

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 19, 2018  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 19, 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 (*entered the meeting late*)

**Board Members Absent:** None

**Also Present:** Maurice Thomas, Justin Smith, Attorney David Perlow, David Roberts, Jeremy Buchanan and Brad Bork

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 22, 2018 Regular BZA meeting.

**Mike Faihst made a motion to approve the minutes from the August 22, 2018 regular BZA meeting as corrected. Jim Foster seconded the motion and the motion carried unanimously.**

**Public Hearing: A request for a Dimensional Variance for a 15 foot setback variance for a primary structure to set in the front yard located at 819 North 12<sup>th</sup> Street – Randy Perry and Perry Engineering, LLC:** Jeremy Buchanan used a Power Point presentation to show the property at 819 North 12<sup>th</sup> Street. The property was previously zoned G-Government as it belonged to the City but now is B-2 (Medium Density Business). (When Government property is sold it customarily becomes the same zoning as the surrounding property which is B-2.) Planning and Engineering Staff have been working with Randy Perry of Perry Engineering to accommodate all the needed elements of the owner (Mid America Hotel Corp.) and to stay in line with parking and lane width standards of the city. In order to meet these requirements and accommodate the lane widths needed to provide fire service around the facility it has become apparent a front yard setback variance will be necessary to accommodate the project. In addition, the site is atypical in shape and has floodplain issues and a 20 ft. utility easement for sewer. The ingress/egress point is at the western most location to provide as much relief to the traffic signal as possible. The current setback requirement is 50 feet from Hwy 641 North/North 12<sup>th</sup> Street. The site plan was shown. It is a minimal footprint of Popeye’s typical models. Jeremy said based upon the topography of the site that there are challenges involved in getting all the necessary aspects into place on this property. 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 requested front yard setback variance if the Board of Zoning Adjustment finds that granting the setback variance is reasonable and necessary. The design team has been in contact with the City on numerous occasions (since March) trying to make all the critical elements fit into the site plan while achieving compliance with the various standards of the City of Murray. Jeremy said that this plan and the accompanying setback variance was the best alternative for all parties. Planning

Staff has measured the Chamber of Commerce building's distance from the highway and it is 42 not 50. The applicants are requesting their building be located another 7 feet closer to the highway than the Chamber of Commerce is. This proposal should not be noticeable or deemed too close to the highway.

Jim Foster asked if there had been a traffic study on this proposal as to how long the lights stay green and how many cars could get through the light coming from the Walmart entrance on the northwestern side of Hwy 641. Jeremy replied that he was not aware of one. Mr. Foster said that he has nothing against Popeye's (the proposed business); however, he does have a unique perspective because he owns Culver's which is directly across the highway. It is nearly impossible to clear the traffic flow out of the Culver's parking lot and frontage road because of the traffic light timing. Mr. Foster indicated that the traffic situation has hurt his business. He continued that the stop light is currently handling a Super Walmart with lots of traffic and now they are proposing a Popeye's with lots of additional traffic. He can envision that if you are going to try to get in or out of Popeye's, you are not going to be able to do so without much difficulty. Mr. Foster has seen numerous automobile accidents at this intersection over the years and he feels that this proposal would only increase the amount of accidents. He stated that he has spoken to David Roberts numerous times concerning this issue and that Mr. Roberts had tried to help with the situation by talking with the KY DOT; however, he has been unsuccessful with getting anything resolved. Mr. Foster thinks that if the time is extended for the traffic light, this could help empty the backup. The current situation is bad, but this proposal is going to be a nightmare. Jeremy said that Staff would relay this concern to the Chief District Engineer for the State to see if there is something that can be done to alleviate this issue. Mr. Foster feels that there should be another location that would be better suited for a high volume restaurant such as Popeye's that could provide more than one way to get in and out. Chairman Krieb stated that people tend to adjust their personal directions and habits in avoiding traffic situations based on the "hassle factor" and over a period of time, some of the issues will take care of themselves.

Josh Vernon asked if parking requirements are being met with this proposal. Jeremy replied that every requirement is being met except for the request that is being made for a setback variance. The applicants actually have another site plan that will fit the property without requesting a variance at all, but it would require relocating a sewer main that has only been there 4-5 years and the City would prefer not to have to move it at this time. Chairman Krieb asked about installing another traffic light for the Walmart entrance south of the Chamber. Mr. Roberts replied that approach has been made previously, but the State indicated that a traffic light could not be installed because there would not be enough distance between the two. The current speed limit is 45 mph on that road. Chairman Krieb suggested that the speed limit be dropped and an additional light be added to help alleviate this problem.

