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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

AUGUST 4, 2005

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, August 4, 2005, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

* * * * *

CHAIRMAN: Call the meeting to order.

First thing we do this evening is start the program with a prayer and pledge of allegiance. Invite you all to join us if you wish.

Gary, would you lead us in prayer, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: With that I want to welcome all of you to the Owensboro Metropolitan Board of Adjustment meeting. If you have anything you would like to say on any particular item, please come to one

1 of the podiums. You will be sworn in and then we'll
2 go from there.

3 First item is consider the minutes of the
4 July 7, 2005 meeting. They're in the office and I
5 think they're correct. Anybody know of anything that
6 needs to be added to them?

7 MR. NOFFSINGER: No, sir.

8 CHAIRMAN: Entertain a motion to dispose
9 of them.

10 MS. DIXON: Move to approve.

11 MR. DYSINGER: Second.

12 CHAIRMAN: All in favor raise your right
13 right.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Next item please, sir.

17 -----

18 CONDITIONAL USE PERMIT

19 ITEM 2

20 564 Browns Valley-Red Hill Road, in an A-R zone
21 Consider a request for a Conditional Use Permit for
22 the retail sale of hobby items and glass rocks
23 Reference: Zoning Ordinance, Article 8, Section
24 8.2E3, Section 8.4/45
25 Applicant: Sabra Hennelly, Mike Hennelly

24 MR. NOFFSINGER: Mr. Chairman, Planning
25 Staff has reviewed this application. We find the

1 application to be in order.

2 The retail sales is indicated by the
3 applicant will take place in an 8 by 10 out building.
4 The applicant is reminded that the scope of the
5 project should take place as shown in this
6 application, meaning the 8 by 10 building. If this
7 conditional use permit is approved and you want to
8 expand the operation, you would have to come back
9 before this board for a rehearing on the conditional
10 use permit. The business type activity is to take
11 place within the 8 by 10 building.

12 So with that the Planning Staff has
13 reviewed the application. We have not had any
14 comments sent in to the office and it is in order and
15 ready for consideration.

16 CHAIRMAN: Any objections in the office?

17 MR. NOFFSINGER: No.

18 CHAIRMAN: Does the applicant have
19 anything you would like to bring to us at this time or
20 understand all the situation?

21 (NO RESPONSE)

22 CHAIRMAN: With that we'll entertain a
23 motion to dispose of the item.

24 MR. DYSINGER: Move to approve the
25 Conditional Use Permit giving that there appears to be

1 no objections. The use is conditionally permitted and
2 with the condition that the scope of the project
3 cannot exceed the description in this application
4 without approval of this board.

5 CHAIRMAN: Is there a second?

6 MR. PEDLEY: Second.

7 CHAIRMAN: Any other discussion or
8 comment?

9 (NO RESPONSE)

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries.

14 VARIANCES

15 ITEM 3

16 221 Allen Street, in a B-2 zone
17 Consider request for a Variance to reduce the
18 vehicular use area's perimeter five foot landscape
19 buffer as required by the variance approved January 8,
20 2004 to three feet.
21 Reference: Zoning Ordinance, Article 7, Section 7.33
22 Applicant: John C. and Margaret Schetzinger

23 MR. NOFFSINGER: Mr. Chairman, Planning
24 Staff has reviewed this application. The application
25 is found to be in order. We have made a
26 recommendation for approval on this variance and have
27 stated the reasons for that.

28 The Board of Adjustment issued a variance

1 request or approved a variance request on this
2 property back in January of 2004. It called for a
3 five foot landscape easement to be put in along the
4 side street as opposed to a three foot. They were
5 making one of the other landscape areas smaller. When
6 the project was finished, it was discovered that the
7 landscape easement along I believe it's Allen Street,
8 yes, along Allen Street was actually constructed at
9 three feet and not five feet. The applicant is
10 requesting that that area be reduced from five feet
11 that this board required to be reduced down by three
12 feet. The applicant did install additional
13 landscaping within the parking area as well as
14 additional landscaping on Third Street. Therefore,
15 Staff's recommendation is for approval. It's a very
16 nice project. It looks good. It's very a attractive
17 addition to the downtown area and would recommend you
18 move forward and approve the variance.

19 CHAIRMAN: Any objections filed in the
20 office?

21 MR. NOFFSINGER: No, sir.

22 CHAIRMAN: Anyone in the audience
23 objecting to it?

24 (NO RESPONSE)

25 CHAIRMAN: Does the applicant have

1 anything you'd like to add at this time?

2 (NO RESPONSE)

3 CHAIRMAN: Board have any questions of the
4 applicant?

5 (NO RESPONSE)

6 CHAIRMAN: Hearing none entertain a motion
7 to dispose of the item.

8 MR. PEDLEY: Make a motion for approval
9 based on finding its will not adversely affect the
10 public health, safety or welfare; will not alter the
11 essential character of the general vicinity; it will
12 not cause a hazard or nuisance to the public; it will
13 not allow an unreasonable circumvention of the
14 requirements of the zoning regulations.

15 MS. MASON: Second.

16 CHAIRMAN: Any other comments from the
17 board or the office?

18 (NO RESPONSE)

19 CHAIRMAN: Hearing none all in favor raise
20 raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries.

23 Next item, please, sir.

24 ITEM 4

25 1201 Nicholas Drive, in a B-4 zone

1 Consider request for a Variance to operate a
2 veterinarian office and kennel within 100 feet of a
3 proposed multi-family residential development.
4 Reference: Zoning Ordinance, Article 8,
5 Section 8.2 I4, I6, Section 8.4/35
6 Applicant: James L. Hawkins, SLEC III, LLC

7 MR. NOFFSINGER: Mr. Chairman, Planning
8 Staff has reviewed this application. The application
9 is found to be in order.

10 The animal clinic has constructed on
11 property located at 1201 Nicholas Drive a pet facility
12 which boarding of animals is their primary business at
13 that location. They also have future plans to
14 construct dog runs to the north and east of the
15 existing building.

16 Now, the kennel property is zoned B-4
17 general business. As I stated they are existing and
18 did receive a variance from this board to construct
19 within the 100 foot buffer from existing residential
20 properties to the east back some time ago. Now the
21 property to the north, which is zoned B-4 general
22 business, is proposed to be rezoned to R3-MF
23 multi-family.

24 Because the adjoining property owner is
25 changing from a use that would not require the
26 veterinarian clinic to respect the buffer and they're
27 moving toward a use where that buffer is required, we

1 felt during the zoning change process that the
2 applicant rezoning the property to the north should be
3 responsible for submitting the variance from the
4 buffer requirement on behalf of the animal clinic. So
5 that before that zoning change goes through and is
6 final, this variance is approved which will not
7 prohibit future plans of the animal clinic to expand
8 and build those dog runs or any other type of activity
9 that might occur there.

10 The Planning Staff, again, has reviewed
11 the application. We just want the folks to be mindful
12 that in the future there could be potential problems
13 with an animal clinic being located so close to a
14 multi-family area. There may be calls, nuisance calls
15 to the police department and other agencies because of
16 the location of the residential units to this animal
17 clinic.

18 However, I think it's important to note
19 that this animal clinic predates the proposed
20 residential use of that property.

21 The owner of the multi-family property
22 should make every effort to remind tenants that there
23 is an adjoining animal clinic located in close
24 proximity to the property and it may have a bearing on
25 whether or not they want to live at this location

1 because at times there are going to be barking dogs.
2 Not that I'm suggesting that that be a condition
3 placed on this variance because, again, it is on
4 behalf of the animal clinic. Folks do need to be
5 mindful that there is an animal clinic located
6 adjoining property. With all of that said, again,
7 Staff is recommending approval for reasons that we
8 stated in your packet.

9 CHAIRMAN: Any objections filed in the
10 office?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Anyone in the audience wishing
13 to object?

14 (NO RESPONSE)

15 CHAIRMAN: Does the applicant have
16 anything you would like to bring in at this time?

17 (NO RESPONSE)

18 CHAIRMAN: Hearing none entertain a motion
19 to dispose of the item.

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

1 requirements of the zoning regulation.

2 CHAIRMAN: Is there a second?

3 MR. WARREN: Second.

4 CHAIRMAN: Any other questions or comments
5 from the board?

6 (NO RESPONSE)

7 CHAIRMAN: Anything else from the office?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: Hearing none all in favor raise
10 your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 One thing to add on. Could the office
14 when something else comes in and joins to it be sure
15 that future buyers of the development be known?

16 MR. NOFFSINGER: What we will do is
17 monitor the activity out there. Pretty much it's
18 built out to the east. The adjoining property to the
19 west would be commercial which should not have an
20 impact. The applicant and current owner is certainly
21 aware that the animal clinic is there and there could
22 be noise, but in terms of nullifying perspective
23 tenants or tenants, it's going to create some problems
24 down the road. Those will be dealt with at that time.

25 CHAIRMAN: Appreciate it.

1 Entertain a motion for one final motion.

2 MS. DIXON: Move to adjourn.

3 MR. MILLER: Second.

4 CHAIRMAN: All in favor raise your right
5 hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: We are 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 11 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 20th day of August, 2005.

18

19

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

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22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

25