

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 AUGUST 7, 2014

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 August 7, 2014, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Ward Pedley, Chairman
9 Judy Dixon, Vice Chairman
10 Ruth Ann Mason, Secretary
11 Terra Knight, Attorney
12 Brian Howard
13 Jerry Yeiser
14 Sean Dysinger
15 Lewis Jean
16 Fred Reeves

17 * * * * *

18 CHAIRMAN: Call the Owensboro Metropolitan
19 Board of Adjustment August 7, 2014 meeting to order.
20 We will begin our meeting with a prayer and pledge of
21 allegiance to the flag. Ms. Mason will lead us. Will
22 you stand, please.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: I would like to welcome everyone.
25 Anyone wishing to speak on any item you may do so. We
welcome your comments and questions. We ask that you
step to one of the podiums and state your name and be
sworn in. Please, if you will, speak into the
microphone.

1 (MELISSA EVANS SWORN BY ATTORNEY.)

2 ZONING HISTORY

3 The subject property is zoned I-2, Heavy
4 Industrial. OMPC records indicate there have been no
5 other conditional use permits or variances for the
6 subject property.

7 According to the applicant, the proposed
8 activities include the distribution of agricultural
9 chemical and fertilizer, selling of packaged chemical
10 and fertilizer, as well as repackaging of bulk
11 chemical product. The repackaging process includes
12 transferring from a bulk chemical tanker to a bulk
13 storage tank and repackaging into approximately 12
14 bulk storage tanks, no less than 110 gallons each.

15 LAND USES IN SURROUNDING AREA

16 All surrounding properties are zoned I-2 Heavy
17 Industrial.

18 ZONING ORDINANCE REQUIREMENTS

19 The hazardous materials shall be located 300
20 feet from any residential zone and 100 feet from any
21 other zone except for I-1 and A-R zones. Based on the
22 information submitted, it appears that these
23 requirements will be met on site.

24 SUGGESTED CONDITIONS

25 1. Obtain necessary permits for hazardous

1 uses through Kentucky State Department of Housing,
2 Buildings and Construction.

3 2. Obtain necessary building, electrical and
4 mechanical permits, inspections and certificates of
5 occupancy and compliance from the OMPC.

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

8 CHAIRMAN: Anyone here representing the
9 applicant?

10 MR. KAMUF: Yes, sir, Mr. Chairman. Charles
11 Kamuf.

12 MS. KNIGHT: Mr. Kamuf, you're sworn as an
13 attorney.

14 MR. KAMUF: Thank you.

15 I represent Helena Chemical. On the property
16 down there, there is 57,000 square foot building.
17 Helena will use the building for storage of
18 agricultural chemicals. The property, as Melissa
19 said, is zoned heavy-industrial and it's rated for
20 manufacturing. The issue that creates there is since
21 the building on the property is the change of use from
22 manufacturing to the storage of agricultural
23 chemicals, we are required to get a conditional use.

24 Applicant for conditional use is to allow
25 Helena, like Melissa said, to relocate, when they

1 relocate their operation from down on Ebach Street.

2 I know Mr. Dysinger was on the board the last
3 time we were here. Probably you too, Judy.

4 In 2005 on Ebach Street, which is down where
5 the old Medley Distillery property is, we started our
6 operation here in Owensboro, Helena did. There is a
7 lease on the property now to Helena. We are going to
8 allow the distillery, there's a new distillery in town
9 that purchased, it's Charles Medley or whoever it is.
10 They're getting ready to open up down there. So we
11 decided to take our operation down on Harbor Road,
12 which is near the Riverport area. Right in front of,
13 it was the old speck building, I think, Fred, when you
14 were down there. We started out it was leased to
15 Faith Tool and Die and then it was leased to
16 Beartooth. Now we've got the building. Hopefully, if
17 we get the conditional use.

18 We were required to get a conditional use at
19 that time. I'll show you photographs of what it looks
20 like. It's pretty well identical to what we have now,
21 but the area on Ebach Street was more condensed with
22 residential property than what we have. If you look
23 at the aerial map Melissa talked about, there is very
24 little residential homes or this type near the
25 property.

