

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 16, 2015  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 16, 2015 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5<sup>th</sup> Street.

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

**Board Members Absent:** None

**Also Present:** Candace Dowdy, Robert Jeffries, Summer Grogan, Attorney David Perlow, Officer Tim Fortner, Hawkins Teague, Zachary Orr, Jeff Smith, Bob Hopman and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy swore in new member Jim Foster. Chairman Krieb stated that some minor corrections had been made to the August 19, 2015 minutes. He then asked for a motion to approve the minutes.

**Mike Faihst made a motion to approve the BZA minutes from the August 19, 2015 regular meeting as amended. Terry Stricter seconded the motion and the motion carried unanimously.**

**Public Hearing: Conditional Use Permit to allow a fitness facility in an Industrial zoning District at 101 Poplar Street – Downtown Dynabody:** Robert Jeffries explained that a fitness facility known as Downtown Dynabody had opened in the former Ellis Popcorn Company building located at 101 Poplar Street. At the time the business license was issued for August 1, 2015, the fact that the business would be located in an Industrial Zone was overlooked. Similar type businesses (i.e. Gymnasiums/Recreational Facilities) opening in Industrial Zoning Districts have been required to apply for a Conditional Use Permit in order to operate; thus, Mr. Orr was notified and informed that he would have to acquire a Conditional Use Permit as well. The parking requirements for a recreational facility include one parking space for every four persons, based on the maximum capacity of the building. The required amount of parking is 35 spaces. Currently there is a portion of the parking area that is hard surface but not striped and the rest of the parking area is gravel. According to the mapping system used, it appears that there is space for approximately 45 parking spaces. Ms. Dowdy commented that when the use of a building is changed, Planning Staff has the opportunity to update the parking situation. She added that there seems to be adequate parking available at this time; however, if the business should outgrow their parking, they could be asked to change the gravel surface into a hard surface. Chairman Krieb explained that this specific type business is not listed in the Zoning Ordinance; however, it would be considered a “*consumer services*” type activity. Ms. Dowdy added that there had been no comments or concerns received regarding the letters that were sent to adjoining property owners.

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

Zachary Orr (owner of Downtown Dynabody) was sworn in and spoke in favor of the application. Mr. Orr explained that 50 percent of their clients are students and they come from campus to the facility by way of the court square. Mr. Orr thinks that this is an advantage for the downtown businesses as most of the students were not even aware of the downtown square before now. Their business is seeing a lot of success with approximately 140 members in their first six weeks of being opened. They are a 24/7 facility with new updated equipment which seems to be a draw for them over other facilities. Mr. Orr thinks that his business is a good use for this location. There are street lights that illuminate the front and side areas of the building. Members have a keycard that unlocks the door. There is staffing 5-8 hours a day and there are also personal trainers available.

There was no one that spoke in opposition to the application. The public hearing was closed and the item turned over to the board for discussion and a motion. The Board members discussed the current outdoor lighting situation.

**Jim Foster made a motion to approve a Conditional Use Permit to allow Downtown Dynabody to operate in an Industrial Zoning District located at 101 Poplar Street. Additional lighting should be added to the exterior of the building and the parking lot should be striped within 90 days. The parking situation will be reviewed in a year. Josh Vernon seconded the motion and the motion carried with a 7-0 roll call vote.**

**Public Hearing: Dimensional Variance to allow a monument sign at 602 North 12<sup>th</sup> Street – RE/MAX:** Candace Dowdy explained that RE/MAX recently moved to the Shoppes of Murray in the outlot parcel containing 600, 602 and 604 North 12<sup>th</sup> Street. They would like to apply for a Dimensional Variance to allow a monument sign to be placed on the outlot parcel in front of Shoppes of Murray. The proposed sign would have four spaces (one for each tenant located on the lot: RE/MAX, Radio Shack, The Station Burger and LA Nails). The allowable maximum height for a free-standing sign is fourteen feet with a total of 80 square feet. The City's current sign regulations allow for a corner business to display a sign facing both the primary and secondary streets. There currently is not a free-standing sign on this lot. According to previous BZA minutes, the Board granted Radio Shack a Dimensional Variance in 2000 for wall signage to be placed on the north, south, and west sides of the building. There was a condition placed on the Variance that a free-standing sign was not allowed as long as there were three signs on the building; thus, Planning Staff cannot approve a free-standing sign to be located on this lot. In addition: in 2005 a Dimensional Variance was approved for Curves (where RE/MAX is located) to have a sign on both the north and south entrances of their business. There was also a condition placed on this Variance that a free-standing sign was not to be used; therefore, as long as the additional sign is being used by RE/MAX, Planning Staff cannot allow them to use a free-standing sign either. This item is being reviewed at this time because of the conditions placed on the two previous Dimensional Variance applications. Businesses located on this lot feel the need to have ample signage on both the fascia of the building as well as on a free-standing sign because of the unique characteristics of the building and where their store frontage is located in regards to 12th Street. There was discussion concerning the old fire truck that is currently on the

lawn used as advertisement for Station Burger.

