

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, DECEMBER 17, 2008
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, December 17, 2008 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: None

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Mike Pitman, Reta Gray, Matt Mattingly, Kyle Johnson, Robert Johnson, Keith Crouch, Adam Scott, Aaron Scott, Margaret Vaughn, Bruce Ottway 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 October 22, 2008 regular meeting.

Scott Seiber made a motion to approve the minutes from the October 22, 2008 regular Board of Zoning Adjustments meeting as presented. Ed Davis seconded the motion and the motion carried unanimously.

Review of conditional use permit – 1303 Poplar Street – Kyle Johnson: Peyton Mastera stated that at the November 14, 2007 BZA meeting, a Conditional Use Permit was approved for Mr. Kyle Johnson to reside at 1303 Poplar Street with one non-related person. The BZA requested that the CUP be reviewed one year from the granting of the permit. As of December 7, 2008, Planning Staff had received no complaints concerning the property and no disturbances were reported according to the police department. Peyton referred to the site of the home at 1303 Poplar with a Power Point presentation.

Kyle Johnson, 1303 Poplar Street, Murray and his father, Robert Johnson, 2080 Sharp School Road, Calvert City were sworn in. Kyle stated that he still resides at his residence at 1303 Poplar along with one other person and that he is still a student of Murray State University and plans on continuing his studies there until graduation, which will be approximately 2½ years. Kyle added that he had not encountered any problems with the neighbors while living at the residence.

Scott Seiber made a motion that the conditional use permit granted to Kyle Johnson at 1303 Poplar Street is being adhered to in accordance with the conditions placed on it by the BZA on November 14, 2007 and that the conditional use permit should be continued with the same conditions and subject to an annual review by either Planning Staff and/or BZA. Darren Jones seconded the motion and the motion carried with a 5-2 voice vote. Ed Davis and Greg Mayes voted no.

Public hearing to review the dimensional variance application for a four square foot size variance on a monument style sign – 1208 North 12th Street – Goodwill Industries: Peyton Mastera showed the property on a Power Point presentation. Goodwill Industries located at 1208 N. 12th Street would like to place a prototype monument style sign of 84 square feet along their 12th Street corridor. The zoning ordinance requires that all businesses along 12th Street have monument signs. Goodwill Industries is allowed up to 80 square feet for a monument style sign since there is a frontage road in front of their business; therefore, Goodwill Industries is requesting a four square foot size variance on their proposed signage. In addition, Goodwill is allowed 180 square feet of wall signage on the west side of the building; their wall sign will be approximately 75 square feet. Peyton added that the front of the Goodwill building will have an overhang that will serve as a drive-thru for dropping off merchandise. At one end of the drive-thru, there will be an 18 x 36 inch directional sign (4.5 square feet – ordinance provides for a 2 sq. ft. directional sign). This type of sign is not calculated into the wall signage.

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

Keith Crouch, Greer-Neon Sign, 325 West Broadway, Mayfield, was sworn in. Mr. Crouch stated that the sign is a typical 6 x 14 foot sign. The structure will be aluminum with a steel structure inside and a concrete foundation. The sign will be blue in color.

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 turned it over to the board for discussion.

Kim Griffio stated that her concern was that 12th Street was a main corridor coming into Murray and the blue sign would be a glaring sign. Ms. Dowdy added that the board did not have power to decide on the color of the signage. Mr. Mastera compared the signs of Baymont Inn and Heritage Bank along North 12th Street and stated that their signs were similar in size to the proposed Goodwill Industries sign.

Ed Davis made a motion to approve a four square foot size variance on the monument style sign for Goodwill Industries at 1208 N. 12th Street, additionally the two and a half square foot variance for the drive-thru sign. This sign 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 an unreasonable circumvention of the requirements of the zoning regulations. This sign will provide additional visibility with it being behind a frontage road and Goodwill is well under their allowable square footage for wall signage and the sign will not hinder nor obstruct the view of any surrounding business. Tom Auer seconded the motion and it carried with a 6-1 voice vote. Kim Griffio voted no.

