

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 16, 2020
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 16, 2020 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

Board Members Present: John Krieb, Mike Faihst, Bobbie Weatherly, Carmen Garland, Paula Hulick, and Josh Vernon

Board Members Absent: Jim Foster

Also Present: Justin Smith, Candace Dowdy, Zach Warren, Attorney David Perlow, Jim Osborne, Bobby Deitz, Joseph Kelly, Raymelle Mayfield, Rosa Hudspeth, Sheila Sullivan, Terry Hart, Danny Hudspeth and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Dannetta Clayton called the roll. At this time Chairman Krieb asked if there were any changes to the minutes from the regular BZA meeting on August 19, 2020.

Mike Faihst made a motion to approve the minutes from the regular BZA meeting on August 19, 2020 as presented. Linda Hulick seconded the motion and the motion carried unanimously.

Public Hearing: Dimensional Variance request to allow a 5-foot front setback variance and 18 square foot parking stall size variance to be located at 901 North 12th Street – Applicant: SRK Partnership/Rick Morrow, R & C Enterprises: Justin Smith explained that there had been a change in the 5-foot front setback variance request since the agenda was sent out. The applicants are required to have a 50-foot front yard setback (east side of the property) and will not need the variance as originally thought for the south side. He used a Power Point presentation to show the property which is located in a B-2 (Highway Business) zoning district. The property is located on the northwest corner of the intersection of North 12th Street and the Walmart access road. There have been no requests for reduced size parking stalls since the change of the ordinance in 2019. Fast Pace has submitted a site plan for a new building to be used as a medical facility. They are asking for a variance to be reviewed by the BZA relief from the parking space regulations of 18 square feet per space to accompany their proposed 9-foot x 18-foot (162-square foot) parking stalls. Regulations require 180 square feet. Justin reviewed the Ordinance pertaining to this item. With the property being so close to the Flood Plain, the applicants are looking at ways of being able to design this site in accordance with the location. Justin said that the exit from the facility would be right turn only and that will be noted in the plans as the process proceeds.

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

Bobby Deitz (representative of BFW) came forward and was sworn in. Mr. Deitz spoke in favor of the request. The reason for the request is that the applicants need 24 parking spaces and the site is very small. The north side of the lot is limited because of the stream. Bobby explained that the site has been raised up out of the Flood Plain and they are trying to hold the building back as far as they can from the top of the bank. They will be doing some major bank stabilization on that stream as well.

No one wished to speak in opposition; therefore, the public hearing was closed and the item turned over to the Board for further discussion and a motion.

Mike Faihst made a motion to grant the request for an 18-square foot parking stall size reduction variance at 901 N. 12th Street. The testimony presented in this public hearing has shown based on the findings that 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. The size of the lot does not allow the building to be moved because of the stream; therefore, the size of the parking spaces have to be adjusted in order to accommodate that. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Conditional Use Permit request to allow hemp processing to be located at 201 Poplar Street – Applicant: WKH Farms: Candace Dowdy explained that Joseph Kelly with West Kentucky Hemp is requesting a Conditional Use Permit to allow a hemp processing facility to operate at 201 Poplar Street. The current zoning is Industrial and the building is currently being used as warehousing. Candace showed the zoning of the surrounding properties with R-5 (Residential) to the southeast, B-3 (Central Business) to the north and east and G (Government) to the south. Very few changes have been made to the zoning of the area since 1958. Candace clarified that the industrial uses include the on-site extraction or production of goods by non-agricultural methods, storage and distribution of products. She read the section of the ordinance that pertains to this item. This use is only allowed in the Industrial zone as a Conditional Use. Joseph Kelly previously indicated to staff that the business will involve the process of extracting CBD oil from the hemp plants with the plants then being removed from the facility. The plan is to start the operation with one shift that will have a minimum of two employees and a maximum of four; however, depending on the success of their business, the size could double and possibly increase to three shifts which would operate 24 hours a day. The hemp extracting process will not produce any noise outside the building. The storage of the hemp will produce some odor. The property has a paved onsite parking area available which could be striped to delineate the spaces required. Candace added that the building had previously been used by Briggs & Stratton and Angel's Attic for storage.

