

**MURRAY BOARD OF ZONING ADJUSTMENTS  
SPECIAL CALLED MEETING  
WEDNESDAY, AUGUST 1, 2019  
4:30 P.M.**

The Murray Board of Zoning Adjustments met in special called session on Thursday, August 1, 2019 at 4:30 p.m. in the council chambers of City Hall at 500 Main Street.

**Board Members Present:** John Krieb, Mike Faihst, Jim Foster, Paula Hulick, and Carmen Garland

**Board Members Absent:** Josh Vernon and Bobbie Weatherly

**Also Present:** Dannetta Clayton, Justin Smith, Jeremy Buchanan, Attorney David Perlow, Jim Osborne, Officer Tim Fortner, Steve Fortin, Tonya & Ed Bennett, Sue Hood, Angela Thomas & Steve Erwin, Tim Batts, Charlotte Ban, Marcette Johnson and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants. Dannetta Clayton called the roll. At this time Chairman Krieb asked if there were any changes to the minutes from the regular BZA meeting on June 19, 2019.

**Mike Faihst made a motion to approve the minutes from the regular BZA meeting on June 19, 2019 as presented. Jim Foster seconded the motion and the motion carried unanimously.**

**Public Hearing: A Conditional Use Permit for outdoor storage of merchandise on the property located at 800-A Chestnut Street – Applicant: Collectibles Corner, Steve Fortin:** Justin Smith reviewed the request for Steve Fortin (Collectibles Corner) to have outdoor storage of merchandise at 800-A Chestnut. (There are 3 other businesses at this location.) Mr. Fortin has been operating this business in Murray since April of 2019. The planning department has received numerous complaints and concerns about the outdoor storage of merchandise in respect to its being unsightly. Justin showed pictures of the property and outdoor merchandise. Adjacent properties are zoned B-2 (Highway Business) to the West, G (Government) to the North and East and R-3 (Multi-family Residential) to the South. Mr. Fortin has indicated that outdoor storage of merchandise is a main part of his business model. Some concerns come from a safety aspect of blocking the view of oncoming traffic to those trying to turn onto Chestnut Street from North 8th Street. These concerns were mainly because of large trucks and larger items being inside the 50 foot clear zone. At this time, the larger items and vehicles have been moved further back from the 50 foot clear zone. (Merchandise has also been moved back further from the sidewalk to allow the park systems “gator” utility vehicle to have a lane for use to keep their vehicle off of Chestnut Street while going from Chestnut Park to Central Park.) Mr. Fortin was unaware that he needed a Conditional Use Permit to have outdoor storage of merchandise until now and is seeking to obtain approval from the board. Justin reviewed the regulations for outdoor storage. He then reviewed previous requests, results and stipulations of similar Conditional Use Permits.

At this time Chairman Krieb opened the public hearing and asked Mr. Fortin to come forward to answer some questions.

Steve Fortin came forward and was sworn in. Mr. Fortin thanked Justin for his introduction and accurate description of the issue. Mr. Fortin is a disabled American Veteran. He needed something to keep himself busy and he figured that this would be the one thing that he could do. Mr. Fortin explained that the City had asked him to make a clearance for the park employees to travel back and forth across his lot and he was more than happy to do that. He was asked to move the trucks out of the 50 foot clear zone and he complied with that request. He described his business plan as one that would allow people to sell items on the weekends in front of his store similar to a big yard sale or to trade day. He compared his business to Walmart, Orschelin and other businesses with outdoor storage. He does not get a commission on others' sales. His goal is to try to help others get rid of their things. Mr. Fortin added that he allows the vendors to use his credit card machine for purchase transactions and only charges them the amount that the bank charges him to run that card. Pop-up/portable tents have been set up at times to keep the participants and their items out of the elements. At night Mr. Fortin moves the majority of everything under the awning and covers it with a tarp. Mr. Fortin actually operates his own business inside the store and under the awning; however, utilizing the outdoor space is very important to his overall plan. They are in the process of screening off the awning so that no one can access that merchandise at night. He explained that items are dropped off and set up on Friday afternoons. The items that do not sell are picked up on Sunday afternoons. If they are not picked up on time, they are removed from the lot. He added that the store had been doing very well and that they are getting a lot of out-of-state vendors that stop by. Mr. Fortin recently had a security system installed and is currently working on a sign design.