Public hearing to review the conditional use permit application to allow a gymnastic business in an Industrial zoning district – 309 Solar Drive – Universal Kidz Center:

Candace Dowdy showed the proposed new site for Universal Kidz Center on a Power Point presentation. Aaron Scott owns and operates Universal Kidz Center located on Hwy. 94 East. The nature of this business is providing dance, cheerleading and gymnastic classes to kids. Mr. Scott would like to expand his current business by offering indoor recreational activities such as inflatables to the general public. He is considering purchasing the old Jakel building located at 309 Solar Drive to accommodate the need for more space. This property is located in an Industrial Zoning District. The Industrial Zone allows for non-retail sales and services as a permitted use and retail sales and consumer services as a conditional use (Section II, Article 6). The EDC currently owns this property. A minor plat was approved in December 2007 dividing the Jakel property into two tracts of land. The EDC sold the western portion, identified as Lot 1-A, to Top Choice Fabricators; the eastern portion, identified as Lot 1-B, is currently vacant and for sale. The building has 24,000 square feet and is situated on a 5.078 acre tract of land. This property has a large paved parking area that could accommodate at least 130 vehicles.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the application. *Attorney Mike Pitman entered the meeting at 5:20 p.m.*

Adam Scott, 336 West Grove Drive, Murray was sworn in. Adam stated that since the new EDC Park on US Highway 641 North was being marketed specifically to industries, he does not think an industry would be interested in the former Jakel building.

Aaron Scott, 2107 Glenwood Drive, Murray was sworn in. Aaron is the owner of Universal Kidz Center. The age group that uses his facility is generally between three years and eighteen years. The hours of operation are 4:00 p.m. through 8:00 p.m. and on occasion 9:00 p.m. Aaron stated that the current location of his business was not ideal; entering and exiting from US Highway 94 East was very dangerous. He feels that the location on North 4th Street would not be as hazardous because the posted speed limits are lower on North 4th Street than on Hwy 94. Scott Seiber asked if he saw a disadvantage of being located next to an industrial business. Aaron said that all of the activities of his business were located indoors; therefore, he was not concerned with the closeness of the neighboring industry. Aaron added that since the majority of his advertisement was done through word of mouth by clients, through the school systems and through mail-outs, he would not require a large area for signage. Universal Kidz Center has from 175 to 250 kids that come in throughout the month. Aaron stated that he did not foresee a problem with parking as some of the children are dropped off by parents while some parents actually stay.

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 turned it over to the board for discussion.

Tom Auer made a motion to approve the conditional use permit for Universal Kidz Center to operate a gymnastics center at 309 Solar Drive as it has ample parking and with the

condition that any change of ownership and/or use of this facility is subject to review by Murray Planning Staff and/or the Murray Board of Zoning Adjustments. Scott Seiber seconded the motion and it carried with a 6-0 vote. Darren Jones abstained from voting.

Public hearing to review the dimensional variance application for an additional free-standing sign – 911 Arcadia Circle – Angel’s Attic: Peyton Mastera pointed out the property of Angel’s Attic located at 972 Chestnut Street on a Power Point presentation. Angel’s Attic would like to erect a directional/free-standing sign at 911 Arcadia Circle. Angel’s Attic leases 911 Arcadia Circle for parking purposes and added access to the business. Currently Angel’s Attic has a directional sign on Arcadia Circle that meets city requirements. This request is to make the directional/free-standing sign larger than the minimum requirements. The proposed sign will be larger than two square feet in surface area and will be taller than 30 inches. The proposed sign will be 8.9 square feet in size (40 x 32 inches) and 5 feet in height; thus, a 6.9 square feet size variance and 2.5 feet (30 inch) height variance are needed. Since Angel’s Attic is requesting for signage to be located on a separate lot from that of the business, the sign exceeds the maximum requirements, and the fact that the sign will be situated closer than the required ten feet off the property line, the following variance will need to be considered:

- Section III, Article I.C.1.B.: Private directional signs indicating entrance, exit, or location of parking not exceeding two (2) square feet in surface area for each sign and the height must not be more than 30” from the street level. These signs must be placed on private property and not on public right-of-way.