Mr. Roberts explained that in his experience with having traffic studies, sometimes the interpretation of the report is up to the individual. Chairman Krieb noted that what goes on at an intersection can vary tremendously at different times of the day or year. Since Popeye's is not there yet, it will be hard to guess what their traffic flow will be. Chairman Krieb asked if there was a possibility of adding another entrance onto Hwy 641 for Popeye's. Justin Smith replied that would require an encroachment permit issued by the State. He added that this particular plan

is the more attractive plan presented for Popeye's. The other plan has the same entrance and exit as this one; therefore, the traffic will not change no matter which way the vote goes.

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

Brad Bork, representative of Perry Engineering in Nashville, TN, came forward and was sworn in. Mr. Bork explained that there is approximately 120 feet on the property line that has the ability for traffic to stack. They do not have a construction calendar for this project; however, usually the contractor works pretty quickly on a building like this. He is guessing they would like to get started in the next couple of months and he estimated about 6 months for construction. Mr. Vernon asked the reason why the drive-thru and the dumpster are shown to be facing Hwy 641. Mr. Bork replied that with this particular layout they would be able to provide all the required parking and keep the dumpster away from the front door (which will face south). Mr. Vernon indicated that he would rather give up some of the allocated parking spaces that are on the back side of the building and relocate the dumpster to that area as this is one of the busiest entrances into Murray. Jeremy explained that Staff had also addressed the dumpster location and asked about moving the dumpster further south. By doing so, they would have to construct it in the utility easement; thus, making it subject to being moved if anything should ever happen to the sewer. Mr. Vernon commented that there might be a better location for this facility as Mr. Foster had previously suggested.

There was no one that came forward to speak in opposition; therefore, the public hearing was closed. At this time, Chairman Krieb turned the item over to the board for discussion and a motion. There was discussion on moving the dumpster. Several options were brought up.

**Mike Faiht made a motion to grant the 15 ft. front yard setback variance for 819 N. 12<sup>th</sup> as presented. The testimony presented in this public hearing has shown based on the findings, it does not adversely affect public health, safety, or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or nuisance to the public; and will not allow unreasonable circumvention of the requirements of the zoning ordinance. They will be required to relocate the dumpster to the northwest corner and revise the plan to show the parking spaces adjustment. Bobbie Weatherly seconded the motion. The motion failed with a 3-3 roll call vote. *Jim Foster, Terry Strieter and Josh Vernon voted no.***

**Josh Vernon made a motion to grant the 15 ft. front yard Setback Variance for 819 N. 12<sup>th</sup> Street as presented. The testimony presented in this public hearing has shown based on the findings, it does not adversely affect public health, safety, or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or nuisance to the public; and will not allow unreasonable circumvention of the requirements of the zoning ordinance. They will be required to relocate the dumpster to the northwest corner and revise the plan to show the parking spaces adjustment. The revision should also show the drive-thru relocated to the west side of the building**

**rather than to the east. John Krieb seconded the motion and the motion carried with a 4-2 roll call vote. Jim Foster and Terry Strieter voted no.**

**Comprehensive Plan Review Committee Update:** Jeremy gave an update on the committee. They have several members confirmed to serve at this time and they are: John Krieb (representing the BZA), Bobby Deitz and Robin Zhang (representing the PC), Mark Manning (representing the EDC), Clint Holmes (representing Peel and Holland - Clint recently attended MSU and served as an intern for the City of Murray), Ryan Vanover (local builder) and one additional person that Jeremy is expecting to hear from this week. They are hopeful they will get started with their meetings sometime during the month.

**Questions and Comments:** Chairman Krieb asked Jeremy to put together a detailed request to the KDOT to review the intersection that was discussed in the meeting. Mr. Krieb added that he would like to see the City also put together a survey and submit it to the State that could possibly be advantageous to their decision. Jeremy replied that he would discuss this with the Mayor and City Administrator. Mr. Foster described the improvements that had been made to the intersection during the past year; but, indicated the need for additional lanes. Ms. Weatherly concurred with her fellow Board members that a traffic study is in order. Terry Strieter commented that normally frontage roads help alleviate traffic situations, but not always. Mr. Foster said that he had talked to the City about extending and connecting the frontage road that runs to the north of this property down past Walmart, but found out that it is not in the budget.

**Mike Faihst made a motion to adjourn. Jim Foster seconded the motion. The meeting was adjourned at 5:32 p.m.**

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Chairman, John Krieb

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Recording Secretary, Reta Gray