

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
THURSDAY, NOVEMBER 17, 2021
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Thursday, November 17, 2021 at 4:30 p.m. in City Hall at 500 Main Street.

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

Board Members Absent: John Krieb

Also Present: Kim Miles, Attorney David Perlow, Marisa Stewart, Dannetta Clayton, Carol Downey, Mark Lynch, Sue Hood and public audience

Chairman Faihst called the meeting to order and welcomed all guests and applicants. Kim Miles called the roll. At this time Chairman Faihst called for a motion to approve the minutes from the regular BZA meeting on October 20, 2021.

Bobbie Weatherly made a motion to approve the minutes from the regular BZA meeting on October 20, 2021 as presented. Paula Hulick seconded the motion and the motion carried unanimously.

Public Hearing: Dimensional Variance request to allow an additional driveway entrance for the property at 708 Payne Street: Marisa Stewart presented the staff report. She showed the pictures of the property before the paving took place (the graveled area and cars parked in the grass), the area after the paving (with the right-of-way and property lines) and the site plan of the area that was paved in front of the residence. Pictures of the surrounding properties were also shown. Marisa reviewed the ordinance section pertaining to this request. Staff received a call from someone in the neighborhood around the middle of October about the parking of vehicles in the front yard at 708 Payne Street. The property owner had removed the grassy area in front of the duplex and put white rock down to create additional off-street parking. The property owner (Mark Lynch) was contacted. He indicated that he had recently purchased the property and that there were college students residing at this location. Mr. Lynch had plans to pave the area for three additional parking spaces. Mr. Lynch indicated that he was unaware of any permits that he would need since the adjoining property at 400 N. 8th Street had a similar parking area. He said that he would stop the paving until the variance was received; however, the paving was completed before he was able to stop the process. The existing driveway is 22 feet wide and the newly paved area is 36 feet wide which totals a 58-foot wide access. Since there is no parking allowed on Payne Street, Mr. Lynch does not have enough space at the street to create two separate entrances at a required 24 feet in width in order to be in compliance with zoning regulations; therefore, he is requesting a dimensional variance to have one access point that is 58 feet in width. Payne Street has a 40-foot right-of-way which puts the back of the vehicles right where the right-of-way line ends and the property line begins. The lot size is

60 feet x 60 feet; thus, making it a non-conforming lot. This additional off-street parking will allow the residents to park in front of the structure. All adjoining property owners were notified. The Board members asked questions at this time.

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

Mark Lynch came forward and was sworn in. Mr. Lynch resides in Louisville. He owns the property in Murray and rents it out. He answered some questions that the Board had about how far the cars pulled up towards the house. He explained that the property is a duplex, not a single-family residence. He has five college students living there and that's why he needs extra parking spots. He was worried about them parking on the street because of the visibility issues when backing out on the street and wanted to get them off the street as soon as possible. When Mr. Lynch bought the property, he noticed that his next-door neighbor had a similar parking area; therefore, he assumed that it wouldn't be a problem with him making the extra spaces. Mr. Lynch wants to make this right and make his property as safe as he can. He has made improvements to the property and is trying to fit in with the neighborhood.

Sue Hood came forward and was sworn in. Ms. Hood spoke in opposition to the request. She indicated that she was the person that called and made the complaint. She has resided on 8th Street for 33 years and she owns property across the street from Mr. Lynch's duplex (which is the only multi-family residence in the area). She noted that he is an investor and does not reside here. She was concerned about Mr. Lynch coming into this community and putting in a parking area (like the neighbor's have) without going through the proper channels. Since she has lived at this location, the existing driveway on Payne seemed to be adequate. She said that the entire front of his property is now paved. Ms. Hood does not think that he should just come in, pave the property and ask for forgiveness. She said that is not the way to do business.

Mr. Lynch came forward to give his rebuttal. His daughter goes to Murray State and she is one of the college students that lives in the house. He explained that the property is not actually big enough to house a duplex with the proper amount of parking spaces that are needed. The duplex was kind of "pigeon holed" on this lot and Mr. Lynch was trying to make the best of the situation and wanted to make sure that the residents had a place to park. As an investor, the property would be worthless to him if there was not enough parking available. He stated that when he purchased the property, there was only one person living there and they had one car. The backyard is only 12 feet deep and has no access; thus, his decision to make the parking in the front.

The public hearing was closed and Chairman Faihst turned the item over to the Board for further discussion and a motion.

Josh Vernon stated that if the Board was reviewing this item prior to the area being paved, he would have big concerns about making a motion and adding the statement that "it won't cause a hazard or a nuisance to the vicinity". He thinks that it does cause a hazard because all five cars could potentially be backing out at the same time. Jim Foster voiced his concerns about the Board making a decision and setting precedence on a property that is non-conforming.

Bobbie Weatherly commented that his type of issue seems to be coming up time and time again; people are asking forgiveness instead of for permission. She continued that it is a privilege to live in Murray and a privilege to go to MSU. The community tries to be friendly to MSU students. When this type of thing happens and neighbors who have lived in the community for well over 30 years find it objectionable, that puts the Board in a really tough spot. The right-of-way is too short behind the cars and the concrete pad is 58 feet wide. There was discussion on how to modify the newly poured pad to make it work.

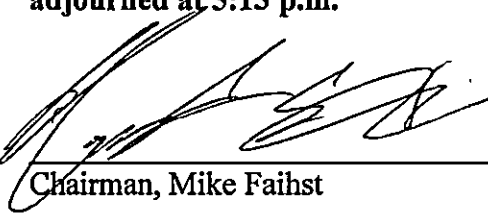
Mr. Lynch said that he fully understands the Board and the neighbor's feelings. Mr. Lynch used the same gentleman to pave his area that paved the property next door. That gentleman indicated that there had been no issues when installing that parking area. Whenever Mr. Lynch got the message that he was not in compliance, the paving had already been done. He agreed to abide with the decision that the Board makes. He concluded that his tenants have less of a hazard and better visibility now when they are backing out on the street.

Josh Vernon made a motion to deny the dimensional variance request to allow the additional 36-foot access point at 708 Payne Street for off-street parking with the findings of fact that the location of the proposed additional parking will cause a hazard and a nuisance to the public on the adjacent street. Jim Foster seconded the motion and the motion carried with a 4-2 roll call vote. Carmen Garland and Bobbie Weatherly voted no.

It was explained to Mr. Lynch that he still could put in a 24-foot additional driveway and have five parking spots only not like he had wanted. Mr. Lynch wanted to know if there was any other paperwork he needed to complete. Dannetta answered that he would need an encroachment permit.

Discussion: Bobbie Weatherly wished everyone a Happy Holiday. Dannetta introduced Carol Downey, the new City Planner. The Planning Department is excited to have her. Chairman Faihst reported that the wall sign at Family Video has been removed, but the JC Penney sign is still up. He added that the house at 411 North 5th Street had been torn down but the concrete footings were left behind. Dannetta explained that that demolition process is still going on. She then noted that JC Penney is in the process of removing their sign. Chairman Faihst wished everyone a Happy Thanksgiving. He then called for a motion to adjourn

Paula Hulick made a motion to adjourn. Jim Foster seconded the motion. The meeting adjourned at 5:13 p.m.



Chairman, Mike Faihst



Recording Secretary, Reta Gray