

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 21, 2011
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 21, 2011 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Scott Seiber, Bill Whitaker, Brad Darnall, Mary Anne Medlock, Steven Reed, Justin Pounds and John Krieb

Board Members Absent: None

Also Present: Candace Dowdy, David Roberts, Reta Gray, Robin and Tracy Holmes, Anita Peeler, Sherry Hasty and public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker asked if there were any changes, additions or deletions to the minutes from the August 17, 2011 regular meeting.

Scott Seiber made a motion to accept the minutes from the August 17, 2011 Board of Zoning Adjustments regular meeting as presented. Justin Pounds seconded the motion and the motion carried unanimously.

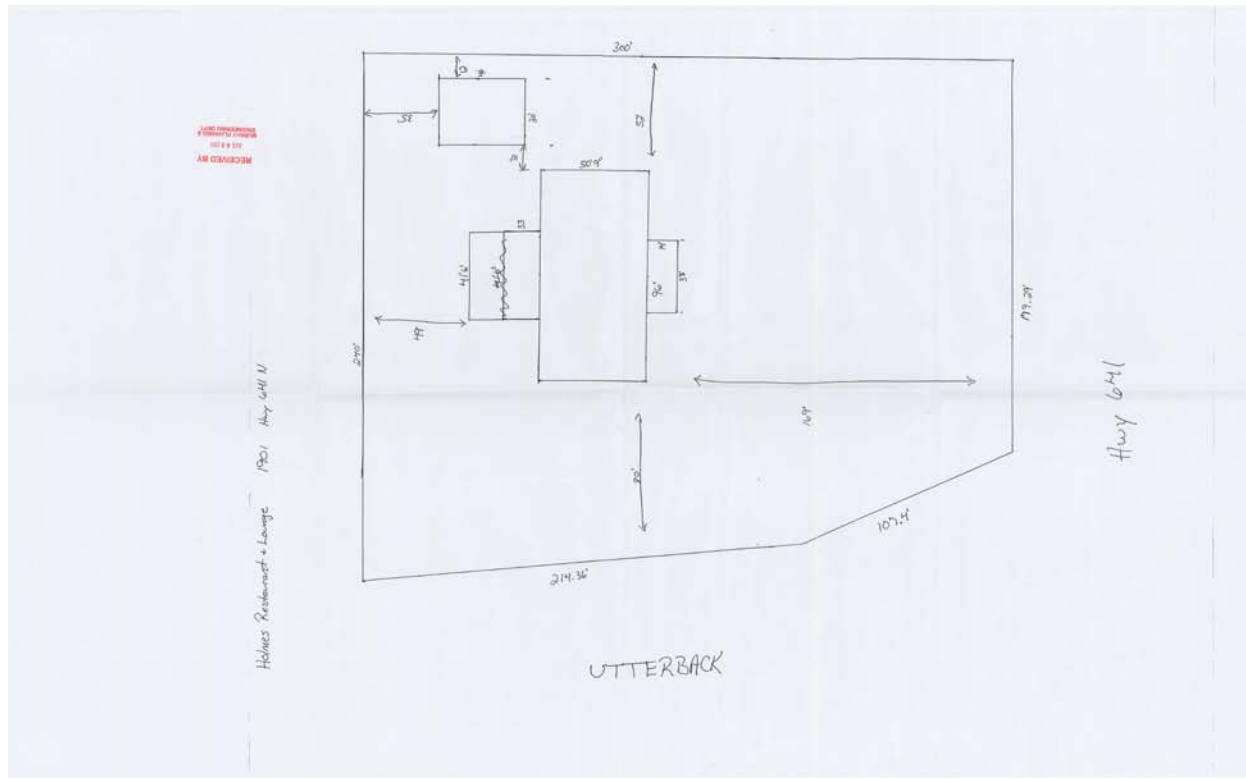
Chairman Whitaker stated that there had not been a Planning Commission meeting held the previous night; therefore, item #5 on the agenda (Compatibility Hearing for Residential Planned Development Project at Lot 48 Cambridge Subdivision, Unit III – Daniel Yong) will need to be tabled until the Planning Commission meets.

John Krieb made a motion to table the item. Scott Seiber seconded the motion and the motion carried unanimously by voice vote.

Public Hearing to Review Dimensional Variance Request for Accessory Structure to be Placed in Side Yard at 1901 North 12th Street – Holmes Restaurant – Robin and Tracy Holmes: Candace Dowdy used a Power Point presentation to show the property at 1901 North 12th Street where Robin and Tracy Holmes, owners of Holmes Restaurant are currently renovating their entire restaurant. During this process they would like to construct a 30 foot x 40 foot detached permanent building on the northwest corner of the property for the purposes of storing their catering trailers and other equipment used in maintaining the property. The building will be of wood frame construction with a metal roof and vinyl siding that matches the vinyl siding on the restaurant. Providing screening along the west property line that joins Hickory Woods Retirement Home has been discussed with the Mr. Holmes. Ms. Dowdy stated that there is not enough room to stay off the sewer easement in the rear yard; therefore the applicants are requesting that the placement of the proposed accessory structure be located in the side yard. The actual placement of the structure will be 38 feet off the back property line. Ms. Dowdy stated that this property is zoned B-2 and explained the surroundings as R-4 (Multi-Family

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Residential) zoning to the west (Hickory Woods Retirement Home), Government zoning to the north, B-2 (Commercial) zoning to the south and county property located to the east.



Ms. Dowdy stated that all adjoining property owners were notified. She added that she had talked with Mr. Holmes about providing some screening along the west side of his property and he stated that he would be receptive to the idea.

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

Robin L. Holmes, 2118 Glenwood Drive, Murray was sworn in. Mr. Holmes stated that Ms. Dowdy had given an accurate description of the request. He added that he would like for his two catering trailers to be put in the garage not only for environmental protection reasons, but for appearance to the property as well. Mr. Holmes added that they would be using pavers from the restaurant to the building to connect the two and will add additional landscaping so that the area will be more attractive. Mr. Holmes stated that they have not decided on the design of the roof at this point, however, the siding and roof will match the restaurant colors. There will be one garage door on the front side, one side door and a couple of windows in the building. Mr. Holmes said that Kenny Jackson, Commercial Building Inspector for the City of Murray, had been there and measured the proposed site of the building. The front of the building will still remain behind the main part of the restaurant by approximately 18 inches with the required 35 foot rear setback. Chairman Whitaker asked if they were going to have a paved driveway to the

building. Mr. Holmes said their intentions are to pave the entire parking lot along with an entrance to the proposed building; however, they do not know if they will be able to do it all this year or not; however, the entrance to the accessory structure would be their priority this year. Chairman Whitaker asked if they would be storing food in the building and Mr. Holmes replied that they would not because the Health Department would not allow that. There is a walk-in freezer that is currently sitting in the back of the restaurant. The freezer will be moved next to the restaurant and painted to match the outside of the restaurant.

Chairman Whitaker asked if there was anyone that wished to speak in opposition to the application.

Anita Peeler, Executive Director of Hickory Woods Senior Living Community, 84 Utterback Road, Murray was sworn in. Ms. Peeler stated that she was not actually in opposition; however, she did have some concerns that she would like to make known.

- The view that the residents see when sitting on the porch should look nice
- The pipe that is run to the rear of the property has water running from it constantly
- The noise from the patio area late at night disrupts residents while they are trying to sleep
- The beer bottles thrown over the wall onto the Hickory Woods property from the patio area

Chairman Whitaker asked Ms. Peeler if the proposed building screening provided by evergreens would be satisfactory and she replied that it would. The area where the water is running off and standing was discussed. Ms. Peeler said that it looks like it is supposed to be run into the small ditch that is there, but the water seems to just be ponding which makes it difficult for their maintenance personnel to mow the yard in that spot. Mr. Holmes came forward and explained that when Paul Dailey owned the property there was a deep ditch across the back of his property. Then Mr. Edwards bought it and in order to clean the property up, he filled in the ditch causing the ponding situation. The four (4) inch pipe was put in to handle the rain water from the roof and the water from the five air condition units. All of the unit's run-off goes into one pipe and that pipe is draining to the low spot on the Hickory Woods property. When Hickory Woods entrances were put in, the ditches that once ran along Utterback were disturbed; thus, the natural flow of the water was also interrupted. The water has nowhere to go from the pipes and it is backing up on the Hickory Woods property. Mr. Holmes said that he had talked with the Health Department about this situation. Once the new sprinkler system is put in, Mr. Holmes's intention is to run the lines down each side of the property to the larger front ditch. Mr. Holmes stated that as restaurant owners, they were not wanting beer bottles to be thrown over the wall onto anyone else's property either and hopefully when they reopened as a "fine dining" restaurant, this type of situation would remedy itself.

Ms. Dowdy stated that she had contacted the owner of Hickory Woods, Mr. Gary Keckley, and he did not have any problem with the structure being placed at the proposed location. Mr. Keckley had indicated to Ms. Dowdy that he was very pleased with having a restaurant within close proximity to Hickory Woods especially for the convenience of family members that come to visit the residents. Ms. Dowdy said that Mr. Keckley did not have any issues with the screening.

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

Ms. Dowdy said that any recommendations from the board members as to the screening would be encouraged. She said that screening is not mandatory; however, Mr. Holmes had stated that he would be agreeable to put the proper screening on the back of his property. Ms. Dowdy added that this requirement could be along the entire rear of the property or on just the area where the structure was to be added. Justin Pounds stated that he would tend to be sympathetic with Mr. Holmes and not require him to add screening along the entire property line. He said that the screening for the entire property line was unrelated to the issue at hand and if the two parties could come to a mutual agreement and each share in the cost that would be an ideal situation. Ms. Dowdy noted that Hickory Woods was there before the previous owner added the patio. Steven Reed stated that he would like to see screening between the patio area and Hickory Woods. Mary Anne Medlock said that she agreed with Justin Pounds and that any screening that they were to deal with should only have to do with the accessory structure and they should not take advantage of the situation by requesting Mr. Holmes to provide landscaping for the entire property line. She added that if Hickory Woods has a problem with the scenery, then they should provide their own screening.

Justin Pounds made a motion to approve the Dimensional Variance application for Robin and Tracy Holmes to place a detached accessory structure in the side yard at 1901 North 12th Street for the purpose of storing business related equipment. Screening that meets city regulations is to be placed along the west property line directly behind the new structure only and any other screening between the Holmes's property and Hickory Woods will be at Mr. Holmes's discretion. The placement of the structure in the side yard is due to the sewer easement along the back of the property. This 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. Scott Seiber seconded the motion and the motion carried with a 7-0 voice vote.

Public Hearing to Review Dimensional Variance Request to Place Accessory Structure in Front Yard at 1701 North 12th Street – Traveling Pants Consignment: Candace Dowdy used a Power Point presentation to show the property at 1701 North 12th Street. Ms. Hasty leases the building where her business Traveling Pants Consignment is located. The property is zoned B-2 (Highway Commercial). Ms. Hasty recently had a detached storage building constructed on site. Planning staff received a call regarding the placement of the accessory structure and wanted to know if a permit had been issued for the building. The building official made a visit to the site and determined that the building was on skids and was therefore movable. Due to the size of the building (10 feet x 20 feet) a building permit is required. The Building Official informed Ms. Hasty that she needed to contact the Planning Department regarding the placement of the storage building in the front yard. Ms. Hasty contacted the Planning Department and she was told that accessory structures were only permitted in a rear yard without approval from the Board of Zoning Adjustments. Ms. Hasty is requesting permission to leave the accessory structure in the

front yard of her business. Ms. Hasty is using this storage building as a holding area for merchandise that her customers bring in to place on consignment. The structure is currently sitting 41 inches in front of the main building. Ms. Dowdy stated that the main building is over 200 feet from North 12th Street frontage road and approximately 33 feet off the north property line. Considering the fact the accessory structure is 20 feet deep and that it would need to be a minimum of five feet off the rear property line it is probably not feasible for the structure to be placed in the rear yard. Ms. Dowdy said that there is a fenced in area in the side yard to the north where there is an old cistern. She stated that she had indicated to Ms. Hasty that the building could be turned and placed in that side yard.

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

Sherry Hasty, owner of Traveling Pants Consignment, 1701 North 12th Street, Murray was sworn in. Ms. Hasty stated that she has over 547 consigners and that merchandise is dropped off daily. Items are brought in large boxes and bags. Sometimes these containers are heavy and awkward to handle; therefore, the reason for putting the accessory structure in that particular location. Ms. Hasty said that the fewer steps she has to take in putting out the merchandise, the better. Once the items are dropped off at her business, they are kept in the accessory structure until she has time to sort them and transfer them to the store. She has a 90 day policy with her consigners; thus, time is of importance to her. Ms. Hasty stated that the building has four shelves on each side and currently all shelves were packed full. She added that the structure does not have steps at this time because they were waiting to see if she was going to be able to leave it at this location before they finished it. If allowed to leave it there, she said that it would be underpinned and landscaped. Ms. Hasty said that her building has four sections. There is a small office area in one section and the rest of the building is full of merchandise. There is no outdoor storage of items. Ms. Hasty stated that she needs the accessory structure for additional space to help in the sorting procedure. Ms. Hasty added that Mr. Rayburn (owner of the building) had told her that he didn't mind if she took the fence down on the north side of the building; however, with the cistern there, Ms. Hasty said that she was worried for the safety of her customer's children if the cistern was left unguarded.

Chairman Whitaker asked if there was anyone that wished to speak against the application. There was no one; therefore, Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

Board member John Krieb stated that by leaving the structure where it now is will help to mask the cistern, fence and weeds that are behind it; thus, provide a useful barrier for Hwy 641. Mary Anne Medlock stated that she agreed with Mr. Krieb. She added that she saw the need to move the structure to the side yard; however, she said that would be exposing the cistern. Justin Pounds said that he could see that the structure is serving a purpose where it is located. Brad Darnall said that the variances are supposed to be done before hand which makes it a hard decision once the structure is already there and in use. Steven Reed added that he did not think

that the run down fence was serving a purpose in its current state. Ms. Dowdy said that there is ample room to relocate the structure to the north side of the building.

Mary Anne Medlock made a motion to approve the Dimensional Variance application for Sherry Hasty owner of the Traveling Pants Consignment Store to place an accessory structure in the side yard at 1701 N. 12th Street with the understanding that the storage building is to be removed from the property if her business ceases to operate at this location. The reason that the approval is for the side yard opposed to the back yard is because of the location of the utilities and questions in regards to the back yard variances. Ms. Hasty will have 60 days to move the structure to the side yard. This 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. Steven Reed seconded the motion. John Krieb amended the motion to read that the fence should be taken down and the area cleaned up allowing Ms. Hasty to place the structure as close to the cistern as she would like. The motion carried with a 4-3 voice vote. Justin Pounds, Scott Seiber and Bill Whitaker voted no.

Questions and Comments: None

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

Chairman, Scott Seiber

Recording Secretary, Reta Gray

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