

Morristown Board of Zoning Appeals  
Minutes  
February 10, 2015

Members Present

Chairman Katy Klose  
Vice-Chairman Terry Ball  
Secretary Bob Garrett  
Mayor Danny Thomas

Members Absent

Boardmember Ken Smith  
Boardmember Bill Thompson  
Boardmember Jim Beelaert

Others Present

Alan Hartman, Development Director  
Lori Matthews, Senior Planner  
Logan Engle, Planner  
Kat Morilak, Development Services  
Eual Noah, Fire Marshal  
Ralph "Buddy" Fielder, Asst. City Admr.

Chairman Klose called the BZA to order for the February 10, 2015 meeting.

I. Approval of the December 9, 2014 minutes.

Commissioner Ball made a motion for approval of the December 9, 2014 minutes; seconded by Mayor Thomas. Upon voice vote: all ayes.

Mr. Hartman explained that the planning commission meeting that just adjourned, two of the planning commission members serve in the Urban Growth Boundary capacity. The Board of Zonings Appeals only appeals to properties within the city limits. That will leave four as eligible members and that is enough for a quorum. I asked the city attorney's, Mr. Jessee and Mr. Perkins, about the required votes for passing action because we knew we were going to have three members out. The answer staff received was once we have a quorum, the only thing you have to have to pass action is a simple majority of those in attendance of that quorum. The only thing that might raise questions is a split vote of 2 and 2.

II. UORV 1550-2015: Ivan Pena @ 1040 Buffalo Trail -- used automobile sales business

Ms. Engle explained we have a use on review for Ivan Pena at 1040 Buffalo Trail for a used automobile sale business. This was submitted to establish this type of business at this address. The parcel currently contains a commercial structure although it is zoned (LI) Light Industrial. This was a former service station and it has operated under several different commercial uses, including most recently a towing service. The property is just over an acre 1.08 acre and zoned (LI) Light Industrial. The parcel is bounded by properties zoned LI to the south as well as across Buffalo Trail to the area known as the stockyard. It is also bounded by an (R-2) Medium Density Residential parcel to the east and Light Industrial to the northwest and (IB) Intermediate Business to the north, the corner parcel is split zoned. The LI zoning classification states that the zoning classification is to be used for light manufacturing, assembly plants, processing, storage, warehousing, wholesaling and distribution. In addition, Section 14-203 of the Zoning Ordinance also states that LI allows for the use of automobile sale agencies both new and used as a use on review that is why the request has been brought to the board. At this time, city staff

has received no complaints from adjoining property owners regarding the proposed use of the property. Staff views the applicant's use of land for a sales agency to be in accordance with what the zoning ordinance provides and recommends approval of this request.

Secretary Garrett made a motion to approve the use on review for a used automobile sales business at 1040 Buffalo Trail; seconded by Vice-Chairman Ball. Voting results 4 yes 0 no. Voting yes were Secretary Garrett, Vice-Chairman Ball, Chairman Klose and Mayor Thomas.

III. VARI 1546-2015: Wildwood Park (COM) @ 1911 Shields Ferry Road -- rear setback variance

Ms. Engle explained this variance request has been submitted by the Parks and Recreation Department in order to construct a public restroom facility at Wildwood Park, located at 1911 Shields Ferry Road. The purchase of the restroom facility was approved by City Council previously and the funding for the restroom is being provided by the city's CBDG program. Wildwood Park is bounded by Shields Ferry Drive to the east, Wildwood Drive to the west and South Outer Drive to the south. The parcel is zoned (R-2) Medium Density Residential and is completely bounded on all sides the public rights of way by R-2 parcels. The variance request for the property is a rear setback variance. The rear yard building setback required for R-2 is 25 feet to the rear yard line, in accordance with the zoning ordinance provision. However, due to the fact that the park is almost entirely included in the FEMA flood plain and the department desires to construct the restroom outside of the flood plain. The structure location as proposed would maintain a rear setback of approximately of 7 feet. If this board so chooses, it would be granting a variance of 18 feet on the rear setback. It would allow the Park and Recreation Department to construct outside of the flood plain and the granting of this request would not allow any additional deviations from the setback restrictions as set out in the R-2 section of the zoning ordinance.

Mr. Price stated this would be the first bathroom that this park has ever had.

Mayor Thomas made a motion to approve the rear setback variance (18 feet) at 1911 Shield Ferry Road; seconded by Vice-chairman Ball. Voting Results 4 yes 0 no. Voting yes were Secretary Garrett, Vice-Chairman Ball, Chairman Klose and Mayor Thomas.

IV. VARI 1551-2015: The Hutton Company representing the N. Liberty Hill Road & Buffalo Trail site --decrease the number of required parking spaces

Ms. Matthews explained formal construction plans have been submitted for review for a proposed grocery store and gas kiosk to be located at the intersection of N. Liberty Hill Road and Buffalo Trail. The Hutton Company serving as representation for their client is seeking a reduction to the required parking of roughly 40 spaces, going from 205 spaces to 165 spaces. There are 9 parcels included in the project, which will total 6 acres in size. The proposal is for a 41,000 square foot grocery store and gasoline kiosk to front Buffalo Trail Road. Landmarks in and around the area include the 25 acre mobile home park to the west, Buffalo Trail Baptist Church south across Buffalo Trail Road and Tom's Sporting Goods across Buffalo Trail to the east. The site properties have historically had problems with drainage issues along the west side property line, in front of the mobile home park. The steep hillside encompasses over an

acre along the north side making both these regions on the site all but unbuildable. The developer has shown in the construction plans submitted that much of the drainage will be alleviated to the site should this project continue. The developer is also proposing that the intersection of Buffalo and Liberty Hill be signalized, which has been a need included within the city's past transportation plans. The entrance at this intersection and the only other entrance shown for this site, which will be roughly north of the signalization, at Liberty Hill and Buffalo Trail and also have reducing factors with regard to designing internal traffic for the site. Staff has historically interpreted retail store space as that portion of the building foot print minus such as non-selling areas restrooms, HVAC rooms, etc. in order to eliminate what is often considered excessive and unused areas of asphalt. Based on this formula, staff is satisfied with the site allocating only 165 parking spaces. Based on topographic concerns and drainage problems associated with the site, staff would ask that the BZA grant the variance as requested.

Chairman Klose asked, Mr. Ben Berry with Berry Engineers, Civil Engineer for the project, and Mr. Todd Kimling with The Hutton Company, I was interested in the drainage issues can you give us an ideal of what you are going to do? This site in particular has 65 feet of elevation drop from the southern corner to the northern corner. Currently, the road does not have curbs on it and it is super elevated as you come around the curve it is super elevated in the direction of our site. In addition, the church's drainage, the church has underground storm drainage system with a detention pond, and its outlet is at the very southern end of our property and then it just drains across the property. If you go out there today, you can see big gulley's, big washes where all that water just goes across the property. We have talked with the city about a number of things on the site one which was traffic, drainage how to solve all those issues. What we are doing we are proposing installing curb and gutter along the road across the entire frontage along Buffalo Trail. With that curb and gutter, we will put in an underground storm sewer system that will follow the curb and will basically take all that off-site drainage and route it along the road till it gets to the end of the property and then there is a large culvert under, there is a private drive just to the north of the site and a culvert under that driveway, that is where all the runoff goes and we will be discharging in that location. The off-site water is being routed around the project through roadway improvements and then our on-site drainage we will be providing the normal detention storm water treatment that is required by the city's code for all of our on-site drainage. Chairman Klose explained it is a major concern; because you are very close to the lake there. There is a lot impervious area that is on site today, a lot of impervious areas have a lot of gravel silt type coverings, when you get large storms you can see the erosions gulley's that are taken place washing all that silt downstream. The water is not generated by the site necessarily, but as it runs across this site, it is very evident that it is picking up lots turbidity a lot of suspended solid pollution that TDEC has been so concerned about. That part will be addressed with this development by putting the off-site water in an underground system it will keep it from eroding the earth and then for the on-site pavement we have storm water treatment that will treat our new asphalt. Once we demo the existing buildings, existing pavement and put in the new asphalt parking lot and roof, the water that falls on our property will go to a retention area and we have a sand filter system that will clean the water the first flush that is required by the city's code and then discharge that. Mr. Alvis explained I am representing the Trustees of Buffalo Baptist Church the traffic is not a concern with us but that road is heavily used a lot times its going to affect our church. The main concern I have there is going to have to be some creative traffic studying done on that area there, just a red light in the 5 Point area is not going to solve the traffic. As far as the church we want to be good neighbors but as far representing the people

