

**MURRAY BOARD OF ZONING ADJUSTMENTS MINUTES
REGULAR MEETING
MAY 11, 2005**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, May 11, 2005 at 4:30 p.m. in the council chambers of city hall at 104 North 5th Street.

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

Board Members Absent: Ed Davis

Also Present: Candace Dowdy, Sam Perry, Warren Hopkins, Shannon Blalock, Mae Flint, Kathy Farley and Greg Dowdy

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed the guests. Chairman Whitaker requested approval of the April 20, 2005 regular meeting minutes. **Scott Seiber made a motion to approve the April 20, 2005 minutes as presented. George Stockton seconded the motion and the motion carried with a 5-0 voice vote.**

Chairman Whitaker requested approval of the April 26, 2005 special meeting minutes. **George Stockton made a motion to approve the April 26, 2005 minutes as presented. Andy Dunn seconded the motion and the motion carried with a 5-0 voice vote.**

Chairman Whitaker requested approval of the May 2, 2005 special meeting minutes. **Scott Seiber made a motion to approve the May 2, 2005 minutes as presented. Helen Spann seconded the motion and the motion carried with a 5-0 voice vote.**

Presentation By Murray Tourism On Hometown Host 2005 Campaign: Candace Dowdy stated that Shannon Blalock and Mae Flint had recently met with city administration to discuss the possibility of this program for Murray. Ms. Dowdy stated that the city had a very positive response to the idea of this program, and that there is a need for additional overnight stay accommodations at certain times. Ms. Dowdy stated that although there were no regulations finalized for bed and breakfasts, it was possible that this program could be done through the conditional use process for R-1 and R-2, the renting of sleeping rooms or taking of boarders or tourists by the owner family on the premises. Ms. Dowdy explained that the purpose of the presentation tonight was to get feedback and ideas from the board to better fine tune the program proposal.

Shannon Blalock, Executive Director of the Murray Tourism Commission stated that Murray has 343 guest rooms in city hotels. Ms. Blalock stated that there are several weekends in which every room is full. Ms. Blalock stated that her office gets calls every day from people looking for available rooms. Ms. Blalock stated that people have to be turned away to neighboring cities when the revenue could stay in Murray. Ms. Blalock stated that this program was modeled after the Scottish Tourist Board bed and breakfast model. Ms. Blalock turned the presentation over to Mae Flint, who worked on the research for the program.

Ms. Flint, Convention and Events Coordinator of the Murray Tourism Commission, stated that there were three main goals for the Hometown Host: (1.) Hotels are over-booked (2.) to bring revenue to the Murray Tourism Commission and to families in the area (3.) to ensure that folks wishing to relocate to Murray have a way to get to know the community and its people. Ms. Flint stated that a hometown host is more limited than a bed and breakfast in the following ways:

- 1) hometown host can only have 2 guest rooms
- 2) hometown host can only host 50 nights per year
- 3) hometown host parking has to be off-street
- 4) hometown hosts will be required to follow sign regulations

Scott Seiber asked if there had been any surveys done to check interest level. Ms. Flint stated that was the next step. Mr. Seiber asked if any existing models in the United States had been looked at. Ms. Flint stated that there was one in South Carolina that was used in research, one in a northern state and one in Illinois. Andy Dunn asked if these homes would be used strictly as back up, or would they choose the bed and breakfast type atmosphere initially. Ms. Flint stated that it would be both and that they would be promoted on the Murray Tourism website, www.murraytourism.org. Mr. Seiber asked why parking had to be off-street if it was in an area where on-street parking was allowed. Ms. Flint stated that was fine as long as it was in compliance with the zoning ordinance. Ms. Dowdy stated that parking and number of host guest rooms were two items discussed at length with Murray Tourism Commission. Mr. Seiber stated that this program was a good idea.

