

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, NOVEMBER 18, 2015
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, November 18, 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, Reta Gray, Officer Tim Fortner, Attorney David Perlow, Tony Nolcox, Jason Pittman, Deena Wright, Mark Welch, Mike Garland, Marcia Dorgan, Sean Sanders, James (Corky) & Mary Anne Broughton and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Corrections were noted to the October 21, 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 October 21, 2015 regular meeting as amended. Jim Foster seconded the motion and the motion carried unanimously.

Chairman Krieb announced that Shoe Sensation did not have a representative present for the next item on the agenda; therefore, this item would be reviewed at the December meeting.

Public Hearing: Conditional use permit to allow multi-family residential use above and to the rear of a permitted principle use in a B-3 Zoning District, located at 301 Maple Street – Greenspace Properties: Greenspace Properties (Tony Nolcox and Jayson Roberts) recently purchased the property at 301 Maple Street. The owners are hoping to renovate this building for mixed use. Their plan is to turn the second floor and the back portion of the first floor into multi-family residential housing. The back portion of the second floor was used for residential purposes from 1973 until sometime between 1978 and 1980. Since that time no part of the building has been used as residential. The proposal is for two one-bedroom units, one two-bedroom unit and two three-bedroom units. The front portion of the first floor will be occupied by Greenspace Properties and possibly another professional office and/or retail business. The request is in line with a conditional use in the B-3 zone. Ms. Dowdy reviewed another conditional use permit (previously issued in the immediate area) that was similar to this request. She also explained that there had been two other downtown businesses that recently had been used as mixed use. Letters were sent to adjoining property owners and Planning Staff did not receive any responses in regards to this application.

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

Tony Nolcox, co-owner of the building, came forward and was sworn in. Mr. Nolcox reiterated their plans for the building as Ms. Dowdy had previously explained. He and his partner feel that this is a good opportunity to help in revitalizing the downtown area. Their plan is to relocate their main office for Greenspace Properties to this location. He explained the layout and entrances for the building and the plan to bring the building back to somewhat of its original look by adding a balcony to the outside. The basic character of the building will remain the same; however, they will be making necessary updates. The apartments will be high-end rentals targeting young professionals. Mr. Nolcox reviewed the parking situation. He explained that no building downtown has reserved parking; everyone has public parking. There is a space on the east side of the building where the owners plan to turn the grassy area into three parallel parking spaces. Mr. Nolcox said that they had spoken to all the adjoining property owners and all had agreed to allow them to share their parking spaces. There is also the Municipal Parking Lot located in the next block where there is available parking. Mr. Nolcox said that he did not see a problem with the parking as they are going to be working with the City, Main Street of Murray and the neighbors to alleviate this situation.

Jason Pittman, Deena Wright, Mark Welch, Mike Garland and Marcia Dorgan came forward individually and were sworn in. Each of them spoke in favor of the request. The consensus seemed to be that the renovation of this building would be beneficial to the revitalization of the downtown area. They each would like to see residential living located atop of downtown businesses as this seems to be a way of the future.

There was no one that spoke in opposition to the request. Chairman Krieb closed the public hearing and turned the item over to the board for discussion and a motion.

Josh Vernon made a motion to approve the request for a conditional use permit at 301 Maple Street to allow multi-family residential use to be located above and to the rear of the permitted use in a B-3 Zoning District contingent upon all building and fire codes being met. The off street parking requirement is to be waived. The findings of fact being that it is an appropriate use in the downtown area for the business setting and the circumstances of the surrounding vicinity is appropriate for multi-use development. Terry Strieter seconded the motion. Chairman Krieb suggested that the findings of fact also include that the proposal is in line with the conditional use specifications regarding location of the residential units in the building; this building has historically been used for residential purposes in the past; and there has been a similar conditional use permit approved in the past in this vicinity. Josh Vernon agreed to include the additional findings. A roll call vote was taken and the motion passed with a 7-0 roll call vote.

Public Hearing: Conditional use permit to allow a retail business in a B-1 Zoning District located at 1411 Olive Boulevard – Sean Sanders: Sean Sanders would like to open a retail business located inside the barber shop known as Kampus Kuts located at 1411 Olive Blvd. The retail business will be a men's boutique operating during the same business hours as the barber shop. Mr. Sanders hopes to attract business from the barber's clients as well as MSU students. Currently the parking for Kampus Kuts is located in the front of the building, along the alleyway on the east side of the building and directly behind the building. The total number of parking spaces available is approximately 7 spaces. The area is surrounded by Government Zoning and

is adjacent to Murray State University. Due to its vicinity to campus, one would expect a mixture of both vehicular and pedestrian traffic which would hopefully lessen the demand of desired parking spaces. This business could fall within the guidelines for B-1 zoning as a conditional use. Two other conditional use permits have been approved in the campus area for similar situations. Parking and signage requirements were discussed.

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

Sean Sanders came forward and was sworn in. Mr. Sanders explained his proposal for a small retail men's clothing store to be located in the rear of the Kampus Kuts business. He explained that there was a side entrance into the building that could possibly be used in addition to the front door off Olive Boulevard. Mr. Sanders stated that he had spoken to the owner of the building to the west and he has agreed to allow them to use his parking area out front. Mr. Sanders' business as well as Kampus Kuts will only be opened during the daytime. They expect that most of their clientele will be "walk-up" traffic from campus and probably won't interfere with the parking needed by the business next door.

There was no one that spoke in opposition to the request. Chairman Krieb closed the public hearing and the item turned over to the board for discussion and a motion.

Jim Foster made a motion to approve the request for a conditional use permit to allow a men's boutique to operate in a B-1 Zoning District located at 1411 Olive Blvd. Mike Faihst seconded the motion. Mr. Faihst amended the motion to add the findings of fact that two other similar conditional use permits were approved in nearby areas at 1415 Main and 1407 Main. Also, parking is ample for what the business is. Chairman Krieb added that the proposal meets the definition of retail in a B-1 zone with a conditional use. The motion was approved with a 7-0 roll call vote.

Public Hearing: Dimensional variance request to allow an accessory structure in a side yard at 19 Sherwood Drive – James & Mary Anne Broughton: Planning Staff noticed that an 18' x 20' metal carport had been placed in the north side yard at 19 Sherwood Drive next to a detached garage. The Broughtons were notified and informed that the location of the carport was in violation of the Zoning Ordinance. Mrs. Broughton informed the Planning Staff that there is a retaining wall directly behind both the house and detached garage which makes it difficult to locate the carport in the rear yard. With the elevations being quite different on the property the Broughtons felt this was the most practical place for the carport. Ms. Dowdy stated that letters were sent to adjoining property owners and they had received no calls in opposition to this request.

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

James (Corky) and Mary Anne Broughton both came forward and were sworn in. When the Broughtons built their house approximately 10 years ago, they built the detached garage and had

a concrete pad poured next to it for a future addition. Mr. Broughton collects automobiles and had plans for storage in the detached garage with the idea if it wasn't big enough, they would add on to that existing garage in the future. They recently decided that a carport would serve the purpose for what they needed; therefore, they added the carport to the concrete pad. (Everything except the carport was previously on the property before they were annexed into the City a few years earlier.) Ms. Broughton explained that they basically have eight feet for a backyard between the house and the retaining wall (which was built for drainage purposes). She added that they were unaware that there was an ordinance against a carport in the front yard until they received the letter. Mr. Broughton said that they had looked at closing in the carport; however, it wasn't cost effective. The Broughtons indicated that their neighbors had no issues with them putting up the carport.

There was no one that spoke in opposition to the request. Chairman Krieb closed the public hearing and the item turned over to the board for discussion and a motion. Josh Vernon said that he did not believe that this was a willful violation but just a lack of understanding of the Zoning Ordinance.

Josh Vernon made a motion to approve the dimensional variance request to allow an accessory structure in the side yard located at 19 Sherwood Drive with the findings of fact that due to the fact there is no rear yard option because of the steep grades of the corner lot. 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. Dennis Sharp seconded the motion and the motion passed with a 7-0 roll call vote.

There was some continued discussion amongst the board and Mr. Broughton concerning where he purchased the carport and what he was told as far as a building permit was concerned. Mr. Broughton revealed that the carport was fastened down to the concrete pad as the City requires. Ms. Dowdy explained that Planning Staff would send a letter informing the company that sold the carport the restrictions that the city has.

Chairman Krieb asked if there were any questions or comments from the board or staff. Mr. Krieb reviewed the Briggs & Stratton Clinic regarding other businesses using the clinic. After consulting with the attorney, David Perlow, and based upon the recent feedback that Planning Staff has received, the BZA does not feel that any changes are necessary to be made to the conditional use permit and it still falls within the intent of what the board originally approved. Ms. Weatherly commended the board on looking at things in a fair and objective way. Mr. Vernon asked if a zoning change should be considered for the property where Kampus Kuts is located. Ms. Dowdy replied that things such as this will be considered in the updates for the uses in a B-1 Zoning District.

Mike Faihst made a motion to adjourn. Jim Foster seconded the motion and the motion

carried unanimously. *The meeting adjourned at 5:57 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray