

Morristown Board of Zoning Appeals

Minutes

March 14, 2017

Members Present

Vice Chairman Jack Kennerly

Board Member Beelaert

Board Member Wanda Neal

Board Member Bill Thompson

Secretary Bob Garrett

Board Member Alvarado

Mayor Gary Chesney

Others Present

Lori Matthews, Senior Planner

Logan Engle, Planner

Ralph "Buddy" Fielder, Asst. City Administrator

Steve Neilson, Planning Director

Greg Ellison, Chief Building Official

Gwen Campbell

Mike Campbell

Joan Campbell

James Campbell

Margaret Fox

Paul Howard

Josh Greene

Eddie R. Davis

Members Absent

Betty K. Davis

Wayne Skelton

Judy Tunnell

Patricia Lay

Kathy Greer

Larry Overholt

Eveleen Reed

Debra Williams

Sherri Wolfenbarger

Rufus Asher

Robert Friddle

I. Vice Chairman Kennerly called for the approval of the January 10th, 2017 minutes.

Board Member Thompson made a motion for approval of the January 10th, 2017 minutes; seconded by Board Member Beelaert. Upon voice votes, all Ayes.

II. Old Business: None

III. New Business:

Use-on-Review:

UORV-2033-2017: 601 East Louise Avenue – home occupation request for landscaping

Senior Planner Lori Matthews discussed the request received from Mr. Tony Strazzulo on behalf of his property located at 601 East Louise Avenue, near downtown Morristown. Mr. Strazzulo owns and operates a landscaping business. It is his intent to utilize the accessory building located along the southwest corner of his property as an office/computer room for his business.

The subject property is located at the corner of Montvue Avenue and East Louise which is just south of East High School and west of newly constructed Rutledge Place Apartment complex. Zoning within a 2,000 foot perimeter of the property is R-2 (Medium Density Residential).

The applicant relayed to staff that he had maintained an office at that location many years ago but since moved it and was wishing to move his office back to this location. This department

researched records associated with the property and could not locate any home occupation approval or any other type of approval which would have allowed this use at this location.

Per the City's Home Occupation guidelines, the proposed business is to operate from the owner's principal domicile with no more than 25% of it being dedicated to the business. The applicant has proposed that an office be set up in an accessory structure on the premise which does not meet our Home Occupation guidelines. After a field check of the site, it was found to have unpermitted accessory structures with heavy equipment and storage of landscape materials clearly visible from the streets and alley, all of which negate Home Occupation guidelines.

Mayor Chesney asked Ms. Matthews to confirm that Staff is recommending denial of this home occupation request. Ms. Matthews confirmed it.

Vice Chairman Kennerly stated that anyone from the audience could come up with any questions they may have.

Drama Davis came forward and stated that it is not just an office building and the applicant had been bringing mulch in. She states that the applicant puts his heavy equipment in the edge of Montvue Avenue and regularly blocks traffic. She also states that she strongly objects to the approval of this home occupation.

Larry Overholt came forward and stated that he is sure that the Planning Commission Members must be familiar with T.C.A. § 55-8-160 Section (a) (11), which goes into detail about the traffic. He states that the traffic is very congested on Montvue Avenue. The big trucks have to pull in and out of the proposed location of business and this extra traffic violates the Tennessee Code that I have already mentioned.

Rufus Asher of 535 Montvue Avenue came forward and stated that he strongly objects to this home occupation because there is already so much traffic in this area. He also objects to mulch on the property because it would attract rodents and termites.

Judy Janell stated that she lives across the street from the proposed home occupation business. She stated that there is heavy equipment there already and it blocks the alley sometimes. She also stated that if the applicant were allowed to store mulch on his property, it would interfere with her breathing problems.

Board Member Thompson made a motion; seconded by Board Member Beelaert.

Vice Chairman Kennerly made it clear that the vote is yes to approve it.

Voting Results: 2 yes, 5 no. Motion Fails. The request for a home occupation at this residence located at 601 East Louise Avenue has been denied.

UORV-2034-2017: 2546 Buffalo Trail Road – request for animal shelter in IB

Senior Planner Lori Matthews discussed the request received from Mr. Ritchie Broyles on behalf of property owner, Mark Sawyer, for approval of an animal shelter within and IB (Intermediate Business District). The property on 2546 Buffalo Trail Road is located approximately one mile south of the intersection of Buffalo Trail with Davy Crockett Parkway in north Morristown.

Currently, IB zoned properties do not allow animal clinics/hospitals and/or dog grooming/kennel operations to locate by right, but, all of these uses are permitted with the Board of Zoning Appeals approval. The non-profit business that is asking to relocate to the above mentioned property, typically involves all of the aforementioned uses such as veterinarian services, grooming, and possible long-term housing operations of animals. The use or review request is indeed in line with those uses as set forth under the City's IB regulations.

The proposed location consists of one building, formerly a nightclub and body shop, which is situated on one 2.75 acre tract. It has two access points from Buffalo Trail Road. Properties to the west, crossing Buffalo Trail, include Moose Lodge properties, and to the south, are large tract residential properties and a church. The site plus the convenience store properties are the only commercially zoned properties on this side of Buffalo Trail Road, though a motor vehicle sales lot sits on the north side of the convenience store.

Staff would recommend this land use be approved contingent on the applicant providing a site plan showing safe vehicular, animal, and pedestrian movement throughout the site when animals are being walked outdoors and that housing and dwelling of all animals be indoors. Staff has concerns over the proximity of the building to adjoining residential housing and the potential noise level of the animals.

Board Member Beelaert wanted to verify that this use would only go through with the Board of Zoning Appeals approval. Ms. Matthews confirmed his statement.

Vice Chairman Kennerly stated that the City Councilman would like to say a few words since he is a resident of the community near the proposed location for approval.

Councilman Dennis Alvis came forward and stated that he is representing the residents of Lakemoore. The neighbors have a deep concern about the noise and the property values. He stated that the proposed location actually borders residential homes and does not feel like it is a good fit.

Board Member Beelaert asked Ms. Matthews if she knows how far the edge of the concrete pad in the back is to the property line. Ms. Matthews pointed out the separation of trees and homes on the map, which was displayed on the power point.

Board Member Beelaert stated that anyone from the audience could come up and ask any questions they may have.

Ann Ross came forward and stated that she lives at 2240 Warren Drive and she does not want the animal shelter to be in her backyard. She also stated that this was not the right location for an animal shelter.

Michael Bratton came up and stated that he is the President of the Board of Directors for the animal shelter. He said that the animal shelter has been looking for property for a long time and they feel like this is the best location because they are limited on funds. He said that they plan on being excellent neighbors and not causing any problems.

Board Member Beelaert asked Mr. Bratton if there have ever been any odor complaints against their current location. Mr. Bratton said that other than the smells from the chicken factory, they have not.

Board Member Thompson asked Mr. Bratton if the animal shelter is the same as a kennel. Mr. Bratton replied that the shelter has two primary functions. The shelter is contracted with the City to collect stray animals and sometimes they have to house dogs for the City if they are on hold because of a dog bite or abuse. Most animals are only there for 1-2 months. He said that their main goal is to inform the public about spay and neutering their animals.

Board Member Beelaert stated that the main concern seems to be about the animals being outdoors and making noise. Mr. Bratton replied that they do not have any plans to do anything to the back of the property. However, the dogs will not be out there very long at a time. The dogs will only be outside when they need to be walked for exercise and they will be on leashes.

Councilman Alvis interjected and asked if he could ask a question. Vice Chairman said that would be fine.

Councilman Alvis if the boards ever change if the board has had issues in the past. Mr. Bratton replied that boards do change. Councilman Alvis stated that there is no way that Mr. Bratton can guarantee him that the board won't change again and they might not use the building as the current board states that they will.

Vice Chairman Kennerly stated that the argument has gone way over the current issue that is being presented and they are only here to determine if this location meets the requirements to be granted a use on review.

Board Member Thompson stated that one of the things to look at is to see what the impact on the surrounding properties will be. He said that he looked at the concrete pad and if they were approved, they might want to fence in the area. Mr. Bratton replied that if they were to fence in an area, it would be in the front where the grass is. He said that the back of the building is too small for them to use to walk the dogs.

Mayor Chesney asked Mr. Bratton if he talking about buying the whole building and what the square footage of the building is. Mr. Bratton replied that they do want to buy the entire building and that they think it is about 17,000 square feet.

Board Member Alvarado asked Mr. Bratton if they would be sharing the property. He replied that they would only be using one side of the building and they would probably lease the other half.

Ms. Matthews asked for clarification on the entire building not being used as the animal shelter. She said that this was the first she had heard of it possibly leasing the other side. Mr. Bratton replied that the current body shop currently rents month to month and would be given notice if they were to buy it. Board Member Beelaert said that the body shop issue would have to be dealt with at a later time.

Ritchie Broyles, the realtor came forward and stated that the animal shelter is under a time frame and really need to find a location. He said that the animals will be kept inside and he doesn't really understand why everyone is so concerned with the concrete pad. He also stated that he would like the Board's blessing for this non-profit business because it would be a great place for their fundraising efforts.

Mike Campbell came forward and asked for a guarantee from the Board that would state that their property values would not go down if this request is approved. Vice Chairman Kennerly replied that it would be impossible for them to do that. Mr. Campbell also stated that he strongly objects to the animal shelter being put at the proposed location.

Paul Howard came forward and stated that he is on the board for the animal shelter and would like to address a few of the things mentioned. He also said that he thinks that people are getting off of the topic. There will not be more animals running around just because the animal shelter is there. The point of the animal shelter is actually to make sure that there aren't any stray animals running around. He also wanted to remind people that they would be putting a fence up around the back of the building, so they wouldn't be bothered by the animals. He said that the animal shelter is under the gun and they are supposed to be out of their current location by the end of July. It would be a positive thing for the animal shelter. He reminded everyone that they would not be hearing excessive barking from the dogs. They would be inside except when they were being taken outside for a walk. He asked that the Board of Zoning of Appeals kindly approve their location request.

