

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, DECEMBER 17, 2014
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, December 17, 2014 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Linda Scott, Mary Anne Medlock, Terry Strieter, Josh Vernon, Dennis Sharp and Bobbie Weatherly

Board Members Absent:

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, Reta Gray, David Roberts, Hawkins Teague, Officer Tim Fortner, Mayor Wells, Attorney David Perlow, Eugene Schanbacher, Stuart and Dana Alexander, Phillip Moore, Joy Waldrop, Logan Stout, Dan Lavit, Sarah Fineman, T. C. Dinh, Stephen Coderre and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. He then wished everyone a Merry Christmas and Happy New Year. Chairman Krieb asked if there were any revisions to the minutes from November 19, 2014 regular meeting. Changes were noted.

Linda Scott made a motion to approve the BZA minutes from the November 19, 2014 regular meeting as corrected. Josh Vernon seconded the motion and the motion carried unanimously.

Public Hearing: Request to relocate a non-conforming structure on lot located at 1323 Olive Boulevard - Eugene Schanbacher: Candace Dowdy used a Power Point presentation to show the property at 1323 Olive Boulevard that is owned by Mr. Eugene Schanbacher. This property is located in an R-2 (Single Family Residential) zone and surrounded on all four sides by R-2. The building is grandfathered in as a non-conforming use of the property and a non-conforming structure. Mr. Schanbacher has owned the property since 1967. Currently there is a two story apartment building on the lot with three dwelling units. The building recently sustained fire damage; thus, Mr. Schanbacher would like to demolish the building and rebuild a new structure. He would like to move the new building closer to Olive Boulevard with a setback that is similar to the neighboring properties. The existing structure is 24 feet x 32 feet in size with the overall height approximately 20.5 feet for a total of 15,744 cubic feet. The new structure that Mr. Schanbacher is proposing will be a one story building with three dwelling units. The proposed structure will be 32 feet x 56 feet in size with eight foot ceilings for a total of 14,336 cubic feet; thus, the overall size of the proposed building would not exceed the original structure in cubic feet. Ms. Dowdy explained that the means by which Mr. Schanbacher is making the request to move the new building to another part of the lot is referenced in Sec. III, Article 4, (C) 2., that says, **‘No non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the date of adoption or amendment of this zoning ordinance. However, said use may be moved to another position on the lot or parcel through appeal to the Board of Zoning Adjustments in Section IV, Article 3.’** Ms. Dowdy explained this section of the Ordinance to Mr. Schanbacher. She also explained that if the building was vacant or abandoned for a period of a year or more, that the non-conforming clause would become null and void. If Mr. Schanbacher decides to renovate the existing building there are some things that will have to be brought up to code. The Fire Marshal indicated that the building is not condemned at this point; however, the Building Official will have to make an inspection of the building before any work can begin. A building permit will be required if it is determined that structural work is needed. Before the electricity is turned back on, the City of Murray Electrical Inspector will be required to inspect the building. Six parking spaces are

required for a 3 bedroom unit and that number of parking spaces is available. The building was constructed in the 20's or 30's and Ms. Dowdy stated that she is not exactly sure if the building was originally a single family home or not. PVA records show that Mr. Schanbacher bought the property in 1967 and prior to that the property was owned by Christian Student Foundation. (PVA records do not go back any earlier than the early 60's.) It is possible that the structure could have always been a three bedroom unit. The original township of Murray was the downtown area. Ms. Dowdy explained that some of the earliest Zoning Ordinances were written in the early 60's and this particular section was annexed into the city. All adjoining property owners were notified of the meeting. The Planning Department received two e-mails concerning this matter. The e-mails were from Dr. Judy Ratliff and Jackie Dudley. Ms. Dowdy passed around a copy of the e-mails to the board for their review. (After Chairman Krieb read both e-mails aloud, they were entered as *Exhibit A and B.*)

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

Eugene M. Schanbacher, 1314 Farris Avenue, Murray was sworn in. Mr. Schanbacher confirmed that he and his wife have owned the building since 1967. The property has been used as multi-family since the purchase and they wish to maintain the existing status whether it's in the existing building or a replacement. When they purchased the building it appeared to be used by students for housing and for meetings. There was an office for the director located in the building along with three or four kitchens. During his ownership Mr. Schanbacher has partitioned off some of the areas and moved one of the kitchens. The fire that occurred took place in a bathroom on the first floor on the southeast corner of the house and then spread to the room directly above that bathroom. The rest of the structure incurred smoke and water damage. Some of the other damage was sustained when the firemen came in and broke out the windows. Mr. Schanbacher is requesting permission to rebuild another structure and proposing to relocate it closer to Olive Boulevard in order to be more in line with the other houses. The existing structure is not sitting within the correct boundary lines and he plans to construct the new structure with the required setbacks. Mr. Schanbacher stated that Olive Boulevard is a prestigious street and he would like to contribute to that atmosphere by building a new structure that will complement the neighborhood and have the appearance of a single family home. He then circulated pictures of the neighborhood and the damaged building at 1323 Olive Boulevard. He added that he currently owns the least attractive building on the boulevard as well as in the area and believes that if ever there is an opportunity to rebuild that now would be the time to do so. Mr. Vernon asked if there were any other multi-family properties in the neighborhood. Ms. Dowdy replied that all other homes are single family in the neighborhood; however, there could possibly be a garage apartment in back of some of the homes. In the older parts of town it would not have been unusual for a homeowner to have turned the garage into an apartment. (Today the Ordinance prevents a homeowner from converting a garage into an apartment in an R-2 zone.) Ms. Dowdy explained that it appears that this building has been used as multi-family for a long time and to her knowledge there has not been any change to the use of the building. She added that the zoning regulations have not had any changes to the section that applies to this particular matter since 1983. Mr. Vernon then asked if Mr. Schanbacher had considered constructing a single family dwelling on the property. Mr. Schanbacher replied because this is part of their income/retirement, they did not consider that since a single family dwelling would not produce the income that a tri-plex would. Mr. Schanbacher then reviewed his proposal for the site: one two-bedroom apartment on the west side; and on the east side two small one-bedroom efficiency apartments. There was discussion about the location of the doors to the proposed apartments, especially the apartment on the east side with a door between it and the adjoining property. Mr. Schanbacher stated that he had chosen the locations of the doors primarily to make the proposal look like a single family dwelling. He added that if the floor plan can be improved, he would be in favor of that. Chairman Krieb suggested an inside hallway to access the apartments; therefore, eliminating some of the outside doors. Mr. Schanbacher said that the addition of a hallway

would downsize the apartments, but he would be glad to “toy around” with that suggestion. Mr. Schanbacher then showed a drawing with elevations in order to convey a concept. One of the drawings showed a porch on the front of the building. He revealed that they are interested in having something very nice with the exterior possibly being brick or a combination of brick accented with stone or maybe stucco. The trim will be vinyl or aluminum. The parking area will remain where the existing parking area is now and will be either asphalt or concrete with sidewalks running to each door of the building. Mr. Schanbacher added that he had made this proposal as close to the maximum cubic footage as possible and that the proposal is adaptable for future change into a single family dwelling (should someone have that desire). He stated that this proposal would increase the value of the surrounding properties as well as their own. Mr. Schanbacher then presented a letter of approval with six of the neighbor’s signatures supporting his request. (*Chairman Krieb read the letter aloud and it was entered as Exhibit C.*)

Chairman Krieb asked if there was anyone that wished to speak against the request.

The following neighbors/property owners either came forward or sent a letter that spoke against the request:

- Stuart and Dana Alexander, 120 North 14th Street
- Phillip Moore, 1303 Olive Boulevard
- Joy Waldrop, 1319 Olive Boulevard
- Logan Stout, 1301 Olive Boulevard
- Dan Lavit, 1321 Olive Boulevard (*He read a letter that was submitted as Exhibit D.*)
- Eugene Wright, Attorney at Law, Cleveland, Texas (*Letter was submitted as Exhibit E and read by Chairman Krieb in Mr. Wright’s absence.*)
- Sarah Fineman, 202 North 13th Street

The opposing residents gave several reasons for their disapproval. First of all, they did not think that they had been supplied with enough detail for the proposal. They voiced that Olive Boulevard is such a nice neighborhood and they would like continue to maintain the integrity of the single family neighborhoods in Murray. The neighbors are not in favor of any rentals in the area as it would have the tendency to decrease the property values of their homes. They have concerns with general upkeep and pride in ownership of renters. Loud partying, the parking situation and multiple overnight guests including the frequent smell of marijuana accompany the tenants that have previously lived at the house at 1323 Olive. It was stated that the landlord does not have proper control of the situation nor does he properly maintain the property. There are plenty of places other than Olive Boulevard to have a tri-plex. The property owners that live directly east of this particular property would like to have a privacy fence between the two properties if the property remains rental property. One gentleman explained that the petition that Mr. Schanbacher circulated did not say multi-family or apartment; it said structure; thus, there were some neighbors that were confused and actually signed the petition not completely understanding what they were signing. Future potential ownership of the property was a concern. One resident is a realtor and he explained that a single family residence could rent for as much as multi-family housing. Another resident is actually renting one of the houses on Olive Boulevard where he, his wife and child reside. He voiced that it is “cool” to be able to raise a family in a single family residential area with artistic and historical value, yet be within walking distance from the university. Even though the property is currently being used as multi-family, the neighbors have an opportunity to change that status; thus, that’s why they showed up to voice their opinions. They would like to see the property brought into R-2 conformity since the original intent of the zoning was to make this area a residential area.

Chairman Krieb asked Mr. Schanbacher if he would like to rebut.

Mr. Schanbacher came forward. He stated that recently he had a tenant that presented several problems and that he had tried to rectify that situation and it was difficult to do that. With regards to the property, when he is advised that something is wrong he usually tries to take care of that immediately. He intends to keep the property in the family. Mr. Schanbacher stated that the issue is not whether the property should be single family or multi-family. The issue is whether you want to look at the current building renovated or a new structure that will complement the neighborhood. He is trying to do the very best that he can to make the new proposal look like a single family dwelling.

Chairman Krieb closed the public hearing and turned the item over to the board for discussion and a motion.

Josh Vernon made a motion to deny the request by Eugene Schanbacher to relocate a non-conforming use of structure on the lot located at 1323 Olive Boulevard with the findings being that the character of the vicinity and the context of the historic value of Olive Boulevard necessitate moving forward to bring the R-2 zoning back into compliance. Terry Strieter seconded the motion and the motion carried with a 6-1 roll call vote. John Krieb voted no.

Compatibility Hearing: Proposed mixed use planned development project located at 1407 Main – T. C. Dinh: Robert Jeffries used a Power Point presentation to show the property located at 1407 Main Street. This property is owned by T.C. Dinh and located in a B-1 (Neighborhood Business) zone. Government Zoning is located to the north of the property; B-1 zoning is located to the east and west of the property, and R-4 (Multi-Family) zoning is located to the south. Mr. Dinh has submitted a site plan for a proposed mixed use planned development project at this location. Currently Mr. Dinh leases the west side of the building to El Rancho Market which is a grocery store/restaurant that has seating for 56 people. The east side of the building is currently leased to a beauty salon (which will be vacating the building if this project is approved). On the upper level of the building there are currently 10 – one bedroom dwelling units which have been in existence since the 1960's. Mr. Dinh's proposed development of this property would consist of eight – two bedroom dwelling units and the market/restaurant. Five of the two bedroom units will be located on the upper level with the other three – two bedroom units on the lower level of the building. Recently the property to the east of Mr. Dinh's was developed with a new 24 unit apartment complex. In order for this to move forward with any further review by the Planning Commission and the BZA, the board is to determine whether this project is compatible to the surrounding area. Mr. Jeffries stated that there is a parking variance that goes with the land; however, any variance for parking will need to be reviewed again by the board if this development request moves forward.

