

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 FEBRUARY 7, 2007

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 February 7, 2007, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

- 8 MEMBERS PRESENT: Ward Pedley, Chairman
- 9 Gary Noffsinger, Director
- 10 Marty Warren
- 11 Sean Dysinger
- 12 Ruth Ann Mason
- 13 Judy Dixon
- 14 Clay Taylor
- 15 Madison Silvert, Attorney

16 * * * * *

17 CHAIRMAN: We begin our meeting with a prayer
18 and the pledge of allegiance to the flag. Madison
19 will lead us.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: We would like to welcome everyone.
22 Anyone wishing to speak on any item may do so. We ask
23 that you come to one of the podiums and state your
24 name and be sworn in.

25 With that the first item on the agenda is
consider the minutes of the January 3, 2008 meeting.
They have been read and they're on file in the
Planning Office. Are there any additions, corrects?

1 (NO RESPONSE)

2 CHAIRMAN: Chair is ready for a motion.

3 MS. DIXON: Move to approve.

4 MR. TAYLOR: Second.

5 CHAIRMAN: There's been a motion and a second.

6 All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: The minutes are approved.

9 Next item.

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11 CONDITIONAL USE PERMITS

12 ITEM 2

13 720 West Byers Avenue, zoned B-4
14 Consider request for a Conditional Use Permit for a
15 child daycare with a maximum capacity for 49 children
16 from 6 a.m. to midnight daily.
17 Reference: Zoning Ordinance, Article 8, Section 8.2B3
18 Applicant: Kids Town Child Care and Massie Clark
19 Development Company, Inc.

17 MR. SILVERT: State your name, please.

18 MR. HOWARD: Brian Howard.

19 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

20 ZONING HISTORY

21 The subject property is currently zoned B-4
22 General Business and OMPC records do not indicate any
23 zoning changes on the subject property. There is an
24 existing pharmacy on the subject property and is shown
25 on the site plan submitted with the application.

1 With the existing pharmacy on the subject
2 property, the addition of the daycare will generate
3 the need for a final development plan since there will
4 be two principal buildings and uses on the subject
5 property. The parking requirement for the daycare is
6 seven spaces with one required to be handicap
7 accessible. Required parking must also be provided
8 for the existing pharmacy and addressed on the final
9 development plan.

10 Access to the subject property was established
11 on a minor subdivision plat that was approved by the
12 OMPC in March 1993, and is limited to the existing
13 access point along the west side of the property. No
14 additional access to West Byers Avenue will be
15 permitted.

16 LAND USES IN SURROUNDING AREA

17 The property to the north, across West Byers
18 Avenue, is zoned R-3MF Multi-Family Residential with
19 existing apartments on the property. The property to
20 the east is zoned R-1B Single-Family Residential with
21 single-family residences. The property to the west
22 and south are both zoned B-4 General Business with
23 various commercial shops and offices.

24 Since the adjoining property to the east is
25 zoned R-1B Single-Family Residential, screening

1 between the subject property and the residential
2 property will be required. The screening requirement
3 includes a 10 foot landscape buffer with a six foot
4 high continuous element with one tree every 40 linear
5 feet.

6 ZONING ORDINANCE REQUIREMENTS

- 7 1. Parking requirement - Daycare - 2, plus
8 one per 10 children - 7, Pharmacy - 1 per 400 square
9 feet - 8, 15 Total
- 10 2. Ten foot landscape buffer with a six foot
11 high fence and one tree every 40 feet along the entire
12 east boundary.
- 13 3. Submittal and approval of a final
14 development plan.

15 SPECIAL CONDITIONS

- 16 1. Access to West Byers Avenue shall be
17 limited to the existing shared access point only. No
18 additional access to West Byers Avenue will be
19 permitted.

20 MR. HOWARD: We would like to enter the Staff
21 Report into the record as Exhibit A.

22 CHAIRMAN: Anyone here representing the
23 applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Anyone here in opposition of this

1 application?

2 (NO RESPONSE)

3 CHAIRMAN: The applicant have anything you
4 would like to state to the board?

5 APPLICANT REP: No.

6 CHAIRMAN: Any board members have any
7 questions of the applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Chair is ready for a motion.

10 MR. DYSINGER: Move to approve the conditional
11 use permit given the findings that the proposed use is
12 compatible with the surrounding area and there are no
13 objections.

