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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

AUGUST 2, 2001

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, August 2, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: C. A. Pantle, Chairman
- Gary Noffsinger,
- Planning Director
- Marty Warren
- Ruth Ann Mason
- Judy Dixon
- Tim Miller
- Bill Williams
- Ward Pedley
- Stewart Elliott
- Attorney

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CHAIRMAN: Call the Owensboro Metropolitan Board of Adjustment to order.

The first item on the business is to consider the minutes of the July 5th meeting. They're on file in the office and have been checked. I don't think any mistakes have been found in them or corrections. Entertain a motion to dispose of the item.

MS. DIXON: Motion to approve.

CHAIRMAN: Motion been made. Is there a

1 second?

2 MR. MILLER: Second.

3 CHAIRMAN: All in favor say aye.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 Couple of guidelines before we get
7 started. If you have any comments about any item,
8 please come to the microphone, be sworn in by counsel.
9 State anything you have to say about the item,
10 objections or in favor of it. Everybody will be given
11 the opportunity to speak.

12 The first item, please.

13 -----

14 CONDITIONAL USE PERMIT

15 ITEM 2

16 2514 Ebach Street, in an R-4DT zone
17 Consider request for a Conditional Use Permit for
18 placement of a 14'x70' Class B manufactured home.
19 Reference: Zoning Ordinance, Article 8, Section
20 8.2A10B, Section 8.4/7
21 Applicant: Archie Freels

22 MR. NOFFSINGER: Mr. Chairman, this
23 application has been reviewed by the Planning Staff.
24 It's found to be in order. It has been advertised for
25 public hearing at this time and all adjoining property
owners have been notified. This is for placement of a
Class A, which is single-wide manufactured home on the

1 property.

2 Like to remind the applicant of the
3 installation standards if this Conditional Use Permit
4 is approved. That would mean that the tires, tongue,
5 wheels and axles of the unit must be removed. It
6 would require a skirting around the perimeter of the
7 manufactured home of a masonry or concrete block type.
8 The applicant is proposing a ten foot concrete patio
9 as well as two paved off street parking spaces. With
10 that, Mr. Chairman, it's ready for your consideration.

11 CHAIRMAN: Has there been any objections
12 filed in the office?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Is anyone here wishing to
15 object to this particular item?

16 (NO RESPONSE)

17 CHAIRMAN: Would the applicant have
18 anything he would like to add?

19 State your name for the record, please.

20 MR. FREELS: My name is Archie Freels.

21 (MR. ARCHIE FREELS SWORN IN BY ATTORNEY.)

22 MR. FREELS: I moved a trailer off and was
23 going to put another on. I called the City Planning
24 and found out that things has changed since I had the
25 other one put on there. So what happened was he says

1 I have to build a foundation of blocks and all this
2 other stuff. The one thing that I ask that I not have
3 to do was to put a - -

4 MR. NOFFSINGER: Excuse me, Mr. Freels.
5 Is this regarding the sidewalk?

6 MR. FREELS: Yes.

7 MR. NOFFSINGER: The sidewalk is not shown
8 on your site plan. It is not a consideration on this
9 application due to the gas line and water utilities.

10 MR. FREELS: This was why I have a piece
11 of paper from the city people. That they went down
12 and acknowledged that. That was the only thing that I
13 was going to ask about.

14 MR. NOFFSINGER: Okay. Thank you.

15 MR. FREELS: Outside of that like I said,
16 you know, I have confirmed to whatever the city has
17 asked do on this particular lot.

18 CHAIRMAN: Sounds good. You understand
19 all the conditions and will comply with them?

20 MR. FREELS: Yes.

21 CHAIRMAN: Any board member have any
22 comments?

23 (NO RESPONSE)

24 CHAIRMAN: If not the Chair will entertain
25 a motion to dispose of the item unless there's anybody

1 else wishing to speak on this particular item.

2 MS. MASON: I make a motion that we
3 approve this Conditional Use Permit for placement of
4 the manufactured home.

5 CHAIRMAN: You've heard the motion. Is
6 there a second?

7 MR. MILLER: Second.

8 CHAIRMAN: Any other discussion?

9 (NO RESPONSE)

10 CHAIRMAN: Hearing none all in favor of
11 the item raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries.

14 Next item, please.

15 -----

16 ADMINISTRATIVE APPEAL

17 ITEM 3

18 2745 Hayden Road, in an R-1A zone
19 Consider request for an administrative review to
20 consider a request to change one nonconforming use as
21 an automobile body/paint shop to another nonconforming
22 use as a pest management business.
23 Reference: Zoning Ordinance, Article 4, Section 4.53,
24 Article 7, Section 7.34, 7.4
25 Applicant: JIC Holdings, June Frey

23 MR. NOFFSINGER: Mr. Chairman, this
24 application comes before the Board of Adjustment to
25 change the use of the property which has been used for

1 industrial activities since somewhere in the late
2 1960's. We do have information in the file that
3 confirms this property has been used for industrial
4 activity since that time. We have also taken pictures
5 on site of the property to verify the existing
6 improvements to date that are on the lot.

7 This application is being considered by
8 this board in that we have an existing use of the
9 property which is getting ready to change and in order
10 to change that use that use must be approved by this
11 board. The Board of Adjustment would consider
12 evidence by the applicant as well as by any evidence
13 or testimony by adjoining property owners or property
14 owner within the area and then take action as to
15 whether or not this is an appropriate change in use of
16 the property.

17 The Planning Staff have reviewed the
18 premises. As I said we do have pictures in the record
19 to show how the property exist today. The applicant
20 is reminded there can be no expansions to the
21 property. The area that's used today is the only area
22 that could be used for the industrial type activities.
23 There could not be any building expansions, building
24 additions or any of the grassed area that's not being
25 used now could not be used for industrial activities.

1 If the board wishes to approve this change
2 in use, the Planning Staff would ask the board to
3 consider the paving of the driveway at Hayden Road in
4 constructing or, if you will, paving a driveway apron
5 25 feet back from the edge of pavement of Hayden Road.
6 Right now a portion of this site is paved or concrete;
7 however, the area that's providing access to the
8 property off Hayden Road is gravel and we do have
9 gravel that's being slung out into Hayden Road.
10 Typically when we find this we do recommend that the
11 driveway apron be paved. So with that it's ready for
12 your consideration.

13 CHAIRMAN: Has there been any objections
14 or complaints filed in the office?

15 MR. NOFFSINGER: No, sir.

16 CHAIRMAN: Is the applicant here?

17 MR. INMAN: Yes.

18 CHAIRMAN: Before you come forward, is
19 anyone in the audience wishing to object to this
20 particular item?

21 (NO RESPONSE)

22 CHAIRMAN: Proceed, sir.

23 MR. ELLIOTT: State your name, please.

24 MR. INMAN: Todd Inman.

25 (MR. TODD INMAN SWORN IN BY ATTORNEY.)

1 MR. INMAN: Obviously on behalf of JIC
2 Holding, which is a holding company for the real
3 estate, we have no problems with most of the
4 considerations from the Planning Staff. The one thing
5 we do have a little bit of concern about is in regard
6 to the paving requirements on the apron.

7 The site has been used since 1963 as an
8 industrial site. Our intentions, of course, with the
9 property are to actually enhance the property to a
10 certain degree within the first year with new roof and
11 painting material and to clean up some other
12 non-conforming uses that are going on there right now.
13 That is our intention. Paving the apron immediately
14 would create an additional financial concern to us.
15 It will not allow us to continue on those improvements
16 at least on the lot itself. Other non-conforming uses
17 around the county per se typically use gravel. We
18 have no intentions to go ahead and gravel any further
19 areas or to make any further improvements in regard to
20 the parking structure. Intention only to have been
21 four or five vehicles in that area per day at a
22 maximum. Four to five work vehicles that could be
23 there and one or two officers or secretarial people
24 that would be there. So with that in mind, we would
25 like to go forward with the non-conforming use;

1 however, we're slightly hesitant in regard to having
2 to pave the apron.

3 CHAIRMAN: You were kind of caught in a
4 catch 17 because you're going from non-conforming use
5 to - - you lose your grandfathering clause when you
6 change part of it. There's improvements that could be
7 required by the board.

8 Anybody else have any comments?

9 (NO RESPONSE)

10 CHAIRMAN: You want to add to it? Any
11 board member have any questions or comments? Gary.

12 MR. NOFFSINGER: I just have a comment for
13 the record. When Planning Staff reviewed this site,
14 we took into consideration the adjoining properties
15 which were zoned residential and considered the
16 screening of the property as well for outside storage
17 areas and from the driveways and whatnot. Realizing
18 that certainly what we don't want to do is encourage
19 the survival of this property for industrial use.
20 What we are trying to do is accommodate the change in
21 use in a non-confirming situation such as this where
22 you have all the surrounding property that's zoned
23 residential. The Comprehensive Plan and Zoning
24 Ordinance for the community encourages these types of
25 activities to be faded out over time. That's why in

1 terms of the staff's recommendation, we're not looking
2 for compliance with screening requirements. We're not
3 looking for full pavement of the property and full
4 compliance with the ordinance. We're asking that the
5 situation be remedied in terms of paving that driveway
6 apron for safety to the public as well as some form of
7 dust control, if you will, as well.

8 MR. INMAN: With that in mind, would the
9 staff or the panel - - one consideration we do have is
10 we have a 50 foot wide area which is basically the
11 entryway which is graveled through there leading
12 directly off Hayden Road. Obviously 50 foot is much
13 more exaggerated than what we would need for our uses
14 or for any type of vehicle uses. In regard to choking
15 down that area to a smaller or consistent amount to be
16 paved and then either eliminating gravel for that
17 area, would that be a consideration that would be or
18 an alternative to having put that much pavement on
19 just an entrance way and the exit way?

20 MR. NOFFSINGER: We would certainly
21 encourage you to do that in terms of reducing the
22 width of the driveway. Certainly encourage you to do
23 it and only pave that portion that will be used and
24 then remove the gravel in the area that you're not
25 going to use and seed it down. That certainly will be

1 fine.

2 MR. INMAN: The other alternative is we
3 discussed or I had mentioned at one point, based on
4 where our contract stands on the purchase of this
5 property, it's contingent contract, for some evictions
6 to occur or for some notices to be given to the
7 current tenants, we will not be able to take, possibly
8 take possession until October 1st. With that being in
9 mind, we would like to ask for an extension, if the
10 panel so approves the paving, at least until sometime
11 in the future so that we can be in the paving season.
12 Is that something that we can consider?

13 MR. NOFFSINGER: Typically the board based
14 upon Zoning Ordinance you have six months to pave.
15 That's typical, if we're nearing the end of the paving
16 season. Paving season runs somewhere around mid
17 November to the end of November, depending on weather
18 conditions. If we miss this paving season, then we're
19 in the next years paving season which probably starts
20 somewhere the end of March, first of April. That
21 would be beyond the six month time period. However,
22 in this board considering the change in use and the
23 way the property has existed for a number of years, I
24 think it would be within reason for the board to set a
25 deadline of May 1st, if the board is comfortable with

1 that. That gives you the opportunity to do it this
2 paving season, if you can get a contractor out there,
3 or you can be geared up and ready when the next years
4 paving season.

5 MR. INMAN: And that also give us the time
6 to handle the choking off the property as we need be
7 for the preparation.

8 MR. NOFFSINGER: Right.

9 MR. INMAN: With that in mind, I think we
10 could probably go forward, if we can bring it down and
11 then be able to have that extension until May 1st.

12 MR. NOFFSINGER: Keep in mind if it
13 doesn't happen between now and May 1st, then you would
14 have to appear back before this board and they would
15 have to reconsider the use of the property.

16 MR. INMAN: Certainly.

17 CHAIRMAN: Any board member have any
18 question of the applicant?

19 (NO RESPONSE)

20 CHAIRMAN: Anyone else have any comments
21 they want to make?

22 (NO RESPONSE)

23 CHAIRMAN: Hearing none the board will
24 entertain a motion to dispose of the item.

25 MR. PEDLEY: Mr. Chairman, I make a motion

1 to approve. To change from one non-conforming use to
2 another non-conforming use with the condition that the
3 driveway be paved 24 feet wide and 25 feet back from
4 the edge of Hayden Road and this shall be done by May
5 1st of 2002.

6 CHAIRMAN: You've heard the motion. Is
7 there a second?

8 MR. WILLIAMS: Second.

9 CHAIRMAN: Any other questions or
10 comments?

11 (NO RESPONSE)

12 CHAIRMAN: Hearing none all in favor raise
13 your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Any other business?

17 MR. NOFFSINGER: No, sir.

18 MS. MASON: Make a motion to adjourn.

19 MR. HAYDEN: Second.

20 CHAIRMAN: All in favor raise your right
21 hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Meeting is adjourned.

24 -----

25

1 STATE OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 13 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 10th day of August, 2001.

18

19

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
21 OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:
23 DECEMBER 19, 2002

24 COUNTY OF RESIDENCE:
25 DAVIESS COUNTY, KENTUCKY