



City of Munford
Municipal Board of Zoning Appeals
January 9, 2024
Munford Municipal Building

AGENDA

City of Munford Municipal Board of Zoning Appeals
Tuesday, January 9, 6:00 p.m.
Municipal Building, 70 College Street, Munford, Tennessee

- I. **CALL TO ORDER & ESTABLISHMENT OF QUORUM**

- II. **APPROVAL OF MINUTES** - April 11, 2023-

- III. **OLD BUSINESS**

- IV. **NEW BUSINESS**
 - A. Don Dixon – Request for continued use of non-conforming structure

- V. **OTHER BUSINESS**

Adjourn –



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MEMORANDUM

TO: The Munford Municipal Board of Zoning Appeals

FROM: Will Radford, AICP

DATE: April 5, 2023

SUBJECT: Staff Recommendations for the April meeting of the Municipal Board of Zoning Appeals.

A. Don Dixon – Request for continued use of non-conforming structure

Background

A request has been submitted by Don Dixon for continued use of a non-conforming residential structure. The property is located at 299 Tipton Road. The property can be further identified as Parcel 7.00 on Tipton County Tax Map 112E, Group A. The property is zoned R-1 (Low Density Residential) District. The property does not appear to be located in a federally identified flood hazard area.

Analysis

The property appears to have more than one principal structure on the lot which is not allowed in the current zoning. Staff believes these structures were established prior to the adoption of zoning in the City of Munford.

61.7 Maximum Number of Principal Buildings Permitted

61.71 Residential uses shall be limited to one (1) principal building per lot.

61.72 Uses other than residential shall have no limitations on the number of buildings but the aggregate of all buildings

shall not exceed thirty-five (35%) percent of the entire lot area.

The non-conforming provisions of the Munford Municipal Zoning Ordinance states:

Section 32 Continuance of Non-conforming Uses and Structures

It is the intent of this Ordinance to recognize that the elimination as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is also the intent of this Ordinance to administer the elimination of non-conforming uses, buildings and structures so as to avoid an unreasonable invasion of established private property rights. Lawful non-conforming uses, buildings and structures existing at the time of the passage of this Ordinance or any amendment thereto shall be allowed to remain subject to the following provisions:

32.1 An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same classification; provided, however, that establishment of another non-conforming use of same classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.

32.2 No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided:

Non-conforming commercial, and industrial uses created after the passage of Tennessee Acts of 1973, Chapter 279.1 (*TCA 13-7-208 (c & d)*) shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the uses which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.

32.3 Except as provided in Tennessee Code Annotated, Section 13-7-208:

32.31 A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this Ordinance. A non-conforming use of a building or buildings shall not be enlarged

to either additional land or buildings after the effective date of this Ordinance.

- 32.32 When a non-conforming use of any building or land has ceased for a period of six months (6), it shall not be re-established or changed to any other non-conforming use.
- 32.33 Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind or other acts of God or man, may be reconstructed and used as before, if it is done within twelve months (12) of such damage, unless damaged to the extent of more than sixty percent (60%) of its fair sales value immediately prior to the damage, in which case any repair or reconstruction shall be in conformity with the provisions of this Ordinance.
- 32.34 A non-conforming building or buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this Ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

The applicant is requesting the continuation of the use of the property. Staff has been advised that the buildings have ceased residential use for 6 months. (Section 32.32 above)

Staff does not find grounds for allowing the continued use of the structure/building. The "Use" of the property is residential and a residential use can be re-established on the property as it's an allowed use in the R-1 district. The problem that exists on this property is the building's status as non-conforming "Structures" as the building setbacks are not met and more than one principal building is on the property.

The property can continue residential use of the land if future construction meets the setback requirements and does not contain more than one principal use.

Recommendation

Staff recommends denial of the request.