

**MURRAY BOARD OF ZONING ADJUSTMENTS MINUTES
FEBRUARY 16, 2005**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, February 16, 2005 at 4:30 p.m. in the council chambers of City Hall located at 104 N. 5th Street.

Board Members Present: Ed Davis, Scott Seiber, Helen Spann and Bill Whitaker

Board Members Absent: Andy Dunn, Red Howe and George Stockton

Also Present: Candace Dowdy, David Roberts, Sam Perry, Mike Pitman and public audience

Chairman Whitaker called the meeting to order and welcomed the guests. Chairman Whitaker asked for any corrections to the January 19, 2005 minutes. **Scott Seiber made a motion to approve the minutes with a minor correction. Bill Whitaker seconded the motion and it carried by a 4-0 voice vote.**

Previous to the first agenda item: Candace Dowdy stated that the board had tabled a dimensional variance application for signage for Video Gold at 1206 Chestnut Street on February 20, 2002: Candace Dowdy stated that the item had been tabled and needed to be removed from the table due to Video Gold not pursuing the signage. Ms. Dowdy stated that the planning department would file the application, even though no action was ever taken by the board.

Public Hearing To Review Conditional Use Application For Up To Four Non-Related Persons to Occupy The Premises In An R-2 (Single-Family) Zone at 803 North 17th Street—Rick and Pam Jones: Mike Pitman stated that Rick and Pam Jones wished to withdraw their conditional use application.

Dimensional Variance Request For Front And Side Setbacks And Parking Requirements at 311 Chestnut Street—Thomas Hornbuckle: Sam Perry stated that Thomas Hornbuckle operates a residential care facility at 311 Chestnut Street. Mr. Perry stated that there is currently one resident and Mr. Hornbuckle wished to expand the facility to accommodate up to four (4) residents and one (1) additional bathroom. Mr. Perry stated that Mr. Hornbuckle was requesting a 12'-3" front setback variance and a 3'-6" side setback variance, and possibly a parking variance. Mr. Perry explained that KRS 100.984 prohibits cities from requiring a conditional use permit for these facilities, even though they are for-profit facilities. Mr. Perry stated that the State of Kentucky is in the process of closing large, institutional homes for the handicapped because smaller, congregate facilities are more beneficial to the handicapped person. Mr. Perry stated that the residents are only there at night and one employee is present to provide assistance with food and sleeping arrangements. Mr. Perry also stated that there is a 3-11 shift and a 11-7 shift. Mr. Perry displayed pictures of the home from different angles as well as aerial photographs of the area. Ed Davis asked if the lot next door was vacant. Mr. Perry stated that it was not. Scott Seiber asked what the dimensions of the lot were. Mr. Perry stated that based on a survey done in 1981 the lot is 70'x82'. Chairman Whitaker stated

that based on the proposed addition, the lot coverage would be 28%, under the maximum of 50%. Scott Seiber asked if the building would have to meet building code. David Roberts stated that it would. Mr. Perry stated that these facilities were inspected once a year by the Kentucky Department of Mental Retardation. Candace Dowdy stated that the residents living there do not drive, but the planning department would require off-street parking in the case that the home is transferred to standard multi-family residential living in the future. Chairman Whitaker swore in Thomas Hornbuckle. Chairman Whitaker asked Mr. Hornbuckle if more traffic would be created with this addition. Mr. Hornbuckle stated that there would only be one (1) or two (2) cars on the premises at a time, because community transportation was provided. Helen Spann asked what the contract term was with the Department of Mental Retardation. Mr. Hornbuckle stated that there was a yearly inspection that allowed them to continue operation. Scott Seiber asked Mr. Hornbuckle how many residents he had. Mr. Hornbuckle stated that he had four houses with a total of six residents at this time. Mr. Hornbuckle stated that he intended that this facility be for older folks that needed care for longer terms, both men and women. Helen Spann asked if there was enough room in the rear for a parking lot. Scott Seiber asked if the parking area would accommodate the W.A.T.C.H. van. Mr. Hornbuckle stated that he hoped the van could pull along the front porch without backing out on to Chestnut Street. Mr. Hornbuckle stated that he planned to tear down the outbuilding in the back. Chairman Whitaker stated that it would be difficult to park four cars and a van in the rear. Scott Seiber stated that the van could use the front. Chairman Whitaker asked what could be done about the ditch. Mr. Hornbuckle's contractor stated that a culvert could be used to fill in the ditch entirely. Chairman Whitaker asked for a motion. **Scott Seiber made a motion to approve a 12'-3" front building setback and a 3'-6" side building setback with the property owner to meet city regulations for parking in lieu of the property use changing and that there is to be no vehicular traffic backing out onto Chestnut Street based on the fact that these variances 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.** Ed Davis seconded the motion and the motion carried with a 4-0 vote.

Dimensional Variance Request For A 50' Front Setback Variance On Proposed Addition To The Morningstar Foods Building Located At 100 Chestnut Street—Bill Adams Construction: Sam Perry stated that a 50' front setback variance was requested by Bill Adams Construction for the Morningstar Foods facility at 100 Chestnut Street, for the purpose of a cooler expansion into the current parking lot. Mr. Perry stated that 50' front setback variances were granted in 1989 and 1996 for this property, for the purpose of expansions along Chestnut Street, as was requested tonight. Mr. Perry stated that the previous expansions came within three (3) feet of the property line even though building up to the property line was granted. Mr. Perry showed an overhead of the proposed addition site plan as well as recent pictures of the facility and aerial photographs. Mr. Perry stated that a new employee parking lot had been paved in the rear of the facility. Mr. Perry stated that, based on the plans, the proposed expansion would be within 6'-6" of the property line. Mr. Perry stated that the internal processing of the plant was changing and that the loading dock would be moved to the back of the building in this project. Scott Seiber asked if there would be any entrances from Chestnut Street after the construction. Mr. Perry stated that there would not be any entrances for loading

purposes. Chairman Whitaker swore in Bill Adams. Chairman Whitaker asked Mr. Adams about the entrances off Chestnut Street. Mr. Adams explained that there were currently eight loading docks to the cooler which would be moved to the rear (north side) of the building, and there was a sugar tanker that would continue to use Chestnut Street to access the plant after this construction was complete. Mr. Adams confirmed that all loading/unloading trucks would be moved to the rear with the exception of one truck, the sugar tanker. Mr. Adams stated that employees would enter and exit on the eastern side of the property and that trucks would enter and exit on the west side of the property. Scott Seiber asked what would be left between Chestnut Street and the proposed addition. Mr. Adams stated that there would not be room for anything and that some of the area would be green space and some would be concrete. Mr. Adams stated that the building construction would match the existing Morningstar facility. Scott Seiber asked Mr. Adams if it would be clean all along Chestnut Street, Mr. Adams confirmed that it would. Chairman Whitaker asked for a motion. **Ed Davis made a motion to approve a 50' front building setback variance based on the fact that it 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. Helen Spann seconded the motion and the motion carried with a 4-0 vote.**

Dimensional Variance Request For Additional Signage At 1201 Chestnut Street—Pocket's Shell Station—Carey Alexander: Candace Dowdy stated that the current Pocket's building had "Pocket's" lettering on the north side of the building, and no signage on the east or west side of the building. Ms. Dowdy stated that "Shell" lettering was on the north and south sides of the canopy. Ms. Dowdy stated that there was a six square foot sign that said "exit" on the north side of the car wash building. Ms. Dowdy stated that Pocket's was requesting approval to erect two (2) 4' x 8' backlit signs for the car wash building that would advertise the new car wash technology: one (1) for the east side and one (1) for the north side. Ms. Dowdy presented a powerpoint presentation of the current signage and passed out brochures of the proposed signage. Ms. Dowdy stated that the sign on the east side of the car wash would be visible from 12th Street, once some vegetation was cleared. Ms. Dowdy stated that the car wash was 18' x 34'. Ms. Dowdy stated that based on wall signage limits of 10%, they would be allowed 52 ft² on the east side or 27 ft² on the north side of the car wash building, and that they are actually requesting additional wall signage since only one (1) sign is permitted. Ms. Dowdy stated that Pocket's is also requesting signage for windows on the front (north) side of the building that measure 92" x 48" (30.67 ft²). Ms. Dowdy stated that the total square footage of what Pocket's is requesting for the window signage is 96 ft². Ms. Dowdy stated that Pocket's would like to show the BZA some potential plans for their freestanding sign, but that they are not requesting a variance for it at this time. Ms. Dowdy stated that the freestanding sign is 184 ft² with a total height of 30 ft and that a variance was granted for this in 2001. Ms. Dowdy stated that the future of gas pricing is to advertise one (1) gas price, and that the display would be electronic remote control. Ms. Dowdy stated that the unused panels may be filled in with blanks or possibly put in a sign that relates to the car wash. Chairman Whitaker swore in Chuck Baker. Mr. Baker stated that it was a liability concern that employees had to go out with a very long pole and change the prices in windy conditions. Mr. Baker stated that it could be a year before they would request any changes to the freestanding sign with regards to an electronic

display. Chairman Whitaker asked Mr. Baker which of the requests were most important. Mr. Baker stated that they had made substantial investments in five (5) car washes in the region and are offering a new car wash to the market and price discounts in connection with gas prices, therefore both requests were of equal importance. Mr. Baker stated that they had put white window film on the glass to cover tobacco product fixtures that are unsightly from the outside of the building. Mr. Baker stated that the window sign they are proposing could be seen through from the inside, as a safety feature, but serves as a sign advertising the car wash from the outside. Mr. Baker stated that Pocket's actually functioned on three (3) separate pieces of property, and as three (3) separate businesses: the car wash, the food store, and the gas station. Mr. Baker stated that it was possible to only use one (1) window film sign, and match the coloring with the other two (2) windows. Candace Dowdy stated that the proposed sign regulations limit window signage to 25%. Chairman Whitaker asked for a motion. **Scott Seiber made a motion to approve one (1) additional 3'x6' (or smaller) wall sign on the car wash, and one (1) wall sign for the window on the north side of the main building contingent upon the removal of the "Pocket's" lettering on the trim above the window based on the fact that it 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. Ed Davis seconded the motion and the motion carried by a 4-0 vote.**

Chairman Whitaker asked for any other questions or comments.

Mike Pitman stated that the Corn-Austin signage removal was complete. Mr. Pitman stated that the asphalt plant litigation was pending and was waiting on the judge to decide. David Roberts stated that plans had been submitted to the planning office for construction of a parking lot for Dr. Muehleman, showing 21 parking spaces. The plans had been reviewed and returned to the engineer, Kim Oatmen, for minor corrections. Mike Pitman stated that the cellular antenna regulations came before the Planning Commission last night and that a citizen had made some valuable comments regarding tower abandonment and setbacks.

Being of no further business the meeting adjourned.

Chairman, Bill Whitaker

Recording Secretary, Sam Perry