

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JULY 20, 2016
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, July 20, 2016 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Josh Vernon

Also Present: Candace Dowdy, Summer Grogan, Reta Gray, Attorney David Perlow, Daniel Miller, Ellie Arant Rose, Jerry Duncan, Dimitrious (Jim) Karvounis, Grant Hart and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He noted minor changes to the minutes and then called for a motion to approve the minutes from the June 22, 2016 BZA meeting.

Mike Faihst made a motion to approve the minutes from the June 22, 2016 BZA meeting as amended. Terry Strieter seconded the motion and the motion passed unanimously.

Public Hearing: Conditional Use Permit to operate a used car sales lot in an Industrial Zone at 615 South 3rd Street Extended – Daniel Miller: Daniel Miller currently rents this property and would like to operate a used car lot in an Industrial Zoning District. Retail sales and consumer service type businesses are only allowed as a conditional use in the Industrial zoning district. This property has been owned by the Cunningham family since 1973 and previously used by wholesale car dealers or as a car cleanup shop. There are similar types of businesses located to the south of this property that are in the county which are not regulated by the city. Mr. Miller's plan is to have between 5-10 cars at a time on the lot. He would like to keep the cars that are ready to sell in front for display and the cars that are not ready will be kept behind the building. Mr. Miller will be allowed a wall sign as well as a free-standing sign at this location. The graveled parking area is "grandfathered in" since it has been that way for several years.

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

Daniel Miller came forward and was sworn in. Mr. Miller stated that his normal hours of operation would be 8:00 a.m. until 4:30 p.m. There are plans to pave a distance of 12 feet from the front and the back of the building and add new gravel to the front lot. Mr. Miller explained that the state requires him to put a sign on the building. The 2 foot x 4 foot sign has been made; however, it is not in place at this time. Mr. Miller will not have any employees. He plans to do body work, clean up, rebuild and sell cars at this location.

There was no one that spoke in opposition; 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 Conditional Use Permit request to allow a used car lot to operate in an Industrial Zoning District at 615 South 3rd Street Extended with the findings of fact that this proposal is continuous with what is down there now even though they are in the county. A proper distance around the fire hydrant is to be maintained and the visibility for traffic coming in and out of the property should not be blocked. Bobbie Weatherly seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Conditional Use Permit to operate a dance studio/fitness instruction studio in an Industrial Zone located at 506 Industrial Road – Elle Arant Rose: Jerry Duncan owns and operates Murray Mold and Die which is located in the county at 506 Industrial Road. Elle Arant Rose is looking to rent the 7,000 square foot building (owned by Jerry Duncan and located behind Murray Mold and Die) to open a dance/fitness studio. Retail sales and consumer service type businesses are only allowed as a conditional use in the Industrial zone. The 1.215 acre portion of land that this building is located on is in the city limits. This portion of land was rezoned from Floodway to Industrial zoning in 2008 for the purpose of constructing a warehouse/storage building. A private road has been constructed on Mr. Duncan's property which allows access to the warehouse. The building has been rented for storage for six years but has been vacant for less than a year. If the board approves this request, Mr. Duncan will be updating the building with plumbing, heating and air, and installing LED security lights to the exterior. The applicant and/or owner will be required to submit a building permit application since the use of the building will be changing. Building and fire codes should be met. Parking requirements will also be reviewed through this process based on the occupant load of the building. The parking area would need to be put into a hard surface within one year of construction of the parking area; however, there will need to be some type of markings to delineate parking spaces until that time. There might possibly need to be a hard surfaced area for handicap accessibility. A sign will probably be located along the tree line on the north side of the access road for direction purposes and planning staff will make sure there are no visibility issues.

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

Elle Arant Rose came forward and was sworn in. Ms. Rose explained that the fitness center hours would be from 5:00 to 9:00 a.m. and the dance studio hours would be from 3:00 to 8:00 p.m. She estimated around 150 people being enrolled but only 15 there at a time. Ms. Rose agreed that she would need a directional sign next to Industrial Road and she would also like a sign on the building.

Jerry Duncan came forward and was sworn in. Mr. Duncan explained that he is in the process of installing plumbing, water, heating and air condition, bathrooms and outdoor lighting to this building. There are currently two walk-through doors located in the building at opposite ends; however, if another one is required after the Fire Marshal's inspection, he will put it in. Mr. Duncan agreed to meet all the city requirements for this business.

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

Jim Foster made a motion to approve the request to allow a dance/fitness studio to operate

in an Industrial zoning district as a conditional use at 506 Industrial Road subject to all building and fire codes being met. Dennis Sharp seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Dimensional Variance to add a third free-standing sign at 506 North 12th Street – Fast Pace Urgent Care: Fast Pace Urgent Care Clinic is in the process of renovating the former Tom's Pizza building where their new facility will soon be located. The main entrance will be off North 12th with a secondary entrance off Arcadia. The applicants will be allowed to have two wall signs as they face two streets. Currently there are two free-standing signs on the property; one for Olympic Plaza and the other for Tom's Pizza. (The Tom's Pizza sign was approved for Tom's Pizza only as long as they were utilizing that particular space.) The applicant is requesting a third free-standing sign. The proposed sign will be a total of 80 sq. ft. in size with an overall height of 14 feet. The double sided internally illuminated sign panel will be 54" x 148" for a total of 55.5 sq. feet with a 24 sq. ft. electronic message board. The proposed sign will meet the minimum front setback of ten feet. Tom's Pizza recently closed and according to the Zoning Ordinance a business is required to remove their signage within 45 days of closing. Technically the Tom's Pizza free-standing sign should come down.

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

Grant Hart came forward and was sworn in. Mr. Hart explained the nature of their business and their hours of operation. He said that they prefer to have a new free-standing sign located directly in front of the business instead of modifying and using the existing Tom's Pizza sign which is farther to the north. From the reports and studies that they have done, signage is crucial to their business. The proposed sign will take up approximately one parking space and they plan on adding shrubs around the base. Mr. Hart said that they anticipate opening the business in around 60 days; however, they would like to get their sign up as soon as possible just for advertisement purposes.

Dimitrious (Jim) Karvounis came forward and was sworn in. Mr. Karvounis was there on behalf of his father Tom who owns the shopping center. He stated that he had previously spoken to Ms. Dowdy about the possibility of re-opening Tom's Pizza at a different location in the shopping center and whether they would be able to keep the existing free-standing sign. At this point they are not sure if they will re-open or not. Mr. Karvounis gave the history of the free-standing sign and the reason for wanting to keep it. He said if they do not re-open the restaurant and the city wants them to take the sign down, he is sure that his father will not object. (Mr. Karvounis' father is currently out of the country.) Ms. Dowdy explained that if they did decide to re-open in the former Los Portales location, they would have to come back before the board for approval to keep the existing free-standing sign. Mr. Karvounis asked for six months to make a decision. Several possibilities were discussed. The board concluded that their decision concerning a new free-standing sign for Urgent Care could not be made until Mr. Karvounis was able to give them adequate information. If Tom's Pizza should re-open in the back of the Olympic Plaza and if they want to keep the current free-standing sign, the board members will not approve a third free-standing sign on the property. However, should one of the current free-standing signs be removed, the situation would change and the board would consider allowing Urgent Care to have a new free-standing sign of their own. Since Mr. Karvounis did not feel that he was authorized to give a definite answer without speaking to his father first, the board decided to table the item until more information could be brought forward.

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. Ms. Dowdy explained to Mr. Hart the temporary sign options that they could consider until this item is decided upon.

Jim Foster made a motion to table the request for thirty days because he does not want to approve a third sign until a decision is made on what to do with the current free-standing signs on the property. He also does not want to reject the request for the Urgent Care sign until they know what is going to happen with the property. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Questions/Comments: Mike Faihst asked if the base of the sign at Re/Max and Station Burger was completed. Mr. Foster said that he had noticed that the grass had been sprayed and killed where the base will be located. Ms. Grogan explained that they still have until August 15th to complete the job.

Terry Strieter made a motion to adjourn. Mike Faihst seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:52 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray