

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, MARCH 22, 2017
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, March 22, 2017 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

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

Board Members Absent: Terry Strieter

Also Present: Maurice Thomas, David Roberts, Gerald Gilbert, Bobby Deitz and public audience.

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He then asked for a motion to approve the minutes from the February 22, 2017 Regular BZA meeting.

Mike Faihst made a motion to approve the minutes from the February 22, 2017 Regular BZA meeting as amended. Jim Foster seconded the motion and the motion passed unanimously.

Public Hearing: Dimensional variance for 25 foot front setback for the principal canopy structure located at 1102 Octane Drive – Chuck Baker: Gerald Gilbert (Planning Manager) introduced himself and then presented a brief description of the proposal. The subject site is Lot 1 of the Kennedy Layne Subdivision and is zoned B-2 (Highway Business). A service station is allowed in this zone. The site has been graded and Octane Drive has been constructed. (The Commissioners approved the improvements made to Octane Drive with a motion to accept this street into the City's public street system at the previous night's Planning Commission meeting.) The property is ready for the construction of a proposed gas station. Mr. Gilbert described the gas station/convenience market as a 4,200 square foot retail building with two gas pump canopies with associated parking and landscaping. The larger of the two canopies fronts Octane Drive and will require a variance. The applicant is requesting a 25 foot dimensional variance from the required 50 foot front yard required setback. The request to accommodate a pump canopy facing Octane Drive is due to the orientation of the proposed gas station/convenience market to Octane Drive. Mr. Gilbert explained that in order to grant the dimensional variance request the Board must find that the granting of the variance meets the stipulations listed in § 156.082 DIMENSIONAL VARIANCES (A)(B). The overall plat layout and design is a result of site and area constraints. These constraints include the general triangular shape of the original parcel, as well the area's traffic pattern. Properties fronting Hwy 641N have been designed with a frontage road that serves as vehicular access points; however, the frontage road was not extended through this property due to potential spacing conflicts with the intersection of Hwy 641N and North 4th Street. In lieu of the frontage road, it was decided that Octane Drive would serve as the access for Kennedy Layne Subdivision; thus, eliminating direct access onto Hwy 641N and North 4th Street. Staff believes the property is unique due to its shallow depth and location near the intersection of Hwy 641N and North 4th Street and if the strict enforcement of the front yard setback is followed, the site would be too small to meet the area necessary for the proposed gas station/convenience market.

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

Bobby Deitz (representative of BFW Engineering) came forward and was sworn in. He referenced other gas stations along 12th Street that have canopies that are inside the setback allowance. Mr. Deitz stated that they had come before the board with a similar situation for a proposed gas station that was to be built on South 12th Street and was granted the variance. That gas station/convenience was never constructed. Mr. Deitz explained that it is fairly common to see the canopies setting inside the setback. The canopy is open, very high up and hardly even noticed. The building itself is well outside the setback and the site is fairly open. Basically there just isn't enough room for the canopy. Mr. Deitz added that they had put a left turning lane on North 12th when they built Octane Drive and he does not foresee the state adding a traffic light here anytime soon since there is a light already to the north. Truck paths were discussed and Mr. Deitz said that there were several different scenarios that have been looked at and he does not anticipate the trucks using North 4th Street.

There was no one that spoke in opposition; therefore, the public hearing was closed and the item turned over to the Board for discussion and a motion.

Josh Vernon made a motion to approve the request for a front yard setback variance at 1102 Octane Drive with a variance of 25 feet from the required 50 foot front yard setback. The testimony presented in this public hearing has shown that the granting of this variance to the front yard setback 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. The findings are: Octane Drive is a unique circumstance for the 50 foot front yard setback and the circumstances are similar to other gas stations along Hwy 641. The variance serves the purpose to protect the traffic and visibility through the road because it doesn't align with the adjacent properties and doesn't necessarily create any visual disturbances from having a different setback. The canopy is up high enough that it will not cause a visibility issue and with the shape of the lot the setback would limit the use of the property. Mike Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Questions and comments: Mr. Faihst noted that on the north side of North 4th Street and Octane the road is beginning to washout. Mr. Roberts replied that they will pass that information along to the contractor. Ms. Weatherly commended Gerald Gilbert on the staff report and thanked Maurice for providing copies for the board members. Josh Vernon welcomed Gerald Gilbert.

Chairman Krieb discussed previous staff reports versus the present staff reports. Previous staff reports listed similar situations that went before the board and decisions that had been made along with particular findings. The current staff report does not list these situations. Mr. Krieb asked which type of staff report was more beneficial for the board members. Mr. Roberts explained that the staff reports are available for the public as well as the audios of the meetings. The minutes are only a summary of the meeting and are also available upon request. He continued that Gerald is not from around here and that could be a good thing because he could actually give a different perspective. Mr. Roberts continued that Gerald can take suggestions from the board members, but he is going to leave it up to Gerald as to how he presents the staff

reports. Gerald then shared his point of view towards staff reports. He added that he is here to serve the board members and will work with them. The board's actions give Planning Staff directions to share with developers. In conclusion, the board requested that the staff reports have material only on items that are in close proximity with a close time line for comparison to the subject matter.

A motion to adjourn was made by Mike Faihst and seconded by Jim Foster. *The meeting adjourned at 5:00 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray