

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, AUGUST 19, 2020
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, August 19, 2020 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

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

Board Members Absent: Carmen Garland

Also Present: Justin Smith, Zach Warren, Attorney David Perlow, Jim Osborne, David & Jennifer Taylor, Brad & Kelly Wilson, Carol Falwell and Ryan Stanger

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Jim Osborne called the roll. At this time Chairman Krieb asked if there were any changes to the minutes from the regular BZA meeting on July 22, 2020.

Mike Faihst made a motion to approve the minutes from the regular BZA meeting on July 22, 2020 as amended. Jim Foster seconded the motion and the motion carried unanimously.

Public Hearing: Conditional Use Permit request to allow an accessory dwelling unit for non-income habitable use in the R-2 (Single Family Residential District) zone to be located at 1707 Greenhills Drive- Applicant: David & Jennifer Taylor: Justin Smith showed the aerial photography of the property as well as pictures of the home located at the south end of the cul-de-sac on Greenhills Drive. All adjoining properties are zoned R-2 except for the AG (Agricultural) Zone to the west. The applicants (David and Jennifer Taylor) recently added a 3-car garage. In the process of construction, they decided they would like to finish out the space above the garage into an accessory dwelling unit for non-income habitable use (to only be used by members of the family). They are aware of the regulations stating that an accessory dwelling unit may not be used for rental or lease agreements or be used as a permanent residence for a secondary family. The main house is approximately 3452 square feet with an allowance of 863 square feet for an accessory dwelling unit. The proposed build out is approximately 715 square feet. For the Taylors to be able to finish their project, they will need BZA approval for a Conditional Use Permit. Justin reviewed the stipulations of the Zoning Ordinance pertaining to Conditional Use Permits.

Chairman Krieb opened the public hearing and asked the applicant to come forward.

Jennifer Taylor came forward and was sworn in. Ms. Taylor said that they have a large family and they are making modifications to the house to accommodate the family. While they were working on the new garages, they decided that by finishing out the upstairs, that they could utilize the space better as a small apartment versus a storage area. The Taylors also have a pool

and this addition could serve as a pool house as well. The space will have a kitchen and bathroom. There are two exterior doors in the area for ingress/egress and several windows.

No one spoke in opposition to the request; therefore, the public hearing was closed and the item turned over to the Board for discussion and a motion.

Mike Faihst made a motion to grant the Conditional Use Permit to allow an accessory dwelling unit in accordance with the definition of the City of Murray's Zoning Ordinance for the location of 1707 Greenhills Drive. The use is allowed per our general definitions § 156.004 and it is not to be used for income purposes. Paula Hulick seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Dimensional Variance request to allow a 2-foot height variance on a fence in the secondary yard to be located at 990 Robertson Road South – Applicant: Bradford & Kelly Ann Wilson: Justin explained that the property is located at the northeast corner of Robertson Road South and Falwell Drive in a R-1 (Single Family Residential) zoning district with R-1 to the north, south, and east. The property to the west is in the county. The applicants are seeking a 2-foot height variance for a fence in the secondary yard. The focus of this variance will be for the secondary front yard on Falwell Drive (refer to § 156.052 E (3) in applicable regulations). The purpose of this request is to seek approval to construct a 6-foot tall fence in their backyard for their dog. The site for the fence will be 36 feet away from the property line on Falwell Drive. The variance is only required because technically the rear yard fence will be located in a secondary front yard and according to regulations anything over 4 feet in a secondary front yard must seek approval from the Board. Candace Dowdy noticed the posts for the fence construction in the yard and brought it to staff's attention. The applicants had already put up the posts for the fence before they were made aware of the restrictions. The fence will not extend into the front yard.

Chairman Krieb opened the public hearing and asked the applicant to come forward.

Bradford Wilson came forward and was sworn in. Mr. Wilson said that they moved into the house approximately a month and a half ago. They have a dog and two kids. Robertson Road has quite a lot of fast traffic so they decided to build a fence to keep the dog in. They thought they were doing the right thing. Bradford stated that he had called Ms. Falwell to go over the subdivision restrictions and he was following those guidelines. Ms. Falwell is co-owner of the subdivision (Falwell Estates); however, she actually resides in the county and what she knew was just a little bit off. Bradford was contacted by Ms. Dowdy who informed him that he would have to apply for a 2-foot height variance. He did not know about this regulation until July 21st and he immediately had the construction stopped. The construction has been on hold for a month. The Wilsons previously lived on Loch Lomond and they put up a fence there, but they weren't on a corner lot so this restriction did not apply. Bradford wants to do what is right.

