

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JANUARY 18, 2012
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, January 18, 2012 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Scott Seiber, Brad Darnall, Mary Anne Medlock and Steven Reed

Board Members Absent: Bill Whitaker and Justin Pounds

Also Present: Candace Dowdy, Justin Crice, David Roberts, Mike Pitman, Reta Gray, Hawkins Teague, Ryan and Rachel Stewart, Josh Flaspoebler, Trent Garland and Paul Garland

Chairman Seiber called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Seiber asked if there were any changes, additions or deletions to the minutes from the December 21, 2011 regular meeting.

John Krieb made a motion to accept the minutes from the December 21, 2011 Board of Zoning Adjustments regular meeting as presented. Brad Darnall seconded the motion and the motion carried unanimously.

Public hearing to review Dimensional Variance application for height and setback variance on fence – 1715 Ryan Avenue – Ryan and Rachel Stewart: Justin Crice used a Power Point presentation to show the property at 1715 Ryan where Ryan and Rachel Stewart reside. The property is zoned R-2 (Single Family). The Stewarts are requesting a setback and height variance on a new fence at 1715 Ryan Avenue. This fence is located approximately four (4) feet off the property line and the height of the fence is six (6) feet. This is a corner lot with the primary street being Ryan Avenue and the secondary street being North 18th Street. Mr. Crice stated that it was brought to Planning Staff's attention that the property owner had erected a fence at this location and that the gas meter was located inside the fence. Upon speaking to the property owner the staff found out that the fence was in violation of the zoning ordinance and informed the property owner that they would have to apply for a variance on the location and height of the fence. The new fence is attached to the existing fence belonging to the adjoining property owner on the corner of North 18th and Calloway Avenue. The existing fence is the same height as the new fence. There is no record of a variance at that location making this a pre-existing non-conforming structure. Mr. Crice stated that Section III, Article 3 E of the zoning ordinance states:

- 1) Fences or walls shall meet the following height limitations:
 - Front Yard: 4 Feet
 - Rear and Side Yard: 8 Feet
- 2) No fence or wall shall be located closer than ten (10) feet to any street right-of-way
- 3) On a corner lot, the side facing the secondary street shall be treated as a front yard

Murray Natural Gas has relocated the gas meter outside the new fence. Planning Staff has observed that there does not seem to be any obstruction of vision in entering North 18th Street from Ryan Avenue or Calloway Avenue.

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

Ryan Stewart, 1715 Ryan Avenue, Murray was sworn in. Mr. Stewart said they were unaware of the rules and regulations in constructing a fence. Mr. Stewart said that the purpose of the fence was to keep their two dogs in. Mr. Stewart added that they are willing to work with the city to resolve this issue. *Mary Anne Medlock entered the meeting at 4:43 p.m.*

Chairman Seiber stated that on occasion they have a person that is seeking forgiveness for an act instead of approval such as putting up the fence. Mr. Stewart said that he was not aware that there would be a problem with the fence itself, but maybe the setback. He stated that he is using the existing fence for his backyard and is only constructing fencing on the sides. He only has one side completed at this time. Mr. Stewart plans to match both sides in height and materials. He added that he did get prior approval from his three adjacent neighbors before he began the construction and none of them mentioned the city regulations to him.

Chairman Seiber asked if there was anyone in opposition to the application. There was no one. Chairman Seiber closed the public hearing and turned it over to the board for discussion.

John Krieb said that he thinks that since the fence is in line with the adjoining existing fence and that it looks aesthetically pleasing he thinks that the application should be approved. Mary Anne Medlock asked who paid for the cost of relocating the gas meter. Mr. Crice stated that it was paid for by Ryan and Rachel Stewart.

John Krieb made a motion to approve the Dimensional Variance Application for 1715 Ryan Avenue, owner Ryan Stewart, for a 6 foot setback and a 2 foot height variance on a fence; the placement of this fence 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. This fence will not come any closer to the right of way than the pre-existing non-conforming fence at 1716 Calloway Avenue. Brad Darnall seconded the motion and the motion carried with a 5-0 voice vote.

Public hearing to review Dimensional Variance application for use of projecting sign in a B-1 zone – 1415 Main Street – Brother’s BBQ – Ron Gladden: Candace Dowdy used a Power Point presentation to show the property at 1415 Main Street where Brother’s BBQ has recently opened a barbeque business. The business is owned by Ron Gladden and Josh Flaspoebler. The purpose of the application is for the request to use an existing projecting sign in a B-1 Zone (Neighborhood Business District). Ms. Dowdy stated that Mr. Ron Gladden is leasing the space at 1415 Main Street for a carry out restaurant. There is an existing projecting sign frame that has been attached to the building for years. Mr. Gladden has placed new sign panels in the old frame. The building is unusual in the aspect that most of the front of the building is glass. There is also a canopy that runs across the front of the building leaving virtually no room to place a wall sign directly on the face of the building. The actual sign frame is not located directly over the store front; however, the request is to leave it as it is currently located. Mr. Gladden’s store front is thirteen feet wide with the overall height of the building at approximately 24 feet. From ground level to the bottom of the canopy is nine feet; therefore, allowing a maximum wall sign of sixteen square feet, requiring an eight square

foot variance for the size of the sign. Ms. Dowdy said that the Ordinance states: *only a wall sign or a projecting sign is allowed in a B-3 Zone where the right of way does not permit a free-standing sign.* Ms. Dowdy stated that the Planning Staff does not have a problem with leaving the sign in its current location. She added that Mr. Gladden was going to be out of town during the meeting; therefore, the co-owner of the barbeque business is there to make their representation.

