

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, DECEMBER 16, 2015
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, December 16, 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, Mike Faihst, and Jim Foster

Board Members Absent: Bobbie Weatherly and Dennis Sharp

Also Present: Candace Dowdy, Robert Jeffries, David Roberts, Summer Grogan, Reta Gray, Officer Tim Fortner, Attorney David Perlow, Ledger and Times representative, Natalie Bradley, Yolanda Melton, Scott Opers, Tim Walker, David Taylor, Joe W. Nanny, Fred Moore, James Gish and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Corrections were noted to the November 18, 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 November 18, 2015 regular meeting as amended. Terry Strieter seconded the motion and the motion carried unanimously.

Table Request: Dimensional Variance request to allow additional temporary signage to be displayed at 714 North 12th Street – Shoe Sensation: Shoe Sensation came before the Board in October requesting a Dimension Variance to allow the use of banners to be displayed all year for advertising purposes. The request was to use 26 different temporary banners advertising promotions and sales (one banner will be displayed at a time and replaced approximately every two weeks). The Board motioned to table this request until the November meeting and requested further information be provided by Shoe Sensation regarding dimensions of the banners and their existing wall signage. There was not a representative present at the November meeting; therefore, the item was moved to this month's meeting. Chairman Krieb asked for a motion to bring the item back from the table.

Mike Faihst made the motion. Jim Foster seconded. Motion carried unanimously.

Ms. Dowdy explained that Shoe Sensation is allowed 102 square feet of wall signage based on their store front. Their current sign is 99.99 square feet. When a banner was noticed at Shoe Sensation, Planning Staff contacted them and explained the process for using a temporary banner. Shoe Sensation is proposing to have the current sign pushed up higher on the building where a track system can be installed for attaching the banners. Chairman Krieb asked the representatives from Shoe Sensation to come forward.

Natalie Bradley (Area Director) and Yolanda Melton (Store Manager) were sworn in. Ms. Bradley explained that this particular banner system is used at the majority of their strip center stores. She explained that this store does not have a marquee which makes it difficult for the public to know what stores are actually located in the shopping plaza. The shopping plaza sits quite a distance from the road which also hinders the public's ability to see them. Shoe

Sensation has a team of professional graphic designers who design their bold banners. The banners are very important in their marketing to bring traffic into the store. Information on the track system that is being proposed to anchor the banners was passed out to the board members. A banner similar to future banners was brought forward for the board members to see. Ms. Bradley explained that the windows in the Murray store are heavily tinted; therefore, the marketing (inside banners) does not show through. Marketing comes pre-packaged and is on a 14 month rotation; thus, banners could be used more than once. The size of the banner is 34.5 square feet (which exceeds the maximum 32 square footage of the temporary sign requirements in the Ordinance).

Ms. Dowdy explained that none of the shopping center owners have ever been willing to put up a free-standing sign to allow the businesses in this strip mall to advertise. There was discussion amongst the board members. The main concern was that if the request was approved that it would set precedence for other merchants.

Jim Foster made a motion to deny the Dimensional Variance request for the use of additional temporary signage outside the existing sign regulations for Shoe Sensation, based on the fact that temporary sign material is being used. Terry Strieter seconded the motion. The following suggested modifications to the motion were noted: the banners will be changed up to 26 times a year; there are no special circumstances for this particular store different from the other stores in the general vicinity; and it is an unreasonable circumvention of the requirements of the zoning regulations. A roll call vote was taken and the motion to deny the request carried with a 3-2 vote. Josh Vernon and Mike Faihst voted no.

Public Hearing: Conditional Use permit to allow outdoor storage of merchandise at 317 Chestnut – Global Wine & Spirits: Planning Staff noticed that an outdoor icebox had been placed at Global Wine and Spirits on the north sidewalk near the front entrance of the building. The business was notified and it was explained that the storage of the outdoor icebox was in violation to the Ordinance and that if they wished to keep the icebox at that location, they would need to come before the board to request a Conditional Use permit. From the pictures that were shown, it appears that there is plenty of walkable room around the icebox machine; however, the icebox could possibly be obstructing a handicap pathway on the sidewalk. Mr. Jeffries explained that a drive-thru window will eventually open on the east side of the building and at that time the handicap ramp will be moved to another spot. (There was not a representative present from Global Wine & Spirits to explain the proposed new location of the ramp.)

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or in opposition to the proposal. No one spoke in favor or in opposition to the request; therefore, 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 deny the Conditional Use request to allow the outdoor storage of an icebox at 317 Chestnut Street based on the safety of the location and the fact that the distance does not allow for an accessible route to the front door. Mike Faihst seconded the motion. The motion was defeated with a 2-3 roll call vote. John Krieb, Jim Foster and Terry Strieter voted no.

Jim Foster made a motion to approve the Conditional Use request to allow the outdoor storage of an icebox located at 317 Chestnut Street and to move the icebox to an acceptable location that would not inhibit the ~~place-making-it-more~~ handicap accessibility to the

building. Mike Faihst seconded the motion and the motion carried with a 5-0 roll call vote.

Public Hearing: Dimensional Variance request for additional signage at 900 North 12th Street – Huck’s Convenience Stores: A new Huck’s Convenience Store is currently under construction at 900 North 12th Street. The Planning Department has received a sign permit application as well as proposed renderings for the signage. They are requesting additional signage on the canopy, the building on two sides and on all of the gas pumps. Staff informed the representative what is actually allowed and that if they wished to have additional signage, they would have to submit a Dimensional Variance request before the board. Since the property is located on a corner lot, they are allowed a wall sign on both the primary and the secondary streets. In addition they are allowed a free-standing monument sign facing North 12th Street. One approved 48 square foot wall sign will be placed on the west wall facing the primary street (North 12th) and one approved 18.6 square foot vinyl HUCKS logo decal will be placed on the south wall facing the secondary street (private road yet to be named). They are proposing additional decals to be placed along the north and east walls at 18.6 square feet each. This would bring the total wall signage to 103.8 square feet. Huck’s is also requesting gas canopy signage for three sides at 18.64 square feet each. Gas prices are not considered as signage; they will be displayed on the north and south ends of the canopy. They are also requesting the pump toppers which are 12 x 18 inches. Ms. Dowdy explained that they would be allowed up to 171.8 square feet of wall signage on the west side of the building and 41.45 square feet on the south side of the building. Pictures were then shown and comparisons were made of the signage Huck’s has at its location on South 12th Street and what it proposes to have at the new location on North 12th. There was discussion about the signature coloring around the top of the building which makes Huck’s business recognizable signifying that there might not be the need to put the word HUCKS on the south side of the building.

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

Scott Opers from Custom Sign & Engineering came forward and was sworn in. Mr. Opers explained that Huck’s has a standard signage plan that is used at multiple locations. The proposed signage for the North 12th Street location is very similar to the South 12th Street location with the exception of the monument sign. The sign on the front of the new building is a little different because Huck’s has recently gone through a “re-branding”. (They change their brands very frequently to keep a new image.) Mr. Opers stated that they would be in agreement to forgo the request for the lettering on the north and south sides of the building if they are allowed the other letters they are asking for. Their policy is to ask for the maximum amount of signs; however, since the store construction is moving very quickly, they are willing to compromise.

No one spoke in opposition to the request; therefore, the public hearing was closed and the item turned over to the board for discussion and a motion.

Mike Faihst made a motion to approve the Dimensional Variance request to allow the additional signage as presented on the renderings/site plan for Huck’s Convenience Store located 900 North 12th Street (with the exception of the north and south side HUCKS logo on the building) with the findings that the Huck’s store on the south side of town has similar signage except for the monument sign and that the signage is a part of the building design. Josh Vernon seconded the motion and the motion carried with a 5-0 roll call vote.

Public Hearing: Dimensional Variance request to allow additional wall signage and to use a non-conforming free-standing sign at 2052 US Hwy 641 North – Taylor Motors: The new Taylor Motors is currently under construction at 2052 US Hwy 641 North. Mr. Jeffries explained that in lieu of a monument sign (that is required on 12th Street), the applicant (David Taylor) would like to relocate his existing non-conforming free-standing sign located at 1400 North 12th Street to their new location. The free-standing sign was previously in existence when David Taylor located at the site and since that time he has updated the panels of the sign to comply with the “new look” requirements of Dodge. In doing so, he actually reduced the size of the original non-conforming sign. (Square footage of the free-standing sign is 103.64 square feet with the overall height of 22 feet vs. the allowable 55 square feet with an overall height of 10 feet.) The applicant would like to apply for a Dimensional Variance to allow additional signage (to include a total of six wall signs and the non-conforming free-standing pylon sign) to be moved from their current location. The six wall signs will consist of dealer lettering, brand/logo signs, and a service sign. A rendering was shown of the proposed wall signs as they would be located on the building. The front wall space along the west side of the building is approximately 4,517 square feet allowing up to 10% of the square footage of the face of the building to be used for wall signage. The total square footage of requested wall signage is 141.91 square feet which is an allowable amount; however a variance is needed because there are numerous signs instead of one. The building sits more than 100 feet back from the right-of-way and is quite some distance away from the highway. *Josh Vernon recused himself at 5:55 p.m.*

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

Tim Walker, representative of SignCo of Paducah, came forward and was sworn in. Mr. Walker explained that the wall signs are being used at the current location. They were updated in the past year. The reason for requesting to use the current signage at the new location is to be cost conscious. The only new signs that will be added are for the service area. This is the look that Dodge wants the dealers to have. The board members asked several questions about modification of the free-standing sign in order to make it a monument sign. Mr. Walker explained why modifications would not work with this particular free-standing sign and that the only cost they will incur with the movement of the sign would be the footer. Since the highway has a 55 mph speed limit, it is Mr. Walker’s opinion that Mr. Taylor’s business would benefit from the free-standing sign.

