

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

OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MAY 1, 2014

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, May 1, 2014, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman  
Ruth Ann Mason, Secretary  
Gary Noffsinger, Director  
Terra Knight, Attorney  
Jerry Yeiser  
Sean Dysinger  
Lewis Jean

\* \* \* \* \*

CHAIRMAN: Want to welcome everyone to the May 1, 2014 Board of Adjustment. Would you please stand for our prayer and pledge of allegiance.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item is to consider the minutes of the March 6, 2014 meeting. Members should have been mailed a copy and have had time to look it over. So I will entertain a motion to approve.

MS. MASON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: Motion by Ms. Mason. Second by Mr. Dysinger. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries.

2 MR. DYSINGER: Madam Chairman, before you read  
3 in the first item, I need to recuse myself as an  
4 adjacent property owner.

5 CHAIRMAN: So noted.

6 -----

7 CONDITIONAL USE PERMITS

8 ITEM 2

9 830 Bolivar Street, zoned I-1  
10 Consider a request for a Conditional Use Permit in  
11 order to construct and operate a storage facility.  
12 Reference: Zoning Ordinance, Article 8, Section 8.2L8  
13 Applicant: Ryan McDaniel; Greater Yelvington  
14 Investments, LLC

15 MS. KNIGHT: Please state your name for the  
16 record.

17 MS. EVANS: Melissa Evans.

18 (MELISSA EVANS SWORN BY ATTORNEY.)

19 ZONING HISTORY

20 The subject property is currently zoned I-1  
21 Light Industrial. OMPC records indicate there have  
22 been no Zoning Map Amendments for the subject  
23 property.

24 There was a variance granted for the subject  
25 property on February 6, 2014 to reduce the front yard  
building setback along Bolivar Street to reduce the  
side yard building setback along East 9th Street and

1 to eliminate the roadway buffer along East 9th Street.

2 The applicant is proposing to construct an  
3 approximately 2500 foot storage facility on the  
4 subject property.

5 LAND USES IN SURROUNDING AREA

6 The properties to the north, east and south  
7 are zoned I-1 Light Industrial uses and appear to be a  
8 mix of residential and industrial uses. The property  
9 to the west is zoned B-4 General Business.

10 ZONING ORDINANCE REQUIREMENTS

11 1. Parking - no parking is required. Five  
12 parking spaces are proposed as shown on the site plan  
13 submitted.

14 2. Landscaping - Vehicular use area  
15 landscaping as shown on the site plan submitted.

16 MS. EVANS: We would like to enter the Staff  
17 Report into the record as Exhibit A.

18 CHAIRMAN: Thank you.

19 Is there anyone here wishing to speak in  
20 opposition to this item?

21 Come to the microphone and state your name for  
22 the record and be sworn in.

23 MR. SURVANT: Jon Survant.

24 (JON SURVANT SWORN BY ATTORNEY.)

25 MR. SURVANT: I just got the letter in the

1 mail. I come down to see what it was about. This is  
2 the first I've heard of it.

3 My concern is when I built, anything I built  
4 I've got setbacks, landscaping, water retention all of  
5 that. I'm looking at this lot and I'm thinking how  
6 they're going to incorporate all of this in this  
7 little lot. I'm down here to find out what's going on  
8 and how that's proposed to be done.

9 CHAIRMAN: We'll see if we can get you some  
10 answers.

11 MR. NOFFSINGER: Melissa, would you please  
12 describe how the proposed property is to be developed.

13 Sir, you can have a copy of my site plan, if  
14 you would like. You can just keep that.

15 MS. EVANS: First of all, to address the  
16 issues with the setbacks. Those were reduced at the  
17 February 6, 2014 meeting. The front yard building  
18 setback along Bolivar Street was reduced from 25 feet  
19 from the property line to 19.1 feet from the property  
20 line. The setback along East 9th Street was reduced  
21 to 42 feet from the street centerline, and then the  
22 roadway buffer along East 9th Street was reduced.  
23 That's how they're being able to develop a small piece  
24 of property like that. They had a variance request  
25 that was approved by the Board of Adjustment to reduce

1 those building setback lines.

2 With a storage facility like this, they are  
3 not required to have any parking, but they do show  
4 some parking on the property. The parking is along  
5 to -- the landscaping is to screen the parking  
6 requirements, the vehicular use area landscaping  
7 that's shown along East 9th Street, the rear of the  
8 property along the alley then it's also shown on  
9 Bolivar Street and East 9th Street in the front of the  
10 property.

11 The property to the north is also zoned I-1 so  
12 there is no screening or landscaping requirement  
13 between those two properties because they are a like  
14 zone.

15 As far as retention basin, that would be  
16 something for the city engineer's office to address on  
17 their site plan when that is submitted.

18 CHAIRMAN: Does that answer your questions,  
19 Mr. Survant?

20 MR. SURVANT: Well, I guess it does answer  
21 some questions, but I still have some concerns how  
22 they was able to get the setback reduced so little  
23 when I have over 30 foot I think it was for all my  
24 setbacks on everything I have built. Now they're  
25 getting away with look like a 10 foot setback and a

1 lot less landscaping than I was required. I'm trying  
2 to see where the fairness is here.

3 MR. NOFFSINGER: Mr. Survant, this board  
4 considered a variance back a month or two ago on this  
5 property to reduce those setback. This was a small  
6 lot of record that was zoned industrial that would be  
7 pretty much, it would be very difficult at best to  
8 develop anything on it because of the setback. The  
9 applicant submitted a variance request which anyone in  
10 the community may submit a variance request. If there  
11 is justification for that variance, this board would  
12 review that and they would either approve it or not  
13 approve it.

14 In this particular case, you had other  
15 properties in the area where the setbacks were  
16 encroached upon by existing buildings. The applicant  
17 is still required to put the required landscaping  
18 materials in; however, the roadway buffer was waived  
19 there because the improvements to 9th Street have  
20 already occurred and it was deemed by the city  
21 engineering office that additional right-of-way was  
22 not going to be necessary.

23 So the fairness here is that this applicant  
24 has gone through the proper steps, taken the proper  
25 steps to have those setbacks waived and reduced.

1 Everyone in the community has that same opportunity.  
2 It's just you may be able to justify your request.  
3 You may not.

4 MR. SURVANT: I understand. This is the first  
5 I've heard of it. If I had been aware of it back  
6 then, maybe I would have voiced my opinion then. The  
7 neighbors adjacent to this property, I take it they  
8 don't have any objections for the traffic coming in  
9 off of Bolivar?

10 MR. NOFFSINGER: Well, the adjoining property  
11 owner just left the room.

12 MR. SURVANT: I take it, is he in with this  
13 project?

14 MR. NOFFSINGER: No.

15 MR. SURVANT: That's what I'm here for. To  
16 see exactly what was going on because I wasn't aware  
17 of what was going on. The lot being as small as it is  
18 I was kind of puzzled as to what they was going to do  
19 with it. I didn't know if it was going to be a  
20 personal facility or a business facility. There  
21 again, like I say, water retention is that something  
22 that's going to have to be figured out later or what?

23 MR. NOFFSINGER: This is a very small lot.  
24 It's less than 5,000 square feet. It's likely that on  
25 site retention will be required; however, the

1 applicant will be required to submit a full site plan  
2 to the city engineer's office prior to the issuance of  
3 a building permit. If the retention or whatever  
4 drainage requirements are required, then they will be  
5 required to follow that. If it requires that he come  
6 back before this board with a new conditional use  
7 permit, he will have to do that. At this point in  
8 time, we don't know. We will not know that until he  
9 submits an application for a building permit. It is  
10 such a small lot it's likely that retention would not  
11 be required. We don't have any say so over that.

12 MR. SURVANT: What do you mean you don't have  
13 any say so over water retention?

14 MR. NOFFSINGER: That is a requirement by the  
15 City of Owensboro and is regulated by the city  
16 engineer. Not the Board of Adjustment. Not the  
17 Planning Commission.

18 MR. SURVANT: Thank you.

19 MR. NOFFSINGER: Thank you.

20 CHAIRMAN: Is that all of your questions?

21 MR. SURVANT: For the time being, yes.

22 CHAIRMAN: Any board members have comments or  
23 questions?

24 MR. YEISER: Will they be bringing it up  
25 before -- can he go to the city engineer and talk to



1       them about that if he wants to?

2               MR. NOFFSINGER:  Sure.

3               I would recommend you go tomorrow, if you have  
4       any concerns about that to put them on notice.  There  
5       is not any other public meeting that you would go to.  
6       Typically there aren't public meetings to discuss  
7       development on such a small lot anyway, but because  
8       this requires a Conditional Use Permit, there is this  
9       public hearing.  We do not address the drainage side,  
10      unless there are known issues here.  I haven't heard  
11      of any drainage issues being raised by the adjacent  
12      landowner.  What I'm hearing is the gentleman's  
13      concern about why they're not proposing something or  
14      why he's not seeing something on their site plan that  
15      perhaps he had been required to do in the past.  I can  
16      tell you each site is different.  You have large lots,  
17      small lots, major developments.  I can't speak for why  
18      it's not shown here other than it's either not a  
19      requirement or it has not been reviewed by the city  
20      engineer.  We're considering the use of the property.  
21      Not approving that full site development of how it's  
22      going to develop.

23              MR. YEISER:  In other words, he can go to the  
24      city engineer or whoever as you say and should do it  
25      quickly and find out what's going on?

1 MR. NOFFSINGER: Yes.

2 CHAIRMAN: Any other board members have  
3 questions or comments?

4 (NO RESPONSE)

5 CHAIRMAN: If not I'll entertain a motion to  
6 dispose of the item.

7 MS. MASON: Madam Chairman, I move for  
8 approval of this Conditional Use Permit with the  
9 findings of fact that is a continuation of the  
10 variance that was issued back in February of this  
11 year, and that it is compatible use for the area as  
12 it's zoned light industrial and it is subject to the  
13 zoning requirements being met.

14 CHAIRMAN: Is there a second?

15 MR. JEAN: Second.

16 CHAIRMAN: Second by Mr. Jean. Any discussion  
17 on the motion?

18 (NO RESPONSE)

19 CHAIRMAN: If not all in favor of the motion  
20 raise your right hand.

21 (ALL BOARD MEMBERS PRESENT - WITH SEAN  
22 DYSINGER BEING RECUSED FROM THE ITEM - RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 Next item.

25 ITEM 3

1 730 Triplett Street, zoned R-4DT  
2 Consider a request for a Conditional Use Permit in  
3 order to construct and operate a residential  
4 transitional living facility.  
5 Reference: Zoning Ordinance, Article 8,  
6 Section 8.2A7/6a  
7 Applicant: Friends of Sinners Ministry; William G.  
8 Barron

#### 9 ZONING HISTORY

10 The subject property is currently zoned R-4DT  
11 Inner City Residential. OMPC records indicate there  
12 have been no Zoning Map Amendments for the subject  
13 property.

14 A minor subdivision plat was approved April  
15 17, 2014 consolidating three properties to make what  
16 is now 730 Triplett Street.

17 The criteria for conditional permitted group  
18 housing has been met as demonstrated by the  
19 information included in the application.

20 The applicant is proposing a 12 bed facility.

#### 21 LAND USES IN SURROUNDING AREA

22 The properties to the north, west and south  
23 are zoned R-4DT and appear to be residential in  
24 nature. The property to the east is zoned P-1 and is  
25 the Wendell Foster Center.

#### ZONING ORDINANCE REQUIREMENTS

1. Parking - 5 spaces plus 1 space for every  
5 beds - required 8 parking spaces.

1           2. Landscaping - Vehicular use area  
2       landscaping as shown on the site plan submitted.

3           There are also with the criteria for  
4       conditionally permitted group housing which is  
5       demonstrated in the application that they have all  
6       been met.

7           We would like to enter the Staff Report into  
8       the record as Exhibit B.

9           CHAIRMAN: Anyone here wishing to speak in  
10       opposition of this item?

11           (NO RESPONSE)

12           CHAIRMAN: Anyone here wishing to add any  
13       information about this item?

14           (NO RESPONSE)

15           CHAIRMAN: Anyone on the board have a  
16       question?

17           (NO RESPONSE)

18           CHAIRMAN: If not I'll entertain a motion.

19           MR. DYSINGER: Madam Chairman, given the  
20       findings that it serves a productive need in our  
21       community and it will not conflict with the nature of  
22       the neighborhood, I move that we approve the  
23       Conditional Use Permit.

24           CHAIRMAN: Motion by Mr. Dysinger.

25           MR. YEISER: Second.

1 CHAIRMAN: Second by Mr. Yeiser. Any  
2 questions on the motion?

3 (NO RESPONSE)

4 CHAIRMAN: All in favor raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries.

7 -----

8 VARIANCE

9 ITEM 4

10 315 Worthington Road, zoned I-1 Postponed from the  
11 April 3, 2014 meeting  
12 Consider a request for a Variance in order to waive a  
13 portion of the required 6 foot solid element around  
14 the perimeter of an outdoor storage yard as shown on  
15 the site plan submitted with the variance application.  
16 Reference: Zoning Ordinance, Article 17, Sections  
17 17.311  
18 Applicant: ERB Equipment Co., Sara Jane McNulty

19 MR. NOFFSINGER: This item will need to be  
20 postponed again. The item is being considered for  
21 final zoning to I-1 tonight by the Daviess County  
22 Fiscal Court. Until the item has received final  
23 approval, it cannot be acted upon by this board. So  
24 we would recommend that you vote to postpone this item  
25 until the June Board of Adjustment meeting which will  
be the first Thursday in June.

MR. DYSINGER: Madam Chair, so moved.

CHAIRMAN: Motion to postpone by Mr. Dysinger.

MS. MASON: Second.

1           CHAIRMAN:  Second by Ms. Mason.  All in favor  
2 of the motion raise your right hand.

3           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4           CHAIRMAN:  We need one final motion.

5           MR. DYSINGER:  Move to adjourn.

6           MS. MASON:  Second.

7           CHAIRMAN:  All in favor raise your right hand.

8           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9           CHAIRMAN:  We are adjourned.

10 -----

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 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 13th day of May, 2014.

18

19

\_\_\_\_\_  
LYNNETTE KOLLER FUCHS  
NOTARY ID 433397  
OHIO VALLEY REPORTING SERVICES  
2200 E. PARRISH AVE., SUITE 106-E  
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25