

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, FEBRUARY 21, 2018
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, February 21, 2018 at 4:30 p.m. in the council chambers of City Hall at the new location of 500 Main Street.

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

Board Members Absent: None

Also Present: Maurice Thomas, Gerald Gilbert, David Roberts, Attorney David Perlow, Jason Pittman and Gina Kelly

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 November 15, 2017 Regular BZA meeting.

Mike Faihst made a motion to approve the minutes from the November 15, 2017 regular BZA meeting as presented. Jim Foster seconded the motion and the motion passed unanimously.

Public Hearing: Consideration of a variance request to exceed the 35 foot height limit for a structure and a flag pole along with a third driveway for the proposed bank located at the northwest corner of Sycamore and South 12th Street – Applicant: CFSB (Community Financial Services Bank): The site at the northwest corner of Sycamore and South 12th Streets is currently comprised of six parcels that will be consolidated into one. There are three existing structures that will be demolished. Once the demolition and consolidation are completed the applicant proposes to construct a two-story bank. Gerald Gilbert presented a rendering of the proposed CFSB 19,000 square foot building. The applicant is requested a B-4 rezoning for several of the lots where the new bank will be constructed. Rezoning is necessary to accommodate the future bank building; therefore, the Dimensional Variance requests are contingent upon the rezoning and would only be exercised once the rezoning is approved. The requests for Dimensional Variances are listed below:

- The overall proposed height of the structure will be 49 feet, which exceeds the 35 foot maximum allowable height requirement. The additional height for the building is being requested to accommodate the gable/hipped roof design. The applicant contends that this roof design was selected to enhance the buildings architecture as well as to combat potential maintenance issues that are associated with flat roofs.
- A height variance for an 80 foot tall flag pole is requested. Flag poles have been determined to be a structure and are subject to a 35 foot height limit. The applicant states that this additional height is necessary due to the overall height proposed for the bank building and the corresponding location at which the flag pole will be placed. (The flag pole will be situated at the southeastern quadrant of the building within a landscaped area adjacent to the parking bays.)

- The applicant is requesting a third access point on South 13th Street for additional ingress and egress into the site. The maximum number of access points allowed is two. The two other access points are situated on South 12th Street and Sycamore Street and are considered the primary access points.

Staff concurs with the applicant that the additional height to accommodate the gable/hip roof design for the building is appropriate and that a peak roof would eliminate potential maintenance issues commonly associated with flat or low lying roofs. Current regulations cap the maximum height for a structure at 35 feet. As a result, a commercial building with higher ceiling heights would be limited to a one-story design to ensure that an aesthetically appealing roofline could be accomplished. Two-story structures would be limited to a flat roof or low sloped roof which greatly hinders architectural creativity. To accomplish the square footage that the applicant desires to achieve and still stay within the 35 foot height limit a flat roof or low sloped roof would need to be incorporated into the design.

Staff also concurs with the applicant that due to the bulk, scale and height of the proposed building a flag pole over the 35 foot height limit would be appropriate; however, staff believes that the overall height should be limited to 70 feet. This would be consistent with recent actions taken by the Board for flag pole variances at Murray Bank located at 405 South 12th.

In regards to the third driveway, staff believes the driveways on 12th Street and Sycamore are adequate to provide ingress and egress to the site. Both are situated as to minimize potential impacts to the intersection. The proposed driveway on 13th Street would encourage commercial traffic to circulate through the residential neighborhood increasing area traffic; thus, staff recommends denial of the third driveway onto 13th Street.

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

Jason Pittman came forward and was sworn in. Mr. Pittman began by thanking the Planning Department for their guidance during the preliminary process on this project. Pictures of the proposal were shown to the Board and submitted as *Exhibit A*. Mr. Pittman explained that only a small portion of the facility is above the 35 foot height limit and that is the center peak of the roof. Originally a flat roof was being looked at; but after much consideration the proposed roofline was decided upon because of potential maintenance issues. The bank recently purchased the “yellow tattoo house” property. That building will either be moved or demolished which will allow the 12th Street entrance to be located farther away from the intersection and provide more green space with a larger stormwater detention area. Development on the south side of town has declined over the years; however, this location allows CFSB to put their bank closer to a lot of their residential client base. This location will help eliminate a 15-20 minute congested drive across town during the middle of the day and hopefully alleviate some of the traffic traveling to the north side of town. CFSB wants to be a good neighbor; their property will be kept very clean and well maintained. Screening is being proposed on the north and west sides either with landscaping or a knee-high brick wall combined with landscaping. Sidewalks around the property were discussed. The new facility will have a community room for the public to use on a limited basis. The architect specifications show an 80 foot flagpole; however, Mr. Pittman indicated that they wouldn't object to having the flagpole at 60, 70 or 80 feet. The proposed third entrance was addressed. Mr. Pittman explained that they feel that the 13th Street exit would provide a little bit safer ingress/egress than both Sycamore and 12th Streets. In addition, the

entrance would provide quicker drive-thru access by avoiding having to loop around the building. The question was asked if the entrance on 13th could be marked as “entrance only”. Mr. Pittman stated that they could definitely look into that possibility. A couple of examples of other sites in Murray that had “entrance only” signs were reviewed. Mr. Roberts explained that it would be hard to enforce an “entrance only” opening.

There was no one that spoke in opposition. The public hearing was closed and the item was turned over to the board for discussion and a motion. Mr. Gilbert stated that the meeting had been announced in the paper making the community aware. Mr. Gilbert added that he had talked to several neighbors and no one was in disapproval of the proposed bank.

Mike Faihst made a motion to grant the Height Variance for the CFSB Bank building as presented. The testimony presented in this public hearing has shown that granting the Height Variance for the CFSB Bank building is reasonable and necessary. The building Height Variance is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. The proposed building structure will be better without a flat roof. There are other buildings in the area that are higher than this proposed structure; therefore, it will fit the general vicinity. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.

Chairman Krieb made a motion to approve a Height Variance for the CFSB Bank flag pole with a limit of 70 feet. The testimony presented in this public hearing has shown that granting the Height Variance for the CFSB Bank flag pole is reasonable and necessary and it will not have any adverse effect on the public health, safety or welfare; it will not change the general character of the vicinity and it will be a good addition in the proposed location. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Jim Foster made a motion to grant the Dimensional Variance for the additional driveway for the CFSB Bank site as presented. The conditions stipulate that the driveway on 13th Street will be an entrance only with no exit. The testimony presented in this public hearing has shown that granting the Dimensional Variance for the additional driveway for the CFSB Bank site is reasonable and necessary. Mike Faihst seconded the motion and the motion carried with a 5-1 roll call vote. Terry Strieter voted no.

Public Hearing: Consideration of a sign variance request for an additional wall sign for Walmart located at 809 North 12th Street – Applicant: Walmart R.E. Business Trust: The applicant, Walmart, is requesting a Dimensional Variance for an increase in the number of wall signs to accommodate their new online grocery “Pickup” service. The proposed overall sign is approximately 67 square feet (15 feet 4 inches x 4 feet 4 inches) and is comprised of illuminated white letters spelling the word “Pickup” along with the Walmart “Spark” logo. The sign will be located on the northeastern corner of the building facing the parking lot. Ten existing parking spaces will be designated as “Pickup Stalls” and will need ten eye-level signs marking them designated. These proposed signs are approximately 7.75 square feet (18 inches x 5 feet 2 inches) with a sign post height of 6 foot 2 inches. The applicant also proposed new directional signs for the “Pickup” service. These signs are 3 square feet (18 inches x 24 inches) and positioned on a minimum 7 foot pole. There will be four placed within the parking lot to direct patrons to the pickup service area. Pictures were shown of the proposed signs and entered as *Exhibit B*. Current regulations limit the number of wall signs to “one business wall sign mounted

on the face of the building for each tenant or lessee” and not to exceed in size 10% of the building face. The Board has previously granted variances to exceed the number of wall signs. These approvals have allowed as many as thirteen wall signs of varying sizes. There are currently ten wall signs on the entire building. The Board granted these requests believing the additional signs were appropriate due to the size of the Walmart building and the degree of different goods and services it provides. Existing signs total approximately 578 square feet and adding the 67 square foot “Pickup” sign would increase the overall total to 645 feet which is still considerably less than the overall size limitation of 890 square feet.

Staff concurs with the applicant’s position that the additional signage is needed to assist shoppers in using this new online shopping with pickup service being promoted by Walmart. This new service has different operational characteristics than the traditional shop, pay and carryout typical to retail commercial establishments. Staff believes that the “Pickup” service is a unique operation and not allowing the signage as requested could create an unnecessary hardship for patrons using this service; thus, the wall sign, the dedicated use area signs and directional signage would be appropriate at this location.

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

Gina Kelly came forward and was sworn in. Ms. Kelly represents the architect that is working on the Walmart project. She explained that this proposed service is relatively new to Walmart and is not offered in all towns. The service is designed for convenience for “busy” people. You sign up on-line to activate this service. You select the items that are available in the Murray store and then pick up the items at your convenience (i.e. Shopping is done for you and delivered to your automobile.)

There was no one that 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 grant the Dimensional Variance for additional wall sign and directional signs for the Walmart “Pickup” service as presented. The testimony presented in this public hearing has shown that granting the Dimensional Variance for the additional wall sign and directional signs for the Walmart “Pickup” service is reasonable and necessary. The Dimensional Variance for the additional wall sign and directional signs for the Walmart “Pickup” service is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. The proposal seems to fit well with the rest of the building and their overall signage dimensions are still under the allowable amount. This will not be a hindrance to the public. The motion includes the wall sign, directional signs and the “pickup” service signs. Bobbie Weatherly seconded the motion and the motion carried with a 6-0 roll call vote.

2018 Annual Calendar of BZA Meetings: Mr. Gilbert explained that the BZA meetings for the 2018 Calendar will be scheduled for the third Wednesday each month with the exception of November and that will be scheduled for the second Wednesday due to the Thanksgiving holidays that are scheduled for the third week. This practice has been customary in past years.

Questions and comments: Josh Vernon asked if the new Ordinance that is being drafted addresses new construction height limitations. Mr. Gilbert said that is was not being addressed.

35 feet is standard for residential; however, he would look into making a change to the commercial part of the Ordinance as it would help eliminate requests such as the one that was just reviewed for CFSB.

Mike Faihst was concerned that this project had been put off for two to three months. He said that we spend a lot of time trying to make the City business friendly; however, this is not setting a good example. Mr. Gilbert said normally requests are processed as quickly as possible, but there were several extenuating circumstances that delayed this particular request. Mr. Pittman explained that the delays were because of attendance quorums, holidays, etc.; but the delays actually worked out better for their budget. They were pleased with the speed of the process while working with the Planning Staff.

Chairman Krieb announced that over the next couple of years both the BZA and Planning Commission members would be going down to 5. As terms expire or they resign, those members will not be replaced.

Mike Faihst made a motion to adjourn. Bobbie Weatherly seconded the motion. The meeting adjourned at 5:35 p.m.

Chairman, John Krieb

Recording Secretary, Reta Gray