

**MORRISTOWN BOARD OF ZONING APPEALS
AGENDA
June 12, 2018**



Call to Order

I. Approval of April 10th, 2018 minutes

II. Old Business: none

III. New Business:

VARI-2204-2018: Request for side yard setback variance @ 2308 Ella Ct.

VARI-2205-2018: Request for front yard setback variance @ 3434 Walden Place

Adjournment

*The next meeting of the Morristown Board of Zoning Appeals is scheduled for July 10, 2018 at 4:00 PM.
The deadline to submit applications for this meeting is June 18, 2018.*

Morristown Board of Zoning Appeals

Minutes

April 10, 2018

Members Present

Chairman Bill Thompson

Vice Chairman Jack Kennerly

Board Member Wanda Neal

Secretary Bob Garrett

Mayor Gary Chesney

Others Present

Steve Neilson, Community Development Director

Lori Matthews, Senior Planner

Josh Cole, Planner

Greg Ellison, Chief Building Official

Lauren Carroll, City Attorney

Angela Waites

Jennifer Greene

James Treece

Members Absent

Board Member Jim Beelaert

Chairman Bill Thompson called the meeting to order and invited anyone who wished to join the Commission in an Invocation and the Pledge to do so.

I. Chairman Bill Thompson called for the approval of the February 13th, 2018 minutes.

Board Member Neal made a motion for approval of the February 13th, 2018 minutes and it was seconded by Mayor Chesney. Upon voice votes, all Ayes.

II. Old Business: None

III. New Business:

UORV-2187-2018: Request for an elderly care facility @ 2009 Murray Street

Senior Planner Lori Matthews stated that the use on review request that was submitted by Jennifer Green and Angie Waites, acting on behalf of all owners for their property located at 2009 Murray Street. The owners are seeking approval of a convalescent/nursing home type use in order to continue operation of a Home for the Aged.

The subject site is zoned Medium Family Residential (R-2), which permits operation of convalescent and nursing homes with the Board of Zoning Appeals approval. Currently, the property, being ½ acre in size, contains one two-story house with driveway access to both Murray Street and South Outer Drive.

The property owners met with City Staff on March 8th to discuss compliance issues. The owners stated they had originally housed fewer people and therefore, had thought the facility to be classified as a group home. The definition of a group home per T.C.A. 13-24-102 is that of a single family residence in which eight or fewer, unrelated mentally or physically handicapped persons reside, and may include up to three house guardians. After meeting with the owners, Staff was made aware there were currently twelve elderly residents living at 2009 Murray Street between four bedrooms upstairs and two bedrooms downstairs. In addition, there are four employees which stay with the residents. It was concluded that the owners needed to contact the State of Tennessee for licensure approval and to submit a use on review request to gain approval from the BZA, along with a site plan showing parking areas. Staff informed the owners that it appeared, having read State regulations, that they needed to contact an architect as soon as possible to get the building into compliance via building plans.

Since that meeting, a State of Tennessee Health Surveyor visited the property and found that the business was not in compliance with State regulations for operation of either a home for the aged or an assisted care living facility. The owners spoke again to Staff on or about March 16th about making application to the BZA for approval. Staff advised them that even with approval from the BZA for this type of activity, the approval would be contingent on their obtaining full approval from the State of Tennessee. They would also need to secure architectural plans, meet life safety code requirements, pave adequate parking spaces, and hire a State specified medical staff.

Staff recommended a ninety day timeframe for the applicant to meet and comply with all State of Tennessee requirements pertaining to the operation of a home for the aged. Once compliance with the State has been achieved, the City's requirements would also need to be met.

Mayor Chesney stated that he had difficulty giving approval to this request since there were so many guidelines that needed to be met. He then made a motion to postpone the item for ninety days and at that time; Staff could make sure that there had been a good faith effort put forward. The motion was seconded by Vice Chairman Kennerly.

Angela Waites came forward and stated they have the financial means to make the required improvements to come up to code and have already been in contact with an architect. She also stated that they had applied for their State license and they already have their Administrative license. Ms. Waites said that they couldn't move forward with the next steps until they were granted approval of this use on review request. The reason was because they cannot see using their funds to make improvements when they are not sure if they have to move facilities or not.

Vice Chairman Kennerly pointed out that he felt like the Board and Staff were losing sight of what their role was. He stated that they are only meant to approve the use for that particular zone and that it is not their place to get into the logistics of what the State requires for licensing. If the facility does not get their State license, then they wouldn't be operating in that area anyways.

Mayor Chesney asked Staff what the reason was behind the ninety day postponement recommendation. Community Development Director Steve Neilson replied that after talking with the City Attorney, he did not think the ninety day wait would solve anything and that he agreed with Vice Chairman Kennerly and the only decision that needs to be made is whether this use is appropriate for its current location. Mayor then asked if Staff felt like the facility was zoned for that location. Mr. Neilson stated that they do.

Mayor Chesney then stated that based on Staff's new recommendation; he wanted to withdraw his previous motion to table the item for ninety days. Vice Chairman Kennerly also withdrew his second motion.

Then, Vice Chairman Kennerly made a new motion for immediate approval of the use on review request and it was seconded by Board Member Neal.

James Treece came forward and stated that he and his wife were opposed to the elderly care facility being allowed in the residential neighborhood and they were also opposed to the parking variance for the property.

Ms. Matthews stated that after talking with the City Attorney, Staff would like to change their recommendation to tabling the item for thirty days so they would feel more comfortable with the terms and progress made at that time.

Jennifer Greene came forward and stated that she is the Administrator over the facility and they are at the point where they need the zoning letter so they can move forward with installing the sprinkler system, etc. to make improvements.

Vice Chairman Kennerly stated that these types of facilities are popping up in town quite frequently and not always taking care of the residents. In this case, the applicants seem to be taking care of the residents and wanting to do the right thing. If this use gets approved and the applicants go on to succeed; it could help the Board in the future to tell applicants that it can be done.

Ms. Matthews stated that Staff now recommended approval of the use on review request immediately.

To clarify, the final motion was to approve the use on review request.

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

VARI-2188-2018: Request for a parking variance @ 2009 Murray Street

Senior Planner, Lori Matthews discussed the parking variance request submitted by Jennifer Green and Angie Waites. The request was to vary from Section 14-216-3, Off-Street Parking Requirements.

The property, one half acre in size, contains a single family residential house under construction for a change in use to an elderly care facility. The building has access to South Outer Drive and Murray Street.

The house currently has two narrow driveways, neither one appear to be wider than twelve feet. Current minimum parking regulations stipulate parking stalls be a minimum of 9.5 x 18 feet in size and they must be paved. A site plan submitted by the applicant shows the existing parking availability of 2 vehicles and an expansion of 2 vehicles for a total of 4 parking spaces provided on site. This would be a variance of spaces from the currently required 1 space per 250 square feet of total floor area for medical facilities. Records indicate that the residence has roughly 1,500 square feet on the second floor and the bottom floor has been finished, for a total of 2,500 square feet. This requires 10 parking spaces of which one needs to be handicap accessible.

Staff recommended that the facility have a minimum of 6 parking spaces.

Vice Chairman Kennerly made a motion to approve the parking variance that requires the applicants to have a total of 6 parking spaces on a hard surface and it was seconded by Board Member McGuffin.

Voting Results: 5 yes; 1 no. Motion carries.

The meeting was adjourned.

Respectfully submitted,

Bob Garrett

Secretary

BG/jc

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown Board of Zoning Appeals
FROM: Lori Matthews, Senior Planner *[Signature]*
DATE: June 12th, 2018
REQUEST: Variance Request to Side Yard Setback(s)

BACKGROUND:

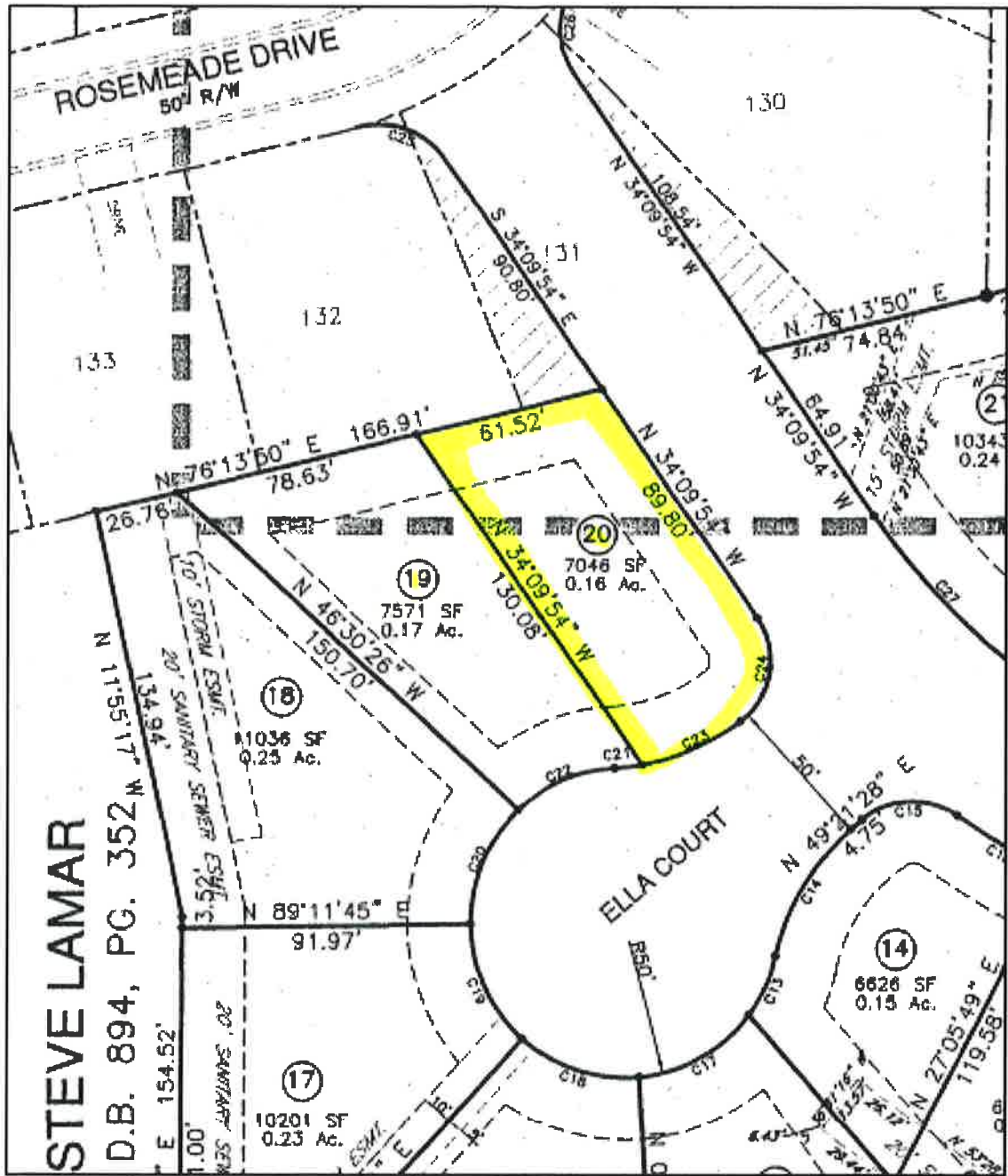
A variance request has been submitted by Mr. Tej Patel for his property located in Phase VI of the Lochmere development located on the north side of Cherokee Drive at its intersection with Walters Drive. Mr. Patel seeks a 2 foot side yard variance (1 foot for per side) for his property located at 2308 Ella Court (Lot 20).

This portion of Lochmere is zoned R-3 which requires minimum side yard building setbacks of 10 feet. The record subdivision plat (graphic shown on following page), shows Lot 20 and the one adjoining to the west (Lot 19) having been designed for a duplex in 2008. The development as a whole is comprised of both single family units and duplex residential housing.



RECOMMENDATION:

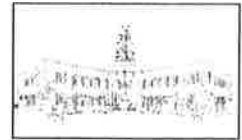
Staff sees the requested 2 foot variance as being within an acceptable range due to the narrowness of the lot (at 62.5 feet) and would ask that the Board of Zoning Appeals grant the variance as submitted.



City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown Board of Zoning Appeals
FROM: Lori Matthews, Senior Planner *LM*
DATE: June 12th, 2018
REQUEST: Variance Request to Front Yard Setback

BACKGROUND:

A variance request has been submitted by Lakeview Management and Development for lot 11 of Walden Place subdivision located off of Central Church Road. Mr. Eddie Hurley will be acting agent for the requested variance.

Walden Place subdivision adjoins Hamilton Place (condominiums) to the north and Parke Villas (townhomes) to the south. Originally planned for multi-family condominiums, the Planning Commission approved a revised subdivision plat in 2015 which included 11 single family residential lots, a decrease of 10 units from the original planned unit development which showed 21 condominiums.

The subdivision and surrounding Lot 11 (shown below) are zoned R-2 (Medium Density Residential) which requires a minimum 25 foot building setback from the front property line. The applicant is requesting a 1.7 foot variance to this requirement. As can be seen below, the east side of Lot 11 contains numerous utility easements, of which the sum total encompasses roughly 1/3 of the entire property.

RECOMMENDATION:

Staff would ask that the Board of Zoning Appeals grant the 1.7 foot variance based on the buildable area being reduced by the utility easements.

