated that the Staff comments stated that there would have to be certain contingencies in place in order for the accessory apartment to actually be established. Ms. King said she did not recall the past application referenced earlier. If we are saying that all of the elements are present for an accessory apartment, she said it is concerning to her that we are only including the square footage of the second kitchen to determine square-footage of the accessory apartment.

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Mr. Blomeley said Staff refrained from denoting a specific square-footage because the house could be divided up several different ways. He reiterated that it has all the elements of an accessory apartment, and we want to be able to revisit it in the future if structural modifications are made to make it formally used as one.

Chairman Young asked Mr. Jackson if there was anything he wanted to add.

Mr. Jay Jackson stated that the Board raised some interesting questions and he was confident he could make a compelling argument to a court if he needed to that this process is not necessary. He said, however, that he and his client want to cooperate with the City. Plus, they felt like it was the quickest way to accomplish the goal which is for him to get a Certificate of Occupancy. He said right now Mr. Patel has a temporary Certificate of Occupancy subject to being granted a special use permit. Without some resolution here, he still has his temporary Certificate of Occupancy. He said Mr. Patel has no intention of making this into an apartment and is comfortable with Staff's recommended conditions of approval.

Mr. Tipps asked what stage of completion the house is in.

Mr. Jackson said Mr. Maurice Loveland, the General Contractor, is present and that he might be able to answer the question.

Mr. Loveland said the house is 100% finished, pending this application before the BZA.

Mr. Jackson said the only limitation with the temporary Certificate of Occupancy is this special use permit process.

Chairman Young opened the public hearing. There being no one to speak, Chairman Young closed the public hearing.

Ms. Foy asked why the deed restriction is necessary if this area is already zoned single-family.

Mr. Blomeley said any of the recommended conditions are at the Board's discretion whether to include or not to include. He said that is a standard condition the Board has recommended for years with Special Use Permits for accessory apartments. He said the purpose is simply to put future owners on notice that the accessory apartment must be used consistent with the applicable zoning regulations.

Vice-Chairman Halliburton said he thinks that the special use permit process for accessory apartments is generally warranted and that in this case it is beneficial for the neighborhood.

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**Vice-Chairman Halliburton made a motion to approve the request with the following conditions:**

- 1) Electrical, gas, and other applicable permits must be obtained for the completion of the second kitchen.
- 2) Any direct connection (e.g., a doorway) from the second kitchen to an adjacent master bedroom area will first require an amendment to this Special Use Permit. Depending on the square-footage of the combined area, a variance to the maximum square-footage of 700 ft<sup>2</sup> may also be required.
- 3) A deed restriction must be recorded stating that the accessory apartment will not be used as a rental unit to non-family members and that it will be used in a manner consistent with the zoning regulations for accessory apartments.

The motion was seconded by Ms. King. Upon roll call, the motion was passed by the following vote:

**Aye:**      Ken Halliburton  
                 Julie King  
                 Misty Foy  
                 Davis Young  
**Nay:**      None  
**Abstain:** Tim Tipps

**Staff Reports and Other Business**

Ms. Foy announced that her daughter, Grace, was present today at the meeting. Ms. Foy thanked Grace for being there and watching the meeting.

The meeting adjourned at 1:30 P.M.

