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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MAY 1, 2003

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 1, 2003, 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
- Sean Dysinger
- Stewart Elliott
- Attorney

\* \* \* \* \*

CHAIRMAN: Call the Metropolitan Board of Adjustment to order. We're going to start and continue from now on to start our meeting opening with a prayer and the pledge of allegiance. If you all so desire, you may join us.

With that I'll ask Ruth Ann Mason to lead us in prayer this evening, please.

(PRAYER AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: With that I want to welcome you all to the Owensboro Metropolitan Board of Adjustment meeting and set up a couple of guidelines.

1                   The microphones are out of service tonight  
2                   so you all will have to speak loud, but come up to the  
3                   podium and speak from there if you would, please.  
4                   We'll recognize all of you for anything that you need  
5                   to say. If you start saying the same thing over and  
6                   over two or three of you, we'll cut it off.

7                   With that we'll start with the minutes of  
8                   the last meeting, April 10th. They're on record in  
9                   the office. There's been no mistakes as we know of  
10                  that has been found. If nobody has anything to add,  
11                  entertain a motion to approve as they're on file.

12                  MS. DIXON: Move to approve.

13                  CHAIRMAN: Is there a second?

14                  MR. DYSINGER: Second.

15                  CHAIRMAN: A motion has been made and a  
16                  second. All in favor raise your right hand.

17                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18                  CHAIRMAN: Motion carries unanimously.

19                  The first item on the business, would you  
20                  present it, please.

21                  -----

22                                   CONDITIONAL USE PERMITS

23                   ITEM 2

24                   322 Clay Street, in a B-2 zone  
25                   Consider request for a Conditional Use Permit to  
                  operate a residential transitional living facility

1 within an existing structure.  
Reference: Zoning Ordinance, Article 8, Section 8.2C1  
2 Applicant: Roger Stacy, Victory Properties, LLC, and  
Joseph R. Hoffman  
3

4 MR. NOFFSINGER: Mr. Chairman, this  
5 application has been reviewed by the Planning Staff.  
6 It's found to be in order. I only have one question  
7 and that relates to the maximum number of occupants  
8 that would be at this facility at any one time.

9 MR. STACY: We have eight.

10 MR. NOFFSINGER: Eight maximum?

11 MR. STACY: Yes.

12 CHAIRMAN: Would you state your name for  
13 the record?

14 MR. STACY: Roger Stacy.

15 (MR. ROGER STACY SWORN BY ATTORNEY.)

16 CHAIRMAN: Before we go any further, has  
17 there been any objections filed in the office?

18 MR. NOFFSINGER: No, sir.

19 CHAIRMAN: Does anyone in the audience  
20 wishing to object?

21 (NO RESPONSE)

22 CHAIRMAN: Does any board member have any  
23 questions of the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none the Chair will

1 enter a motion to dispose of the item.

2 MR. WARREN: Motion to grant the  
3 Conditional Use Permit.

4 CHAIRMAN: There's been a motion made. Is  
5 there a second?

6 MS. DIXON: Second.

7 CHAIRMAN: Any other discussion?

8 (NO RESPONSE)

9 CHAIRMAN: Anyone have anything else you  
10 want to add to it?

11 (NO RESPONSE)

12 CHAIRMAN: If not, everyone in favor raise  
13 your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 ITEM 3

18 8311 Old KY 54, in an A-R zone  
19 Consider request for a Conditional Use Permit to  
20 operate a 200 square foot beauty salon with two  
21 operators with an existing residence.  
22 Reference: Zoning Ordinance, Article 8, Section 8.2D3  
23 Applicant: Lana Holton, Jason Cory Holton

22 MR. NOFFSINGER: Mr. Chairman, this  
23 application is self-explanatory and is ready for  
24 consideration.

25 CHAIRMAN: Any objections filed in the

1 office?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Anyone wishing to object?

4 (NO RESPONSE)

5 CHAIRMAN: Any member have any questions  
6 of the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Chair will entertain a motion  
9 to dispose of the item.

10 MS. DIXON: Move to approve.

11 CHAIRMAN: Motion been made for approval.

12 Is there a second?

13 MR. WARREN: Second.

14 CHAIRMAN: Motion made and a second. Any  
15 other discussion or comments?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none all in favor raise  
18 your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 ITEM 4

23 9351 Sauer Lane, in an A-R zone  
24 Consider request for a Conditional Use Permit to  
25 amend a conditional use permit to expand existing  
26 retail space with an 18.8-foot by 60.7-foot addition.  
27 Reference: Zoning Ordinance, Article 8, Section 8.2E3  
28 Applicant: Carl & Brenda Millay  
29 Ohio Valley Reporting  
30 (270) 683-7383

1 MR. NOFFSINGER: Mr. Chairman, this  
2 application is in order and ready for consideration.

3 CHAIRMAN: Again, has there been any  
4 objections filed in the office?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: Is anyone wishing to object  
7 this evening?

8 (NO RESPONSE)

9 CHAIRMAN: Any board member have any  
10 questions of the applicant?

11 (NO RESPONSE)

12 CHAIRMAN: Does the applicant have  
13 anything they want to add to it?

14 (NO RESPONSE)

15 CHAIRMAN: Hearing none the Chair will  
16 entertain a motion to dispose of the item.

17 MS. MASON: Make a motion for approval.

18 CHAIRMAN: Is there a second?

19 MR. DYSINGER: Second.

20 CHAIRMAN: Any other discussions or  
21 comments?

22 (NO RESPONSE)

23 CHAIRMAN: Hearing none, all in favor  
24 raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 Next item, please.

3 ITEM 5

4 815 Triplett Street, in a P-1 zone

5 Consider request for a Conditional Use Permit to  
6 amend a conditional use permit in order to relocate  
7 existing day care facilities to Weidman Hall to serve  
8 a maximum of 100 children.

Reference: Zoning Ordinance, Article 8, Section 8.2B3

9 Applicant: Wendell Foster's Campus for Development  
10 Disabilities, Inc.

8

9 MR. NOFFSINGER: Mr. Chairman, this  
10 application is in order and ready for consideration.

11 CHAIRMAN: Again, has there been any  
12 objections filed in the office?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Anyone wishing to object here  
15 this evening?

16 (NO RESPONSE)

17 CHAIRMAN: Does the applicant have  
18 anything they want to add to it?

19 APPLICANT REP: We're here to answer any  
20 questions, Mr. Chairman.

21 CHAIRMAN: Anything you want to put in the  
22 record?

23 APPLICANT REP: Not at this time.

24 CHAIRMAN: Any board member have any  
25 questions of the applicant?

1 (NO RESPONSE)

2 CHAIRMAN: Hearing none entertain a motion  
3 to dispose of the item.

4 MS. DIXON: Move to approve.

5 CHAIRMAN: Is there a second?

6 MR. WARREN: Second.

7 CHAIRMAN: Any other questions or  
8 comments?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right  
11 hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item.

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16 VARIANCE

17 ITEM 6

18 4724, 4730 Pleasant Grove Road, in an A-U zone  
19 Consider request for a Variance to reduce the side  
20 yard building setback on the proposed lot at 4730  
21 Pleasant Grove Road from 10 feet to 6.5 feet along  
the west proposed line a distance of about 32 feet in  
order to create separate lots for the existing church  
and the existing cemetery.

22 Reference: Zoning Ordinance, Article 8,  
Section 8.5.2(d)

23 Applicant: Pleasant Grove United Methodist Church,  
Wendell Harpe, Chairman

24 MR. NOFFSINGER: Mr. Chairman, this  
25 variance is in order and ready for consideration.



1                   CHAIRMAN: Again, has there been any  
2 objections filed in the office?

3                   MR. NOFFSINGER: No, sir.

4                   CHAIRMAN: Anyone in the audience wishing  
5 to object?

6                   MR. SMITH: I wouldn't say object, but I  
7 want to find out some more information about it.

8                   CHAIRMAN: We'll get the applicant up and  
9 answer this. Direct your question to the Chair and  
10 we'll get an answer for you.

11                   Would the applicant come forward, please.  
12 State your name for the record.

13                   MR. HARPE: Wendell Harpe. I'm chairman  
14 of the administrative board of Pleasant Grove United  
15 Methodist Church.

16                   (MR. WENDELL HARPE SWORN BY ATTORNEY.)

17                   MR. HARPE: I'm kind of hard hearing so  
18 I'm having trouble understanding some of the things  
19 you're saying.

20                   CHAIRMAN: You had a question. What did  
21 you want to know?

22                   MR. ELLIOTT: Identify yourself and I need  
23 to swear you in if you're going to ask questions.

24                   MR. SMITH: Kerry Smith.

25                   CHAIRMAN: State your name for the record,

1 please, sir.

2 MR. SMITH: Kerry Smith.

3 (MR. KERRY SMITH SWORN BY ATTORNEY.)

4 CHAIRMAN: What other questions do you  
5 need answers?

6 MR. SMITH: I want to find out what's  
7 going on. What are you going to do? What are you  
8 doing? Why do you have to do it? Just questions. I  
9 need explained what's going to happen.

10 CHAIRMAN: One of the questions what are  
11 you all doing? Why you're doing and state for the  
12 record.

13 MR. HARPE: United Methodist Church is in  
14 the process of divesting themselves of cemeteries at  
15 the various churches around the country mainly because  
16 they don't want to be responsible for the upkeep.  
17 This church goes back to 1810 and the cemetery has  
18 been there I suppose about that long. So in an effort  
19 to do this, we wanted to incorporate the church and  
20 also the cemetery. In order to do that, we have to  
21 separate the two lots and make them separate.  
22 Obviously the reason for the variance is that graves  
23 are within that distance from the church. So if we  
24 move back further, we'll actually be going through  
25 some graves.

1 CHAIRMAN: Does that answer your question?

2 MR. SMITH: Yes. This says on the east  
3 proposed property. So what does this amounts is - -

4 CHAIRMAN: There's a division of the  
5 cemetery and the church property.

6 MR. SMITH: So this is the east part of  
7 the cemetery?

8 MR. NOFFSINGER: West part of the  
9 cemetery.

10 CHAIRMAN: West part of the cemetery.  
11 East part of the church. Is that correct?

12 MS. STONE: No. The east part of the  
13 cemetery. West part of the church. The variance is  
14 on the west boundary line for the church. Between the  
15 church and the cemetery.

16 MR. SMITH: In this notice here - -  
17 there's no building going to be done in the cemetery  
18 then?

19 MR. HARPE: No. Nothing will be changed.  
20 No new entrances added. There will be a theoretical  
21 line separating the two properties and that's it.

22 CHAIRMAN: There will be no new buildings.  
23 No construction. No driveways. Just the division  
24 between the cemetery and the church. Does that answer  
25 your question, sir?

1                   MR. SMITH: It seems like this notice then  
2 would have - - it seems like it's backwards here.  
3 Seems like the variance is - -

4                   CHAIRMAN: Excuse me. State your name for  
5 the record, please.

6                   MS. STONE: Becky Stone.

7                   (MS. BECKY STONE SWORN BY ATTORNEY.)

8                   MS. STONE: I think that it's confusing  
9 the way that it was written for advertisement and then  
10 I tried to clarify it on the agenda. When the plat  
11 came in, it was the east property line of the  
12 cemetery, the west property line of the church, and it  
13 was written as the east property line, but on the  
14 agenda it's clarified. It's property line between the  
15 church and the cemetery. So I can so see why you were  
16 confused, but it actually would be a variance to the  
17 west property line of the church.

18                   MR. SMITH: Do you have this thing you're  
19 talking about, this variance?

20                   MS. STONE: There's a plat that you can  
21 see that shows exactly where the property line is  
22 going to be.

23                   MR. NOFFSINGER: Mr. Chairman, if I might  
24 add for the record. The reason for this variance is  
25 that there is a grave that will be close to this

1 proposed property line. In order to put the entire  
2 grave on the cemetery lot, they need the variance  
3 because that grave is actually pretty close to the  
4 church. So there's a ten foot side yard required for  
5 the church from the property line, but in order to get  
6 that grave site entirely on the cemetery property,  
7 they need the variance to reduce the side yard from 10  
8 feet down to 6 feet. It is between this church and  
9 the cemetery.

10 MR. SMITH: I understand that. So this is  
11 not right then?

12 CHAIRMAN: That's correct. The notice was  
13 in error. What we're stating here this evening is  
14 what will be recorded and taken care of.

15 MR. SMITH: I don't have any problems with  
16 that. I was just trying to get it explained.

17 CHAIRMAN: Appreciate it.

18 Mr. Harpe, do you have anything else you  
19 want to add?

20 MR. HARPE: No, sir, if there are no  
21 further questions.

22 CHAIRMAN: Anyone have any questions of  
23 the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none the Chair will

1 entertain a motion to dispose of the item.

2 MR. WARREN: Motion to grant the variance  
3 with findings that it will not adversely affect the  
4 public health, safety or welfare; will not alter the  
5 essential character of the general vicinity; will not  
6 cause a hazard or a nuisance to the public; and will  
7 not allow an unreasonable circumvention of the  
8 requirements of the zoning regulations.

9 CHAIRMAN: Is there a second to the  
10 motion?

11 MR. DYSINGER: Second.

12 CHAIRMAN: Are there any other comments or  
13 questions?

14 (NO RESPONSE)

15 CHAIRMAN: Hearing none all in favor raise  
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 One more item.

20 MS. DIXON: Move to adjourn.

21 CHAIRMAN: Is there a second?

22 MS. MASON: Second.

23 CHAIRMAN: All in favor raise your right  
24 hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: Meeting is adjourned.

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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 15 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 14th day of May, 2003.

18

19

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

22 COMMISSION EXPIRES:  
DECEMBER 19, 2002

23

24 COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY

25