

**MURRAY BOARD OF ZONING ADJUSTMENTS MINUTES  
REGULAR MEETING  
WEDNESDAY, JUNE 22, 2005**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 22, 2005 at 4:30 p.m. in the council chambers of city hall at 104 North 5<sup>th</sup> Street.

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

**Board Members Absent:** Andy Dunn

**Also Present:** Candace Dowdy, David Roberts, Sam Perry, Mike Pitman, Mayor Rushing, Donnie Winchester, Paul Randolph, William Call, Bill Cavins, Brandon Cavins, Laurie Rollins, Eddie Rollins, Doug Lawson, Richard Vanover, Bob Hargrove, Heidi Shultz, Phillip Moore, Jean Koren, Gene Schanbacker, Priscilla Schanbacker, Eddie Sheridan, Dawn Sanders, Michael Russell, Sue McCoart and other public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed the guests stating that the meeting was of unusually high attendance and briefed the audience on meeting procedures. Chairman Whitaker asked for approval of the May 11, 2005 regular meeting minutes. **Scott Seiber made a motion to approve the minutes as presented. Helen Spann seconded the motion and the motion carried with a 5-0 voice vote.** Chairman Whitaker asked for approval of the June 7, 2005 special meeting minutes. **Scott Seiber made a motion to approve the minutes as presented. George Stockton seconded the motion and the motion carried with a 5-0 voice vote.**

**Public Hearing For Conditional Use Permit For Outdoor Storage of Merchandise For Keepsake Monuments In A B-3 Zoning District—300 South 4<sup>th</sup> Street—Donnie Winchester:** Sam Perry stated that the property was located on the southwest corner of South 4<sup>th</sup> and Poplar Streets and that Mr. Winchester was currently operating as Raceway Auto Sales. Mr. Perry stated that Mr. Winchester would like to store and sell monuments made by Keepsake Monuments company, who was recently closing down another retail outlet in the area. Mr. Perry stated that one monument was being used as a sign out near the intersection. Mr. Perry showed pictures of the office building, monuments and signage. Mr. Perry stated that the current Raceway Auto Sales sign appears to be hanging into the right of way and there is only 7' of clearance from the bottom of the sign to the sidewalk. Mr. Perry stated that there is a sign permit for that sign and that it is unsure at this time where the edge of the right of way is. Mr. Perry stated that staff is considering the monument to be a second freestanding sign. Candace Dowdy stated that once the right of way is established Mr. Winchester would have to provide a way to keep the vehicles from parking over the sidewalk and into the right of way. Mr. Perry stated that approximately a 20 square foot wall sign would be permitted on the office trailer.

Chairman Whitaker opened the public hearing. Chairman Whitaker swore in Donnie Winchester. Chairman Whitaker asked Mr. Winchester if he wished to use more signage. Mr. Winchester stated that the monument would be sufficient. Mr. Winchester stated that city staff marked the location for the Raceway Auto Sales sign in the 1980s. Mr.

Winchester stated that he would not need any more space than what he is currently using for outdoor storage of monuments. Mr. Winchester stated that as a small business he needed to diversify as other used car lots in Murray have done. Mr. Winchester stated that he has talked to neighbors and none are in opposition. Chairman Whitaker asked how many monuments were stored outside. Mr. Winchester said about 13. Chairman Whitaker asked if the monuments were causing a problem close to the property line. Mr. Perry stated that they were not. Mr. Winchester stated that they were about six (6) feet from the property line. Scott Seiber asked how long he would continue this venture. Mr. Winchester stated that none have been sold yet, but that time will tell the success.

Chairman Whitaker swore in Eddie Rollins. Mr. Rollins is in charge of investigations at the Murray Police Department, a neighboring property. Mr. Rollins stated that Mr. Winchester has been a good neighbor and been very helpful in loaning vehicles for undercover use. Helen Spann asked if there were two issues or one. Ms. Dowdy stated that there were 2 (two): the conditional use permit and the additional freestanding sign. Mr. Perry stated that the Raceway Auto Sales sign is hanging within seven (7) feet over the sidewalk and he would like the sign moved or at least raised. Ms. Dowdy stated that the monument will need to be 10 feet off the right of way, without a setback variance. Mr. Winchester stated that he would not move a sign that he was given permission to put there almost 20 years ago. Ms. Dowdy stated that the sign could be made to project back away from the street so it is not over the sidewalk. Mr. Seiber stated that he would like to see the sign raised as much as possible, without having to move it. Mike Pitman stated that he would consider the sign to be pre-existing, non-conforming. Mr. Perry asked Mr. Winchester if he would paint the sign pole. Mr. Winchester stated that he would. Chairman Whitaker asked for a motion. **[Motion 1] Ed Davis made a motion to approve the conditional use permit for outdoor storage of merchandise with the conditions: limited to 15 monuments, to be displayed in an area no larger than 15' x 20', south of the current office building and that the Raceway Auto Sales sign is raised to the maximum height possible. George Stockton seconded the motion and the motion carried 5-0. [Motion 2] Scott Seiber made a motion to approve a second freestanding sign with 10 foot front and side setback variances, contingent upon the location of the right of way being located according to the state and that the sign be monument-type, based on the facts that it will not adversely affect the public health, 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 the requirements of the zoning regulations. George Stockton seconded the motion and the motion carried with a 5-0 vote.**

**Dimensional Variance Request For 10' Side Setback Of Fence—919 Sycamore Street—Paul Randolph:** Sam Perry stated that a variance for the garage to be located within 8'-6" from the street was granted by the board in 1959. Mr. Randolph would like to erect a 4' decorative fence in place of the existing hedge. Mr. Perry stated that Mr. Randolph had the property surveyed and that the garage actually extends into the right of way 20". Mr. Perry stated that the city has agreed to grant an encroachment permit for the fence to be erected in the right of way, since there are no utilities on that side of the street, as long as the board would grant a 10' setback variance because of the close proximity to the street. Mr. Perry stated that the property line is 8' from the edge of

pavement next to the garage, and 10' from the edge of pavement on the southwest corner of the property. Mr. Perry stated that the fence would not extend towards Sycamore Street. Mr. Perry stated that removing the hedge would actually improve the sight distance coming out of the garage. Chairman Whitaker asked why the city staff would allow a fence to be located in the right of way. Mr. Perry stated that allowing the fence in the right of way was cleared with the city attorney. Mr. Perry also stated that the property owner may not put up the fence at all, if the variance was denied. Chairman Whitaker swore in Paul Randolph. Chairman Whitaker asked Mr. Randolph why he could not put the fence on the property line. Mr. Randolph stated that it would not look as good and the garage is already extended that distance. Chairman Whitaker stated that although the mistake was made in the past to allow the garage in the right of way, it does not have to be done again, by allowing a fence. Mr. Randolph stated that the fence would be less maintenance than the hedge. Chairman Whitaker asked Mike Pitman, legal counsel, how the board had the authority to grant permission for something to be constructed in the right of way. Mr. Pitman stated that the city would have to grant an encroachment permit, not the board. Mr. Perry stated that the board could place the encroachment permit as a contingency on the variance. Mr. Perry stated that Warren Hopkins, city attorney, commented that the site distance was the only concern and that would improve with the removal of the hedge. Scott Seiber stated that he is uncomfortable approving something that would compound an existing problem. Helen Spann asked if any fence would extend toward Sycamore Street. Mr. Randolph said that it would, just up to the driveway, not past it. Scott Seiber stated that although he is concerned with protecting the right of way, he is inclined to allow the variance as requested, because it will help, more than hurt the situation. Ed Davis asked if a commitment had already been made to grant the encroachment permit. Mr. Perry stated that it had, verbally. David Roberts stated that it is the city's preference for it to be on the property line, but that Mr. Randolph persistently requested locating the fence within the right of way; and with the current position of the hedge, it could improve the situation. **[Motion 1] Scott Seiber made a motion to approve a 10' side setback variance for the fence contingent upon the hedge being removed, based on the facts that the sight distance will be improved, that it will not adversely affect the public health, 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 the requirements of the zoning regulations. Ed Davis seconded the motion and the motion failed by a vote of 2-3. Helen Spann, George Stockton and Bill Whitaker voted no.** Mr. Randolph stated that he was willing to put the fence on the property line. **[Motion 2] Scott Seiber made a motion to approve a 10' side setback variance for the fence contingent upon the hedge being removed, the city not granting an encroachment permit for the fence to be located within the right of way and based on the facts that the sight distance will be improved, that it will not adversely affect the public health, 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 the requirements of the zoning regulations. Ed Davis seconded the motion and the motion carried with a 4-1 vote. Helen Spann voted no.**

**Public Hearing For Conditional Use Permit For Up To Two Non-Related Persons To Reside On The Premises At 1302 Farris Avenue—Bill Cavins: Candace Dowdy**

stated that the property is zoned R-2, single-family residential. Ms. Dowdy stated that it was brought to the staff's attention that the property was possibly being used as multi-family and the owner was sent a letter on May 5, 2005. Mr. Bill Cavins responded by phone on May 9, 2005 and completed the paperwork to get on the agenda for the June meeting. Mr. Bill Cavins owns the property and his son lives there. Ms. Dowdy stated that there has only been one other person that has been living there, to the staff's knowledge. Ms. Dowdy pointed out on slides, the vacant lot that Mr. Bill Cavins owns on the corner of North 13<sup>th</sup> Street and Farris Avenue. Ms. Dowdy stated that all adjacent property owners were notified and one property owner stopped by the office asking about the procedures of processing the application and thought that it had already been approved. Ms. Dowdy stated that Barbara McClure, who owns the property across the street, had informed our office that she had no opposition to the request. Ms. Dowdy stated that there had never been any conditional use permits that have been granted on Farris Avenue and there are not any properties being used as multi-family on Farris Avenue, to the city's knowledge.

Chairman Whitaker instructed the audience on procedures of a public hearing. Chairman Whitaker opened the public hearing. Chairman Whitaker swore in Mr. Bill Cavins. Chairman Whitaker asked Mr. Bill Cavins to make an opening statement. Mr. Bill Cavins stated that the reason the yard was disturbed was because of a recent sewer pipe replacement due to faulty clay pipe. Mr. Bill Cavins stated that his intention was not to create a profitable rental house, but to provide rent-free boarding for a personal friend of his son's. Mr. Cavins stated that the young man did help with utility costs. Mr. Bill Cavins stated that the young man moved in for one semester and they would like him to be able to move back in this coming semester because the house is a three (3)-bedroom, two (2)-bath house. Mr. Bill Cavins stated that he is here tonight for the benefit of the young man, Joey. Mr. Bill Cavins stated that Mrs. Koren, from across the street, had written a letter stating that she had not had a problem with the boys. Mr. Bill Cavins stated that there was one instance where the police came and asked them to turn the music down, but that was before Joey moved in. Mr. Bill Cavins stated that to his knowledge there had been no other issues, but commented that the boys did tend to behave like college boys.

Chairman Whitaker asked if there was an opening statement from those in opposition to the application. Chairman Whitaker swore in Phillip Moore.

Mr. Moore stated that he lived at 1303 Olive Boulevard and represented the Olive Boulevard Association, which compose about 20 families on Olive Boulevard. Mr. Moore stated that this was not a personal issue, but that they liked the neighborhood the way it was and did not want a precedent to be set by the approval of this conditional use permit. Mr. Moore presented a petition (Exhibit 2) from nearby property owners, which opposed the conditional use permit.

Chairman Whitaker swore in Jackie Koren. Ms. Koren stated that she lived across the street from the applicant. Ms. Koren stated that the Cavins' helped her when she moved in and that she admires Brandon Cavins for helping an African-American young man by providing free housing. Ms. Koren stated that she may see things differently because her

son is also African-American. Ms. Koren stated that Brandon has been a good neighbor to her in many ways and suggested that neighbors come together to talk instead of bringing a petition against one another. Ms. Koren stated that her husband could not be present and presented a letter from him in support of the application (Exhibit 1).

Chairman Whitaker swore in Gene Schanbacher. Mr. Schanbacher stated that he had met Brandon Cavins and liked him, so this was not a personal issue. Mr. Schanbacher stated that he lived at 1314 Farris Avenue. Mr. Schanbacher stated that this multi-family request goes against the integrity of Farris Avenue and does not improve the area. Chairman Whitaker swore in Eddie Sheridan. Mr. Sheridan stated that he lived at 1307 Farris Avenue and had not had any problems, nor had met Brandon Cavins. Mr. Sheridan stated that he is new in the neighborhood and did background work, which included checking the zoning prior to purchasing the home. Mr. Sheridan stated that there were two young children in his family and he thought that single-family zoning would be ideal for his family and would not like to see a precedent set by approval of this permit. Chairman Whitaker swore in Dawn Sanders. Ms. Sanders stated that she lived at 1311 Farris Avenue. Ms. Sanders stated that she had not met Brandon Cavins, but would like to point out that parking is difficult, even for single-families.

Chairman Whitaker asked Mr. Cavins if he would like to now present his position. Mr. Cavins stated that he did not realize he was opening a can of worms and that he did not wish to degrade the neighborhood, because that would affect his property value as well. Mr. Bill Cavins stated that the parking problem would be addressed because there is a space next to the carport that can be poured in concrete once the soil settles from plumbing repairs. Mr. Bill Cavins stated that he understood the neighbors concerns and reminded the board that he is not interested in a rental property, he simply wants his son to have a roommate. Mr. Bill Cavins stated that he would not deny that his son has visitors, and that they may park on the street, but other residents might have friends, too, who would park on the street. Mr. Bill Cavins did not see parking as a problem unless the street was blocked or folks could not get to their homes. Chairman Whitaker asked if Mr. Bill Cavins lived at the home. Mr. Bill Cavins confirmed that he did not, that he lived in Crittenden County, but owned properties in Calloway County.

Chairman Whitaker asked if there was anyone who would like to speak in opposition. Chairman Whitaker swore in Priscilla Schanbacher. Ms. Schanbacher stated that parking is a problem because the lifestyle of single individuals is considerably different than those with families. Ms. Schanbacher stated that when there are gatherings at both 1302 and 1305 Farris Avenue it is very difficult to get down the street. Chairman Whitaker asked if anyone else would like to speak in opposition. Jackie Koren came forward again to state that visitors to the Cavins' are parking on their land, including the vacant lot, not on the street. Dawn Sanders came forward again and stated that the parking problems were not directed at any one home, but that if similar conditional use permits were granted up and down Farris Avenue, it would get much worse.

Chairman Whitaker swore in Brandon Cavins. Brandon stated that even with Joey not living there, there would still be people stopping by to visit him. Mr. Brandon Cavins stated that he had more parking than anyone else, because people were parking on the

vacant lot. Mr. Brandon Cavins stated that the folks who have come forward today with problems have never spoken with him to try to resolve any issues, and he wished that they would have before tonight. He was not aware that there were any problems. Chairman Whitaker asked if there had been parties that have caused a disturbance in the neighborhood. Mr. Brandon Cavins stated that the only issue had been in August when there was a back-to-school gathering, and the police came and asked for the music to be turned down. Mr. Brandon Cavins stated that there had not been a complaint since. Mr. Brandon Cavins stated that they did not have major parties, and that he wanted to get along with the rest of the neighborhood. Mr. Brandon Cavins stated that Joey was a help academically, financially and as a friend, but he was willing to accept the fact that he may not be able to live there. Chairman Whitaker asked when he would graduate. Mr. Brandon Cavins stated, December 2006. Scott Seiber asked how long he had lived there. Mr. Brandon Cavins stated, May 2004. Mr. Brandon Cavins stated that Joey moved in, January 2005 and went home for the summer, with hopes of moving back in, in the fall. Scott Seiber asked if he would still have visitors, if the permit was not granted. Mr. Brandon Cavins stated that it would not. Mr. Brandon Cavins stated that he was a single college student and that he would have visitors, because it gets boring living alone. Helen Spann asked if visitors parked on the street. Mr. Brandon Cavins stated that most parked in the vacant lot unless it was wet. Mr. Brandon Cavins stated that there are still people coming to visit him even without Joey living there, and he did not see a problem with that.

Phillip Moore came forward again and reminded the board that this was not a personal issue, simply a zoning issue. Scott Seiber questioned if he would be concerned if he still had visitors coming to see him. Mr. Moore stated that he was not concerned as long as he maintains a non-fraternity-house environment. Mr. Moore stated that he understood Joey's situation, but that the neighborhood was not in the business of providing college housing. Mr. Seiber stated that there was nothing the board could do about college students living in neighborhood. Mr. Moore stated that there was an apartment building on 13<sup>th</sup> Street that was all college students, who were never a problem. Mr. Moore stated that he wanted to see the zoning stay the way it was, for the sake of the neighborhood.

An unidentified woman from the audience came forward and asked if anyone could live anywhere and how these violations are brought forth. She asked if the zoning had to be changed after someone moved in. Sam Perry stated that this was not a zoning change request, and followed to explain conditional use permits. Chairman Whitaker stated that it is confusing because new folks in Murray may not even realize that they are violating an ordinance because they did not find out when they purchased the property.

Chairman Whitaker swore in Michael Russell, 1313 Farris Avenue. Mr. Russell asked if the granting of this permit influenced more similar permits in the same neighborhood. Chairman Whitaker stated that if the entire neighborhood was moving that direction, it could and that permits have been granted on the west side of campus with time limits and other conditions. Otherwise, each property is considered individually, regardless of how it was used with the previous property owner. Candace Dowdy stated that the City Planning Office did have the right to review the conditional use permits regularly to see if conditions are being met, if not, the permit could be revoked.

Chairman Whitaker swore in Sue McCoart, 1312 Farris Avenue. Ms. McCoart asked how the neighbors could get a permit revoked, if it is not in compliance with the conditions. Candace Dowdy stated that the process would begin with notification, whether it be police, or otherwise. Ms. McCoart stated that she recalls parties and times when whiskey bottles were left out for days at a time. Ms. Dowdy stated that a phone call could be made to the City Planning Office, with regards to any conditions not being met and that staff would follow up on the complaint. Chairman Whitaker asked if anyone else wished to speak. Being none, Chairman Whitaker closed the public hearing.

Chairman Whitaker commented that he appreciated the patience of everyone and that there were obviously some very important decisions regarding lifestyle, to be made tonight. Chairman Whitaker stated that this is a very difficult decision for him and that in his entire time of serving on the board, he has never seen a situation like this, where the request is only for two non-related people and no rent is being paid. Chairman Whitaker stated that he also understands that adjacent property owners do not want to live next door to multi-family housing. Helen Spann stated that although she does appreciate the concerns on both sides, the Cavins' will be under much tougher restrictions than if he were to live there by himself. Ms. Spann commented further that if the permit is not granted than he is basically free to continue doing what he has been doing which is annoying to the neighbors. Scott Seiber agreed that was the dilemma. Ms. Spann stated that if it is granted than there would be conditions placed on Brandon Cavins' lifestyle. George Stockton stated that there is a zoning regulation in this situation, and it is possible that the neighbors have located in this area because of that very regulation. Mr. Stockton stated that he felt that needed to be protected. Scott Seiber stated that it was difficult for him, because he lived in the exact same situation himself, when he was in college. Mr. Seiber stated that he also lived on Wells Boulevard, near campus, and he realizes the concern of the neighbors. Mr. Seiber stated that regardless of what the board might say, he felt the tendency was to consider granting similar permits, after one in the same area is granted. Mr. Seiber agreed that parking was a concern on Farris Avenue. Chairman Whitaker asked for a motion. **George Stockton made a motion to deny the request based on the fact that non-related persons residing on the premises is not a permitted use. Ed Davis seconded the motion. The motion carried with a 4-1 vote. Helen Spann voted no.**

**Public Hearing To Review Request For The Operation Of A Coffeeshop As A Conditional Use In An R-4 Zoning District—1506 Chestnut Street—William Call:**

Ms. Dowdy stated that this property is currently the Lifehouse Crisis Pregnancy Care Center, owned by Murray Christian Fellowship, next door at 1508. Ms. Dowdy pointed out on aerial photography the Murray State parking lots nearby and the neighboring zoning districts, noting that these are the only two properties in the area zoned R-4, with the exception of the nearby Baptist Student Union, across Waldrop Drive. Murray State property, zoned Government, surrounds these two properties. Ms. Dowdy commented that Lifehouse is in the process of constructing a new building and will be moving out. There are currently two apartments upstairs, occupied by a total of two (2) people. Ms. Dowdy stated that a coffeeshop is not listed as a permitted or conditional use in the R-4 zoning district, but "restaurant and similar activities" is listed as a conditional use in the

R-5 zoning district, so staff considered rezoning. Ms. Dowdy stated that after weighing all factors, there did not seem to be an advantage in rezoning the property to R-5 just for this proposed use. Ms. Dowdy stated that the Planning Department decided to let the Board of Zoning Adjustments make an interpretation as to whether a coffeeshop could fit as a conditional use as well in the R-4 zoning district. Ms. Dowdy stated that Mr. Call has spoken with the building official and the fire marshal and site plans had been submitted showing the interior renovations that would take place for the project. Ms. Dowdy stated that the coffeeshop would be open to the public and there would not be any cooking on site, just various coffees and pastries. Ms. Dowdy stated that although the property at 1506 Chestnut is on a separate lot from the Murray Christian Fellowship house, the parking and ingress/egress was being considered at the same time, since they would affect each other. Ms. Dowdy stated that there was one point of access for each property with the drive at 1506 being very narrow, at 9' wide, and the drive at 1508 being 10' wide. Ms. Dowdy presented slides of the site, showing pictures of parking and access points. Ms. Dowdy explained that there was joint gravel parking in the rear and that the properties were sharing an entrance/exit. Ms. Dowdy stated that Murray Christian Fellowship (MCF) houses four (4) students on the premises. Ms. Dowdy stated that the gravel parking in the rear could be extended to the rear lot line and spaces designated. Ms. Dowdy stated that the parking requirements for the coffeeshop would be 18 spaces, based on occupancy load and the number of residents residing on the premises. Ms. Dowdy stated that the minutes from the 1971 conditional use permit for MCF read that 12 cars could be parked in the driveway, and that a turn-around was made in the back so that cars could head out in a forward motion instead of backing out into the street. Ms. Dowdy commented that it seemed questionable that 12 cars could park in the driveway. Scott Seiber asked if the driveway was the same way as it is now. Ms. Dowdy stated that was unknown. Ms. Dowdy stated that staff recommended that the access at 1506 be made an entrance and the access at 1508 be made an exit because of the extremely narrow width of both. Ms. Dowdy also recommended that the two concrete slab parking spaces be extended to accommodate aisle clearance. Ms. Dowdy stated that staff did not see a problem with a coffeeshop at this location. Ms. Dowdy commented that although the majority of customers will be walk up, staff felt that parking requirements still should be met because it would be open to the public. Ms. Dowdy stated that MCF only has meetings at night and that there is parking available at any MSU parking lot after 4:00 p.m. Scott Seiber asked if the two properties only had one access point each. Ms. Dowdy confirmed that was true. Chairman Whitaker questioned if there was any access directly from these properties to MSU property. Ms. Dowdy stated that there was not and that there was a significant grade in the rear of the property that would prevent such. Scott Seiber asked what the seating capacity was. Ms. Dowdy stated that it was 31. Chairman Whitaker asked if the parking lot in the rear would have to be paved. Ms. Dowdy stated that it was discussed with Mr. Call, and that the zoning ordinance requires that any time a site is enlarged or expanded to provide for five (5) or more vehicles, or to contain more than 1,800 square feet of area, that they are required to be paved within one year, although parking spaces will have to be delineated during construction.

Chairman Whitaker swore in William Call, Chairman of the Board of Directors of Murray Christian Fellowship. Mr. Call stated that this project is being proposed as part of the MCF campus ministry. Mr. Call stated that Lifehouse also originated as a MCF

ministry and that at a point, it was successful enough to separate from MCF and is now changing locations. Mr. Call stated that is now why they are looking at doing a new ministry with the facility, once Lifehouse moves. Mr. Call stated that he felt the coffeehouse would be a witness to the campus and also provide a safe environment for students to come and enjoy a cup of coffee between classes. Mr. Call stated that they do have a young man in mind to manage the coffeehouse for MCF. Mr. Call stated that plans are to turn the management over totally to this young man and to watch it grow. Scott Seiber asked if the driveways could be widened. Mr. Call responded that the east driveway could be widened to 10', because 9' is a little narrow. Mr. Seiber agreed. Mr. Call stated that the majority of their customers will walk over from the dorms, but he understands that there are requirements for businesses and he is willing to comply. Mr. Call stated that he was willing to designate one access as an entrance and one as an exit.

Mr. Seiber asked what the hours of operation would be. Mr. Call stated that the potential manager would be planning to open late morning to late night, possibly not opening until 2:00 p.m. Mr. Call stated that they were not marketing to the morning coffee crowd. Mr. Seiber asked if a business plan had been discussed. Mr. Call responded that was the first thing that was done. Mr. Call stated that three options for the building were agreed upon by the board of MCF: additional housing for MCF students, a coffeehouse and more office space. The coffeehouse was ranked the highest of the three, because it had the most potential for ministry outreach. Mr. Call stated that the potential manager visited other coffeehouses in the region to learn the details of how others operate.

Scott Seiber stated that he would prefer not to have the handicap parking space in the front of the building because of the reduction of green space and landscaping. Mr. Call stated that it could be relocated behind the building even though it would reduce the number of spaces by one, and be a little more costly because a ramp would have to be constructed to the front entrance. Mr. Seiber asked about the slope of the property. Mr. Call stated that there was significant slope from front to rear and that was why the parking was laid out the way it was.

Chairman Whitaker stated that he did not see a problem with making the interpretation that a coffeehouse would be a valid conditional use because it seems to fit with the other conditional uses, regarding parking and traffic flow. George Stockton asked if the Carlin's restaurant that used to be on the corner changed the zoning of the area. Candace Dowdy stated that corner was B-2 before it was purchased by MSU. Ms. Dowdy stated that staff felt that rezoning the property to business was not really appropriate because the property was also being used as residential and MSU surrounds the property. Helen Spann questioned that the zoning ordinance permitted the mixed use because mixed use in a business zone was only allowed as conditional use for the business owner or manager. Ms. Spann asked if there would be any cooking in the coffeehouse. Mr. Call stated that it would only be warming of food with a microwave or similar and that they had spoken with the Health Department about that. Ms. Spann asked about the fire ratings for the mixed use. Mr. Call stated that there is an exterior stair that is the primary entrance and exit for the upstairs residents and that there is a secondary means of ingress/egress through the 1<sup>st</sup> floor. Ms. Spann asked how many restrooms were on the

1<sup>st</sup> floor. Mr. Call stated, one, and that is all that is required for occupancy loads less than 50.

Chairman Whitaker asked for a motion. **Scott Seiber made a motion to approve the conditional use permit for the MCF coffeeshop in an R-4 zoning district, suggesting that the 9' driveway be widened, with the conditions that the handicapped-accessible parking space be located in the rear of the building, extend the length of the two parking spaces off of the entrance driveway to provide sufficient aisle clearance and the project meet all city regulations, with a one-space parking variance due to the moving of the handicapped-accessible space to the rear of the building and thus interpreting that although the specific use of a coffeeshop is not indicated as a conditional use in the R-4 zoning district, it is consistent and appropriate with other businesses that are listed. Helen Spann seconded the motion and the motion carried with a 5-0 vote.**

**Request For Interpretation Of Zoning Ordinance Section III, Article I (G) (1), Regarding Financial Institutions On Construction Signs:** Candace Dowdy read Section III, Article I (G) (1), regarding signs permitted in all zones and districts: *Temporary signs not exceeding 32 square feet in surface area, for architectural, engineering, construction, or other similar firms engaged in the work on a construction site and shall be removed at the end of construction.*

Ms. Dowdy stated that historically, no financial institution has erected this type sign on a construction sign, so it has always been considered by staff to be off-site advertising, which is prohibited. Ms. Dowdy showed slides of signs erected in Murray that financial institutions were using as advertising on construction sites in which they were the financing agent. Ms. Dowdy stated that letters were sent to the owners notifying them of the off-site advertising violation. Ms. Dowdy asked the board to interpret whether a financial institution could be considered a similar firm engaged in the work on site, as the ordinance reads. Ms. Dowdy stated that staff enforced a maximum of one construction sign per site. Ms. Dowdy showed slides of signage at the August Moon construction site and the University Shops site. Ms. Dowdy also asked the board to interpret the same for construction signs on residential sites. Ms. Dowdy stated that staff had denied a request for financial institution advertising in a recent subdivision development, Saratoga Springs.

Scott Seiber commented that the construction site would not be there if it were not for the financial institution. Ed Davis agreed. Ms. Dowdy stated that staff is recommending caution in possibly opening up the potential for other businesses to use off-site advertising. Mr. Seiber asked who pays for the signs on the commercial construction sites pictured.

Chairman Whitaker swore in Doug Lawson, Heritage Bank. Mr. Lawson stated that Heritage Bank did pay for the signs pictured. Mr. Lawson stated that they are used as advertising. Mr. Lawson stated that in these situations the signage was part of the contractual agreement. Mr. Lawson stated that they wished to notify the community of the development, signifying progress in the community. Mr. Lawson stated that it also

provides a service to the developer, in assisting filling lease spaces being constructed. Mr. Lawson stated that he did not intend to circumvent the sign ordinance and being new to the community, had read the ordinance, thinking that it would be permitted. Mr. Lawson stated that other banks in Murray are present tonight and agree that these signs show progress and opportunity in the community. Ed Davis asked if the Small Business Administration required the name of the lending institution to be on the sign. Mr. Lawson responded that it was not a requirement, but he has seen it done when they were involved. Chairman Whitaker agreed that without the financing, the project would not continue, and commented that multiple signs on a site could be a problem, but that the types of signs pictured tonight should be allowed. Chairman Whitaker commented that he understood why staff was using caution because businesses can get extremely creative and push the limits of the ordinance beyond its intention. Scott Seiber agreed that multiple signs on a residential construction site are a problem. Mr. Lawson asked if subcontractors were permitted to have a sign on site. Candace Dowdy stated that they were permitted, without a sign permit, but they were very difficult to control. Mr. Seiber stated that the real problem is poorly made, weathered and flimsy signs, which is an aggravation to staff to enforce. Mr. Lawson stated that they can make that a part of their site inspection, to check the sign and that they wish to represent their institution well. Mr. Lawson stated that their intention was not to clutter the community with signs.

George Stockton asked Mr. Lawson how many other contractors they allow to be listed on the sign. Mr. Lawson stated that would be up to the general contractor, because that is who they pay. Helen Spann asked Mr. Lawson if he could label the signs presented tonight with “financed by,” because the public is confused, thinking a new bank branch is being built. Mr. Lawson stated that they could, and did not imagine that problem occurring. Mr. Lawson stated that they simply repeated a similar type sign that is used in other cities in the region. Mr. Lawson agreed that it did cause confusion.

**Ed Davis made a motion to interpret Section III, Article 1 (G) (1), regarding signs permitted in all zones and districts, specifically construction signs, to include financial institutions as “similar firms engaged in the work on a construction site.” Helen Spann seconded the motion and the motion carried 5-0.**

Chairman Whitaker thanked the financial institutions represented for their patience.

**Dimensional Variance Request For One Additional Wall Sign And Size Of Projecting Sign—Crass Furniture / Lulus Home Trends Gallery—103 South 3<sup>rd</sup> Street—Laurie Rollins:** Sam Perry stated that Crass Furniture is changing names and Laurie Rollins is erecting new signage. Mr. Perry stated that a variance for an additional wall sign was granted in 1994. Mr. Perry stated that Ms. Rollins would like to erect a 15.5 square foot projecting sign on the corner of 3<sup>rd</sup> and Maple Streets, which would require a 3.5 square foot variance, from the maximum of 12 square feet. Mr. Perry stated that there is a sign painted on the north wall of the building that would be covered and a new sign planned for that wall, which would not be painted directly on the building. Mr. Perry stated that Ms. Rollins would like to keep signage on the east side, above the loading dock, for delivery identification purposes. Mr. Perry stated that Ms. Rollins is requesting a new wall sign of 72 square feet on the east, which is essentially changing the

name of the sign already there and removing the wording: "Complete Home Furnishings." Mr. Perry stated that 58 square feet of signage would be permitted on the east side. Mr. Perry stated that the canopy area on the west and south sides is going to be renovated, slightly raising the roof line and adding a metal-shake slope. Mr. Seiber asked if the oval sign was measured exactly, or using a rectangular measurement, so the sign would actually be closer to 12 square feet. Mr. Perry stated that 135 square feet would be allowed on the north wall and Ms. Rollins is proposing 126 square feet. Mr. Perry stated that this situation is similar to Etherton Chiropractic wanting signage on the west side, facing 12<sup>th</sup> Street, even though they had a Chestnut Street address. Mr. Perry concluded that Ms. Rollins is proposing a projecting sign, a north wall sign, and an additional east wall sign above the loading dock. Scott Seiber stated that the wall sign on the north could make up for the additional footage on the east. Helen Spann asked what the color scheme would be for the building exterior. Ms. Rollins stated that it would be yellow and green, nothing bright. Candace Dowdy stated that if the vacant property ever developed and blocked the north sign, the sign could be removed. Mr. Seiber asked Ms. Rollins if she had considered getting involved in the Murray Main Street mural project. Ms. Rollins stated that she had attempted using Main Street funding. Ms. Dowdy stated that the mural project had been dropped at this time. Ms. Rollins commented that it would be nice if the vacant, undeveloped lot, on the north side was developed somehow. Chairman Whitaker asked if the projecting sign counted as a wall sign. Mr. Perry stated that it did not, and that they were used in B-3 zones where there was not sufficient right of way for a freestanding sign.

**Helen Spann made a motion to approve a 3.5 square foot variance on the projecting sign, an additional 72 square foot wall sign, with sizes presented, based on the facts that it is in proximity to the court square area, appears to be compliant with the Murray Main Street objectives, that it will not adversely affect the public health, 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 the requirements of the zoning regulations. George Stockton seconded the motion and the motion carried with a 5-0 vote.**

Chairman Whitaker thanked the Rollins' for their patience.

**Ammendment To Section V of the Murray Board of Zoning By-laws Regarding Reimbursement:** Candace Dowdy stated that the current reimbursement for meetings was \$25.00 for a regular meeting and \$20.00 for a special meeting. Ms. Dowdy stated that David Roberts presented a budget that increased the reimbursement to \$40.00 for each meeting. Ms. Dowdy stated that the budget was approved by City Council; therefore it was now brought before the board for approval to change the By-laws. **Ed Davis made a motion to accept the change in By-laws of reimbursement to \$40.00 per meeting. Scott Seiber seconded the motion and the motion carried with a 5-0 voice vote.**

**Being of no further business, Chairman Whitaker made a motion to adjourn. Scott Seiber seconded the motion and the motion carried with a 5-0 voice vote.**

The meeting adjourned at 8:00 p.m.

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Chairman, Bill Whitaker

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Recording Secretary, Sam Perry