

**MURRAY BOARD OF ZONING ADJUSTMENTS
SPECIAL CALLED MEETING
WEDNESDAY, MARCH 2, 2016
4:30 P.M.**

The Murray Board of Zoning Adjustments met in special called session on Wednesday, March 2, 2016 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: John Krieb, Terry Strieter, Mike Faihst, Bobbie Weatherly, Dennis Sharp and Jim Foster

Board Members Absent: Josh Vernon

Also Present: Candace Dowdy, Robert Jeffries, Summer Grogan, Officer Tim Fortner, Attorney David Perlow, David Roberts, Fire Marshal Greg Molinar, Dr. Brad Mills, Dr. Steve Farmer, City Building Official Keith Miller, Fire Inspector Devin Bannister, and Building Inspector Shane Knight, Marcia Dorgan, Ledger and Times representative, and public audience

Chairman Krieb called the meeting to order and welcomed all guests and applicants.

Public Hearing: Review of Conditional Use Permit for 1708 Hwy 121 Bypass North (B-2 Zoning District) to allow residential use in the basement for owner and employees of business - Dr. Brad Mills: On February 5, 2016 Fire Marshal Greg Molinar, Building Official Keith Miller, and Building Inspector Shane Knight made an inspection of the basement area that is below Dr. Brad Mills' dental practice at 1708 Hwy 121 Bypass North. (The board members were given a copy of the report issued by the Fire Marshal.) They determined that there were several people currently residing in the basement and that the dwelling unit was in violation of NFPA-1 and NFPA-101 Fire and Life Safety Codes and also International Property Maintenance Code Section 108. They informed Dr. Mills that he needed to contact the Planning Department to see whether this use was permitted by zoning regulations. Ms. Dowdy explained that in 1992 Dr. Joe Mason (owner of the property at that time) was granted a conditional use permit to allow him and his family to reside in the basement below his dental practice. Dr. Mills has indicated that the basement had been used for residential purposes since he and Dr. Steve Farmer purchased the property in 1999. Currently there are three students residing in the basement. Dr. Mill's son lives there and works in the lab of the dental practice. The other two residents are also on Dr. Mills' payroll. Planning Staff informed Dr. Mills that the Chairman of the Board of Zoning Adjustments had been notified of the possible violations to the CUP and that a public hearing would be scheduled for the board to review the permit as outlined in KRS statutes. Ms. Dowdy explained the zoning regulations and the conditions placed on the 1992 CUP.

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

Fire Marshal Greg Molinar came forward and was sworn in. Mr. Molinar explained that after the inspection, he decided to approach Ms. Dowdy to see how they should move forward with their findings. He stated that the building is in a non-compliant state and he then noted numerous fire and building code violations. Attorney David Perlow asked Mr. Molinar to explain each of the documented violations. The Fire Marshal was not certain if the tenants were still living there or not; however, he would not deem the property safe to live in while in this current state. (*The Fire Marshal's report was entered as Exhibit A.*) Mr. Molinar stated that he had addressed the

majority of violations with Dr. Brad Mills (owner of the property). There have been no citations issued at this time. He explained that his decision will be made upon what the zoning is determined to be. Chairman Krieb explained that the Fire Code violations should stand alone and have nothing to do with the zoning requirements.

Dr. Brad Mills came forward and was sworn in. He explained that they would like to continue the same status as had been in the basement since 1999. Dr. Mills added that there had never been any mention of violations during inspections in the past; however, he is working with the City Building Official and Fire Inspector to bring everything into compliance. His son is one of the occupants and it has been nice to be able to keep an eye on him and his buddies as they reside there. There have been no problems with the current or previous tenants.

Dr. Steve Farmer came forward and was sworn in. Dr. Farmer asked if everything was built to code for residential use when the building was constructed. Ms. Dowdy replied that there were no notes on the building permit referring to the basement being used for residential purposes. Approximately one month after a Certificate of Occupancy was issued, Dr. Mason went before the BZA asking for permission to live in the basement and that's when the Conditional Use Permit was granted.

City Building Official Keith Miller came forward and was sworn in. Mr. Miller cited the main concern was the size of the windows in the basement. He clarified that he had spoken to Dr. Mills and Carter Reed about replacing the basement windows to provide an emergency escape route and bring that violation up to code. He added that if they continued to use the basement for residential purposes, there were two rooms that would have to be specified as bedrooms where the windows would provide that emergency point of egress. Mr. Miller explained that Kentucky Building Codes state that any structure only has to comply with the codes that were applicable during the year they were built unless something happens to that structure and it then would have to comply with the current standards of the 2012 Property Maintenance Code.

Marcia Dorgan came forward and was sworn in. Ms. Dorgan stated that if there is a code, it should be abided by. She would like to see buildings such as this inspected yearly and kept up to the current codes.

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

Attorney Perlow explained no matter what the decision is by the board, the Fire Marshal and the City Building Official should actually be the ones who determine if and when it is safe to reside in the basement of this property. At that time, there should be some sort of documentation presented to the board clarifying that.

Jim Foster made a motion to allow the continuation of the conditional use permit issued for 1708 Hwy 121 Bypass North contingent upon all current fire and building codes being in compliance for the business and residential use. Terry Strieter seconded the motion.

Jim Foster modified the motion to add that violations for the business and residential use must be in compliance with the Fire Marshal and Building Codes within 90 days. Terry Strieter seconded the motion and the motion carried with a 6-0 roll call vote.

Questions and Comments: Ms. Weatherly stated that her decision was based on the fact that Dr. Mills felt that his son was safe while living there; therefore, that was a good validation for her.

Mike Faiht made a motion to adjourn. Bobbie Weatherly seconded the motion and the motion carried unanimously. *The meeting adjourned at 5:28 p.m.*

Chairman, John Krieb

Recording Secretary, Reta Gray

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