

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
 2 DECEMBER 5, 2013
 3 THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
 4 MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY,
 5 DECEMBER 5, 2013, AT CITY HALL, COMMISSION CHAMBERS,
 6 OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS
 7 FOLLOWS:

8 MEMBERS PRESENT: WARD PEDLEY, VICE CHAIRMAN
 9 RUTH ANN MASON, SECRETARY
 10 GARY NOFFSINGER, DIRECTOR
 11 TERRA KNIGHT, ATTORNEY
 12 JERRY YEISER
 13 FRED REEVES
 14 JUDY DIXON

15 * * * * *

16 CHAIRMAN: CALL THE OWENSBORO METROPOLITAN
 17 BOARD OF ADJUSTMENT DECEMBER 5, 2013 MEETING TO ORDER.
 18 WE WILL BEGIN OUR MEETING WITH A PRAYER AND PLEDGE OF
 19 ALLEGIANCE TO THE FLAG. MS. MASON WILL LEAD US.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: FIRST ITEM ON THE AGENDA IS TO
 22 CONSIDER THE MINUTES OF THE NOVEMBER 7, 2013 MEETING.
 23 ARE THERE ANY ADDITIONS OR CORRECTIONS?

24 (NO RESPONSE)

25 CHAIRMAN: IF NOT THE CHAIR IS READY FOR A
 MOTION.

MS. DIXON: MOVE TO APPROVE.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL.

1 MS. MASON: SECOND.

2 CHAIRMAN: AND A SECOND. ALL IN FAVOR OF THE
3 MOTION RAISE YOUR RIGHT HAND.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: MOTION CARRIES UNANIMOUSLY. THE
6 MINUTES ARE APPROVED.

7 NEXT ITEM.

8 -----

9 VARIANCE

10 ITEM 2

11 1548 FREDERICA STREET, ZONED P-1
12 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
13 THE MINIMUM WIDTH OF THE REQUIRED LANDSCAPE EASEMENT
14 BETWEEN A VEHICULAR USE AREA AND NEIGHBORING
15 RESIDENTIAL PROPERTY FROM 3 FEET TO 6 INCHES.
16 REFERENCE: ZONING ORDINANCE, ARTICLE 17,
17 SECTION 17.312
18 APPLICANT: ESJ, LLC; BRIAN FLAHERTY

19 MR. NOFFSINGER: MR. CHAIRMAN, I DO HAVE A
20 STAFF REPORT THAT I NEED TO READ INTO THE RECORD.
21 ARE THERE SPECIAL CIRCUMSTANCES?

22 YES.

23 THE APPLICANT IS REQUESTING TO REDUCE THE
24 REQUIRED THREE FOOT WIDE LANDSCAPE EASEMENT ALONG THE
25 WEST PROPERTY BOUNDARY TO SIX INCHES. A DEVELOPMENT
PLAN HAS BEEN APPROVED FOR THE SUBJECT PROPERTY
MEETING THE ZONING ORDINANCE REQUIREMENTS, WHICH WOULD
REQUIRE SOME OF THE EXISTING PAVEMENT ON THE SITE TO

1 BE REMOVED. HOWEVER, IN ORDER TO MAXIMIZE THE
2 VEHICULAR USE AREA AND PROVIDE ADEQUATE PARKING FOR
3 THEIR BUSINESS, SURPASSING THE ZONING ORDINANCE
4 REQUIREMENTS, THE APPLICANT IS SEEKING THIS VARIANCE
5 REQUEST. IF A VARIANCE IS APPROVED, THE APPLICANT
6 WILL BE REQUIRED TO SUBMIT AND AN AMENDED FINAL
7 DEVELOPMENT PLAN.

8 THE LANDSCAPE EASEMENT IS A REQUIREMENT OF THE
9 ZONING ORDINANCE WHEN A VEHICULAR USE AREA ADJOINS
10 RESIDENTIALLY ZONED PROPERTY TO PROVIDE A BUFFER FOR
11 THE RESIDENTIAL PROPERTY. THE ADJOINING PROPERTY TO
12 THE WEST AT 327 GRIFFITH AVENUE SUBMITTED A LETTER TO
13 THE OMPC OFFICE STATING THAT THEY HAVE NO OBJECTION TO
14 THE VARIANCE REQUEST. WE HAVE RECEIVED THREE OTHER
15 LETTERS FROM ADJOINING PROPERTY OWNERS IN FAVOR OF THE
16 VARIANCE REQUEST AS WELL.

