Town of Indian Trail

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PLANNING AND DEVELOPMENT DEPARTMENT
BOARD OF ADJUSTMENT MINUTES
March 26, 2015
06:30 P.M.

Call to Order

Chair Takah called the meeting to order.

Roll Call

The following members of the governing body were present:

Board Members:	Tripp Melton, Daniel Takah, Shirley Howe, Tim Rogers, and Dr. Shamir Ally.
Members Present but not Voting:	Robert Thurbon, and Keith Merritt- Town Attorney.
Absent:	Christopher Chopelas, Patrick O'Connor, and Rox Burhans- Planning Director.
Staff Members:	Kevin Icard-Senior Planner, and Pam Good-Board Secretary

Approval of Minutes - January 22, 2015

Motion to approve as written by Member Ally. Seconded by Member Melton. Vote was unanimous.

Public Hearings-

SUP 2015-001 Tender Grooming LLC. Dog grooming major home occupation at 312 North Indian Trail Rd.

Chair Takah called the applicant, Tracey Dierking, as well as Staff Kevin Icard to be sworn in.

Chair Takah opened the public hearing portion of the meeting. The motion was made by Member Rogers and seconded by member Howe. The vote was unanimous.

Staff Icard showed a power point presentation of the structures on the site as well as the following information.

ANALYSIS

The intent of the home occupation permit is to acknowledge that some types of business operations can be conducted at home with little or no effect on the surrounding neighborhood. The regulations that are in place require that home businesses remain clearly incidental and subordinate in floor space to the residential use. 2 Major home occupations are businesses that are more likely to have employees and to generate traffic associated with its clients/customers coming to the site. It is the Board of Adjustment's responsibilities to permit the use if they can determine that the business will have limited effects on the surrounding neighboring properties and that the home occupation will generally comply with the requirements and standards of Section 780.070.

GENERAL STANDARDS
The following requirements must be met for the issuance of a permit:

- No more than 25% or 500 square feet of the home is to be used for the business
- Any home occupation issued prior to the effective date of this section that don't meet the requirements of this section shall be considered legal non-conforming home occupations
- Storage outside of a fully enclosed structure is prohibited
- No hazardous materials are permitted
- The home cannot be altered that changes the residential character
- Only residents of the dwelling may be engaged in the home occupation
- No noise, vibrations, glare, fumes, etc. can be detectable at the property line
- There shall be no exterior evidence of the businesses operation
- Clients or business related visitors shall be by appointment only
- Hours of operation are 7:00am to 8:00pm
- The number of vehicles used by clients is limited to two at any one time

APPLICANT INTENT/SCOPE OF WORK
The applicant has stated that they will meet or exceed the general standards listed above by operating the animal grooming business as described below:

- The applicant is currently located at 104 Indian Trail Road (same building as Johnny Ks restaurant), where she previously came to the Board of Adjustment for a Special Use Permit (Case SUP2010-009).
- The storage, bathing and grooming area will be located in an accessory building located on the property. The accessory building is approximately 500 square feet. The main home is approximately 2,100 square feet in size.
- There is no previously recorded home occupation for this property.
- There is no outdoor storage of any materials or animals.
- No hazardous materials are used in cleaning the animals.
- No exterior changes are proposed to the home or accessory building.
- Applicant will be the only animal groomer, there will be no employees.
- All operations of the business are located inside the accessory building.
- Clients drop off their animals by appointment only, typically at 9am and noon.
- Clients will use the current driveway which is approximately 145 feet in length for parking/drop off, there is sufficient amount of parking for 3-4 vehicles at one time
- Hours of operation are 9:00am to 3:00pm Monday through Friday
- Applicant will obtain a Town Privilege License prior to operation if granted the SUP

Impact Statement:
Report provided showed that there was no substantial negative impact on surrounding properties. *Noise* – Since the animals are inside the entire time, the adjacent property owners are unlikely to hear the barking of any dogs. *Smell* – All droppings will be collected and double bagged and disposed of daily by applicant. *Parking* – As shown in the pictures above there is ample parking for three vehicles at a time. Mrs. Dierking has stated that she has no more than 3 clients at any one time dropping off or picking up the pets. All adjacent property owners were notified of the public hearing.

Plan Consistency
The subject site is located within the Downtown Village of the Comprehensive Plan and the Downtown Master Plan Area. The Village promotes a variety of uses while avoiding potential land use conflicts. Additionally the master plan area also promotes neighborhood commercial retail and service. Based on analysis of this use, Staff is of the opinion that the proposed use is in harmony with the surrounding area based on the following goals:

> **Land Use and Housing Goal No. 1:** *Promote a mix of different types of land uses within each village and avoid potential land use conflicts between neighboring properties and surrounding municipalities.*
>
> **Economic Development Goal No. 2:** *Create a more balanced tax base by promoting the development of office parks, businesses, retail centers and industrial parks. Promote a diverse local economy that will support varied employment opportunities.*

Mrs. Dierking has created a successful small business over the years in Indian Trail. With a loyal cliental she has the ability to move her operations away from her current location and purchase this property that is set up to have a home occupation use. The proposed ancillary use of this property as a dog grooming business will be compatible with the surrounding properties and will avoid any potential land use conflicts since the use is completely enclosed in the accessory building on the property. Because of the size of the property (1.04 acres) and the ability to accommodate customer traffic (driveway length is approximately 145 feet) the physical characteristics of the site allows space for such a use. The entrance located on Ashland Drive will be dedicated to individuals dropping off and picking up their pets. By having the entrance off Ashland Drive individuals can safely exit the neighborhood at the intersection instead of the driveway on N. Indian Trail Road. The proposed ancillary use will also enable the retention of an existing Indian Trail business within Downtown Indian Trail and provide a professional service to Indian Trail residents and visitors.

Criteria for approving an SUP

Under **UDO Section 360.080**, the Board of Adjustment, when considering whether to approve an application for a special use permit, shall review and evaluate the following:

1. **Whether the application is complete.**
    a. Staff is of the opinion that the application for SUP2015-001 is complete.
2. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
    a. As per the stated conditions of this special use permit, staff is of the opinion that SUP 2015-001 is in compliance with the requirements set forth by the Unified Development Ordinance (UDO).
3. **If the Board of Adjustment concludes that all such requirements are met, it will issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in UDO Section 360.030.** Such a motion will propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Under **UDO Section 360.030**, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this special use permit application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

1. Not materially endanger the public health or safety; and
2. Not substantially injure the value of adjoining or abutting property; and

3.Be in harmony with the area in which it is to be located; and
4.Be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans.

Draft Conditions-
Staff Icard stated that they have been provided to the applicant and they agreed.

If the Board is of the opinion that the above required findings can be made to approve the project, staff recommends the site be subject to the following conditions, along with the Board's approval of the special use permit:
1.The applicant shall obtain all required permits from appropriate agencies (Local, State & Federal if applicable) including but not limited to: privilege license, interior up-fit and building permits, if necessary.
2. Business operating hours should be limited to 9am-5pm, Monday through Saturday.
3. Clients or business related visitors shall be by appointment only and shall access off Ashland Drive.
4. Disposal and storage of pet waste shall be kept in a sanitary manner limiting odor as much as possible at all times.
5. All components associated with the animal care business will be located inside.
6. No Veterinary or Boarding Services are permitted.

Attorney Merritt asked about the hours of operation were different in various slides, wanted clarification. Staff Icard clarified that the UDO is 7am-8pm maximum.

Staff Icard concluded his presentation.

Member Melton asked if the overlay allows the property to be residential and commercial? Staff Icard stated that the original construction was for residential use was grandfathered in and is now business. He further explained that the Special Use Permit stays with the property.

Member Melton asked about signage. Staff Icard clarified that no signage is allowed. If there was some small lettering on door not seen from road, that wouldn't be a major issue.

Member Howe asked what is the closing date. Staff Icard stated that it doesn't pertain to the Special Use Permit.

The applicant came forward to speak to the board. She gave her name as Tracey Dierking of 2216 Annecy Dr. Matthews, NC 28105. Ms. Dierking stated that she has been in business 6 years. She currently grooms four customers that live on Ashland. She grooms about 8 dogs a day and has had the same customers for years. She would like to put something small on the building in the back be wouldn't be seen from the road.

Chair Takah closed the public portion of the hearing.

The board then took time to write in their Finding of Fact Worksheets.
Having heard all of the evidence and arguments presented at the hearing, The Board of Adjustment made the following findings:

1. Whether the application was complete. Member Melton made a motion that the application was complete. Seconded by Member Ally. The vote in favor was unanimous.

2. Whether the application complies with all of the applicable requirements of this ordinance. Member Ally made a motion in the affirmative, seconded by Member Melton. The vote in favor was unanimous.

The board also examined the following Findings of Fact as set forth in the UDO section 360.030.

1. Not materially endanger the public health or safety; The Board determined that the public health and safety will not be materially endangered due to the fact that the property is properly secured by a six (6') foot tall chain link fence and because the animals will be contained in the accessory building at all times. A motion was made by Member Howe, seconded by Member Rogers. The vote in favor was unanimous.

2. Not substantially injure the value of adjoining or abutting property; The proposed use will not injure the value of adjoining or abutting properties as stated in the February 16, 2015 impact analysis produced by Morrison Appraisal, Inc. A motion was made by Member Melton and seconded by Member Rogers. The vote was unanimous.

3. Be in harmony with the area in which it is to be located; The subject site is located within the Downtown Village of the Comprehensive Plan and the Downtown Master Plan Area. The Village promotes a variety of uses while avoiding potential land use conflicts. Additionally the master plan area also promotes neighborhood commercial retail and service. A motion was made by Member Rogers to adopt with the six conditions as recommended by Staff and seconded by Member Melton. The vote was unanimous.

4. Be in general conformity with the Town of Indian Trail Comprehensive Plan or other adopted plans. A motion was made by Member Ally and seconded by Member Rogers. The vote in favor was unanimous.

Chair Takah asked the applicant Tracey Dierking to the podium to ensure she agreed to the six conditions as presented by Staff. Ms. Dierking stated that she did so.

Decision
The board voted to issue the permit for SUP2015-001. Motion made by Member Rogers and seconded by Member Ally. The vote in favor was unanimous.

Other Business-
ZI2015-001 Sign Determination for Radiator Specialty Company
Staff Icard presented the request from Radiator Specialty Company located at the intersection of Radiator Rd. and Old Monroe Rd for a sign replacement. The existing sign was previously constructed in 2003.

The proposed location of the RSC sign will be located near the previous sign noted above, however, it will be shifted further inward to be outside the future Old Monroe Road ROW area (57.5-ft from existing road centerline). The proposed location of the sign and the previous RSC signs are located on a separate, abutting parcel owned by RSC that is residentially zoned. The RSC warehouse/distribution site is commercially zoned.

Since the RSC use is not listed in the sign table for residential districts where the sign would be located; the Unified Development Ordinance (UDO) specifies the Board of Adjustment shall determine the appropriate size of the sign. The following section of the UDO gives the Board of Adjustment the authority to determine the sign dimensions that would be allowed.

*UDO Section **9140.040 Table of Sign Requirements (B)** states: Uses not indicated shall be placed in the category having similar uses by action of the Board of Adjustment. At such time, sign requirements for such uses shall be established.*

The closest *Use Classification* category is *Daycare Center* since it is the only commercial use listed in the sign table. The amount of square footage provided in this category will provide sufficient size for their

freestanding sign and is consistent with the sign regulations for signs in the Regional Business District "RBD".

Paul Jorgenson of 216 Wesley Wood Rd. Monroe, NC, facility manager of Radiator Specialties was in audience. He stepped forward to speak and spoke about the history of various signs for the business as he has been the facility manager for 37 years.

Member Rogers asked if the flagpoles will need a future permit if they need to be moved. Staff Icard replied there would not need to be a permit to move the flag poles.

Chair Takah asked if Mr. Jorgenson is satisfied with the size of the new size. Mr. Jorgenson did agree that he is happy with the new sign size.

Member Rogers asked about the type of sign, and the applicant replied that there will be no scrolling on the sign.
Member Howe asked if spot lights will be added. The applicant stated that the sign will be lit from the interior.

The applicant had four phone calls about the zoning sign that was placed on the property, and all were positive about it.

Member Rogers asked if the Radiator business own land where the sign is located? Staff Icard answered that it does.

Action Requested
In accordance with UDO Section 9140.040 Table of Sign Requirements, the BOA will need to determine the appropriate maximum sign size limitations based on similar uses permitted in residential districts. Staff is recommending that the Board assign the RSC use a freestanding sign dimension not to exceed a twenty-four (24) square feet message area and six (6') feet in height to be located on parcel 07-087-009 located adjacent to Old Monroe. This sign is to replace the existing sign that was destroyed in April/May 2014.

Decision
Motion was made by Member Howe that the board was willing accept the new sign size as presented by Staff. The motion was seconded by Member Rogers. The vote in favor was unanimous.

Next meeting is April 23rd at 6:30pm.

Adjournment
Member Melton made a motion to adjourn. Member Howe seconded the motion. The vote was unanimous. The meeting adjourned at 7:25pm.

Chairman: Daniel Tabah May 28-2015

Secretary: Pamela L Stroud