

BZA 17-67 - Howard T. Murray requests
Appeal of Decision of Central Inspec-
tion to permit an Office in "AA" on
the west side of Murray Avenue, south
of 13th Street

9843
Passed
5-1-67

ACTION

Bza COMMITTEE
Bza

Referred DATE 6-27-67
Approved 7-25-67

M.A.P.C.

B.C.C./B. CO. C.

RESOLUTION NO. BZA 17-67

WHEREAS, Howard T. Murray, Murray Realty, 359 South Hydraulic, Wichita, Kansas, by Grey Dresie, 815 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590.1, Code of the City of Wichita, has appealed from the decision of the Superintendent of Central Inspection who has determined that a real estate field office in an "AA" Single Family District is in violation of Section 28.04.040 ("AA" Single Family Dwelling District), Code of the City of Wichita, and in violation of Section 28.04.160.H (Construction Uses) Code of the city of Wichita; and

WHEREAS, the appellant contends that the use of subject property at 1345 Murray Avenue is confined to the business of construction and development of an area and, therefore, falls within Section 28.04.160.H, Code of the City of Wichita; and

WHEREAS, subject property is zoned "AA" Single Family and is legally described as follows:

Lot 3, Block 1, in Westlink Village 5th Addition, Sedgwick County, Kansas. Generally located on the west side of Murray Avenue and south of 13th Street; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of July 25, 1967, consider said application; and

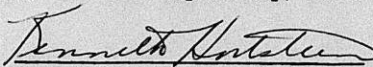
WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an appeal under the provisions of Section 2.12.590.1, Code of the City of Wichita; and

WHEREAS, the Board determined that the use of the dwelling serves as a temporary office for the construction and development of the area and is in accordance with Section 28.04.160.H, Code of the City of Wichita; and


NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the appeal be granted and that the applicant is entitled to utilize the dwelling for a temporary office, said property being legally described as follows:

Lot 3, Block 1, in Westlink Village 5th Addition, Sedgwick County, Kansas. Generally located on the west side of Murray Avenue and south of 13th Street.

ADOPTED AT WICHITA, KANSAS, this 25th day of July, 1967.


Kenneth Hartstein, Chairman

ATTEST:


Ronald A. Williamson
Assistant Secretary

August 10, 1967

Mr. Grey Dresie
815 Union National Bldg.
Wichita, Kansas 67202

Dear Mr. Dresie:

Re: Case No. BZA 17-67 - Request for
an appeal from the decision of
the Superintendent of Central
Inspection

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 25, 1967, in connection with your application for an appeal from the decision of the Superintendent of Central regarding operation of a real estate office in a "AA" Single Family District generally located on the west side of Murray Avenue in an area south of 13th Street. This Resolution reflects the official action of the Board of Zoning Appeals.

If you have any questions concerning this matter, please call.

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kkg
Attachment

cc: Ralph Eberly, City Clerk
Glen Lytle, Superintendent of Central Inspection
Howard T. Murray, 359 South Hydraulic, Wichita

July 26, 1967

Mr. Gray Dresie
815 Union National Building
Wichita, Kansas 67202

Dear Mr. Dresie:

Re: Case No. BZA 17-67 - Request for
an appeal from the decision of
the Superintendent of Central
Inspection

At the regular meeting of the Board of Zoning Appeals on July 25, 1967, your request for an appeal from the decision of the Superintendent of Central Inspection, who issued an order for the applicant to cease and desist an operation of a real estate office in a "AA" Single Family Residential District and located on the west side of Murray Avenue in an area south of 13th Street, was considered.

It was the action of the Board to approve this request granting the appeal from the decision of the Superintendent of Central Inspection.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the Chairman and Secretary of the Board have signed it. If you have any questions, please call.

