

MORRISTOWN BOARD OF ZONING APPEALS
AGENDA
March 14th 2017



Call to Order

I. Approval of January 10th 2017 minutes

II. Old Business: none

III. New Business:

1. Home occupation request located at 601 E. Louise for landscaping business to have in-home office.
2. Use on review request for animal shelter in IB (Intermediate Business) district to be located at 2546 Buffalo Trail.
3. Variance request for 228 E. 1st North Street.
4. Home occupation request for 117 Montrose Avenue to allow for a barbershop.

Adjournment

The next meeting of the Morristown Board of Zoning Appeals is scheduled for April 11th, 2017 at 4:00 PM. The deadline to submit applications for this meeting is March 20th, 2017.

Morristown Board of Zoning Appeals

Minutes

January 10, 2017

Members Present

Board Member Jim Beelaert

Vice Chairman Jack Kennerly

Board Member Wanda Neal

Board Member Bill Thompson

Secretary Bob Garrett

Mayor Gary Chesney

Others Present

Lori Matthews, Senior Planner

Logan Engle, Planner

Ralph “Buddy” Fielder, Asst. City Administrator

Steve Neilson, Planning Director

Kat Morilak, Development Services

Eual Noah, Fire Marshall

Tim Oakes

Agnes Sexton

Clint Harrison

Phillip Carlyle

Members Absent

Chairman Doug Beier

I. Vice Chairman Kennerly called for the approval of the November 8th, 2016 minutes.

Commissioner Neal made a motion for approval of the November 8th, 2016 minutes; seconded by Commissioner Thompson. Upon voice votes, all Ayes.

II. Old Business: None

III. New Business:

A. Use-on-Review:

UORV-2010-2016: Oakes Salvage – Request to allow building material yards in IB

Planning Director Steve Neilson discussed a request that was received for Use Permitted on Review for property located at 171 Algonquin Drive. The applicant, Tim Oakes is proposing to expand the existing building material yard (Oakes Salvage) on the vacant property to the rear. The property is currently zoned IB (Intermediate Business).

Building material yards are allowed as a Use Permitted on Review in the IB District (Section 14-1003) provided it meets the following conditions:

- a.) The storage yard shall be screened from all residential uses and districts with a fence a minimum six (6) foot tall. The fencing may be wood, brick, or other material that is at least 75 percent opaque.
- b.) The property shall have access from a collector or arterial street.

The applicant is proposing to construct a solid ten (10) foot tall fence along the residential property to the east and along Algonquin Drive. Algonquin Drive is classified as a collector street. Staff finds that the applicant meets the conditions under Section 14-1003.

Kelly Lish came forward to speak to the subject. He wanted to address the long term goal of vision for that end of town, specifically to the aesthetic appeal. He said that he has complained several times about the amount of trash that is currently around Mr. Oakes' establishment. He said that he feels like it is the City's fault and not Mr. Oakes. He feels like the Codes Enforcement officers should enforce rules that pertain to excessive trash outside your property. Vice Chairman commented that we should allow Mr. Oakes to construct his fence and then the city can scrutinize afterwards. He also assured Mr. Lish that the city will take care of it.

Tim Oakes, the owner of Oakes Salvage stated that they plan to organize and address the problem as soon as they get this approved and construct the fence. He said he will clear out the back lot to appease his neighbor, Mr. Lish.

Mayor Chesney made a motion approve the Use Permitted on Review for Oakes Salvage and it was seconded by Board Member Thompson.

Voting Results: 6 yes; 0 no. Motion Carries.

UORV-201-2016: 1040 Buffalo Trail – Request to allow auto detailing shop in LI

Senior Planner Lori Matthews discussed the request received from Mr. Eddie Howard on behalf of property owner Mr. J.R. Tipton for his property located at 1040 Buffalo Trail. The property which is zoned Light Industrial (LI), is located at the intersection of Carriger Street and Buffalo Trail in north Morristown.

There are currently two buildings on this one acre tract which has vehicular access off of both Buffalo Trail and Carriger Streets. The primary structure which fronts Buffalo Trail has been used for various businesses in the past. These include an automotive towing business and a crafts store. A recent staff site visit revealed the accessory structure along the north side of the property to house an herbal vitamin retail business. The rear of the property which adjoins a residential district is being used for storage of automobiles for the towing business.

Zoning which surrounds the property is predominantly Light Industrial (LI) with Intermediate Business (IB) to the north of the site and residential zoning (R2) to the east.

As recently as this past year, there was in operation an automotive detail business at this location but it had not received any approvals from the Zoning Appeals Board. Since that time, another lessor of the property has engaged in the same type of land use but was not aware of the required approval process. He now seeks approval for an automotive detailing business so that it will be in compliance with the city codes.

As the intended use had been an active use on sight in the past, albeit not an approved use; staff had not received complaints of negative impacts generated from the former carwash/detailing use by any of the surrounding properties. Staff also sees this as a lower impact use than the use which is currently onsite with the towing business. The Zoning Ordinance states the changes in use with regard to parking standards must submit a site plan so staff would recommend approval of this use on review request pursuant to the applicant/property owner providing a sketch of the property showing vehicular movement throughout the site, the automobile storage, and parking for each use.

Board Member Beelaert made a motion to approve this use on review request and it was seconded by Board Member Thompson.

Voting Results: 6 yes; 0 no. Motion Carries.

B. Variances:

VARI-2016-2016: Parke Villas request for 2 buildings on 1 lot

Senior Planner Lori Matthews discussed a request that has been received by Mr. Phillip Carlyle for his property located along the west side of Central Church Road. His request is to vary from

Section 14-209 One Principal Building on One Lot, of the Zoning Ordinance which states the following:

“Only one principal building and its accessory buildings may be erected hereafter on any lot. In the Residence Districts, any dwelling shall be deemed to be the principal building on the lot on which the same is situated, except rear dwellings as provided in Section 14-214.”

The applicant is currently going through the site plan review process for a multi-family residential planned unit development to consist of 63 two-story townhouse style units on one 6 acre parcel. Access to the site will be a private driveway off of Central Church Road. No public street is to be constructed or maintained for this development.

Zoned (R2) Medium Density Residential, the proposed site and its zoning designation is compatible with surrounding properties as both sides of Central Church Road have been developed for residential use. Walden Place Subdivision, a mixed single and multi-family development sits to the south, Westside Mobile Home Park adjoins to the north, and single family residential subdivisions Echo Hills and Westview adjoin this site to the west and east respectively.

The whole of the development is to remain private with no public infrastructure to be constructed or maintained and all living quarters will be occupied as rental units exclusively. Therefore, staff would recommend approval of the variance as requested for construction of multiple buildings on one lot. If any of the townhomes were to be sold in the future, they would have to meet all applicable requirements with regard to local, state, and federal laws to include the Tennessee Horizontal Properties Act.

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

Voting Results: 6 yes; 0 no.

C. Interpretations: None

The meeting was adjourned.

Respectfully submitted,

Bob Garrett

Secretary

BG/jc

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown Regional Planning Commission
FROM: Lori Matthews, Senior Planner
DATE: March 14th 2017
SUBJECT: Home occupation request for in home office for landscaping company

SUBMITTAL REQUEST -

A request has been received from Mr. Tony Strazzulo on behalf of his property located at 601 E. Louise Avenue (Hamblen County Tax Map # 032034P I 02100) 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 E. Louise which is just south of East High School and west of (the 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 had 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 nor any other type of approval (use on review, special exception) 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 not 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.



Based on staff site visits to the property and research pulled from other sources, staff would recommend the Board deny approval of an in-home office (Home Occupation) at this time.

BOARD OF ZONING APPEALS OPTIONS:

- 1.) Grant home occupation use as submitted;
- 2.) Grant home occupation use with conditions;
- 3.) Deny home occupation use;
- 4.) Table the request for further information.

View from southwest property corner looking east down Louise Avenue and proposed location front.



View from alleyway behind subject location and principle residence.



14-228. HOME OCCUPATION (3341-09/18/2008)

1. A Home Occupation Permit is required prior to the usage of any residential structure as a Home Occupation in accordance with the provisions herein; the only exclusion to this requirement are those businesses in which all of the following apply:

- a) do not require a business license.
- b) do not generate any additional traffic to the premises.
- c) do not advertise the business with any sign on the premises.
- d) do not utilize any employees that are not full-time residents of the domicile.
- e) do not store any materials outside the principal residential structure.
- f) do not involve any on-site retail sales or professional services open to the public.

2. An applicant for a home occupation permit shall submit an application to the Board of Zoning Appeals in a form as required by the city administrator or his assignee along with the required fee for a USE ON REVIEW permit as approved by City Council.

3. The Board of Zoning Appeals may issue a home occupation permit when the application is found to comply with the following criteria:

- a) The applicant(s) shall demonstrate that the location for the home occupation is their principal domicile,
- b) Not more than 25% of the gross floor area or 500 square feet, whichever is less, of the principal domicile or any accessory structure shall be used for the home occupation, including the storage of any materials or products related to the home occupation.
- c) No more than one employee affiliated with the home occupation who is not a permanent resident of the dwelling unit shall be employed at the site of the home occupation.
- d) No more than one home occupation may be permitted per dwelling unit.
- e) Products or materials shall not be visible on the premises from any street or sidewalk adjacent to the property on which the home occupation is situated.
- f) A home occupation shall be limited to one, wall-mounted sign, mounted flatly against the structure, that shall not exceed two (2) square feet in size and such sign shall not have lights, be illuminated, flash, glimmer, flutter, or have movement by any electronic, wind or other means.
- g) There shall be no significant increase in the use of utilities such as water, sewer, gas, garbage or electricity that would indicate the usage of the property other than the use for residential purposes.
- h) There shall be no external storage of materials incidental to the home occupation.
- i) No equipment or process associated with the home occupation shall generate noise, vibration, smoke, dust, glare, electrical interference, odors, fumes or other objectionable effect detectable to the normal senses beyond the property lines of the lot on which the business is situated, or if within a multi-family structure, beyond the confines of the individual dwelling unit.
- j) Off-street parking shall be provided on the premises in sufficient quantity to accommodate all residents of the domicile, delivery vehicles, employees, clients, customers, students, visitors, etc. affiliated with the residence and the home occupation.
- k) No activity related to the home occupation shall be permitted outdoors on the property.
- l) No new construction or alterations to any existing structure on the site shall be made to indicate from the exterior that the buildings are being used for other than residential purposes.
- m) There shall be no group instruction in connection with the home occupation. For the purposes of this subsection, instruction shall be group instruction if it involves more than two (2) students at any time.
- n) There shall be no group assembly involved with the home occupation.
- o) Deliveries to the premises shall be consistent with the intent and purpose of maintaining the residential character of the neighborhood and shall not exceed two business deliveries between the hours of 8:00 a.m. and 6:00 p.m. to the premises per day.
- p) One (1) commercial vehicle (one and one-half ton or less in size) owned by the residents of the domicile may be used in conjunction with the home occupation. The vehicle will be deemed in use for the home occupation if it advertises the home occupation and/or contains or stores materials including stock, wares, goods, samples or equipment. Such vehicle shall be stored in a garage or building or shall be concealed so as not to be visible from the street or sidewalk adjacent to the premises when it is parked at the residence.
- q) No earth moving equipment or heavy construction or hauling equipment or building materials shall be allowed on the premises.
- r) The Board of Zoning Appeals, when considering a permit for a home occupation, may render additional requirements specific to a particular application as it may deem necessary to protect the intent and purpose of maintaining the residential character of the neighborhood in which the application is being sought.
- s) Home Occupation permits shall not be transferrable. A new home owner, property owner, descendant, heir or individual other than that to whom the Board of Zoning Appeals issues a home occupation permit shall be required to apply for a new home occupation permit.
- t) The applicant(s) shall have signed a notarized Affidavit of Zoning Compliance for a Home Occupation, Section 14-228 Zoning Ordinance of the City of City of Morristown stating their agreement to comply with the standards set forth herein.

4. The holder of a home occupation permit is required to continuously comply with all conditions of its issuance or suffer revocation as provided below:

- a) A home occupation permit shall be revoked when it is determined that the conditions of its issuance are not being met.
- b) The permit holder of the home occupation shall be notified in writing that the conditions of its issuance are not being met with the specific infractions noted.
- c) The permit holder of the home occupation shall be given ten (10) calendar days from the postmark of written notification of non-compliance to contact the city to resolve the issue of non-compliance.

Should the issue not be resolved, the City Administrator or his assignee shall notify the permit holder that the Home Occupation Permit has been revoked and all business activities associated with the home occupation shall terminate immediately upon receipt of the notice.

5. Appeals to the revocation of a home occupation permit shall be made in writing to the Board of Zoning Appeals within seven (7) calendar days of the date of the revocation notice. A timely filed appeal shall result in the revocation action being held in abeyance pending the hearing by the Board of Zoning Appeals.

6. A notice of application for appeal shall be posted by the city on the applicable property.

7. A public notice shall be published in a newspaper of general circulation advertising the nature of the appeal and the date, time and location at which the Board of Zoning Appeals shall consider the issue.

8. An appeal hearing before the Board of Zoning Appeals shall be limited to the issue of whether the applicant complies with the criteria to be issued a home occupation permit or whether a permit holder continuously meets the criteria required for the issuance of a home occupation permit.

9. The Board of Zoning Appeals shall not grant a variance from the established criteria for the issuance of a home occupation permit.

10. The Board of Zoning Appeals shall not hear an appeal that is not timely filed as provided in this Section.

Circa 2008 and 2013



City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown Regional Planning Commission
FROM: Lori Matthews, Senior Planner
DATE: March 14th 2017
SUBJECT: Special use request for animal shelter in IB (Intermediate Business) district

SUBMITTAL REQUEST -

A request has been received from Mr. Ritchie Broyles on behalf of property owner, Mark Sawyer, for approval of an animal shelter within an IB (Intermediate Business) district. The property, 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 Board of Zoning Appeals approval. The non-profit business being asked to locate at the above described property typically involves all of the aforementioned uses such as veterinary services, grooming and possible long-term housing operations of animals (usually domestic cats and dogs) so, the use approval request is indeed in-line with those uses as set forth under the City's Intermediate Business regulations.

The proposed location consists of one building, formerly a nightclub and body shop, situated on one 2.75 acre tract having two access points from Buffalo Trail. Properties to the west crossing Buffalo Trail include Moose Lodge properties, to the south sit large tract residential properties and a church (Morristown Wesleyan Church). A convenience store and residential lots (Lakemore Subdivision) adjoin the site to the north and east. This site plus the convenience store properties are the only commercially zoned properties on this side of Buffalo Trail 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(s) providing a site plan showing safe vehicular/pedestrian/animal movement throughout the site when animals are being walked outdoors and that housing/dwelling of all animals be housed in-doors. Staff has concerns over the proximity of the building to adjoining residential housing and the potential noise level of the animals.

Aerial and Zoning circa 2015



BOARD OF ZONING APPEALS OPTIONS:

- 1.) Grant use as submitted;
- 2.) Deny use request;
- 3.) Grant use with conditions;
- 4.) Table request pending additional information.

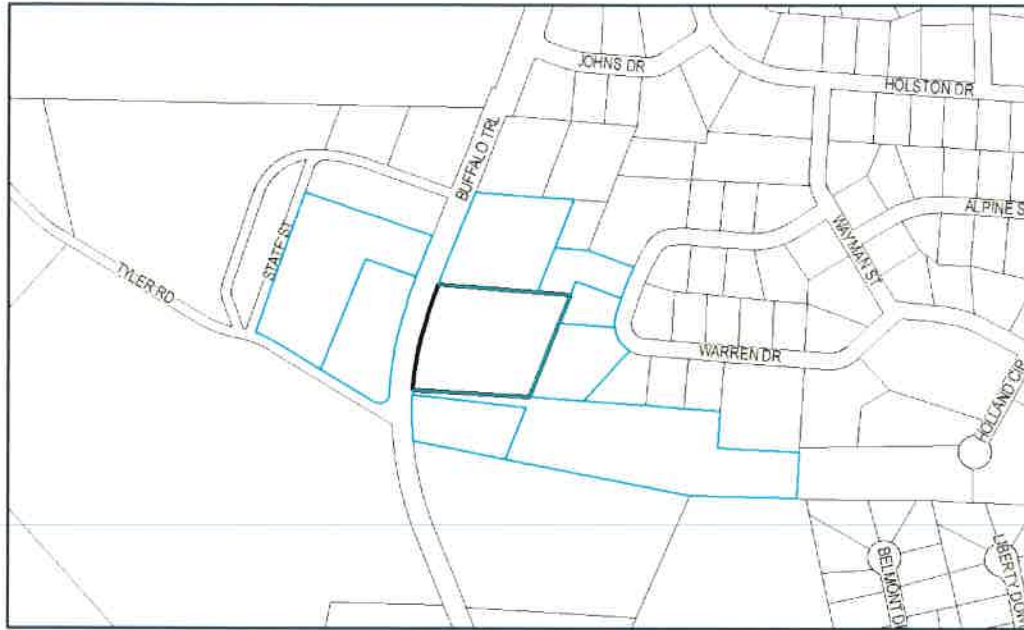
Location as seen from Buffalo Trail Rd



Site location as seen from rear



Properties notified via mail





Department of Community Development
West 1st North Street
Morristown, TN 37814
(423)585-4620

TO: Morristown Board of Zoning Appeals
FROM: Logan Engle, Planner
DATE: March 14, 2017
SUBJECT: Variance – 228 East 3rd North Street

BACKGROUND:

A variance request has been submitted by Mr. Chris Simmons in regards to the relocation of an existing residential structure (First Presbyterian Church Manse) 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 Medium Density Residential (R-2). It is bounded by R-2 zoned parcels to the east, north, and south. The western-adjacent properties are zoned Single Family Residential (R-1).

The variance request for this property is a front yard setback variance of 10'. The front-yard building setback required for the R-2 zone is 25' in accordance with Section 14-605 of the Zoning Ordinance. Mr. Simmons is seeking to place the home 15' from the 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. Enclosed documentation indicates where he plans to place the home on the vacant property. 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.

RECOMMENDATION:

Due to the desire to preserve the nature of the existing neighborhood and to ensure appropriate placement of the home, staff would recommend that the Board of Zoning Appeals grant the requested front setback of 10'.







Department of Community Development
West 1st North Street
Morristown, TN 37814
(423)585-4620

TO: Morristown Board of Zoning Appeals
FROM: Logan Engle, Planner
DATE: March 14, 2017
SUBJECT: Use on Review Request for a Home Occupation Permit– 117 Montrose Ave

BACKGROUND:

A Use on Review request has been submitted by Rosa Maria Colon Gonzalez, current occupant of 117 Montrose Avenue. This site is 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 is seeking the permit to operate a single chair barber shop, Barberia Boricua Anubis. The applicant currently lives in the home. The subject property and all surrounding properties are zoned Intermediate Business (IB) and are used for a mixture of commercial and residential uses.

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

RECOMMENDATION:

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

OPTIONS:

1. Board may approve the request;
2. Board may deny the request.

