

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JANUARY 19, 2011
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, January 19, 2011 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Scott Seiber, Mary Anne Medlock, Steven Reed, John Krieb, and Bill Whitaker

Board Members Absent: Justin Pounds

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Matt Falwell, Deana Wright, and Mike Pitman

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker asked if there were any changes, additions or deletions to the minutes from the October 20, 2010 regular meeting. There were none so the minutes were accepted by acclimation.

Public hearing to review the dimensional variance application for a seven (7) foot side setback variance on a free-standing sign – 102 North 15th Street – Gear Up Cycles: Peyton Mastera used a Power Point presentation to show the business Gear Up Cycles (owner: Matt Falwell) that is located at 102 North 15th Street. This business has been in existence for approximately one year. Mr. Falwell is looking to utilize an existing non-conforming free-standing sign on this corner lot. Staff cannot find any record for when this sign post/frame was erected. Winged Foot Golf was in existence from 1977-1993. (The sign was in the shape of a golf ball – the frame of it remains.) After Winged Foot Golf moved, ZAX occupied the entirety of the building, but did not utilize the free-standing sign. Planning Staff has allowed this sign to remain in existence to give a business owner the chance to apply for a variance. Mr. Mastera stated that the sign is non-conforming because it is positioned too close to the Main Street right-of-way (a.k.a. property line). The confirmation of this comes from plat #5464-I, a minor subdivision plat of this particular corner lot in July 1988 by the University Church of Christ. According to this minor plat, the right of way extends 6½ feet inside the back of the curb; in turn, the property line is situated within the existing sidewalk. Mr. Mastera stated that he had spoken to Kim Oatman from Murray State University concerning the right of way and Mr. Oatman confirmed the location. Mr. Mastera said that the sign is a two-sided free-standing sign. The other side of the sign remains empty and if this variance is approved, it is anticipated this side of the sign will be utilized by the other tenant in that building, YHWY Enterprises. With this building being on a corner lot, the tenants are allowed a wall sign facing North 15th Street as well as a wall sign facing Main Street. Both tenants have a wall sign on the Main Street side. YHWY received their permit for a wall sign on November 5, 2010; Gear Up Cycles received their permit on November 17, 2010. Neither of the tenants have a wall sign on the North 15th Street side of the building. The building sets approximately 90 feet from Main Street. Mr. Mastera stated that also noteworthy is the varying right of way throughout Main Street. In looking across the street

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located. It shows the same type of right of way information, but no curb exists along this portion of Main Street. To the east, boundary survey #6426 in front of the Owen's property (now Vietnamese Cuisine restaurant) shows the right of way coming only to the back of the curb, which is a deviation from other plats in the area. Planning Staff cannot confirm or deny any exact right of way information through the area. Scott Seiber asked when the sign was constructed. Mr. Mastera stated that the Gear Up Cycles sign went up in mid September of 2010 and the actual sign structure was constructed in the 1930's. Mr. Mastera concluded that the Planning Staff had measured this pursuant to plat #5464-I and their findings from the property line to the outer edge of the free-standing sign were only three feet from the property line; thus, Gear Up Cycles is requesting a seven (7) foot side setback variance.

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

Matt Falwell, 5303 Wiswell Road, Murray, Kentucky was sworn in. Mr. Falwell stated that he has owned and operated his full service bike store at this location for approximately one year. He added that there had not been a full service bike store for several years in Murray. Mr. Falwell said that he has drawn business from Western Tennessee, Mayfield and Benton by cutting down his customer's driving time of going to Jackson or Nashville, Tennessee. Chairman Whitaker asked Mr. Falwell if he had to move the sign, would he lose any parking spots. Mr. Falwell stated that he would lose parking and also the cost of a steel frame. Mr. Falwell stated that he had spent 10 years as a general contractor and that he had a good idea of the overall costs. He said in order to move the sign, he would have to cut the cement parking lot, excavate and put in a footer with rebar. It would not be a simple procedure and it would cost several thousand dollars. Ms. Dowdy stated that the sign would require one foot of landscaping per foot of signage. Mr. Seiber asked Mr. Falwell if he had plans to light the sign and Mr. Falwell stated that there was no way to get electrical power to the sign and that the existing street lights currently light up the sign. John Krieb stated that from a business visibility, the sign would be better being left where it is. Mr. Falwell said that he had been negotiating with Mike Holton, owner of the building, for some time concerning purchasing the building but they have not come to an agreement at this point. Chairman Whitaker asked David Roberts if there were any safety concerns about the sign being located that close to the right of way. Mr. Roberts stated that he did not know of any and he added that there was not a visibility issue because of the height of the sign.

Deana Wright, 704 Elm Street, Murray, Kentucky was sworn in. Ms. Wright, Main Street Manager, stated that Gear Up Cycles is a member of Main Street. She stated that the sign is a historic sign and that it had been there since the 1930's. She said that it is in very good shape and she would like to have it remain because of the historic value.

Chairman Whitaker asked if there was anyone that wished to speak against the application. There was no one.

Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

Scott Seiber made a motion to approve the Dimensional Variance Application of Gear Up Cycles (business owner: Matt Falwell, building owner: Mike Holton) at 102/104 North 15th Street for a seven (7) foot side setback variance (Main Street side); this sign may not be expanded or enlarged beyond the existing square footage and the use of this sign will not hinder nor obstruct the view of traffic; and this variance 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. All landscaping requirements will be waived because of the hazard to the public while using the parking lot where the sign is located and it would be detrimental to the sign. Mary Anne Medlock seconded the motion and the motion carried with a 5-0 voice vote.

John Krieb made a motion to amend the previous motion by adding that the sign is of historical significance and the reason for waiving the landscaping requirements is to preserve the integrity of the sign because of it's dating back to the 1930's. Mary Anne Medlock seconded the motion and the motion carried with a 5-0 voice vote.

Questions and Comments: Peyton Mastera asked for the BZA members to sign their Continuing Education Credit forms for the 1.5 hour seminar on Proper Conduct of Public Hearings and he added that he has copies of the Power Point presentation that Dr. Beck left for the members to take with them.

Adjournment: Scott Seiber made a motion to adjourn. John Krieb seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 5:00 p.m.*

Chairman, Bill Whitaker

Recording Secretary, Reta Gray