Mr. Vernon reviewed that previously there was a firm hired to put together a master planning document that would assist in the future growth and development of Main Street as one of the main entrance corridors to Murray and to the campus. He stated that he has referred back to this plan on several occasions. This document describes a positive approach and in his opinion, this proposal is going in the opposite direction. Mr. Vernon stated that multi-use is certainly encouraged, but on the side of giving a street presence to some commercial businesses and then having that streetscape be planned out in a way where it's very walkable, very friendly for pedestrians, especially this close to campus. He expressed his hesitation with the way the project is being described as turning it into more of an apartment building. He feels that this is a prominent location and an opportunity of a property, but felt that it would not be a wise approach to turn the property into more of an apartment building. He continued that he is all for a renovation of the property; however, this proposal does not have the "Main Street feel". Mr. Strieter said that he agrees with Mr. Vernon and he wanted to add that this particular area is becoming very densely populated and he did not think it was a good idea to continue that process. Chairman Krieb explained that

if the request was denied, Mr. Dinh could certainly continue renting the existing apartments on the upper level that he has at this location and he can make internal modifications as well. He then asked Mr. Dinh if he would like to come forward to offer any additional comments.

Stephen Coderre, 1407 Main Street, Murray was sworn in. Mr. Coderre is Mr. Dinh's representative. He stated that he has lived at this address for six months. The apartments next door and the renovation of Corvette Lanes have brought value to the neighborhood. He added that Mr. Dinh would like to make steps towards making the building look more like a residential building instead of a commercial building in order to make it conform to the neighborhood. The plans that they have for this building would be beneficial to the neighborhood and they would also propose exterior renovations to their building. They would change some of the windows on the front of the building as well as the color of the building by toning it down somewhat. They plan to wash the exterior bricks and replace the roofing also. *Mayor Wells left the meeting at 6:00 p.m.*

Josh Vernon made a motion to deny the proposed mixed use project and find that it is not compatible with the surrounding area with the findings that the development of Main Street should have a street presence and by moving more towards an apartment complex is not in the best interest of the goals of Main Street. Terry Strieter seconded the motion and the motion carried with a 4-3 roll call vote. John Krieb, Dennis Sharp and Bobbie Weatherly voted no.

Questions and Comments: Chairman Krieb stated that at the previous month's meeting, the Code Enforcement Officer was asked for a progress report. Officer Fortner wasn't able to make comments without his paperwork at that meeting; however, he was prepared to share information at this meeting. Officer Fortner came forward and gave a summary of the information that he had previously presented to the City Council beginning with September when the Code Enforcement position began. He revealed the total of Notice of Violations and Condemnations from September through the middle of October (which included property maintenance and city sticker violations). Officer Fortner explained the demolition procedure and the steps that are taken before complaints are taken before the Code Enforcement Board. He revealed that he appreciates all the positive comments that he has received; however, all of the activity that has occurred was the result of team effort with commitments from the Fire Department and Planning Department as well as his position. David Roberts added that the Planning Staff has been working with Officer Fortner and looking at other cities procedures and how they handle code enforcement. Officer Fortner then stated that zoning is an issue and Chief Lyles is looking into ways of handling those types of issues. The complaint system has been upgraded. Complaints are now directed to Marissa Travis at the Police Department where a record will be kept. Mary Anne Medlock commented that the short time that Officer Fortner has been in this position, he has proven the need for such a person and she commended him for his work thus far.

Ms. Dowdy wished everyone a Merry Christmas.

Adjournment: Linda Scott made a motion to adjourn. Mary Anne Medlock seconded the motion and the motion carried unanimously. The meeting adjourned at 6:26 p.m.

Chairman, John Krieb

Recording Secretary, Reta Gray