

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 JULY 6, 2006

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday, July
5 6, 2006, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: C.A. Pantle, Chairman
8 Gary Noffsinger
9 Marty Warren
10 Sean Dysinger
11 Ruth Ann Mason
12 Ward Pedley
13 Judy Dixon
14 Stewart Elliott, Attorney
15 Madison Silvert, Attorney

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

18 Want to welcome everyone. Invite you to join
19 with us. We start our meetings with a prayer and the
20 pledge of allegiance and we invite you to join us if
21 you so desire. We'll have the prayer this evening by
22 Madison Silvert.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Again, want to welcome you to our
25 meeting. If you have any comments to be made on any
item, please come to the podium, one or the other.
State your name for the court reporter and be sworn in
and go from there.

With that the first item this evening is the

1 minutes of the June 1st meeting. They're on record in
2 the office. I don't think there's been found any
3 problems with it.

4 MR. NOFFSINGER: No, sir.

5 CHAIRMAN: With none entertain a motion to
6 dispose of the item.

7 MS. DIXON: Move to approve.

8 MR. PEDLEY: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 Next item, please

14 -----

15 CONDITION USE PERMITS

16 ITEM 2

17 3905 Carter Road, zoned B-4
18 Consider request to amend a Conditional Use Permit to
19 construct a 20'x40' picnic canopy for an existing
20 major outdoor recreational facility.
21 Reference: Zoning Ordinance, Article 8, Section 8.2
22 K7, Section 8.4/42
23 Applicant: Atlantis Swim Club, Floyd Tapp

24 MR. NOFFSINGER: Mr. Chairman, this
25 application has been reviewed by the Planning Staff.
26 It's found to be in order. It has been advertised for
27 public hearing at this time.

28 At this time I would like to ask Mr. Doug Lane

1 of the Planning Staff to give a brief description of
2 the proposed use.

3 MR. ELLIOTT: State your name for the record,
4 please..

5 MR. LANE: Doug Lane.

6 (MR. DOUG LANE SWORN BY ATTORNEY.)

7 MR. LANE: There have been four conditional
8 use permits approved for the operation of a swimming
9 pool and other recreational activities on this
10 property since 1983. The proposed construction of the
11 picnic canopy is consistent with the previous
12 conditional use approvals. It's also consistent with
13 the overall character of the property. However, the
14 property is operated under a development plan so the
15 applicant would need to submit a revised plan for
16 approval.

17 MR. NOFFSINGER: I do have one question
18 regarding access on the property. There were some
19 notations on the previous approval by this board that
20 access would have to be changed if there was any new
21 building area. Would you please address what's being
22 done, if there's a change in that.

23 MR. LANE: Right now they have a wooden slide
24 that's been standing there and it's being removed. It
25 actually takes up more room. It's actually bigger

1 than the proposed picnic canopy. So it would be less
2 intensive, I guess, than what the slide would be.

3 MR. NOFFSINGER: I think that notation said
4 any additional building area they would have to close
5 some access.

6 MR. LANE: Correct.

7 MR. NOFFSINGER: What you're saying is the
8 building area, this is actually replacing an existing
9 building area. Would be less perhaps and staff is not
10 recommending a change at this time.

11 MR. LANE: Correct.

12 MR. NOFFSINGER: But any future additional
13 building area they would have to address access as
14 described on the plan.

15 MR. LANE: Correct.

16 CHAIRMAN: Has there been any opposition for
17 or against in the office?

18 MR. NOFFSINGER: No, sir.

19 CHAIRMAN: Anyone wishing to speak in
20 opposition of this item?

21 (NO RESPONSE)

22 CHAIRMAN: Board members have any comments or
23 questions?

24 (NO RESPONSE)

25 CHAIRMAN: Entertain a motion to dispose of

1 the item, please.

2 MS. DIXON: Move to grant the Conditional Use
3 Permit based upon findings of fact that the use on
4 this site is consistent with previous conditional use
5 approvals and there's no opposition here tonight or
6 filed in the office.

7 CHAIRMAN: Is there a second?

8 MS. MASON: Second.

9 CHAIRMAN: Any other comments or questions
10 from the board?

11 (NO RESPONSE)

12 CHAIRMAN: Staff have anything else to add?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Hearing none all in favor of the
15 item raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries.

18 Next item, please.

19 ITEM 3

20 360 Rudy Road, zoned A-U (Withdrawn)
21 Consider request to amend a Conditional Use Permit in
22 order to add an additional bedroom within the existing
23 psychiatric residential treatment facility for
24 children to accommodate a total of nine residents.
Reference: Zoning Ordinance, Article 8, Section 8.2C1
Applicant: Green River Regional Mental Health/Mental
Retardation Board, Inc.

25 MR. NOFFSINGER: Item 3 has been withdrawn,

1 Mr. Chairman. This use is a use that is classified by
2 state statute as a residential care facility.
3 Therefore, they do not need a Conditional Use
4 Permit. That application has been withdrawn.

5 CHAIRMAN: Next item, please.

6 -----

7 VARIANCE

8 ITEM 4

9 1854 Whispering Meadows Drive, zoned R-1A
10 Consider request for a Variance to reduce the project
11 boundary setback on the south side of the lot from 20
12 feet to 10 feet in order to construct a single-family
13 residence.

14 Reference: Zoning Ordinance, Article 10,
15 Section 10.432

16 Applicant: Paul Martin Builders, Inc.

17 MR. NOFFSINGER: Mr. Chairman, this
18 application has been advertised for public hearing at
19 this time. The application is found to be in order.
20 Mr. Doug Lane with the Planning Staff will give a
21 brief description of the proposal.

22 MR. LANE: The subject property is part of
23 Whispering Meadows Subdivision that was developed as a
24 plan residential development. The property is zoned
25 R-1A. Typically the required site or setback in a
R-1A zone is 10 feet. However since the property is
part of a plan residential development, the zoning
ordinance require a 20 foot property boundary which

1 affects the side yard on the south side of the subject
2 lot.

3 The intended 20 foot property boundary is to
4 buffer adjacent property that is not part of an
5 ongoing development. Since the subject property
6 adjoins the proposed extension of the same development
7 reducing 20 foot project boundary to 10 feet is a
8 reasonable request.

9 In the past there have been several variances
10 approved for Whispering Meadows Subdivision to reduce
11 the 20 foot property boundary to 10 feet in order to
12 accommodate an extension of the same development.
13 Staff would recommend approval.

14 CHAIRMAN: Is there any opposition been filed
15 in the office?

16 MR. NOFFSINGER: No, sir.

17 CHAIRMAN: Is anyone in the audience wishing
18 to speak in opposition of this item?

19 (NO RESPONSE)

20 CHAIRMAN: Is the applicant here?

21 (NO RESPONSE)

22 CHAIRMAN: Hearing none does the board have
23 any comments or questions at this time?

24 (NO RESPONSE)

25 CHAIRMAN: Anything else from the Staff?

1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Entertain a motion to dispose of
3 the item?

4 MR. DYSINGER: Mr. Chairman, move to grant the
5 Variance request given the findings that it will not
6 adversely affect the public health, safety or welfare;
7 will not alter the essential character of the general
8 vicinity; will not cause a hazard or a nuisance to the
9 public; and it will not allow an unreasonable
10 circumvention of the requirements of the zoning
11 regulations. Further, compliance would actually
12 compel the creation of an unreasonable 40 foot
13 setback.

14 CHAIRMAN: Is there a second?

15 MR. WARREN: Second.

16 CHAIRMAN: A motion has been made and a
17 second. Any other comments from the board?

18 (NO RESPONSE)

19 CHAIRMAN: Staff have anything else to add?

20 MR. NOFFSINGER: No, sir.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 Next item, please.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ADMINISTRATIVE APPEALS

ITEM 5

22 Lakewood Drive, 21 Bon Harbor Hills, zoned B-4
Consider request for an Administrative Appeal to move
an existing non-conforming billboard to another part
of the same lot to make the property more suitable for
development.

Reference: Zoning Ordinance, Article 4, Section 4.43

Applicant: Robert H. Steele

MR. NOFFSINGER: Mr. Chairman, Mr. Doug Lane
is here tonight to give a brief description of the
proposal.

MR. LANE: Article 4, Section 4.43 of the
Zoning Ordinance states that a non-conforming
structure may be moved to another part of the same lot
by appeal of the Board of Adjustment.

The existing sign is nonconforming due to the
area of the sign. Article 9, Section 9-5A1 states
that in the county an area sign shall not exceed 380
square feet when located along US highways. This
billboard is actually located along US Highway 60.
The existing sign is 672 square feet. So it is a
nonconforming sign. They are moving it to another
location. They're proposing to.

MR. NOFFSINGER: Mr. Chairman, I do have a few
questions of Mr. Lane.

One, I would like to know how far they're

1 moving the sign and where?

2 Two, what's the justification that the
3 applicant has given for relocating that sign?

4 MR. LANE: Justification is for development
5 purposes. Basically wanting to redesign. I think
6 they had some land that they're wanting to sell.
7 They're wanting to move the billboard to make room for
8 that sale of the development. The distance, which I
9 don't have the site plan in front of me.

10 MR. NOFFSINGER: I think it's 140 feet.

11 MR. LANE: 140 feet.

12 MR. NOFFSINGER: The applicant is represented
13 here by their engineer so you may want to hear from
14 the engineer as to the justification would be for
15 moving that sign?

16 CHAIRMAN: The applicant have any questions
17 you'd like to add at this time?

18 APPLICANT REP: No.

19 MR. NOFFSINGER: Mr. Chairman, I would like to
20 hear what the justification is for moving the sign as
21 referenced in their application. Do you have a copy
22 of it?

23 MR. WEAVER: Yes, I have a copy of it.

24 MR. ELLIOTT: State your name, please.

25 MR. WEAVER: David Weaver.

1 (MR. DAVID WEAVER SWORN BY ATTORNEY.)

2 MR. WEAVER: The applicant is basically
3 wanting to move nonconforming use on the same lot.
4 He's moving it 140 feet to the west. The basic reason
5 for that is where the sign exist now it exist on the
6 corner of Lakewood and Highway 60. Moving it away
7 from that intersection opens that intersection up. Of
8 course, it's a coroner lot which will be more suitable
9 for development there. If you would like, I could
10 read the findings.

11 MR. NOFFSINGER: That's okay. I think you hit
12 on it there in terms of that last paragraph.

13 CHAIRMAN: Any board members have any
14 questions?

15 (NO RESPONSE)

16 CHAIRMAN: Staff have any other comments?

17 MR. NOFFSINGER: No, sir.

18 CHAIRMAN: Entertain a motion to dispose of
19 the item.

20 MR. DYSINGER: Mr. Chairman, move to find for
21 the applicant primarily because it's just the movement
22 of a current nonconforming pre-existing use with the
23 understanding that the new sign or the moved sign will
24 not be any larger than it was previously, with respect
25 to the fact that it's grandfathered in prior to the

1 current ordinance.

2 CHAIRMAN: Is there a second?

3 MS. MASON: Second.

4 CHAIRMAN: A motion has been made and a
5 second. Any other comments or questions?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none all in favor raise
8 your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries.

11 Next item, please.

12 ITEM 6

13 2120 Southtown Boulevard, zoned B-1
14 Consider request for an Administrative Appeal to move
15 an existing non-conforming billboard to another part
16 of the same lot in order to accommodate the proposed
17 roadway construction on Southtown Boulevard.
18 Reference: Zoning Ordinance, Article 4, Section 4.43
19 Applicant: City of Owensboro, James T. Goode

20 MR. NOFFSINGER: Mr. Chairman, Mr. Lane is
21 here to address this proposal.

22 MR. LANE: Once again the existing sign is
23 nonconforming due to the area of the sign. The Zoning
24 Ordinance states that in the county the sign shall not
25 exceed 300 feet located along roadways and not
designated as a US highway. The existing sign there
right now is possibly 600 feet, square feet. They're
proposing to do some construction on Southtown

1 Boulevard and they require some right-of-way. When
2 they require the right-of-way the existing billboard
3 is actually located in the right-of-way. So they're
4 moving the billboard back on to private property and
5 away from the intersection, the location.

6 CHAIRMAN: The applicant here have any
7 comment?

8 (NO RESPONSE)

9 MR. WARREN: This sign too is grandfathered
10 in?

11 MR. LANE: Yes.

12 CHAIRMAN: Board have any questions or
13 comments?

14 (NO RESPONSE)

15 CHAIRMAN: Staff have anything else to add?

16 MR. NOFFSINGER: No, sir.

17 CHAIRMAN: Hearing none entertain a motion to
18 dispose of the item?

19 MR. PEDLEY: Mr. Chairman, I make a motion to
20 approve the appeal for reason we've heard no
21 opposition on the item. It is allowable by the Zoning
22 Ordinance. It is to make room for expanding the road
23 right-of-way. It will not adversely affect the
24 neighborhood and the billboard shall not be increased
25 in size.

1 CHAIRMAN: Is there a second?

2 MS. DIXON: Second.

3 CHAIRMAN: Any other comments or questions
4 from the board or the Staff.

5 (NO RESPONSE)

6 CHAIRMAN: Hearing none all in favor raise
7 your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 Anything else at this time?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Move for adjournment.

13 MS. MASON: Move to adjourn.

14 MR. DYSINGER: Second.

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

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: We are adjourned.

19 -----

20

21

22

23

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

16 WITNESS my hand and notary seal on this the
17 24th day of July, 2006.

18

19

LYNNETTE KOLLER
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
21 OWENSBORO, KENTUCKY 42303

22

COMMISSION EXPIRES: DECEMBER 19, 2006

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

24

25