

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, JUNE 19, 2013  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 19, 2013 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Mike Faihst, Scott Seiber, John Krieb and Josh Vernon

**Board Members Absent:** Justin Pounds, Brad Darnall and Mary Anne Medlock

**Also Present:** Candace Dowdy, Justin Crice, Reta Gray, Jennifer Tolley, Officer Ricky Starks, Hawkins Teague, Shon Shaw, Patrick McManus, Bill Adams, Carey Alexander, Brent Armstrong, Tony Page, Boone Chambers and public audience

At 4:30 Chairman Krieb announced that the meeting would begin when another member of the board arrived since there was not a quorum present. At 4:40 Josh Vernon arrived and Chairman Krieb called the meeting to order and welcomed all guests and applicants. Chairman Krieb asked if there were any changes, additions or deletions to the May 22, 2013 regular meeting. Chairman Krieb stated that there had been a few minor spelling changes made to the minutes since they were distributed.

**Scott Seiber made a motion to approve the BZA minutes from May 22, 2013 regular meeting as corrected. Mike Faist seconded the motion and the motion carried unanimously.**

**Public Hearing: Request for outdoor storage of merchandise at 1200 Main Street – Blue Rhino at Rite Aid Pharmacy:** Justin Crice used a Power Point presentation to show the Blue Rhino display located at 1200 Main Street at Rite Aid Pharmacy. When Planning Staff noticed that Blue Rhino had placed a propane storage tank display on the south side of the building they contacted Rite Aid. Blue Rhino was then notified and informed that the merchandise would either need to be removed or they could apply for a conditional use permit. The propane tank display measures 44” x 29” (3.6 ft x 2.4 ft) and the sidewalk is approximately 89 inches wide (7.4 ft.); thus, there is adequate space for pedestrian access. Staff spoke with Fire Marshal Dickie Walls and he stated there are new state regulations that will soon be implemented concerning bollards being placed in front of propane storage tanks and other combustible flammable materials; therefore, he would like for bollards to be installed in front of this display at this time. This display is in front of parking spaces. Planning Staff thought that the display could be moved to the southeast corner of the building as that might be more convenient. Scott Seiber asked Ms. Dowdy if Planning Staff had a problem with leaving the display where it is now and added that he thought the display would actually be more visible left at that location. Ms. Dowdy replied that that would not be a problem. She added that the handicap parking spaces are located on the east side of the display and the Fire Marshal did not think that would present an issue. Outdoor storage of merchandise is only allowed as a conditional use in a B-2 Zoning District. This request is for Blue Rhino only and any future requests for additional outdoor storage of merchandise at this location would have to be brought back before the BZA. Adjoining property owners were notified of the public hearing. Mr. Crice said that the manager of Rite Aid was here to speak for Blue Rhino. Josh Vernon asked what the Fire Marshal’s preference of location for the bollards was. Ms. Dowdy replied that the Fire Marshal had indicated that it did not matter whether they were located on the sidewalk or at the front of the parking space; there just had to be a clearance for the door on the display to open.

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

Shon Shaw, 1905 Gatesborough Circle, Murray was sworn in. Ms. Shaw is the manager of Rite Aid. Ms. Shaw said that she had spoken to her contact at Blue Rhino and he had indicated that he could have the bollards installed in two weeks providing he could get a local contractor within that time period. She then stated that someone had previously run through the front of the building with an automobile; thus, she thinks the bollards are necessary in front of this display. Ms. Shaw said that there would be no problems in moving the display to another spot if the board should decide that was necessary.

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

**Mike Faihst made a motion to approve the Conditional Use Permit for Blue Rhino to have one propane storage tank display at Rite Aid Pharmacy's 1200 Main Street location as long as the pedestrian walkway is kept clear and bollards are installed in front of the propane display. Josh Vernon seconded the motion and the motion carried with a 4-0 voice vote.**

**Public Hearing: Setback variance request for free standing sign – 1300 North 16<sup>th</sup> – The Bootleg Lounge:** Candace Dowdy used a Power Point presentation to show The Bootleg Lounge located at 1300 North 16<sup>th</sup> Street. The owners, Lisa Hall & Patrick McManus, are requesting to use the existing stone structure as the base for their free standing sign. The structure has been in place for many years and was used by the previous business for their signage. There is no record on file of when the structure was built or whether a sign permit was ever issued at this location. The structure is non-conforming due to it not meeting the required 10 foot front setback requirement. There is a 60 foot right-of-way (30 foot from the centerline) along this portion of North 16<sup>th</sup> Street. It appears that the stone structure is approximately six inches off the front property line; therefore, it will require a 9.5 foot front setback variance in order for it to be used as the base for the new freestanding sign. Staff did determine that when exiting the property there seems to be no obstruction to the view of traffic looking back to the north. Ms. Dowdy stated that there is a 10 foot utility easement on the east side of the structure with a sewer manhole. The owners have been made aware if there should ever be a need to repair anything within that easement and the sign structure is damaged, the City will not be responsible for putting the signage back. She explained that typically they do not allow anyone to construct a sign within an easement; however, this structure is already in existence. Scott Seiber asked if the sign would be affected if the state ever decided to widen the North 16<sup>th</sup> Street. Ms. Dowdy replied that if the road is ever widened and the sign is located within the right-of-way, then the sign will have to be moved. As new developments have occurred over the past few years on this street, the City has tried to acquire that additional right-of-way for future widening. Ms. Dowdy showed the board a rendering of the proposed sign from Bruce Ottway and added that The Bootleg Lounge will not be exceeding their allowed square footage; however, if they should ever have a tenant on the south side of the building, they will have to incorporate any signage in the overall signage allowance. Staff does not have a problem with them using the existing structure.

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

Patrick McManus, 3411 Sierra Drive, West Paducah, Kentucky was sworn in. Mr. McManus stated that there is 18 feet from the edge of the road to the edge of the base of the structure that they are requesting to use for the sign. He added that they would like to use the existing base due to the size. James Gallimore (Mr. McManus' electrician) indicated that there is an electric line that goes to the structure, but it is not a live connection. Mr. McManus said they will not need lighting for the sign because the sign will be made from a reflective type of material according to Bruce Ottway of Ottway Signs. If they should find that they have a need for lighting in the future, they will use solar powered lights. Mr. McManus said there

are no plans to open the other side of the building as retail space for another year or two. Chairman Krieb asked if there were any plans for signage on the front of the building. Mr. McManus replied that at this time there are no plans for wall signage; however, he might like to have something in the future. Ms. Dowdy explained that they would be allowed one wall sign based on the square footage of the front of the building and that Planning Staff could help Mr. McManus with those requirements at that time.

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

**Josh Vernon made a motion to approve the Dimensional Variance request for The Bootleg Lounge located at 1300 North 16<sup>th</sup> Street, for a 9.5 foot setback variance on the existing stone structure to be used as the base for signage. This structure may not be expanded or enlarged. The use of this structure 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. Mike Faihst seconded the motion.**

Chairman Krieb asked Ms. Dowdy if a retail space opened in the south end of the building, if they would have to come back before the board for signage approval. Ms. Dowdy replied that as long as they stayed within the allowed square footage for the building and their proposal fit within the guidelines, they would not.

**The vote was then taken and the motion carried with a 4-0 voice vote.**

**Public Hearing: Setback variance for canopy and dimensional variance request for additional signage – 1000 Chestnut Street – Pocket’s:** Candace Dowdy used a Power Point presentation to show the Pocket’s Store located at 1000 Chestnut Street. Kentucky Lake Oil Company will be tearing down the existing building and constructing a new Pocket’s Convenience Store on the corner of Chestnut and North 10<sup>th</sup>. The site plan submitted shows removing the existing canopy (accessory structure) that is currently 7.3 feet off the front property line along Chestnut Street and relocating it to the east side of the property over the diesel pumps. The canopy would then be located in the side yard; thus, they are requesting a variance for an accessory structure to be placed in a side yard. The canopy will be twenty-five feet from the side property line. They are proposing to construct a new canopy for gas pumps on the south side of the property along Chestnut Street. The edge of the canopy’s overhang, shown on the site plan is located 25 feet off the front property line; thus requiring a 25 foot front yard setback. Ms. Dowdy then addressed the signage request. She said that this location was granted a variance for two canopy signs at 30 sq. ft. each on January 8, 1991. They are proposing to remove the 16 sq. ft. LED gas price signs from the free standing sign in order to place them on the new canopy along with the Pocket’s logo that is 27.5 sq. ft. for a total of 43.5 sq. feet each. This will reduce the freestanding sign from 84 sq. ft. to 48 sq. feet and will lower the existing sign from 24 to 18 feet in height. They are proposing 103 square feet of total signage for the three separate signs for the face of the building (Chestnut Street) as follows:

- 55 sq. ft. - Pockets Logo
- 32 sq. ft. - Krunchy Chicken
- 16 sq. ft. – Unknown  
103 square feet

Ms. Dowdy showed a rendering of the new building. The front of the new building will be 1064 sq. ft. and located 112 feet off the front property line, allowing them up to 106 sq. ft. of wall signage; thus, their request will be within their allowable amount. This building is located on a corner lot which allows them

to have up to two walls signs. The east side of the building facing North 10<sup>th</sup> Street will be 735 sq. ft. and located approximately 90 feet from the side property line, which would allow them up to a 37 sq. ft. wall sign on this side; however, they are not proposing any wall signage on this side of the building. Ms. Dowdy explained that they will continue to have entrances on both Chestnut and North 10<sup>th</sup> Street; however, the entrance on North 10<sup>th</sup> will be more defined and curbed. Mike Faiht asked if they would be required to have a sidewalk along the 10<sup>th</sup> Street side. Ms. Dowdy said that the City has no immediate plans to construct a sidewalk down that street. Ms. Dowdy commented that this proposal would be a much improved building for this site.

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

Bill Adams, Bill Adams Construction, 305 Andrus Drive, Murray was sworn in. Mr. Adams stated that he is the contractor for Kentucky Lake Oil and that Carey Alexander, president was also in attendance. Mr. Adams explained that the new canopy on the south side of the building will be turned perpendicular to the existing canopy. It will be 30 ft. x 80 ft. and located 18 ft. & 5 in. away from the street. The current canopy (30 ft. x 67 ft.) will be altered to 30 ft. x 50 ft., then turned and relocated to the east side of the building for the diesel fueling station which will be approximately three feet outside the setback. There will be two pumps located on the diesel side, the main pump and a satellite pump. Chairman Krieb asked if a tractor trailer would have enough room to pull through in the designated area. Mr. Adams replied that it would; however, most of the time there would only be a truck/tractor fueling up without the trailer. The canopies will be the same height as the current one. Mr. Adams added that the main flow of traffic will be from south to north from Chestnut or North 10<sup>th</sup> Street. Mr. Adams said that the new building will be a definite improvement over what is there now. The current building is 625 square feet and new one will be approximately 2900 square feet. Mr. Adams said that there is a grade differential on the east side of the building; however, that entrance is usable and to close it down would hinder the flow. The sign on the corner of Chestnut and North 10<sup>th</sup> is "grandfathered in"; therefore, it will only be modified in height and lowered by six feet. The area for clear zone will remain the same underneath the sign. The fuel prices will be removed from the pole sign and displayed on the canopies. Mr. Adams said that the proposed signs for the front of the building are within the allowable amount of square footage as Ms. Dowdy had indicated earlier. The east side of the building is allowed 37 square feet in signage, but there will not be a sign on the east side of the building. The canopy on the south side will have a Pocket's sign which is 27.5 square feet and there will be a reader board with diesel and regular gas prices located on each canopy at 16 square feet each.

Brent Armstrong, 411 North 10<sup>th</sup> Street, Murray was sworn in. Mr. Armstrong lives directly across Chestnut Street from Pocket's. He said that the Bakers and Carey Alexander have always taken pride in their establishments and have kept them very well maintained. Mr. Armstrong is looking forward to the new building as it will be an improvement over the current one and he would like to encourage the board to vote in favor of this request.

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

**Scott Seiber made a motion to approve the request as presented by Kentucky Lake Oil, Company for the following:**

- **Twenty-five foot front setback on accessory structure in front yard**
- **Accessory structure to be placed in side yard**
- **Two canopy signs not to exceed 43.5 sq. feet each**

- **Two additional wall signs to be placed on the front of the building with no signage on the east side of the building; total wall signage not to exceed 106 sq. ft.**

**Approval of sign variance is based on the fact the existing freestanding sign will be reduced in size and the request is consistent with what has been allowed for other similar type businesses. Approval of the front setback variance allows the existing canopy to be moved further back off the street while placement of the canopy in the side yard is set back the same distance so that it will not cause any obstruction of vision at the intersection. These variances 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. Scott Seiber also stated the access for the North 10<sup>th</sup> Street side width is approved as shown on the site plan and the free standing sign will be lowered from 24 to 18 feet with a clear space remaining at base of the sign. Mike Faiht seconded the motion and the motion carried with a 4-0 voice vote.**

**Public Hearing: Parking variance request for proposed Qdoba Restaurant at 618 North 12<sup>th</sup> Street – Qdoba Mexican Grill – Tony Page:** Justin Crice used a Power Point presentation to show the recently vacated retail space at 618 North 12<sup>th</sup> Street (former Pella Window location) where Qdoba Mexican Grill will be locating their new business. This building has recently been issued a building permit to build out an office space in the back southeast corner of the building. The building is a total of 4658 square feet with Subway occupying 1660 sq. ft., the proposed Qdoba occupying 2458 sq. ft., and the new office building being built will be 540 square feet. When this building was built, there were three tenant spaces. Subway is located in one of the spaces and when Pella was there, they occupied two spaces. Qdoba plans on using the same two spaces that Pella vacated. City parking requirements would require 52 spaces for the entire property based on the current use of the building. This would be broken down with Qdoba being required 29 spaces (for the 72 seats inside and 16 outside), Subway being required 20 spaces, and the new office being required 3 spaces. This property currently has 42 parking spaces with 7 spaces around back. Qdoba wishes to have an outdoor patio with four tables with four seats per table. They are proposing to eliminate two parking spaces in front of the building (west side) for this area. The area will be raised to the same level as the sidewalk in front of the building. This would bring the total number of parking spaces down to 40 for the out lot parcel; thus, Planning Staff felt a parking variance was necessary in this situation. Scott Seiber stated that all of the parking in the area is considered community parking. Ms. Dowdy said that they know that cross-over parking occurs. She added that she had spoken to Mr. Page about the parking space situation and he indicated to her that he had contacted Les Scott, the manager of the Shoppes of Murray, concerning the overflow parking. If additional parking is needed for Qdoba, Mr. Scott said that it would not be a problem for Qdoba customers to use their designated parking spaces near Radio Shack. Ms. Dowdy also commented that she had spoken to Mr. Razban (owner of the building) and he did not have any issues with Qdoba requesting an outdoor patio. Mr. Crice said that all the adjoining property owners were notified of the public hearing.

Chairman Krieb asked if there was anyone that wished to speak in favor of the application.

Tony Page, 152 Lake Point Drive, Paducah, Kentucky was sworn in. Mr. Page said that they are trying to enhance the property. There are over 600 Qdoba restaurants in the country now and the patio is standard with most all of them. Normally the patios seat more than 16, but they are only asking for 16 in this particular project. There is no drive-thru. They are excited about the project and he is there to answer any questions. Josh Vernon said that he thought there might be a bit of an issue with the turning radius of the parking space that is next to the patio. He said in order to have easier maneuverability to that parking space Mr. Page might need to ask for an additional space in his variance since the space is so tight. There are several Qdoba restaurants in Nebraska where Mr. Page recently lived. He said that they frequently had people banging into the patio and he thought that Mr. Vernon had presented a good point. Mr. Page

explained that there are currently two double doors on the front of the building and they will be changing the one that goes to the patio to a single door. Scott Seiber said that usually the board wishes to see more landscaping, but in this situation he would propose that Mr. Page get rid of the landscaped area in the front of the building, make that part of his outdoor seating area and then round the parking space that would adjoin the patio on the north side. He said that in his opinion that parking space would be worthless and if eliminated that would give them an area for additional seating outdoors. Ms. Dowdy said that Planning Staff preferred that they not have any additional seating outside. Mr. Page said that the handicap ramp and the landscaping against the building would remain the same. He added that they are certainly open to suggestions. He stated that by not using the parking space next to the outdoor patio would open up the entrance and the walkway into the building for Qdoba as well as for Subway.

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

Ms. Dowdy said that the parking space would have to be identified in some way so that people would know that it was not a parking space and that it was an entrance space. Josh Vernon added that if a ramp is put there, it should be compliant with ADA requirements. Chairman Krieb said he thought the applicants would take the Board's suggestions and act appropriately.

**Mike Faihst made a motion to approve a 13 space parking variance for the property located at 618 & 622 North 12<sup>th</sup> Street based on the findings that the property is adjacent to a shopping center that has overflow parking available if needed. 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. Josh Vernon seconded the motion and the motion carried with a 4-0 voice vote.**

**Public Hearing: Request for outdoor storage of merchandise at 1310 North 12<sup>th</sup> Street – Cellar Door Wine & Spirits:** Justin Crice used a Power Point presentation to show Cellar Door Wine and Spirits that recently opened at 1310 North 12<sup>th</sup> Street. This store is owned and operated by Boone Chambers. Mr. Chambers is requesting to use a 3 x 6 foot ice box on the outside of his store. The sidewalk that fronts the building measures 70 inches wide. This will leave 34 inches of clear space with the ice box being placed on the sidewalk. The distance from each end of the building to the front door is 31 feet. The original site plan showed the ice box located on the north end of the building; however, the ice box has been located on the south side of the building since the parking lot has been completed. Mr. Chambers' initial request was for the ice machine to be located on the north side. Mr. Crice stated that he thought the current location on the south end would be better because of walkway leading to the parking lot on the north side. There is no pedestrian access from the south end of the sidewalk as the sidewalk drops off on that side. Ms. Dowdy stated that there is handicap access near the location where the ice box is now located and as long as they maintain clear access to that parking space Staff has no objections to it remaining there. Outdoor storage of merchandise is only allowed as a conditional use in a B-2 Zoning District.

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

Boone Chambers, 321 North 7<sup>th</sup> Street, Murray was sworn in. Mr. Chambers said that they had put the ice machine on the north side initially so they could hide the camera but he can turn the camera around so that is not an issue. Mr. Chambers has other security cameras on the building but there is one camera

specifically on this ice box so that he can leave the ice box unlocked during business hours. Mr. Chambers said that if the board liked the ice machine where it is now, he would leave it there.

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

**Scott Seiber made a motion to approve the Conditional Use Permit for Cellar Door Wine & Spirits located at 1310 North 12<sup>th</sup> Street to place a 3 x 6 foot ice box on the south end of the building. This is contingent on the building meeting all fire codes and all other city regulations. Josh Vernon seconded the motion and the motion carried with a 4-0 voice vote.**

**QUESTIONS AND COMMENTS: None**

**ADJOURNMENT: Mike Faihst made a motion to adjourn. Scott Seiber seconded the motion and the motion carried unanimously. *The meeting adjourned at 6:00 p.m.***

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Chairman, John Krieb

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Recording Secretary, Reta Gray