

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, OCTOBER 21, 2015
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, October 21, 2015 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Josh Vernon, Terry Strieter, Bobbie Weatherly, Mike Faihst, Dennis Sharp and Jim Foster

Board Members Absent: None

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, David Roberts, Attorney David Perlow, Davelin Johnson, Dennis Sorrels, Trent Gibson, Kendall Magana, Kristen Henson, Pam Nance, Marcia Dorgan, Janice Morgan and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Minor corrections were noted to the September 16, 2015 minutes. Chairman Krieb then asked for a motion to approve the minutes.

Mike Faihst made a motion to approve the BZA minutes from the September 16, 2015 regular meeting as amended. Terry Strieter seconded the motion and the motion carried unanimously.

Public Hearing: Dimensional Variance to allow the use of temporary signage for advertisement purposes every two weeks throughout the year (26 banners) – Shoe Sensation: The corporate office of Shoe Sensation would like for the Murray store to be able to display 26 different banners (which advertise sales) throughout the year. One banner will be displayed at a time and replaced every two weeks. The regulations of the Zoning Ordinance were explained for temporary signs. Shoe Sensation is currently displaying banners by hanging them from the overhang in front of the store. Ms. Dowdy stated that the only variance that she could recall being granted for additional temporary signage was for Lowes back in 2002. She noted that Lowes has three signs on the face of their building and even with the addition of the banner type sign that is attached to the front wall of the building they were well within the allowable square footage for signage. Ms. Dowdy reminded the board that with the current regulations a business would be allowed to get a temporary sign permit four (4) times a year with the signage to be up a total of 56 days a year. She stated that staff had suggested that they hang the banners on the inside of the windows since they are allowed to use up to 25% of the window area for signage. Ms. Dowdy reminded the board that the potential problem with this request is that it could set precedence for every other business in town to want to do the same thing. Ms. Dowdy noted that adjoining property owners were notified and there have been no calls or comments concerning this matter.

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

Davelin Johnson, Murray store Manager, came forward and was sworn in. Ms. Johnson stated that the Murray store location does not have a road sign to let customers know of sales; therefore, they use banners. Ms. Johnson explained that the Murray store has a banner track installation that could be used to keep the banner secure from flapping around. Ms. Johnson added that if a banner was displayed in the window it would be hard to see since the windows are tinted quite dark.

Chairman Krieb closed the public hearing and turned the item over to the Board Members for discussion and a motion.

After discussion, a motion was made by Terry Strieter and seconded by Josh Vernon to table the item for one month to allow Shoe Sensation time to obtain dimensions and configuration of the banners. The motion passed unanimously with a roll call vote.

Public Hearing: Dimensional Variance to allow the placement of a recreational vehicle in the side yard located at 1711 Keenland Drive – Dennis Sorrels: Ms. Dowdy noted that Mr. Dennis Sorrels' home is located on the corner of Keenland and Perrin Drive. Ms. Dowdy explained that Planning Staff recently noticed that an area had been "framed up" as if the driveway was going to be widened. Mr. Sorrels was notified that he would need to apply for an encroachment permit. During this time, a recreational vehicle was noticed in a side yard. Ms. Dowdy stated that Mr. Sorrels was contacted and that he was informed of the zoning regulations regarding the placement of a recreational vehicle in a residential zoning district. Mr. Sorrels indicated that the purpose of expanding his driveway was to be able to park the recreational vehicle in the side driveway (in front of his detached garage facing Perrin); therefore, he decided to apply for a Dimensional Variance to allow him to do so. Ms. Dowdy stated that on a corner lot both sides facing the street are treated as front yards for setback purposes. All adjoining property owners were notified. Two responses were received in opposition to the variance. One was a letter indicating that ordinances were in place to protect property values and an email was received indicating that a vehicle of this size would be an eye sore, would be too close to the street and block the view of traffic.

The public hearing was opened and those who wished to speak in favor or opposition of the variance were asked to come forward.

Mr. Sorrels came forward and was sworn in. Since 1990 Mr. Sorrels has parked his truck in the driveway facing Perrin. He recently purchased a 19 foot camper and parked it in the side yard. He decided to expand the driveway with intentions of parking the camper on the new expansion. Mr. Sorrels was not initially aware of the encroachment process; however, after Planning Staff notified him he applied for and received the permit. He also was not aware of the requirements for placement of recreational vehicles in residential zoning districts. Mr. Sorrels revealed that the new concrete pad had cost him a thousand dollars and if he poured another one in a different location it would cost him an additional thousand dollars or more. He indicated that he had spoken to a couple of his neighbors and they were not opposed to him parking the camper in the side driveway.

The public hearing was closed and the item turned over to the board for discussion and a motion.

Bobbie Weatherly made a motion to approve the Dimensional Variance request for a recreational vehicle to be parked in the side yard facing the secondary street at 1711 Keenland Drive. The granting of the 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 two objections in the neighborhood were taken into account; however, it is believed that the silent majority has spoken and people do not find it a public nuisance. The camper should be parked as close to the garage as possible to not obstruct visibility. Mike Faihst seconded the motion. The motion was amended to state that this variance pertains only to this camper. The motion was defeated with a 2-5 roll call vote. *John Krieb, Jim Foster, Dennis Sharp, Terry Strieter and Josh Vernon voted no.*

Public Hearing: Dimensional Variance to allow one additional wall sign on the west side of the building located at 112 North 12th – Michael Harris: Harris Real Estate and Auction recently moved to this location. Planning Staff noticed that they had two wall signs erected on the face of the building. The applicants were notified and informed that the ordinance allows only one wall sign at a maximum of 30.55 square feet. The applicants informed Planning Staff that they had not added any additional signs but removed the existing signs that were left there by Campbell Realty (previous tenants) and had them repainted. The two wall signs measure 8.2 square feet each. The applicants are requesting a variance to keep the second wall sign. If the variance is approved, both signs will be within their allowable square footage.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or in opposition to the variance.

Trent Gibson, a representative of Harris Real Estate, came forward and was sworn in. He explained that they had the two oval wall signs re-wrapped and placed back in the same spot on each side of the front doors when they moved in during July. Mr. Gibson said there is a half-moon window centered above the two front doors and in his opinion it is more appealing to place a sign on each side of the doorway. There is an exterior free-standing sign located quite some distance from the building and does not distinguish where their business actually is.

The public hearing was closed and the item was turned over to the board for discussion and a motion.

Josh Vernon made a motion to approve the Dimensional Variance request for Harris Real Estate & Auction to have one additional wall sign on the face of the building located at 112 North 12th Street. Due to the fact that the parking lot and the way it is associated requires the signs to be high enough to be seen over the vehicles and the columns in front of the building can obscure visibility from one side to the other. The existing architecture doesn't allow for a centered sign for this building. The granting of the 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 Faiht seconded the motion. The motion was amended and seconded to include that the proposed signs in total represent approximately half of the total allowable square footage. This variance only applies to this tenant. The motion carried with a 7-0 roll call vote.

Public Hearing: Conditional Use Permit to allow four non-related persons to occupy the premises located at 1610 Sunset Drive – Kendall & Aimee Magana: The Magana home is located in an R-2 Single Family Residential Zoning District and is surrounded by R-2 zoning on all sides. Mr. and Mrs. Magana currently live in the house but will be moving from Murray soon. They would like for the property to be used for the housing of four non-related persons who are involved in the ministry at Campus Outreach. The Zoning Ordinance allows (as a conditional use) for a group of up to four non-related persons to occupy the premises. The property will be managed by a local property management group. There is a double wide driveway and an additional concreted area around back for parking so they will be able to accommodate approximately ten vehicles on site. One response was received in opposition to the request. (*Exhibit A*)

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

Kendall Magana came forward and was sworn in. Mr. Magana explained that he and his wife have served in several outreach programs through Murray State University over the years and they have recently decided to move from Murray to continue their ministry services elsewhere. A couple of staff members from their ministry at MSU approached them and asked if they would consider renting their home to some of them involved in the ministry. The Magana's initial thoughts were to sell the property when they moved; however, they decided to look into renting the house. Planning Staff explained the process for requesting a Conditional Use Permit. Before the Maganas bought the house (almost three years ago), the previous owner was also the Director of Campus Outreach at MSU. For the past nine years the house has actually been opened for staff meetings, small group functions, bible studies and family meals for students who don't live in Murray. There has never been a complaint about the noise or happenings. Mr. Magana thinks a lot of neighbors are not even aware that their ministry is going on since their backyard is screened by large hedges. Mr. Magana and his wife visited their neighbors on Sunset and Loch Lomond and out of respect explained to them what they wished to do with the house. They asked for signatures of approval on a petition to put four non-related persons involved in their ministry as renters in their home. (*The petition was entered as Exhibit B.*) Mr. Magana read a letter aloud from a neighbor at 1615 Sunset in favor of the request. (*Exhibit C*) There are plenty of parking spaces available on the property. The applicants desire is to continue to uphold the integrity of the neighborhood. There will be an official property manager of this home who will be maintaining the yard and taking care of the house. If the Conditional Use is approved, the Maganas plan on renting the property as long as the home is useful in their ministry.

Two others came forward and were sworn in. Kristen Henson and Pam Nance were both in

favor of the request. Ms. Henson is also involved in Campus Outreach at MSU. She wanted to reiterate that the type people that would be living in this home would possess a character of leadership in their community, in MSU and in Campus Outreach. Ms. Nance is a neighbor. She said that there had never been a disturbance at this house. She and her husband are in favor of the request as long as there are stipulations put on the Conditional Use.

Two came forward voicing their opinions in opposition to the request. Marcia Dorgan and Janice Morgan both wished to keep R-2 zoned property as it is in order to keep the character of the neighborhood. They also voiced concerns pertaining to the parking.

Mr. Magana came forward with rebuttal. He stated that he is not asking for the property to be rezoned just to allow a conditional use permit for this use. The Maganas have an investment in their home; therefore, their desire is to continue to maintain the integrity and character of the neighborhood.

The public hearing was closed and the item was turned over to the board for discussion and a motion.

Mike Faihst made a motion to approve the Conditional Use Permit to allow 4 non-related persons to occupy the premises at 1610 Sunset Drive contingent upon the following: this permit is only good while Aimee and Kendall Magana own the property and it is used for MSU Campus Outreach ministry. There should be no on street parking, no late parties or disturbing outdoor activities after 10 pm. This is based on the fact of findings that there has been housing used for similar purposes on Farmer since 2006 and there have been no complaints. This is to be reviewed on an annual basis. Bobbie Weatherly seconded the motion. Chairman Krieb requested that it be noted in the motion that the described activity is a continuation of activity that has been going on for nine years with no objections from anyone in the neighborhood. Mike Faihst and Bobbi Weatherly agreed to include that in the motion. The motion carried with a 5-2 roll call vote. Terry Strieter and Josh Vernon voted no.

Election of Officers: Ms. Dowdy reviewed that it is time to elect officers for the BZA for the upcoming year. She revealed that she had spoken to John and Josh to see if they would be willing to serve again. They both agreed to do so. Mike Faihst volunteered to serve as Secretary for the upcoming year. The current slate of officers are:

- John Krieb – Chairman
- Josh Vernon – Vice Chairman
- Linda Scott – Secretary (position is vacant-Linda resigned)

Jim Foster made a motion to accept the following for the offices of BZA for the year 2016:

- **John Krieb - Chairman**
- **Josh Vernon- Vice Chairman**
- **Mike Faihst – Secretary**

Terry Strieter seconded the motion and the motion carried unanimously.

Chairman Krieb asked if there were any questions or comments from the board or staff. There were none.

Bobbie Weatherly made a motion to adjourn. Mike Faihst seconded the motion and the motion carried unanimously. *The meeting adjourned at 6:27 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray