

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, MAY 16, 2018  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, May 16, 2018 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

**Board Members Present:** John Krieb, Bobbie Weatherly, Mike Faihst, and Terry Strieter

**Board Members Absent:** Jim Foster and Josh Vernon

**Also Present:** Maurice Thomas, Justin Smith, Butch Seargent, Attorney David Perlow, Dannetta Clayton, Justin Miller, Stuart Alexander, Larry Guin, Bob Hargrove, and Deana Wright

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 March 21, 2018 Regular BZA meeting.

**Mike Faihst made a motion to approve the minutes from the March 21, 2018 regular BZA meeting as amended. Terry Strieter seconded the motion and the motion passed unanimously.**

Justin Smith introduced himself as the newest Planner for the City of Murray. Justin has served in several other positions for the City of Murray during the past 13 years and is excited about this new endeavor.

**Public Hearing: Consideration of Conditional Use Permit for outdoor storage of merchandise on the premises located at 1300 North 12<sup>th</sup> Street – Applicant: Murray Auto Parts, Inc.:** Justin explained that the applicant (Murray Auto Parts - owned by Rick Miller) is requesting a Conditional Use Permit to store outdoor merchandise in a B-2 zone. Recently a 22' x 62' awning with a gravel base was constructed to the corner of the building at Southwood and Hillwood Drives (facing Southwood). Mr. Miller would like to store eight lawn mowers underneath the awning. The awning is located at least 25 feet from the public right-of-way which meets the setback requirements. To grant the Conditional Use request, the Board must find that "the granting of the Conditional Use meets the stipulations listed in §156.081 CONDITIONAL USE PERMITS". Staff is not opposed to allowing this request if the Board of Zoning Adjustment finds that granting the Conditional Use Permit is reasonable and necessary.

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

Justin Miller came forward and was sworn in. Mr. Miller explained that they had recently obtained the new dealership for Grasshopper Mowers. The new awning was installed for lawnmower storage only. The lawnmowers will have a chain or cable to secure them at night. Mr. Miller stated that if things go forward with the sale of the lawnmowers, they anticipate installing a hard surface and possibly enclosing the area under the awning.

No one came forward to speak 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 Conditional Use Permit for outdoor storage of merchandise in a B-2 zone. The testimony presented in this public hearing has shown that granting the Conditional Use Permit for Outdoor Storage of Merchandise in a B-2 Zone (Highway Business District) is reasonable and necessary. The Conditional Use Permit for Outdoor Storage of Merchandise in a B-2 Zone is in compliance with the provisions of §156.081 CONDITIONAL USE PERMITS. There was no testimony opposing the request and the outdoor storage will be under the awning. Bobbie Weatherly seconded the motion and the motion carried with a 4-0 roll call vote.**

**Public Hearing: Consideration of a Dimensional Variance request for an accessory building in the side yard located at 107 Chad Wayne Drive – Applicant: Stuart and Dana Alexander:** Justin stated that the applicant is requesting a Dimensional Variance for a 16 X 24 foot accessory building/detached garage to be allowed in a side yard. The property is located in an R-2 (Single Family Residential Zone) in Saratoga Subdivision. Pictures were then shown of the site for the proposed structure. Nine feet of the building will sit in the rear yard and fifteen feet will be in the side yard. This request is due to the fact that the Alexander's neighbor to the south considers the previous projected building location (in the rear yard) to be an eye sore from his sunroom. The neighbor also feels that the initial proposal could potentially drop the value of his property. Saratoga's Subdivision Restrictions and Covenants state that no accessory building shall be built without the adjacent property owner's and developer's approval. This Dimensional Variance request is intended to keep the peace between two new neighboring property owners. The proposed location will meet the side yard setback requirement. To grant the Dimensional Variance request, the Board must find that "the granting of the Variance meets the stipulations listed in §156.082 DIMENSIONAL VARIANCES". Planning Staff is not opposed to allowing an accessory building in a side yard at this location if the Board of Zoning Adjustment finds that granting the Dimensional Variance is reasonable and necessary.

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

Stuart Alexander came forward and was sworn in. Chairman Krieb asked Mr. Alexander if he had given any consideration to attaching the structure to his house. Mr. Alexander replied that he had not. Mr. Alexander understands that his neighbor is okay with his most recent proposal of having the building extend nine feet in the rear yard.

Larry Guin came forward and was sworn in. Mr. Guin is the neighbor to the south and he spoke in support to Mr. Alexander's request for the Variance. Mr. Guin passed around pictures that he had taken of the subject backyards (*Exhibit A*). One picture placed the structure completely in the backyard and another picture placed the structure as proposed. He referred to his sun porch as the most attractive feature on his house. If the accessory building was placed solely in the backyard without a Variance, the view from Mr. Guin's sun porch would be greatly distorted. Mr. Alexander's proposal will preserve most of Mr. Guin's backyard view and at the same time give Mr. Alexander more landscaping room. Mr. Guin concluded that if the structure was constructed entirely in the backyard, it is his opinion that the value of his property would drop approximately \$15,000.00.

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

Justin explained that letters were sent to the adjoining neighbors and that Planning Staff had not heard back from anyone concerning this request. He added that Mr. Guin actually went to the neighbors himself and explained what was being requested and no one was in opposition that he spoke to.

**Bobbie Weatherly made a motion to grant the Dimensional Variance for an accessory building in a side yard at 107 Chad Wayne Drive as presented. The testimony presented in this public hearing has shown that granting the Dimensional Variance for an accessory building in a side yard for 107 Chad Wayne Drive is reasonable and necessary. The Dimensional Variance for an accessory building in a side yard for 107 Chad Wayne Drive is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances for accessory buildings in a side yard. The adjacent property owner also requested that this Variance be granted and that the other neighbors appeared to be in agreement. The Board accepts the testimony and pictorial representation of the structure that was presented by the neighbor. Mike Faihst seconded the motion and the motion carried with a 4-0 roll call vote.**

**Public Hearing: Consideration of a height variance for a sign to be located at 405 South 12<sup>th</sup> Street – Applicant: The Murray Bank:** Justin explained that the Murray Bank is asking for three variances.

- Sign Height Variance for an overall sign height of 14 feet which is four feet shorter than the current sign.
- Dimensional Variance for the total square footage of the sign.
- Dimensional Variance for an electronic reader board to exceed the 30% regulation.

The Zoning Ordinance for signage for the 12th Street corridor requires monument type signage that does not exceed 10 feet in height. The applicant is proposing to use the top portion of the current sign, the existing columns and add a new electronic reader board. The new design calls for a total square footage equal to approximately 110 square feet; allowable square footage is 55 square feet. An electronic reader board is not to exceed 30% of the allowable area. Justin explained that if The Murray Bank was required to conform to a monument type sign then a 10 foot setback from the right-of-way would have to be taken into consideration. (It was just discovered that their existing sign sits only 6 foot back from the right of way.) Justin stated that in order to grant the Dimensional Variance request, the Board must find that “the granting of the Variance meets the stipulations listed in §156.082 DIMENSIONAL VARIANCES”.

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

Bob Hargrove came forward and was sworn in. Mr. Hargrove stated that the bank was built in 2000 and they were not aware that their sign did not meet the 10 foot setback requirement until recently. The sign wasn't constructed at the same time as the bank. They are very proud of their building as they have recently completed around a million dollar expansion. They are not going to construct a sign that they would be ashamed of or that would not be safe for the public.

Mr. Hargrove continued that there are a lot of banks in Murray and they have got to try to keep up with the times and the competition. They do not think that the brightness of a reader board will be any brighter than Huck's convenience store is next door. Signs are expensive and they are trying to reuse as much of the existing sign and foundation as possible. They feel that the design they have now will meet their needs as well as the site requirements. Mr. Hargrove stated that there was a representative from the sign company present at the meeting and if there were any detail questions, that representative would be happy to address them.

No one 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 Sign Height Variance for The Murray Bank free standing sign as presented. The testimony presented in this public hearing has shown that granting the Sign Height Variance for The Murray Bank free standing sign is reasonable and necessary. The Sign Height Variance is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. To move the sign totally out of the right-of-way would be costly and there was no testimony against the request. Bobbie Weatherly seconded the motion and the motion carried with a 4-0 roll call vote.**

**Bobbie Weatherly made a motion to grant the Dimensional Variance for the total square footage of the sign as presented. The testimony presented in this public hearing has shown that granting the Dimensional Variance for total square footage of the sign for The Murray Bank is reasonable and necessary. The Dimensional Variance for total square footage of the sign is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. Mike Faihst seconded the motion and the motion carried with a 4-0 roll call vote.**

**Terry Strieter made a motion to grant the Dimensional Variance for the allowable sign area for an electronic reader board for The Murray Bank site as presented. The testimony presented in this public hearing has shown that granting the Dimensional Variance for the allowable sign area for an electronic reader board for The Murray Bank is reasonable and necessary. The Dimensional Variance for the allowable sign area for an electronic reader board for The Murray Bank site is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances for allowable sign areas. Mike Faihst seconded the motion and the motion carried with a 4-0 roll call vote.**

**Public Hearing: Consideration of a Conditional Use Permit to operate a childcare center in an Industrial Zone located at 301 C.C. Lowry Drive – Applicant: Dustin Alton:** Dustin Alton is requesting a Conditional Use Permit to operate a Day Care/Preschool at the 2.48 acres site located on the north side of CC Lowry. The 7,415 square foot building previously housed an industrial training facility; however, the building is currently vacant. Justin used a Power Point presentation to show the property. A masonry business occupies the property to the east. The property to the west was previously occupied by Lakeland Spring Water; however, it is vacant at this time. Justin explained that “consumer services” would be allowed in this particular zone with a Conditional Use Permit and Attorney David Perlow has indicated that a daycare would fall into this category. The applicant plans on constructing a fence around the entire property with a secondary fence designating a play area. The proposed childcare center will care for children from birth to Kindergarten age with a projected number of 85 children and 16 staffers. Additional parking spaces will be needed if this Conditional Use Permit is approved as there are

only 25 regular parking spaces and 1 handicap space. To grant the Conditional Use Permit, the Board must find that “the granting of the Conditional Use meets the stipulations listed in §156.081 CONDITIONAL USE PERMITS. Justin explained that Planning Staff is not opposed to allowing a Conditional Use Permit for the day care/pre-school request as long as the Board of Zoning Adjustment finds that granting the Conditional Use Permit is reasonable and necessary.

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

Dustin Alton came forward and was sworn in. Mr. Alton represented Milestone’s Learning Center (which they hope will be located at 301 C.C. Lowry Drive). The Altons are driven to open this childcare center because every other childcare center in Murray is at capacity. Most have waiting lists as long as 9 months to a year. There is a tremendous need for a quality childcare center and that is the gap that they are hoping to fill. Mr. Alton found out at the meeting that additional spaces would be needed if the request for a CUP is granted. He noted that there is ample paved area available for striping additional parking spaces. There might be a possibility that he would have to request a Parking Variance in the future; however, he does not feel that will be an issue. He suspects that all of the children will be dropped off and picked up at varied times. Chairman Krieb informed Mr. Alton that as he progressed with the planning of this daycare (should it be approved by the BZA) he would need to come back before the Board for a parking space variance. The proposed daycare will not be targeting any specific group; however, Mr. Alton does feel that this proposed location will be a good one as it will be centrally located between the major industries in Murray. Mrs. Alton has 16 years with head start and has her Master’s in Disciplinary Early Childhood Education; therefore, she will be the daycare’s licensed director. Some of the Board members voiced concerns for the health of the children as the building is located next door to the brick masonry. Mr. Alton indicated that the masonry is strictly an office area and will not present any harm to the children. Trucks show up early at the masonry in the morning and it is Mr. Alton’s belief that the workers meet there and ride to the job sites together.

Bob Hargrove came forward to speak in favor of the request. Mr. Hargrove stated that he has looked at the business plan for the daycare and it is one of the most detailed and best put together plans that he has ever seen as a banker. He added that the only brick that is located at the masonry property is probably brick that has been left over from a job. Most of their brick is delivered right to the job site. They do brick work for commercial buildings such as schools and hospitals. As an employer, Mr. Hargrove hears the needs of his employees for daycare. He concluded that the building seems quite suitable for this type of business.

There was no one that spoke in opposition to this request; thus, 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 Conditional Use Permit for the day care/pre-school to operate in an Industrial Zone. The testimony presented in this public hearing has shown that granting the Conditional Use Permit for the day care/pre-school to operate in an Industrial Zone is reasonable and necessary. The Conditional Use Permit for day care/pre-school to operate in an Industrial Zone is in compliance with the provisions of §156.081 CONDITIONAL USE PERMITS and they are required to meet all regulations stipulated by the State and fire codes as directed by the Fire Marshal. Terry Strieter seconded the motion and the motion carried with a 4-0 roll call vote.**

**Public Hearing: Consideration of a Dimensional Variance for murals to be located at 308 Main Street, 505 Main Street and 611 Maple – Applicant: Murray Main Street:** Justin described the request by Murray Main Street for murals. He referred to them as the following:

- 308 Main Street: The Mural for this site is being designed by Helix Creative Studio and will be approx. 24 x 100 ft. (Site #1)
- 505 Main Street: The Mural for this site is being designed by Cindy Vaughn and will be approx. 15 x 30 ft. (Site #2)
- 611 Maple Street: The Mural for this site is being designed by Helix Creative Studio and will be approx. 15 ft. in diameter. (Site #3)

Pictures were shown of each site and their proposed murals. Each of the three locations is located in B-3 Zoning in the Historical District. The Main Street director has indicated that all of the murals will be painted directly on the building; therefore, the cosmetic design will change. Justin explained there has been discussion concerning who will be maintaining the murals in the future. It was considered that Deana Wright and Murray Main Street should be the responsible parties for the upkeep and maintenance of the proposed murals. Justin stated that this may need to be addressed before a ruling is made on whether to approve or deny these variances. The question was asked who would be paying for the murals. Justin replied that he thought Murray Main Street had received grants to cover the costs. The Architectural Review Board is aware of the murals per Candace Dowdy. Mayor Jack Rose is aware of the murals, and stated he is not opposed to murals in general. Justin reminded the Board that in order to grant the Dimensional Variance request, the Board must find that “the granting of the Variance meets the stipulations listed in §156.082 DIMENSIONAL VARIANCES. The three buildings are owned by private individuals or corporations.

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

Deana Wright came forward and was sworn in. She spoke on behalf of Murray Main Street. Ms. Wright came before the Board years ago seeking approval for downtown murals and was granted that approval; however, they didn't have designs at that time and never moved forward with the project. Murray Main Street is focusing on art for the downtown. The design committee has been working on their drawings for quite some time and they now have the proposals ready. Murray is one of the few cities located in the Commonwealth that does not have art for the downtown and according to Ms. Wright they are ready to display this artwork. Color copies of the murals were shown. Ms. Wright stated that they have approval from each of the owners to paint the murals on their building. She has not spoken to Jeremy Latimer (owner of the property next to Site #1) about being on his property in order to paint the wall of that building; however, each time that Ms. Wright has contacted him in the past, he has given his approval. Site #1 is located next door to where the buildings collapsed a few years ago. Nothing has been done to the wall since that time; therefore, it will need to be painted first before a mural can be put up. Ms. Wright said they have volunteers that are willing to paint the wall. The design team put the name of the business “Shane Lee” in this mural proposal because there is no signage on the building at all. This would help identify the business. There is a plastic sign in the front window but nothing on the outside of the building. Site #2's design proposal was drawn by Cindy Veach. Ms. Veach has painted murals for Marshall County Middle School. Ms. Wright showed some of Ms. Veach's work and described the work as very dramatic. Ms. Wright thinks Ms. Veach's

mural will make a great entrance to downtown. Site #3 is the west wall of Maple Street Market. This business is surrounded by cabinet makers and other industrial type businesses. This business owner wanted a touch of softness in her mural so it will include a circle with the words "EAT LOCAL" on it. Murray Main Street has previously discussed the maintenance of the murals at their board meetings and they would be happy to continue the upkeep of these signs. Currently they are maintaining the light poles and are going to start painting the trashcans in the downtown area. Ms. Wright indicated they would like to start the murals as soon as possible (weather permitting). Site #3 would be the easiest and the wall already has a fresh coat of paint from last fall. Site #2 will probably take longer since Cindy works alone. Site #1's wall has to be painted before the mural goes up; therefore, they are at the mercy of the volunteer painters. The goal is to have all three murals completed by the end of the year. The question was asked if the name "Shane Lee" could be left off the mural and a sign added to the business instead. Ms. Wright agreed that could be done.

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

**Mike Faihst made a motion to grant the Variance for the 308 Main Street mural as presented. The testimony presented in this public hearing has shown that granting the Variance for the 308 Main Street mural is reasonable and necessary. The Variance for the 308 Main Street mural is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. The mural cannot directly have the name of the business painted on the brick. Bobbie Weatherly seconded the motion and the motion carried with a 4-0 roll call vote.**

**Terry Strieter made a motion to grant the Variance for the 505 Main Street mural as presented. The testimony presented in this public hearing has shown that granting the Variance for the 505 Main Street mural is reasonable and necessary. The Variance for the 505 Main Street mural is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. Bobbie Weatherly seconded the motion and the motion carried with a 4-0 roll call vote.**

**Bobbie Weatherly made a motion to grant the Variance for the 611 Maple Street mural as presented by the mutual representation. The testimony presented in this public hearing has shown that granting the Variance for the 611 Maple Street mural is reasonable and necessary. The Variance for the 611 Maple Street mural is in compliance with the provisions of the Zoning Ordinance in regards to granting Variances. Mike Faihst seconded the motion and the motion carried with a 4-0 roll call vote.**

**Questions and Comments:** Chairman Krieb and the Board members welcomed Justin and complimented him on his presentations. Butch Sargent (a representative of one of the home owners in the Historic District) commented that he thinks the murals will be a wonderful thing for the city.

**A motion was made by Mike Faihst to adjourn and seconded by Bobbie Weatherly. The meeting adjourned at 6:04 p.m.**