

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JUNE 20, 2018
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 20, 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, Terry Strieter, Jim Foster and Josh Vernon

Board Members Absent: None

Also Present: Maurice Thomas, Justin Smith, Attorney David Perlow, Bankim Patel, Frankie Rogers and Herschel Jackson

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 May 16, 2018 Regular BZA meeting.

Terry Strieter made a motion to approve the minutes from the May 16, 2018 regular BZA meeting as amended. Mike Faihst seconded the motion. The motion passed unanimously.

Public Hearing: Consideration for a Height Variance for a sign located at 1202 South 12th Street – Applicant: 1202 Murray LLC – Red Roof Inn: B-2(Highway Business District)

The Zoning Ordinance requires a monument type sign on the 12th Street corridor that does not exceed 10 foot in height with an overall signage total of 55 square feet. The applicant is requesting a Dimensional Variance for a 16 foot high monument style sign for The Red Roof Inn. This request is due to the location of the hotel sign on South 12th Street being considerably lower than the nearest intersection of South 12th Street and Glendale Road, making the sign not as noticeable as other signs located close to intersections throughout Murray. The Red Roof Inn is currently remodeling the hotel. Part of the remodel was to remove the trees in front of the building along South 12th Street. In doing so, it has opened up the visibility of the business as well as the visibility of the sign. Staff has not received a drawing of the proposed 16 foot tall monument sign as of yet, so we do not have a clear cut description of the sign dimensions. Justin used a Power Point presentation to show pictures of the hotel. The current 36 square foot sign is 6 feet high with a 4 foot high base. Justin reviewed similar requests and decisions that were made by the Board. 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. Justin stated that he had sent Mr. Hitesh Patel (applicant) two separate e-mails asking for a rendering of the proposed sign and at this time he has not received anything.

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

Bankim Patel came forward and was sworn in. Mr. Patel is the General Manager of the property. Mr. Patel said that the present sign is not visible because of the slope of the land. It is their opinion that the sign should be taller to be seen. He indicated that a rendering of the sign will be available in a few days. They do not want a larger sign; the intent is to raise a 36 square foot sign

higher on a 10 foot pole instead of having a monument sign (like the current one). They plan to landscape the area around the pole.

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

Mike Faihst made a motion to table the item until the applicants are able to present drawings of the proposed sign, pole and landscaping. Jim Foster seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing - Consideration for a Height Variance for a fence located at 1522

Canterbury Drive – Applicant: Dr. Herschel S. Jackson: The property is located in an R-2 Zone (Single Family Residential). The applicant is seeking the following Dimensional Variances for a fence:

- 4 foot height variance in the secondary front yard - to allow an 8 ft. tall fence in the secondary yard, constructed north to south along a drainage ditch. The proposed construction will attach to the existing 12 ft. tall retaining wall/fence that was approved by the board in 2016.
- 1 foot height variance in the secondary front yard - to allow a 5 ft. tall fence in the secondary yard, constructed west to east along Tabard Drive. The proposed construction will attach to the 8 ft. tall fence.
- 10 foot setback variance - to allow the proposed fence along Tabard Drive to be placed within the 10 ft. setback from the right of way.

1522 Canterbury Drive is located on the northwest corner of Canterbury and Tabard and backs up to a creek on the west side. The Jacksons would like to transition the existing 12 foot tall retaining wall/fence down to 8 foot tall from the rear yard along the west side of the property (approximately 68 feet in length). They would then like to transition from the 8 foot tall fence to a 5 foot tall fence with different material along Tabard Drive headed east in the secondary front yard stopping at the existing driveway. On February 17, 2016, the same applicant was approved a 6 foot height variance on a 14 foot tall retaining wall/fence at this property with a stipulation by the board that the fence be 100 feet away from Tabard Drive. (The applicant only built the fence 12 feet tall.) Justin reviewed similar variances requested on Tabard Drive. He then showed pictures provided by Dr. Jackson of his existing fence and other fences in the vicinity. Staff would like to state that no fence or structure is allowed to be constructed within 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”. Staff is not opposed to allowing the construction of the proposed fence at 1522 Canterbury Drive if the Board of Zoning Adjustment finds that granting the dimensional variance is reasonable and necessary. Justin concluded that letters were sent out to adjoining neighbors informing them of the request and no comments were received.

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

Herschel Jackson came forward and was sworn in. Dr. Jackson explained the main reason for extending the fence is because of the creek that is near his property. He has been taking care of the creek for 25 years and the creek continues to look bad. When the existing fence was built, the contractor (Frankie Rogers) built a concrete wall that stopped the erosion of the Jackson property. Numerous people have complemented the existing fence and he will make the new addition pretty also. The Jacksons have a puppy and that is another reason they would like to extend the fence. Dr. Jackson has lived in Murray for 47 years and he would not do anything to make Murray look bad. He takes pride in his home and his yard.

Frankie Rogers then came forward and was sworn in. Mr. Rogers said that the property had been surveyed by Butch Seargent. A retaining wall was built on the Jackson property line which stopped the erosion. Bailey's Lawn Service keeps the brush around the creek maintained as best as they can. The additional wall will continue on the property line. It will be veneered with tumbled stone. The wall will hide the creek and definitely be a visual improvement.

No one spoke in opposition. 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 4 foot Height Variance for the 8 foot tall fence in the secondary yard; to approve the 1 foot Height Variance for the 5 foot tall fence in the secondary yard and to approve the 10 foot Setback Variance for a fence to be located at 1522 Canterbury Drive. The fence cannot encroach within the 10 foot right-of-way. This motion is based upon the testimony presented by the owner and the contractor with the findings that the circumstance places an unreasonable hardship on the owner's use of the property due to the layout of the house. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Questions and Comments: Mr. Vernon asked if the board members should add "...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 a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations" when making a motion. Attorney Perlow replied that they should be adding that statement to the appropriate motions. Mr. Vernon then asked Justin to add "a little more content" to the background in the Staff reports. Justin agreed to do that. Chairman Krieb announced that updates to the Comprehensive Plan need be made by December 2019. BZA members should expect an e-mail from Planning Staff about forming a subcommittee to work on the updates; volunteers are needed from Planning Commissioners and Board of Zoning members. It has been suggested that a diverse group from the community such as a BZA member, a Planning Commissioner, Chamber member, Planning Staff, etc. be included in this committee. Planning Staff would like to focus on updates to the goals and objectives of the transportation element at this time.

A motion was made by Mike Faihst to adjourn and seconded by Terry Strieter. The meeting adjourned at 5:16 p.m.