David Taylor came forward and was sworn in. He reiterated that the cost of the free-standing sign was the main reason for wanting to use it at his new location. The initial cost of the sign was \$50,000.00 and if he is not allowed to use this same sign, it will cost him another \$50,000.00 for a new one. Mr. Taylor said that they are not really adding a non-conforming sign, they are just moving one. He then added that he is building another building in Illinois with the exact same signage that Dodge has planned for him to use at that location. He has not checked to see if there is a monument sign available with Dodge that would suffice to their needs. Mr. Taylor understands the board’s suggestions to alter his sign to make it into a monument sign; however, he understands his position as a business man to use the existing sign as is. He is willing to work with staff to come up with an appealing landscaping plan to surround the bottom of the sign.

Joe W. Nanny (owner of Circus Skate across the road from the new Taylor Motors) came forward and was sworn in. Mr. Nanny wanted to state that he was in favor of Mr. Taylor's request for his proposed signage.

No one spoke in opposition to the request; therefore, the public hearing was closed and the item turned over to the board for discussion and a motion.

Mike Faihst made a motion to approve the Dimensional Variance request to allow the additional signage as presented on the renderings/site plan for David Taylor located at 2052 US Hwy 641 North with the findings of fact of the financial hardship of \$50,000.00; that the sign is only a year old; and that Dodge requires it. They are required to follow the sign regulations in the Ordinance in regards to landscaping. 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. Jim Foster seconded the motion and the motion carried with a 3-1 roll call vote. Terry Strieter voted no. Josh Vernon re-entered the meeting at 6:24 p.m.

Public Hearing: Dimensional Variance to allow the placement of a recreational vehicle within the front yard setback at 409 South 8th Street – Fred Moore: Robert Jeffries explained that Fred Moore is storing a sailboat on a trailer along his side property line at 409 South 8th Street with a portion of the boat extending into the front yard. The Zoning Ordinance designates that a recreational vehicle can only be parked or stored in a side or rear yard. Planning Staff sent a letter to Mr. Moore on October 28th explaining that the boat is extending into the front yard and will need to be repositioned either in the side or rear yard where it is at least five feet from any building or lot line. The letter also informed Mr. Moore of the option to apply for a Dimensional Variance to consider the recreational equipment to be parked in a proposed location which varies from the Ordinance. Mr. Moore has since visited the Planning Office exploring his options and stating that he would like to keep his sailboat in the current location. Mr. Moore delivered documents to the Planning Office including his interpretation of the discussions he's held with Planning Staff, his "point of contentions", and petitions signed by neighbors and members of the American Legion. Mr. Moore indicated to the Planning Staff that the sailboat is not commissioned to sail and is currently not in operation. He would like to keep the boat in the current location because it is being used as a flagpole as well as a religious structure. The boat displays the name Ein Geti on both sides which is a location mentioned in the Old Testament often referred to as an oasis. The title to the sailboat shows that it is salvaged or junked (inoperable).

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

Fred Moore came forward and was sworn in. Mr. Moore asked for and was granted some time to set up a display. He then passed out papers to the board members and began to read a lengthy presentation. Mr. Moore said that the boat has a particular reason to be where it is at and that is for his ministry to children and if you should pull it back behind the house, no one would see it. Since the boat was classified as inoperable, Mr. Moore has been using the masts as a flag pole and the boat as a religious structure with a sign. The board members and board's attorney steered Mr. Moore back on track several times and asked how his presentation pertained to the location

of the boat. Mr. Moore continued. The houses on 8th Street are located in an older subdivision and are set at different distances from the street. He described that the boat sits 23 feet back from the sidewalk, 13 feet from his house and 13 feet from the side property line. The boat is well away from any safety situations with the house. Anyone backing out of his driveway has no visibility issues because of the location of the boat. After receiving a citation on September 30th concerning the location of the boat, Mr. Moore acquired a petition signed by many of the residents on 8th Street as well as members of the American Legion. Mr. Moore explained that the boat is being used as a flagpole and an icon; thus, it is not a recreational vehicle. He concluded that the variance that should be considered is not that the boat is in the front yard; but instead, the variance that should be considered is that the boat has been changed to a different use. Mr. Moore suggested that the City of Murray take the boat (upon his passing) and move it to the Chestnut Park for a Veteran's Memorial.

James Gish came forward and was sworn in. Mr. Gish thought that the board members should consider Mr. Moore's presentation favorably.

No one spoke in opposition to the request; therefore, the public hearing was closed and the item turned over to the board for discussion and a motion.

Josh Vernon made a motion to deny the Dimensional Variance request to allow the placement of a sailboat along the side property line with a portion of the boat extending into the front yard at 409 South 8th Street with the findings that it is outside the recommendations and goals of the city to keep our properties in an uncluttered and contributing manner. It is in fact a decommissioned boat and it does extend out within the front yard of the property even though it was portrayed as a monument and a flag pole. Mr. Moore has two months to bring this matter into compliance. Terry Strieter seconded the motion and the motion carried with a 5-0 roll call vote.

Questions and Comments: Everyone was wished a Merry Christmas and a Happy New Year.

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