

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 21, 2016
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 21, 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, David Roberts, Attorney David Perlow, Ledger Representative, Brandon Edmiston, David Provine, Hiep (Kevin) Nguyen, Marsha Dorgan, Butch Sergeant, Grant Hart, Tim Thurmond, Justin Phillips, Tony Nolcox, Jayson Roberts and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He asked for a motion to approve the minutes from the August 17, 2016 BZA meeting.

Terry Strieter made a motion to approve the minutes from the August 17, 2016 BZA meeting as presented. Jim Foster seconded the motion and the motion passed unanimously.

Chairman Krieb called for a motion to remove the Administrative Appeal from the table.

Mike Faihst made a motion. Jim Foster seconded. The motion passed unanimously.

Public Hearing: Review of an Administrative Appeal for the issuance of a building permit at 1702 Kandi Kay Lane – Hiep Nguyen: Attorney David Perlow stated that he had spoken to the appellant Don Roberson twice and he indicated his wishes to withdraw the Administrative Appeal. (Mr. Roberson works in construction and he was unable to attend the meeting.) After discussing the matter with Mr. Roberson, Mr. Perlow said that the issues that Mr. Roberson had actually were problems of violation to the construction of the wall at 1702 Kandi Kay Lane. David Roberts added that he had spoken to Mr. Roberson twice and Mr. Roberson had also told him that he would like to withdraw the Administrative Appeal. Mr. Perlow then explained that the board could either vote to accept the withdrawal of the Administrative Appeal or to have the appeal go forward.

Jim Foster made a motion to accept the withdrawal of the Administrative Appeal based on the testimonies from David Roberts and Attorney David Perlow. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Dimensional Variance request for a two foot height variance and a nine foot front setback variance for a decorative wall located at 1702 Kandi Kay Lane – Hiep Nguyen: Mr. Nguyen no longer has intentions of constructing a fence on his property. Planning Staff believes that the partially constructed brick and/or stone wall would be allowed (according to the zoning ordinance) as part of his landscaped area. This particular construction is located on a corner lot; therefore, the side facing the secondary street is treated as a front yard. Fences or walls shall meet the following height limitations: 4 feet for the front yard or 8 feet for the rear

and side yards. No fence or wall can be located closer than ten feet to any street right-of-way. Mr. Nguyen is requesting to place the wall one foot off the property line along Trents Lane; thus, he will need a nine foot setback variance. The overall height of the existing structure is 9 foot 8 inches. Mr. Nguyen is proposing to bring the height down to six feet and incorporate it into his landscaping on both sides of his driveway on Trents Lane. Therefore, he will be asking for a 2 foot height variance since the height limitations are 4 feet.

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

The following people came forward in favor of the request and were sworn in individually: Brandon Edmiston, David Provine and Marsha Dorgan. Mr. Edmiston and Mr. Provine are both neighbors to Mr. Nguyen. They each stated that Kevin had discussed the wall with them and they were both in support of Kevin's request to have the wall. It is their opinions that Kevin was trying to do everything right and had been very cooperative in working with the city. Mr. Provine added that the construction would enhance the neighborhood. Ms. Dorgan thinks Mr. Nguyen's proposal is beautiful and she thinks he is trying to do what is right by the community.

Chairman Krieb asked Mr. Nguyen to come forward to answer some questions.

Hiep (Kevin) Nguyen came forward and was sworn in. Chairman Krieb asked Mr. Nguyen if he had considered altering the configuration of the wall and starting with a 6 foot height of the two posts and tapering down to a 4 foot height. Mr. Nguyen asked Ms. Dowdy to show pictures of his wall. Mr. Nguyen explained that he had a gate up earlier but has since removed the gate from the entrance and moved it closer to his house. Mr. Nguyen replied that if he is given eight feet for the height, he can taper it down as suggested by Chairman Krieb, but he did not think it would look right with a taper of six feet down to four. He will try to make something that will look good.

David Roberts relayed information from Mr. Roberson. Mr. Roberson is not in opposition to the four foot height and nine foot front setback. He feels like that the four foot height maximum would be more appropriate for the neighborhood rather than six foot (as there are other walls at that height used at entrances into subdivisions throughout the city). Chairman Krieb stated that the records should state that the comments passed on by David Roberts show that Mr. Roberson is in opposition to the request for the height variance.

No one spoke in opposition; 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 by Kevin Nguyen at 1702 Kandi Kay Lane for a two foot height variance and a nine foot setback variance on a decorative wall to be located on both sides of the driveway along Trents Lane with the understanding that the posts will be at six feet and the middle to be at four feet. The granting of 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 nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Mike Faiht seconded the motion and the motion carried with a 5-1 roll call vote. Terry Strieter voted no.

Public Hearing: Dimensional variance request for front setback on free standing sign at 506 North 12th Street – Fast Pace Urgent Care: The Board approved a second free-standing (monument style) sign for the Olympic Plaza last month for Fast Pace Urgent Care Clinic. Since last month's meeting the applicant has determined that the proposed location of the sign does not meet the ten foot front setback requirement. The owners of Olympic Plaza have had a surveyor (Butch Sergeant) to mark the front property corners and based on that they are requesting a seven foot front setback variance for the sign in order to keep it back out of the drive aisle.

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

Grant Hart came forward and was sworn in. Mr. Hart said that he did not have any additional comments but could answer any questions the board might have. He verified that the description was correct.

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

The question was asked if there was a need for pillars around the sign since it would be sticking out. Mr. Hart replied that there would be landscaping and a new concrete curb poured around the sign; therefore, he did not see the need for pillars.

Mike Faihst made a motion to approve the request by Fast Pace Urgent Care for a seven ft. front setback variance on a monument sign at 506 North 12th Street. The sign will be out of the drive aisle in front of the building. The granting of 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 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 carried with a 6-0 roll call vote.

Public Hearing: Request to allow an insurance agency as a Conditional Use in a B-1 zoning district at 1211 Story Avenue – Tim Thurmond, Thurmond Insurance Agency:

Tim Thurmond with Thurmond Insurance Agency is considering purchasing the vacant lot located at 1211 Story Avenue. He would like to construct a new professional office building at this location for his insurance agency and possibly another three similar type businesses that would complement his business. The building would be anywhere from 5,000 to 7,000 sq. feet in size with up to four office spaces. This property is zoned B-1 (Neighborhood Business) with residential zoning to the north. Other surrounding properties are B-2. ~~As a conditional use~~ In the B-1 zoning district offices and other retail businesses or services not listed as permitted uses shall be considered conditional use and will require written approval from the Board of Zoning Adjustments. Surrounding businesses were then discussed. It is the Planning Staff's belief that this business would blend with the surrounding businesses. The board shall grant such approval if it determines that the proposed use is essential to the convenience of the neighboring residents.

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

Tim Thurmond came forward and was sworn in. Mr. Thurmond stated that this is a “work in progress”. He currently has a conditional contract with the property owner. Upon approval they will be looking at completing their financing. He has already begun talking with contractors and engineers. One contractor indicated that he could go up to 8400 square feet on the property; however, he is content with between 5,000 and 7,000 square feet. Mr. Thurmond wants this building to be attractive and something that Murray will be proud of. Josh Vernon is his architect and he thinks that his excellent work speaks for itself. Mr. Thurmond referenced that Independence Bank is in the process of building a new bank on South 12th and there seems to be more and more activity on the south side of town. He explained the type of tenants that he would be interested in having. He then inquired about signage in this particular zone. Ms. Dowdy explained the signage ordinance for a B-1 zone.

No one spoke in opposition; 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 professional office business as a conditional use in the B-1 zoning district at 1211 Story Avenue with the findings that the property owner will limit the other tenants to similar professional businesses and that there is already an insurance office in the B-1 zoning district that has been there for eight years. The granting of 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 nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Request to allow retail sales and consumer service businesses as a Conditional Use in an Industrial zoning district at 622 North 4th Street – Greg Williams: This property is located at the northeast corner of North 4th Street and Andrus Drive and zoned Industrial. Mr. Williams is proposing to construct a 9,840 sq. ft. building on the lot for retail and consumer service type businesses. Retail and consumer service businesses are only allowed in the Industrial zoning district as a conditional use. The required parking for this proposed use would be 49 parking spaces with the site plan showing 33 parking spaces; therefore, he would need a 16 space variance. The proposed plans for the building will show five tenant spaces. The site plan is showing three entrances, two on Andrus Drive and one on North 4th Street. David Roberts explained that the entrances to the north will have to be reviewed and approved by the state highway department. He added that Mr. Williams had the concept that a tenant might use one of the spaces for an office and maybe another one for merchandise.

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

Justin Phillips came forward and was sworn in. Mr. Phillips was representing Greg Williams since Mr. Williams was out of town. Mr. Phillips explained that it was his understanding that there would be five units on the front and three units on the back side of the building. It will resemble another building that Mr. Williams previously constructed on North 4th which has worked pretty well for him. Mr. Phillips explained the proposed locations of the utilities and stormwater detention.

No one came forward in opposition; therefore the public hearing was closed and the item was

turned over to the board members for discussion and a motion.

Mike Faihst made a motion to approve the request to allow retail sales and consumer service businesses as a conditional use for the property located at 622 North 4th Street based on the site plan submitted and contingent upon all other city regulations being met. He also moved to approve a 16 parking space variance for the location with the findings that the concept of this proposal is similar to another previously built building. The granting of 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 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 6-0 roll call vote.

Public Hearing: Request to expand geographic boundaries for the Conditional Use Permit issued for a residential planned development project at 1807 College Farm Road to include the property at 1809 College Farm Road – Greenspace Properties: Tony Nolcox and Jayson Roberts with Greenspace Properties are looking to purchase the property at 1809 College Farm Road. This property (1.2541 acres) lies to the west of their current residential PDP and is zoned R-4. There is currently a single family dwelling on the property that will remain and be used as rental property. Greenspace Properties is proposing to develop the back portion of the property as Phase 2 of their residential PDP with the addition of two buildings that will each house 4 two bedroom, two story townhouse units. With the additional units the project will still meet all density requirements. The required parking for this proposal is 24 parking spaces. The Planning Commission approved the preliminary plat the previous night. The site plan shows that they are providing 16 parking spaces; thus, an eight parking space variance will be needed. The main access for Phase 2 will be off College Farm Road with a one way access around the new units. Additional stormwater detention will be addressed through the review process. All adjoining property owners were notified.

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

Tony Nolcox came forward and was sworn in. He stated that Ms. Dowdy had explained everything very thoroughly. Mr. Nolcox stated that Phase 2 had been anticipated when they originally developed the property. There is a creek that flows on the west side of the existing cottages and it is not straight. They propose to straighten that creek and clear out some of the growth from around that area. Mr. Nolcox referred to the site plan to point out the proposed green space areas. At the previous night's meeting they discussed the existing chain link fence that is on the west property line. That fence will remain and plantings that provide screening will be added. The properties will be maintained by Greenspace Properties.

No one came forward to speak in opposition; therefore, Chairman Krieb closed the public hearing and turned the item over to the commissioners for discussion and a motion.

Jim Foster made a motion to approve the request to expand the geographic boundaries for the Conditional Use Permit issued for 1807 College Farm Road, Greenspace Properties to include the property at 1809 College Farm Road for Phase 2 of the residential PDP for Greenspace Properties. . I also approve the request for an eight parking space variance

considering that this proposal fits the neighborhood. The granting of 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 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 carried with a 6-0 roll call vote.

Questions/Comments: Board member Terry Strieter said that he was concerned about allowing other things to locate in industrial areas other than industries. Granting variances is taking away from the amount of area that is zoned Industrial. Chairman Krieb said that there are still some undeveloped industrial areas along 4th Street. Also there are some available on Industrial Road, CC Lowry and the new Industrial Park West. Mr. Roberts explained that there hasn't been the demand for industries to move into the area; however, the trend has been to turn the old industrial areas into viable service and retail businesses. The focus has been to locate industry towards Hwy 80.

Mike Faihst made a motion to adjourn. Jim Foster seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:55 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray