

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JUNE 18, 2014
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 18, 2014 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Linda Scott, Terry Strieter, Scott Seiber and Bobbie Weatherly

Board Members Absent: Mary Anne Medlock and Josh Vernon

Also Present: Candace Dowdy, Robert Jeffries, David Roberts, Reta Gray, Hawkins Teague, Jeremy Boyd, Brandon Edmiston, Attorney Trevor Coleman and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Changes were noted to the minutes from the May 21, 2014 regular meeting. Chairman Krieb asked if there were any additional comments concerning the minutes from May 21, 2014 regular meeting.

Scott Seiber made a motion to approve the BZA minutes from the May 21, 2014 regular meeting as amended. Linda Scott seconded the motion and the motion carried unanimously.

Public Hearing: Dimensional Variance request for an additional free-standing sign – Pizza Pro/The Annex – 601 South 12th: Candace Dowdy used a Power Point presentation to show the property at 601 South 12th Street where Pizza Pro of Murray and The Annex are located. Owner Jeremy Boyd has requested a variance to allow an additional freestanding sign on the property. Both businesses moved to this location in August 2013. They are located in a B-2 zone on the north side of the building that faces Story Avenue. Mr. Boyd has stated that he feels like his businesses are not visible from 12th Street. Ms. Dowdy said that no sign can be located within the 50 foot clear zone or come any closer to the property line than 10 feet. There are no markers showing where the property line or right of way lines are; therefore, the reference was used at the back edge of the curb. Mr. Boyd has indicated that his sign would not come any closer than 18 feet from the street and would not exceed the maximum 10 feet in height. Ms. Dowdy showed a rendering of the proposed 4 feet x 6 feet (24 square feet) sign for Pizza Pro and The Annex and then pointed out the area on the northwest corner of the property where Mr. Boyd would like to place the sign. She explained that the property is owned by Bill Kopperud. Scott Seiber noted that the landscaping at this location is in need of improvement. Ms. Dowdy stated that this could be addressed through Property Maintenance Code. Mr. Kopperud currently leases space to Save-A-Lot, Pizza Pro, and The Annex. Save-A-Lot has been at this location for many years. They previously had a pylon (pole) sign that was 32 square feet. Carol's Beauty Salon was previously located where Pizza Pro and The Annex are now and also had a pylon sign that was 20 square feet in size. The beauty salon went out of business in 2010 and the non-conforming sign was taken down. When Save-A-Lot renovated their building in 2011 they took their non-conforming sign down and constructed a 55 square foot monument style sign on the property. Per the Sign Regulation section in the Zoning Ordinance, only one freestanding business sign shall be permitted per lot. Ms. Dowdy explained that Mr. Boyd is allowed one wall sign for each of his businesses. He currently has one wall sign for Pizza Pro and window signage at The Annex. She added that there have been other properties that were allowed an additional freestanding

sign; however, each application was considered based on specific circumstances and approved on an individual basis.

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

Jeremy Boyd, 153 Saratoga Drive, Murray was sworn in. Mr. Boyd clarified that there had previously been two signs at that location. Both were pylon. The one for Save-A-Lot was near the new Save-A-Lot sign and the sign for Carol's Beauty Salon was located near the site that Mr. Boyd is proposing to install his new sign. There were two poles that were cut off at ground level that held the beauty shop sign. Mr. Boyd understood that when Save-A-Lot renovated, they cut both of the signs down and constructed the new larger sign so that they could maximize the amount of space available to themselves. Also at the same time, Save-A-Lot occupied both sides of the building. Based on the size of the building, they were required to have a sprinkling system installed. They found out the cost of adding a system of this nature and decided it would be in their best interest to no longer occupy the north side where Mr. Boyd currently has his two businesses. Mr. Boyd said that when he took possession of the north side of the building, he renovated it into two spaces and added an additional door. Mr. Boyd continued that he understood (from talking to Jennifer Tolley-Planning Asst) that if he had occupied the spaces at the time that this occurred he would have been allowed one half of the allowable signage for his business/businesses and Save-A-Lot would have been allowed the other half. The previous pylon sign for Save-A-Lot was a lighted sign and when they constructed the new sign, they moved the power from one sign to the other. Mr. Boyd said that since the parking lot is well lit, he has no desire to have his sign illuminated unless it is with small solar lights. He added that he had spoken to the manager of Save-A-Lot and they had no interest in altering their sign in any way to allow him to add the name of his businesses; thus, this was his only option to get some type of road frontage sign for his businesses. From a design standpoint, Mr. Boyd said that he had copied some of the features from the Save-A-Lot sign so that the two signs would complement each other. He then said that he had stepped off the distance of the existing signs directly to the north and south of his proposal and his sign would actually be farther away from the road than either of the other signs. According to his measurements his new sign will be at least two feet outside of the 50 foot clear zone.

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

Scott Seiber made a motion to approve the request for one additional freestanding sign not to exceed 24 square feet in size for Pizza Pro and The Annex located at 601 South 12th Street based on the fact that the businesses have little or no visibility from the street which is important to any business. 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 is specific to these two businesses only and no alterations are allowed to the physical size of the sign. Linda Scott seconded the motion and the motion carried with a 5-0 roll call vote.

Public Hearing: Front setback on proposed addition to building and additional parking space variance for Corvette Lanes – 1415 Main Street – Edmiston Retail Division, LLC – Brandon Edmiston: Candace Dowdy used a Power Point presentation to show the location of Corvette Lanes at 1415 Main Street. Ms. Dowdy explained that the entire interior of the building has been renovated and that there will be a bowling alley and an arcade for children on the ground floor with restaurant seating of 100 or more on both the first and second floors. (The proposal will be very similar to a Dave & Buster's.) The applicant, Brandon Edmiston (managing member of Edmiston Retail Division, LLC) would like to extend the front of the building towards the street another 16 feet. He is requesting a 21 foot front setback variance on the building. Front setback in a B-1 zoning district is 35 feet. The variance would allow for the construction of two elevators in the front of the building which will provide handicap accessibility to the second floor of the building and a service elevator for the restaurant employees. The adjusted setback would eliminate the current parking located in the front of the building; thus, the request for an additional seven parking space variance. They plan to add landscaping and a more defined sidewalk in the front of the building. The main entrance to the building will be in the back where the parking lot is located. They will relocate the handicap parking that was in the front to the back of the building where they are providing handicap accessibility. Ms. Dowdy showed a rendering of the front of the building. The original Corvette Lanes sign is being refurbished and placed at the same spot. The entrance off Main Street would primarily be used for pedestrians or walk up traffic. Ms. Dowdy continued that the board approved a parking variance for the applicant in December based on the use of the building. Mr. Edmiston has a reciprocal agreement in place with the church to the west allowing them to use their parking lot with any over flow parking. Mr. Seiber asked if it would be possible to have crosswalks installed on 15th for use in crossing over to the parking lot. David Roberts replied that mid-block crossings are prohibited. There are some criteria that would allow crosswalks if met on a daily basis, but for the most part they are prohibited. Mr. Strieter asked if there were any drawings of what the landscaping would look like for the front of the building. Ms. Dowdy replied that they do not have any drawings at this time; however, Planning Staff would work with them in the future and suggest that any plants that they added would be very low growing since taller landscaping would obstruct the view. Ms. Dowdy said that Planning Staff had received one phone call from an adjoining property owner and that was Matt Bartholomy. Mr. Bartholomy was merely asking for an explanation of the variance and did not speak for or against the request.

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

Brandon Edmiston, 2384 U.S. Hwy 641 South, Murray was sworn in. Trevor Coleman, 408 Main Street, Murray was sworn in. Mr. Edmiston is the owner of the property and Mr. Coleman is Mr. Edmiston's legal representative. Mr. Coleman began by saying that when they came before the board earlier the expansion of the front of the building was not in the plan. Since that time numerous questions have been asked about handicap accessibility; therefore, Mr. Edmiston decided to provide a better access (elevator) to the second floor than the original ramp plan. The installation of the elevators in the front of the building will bring a much more elegant look to the building and at the same time cause the elimination of the parking in the front of the building. Mr. Coleman said that the natural outgrowth of this proposal enhanced safety. Parking along this section of Main Street is a hazard and to back out onto Main Street is very dangerous; thus, they

feel that eliminating the seven parking spaces in the front of the building will prove to be a safer and more positive approach. They have chosen to put the elevators on the front of the building because there is no second floor access from the rear. Mr. Coleman stated that in addition to the reciprocal parking agreement that they have with the church, that they now have a similar reciprocal parking agreement with Andy and Joe Gupton who own property across Main Street. Chairman Krieb stated that the letter agreement with the church was part of the record and he thought they needed to provide a copy of the agreement with the Guptons. Ms. Dowdy replied that it was pointed out at the previous meeting that the Guptons are tight on their parking; however, there will be some "off times" where customers certainly could use the Gupton's parking lot. Ms. Dowdy continued that they cannot allow another business to have an agreement to use part of their parking as a reciprocal agreement when it could cause them to become deficient in their own parking. The church has enough parking to help meet their needs; thus, that is the main agreement.

Mr. Edmiston began by describing the proposed renovation to the back of the building. He said that the back of the building would look as good as the front of the building. He explained there would be handicap parking next to the building and a handicap ramp that would lead into the building. The newly widened hallway inside the building will lead to the front where the stairway and elevators will be accessible. There will be a covered patio area on the first floor that can be used for outdoor eating with seating for 15-20. Ms. Dowdy said that there had always been a "cut-thru" or drive access between the former Owen Food Market and Zax's. She asked if they had plans to close that or if it would be left open. Mr. Edmiston stated at the time that construction began on his building they decided to block that access off because of the dangers that could be possible in a construction zone. Mr. Coleman explained that when the property was initially purchased by Mr. Edmiston, VL Associates was hired to draw a map showing all the easements on the property. It is their understanding that the only easements that were granted were private ones and those were granted by Kenneth Owen some 30 years ago. Those easements essentially granted access to two small tracts behind Owen Food Market for both ingress and egress purposes. Those two tracts are now owned by Mr. Edmiston; therefore, he is the only one who has the right to use the easement since it was not a public easement. Mr. Coleman added that for safety reasons they do not want people using their parking lot as a drive-thru; thus, their plan is to close the access. Mr. Coleman said that in order to leave that access open, someone would have to file a lawsuit stating that there was a possible reason for that need and he could not think of any reason other than using the property as a cut-thru and that would not be a valid reason. Ms. Dowdy said that there had been some type of document in the Planning/Engineering office at one time that had shown the access as an open alley, but she was unable to locate that document at this time. It was always their understanding that the easement allowed access between the two buildings. She said that the parking along the former Owen's building is angled. If that access is closed, everyone that parks along the side of the building will have to go to the back of the building to turn around in the parking lot and then head back out the same way they came in which would be against the flow of traffic. Ms. Dowdy added that if they left the access closed, they would have to redesign their parking lot with a minimum 22-24 foot drive aisle coming in and circling around. That will cause them to lose some additional parking spaces. Mr. Coleman said that if the access inhibits business; they would certainly not cut it off. The parking lot has not been designed at this point, but when they are ready this would be something they would certainly look at. Mr. Edmiston commented that some of the spaces

that were angled against the building did not exist anymore because there had been an outdoor freezer installed in that area around a year ago. He added that Murray Electric installed underground electric lines on the property with a new transformer and it had been indicated that the guide wires off the existing pole are support wires that are necessary. Mr. Edmiston said that the guide wires have almost blocked the access themselves.

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

Bobbie Weatherly made a motion to approve the request by Edmiston Retail Division for a 21 foot front setback on the property located at 1415 Main Street. The front setback would allow for the construction of an elevator to provide handicap accessibility to the second floor of the building since there is no access to the second floor from the rear. This motion is to also approve a seven parking space variance which will eliminate any vehicular traffic backing out into Main Street. Ms. Weatherly added that only low lying landscaping should be considered for planting in the front of the building. 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. Terry Strieter seconded the motion and the motion carried with a 5-0 roll call vote.

Questions and Comments: Chairman Krieb and the board members welcomed Robert Jeffries. Mr. Jeffries was selected to fill the position of Planner I.

Adjournment: Scott Seiber made a motion to adjourn. *The meeting adjourned at 6:00 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray