

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 AUGUST 5, 2004

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4 The Owensboro Metropolitan Board of
5 Adjustment met in regular session at 6:00 p.m. on
6 Thursday, August 5, 2004, at City Hall, Commission
7 Chambers, Owensboro, Kentucky, and the proceedings were
8 as follows:

9 MEMBERS PRESENT: Ward Pedley, Chairman
10 Gary Noffsinger,
11 Planning Director
12 Marty Warren
13 Ruth Ann Mason
14 Judy Dixon
15 Tim Miller
16 Sean Dysinger
17 Stewart Elliott,
18 Attorney

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20 CHAIRMAN: Call the meeting of the Owensboro
21 Metropolitan Board of Adjustment to order. We'll start
22 our meeting with a prayer and the pledge of allegiance.
23 Mr. Tim Miller will lead us in prayer.

24 (PRAYER AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: I'd like to welcome everyone.
26 Anyone wishing to speak on any item may do so. We ask
27 that you come to one of the podiums, state your name to
28 be sworn in.

29 First item on agenda is to consider the

1 minutes of the July 2, '04 meeting. They have been read
2 and placed on file in the Planning Office. With that,
3 they're ready for your approval.

4 MR. MILLER: Mr. Chairman, motion to approve
5 minutes.

6 MR. DYSINGER: Second.

7 CHAIRMAN: All in favor raise your right
8 hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Minutes are approved.

11 Item 2.

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CONDITIONAL USE PERMITS

14 ITEM 2

15 3045 Burlew Boulevard, in an B-4 zone
16 Consider request for a Conditional Use Permit to expand
daycare facility with a 60' by 25' addition to serve a
total of 134 children.

17 Reference: Zoning Ordinance, Article 8, Section 8.2 B3
18 Applicant: Willard Gribbin and Nancy Gribbin

19 MR. NOFFSINGER: Mr. Chairman, the Planning
20 Staff has review this application and is found to be in
21 order. This property has been used for several years as
22 a daycare facility. It has received Conditional Use
23 Permits by this - - issued by this board in the past.
24 Property is located in a commercial area. It meets with
25 all the requirements of the Zoning Ordinance. With that,

1 it's ready for consideration.

2 CHAIRMAN: Anyone here representing the
3 applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Anyone here in opposition to this
6 application?

7 (NO RESPONSE)

8 CHAIRMAN: Any board members have any
9 questions?

10 (NO RESPONSE)

11 CHAIRMAN: Chair is ready for a motion.

12 MR. DYSINGER: Move to approve the
13 Conditional Use Permit as it's - - nobody in opposition
14 to it and it's compliant with what it's currently being
15 used for.

16 MS. MASON: Second.

17 CHAIRMAN: We have a motion and a second.
18 Any question on the motion?

19 (NO RESPONSE)

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: It's unanimous.

24 ITEM 3

25 1833 Willis Avenue, in an R-4DT zone
Consider request for a Conditional Use Permit to place a

1 16' by 56' class 2 manufactured home on the property.
Reference: Zoning Ordinance, Article 8, Section 8.2 A10B
2 Applicant: Alton Howard

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4 MR. NOFFSINGER: Mr. Chairman, this
5 application's been reviewed by the Planning Staff. It is
6 a proposal to place a manufactured home from a lot that
7 had been previously approved for placement of a
8 manufactured home by Conditional Use Permit somewhere in
9 the early 1980s. As I understand it, the home was
10 damaged during the severe weather we've had this season.
11 The applicant is asking to place a little bit larger home
12 on the property.

13 The applicant has been made aware of the
14 installation requirements, which means that the tires,
15 tongue, wheel and axles on the unit be removed. The
16 applicant has also been made aware of the Board's policy
17 and zoning requirements to install a sidewalk along
18 Willis Avenue as well as pave the parking spaces for the
19 unit.

20 The applicant is requesting that the Board
21 waive that requirement for the sidewalk as well as paving
22 and the parking. Staff has reviewed, gone out and looked
23 at the property, and would recommend that the Board of
24 Adjustment consider waiving - - if they approve a
25 Conditional Use Permit, consider waiving the requirement

1 to install the sidewalk because there are no sidewalks in
2 the area and installation of the sidewalk would be
3 somewhat challenging due to the existing features in the
4 area, utilities as well as vegetation.

5 We would ask that the requirement to pave the
6 parking area not be waived. Board of Adjustment has
7 routinely approved these Conditional Use Permits in these
8 situations with paved parking and would recommend that
9 the Board approve the Conditional Use Permit and require
10 that the parking be paved.

11 With that, it's ready for your consideration.

12 CHAIRMAN: Anyone here representing the
13 applicant?

14 MR. HOWARD: Yes.

15 CHAIRMAN: Would you like to step to the
16 podium, please? State your name. Answer any questions
17 the board might have.

18 MR. HOWARD: Yes. I'm Alton Howard.

19 (MR. ALTON HOWARD SWORN BY ATTORNEY.)

20 CHAIRMAN: Just a minute, sir.

21 Any board members have any questions on
22 Mr. Howard?

23 (NO RESPONSE)

24 CHAIRMAN: Concerning the required paving,
25 you've requested that we waive the paving and also the

1 sidewalk. You understand what Mr. Noffsinger said when
2 we're asking that you do the paving?

3 MR. HOWARD: Yes, sir.

4 CHAIRMAN: Okay. Any board members have any
5 questions?

6 (NO RESPONSE)

7 CHAIRMAN: Thank you, sir.

8 MR. MILLER: Ward, just to clarify. Paving
9 of the - - just the parking and not the sidewalk?

10 CHAIRMAN: Right.

11 MR. MILLER: Okay.

12 CHAIRMAN: Anyone here in opposition to this
13 application?

14 (NO RESPONSE)

15 CHAIRMAN: Any board members have any
16 comments or questions?

17 (NO RESPONSE)

18 CHAIRMAN: Chair is ready for a motion.

19 MR. DYSINGER: We move that we grant the
20 Conditional Use Permit with the condition of sidewalking
21 the area waived. However, and I'm just going to state
22 this for the record, that the parking area does get
23 paved, given that it's conducive with the general use of
24 the area and there's no one in opposition.

25 MR. NOFFSINGER: And a Conditional Use Permit

1 had been approved previously on this property and there
2 has been a manufactured home.

3 MR. DYSINGER: So stipulated.

4 MS. DIXON: Second.

5 CHAIRMAN: We have a motion and a second.

6 Anyone have any questions on the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right
9 hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: It is unanimous.

12 ITEM 4

13 1102, 1114 West Seventh Street, in an B-4, R-4DT zone
14 Consider request for a Conditional Use Permit to
15 construct a 25' by 33' addition to an existing church
16 with the required parking located on the R-4DT portion of
17 the lot.

Reference: Zoning Ordinance, Article 8, Section 8.2 B4

Applicant: Church of God in Christ

17 MR. NOFFSINGER: Mr. Chairman, the Planning
18 Staff has reviewed this application. The application is
19 found to be in order. This is for an expansion of an
20 existing church. The churches by the ordinance are
21 conditionally permitted in residential zones, principally
22 permitted in B4 zones. So, since we have the split
23 zoning, it was necessary to come before this board under
24 the Conditional Use Permit. With that, it's ready for
25 your consideration.

1 CHAIRMAN: Anyone here representing the
2 applicant?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone here in opposition to this
5 application?

6 (NO RESPONSE)

7 CHAIRMAN: Any board members have any have
8 any questions?

9 (NO RESPONSE)

10 CHAIRMAN: Chair is ready for a motion.

11 MS. DIXON: Move to approve because it's an
12 expansion of an existing use and is compatible with the
13 area and there's no opposition.

14 MR. DYSINGER: Second.

15 CHAIRMAN: We have a motion and a second.
16 Question on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor raise your right
19 hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: It's unanimous.

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23 VARIANCES

24 ITEM 5

25 2015 Autumn Lake Cove, in an R-1C zone
Consider request for a Variance to reduce front building

1 setback from 25' to 24.4'.
Reference: Zoning Ordinance, Article 8, Section 8.5.7(c)
2 Applicant: Homes by Benny Clark

3 CHAIRMAN: I need to disqualify myself from
4 this item and turn the gavel over to our secretary, Ms.
5 Ruth Ann Mason.

6 MR. NOFFSINGER: Ms. Chairperson, the
7 Planning Staff reviewed this application and we found the
8 application to be in order. This application is for
9 review of a slight encroachment to the 25 foot building
10 setback line that's required for new construction along a
11 local street. The applicant did submit application for a
12 building permit. It was reviewed by the building
13 department. The applicant received all the necessary
14 inspections and our staff went out and performed the
15 inspections and found the unit to be properly located as
16 best they could.

17 Well, the home has been completed, and there
18 was organs inspection done. And the survey, which is
19 very detailed and very accurate, indicated that there is
20 a slight encroachment of one corner of this building, end
21 of the building setback line. There is a slight curve
22 here in Autumn Lake Cove which skews that setback
23 somewhat. So, it could be understandable as to how a
24 mistake could be made in the field. Especially when
25 you're looking at a 25 foot setback and the structure is

1 actually 24.4 feet.

2 Irregardless, in order to move forward with
3 the closing of this home and to make it legal, the
4 applicant had to apply for a variance to be considered by
5 this board. The applicant has looked at options of
6 shaving a corner of the building to bring it into
7 compliance. And each of these different options,
8 although could be done, it would come at somewhat of a
9 hardship to the applicant. And you have to take a look
10 at would altering the face of this building for such a
11 slight encroachment alter the character of the area; or
12 if the building is not moved back, would it alter the
13 character of the area.

14 In review of the application, Staff has found
15 that, in looking at all the options, that the granting of
16 this Variance will not adversely affect the public
17 health, safety or welfare; it will not alter the
18 essential character of the general vicinity; it will not
19 cause a hazard or a nuisance to the public; and will not
20 allow an unreasonable circumvention of the requirements
21 of the zoning regulations.

22 I think this is a case here where it was an
23 honest mistake on the builder's part staking out the
24 building, and our inspectors didn't catch it. When you
25 go out and you're dealing in the construction site and

1 you have inspectors that are trying to do the best job
2 possible and get accurate measurements; when you're
3 looking at a few inches on a setback, if it's somewhat
4 skewed, you can see where mistakes can happen.

5 But with such a slight encroachment and given
6 the fact that the applicant did apply for a building
7 permit and did make the proper request for inspections
8 and those were made, Staff would recommend that you grant
9 the Variance.

10 CHAIRPERSON: Is the applicant here?

11 MR. CLARK: Yes.

12 CHAIRPERSON: Does the applicant have
13 anything to add to what Mr. Noffsinger said?

14 MR. ELLIOTT: State your name, please.

15 MR. CLARK: Charles Benny Clark.

16 (MR. BENNY CLARK SWORN BY ATTORNEY.)

17 MR. CLARK: The address on this 2015. It
18 should be 3015 Autumn Lake Cove. That's it.

19 CHAIRPERSON: Is there anyone here in
20 opposition?

21 (NO RESPONSE)

22 CHAIRPERSON: Any board members have any
23 questions of the applicant?

24 (NO RESPONSE)

25 CHAIRPERSON: I'm ready for a motion then

1 from the board.

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

9 MR. MILLER: Second.

10 CHAIRPERSON: Okay. We have a motion and a
11 second. Any questions from the board?

12 (NO RESPONSE)

13 CHAIRPERSON: If not, all in favor please
14 raise your right hand.

15 (ALL BOARD MEMBERS PRESENT - WITH THE
16 DISQUALIFICATION OF WARD PEDLEY - RESPONDED AYE.)

17 CHAIRPERSON: Motion approved.

18 We have one more motion.

19 MS. DIXON: Move to adjourn.

20 MR. DYSINGER: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRPERSON: We are adjourned.

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