

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, OCTOBER 21, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, October 21, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Mary Anne Medlock, Justin Pounds, Kevin Perry, Scott Seiber and Tom Auer

Board Members Absent: Kim Griffo and Bill Whitaker

Also Present: Candace Dowdy, Peyton Mastera, Warren Hopkins, David Roberts, Reta Gray, Mayor Hudspeth, Officer Steve Robinson, Bud Byars, Charles (Chuck) Jones, Chuck Foster and public audience

Acting Chairman Seiber called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Seiber then asked for approval of the minutes from the September 16, 2009 regular meeting.

Justin Pounds made a motion to approve the minutes from the September 16, 2009 regular Board of Zoning Adjustments meeting as presented. Kevin Perry seconded the motion and the motion carried unanimously with a 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: *Justin Pounds asked to be recused from the public hearing.* Candace Dowdy used a Power Point presentation to show the property on the corner of North 4th Street and Andrus Drive. The applicant, C.A. Jones Management Group, occupies the building located at 306 Andrus Drive (previously H.T. Marketing) and is looking to make an addition to the western side of the existing building. The construction of the building will require two separate setback variances. The property along the north side of the proposed construction is owned by W. D. Steele Construction Company. The applicant is looking to place the building ten feet from the property line and since this is an L shaped lot, this would be considered a rear yard. In an Industrial Zone, the minimum rear yard setback requirement is 35 feet; thus, a 25 foot rear yard setback variance is being requested. Along the western side of the proposed construction the applicant is looking to place the building 10 feet from the western property line. In an Industrial Zoning District, the minimum side yard setback requirement is zero feet which will allow a building to be built on the actual property line. (Ms. Dowdy clarified that the direction in which the business is to be facing on the lot will be the principal street and the other street would be the secondary street.) With this being on a corner lot, the zoning ordinance requires all structures to be at least 25 feet from the property line along the secondary street (North 4th Street); thus, the applicants are requesting a 15 foot side yard setback variance. Ms. Dowdy added that if this project moves forward and the applicant does apply for a building permit, the Planning Department will require that a minor subdivision plat be submitted before a

permit could be issued. The minor plat would abolish the eastern lot line of tract 6-A (created on a minor plat approved by the Planning Commission in October 2008).

Chairman Seiber asked Ms. Dowdy if there was going to be room for a semi-truck to make the turn going North on 4th Street from Andrus. Ms. Dowdy stated that semi-trucks had made this type of turn in the past when H. T. Marketing was located at the same site. Chairman Seiber then asked if the height of the building would exceed the 50 feet that is designated in an Industrial Zone. Ms. Dowdy stated that she was not aware of them wanting to exceed that height.

Chairman Seiber opened the public hearing and asked if there was anyone that would like to speak in favor of the application.

Bud Byars, 571 Oaks Country Club Road, Murray was sworn in. Mr. Byars is the Vice President of Facilities for C. A. Jones Management. Mr. Byars stated that the proposed addition would be very beneficial for them to maximize the use of the property adjacent to the existing building. Mr. Byars said that the property located directly to the north of them as well as the property to the south, the old Lassiter Plaster building, had ten foot setbacks; therefore, they feel that the precedence has been set. Mr. Byars stated that potentially in the next six to nine months they would be adding jobs to the community throughout their organization. Mr. Byars said that the construction plans would duplicate the height of the existing building; thus, not be exceeding the 50 foot height regulation. Mr. Byars added that they had also considered extending the existing warehouse and said that they have previously made inquiries to City officials concerning purchasing the adjacent property from the City. Mr. Byars stated they would appreciate the BZA's consideration in approving this application.

Chairman Seiber asked if there were plans to widen 4th Street in the future. David Roberts stated that he was not aware of any plans to widen 4th Street at this time. Chairman Seiber stated that he had concerns with trucks entering the street at this particular site because of the hill to the north and the speed of the traffic on this street.

Chairman Seiber asked if there was anyone that wished to speak against the application.