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kkj

cc: Ralph Eberly, City Clerk
Glen Lytle, Superintendent of Central Inspection
Howard T. Murray, 359 South Hydraulic, Wichita

SECRETARY'S REPORT

CASE NO. BZA 17-67

APPLICANT: Howard T. Murray, Murray Realty, 359 South Hydraulic
Wichita

AGENT: Grey Dresie, 815 Union National Building, Wichita

REQUEST: An appeal pursuant to Section 2.12.590.1, Code of the
City of Wichita, appealing from decision of the Super-
intendent of Central Inspection, who has issued an order
for the applicant to cease and desist an operation of a
real estate office in a "AA" Single Family Residential
District

GENERAL LOCATION: West side of Murray Avenue in an area south of
13th Street

ZONING: Subject property and all surrounding property is "AA"
Single-family

LAND USE: Subject property and that to the north, south and east
is single-family; to the west is vacant

JURISDICTION:

The Board has jurisdiction to consider the appeal under the
provisions outlined in Section 2.12.590.1, Code of the City of
Wichita.

COMMENTS BY THE SECRETARY

The applicant points out in his statement that he is utilizing
a house at 1345 Murray Avenue as a field house and display house.
He further pointed out that salesmen operate out of this house and
that a phone is available for contacting prospective purchasers and
construction crews working on homes in the area. The field houses
are used for not more than several months at a time and if someone
would desire to purchase the house it would be sold to them and
another house selected as a display or field house.

It is the interpretation of the Superintendent of Central
Inspections that this is a real estate office and, therefore, is
in violation of the ordinance in a "AA" District. The applicant
has, therefore, submitted an appeal requesting that the Board make
a determination as to whether this use is permitted in the "AA"
district.

June 27, 1967

The house being utilized as a field office is a typical home being built in the area, however, a large sign has been placed in the front yard; the normal garage doors have been replaced with sliding glass doors, and desks have been placed in the garage.

Section 28.04.160.H refers to construction uses located in any district, and it is the interpretation of this particular section which will determine whether the use is proper or not.

Said section reads as follows:

"H. Construction Uses - Offices, sheds, warehouses and open air storages, used by building contractors in connection with the building of a principal building or the development of an area, may be erected and used in any district; provided, they shall be removed from the premises within 10 days after substantial completion of the project or unusual suspension of work."

The interpretation of this section of the ordinance over the years has been that it applies to temporary or non-permanent type structures such as trailers, small structures on skids or wheels or other similar type facilities used as offices during the construction period.

It is the opinion of the Secretary, however, when the ordinance refers to "development of an area" it is referring to a type of facility such as a field house or display house where a contractor may use it as a central location for showing the homes he is building in the immediate area. It should be made clear that a field house or display house should serve only the new subdivision being developed and that it does not permit the contractor or builder to utilize the field house as an office for the selling of homes throughout the entire city.

Recommendation

It is the opinion of the Secretary that the field house or display house used for the showing of homes in the development of a new subdivision is permissible under Section 28.04.160.H and, therefore, it is recommended that the appeal be granted.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

June 7, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 17-67

An application has been filed by Howard T. Murray, Murray Realty, 359 South Hydraulic, Wichita, by Grey Dresie, 815 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590.1, Code of the City of Wichita, requesting an appeal from the decision of the Superintendent of Central Inspection who has issued an order for the applicant to cease operation of a real estate field office on property zoned "AA" Single Family Residential and legally described as follows:

Lot 3, Block 1, in Westlink Village 5th Addition, Sedgwick County, Kansas. Generally located on the west side of Murray Avenue and south of 13th Street.

