

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, MAY 17, 2023
4:30 P.M.**

The Murray Board of Zoning Adjustments met in a regular meeting on Wednesday, May 17, 2023 at 4:30 p.m. in City Hall at 500 Main Street.

Board Members Present: Mike Faihst, Carmen Garland, Paula Hulick, John Krieb, Josh Vernon, Bobbie Weatherly

Board Members Absent: Jim Foster

Also Present: Rakov Aetherus, Lindsay Aycock, Danna Clayton, Carol Downey, Attorney David Perlow, Steven Elkins, Ryan Cunningham, Miriam White, Michael Todd Knuckles, Meleia Burton, and public audience.

Chairman Faihst called the meeting to order and welcomed all guests and applicants. Lindsay Aycock called the roll.

Chairman Faihst called for a motion to approve the minutes from the regular BZA meeting on April 19, 2023.

John Krieb made a motion to approve the minutes from the regular BZA meeting on April 19, 2023 as amended. Bobbie Weatherly seconded the motion and the motion carried unanimously.

Public Hearing: Request by Steven Elkins for a 14' variance in the rear yard for the purpose of constructing a roof over the existing back deck on the property located at 1212 Dogwood Drive in a R-2, Single-Family Residential Zone.

Carol Downey reviewed the applicable ordinance and presented the Staff Report which included the zoning map, pictures of the property and deck, the street views and the surrounding properties.

Steven Elkins came forward and was sworn in. Mr. Elkins explained that the roof would be made of metal and would be off-white to match the trim/siding of the house. He said they do plan to screen in the deck as well. Mr. Elkins referred to the mowed grass line in the picture as being the property line and stated that the neighbor he spoke with does not oppose this project.

Chairman Faihst opened the public hearing and asked if anyone wished to speak in favor or opposition of this request. No one came forward, so Chairman Faihst closed the public hearing and brought it back to the board for discussion and a motion.

Josh Vernon made a motion to approve the dimensional variance request to allow a 14' foot variance in the rear yard for the purpose of constructing a roof over the existing back deck on the property located at 1212 Dogwood Drive with a screened-in porch area. The

findings of fact being that the property is adjacent to a side setback and is a corner lot, which feels like a side yard condition. Also, the new deck roof will only extend six inches past the existing deck, which has been in place since 1970. The testimony presented in this public hearing has shown based on the findings, it does not adversely affect public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow unreasonable circumvention of the requirements of the zoning ordinance. John Krieb seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Request by Ryan and Sarah Cunningham to allow two unrelated persons to occupy the property located at 821 N 19th Street in a R-2, Single-Family Residential Zone. Carol Downey reviewed the applicable ordinance and presented the Staff Report which included the zoning map, pictures of the property, surrounding properties and street views. Carol also mentioned that she received a call from Kathy Wrye, 818 N 20th Street, who stated that she has no problems with the non-related individuals living at 821 N 19th Street.

Ryan Cunningham came forward and was sworn in. Mr. Cunningham explained that last year there were only two residents and this year one of those will be staying and a new one will be moving in. Both residents work for the Newman House.

Chairman Faihst opened the public hearing and asked if anyone wished to speak in favor or opposition of this request. No one came forward, so Chairman Faihst closed the public hearing and brought it back to the board for discussion and a motion.

Chairman Faihst made a motion to approve the Conditional Use Permit request as presented to allow two non-related persons to occupy the property located at 821 N. 19th Street. The findings of fact being that same Conditional Use Permit was in effect last year and there were no issues; one person was in favor of the request and no one was in opposition of the request; and there is plenty of parking for the two residents. The testimony presented in this public hearing has shown based on the findings, it does not adversely affect public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow unreasonable circumvention of the requirements of the zoning ordinance. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Request by Miriam White for a two-foot variance for the purpose of constructing a ten-foot fence in the rear and side yards of the property located at 1505 Danbury Drive in R-3A, Multi-Family Residential. Carol Downey reviewed the applicable ordinance and presented the Staff Report which included the zoning map, pictures of the proposed property, the surrounding properties and the street views.

Miriam White came forward and was sworn in. Ms. White shared that she wants a ten-foot fence for safety reasons as she is prior military and has PTSD. She also mentioned that she has gardening tools and chickens and has had problems in the past with theft. She explained wanting the entire chain link fence removed so it can't be used in order to climb over her fence.

Chairman Faihst opened the public hearing and asked if anyone wished to speak in favor of this request.

Michael Knuckles came forward and was sworn in. Mr. Knuckles stated that he is the contractor and has built an approved, ten-foot fence in a nearby city. He mentioned that Ms. White is a homesteader and a veteran who is worried about the welfare of herself and her property.

Chairman asked if anyone wished to speak in opposition of this request.

Meleia Burton came forward and was sworn in. Ms. Burton shared that the chain link fence between her property and Ms. White's property belongs to them both and she does not want it removed. She is concerned her dog will get lose during the process. Ms. Burton stated that she has no problem with the variance allowing the ten-foot fence.

Whitney Curtsinger came forward and was sworn in. Ms. Curtsinger asked for clarification as to the placement of the fence. Staff explained that the variance is for two feet in height, not distance. Ms. Curtsinger stated that she has no objection.

Michael Knuckles came forward for rebuttal. Mr. Knuckles proposed to put the new fence up first and then remove the chain link fence in order to ease Ms. Burton's concern with the dog getting lose.

Attorney David Perlow asked Mr. Knuckles if he had seen any agreements stating that the fence is shared between Ms. Burton and Ms. White or if any surveys have been done and Mr. Knuckles responded that he has not seen any agreements or surveys. Mr. Perlow explained that the Board of Zoning Adjustments has no authority in the matter with the chain link fence and it would have to be worked out between the two property owners and their legal counsel.

John Krieb made a motion to approve the dimensional variance request to allow a two-foot variance for the purpose of constructing a ten-foot wood fence in the rear and side yards of the property located at 1505 Danbury Drive. Due to the height of the proposed fence, a building permit will be required. The findings of fact being that the property owner has safety concerns and has had a previous theft incident, both of which support her request for the additional security of a taller fence. The testimony presented in this public hearing has shown based on the findings, it does not adversely affect public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow unreasonable circumvention of the requirements of the zoning ordinance. Paula Hulick seconded the motion and the motion carried with a 6-0 roll call vote.

Questions and Comments: John Krieb gave some background information regarding the new director of the Newman House who is moving to Murray. Chairman Faihst read a letter from Bobbie Weatherly stating that she is resigning her appointment from the Board of Adjustments effective May 31, 2023.

Chairman Faihst called for a motion to adjourn.

Paula Hulick made a motion to adjourn. John Krieb seconded the motion. The meeting adjourned at approximately 5:17 p.m.



Chairman, Mike Faihst



Recording Secretary, Lindsay Aycock