Tonya and Ed Bennett came forward and were sworn in. The Bennetts spoke in favor of the request. They just recently started a business of their own. Ms. Bennett said they had displayed some of their merchandise on Mr. Fortin's lot over the past weekend. She explained that it is hard to get everything inside of the building because a lot of their merchandise is rather large. It is an advantage to them to display their larger items outside at Mr. Fortin's because they live off Hwy 280 and that is not a desirable location for such a display. They have done a good amount of business there and they would like to see the property kept neatly organized and orderly.

The following people came forward, were sworn in and spoke against the request: Sue Hood, Angela Thomas & Steve Erwin, Tim Batts, Charlotte Ban, and Marcette Johnson. The following reasons were given for their opposition:

- The retail businesses that were mentioned earlier as a comparison to this business's outdoor storage are all located in a business zoned district.
- Retail businesses have new items and not unsightly items.
- The property is currently unsightly and an eye sore. They would like to see neat and orderly organization.
- Residential zoning is directly across the street from this business
- The ability to rent property in the vicinity is impacted.
- There is a traffic hazard getting in and out of the parking lot on Chestnut.
- Parking is an issue.
- A business such as this does not need to be located on a main corridor into Murray.
- This should not compare to other consignment stores because the others are not displaying merchandise outside.

- Surrounding home values have been decreased.
- The property resembles a garage sale or flea market instead of a consignment store.
- Items under canopy are drawing thieves to the site as well as to the neighborhood.
- This type of commercial activity is not needed in a residential neighborhood.
- It is very hard to organize this type of merchandise as each item is unique.
- Photographs that were shown were neater than what neighbors have recently seen.
- Items displayed are not very safe and kids could get hurt on them while no one is overseeing the property.

At this time Mr. Fortin was given the opportunity for rebuttal. Mr. Fortin explained that he had only been opened 3½ months and apologized for the aesthetics of the place at this point. They are still trying to make improvements on the organization. He then addressed the parking situation. People consistently cut through the corner of the parking lot to avoid waiting at North 8<sup>th</sup> Street to pull out on Chestnut. Mr. Fortin indicated that he and Mike Davis (business owner behind him) have called the police numerous times and the police's response is that they actually have to see a person drive through the parking lot in order to stop them. So naturally when the police are sitting there, people are not going to cut through the parking lot. Mr. Fortin has placed vehicles in places to prevent this from happening but that blocks his customers from exiting the property off North 8<sup>th</sup> Street. There is plenty of parking and he has never had all 20 parking spaces filled at one time. Mr. Fortin then indicated that the police had been called to the residential area across from him over the previous weekend. He was concerned that those people would try to come across to his business in order to elude the police. He thinks that there is already nefarious activity out there. One of his helpers lives in an apartment across the street that has security cameras in front of her house. She has indicated there is already a lot of activity going on (on that street). Mr. Fortin has a well-lighted parking lot and he thinks that would discourage people from his place at night. Mr. Fortin continued that he has his own apartment in the building and he stays there about twice a week when he works really late. The apartment was put in when it was the former Carroll Nissan. Mr. Fortin said that even if he is not allowed to have the outside storage of merchandise (like others in town do), he is still going to stay there. Based on the input he has had from others and outside vendors, they love this kind of store. Chairman Krieb asked if Mr. Fortin had thought about reorganizing the entire area by keeping the outside items under the awning and not out in the parking lot and reconfigure the parking lot which could result in a better traffic flow. Mr. Fortin indicated that he could put in concrete parking barriers like Thornton's has to keep people from coming across the parking lot. Mr. Fortin is paying additional money for the parking lot in front and wondered if he should just give that up to the owner where he can go back to selling cars there. Chairman Krieb explained that he was suggesting that Mr. Fortin have his merchandise closer to the building and reconfigure the parking lot in the front. Mr. Fortin stated that based on the amount of time that he has been opened, he does not know exactly what will work best for him in order to continue to keep his doors of his business opened. He said that maybe within a month, he will know better. He then mentioned that the business on the east side of him was recently approved to have buildings on the front of the lot and he was having a problem seeing the difference in his request and his neighbor's request.

