

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, APRIL 22, 2015
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, April 22, 2015 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Dennis Sharp, Mary Anne Mclock, Terry Stricter, Josh Vernon, and Mike Faihst

Board Members Absent: Bobbic Weatherly

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, Reta Gray, Attorney David Perlow, Officer Tim Fortner, Hawkins Teague, Zach Calhoun, Helen Spann, Janice Hicks, Marcia Dorgan, Cathryn Bogard, Mary Ann Larson and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Several revisions were noted to the minutes from March 18, 2015 regular meeting.

Mike Faihst made a motion to approve the BZA minutes from the March 18, 2015 regular meeting as amended. Josh Vernon seconded the motion and the motion carried unanimously.

Public Hearing: Conditional use permit to allow 4 non-related persons to occupy the premises in an R-2 Zoning District located at 1636 Farmer Avenue – Zachary Calhoun: Candace Dowdy explained that Planning Staff received a complaint in January regarding the possible multi-family use of this property. A letter was sent to the property owners Zachary and Michael Calhoun inquiring as to how the property was being used. Zachary Calhoun contacted the Planning Department regarding the letter and stated that he and his dad owned the property. Mr. Calhoun also stated that he and three other friends lived in the house. Planning Staff informed him of the R-2 zoning regulations and that he would either have to bring the property into compliance or apply for a conditional use permit. All adjoining property owners were notified. When letters were sent out, six out of seven letters were sent to property owners at different mailing addresses other than Farmer. Ms. Dowdy showed a list of previous applicants for similar requests and the decision that had been made by the board on each request. She then explained that Planning Staff only has knowledge of a property being used in a non-compliant manner when they receive a complaint. At that time the information is gathered and given to the Code Enforcement Officer. This particular area seems to be a problem area for the non-compliant housing of students. Office Fortner has been given information about different properties in the area that are possibly being used as multi-family in this single family zone. The City does not currently have a method of finding out if a particular property is being used as rental.

Robert Jeffries passed out copies of an e-mail (to the board members) that was received from Linda Cherry in opposition to the request. *(E-mail was entered as Exhibit A) Attorney David Perlow recused himself during the remainder of the discussion pertaining to this item.* Ms. Dowdy explained the zoning for the area. There was discussion relating to previous issues and conditional use permit requests on Farmer. Ms. Dowdy then stated that there had also been discussion in the past about the rezoning of this particular area because of its proximity to the university and the demand for student housing.

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

Those that spoke in favor of the application were Zach Calhoun and Helen Spann. Mr. Calhoun resides with three other male college students at this home and he is trying to acquire the permit because it would be a huge undertaking to live there alone. When Mr. Calhoun and his father researched the property (before the purchase), they had seen in previous minutes that there was once a conditional use permit granted for that property; however, they were not aware that the conditional use ended when the property changed hands. Ms. Spann owns and rents property across the street to three students who are family members. She does not personally know the boys that live in this particular house, but wanted to note for the record that she is in favor of the conditional use permit. Ms. Spann reviewed that this area was built as single family; however, she sees its future transition to multi-family. She feels that if the individuals have the same goals and standard of living for the property as a single family would have, then they should be accepted into that neighborhood allowing the conditional use permit. If the individuals are granted a permit and they do not respect the rules, then the permit should be revoked.

Those that spoke in opposition were: Janice Hicks, Marcia Dorgan, Cathryn Bogard, and Mary Ann Larson. The reasons for opposition to the application were:

- Excessive noise from college parties
- Poor property and trash maintenance from college tenants
- Values of homes have deteriorated in this area
- Excessive parking on the street
- Street has been neglected by the City
- Cars speeding down the street

Mr. Calhoun was given time to rebut. He explained that some of the cars that had been parked in the street were actually at 1634 Farmer at a Bible study and not at his residence. He added that they had never found the need to have a fraternity party at his home since all of the tenants are members of a fraternity where this kind of activity takes place. They have only had one gathering at his house and that was a meeting of philanthropy. He apologized if there had been any events that had upset the neighbors and said that they would do better in the future. The appearance of the property has been improved while he has been there. If the BZA approves this request, he will strive to improve the appearance even more. Mr. Calhoun has a vested interest in this house and it is not in his best interest to let the property be destroyed. If the request is approved, he understands that the permit can be revoked if an issue comes up in the future.

The public hearing was closed and the item turned over to the board for discussion and a motion. Chairman Krieb clarified that the board cannot refuse to consider a request for conditional use because it is in the Zoning Ordinance. There is a city noise ordinance; therefore, neighbors can call the police to report this type of disturbance. Code Enforcement Officer Fortner can be contacted to address other zoning enforcement issues.

Mary Anne Medlock made a motion to deny the conditional use permit to allow four non-related persons to occupy the premises in an R-2 zoning district, located at 1636 Farmer Avenue. She added that all tenants that are not related to the homeowner should come into compliance by August 1, 2015. Terry Strieter seconded the motion and the motion carried with a 6-0 roll call vote. Attorney Perlow reentered the meeting at 5:36 p.m.

Mary Ann Medlock asked Officer Fortner to investigate the other properties mentioned that were possibly non-compliant at 1628, 1630, 1633 and 1637 Farmer and to talk with the Street Superintendent to see if parking is allowed on the street and she wanted this officially noted in the minutes. At that time Officer Fortner explained the process to the audience for making a complaint.

Questions and Comments: Mary Anne Medlock stated that she appreciates the neighborhood comments. Dennis Sharp added that he once lived on Miller while attending graduate school and he would like to encourage the zoning commission to relook at the zoning in this area since it is potentially desirable for this area to become available for students. Chairman Krieb asked Ms. Dowdy to have an update on continuing education programs at the next meeting and to also review what the requirements are for each of the board members. Robert Jeffries stated that the item that was reviewed for Murray Donuts in March will not be required to go through a planned development project now. Mr. Mao has decided to go a different route and open up a donut shop with only 10 seats. He is currently working with the property owner and the bank.

Adjournment: Mike Faihst made a motion to adjourn. Terry Strieter seconded the motion and the motion carried unanimously. The meeting adjourned at 5:40 p.m.

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