

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, AUGUST 21, 2013
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, August 21, 2013 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Scott Seiber, John Krieb, Brad Darnall, and Mary Anne Medlock

Board Members Absent: Josh Vernon

Also Present: Candace Dowdy, Justin Crice, Reta Gray, David Roberts, Jennifer Tolley, Officer Todd Clere, Hawkins Teague, John Fannin and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Chairman Krieb stated that he had submitted a few minor changes and asked if there were any additional changes that needed to be made to the minutes from the July 17, 2013 regular meeting.

Mary Anne Medlock made a motion to approve the BZA minutes from the July 17, 2013 regular meeting as amended. Brad Darnall seconded the motion and the motion carried unanimously.

Public Hearing: Request for a height and setback variance on proposed fence – 500 & 502 Lynnwood Street – Bob Crutchfield: Chairman Krieb stated that Mr. Crutchfield was not able to attend the meeting; however, he would be available by phone if anyone should have any questions. Candace Dowdy used a Power Point presentation to show the property at 500 & 502 Lynnwood Street that is owned by Bob Crutchfield. Both lots are vacant and are heavily wooded. Mr. Crutchfield would like to erect a six foot tall chain link fence along the property line to keep pedestrian traffic from becoming a nuisance and liability issue on his private property. This request would require a two (2) foot height variance. Mr. Crutchfield is proposing to place the fence on the property line/right-of-way line along Sycamore Street and Lynnwood Street; thus, requiring the 10 foot setback variance. Mr. Crutchfield's intention is to not remove any of the trees from the wooded lots. The proposed fence would connect to the existing fence that is owned by Murray Independent Schools. The zoning ordinance states that fences on corner lots shall maintain a ten foot setback from the property line on the front and side yard facing the secondary street with the height of the fence being no taller than four (4) feet. Planning Staff does not have a problem with the two foot height variance that Mr. Crutchfield is requesting because the lots are undeveloped and there will be no obstruction of vision at this intersection. The right-of-way along Sycamore Street varies from 6.5 feet to 8.5 feet behind the sidewalk and it widens to about 10 feet 8 inches closer to the intersection of Lynnwood. Ms. Dowdy stated that she had spoken to Peyton Mastera, Project Manager for the City of Murray, concerning this request. Mr. Mastera indicated a guard railing will be installed by the city in the NW corner of this property where a drainage ditch flows under the sidewalk along Sycamore Street. Ms. Dowdy informed the board all adjoining property owners were notified and Staff had not received any complaints concerning this matter.

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

John Fannin, 504 Lynnwood Court, Murray was sworn in. Mr. Fannin stated that his property adjoins this property to the south. He supports this variance and he feels that the other neighbors would agree with him. This proposal would help in maintaining the security of the lot. Mr. Fannin added that Mr. Crutchfield took care of things impeccably and he is sure that this proposal will be done professionally and right.

Chairman Krieb asked if there was anyone that wished to speak in opposition of the variance. There was no one. Chairman Krieb closed the public hearing and turned it over to the board for discussion.

Mary Anne Medlock made a motion to approve the dimensional variance application for up to a 10 foot setback variance and a 2 foot height variance by Bob Crutchfield on a proposed fence at 500 & 502 Lynnwood Street as long as the property is maintained as a wooded lot. This variance is based on the fact these lots are undeveloped and there will be no obstruction of vision at the intersection of Sycamore and Lynnwood. This 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. Brad Darnall seconded the motion and the motion carried with a 4-0 roll call vote.

Public Hearing: Conditional Use Permit Request for a Fraternity House at 911 North 16th Street – Alpha Sigma Phi: Justin Crice stated that he has been working with Mike Young, Chapter Advisor of Alpha Sigma Phi for a while. Mr. Crice stated that Mr. Young has requested some additional time to get the parking layout prepared for the BZA; thus, he needed for the board to table this motion until the following month.

Mary Anne Medlock made a motion to table the Public Hearing for a Conditional Use Permit request for a fraternity house at 911 North 16th Street - Alpha Sigma Phi. Brad Darnall seconded the motion and the motion carried unanimously.

Justin Crice announced that Jimmy John's had withdrawn their PDP application the previous day; therefore, the Advisory Hearing was not held during the Planning Commission the previous night. At this time there is no further action planned on this item. Chairman Krieb then announced that the application for a Conditional Use Permit for Marcy Snodgrass at 1502 Hermitage Place that was scheduled to be heard by the BZA had also been withdrawn.

Staff Update: Conditions placed on Conditional Use Permit for Big Apple Café – 1005 Arcadia: David Roberts stated that the Big Apple relocated to Murray in 2001 and since that time the parking lot has had several reconfigurations. Ms. Dowdy explained that in 2001 the Big Apple came before the board requesting a variance on a sign and a 10 foot setback on a fence that was located near the street. The applicants also asked for permission to use all of the gravelled area for overflow parking. At that time it was determined that when they were found to

be using the additional parking on a continual basis, they would need to pave that area. A Power Point presentation was used to show the parking lot. Mr. Roberts continued to say that in 2006 it was determined that the gravel parking area was used frequently. At that time Planning Staff sent a letter informing them that they needed to pave the additional gravel parking because of the change in the conditions. The seating capacity had also changed during this time period from 150 to 225 which prompted even more additional parking. This brought the total parking area to approximately 10,000 square feet which requires stormwater detention. This parking area is quite flat. There is no storm sewer system or gutters on 10th Street or Arcadia to carry the run-off. The agreement with Skip Chambers was to take out some of the gravel and pave an another approximate 10,000 square foot area leaving a 30 foot strip around the perimeter of the lot. In January of 2013, while going through the process of getting his bar/tavern license, the board determined that Mr. Chambers should make plans to pave the balance of the parking lot (excluding the 30 foot strip around the perimeter). He was given nine months to have the paving completed. Mr. Roberts stated that recently he reviewed the site and at that time he performed some calculations that he hadn't done previously. Mr. Roberts explained that after 12 years of progression in the paving, there is nowhere on the property to provide stormwater detention. In order to provide a detention area, there would have to be some pavement removed. Mr. Roberts said this would be a waste of money and material; therefore, Mr. Roberts recommended that Mr. Chambers only pave the existing southeastern parking area. By leaving some of the area gravel, it will remain pervious where some areas will be able to catch the water. He said this proposal would not only improve the water quality that drains off but it would address the issue of gravel that is continuously scattered onto the pavement at the 10th Street entrance. Mr. Roberts explained that if the Big Apple was required to put the amount of grassy area back that they had in 2006 and 2007, they would lose parking spaces which could prove to be detrimental to the business. Mr. Roberts added that he told Mr. Chambers if in the future they should do anything to increase the building size or capacity, this matter would have to be revisited. The new Pocket's store will be located to the south of the Big Apple Café and all of that lot will also be paved. Pocket's will not have stormwater detention either; however, the state has given Pocket's permission to intercept all of their downspouts and gutters and send that water directly to the state system which is a catch basin on the northwest corner of 10th & Chestnut Street. Ms. Dowdy asked the board for a motion for future reference. *Officer Todd Clere left the meeting at 5:03 p.m.*

Scott Seiber moved to amend the motion from January 2013 to allow expansion of the grassy area that borders 10th Street and Arcadia and to allow Mr. Chambers to keep the area on the northeast corner of his parking lot as a gravel surface because this is preferable to granting a variance for stormwater detention. This decision was made in light of circumstances regarding the lack of ability to put in storm detention in the Big Apple Café parking lot. Brad Darnall seconded the motion and the motion carried with a 4-0 roll call vote.

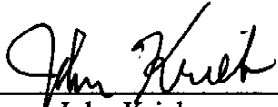
Mr. Roberts recommended that Staff ask Mr. Chambers to update the landscaping on the northeastern corner of the property. Ms. Dowdy said that she would rather see him remove the current landscaping and replace it with lower growing shrubs.

Questions and Comments: Chairman Krieb stated that he had driven by The Breakaway Lounge on Sycamore before the meeting. He reviewed that at last month's BZA meeting the owner of the business, Cody Howland, was given 30 days to bring this item into compliance. He was to have the outdoor seating removed from underneath the non-conforming canopy. Chairman Krieb noted that the work has not progressed very well at all. There are still pallets in a stack under the canopy and just recently there have been concrete blocks stacked there as well. In addition there are railroad ties and potted plants. The gas can that the Fire Marshal had noted earlier is still there also. Chairman Krieb said there had been some further discussions with Staff concerning flower beds. He asked for a report on those discussions. Mr. Roberts said that both he and Justin Crice had shared conversation with Mr. Howland. He continued that he had received a call from Cody asking if he could put two planters with flowers under the canopy. Mr. Roberts said that planters did not seem like a bad idea if flowers and evergreens (something that would look good throughout the winter) were planted in there. Mr. Roberts said that he had reviewed the minutes and did not see anything that would prohibit Cody from putting flowers and planters in that area. Cody had indicated that he wanted to use concrete blocks and railroad ties to construct the planters. He intends on the planters serving as a barrier for drive-thru traffic. He also indicated that he had talked to the Fire Marshal and told him that he was not going to connect anything to the posts of the canopy and that the structure would not be expanded. Cody had also asked Mr. Roberts if he could put a table and chairs under the canopy for aesthetic reasons. Mr. Roberts said no, that he could not put anything out there that would indicate there was seating in that area. Chairman Krieb asked how large he intended on having the planters. Mr. Roberts thought they would be around a couple of feet wide; however, he agreed to follow up with Cody to make sure the entire area didn't become a large planter. Mary Anne Medlock asked if the board could request that the property owner take the canopy down. Ms. Dowdy said in order to be fair to Mr. Howland, Staff had decided if Mr. Howland ever decided to move his business, the property owner would be notified at that time that the canopy is a non-conforming structure and that it should be removed. Chairman Krieb asked if the Staff needed to notify Mr. Howland about this decision. Mr. Roberts replied that he would stop by there on his way home after the meeting and give him an update and also make him aware that he had seven days to complete this project.

Justin Crice informed the BZA members that there is an eight hour Continuing Education on Thursday, August 22nd that some of the Commissioners, BZA members and Staff will be attending. He added that there is another Continuing Education on October 16th in Calvert City.

Ms. Dowdy mentioned that David Pike does a lot of their Continuing Educations in order to meet the House Bill 55 requirements. She informed the board that Staff has recently entered into a contract with Pike Legal to begin work on the Zoning Ordinance update.

Adjournment: Scott Seiber made a motion to adjourn. Brad Darnall seconded the motion and the motion carried unanimously. The meeting adjourned at 5:17 p.m.



Chairman, John Krieb



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