Chuck Foster, 1614 The Lane, Murray was sworn in. Mr. Foster stated that he is an attorney for W. D. Steele Construction Company and he would be representing them during the public hearing. Mr. Foster reviewed the minor plats that had been prepared by previous owners of the property where W. D. Steele is now located. On these plats, there was a 50 foot setback showing along North 4th Street. Mr. Foster also questioned who the applicant and property owner was for this requested. Mr. Foster stated that Jed and Karen Workman had formerly been the owners of the entire tract of land which includes the properties being referred to as the Chuck Jones property and the W. D. Steele property. The Workman's prepared and filed in the County Clerk's office a minor subdivision plat in October of 2008. In this plat, there was a 50 foot setback line requiring that anyone that purchased the property would not build anything closer to North 4th Street than 50 feet. Mr. Foster stated that Blackrock Investments purchased their property in December of 2008 and as stated in the deed, the property was purchased with subject

to the 50 foot setback. In March of 2009 W. D. Steele purchased their property from the Workmans and moved into their building in October of 2009. Mr. Foster stated that the Steele property is located towards the top of the hill; therefore, giving them a better sight advantage when pulling out into the traffic on North 4th Street than on Andrus Drive which is located towards the bottom of the hill making it much harder to see the traffic coming from the north. Mr. Foster stated that the biggest concern that W. D. Steele has with Mr. Jones' proposed construction is the hazardous situation that would be created for his trucks coming and going. If the building is located ten feet from the street, the view to the south will be obstructed. Mr. Foster stated that when he was hired by W. D. Steele, he suggested that Danny Steele (the owner of W.D. Steele Construction) and David Brown (employee) sit down and talk with C.A. Jones Management to see if they could work something out. According to Mr. Foster, C.A. Jones was unwilling to discuss a resolution because they thought the variance application was already a "done deal". Mr. Foster said that there has not been sufficient information provided in order for the BZA members to grant the variance according to the requirements of the Kentucky Statutes. Mr. Foster concluded by saying that public safety will be jeopardized and a hazard will be created if the application is granted and C. A. Jones is allowed to construct a building ten feet from the street.

Chairman Seiber asked if there was any rebuttal.

Charles (Chuck) Jones, 71 Astoria Court, Murray was sworn in. Mr. Jones stated that he is owner of 22 companies which are managed by C. A. Jones Management Group and that Blackrock Investments, LLC is one of the companies in that group. Mr. Jones stated that they currently employ 150 people in Murray and are currently in the process of employing 50 more and they need to construct a building. Mr. Jones said his company has made substantial investments in Murray and the estimates for the proposed building are approximately 2.5 million dollars. Mr. Jones added that when they applied for the application, it was just an over site that they applied in the name of C. A. Jones Group instead of Blackrock Investments.

Chuck Foster said that he would like to add that Mr. Jones has done a lot for this community and he wished him well in the future of his business; however, just because Mr. Jones makes more money and is willing to spend more money than W. D. Steele didn't mean that the variance should be approved or that they were right in what they were attempting to do in this situation.

Attorney Warren Hopkins said that there had been a lot of discussion concerning the 50 foot setback that was in the original Minor Plat; however, the board's decision is not to decide if that is legally correct. He stated that the Board of Zoning Adjustment's job is only to address from the 25 foot setback line back to 10 foot.

Chairman Seiber closed the public hearing and turned it over to the board for discussion.

Kevin Perry stated that he felt that approving the application would affect the public safety because the proposed building could possibly block the view when pulling out of Andrus. Also,

he feels that if the building was built that close to the property line, it would alter the character of the general vicinity.

Mary Anne Medlock stated that she also was concerned with the closeness to the road and the traffic issues that could occur should the application be approved.

Chairman Seiber stated that he shares some of the same concerns as Ms. Medlock and Mr. Perry. Chairman Seiber said that since it is not known whether 4th Street will be widened in the future, if this application should be approved, there would be a building in the way at the ten foot mark. *Mayor Hudspeth left the meeting at 5:30 and Officer Robinson left the meeting at 5:35.*

Tom Auer made a motion to deny a 25 foot rear yard and a 15 foot side yard variance on the proposed construction of a building located at 306 Andrus Drive (vacant lot at the intersection of 4th and Andrus Drive) with the findings that there are safety concerns for the area. Kevin Perry seconded the motion and the motion carried with a 4-0 voice vote. Justin Pounds returned to the meeting.

Election of Officers: Chairman Seiber stated that it was time for the election of new officers for next year.

Tom Auer made a motion to keep the same slate of officers for 2010 that are currently serving (Bill Whitaker, Chairman; Kim Griffo, Vice-Chair; Scott Seiber, Secretary). Justin Pounds seconded the motion and the motion carried with a 5-0 voice vote.

Questions and comments: Candace Dowdy mentioned a Continuing Education opportunity to be held on October 28th.

Tom Auer made a motion to adjourn. Mary Anne Medlock seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 5:40 p.m.

Chairman, Scott Seiber

Recording Secretary, Reta Gray