

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 22, 2021
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, September 22, 2021 at 4:30 p.m. from City Hall at 500 Main Street.

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

Board Members Absent:

Also Present: Kim Miles, Attorney David Perlow, Zach Warren, Rakov Aetherus, Marisa Stewart, Dannetta Clayton, Candace Dowdy, Justin Phillips, Marie Cravens, Jason Smith and public audience

Chairman Faihst called the meeting to order and welcomed all guests and applicants. Kim Miles called the roll. At this time Chairman Faihst called for a motion to approve the minutes from the regular BZA meeting on July 21, 2021.

Paula Hulick made a motion to approve the minutes from the regular BZA meeting on July 21, 2021 as presented. John Krieb seconded the motion and the motion carried unanimously.

Public Hearing: Request for a setback variance at the property located at 2210 Deerfield Run: Marisa Stewart presented the staff report on this property. The applicant (Solid Rock Development) is building a new single-family dwelling on a corner lot and is requesting a three-foot building setback variance on the secondary street side (west side). Marisa reviewed the applicable regulations. Technically the City regulations (25-foot setback) are being met; however, the subdivision regulations show a 30-foot setback. The site plan shows the proposed house being 27 feet 6 inches off the west property line; thus, the reason for the dimensional variance request. Marisa used Power Point to show pictures. The house plan that has been selected for this lot is actually larger than this lot's setback regulations allow. All other setbacks are being met except for this one on the west side.

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

Justin Phillips (owner and developer of the property) came forward and was sworn in. The proposed house is 1600 square feet which is a pretty standard size. In order to get this house on the lot, he needs 2 feet 6 inches. He cannot put the house any further on the east side because he is already 10 feet off the property line. The minimum square footage for this subdivision is 1400 square feet so he cannot go much smaller than the 1600 square feet that he is proposing. Justin said that he chose not to go with a 1400 square foot home because he does not have much demand for a house that small. This lot is not that much narrower than the other lots; it just has a 30-foot setback off the side. With the front setback at 30-foot and the east side setback at 10-foot, that is already a 40-foot loss from the lot. If this wasn't a corner lot, there wouldn't be an issue. Josh Vernon asked

if there could be a lot line adjustment further down the street to make this lot in compliance. Justin replied that he could go back and have the lots redrawn, but at the end of the day, he did not think it would be feasible. At the time that Bobby Deitz laid this subdivision out, Justin did not have a specific house plan for each lot. He just put a house on a lot as he went. Justin stated that the proposed house is not sold, but he does have some interested buyers.

Marie Cravens came forward and was sworn in. Ms. Cravens is building a home on Sassafras Row in Falwell Estates at this time. Her property backs up to Deerfield Estates. She had several questions and concerns pertaining to Falwell Estates (none of which were related to this issue). Chairman Faiht told her that all of her concerns should have been addressed in the original subdivision review for Falwell Estates by the City Staff and that she should contact them for answers. Justin Phillips came back up to offer some explanations to some of Ms. Cravens' questions.

The public hearing was closed and the item was turned over to the Board for further discussion and a motion. Josh Vernon stated that he was generally not in favor of setback adjustments for reasons that could be foreseen or accommodated with the design. He did not want this to set a precedence for anyone to just ask for a setback variance for any reason. He also thinks that when property lines are established, that is the time to confirm and understand what the setbacks will imply. To come back after the fact just to make something fit is not suitable. Since this item was brought before the Board before the building process began, the developer should have had ample opportunity for adjustment of the design or adjustment of lot lines to accommodate the setbacks. John Krieb said that adjusting the lot lines should be a relatively small change in dimensions and shouldn't take the engineer long to accomplish what they need; however, the changes would have to go through Planning Staff for approval and that could take quite a bit longer. Some of the Board members wanted to know why they were discussing this item since the City regulations were being met. Candace Dowdy explained that Planning Staff felt like the Board should review the three-foot variance. The subdivision plat is a recorded subdivision at the courthouse. The Planning Commission previously reviewed it with all the noted setbacks. Candace said that the developer didn't have to put 30-foot setbacks; however, it is not unusual for developers to put the same setback on the corner lots as they do on the front.

Jim Foster made a motion to grant the three-foot building setback variance on the secondary street side for a new single-family dwelling at 2210 Deerfield Run. The testimony presented in this public hearing has shown based on the findings that 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 City of Murray requires a 25-foot setback on corner lots and Deerfield Run has a 30-foot setback. Carmen Garland seconded the motion. The motion carried with a 7-0 roll call vote.

