**Board of Zoning Appeals**

**Meeting Minutes**

**June 5, 2019**

**Call to Order and Roll Call**

Meeting called to order at 6:30 p.m.

**MEMBERS PRESENT:** Corey Karn, Dan Vail, Jon Horton, Grant Adams, Steve Duhamel

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Director of Planning Ryan Crum, Town Manager Tonya Galbraith, Administrative Assistant Jennifer Pack, Attorney Gregg Morelock

**Agenda Consideration**

None

**Approval of Minutes**

The September 5, 2018 Meeting Minutes were not approved at the March 6 meeting because there was not a quorum to approve.

**Motion by Dan Vail to approve the minutes from the September 5, 2018 meeting. Jon Horton seconded the motion. Vote carried 5/0. Motion approved.**

**Motion by Mr. Vail to approve the Minutes from the March 6, 2019 meeting. Mr. Duhamel seconded the motion. Vote carried 5/0. Motion approved.**

**Old Business**

None

**New Business**

***Robert Tedder Special Exception Request to allow a retail sales land use in Old Town Zoning***

Staff Introduction: The property in question is located on the corner of 2nd St. and 600 West, in OT. It is zoned single family residential, with special exceptions for retail and office. This property was approved for office use under previous owner with the commitment made that made that this property will always be allowed for office use. If the Special Exception is allowed, the petitioner will need to go before the Plan Commission and the Town Council and seek approval of a commitment modification. This would be the first step in a longer process

Mr Tedder: I own the insurance agency that is on the property and would like to open a CBD retail store in the remaining space. It will comprise 300-500 sf of the building.

Mr. Vail asked about the parking situation. Mr. Tedder said that they have 6-8 paved parking spots. Mr. Crum added that the parking is partially located in ROW some probably wouldn’t meet current parking standards, but would be grandfathered in. Mr. Horton asked if the number of parking spaces needed depended on the size of the structure or the amount of space being used. Mr. Crum explained that office and retail requires 1 space per 300 sf of the total structure. If this Special Exception is granted, that whole building could one day be used entirely for retail so we need to plan for the future use. The building is 1900 sf. The current six spots are grandfathered in. If we make the change, it needs to meet the current zoning standards.

Mr. Duhamel asked about the number of customers they expected per day and Mr. Horton asked if there is an online component or is it strictly storefront. Mr. Tedder said that it was strictly storefront.

Mrs. Rochelle Tedder explained that this is a legitimate, reputable business. Friends of hers that also own CBD storefronts say that they get 2-3 customers in at time and that there is such low volume that traffic is a minor consideration. She claims that they have spoken to the neighbors and that there is no opposition. Mr. Horton said that the concern is that the long-term look is that if BZA makes an exception, that exceptions stays even if you decide to move out and someone else moves that it stays retail and the increase in traffic that could come from that.

Staff Comment

Mr. Crum stated that staff doesn’t believe that retail is appropriate for this property because will increase traffic in the area, it is immediately adjacent to single-family residential properties, and it does not meet the zoning requirements for retail. Even if a portion of the alley was used for parking, it still wouldn’t meet the requirements for drive aisle and parking. Mr. Karn asked what it would take to meet code. Mr. Crum said that the drive aisle needs to a minimum of 24’ wide and asphalted. Parking spots are not included in that width. Parking spots need to be about 20’ deep, so we are looking at about 44’ of asphalt. The alley is about 16’ wide. Just creating the drive aisle would put traffic right up against the neighbor’s house.

Mr. Crum supports the petitioner’s desire to invest in Old Town, but this site on 600 W is not appropriate for retail due to traffic concerns, parking concerns, and turning a home into retail use.

Mr. Horton asked about other businesses along 600 W near this site. Mr. Crum said that there is a daycare and a golf sales business on the East side of Mt. Comfort Rd (600W), both of which were grandfathered. Other than that, there is no retail on Mt. Comfort until you get to the Speedway 3 blocks away at the corner where road infrastructure is much wider, with turn lanes, traffic lights, some retail along Broadway. But on Mt. Comfort road the other use is just office. Precedent is office use along Mt. Comfort and retail use on Broadway.

Public Comment

David Scott: He lives catty corner to the property at 7691 Hanna St. Mr. Scott stated that he is opposed to retail because it sets a precedent for retail in the area. He already has people parking in his yard (no curbs) to go to Tim’s Bakery. He thinks the increase in traffic from having retail will make the area unsafe because there are already problems with people running the stop signs, there are no sidewalks so people walk in the street. There is a vacant lot just south of the lot, this exception creates a precedent so that lot could be developed as a retail space. The current infrastructure can’t handle and as the new town center develops, it could become an empty retail space that makes the area look bad and attract problems.

Mr. Karn asked if the development of the new town center would bleed into this area. Mr. Crum stated that it will not. Mr. Duhamel asked what the vision for Old Town is. Mr. Crum described it as a predominately residential community with some commercial used on the peripheral along 600 and Broadway. Staff believes that it will always be an affordable neighborhood that will be cleaned up and revitalized a bit and keeping some of the old charm. Mr. Duhamel asked about the current infrastructure of Old Town. Mr. Crum replied that Ron Crider, the Public Works Commissioner says that it’s holding up pretty well. Old Town does have some issues such as no sidewalks, no curb and gutter. The town will need to reinvest in Old Town to help attract private investment.

Mr. Morelock gave ballot instructions.

**Motion by Mr. Horton if the Special Exception is approved it is subject to the condition recommended by staff. Seconded by Mr. Vail. Motion carried 5/0.**

**Mr. Adams counted the ballots. The Petition for Special Exception was denied 4 to 1. Mr. Duhamel voted for the Special Exception. Mr.’s Vail, Horton, Karn, and Adams voted against.**

**Announcements**

Next meeting is July 3, 2019. Mr. Crum asked if there were any conflicts. Mr. Morelock said that Mr. Isom would be attending in his place. There was discussion if the anticipated filing could be put off until August or if they need to schedule a meeting the following week. Mr. Crum said that if the filing comes in, he will work to get a date when at least three members may attend.

**Adjournment**

**There being no further business, meeting was adjourned at 7:05 pm.**