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

Jeff Smith, Representative from RE/MAX, came forward and was sworn in. Mr. Smith pointed out that they are the only outlot parcel in the shopping center that does not have a free-standing sign. He explained that they use both the north and south entrances to the RE/MAX building. The south entrance is mainly for clients involved in closings while the entrance on the north side is for conducting routine day-to-day business. Mr. Smith feels like they do not have adequate signage. He does not feel that an agreement that was made 15 years ago should penalize his desire for a free-standing sign. He has discussed better signage with the other tenants and landlord/property owner. All are in favor of an illuminated free-standing sign to help advertise their businesses. Mr. Smith informed Ms. Dowdy that there are actually five businesses in the block. Sprint is located inside Radio Shack's business. Ms. Dowdy explained that Sprint is not considered a separate business, but a carrier of Radio Shack. Sprint does not have a sign at this time and they are in favor of a free-standing sign for advertisement as well. Mr. Smith indicated that he was observing the North 12<sup>th</sup> Street corridor for signage and noticed several businesses that appeared to have been granted Dimensional Variances for signage. He reviewed those and passed pictures around to the board members. Several signs along the corridor of North 12<sup>th</sup> Street were discussed. Mr. Smith prefers a pole sign versus a monument sign because of the amount of panels they would need. They want something that looks good but that is visible at the same time. Mr. Smith said that if the board would not consider his request for a four panel sign, his second request would be for a three panel sign (excluding Radio Shack).

Board member Jim Foster said that even a pole sign could look good and not like something from the 80's. He referred to his sign at Culver's. The sign is a pole sign with a brick base which surrounds the poles. The base is dirt filled with plantings inside (planter box). Mr. Jeffries stated that Planning Staff would be happy to work with Mr. Smith to come up with a proposal if the board should approve the request.

Bob Hopman came forward and was sworn in. Mr. Hopman works for The Station Burger Restaurant as a supervisor of the five stores. Mr. Hopman said that they have a great location for the restaurant in Murray; however, they need more customers. They also would like to see a more desirable free-standing sign as other merchants down the road have. Landscaping is a hobby of his and he will make sure that the planter box looks perfect with shrubbery, bushes and roses.

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

**Josh Vernon made a motion to approve the Dimensional Variance request to add a monument type free-standing sign on the outlot parcel in front of the Shoppes of Murray located at the corner of North 12th Street and Arcadia Circle. In addition: each existing sign on the north and south sides are allowed to remain on the RE/MAX building. This**

**approval is for four tenant's signs (leaving an empty spot at the bottom for Radio Shack until they come to an agreement with the City on their current signage). The sign can be a maximum of 14 feet high with 80 square feet. Planning Staff should be worked with and the city's Zoning Ordinance should be referred to and the regulations followed for a monument type sign. This motion is based on the findings that it is in an appropriate location to provide the adequate signage that is needed for that parcel of land. This motion doesn't adversely affect the public health, safety and 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 an unreasonable circumvention of requirements of the zoning regulations. Mike Faihst seconded the motion and the motion carried with a 7-0 roll call vote.**

**Questions and Comments:** Chairman Krieb asked Ms. Dowdy to include the KRS statement in each of the staff reports in the future. Ms. Dowdy replied that the format had been changed in the Staff Report recently but they would see that the statement is included in the future. She said that before a motion is considered in any variance, the board members should be sure that the facts in the statement are being adhered to.

Ms. Dowdy then gave an update on the Briggs & Stratton Medical Clinic. She stated that she had contacted Briggs & Stratton for information about wellness events and the dispensing of products at the location of their new clinic. A Briggs & Stratton representative replied that all wellness events are hosted at their manufacturing facility instead of at the clinic and at this time they do not have a pharmaceutical dispensing service. The representative indicated that there had been discussion concerning the top five prescribed medications (such as Amoxicillin); however, at this time they do not plan to expand the services that would impact additional staffing. Their current staff has the capability of servicing a much higher utilization than they are seeing at this point. Chairman Krieb asked if there was any clarification as to the services being offered to Paschall Truck Lines and Pella (such as pre-employment) and if there was need for an amendment to the Conditional Use Permit. Ms. Dowdy said that she recalled from the previous meeting that these services were not being done on site. Board member Mike Faihst (an employee of Pella) explained that if an employee of Pella is involved in a work-related accident, they are required to go to the clinic at that time; however, he did not have any information on the pre-employment screenings. Ms. Dowdy reviewed that conversations at the previous month's meeting did not reveal that services being performed for Pella and Paschall Truck Lines warranted an amendment to the original CUP at this time. She will contact Briggs & Stratton again and let them know if they should expand their services to Pella or Paschall Truck Lines where additional services are performed generating more traffic, they should contact Planning Staff so the matter can be brought back before the board for their consideration. Attorney Perlow said that he would look into this to see if and when it would be necessary for Briggs & Stratton to come back before the board for an amendment to the original CUP.

Chairman Krieb asked if there was any new information concerning the R-2 zoning issues and the legalities of forming a subcommittee to work on the Comprehensive Plan. Ms. Dowdy explained she has not done anything concerning the Comprehensive Plan subcommittee at this time. She stated that Planning Staff continues to work on the R-2 zoning issues on the area west of 16<sup>th</sup> Street. Everyone has not responded to the letters that were sent earlier in the year to property owners concerning the use of their properties to see if they were in compliance with the

R-2 zoning regulations. At this point they are waiting for information to see how the City wants to move forward to those property owners who have not responded. Mr. Jeffries said that Planning Staff had been doing some research by contacting similar cities concerning the R-2 issues to see what they have implemented and what has been effective for them. They have found that some Code Enforcement Boards are actually enforcing the zoning regulations. This item is still a work in progress.

Mike Faihst said that parking stripes have faded on the parking lot in front of Agave' on Chestnut Street and it is hard to get a wheelchair into the businesses at that shopping center. Ms. Dowdy said that they would check into that situation. Ms. Weatherly and Mr. Vernon commended the Board for their decisions made that night. Mr. Sharp asked what plans MSU has for the property west of 16<sup>th</sup> Street. Chairman Krieb replied that during the town meeting that was held concerning the possibilities for changing 16<sup>th</sup> Street through MSU, there was discussion about future plans for the property west of the street. The university is currently buying available properties but is being discrete about giving out much information. Ms. Dowdy explained that the City is working closely with MSU concerning the future and best possibilities for changes to 16<sup>th</sup> Street. Mr. Strieter commented that he thought the zoning regulations should be updated to allow a training facility in an Industrial Zone. He felt the Board had more important issues to make decisions on than items such as this. Ms. Dowdy replied that they may look at rezoning some of the area south of Main to B-3 (Central Business) which would be more appropriate for businesses such as recreational or training facilities. Mr. Jeffries explained that it is quite common for cities to have both a Light Industrial District as well as a Heavy Industrial District; and that Light Industrial may be something to consider for recreational facilities. The board members welcomed Mr. Foster to the Board.

**Adjournment: Mike Faihst made a motion to adjourn. Bobbie Weatherly seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:55 p.m.***

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Chairman, John Krieb

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Recording Secretary, Reta Gray

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Board Members Absent: None

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, Attorney David Perlow, Officer Tim Fortner, Hawkins Teague, Zachary Orr, Jeff Smith, Bob Hopman and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Candace Dowdy swore in new member Jim Foster. Chairman Krieb stated that some minor corrections had been made to the August 19, 2015 minutes. He then asked for a motion to approve the minutes.

Mike Faiht made a motion to approve the BZA minutes from the August 19, 2015 regular meeting as amended. Terry Strieter seconded the motion and the motion carried unanimously.

Public Hearing: Conditional Use Permit to allow a fitness facility in an Industrial zoning District at 101 Poplar Street — Downtown Dynabody: Robert Jeffries explained that a fitness facility known as Downtown Dynabody had opened in the former Ellis Popcorn Company building located at 101 Poplar Street. At the time the business license was issued for August 1, 2015, the fact that the business would be located in an Industrial Zone was overlooked. Similar type businesses (i.e. Gymsnasiums/Recreational Facilities) opening in Industrial Zoning Districts have been required to apply for a Conditional Use Permit in order to operate; thus, Mr. Orr was notified and informed that he would have to acquire a Conditional Use Permit as well. The parking requirements for a recreational facility include one parking space for every four persons, based on the maximum capacity of the building. The required amount of parking is 35 spaces. Currently there is a portion of the parking area that is hard surface but not striped and the rest of the parking area is gravel. According to the mapping system used, it appears that there is space for approximately 45 parking spaces. Ms. Dowdy commented that when the use of a building is changed, Planning Staff has the opportunity to update the parking situation. She added that there seems to be adequate parking available at this time; however, if the business should outgrow their parking, they could be asked to change the gravel surface into a hard surface. Chairman Krieb explained that this specific type business is not listed in the Zoning Ordinance; however, it would be considered a "consumer services" type activity. Ms. Dowdy added that there had been no comments or concerns received regarding the letters that were sent to adjoining property owners.

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

Zachary Orr (owner of Downtown Dynabody) was sworn in and spoke in favor of the application. Mr. Orr explained that 50 percent of their clients are students and they come from campus to the facility by way of the court square. Mr. Orr thinks that this is an advantage for the downtown businesses as most of the students were not even aware of the downtown square before now. Their business is seeing a lot of success with approximately 140 members in their first six weeks of being opened. They are a 24/7 facility with new updated equipment which seems to be a draw for them over other facilities. Mr. Orr thinks that his business is a good use for this location. There are street lights that illuminate the front and side areas of the building. Members have a keycard that unlocks the door. There is staffing 5-8 hours a day and there are also personal trainers available.

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This motion doesn't adversely affect the public health, safety and 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 an unreasonable circumvention of requirements of the zoning regulations. Mike Faiht seconded the motion and the motion carried with a 7-0 roll call vote.

Questions and Comments: Chairman Krieb asked Ms. Dowdy to include the KRS statement in each of the staff reports in the future. Ms. Dowdy replied that the format had been changed in the Staff Report recently but they would see that the statement is included in the future. She said that before a motion is considered in any variance, the board members should be sure that the facts in the statement are being adhered to.

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Chairman, John Krieb

Recording Secretary, Reta Gray