Carol Falwell came forward and was sworn in. She explained that she knew that a fence could not extend into the front yard, but she was not aware of the other restrictions. She was surprised about the restrictions because the house sits in the middle of an approximate 1.25-acre lot and there is no obstruction to the line of sight. She remembers when David Roberts came out when

they were putting in the entrances to the subdivision. They worked with the line of sight in mind. This fence will not block the view when pulling out from Sassafra. Ms. Falwell said that she wanted to come and support the Wilsons.

No one spoke 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.

Jim Foster made a motion to grant a 2-foot height variance for the fence at 990 Robertson Road South to be located in the secondary yard as presented with the condition that the fence does not impede the sightline of the road. 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. Mike Faiht seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Dimensional Variance request to allow a duplex to be built of identical or smaller size to the demolished building in an alternate location on the property located at 1087 Robertson Road North – Applicant: Ryan Stanger: Justin used aerial photography to show the property. He explained that the property is located in a R-2 (Single Family Residential) zoning district with R-2 zoning to the north, east, and south. The property to the west is in the county. 1087 Robertson Road North is located directly behind 1099 Robertson Road North. There is a plat that dedicates a 50-foot Right of Way for a future roadway. This roadway has never been constructed but there is an existing gravel drive giving access from Robertson Road North to this lot and 1099 Robertson Road North as well. Justin showed an aerial photo from 2017 when the previous duplex was there. He said it was difficult to take pictures that would give a clear picture of the site today; however, he pointed out the area where the previous duplex was located. Justin showed the proposed site plan showing the duplex, parking area and the drive. He then showed a picture of a rendering of the duplex on the property. The applicable regulations were reviewed. The previous duplex located at 1087 Robertson Road North was demolished in July of 2019. Ryan Stanger purchased the lot on July 11, 2019 with plans to rebuild a duplex with one side to be utilized for his in-laws. He would like to rebuild the duplex of identical or smaller size and turn it towards the east instead of the south where the future roadway designation is located. This turn would face the duplex towards the backyard of 1099 Robertson Road North. Justin said that the adjacent property owners were notified and he had received one phone call from a property owner named Charles Adams. Mr. Adams previously served on the Planning Commission and he knew the regulations pretty well. Mr. Adams is only in favor of this request if Mr. Stanger does not turn the duplex towards the backyard of 1099 Robertson Road North. He favors constructing the duplex facing the future roadway (should it ever be built) and would like for Mr. Stanger to pave the road all the way to Robertson Road North. If these conditions cannot be met, Mr. Adams will be in opposition.

Chairman Krieb opened the public hearing and asked the applicant to come forward.

Ryan Stanger came forward and was sworn in. He explained that he had wanted to start this project at the beginning of the year and then Covid happened. Ryan said that he had spoken to

all the adjoining property owners and he was a little bit shocked at Mr. Adams's comments since he had previously spoken to him two or three times. None of the other property owners have voiced issues with this proposal. Mr. Stanger's understanding is that he is allowed to build a duplex in the same footprint that it was originally in. He is willing to do that; however, it is less than ideal. His intention is to move his in-laws to this property. They currently live in Paducah. His father-in-law suffered a stroke five years ago and has been in a wheelchair since. They would like to find a young family to live on the other side. Mark Schechter lives directly north of this proposal. He would like a screen placed along his property line if the duplex is constructed. Ryan indicated that he plans to plant something similar to Leland Cypress to be used for screening. He also intends to put dense grade gravel down for the driveway. He's spoken to Mr. Overbey and he is going to help "chip in" on part of the driveway expense. (Mr. Overbey is the property owner at 1099 Robertson Road North.) Ryan added that he will either pave or concrete from the property line to his apartment. Ryan had an MSU intern this summer that helped lay out the proposal with the parking in the front (which makes it look like a duplex). Ryan said that he will look at relocating the parking spaces in order to make it look "homier".

No one spoke 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 was concerned about taking a single-family neighborhood, and making it multi-family. He also voiced concerns about changing the character of the vicinity. He would like to maintain the integrity of this neighborhood. There is a potential that this area could be developed to the south and on the other side of the road. Justin noted that the proposed plan is considerably less in square footage than what was originally there.

Jim Foster a motion to grant the Variance to allow Ryan Stanger to build a duplex of identical or smaller size (to the demolished building) in an alternate location on the property to be located at 1087 Robertson Road North as presented. 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. Paula Hulick seconded the motion and the motion carried with a 5-1 roll call vote. *Josh Vernon voted no.*

There were no questions or comments; therefore, Chairman Krieb called for a motion to adjourn.

Mike Faihst made a motion to adjourn. Jim Foster seconded the motion. The meeting adjourned at 5:06 pm.



Chairman, John Krieb



Recording Secretary, Reta Gray