

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, NOVEMBER 20, 2013
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, November 20, 2013 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Mary Anne Medlock, Josh Vernon, Scott Seiber, Bobbie Weatherly, Linda Scott and Terry Strieter

Board Members Absent: John Krieb

Also Present: Justin Crice, Candace Dowdy, Jennifer Tolley, Bill Crass, Brian Hopkins, Nat Rassi and public audience

Scott Seiber called the meeting to order and welcomed all guests and applicants. Mr. Seiber asked if there were any changes that needed to be made to the minutes from the November 6, 2013 special called meeting. Candace Dowdy and Justin Crice noted some changes in the minutes. **Josh Vernon made a motion to approve the BZA minutes from the November 6, 2013 special called meeting as amended. Linda Scott seconded the motion and the motion carried unanimously.**

Public Hearing: Dimensional variance request to allow accessory structures in a side yard, with a setback variance – 1006 Westgate Drive – Bill Crass: Candace Dowdy used a PowerPoint presentation to show the zoning, surrounding zoning, aerial photography, and pictures of the property at 1006 Westgate Drive. Ms. Dowdy presented some history of the property and how this issue presented itself through an inquiry by an adjoining property owner. Ms. Dowdy explained why this accessory building would have needed a building permit, and that accessory structures are permitted only in a rear yard with a minimum of a 5 ft. setback to all lot lines. Ms. Dowdy explained she told Mr. Crass he would have to move the building or apply for a variance. Ms. Dowdy stated Mr. Crass also requested a standalone carport in a side yard in this process. Ms. Dowdy gave some background information for 4 previous accessory buildings on the property. She also explained how the new structures replaced the previous buildings due to damage during the 2009 ice storm and rust decay. Ms. Dowdy continued to say the replaced accessory building constructed this year extended the 2009 building with the same type of material. Ms. Dowdy explained this building is 2 ft. off the property line and will need a 3 ft. side yard setback variance. Ms. Dowdy said Mr. Crass would like the carport in a side yard to use as a covering for grilling during the summertime.

Terry Strieter asked if the builder usually obtains a building permit for an accessory structure. Ms. Dowdy stated that contractors who do site built construction typically know to get a building permit. She continued to say that some builders or contractors might not know when to get a permit, especially with accessory structures.

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

Bill Crass, 1006 Westgate Drive, Murray KY, was sworn in. Mr. Crass stated he would have to plead ignorance in this process. Mr. Crass gave a history of the buildings and how they were replaced. Scott Seiber asked when the original buildings were built, were they on separate concrete or the same concrete pad. Mr. Crass said it was one pad but was not sure if it was all poured at the same time. He said he thought it looked better with one building rather than having multiple sheds. He also said he wished the

building was further from the fence. Bobbie Weatherly asked Mr. Crass if he had sufficient storage space and why he had requested the carport. Mr. Crass said he does, but was looking for a covered place to barbecue. Scott Seiber asked Ms. Dowdy if Mr. Crass wanted to put a carport in his backyard whether or not it would be an issue. Ms. Dowdy said he could place it in a backyard. Mr. Crass said he did not know side yard and rear yards required different rules. Terry Strieter asked if Mr. Crass had a conversation with his neighbor that abuts the accessory building. Mr. Crass said he had and explained it was the neighbor's tree that had fallen on his metal building during the 2009 Ice Storm.

Scott Seiber asked if there was anyone else who wished to speak in favor of the application. There was no one. Scott Seiber then asked if there was anyone who wished to speak in opposition to the application.

Brian Hopkins, 1008 Westgate Drive, Murray KY was sworn in. Mr. Hopkins identified his property as the property to the south that adjoins the side lot line of Mr. Crass. Mr. Hopkins said he thought that if this variance is allowed, more people are going to want to do it. He continued to say he knew to place his accessory building in a backyard and that's how it was handled. He also stated the carport especially would be something he would not like to see in his neighborhood. Mr. Hopkins gave some background on his tree falling and destroying the two sheds, clarifying he did not know Mr. Crass was going to replace them with something larger. He continued to say he saw Mr. Crass adding on recently and the building now looks to be about 60 ft. Ms. Dowdy confirmed the structure is 20 ft. X 60 ft. long with a 20 ft. X 26 ft. addition taking place in 2009 with the rest just recently taking place. Mr. Hopkins stated when he walks out his backyard he sees the roof of the structure over the fence line. Mr. Hopkins stated he had lived at 1008 Westgate about 5 years and went into some detail on the property boundaries.

Scott Seiber asked if there was anyone else who wished to speak in opposition. There was no one. Scott Seiber closed the public hearing.

Josh Vernon asked if there were any restrictions for the amount of and the size of accessory structures. Ms. Dowdy stated they cannot exceed the size of the principal structure. Bobbie Weatherly asked if the Board could split this decision by approving one of the requests and denying the other. Ms. Dowdy affirmed this question. Ms. Dowdy asked Mike Pitman if the variance is granted and the newer building deteriorates what could the Board do. Attorney Mike Pitman said the variance would be attached to the property running with the land, and the land owner would have the right to replace the building in that particular location. Terry Strieter asked Attorney Pitman if the Board could pass the variance contingent upon the property owner building a higher fence to hide the view of the accessory building. Attorney Pitman said the Board could do that if the Gatesborough Subdivision restrictions would not conflict with the fence height. Scott Seiber asked if the accessory building is replaced, could the Board stipulate it be of materials similar to the house. Attorney Pitman said the Board could do that. Terry Strieter made a comment that if this variance is approved a precedent would be set to ask for forgiveness rather than to obtain a building permit. Further discussion was held by the Board on their opinions with what to do in this situation. Ms. Dowdy clarified that an adjoining property owner inquired about this situation rather than filing a complaint. Some discussion was held by the Board on if a higher fence would help this situation. Terry Strieter asked if the Board could reopen the public hearing and hear if the adjoining property owner's opinion on the fence height.

Scott Seiber reopened the public hearing. Brian Hopkins of 1008 Westgate Drive, came forward. Mr. Hopkins stated he would be in a favor of a higher fence. Mr. Hopkins stated he previously saw the roofline of the older buildings, so raising the fence height would present a similar situation to what was there previously.

Josh Vernon moved to deny the dimensional variance request by Bill Crass at 1006 Westgate Drive for an accessory structure (metal carport to be placed in a side yard) based on the fact there is no demanding need for it to be located there and there other possibilities to locate the structure in a rear yard if the property owner desired to do so. Bobbie Weatherly seconded the motion and motion carried with a 6-0 roll call vote.

Terry Strieter made a motion to approve the dimensional variance request by Bill Crass at 1006 Westgate for an accessory structure in a side yard with a 3 ft. side yard setback variance. This variance is approved with the condition that an 8 ft. screening fence is built on the side yard that adjoins 1008 Westgate Drive. 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. Bobbie Weatherly seconded the motion and the motion carried with a 5-1 roll call vote. *Josh Vernon voted no.*

Compatibility Hearing: Proposed residential planned development project located on North 16th Street – The Keys – Nat Rassi – JN Rassi, Inc. – Justin Crice used a PowerPoint presentation to identify the property with aerial photography, zoning of the property, and plans submitted by the applicant. Mr. Crice stated that Nat Rassi, with JN Rassi Inc., is proposing to develop five lots of the Hale Development Company property into a residential planned development project. This property is located north of The Keg Restaurant and southwest of the August Moon property on Lowes Drive. These five lots total 4.22 acres. Mr. Crice said that Mr. Rassi has submitted plans proposing to construct six (6) three story residential apartment buildings at this site. The site also has plans for a clubhouse and a swimming pool. Mr. Crice said a minor subdivision plat combining these five lots will have to be submitted and approved to develop this property as a PDP. Mr. Crice said this project can only be reviewed through the PDP process because it is a residential use in a B-2 Zoning District and because it has multiple buildings on the property.

Mr. Crice showed the proposed means of egress to the property from North 16th Street as well as Lowes Drive. Parking has been placed around the units and is mostly shown within the building setbacks. Mr. Rassi is proposing to put 72 - four bedroom units at this location for a total of 288 beds. The drive aisle will maintain 24 feet around the development and Fire Marshall Dickie Walls stated this was sufficient space for emergency access. Don Rogers with Murray Sanitation recommended a compactor, similar to what Murray Place and Campus Evolution Villages have put in place, for a development of this size.

Mr. Crice said the Density for this development as shown on the site plan would be 17 units per acre. He continued to say the Murray Zoning Ordinance does not define density for a B-2 Business District, so density in a business district has been looked at in one of following three ways;

- The R-3 residential zoning district bases density on square footage per unit and would allow up to 59 units on this property.
- The R-4 residential zoning district bases density on square footage per unit and would allow up to 89 units on this property.
- In the Future Land Use Element of the 2009 Murray Comprehensive Plan, the high density residential areas have a gross density of 15.8 units per acre which would allow up to 67 units on this property.

Mr. Crice spoke about the parking being shown with 288 spaces for residents and 26 for visitors for a total of 314 striped spaces. This proposal would require a variance because the regulations require one (1) additional space per dwelling unit for visitor parking for a total of 360 required spaces. The submitted renderings do not show an elevation of the building, but the maximum height of any building in a B-2

Zoning District is 35 feet. Mr. Crice also showed some traffic and census numbers with the PowerPoint. Mr. Crice indicated that the State's expansion of the intersection at Hwy 121 Bypass and 16th Street would add a left hand turn lane there and showed the KYTC right-of-way plans for this project.

