

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, JANUARY 16, 2019  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, January 16, 2019 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

**Board Members Present:** John Krieb, Mike Faihst, Josh Vernon and Bobbie Weatherly

**Board Members Absent:** Jim Foster

**Also Present:** Maurice Thomas, Justin Smith, Jeremy Buchanan, Attorney David Perlow, Daniel Yong, James Gallimore, Bobby Deitz, Brodie Hemingway, Roger Scott and Jim Osborne

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 December 19, 2018 regular BZA meeting.

**Mike Faihst made a motion to approve the minutes from the December 19, 2018 regular BZA meeting as presented. Josh Vernon seconded the motion and the motion carried unanimously.**

**Public Hearing: Dimensional Variance request for a monument sign to allow for a changeable copy sign that is more than 30% of the total sign area for the property located at 1211 North 12<sup>th</sup> Street – Applicant: Off the Hoof – Natalie & Joseph Watson:** The applicant is requesting a sign variance for their new business “Off the Hoof” (butcher/sandwich shop) which is currently under construction. Justin explained that the request is for a variance to allow a monument type sign to have a changeable copy sign (reader board) that is 43% of the total sign area. Currently our Ordinance reads that a reader board can only be 30% of the total sign area. If approved, the reader board would result in a 13% increase of the regulations. Justin showed the property and rendering of the sign using a Power Point presentation. Natalie and Joseph Watson are the owners and they have given permission to a representative from Gallimore Electric to speak on their behalf. The “Off the Hoof” sign will be 18 square feet, the changeable copy sign will be 13.02 square feet with a total signage area of 31.02 square feet. The base for the sign is under construction and the owners are waiting to see if their request for the variance is approved before going any further with the sign. Justin compared the sign at Zaxby’s and said that Zaxby’s had signed a waiver to have their sign at its current location because there is a sanitary sewer line that runs directly underneath it. The same sewer line is most likely under this sign as well so we are looking at having the property owner sign a waiver with the City of Murray. This business is located where a former gas station was located and the proposed sign will go where the gas station had their sign since the electricity has already been run to that location. This will result in having an 8 foot setback from the property line instead of the required 10 foot setback. Staff has been working with Amanda Perry of Qwik Signs of Murray, KY on the overall sign area trying to avoid coming to the board for a sign variance. Frontage Road is allowed a larger sign that the corridor of 12 Street. After much consideration, the owners have decided they would like the changeable copy part of the sign to be 43% of the total as presented.

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

James Gallimore, owner of GEC1, LLC came forward and was sworn in. Mr. Gallimore also owns Qwik Signs and has been working with Amanda Perry on this forty to fifty thousand dollar sign. The customer first came to him requesting electrical work and has ended up working with him towards their sign also. Mr. Gallimore said that owners have invested close to a million dollars in this facility. They are from Mayfield; however, they wanted someone in Murray to do the electrical work. He is pleased that the City has recently changed their Sign Ordinance. Since he has recently ventured into the sign business, several other businesses have been requesting reader board signs. The Watsons did not want to infringe on Zaxby's sign by going with a larger sign themselves. Mr. Gallimore said they have been great people to work with and it is his opinion that they will be a great asset to Murray.

There was no one that spoke in opposition; therefore, Chairman Krieb closed the public hearing and turned the item over to the board for further discussion and a motion.

**Josh Vernon made a motion to grant the Sign Variance for 1211 North 12th Street to allow a monument sign with a changeable copy sign that is 43% of the total sign area as presented and also to grant the eight foot setback variance. The Board will leave it to the property owner to coordinate the waiver for the existing sewer easement encroachment with the findings that the consideration for the overall size of the sign is very respectable to the vicinity and businesses that are adjacent.**

**Chairman Krieb amended the motion and added two additional findings: This situation with the setback variance allows them to use the existing electrical that's already in place. The owners also took into consideration the blindage of the Zaxby's sign. Mike Faiht seconded the motion and the motion carried with a 4-0 roll call vote.**

**Public Hearing: Consideration of a Conditional Use Permit to allow a residential Planned Development Project (PDP) for a multi-family development to be located at 1402 North 16<sup>th</sup> Street – Applicant: DIKY, LLC – Daniel Yong:** Justin Smith reviewed that the Preliminary Plat was approved for this property at the previous night's Planning Commission meeting. Part of the property had been zoned B-2 and part was zoned R-4. The Planning Commission also rezoned the B-2 section to R-4 to be consistent with the surrounding properties. Both tracts of land will now be consolidated into one tract. The next step in the PDP is the approval of a Conditional Use Permit. Daniel Yong is proposing a two phase multi-family development in which Phase I consists of forty-two units (69 bedrooms) and one office building. This proposed development will be located off of North 16th Street in the vacant area directly behind August Moon. The overall breakdown of the 42 units is 24 one-bedroom units, 9 two-bedroom units and 9 three-bedroom units. Two access points are shown off North 16th. One of the access points will be through an ingress/egress easement on the property to the west, where currently the Hangover bar (former Moose Lodge) is located. Justin showed pictures of the property and a rendering of the buildings. He stated that the parking had been rearranged since the Preliminary Plat was

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approved the previous night. Their first plan had shown 104 parking spaces and now they are showing 110. According to our parking regulations, they are required to have 135. Discussions of this proposed project have taken place with the Fire Marshal Greg Molinar and Public Works Field Operations Manager Jaimey Erwin. They do not see any problems with the current proposal.

This project will be separated into two different phases where the proposed Phase I will be 42 units with two ingress/egress access points and Phase II will be single homes. A Preliminary Plat for Phase II will also have to be submitted for approval by the Planning Commission. Staff feels like the proposed plan for Phase I has met most of the concerns the Planning Commission had from previous proposed developments for this site. Highway 121 Bypass North has been widened since the last proposal for this property which should be taken into consideration when discussing traffic. A landscaping plan, the name of the development, and addressing for each unit will be taken care of prior to a proposed Final Plat. Justin explained that both ingress/egresses would be put in at the beginning of the construction. The one to the north will mainly be used for construction until the time Phase II begins and at that time it will be paved and open to all. BFW is currently looking at the sight distance because of the hill that is on North 16<sup>th</sup> Street to make sure that no additional safety hazards are created. Depending on the results, they might have the northern entrance either moved farther to the south or have it marked as an "entrance only". 15 additional feet of right-of-way have been acquired from Mr. Yong in case the State decides to 3-lane North 16<sup>th</sup> in the future. *(Josh Vernon recused himself at 4:51 p.m.)*

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

Bobby Deitz (BFW Engineer) came forward and was sworn in. Mr. Deitz explained that their Traffic Engineer (Blake Emery) looked at what the traffic generated from this development would be and concluded that there would be very little impact on North 16<sup>th</sup> with Phase I. He does not have a layout for Phase II at this time; however, it is proposed to be single family homes. The developer is reluctant to look at a third ingress/egress on the west side of August Moon because of the impact that it would have on that property.

Brodie Hemingway came forward and was sworn in. Mr. Hemingway is the store manager of the local Lowes store. He has been in touch with Lowe's Real Estate Manager in North Carolina. The main concern that their corporate office has is how this will affect their local ECCR agreements. Initially they were concerned with the entry point of the complex but since the entrances will be off North 16<sup>th</sup>, they should have no problem. When asked if the main entrance was routed to Walmart Drive if that would be a problem Mr. Hemingway could not speak either in favor or opposition since Walmart Drive is a public street.

Roger Scott came forward and was sworn in. Mr. Scott spoke at the Planning Commission meeting the previous night. He voiced concerns with the project. Mr. Scott owns rental property at 1400 North 16<sup>th</sup>. One of the ingress/egresses is just north of his property. The entrance is "under the hill" or beyond the "line of sight". He wants the city to be aware of this situation. He said that traffic is quite excessive at times and that he would like to see another opportunity for an exit as it

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seems a little dangerous “under the hill”. There have been accidents there before. The traffic is extremely busy in the mornings and there are school buses that also travel that road. There was a traffic study conducted during MSU’s Christmas break and he does not feel like the numbers are adequate since school was out. He would like for the commissioners to take a good look at this situation before they agree to it.

Chairman Krieb offered time for a rebuttal. Bobby Deitz said they have the same concerns as Mr. Scott. BFW is going to do a Sight Distance Survey when they have a crew available. They will do that per KYT standards. This will help them determine what the “line of sight” is. If they don’t have the required sight distance, then they would be looking at either making the entrance a right in, right out or putting the entrance somewhere else. Mr. Deitz said that the impact should be only minor and you probably won’t notice a difference in the additional traffic. Chairman Krieb said that they would like to see the Traffic Study repeated during the time in which both the university and public schools are in session to get more accurate numbers. The results should be reported to the applicant and both boards so that they have an understanding of the numbers.

Chairman Krieb closed the public hearing and turned the item over to the board for further discussion and a motion.

**Mike Faihst made a motion to grant the Conditional Use Permit for the Daniel Yong Development located at 1402 North 16th Street contingent upon the Board of Zoning Adjustments approving the Conditional Use Permit and the project meeting all other city regulations. 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 would like to see a second Traffic Study done during peak loads with both schools in session. With the information they have been given, the traffic coming out doesn’t look like it will adversely affect anything at this point in time.**

**Chairman Krieb amended the motion to add: This development in terms of the density and the amount of bedrooms is significantly less than projects that have been brought before the boards in previous years and that is very favorable for them to consider. The amount of green space they have incorporated is very positive. Bobbie Weatherly seconded the motion and the motion carried with a 3-0 roll call vote. (*Josh Vernon did not vote as he had recused himself earlier.*)**

**Mike Faihst made a motion to allow the 110 parking spaces which is a reduction of 25 additional parking spaces that would normally be required and that the rear yard setback be allowed at 9 feet. Bobbie Weatherly seconded the motion and the motion carried with a 3-0 roll call vote. (*Josh Vernon did not vote as he had recused himself earlier.*)**

Josh Vernon returned to the meeting at 5:10 p.m.

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**Questions and Comments:** Jeremy Buchanan explained that there had been concerns amongst both the Planning Commission and BZA members about bringing the number of members on each board down to five through attrition. Mr. Kind and Mr. Krieb asked for a meeting with Mayor Rogers, Jim Osborne and Jeremy to voice their concerns. Mr. Kind and Mr. Krieb presented a letter of concerns. Mayor Rogers is opened to having the boards consist of six or seven members. Changing the size of the boards is something that the City Council would do and it would require an Ordinance revision which would take two readings. They are looking at trying to facilitate this issue rather quickly as possible because they have some board members that will be impacted by this.

**Josh Vernon made a motion to adjourn at 5:12 p.m. Mike Faihst seconded the motion and the motion carried unanimously.**

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Chairman, John Krieb

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Recording Secretary, Reta Gray