

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 16, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 16, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Kim Griffo, Mary Anne Medlock, Justin Pounds, Kevin Perry and Bill Whitaker

Board Members Absent: Scott Seiber and Tom Auer

Also Present: Candace Dowdy, Peyton Mastera, Mike Pitman, David Roberts, Reta Gray, Matt Mattingly, James Burris, Vonnie Hays Adams, Matt Falwell, Jennifer Fairbanks, Charlie McKinney, Officer Jimmy Osborne and public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker began by stating that Mayor Tom Rushing had passed away during the previous week. Chairman Whitaker said that he has served on the Board for a number of years and that Mayor Rushing had been intimately involved with the Board of Zoning Adjustments and that he had been the only mayor that consistently came to the meetings to see what was going on. Chairman Whitaker stated that he was speaking for the Board in saying that they appreciated the Mayor and will miss him very much. Mayor Rushing always took every possible opportunity to thank the Board both privately and publically for what they did for the City of Murray. Chairman Whitaker concluded by saying that their thoughts and prayers go out to the family. Chairman Whitaker then asked for approval of the minutes from the August 19, 2009 regular meeting.

Kim Griffo made a motion to approve the minutes from the August 19, 2009 regular Board of Zoning Adjustments meeting as presented. Kevin Perry seconded the motion and the motion carried unanimously with a voice vote.

Compatibility Hearing – Residential Planned Development Project – Merryman House – 1416 Diuguid Drive – Kentucky Domestic Violence Association: Peyton Mastera stated that in August of 2008 there had been an advisory meeting held by the Planning Commission and a compatibility hearing held by the Board of Zoning Adjustments, each reviewing The Merryman House project. Both decided to forward this on to the next step(s) for planned development projects. After being delayed for a year, Kentucky Domestic Violence Association (KDVA) is ready to move forward with the Merryman House project at this site. According to PDP regulations the final plat must be approved within a year or the process has to be restarted; thus, another compatibility hearing is necessary. Three lots have been consolidated into one tract of land and the project consists of four duplexes.

Mary Anne Medlock made a motion to approve the residential planned development project, Merryman House at 1416 Diuguid Drive, owned by the Kentucky Domestic

Violence Association and that it meets compatibility to the area. Kim Griffo seconded the motion and the motion carried with a 5-0 voice vote.

Public hearing to review the conditional use permit application for a Residential Planned Development project – Merryman House – 1416 Diuguid Drive – Kentucky Domestic Violence Association: Peyton Mastera used a power point presentation to show the property at 1416 Diuguid Drive. He stated that this proposed project is located in an R-4 zoning district. The property site consisted of three lots in which the property owners have now combined into one tract of land with a Minor Subdivision Plat. The Merryman House will have eight individual units, which will be divided into four duplexes. Two units will have three bedrooms, five units will have two bedrooms, and there will be one handicap unit with one bedroom. Except for the handicap unit, each unit will be two stories. Mr. Mastera stated that Planning Staff is still working with KDVA on a few issues, such as storm water detention requirements. Mr. Mastera added that the police, fire and sanitation departments have reviewed the plat also. The project is required to have 26 parking spaces but the developers showed 18 parking spaces on the plat. After review by the BZA they recommended that an additional four spaces be added for a total of 22 parking spaces. Originally when the project was started, there was concern with the site location being on a hill and the sight distance problems. The engineers conducted a study and the property met sight distance requirements of 352 feet to the east and west. Mr. Mastera stated that with any new project, the Planning Staff would like to see sidewalks incorporated into the project. Mr. Mastera stated that because of the hilly terrain on the north side of Diuguid, the south side of the street may be more suitable for sidewalks. They are looking at some kind of agreement with KDVA where they will be willing to contribute to the construction of sidewalks. Mr. Mastera said that there is very little deviation from the original plans that were presented in 2008 and that they include the expanded width of the parking aisles to 24 feet, a dumpster area located in the back of the project, and relocation of the sanitary sewer line.

Candace Dowdy stated that there is a wooded area on the western portion of the property and that KDVA's intent is to maintain that area for picnic tables and playground equipment.

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

James Burris, 117 Crescent Avenue, Frankfort, Kentucky was sworn in. Mr. Burris is the architect for the project. He stated that the previous year there were concerns over the storm water detention. The proposal is to take the water and put it in an underground tank where the water will be metered out into the creek. Mr. Burris said that along the easement, there seems to be a clear shot through the edge of trees where the pipe could be put underground which would leave the plans for the "park-like setting" to remain intact. Mr. Burris added that he has never encountered a problem in entering the street when he has visited the proposed building sight.

Vonnie Hays Adams, 1175 Old Soldier Creek Road, Kirksey, Kentucky was sworn in. Ms. Adams, Executive Director of The Merryman House, came forward to speak on behalf of the project. She explained that they are part of the United Way Agency in Calloway County and that

they are in a relationship with the Kentucky Domestic Violence Association who is designing and funding this project. This particular housing is dedicated to abused victims and their children. All of the domestic violence shelters in Kentucky belong to the KDVA. Eight of these units will be located in Calloway County. Ms. Adams said that these will be safe and affordable homes for victims that are at a point in their life where they can live permanently on their own without any assistance except for counseling and support services from the agency. The tenants are required to have been out of their abusive relationship for a minimum of two years before they will be allowed to live in the facility. The tenants will be allowed to stay at the home indefinitely since this is considered permanent housing. An annual recertification is performed with each family. Ms. Adams added that KDVA would not be managing the complex; however, they would be making the referrals to it. The complex will be managed by Winterwood Management System. With the type of facility that The Merryman House is and how it is being funded, KDVA will be tied to it for 30 years and after that, Ms. Adams said they may decide to do something different with the property. She does not anticipate a sign advertising the project.

Chairman Whitaker asked if there was anyone that wished to speak in opposition to the project. There was no one. Chairman Whitaker turned it over to the board for discussion. *Matt Mattingly left the meeting at 5:10 p.m.*

Justin Pounds stated that he understood the sidewalk concern; however, he did not feel that sidewalks should be a contingency to the project especially for sidewalks on the opposite side of the street from where the project will be located. Planning Staff would like to take the opportunity in any new development to ask the developer or property owner to make a contribution towards putting sidewalks on their property. Mary Anne Medlock stated that she is in favor of sidewalks; however, this situation is a non-profit organization and this would be asking them to commit to something that they may not be able to provide at a future date and that she did not feel comfortable asking them to make that commitment. Kevin Perry stated that he agreed with Ms. Medlock that the owner may not have money to put in sidewalks in the future.

Mary Anne Medlock made a motion to approve the conditional use permit application for a Residential Planned Development project, The Merryman House, located at 1416 Diuguid Drive, owned by Kentucky Domestic Violence Association, with a four parking space variance, in that the nature of the tenants would be that there will not be as many vehicles as would normally be in other apartment complexes; the tree line is to be maintained as much as possible; and that if the property is sold, that the board will revisit the conditional use permit as it regards parking and screening and that such variance 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations subject to meeting all city regulations. The approval of the conditional use permit is contingent upon the Planning Commission approving the final plat. Kevin Perry seconded the motion and the motion carried with a 5-0 voice vote.

Public hearing to review the dimensional variance application for a 15 foot side yard setback and a 25 foot rear yard setback variance on proposed building – 306 Andrus Drive – C.A. Jones Management Group: Chairman Whitaker asked for a motion to table this item.

Justin Pounds made a motion to table the public hearing to review the dimensional variance application for a 15 foot side yard setback and a 25 foot rear yard setback variance on the proposed building at 306 Andrus Drive for C.A. Jones Management Group. Mary Anne Medlock seconded the motion and the motion carried unanimously.

