

**MURRAY BOARD OF ZONING ADJUSTMENTS MINUTES
JANUARY 19, 2005**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, January 19, 2005 at 4:30 p.m. in the council chambers of City Hall located at 104 N. 5th Street.

Board Members Present: Andy Dunn, Scott Seiber, George Stockton and Bill Whitaker

Board Members Absent: Ed Davis, Red Howe and Helen Spann

Also Present: Candace Dowdy, David Roberts, Sam Perry, Mike Pitman, Mayor H. Thomas Rushing and public audience

Chairman Whitaker called the meeting to order and welcomed the guests. Chairman Whitaker asked for approval of the December 14, 2004 minutes. **Scott Seiber made a motion to approve the minutes with no corrections. Andy Dunn seconded the motion and it carried by a 4-0 voice vote.**

Chairman Whitaker noted that the University Church of Christ had requested to withdraw their dimensional variance application for additional signage that was tabled during the August 18, 2004 meeting. Chairman Whitaker asked for a motion to remove from the table. **Scott Seiber made a motion to remove the University Church of Christ dimensional variance from the table. Andy Dunn seconded the motion and it carried by a 4-0 voice vote.**

Public Hearing To Review Conditional Use Application For Expansion Of A Church In An R-5 Zone—502 North L.P. Miller Street—Church Of The Living God (COG)—Clara Bramley: Sam Perry stated that Clara Bramley, of the Church of the Living God wished to provide a baptistery/Sunday school room for her church members without modifying the existing structure. Mr. Perry explained that the property was zoned R-5 and had been owned by the COG since 1913. The current building was built in 1935, previous to the adoption of the City of Murray Zoning Ordinance. Mr. Perry showed aerial photographs of the area, showing the adjacent lot facing Ash Street that the COG also owned. Mr. Perry stated Mrs. Bramley had brought in several possible prefabricated building pictures, but that planning staff recommended applying for the conditional use before proceeding with building plans. Scott Seiber asked if there was a site plan. Mr. Perry stated that there was not because staff recommended applying for the conditional use first. Andy Dunn asked for the approximate size of the proposed building. Mr. Perry stated that the proposed building would range from 10' x 20' to 14' x 30'. Scott Seiber asked if the building would be attached to the church. Mr. Perry stated it would not. Bill Whitaker asked how much property the COG owned. Mr. Perry stated that the COG owned just to the east of the gravel driveway. Chairman Whitaker asked how far it was from the rear of the church to the gravel driveway. Scott Seiber asked if 114 Ash Street was vacant. Mr. Perry stated it was vacant. Mr. Perry stated the residential property at 500 L.P. Miller Street was currently vacant, but was used as single-family rental by the Freewill Baptist Church. Scott Seiber asked what the gravel driveway was used for. Mr. Perry stated that the drive was used for excess parking.

Chairman Whitaker opened the public hearing.

Chairman Whitaker swore in Clara Bramley. Chairman Whitaker asked Mrs. Bramley for the proposed building size and location. Mrs. Bramley stated that she had spoken with Pearly McClure, the building official, but did not have a proposed building size because she did not know where the property lines were and was concerned with staying five feet off the property line. George Stockton asked what the building would be constructed of. Mrs. Bramley stated that the building would be a frame building. Scott Seiber asked Mrs. Bramley what size building she would like to erect. Mrs. Bramley stated that she would like to erect a 14' x 20' building. Scott Seiber asked if the building would be used for anything else, besides a baptistery. Mrs. Bramley stated that the building would be used for a Sunday school classroom as well. Scott Seiber asked if the building could be attached to the current church building. Mrs. Bramley stated that she did not want to disturb the old building. Andy Dunn asked if the building would be taking up any of the current parking area. Chairman Whitaker asked what the church attendance was on a Sunday morning. Mrs. Bramley stated that the church attendance was approximately 20. Sam Perry stated that the Police Department did not have any reports of parking or traffic problems on Sunday mornings. Chairman Whitaker asked if the 50% lot coverage requirement would have to be met since the church was grand-fathered in. Mike Pitman stated that the church did have to apply for a conditional use permit to expand the use, but without knowing the proposed building size, it would be difficult to check the lot coverage. Chairman Whitaker asked what size the lot was. Mrs. Bramley stated the lot was 50' x 62.5'. Mrs. Bramley stated that the adjacent lot facing Ash Street, owned by the COG was also 50' x 62.5'. Mrs. Bramley stated that the building would be erected on a concrete slab. Chairman Whitaker swore in Jimmy Bramley. Jimmy Bramley stated that he was in favor of the building being erected for the purpose of a baptistery/Sunday school class. Chairman Whitaker asked if anyone else wished to speak in reference to this issue.

