

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, NOVEMBER 16, 2016
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, November 16, 2016 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Bobbie Weatherly and Jim Foster

Also Present: Ahmed Abdullah, Summer Grogan, Attorney David Perlow, David Roberts, Calvin and Michelle Becker, Troy Stovall, Marsha Dorgan, Karen Welch and public audience.

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Chairman Krieb then reviewed a change to the minutes from the October 19, 2016 BZA meeting and asked for a motion to approve.

Mike Faihst made a motion to approve the minutes from the October 19, 2016 BZA meeting as amended. Terry Strieter seconded the motion and the motion passed unanimously.

Public Hearing: Dimensional Variance request for an accessory structure in the front and side yard located at 43 King Arthur Court – Calvin & Michelle Becker: The applicants are requesting a dimensional variance to construct a home workshop (accessory structure) on the front and side yards on their property. The couple is currently constructing a new home on this property. The proposed accessory structure will not be constructed until the completion of the principle structure and will not be used for commercial purposes. The Ordinance states that accessory buildings are permitted only in rear yards and shall be located at least five feet from all interior lot lines. The applicants have indicated that the topography of the construction site shows a downward slope towards the back of the lot. Placing a workshop in the rear yard could expose the proposed structure to possible water run-off during heavy rains. Adjoining neighbors were notified and no response was received.

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

Calvin Becker came forward and was sworn in. Mr. Becker reiterated the slope of the backyard and explained that the proposed spot is really the only spot where the structure would fit in well. The Beckers currently have an agreement with the neighbors to allow them access across the Becker's property to a pond and they don't want to block that access. The structure will be constructed out of materials that will match the house.

There was no one that spoke in opposition; thus, 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 request by Calvin and Michele Becker to place an accessory structure in the front and side yards based on the topography and

circumstances of the existing property and the fact that they are located at the end of a cul-de-sac. The granting of the variance 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 5-0 roll call vote.

Public Hearing: Dimensional Variance request for a five foot side and ten foot front setback to construct a four foot fence on property located at 800 Coldwater Road – Troy Stovall: The owner of this property is requesting a five foot side variance (along North 16th Street) and a ten foot front setback variance (along Coldwater Road) to allow him to construct a four foot fence at this location. The traffic at the 5 Points intersection is frequently cutting through his parking lot; therefore, Mr. Stovall is proposing fencing on three sides of the property. The type of fencing that is proposed should not present a visual obstruction. The fence will provide a safety factor and serve as prevention for future pull-throughs. The proposed fence height is within the Zoning Ordinance; however, the regulations are that a fence shall be located no closer than ten feet to any street right-of-way. David Roberts clarified the location of the fences and right-of-ways for this property.

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

Troy Stovall came forward and was sworn in. Mr. Stovall described the dangerous situations that had occurred at this property during the renovation. When North 16th Street was blocked, he estimated a surprising 700 cars a day running across his property. Mr. Stovall plans to landscape between the fenced areas. Mr. Roberts explained that there are still state plans for a potential round-about at Five Points which will change the entire look of the intersection. North 16th and Coldwater Road are both state roads and North 16th is on a long range plan to eventually have something done to it.

Marsha Dorgan came forward and was sworn in. Ms. Dorgan had some concerns why Mr. Stovall had previously been granted approval for a monument sign and ended up with a pole sign. She spoke in opposition to the front setback on Coldwater Road. It is her belief that the fence will cause more accidents and that the City Ordinances should be adhered to as close as possible.

Mr. Stovall came forward for rebuttal comments. Mr. Stovall originally received a variance on a monument sign for the property which would have actually positioned the sign where it would not have been as visible as the pole sign that he decided to go with. He did not see how someone could run over his proposed fence unless they drove onto his property (15 feet off the road).

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

Mike Faihst made a motion to approve the request by Troy Stovall for a five foot variance (along North 16th Street) and ten foot variance (along Coldwater Road) to construct a four foot high fence in the side setback and out to the front property line based on the following facts: the variance will give a ten foot clearance around the northeast corner of the building; the fence is an open design so it shouldn't block visibility for anyone; and that the proposed two foot columns remain in the design. By constructing the fence this will

eliminate traffic crossing through the property which is an unsafe condition. The granting of the variance 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 4-1 roll call vote. Josh Vernon voted no.

Public Hearing: Dimensional Variance request for parking lot signage and old billboards used for murals located at 509 Main Street – Karen Welch: Karen and Mark Welch are the owners of the property at 509 Main Street. Their property consists of two parking lots and one lot where their business is located. They are allowed to have a sign for each lot. Mrs. Welch is applying for a dimensional variance to allow additional signage for both parking lots and murals on the existing two billboards. The request is for a 4' x 3' sign to be mounted on an existing pole at the entrance of the east parking lot and a 6' x 30" sign that will be placed on the existing fence of the west parking lot located on the corner of 6th and Main Street. Both properties are located in the B-3 (Central Business Zoning District) where wall or projecting signs are typically used instead of free-standing signs. The maximum size for each proposed sign is in compliance with the Zoning Ordinance. Utilizing the existing two billboards for murals and placing signs on the existing nonconforming pole and fence will require approval by the Board since they do not meet the front setback requirements. Ahmed reviewed the ordinance regulations pertaining to the signage.

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

Karen Welch came forward and was sworn in. Ms. Welch explained that since they bought the two parking lots, they have resurfaced and striped the larger one. There are now large arrows that denote the entrance and exit. There are some existing poles at the entrances that they have chosen not to use for signage. The corner lot at 6th and Main also has poles on each side of the entrance and exit. This lot will also be cleaned up, landscaped and restriped with one way in and one way out markings. Ms. Welch considers this lot as the "Downtown Gateway". They would like to preserve the historic look by putting a sign on the fence. The billboards are pre-existing billboards for BB&T bank. Mr. and Mrs. Welch would like to donate the use of the billboards to someone to paint murals on them with a theme of welcoming people to downtown (similar to what Paducah has). There has been discussion about this for some time; however, no one has ever initiated the project. Ms. Welch stated that she plans to ask other downtown merchants for help in paying for this if she receives approval from the BZA. Bruce Ottway has been contacted concerning the signs and has some very impressive input for the proposed design. Ms. Welch described the billboards as being vinyl with something painted on them that would depict the history of downtown. They have talked about solar lighting since there is no power to the signs; however, they have not decided about the lighting at this point. Mr. Roberts explained that the Planning Staff has not seen any conflict with the proposals as this property lies within the Historic Overlay District. The Welch's will be renting the 29 spaces in the large parking lot and nine spaces in the smaller lot.

No one came forward in opposition; 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 approve the request for a pole sign in the east lot, fence sign in the west lot, parking signs and the use of billboards for murals at the property located at

509 Main Street based on the findings of fact that the billboards are already there and this is a great rehabilitative effort to not only beautify the downtown area but to lend itself toward a great wayfinding for the downtown area. The parking signs provide clarity for the in and out of the parking lots and the methods that this have been put together are done in a very appropriate manner being aesthetically pleasing to the area and also working well for the entrances and exits to the parking lots. The granting of the variance 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

Mr. Vernon amended his motion to add: If the property owners should decide to use the poles at each location instead, that is approved as well. Mike Faihst seconded the amendment and the motion carried with a 5-0 roll call vote.

Questions and Comments: Chairman Krieb addressed the Tom's Pizza free-standing sign. He said that the sign had been removed, but the pole was still there. Mr. Roberts explained that according to Code Enforcement Officer Fortner they are actually in compliance as it is now since the definition in the Sign Ordinance doesn't include the structure. Attorney David Perlow has been contacted for his official opinion on this matter. He added that this may be addressed in the amending of the definitions part of the ordinance as well. Mike Faihst agreed with Chairman Krieb that the pole should come down. He then asked if KRS had made a change to the statement that they include in their motion. Mr. Roberts said that they would look at this and make sure it is correct in the future. Mr. Faihst also said there is a sign still standing at the Quick Lube that closed several months ago. Mr. Roberts replied that they would contact the property owner concerning that.

Mike Faihst made a motion to adjourn. Josh Vernon seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:37 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray