

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, NOVEMBER 16, 2022
4:30 P.M.**

The Murray Board of Zoning Adjustments met in a regular meeting on Wednesday, November 16, 2022 at 4:30 p.m. in City Hall at 500 Main Street.

Board Members Present: Mike Faihst, Carmen Garland, Paula Hulick, John Krieb, Josh Vernon, and Bobbie Weatherly

Board Members Absent: Jim Foster

Also Present: Rakov Aetherus, Dannetta Clayton, Carol Downey, Attorney David Perlow, Gene Schanbacher, Tracy Armstrong, Suzanne Armstrong, Zachary Martin, Michael Patton, and public audience.

Chairman Faihst called the meeting to order and welcomed all guests and applicants. Dannetta Clayton called the roll.

Chairman Faihst called for a motion to approve the minutes from the regular BZA meeting on October 19, 2022.

Paula Hulick made a motion to approve the minutes from the regular BZA meeting on October 19, 2022. John Krieb seconded the motion and the motion carried unanimously.

Public Hearing: Dimensional Variance: 1605 Sunset – Zachary Martin: Request a four-foot variance for placement of an accessory structure (carport) on the side of the rear yard of the property. Carol Downey reviewed the ordinance regulations and presented the Staff Report including the zoning map, renderings of the proposed carport placement, pictures of the property and the surrounding properties.

Zachary Martin came forward and was sworn in. Mr. Martin explained wanting to install a carport at the end of his existing driveway to provide cover for his vehicle. The board asked for the carport details and he responded that it would have a charcoal colored steel roof and a galvanized steel frame with open sides.

Chairman Faihst opened the public hearing and asked if anyone wished to speak in favor or opposition of this request. No one came forward, so Chairman Faihst closed the public hearing and brought it back to the board for discussion or a motion. The board asked if the garage near the fence, on adjoining property to the east, is within the five feet as well and the applicant responded that it is pretty close. The board also asked Carol if letters were sent to the surrounding properties. Carol replied yes and that she did not receive any responses.

John Krieb made a motion to approve the dimensional variance request to allow a four-foot variance for the purpose of constructing an accessory building (carport) on the east side of the rear yard at 1605 Sunset Drive. The findings of fact being the existing driveway

is very close to the property line and the carport would have to straddle the driveway. Also, there is a tree on the west side prohibiting the carport from being moved over. 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. Chairman Faihst seconded the motion and the motion carried with a 6-0 roll call vote.

Public Hearing: Dimensional Variance Application: 1323 Olive Blvd – Eugene Schanbacher: Request to expand the use of the 3rd floor to include living space as well as storage space in a nonconforming structure. Carol Downey reviewed the State of Kentucky Regulations and the local ordinance regulations. She also presented the Staff Report which included the zoning map, pictures of the property and the surrounding properties, as well as the City's history with the property.

Eugene Schanbacher came forward and was sworn in. Mr. Schanbacher stated his request, explained the original design of the space and gave the history of the property. He showed plans and pictures of the property. The board asked Mr. Schanbacher about the conditioning, plumbing and usage of the 3rd floor space. The board also asked why he did not refute the Certificate of Occupancy when it was issued stating the 3rd floor was not to be used as living space.

Chairman Faihst opened the public hearing and asked if anyone wished to speak in favor of this request.

Tracy Armstrong came forward and was sworn in. Mr. Armstrong stated that he rents one of the apartments for their son, who attends Murray State and that Mr. Schanbacher is a great landlord and does a lot for the community.

Suzanne Armstrong came forward and was sworn in. Mrs. Armstrong concurred with her husband, Tracy Armstrong and added some details.

Michael Patton came forward and was sworn in. Mr. Patton shared that Mr. Schanbacher's rental properties are extremely well crafted and carefully looked after.

Chairman Faihst asked if anyone wished to speak in opposition of this request.

Chairman Faihst closed the public hearing and brought it back to the board for discussion and a motion.

Eugene Schanbacher came forward for rebuttal. Mr. Schanbacher reiterated his opinion that he has not violated anything in regards to expansion or enlargement. He stated that Murray is a great community but he believes that someone in the city made a mistake when the space in question was declared not livable in the original house.

John Krieb made a motion to deny the request for a Dimensional Variance for the nonconforming structure, located at 1323 Olive Blvd, to change the usage of the 3rd floor from attic/storage to living space as well as storage space. "Purposed uses: study space, work/exercise, lounge, practice music, art studio, meditation, etc." would not be an acceptable use of that space as attic/storage. The findings of fact include the City's documentation going back 7-8 years all clearly stating the 3rd floor area in the original building was not living space and should remain non-living space in the new building. The Certificate of Occupancy and the conversations with two different Mayors came down to the same point that the 3rd floor is not to be used as a living space but as attic/storage only. The testimony presented in this public hearing has shown the variance request does not meet the provisions of the Zoning Ordinance in regards to granting variances for nonconforming structures and uses. Chairman Faihst seconded the motion and the motion carried with a 3-1 roll call vote. *Carmen Garland voted no. Paula Hulick and Bobby Weatherly abstained.*

Non-Public Hearing: Board of Zoning Adjustments By-Law Revisions

John Krieb made a motion to approve the revisions as presented. Paula Hulick seconded the motion and the motion carried unanimously.

Questions and Comments: None

Chairman Faihst called for a motion to adjourn.

Paula Hulick made a motion to adjourn. John Krieb seconded the motion. The meeting adjourned at approximately 6:14 p.m.



Chairman, Mike Faihst



Recording Secretary, Lindsay Aycock