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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

JULY 3, 2003

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, July 3, 2003, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: C. A. Pantle, Chairman
- Ruth Ann Mason
- Judy Dixon
- Tim Miller
- Ward Pedley
- Becky Stone
- Stewart Elliott
- Attorney

* * * * *

CHAIRMAN: Call the meeting to order.

If you all desire, we start the meeting off each time with a prayer and the pledge of allegiance. If you all desire to join us, please stand and the prayer will be led by Mr. Miller this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: With that want to welcome all of you to the Owensboro Metropolitan Board of Adjustment this evening.

If any of you have anything you wish to

1 say, come to the microphone and you'll be sworn in.
2 Address your questions to the chair and we'll get the
3 answers or try to get the answers for you. We will
4 not sit here and argue over the same testimony or same
5 questions continuously. We'll cut you off if that
6 develops.

7 With that we'll start the first item on
8 the agenda is the reading of the minutes of the last
9 meeting. They're on file in the office. Have been
10 checked and haven't found any mistakes that we know
11 of. With that we'll entertain a motion to dispose of
12 the minutes.

13 MS. DIXON: Move to approve.

14 CHAIRMAN: Is there a second?

15 MR. MILLER: Second.

16 CHAIRMAN: All in favor raise your right
17 hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 First item on the agenda, please.

21 -----

22 CONDITIONAL USE PERMITS

23 ITEM 2

24 2511, 2521, 2531 Riverrun Cove, in an R-1A zone
25 Consider request for a Conditional Use Permit to
install a set of steel stairs and a floating boat dock

1 for seasonal use on the Ohio River Bank within a
floodway.
2 Reference: Zoning Ordinance, Article 18,
Section 18-5(b)(4), 18-6(b)(2)
3 Applicant: River Run Boat Club, Inc., Dave Howerton,
agent

4

5 MS. STONE: The application is in order
6 and ready for your consideration.

7 CHAIRMAN: Have there been any objections
8 filed in the office on this?

9 MS. STONE: No, sir.

10 CHAIRMAN: Is there anyone wishing to
11 speak in objection to this particular item?

12 (NO RESPONSE)

13 CHAIRMAN: Does the applicant have
14 anything they would like to add to the application at
15 this time?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none the Chair will
18 entertain a motion to dispose of the item.

19 MR. MILLER: Motion to approve.

20 CHAIRMAN: Motion has been made. Is there
21 a second?

22 MR. PEDLEY: Second.

23 CHAIRMAN: Any other discussion?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none all in favor raise

1 your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries.

4 Next item, please.

5 ITEM 3

6 6501 Summit Drive, in an R-1A zone

7 Consider request for a Conditional Use Permit to
8 expand an existing golf course to include a PGA
9 training facility.

Reference: Zoning Ordinance, Article 8, Section 8.2K7

Applicant: M.W. Development Services, LLC, Miles
Farms, LLC

10 MS. STONE: This application is in order

11 and ready for your consideration.

12 CHAIRMAN: Again, has there been any

13 objections filed in the office?

14 MS. STONE: We've had one inquiry in the

15 office, but not an objection.

16 CHAIRMAN: Is there anyone in the audience

17 wishing to object to this or have questions of the

18 applicant?

19 (NO RESPONSE)

20 CHAIRMAN: Does the applicant have

21 anything they would like to add to it?

22 APPLICANT REP: No.

23 CHAIRMAN: Any board members have any?

24 questions of the applicant?

25 (NO RESPONSE)

1 filed on this application?

2 MS. STONE: No, sir.

3 CHAIRMAN: Anyone in the audience wishing
4 to speak in opposition of this variance?

5 (NO RESPONSE)

6 CHAIRMAN: Is the applicant here? Is
7 there anything they would like to add?

8 APPLICANT: No.

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

11 (NO RESPONSE)

12 CHAIRMAN: Any board member have any
13 questions of the applicant?

14 (NO RESPONSE)

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

17 MR. PEDLEY: Mr. Chairman, I make a motion
18 for approval based on findings it will not adversely
19 affect the public health, safety or welfare; will not
20 alter the essential character of the general vicinity;
21 will not cause a hazard or a nuisance to the public;
22 will not allow an unreasonable circumvention of the
23 requirements of he zoning regulations.

24 CHAIRMAN: Is there a second to the
25 motion.

1 MS. MASON: Second.

2 CHAIRMAN: Any other discussion?

3 (NO RESPONSE)

4 CHAIRMAN: Hearing none all in favor of
5 the variance raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 Next item, please.

9 ITEM 5

10 1901 McCreary Avenue, in an R-1A zone
11 Consider request for a Variance to reduce the side
12 yard building setback from 10 feet to 5 feet in order
13 to construct a 20' by 25' bedroom and bathroom
14 addition.

Reference: Zoning Ordinance, Article 8, Section
13 8.5.5(d)

Applicant: Greg and Elizabeth Floyd

15 MS. STONE: This application is in order
16 and ready for your consideration.

17 CHAIRMAN: Has there been any objections
18 filed on this in the office?

19 MS. STONE: No, sir.

20 CHAIRMAN: Is there anyone in the audience
21 wishing to object to this?

22 MR. AHNELL: Yes, I do.

23 CHAIRMAN: Is the applicant here?

24 MR. FLOYD: Yes.

25 CHAIRMAN: We're going to listen to you

1 first.

2 DR. AHNELL: I'm Dr. Ahnell.

3 (DR. AHNELL SWORN BY ATTORNEY.)

4 DR. AHNELL: I live adjacent to the
5 people, Greg and his wife

6 CHAIRMAN: Your address is what?

7 DR. AHNELL: Our address is 1907 McCreary.
8 We live south of theirs.

9 I've done some measuring on the street in
10 our area. If this variance is permitted - - first of
11 all, we like our neighbors and we socialize with them.
12 They have informed us of their intentions. We saw
13 their plans. We measured the distance and so on. At
14 first we thought maybe it would be all right.

15 Then our second thought, my wife and I,
16 that's getting close to the property line. It only
17 gives five feet. I did some eyeballing in our area of
18 the neighborhood on the street. I went up and
19 measured what I thought was the smallest distances
20 between two houses which is between 1918 and 1920.
21 There's about 19 feet there from one end of the house
22 to the other.

23 If this goes through that will only permit
24 - - first of all, there is 23 feet now. If he puts -
25 - give him an 8 foot variance that will only give 15

1 feet between our house and their house. Their house
2 is only five feet from our property line. That is out
3 of character with our area of the street in the
4 neighborhood.

5 It is set precedent (CHECK) for that type
6 of variance as well. Before you know it, people will
7 be adding three feet here, four feet here, and the
8 lots will become diminished which will destroy the
9 overall appearance.

10 I would present an option that they start
11 15 feet back of the line that they propose and come
12 over with the variance at that part. That would be
13 diminishing the property size further back on the lot
14 instead of closer toward the front. I would hope that
15 you would take this into consideration and that you
16 would vote against this variance.

17 Furthermore, if this is granted, then I
18 would expect the commission and our neighbors to grant
19 us the same variance. They're young. They need
20 probably another bedroom. We're getting old and we
21 may need to modify our house to build a hallway. I
22 don't know. Things can change over a period of time.

23 First of all, I hope you would vote
24 against this and then ask them to draw some plans and
25 fit more in their plans in the rear part of the lot.

1 Thank you.

2 CHAIRMAN: Does anyone on the board have
3 any questions of the gentleman?

4 (NO RESPONSE)

5 CHAIRMAN: Would the applicant like to
6 come forward and state your name for the record and be
7 sworn in.

8 MR. ELLIOTT: State your name, please.

9 MR. FLOYD: Greg Floyd.

10 (MR. GREG FLOYD SWORN BY ATTORNEY.)

11 MR. FLOYD: First of all, I want to say
12 that, Ahnell, I appreciate your kind words. At the
13 first meeting a few weeks ago, I invited him over and
14 wanted to explain to him what I was doing. He
15 listened and then mentioned that he wouldn't have a
16 problem with it if I didn't have a problem with it
17 later on. I told him if I come within five feet and
18 he comes within five feet it still leaves us ten feet
19 and I wouldn't have a problem with that.

20 At the same time the last thing I
21 want to is feel cramped. Again, I don't want them to
22 feel cramped also. We get along. Wanted that to
23 continue also.

24 What I did is I went up and down our
25 street. It runs from Ford to Griffith. Within that

1 block, maybe actually longer than a block, but within
2 that one section there, from the property lines to the
3 houses I measured or counted 11, approximately 11
4 addresses where the property line and the house or
5 building, whether it be a major garage or something,
6 would be closer than ten feet. Now, the statement he
7 made was the distance between house to house, but what
8 I'm basing it on is the distance between houses and
9 property lines.