Chairman Krieb opened the public hearing and asked the applicant to come forward.

Joseph Kelly came forward and was sworn in. Joseph explained that years ago the building had been used as a tobacco warehouse and before that Southeastern Book Company and Hawaiian Tropics were located there. The hemp that is in the building was harvested the previous year and they had contracts with companies that bought it. The companies didn't honor the contracts so

they were stuck with 350 to 400 thousand pounds of hemp. They are currently renting the building from Cary Brandon until they find a better solution. With the current market conditions, it is hard to market a harvested hemp plant; thus, the decision to extract the CBD oil from the hemp. This would allow them to no longer store anything in the warehouse and get the product to a more usable form to be sold much easier. Joseph lives in Murray and thinks that the location and size of this warehouse is good for them. The hemp has been stored since last October. The extraction of CBD oil will not produce any additional odor than the plants do. The solvent used in the extraction will be recycled and there is no odor with it. On a daily basis, they will be able to remove the hemp from the warehouse and dispose of it outside the city. There could be 3 to 4 trucks there a day for a month or so until they get the excess cleaned up. According to state regulations, they are required to have the same type of permitting as a restaurant. Ideally you would extract the CBD oil as soon as the hemp is harvested and dried and would not be storing it for years at a time. Their intent is to extract all of their hemp and help some other farmers that have been affected by the unhonored contracts. If this procedure proves profitable and successful for them, they will look at bringing in outside biomass to extract. Ethanol in 275-gallon totes will probably be used in the extraction process. Joseph thoroughly explained the drying process, safety measures and disposal of the hemp plants. He said that he was not aware of any complaints regarding the odors until a couple of weeks ago. The person that rented the building before him was using the facility to dry hemp. He noted that processing and drying are two different procedures. The drying phase leaves a very bad odor where the extraction of CBD oil does not. Joseph described the type of people they would be looking at hiring and the training involved. He said that no formal certification is required.

Chairman Krieb asked if there was anyone that wished to speak in favor or opposition to this request. No one came forward to speak in favor.

Candace read a summary of a phone call she received from Alan and Barbara Jones that live on Elm Street. They were in strong opposition to the request. Mr. Jones said that he is tired of the "skunk like" smell that comes from the hemp as well as the loud noises that come from the building. He indicated that the smell is pulled into their home by their air condition unit. Mr. and Mrs. Jones have medical conditions and they think that the smell affects their health. *(The summary notes were submitted as Exhibit A.)*

Joseph was given an opportunity for rebuttal. He said that he believed the noise was generated when the previous occupant used generators and dehumidifiers for the drying process. None of that equipment is there anymore and hasn't been since 2018.

Raymelle Mayfield, Rosa Hudspeth, Sheila Sullivan, Terry Hart and Danny Hudspeth came forward individually and were sworn in. They all spoke in opposition to the request. The primary reason for their opposition was the disgusting smell. Ms. Mayfield thought that this odor producing industry should be moved outside of the City Limits; not around residential areas, the downtown or church areas. Rosa said that she is all for progress. If this will help provide jobs and the CBD oil help improve people's health that is good; however, the smell is terrible and she has never experienced anything like it before. The smell is there from the time you get up until the time you go to bed. The smell is in your house and it is there while you are eating a meal. You can't enjoy sitting outside. Rosa said the only reason that she didn't complain before was

that she kept getting reports that it wasn't going to be there that long. When the actual drying process was going on in 2018, you could hear the noise all night long and the smell was worse than it is now. She does not think that anyone would want to live next to anything with that smell. Sheila Sullivan lives a couple of blocks away and the smell travels to her home on South 6th. She has rental properties in the area also and her husband operates a business in the area. Ms. Sullivan said that when the doors are opened to the warehouse, even when they are not drying it, the smell escapes. She suggested that the Board members go there to experience the smell. Terry Hart owns Murray Lumber. He stated that last October the smell traveled over a block away. It would be a daily thing. Customers would ask about it when they came into his business. This year during the past month, he has only smelled it once when he went outside. Terry also owns rental property near the warehouse. He said that the renter complained about two years ago about the smell, but he hasn't heard much out of him this year. Terry concluded that he would not want to hinder any farmer from making a living, but as a business owner in that area, he does not want that smell. Danny Hudspeth lives on Sharp Street, but owns property in the vicinity of the warehouse. While visiting his sister and brother (who live in the area) around October of 2018, he noticed the terrible smell. He drove around until he found out where the smell was coming from and discovered that they were drying hemp at this facility. Danny said that he called Jim Osborne the next day to ask him why this facility was in that area. He thinks the answer was that they just rented the warehouse and put the business in there without coming before the Board. Danny reiterated what the others had said that the smell was terrible. They are trying to bring a hemp processing plant into the City Limits. This is not something that can be taken care of by putting up a fence or landscaping. The smell permeates into peoples homes and causes their way of life to be diminished. Danny added that Joseph has answered all the questions that were asked of him, but they still do not know going forward what it will be like. This business should be located in the rural area and not a residential area.

Joseph came forward to give a final rebuttal. He recognized that the smell seemed to be the issue with the process. He reiterated that would not be the issue with this process. He is in favor of putting conditions on this request that drying the hemp could not take place at this location. The only thing that Joseph has done in that building is to bring in a dry crop last October. The hemp is stored in big plastic bags and obviously with the doors open, there will be some smell escaping. By processing and extracting the CBD oil there will be less and less hemp on site every day. He will not be bringing anything else in this year. It could be a year or more before any more hemp will be brought into that building. Joseph named other cities in Kentucky that have facilities within the city limits that are extracting CBD oil. He suggested they reach out to the other cities and get their opinion on the process. He said that there is no other building this size in Murray that would accommodate them in this industry. They have talked about building a facility with other farmers, but since this is relatively new and cost prohibited, they think it would be better to rent a facility to begin with. They have checked for a building in Paducah; however, they would rather keep the product in Murray. It could take 60-90 days to get everything ready to start. Some electrical work will need to be done and a small build-out. One shift would allow them to do 800 to 1,000 lbs. with that same amount expected for second and third shifts. Two box trucks of equipment will be needed to get the facility ready.

Chairman Krieb closed the public hearing and turned the item over to the Board for further discussion and a motion. Mr. Krieb stated that since there are other such facilities located in the

state, he thought it would be advisable to reach out to them for comments they may have from their experience of a facility such as this in their city. This could provide a feel for the noise, smell, truck traffic and other issues that have come up.

Mike Faihst said that he has been around the building three times since they received their packet. He said that there are a lot of other odors that come from other facilities at various times and that the smell at this facility is not as bad as the hemp fields that he has smelled.

Mike Faihst made a motion to table the item until next month until they can get some information from other cities that are already processing. Carmen Garland seconded the motion and the motion carried with a 6-0 roll call vote.

Chairman Krieb asked the staff to get additional information from other cities before the next meeting.

Questions and comments: Chairman Krieb said that there was a question the night before at the Planning Commission meeting concerning continuing education. He said that he understood that the State had put an extension on continuing education because of the Covid-19 virus this year. Candace stated that she had not received anything in writing regarding that. She said that she had contacted them earlier in the year when the pandemic started and was told that everything had been put on hold. When David Pike was here a few weeks ago, he told her they were trying to start things back up. She said that she would try to reach him this week to get an answer to where everything stands at this point.

Mike Faihst made a motion to adjourn. Bobbie Weatherly seconded the motion. The meeting adjourned at 5:44 pm.



Chairman, John Krieb



Recording Secretary, Reta Gray