This application has been assigned Case No. BZA 17-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 27, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

THE CITY OF WICHITA



DEPARTMENT OF LAW
OFFICE OF CITY ATTORNEY
AMHERST 2-B211 — AREA CODE 316
SUITE 800 — BROWN BUILDING
WICHITA, KANSAS 67202

JOHN DEKKER, DIRECTOR OF LAW AND CITY ATTORNEY

ASSISTANT CITY ATTORNEYS
EUGENE L. PIRTLE
ARTHUR G. JOHNSON
ROBERT A. THIESSEN
H. JAY SETTER
H. E. JONES

July 25, 1967

Board of Zoning Appeals
City Building Annex
114 South Main
Wichita, Kansas 67202

RE: Howard T. Murray,
MURRAY REALTY
359 South Hydraulic
Wichita, Kansas

Gentlemen:

The question that is posed on the instant Appeal from the Superintendent of Central Inspection is the legality of the operation of a "Field Office" in a "AA" Single Family Residential District.

It is not controverted that the applicant Howard T. Murray utilizes the house at 1345 Murray, Wichita, Kansas, as an office in connection with his development of an area adjacent thereto.

Section 28.04.160 H of the Code of the City of Wichita, Kansas, is entitled "Construction Uses" and provides inter alia as follows:

"H. Construction Uses - Offices used by building contractors in connection with the development of an area, may be erected and used in any district; provided, they shall be removed from the premises within 10 days after substantial completion of the project or unusual suspension of work."

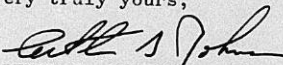
In view of the limitation therein respecting removal, it is my judgment that this ordinance does not contemplate the usage practiced by the applicant.

THE CITY OF WICHITA 2
BOARD OF ZONING APPEALS
July 25, 1967

It appears that this practice of utilizing a completed house as an office in an area that is being developed has been widespraad and without any appreciable damage to others. It would seem however, that the appropriate ordinance should be amended to properly encompass this type of activity.

In my opinion the appeal from the Superintendent of Central Inspection should be upheld.

Very truly yours,


ARTHUR G. JOHNSON,
Assistant City Attorney

AGJ:nh

cc: John Dekker, City Attorney

BOARD OF ZONING APPEALS

Re: Case No. BZA 17-67

MEMORANDUM BRIEF FROM APPLICANT HOWARD T. MURRAY

The general definition of "office" is broad enough to cover any place where business is transacted. We must therefore conclude that 1345 Murray is being used as an office. It is our contention, however, that its use is confined to business of construction and development of an area and falls within Section 28.04.160 H.

Section H reads as follows: "Construction uses - offices, sheds, warehouses and open air storages used by building contractors in connection with the building of a principal building or the development of an area may be erected and used in any district; provided, they shall be removed from the premises within ten days after substantial completion of the project or unusual suspension of work."

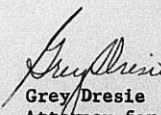
It is our contention that the underlined words are not narrow enough to mean only the actual physical removal of the buildings so used. It also mean the cessation of use of the building as an office and the removal of all office type impedimenta therefrom. This will be done as the area is completed and the house sold, and the operation moved to the new area under construction. If this is not done at that time, then is when the notice to cease such use should be issued.

The house in question, in addition to office use, as above set out, is also used as a display house. This use is not prohibited by the ordinance. It is necessary and in the best interests of the entire city that areas such as the one in question be developed and occupied.

Realtors hold open houses all over the city. It is a way of doing business. Any time a person looks and is not interested in the particular show house or the one being held open, the salesman will certainly make every effort to find a house that the prospective purchaser will be interested in. It is impossible to prevent salesmen from doing this.

Mr. Murray, the applicant, and every other developer must continue to have display or show houses. If it is decided that such houses cannot serve dual purposes by giving the contractors a place to phone, and do their field construction office work, then it will be necessary to move in unsightly temporary trailers or shacks. This is all that will be accomplished if this appeal is denied.

Respectfully submitted,


Grey Dresie
Attorney for Applicant,
Howard T. Murray



June 28, 1967

Mr. Grey Dresie
815 Union National Building
Wichita, Kansas 67202

Dear Mr. Dresie:

Re: Case No. BZA 17-67 - Request for
an appeal from the decision of
the Superintendent of Central
Inspection

At the regular meeting of the Board of Zoning Appeals on June 27, 1967, your request for an appeal from the decision of the Superintendent of Central Inspection, who issued an order for the applicant to cease and desist an operation of a real estate office in a "AA" Single Family Residential District and located on the west side of Murray Avenue in an area south of 13th Street, was considered.

It was the action of the Board to defer this matter until the next regular meeting of July 25, 1967, to permit the Legal Counsel for the Board to investigate the facts of this matter as to what this "office" is generally used for and provide the Board members with a legal opinion.

If you have any questions, please call.

Very truly yours,


Robert A. Lakin
Secretary Pro Tem.

RAL:kkj

cc: Ralph Eberly, City Clerk
Glen Lytle, Superintendent of Central Inspection
Howard T. Murray, 359 South Hydraulic, Wichita

LAW OFFICES
DRESIE AND JORGENSEN

815 UNION NATIONAL BUILDING
BROADWAY AND DOUGLAS
WICHITA, KANSAS 67202

GREY DRESIE
J. PAUL JORGENSEN

PHONE AMHERST 7-4231
AREA CODE 316

4 May 1967

Board of Zoning Appeals
City of Wichita
Wichita, Kansas

Gentlemen:

Enclosed herewith is Appeal for Order or
Decision of the Superintendent of Central Inspection filed
on behalf of Howard T. Murray (Murray Realty), together with
check for \$50.

Very truly yours,

DRESIE & JORGENSEN

By *Grey Dresie*

ew

A. This is a residence located at 1345 Murray Avenue in the northerly part of an addition known as Westlink Village 5th Addition, which is the northermost addition now being developed in the Westlink Area.

Howard T. Murray, the appellant, is one of the prime developers of this area. The house at 1345 Murray Avenue is being used as a field house and as a display house. It is not an office in the sense it contains desks or that any deals are consummated there or any office work performed. Salesmen have to have some place in the area. They stay in this house; they show this house as one of the several display houses. Any person who comes in at any time and makes an offer to purchase this house will certainly have a contract.

There is a phone in the house for the reason that it is necessary to get in touch with real estate salesmen. This phone is also used to contact construction crews working in the area. None of these field houses, including this one, are ever used for more than several months at a time. At any time any person wants to buy the house it is sold to them and another house is selected as a display or field house.

It is the appellant's contention first, that this is not an office within the true sense of the word, and second, it is a necessary item of development in any new area which is being built up.

Attached you will find a copy of the order which was made by the Central Inspection Division Superintendent. It is our contention that the finding that this was being used as a real estate office is erroneous finding and conclusion. The principal points of the allegations of error are those set out above.

We believe that showing a new house in the manner and under the circumstances above set out is not in violation of the zoning ordinance.

No drawings or plans are necessary or appropriate to this appeal.

CITY OF WICHITA, KANSAS - CENTRAL INSPECTION DIVISION
3RD FLOOR - CITY HALL ANNEX - PHONE AM 2-8211

NO A 1729

To Murray Realty (Edward Murray)
Address 359 1/2 ~~Highway~~ A-14 1967

You are hereby notified that Business Office
located at 1345 Murray Ave. is in violation of
City Ordinance No. 29660 Code Chapt. 28.04.040 and you are
hereby ordered to cess operations of real
estate office at above address

This Notice Must Be Complied With On
or Before 4-28, 1967

GLEN E. LYTLE, Supt. Central Inspection

By Bill Lopp
INSPECTOR

FORM 41-227 / Refusing or neglecting to comply with this notice will be followed by prosecution.

BOARD OF ZONING APPEALS

CASE NO. 17-67

CITY OF WICHITA, KANSAS

FILED 5-4-67

APPEAL FROM ORDER OR DECISION OF THE
SUPERINTENDENT OF CENTRAL INSPECTION

I. Name of Appellant Howard T. Murray, Murray Realty
Mailing Address 359 S. Hydraulic, Wichita, Kansas Phone AM 7-0291
Name of Agent Grey Dresie
Mailing Address 815 Union National Bldg. Wichita Phone AM 7-4231
Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination or an order of the Superintendent of Central Inspection, as follows:

Decision of April 14, 1967 refers to City Ord. No. 27,660

Code Chapt. 28.04.040

for property located 1345 Murray Avenue - W side of Murray Ave.
4 S of 13th Street
and legally described as Lot 3, Block 1, Westlink Village Fifth
Addition, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned AA. The decision was rendered April 14, 1967, and refers to Section 27,660, Code Cpt. 28.04.040, of the Code of the City of Wichita.

III. The appellant hereby declares that he has submitted the following required material, together with and as part of the appeal:

- A. A clear and accurate description of the proposed work or use.
See attached
- B. The order, requirement, decision or determination by the Superintendent of Central Inspection which the appellant believes to be in error, and the principal points supporting the appellant's allegation of errors;
- C. Specific reference to that section of the Zoning Ordinance under which it is claimed the permit should be issued;
- D. Drawings or plans for the proposed work or use in relation to the adjacent buildings and property; NA
- E. A certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of 200 feet of the property affected by the appeal.
Attached

Applicant Howard T. Murray

Authorized Agent Grey Dresie

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, _____ (a.m. - p.m.), May 4, 1967, together with appropriate fee of \$50.00.

Signed Ron Williamson
Bjo

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
1	1	Westlink Village 5th Addition	✓ M & B Investment, Inc. 359 S. Hydraulic 67211
2	"	"	"
3	"	"	✓ Murray Inc. 359 S. Hydraulic 67211
4	"	"	✓ Harvey C. Tengove Shirley T. Tengove 1335 Murray Ave. 67212
5	"	"	✓ William K. Zollman and Gloria E. Zollman 1329 Murray Ave. 67212
6	"	"	X Robert L. Vaughn and Barbara R. Vaughn Address unknown NONE FOUND
1	2	"	D M & B. Investment, Inc. 359 S. Hydraulic
2	"	"	John M. Wagner and Karen P. Wagner 1368 Murray Ave. 67212
3	"	"	D M & B Investment, Inc. 359 S. Hydraulic
9	"	"	D Murray, Inc. 359 S. Hydraulic
10	"	"	✓ George C. Hunt and Shirley M Hunt 1336 Murray Ave. 67212
11	"	"	✓ John K. Lawson and Florence K. Lawson 1330 Murray Ave. 67212
12	"	"	✓ Phillip E. High and Connie Jane High 9438 Briarwood 67212
The East 10 acres of the N $\frac{1}{2}$ of the NW $\frac{1}{2}$ of Sec. 17-27-1W			X J & E. Development Co., Inc. Address unknown NONE FOUND

We, The Security Abstract and Title Company, Inc., hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of Lot 3, Block 1, in Westlink Village 5th Addition, Sedgwick County, Kansas, as shown by the deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 3rd day of May, 1967 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Lucille Schroeder*
Vice-President

Order No. 143211

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION

AMOUNT

B3A Application 50⁰⁰

Name

Murray, Inc.

Address

359 So. Myrtle St.

Type

Due Date

5-4-67

Comments:

R-71-C

Date

5-4-67

By

R.P.



1.



2.



3.

Map No. 4848
Sec. _____
Twp. _____
Range _____

AREA DATA:

1. Acres: _____
2. Adjoining Zoning _____
3. Land Use: East _____
West _____
4. Sketch Plan Location _____
5. Present Land Use _____
6. Area (is) (is not) _____

PHOTO DATA:

Taken by _____

Map No. 4848
Sec. _____
Twp. _____
Range _____

SEA 17-67
SCZ- _____
CU- _____
Filed _____

- AREA DATA:
1. Acres: 0.2 (80 ft. by 120 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South _____
West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
6. Area (is) (is not) platted.

PHOTO DATA:
Taken by _____ Date _____ Time _____