10 Again, two that I know of are within,
11 closer than five feet. I didn't go up and measure
12 them. When they're this far away you can tell that
13 it's pretty close. Those are some additions and so
14 forth.

15 Again, the last thing I want to do is be
16 cramped. I don't want him to be cramped.

17 Unfortunately my lot is one of the
18 narrowest ones on the street. What I would like to do
19 is just add on a bedroom and a bath and a couple of
20 walk-in closets. From what he mentioned, as far as
21 going back, it makes it tough because I've got to go
22 back real narrow and then expand wide. To get my
23 square footage I'm looking at 500 square feet. To get
24 the square footage that I need, going narrow at first
25 it's going to take me so deep into my property. I'm

1 wanting to save a little bit of back yard.

2 That's all I have. Just asking for a
3 simple five feet. Thank you.

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

6 MR. PEDLEY: I have a question, Mr. Floyd.
7 I looked at your plat and drawing here. Why you're
8 not moving the addition in behind the house further.
9 Is it getting too close to your garage?

10 MR. FLOYD: Well, as soon as my driveway
11 clears the house, it Y's out and it goes into a large
12 double car garage. There's a fence there. What I
13 have to do is, it's already cramped on that side
14 because my lot is narrow, I have to cut into my
15 driveway to get addition in. It cramps me even more
16 on that side.

17 MR. PEDLEY: If you moved it over, how
18 close would you be to the garage? You're allowed six
19 feet.

20 MR. FLOYD: It's my driveway is the
21 concern.

22 MR. PEDLEY: It's not the garage?

23 MR. FLOYD: No. The garage sits back.
24 It's taking a large chunk out of my small back yard to
25 begin with. It's just going to be cramping me too

1 much to go the other side. It wouldn't work out. At
2 same time, as far as privacy, the way my plans are, I
3 have zero intention of putting any windows or anything
4 on his side. My new addition will not have any
5 windows facing his property line. That gives us a
6 little privacy and it's not like that we'll be looking
7 window to window being that close.

8 Again, the last thing I want to do is be
9 cramped and I don't want him to be cramped. Again, I
10 don't have a problem if he comes - - because he
11 mentioned he wanted to come five feet to the line, if
12 not closer. I don't have any problem with it.

13 CHAIRMAN: Any other board members have
14 any questions of the applicant?

15 MS. MASON: So you wouldn't even be able
16 to go over another foot or two closer to your
17 driveway?

18 MR. FLOYD: I was going to go closer, but
19 I settled on five feet. I'm cramped as it is. What
20 it is I'm only I guess 25 feet wide and 20 feet deep.
21 It's hard for me scoot - -

22 MS. MASON: So how many feet right now do
23 you have between the side closest to the driveway and
24 the driveway?

25 MR. FLOYD: Two feet, foot and a half.

1 Between my house and the driveway?

2 MS. MASON: Well, between the new addition
3 and the driveway. It looks like more than two feet,
4 but I don't know what scale this is drawn to.

5 MR. FLOYD: It's not to an exact scale.

6 MS. MASON: But it looks like more than
7 two feet from the side of your addition. I guess that
8 would be the north side of your addition.

9 MR. FLOYD: Correct.

10 MS. MASON: To the driveway?

11 MR. FLOYD: Correct. It just cuts into my
12 driveway and it allows me - - I've got a fenced in
13 backyard that runs between my driveway and the yard.
14 I would to move all of that. It gives me no backyard
15 that way. It would have to be so narrow that it would
16 go deep into my backyard that I'm trying to avoid.

17 MS. STONE: There is a six foot
18 separation requirement from the detached accessory
19 building and the principal structure; isn't that
20 correct, Jim?

21 MR. MISCHEL: Yes.

22 MS. STONE: So even if this variance was
23 granted, he's going to have to maintain six foot
24 separation between that garage and the house.

25 CHAIRMAN: And the addition.

1 MS. STONE: An the additional, right.

2 MS. MASON: Even though the addition
3 doesn't go up to the garage?

4 MS. STONE: He has to be six feet from his
5 accessory structure by the zoning ordinance.

6 MS. MASON: Okay.

7 MR. FLOYD: I guess one thing I was basing
8 it on is I felt like there were - - I don't know if
9 the city went and checked them out visually or had
10 them surveyed or what, but the addresses I gave them I
11 thought there was approximately 11 situations where
12 the buildings, whether garage or house, was closer to
13 the line.

14 MS. STONE: We did look at those
15 properties. Now, several of them were detached
16 garages which by ordinance can be closer than that ten
17 feet. They're allowed to be three feet from the side
18 yard or the rear yard, but there were several
19 examples. 1935, 1920, 1918 and 1811 McCreary where
20 the principal structure appeared to be closer than ten
21 feet to the property line measuring visually where
22 that property line, you know, between the two yards.
23 We didn't locate pins, but it appeared to encroach on
24 that ten foot. Then a dimensional variance was
25 granted by this board in 1990 for a side yard setback

1 at 1720 McCreary. And that granting of variance down
2 to I think a seven foot side yard setback on that
3 piece of property which is between, it's in this same
4 not block, but in this same uninterrupted frontage
5 between the two properties.

6 MR. FLOYD: Again, I'm looking at spending
7 between 35,000 and \$50,000, but I'm trying to do
8 nothing but improve my property and the neighborhood
9 at the same time.

10 CHAIRMAN: Is there any other questions or
11 comments from the board to the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Doctor, do you have something
14 else you'd like to add?

15 DR. AHNELL: When I was talking about with
16 the distance between houses and not garage, and I
17 realize that the garages can be two, three, four feet
18 from the property line. I'm talking about just
19 in-between houses. Even when you cited a moment ago
20 between 1918 an 1920 McCreary, I know exactly the
21 property line because there's a driveway going through
22 there. The distance between the houses, the best I
23 could do without trespassing too far on their
24 property, was 19 feet from one house wall to the other
25 house wall. In our part of street our end, which is

1 the south end, that appears to be the narrowest
2 distance between the houses.

3 Now, if you look back from the property
4 lines, sure, there's some garages much closer. I
5 would have no objection to him going out further back
6 on his property and building closer to ours, but I
7 would like to maintain this 23 feet or so distance
8 between our two houses which is much in character with
9 the rest of the houses on our street. I don't believe
10 any house from house to house is much under 10 or much
11 under 20 feet. Even the distant from his house to the
12 neighbors is much more because of common driveway for
13 one thing.

14 CHAIRMAN: Thank you.

15 Any other comments or questions?

16 MR. FLOYD: Am I correct in saying that
17 the main concern is the distance between houses or
18 garages in each property in relation to its property
19 line?

20 CHAIRMAN: He's saying the distance
21 between your addition and his house would only be ten
22 feet and that's what he's objecting to.

23 MR. FLOYD: He's ten feet off his property
24 line now.

25 CHAIRMAN: That would be 15 feet.

1 MR. FLOYD: His house - - wouldn't you say
2 your house is ten feet off the property line now.
3 Again, he mentioned building out. If he wanted to
4 come within five feet.

5 DR. AHNELL: If he comes over eight feet,
6 that gives only 15 feet.

7 MS. STONE: He's coming over - - well, it
8 may be eight feet from your house. He'll be five feet
9 from the property line.

10 MR. AHNELL: Yes, and I think that's too
11 small, too narrow.

12 CHAIRMAN: You made a statement you wanted
13 the grant the same privilege without an application.
14 We can't grant privileges for variances. If you
15 decide you want to add or something, you'll have to
16 make an application, sir.

17 MR. AHNELL: Then I definitely oppose
18 this.

19 CHAIRMAN: Any other question or comments
20 from the board?

21 (NO RESPONSE)

22 CHAIRMAN: Do you have anything else? You
23 have one thing last time.

24 MR. FLOYD: I don't believe so. Thank
25 you.

1 CHAIRMAN: Anyone else in the audience
2 have anything to add?

3 (NO RESPONSE)

4 CHAIRMAN: The Chair will entertain a
5 motion to dispose of the item.

6 MR. MILLER: Mr. Chairman, since there are
7 other encroachments in this area that have been noted
8 by Staff and a dimensional variance was granted in
9 1990, from the facts that I've seen I don't think
10 granting the variance will alter the essential
11 character of the area; will not cause a public
12 nuisance or be detrimental to the public health,
13 safety or welfare. Therefore, I move to pass the
14 variance, grant the variance.

15 CHAIRMAN: A motion has been made in favor
16 of the variance. Is there a second?

17 MS. DIXON: Second.

18 CHAIRMAN: A motion has been made and a
19 second. Is there any other question or comments from
20 the board?

21 (NO RESPONSE)

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

24 (THREE (3) COMMISSION MEMBERS PRESENT -
25 MS. DIXON, MR. MILLER AND MR. PANTLE - RESPONDED AYE.)

1 CHAIRMAN: Opposed.

2 (TWO (2) COMMISSION MEMBERS PRESENT - MS.

3 MASON AND MR. PEDLEY - RESPONDED NAY.)

4 CHAIRMAN: Motion carries three to two.

5 Next item, please.

6 ITEM 6

7 5345 Meadow Run Drive, in an R-1A zone
8 Consider request for a Variance to reduce the
9 project boundary setback on the east side of the lot
10 from 20 feet to 10 feet in order to construct a
11 single-family residence.

Reference: Zoning Ordinance, Article 10, Section
10.432

Applicant: Paul Martin Builders, Inc.

12 MS. STONE: This application is in order

13 and ready for your consideration.

14 CHAIRMAN: Any objections been filed in

15 the office?

16 MS. STONE: No.

17 CHAIRMAN: Does the applicant have

18 anything he would like to add?

19 MR. MARTIN: No.

20 CHAIRMAN: Any board member have any

21 questions of the applicant?

22 (NO RESPONSE)

23 CHAIRMAN: Chair entertain a motion to

24 dispose of the item.

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

1 for approval based on the findings it will not
2 adversely affect the public health, safety or welfare;
3 will not alter the essential character of the general
4 vicinity; will not cause a hazard or a nuisance to the
5 public; will not allow an unreasonable circumvention
6 of the requirements of the zoning regulations.

7 CHAIRMAN: Is there a second to the
8 motion?

9 MS. MASON: Second.

10 CHAIRMAN: Any other discussion or
11 question by the board?

12 (NO RESPONSE)

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

18 ITEM 7

19 5348 Meadow Run Drive, in an R-1A zone
20 Consider request for a Variance to reduce the
21 project boundary setback on the east side of the lot
22 from 20 feet to 10 feet in order to construct a
23 single-family residence.

Reference: Zoning Ordinance, Article 10,
Section 10.432

Applicant: Paul Martin Builders, Inc.

24 MS. STONE: The application is in order
25 and ready for your consideration.

1 CHAIRMAN: Been no objections filed in the
2 office?

3 MS. STONE: No.

4 CHAIRMAN: Applicant have anything they
5 want to add to it?

6 MR. MARTIN: No.

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

9 MS. DIXON: Move to approve because
10 granting the variance will not adversely affect the
11 public health, safety or welfare; will not alter the
12 essential character of the area; will not cause a
13 hazard or a nuisance to the public; and will not allow
14 an unreasonable circumvention of the requirements of
15 the zoning regulations.

16 CHAIRMAN: Is there a second?

17 MR. PEDLEY: Second.

18 CHAIRMAN: Any other discussion or
19 comments from the board?

20 (NO RESPONSE)

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 Next item, please.

1 ITEM 8

2 5389 Meadow Run Drive, in an R-1A zone
3 Consider request for a Variance to reduce the project
4 boundary setback on the west side of the lot from 20
5 feet to 10 feet in order to construct a single-family
6 residence.

7 Reference: Zoning Ordinance, Article 10,
8 Section 10.432

9 Applicant: Paul Martin Builders, Inc.

10 MS. STONE: The application is in order
11 and ready for consideration.

12 CHAIRMAN: Same question. Any objections
13 been filed in the office?

14 MS. STONE: No.

15 CHAIRMAN: Applicant have anything to add?

16 MR. MARTIN: No.

17 CHAIRMAN: Chair entertain a motion to
18 dispose of the item.

19 MS. MASON: Make a motion for approval
20 with the findings that it will not adversely affect
21 the public health, safety or welfare; will not alter
22 the essential character of the general vicinity; will
23 not cause a hazard or a nuisance to the public; and
24 will not allow an unreasonable circumvention of the
25 requirements of the zoning regulations.

26 CHAIRMAN: Is there a second?

27 MS. DIXON: Second.

28 CHAIRMAN: All in favor raise your right

1 hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries.

4 Any other business?

5 (NO RESPONSE)

6 CHAIRMAN: We need one final motion.

7 MR. MILLER: Move to adjourn.

8 MS. DIXON: Second.

9 CHAIRMAN: All in favor of the motion

10 raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 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 24 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 21st day of July, 2003

18

19

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 212
21 OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

25