Eddie Davis came forward and stated that he has been involved with the animal shelter in some form since 1976 and he is currently on the board. He appreciates Councilman Alvis' comment that he is happy the current board is working very hard to correct past mistakes and make sure to keep it going well in the future. He said that his number is in the phone book and if there was ever a problem at this proposed location, anyone could look him up and he will personally go and fix the problem. He also stated they wanted to be the best neighbors that anyone ever had.

Robert Friddle came forward and stated that he lives approximately one hundred feet from the building and he currently hears the drills from the body shop every day. He said that if he can hear the drills, then he will definitely be able to hear loud dogs barking. He also stated that he is concerned about coming from Grainger County and dropping the animals off in front of the proposed location if no one is there.

Pam Velder came forward and stated that she is the Director of the animal shelter. She said that understand a lot of the concerns and that when they go into the building, they would be correcting a lot of these problems. They will have to have special insulation, drainage, new heating/air, and soundproofing. She also stated that they would have the big bay doors removed, so people wouldn't have to worry about those being opened. The building has to be soundproofed anyways because the cats can't be hearing the dogs barking because it creates stress.

Board Member Thompson asked Ms. Velder about the design itself. He also asked what would happen to the animal waste. Ms. Velder said they would have to go in and actually have a special drainage set up for the animals. She said the goal was for all of the animals to be on the inside because it is easier to keep them from getting too cold in the winter and too hot in the summer.

Board Member Beelaert stated that the approval of this location would be contingent upon the applicants showing a safe site plan for the animals and the humans.

Mayor Chesney stated that what actually happens on July 1, 2017, is that the contract between the City and the animal shelter ends. The Public Works building also has to be vacated because the City has purchased land at Merchant's Greene and will be building a new facility for Public Works. The current property sits on land that is intended for future expansion of the technology center next door and the City plans on donating the land to the state for that purpose. The vacating of the site is not likely to happen on July 1, 2017 so the animal shelter will not have to move immediately on that date. He also stated this is not for sure a done deal yet, but it is more likely to happen than not.

James Campbell came forward and stated that there is a misconception that the residents are worrying about seeing the animals and that is not the case. He said that they are worried about hearing the animals. He doesn't understand why the animal shelter can't just build somewhere else.

Board Member Thompson asked for a motion to table this topic until the next meeting. Vice Chairman Kennerly said that he did not see any reason to table it since it had been well discussed. Therefore, motion died for lack of second.

Board Member Beelaert made a motion to approve the request and it was seconded by Board Member Thompson.

Voting Results: 3 yes; 4 no. Motion fails. The request for the Use on Review at 2546 Buffalo Trail Road has been denied.

VARI-2031-2017: 228 East 3rd North Street- request for a 10 ft. variance

Planner Logan Engle discussed the variance request submitted by Mr. Chris Simmons in regards to the relocation of an existing residential structure onto a property located at 228 East 3rd North Street. The applicant plans to move the home from the church property to this parcel in the following weeks.

The parcel is zoned R-2 (Medium Density Residential District). It is bounded by R-2 zoned parcels to the east, north, and south. The western adjacent properties are zoned R-1 (Single Family Residential).

The variance request for this property is a front yard setback variance of 10 feet. The front yard building setback required for the R-2 zone is 25 feet in accordance with Section 14-605 of the Zoning Ordinance. Mr. Simmons is seeking to place the home 15 feet in accordance from front property line. Granting of this variance request would not allow for any additional deviations from the setback restrictions.

Mr. Simmons seeks this variance to preserve the existing conditions within the neighborhood. In addition, many of the homes along East 3rd North Street are nonconforming to the Zoning Ordinance due to changes in zoning requirements and setback guidelines since the homes were initially constructed. Staff believes that the granting of this variance will be in keeping with the character of the neighborhood.

Mayor Chesney made a motion for approval of the request and it was seconded by Board Member Thompson.

Voting Results: 7 yes; 0 no. Motion Carries.

UORV-2026-2017: home occupation request for a barbershop at 117 Montrose Avenue

Planner Logan Engle discussed submitted by Rosa Maria Colon Gonsalez, who is the current occupant of 117 Montrose Avenue. This is site located east of South Cumberland Street. In order to obtain a Home Occupation Permit, the applicant must submit a Use on Review request to the Board of Zoning Appeals for approval. The applicant currently lives in the home. The subject property and all surrounding properties are zoned IB (Intermediate Business) and are used for a mixture of commercial and residential uses.

City staff has received no complaints from adjacent property owners at this time.

Staff views the applicant's use of the residential property to be in accordance with the home occupation permit regulations and recommends approval.

Board Member Thompson made a motion for approval and it was seconded by Board Member Neal.

Voting Results: 7 yes; 0 no. Motion Carries.

C. Interpretations: None

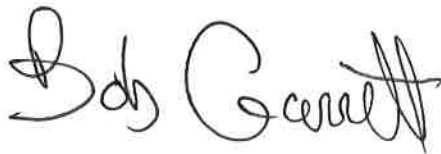
The meeting was adjourned.

Respectfully submitted,

Bob Garrett

Secretary

BG/jc



4-11-17