Public hearing to review the conditional use permit application to allow one dwelling unit in a B-3 zoning district at the same location of a permitted business – 109 North 3rd Street, Unit 1 – Jennifer Fairbanks: Candace Dowdy used a power point presentation to show the property at 109 North 3rd Street where Jennifer Fairbanks is opening an art gallery. Charlie McKinney, owner of the building, recently renovated the entire building and divided it into two units. Ms. Fairbanks has her studio in Unit 1 in the front part of the building and there is living quarters located in the back. The studio is approximately 800 square feet with the living quarters an additional 400 square feet. The living quarters consist of an open area for the kitchen, living room and office space with a partial wall separating the bedroom. There is also one full bath. A second means of egress is directly adjacent to the bedroom which meets fire and building codes. In a B-3 zoning district, an owner/operator is allowed to reside at their business if a conditional use permit is granted; therefore, Ms. Fairbanks requests approval from the BZA to reside in the back of her business. As owner of the business, Ms. Fairbanks would be the only one allowed to reside in the building since the wall separating the studio from the living quarters does not meet the two hour fire rated separation requirement by the fire and building codes. She would have full access to the building at all times. Ms. Dowdy stated that Ms. Fairbanks is looking at living at this location on a temporary basis until she gets her business established.

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

Matt Falwell, 5303 Wiswell Road West, Murray was sworn in. Mr. Falwell has been renovating the building. Mr. Falwell stated that he had spoken to Dickie Walls, City Fire Inspector, and because of the square footage of the building and double-front doors an exit does not have to be marked. He added that there is a masonry wall between this building and Carraway Furniture, as well as a masonry wall that separates Ms. Fairbanks' unit from the adjoining office space. Mr. Falwell said that he has also been working with Deana Wright, Murray Main Street Manager, on this particular project and he feels that this is an ideal opportunity for Murray. Ms. Fairbanks grew up in Murray, graduated from Murray State and has been residing in New York City where she worked as an artist. Ms. Fairbanks had an opportunity to move to the Lower Town section in Paducah; however, she opted to move back to Murray to the downtown area and to operate her business here. Mr. Falwell stated that out of Murray Main Street's four point approach, economic restructuring is listed as one of the points. The goal is to improve the economic climate of downtown to involve helping existing businesses expand, recruiting new ones for the changing market and finding ways to make old buildings useful. Mr. Falwell said that this

particular project fits the goal. Mr. Falwell concluded by saying that a building that was becoming an eyesore and not in use has been renovated and is now an economic source for the city.

Jennifer Fairbanks, 135 Sugar Creek Lane, Murray was sworn in. Ms. Fairbanks stated that this is an opportunity to leave the city and have the space in Murray that she did not have in New York. The opportunity came up for this building and she thought it was just perfect. Ms. Fairbanks said that she had lived and worked in a building with only 400 square feet because that was all she could afford. She thinks this space will be ideal for her. She stated that she grew up here and she has connections here as well as the connections that she has with artists in New York and now she can bring some of their artwork here. Ms. Fairbanks concluded that this would be a good financial move for her where she wouldn't have to pay for a living space and a studio to work in.

Charlie McKinney, 1607 Catalina Drive, Murray was sworn in. Mr. McKinney is the owner of the building where Ms. Fairbanks is wishing to live. He said that the building is the old Gibson Ham building and it has quite a history. The interior wall next to Carraway's Furniture is the original brick wall and the front doors are original from the 1950's. Mr. McKinney stated that when he purchased the building, the roof was falling in and that out of the seven restoration projects that he had worked on in the downtown area this building had been the worst. Mr. McKinney feels that the final product is very attractive. He added that the building has a wall in the center which actually splits the space of the building into two units identical in size and when he is financially able, he has plans to finish Unit 2. He concluded by saying that there were two parking spaces in the back of the building that have been allocated for Ms. Fairbanks use.

Chairman Whitaker asked if there was anyone in opposition. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

Kevin Perry made a motion to approve the Conditional Use Permit application of Ms. Jennifer Fairbanks to reside at 109 N. 3rd Street, Unit 1 as the owner/operator of a business at this same location. This permit is only valid for Ms. Fairbanks being the owner/operator of the business. Any expansion of the residential use is subject to BZA and/or City of Murray approval. This is contingent upon the building meeting all building and fire codes. Kim Griffo seconded the motion and the motion carried with a 5-0 voice vote.

Questions and comments: None.

Kim Griffo made a motion to adjourn. Justin Pounds seconded the motion and the motion carried with a unanimous vote. *The meeting adjourned at 5:50 p.m.*