Peyton stated that the zoning ordinance only allows one free-standing sign per business. (Despite being on a separate lot and a “directional sign” in nature, Planning Staff views this proposed sign as an additional free-standing due to its size and height; therefore, it must meet the zoning ordinance requirements.) The fence is approximately nine feet from the property line. The required ten foot setback is one foot inside the fence. The outer edge of the proposed sign (closest to Arcadia Circle) will be four feet from the property line; therefore, Angel’s Attic requests a six foot front setback variance on the proposed signage.

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

Margaret Vaughn, 55 Poor Farm Road, Murray was sworn in. Ms. Vaughn is a representative for Angel’s Attic. She stated that Angel’s Attic rear entrance is in a secluded place and that the current directional sign needs to be larger and more obvious for their customer’s benefits. Ms. Vaughn stated that the drop-off area for Angel’s Attic had recently been improved to help alleviate congestion in that area. Ms. Vaughn added that the back entrance into Angel’s Attic serves as a drop-off for items that are being donated where the front entrance (on Chestnut) serves as an entrance into the store for customers.

Bruce Ottway, Ottway Signs, 511 North 4th Street, Murray was sworn in. Mr. Ottway referred to the pictures that were shown on the Power Point presentation and stated that the sign was drawn

to scale on the photograph. He stated that the proposed sign would be made out of double-faced aluminum with wood posts and would be painted white for more visibility. He added that he planned to place the proposed new sign far enough out of the view of oncoming traffic, so that when an automobile was leaving the rear entrance to Angel's Attic, a person's view would not be blocked. David Roberts, City Engineer, stated that the sign could not be placed any closer to the drive because of the storm water detention area that had recently been completed.

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 turned it over to the board for discussion.

Candace Dowdy stated that the Planning Department had received one phone call concerning Angel's Attic's request for additional signage and that was from Bob Dunn with Holland Medical. Mr. Dunn stated that he did not have any objection to Angel's Attic's newly proposed sign as long as there was no obstruction to Holland Medical's sign. Peyton Mastera stated that if the sign was placed at the proposed location, the new sign for Angel's Attic would not block the sign at Holland Medical.

Darren Jones made a motion to approve the sign variance for Angel's Attic at 911 Arcadia Circle for an additional directional/free-standing sign at a size of 8.9 square feet (6.9 square foot size variance) and overall height of five feet (30 inch height variance); also, grant a six foot front setback variance on the placement of the sign. This sign 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 an unreasonable circumvention of the requirements of the zoning regulations. This sign will provide additional visibility which will aid in safety while not providing any visibility issues for those entering and exiting this property nor block the view of any surrounding business. Ed Davis seconded the motion and the motion carried with a 7-0 voice vote.

Administrative appeal – 201 North 8th Street – Gerald Carter: Since Mr. Carter was not in attendance, the BZA decided to subpoena him to attend a public hearing to be held during the regular meeting in January of 2009.

Ed Davis made a motion to notify Mr. Gerald Carter by subpoena requesting his presence at the public hearing to be held on January 21, 2009 BZA meeting. Darren Jones seconded the motion and the motion carried with a 7-0 voice vote.

Election of officers: Ed Davis and Darren Jones will be leaving the Board of Zoning Adjustments at the end of 2008. Chairman Whitaker thanked them both for their service. Candace Dowdy stated that Mary Anne Medlock would be taking Ed Davis's position as a representative from the Planning Commission. Darren Jones's position is still vacant.

Murray Board of Zoning Adjustments Regular Meeting
Wednesday, December 17, 2008

Scott Seiber nominated the following for 2009 BZA positions: Bill Whitaker as Chairman, Kim Griffo as Vice-Chairman and Greg Mayes as Secretary. Tom Auer seconded the motion and the motion carried unanimously.

Questions and Comments: Peyton Mastera passed out annual forms for the board member's signatures.

Scott Seiber made a motion to adjourn. Darren Jones seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 6:20 p.m.

Chairman, Bill Whitaker

Recording Secretary, Reta Gray