

**MURRAY BOARD OF ZONING ADJUSTMENTS
SPECIAL-CALLED MEETING
TUESDAY, AUGUST 5, 2014
4:30 P.M.**

The Murray Board of Zoning Adjustments met in special session on Tuesday, August 5, 2014 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Linda Scott, Mary Anne Medlock, Scott Sciber and Josh Vernon

Board Members Absent: Terry Strieter and Bobbie Weatherly

Also Present: Candace Dowdy, Robert Jeffries, David Roberts, Reta Gray, Attorney David Perlow, Hawkins Teague, Jacob Reed, Rodney Bohannon, Danny Hudspeth and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy introduced David Perlow. Mr. Perlow is the new legal counsel for the Planning Commission and Board of Zoning Adjustments. Chairman Krieb asked if there were any changes to the minutes from July 16, 2014 regular meeting.

Scott Seiber made a motion to approve the BZA minutes from the July 16, 2014 regular meeting as presented. Mary Anne Medlock seconded the motion and the motion carried unanimously.

Dimensional Variance request on the rear setback of a proposed building to be located at 507 North 12th Street – Independence Bank: Independence Bank recently purchased the property at 507 North 12th Street (Arby's former location) where they plan to construct a new bank. In January of this year, the BZA approved a 21foot 8 inch height variance on the proposed building. This property is located in a B-2 (Highway Commercial) zoning district with road frontage on North 12th Street and Rushing Way. The zoning ordinance states that when a property has road frontage on two streets, the minimum front setback of fifty feet must be met on both streets. The bank has discovered a deed restriction recorded on the property that says there shall be no construction of any building of any kind less than 120 feet from the west side of US Hwy 641 due to the frontage road that runs along the front of Regions Bank, Boone's Laundry and the former Arby's properties. Candace Dowdy used a Power Point presentation to reveal the site plan that shows the covered drive-thru canopy attached to the back of the building. She said that the supporting structure would meet the setback requirements; however, a small portion of the overhang would project out into the 50-foot rear setback by a little more than eight feet. This is the reason for requesting the rear setback variance. Ms. Dowdy added that this overhang will not have a visual impact on the traffic along Rushing Way.

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

Jacob Reid, 1738 Freeman Avenue, Owensboro, Kentucky was sworn in. Mr. Reid is a representative of Independence Bank. He stated that Ms. Dowdy had described their request accurately and if there were any questions, he would be happy to answer them. There were no questions.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the request. There was no one. Chairman Krieb closed the public hearing and turned the matter over to the board for discussion and a motion.

Josh Vernon made a motion to approve the dimensional variance request to allow a nine foot rear setback variance on the proposed building for Independence Bank at 507 North 12th Street based on the fact that the request is based on a deed restriction on the front of the property that does not allow them to build less than 120 feet from the west side of Hwy US 641. This dimensional 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. Linda Scott seconded the motion and the motion carried with a 5-0 roll call vote.

Public Hearing: Conditional Use request to allow a medical clinic at 400 Industrial Road – Briggs & Stratton: Robert Jeffries used a Power Point presentation to show the building at 400 Industrial Road. Briggs & Stratton Corporation plans to lease one of the two suites on the property from Robert Swift to establish a medical office to provide services to Briggs & Stratton employees and their families. The property is located within an industrial zoning district. The staff determined upon reviewing the regulations that a clinic was not listed as a permitted use but could be considered for a conditional use permit as a “consumer service type business”. Briggs & Stratton has indicated that there will be one doctor and other necessary staff on site to provide lower cost healthcare to Briggs & Stratton employees and their families. The proposed office will be opened five days a week. This site was chosen because of its proximity to the plant. The facility will allow employees to receive faster medical attention for any minor injuries as well as better access to medical services for physicals, drug screenings and wellness checks during lunch breaks. There is ample parking in the front, on the east end of the building and at the adjacent buildings that are also owned by Mr. Swift. Mr. Jeffries explained that medical clinics of this sort may be approved through conditional use permits in Richmond, KY and Louisville, KY (based on their zoning regulations). He then compared their ordinances with Murray’s ordinance with regards to a medical facility of this nature.

Ms. Dowdy explained that since this type of use would be somewhat of a modern use, it is not included in the current ordinance. She added that Planning Staff had made notes to consider this when updating the ordinance sometime later in the year. Ms. Dowdy concluded that it would be up to the board to decide if the proposal is a “consumer service type business”.

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

Danny Hudspeth, 1001 Sharpe Street, Murray was sworn in. Mr. Hudspeth works with coordinating special projects at the Murray Briggs & Stratton facility and he stated that he had personally been working with Mr. Swift in acquiring a building suitable for this proposal. Mr. Hudspeth said that they felt that the wording “consumer service type business” allows them flexibility as they bring this item before the board.

Rodney Bohannon, 1962 Old Lynn Grove Road, Murray was sworn in. Mr. Bohannon is the Plant Manager of the Murray Briggs & Stratton. He explained that the Murray Briggs & Stratton plant has the highest healthcare costs of all their facilities. The goal in this proposal is to provide lower cost healthcare to their employees and their families. This service will be offered as a choice to the employees and they would like to start this benefit in September. Mary Anne Medlock asked Mr. Bohannon to define family. He explained that they are the employee’s immediate family (dependents of the employees that are covered under their insurance). Mr. Bohannon continued that they are not opposed to expanding this service to other industrial clients in the future; however, Briggs & Stratton would like to grow and develop it first before they branch out to others. There are currently over 300 employees in the Spruce Street industrial area alone that could be targeted if this proves to be successful. He said that they have this type of facility in their Poplar Bluff plant on campus in a separate building and one in Milwaukee at their headquarters that is located inside the plant. There is also a community based clinic at their facility in Statesboro, Georgia where they are sharing with other industries. The Murray facility is somewhat landlocked; thus, the decision to find a building to lease within a close proximity. (Mr. Bohannon explained that they prefer leasing instead of building for any additional needs.) They will be using Health Works out of Paducah and Dr. Kyle Turnbo will help manage the clinic. Dr. Turnbo currently has two or three different clinics in Paducah that are very nice operations which offer good employee benefits. Ms. Medlock asked Mr. Bohannon if he would be opposed to the conditional use permit stating that within a certain time frame that Briggs & Stratton would open this up to other industrial facilities. Mr. Bohannon responded that at this point he wouldn’t be comfortable with that because the facility would likely only have a three-year contract with a physician and a three-year lease for the property and he could not predict the overall success. The proposal will be a safe and secure site with a full security system in the building with cameras monitoring it on a 24 hour basis. Even though the facility will only be opened five days a week, there will be a “hot line” available with this company 24/7 and the staff will come in if needed. Mr. Bohannon concluded that the success will be based on the utilization of the clinic. Ms. Dowdy explained to the board that they have the option of reviewing a conditional use permit at any time or they could just have the Planning Staff give periodic updates.

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

Attorney Perlow explained that “consumer service” is a modern slang term. He cautioned the board to watch the definitions of consumer and service. Everyone knows what a service is, but he said that the real question to him was what the definition of consumer is. The Oxford Dictionary defines consumer as

a person who purchases goods and services for personal use. He continued that Briggs employees and families could be considered consumers and that by following that definition; the healthcare facility would not have to be opened to the public. He concluded that it really doesn't matter whether it is public or private to be considered a consumer.

Josh Vernon asked if the public was notified of this proposal. Ms. Dowdy replied that there had been a public notice of the meeting in the newspaper, the agenda for the meeting was posted on the city website and adjoining property owners were sent letters. She said that she had received no calls concerning the matter.

Mary Anne Medlock made a motion to approve the conditional use permit request by Briggs & Stratton to allow a medical office as a “consumer service type business” in an Industrial zone (located at 400 Industrial Road) for the purpose of providing healthcare services to Briggs & Stratton employees and their immediate family members. The facility is located close to Briggs & Stratton which will be convenient for employees and their families to utilize. Scott Seiber seconded the motion and the motion carried with a 5-0 roll call vote.

Questions and Comments: Ms. Dowdy mentioned that there is a presentation in Paducah on the following Thursday night on Walkable Cities. It will be from 6:30-8:30 p.m. at the Maiden Alley Cinema. She said that it is free, but you need to call to make a reservation if you plan on attending.

Adjournment: Linda Scott made a motion to adjourn. Mary Anne Medlock seconded the motion and the motion carried unanimously. The meeting adjourned at 5:23 p.m.

Chairman, John Krieb

Recording Secretary, Reta Gray

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