

**MURRAY BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
WEDNESDAY, AUGUST 22, 2018  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, August 22, 2018 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

**Board Members Present:** John Krieb, Bobbie Weatherly, Mike Faihst, Terry Strieter, Jim Foster and Josh Vernon

**Board Members Absent:** None

**Also Present:** Maurice Thomas, Justin Smith, Attorney David Perlow, David Roberts, Jeremy Buchanan, Shane Knight, Kristal Romaine, and Danny Steele

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Maurice Thomas called the roll. Chairman Krieb then asked for a motion to approve the minutes from the July 18, 2018 Regular BZA meeting.

**Mike Faihst made a motion to approve the minutes from the July 18, 2018 regular BZA meeting as presented. Jim Foster seconded the motion and the motion carried unanimously.**

Chairman Krieb announced that they would be rearranging the agenda because the applicants scheduled for the first public hearing were not present.

**Public Hearing: Consideration of a Conditional Use Permit request for a 2 foot setback in the side yard located at 170 Utterback Road – Sam Lehman:** Justin Smith used a Power Point presentation to show Hickory Woods located at 84 Utterback Road and The Villas at Hickory Woods (East) at 170 Utterback Road. This variance request is focused on two duplexes, with the first duplex being units 617 and 619, and the second duplex being units 621 and 623. Currently the water main is too close to the proposed construction of these buildings. This request is an attempt to move the proposed building designs further away from the existing water main. By allowing this setback variance, future maintenance to the water lines will be more accessible. To grant the dimensional variance request, the Board must find that “the granting of the variance meets the stipulations listed in § 156.082 DIMENSIONAL VARIANCES”. Staff is not opposed to allowing the primary buildings to be placed 2 feet within the 10 foot side yard setback provided that the Board of Zoning Adjustment finds that granting the setback variance is reasonable and necessary.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

Sam Lehman came forward and was sworn in. Mr. Lehman was representing Gary Keckley from Hickory Woods. He said that by getting the 2 foot setback they feel like this would be the best for them and for the City. One duplex is already constructed and there was some waterline

rerouting for that. These two duplexes will sit back 2 feet and actually not line up with the existing duplex. Mr. Lehman explained that West Kentucky RECC is in the process of installing their underground lines behind the buildings at this time. They feel confident that they can get the electric lines in behind the existing duplex and are able to work more freely without the other two duplexes being there.

No one was opposed to the request; therefore, the public hearing was closed and the item was turned over to the Board for further discussion and a motion.

**Mike Faihst made a motion to grant the 2 foot Setback Variance for the primary buildings to be located within a side yard setback located at 170 Utterback Road for Units 617, 619, 621 and 623 as presented. This is to accommodate the existing water main so there is no encroachment on it should there be a leak in the main. There was no one that spoke against the request. The offset from the existing duplex will not be detrimental. The testimony presented in this public hearing has shown based on the findings it does not adversely affect 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 ordinance. Josh Vernon seconded the motion and the motion carried with a 6-0 roll call vote.**

Chairman Krieb stated that Rick & Kristal Romaine had arrived; therefore, they would go back to review that item. He explained that this item had been brought before the Board at a previous meeting and it had been tabled. He then asked for a motion to remove the item from the table.

**Jim Foster made a motion to remove the item from the table and bring it before the Board. Mike Faihst seconded the motion. The motion carried unanimously.**

**Public Hearing: A request for a Dimensional Variance for a 20 foot setback for a garage in a secondary yard located at 814 Bagwell Boulevard – Applicant: Rick & Kristal Romaine:** Justin Smith showed pictures of the property at 814 Bagwell Blvd. which is located on the northwest corner of the intersection of Bagwell Blvd. and Glendale Road. The property is within the Bagwell Manor Subdivision. The focus of this setback variance will be on the secondary yard since this property is located on a corner lot. *The current secondary yard setback is 30 ft. per the Bagwell Manor Subdivision plat.*

Rick Romaine hired a contractor to extend his driveway and to add an accessory structure in the rear yard on his property. The contractor Musco & Taylor had made contact with the City Building Official on April 12, 2018 inquiring about permits for extending a driveway. At this time, they acquired a business license but never mentioned constructing a detached garage; thus, a building permit was not purchased at that time. A letter was sent to property owners Rick & Kristal Romaine on June 12, 2018 in regards to the partially finished detached garage to inform them of the City setback regulations and the process of obtaining a building permit. A letter was sent to Musco & Taylor Construction on August 16, 2018 explaining the process of building permits to prevent situations like this in the future. Justin explained that at this time a building permit has been filled out and the property owners are waiting on a ruling from the BZA on

whether or not they will be allowed to keep the accessory structure in its current location. Currently it is located 10 feet from the right-of-way off of Glendale Road which is considered a secondary street. The secondary yard setback on this lot is 30 feet. Where it stands now, the detached garage is sitting within the setback by 20 feet. The home owners were unaware of the Musco & Taylor's oversight until Planning Department made them aware of it. Since the previous BZA meeting on July 18, 2018, Kristal Romaine has taken some measures that she believes mitigates the oversight by her contractor. The Romaine's have an overall plan that addresses the aesthetics of the property which Mrs. Romaine will explain. Staff has talked with Murray Electric and it was confirmed that the accessory building was constructed over an electrical service line that goes to 814 Bagwell Boulevard. Murray Electric has no problem with the current location of the building; however, they made the couple aware that if there was ever an issue with the line and it needed to be repaired, they could be without power for quite a while.

Staff is not opposed to allowing the setback variance for the accessory structure located at 814 Bagwell Blvd. provided the BZA finds that granting the setback variance is reasonable and necessary.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

Kristal Romaine came forward and was sworn in. Mrs. Romaine thanked the Board for extending their time in order for them to show how they envisioned their garage and home to come together cohesively. Mrs. Romaine stated that they understand the reasons behind the suggestions and recommendations and they took them to heart. Ms. Romaine considers herself a perfectionist and it was her desire from the beginning to make the dwelling and garage cohesive. They have planned to paint the home to match the garage. They have hired a painting firm which has begun painting the trim work and the deck. Their plan is to have their home painted as well but because of finances, they will probably not be able to have that completed until the spring of 2019. The garage is finished. The new building will have outside lighting, garage doors and shutters that will match the house. The Romaines have landscaped around the garage as the Board suggested previously. Mrs. Romaine said that had received numerous feedbacks about their garage and they had all been positive. There were actually two contractors that worked on the construction of the garage. One was for the concrete work and the other was for the garage itself. Mrs. Romaine has tried to contact the original contractor (that she presumed had obtained all the necessary permits) and he will not return her calls.

Justin then told the Board that they had received a letter of approval from neighbor Mike Faihst. (*Letter was entered as Exhibit A.*) He also reviewed a letter that was mailed to Musco & Taylor inviting them to attend the BZA meeting. (They chose not to attend.) (*Letter was entered as Exhibit B.*) It was suggested that the contractor's name and address be noted in the file so if they ever came to Murray again, there would be documentation concerning their non-conformance. The Board agreed that the Romaines had made a good faith effort to resolve some of the issues. There was no one that came forward to speak in opposition to this request; therefore, the public hearing was closed and the item turned over to the Board for discussion and a motion.

**Jim Foster made a motion to grant the Setback Variance for an accessory building in a side secondary yard for 814 Bagwell Blvd. as presented. The testimony presented in this public hearing has shown based on the findings it does not adversely affect 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 ordinance. The electric company and also the City have checked to see that it is clear and the property owners have made a good faith effort to landscape the property. There would be a financial distress in moving the building at this time. Bobbie Weatherly seconded the motion and the motion carried with a 5-0 roll call vote. Mike Faihst abstained from voting.**

**Public Hearing: A request for a Conditional Use Permit for outdoor storage and the sale of tiny houses to be located at 1406 North 12<sup>th</sup> Street –EZPB of Murray KY LLC:** Justin explained that the applicant is requesting a Conditional Use Permit for outdoor storage of merchandise in the business center The Village which is in a B-2 zone. Danny Steele is requesting to store and sell small out buildings and tiny houses. The proposed location for these will be in a small gravel and grassy area in between the parking lot at 1406 North 12<sup>th</sup> Street and 1410 North 12<sup>th</sup> Street. The success of the business will determine whether Mr. Steele will gravel the entire grassy area or not. A business license is required before this business starts operating inside the city limits. Justin showed brochures of the merchandise available. Pictures were then shown to signify the setback lines of the property. To grant the conditional use request, the Board must find that “the granting of the conditional use meets the stipulations listed in § 156.081 CONDITIONAL USE PERMITS”. All adjacent property owners were notified of the meeting.

Chairman Krieb opened the public hearing and asked if there was anyone that wished to speak in favor or opposition to the request.

Danny Steele came forward and was sworn in. Mr. Steele is a representative of EZPB of Murray KY, LLC. He explained that the units are premanufactured in Paducah. The goal for this site is that it will be a display yard. Basically a person will come, select the style they want and place an order at this site. The unit will then be delivered from the manufacturing site in two to three weeks. These units are a “higher-end” than a lot of other storage buildings and are very attractive. Mr. Steele said that they are showing that there will be eighteen units at this location; however, he may not have that many. Mr. Steele currently has his office in The Village. After a year if everything is going well, he plans to put a hard surface down. For security reasons, they will install some lighting. They also intend to put up some type of fencing to keep others from walking through the lot.

No one came forward to speak against the request; therefore, the public hearing was closed and the item was turned over to the Board for further discussion and a motion.

**Mike Faihst made a motion to grant the conditional use permit for outdoor storage of merchandise in a B-2 zone for the location of 1406 North 12<sup>th</sup> Street with the condition that after a year if the business is still opened, there will be a hard surface put down for the buildings. The testimony presented in this public hearing has shown based on the findings**

**it does not adversely affect 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 ordinance. Jim Foster seconded the motion and amended the motion to add that a fence be put up around the structures to keep that area separate and after a year to put up some lighting if it is going to be an on-going business. Mr. Faihst agreed with the amendment. The motion carried with a 6-0 roll call vote.**

**Remove from the table the Height Variance request for the Red Roof Inn sign located at 1202 South 12<sup>th</sup> Street –1202 Murray LLC:** Chairman Krieb stated that this item had been overlooked at the last meeting and it needed to be brought back to the table. Justin had previously made the Board aware that this item would not go any further with the Board because the sign was actually located within the right-of-way of the widening of US Hwy 641 South. Chairman Krieb asked for a motion to bring the item back to the table.

**Mike Faihst made a motion to remove the item from the table. Josh Vernon seconded the motion and the motion carried unanimously.**

**Questions and Comments:** Jeremy Buchanan came forward. He reported that on the previous night he explained to the Planning Commission that Planning Staff has been working in developing a Comprehensive Plan Committee. They would like to have a couple of members from the Planning Commission and BZA along with a good cross section of the community and university on this committee. The committee should be together by the Planning Commission meeting in September. Jeremy explained that they would work through the Comprehensive Plan section by section and the plan is to have a full update by December of 2019. Any volunteers need to see Justin or Jeremy. Mike Faihst volunteered.

Terry Strieter commented that he thought that the situation at 817 Bagwell where they passed a 20 foot variance for the garage was an unusual and sad situation as the couple was taken to the “cleaners” by their contractor. At the state of the building it would have been unjust to make them tear it down or move it. He did not think the Board should be put in that position.

**A motion was made by Jim Foster to adjourn and seconded by John Krieb. The meeting adjourned at 5:21 p.m.**

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Chairman, John Krieb

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Recording Secretary, Reta Gray