George Stockton asked what the charge would be for a night's stay. Ms. Flint stated that the range is from \$65.00 - \$120.00 per night, with additional guests \$30.00 per night. Mr. Stockton asked if this had been discussed with any of the hotels. Ms. Blalock stated that the Tourism Commission has two property owners, which represent half of the hotels, which are in favor of it, and wish to see the dollars stay in Murray. Mr. Seiber questioned whether this would be the same 50 nights for all participants in the program. Ms. Blalock stated that the Hometown Host Guild would have the authority to set their own rates and decide which nights they would accept guests. Ms. Blalock stated that once the host met approval with the city, then they would proceed with being accepted into the Hometown Host Guild and at that point would be able to set their own policies and be in charge of booking their own rooms. Ms. Blalock stated that Murray Tourism simply provides the avenue of contact. Andy Dunn asked if the hosts would be checked periodically. Ms. Flint stated that there are stringent guidelines that do not allow for much latitude in basic provisions and upkeep and that each home are rated by the Tourism Commission yearly. Helen Spann stated that parking requirements could simply be consistent with the neighborhood, to allow for differences. Sam Perry asked if Murray Tourism would go through their checklist before sending the applicant to the Board of Zoning for a conditional use request. Ms. Flint confirmed that was a possibility. Ms. Dowdy stated that the property owner was required to provide a criminal background check to Murray Tourism. Helen Spann asked how Murray Tourism would profit from this program. Ms. Flint stated that there was the membership fee and the transient tax. Ms. Flint stated that homes in the county would not have to pay the transient tax because they do not have business licenses.

Mr. Stockton asked if approving a conditional use permit for a hometown host would be setting a precedent compared to previously not allowing someone to open a bed and breakfast. Ms. Dowdy stated that was something that staff was going to take a look at. Ms. Dowdy stated that there may be some text amendments to the zoning ordinance necessary before proceeding and that there were some conflicts with the home occupation section as well. Ms. Blalock stated that it would be required for the homes to have approved 911-size numbering for easy visibility. Ms. Spann asked how Murray Tourism was prepared to assist the host, if the host has had a bad experience. Ms. Flint stated that \$1000.00 extra insurance was required for the host to have if they sustain unforeseen damages. Ms. Blalock stated that may be something that they need to think about a little more. Ms. Spann asked if there would be regular contact with the hosts. Ms. Blalock agreed that would be a good idea for the first year.

Dimensional Variance Request For Additional Signage—Curves For Women—602 North 12th Street Suite A—Gary Hazelton: Sam Perry stated that Curves For Women was moving from the Highway 121 Bypass location to the Taco John's/Radio Shack building at 602 North 12th Street and that they were requesting to use their old sign, plus an additional new sign, which would need a variance of seven (7) square feet. Mr. Perry stated that the permitted sign is 32 square feet, for the south side, main entrance, which is under the maximum of 49 square feet, based on the store front. Mr. Perry stated that the maximum for the north side is 17 square feet, and the sign they would like to use is 24 square feet. Chairman Whitaker asked if the other businesses at that location obtained variances for their additional signs. Mr. Perry stated that Radio Shack obtained a variance for two additional wall signs and there is no record of a variance for the additional China Buffet wall sign. Chairman Whitaker asked how many of the businesses had a freestanding sign. Candace Dowdy stated that a condition to the Radio Shack variance was that there would not be a freestanding sign on the lot. Ms. Dowdy stated that when Taco John's erected their freestanding sign, they left a space for China Buffet to use, which was 3' x 6', but it was never used.

Chairman Whitaker swore in Kathy Farley, manager of Curves For Women. Andy Dunn asked Ms. Farley if they wished to use the open space on the freestanding sign. Ms. Farley stated that they would like put a sign on the freestanding sign as well. Chairman Whitaker asked Ms. Farley which sign she would prefer. Ms. Farley stated that she preferred the wall sign. Scott Seiber asked if there were different size signs available. Ms. Farley stated that they were probably available in any size. George Stockton asked if they planned to continue using both entrances. Ms. Farley confirmed yes, and stated that because of the parking situation, some customers prefer to come around to the south side, which they are using as a main entrance. Chairman Whitaker asked for a motion. **Scott Seiber made a motion to approve one additional wall sign with a seven (7) square foot variance, with the condition that the freestanding sign not be used based on the finding that other businesses in the vicinity also have multiple wall signs. Andy Dunn seconded the motion and the motion carried with a 5-0 vote.**

Dimensional Variance Request On Freestanding Sign—Sportable Scoreboards—106 Max Hurt Drive—Greg Dowdy: Sam Perry stated that Sportable Scoreboards responded to a letter questioning if the sign had changed and stating that they would need to come into compliance with the zoning ordinance. Mr. Perry stated that the sign was

over the 80 square feet which was permitted in October, 2000. Mr. Perry stated that the sign was now 118.6 square feet. Mr. Perry stated that the new text amendments to the sign regulations addressed graphic animation on electronic reader boards, which are now prohibited. Mr. Perry stated that Sportable appealed, wishing to be allowed to display graphic animation for testing purposes. Mr. Perry stated that Sportable is requesting a 39 square foot dimensional variance for a freestanding sign. Mr. Perry stated that two businesses: Varsity and Allstar, are also listed on the freestanding sign, which are separate businesses operating in the same office. Mr. Perry stated that different signs have been added to the bottom at some point, and it appears that an electronic reader board has been added to the top. Andy Dunn asked if the top reader board was removed, would the sign be under the 80 square feet.

Chairman Whitaker swore in Greg Dowdy. Chairman Whitaker asked Mr. Dowdy to explain the evolution of this sign. Mr. Dowdy stated that he was vice president and chief operating officer and that he has been with the company about three years. Mr. Dowdy stated that the two message boards at the top were what were throwing the sign over the limit. Mr. Dowdy also stated that the sign was changed when the Varsity product line was started. Mr. Dowdy stated that the message boards were an example of a new product line that they were starting which would open about 15-40 new jobs. Mr. Dowdy stated that this was one of the reasons that they chose to locate on a dead end road and that they were a business that could break every rule in the ordinance because they were a sign company. Mr. Dowdy stated that this sign was a test platform, not really an advertising platform, because most of their customers were not in Calloway County. Mr. Dowdy stated that there were also signs on the back of the building that were being tested, and that their signs have to undergo ETL and UL testing. Andy Dunn asked if the sign was not for advertising, could it be tested somewhere else, instead of right next to the road. Mr. Dowdy stated they could, but it still would be visible. Mr. Dowdy stated that if they had to test elsewhere they would be at a disadvantage, because electronic sign companies advertise signs based upon a certain character height, at a certain distance, going a certain speed. Chairman Whitaker asked Mr. Dowdy if the sign was advertising or for testing. Mr. Dowdy clarified that it was both and that he would like to keep at least something up there. Scott Seiber asked Mr. Dowdy if he was aware or if he had participated in the hearings regarding the changes to the sign regulations. Mr. Dowdy stated that he was, but that he was not involved in the ordinance amendments, Mr. Andy Cowen was. Mr. Dowdy stated that Andy Cowen is now with a separate business, Numeritex. Mr. Seiber questioned why these issues were not raised through the sign ordinance amendment process, because the changes obviously directly affect this business. Mr. Dowdy stated that Andy Cowen may have raised issues that deal more with the sales aspect, than the technical and engineering aspects. Mr. Dunn asked how difficult it would be to remove one of the electronic message boards. Mr. Dowdy stated that he was willing to do whatever necessary to come into compliance, but he was mainly concerned that he would be able to do the necessary testing and development, because a lot of people's livelihoods depended on it.

Mr. Seiber stated that if this were a business advertising a product, he would not have any trouble making a decision, but this is different, because it is the actual business. Mr. Dowdy stated that he could remove the top two message boards, as long as they could be seen from the road for testing purposes. Mr. Seiber asked if they were trying to draw

people from U.S. 641. Mr. Dowdy confirmed he was not. Mr. Dowdy stated that they had one walk-in customer in three (3) years. Mr. Dowdy named numerous products that were in development and that they would need to be tested somewhere. Mr. Seiber stated that he was concerned mainly about the size of the freestanding sign. Mr. Dowdy stated that he could move the two message boards to the side of the building and still be able to see them from the road. Mr. Perry stated that this would be an additional wall sign, because there was already a sign on the south building face. Mr. Dowdy stated that they could cut off the I-beams on the remaining sign posts after removing the message boards. Chairman Whitaker asked why there was a need for three business name signs on the freestanding sign if there was only one walk-in customer in three years. Mr. Dowdy explained that it was for employees and vendors. Chairman Whitaker asked what the purpose of having a scoreboard on the freestanding sign was. Mr. Dowdy stated that was because it is the whole reason they are there and the owner felt it was important. Mr. Dunn asked how long the testing takes. Mr. Dowdy stated that it ranges, depending upon the test and the agency (UL or ETL), from two weeks to two months. Mr. Dowdy stated that they would prefer to do longevity testing for several years, but if they had to simulate that another way, they could. Warren Hopkins, legal counsel, stated that there was not a definition for testing signs, so precaution needed to be taken in granting a variance and possibly there may need to be an amendment to the zoning ordinance in the future.

Mr. Dunn asked how many signs are tested at any given time. Mr. Dowdy stated that all new products are tested at some point. Some tests are government mandated and some are internal. Ms. Spann asked if there was any need to regulate the number of signs being tested if they were not seen. Mr. Seiber stated that if they were not visible, it is irrelevant. Mr. Perry read the definition for sign, emphasizing the portion, “in view of the general public.” **Scott Seiber made a motion to approve an additional wall sign, by allowing Sportable Scoreboards to remove enough of the freestanding sign to be under 80 square feet, and attach that portion to the building based on the facts that it will not adversely affect the public health, alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, will not allow an unreasonable circumvention of the requirements of the zoning regulations, that sign manufacturing is the actual business and the business is not located on a major thoroughfare. Andy Dunn seconded the motion and the motion carried 4-1. Bill Whitaker voted no.**

The Board interpreted that the testing area in and on the back of the building was not in view of the general public and it was within the realm of this business to test signs, and that no variances for additional signage were necessary for this purpose.

Public Hearing For Appeal Of Electronic Reader Board Sign Regulations Regarding Graphic Animation—Ordinance 2005-1373—106 Max Hurt Drive—Sportable Scoreboards—Greg Dowdy: Sam Perry stated that Mr. Dowdy appealed the planning staff decision of not allowing graphic animation according to the recent ordinance adopted by City Council on March 24, 2005. Chairman Whitaker opened the public hearing. Mr. Dowdy stated that he needs to be able to test the software for his signs and needs to be able to test them in environments as close to real world conditions as possible. Candace Dowdy asked Mr. Dowdy if it was possible to keep the graphic animation only on the signs in the testing area, as long as it was not on the sign that was

just granted the variance to be moved to the side of the building. Mr. Dowdy confirmed yes. Warren Hopkins questioned at what point does private become public? Mr. Hopkins stated that there is going to be more development in the industrial park and the testing area may be visible to the general public at some point, which could require screening.

Andy Dunn made a motion to only allow graphic animation on signs in the testing area and that screening be provided if the area to the rear develops. Scott Seiber seconded the motion. Scott Seiber stated that requiring screening now could be getting too far ahead. Mr. Seiber recommended that planning staff monitor the situation and require screening, only if needed. Ms. Dowdy stated that the only screening that is required in the zoning ordinance is between business and residential zoning districts. Ms. Dowdy reminded the board that conditions could only be placed on variances and conditional uses, but that the board simply needed to decide if planning staff interpreted the zoning ordinance correctly in prohibiting graphic animation. Mr. Hopkins confirmed the necessary action. **Andy Dunn amended the motion to state that the planning staff made the correct interpretation that no graphic animation is allowed on the business sign. Scott Seiber seconded the motion and the motion carried 5-0.**

Mr. Stockton asked Mr. Dowdy if it was possible to change the colors of the electronic message board portion of the business sign being discussed tonight, to be in compliance with the amber color required by the new city ordinance. Mr. Dowdy stated that it was not a software adjustment and that it would be very costly to change the colors.

Candace Dowdy informed the board that there was another possible special meeting coming up. Chairman Whitaker exclaimed shock. Ms. Dowdy stated that Pi Kappa Alpha had a date set for closing on the purchase of a property and would like to see if the board would grant a conditional use permit for their fraternity to operate in an R-4 zone. Ms. Dowdy asked the board if a quorum could be present on June 6th or 7th.

Andy Dunn made a motion to adjourn. Helen Spann seconded the motion and the motion carried with a 5-0 voice vote.

The meeting adjourned at 6:45 p.m.

Chairman, Bill Whitaker

Recording Secretary, Sam Perry