Public Hearing: Request to build an accessory structure in the front yard located at 283 King Drive: Marisa reviewed the applicable regulations. The applicant is requesting a variance to build an accessory structure in the front yard of the property located at 283 King Drive. The building will be 630 square feet and will be a steel building meant for storage. The location was chosen to get it away from the flooding and steep slope in the rear yard. This proposed location is twenty feet from the property line on the south side of the property. Marisa explained that the applicant spoke to the City Building Official (Keith Miller) a month prior to starting. He was informed that he needed to get a building permit before he began building and that the structure is required to be in the backyard at least 5 feet from the property line. Since that time, Mr. Smith has had a concrete pad poured. Marisa reviewed previous similar requests. The zoning map of the property was shown as well as pictures of the front of the house, the site plan for the proposed shop and the concrete pad. The pictures depicted the slope of the backyard. A rendering of the building was shown with colors similar to the color of the house.

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

Jason Smith came forward and was sworn in. Mr. Smith has lived at this property for about a year. He said that the reason that he wants to build this structure in the front is because of the severe slope of the backyard. His property line goes to the creek and when it rains hard, the backyard floods. He presented pictures of the backyard previously flooding and passed them around to the Board to view. (Pictures were entered as Exhibit A.) Mr. Smith has already had the concrete pad poured in anticipation of the building. He chose not to put the pad closer to the driveway because of the two trees that are there and the severe slope of the land making it difficult to level a pad. Drainage is an issue in other areas of the yard as well. Mr. Smith stated that he called 811 (call before you dig) and had all the utility lines marked. The location that he chose was 10 feet away from utilities. Mr. Smith concluded that the building will not have a driveway. The structure is not meant to put a vehicle in; it is just an accessory structure for a lawn mower, tools and a workshop.

Candace Dowdy came forward and was sworn in. Candace stated that she is an adjoining property owner. For the record Candace made a disclaimer to the Board that she works for the City of Murray. She has had no discussion about this application with any Board member and she has had nothing to do with the preparation of the staff report. Candace was unclear why Mr. Smith started the footer and poured the concrete pad prior to getting a building permit or a variance when the Building Official had informed him that he had to put the structure in the rear yard and get a building permit. Candace is not completely against this request; however, she had something that she wanted to read to the Board in form of a statement. (The statement was submitted as Exhibit B.) It is her personal opinion that the front yard is not an appropriate location for a metal storage building. If the Board should approve Mr. Smith's request to build at the proposed location, she would like the Board to consider requiring the property owner to make the exterior of the building match the exterior of his house or the vinyl trim on his house instead of metal. She feels that by allowing his request would set a precedence and she thinks some guidance by the Board would be appropriate to help maintain the integrity of the neighborhood.

Chairman Faihst asked Mr. Smith to come forward and reply to these requests. Mr. Smith apologized for pouring the pad before he got the building permit. He felt like he was in the County and that the location he chose would be the best spot for the building. He spoke to some contractors and they had his same thoughts. He has dead-end streets in front of him and behind him; thus, it's not a heavily traveled area. Mr. Smith said that his house is brick and he could put three foot of brick at the bottom of the building to make it look like the house. He also plans to landscape around it. He revealed that he has a lot of tree line so the building will be covered up pretty good and it would not be that visible until you turn into his driveway. None of his neighbors will be able to see the building from the road. Mr. Smith has lived within the City Limits before. At that time, he had a garage built and the contractor took care of the permits. He did not know too much about permits himself. John Krieb asked if it would be feasible to brick the entire building or brick the bottom and put vinyl on the top to match materials of the house. Mr. Smith replied that he would have to discuss that with the contractor. The building has already been purchased. At this point, it would be too much of a hardship to reverse course. If he should have to construct a building out of wood, he would lose money. If the Board should deny this request, he will just have to call and tell the people that he cannot purchase the building. He said that if he started over and tried to build in the rear yard, there would be the chance of it flooding and that would be even more of a hardship. Mr. Krieb asked Mr. Smith to go back to his contractor to see if they could come back with a better plan and commitment. Mr. Krieb requested an overhead shot of the subdivision from the Planning Staff. Paula Hulick thought the following two important things did not need to be neglected:


- Granting this request would set a precedence by allowing a structure in the front yard of this subdivision. The lots are large and the backyards could accommodate the building.
- The fact that advice was sought, given and disregarded needs to be taken seriously to avoid setting a precedence.

Attorney Perlow advised that adjourning this item would be the correct path to go and that they could just resume the meeting when Mr. Smith comes back with more information. The Board decided to Adjourn this item. The Board asked Mr. Smith to bring a landscaping plan in addition to the previous items discussed. **Chairman Faihst then adjourned the public hearing.**

Questions and comments: Chairman Faihst noted that he had seen a lot of temporary signs going up and he mentioned a church with feather flags. Dannetta said that she had called the church and that the signs had since been removed. There was some discussion about applicants coming to the Board that have disregarded the City's directions before starting construction. Attorney Perlow cautioned the Board members not to formulate their final opinions at this point until all the facts have been presented concerning items at this meeting. Dannetta reminded everyone that there is a Special Call BZA meeting on September 30th.

Chairman Faihst called for a motion to adjourn. **Paula Hulick made a motion to adjourn. Jim Foster seconded the motion. The meeting adjourned at 5:31 p.m.**


Chairman, Mike Faihst


Recording Secretary, Reta Gray