

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, AUGUST 17, 2016  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, August 17, 2016 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

**Board Members Present:** Bobbie Weatherly, Terry Stricter, Mike Faihst, John Krieb, Josh Vernon, Dennis Sharp and Jim Foster

**Board Members Absent:**

**Also Present:** Candace Dowdy, Summer Grogan, Reta Gray, Attorney David Perlow, David Roberts, Don Roberson, Kenneth Collins, Ed Pavlick, P.J. Georgio, Dimitrious (Jim) Karvounis, Grant Hart, Bill Anderson and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He asked for a motion to approve the minutes from the July 20, 2016 BZA meeting.

**Terry Stricter made a motion to approve the minutes from the July 20, 2016 BZA meeting as presented. Mike Faihst seconded the motion and the motion passed unanimously.**

Attorney David Perlow asked that the order of the meeting agenda be changed. He then asked for Don Roberson to come forward. Mr. Roberson came forward and was sworn in. He stated that Mr. Roberson is the appellant in this case. The city has issued a “stop work” at this location for multiple reasons. Mr. Perlow asked Mr. Roberson if he had any objections to tabling item #7 of the agenda until the other issues are resolved. Mr. Roberson said that he did not have any objection to the request. Proper notifications will be sent out before the item is rescheduled.

**Josh Vernon made a motion to table the public hearing for the review of an administrative appeal on the height and location of the entrance gates and fence at 1702 Kandi Kay Lane. Mike Faihst seconded the motion and the motion carried with a unanimous roll call vote.**

**Public Hearing: Dimensional Variance request to allow a recreational vehicle to be parked in front driveway at 1544 Whippoorwill Drive – Kenneth Collins:** Planning Staff recently sent a letter to Kenny and Pam Collins at 1544 Whippoorwill Drive regarding the placement of a recreational vehicle that was not in compliance with zoning regulations. After receiving the letter Mr. Collins stopped by the office and stated that he was not aware of being in violation and asked what he needed to do to bring it into compliance. He was given a copy of the regulations in Sec. III, Article 2 of the zoning ordinance regarding major recreational equipment. Staff explained that the RV could be moved to a location that would be in compliance (side or backyard) or he could apply for a variance to see if the board would approve the current location site. Mr. Collins indicated that if he added a driveway on either side of his house, they would not be able to meet the required five foot distance from the property line. Letters were sent to the adjoining and adjacent property owners concerning the public hearing. Four responses were received in favor of Mr. Collin’s request to keep the RV in the driveway. Ms. Dowdy read those letters aloud. (*Letters were entered as Exhibit A.*) There were no responses received in opposition. Ms. Dowdy stated that Mr. Collins had been very cooperative in order to come up with a solution to this problem. There was discussion amongst the board members concerning

previous requests for dimensional variances for RVs. The board also discussed future issues with granting a variance such as this.

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

Kenneth Collins came forward and was sworn in. Mr. Collins explained that he purchased the RV in 2008 and at that time he altered the driveway. The section of driveway where the RV is currently parked already existed and he extended the width of the driveway all the way to the street. Mr. Collins said that the RV is not parked in his driveway year round. Since it is more cost prohibitive for them to park and leave it at a campsite for the majority of the year, it is only parked in their driveway for a few months during the summertime. Mr. Collins described the overhang of his roof and the dimensions of his property on both the north and south sides. He reiterated that there was not enough room on either side of his home for him to build a parking spot for the RV or an additional driveway where he could access the backyard.

Ed Pavlick came forward and was sworn in. Mr. Pavlick spoke in opposition to the request. Mr. Pavlick stated that previously the board has required people to store their RVs to the back of the front line of the house. Mr. Pavlick has an RV and he can be sympathetic; however, his RV is stored in the backyard at his home.

Mr. Collins offered rebuttal. He explained that there is no way possible to get the RV into the backyard because he is landlocked with the way his property lays. The width of the property doesn't allow him to make a turn without getting into his neighbor's yard.

The public hearing was closed and the item turned over to the board for discussion and a motion.

**Bobbie Weatherly made a motion to approve the request for Kenny and Pam Collins to place their recreational vehicle in the front driveway of their home at 1544 Whippoorwill Drive from March thru October as long as they own the property and the RV is kept back off the street as far as possible to avoid any obstruction of vision for neighbors entering and exiting their driveways based on the fact they do not have the means to put it in the side or rear yard in order to be in compliance and that the board has heard letters of support from the surrounding property owners in support of the request. The granting of the variance 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. Mike Faihs seconded the motion. The motion was defeated by a 4-3 roll call vote. *Jim Foster, Dennis Sharp, Terry Strieter and Josh Vernon voted no.***

Mr. Collins was given a time limit of 45 days to get the RV moved and bring the property into compliance.

**Public Hearing: Dimensional Variance request for temporary signage at 1051 North 16<sup>th</sup> Street Suite F – Mega Gym:** Mega Gym is in the process of constructing their new building just north of Kroger and behind Culver's. They have rented a temporary location at 1051 North 16th Street in order to start selling gym memberships. They plan to be at this location thru November and would like to be able to use a 32 square foot banner as a temporary sign during that time. The banner would be secured to the face of the building. General Sign Regulations for

temporary signs were reviewed.

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

P.J. Georgio came forward and was sworn in. Mr. Georgio is a representative of Mega Gym. He stated that they had previously put a trailer at the site location of the new Mega Gym and subsequently have moved from that temporary site because the trailer was not up to code. Mr. Georgio verified that they were asking for approval for a 32 square foot temporary sign/banner to be used at their temporary location thru the end of November. Mr. Georgio is not sure that the banner will fit in the area where they would like to hang it so they might have to hang it off to one side. He added that it would be fastened well so that it will not flap or fly away.

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

**Jim Foster made a motion to approve the request by Mega Gym to use a 32 square foot banner at their temporary location of 1051 North 16th Street, Suite F through November 30, 2016 with the findings that this is a temporary sign for a temporary site. Their initial temporary location was not up to code; thus, they have relocated to the new temporary site. Terry Strieter seconded the motion and the motion carried with a 6-0 roll call vote. Josh Vernon abstained from voting.**

**Review: Tabled item for Dimensional Variance to add a third free-standing sign at 506 North 12<sup>th</sup> Street – Fast Pace Urgent Care:** Chairman Krieb asked for a motion to remove this item from the table.

**Mike Faihst made a motion to remove the item from the table. Jim Foster seconded the motion and the motion passed unanimously.**

Ms. Dowdy reviewed that Fast Pace Urgent Care Clinic is in the process of renovating the former Tom's Pizza building in the Olympic Plaza where their new facility will soon be located. The main entrance will be off North 12<sup>th</sup> with a secondary entrance off Arcadia. The applicants will be allowed to have two wall signs as they face two streets. Last month's request for a free-standing sign would have put three free-standing signs on the property and members of the board agreed that they did not want to see that happen. According to the Zoning Ordinance, Tom's Pizza has 45 days from the closing of their business to remove the sign from the property. At the July meeting there was discussion that Mr. Karvounis would like to leave the existing Tom's Pizza free-standing sign in case he decided to reopen his restaurant at a later date. After the July meeting, Jim Karvounis spoke to his father concerning the matter. Jim Karvounis notified Planning Staff that they had decided to remove the Tom's Pizza free-standing sign. A sign company has been contacted for that removal. Mr. Karvounis has expressed that if they should decide to reopen Tom's Pizza, they might consider reworking the Olympic Plaza sign to accommodate the 10-12 merchants that are in the shopping plaza. Ms. Dowdy explained that if they decided to make any changes to the Olympic Plaza sign they would need to come back before the board for a variance. At this time, Fast Pace Urgent Care Clinic is again requesting the free-standing monument sign that was presented at the July meeting. They plan to locate the new sign in the site where the handicap parking space currently is and relocate the handicap space to the south side of the building. This sign will meet the minimum front setback of ten feet.

The proposed sign is 55 square feet and the reader board is 24 square feet with the overall height of 14 feet. There was concern that since the sign is 14 feet high and located 5 feet above North 12<sup>th</sup> Street, that that it would actually bring the sign to 19 feet above the roadway. Jim Foster suggested that the stone base height be decreased by 4 feet to limit the overall height of the sign to 10 feet. The board asked Mr. Grant Hart with Fast Pace Urgent Care to come forward to see if he would be in agreement with lowering the base of the sign.

Grant Hart came forward and was sworn in. Mr. Hart said that he thought by lowering the sign, they would save some money and he agreed to the board's suggestion.

**Mike Faihst made a motion to approve the request for Fast Pace Urgent Care Clinic for the free-standing monument sign at 506 North 12<sup>th</sup> Street limiting it to a maximum height of 10 feet. The handicap parking spot on the south end of the property just west of the building will be relocated to the north side of the building and the former Tom's Pizza free-standing sign is to be removed which will make this request for the second free-standing sign on the lot and not the third. The granting of the variance 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. Jim Foster seconded the motion and the motion carried with a 7-0 roll call vote**

**Public Hearing: Dimensional Variance request to alter a non-conforming free standing sign at 912 South 12<sup>th</sup> Street – Sears:** Bill Anderson recently purchased the Sears business in Murray. He is requesting to alter the existing free-standing pylon sign that has been at this location for many years. (An exact history of the sign was not available; however, there is speculation that the sign could have been there since the early 80's.) Planning Staff informed Mr. Anderson that the sign is a non-conforming sign and it could not be altered or enlarged without approval from the board. The existing sign is 4 feet x 12 feet and is approximately 18 feet tall. Mr. Anderson would like to replace that sign with a nine foot tall monument sign that is 7 foot x 7 foot (4 foot x 7 foot with the name of the business and a 3 foot x 7 foot manual reader board totaling 49 square feet). A rendering was shown of the proposed sign. The Sears business is part of the Bel-Air Shopping Center (which is one tract of land); therefore, under the current sign regulations only one monument sign is all that is allowed. There is currently a free-standing sign for the Bel-Air Shopping Center as well. If the board approves this request, Sears will be required to meet a 10 foot setback for this sign.

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

Bill Anderson came forward and was sworn in. He explained that he is trying to update the existing sign and give it a better appearance. The sign will have "Sears Hometown" on it which is a new advertising concept that Sears is currently using. The bottom two feet of the sign will be metal wrapped with landscaping around the base.

There was no one that spoke in opposition. The public hearing was closed and the item turned over to the board for discussion and a motion.

**Josh Vernon made a motion to approve a second free-standing (monument) sign for Sears at 912 South 12th Street as presented based on the fact Sears has had a sign at this location**

**for 30 plus years and the business owner is willing to bring it into compliance with current regulations for monument signage based on the fact that they are doing the right thing as far as the zoning regulations. The sign needs to be in compliance with the setback regulations also and the existing sign needs to come down. The granting of the variance 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. Terry Strieter seconded the motion and the motion carried with a 7-0 roll call vote.**

**Questions/Comments:** Mike Faihst voiced concerns that there are several parking lots in town that need restriping. He said that the handicap parking does not seem to be visible anymore and that it would be nice if parking lots were restriped at some time. Mr. Faihst also commented on having sizeable parking spaces for larger vehicles and handicap parking. Ms. Dowdy explained that the minimum parking space is actually 9 x 18 feet (very small) but the standard is 10 x 20 feet. She added that might be something that could be looked at when they get into updating that section of the Zoning Ordinance.

Jim Foster commented that he is pleased that the board is looking at and restricting the size of signs. These decisions are helping to get rid of some of the huge ugly signs and replacing them with more appealing monument signs.

**Jim Foster made a motion to adjourn. Mike Faihst seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:57 p.m.***

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Chairman, John Krieb

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Recording Secretary, Reta Gray

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Board Members Absent:

Also Present: Candace Dowdy, Summer Grogan, Reta Gray, Attorney David Perlow, David Roberts, Don Roberson, Kenneth Collins, Ed Pavlick, P.J. Georgio, Dimitrious (Jim) Karvounis, Grant Hart, Bill Anderson and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He asked for a motion to approve the minutes from the July 20, 2016 BZA meeting.

Terry Strieter made a motion to approve the minutes from the July 20, 2016 BZA meeting as presented. Mike Faihst seconded the motion and the motion passed unanimously. Attorney David Perlow asked that the order of the meeting agenda be changed. He then asked

for Don Roberson to come forward. Mr. Roberson came forward and was sworn in. He stated that Mr. Roberson is the appellant in this case. The city has issued a "stop work" at this location for multiple reasons. Mr. Perlow asked Mr. Roberson if he had any objections to tabling item #7 of the agenda until the other issues are resolved. Mr. Roberson said that he did not have any objection to the request. Proper notifications will be sent out before the item is rescheduled.

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previous requests for dimensional variances for RVs. The board also discussed future issues with granting a variance such as this. Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or in opposition to the request.

Kenneth Collins came forward and was sworn in. Mr. Collins explained that he purchased the RV in 2008 and at that time he altered the driveway. The section of driveway where the RV is currently parked already existed and he extended the width of the driveway all the way to the street. Mr. Collins said that the RV is not parked in his driveway year round. Since it is more cost prohibitive for them to park and leave it at a campsite for the majority of the year, it is only parked in their driveway for a few months during the summertime. Mr. Collins described the overhang of his roof and the dimensions of his property on both the north and south sides. He reiterated that there was not enough room on either side of his home for him to build a parking spot for the RV or an additional driveway where he could access the backyard.

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Review: Tabled item for Dimensional Variance to add a third free-standing sign at 506 North 12th Street — Fast Pace Urgent Care: Chairman Krieb asked for a motion to remove this item from the table.

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Ms. Dowdy reviewed that Fast Pace Urgent Care Clinic is in the process of renovating the former Tom's Pizza building in the Olympic Plaza where their new facility will soon be located. The main entrance will be off North 12th with a secondary entrance off Arcadia. The applicants will be allowed to have two wall signs as they face two streets. Last month's request for a freestanding sign would have put three free-standing signs on the property and members of the board agreed that they did not want to see that happen. According to the Zoning Ordinance, Tom's Pizza has 45 days from the closing of their business to remove the sign from the property. At the July meeting there was discussion that Mr. Karvounis would like to leave the existing Tom's Pizza free-standing sign in case he decided to reopen his restaurant at a later date. After the July meeting, Jim Karvounis spoke to his father concerning the matter. Jim Karvounis notified Planning Staff that they had decided to remove the Tom's Pizza free-standing sign. A sign company has been contacted for that removal. Mr. Karvounis has expressed that if they should decide to reopen Tom's Pizza, they might consider reworking the Olympic Plaza sign to accommodate the 10-12 merchants that are in the shopping plaza. Ms. Dowdy explained that if they decided to make any changes to the Olympic Plaza sign they would need to come back before the board for a variance. At this time, Fast Pace Urgent Care Clinic is again requesting the free-standing monument sign that was presented at the July meeting. They plan to locate the new sign in the site where the handicap parking space currently is and relocate the handicap space to the south side of the building. This sign will meet the minimum front setback of ten feet.

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The proposed sign is 55 square feet and the reader board is 24 square feet with the overall height of 14 feet. There was concern that since the sign is 14 feet high and located 5 feet above North 12th Street, that that it would actually bring the sign to 19 feet above the roadway. Jim Foster suggested that the stone base height be decreased by 4 feet to limit the overall height of the sign to 10 feet. The board asked Mr. Grant Hart with Fast Pace Urgent Care to come forward to see if he would be in agreement with lowering the base of the sign.

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Questions/Comments: Mike Faihst voiced concerns that there are several parking lots in town that need restriping. He said that the handicap parking does not seem to be visible anymore and that it would be nice if parking lots were restriped at some time. Mr. Faihst also commented on having sizeable parking spaces for larger vehicles and handicap parking. Ms. Dowdy explained that the minimum parking space is actually 9 x 18 feet (very small) but the standard is 10 x 20 feet. She added that might be something that could be looked at when they get into updating that section of the Zoning Ordinance.

Jim Foster commented that he is pleased that the board is looking at and restricting the size of signs. These decisions are helping to get rid of some of the huge ugly signs and replacing them with more appealing monument signs.

Jim Foster made a motion to adjourn. Mike Faihst seconded the motion and the motion carried unanimously. The meeting adjourned at 557 p.m.

Chairman, John Krieb

Recording Secretary, Reta Gray