

IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE

IN RE: PETITION FOR WRIT OF CERTIORARI

MITCHELL HYDE

Plaintiff

vs.

Civil Action No: 13079

LOUDON COUNTY BOARD OF
ZONING APPEALS

Defendant

FILED 12th DAY OF May 20 23
AT 1:25 P M
LISA SCOTT Jh
LOUDON CO. CLERK & MASTER

PETITION FOR WRIT OF CERTIORARI

The Petitioner, Mitchell Hyde, seeks a Writ of Certiorari and a review by this Court of a decision of the Loudon County Board of Zoning Appeals, and in support thereof, states as follows:

1. The Petitioner, Mitchell Hyde, is a resident of the State of Tennessee and the owner of real property located in Loudon County, Tennessee, shown as Parcel 044.00 on Map 084 in the records of the Property Assessor's Office for Loudon County, Tennessee. The real property is more specifically described in Deed Book 426, page 881, in the Loudon County Register of Deed's Office.

2. The Loudon County Board of Zoning Appeals is a Board authorized by TCA Section 13-7-106 and established by Loudon County in Section 7.070 of the Zoning Resolution of Loudon County, Tennessee.

3. The Petitioner brings this Petition for a Writ of Certiorari pursuant to TCA Section 27-9-101, et seq, as he is a person aggrieved by a Final Order of the Loudon County Board of Zoning Appeals on March 14, 2023.

4. Parcel 044.00 on Map 084 as shown in the records of the Property Assessor's Office for Loudon County, Tennessee has an address of 7431 Highway 411, Loudon, TN. The Petitioner purchased Parcel 044.00 on Map 084 in October 2020. Parcel 044.00 on Map 084 was zoned A-2 Rural Residential District. Within this A-2 Zone, the Petitioner was permitted to operate and did construct and open a butcher shop for the Petitioner's own agricultural use and purposes. An A-2 Zone does not permit operating a butcher shop open to the general public.

5. Pursuant to TCA Section 13-7-105, a county legislative body may amend its zoning ordinance, but any such amendment shall not be made or become effective unless the same be first submitted for approval, disapproval, or suggestions to the Regional Planning Commission.

6. After the Petitioner constructed and opened a butcher shop permitted under A-2 zoning for his own use, the Petitioner determined there was a market and need to be able to operate a butcher shop open to the public. The Petitioner contacted the Loudon County Planning Department and was advised in order to operate a butcher shop open to the public his property had to be re-zoned to a M-1 Zone - General Industrial District.

7. The Petitioner appeared before the Loudon County Regional Planning Commission April 20, 2021. Minutes from the meeting of April 20, 2021 state that the Petitioner appeared to begin the process for re-zoning. The Petitioner had in place a septic system approved by the State of Tennessee. The Petitioner did not have a completed survey or other necessary information, and any request to re-zone a part of Parcel 044.00 on Map 084 was denied.

8. The Petitioner submitted a formal re-zoning Application to the Loudon County

Planning Department September 23, 2022. The Application presented by the Petitioner reflects the request is to re-zone 5 acres to M-1 for the purpose of doing custom butchering for public. A copy of this Application is attached as Exhibit "1."

9. The Loudon County Regional Planning Commission approved the zoning change from A-2 to M-1 October 11, 2022. The Minutes of the October 11, 2022 meeting reflect that the Planning and Codes' Officer informed the Planning Commission that the Petitioner had met all requirements for his re-zoning request. The Planning Commission was well aware that the Petitioner intended to operate a butcher shop open to the public, when the Planning Commission approved the zone change to M-1.

10. At a February 6, 2023 meeting, the Loudon County Commission unanimously approved the re-zoning request of the Petitioner to re-zone approximately 2.18 acres of Parcel 044.00 on Map 084 from A-2 to M-1. The Loudon County Commission was well aware of the purpose of the re-zoning request to allow the Petitioner to operate a butcher shop open to the public. A copy of the Minutes of the February 6, 2023 Loudon County Commission meeting is attached as Exhibit "2."

11. As a part of converting his butcher shop from a butcher shop for his own use to a butcher shop open to the public, the Petitioner was required to submit a site plan to the Loudon County Regional Planning Commission. The Petitioner appeared before the Loudon County Regional Planning Commission January 10, 2023 to continue with his site planning process to operate a butcher shop open to the public. Even though the Petitioner had an approved septic/sewer system, it appeared to the Petitioner the Planning Commission desired that he

connect to the Tellico Area Services System (TASS) which provides and operates a water and waste-water treatment system. The Petitioner advised the Planning Commission that the fees had been paid, but his place of business had not yet been connected to TASS. The Planning Commission denied the Petitioner's site plan approval. Leon Shields and Jim Brooks are members of the Loudon County Regional Planning Commission.

12. At a February 14, 2023 Loudon County Regional Planning Commission meeting, the Petitioner advised the Planning Commission that his butcher shop had been connected to the water and waste-water treatment system operated by TASS as requested. The Loudon County Regional Planning Commission approved the site plan presented by the Petitioner to operate a butcher shop open to the public. The Motion to approve the site plan was made by Jim Brooks, seconded by Leon Shields, and unanimously approved. A copy of the Minutes of the February 14, 2023 Loudon County Regional Planning Commission meeting is attached as Exhibit "3."

13. Under the Loudon County Zoning Resolution, uses permitted in the M-1 zone include food manufacturing, except meat products. In the M-1 zone, meat product manufacturing is permitted as a special exception after review and approval by the Loudon County Board of Zoning Appeals pursuant to Section 7.060 of the Zoning Resolution. The Loudon County Board of Zoning Appeals is composed of certain members from the Loudon County Planning Commission.

14. The Petitioner presented his request for a special exception to operate a butcher shop open to the public in a M-1 district to the Loudon County Board of Zoning Appeals on March 14, 2023. The Minutes of this meeting reflect a discussion between the Petitioner and Jim Brooks about treatment of waste. A Motion was made by Ryan Bright to approve the request for a special exception, seconded by John Napier. Jim Brooks, Chairman of the Board of Zoning

Appeals, and Leon Shields opposed the request. There were 5 members present, with the 2 for and 2 against vote resulting in a denial of the request. One member recused himself. Jim Brooks and Leon Shields, members of the Loudon County Regional Planning Commission, had previously approved the Petitioner's site plan to operate a butcher shop open to the public after being advised that the Petitioner had connected to TASS at the February 14, 2023 Loudon County Regional Planning Commission meeting. A copy of the Minutes of the March 14, 2023 Loudon County Board of Zoning Appeals is attached as Exhibit "4."

15. As afore-mentioned, the Loudon County Regional Planning Commission and the Loudon County Commission knew that the Petitioner lawfully opened and operated a butcher shop on Parcel 044.00 on Map 084 in Loudon County for his own use. Both the Loudon County Regional Planning Commission and the Loudon County Commission were presented with the re-zoning request of the Petitioner from A-2 to M-1 for the express purpose of allowing the Petitioner to operate a butcher shop open to the public. Both the Loudon County Planning Commission and the Loudon County Commission approved the re-zoning request to M-1 with knowledge that the Petitioner would have to request a special exception to operate his proposed butcher shop open to the public. Jim Brooks and Leon Shields are members of the Loudon County Regional Planning Commission and the Loudon County Board of Zoning Appeals. Mr. Brooks and Mr. Shields, as members of the Loudon County Regional Planning Commission, approved the site plan for the Petitioner to operate a butcher shop open to the public at a meeting on February 14, 2023. Mr. Brooks and Mr. Shields, without any stated plausible or reasonable basis, cast the votes at the Board of Zoning Appeals meeting 30 days later that resulted in the denial of the special exception request.

16. The decision of the Loudon County Board of Zoning Appeals on March 14, 2023 denying the request for a special exception to operate a butcher shop open to the public in a M-1 district prohibits the Petitioner from converting his butcher shop for his own use to a butcher shop open to the public.

17. The Petitioner avers that the decision of the Loudon County Board of Zoning Appeals denying his request for a special exception was illegal, arbitrary, and capricious with no material evidence or reasonable basis presented to the Board to support the denial of the request.

WHEREFORE, the Petitioner, Mitchell Hyde, pursuant to TCA Section 27-9-101, et seq., respectfully asks this Court for the relief as follows:

1. That this Court grant the Petition for a Writ of Certiorari and issue a Writ of Certiorari to the Loudon County Board of Zoning Appeals to review the decision of the Loudon County Board of Zoning Appeals denying the Petitioner's request for a special exception to operate a butcher shop open to the public in a M-1 district;

2. That the Clerk of the Court send by registered/return receipt mail to the Loudon County Board of Zoning Appeals a Notice of the filing of this Petition and a certified copy thereof;

3. That this Court grant and issue the Writ and require the Loudon County Board of Zoning Appeals to certify and forward to the Court a complete transcript of the meeting of the Loudon County Board of Zoning Appeals on March 14, 2023;

4. That this Court cause a hearing to be held on the proof introduced before the Board of Zoning Appeals, and allow the Petitioner to present proof of the earlier meetings of the Loudon County Commission and the Loudon County Planning Commission and argue his case;

5. That this Court find that the decision of the Loudon County Board of Zoning Appeals to deny the request of the Petition for a special exception was not supported by any material evidence or a reasonable basis and was illegal, arbitrary, and capricious;

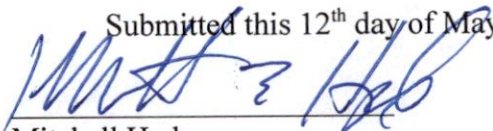
6. That this Court find that the Petitioner is entitled to a special exception to operate a butcher shop open to the public on his property in a M-1 district and Order the Loudon County Board of Zoning Appeals to grant the special exception to the Petitioner;

7. That the Court award the Petitioner a Judgment against the Loudon County Board of Zoning Appeals for his reasonable attorney fees and costs;

8. That this Court grant and award to the Petitioner such further and other general relief to which he may be entitled.


THIS IS THE FIRST APPLICATION BY THE PETITIONER, MITCHELL HYDE, FOR A WRIT OF CERTIORARI.

Submitted this 12th day of May, 2023.



Mitchell Hyde

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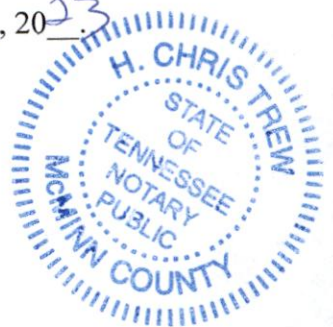
STATE OF TENNESSEE)
COUNTY OF Madison)

Mitchell Hyde makes oath that he is the Petitioner in the foregoing Petition for Writ of Certiorari, he has read the same, and knows the content thereof, and the statements made therein are true to the best of his knowledge, information, and belief. This Petition is not made out of levity or by collusion, but in sincerity and truth for the reasons and relief mentioned therein.

Mitchell Hyde
Mitchell Hyde

Sworn to and subscribed before me this 12 day of May, 2023

[Signature]
Notary Public



My Commission Expires: 9/24/25

COST BOND

We, the undersigned, acknowledge ourselves sureties for the court costs of this case not to exceed \$1000.00

Mitchell Hyde
Principal

[Signature]
Surety