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CHAIRMAN

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SECRETARY

# MURFREESBORO BOARD OF ZONING APPEALS

## STAFF REPORT

DECEMBER 21, 2020

### PROJECT PLANNER: JAFAR WARE

**Application:** Z-20-034

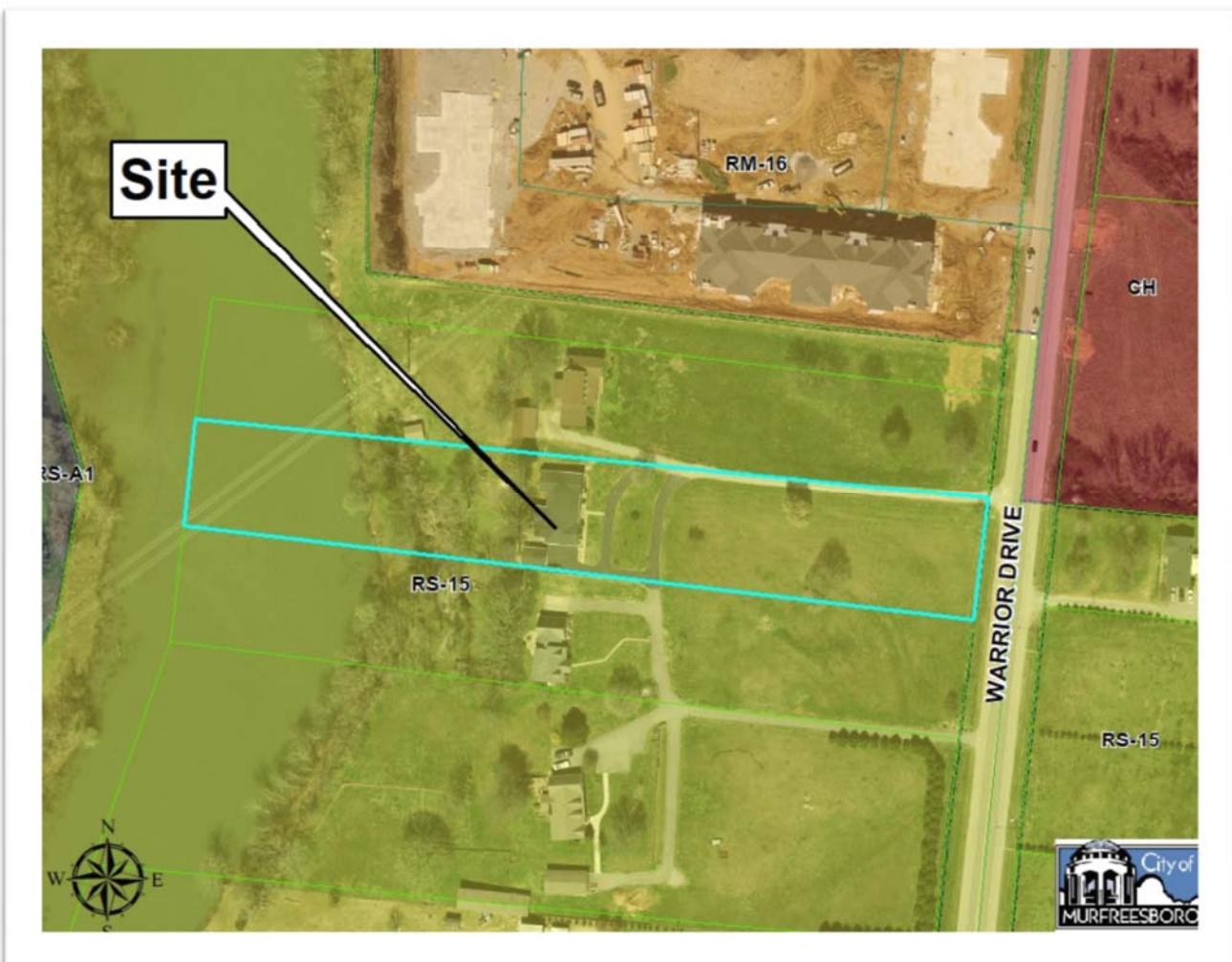
**Location:** 1065 Warrior Drive (Tax Map 113, Parcel 00602)

**Applicant:** Amphorn Facunla

**Owners:** Amphorn Facunla and Marc T. Facunla

**Zoning:** Single-Family Residential District (RS-15)

**Requests:** A special use permit to conduct a home-based business (a hair salon)



## **Special Use Permit Request Overview**

The applicant, Ms. Amphorn Facunla, has been a Cosmetologist for over 20 years. She has decided, due to the current economic climate, to use a limited portion of her home to service her existing long-term clientele. The location of the property is 1065 Warrior Drive, which is in a Single Family Residential (RS-15) zoning district. Because her business will generate customer traffic, a special use permit is required.

The applicant proposes to convert the existing attached two-car garage into a beauty salon. The existing garage doors would be removed and a wall with widows and a French door installed in their place in order to provide pedestrian access to customers. The proposed home-based business will have a nails station, a hair station, and a pedicure station, and clients will visit by appointment only. The applicant says, based on her current client list, she anticipates averaging two to four clients per day from Tuesday to Thursday and between three to five clients per day from Friday to Saturday. There will be no employees besides herself at the business and the customers would park in the driveway and in the off-street parking area adjacent to the house. The hours of operation would be from 10 am to 5:30 pm on Tuesday through Saturday.

The subject property is situated on 2.65 acres. The existing house is located roughly 450' off of Warrior Drive. The subject property is bordered on the north and south sides by single-family dwellings, also zoned RS-15. Further to the north is an apartment complex zoned RM-16 (Multi-Family Residential District 16). The West Fork Stones Rivers is located to the west. Directly across Warrior Drive to the east is a single-family residence zoned RS-15 as well as undeveloped land zoned CH (Highway Commercial District).

## **Relevant Zoning Ordinance Sections**

Chart 1 of the City of Murfreesboro Zoning Ordinance allows home occupations as a special use in the RS-15 district. City of Murfreesboro Zoning Ordinance Section 9(D)(2)(rr) sets forth Standards for home occupations 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 institutional group assembly uses, this project appears to meet the criteria.

### **Standards of General Applicability with Staff analysis:**

**(1) 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:**

If operated as presented, Staff does not anticipate any such adverse impact as a result of this home occupation. Traffic generated should be minimal. The home is situated on a larger-than-average residential lot a significant distance from the public street.

**(2) 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 applicant has proposed to remove the garage doors and replace one of the garage doors with two long windows and the other garage door with a French-styled door for customers to use to enter/exit the salon. In addition, the applicant intends to use the original color and type of vinyl that is already on the home, where needed, and any other wood or fascia needed to match the home.

**(3) 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:**

In general, this standard appears to be met. However, according to the Murfreesboro Water Resources Department, the home utilizes a septic system. The Tennessee Department of Environment and Conservation has stated that the applicant will need to add roughly 30-50 feet of field line to operate a home-based beauty salon from the home. Any approval of this special use permit should be made subject to compliance with all requirements of the State of Tennessee regarding the use of the existing septic tank for the home-based beauty salon.

**(4) The proposed building or use will not result in the destruction, loss, or damage of any feature determined by the BZA to be significant natural, scenic, or historic importance:**

Neither Staff nor the applicant are aware of any such features associated with this property, except for the Stones River, and it will not be impacted by this request.

**(5) The proposed building or use complies with all additional standards imposed on it by the particular provision of this section authorizing such use:**

The proposed use will comply with the additional standards for home occupations. (See below for additional detail.)

**Additional Standards for Home Occupations with Staff Analysis:**

**(1) No person who is not a resident of the dwelling unit may be employed in connection with the home occupation at the dwelling unit or on the property;**

The applicant will be the only employee.

**(2) One attached business sign, not exceeding three square feet, may be permitted subject to approval by the BZA. Such signs shall not be permitted by right;**

The applicant is requesting a three square-foot attached sign as a part of this application. The State of Tennessee Cosmetology Board requires all cosmetology salons to display a sign of sufficient size as to be clearly visible from the street, indicating that it is a shop. The BZA must determine whether or not a sign is appropriate. See Attachment F for the proposed location of the sign.

**(3) There shall be no alteration of the residential building which changes the character as a dwelling. No display of products shall be visible from the street;**

No display of products are proposed to be visible from the street. The replacement of the overhead garage doors with windows and a man-door is not uncommon and would not seem to change the character of the structure as a dwelling.

**(4) The home occupation shall be incidental and subordinate to the residential use of the dwelling unit. No more than twenty-five percent (25%) of the area of a residential dwelling unit and accessory structure, if used as part of the home occupation, shall be devoted to the home occupation. In the event the home occupation is to be conducted totally from within an accessory structure, no more than five hundred square feet of area may be devoted to such home occupation. No more than one home occupation shall be permitted per residential dwelling unit and any related accessory structure;**

According to the Property Assessor's records, the existing house is 2,746 square-feet. The salon will be located in an existing two-car garage, which will equal less than 25% of the total square-footage. The applicant has also indicated that there are no other home-based businesses located on the subject property.

**(5) No mechanical or electrical equipment may be used in a residential dwelling unit or accessory structure in connection with a home occupation except such types as are customary for domestic, household, or hobby purposes; personal computers and facsimile machines may be used. Machinery that causes noise likely to be heard by neighbors or interference with radio or television reception shall be prohibited;**

The applicant understands this provision. Standard hair salon equipment, such as a hair dryer and a hair-washing sink, computer, television, and foot spa will be used.

**(6) There shall be no storage outside a principal building or accessory structure of equipment or materials used in connection with the home occupation;**

The applicant understands this provision; no outdoor storage is proposed.

**(7) There shall be adequate provision for any traffic generated by such home occupation including off-street parking if required by the BZA;**

Staff believes there will be adequate off-street parking on-site for the traffic generated by this business. There is an existing driveway in the front of the home. In addition, there is a driveway along the southern side property line. The applicant states that automobile traffic would be limited to a maximum of five vehicles on any given business day.

**(8) Group instruction in connection with the home occupation may be permitted subject to approval by the BZA. For the purposes of this subsection, instruction shall be group instruction if it involves more than two students at any time. The BZA may place a maximum number of students that may be on-site at any time and may establish limitations on the frequency of such group instruction.**

The applicant does not propose to conduct any group instruction.

**(9) The following activities and land uses shall not be permitted as home occupations: automotive repair (body or mechanical), upholstery or painting; kennels; taxi service; gun dealers; or, charter bus service;**

The applicant does not propose any of the home occupations listed above.

**(10) The BZA may require additional standards in order to assure the compatibility of the home occupation with other property in the vicinity of the home occupation and to assure the residential character of the neighborhood is maintained.**

The applicant understands this provision.

**Recommended Conditions of Approval**

- 1) Customer visits shall be by appointment only.
- 2) No more than one customer at a time shall visit the home-based business and there shall be no overlapping appointments.
- 3) Any proposed signage shall comply with the Zoning and Sign Ordinances, shall be attached to the home, shall not exceed 3 square-feet, and shall be subject to any applicable permitting requirements.
- 4) The business shall open only on Tuesdays thru Saturdays and it shall open no earlier than 10:30 AM and shall close no later than 5:30 PM.
- 5) The applicant shall obtain all necessary permits and inspections with the City of Murfreesboro Building and Codes Department for the physical conversion of the garage to the salon.
- 6) The applicant shall obtain all required permits and inspections with the State of Tennessee, as determined by the State of Tennessee, regarding the use of the existing septic tank in conjunction with the home-based business. Evidence of compliance with any applicable requirements from the State must be submitted prior to operation of the home-based business commencing.

The applicant will be in attendance to respond to any questions the Board may have.

**Attached Exhibits**

- A. Application
- B. Letter from applicant
- C. Site Photos
- D. Floor Plan
- E. Site Plan
- F. Sign Placement

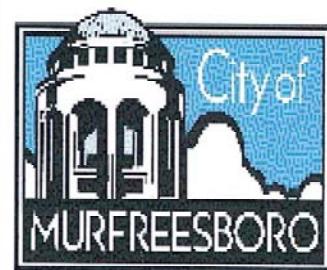
## Attachment A: Application

City of Murfreesboro BOARD OF ZONING APPEALS		HEARING REQUEST APPLICATION
Location/Street Address: <u>1065 Warrior Drive</u>		
Tax Map: <u>113</u>	Group: <u></u>	Parcel: <u>00602</u> Zoning District: <u>RS 15</u>
Applicant: <u>Amphora Faccina</u> E-Mail: <u>amypf@att.net</u> Address: <u>1065 Warrior DR</u> Phone: <u>615-454-1501</u> City: <u>Murfreesboro</u> State: <u>TN</u> Zip: <u>37128</u>		
Property Owner: <u>Marc &amp; Amphora Faccina</u> Address: <u>1065 Warrior Drive</u> Phone: <u>(615) 500-2768</u> City: <u>Murfreesboro</u> State: <u>TN</u> Zip: <u>37128</u>		
Request:		
Zoning District: <u>RS 15</u>		
Applicant Signature: <u>Marc F</u> Date: <u>11-30-20</u>		
Received By: <u>B. Davis</u>	Receipt #: <u>530083</u>	
Application #: <u>20-Z-034</u>	Date: <u>12-1-20</u>	

