

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JANUARY 21, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, January 21, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Scott Seiber, Kim Griffo, Greg Mayes, Tom Auer, Mary Anne Medlock and Bill Whitaker

Board Members Absent: None

Also Present: Candace Dowdy, Peyton Mastera, David Roberts, Mike Pitman, Reta Gray, Mayor Rushing, Officer Jimmy Osborne, Sabrina Leslie, Robert Overby and public audience

Chairman Whitaker called the meeting to order at 4:30 p.m. and welcomed all guests and applicants. Chairman Whitaker asked for approval of the minutes from the December 17, 2008 regular meeting.

Scott Seiber made a motion to approve the minutes from the December 17, 2008 regular Board of Zoning Adjustments meeting as presented. Greg Mayes seconded the motion and the motion carried unanimously.

Public hearing to review the dimensional variance application for wall signage – 401 Maple Street – Sabrina Leslie: Candace Dowdy showed pictures of the signage in discussion using a Power Point presentation. Sabrina Leslie, owner of Main Street Furnishings, recently moved her furniture store business from 1407 Main Street to 401 Maple. Ms. Dowdy stated that during December of 2008, the Murray Planning Department observed that Main Street Furnishings had relocated their wall sign without approval from Planning Staff. The sign permitted for the former location was a wall sign that was 4 feet x 12 feet (48 square feet). Ms. Leslie indicated to staff that she was not aware that she could not use the same sign that was previously permitted. The current storefront is twenty-one feet tall by twenty feet in height. According to the city ordinance, the allowable signage is five percent of the square footage of the face of the building which would be 21 square feet. In order to comply, a 27 square feet size variance is needed. Ms. Leslie's sign is actually a combination of two separate signs placed side by side. One sign is a four feet x four feet and the other is a four feet x eight feet. Ms. Dowdy stated that Ms. Leslie has been allowed to keep the sign up until the board made a decision. Ms. Dowdy added that she did not find any history of the Board approving a sign variance for any other business on the Court Square.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the application. *Mayor Rushing entered the meeting at 4:45 p.m.*

Sabrina Leslie, 1371 Coles Campground Road, Murray, was sworn in. Ms. Leslie stated that she did not know that she would not be able to use the previous sign at her current location. She

stated that she had spent over a thousand dollars on the sign and that she thought the sign looked good. She added that she had not received any complaints from the owner of the building nor other merchants concerning the sign. Ms. Leslie said that the money was the biggest issue she had with changing out the sign.

Chairman Whitaker asked if there was anyone that wished to speak in opposition to the application. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion. *David Roberts entered the meeting at 4:55 p.m.* There was some discussion regarding the newly created Historic Overlay District and subsequent sign restrictions within this area.

Mary Ann Medlock make a motion to deny the request for a 27 sq. ft. size variance on the wall signage at 401 Maple Street for Sabrina Leslie (Main Street Furnishings) as the ordinance only allows for 5% of the square footage of the face of the building and asked that the signage be brought in to compliance by March 1, 2009. No one seconded the motion.

Scott Seiber made a motion to grant a five feet variance for the four feet x eight feet sign and remove the additional section of the sign at 401 Maple Street for Main Street Furnishings by April 30, 2009 as it will provide added visibility that will enhance safety in the downtown area and it 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. Mary Anne Medlock seconded the motion and the motion carried with a 6-0 voice vote.

Public hearing to review the dimensional variance application to allow an accessory building in a side yard with a twenty-three foot rear yard and a three foot side yard variance – 1202 Story Avenue – Robert Overby: Peyton Mastera showed the property on a Power Point presentation. Peyton stated that Robert Overby owns the business at 1202 Story Avenue and he would like to place a 1620 square feet (30 feet x 54 feet) accessory building in the side yard area; however, since accessory buildings are only permitted in a rear yard, a variance is being requested. Accessory buildings are required to be five feet off the property line; however, the ordinance states that all non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement of twenty-five feet in the side or rear yard adjacent to the residential district. Since Mr. Overby would like for the proposed accessory building to be two feet from the rear property line, a 23 foot rear yard variance is required. While the applicant is only required to stay five feet off the west side property line and he is requesting to be two feet from the side property line, a three feet side setback variance is required.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the application. *Mayor Rushing left the meeting at 5:25 p.m.*

Robert Overby, 1104 Doran Road, Murray, was sworn in. Mr. Overby stated that he bought his property from the Boone's approximately seven years ago where he currently has his motorcycle audio equipment business. His business includes a substantial web business with very little store traffic. He has ample parking on the side and in front of his building. Mr. Overby uses the majority of his building space for storage and service and has very little retail space. His business has outgrown the existing building. Mr. Overby is proposing building a structure that will provide needed warehousing as well as housing for the motor home and road trailer that he takes to rallies. The plan is for a metal arched building which is 30 feet wide by 54 feet long with a height of 17 feet in the center of the arch. Mr. Overby stated that there was a chain linked fence between his building and Wells Electric and also a chain linked fence to the rear that adjoins to the corner of his existing building. He added that he had problems keeping the fence up because of the nearby residents cutting across his property and climbing the fence.

Chairman Whitaker asked if there was anyone that wished to speak in opposition of the variance. There was no one. Chairman Whitaker closed the public hearing and turned it over to the board for discussion.

Scott Seiber made a motion to grant a variance for Robert Overby at 1202 Story Avenue for a proposed accessory building in a side yard with a 23 feet rear setback variance and a 3 feet side setback variance on this proposed accessory building as it will be in line with other surrounding structures in the vicinity and not obstruct the view of surrounding businesses; Mr. Overby must comply with all screening requirements as required in Section III, Article 3 of the City of Murray Zoning Ordinance; and it 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. Kim Griffo seconded the motion and the motion carried with a 5-1 voice vote. Bill Whitaker voted no.

Questions and Comments: Chairman Whitaker asked for the status of subpoena that was issued to Mr. Gerald Carter during November of 2008. Attorney Mike Pitman explained that the Planning Staff had sent correspondence to Mr. Carter regarding the building behind his residence on 8th Street indicating that whatever potential grandfathering that existed had lapsed and that he should bring it into compliance. Attorney Pitman received an application for administrative review from Mr. and Mrs. Carter wishing to appeal what they consider to be a wrongful interpretation or application of the zoning ordinance. Attorney Pitman suggested that the Board of Zoning set a public hearing date and send a subpoena to Mr. Carter. The public hearing date was set for February 18, 2009.

Chairman Whitaker welcomed new member Mary Anne Medlock to the BZA. Ms. Medlock is also currently serving as a Planning Commissioner.

Scott Seiber made a motion to adjourn. Greg Mayes seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 5:45 p.m.

Murray Board of Zoning Adjustments Regular Meeting
Wednesday, January 21, 2009

Chairman, Bill Whitaker

Recording Secretary, Reta Gray