

**MURRAY BOARD OF ZONING ADJUSTMENTS
SPECIAL MEETING
WEDNESDAY, MARCH 28, 2007
4:30 P.M.**

The Murray Board of Zoning Adjustments met in special session on Wednesday, March 28, 2007 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Ed Davis, Andy Dunn, Scott Seiber, Michael Jordan, and Bill Whitaker

Board Members Absent: Helen Spann and Darren Jones

Also Present: Candace Dowdy, Peyton Mastera, Mike Pitman, David Roberts, Terry Canerdy, Ken Borgarding, Don Maupin, and Public Audience

Chairman Bill Whitaker called the meeting to order at 4:30 p.m., and welcomed all guests and applicants.

Request for a 24 ½' rear setback variance – 1601 College Farm Road – Terry Canerdy:

Ms. Dowdy explained that Dr. Terry Canerdy of the Murray Animal Hospital Clinic applied for a variance in 2000 for a proposed addition to his building. The Board approved a variance allowing the proposed addition to be 1 to 3 feet off the property lines to the south, east, and west. The addition was never constructed. Dr. Canerdy has since removed the duplex that was on the lot adjoining the animal clinic (1601 ½ College Farm Road) and now wishes to proceed with the construction of the addition to his building.

Planning Staff informed Dr. Canerdy when he applied for the building permit that he would need to have a minor subdivision plat prepared abolishing the interior lot line between 1601 and 1601 ½ College Farm Road before a building permit could be approved. Planning Staff also noted to Dr. Canerdy that the building permit would only be approved based on the site plan presented in 1000. Dr. Canerdy has altered the site plan to include a 750 sq. ft. addition for examination rooms and supplies. The proposed addition will only be six (6) inches off the south property line. Therefore, this will require a 24 ½' variance since it adjoins a residential zoning district. The zoning ordinance states that all non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of 25 feet in the side or rear yard adjacent to the residential district and Section III, Article 3 of the zoning ordinance shall apply (Screening and Landscaping) The new site plans shows the addition of seven (7) parking spaces.

Ms. Dowdy noted there has been some discrepancy as to where the south property line is located. However, a rear setback variance must be approved, as it will be closer than 25 feet from a residential lot. Mr. Pitman explained that surveys do not always match one another.

Chairman Whitaker swore in Dr. Terry Canerdy of 2720 Liberty Road and owner of Murray Animal Hospital. Dr. Canerdy inquired if the variance granted in 2000 would still be suitable if this variance is denied. Dr. Canerdy noted the dog run will not have a roof, but it will have an eight (8) foot wall. Dr. Canerdy stated that additional parking spaces have been included on the new site plan to accommodate for clients.

Chairman Whitaker swore in Mr. Ken Borgarding of 63 Ken Lane and contractor for the Murray Animal Hospital. Mr. Borgarding reiterated Dr. Canerdy's statements and explained that the south side of the building is remaining the same, but an addition is being made to the north side. Mr. Borgarding explained that while the addition will be set on a lower portion of ground, the walls will be raised to match the rest of the facility. Mr. Seiber asked if a delivery truck will be able to turn around in the indicated space. Dr. Canerdy explained that only one delivery is made weekly (on Thursdays), and there will be ample room for the truck to turn around.

Chairman Whitaker swore in Mr. Don Maupin of 1602 Ryan Avenue and adjoining property owner. Mr. Maupin noted that similar businesses around town have been required to place proper sound barriers. Mr. Maupin stated that he had to change bedrooms to alleviate noise. Mr. Maupin stated that this business is part of the old Stubblefield Subdivision and that it is stated within the covenants that all lots are to be used for residential purposes. Mr. Pitman stated that any dispute concerning the use of the property in relation to the subdivision regulations is between the property owners themselves and not up to the BZA. Mr. Maupin stated that if the variance is granted, he asked the BZA to give consideration to surrounding property owners.

ED excused himself from the meeting.

Dr. Canerdy stated that in regard to the variance granted in 1995, material was installed to deter noise. That variance allowed for the facility to be constructed approximately ten (10) feet from the western property line and they have never received a complaint.

Mr. Mastera read the minutes from March of 1995 which stated, "Terry Canerdy wants to construct an enclosed kennel to house large dogs. The construction would be a solid concrete block wall with no windows. The Dinhs, adjacent property owners, were notified of the request and the planning office has had no response from them. Terry Canerdy stated he has talked to the Dinh's and they have no problem with construction. Scott Seiber is concerned about the noise of the dogs in the addition. Terry stated that the building would not be soundproof, but the noise would be held to a minimum. Terry stated that the existing retaining wall would have to be demolished and rebuilt. Jan Rogers asked if a fence could be constructed on top of the retaining wall for screening and soundproofing. Terry agreed to construct a fence."

Chairman Whitaker asked what makes this application different from the variance application in 2000. Ms. Dowdy explained that these plans vary from the original site plan approved by the BZA. Mr. Pitman stated that in regards to limiting noise, the Board has the option to place conditions on a variance application. Mr. Jordan stated that landscaping, solid walls that would deflect sound, and higher walls are ways to limit sound. Mr. Jordan explained that not all sound

will be eliminated, but it can be held to a minimum. Mr. Jordan stated that within a motion it might be included that landscaping be done in conjunction with Mr. Maupin on his property.



Scott Seiber made a motion to approve a 24 ½' rear setback variance for the Murray Animal Hospital, located at 1601 College Farm Road contingent upon the walls be constructed of the best possible insulation and that the construction be done in conjunction with Mr. Maupin to mitigate sound, possibly through the addition of vegetation along Mr. Maupin's rear property line and that it will not adversely affect the 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 regulations. Andy Dunn seconded the motion and it carried with a 4-0 vote.

Scott Seiber made a motion to adjourn. Andy Dunn seconded the motion and it carried with a 4-0 voice vote. The meeting adjourned at 5:45 p.m.