17 ACCORDING TO THE SITE PLAN SUBMITTED WITH THE
18 APPLICATION, THE APPLICANT INTENDS TO INSTALL A 6 FOOT
19 TALL PRIVACY FENCE ALONG THE WEST PROPERTY BOUNDARY
20 STARTING AT THE NORTH CORNER AND EXTENDING 51 FEET
21 ALONG THE PROPERTY LINE. THE REMAINING 51 FEET OF THE
22 REAR PROPERTY LINE WILL CONSIST OF A 3 FOOT RAIL FENCE
23 WITH 3 TREES AND GRASS. THIS AREA WILL EXCEED THE
24 REQUIRED 3 FOOT WIDE EASEMENT REQUIRED BY THE
25 ORDINANCE.

1 GRANTING THIS VARIANCE WILL NOT ADVERSELY
2 AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE, CAUSE A
3 HAZARD OR NUISANCE TO THE PUBLIC OR CIRCUMVENT THE
4 REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE
5 SCREENING AND LANDSCAPING WILL BE INSTALLED MEETING
6 THE INTENT OF THE ORDINANCE SERVING AS A BUFFER TO THE
7 ADJOINING RESIDENTIAL PROPERTY AND THE ADJOINING
8 RESIDENTIAL PROPERTY OWNERS ARE IN FAVOR OF THIS
9 VARIANCE REQUEST.

10 FINDINGS: GRANTING THIS VARIANCE

11 WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH,
12 SAFETY OR WELFARE BECAUSE LANDSCAPING AND SCREENING
13 WILL BE INSTALLED MEETING THE INTENT OF THE ORDINANCE
14 AND SERVING AS BUFFER TO THE ADJOINING PROPERTIES.

15 WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE
16 GENERAL VICINITY BECAUSE THE APPLICANT IS REVITALIZING
17 AN EXISTING PROPERTY BY REUSING A RESIDENTIAL
18 STRUCTURE FOR COMMERCIAL PURPOSES AND ENHANCING THE
19 AREA.

20 WILL NOT CAUSE A HAZARD OR NUISANCE TO THE
21 PUBLIC BECAUSE THE ADJOINING PROPERTY OWNERS ARE IN
22 FAVOR OF THE VARIANCE REQUEST.

23 WILL NOT ALLOW AN UNREASON CIRCUMVENTION OF
24 THE REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE
25 SCREENING AND LANDSCAPING WILL BE INSTALLED MEETING

1 THE INTENT OF THE ORDINANCE.

2 STAFF RECOMMENDATION:

3 STAFF RECOMMENDATIONS WOULD BE FOR APPROVAL
4 WITH THE CONDITION THAT SUBMISSION AND APPROVAL OF AN
5 AMENDED FINAL DEVELOPMENT PLAN.

6 CHAIRMAN: IS THERE ANYONE HERE REPRESENTING
7 THE APPLICANT?

8 APPLICANT REP: YES.

9 CHAIRMAN: DOES ANYONE HAVE ANY QUESTIONS ON
10 THIS APPLICATION?

11 (NO RESPONSE)

12 CHAIRMAN: ANY BOARD MEETING MEMBER HAVE ANY
13 QUESTIONS OF THE APPLICATION?

14 (NO RESPONSE)

15 CHAIRMAN: IF NOT THE CHAIR IS READY FOR A
16 MOTION.

17 MR. REEVES: MR. CHAIRMAN, I MOVE FOR APPROVAL
18 BASED ON STAFF'S FINDINGS OF FACT 1 THROUGH 4 WITH THE
19 CONDITION THAT THERE BE A SUBMISSION AND APPROVAL OF
20 AN AMENDED FINAL DEVELOPMENT PLAN.

21 CHAIRMAN: WE HAVE A MOTION FOR APPROVAL BY
22 MR. REEVES.

23 MS. DIXON: SECOND.

24 CHAIRMAN: SECOND BY MS. DIXON. COMMENTS OR
25 QUESTIONS ON THE MOTION?

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(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR OF THE MOTION RAISE
YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

WE NEED ONE MORE MOTION.

MS. MASON: MOVE TO ADJOURN.

MR. REEVES: SECOND.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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 STENOGRAPHY AND
12 ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,
13 ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
14 FOREGOING 6 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
15 WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

16 WITNESS MY HAND AND NOTARY SEAL ON THIS THE
17 11TH DAY OF DECEMBER, 2013.

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LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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