Check # 1130

Amypfaccina@gmail.com

### Murfreesboro Board of Zoning Appeals



HEARING APPLICATION  
AND  
GENERAL INFORMATION

## Attachment B: Letter from applicant

Amphorn Facunla  
amyfbstudio@gmail.com  
(615)454-1501

November 24, 2020

City of Murfreesboro  
ATTN: Planning Department  
111 West Vine Street  
Murfreesboro, TN 37130

Dear Planning Department,

We hope that ya'll are safe & healthy during this pandemic crises.

Please find the attached documents as our Request for Special Zoning Permit - Home Based Business for our home at 1065 Warrior Drive.

We look forward to the confirmation of the next hearing date and time with the Murfreesboro Board of Zoning Appeals.

Sincerely

Amphorn & Marc Facunla

The image shows two handwritten signatures in blue ink. The top signature is "Amphorn" and the bottom signature is "Marc".

D1c. Note: Attached are for items D1c. 1-6.  
D1d. 1065 Warrior Drive, Murfreesboro TN 37128

D1e. Not Applicable

D1f. This property is currently zoned: Residential

D1g. Due to current climate, I have decided to use a limited portion of my home to be used as by appointment only business servicing the clients which I have accrued in my 20+ years

as a cosmetologist.

(g1.) Business hours are 10AM to 5:30PM, Tuesday to Saturday by appointment only.

(g2.) I plan to operate this business indefinitely.

(g3.) Based on client list, I average 2-4 services Tuesday to Thursday and 3-5 services Friday to Saturday.

(g4.) Automobile traffic would be limited to around 5 vehicles max Saturday and less during the weekday.

#### Section 9.

##### (C) Standards for Special Use permit

C1. My single employee beauty salon will have no adverse effect on any adjacent property or neighborhood. Direct driveway access is from Warrior Drive and not using any residential

side streets. After 20+ years as a cosmetologist, I have decided to only service my long term clients. I would be inspected and approved by the State of Tennessee Board of

Cosmetology as in the past where I have had my license with no break in service.

C2. Due to the change in economy and personal desire, I have decided to have a have a home based business with low to no impact of the vicinity we are in and ensure compliance of

With all applicable district regulations.

C3. Access would be directly from Warrior Drive into our driveway with parking spaces provided at the business entrance for convenience of the customer. Public service would remain

consistent and no obstruction of essential services. Water and septic would remain as current.

C4. The business nor house will not result in the destruction, loss, or damage to natural, scents, or known historic importance.

C5. Working with officials from the City of Murfreesboro, I will ensure to meet all current building codes and standards on the addition.

##### (D) Authorized special uses and additional standards

##### D1-2. N/A

(RR) Home occupations shall be subject to the following standards  
F

1. I and my husband are the owners of 1065 Warrior Drive and only a small portion of the home will be used for the business. It will be a full beauty salon and only I will be operating.
2. I plan to use a small sign under 3 sq. ft. in front of our home.
3. There will no display of products visible from the street.
4. The requested Special Use Permit will be for an area significantly under 25% of total square feet of the residence. No other business will occur on the property.
5. Regarding mechanical or electrical equipment, in addition to a computer, a television, foot spa, and hair dryer will be used. There will be no machinery in the business that would make extraneous or significant noise. No equipment which would affect radio interference or television reception will be present.
6. There will be no storage of anything outside of the salon area.
7. Clients will have access to parking in front of our home. At no times will clients need to park on the street or block traffic in any manner.
8. The business is a single employee salon (myself), there will be no instructional classes nor group activities performed.
9. This is strictly a beauty salon and would not be in solved with automotive, kennels, taxi service, gun dealership or bus charter service.
10. I will comply with additional standard set forth why the Board of Zoning Appeals.

## Attachment C: Site Photos

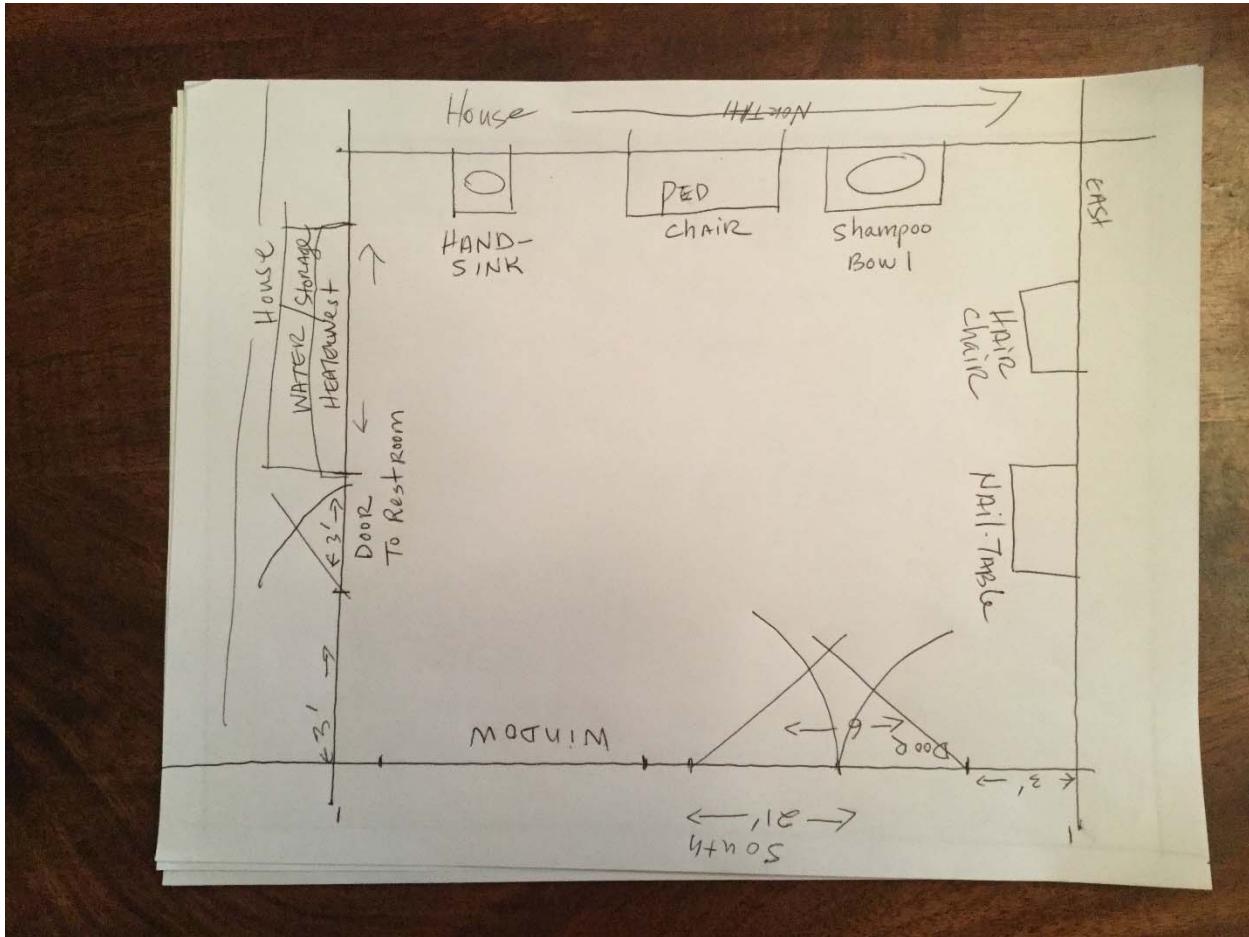
### Front of Home (Facing northwest)