There being no one, Chairman Whitaker closed the public hearing.

Chairman Whitaker stated that he was in favor of the project, but needed more information regarding the property lines. Sam Perry stated that there was no record of a minor subdivision plat for the church property on Ash Street. Chairman Whitaker swore in Butch Seargent, Councilmember. Chairman Whitaker asked Butch Seargent if the property lines could be established. Mr. Seargent stated that a surveyor could establish the property lines. Mike Pitman stated that if there was not a minor subdivision plat for the lot facing Ash Street, the conveyance would be void. Mike Pitman stated that the Board could grant a conditional use permit tonight based on the information provided as long as certain conditions were placed on the permit. David Roberts stated that building setbacks and lot coverage guidelines would be enforced by the Planning and Building staff. Chairman Whitaker asked for a motion. Scott Seiber stated that he was in favor of the project but would like to have more information. **Scott Seiber made a motion to table the application due to lack of information regarding the property lines and proposed building size. Mr. Seiber stated that he felt like the Board is in favor of the project, but needs to hear the application again when the COG has more detailed information. George Stockton seconded the motion and it carried with a 4-0 vote.**

Public Hearing to Review Conditional Use Application for Operation of Restaurant in an R-5 Zone—405 South L.P. Miller Street—Crumbles Restaurant—Kimberly Cooper:

Candace Dowdy stated that property was located on the corner of South L.P. Miller and Old Concord Road. Ms. Dowdy stated that Kimberly Cooper was operating the restaurant and the property was owned by her family. Ms. Dowdy stated that Ms. Cooper had obtained a business license in 2001 to operate a catering business from her home in Almo. In 2005 Ms. Cooper renewed her business license and informed the City Clerk of her new address at 405 South L.P. Miller. Ms. Dowdy contacted Ms. Cooper, informing her that she would need a conditional use permit to operate a restaurant in an R-5 zone. Ms. Dowdy stated that Crumbles had seating for 12 people. Ms. Dowdy stated that Ms. Cooper had received approval for her plumbing from the Calloway County Health Department for her catering business. Ms. Dowdy stated that Ms. Cooper would be required to have ten parking spaces based on the gross floor area of the building. Ms. Dowdy stated that there was room for four (4) parking spaces in the drive, if they were delineated properly. Ms. Dowdy stated that Ms. Cooper's mother was her only employee and she lived in the house next door so she would not be parking a vehicle on the premises. Scott Seiber asked if parking was allowed on either street. Ms. Dowdy stated that there was one "No Parking" sign on the east side of South L.P. Miller Street near the Crumbles restaurant. Ms. Dowdy stated that there currently was a separate parking problem due to seasonal Briggs & Stratton employee parking, at the intersection of South L.P. Miller and Poplar Streets that was being handled by the planning staff. Ms. Dowdy presented aerial photographs and street-level photographs of the property vicinity. Chairman Whitaker asked if the parking lot was required to be a hard surface. David Roberts stated that parking lots with five or more spaces were required to be constructed of a durable and dustless surface composed of asphalt, concrete or brick, and that the developer has up to one year to complete the work. Andy Dunn asked if there was sufficient parking for customers and employees. Ms. Dowdy stated that the current parking area was large enough for four (4) vehicles and that Ms. Cooper stated that she had access to the adjacent lot to the east for additional parking, if needed. Ms. Dowdy stated that the property to the west was the City Water Plant, zoned Government, and the property to the north and the south was zoned Industrial. Scott Seiber asked how many lots were zoned R-5 in this area. Ms. Dowdy stated that there were three lots: Crumbles, Ms. Cooper's mother and the vacant lot to the east. Ms. Dowdy stated that according to the occupancy load and the square footage of the building, ten parking spaces were required.

Chairman Whitaker opened the public hearing.