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

Josh Flaspoebler, 209 South 15th Street, Murray was sworn in. Mr. Flaspoebler stated that he was a co-owner of the barbeque business and that he and Ron Gladden own an additional barbeque business located at 4th & Sycamore. He said that Ms. Dowdy had covered everything nicely. He added that he thinks the sign frame looks better with panels in it than the way it was when they opened their business at this location. Mr. Flaspoebler said that he had had no knowledge of the City Ordinances involving sign regulations. Mary Anne Medlock asked if a copy of the sign ordinance was handed out when a business license is applied for. David Roberts said that this procedure is in the process of changing within the next 30-60 days and when someone applies for a business license, that will go through the Planning Department and they will relay this type of information at the time that the business license is issued. He added that this will hopefully avoid these types of situations in the future. Steven Reed stated that he was disappointed in the fact that co-owner Mr. Gladden (as an owner of multiple businesses) was not aware that a sign permit was needed. Chairman Seiber stated that the frame surrounding the panels was metal and needed to be cleaned up and painted. Mr. Flaspoebler said that he could honor that request.

Chairman Seiber asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Seiber closed the public hearing and turned it over to the board for discussion.

Mr. Krieb said that since this was a pre-existing frame and they were only changing out the panels in the sign, he did not have any concerns with allowing the owners to leave the sign up. Mary Anne Medlock stated that this could have been an opportunity to update a non-conforming sign. Chairman Seiber said that he did not think a wall sign would be effective in that location.

Brad Darnall made a motion to approve an eight (8) square foot sign variance for Brother's BBQ (business owner: Ron Gladden) to use an existing projecting sign at 1415 Main Street; this sign may not be expanded or enlarged beyond the existing square footage; 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. The frame surrounding the sign panels should be cleaned up and painted. John Krieb seconded the motion and the motion carried with a 5-0 voice vote.

Compatibility hearing for Residential Planned Development Project – 170 and 190 Utterback Road – Paul Garland: Candace Dowdy stated that this project was reviewed before the Planning Commission on the previous night in an Advisory Meeting and they agreed to forward it on to the Board of Zoning. Ms. Dowdy used a Power Point presentation to show the property and proposed site plan owned by Paul and Vicky Garland located at 170 and 190 Utterback Road. The property at 170 Utterback Road is currently located in the city and is zoned R-4 (residential) and the property

located at 190 Utterback Road is in the process of being annexed. The two tracts of land consist of 1.84 acres. Mr. Garland is proposing to construct thirty-two one bedroom residential units on this tract of land. The Future Land Use Map identifies this property as low-density residential. There are other properties in the immediate area that are identified as Medium Density. Ms. Dowdy stated that Mr. Garland would like to keep the number under eleven units to each building so that he doesn't have the costs of installing a sprinkler system. Ms. Dowdy said that a "T" or cul-de-sac turnaround will have to be added to the site plan if the BZA approves this project to move forward. She stated that when a project is over 150 feet from the road, there must be a turnaround provided for fire personnel to maneuver a fire truck. There is a 25 foot setback required in the rear of the project; thus, Mr. Garland will have to reconfigure the layout of the buildings in order to meet this requirement. Ms. Dowdy stated the following items will be addressed on a preliminary plat: parking requirements, stormwater detention, contours of the land, dumpster location, screening and landscaping. She added that the BZA is to determine whether the project is compatible to the area. Ms. Dowdy stated that Mr. Garland had indicated that they might put evergreens along the back of the property that runs adjacent to Hickory Woods to the East.

Trent Garland came forward to answer questions. Chairman Seiber asked what the back of the structures would look like. Mr. Garland said that there would be a connected concrete patio running along the back of the buildings and they would have dividers separating each unit. He said that they were tossing around the idea of evergreens or a fence to separate the units from Hickory Woods to give the tenants some privacy. John Krieb asked if putting a sprinkler system in would be profitable for insurance purposes for the owner. Mr. Garland said that it is not really cost effective. Mr. Garland said that they are trying to target single people and the elderly and to stay away from college tenants. Mary Anne Medlock asked if there were any potential water drainage problems with the land. Ms. Dowdy said that the Garlands would have to provide an engineer's stormwater detention calculations for the property.

John Krieb made a motion to approve the proposal for a Residential Planned Development Project at 170 and 190 Utterback Road by Paul Garland as it is compatible with the surrounding area pending the review of the plans and all the other board approvals that will be involved in the future. Brad Darnall seconded the motion and the motion carried with a 5-0 voice vote.

Questions and Comments: Ms. Dowdy reported to the board that the carport issue that had been discussed during the December meeting for the business located at 12th Street and Pogue has been resolved. A few days after the board met last month, the carport was removed from its former location and relocated to the back of the business. Steven Reed asked for clarification on small yard signs in front of businesses. Ms. Dowdy stated that those types of signs can be used in addition to wall signage if the business has a temporary sign permit. She added that if anyone noticed any particular signs, they can call or e-mail the Planning Department and they will check to see if a sign permit has been granted. Justin Crice reminded the board to turn in their Financial Interest Statement.

Adjournment: John Krieb made a motion to adjourn. Steven Reed seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 5:35 p.m.*

Chairman, Scott Seiber

Recording Secretary, Reta Gray

