

Morristown Board of Zoning Appeals  
Minutes  
April 14, 2015

Members Present

Chairman Terry Ball  
Vice-Chairman Doug Beier  
Secretary Bob Garrett  
Mayor Danny Thomas  
Boardmember Ken Smith  
Boardmember Bill Thompson

Members Absent

Boardmember Jim Beelaert

Others Present

Alan Hartman, Development Director  
Lori Matthews, Senior Planner  
Logan Engle, Planner  
Kat Morilak, Development Services  
Eual Noah, Fire Marshal  
Jim Whitbeck, PE

Mike Dillard  
Randall Elkins  
Benjamin Hoover  
Antonio Gom  
Todd Kimling  
Michael Price

Mr. Hartman explained at the last meeting City Council, Ms. Klose was replaced on the BZA. Ms. Klose was the Chairman so we need to elect a Chairman for the BZA. Mr. Ball is the current Vice-Chairman.

Mr. Hartman opened up the floor for nominations for Chairman. Mayor Thomas nominated Mr. Ball for the Chairman of the BZA. Mr. Hartman asked for any other nominations for Chairman. Hearing none voice vote please and those in favor, all ayes.

This board needs to elect a Vice-Chairman since Mr. Ball is now the Chairman. Mr. Hartman opened the floor up for nominations for Vice-Chairman. Chairman Ball nominated Doug Beier as Vice-Chairman for the BZA. Mr. Hartman asked for any other nominations. Hearing none voice vote please and those in favor, all ayes.

I. Approval of the February 10, 2015 minutes.

Mayor Thomas made a motion for approval of the February 10, 2015 minutes; seconded by Commissioner Smith. Upon voice vote: all ayes.

II. UORV 1563-2015: Connection Fellowship Church: to allow church in the Light Industrial District at 1111 W. Morris Blvd.

Ms. Engle this is for the Connection Fellowship Church is a use on review for the church to be located in Light Industrial (LI) zone located at 1111 W. Morris Boulevard. The site is located to the south of W. Morris Boulevard and west of the intersection of W. Morris Blvd. and Sulphur Springs Road. Approximately 6,776 square foot structure is located on a 1.2 acre site, which also contains a second structure that is currently being leased to Fastenal. The Light Industrial zoning classification states that churches, synagogues, temples, and other places of worship are all uses permitted on review by the BZA. The property is bounded by industrially zoned

parcels to the north, east and west. The site does contain enough parking to meet the zoning ordinance requirement of one parking space for each four seats for an assembly use such as a church. The church currently has 60 seats which would require 15 parking spaces. There are 16 parking spaces available at the building currently. The Fastenal building next door has an additional seven marked parking spaces available on site. The applicant did provide a letter from the property owner, which was in the packet. Mr. Dale Wolfe provided this letter indicating that the two businesses, the church and the business that he leases to, will not be operating at the same time. If the church were to expand their size, there would be adequate parking to a certain number at this time. City staff has received no complaints regarding this use on review request from any adjoining property owners or any other citizens. Staff views the applicant's use of land for a church facility to be in accordance with the zoning ordinance's provision for religious facilities, one of the additional uses permitted on review that the Board may approve or disapprove. Staff recommends approval of this use on review request.

Ms. Engle explained the site is located across from Morristown Ford and it was previously occupied by NAPA Auto Parts.

Vice-Chairman Beier made a motion for approval of the use on review to allow Connection Fellowship Church in the Light Industrial (LI) District zone at 1111 W. Morris Boulevard; seconded by Boardmember Smith: Voting Results: 6 yes, 0 no. Voting yes were Secretary Garrett, Boardmember Thompson, Boardmember Smith, Vice-Chairman Beier, Mayor Thomas and Chairman Ball.

II. UORV 1566-2015: Polestar Development: to allow grocery store in Light Industrial District at 1750 W. 1<sup>st</sup> North Street.

Ms. Matthews explained we have a use on review request from Polestar Development Group for the property directly adjacent to Captain D's on W. Andrew Johnson Highway. As you can see, shown in the blue outline is the proposed entire site plan area. It is going to take up the old Justin's site and two buildings are to be demoed and one large parcel behind it, which is the owner of the parking lot. It is only the portion outlined in black that we need to talk about today and it is zoned Light Industrial (LI). Light Industrial (LI) does not allow for the uses that they have requested such as a grocery store and a gasoline kiosk. At a later date, staff would ask the planning commission the possibility of rezoning this to match the Intermediate Business District but for right now, we are asking for the use on review to accommodate the grocery store and gasoline kiosk. Total area size is roughly six acres the subject property is roughly half that size three acres. Staff sees no reason we should not go ahead and permit this use on review. Question was asked about the access through the L at the bottom. Ms. Matthews explained no sir that just happens to be our tax parcel maps had this piece of property laid out. I think this L realistically this is an easement that is how our data shows it. I believe it was a conveyance of an easement with that property at one time but it is not actually part of the parcel, it is just an error on the tax maps. Part of the access is going to be off of Economy and they are going to have another access point off of W. Andrew Johnson Highway. Ms. Matthews explained where the gas station and the grocery store were going to be located on the site.

Mr. Kimling explained that easement will not be used. The grade change between that back lot and green allied portion is just too steep of a grade to actually use that easement. The truck access will be coming off Andrew Johnson and then circling the store. Because of the substantial grade change, there will be a retaining wall.

Mayor Thomas made a motion for approval of the use on review to allow the grocery store in the Light Industrial (LI) District at 1750 W. 1<sup>st</sup> North Street; seconded Vice-Chairman Beier. Voting results: 5 yes, 0 no and 1 abstained. Voting yes were Secretary Garrett, Boardmember Thompson, Boardmember Smith, Vice-Chairman Beier and Mayor Thomas. Abstained was Chairman Ball.

III. UORV 1570-2015: Shannon Greene: to allow two principal structures on one lot at 4311 W. Andrew Johnson highway.

Ms. Engle explained this use on review request has been submitted by Shannon Greene to allow for the construction of two principal structures on one lot at 4311 & 4321 W. Andrew Johnson Highway. The site is located at the corner of S. Bellwood Road and W. Andrew Johnson Highway. The applicant intends to construct two strip mall type structures on this lot in conjunction with the development of the Merchants Greene area. The zoning ordinance states that only one principal building and its accessory buildings may be erected hereafter on any lot unless approval is given by the Board of Zoning Appeals. Staff has received no complaints regarding this use and would recommend approval of this request.

Boardmember Thompson explained is this so unusual that they needed to ask for a use on review for two structures on one lot that is not a common request. Ms. Engle explained the zoning ordinance does state any construction that is to occur with two principal primary structures on a lot would come before the Board of Zoning Appeals to be approved prior site plan approval or permits to be issued. Boardmember Thompson asked is there any other way they could do the two buildings may be the subdivision or any other process. Ms. Engle explained that is not something that has been provided by the developer and his engineer as something they might be exploring. I wonder if perhaps that might have something to do with the covenants and restrictions that were created as a result of the sale of the Walmart property. There are some restrictions on lots sizes and that sort of thing and that may be why they are not pursuing subdivision of the property. Chairman Ball explained I can only make an assumption and a guess is that he wants to try to build two buildings on the property because the cost of the land to maximize the utilization out of it. Because I think this is fairly expensive piece of property, the corner along W. Andrew Johnson Highway in front of Walmart. The price of it would most likely restrict the acquisition by the single use. Boardmember Thompson explained I understand the request is a fair request but the long term impact, because of the high density development on that one particular lot. Ms. Engle explained the conceptual plan that has been provided by the engineer and applicant indicates no access off of Andrew Johnson Highway. The access would come off this private drive that is shared with Walmart. There is also shown an access on Bellwood.

Mr. Price, Architect of record for project, and Mr. Harrison, Engineer of record for the signage and engineering work. The request for two buildings does come about through the agreement with Walmart in terms of building size. There would be a bigger building allowed in terms of Walmart restrictions if we did a single building but in terms of the typical shopping center development at a Walmart the size of the spaces are smaller, unique and it works much better in terms of servicing the spaces to have two buildings instead of doing a larger single building. From a structural standpoint, aesthetics standpoint from everything to sprinkler system design it just makes more sense to have two buildings instead of a single building. Boardmember Thompson explained there is a restriction on the size of the building. Mr. Price explained there is with the Walmart. The two buildings are smaller than the size of a single building that could be there. In terms of sight lines, it improves everyone's sight lines in terms of having two buildings rather than having a larger single building. There is a 50 foot space between the two buildings again it improves the sight line looking at the Walmart from W. Andrew Johnson Highway, but it also improves the appearance the aesthetics of the two buildings. Yes, it is a right in and right out in terms of the service drive coming to the site. Bellwood is primarily going to act as a service drive to service the rear of the building. With the covenants with Walmart, the driveways have to align in terms of the traffic circulation from this site to their site.

Boardmember Thompson made a motion to approve the use on review request to allow two principal structures on one lot at 4311 W. Andrew Johnson highway; seconded by Commissioner Smith. Voting results: 6 yes, 0 no. Voting yes were Secretary Garrett, Boardmember Thompson, Boardmember Smith, Vice-Chairman Beier, Mayor Thomas and Chairman Ball.

#### IV. Interpretation of Light Industrial (LI) Zoning District uses

Ms. Matthews explained staff needs an interpretation from the BZA regarding animal shelters in the Light Industrial (LI) Districts. Staff has had several questions come about lately with the potential of an animal shelter being located within such districts. Our regulations right now are not specific to that particular use. What we have listed in the Light Industrial District is dog grooming, kennel operation and animal hospital all which play a part in the day to day running of an animal shelter. With the request being specific and with animal shelter not being listed, we are asking for an interpretation from the BZA. Should it come before this board in the future how receptive would the BZA in allowing an animal shelter within a Light Industrial (LI) District. The North American Industrial Codes, which a lot of planning departments, federal government and cities use, they classify animal shelters more in line with commercial districts as hotels. Staff feels we already have dog grooming, kennel operation and animal hospital within the Light Industrial District it would not be a stretch in accommodating an animal shelter within this district. Staff was looking to see if it would come as a use on review before the BZA and would this board be willing to grant it.

Mr. Hartman explained basically it comes down to two things. This board would agree that the use as an animal shelter is similar enough to the other uses, that were mentioned, and would it be allowed in the Light Industrial (LI) District or we would need to add the term animal shelter to the Zoning Ordinance as an ordinance amendment. It would be a use on review in any way.

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You assume it as an interpretation to be similar in that zone and it would still have to come before this board as a use on review, if you see it that way.

Ms. Matthews explained so just leave it the way it is for now and do the request on a case-by-case basis.

The meeting was adjourned.

Respectfully submitted,



Robert "Bob" Garrett  
Secretary

RG/sk