Scott Seiber asked about the density for this development. Ms. Dowdy clarified how the City has looked at other PDP densities within business districts in the past and explained the densities that could be looked at. Ms. Dowdy talked about the Planning Commission's concerns from the previous night and the walkability of the project. Some discussion was held by the Board and Planning Staff of the likelihood that students would use sidewalks north to 16th Street or Waldrop Drive. Ms. Medlock stated that they discussed eliminating the entrance off 16th Street and having another means of egress on Lowes Drive. Discussion was held on this topic as to how traffic patterns would be affected. Ms. Dowdy clarified and discussed vacant properties along Highway 121 Bypass, and between 12th & 16th Streets. Ms. Medlock said this identifies limited space in the area. Josh Vernon stated this project would not change the zoning, so the property could be used for commercial development in the future. Scott Seiber said he thought this PDP made perfect sense in a commercial zone.

Nat Rassi came forward to speak. Terry Strieter asked if Mr. Rassi would be open to eliminating the entrance off of 16th Street. Mr. Rassi stated he would prefer it and would rather have both entrances/exits on Lowes Drive. Ms. Medlock asked if Mr. Rassi had time to consider eliminating units to add more green space since the Planning Commission meeting. Mr. Rassi said he would see how the numbers work out and wants to get an accurate cost estimate from a contractor. Bobbie Weatherly asked if Mr. Rassi had other projects in the Murray area. Mr. Rassi said he does not but was involved in the Campus Suites project a few years ago where he became familiar with the Murray area. Mr. Rassi answered some more questions from the Board about screening the south property line and about the Clubhouse/pool placement. Mr. Rassi responded to some of the walkability comments from earlier and stated this location's proximity to the University was exactly why they were considering it over some cheaper properties farther out. Mr. Rassi said a higher percentage of people under 24 did not have driver licenses and stated he felt like in years to come, more people will be more interested in walking rather than driving everywhere. He stated he also felt it would take more time to drive and park on campus than it would to just start walking from the proposed location. Mr. Rassi said his idea was to build a residential community, not just apartments, and he said the other purpose built housing in Murray succeeded in doing that.

Josh Vernon made a motion that the proposed residential planned development project for JN Rassi Inc., at North 16th and Lowes Drive is compatible to the surrounding area. Terry Strieter seconded the motion and the motion carried by a 6-0 roll call vote.

Revised Final Plat-The Villages at Hickory Woods - Goodworks Unlimited LLC: Candace Dowdy explained that Mr. Gary Keckley with Goodworks Unlimited, LLC recently purchased a piece of property from Paul and Vickie Garland that was being developed as a Residential Planned Development Project known as Wellington Place Apartments. Ms. Dowdy used a PowerPoint presentation to show the property just west of Hickory Woods Retirement Center which Mr. Keckley and Murray Senior Living, LLC also own. Ms. Dowdy said that Mr. Keckley is proposing to continue developing this property as residential but would like to alter the final plat that was approved in May of 2012 with a new design for The Villages at Hickory Woods. This project will be geared toward senior residents that still maintain independent living while having the same amenities offered by Hickory Woods Retirement Center. Under the PDP regulations in the zoning ordinance it states that there shall be no change, alteration, amendment or extension of any approved PDP final plat unless such change alteration or amendment or extension is approved by the Board of Zoning Adjustments and that the changes must be consistent with the Planning Commission's intent and direction of the project.

Ms. Dowdy said the original project that was approved in May of 2012 consisted of 37 one bedroom units and was granted a 33 space parking variance. This revised plat shows a reduction in the number of units to 21 total units. Ms. Dowdy said the Mr. Keckley is proposing one building with seven (7) two bedroom units and one building with six (6) one bedroom units on the south end of the property. Some of these units will have an enclosed one car garage. On the north end of the property they are proposing to construct four duplexes with each unit having two bedrooms and a two car garage. The revised Final Plat also shows a drive connection from this property to the Hickory Woods property for the purpose of transporting meals to the new residents as well as an additional means of ingress/egress to the property.

Ms. Dowdy explained that some revisions will still need to be made to another plat based off some land negotiations with the Jobe property to the west. Josh Vernon asked if the Board would be seeing another Final Plat if additional property is acquired. Ms. Dowdy said the additional land was for adding a loop access to the property to east and if they decide to add more units, a revised Plat would be required. Some discussion was held as to the annexation of this additional property and why it would be brought into the city if it was developed.

Josh Vernon made a motion to approve the Revised Final Plat for the Residential Planned Development Project located on Utterback Road for The Villages at Hickory Woods by Goodworks Unilimited, LLC, with the reduction in the number of units, parking as presented and there being a joint access road to the Hickory Woods property as a second means of egress. This is contingent upon the project meeting all other city regulations. Terry Strieter seconded the motion and the motion carried by a 6-0 roll call vote.

Questions and Comments: Ms. Dowdy explained a packet she gave to Board members before the meeting about due process and ex-parte communication. Some discussion was held on this topic.

Adjournment: Josh Vernon made a motion to adjourn. Bobbie Weatherly seconded the motion and the motion carried unanimously.

Chairman, Scott Seiber

Recording Secretary, Justin Crice