Chairman Whitaker swore in Kimberly Cooper. Ms. Cooper stated that a significant amount of Crumbles' business is carry-out. Ms. Cooper asked if vehicles could pull into the parking lot at any point along Old Concord Road. Ms. Dowdy stated that the City of Murray Zoning Ordinance requires vehicles to enter and exit in a forward motion. Ms. Cooper stated that she jointly owns the property behind her business with two other family members that could be used for extra parking. Chairman Whitaker asked how much parking was currently needed by the restaurant. Ms. Cooper stated that two cars at a time was her current load. Ms. Cooper stated that she parked on the west side of South L.P. Miller because of the "no parking" sign on the east side. Scott Seiber asked if the bulk of Crumbles' business was baking. Ms. Cooper stated that she was open for lunch Tuesday through Thursday from 11 a.m. to 2 p.m. and offered carry-out baked goods.

Ms. Dowdy stated that she had discussed a sign with Ms. Cooper and that she would be allowed up to a 35 sq. ft. wall sign, based on the building size. Ms. Cooper stated that the city took a strip of the Crumbles' lot for street use without compensation. George Stockton asked Ms. Cooper if she had plans to expand the building. Ms. Cooper stated that if she needed to expand she would have to relocate the restaurant. Chairman Whitaker asked if anyone else wished to speak in reference to this issue.

There being no one Chairman Whitaker closed the public hearing.

Chairman Whitaker asked the planning staff how Ms. Cooper could delineate the parking spaces. David Roberts stated that concrete stop blocks or landscape timbers would be the best way to delineate spaces in a gravel lot. Ms. Dowdy stated that Chief Ken Claude had informed her that there were no traffic issues that he was aware of about parking on the street in front of Crumbles'. Scott Seiber asked if Belcher Oil used South L.P. Miller for ingress/egress. Candace Dowdy stated that Belcher Oil was located on Old Concord Road and they did use South L.P. Miller as access to Old Concord Road. Scott Seiber stated that could pose a problem with a petroleum tanker and vehicles parked on the street. Chairman Whitaker asked for a motion. **Andy Dunn made a motion to approve the conditional use permit with the following conditions: (1) no employee parking on the premises (2) delineate parking spaces in the gravel area (3) provide space for at least six vehicles (4) seating capacity be kept to twelve(12) people. Scott Seiber seconded the motion and it carried with a 4-0 vote.**

Dimensional Variance Request for Additional Wall Signage At 1900 North 12th Street, Suite C—Fastenal—Jimmy Lockett: Sam Perry stated that Jimmy Lockett already has a permitted sign erected on his storefront. He also has a sign that comes with the Fastenal store package which he would like to use on the rear of the building to gain vehicular traffic visibility from North 4th Street. Scott Seiber stated that it would be difficult to see the sign at the proposed location from North 4th Street. Chairman Whitaker asked if all the suites in Murray Business Center went all the way through to the rear similar to Fastenal. Mr. Perry stated that there were only two at this time and a possible third to be constructed in the future. Mr. Perry stated that there is 33' easement to this property located off North 4th Street. Mr. Perry stated that the proposed sign was the same design and style as the current sign, but was smaller. George Stockton asked if the current sign complied with the city regulations. Mr. Perry stated that it did and the City of Murray Zoning Ordinance allows one (1) wall sign per tenant. Chairman Whitaker swore in Jimmy Lockett. Mr. Lockett stated that there would be a rear access road that delivery trucks and customers would be using. Mr. Lockett stated that the additional sign would help guide deliverers and customers to the Fastenal store from the rear of the building. Sam Perry stated that the construction of a rear entrance to the property off North 4th Street is unsure at this time. Mr. Perry stated that North 4th Street is a state road and would require permission from the Department of Highways. David Roberts stated that the City of Murray Zoning Ordinance would not allow a commercial entrance through an R-2 zoned property. Scott Seiber asked Mr. Lockett how deliveries were currently being made. Mr. Lockett stated that delivery trucks were coming to the rear of the building. Mr. Lockett stated that the current sign was non illuminated and was smaller than the maximum allowed based on his store frontage. Candace Dowdy confirmed that the maximum allowed was 112 sq. ft. and Mr. Lockett had an 84 sq. ft sign. Chairman Whitaker asked for a motion. George Stockton stated he did not see the

proposed sign in the rear as necessary. Mr. Stockton stated that if the variance was granted then the door would be opened for all businesses to place signs on both sides of their buildings. Mr. Lockett stated that the Goody's store has a sign on two sides of the building, and that he would appreciate the same opportunity. Scott Seiber stated that he did not think that there would be very many businesses with this same request for signs on both sides of the building in the future. Candace Dowdy stated that a three (3) sq. ft. identification sign would be allowed without a variance. **George Stockton made a motion to deny the request for additional wall signage for Fastenal Co. at 1900 N. 12th Street, Suite C. The motion carried with a 3-1 vote. Scott Seiber voted no.**