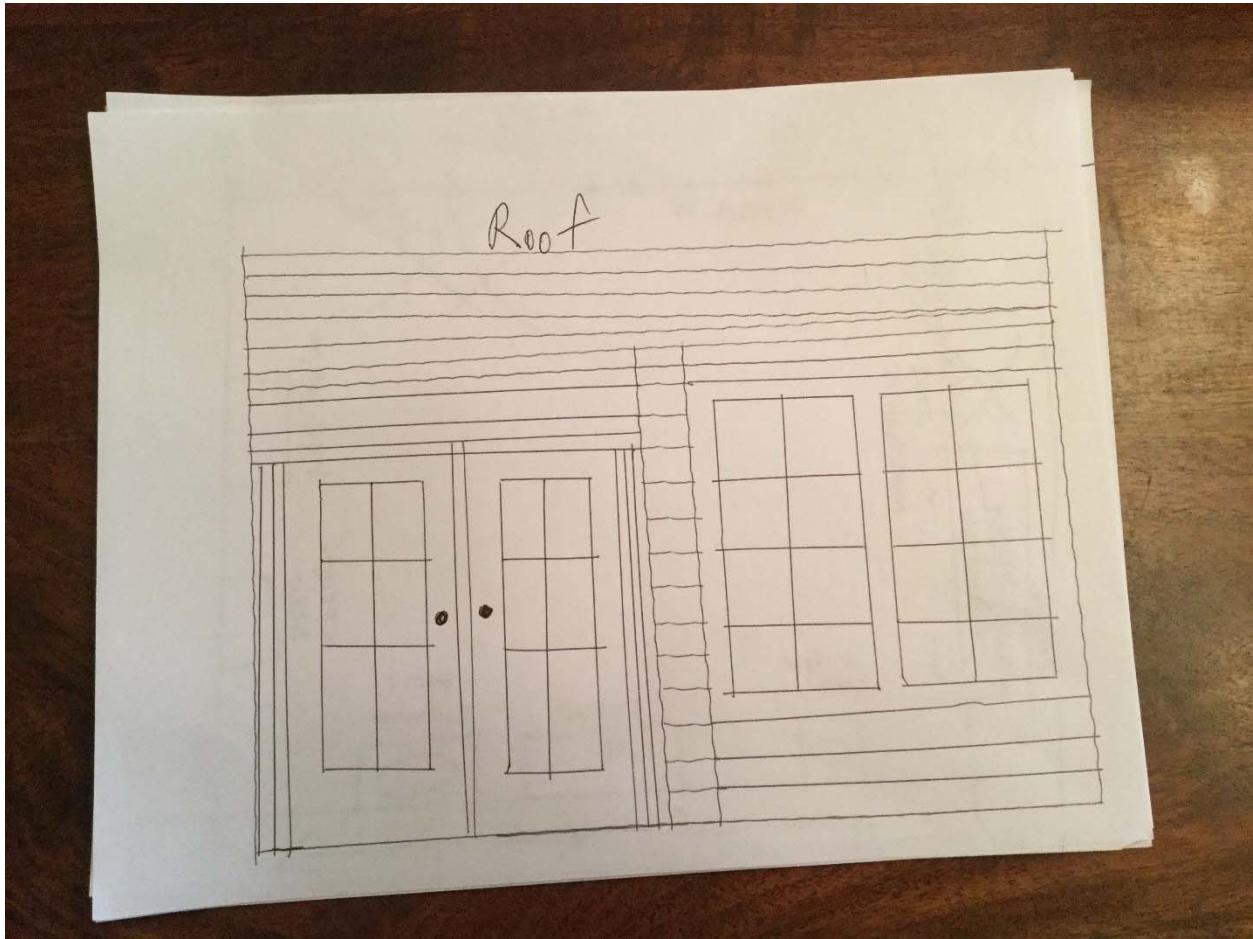
**Front of Home (Facing south)**



## Attachment D: Floor Plan



## Attachment E: Exterior Elevation



## Attachment F: Sign Placement

