

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, MARCH 18, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, March 18, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Scott Seiber, Greg Mayes, Kim Griffo, 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, John Gray, Michael Stinger, Opal Hart, Justin Pounds, Officer Jimmy Osborne 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 February 18, 2009 regular meeting.

Mary Anne Medlock made a motion to approve the minutes from the February 18, 2009 regular Board of Zoning Adjustments meeting as presented. Kim Griffo seconded the motion and the motion carried unanimously.

Review of conditional use permit – 1502 Sycamore Street – Chong Kim: Peyton Mastera showed the BZA a Power Point presentation displaying pictures of the applicant's home. Mr. Mastera stated that on December 20, 2006 Ms. Chong Kim was granted a conditional use permit for a home occupation license for a seamstress shop and answering service for a permanent makeup business which would be done off-site. This permit was reviewed in June 2007 with the request of the BZA that it be reviewed in six months. In March 2008 the permit was reviewed again and at that time the BZA requested that the conditional use permit be reviewed in one year.

Mr. Mastera stated that Ms. Kim was unable to attend the meeting. He stated that he had sent notices to all the adjoining property owners making them aware of the meeting. There have been no reports of complaints from the neighbors during the year concerning Ms. Kim's home business. Mr. Mastera added that Ms. Kim still has a current business license at the location and that all conditions are being met.

Chairman Whitaker asked if there was anyone that wished to speak concerning the conditional use permit that had been granted to Ms. Chong Kim. There was no one.

Scott Seiber made a motion that Ms. Chong Kim is meeting all conditions set forth in the conditional use permit for 1502 Sycamore Street and that she may continue to operate her home occupation with the before granted conditions and that it to be brought back to the

Board of Zoning in two years for review. Mary Anne Medlock seconded the motion and the motion carried with a 5-1 vote. Kim Griffio voted no.

Review of conditional use permit – 609 South 4th Street – Gray’s Flea Market: Peyton Mastera showed the BZA a Power Point presentation displaying pictures of the applicant’s business located at 609 South 4th Street. The pictures were taken at different times over the past two and a half years. Gray’s Flea Market was granted a conditional use permit for outdoor storage of merchandise in June 2006 with a review period set for two years. While obtaining information for the review, Murray Planning staff observed that of the conditions set forth in the conditional use permit, two were not being met. Those conditions were: 1) there was to be no storage of merchandise from the front building line forward 2) all merchandise should be off of the street right-of-way. Mr. Mastera said that a letter was sent to Mr. Gray notifying him that there had been a violation of the conditional use permit and that it would be presented to the BZA for their review. A letter was sent on June 26, 2008 regarding a refrigerator sitting in the front of his building and not long after that, the refrigerator was removed. Peyton stated that once he realized that this item would be coming up for review in March, he drove past the Flea Market and noticed that there were more items in front of the building. In February 2009 more correspondence was started with Mr. Gray and since that time Mr. Gray has taken action to come into compliance and has removed the merchandise from the front of the building. Chairman Whitaker added that in the letter that was sent to Mr. Gray dated January 17, 2007 one of the conditions placed on the conditional use permit was that there must be a major clean up and reorganization of merchandise so that it is aesthetically pleasing.

Mr. John Gray, 609 South 4th Street, was sworn in. Chairman Whitaker told Mr. Gray that since June 2006 when the conditions were put on the Conditional Use Permit there was frequently merchandise in front of the store or very close to the right-of-way and to his untrained eye, it didn’t seem to be organized. Mr. Gray responded that the pictures did not do him justice and that his store didn’t look anything like that at the present. Mr. Mastera stated that the pictures were taken chronologically and explained that all of the merchandise had recently been removed from the front of the building since the pictures were taken. Mr. Gray said that the trailer that was sitting next to the right-of-way was loaded with scrap metal and he was trying to fill the trailer before he took it off. Mr. Gray said that when he brings his trailer in with new merchandise, it sometimes takes him up to a week to get it unloaded because he doesn’t have any employees to help him. He also stated that he is constantly moving things around and he needed some clarification on what he was doing wrong. Chairman Whitaker said that the conditions stated “no merchandise stored in the front of the building” and yet when they drove by the store, they were constantly seeing merchandise out front. There was then some discussion regarding the location of and the use of the right-of-way along the Sycamore Industrial Road. Scott Seiber told Mr. Gray that over the years he had purchased things from Gray’s Flea Market himself and that the business was atypical in the way that it operated. He said that Mr. Gray did not have a defined area where everything was in neat rows. Mr. Gray added that he collects his serviceable merchandise from the demands of his customers and that what was being called junk to some was merchandise to him. In conclusion Mr. Seiber said that he would like to see more

organization in the way things were laid out on the property where it would be more aesthetic to people driving by.

Tom Auer made a motion to allow Gray's Flea Market, 609 S. 4th Street (owner: John Gray) to continue the conditional use permit as it pertains to outdoor storage of merchandise. Evidence was presented to show that Gray's Flea Market was in violation of the permit and Gray's Flea Market has been admonished for that, but Mr. Gray has come in compliance since being notified of this review. Mary Ann Medlock seconded the motion. The vote was 3-3; therefore, (according to Attorney Mike Pitman) in the case of a tie, the motion would be denied. Kim Griffo, Greg Mayes and Bill Whitaker voted no. Mayor Rushing left the meeting at 5:20 p.m.

Mr. David Roberts, Director of Planning and Engineering for the City of Murray, stated that no one seems to be happy with the situation the way it currently is and that there are different degrees in making it work. Mr. Roberts reviewed that when the Planning staff contacts Mr. Gray about not being in compliance, he does make efforts to come into compliance. Mr. Roberts concluded by saying that the situation is better than it was two years ago; however, there was still room for improvement.

Mary Anne Medlock made a motion to table the discussion to be reviewed in 60 days to see if there is further evidence that the conditions of the conditional use permit are not being met. Scott Seiber seconded the motion and the motion carried with a 6-0 voice vote.

Chairman Whitaker told Mr. Gray that he and the Planning staff would need to get together to discuss his business during that time period.

Public hearing to review the conditional use permit application to allow three non-related persons to occupy the premises in an R-2 (single family residential) zoning district – 1317 Vine Street – Quad State Builders: Peyton Mastera showed the property on a Power Point presentation. Peyton stated that the Planning Department received an inquiry in February 2009 regarding the use of the property at 1317 Vine Street. On March 2, 2009 a letter was sent to the property owner, Quad State Builders (Brian Steward). Mr. Steward responded to the letter stating that the property was recently rented to three college girls. It was explained to Mr. Steward that the occupants do not meet the definition of a family and that the only way he would be allowed to use the R-2 zoned property for multi-family use is if the Board of Zoning Adjustments approved a conditional use permit for this location. The Planning Staff received a call from a property owner in the area regarding parking on the street. Planning Staff checked with the Police Department to see if there had been any calls made against this property. There have been no official police complaints. In reviewing this property, it is evident some on-street parking does occur, primarily because of the narrowness of the driveway. There is not ample off-street parking on the premises.

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

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Michael Stinger, 207 South 7th Street, Murray was sworn in. Mr. Stinger was representing the homeowner, Brian Steward. Mr. Stinger stated that Mr. Steward bought the house with the intention of flipping it (fixing it up and selling it). Since completing the renovation, Mr. Steward has not been able to sell the house so he decided to rent the property to three female college students that were friends of his. Mr. Stinger stated that Mr. Steward had assumed that it was acceptable for the house to be rented since there were a few other rental properties in the area.

Chairman Whitaker asked if there was anyone that wished to speak in opposition to the application. *Officer Osborne left the meeting at 5:30 p.m.*

Opal Hart, 655 Furches Trail, Murray was sworn in. Ms. Hart stated that she owns the property at 1315 Vine which was previously owned by her parents. Ms. Hart said that the house at 1311 Vine is on a narrow lot and there is not ample parking for a lot of cars. She said that the street is quite busy and if more cars were parked in the street, it could become unsafe and dangerous. Chairman Whitaker asked Ms. Hart if there were other rental properties in the area. Ms. Hart said that she was not aware of any property being used as rental. She knows several of the neighbors and they have lived there for a number of years. She said that it is a quiet neighborhood. Ms. Hart does not know the three girls that live in the house, but she said there is a parking issue at the house.

Justin Pounds, 1311 Vine Street, Murray was sworn in. Mr. Pounds said that when he noticed that the property at 1317 Vine was being renovated and that excited him. Then he was let down when he noticed there were frequently multiple cars in and out of the property and that the property had been rented for multi-family use. Mr. Pounds stated that the drive was very narrow at 1317 Vine and there was not enough room for two cars to park. He added that there was a constant mud hole in the front of the property where cars were parking in the grassy area. Mr. Pounds said that if cars were parked in the street, it could pose a problem when turning off Irvan. In conclusion, Mr. Pounds stated that he was a property owner and that this situation did not do his property any justice. Scott Seiber asked Mr. Pounds if he was aware of any rentals in the area other than the house at 1317 Vine and Mr. Pounds replied that he could only speculate, but that he was not certain of any other properties being rented for multi-family use.

Mr. Mastera presented a letter (*Exhibit A*) from the adjacent property owner to the west. The letter was in opposition to multi-family living at the residence of 1317 Vine and also in opposition to the conditional use permit application.

Chairman Whitaker asked if there was any rebuttal. There was none. Chairman Whitaker closed the public hearing and turned it over to the Board for discussion.

Scott Seiber made a motion to deny the conditional use permit application of Quad State Builders (Brian Steward), property owner of 1317 Vine Street to allow three (3) non-related persons to occupy the premises as this home is located in a single family residential zoning district. A date of May 31, 2009 is set for 1317 Vine Street to come in compliance

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with all zoning requirements. Kim Griffo seconded the motion and the motion passed with a 5-0 voice vote. *Greg Mayes abstained from voting.*

Questions and Comments: Chairman Whitaker announced that Greg Mayes had resigned and that this would be his last meeting to serve on the Board of Zoning Adjustments. Greg stated that he was appointed to a state committee with the Finance Cabinet in Frankfort, Kentucky which would restrict him from serving on any city committees. The Chairman and board members thanked Greg for his service.

Scott Seiber made a motion to adjourn. Tom Auer seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 6:00 p.m.

Chairman, Bill Whitaker

Recording Secretary, Reta Gray