

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, MAY 20, 2009
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, May 20, 2009 at 4:30 p.m. in the council chambers of City Hall located at 104 N. 5th Street.

Board Members Present: Kim Griffo, Mary Anne Medlock, Justin Pounds, Tom Auer, and Bill Whitaker

Board Members Absent: Scott Seiber and Kevin Perry

Also Present: Dowdy, Peyton Mastera, David Roberts, Mike Pitman, Reta Gray, Mayor Rushing, Matt Mattingly, John Gray, Blake Anderson, Greg Taylor, Gerald Bell, 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 April 22, 2009 regular meeting.

Kim Griffo made a motion to approve the minutes from the April 22, 2009 regular Board of Zoning Adjustments meeting as presented. Tom Auer seconded the motion and the motion carried unanimously. Mary Anne Medlock entered the meeting at 4:45 p.m.

Tom Auer made a motion to remove the review of the conditional use permit at 609 South 4th Street, Gray's Flea Market, from the table. Kim Griffo seconded the motion and the motion carried unanimously.

Review of conditional use permit – 609 South 4th Street – Gray's Flea Market: Peyton Mastera used a Power Point presentation to show Gray's Flea Market located at 609 South 4th Street which is owned by John Gray. Mr. Mastera stated that the conditional use permit was reviewed at the March 18, 2009 regular meeting and at that time, it was decided by the BZA to table this item so that Mr. Gray could work with Planning Staff towards a solution to comply with all conditions that were previously placed on the permit. Mr. Mastera showed pictures highlighting changes that Mr. Gray had made to his outdoor storage of merchandise including the arrangement of the merchandise in rows with wide aisles between the rows. Mr. Mastera also noted that Mr. Gray continues to have some items stored questionably close to the right of way. On May 6, 2009, Mr. Gray met with Planning Staff and it is the opinion of the Planning Staff that Mr. Gray is fully meeting all conditions set forth in the conditional use permit. Justin Pounds asked how many times that Mr. Mastera had been by Mr. Gray's business since the last meeting and if Mr. Gray had cleaned up his business after the March meeting or had he cleaned it because of the upcoming meeting. Mr. Mastera stated that he had been by the business four or five times and that Mr. Gray had been improving the outside of his area since the March meeting. Chairman Whitaker stated that since the conditional use permit was issued in 2006, he felt that the problem had been an ongoing issue with Mr. Gray's compliancy.

Chairman Whitaker asked if anyone in the audience would like to say anything. There was no one that wished to speak so he turned it over to the board for discussion.

Kim Griffo stated that she was concerned if Mr. Gray was going to continue to keep his outside business area somewhat maintained and in compliance. Ms. Griffo also asked Mr. Mastera to summarize this history of this case. Mr. Pounds suggested that the conditional use permit be modified/alterd by amending the permit to require that all merchandise must be behind the rear building line and that the conditional use permit be reviewed yearly.

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 Gray's Flea Market has since come into compliance. Mary Anne Medlock seconded the motion. The vote was 2-3 and the motion was denied. Kim Griffo, Justin Pounds and Bill Whitaker voted no.

Kim Griffo 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. Justin Pounds seconded the motion and the motion carried with a 3-0 voice vote. Tom Auer and Bill Whitaker abstained from the vote.

Matt Mattingly left the meeting at 5:06 p.m.

John Gray, 609 South 4th Street, Murray was sworn in. Mr. Gray wanted clarification on where he could actually store his merchandise. After it was explained to him, Chairman Whitaker told Mr. Gray that there was an appeal process he could go through if he disagreed with the decision of the BZA. Attorney Mike Pitman instructed Mr. Gray that he could file a new Conditional Use Permit application or file an action in Circuit Court if he wished to appeal the decision that the BZA had made.

Public hearing to review the tabled dimensional variance application for a 24 square foot size variance on a proposed monument style sign – 1600 Hwy 121 North – Newcomb Oil: Candace Dowdy stated that this application was tabled approximately two years ago by the BZA so that Newcomb Oil could revise their plan for a proposed monument style sign.

Justin Pounds made a motion to remove the item from the table. Kim Griffo seconded the motion and the motion carried unanimously.

Ms. Dowdy used a Power Point presentation to show the Newcomb Oil property at 1600 Hwy 121 North. She stated that Newcomb Oil had met with the Kentucky Department of Transportation to revise their previous site plan and then submitted the plan to the Planning Staff indicating the location of the proposed sign in conjunction with the proposed right-of-way. Ms. Dowdy stated that Newcomb Oil is requesting for their monument style sign to be 79 square feet; thus, a 24 square foot size variance is being requested. Ms. Dowdy stated that the newly proposed sign would meet all setback requirements, but it will not meet the 55 square foot size

requirement. This request will lower their existing signage height from 30 feet to 9 feet, and overall square footage from 130 square feet to 79 square feet.

Chairman Whitaker opened up the public hearing and asked if there was anyone that wished to speak in favor of the application. *Mayor Rushing left the meeting at 5:20 p.m.*

Blake Anderson, 312 J. B. Copeland Road, Benton, was sworn in. Mr. Anderson stated that currently a Five Star logo and a Country Deli sign are on the front of the building. He added that the BP sign that they are requesting to put up is BP's standard sign package. BP will not allow Five Star to put their logo sign above the BP sign; therefore, BP will install a monument sign.

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

Kim Griffo made a motion to approve the dimensional variance application for a 24 square foot size variance on the proposed construction of a monument style sign for Newcomb Oil (Five Star BP), located at 1600 HWY 121 North. This sign 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. Newcomb Oil's sign will only be nine feet in height as opposed to the maximum allowed ten feet; the signage will decrease in size by 51 square feet; and, this sign will not hinder nor obstruct the view of any surrounding business. Tom Auer seconded the motion and the motion carried with a 4-1 voice vote. Mary Anne Medlock voted no.

Public hearing to review the dimensional variance application for a seven foot front setback variance on proposed monument style sign – 306 South 12th Street – Greg Taylor: Peyton Mastera used a Power Point presentation to show the property at 306 South 12th Street owned by Greg Taylor. Mr. Taylor has submitted a revised Dimensional Variance application for the placement of his monument style sign. Mr. Taylor's request is to revamp his monument style sign so that it is turned vertical, as opposed to how it is currently situated horizontally. (The current sign is 6 feet x 4 feet totaling 24 square feet). Mr. Taylor will also be relocating the sign three feet to the north and moving it two feet closer to the business, which will place the sign five feet from the sidewalk or three feet from the front property line; thus a seven foot front setback variance is being requested.

Chairman Whitaker opened the public hearing and asked if there was anyone that wished to speak in favor of the application. Greg Taylor, 1103 Sycamore Street, Murray, was sworn in. Mr. Taylor stated that his proposed sign would be four feet wide compared to the six feet that the current sign is; therefore, this would give two additional feet between the sign and the sidewalk. This sign will also be located three feet to the north of the current sign and three feet closer to his building, which will put the sign five feet from the sidewalk. Mr. Taylor presented a letter from Dr. Kevin Adams stating that he was satisfied with the location of the proposed signage. The letter was entered as Exhibit A. Mr. Taylor stated that he was probably going to install a sign that would be four foot by seven foot even though he is allowed up to 42 square feet according to

the ordinance.

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.

Kim Griffo made a motion to grant a seven foot front setback variance for 306 S. 12th Street (Racer Rental Investments) for the proposed construction of a monument style sign to be located at the specified location indicated on the site plan; with this sign being turned vertically and closer to the building, it will not obstruct the visibility of surrounding businesses; and, by granting this variance 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. The existing signage must still be removed by August 1, 2009. Tom Auer seconded the motion and the motion carried with a 5-0 vote.

Public hearing to review the dimensional variance application for a height variance and parking space variance for proposed hotel – 509 North 13th Street – Gerald Bell: Candace Dowdy used a Power Point presentation to show pictures of the land at 509 North 13th Street where Mr. Gerald Bell with Parbel, LLC is proposing to build a new hotel. Mr. Bell owns the 2.896 acre tract of land that is located directly behind University Shops. Mr. Bell is proposing to subdivide this tract of land into two lots for the purpose of constructing a four story hotel on the south lot leaving the north lot open as for a potential restaurant. His purpose in requesting a height variance for a four story hotel at this location instead of a three story hotel is due to the ten foot difference in elevation from 12th Street to 13th Street. At this time Mr. Bell is considering a Sleep Inn or a Comfort Inn but the final decision will be made once a feasibility study is done. The prototypical design of these two facilities has a height that exceeds the City of Murray's maximum height of 35 feet. Mr. Bell is also requesting a parking space variance at this location. The zoning ordinance requires 1.5 parking spaces per sleeping room including that of the owner or manager residing on the premises, but Mr. Bell would like to see if the board will consider 1.1 parking spaces per room since this would be more in line with other cities parking requirements for hotels and motels.

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

Gerald Bell, P.O. Box 946, Murray, was sworn in. Mr. Bell stated that he was speaking as a representative of Parbel, LLC in which he is a partner. He added that he would only have a small interest in the proposed hotel. Mr. Bell said that after interviewing several hotel companies and much consideration, he and others had decided that a Choice Hotels' product was more suitable for the Murray area. Choice Hotels have a number of products in which Sleep Inn and Comfort Inn are members. Mr. Bell stated that at this time, there is not a preference in choosing a Sleep Inn (which is a mid-market hotel) or a Comfort Inn (which is an upper-market hotel). He added that before a lender would lend money for the project, they would require a feasibility study. A feasibility study will determine the number of rooms and the types of rooms that are needed. The proto-typical designs run between 60-80 rooms and that is the market that

Mr. Bell said that they think is appropriate for Murray.

Mr. Bell addressed the parking and he said that he had spoken to representatives for various hotel companies and they have told him that one space per room was adequate most of the time. Mr. Bell projected that with the normal occupancy rate of 65% and a maximum staff of eight, 88 spaces would be adequate. He added that if the 80 rooms did fill up, it probably would be at night and probably only three to four times per year. The staff is at a minimum during evening hours; therefore, some of their designated parking spaces would be available for guests. Mr. Bell feels that 1 parking space per room availability is adequate; however, he asked for 1.1 per room for safety. Mr. Bell added that he owns the shopping center directly to the south of the proposed hotel. He said that many spaces are available at the shopping center to handle the overflow of parking at the hotel should this problem occur especially during the evening hours when the shopping center would be closed and the hotel would be at its peak.

Mr. Bell said that in regards to the height of the hotel, he had interviewed a number of hotel franchise constituents as well as developers and it was the consensus that a four story hotel be built versus a three story hotel. Part of the reason for this recommendation is because the trend for the motel/hotel industry is to go up rather than out when building. Mr. Bell noted the following height comparisons in a Sleep Inn and a Comfort Inn:

Three (3) Story Sleep Inn

Overall height of the building (Top of Roof Ridge) – 43'0"

Building height (Top of Tower) - 63'0"

Four (4) Story Sleep Inn

Overall height of the building (Top of Roof Ridge) - 53'0"

Building height (Top of Tower) - 73'0"

Three (3) Story Comfort Inn

Overall height of the building (Top of Roof Ridge) – 43'0"

Building height (Top of Tower) - 57'0"

Four (4) Story Comfort Inn

Overall height of the building (Top of Roof Ridge) – 52'0"

Building height (Top of Tower) - 66'0"

Mr. Wells stated that Parbel, LLC had spoken to Choice Hotels concerning an upscale look for the Sleep Inn (should they decide on this particular hotel) and Choice Hotels has agreed to allow the substitution of stone instead of brick on the bottom of the hotel.

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.

Kim Griffo made a motion to grant up to a 18 foot height variance to the top of the ridge and a 38 foot height variance to the top of the signature tower and a parking space variance of 1.1 parking spaces per room for the proposed construction of a hotel at North

13th Street (applicant/owner: Gerald Bell – Parbel, LLC) as this construction will be in line with similar style hotels in Murray based upon the elevation of the topography and the surrounding Murray State properties; and by granting these variances, 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 5-0 voice vote.

Questions and comments: None.

Kim Griffo made a motion to adjourn. Mary Anne Medlock seconded the motion and the motion carried with a unanimous vote. The meeting adjourned at 6:10 p.m.

Chairman, Bill Whitaker

Reta Gray, Recording Secretary