14 MS. MASON: Second.

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

17 (NO RESPONSE)

18 CHAIRMAN: All in favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries.

21 Next item.

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23 VARIANCE

24 ITEM 3

25 2501 Littlebrook Trail, zoned R-1C

1 Consider a Variance to increase the height of a fence
2 from 3 feet to 6 feet to be installed along Hillbrooke
3 Parkway
4 Reference: Zoning Ordinance, Article 3,
5 Section 3-7(g)(2)
6 Applicant: Mike & Cindy Hamilton

7 MR. NOFFSINGER: Mr. Chairman, the applicant
8 has submitted a letter and made part of the
9 application from their Mr. Nicholas Gates of Meyer,
10 Haynes, Crone & Meyer, LLP that there are no deed
11 restrictions on the property that would prohibit the
12 height variance as requested in this application.

13 MR. HOWARD: I'll just give a little bit of
14 background as to the request.

15 Basically this is a corner lot. Per the
16 ordinance it has two front yard setbacks that are
17 required. However the house fronts Littlebrook Trail.
18 Hillbrooke Parkway is to the side of the home.
19 Generally the height of a fence along the side of the
20 home would be six foot, however a front yard setback
21 is limited to three foot.

22 Kentucky Building Code requirements state that
23 a fence surrounding a pool shall be a minimum of four
24 feet. So based upon that, they would not be able to
25 install a pool without a variance of some sort. They
requested a variance to six feet.

I will note that on the site plan it appears

1 along the rear part of the property that there is some
2 type of utility easement. I'll just note that the
3 fence should either be located outside of that utility
4 easement or they should have the approval from the
5 appropriate utilities that it's okay to construct that
6 with the easement. We do permit fences although we do
7 look at the height requirement.

8 That's why it's before you here tonight and
9 will be happy to answer any questions that you may
10 have.

11 CHAIRMAN: Anyone here representing the
12 applicant?

13 APPLICANT REP: Yes.

14 CHAIRMAN: Anyone here in opposition of this
15 application?

16 (NO RESPONSE)

17 CHAIRMAN: Any board members have any
18 questions?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is ready for a motion.

21 MS. DIXON: Move to approve the variance
22 because there are special circumstances that would
23 present a hardship and that it will not adversely
24 affect the public health, safety or welfare; will not
25 alter the essential character of the general vicinity;

1 will not cause a hazard or a nuisance to the public;
2 and will not allow an unreasonable circumvention of
3 the requirements of the zoning regulations.

4 MR. WARREN: Second.

5 CHAIRMAN: We have a motion and a second. Any
6 questions or comments on the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11

12 OTHER BUSINESS

13 ITEM 4

14 3905 Carter Road, zoned B-4
15 Monthly review of paint ball screening and operation
16 since the January 3, 2008 meeting,

17 MR. NOFFSINGER: Mr. Chairman, Zack Williams
18 of the Planning Office who has been working with Mr.
19 Mischel and zoning enforcement will give that report.

20 MR. SILVERT: State your name, please.

21 MR. WILLIAMS: Zack Williams.

22 (MR. ZACK WILLIAMS SWORN BY ATTORNEY.)

23 MR. WILLIAMS: Since the last Board of
24 Adjustment meeting we have visited the property once
25 to ensure that the fence at 3844 McIntire Crossing had
been repaired.

1 We had received on the 28th of January a
2 letter from Ms. Ginger Carter stating that it had not
3 been repaired. Today I went out there and took
4 pictures, which you have before you now, showing that
5 the fence has been repaired.

6 I have this letter from her that I will give
7 to the court reporter for it to be entered into the
8 record.

9 There's nothing to report other than he has
10 been complying with the request from the homeowner.

11 CHAIRMAN: Do we need to read this letter into
12 the record?

13 MR. NOFFSINGER: No, sir. Each member has
14 been given a copy of that letter. The letter has been
15 entered into the record by Mr. Williams. I think it's
16 just a matter of notifying you. If you have no
17 further questions chair might want to entertain a
18 motion to adjourn.

19 CHAIRMAN: With that no more action needed on
20 this at this time so we're ready for a motion to
21 adjourn the meeting.

22 MS. DIXON: Move to adjourn.

23 MS. MASON: Second.

24 CHAIRMAN: All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: We are adjourned.

1 STATE OF KENTUCKY)
)SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that 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 10 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 25th day of February, 2008.

18

19

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

22

COMMISSION EXPIRES: DECEMBER 19, 2010

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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