

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, FEBRUARY 22, 2012
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, February 22, 2012 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Brad Darnall

Also Present: Candace Dowdy, Justin Crice, David Roberts, Mike Pitman, Reta Gray, Hawkins Teague, Paul Harper, Sheila Crouse, Matt Imes, Paul Garland, Trent Garland and Troy Stovall

Chairman Whitaker called the meeting to order and welcomed all guests and applicants. Chairman Whitaker asked if there were any changes, additions or deletions to the minutes from the January 18, 2012 regular meeting.

Scott Seiber made a motion to accept the minutes from the January 18, 2012 Board of Zoning Adjustments regular meeting as presented. John Krieb seconded the motion and the motion carried unanimously.

Public Hearing: Request for Conditional Use Permit for a retail business in a B-1 Zone – Story Avenue – Paint Plus Flooring: Candace Dowdy used a Power Point presentation to show the vacant lot at 1211 Story Avenue where Paul Myhill and Paul Harper (owners of Paint Plus Flooring) are proposing to construct a bricked front metal building approximately 5,000 to 7,500 square feet in size. The property is currently owned by Billy Dan Crouse. Mr. Myhill and Mr. Harper are interested in using the building to operate a retail business for discount flooring of overstock and discontinued items from Paint Plus located on Johnson Boulevard. The property is zoned B-1 with R-2 zoning to the north, B-2 to the east and south and B-1 directly to the west. The lot has 179 feet of road frontage on Story Avenue and is approximately 173 feet deep. It is almost three-fourths of an acre. If a conditional use permit is approved, the hours of operation would probably start out by appointment only. Mr. Crouse attempted to have the property at 1211 Story rezoned from B-1 (Neighborhood Business) to B-2 (Highway Business) in February 2008. This request was denied. She added that the residents had signed a petition against the rezoning with their feelings that this would be encroaching on their neighborhood since B-2 zoning is the least restrictive. Ms. Dowdy said that the Ordinance does not list anything that is similar to a business such as Paint Plus in a B-1 zone. All adjoining property owners were notified of the meeting and Planning Staff has not received any calls or letters concerning this matter.

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

Paul Harper, 2105 Lone Oak Road, Paris, Tennessee was sworn in. Mr. Harper said the purpose for the CUP application was to see if the board would allow them permission to put up a building. Mr. Harper explained that they would like to get into discounted flooring sales and they have outgrown their current location. They have plans for the front portion of the building to be for sales and the back for storage. Ms. Dowdy asked Mr. Harper what the frequency of semi delivery trucks would be. She also wanted to know if the deliveries would be made to the Paint Plus store or to the store on Story. Mr. Harper said it would be hard to predict what frequency the trucks would be delivering and where the deliveries would be made.

They do foresee semi-trucks delivering the discount flooring. They also plan on moving some of the inventory with smaller vehicles on pallets. John Krieb asked how the layout of the building would be. Mr. Harper said that they do not have plans at this time; however, he thinks that they may build the building to the west side of the lot with a loading dock on the side allowing more maneuverability room for a semi-truck. Ms. Dowdy stated that they would be required to have screening along the front adjacent to the Residential zoning district.

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

Scott Seiber said that the lot is large enough to accommodate the ingress and egress of semis. Mary Anne Medlock disagreed because she believes to allow this building to be built would be changing the nature of the neighborhood. Ms. Medlock added that there are still too many unknowns such as no site plan being available, the flow of traffic in and out of the neighborhood and the semis traffic that will be added to Story. She said that she is not comfortable with this particular location. Ms. Dowdy said that the location was chosen because of the close proximity to the applicant's other business. She added that they are somewhat landlocked at Paint Plus since there is no available land directly adjacent to them. John Krieb asked if it would be possible to table the matter until the applicants could provide a site plan. Ms. Dowdy said that the applicants did not actually own the property at this time, but they might be willing to have a site plan drawn up to bring back to the board before a decision is made. Mr. Harper stated that they did not wish to have the item tabled; they would just like an answer tonight so they would know whether to move forward with the purchase of the property. He added that the proposed building would fall within the required setbacks. Mr. Harper said that he understood that semis could be a concern and he could not promise that there would not be any there.

Mary Anne Medlock made a motion to deny the request for a conditional use permit to operate a retail business in a B-1 zone at 1211 Story Avenue. No one seconded the motion.

Scott Seiber made a motion to approve the conditional use permit for Paint Plus Flooring to operate a retail business in a B-1 zoning district at 1211 Story Avenue. The permit is for this business only and any other use of the building would require review and approval by the Board. Every accommodation should be made to work with the Planning Staff in the location of the building where the ingress and egress will have as little an impact as possible with the truck traffic in the neighborhood and for an appropriate parking arrangement that will not have an inordinate amount of asphalt. John Krieb seconded the motion. The vote was 3-3; therefore, the motion was denied. Mary Anne Medlock, Justin Pounds and Steven Reed voted no. Chairman Whitaker stated that since the vote was tied, the application is denied.

Mr. Pounds said that the property is probably zoned incorrectly. Mr. Pounds said that if the applicants were willing to submit a site plan, he might be more comfortable and vote in favor of the application. Ms. Medlock said that maybe the property should be rezoned. Mr. Reed added that it has been four years since the attempt to rezone the property was voted down and maybe it is time to again try to get it rezoned. Mike Pitman clarified that B-2 zone is Highway Business and this piece of property was previously considered to be too far from the highway to be B-2; therefore, rezoning the property might not be the answer.

Justin Pounds made a motion to table this matter until more information is available on the site plan. John Krieb seconded the motion. Chairman Whitaker asked for a voice. Motion passed. Mary Anne Medlock and Scott Seiber voted no.

Chairman Whitaker informed Mr. Harper that the item had been tabled and if he wanted to submit a site plan and come back before the board in the upcoming months that would be allowed.

Public Hearing: Review of Dimensional Variance Application for additional signage at 1621 Hwy 121 Bypass North – Shelia K. Crouse – Woodmen of the World: Candace Dowdy used a Power Point presentation to show the property at 1621 Hwy 121 Bypass North where Sheila K. Crouse, Field Representative of the Woodmen of the World has opened an office. Ms. Crouse is requesting to add an additional 11 square feet to the existing nonconforming freestanding sign so that she may utilize a sign she already has. The property is located in a B-2 zone and is surrounded by R-4 to the East and B-2 on all other sides. The overall height of the existing free-standing sign is 12 feet from ground level to its tallest point. Ms. Dowdy stated that previously a 41 square foot variance was permitted in February 2002, allowing a total of 93 square feet. Currently *A Cut Above* occupies 72 square feet of the sign, leaving 21 square feet. The sign the applicant would like to utilize is 32 square feet. Ms. Crouse currently has her name on the door on the west side of the building, but it is not visible from the highway. There is no location on the front of the building to place the sign.

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

Sheila K. Crouse, 1621 Hwy 121 Bypass North, Murray was sworn in. Ms. Crouse opened an office in Murray and brought her 4' x 8' sign with her. Ms. Crouse stated that she no longer wishes to install the sign under the existing sign. She stated that one reason for her changing her mind was because her sign is two sided and it will not fit beneath the existing sign. Secondly, Ms. Crouse recently found out that when Hwy 121 Bypass is widened to five lanes, the existing sign will have to come down because it will be in the right of way. Ms. Crouse verified that the printing that is on the door cannot be seen because of the trees. Ms. Crouse said that she would like to put her sign in the yard on the west front side of the building, but she would be willing to leave it on the side it currently is and move it back off the right-of-way. She added that *A Cut Above* is moving in the middle of March to another location; therefore, their sign should be taken down at that time. Ms. Crouse explained that if *A Cut Above* removed their sign, she would not be able to display both sides of her two sided sign if she put hers in that location just to have the State take it down when they begin working on the road. Ms. Dowdy said that Planning Staff was not aware of the changes that Ms. Crouse is proposing before the meeting. She added that when the other tenant moves out, the property owner would have to comply with the sign regulations and take the entire structure down as it is non-conforming; Ms. Crouse will then be allowed to put her sign up as she has requested. Ms. Dowdy said that after Ms. Crouse puts her sign up, there will still be 23 square feet left for the next tenant's sign. Chairman Whitaker asked if Ms. Crouse could put up a banner until the tenants next door moved and Ms. Crouse did not like that idea because of the additional cost. Ms. Dowdy stated that until the board has some assurance that the sign was coming down, they could not allow another free-standing sign to be put up and if Ms. Crouse needs something immediately she might reconsider a banner.

Mary Anne Medlock made a motion to table this matter until the current sign is removed and Ms. Crouse has more information to present to the board. Scott Seiber seconded the motion and the motion carried unanimously.

Public Hearing: Review a Dimensional Variance Application for additional signage at 311 North 4th Street – Imes-Miller Funeral Home: Candace Dowdy used a Power Point presentation to show the property at 311 North 4th Street (Imes Miller Funeral Home) owned by Kenny and Mary Beth Imes. The funeral home is located between 4th and 5th Streets and is in a B-3 zone. There is B-3 zoning to the north and south, Government to the east and R-3 to west. The applicant is requesting a variance to leave the signage that has been placed on all four sides of the recently constructed glass display structure. Ms. Dowdy stated that Planning Staff had worked with the funeral home for approximately a year concerning

the construction of the glass structure that displays the original horse drawn hearse which is a part of the funeral home's heritage. They did receive approval from the city and the state for the placement of the structure. Based on the amount of road frontage for the funeral home's property they would be allowed an 80 sq. ft. sign that could be as tall as 24 feet. The freestanding sign that was removed was 3 feet x 5 feet or 15 square feet and it was supported by a brick structure. That sign was cut down to 32" x 4' or 10.68 sq. ft. and placed on the front of the display structure facing 4th Street along with one other identical sign that was placed on the back of the structure facing 5th Street. They have also had lettering placed on the north and south side of the display structure under the eave or overhang for people traveling north or south to locate their building. The lettering on each side is 9 ½" x 16' or 12.64 sq. ft in size. The total square footage of signage on the glass display structure is 46.64 sq. feet which is 33.36 sq. ft. less than what they would be allowed by ordinance. The funeral home does not have a sign on the front of the building. They would be allowed two walls signs since they have road frontage on two streets but they only have one wall sign that is placed on the north side of the building. It is 5' x 8' or 40 sq. feet. Ms. Dowdy said there was a miscommunication concerning the signage. The free-standing sign was located where the structure is now located and at the time of construction, they weren't really sure as to what kind of signage they were going to use. Once Planning Staff noticed that the structure was up and the signage was up, Planning Staff contacted them to make them aware of the situation. Ms. Dowdy said they are very much satisfied with the signage that they have.

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

Matt Imes, 311 North 4th Street, Murray was sworn in. Mr. Imes was representing his father, Kenny, who is the owner of the funeral home. Mr. Imes stated that during several funerals people made comments about wanting to see the old antique hearse displayed again; therefore, after they had it restored, they decided to proceed with a storage structure that would protect the hearse from the outdoor elements. Mr. Imes said that the previous free-standing sign was visible from both sides, but after they relocated the sign to the north side of the structure and added one on the south side, they discovered that neither sign visible from a distance or at night; thus they decided on the lettering on the east and west sides. Mr. Imes said that there are fluorescent lights under the eaves that help illuminate the lettering at night.

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.

John Krieb asked if the applicants should decide to add another wall sign to their building, would it be allowed. Ms. Dowdy stated that they are allowed two wall signs based on the fact that they have road frontages on two streets.

Justin Pounds made a motion to approve the Dimensional Variance Application for a total of 46.64 sq. ft. of signage to be placed on the glass display structure in front of the funeral home. 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 nuisance to the public and will not allow unreasonable circumvention of the requirements of the zoning regulations since it is less square footage than what they could have if they used only one sign. John Krieb seconded the motion and the motion carried with a 5-1 voice vote. Steven Reed abstained from voting.

Public Hearing: Request for Conditional Use Permit for a Residential Planned Development Project – 170 and 190 Utterback Road – Paul Garland: Ms. Dowdy used a Power Point presentation to show the property at 170 and 190 Utterback Road. The property owned by Paul and Vickie Garland was reviewed previously for compatibility. The property at 170 Utterback Road is currently located in the city and is zoned R-4 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. A minor subdivision plat consolidating these two tracts of land has been reviewed and approved by the Planning Department. Mr. Garland is proposing to construct thirty-seven - one bedroom units on this tract of land with a 24 foot wide drive aisle. Ms. Dowdy stated that at the Planning Commission meeting the previous night one of the Commissioners wished to see two means of ingress/egress. The preliminary plat shows the west end of the turnaround extending to the property line; thus, leaving a future access road for future developments. The preliminary plat identifies four apartment buildings with three of the buildings consisting of nine - one bedroom units for a total of 5231 sq. feet and the other building consisting of ten - one bedroom units for a total of 5812 sq. feet. Each unit is approximately 580 square feet in size. All building setbacks are being met. The total parking spaces required for this project would be 111. The plat shows 78 parking spaces; therefore, they will need a 33 parking space variance. This would allow two spaces per unit with four visitor spaces. Dickie Walls, Fire Marshall, has reviewed the plat for both the T-turnaround and proposed fire hydrant location. He stated both were sufficient for emergency access. The two dumpster locations shown on the plat have been approved by Don Rogers with the Sanitation Department. No formal plans have been submitted to our office for the stormwater detention but the developers are proposing to construct underground detention for this project. The developers are planning to provide screening along the east side of the property using white vinyl fencing and evergreens. The development will be called Wellington Place. Notices were sent to adjoining property owners and a sign was posted on the property advertising the date and time of this public hearing. Ms. Dowdy stated that part of the PDP process is that the project goes before the BZA for a Conditional Use Permit approval. The Conditional Use will be contingent upon the Final Plat being approved by the Planning Commission. Ms. Dowdy added that Mr. Gary Keckley, owner of Hickory Woods, attended the Planning Commission meeting the previous night and he stated that he is in favor of the proposed project.

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

Paul Garland, 1900 North 12th Street, Murray was sworn in. Mr. Garland stated that he had worked on this proposal for some time. He added that he always tries to make his property appealing and he thinks this will be a great improvement over what was previously on the land. Ms. Dowdy asked if they could consider widening the green space that is currently shown on the site plan. Mr. Garland said that he could and is in favor of it. He is willing to make that change as long as he can still accommodate the sanitation trucks that will be coming on the property. Ms. Dowdy stated that she would speak with the Sanitation Department and the Fire Marshal to make sure they are left adequate room. Mr. Garland said that there would be an 8 foot patio on the back of the units and that there will be 8-10 foot high shrubbery and fence along the property line for screening. Mr. Garland also stated that his intentions are to run a two foot sidewalk in front of each apartment with a walkway to each apartment. He said that there will be shrubbery along the front of the apartments and curbed parking areas to have a more appealing look. Mr. Garland stated that he and Mr. Keckley would be working together for the tenants wishing to transition to Hickory Woods after they leave his development. Ms. Medlock asked if there was going to be a bridge that connected Hickory Woods and Wellington Place. Mr. Garland explained that there was too much space between the two to put a pathway or bridge.

Chairman Whitaker asked if there was anyone that wished to speak against the project. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

John Krieb made a motion to approve the Conditional Use Permit application for Paul Garland on the proposed Residential Planned Development Project for 37 one bedroom units at 170 & 190 Utterback Road. This is contingent upon the design of the stormwater detention being approved by Planning and Engineering Department, final plat approval by the Murray Planning Commission and the development meeting all other city regulations. I also move to approve a 33 parking space

variance for this project and that the center green space area be expanded to as wide an area as possible. Scott Seiber seconded the motion and the motion carried with a 5-1 voice vote. Justin Pounds abstained from voting.

Public Hearing: Review of a Conditional Use Permit for a Residential Planned Development Project at Princeton Drive – Daniel Yong: Ms. Dowdy explained that due to some opposition and discussion on revisions to the plat the previous night, the Planning Commission decided to table this item until Mr. Yong could revise the Preliminary Plat; therefore, there is no need for the BZA to review it for any variances or conditional use at this time.

Justin Pounds made a motion to table this matter until approval by the Planning Commission. John Krieb seconded the motion and the motion carried unanimously.

Compatibility Meeting: Proposed Residential PDP at 1407 & 1409 North 16th Street – Troy Stovall: Justin Crice used a Power Point presentation to show the property at 1407 and 1400 North 16th Street where Troy Stovall is proposing the development of a Residential Planned Development Project. This property is zoned R-4 and the surrounding properties are B-2 to the North, R-4 to the South and West, B-2 & AG to the East. Mr. Crice stated that Mr. Stovall owns the last four vacant lots that are a part of University Heights Subdivision. Two of the lots are large enough that he can go through the building permit process with developments. Two lots are not large enough to allow four units on each lot so Mr. Stovall will consolidate the two lots on a minor plat. This will allow him adequate space to accommodate eight – one bedroom units. He plans to have two entrances into the development; one on the north end and one on the south end of the property both off North 16th. The lots have a 50 foot front setback with a 25 foot rear setback and 10 feet on both sides. The site plans shows that all setbacks will be met. Stormwater detention has been discussed with the Planning Staff and seems to be adequate for the development. Ms. Dowdy said that they have also discussed provision of green space with the developer. Ms. Dowdy stated that Planning Staff has been working with Mr. Stovall for the past month trying to come up with a plan to combine all four lots with a PDP for the entire development and not have an entrance off North 16th; however, with the current utility easement locations they were not able to accomplish this.

Chairman Whitaker asked Mr. Stovall to come forward and answer some questions.

Troy Stovall, 151 Lake Song Lane, Murray was sworn in. Mr. Stovall said that the lots are odd shaped and this is the best solution they have found. Mr. Stovall said that there is currently a light pole between lot 10 and 11. He has talked to Murray Electric and they agreed to move the pole over where he could use that area for sanitation pickup.

Scott Seiber made a motion that the proposal is compatible to the area. John Krieb seconded the motion and the motion carried with a 6-0 voice vote.

Questions and Comments: None

Adjournment: Scott Seiber made a motion to adjourn. Justin Pounds seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 6:47 p.m.