Chairman Krieb closed the public hearing and turned the item over to the board for further discussion and a motion. Into the discussion (at 5:35 p.m.) a 5 minutes recess was called. The

meeting resumed at 5:41 pm with continued discussion amongst the board members. They voiced concerns over setting a precedent with other consignment stores, being on a main road and the aesthetics of this business, the safety of the items that have no organization in the parking lot, and the appearance of this business being construed as a flea market. Attorney Perlow explained that the board was to make the decision on whether they were going to allow storage outside the consignment store. Justin Smith expressed that he thought that Trade Day was specifically for the type of items that Mr. Fortin was displaying outside. He explained that Trade Day is held at the park every Thursday and the vendors do not have to get a business license or have a business plan. There is a designated area for these type of used items. Justin said that he understands that Mr. Fortin is trying to help people to sell their items; however, we already have something similar with Trade Day. Justin said that currently Mr. Fortin has 4 vendors working from his lot. Each of them is required to have a \$75.00 business permit. He added that before the meeting, they were unaware that Mr. Fortin had been staying at this location. It will not be addressed at this meeting; however, it will need to be addressed. In order to live at a business you have to have a Conditional Use Permit. Attorney Perlow noted that would also be something for the Fire Marshal to evaluate. At this time, Chairman Krieb called for a motion.

**Mike Faihst made a motion to table this item until the September regular BZA meeting. That will give staff time to dig further into what other items will need to be brought up separately and give Mr. Fortin a chance to come up with a better business plan meeting the inside requirements.** (Jeremy Buchanan suggested that Mr. Fortin have some thoughts on paper by the August regular BZA meeting.) **Mike Faihst amended his motion to change to the August 21<sup>st</sup> meeting. John Krieb seconded the motion.** Mr. Fortin interrupted at this time. He said that he is not at all understanding what they are asking him to do. If it is to simply move the stuff from the parking lot to the inside of the store, he will move the stuff and call it quits right now. If the aesthetics is what the issue is, he is all for taking care of that. He will turn the parking lot back over to the owner where he can get the car sales back in front and his business will close down. He just wanted clarification on whether it's ok for him to put his stuff out in the parking lot in the day and move it inside at night, if so, he will do that right now. He will have the parking lot clean tomorrow. **Mr. Faihst withdrew his motion.** At this time, there was further discussion by the board.

**Jim Foster made a motion to deny the Conditional Use Permit for outdoor storage of merchandise located at 800 A Chestnut Street. 1) The testimony presented in this public hearing has shown that the Conditional Use Permit for the outdoor storage of merchandise in a B-2 Zone (Highway Business District) request is not permitted and it does not fit the neighborhood. Carmen Garland seconded the motion.**

**Jim Foster amended the motion and added that it is not aesthetically pleasing to the neighborhood; that it is a hazard with glass and different things being on the parking lot; and that it makes it difficult to see in general directions around that area. Carman Garland seconded the motion.** The motion carried with a 5-0 roll call vote.

**Conditional Use Permit to allow multi-family residential use in a B-3 Zoning District located at 603 Maple Street – Applicant: Diane Zea:** Justin said that Ms. Zea had withdrawn her application; therefore, it will not go any further.

**Questions and Comments:** Jim Foster commented that the public doesn't understand that sometimes things can't be addressed until they are in violation or brought up. When these things come up, the board is relied on to make the best decision for the City going forward.

Chairman Krieb called for a motion to adjourn. **Paula Hulick made a motion to adjourn at 6:06 p.m. Jim Foster seconded the motion and the motion carried unanimously.**

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Chairman, John Krieb

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Recording Secretary, Reta Gray