

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, AUGUST 19, 2015
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, August 19, 2015 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Josh Vernon, Terry Stricter, Bobbie Weatherly, and Mike Faihst

Board Members Absent: Dennis Sharp

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, Reta Gray, Officer Tim Fortner, Hawkins Teague, Bruce Lyles, Marcia Dorgan, Ryan Stewart and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He noted that some minor corrections have been noted to staff on the minutes from July 22, 2015 regular meeting.

Mike Faihst made a motion to approve the BZA minutes from the July 22, 2015 regular meeting as amended. Bobbie Weatherly seconded the motion and the motion carried unanimously.

Chairman Krieb stated that there was a new member who needed to be sworn in; however, he is out of town so he will be sworn in at the next meeting.

Public Hearing: Conditional Use Permit to allow two non-related persons to occupy the premises in an R-2 zoning district at 1303 Poplar Street – Bruce Lyles: Candace Dowdy explained that the owner of the property located at 1303 Poplar Street is Bruce Lyles. Mr. Lyles recently responded to a letter sent to him by the Planning Department regarding the possible use of the property being in non-compliance with the R-2 regulations. Mr. Lyles indicated that his daughter moved into the house in August of 2014 while it was still owned by Robert Johnson. Mr. Lyles purchased the property from Robert Johnson in October of 2014. His daughter still resides there along with the same roommate she has had since December of 2014. Ms. Dowdy explained that the previous homeowners received a Conditional Use Permit for their son Kyle Johnson and one non-related person to live at the property while Kyle was a student at Murray State University and that the permit was valid as long as Kyle resided on the premises. (Kyle had some medical issues; therefore, it was necessary for someone to reside with him.) Non-related persons living in a residence in an R-2 zone is not a permitted use; however, it is allowed with a Conditional Use Permit if approved by the BZA. The zoning map shows R-4 zoning to the north and other surrounding properties as R-2.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor of the request.

William Bruce Lyles came forward. Mr. Lyles stated that his daughter and her female friend reside at the home. Kyle Johnson lived in the house until August 5, 2014 and Mr. Lyles' daughter moved in the following week. Mr. Lyles would like for his daughter to have a roommate for safety reasons. He is not looking to have a long term rental, but his daughter plans on being there for approximately three more years while she completes her education at MSU. Mr. Lyles has replaced the garage doors since he purchased the property. He added that all the properties that adjoin his are not owner occupied and are used as rentals. Mr. Lyles indicated that his property is better maintained than many of the others around him. He then passed around pictures of some nearby properties that have numerous automobiles parked in the yards and driveways.

Chairman Krieb asked if there was anyone that wished to speak in opposition to the request.

Marcia Dorgan came forward. Ms. Dorgan stated that she is against the request; she is for keeping the use of the property as it is currently zoned. She revealed that the taxes on her house have doubled during the past 14 years; however, the value has halved because of the rental properties in her neighborhood. She indicated that there were at least three houses near Mr. Lyles' property that are non-complaint. Ms. Dorgan feels that once a CUP is allowed, they are not monitored in a timely manner and the neighborhood goes down immensely.

Ryan Stewart came forward. He agrees with Ms. Dorgan on the CUP's creeping into R-2 neighborhoods. He said that this is actually a much bigger issue than realized. He also has dealt with the R-2 issues for the five years that he has lived in his neighborhood. He has talked with others and to the City about this problem and he does not feel that the City has worked with them to find a solution. He said that it is very difficult for them to show up and not be emotional. This should be a legal decision based on the fact that R-2 zoning should be for single family residents and not someone's emotional appeal for a CUP. The ordinance clearly defines an R-2 zone as single family and there should not be a variance against that.

Rebuttal remarks were then expressed by Mr. Lyles. Mr. Lyles clarified that the ordinance does identify the R-2 zone as single family; however, the ordinance also has a stipulation that a variance can occur.

Mr. Stewart came forward with rebuttal remarks. He said that a health issue of the tenant could be a reason to grant a variance in order to see that that person is watched after and the property taken care of; however, even though he understands Mr. Lyles' concern for the security of his daughter, he doesn't see anything compelling to justify the variance in this situation.

There was discussion amongst the board members. Commissioner Weatherly said that she is sympathetic to Ms. Dorgan and Mr. Stewart in the issues they have had over a number of years with non-compliance. She said that it appears that the problem with enforcement of this issue is more disturbing to them. Hopefully the new Code Enforcement Officer will provide some satisfaction to them concerning these issues in their neighborhoods. Ms. Weatherly indicated that Mr. Lyles has shown that his daughter and roommate will maintain the integrity of the neighborhood without the wild parties or a lot of traffic.

Mike Faihst made a motion to approve the Conditional Use Permit to allow two non-related persons to occupy the premises in an R-2 zoning district at 1303 Poplar Street based on the fact that it is an allowable variance according to the Zoning Ordinance. There should be no loud parties or disturbing outdoor activities after 10 p.m., no parking on the grass or the street; and the CUP should be valid while Mr. Bruce Lyles' daughter is attending school at MSU. This Conditional Use will only be allowed for the current owner and only for two non-related people with the findings that there are R-4 properties to the north and duplexes in various places on the south side of Poplar. John Krieb seconded the motion. The motion carried with a 3-2 roll call vote. Terry Strieter and Josh Vernon voted no.

Staff Update: Conditional Use Permit for Briggs & Stratton Medical Clinic at 400 Industrial Road (Permit issued August 5, 2014): Ms. Dowdy explained that Rodney Bohannon, plant manager at Briggs & Stratton, had sent information indicating that the clinic has exceeded their expectations. It has been opened to Briggs & Stratton employees and their dependents on Monday through Friday and they also have an “on-call” service at night. The clinic is considered a consumer service type business located in an Industrial Zone. A representative from Briggs & Stratton is trying to work out some type of agreement with Pella and Paschall Truck Lines to be able to offer some pre-employment services for them. Ms. Dowdy added that she had spoken to Dr. Tina Carter, whose office is located in the tenant space next door to the Briggs & Stratton Clinic. Dr. Carter indicated that there had been no issues with parking or any other problems that she was aware of since they had been there. Chairman Krieb stated that he thought the motion should be modified to state that the clinic is opened to other facilities. Ms. Dowdy replied that in order for it to be on record at the court house, there would have to be an attachment submitted saying that the board is aware that they are providing limited services to Pella and Paschall Truck Lines. That attachment would be recorded and filed with the Conditional Use Permit. Ms. Dowdy said that she would check with the attorney to see if this would be necessary and she will report on that at the next meeting. If the attorney doesn't feel that this would be appropriate, she will contact Briggs & Stratton to have them come back before the board. Ms. Weatherly stated that she would like some additional information regarding the wellness events and the dispensing of pharmaceutical products.

Questions and Comments: Mike Faihst thanked everyone for their comments concerning the Conditional Use application. He said that the board is aware of the current situation in the R-2 zoning districts and hopefully (with the help of the new Code Enforcement Officer) things will start to improve. Ms. Weatherly agreed and said that she is in support of what Marcia Dorgan and Mr. Stewart are trying to accomplish. She realizes their concerns; however, she feels that the board made the right choice for Mr. Lyles by approving his CUP request. Mr. Strieter's concern is that there continues to be a struggle with non-related persons living together in R-2 zoning districts. He suggested to either rezone these properties or to make changes to the process in order to eliminate these struggles. Mr. Vernon said that this particular problem seems to exist in certain neighborhoods and he feels that this item (rental properties that are not owner occupied) would be a good discussion for an outside quorum. He has seen neighborhoods in other cities that have had a zone that is in between the R-2 and R-4 and it seems to work well. Ms. Dowdy replied that the firm that Planning Staff is working with to update the Zoning Ordinance has considered this and they are looking at possibly proposing “a university overlay district”. She explained that any text amendments to the zoning ordinance are brought to the

Planning Commission for discussion and if they choose to move forward with the proposed amendment then a date is set for a public hearing to get input from the general public. The Planning Commission then forwards a recommendation on the City Council for their final approval. Ms. Dowdy stated that Planning Staff had recently mailed letters to property owners in the R-2 zoning district area west of N. 16th Street asking how their properties were being used. The majority of the ones that have replied said that their properties are in compliance with the R-2 regulations. Ms. Weatherly said that you cannot depend on direct mailing and people's honesty on what kind of uses they have for the properties. She said until violations are issued, this will continue. Mr. Jeffries said that Planning Staff discusses multi-family and single family issues every single day; however, he encouraged the board to send them an e-mail or call them with any ideas they may have concerning this matter.

Adjournment: Mike Faihst made a motion to adjourn. Josh Vernon seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:34 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray

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