

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JUNE 18, 2008
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 18, 2008 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Tom Auer, Bill Whitaker, Greg Mayes, Ed Davis, and Darren Jones

Board Members Absent: Scott Seiber and Kim Griffo

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Mike Pitman, Reta Gray, Matt Mattingly, Mayor Rushing, Huong and Sean Kelly, Richard Vanover, Doug Lawson, John Coker, Holly Wise and public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker asked for approval of the minutes from the May 21, 2008 regular meeting.

Ed Davis made a motion to approve the minutes from the May 21, 2008 regular Board of Zoning Adjustments meeting as presented. Greg Mayes seconded the motion and it carried unanimously with a 5-0 voice vote.

Public hearing to review the Dimensional Variance application to allow temporary use of accessory structure for dwelling purposes – 30 Romans Way – Sean and Huong Kelly: *Darren Jones recused himself from this item.* Candace Dowdy referred to the structure located at 30 Romans Way on a Power Point presentation. Entry to this property is off of Spindletop Drive within Saddle Creek subdivision. In 2006, the Kelly's requested city utility services for a recreational facility being built on the property and at the time, the property was located in the county. Per city policy, if city utilities are extended, the city requests that the property be annexed into the city limits. In January 2007 this property (10.647 acres) was annexed into the city upon request of the Kelly's. (The property was not part of the Southwest Annexation Project.) No building permit was issued for the structure and no inspection was conducted by the city because the property was in the county at the time construction began. Sean and Huong Kelly are now requesting temporary use of this building for residential purposes while their new home is under construction at this same property. The City of Murray would prohibit an accessory structure being constructed prior to a principle structure; however, this structure again was not subject to these provisions since construction began prior to being annexed into the city. The construction plans show this building to have a full-court basketball court, a restroom, kitchen facility and a loft with two bedrooms.

Chairman Whitaker opened the public hearing and asked if there was anyone there wishing to speak in favor of the application.

Huong Kelly, 605 Kingsway Court, was sworn in. Ms. Kelly stated that they were in the county when they first started this project and after deciding that they wanted to acquire city utilities, they decided to have their property annexed. While they are getting closer to the projected plan of their new home, they thought about bringing in a mobile home to reside in while the construction was taking place, but since they already have a nice and safe structure with living quarters on the site, they thought their recreational facility could serve their needs for temporary residence. Ms. Kelly stated that after talking to Planning staff, she was told that this request would have to be presented to the Board of Zoning Adjustments for their approval of a dimensional variance. The current recreational facility has 6,600 square feet.

Sean Kelly, 605 Kingsway Court, was sworn in. Mr. Kelly stated that the projected size of the new home will be approximately 5,300 square feet plus a basement of 2,000 square feet totaling approximately 7,500 square feet. Mr. Kelly stated that when the recreational facility was originally constructed, the two loft rooms were not dedicated as bedroom areas; however, one room is a TV room where they host birthday/slumber parties that could easily be converted into a bedroom. Mr. Kelly added that there is also another room in the loft that is not finished that overlooks the kitchen area that could be finished out as a second bedroom and not require any major construction.

Greg Mayes asked if this building would convert back to its original use as a recreational facility once they move in their new home. The Kelly's answered yes. Ms. Dowdy asked if they had a time frame for living in the structure. Mr. Kelly said that it depended on when they sell their home where they now reside. As soon as they sell their current residence they will find a builder, start construction and hopefully, complete the new home in twelve to eighteen months. The Kelly's stated that by living at the site, they would be able to oversee the building process. Mr. Kelly concluded by saying that the structure has three outside doors. On the south end there is a garage door and another entry door along with a third entry door at the north end of the structure. There are also windows in the loft area that overlook the recreational area, with no outside access windows from the second level.

Chairman Whitaker asked if there was anyone that wished to speak in opposition of the application. There was no one. Chairman Whitaker closed the public hearing and opened for board discussion.

Tom Auer asked at what point the structure would actually change from a principal structure to an accessory structure. Ms. Dowdy stated when the Kelly's move into their new home, the recreational facility will become the accessory structure and the home will become the principal structure.

Ed Davis made a motion to grant the dimensional request for temporary use of an accessory building for residential purposes at 30 Romans Way for Sean and Huong Kelly subject to modifications of the accessory building and subject to meeting all building codes for a period of 24 months after current residence is sold and it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity,

will not cause a hazard or a nuisance to the public, and will not allow any unreasonable circumvention of the requirements of the zoning regulations. (Attorney Mike Pitman requested to make note that this building was under construction prior to voluntary annexation and that it is currently the principal structure on the 10.647 acre tract.) **Greg Mayes seconded the motion and the motion carried with a 4-0 voice vote.** *Darren Jones returned to the meeting.*

Public hearing to review the Dimensional Variance application to allow additional square footage to a free-standing sign – 2185 Hwy 641 North (Maxfuel #32) – Heritage Bank:

Peyton Mastera referred to the sign at 2185 Hwy 641 North on a Power Point presentation. The free-standing pylon sign at the BP gas station, located at 2185 US HWY 641 North, received a Dimensional Variance of 45 square feet in size, and a 6 feet height variance on March 19, 2003. Without a variance, BP's allowable signage would be 24 feet tall and 80 square feet in size. In turn, the current free-standing sign is 30 feet tall and 125 square feet. The applicant, Heritage Bank, has made a 22 inch x 56 inch (8.55sq. ft.) addition to BP's free-standing sign for a total of 133.55 square feet. This addition was erected without consulting with Planning Staff. Upon explaining to Heritage Bank that they have exceeded their permitted signage, they applied for the Dimensional Variance to keep the sign as is. Ms. Dowdy added that this sign falls within the 12th Street corridor and if at any point this business changed, the new business would have to comply with the monument signage.

On September 19, 2007, BP received a Dimensional Variance for an additional free-standing sign (proposed 72 square feet in size, 23 feet 4 inches tall) to go alongside their future weigh scale. Darren Jones asked where the additional sign that was approved for the weigh station was going. Mr. Mastera stated that the weigh scale is going to the north of the station and the sign is going over the top of the weigh scale. Chairman Whitaker asked why the weigh station had not been completed yet. Mr. Mastera stated that he had recently spoken with Mr. Fritschle, representative of Max Arnold and Sons, and they were still doing some negotiations to try and get the weigh station in place. Darren Jones then asked about the additional sign that is sitting on the ground under the BP sign. Mr. Mastera stated that was considered a temporary sign, but would also need to be addressed.

Chairman Whitaker opened the public hearing and asked if there was anyone that would like to speak in favor of the application.

John Coker, business address at Fine Signs & Graphics, 640 Bogertown Road, Bowling Green, KY was sworn in. Chairman Whitaker asked Mr. Coker to explain the panels/sections of the BP sign. Mr. Coker stated in some situations, the molded panel is actually only one panel that appears to be more and he would not be able to tell from a picture whether the sign had one large or several smaller panels. Mr. Coker stated that if changes were made to the convex shape molded panel signs, there would be considerable expense. Ms. Dowdy stated that the Planning staff noticed that the Heritage Bank signs were up at three different Max Arnold and Sons BP locations and at that time, Heritage Bank and Max Arnold and Sons were both notified. Ms.

Dowdy then added that Heritage Bank was told that they could leave the signs up until this was brought before the Board of Zoning Adjustments to see if the board would approve the variances.

Doug Lawson, 1116 Oaks Country Club Road, was sworn in. Mr. Lawson is a representative of Heritage Bank. Mr. Lawson stated that Heritage Bank as well as Max Arnold and Sons are both headquartered in Hopkinsville, KY. In the spring, the executive management of the bank entered into some discussions with Max Arnold and Sons to put up signs and to allow Heritage Bank to use ATM cash machines in their locations. Mr. Lawson stated that neither he or Richard Vanover, local management of the Murray bank offices, were involved in those discussions and to their surprise, Mr. Lawson saw the signs at the same time that the Murray Planning staff did. Mr. Lawson stated that he asked Mr. Coker how many signs were actually ordered by Max Arnold and Sons and Mr. Coker told him 24; thus, the three signs that are located in Murray are actually part of a larger package. Mr. Lawson said that there was an opportunity to take a block out of a third sign which is located on 4th Street and add the Heritage Bank sign in the vacant spot which alleviated the need for a variance on that particular sign and brought the sign into compliance. They are trying to find ways that could be creative and low cost to avoid anyone being out any additional dollars in rectifying this issue.

Chairman Whitaker asked if there was anyone wishing to speak in opposition of the application. There was no one. Chairman Whitaker closed the public hearing and opened for the board's discussion.

Greg Mayes asked who was actually responsible for coming to the Planning Department and getting a sign permit. Mr. Mastera stated that sign companies apply the majority of the time; however, the business owner or manager sometimes apply. Greg Mayes then asked if there were fines or penalties for not being in compliance. Mr. Mastera stated that non-compliance is subject to fines.

Mike Pitman stated that the variance was granted irrespective of the Heritage Bank addition which is significantly higher than what would be permitted and it also is not monument style, which is now the preferred design style in this area. He reminded the board that when dimensional variances are granted, they can impose whatever conditions they choose.

Ed Davis made a motion to table the request for Dimensional Variance until a representative from Max Arnold and Sons could discuss possible modification to the current sign, to remove the temporary sign, and to leave the Heritage Bank sign until this is resolved. Darren Jones seconded the motion and the motion carried with a 5-0 voice vote.

Public hearing to review the Dimensional Variance application to allow additional square footage to a free-standing sign – 1302 Main Street (Maxfuel #43) – Heritage Bank: Peyton Mastera stated that this item was very similar to the previous application from Heritage Bank; however, the free-standing pylon sign is located at 1302 Main Street. This sign is a legal non-conforming sign. BP is permitted (referring to the sign permit) a 72 square foot sign, which is approximately two square feet over the allowable signage of 70 square feet (configured based

upon road frontage). The applicant, Heritage Bank, has made a 16 inch x 72 inch (7.25 sq. ft.) addition to BP's free-standing sign for a total of 79.25 square feet. The sign was erected without consulting with the Planning staff. Upon explaining to Heritage Bank that they have exceeded their permitted signage, they applied for the Dimensional Variance to keep the sign as is. Ms. Dowdy added that she had spoken with Mr. Rick Fritschle several months ago and he had inquired about altering this particular sign. Ms. Dowdy reminded him that the existing sign was already over the allowable square footage and that he would not be able to add anything to it. He asked about removing one or two of the panels from the existing sign and inserting an electronic gas price panel, which is basically a reader board sign. Ms. Dowdy stated that she had told him that would not be an issue. Ms. Dowdy then asked Mr. Coker if this sign was similar to the North 12th Street sign and Mr. Coker stated again that he would have to look at the actual sign in order to determine if there was one large molded panel or several smaller panels.

Ed Davis made a motion to table the request for Dimensional Variance until a representative from Max Arnold and Sons could discuss possible modification to the current sign, and to leave the Heritage Bank sign until this is resolved. Tom Auer seconded the motion and the motion carried with a 5-0 voice vote.

Ed Davis left the meeting at 5:55 p.m.

Questions and comments: Ms. Dowdy said there was a document on the agenda during the month of May for the review of a conditional use permit on South 13th Street in which an adjoining property owner was present at the Board of Zoning meeting. The property owner called the Planning office and wanted to express her appreciation to the Board of Zoning for the good job.

Ms. Dowdy also stated that there would be an all day continuing education workshop at Kentucky Dam Village on July 9th for anyone that wished to attend.

Greg Mayes made a motion to adjourn. Darren Jones seconded the motion and it carried with a unanimous vote. The meeting adjourned at 6:00 p.m.

Chairman, Bill Whitaker

Recording Secretary, Reta Gray