of that area, I think the traffic is going to be the main concern of that area. Mr. Berry explained we took traffic counts in the area. The area that is pointed out is a big concern for us, as private developers, there is not a whole lot we can do to change the spacing of Bright's Pike and Buffalo Trail. That is the root of the problem is how close Bright's Pike and Buffalo Trail get at that intersection. We do not have control over that area to move Bright's Pike or to realign that area. What we are doing is spending a sufficient amount of money to do the curb and gutter along the road and the drainage, which will be a public benefit for that section of road. A very large cost the developer is bearing is the signalization of that intersection. It is not going to solve all the problems in that area as far as the traffic because of that short distance, but is a major expense that will improve the area tremendously. The traffic study has been submitted to the staff. We have counts on Buffalo Trail, Liberty Hill, Sherwood and Bright's Pike basically we have traffic counts on that whole area.

Mayor Thomas made a motion to grant the variance as submitted (decrease parking spaces to 165); seconded by Secretary Garrett. Voting Results 3 yes, 0 no, 1 abstained. Voting yes were Secretary Garrett, Chairman Klose and Mayor Thomas. Abstained was Vice-Chairman Ball.

V. VARI 1552-2015: The Hutton Company representing the E. Economy Road & W. Andrew Johnson Highway site -- decrease the number of required parking spaces.

Ms. Matthews explained this variance request has been submitted by the Hutton Company. They are requesting a parking variance request for the properties which adjoin the Captain D's Restaurant at the intersection of W. Andrew Johnson Highway and E. Economy Road. The site being 5.5 acres and is slated for the construction of a grocery store and gasoline kiosk. The principal building, would be the grocery store, is just over 41,000 square feet in size. The conceptual plan that we have shows two buildings east of what is now the vacant Justin's site to be demolished and to be combined with the large lot to the south. The small 60 foot wide lot which adjoins E. Economy, which sticks out on the map and which has the same parcel number as the larger parcel to the south, and at some point and time, it has been oddly configured but in essence it is the same parcel. That will be an access from the site as well they are proposing an additional access onto W. Andrew Johnson Highway. Limitations on the project site have to do with topography to the rear of the site. The majority of that will have to have a retaining wall. The grade also plays havoc on the site with potential location of the storm water management area. As with stated with the prior variance granted, the limitation of two access points will eliminate many potential designs for internal traffic movements. Based on the topography and drainage problems with this site, staff would ask the BZA grant the variance as requested.

Chairman Klose explained Ms. Matthews mentioned access and I see that there is an access point from W. Andrew Johnson Highway and there will be one on E. Economy Road, would you use that boot looking thing on the other side on W. 1<sup>st</sup> North. Mr. Berry explained the boot looking portion of the property is actually not real property that is owned, it ended up being an just an easement across the adjacent parking lot. We could use it but the topography restricts us from doing that the difference in the elevation of the grassed area that is shown on the aerial and the boot area is about 20 feet. We cannot physically connect from the lower level up to that boot area which is currently being used as a parking lot for the flooring manufacturer. We are limited by what we can do in there because we only have the easement, so we can only put the

access through the easement. Since that property is actually owned by the flooring manufacturer, we cannot restrict his access to it. Basically, we cannot change the grade to that extreme because then he could not access off of his parking lot. It is not physically feasible to make that connection, but we do anticipate our deliveries to use E. Economy because there is a traffic signal. The existing lane behind Captain's D there is 30 feet there. Visually it looks worse than it is because they have been using that area as parking and they are not supposed to, that land is not necessarily owned by them. It is being overly used by the existing business.

Mayor Thomas made a motion to grant the variance as submitted (decrease parking spaces to 165); seconded by Secretary Garrett. Voting results 3 yes, 0 no, 1 abstained. Voting yes were Secretary Garrett, Chairman Klose and Mayor Thomas. Abstained was Vice-Chairman Ball.

The meeting was adjourned.

Respectfully submitted,



Robert "Bob" Garrett  
Secretary

RG/sk