Dimensional Variance Request For Additional Signage At 1900 North 12th Street—Murray Business Center—Bobby Tabers: Sam Perry stated that Bobby Tabers was granted a variance in October, 2004 to continue the use of the 96 sq. ft. temporary sign until February 1, 2005 because the proposed sign regulations for monument-style signage on the 12th Street Corridor had not been presented to the City Council for adoption. Mr. Perry stated that Mr. Tabers originally planned to erect the new, permanent 96 sq. ft. sign on the south side of the entrance to his shopping center, but has since decided to use the north side of the entrance for the new sign due to a low elevation on the south side. Mr. Perry stated that the proposed sign is a combination of a monument-style and freestanding sign. Mr. Perry showed a drawing that Mr. Tabers had submitted with a proposed sign area of 120 sq. ft., and 10 removable slots for the individual businesses. The overall height of the proposed sign would be 20' including the side columns. Mr. Perry presented pictures of the University Square freestanding sign and the Shoppes of Murray freestanding sign. Scott Seiber asked if a 12" slots that were being allotted for the individual businesses were going to be very visible from U.S. 641. Mr. Tabers said that would depend on the size of the lettering. Scott Seiber asked if the service road parallel to the Murray Business Center would extend on to the north to the property boundary. Mr. Tabers stated that it was being extended now. Scott Seiber stated that there would most likely be more requests for sign variances as development occurred towards the new highway 80. Chairman Whitaker stated that it would be difficult to see smaller signs while traveling at a speed of 55 mph. Chairman Whitaker stated that it would be more effective to identify the sign as "Murray Business Center" instead of using individual business signs. Candace Dowdy stated that the status of the proposed sign regulations were still in the ordinance draft stage and had not been presented to City Council yet. Ms. Dowdy stated that the planning staff was hopeful in having the final ordinance draft presented to City Council prior to the February 1, 2005 deadline, but the process has taken longer than expected. Chairman Whitaker stated that Mr. Tabers was proposing a taller sign than what was originally discussed in October, 2004. Chairman Whitaker swore Bobby Tabers in. Scott Seiber asked Mr. Tabers why the proposed height had increased. Mr. Tabers stated that the sign area was actually 14' but had to be raised to allow for landscaping requirements in the planter area. Mr. Tabers stated that he would like to get a variance for all the signage from the beginning instead of having to continue to modify the sign in the future. Mr. Tabers stated that without adequate signage, vehicles could pass the building up without knowing what businesses are located there. Scott Seiber stated that he felt a sign identifying the building instead of combination of individual businesses would be more effective because of the distance the building was from U.S. 641 and that it would also be more aesthetically pleasing. Candace Dowdy stated that regardless of whether the proposed sign regulations were adopted or not, 80 sq. ft. would still be the maximum sign area allowed. The only difference would be the

requirements for monument-style signage, but the square footage allowed would stay the same. Chairman Whitaker asked for a motion. **George Stockton made a motion to deny the request for a 40 sq. ft. variance on the proposed sign and extend the deadline of the temporary sign until May 1, 2005. Andy Dunn seconded the motion and it carried by a 4-0 vote.**

George Stockton excused himself from the meeting.

Mike Pitman gave an update on an item regarding Thomas Muehleman and the parking situation at 503 Poplar Street that was previously addressed at a BZA meeting. Mr. Pitman gave an update on the Asphalt Plant litigation. Mr. Pitman gave an update on the Corn-Austin Sign removal. Mr. Pitman also gave a report on the progress of the Cellular Antenna Regulations addition to the Zoning Ordinance.

Candace Dowdy gave a report on the progress of the Bed & Breakfast Regulations addition to the Zoning Ordinance.

Being of no further business the meeting adjourned.

Chairman, Bill Whitaker

Recording Secretary, Sam Perry