

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 20, 2017  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 20, 2017 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Jim Foster, Mike Faihst, John Krieb, Bobbie Weatherly, Dennis Sharp and Josh Vernon

**Board Members Absent:** Terry Strieter

**Also Present:** Maurice Thomas, Jessie Boshell, Gerald Gilbert, David Roberts, Bob Hargrove, Joe Darnall, Danny Hudspeth, Chuck Foster, Attorney David Perlow, Officer Tim Fortner and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Maurice Thomas called the roll. Chairman Krieb then asked for a motion to approve the minutes from the August 16, 2017 Regular BZA meeting.

**Mike Faihst made a motion to approve the minutes from the August 16, 2017 regular BZA meeting as amended. Jim Foster seconded the motion and the motion passed unanimously.**

**Public Hearing: Consideration of a height variance (V-06-17) request for a flag pole located at 405 South 12<sup>th</sup> Street – Applicant: The Murray Bank:** The subject property is zoned B-4 (Medium Density Business). Adjacent properties are zoned B-4 to the north, south and west with single family residential to the east. Jessie Boshell explained that The Murray Bank (applicant) is requesting a height variance to allow a 70 foot flag pole at this location. Maximum height of a flag pole (as it is classified as a structure) in the B-4 zone is 35 feet. In 1999 the applicant was granted a height variance of 16½ feet to add a cupola for the height of the building to exceed the allotted 35-foot height limit making it 51½ feet tall. Staff concurs with the applicant, that due to the height of the existing building the increased height of the flag pole to 70 feet would be more proportional to the building. At this time, Chairman Krieb asked the applicant to come forward.

Bob Hargrove, representative for The Murray Bank, came forward and was sworn in. Mr. Hargrove stated that when they decided to put up a new flag pole, they were not aware that the flag pole would be considered a structure. They do not think there is anything prettier than driving down Main Street and seeing the big flag waving at Parker Ford or going down Industrial Road and seeing the flag at Murray Mold & Die. (Both flags are at 70 feet.) He explained when you buy a flag pole of this size there are different grades/strengths that you can choose. The strength determines the size of flag you can have. With the recent expansion of the bank, they had to do away with the previous flag pole as it was in way of construction and it looked dwarfed next to the size of the building. They are proposing to put a new flag pole on the northern side of the building. There will be lights shining on the flag where it can be flown 24-7. Mr. Hargrove added that they plan on taking the flag down during inclement weather.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak either in favor or opposition to the request. No one came forward; therefore, the public hearing was closed and the item turned over to the board for a motion.

**Jim Foster made a motion to grant the Height Variance for the Murray Bank flag pole as presented in the attached Text and Site Plan. The testimony presented in this public hearing has shown that granting the Height Variance for The Murray Bank flag pole is reasonable and necessary. The flag pole height variance is in compliance with the provisions of the Zoning Ordinance. Mike Faihst seconded the motion. The motion carried with a 5-0 roll call vote. Josh Vernon abstained.**

**Public Hearing: Consideration of a parking variance (V-07-17) request for an existing structure located at 111 Poplar Street – Applicant 111 Poplar, LLC:** Jessie explained that the three-story historic building is commonly referred to as the Swann Tobacco Company building that was previously used for industrial purposes. The building is currently being renovated with the purpose of changing the use to commercial/office space and multi-family residential units. Commercial/Office space is proposed for the first two floors. The third floor will house 19 units comprised of 4 studio and 15 one-bedroom units. Current standards require 2 parking spaces per dwelling unit, plus one space per unit for a guest, bringing the total to three spaces per unit. This requirement is generally excessive for downtown mixed-use projects even though it is used for suburban multi-family developments. The applicant contends that the majority of the people that will reside in these apartments are looking for an urban lifestyle and may not need the parking that is typical to suburban apartments. Jessie then described the overall parking for the project. Phase I will include 40 spaces that are located on the eastern side of building. Once the residential units are completed, the metal building in the back part of the property will be removed and converted into 36 additional parking spaces as part of Phase II. This will bring the total to 76 available parking spaces. 57 spaces are required for residential use and 102 spaces are required for commercial/office totaling 159 overall required spaces. The applicant is requesting an 83 space parking variance for the mixed-use project. In surveying the area, there are additional shared parking opportunities that could be utilized during business hours. The Municipal Parking lot can provide 73 parking spaces and First Baptist Church parking lot can provide 80 spaces (except on Sundays). These two entities could actually provide an additional 153 usable spaces and should be considered since they are within a walkable area. Typically, mixed-use projects have a lesser parking demand due to the increased opportunities for “walker-by” traffic, shared offsite parking and lifestyle choices. In addition, the parking ratios prescribed by the Ordinance do not reflect the need that is typical for mixed-used. The adaptive reuse of the 111 Poplar building is a unique opportunity to introduce residential uses in the downtown area while still preserving its heritage especially in a building so well endeared to many of the city’s residents. The adding of the residential traffic will provide the nexus for increased activity that transitioning downtowns desire. The parking standards set forth by the Zoning Ordinance create an unnecessary hardship on this type of project. As such, staff concurs with the applicant that the parking variance is necessary due to the existing nature of the building and the low impact uses that will occupy the space within the building.

Gerald Gilbert explained the current Zoning Regulations as being a little archaic since these types of projects with “walker-by” traffic are not addressed. Our regulations today are geared towards suburban instead of urban development; however, this is in fact what a vertical mixed-use is all about with residential on top and mixed types of commercial use on the bottom. Staff has researched a lot of areas and the parking ratios are considerably less for this type development. This type project is needed to bring downtown activity. Mr. Gilbert has often heard that there is not enough parking in downtown areas. This could actually be a good thing because that generally means that there are people downtown. Mr. Gilbert suggested that we try this to see how it works out. If Planning Staff starts getting more shared parking requests, they

plan to look at this aggressively for the downtown area. Chairman Krieb asked the applicant to come forward.

Joe Darnall came forward and was sworn in. Mr. Darnall indicated that they plan to utilize their property in a historically and aesthetically pleasing manner. They feel that this request will meet the needs of their future tenants, will not place any burden upon the City, and will be an additive to the surrounding area. By using square footage calculations of actual usable space, they feel that they will be able to provide parking for all their tenants on site.

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

Danny Hudspeth came forward and was sworn in. Mr. Hudspeth stated that he was not really in opposition to this request; however, he was there on behalf of the residents that live on the south side of this project. Those residents have some concerns over the parking spaces for Phase II once the metal building comes down. Mr. Hudspeth asked if there would be screening or fencing provided between the development and the adjacent residential area.

Mr. Darnall came forward again and addressed the concerns. He stated that part of the reason they have asked for such a large variance is to allow them to put in screening that will be aesthetically pleasing and will be beneficial to the community as well. At this point, they have only entertained that thought and have not begun the design. His thought is to stay with a vegetation barrier instead of a hard surface as it can be more aesthetically pleasing. Mr. Darnall went on to say that they have employed Bobby Deitz with Bacon, Farmer & Workman to help them with the drainage and stormwater run-off as they felt that is also an important issue that needs addressing.

There was no one that came forward to speak in favor or directly against the variance; therefore, the public hearing was closed and the item turned over to the board for a motion.

**Mike Faihst made a motion to grant the Parking Variance as presented in the attached Text and Site Plan with the condition that the applicant work with Planning Staff concerning the screening on the south side of the development. The testimony presented in this public hearing has shown that granting the Parking Variance is reasonable and necessary. The Parking Variance is compliant with the Zoning Ordinance. Josh Vernon seconded the motion. The motion carried with a 6-0 roll call vote.**

**Public Hearing: Consideration of a Conditional Use Permit (CUP-06-17) to operate an ice cream shop in a B-4 Zone - Applicant: Tower KY, Inc.:** Jessie explained that the applicant is proposing to operate an ice cream shop at 201 North 12<sup>th</sup> Street, Suite C in the Olive Plaza. Ice cream shops are defined by the Zoning Ordinance as a restaurant; thus, require the approval of a Conditional Use Permit (CUP) to operate in a B-4 zone. The CUP process is used to determine compatibility of the proposed use with the surrounding area. This building is located on North 12<sup>th</sup> Street which is the primary commercial corridor of the City of Murray. There are three suites within the 6,091 square foot building. The proposed ice cream shop will occupy 1,794 square feet of the building. The remaining space is occupied by Murray Donuts with 2,699 square feet and Cricket Wireless with 1,598 square feet. The commercial corridor within the immediate area is comprised of a variety of eating establishments, professional services, and retail shops. The ice cream shop will capitalize on the passerby trips that currently occur in the corridor. Murray Donuts requires 13 parking spaces; Cricket Wireless requires 7 parking spaces and the proposed ice cream shop will require 10 spaces. This gives a total of 30 required spaces with 31 spaces

provided. As such, the location of the proposed ice cream shop on North 12<sup>th</sup> Street is compatible with that of the surrounding area; therefore, staff recommends approval of the Conditional Use Permit based on these facts. There were no letters or calls received from the adjoining property owners. At this time Chairman Krieb asked the applicant to come forward.

Chuck Foster came forward and was sworn in. Mr. Foster represents the gentlemen who own Tower KY, Inc. that are interested in putting in the ice cream shop. The store will be a Cold Stone Creamery which is a nationally known brand name. It's a pretty neutral use because there is no preparation of food there. Only ice cream will be served. They will prepare some ice cream on site, but there will not be any cooking. There will not be a drive-thru. It will be a similar layout as what the donut store has with an upstairs. Hours of operation are proposed as seven days a week from 11 a.m. until 9 or 10 p.m. They do expect some foot traffic because of the close proximity to MSU. They will be meeting the parking requirements. Mr. Foster does not feel that there will be anything detrimental about this business in this location.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the CUP request. No one came forward; therefore, the public hearing was closed and the item was turned over to the board for a motion.

**Josh Vernon made a motion to grant the compatibility and Conditional Use Permit for the ice cream shop in a B-4 zone with conditions very similar to operations of adjacent property owners and operations existing very near to this property. The testimony presented in this public hearing has shown that granting the Conditional Use Permit for the ice cream shop in a B-4 Zone (Medium Density Business District) is reasonable and necessary. The Conditional Use Permit for an ice cream shop in a B-4 Zone is in compliance with the provisions of §156.081 CONDITIONAL USE PERMITS. Mike Faihst seconded the motion. The motion carried with a 6-0 roll call vote.**

**Public Hearing: Consideration of a parking and minimum lot area variance (V-08-17) request for a lot located at 408 North 8<sup>th</sup> Street – Applicant: Gerald Bell:** Chairman Krieb said that this item would be moved to the October 18<sup>th</sup> meeting. Attorney David Perlow asked if there was anyone there with the intentions of speaking in favor or opposition to the variance request. There was no one.

**Questions and comments:** Mr. Faihst mentioned that as the Planning Commission was reviewing the Master Plan, that they might want to look at RVs and trailers. Also, he thought that maybe the parking requirements should be looked at to possibly reduce them. Mr. Gilbert stated that in order to modernize the Ordinance they would be looking at and tweaking several different items such as these in their review. Ms. Weatherly commended the Staff for their thorough reporting on the items discussed.

**A motion to adjourn was made by Jim Foster and seconded by Mike Faihst. The meeting adjourned at 5:19 p.m.**