

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, JUNE 16, 2021  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 16, 2021 at 4:30 p.m. from City Hall at 500 Main Street.

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

**Board Members Absent:** Jim Foster

**Also Present:** Kim Miles, Attorney David Perlow, Zach Warren, Dannetta Clayton, Marisa Stewart, Ryan Cunningham, Alex Coffman, Dr. Brian Bourke, Darrell Foster, Gary and Amanda ZeRuth and Steve Dublin

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 April 21, 2021.

**Paula Hulick made a motion to approve the minutes from the regular BZA meeting on April 21, 2021 as presented. John Krieb seconded the motion and the motion carried unanimously.**

**Public Hearing: Request to have three unrelated persons occupy the property located at 821 North 19<sup>th</sup> Street:** Marisa Stewart presented the staff reports. She explained that Ryan and Sarah Cunningham own the three-bedroom house located at 821 N. 19<sup>th</sup> Street and are requesting approval to have three adult ladies (that are employed by St. Leo's Catholic Church in their campus ministry) to reside in the house. The residential area north of College Farm Road is zoned R-2 (single family residential). Marisa reviewed the applicable regulations and stated that there have been no other similar requests since 1997 in this area. She showed pictures of the subject property and explained that there is enough off-street parking to accommodate eight to ten vehicles. As far as responses from the neighbors, Marisa said that she had one person say that the request was ok with them and another person say that they did not want college students living in the house. Chairman Faihst opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

Ryan Cunningham (owner of the property) came forward and was sworn in. Mr. Cunningham explained that he owns several single-family homes in Murray and he frequently gets calls with people wanting to rent the property. Most people do not understand the zoning process and he tries to explain it to them; however, this request does not seem to be like other requests. Mr. Cunningham's wish is to maintain the integrity of the neighborhood and maintain the value of the property as well. Mr. Cunningham said that he had received a letter from the property owner at 823 North 19<sup>th</sup> (to the north of this property) indicating that they are in favor of the request. The terms of the lease agreement would be one year. The property is currently under renovation

and the property will be available for the tenants on July 1. Mr. Cunningham asked one of the tenants to come forward to answer additional questions that the board members may have.

Alex Coffman came forward and was sworn in. Ms. Coffman stated that she is the applicant for this rental property. She will be one of the tenants and two other co-workers would also reside there. Each of the girls are college graduates and are employed as Focus missionaries. Ms. Coffman is looking to rent for one year as she will be getting married next summer. The others will be flexible on whether to stay in the house longer or leave at the end of their lease. The Newman House is not fit for living arrangements since there are no bedrooms. It is just a student center where there are regularly scheduled Bible studies happening. The wonderful thing about this property is the parking situation. If they should have others over for Bible studies, there would be enough parking available. Other Focus missionaries may also be interested in leasing this house in the future. The Board was interested in who would be attending the Bible studies and when the studies would be held. Ms. Coffman explained that there would be college women coming for Bible study and it would probably be two nights a week and there could possibly be two or three additional cars at that time. The tenants might have friends over on the weekends every once in a while. The Focus format is designed for the missionaries to work with the upper classmen girls and the upper classmen are investing in the under classmen. The renters will be in charge of the lawn care.

Dr. Brian Bourke came forward and was sworn in. Dr. Bourke owns the property directly across the street. He is a parishioner in the Catholic church. He was very excited when he found out that Alex was interested in renting the house. He commented that the girls are a very respectable group. Because he knows Alex personally, he is willing to loan the girls anything (such as his lawnmower). Dr. Bourke is the father of an 8-year old daughter and he said to be able to have his daughter see Alex and the other Focus group members across the street would be a big plus for him.

No one spoke in opposition. The public hearing was closed and the item was turned over to the board for further discussion and a motion.

**Josh Vernon made a motion to approve the Conditional Use Permit request as presented to allow the three unrelated ladies to occupy the property located at 821 N. 19<sup>th</sup> Street with the findings that it is clearly evident that the habitation of this residence is not going to be a distraction to the neighboring properties and that there is no evidence of any difficulties with street parking. The approval is with the condition that the residents are required to return in one year and apply again. Carmen Garland seconded the motion and the motion carried with a 5-0 roll call vote. *John Krieb abstained.***

**Public Hearing: Request to have a screen printing and vinyl t-shirt business located at 225 North LP Miller Street:** Marisa Stewart presented the staff report and reviewed the applicable regulations. Based on utility records, the water meter was pulled at this location in 2001 and the gas meter pulled in 1998 so there appears to have been no use of the property since then. The applicant (Darnell Foster) is requesting a Conditional Use Permit to have a T-shirt business located at 225 N. LP Miller Street. The business will consist of the printing and selling of t-shirts. This type of use is not listed in the zoning code as a permitted use or as a conditional use;

therefore, the board will need to consider whether this type of use is a similar activity to those listed in the Ordinance. Pictures were shown of the property location and the building. There are six parking spots required for the proposed business. Marisa said that she was not aware whether the building had been inspected recently to see if it was habitable or not. Before a business license is issued a fire inspection would have to be performed. Chairman Faihst opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

Darnell Foster came forward and was sworn in. Mr. Foster explained that he would be the only employee and that people would not be coming there to shop (which meets the criteria for a home operated business). He added that he had been trying to get an inspection on the property but he was told he had to come before the board first. He understood that the property had once been grandfathered in as commercial; however, that status has changed since no one has occupied the building for some time. He has previously been working on one side of the building, including the rewiring of that side as well. Mr. Foster is waiting for a business license before he puts more money into it. This business will be a custom order t-shirt business. He is currently working on a website where he can do on-line sales. The intent is for local customers to be able to pick their shirts up at this location. The only signage on the business will be on the door.

No one came forward to speak in opposition to the request; therefore, the public hearing was closed and the item turned over to the board for further discussion and a motion.

**Josh Vernon made a motion to grant the Conditional Use Permit for this commercial business that prints and sells t-shirts at 225 N. LP Miller Street with the findings that this business would not generate any traffic outside of what is expected for a residential neighborhood and that the homeowner would need to go through the proper process with the City to procure all permits that are necessary and adhere to the requirements of the City. John Krieb seconded the motion and the motion carried with a 6-0 roll call vote.**

**Public Hearing: Request for a two-foot height variance on placement of fence in secondary street side yard at 1501 Chaucer Drive:** Marisa presented the staff report. She stated that several requests of this nature have been presented to the board on numerous occasions and then she reviewed some of the most recent ones. The applicable regulations were reviewed. The property owners (Gary and Amanda ZeRuth) have an in-home daycare that was approved as a conditional use by the Board of Zoning Adjustments on February 8, 2017 and they would like to expand their enclosed backyard area into the side yard along Oxford Drive. Their property is on a corner lot with the house facing Chaucer Drive. Oxford Drive is the secondary street side which is treated as a front yard for setbacks. The applicant is seeking a two ft. height variance on a fence in the secondary side yard. The proposed fence would be six feet tall and would be 17 feet off the property line along Oxford Drive. It appears that the proposed fence will be far enough off the secondary street that there should be no obstruction of vision of any on-coming traffic or anyone backing out of the driveway. Marisa then showed pictures of the property and the current fencing along with pictures of the property with stakes on it showing the proposed location of the new fence. Adjoining neighbors were notified and no one responded either in

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

Amanda ZeRuth came forward and was sworn in. Ms. ZeRuth stated that she has an in-home daycare and she currently has a fence; however, it will not adequately serve the purpose for which they need a new fence. They have decided to incorporate more of their yard into the fenced-in area and at the same time, replace the old fence with a new and taller privacy fence. They are looking at a vinyl fence that has solid slats at the bottom and has a more open concept at the top. The new proposed fence will also be beneficial to them as a family when they use their above ground pool. The current wrought iron fencing will be relocated to the new patio area and keep the children out of the pool area. She is licensed to have no more than six children at any given time and she has her daycare opened during the school year. Ms. ZeRuth has not actually purchased the fence at this point; however, she has been communicating with a company. This company requires a down payment and they did not want to lose their money if this request should be denied. Some materials are hard to get at this time, but they are looking at an August install date if this should be approved. She has had conversations with her neighbors and they all seemed ok with the proposed fence. The measurements show that the proposed fence will be within the regulations.

No one spoke in opposition. The public hearing was closed and the item was turned over to the board for further discussion and a motion.

**John Krieb made a motion to grant the request for a two-foot height variance for a fence at 1501 Chaucer Drive that will be located in the secondary side yard as presented based on the fact that the location of the fence is well beyond the regulations requiring distance from the road which is a favorable situation. The people in the city seem to be satisfied with the daycare operation and there have not been any issues for the time period that it has been in business and the number of children involved is really small so there is not a large number of traffic issues. The testimony presented in this public hearing has shown based on the findings that 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 to install a forty-eight foot wide driveway located at 147 Saratoga Drive- Greg and Marla Hendrick:** Marisa presented the staff report and reviewed the applicable regulations. The current regulations state that you can have one access point, not to exceed 26 feet in width; or two access points not to exceed 24 feet in width measured at the right-of-way line. Marisa reviewed a similar variance request that was granted in 2003. Based on staff's observation, there are two other properties in Saratoga Springs Unit I that have driveways that are 30 and 32 feet wide and several others have more than one entrance onto the property. No dimensional variance was approved at either location. The site plan showing a 48-foot wide driveway, the zoning map and a current picture of the location were shown. Letters were sent to the neighbors and there were no responses. Chairman Faihst opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to this item.

Steve Dublin came forward and was sworn in. Mr. Dublin is the contractor for the construction of the new house. He has built several houses in Saratoga I and Saratoga II. The property is located on a corner lot with the front of the house facing Saratoga Drive and the driveway facing Kandi Kay. Mr. Dublin explained that the house will have a large three-car garage; thus, this proposed driveway is a little bit wider than the norm. Backing in or out of this driveway (if you had a boat or a trailer) would be difficult if the driveway was split. Mr. Dublin does not think that this will distract from the neighborhood and if he thought it would, he would not be speaking in favor of the request as he lives only a half-a-block up the street. This will be a very nice home and it will add to the neighborhood as well as to the City of Murray.

No one spoke in opposition. The public hearing was closed and the item was turned over to the board for further discussion and a motion.

**Paula Hulick made a motion to approve the request to construct a 48-foot wide driveway located at 147 Saratoga Drive. It doesn't appear to create any hardships, it will enhance some safety features and will follow the guidelines. The testimony presented in this public hearing has shown based on the findings that 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.**

**Questions and comments:** There were some discussion about the violation of the amount of entrances and size of the driveways for newly constructed homes.

John Krieb stated that the Sign Ordinance indicates that when a business closes, that business has between 30 and 60 days to remove the signage. He gave some examples of businesses that have closed and still not removed the signs. He was not sure if that fell under Code Enforcement and is not sure what the best process would be to initiate those removals. Dannetta Clayton said that she believed that in the past that the staff had sent letters and then if the signs were not removed, Code Enforcement got involved. Bobbie Weatherly wished to thank the applicants for their transparency in their presentations. Chairman Faihst said that temporary signs were once allowed during the pandemic and now that it is pretty much over, he is still seeing temporary signs especially in the new Marshall's vicinity and would like to see some of them come down. The signs are cluttering up the sides of the road. Dannetta explained that staff is working on those as well as flags that have been put up around town. She is contacting business owners by phone and asking them to remove them. There will be a training on July 7<sup>th</sup>.

Chairman Faihst called for a motion to adjourn. **Paula Hulick made a motion to adjourn. John Krieb seconded the motion. The meeting adjourned at 5:26 p.m.**

  
Chairman, Mike Faihst

  
Recording Secretary, Reta Gray