1 Once the conditional use is approved, the
2 property will be used for agricultural chemicals and
3 fertilizer and selling of package chemicals. There
4 will also be the selling and repackaging of bulk
5 chemical product. Any repackaging will be contained.
6 In addition to the conditional use, we will need a
7 state permit just like we received in 2005 down on
8 Ebach Street.

9 Make this point. We will store over 500 code
10 items and only 7 of these items will be reported to
11 the state as hazardous product. Since 7 of these
12 items must be reported, we then are required to get a
13 state permit.

14 Since the building is a change of use, the
15 state needs a design professional to set out the use
16 of each space and make the upgrades required for the
17 building. That will include this: Melissa mentioned
18 mechanical. We've got mechanical, heating, air
19 condition plan, structural plan, sprinkler system.
20 There is a sprinkler system on the property. We have
21 hired Ted Lolly, a structural engineer with Lolly &
22 Associates, to assist us in gathering the material for
23 the state permit. We've applied for the state permit.
24 Our fee alone to get started on the state permit was
25 \$7,000. We are required to get more information.

1 They state it will take 30 to 40 more days. We can't
2 give you a definite time. We do not have the state
3 permit at the present time.

4 We have employed the services of Ted Lolly at
5 the approximate cost of \$10,000. The city and state
6 fire marshals have approved this site. I think in
7 your plan, we have copies, there is a site plan which
8 I have filed. Do you have that? I'll be glad to show
9 that to you. We have copies. We filed a site plan.
10 Does anybody have questions about the site plan that
11 we filed?

12 CHAIRMAN: Any board members have any
13 questions of Mr. Kamuf while we have him up, and then
14 I'll see if the audience has any questions? Board
15 members, do you have any questions?

16 (NO RESPONSE)

17 MR. KAMUF: Just a couple of other points.

18 There will be no change of the outside of the
19 building. All activities will be inside the building.
20 There will be a curb inside the building to prevent
21 the leakage of bulk chemicals. There is a sprinkler
22 system inside the building. The hours of operation
23 will be from 6:30 to 6:30.

24 I have a list of photographs that will explain
25 what Melissa talked about as far as there is an aerial

1 photograph and some other ones.

2 These aerial photographs that I show you. The
3 first one is an aerial. Exhibit Number 1 is an aerial
4 photograph showing the improvements of the property.
5 There's a star marked there showing where the Harbor
6 Road warehouse road is. As you can see, it's far away
7 from any residential property.

8 The next photograph, Exhibit 2, shows you
9 where our property is at the present location where we
10 have a lease with I think it's Charles Medley or some
11 company that he owns. As you can see, there's a star
12 showing where the property is. If you see to the west
13 of the property, there is residential property, but
14 we've never had any complaints from the neighbors.
15 That shows you. It will be relocation of that
16 business. There will be very little change to what
17 we're going to do as shown on Exhibit Number 2.

18 Exhibit Number 3 shows an aerial view of the
19 Harbor warehouse, and you can see all around it. To
20 the left or west of the property is a salvage yard. I
21 think it's Dahl & Groezinger. To the west you'll see
22 coal mining. On the east side of the property is the
23 Riverport. Of course, we had to notify them. As far
24 as I know, there's no objection from any of the
25 neighbors.

1 Exhibit Number 4 is inside the warehouse at
2 the Harbor Road at the present time. You can compare
3 it to the next one, which is Exhibit Number 5 which
4 shows the existing inside of the Ebach Street
5 warehouse. In other words, the packaging and all of
6 the repackaging will be pretty well the same as we had
7 down on Ebach as you can see.

8 Then I just want to show a couple of
9 photographs which show the outside of the building.
10 This is the west side of the Harbor Road warehouse.
11 As you can see, it's pretty nice. It's a fairly new
12 building. Then on north side of the Harbor Road
13 warehouse, and this is the property closer to the
14 river.

15 Then the south side of the Harbor warehouse,
16 Exhibit Number 8, shows the Ira Wood, and that's one
17 of the present owners. Then the east side of the
18 Harbor Road warehouse shows you the entrance and the
19 parking lot. So it's a pretty nice building. We
20 think that once we move out of the lease that we have
21 now and that the distillery takes over the property on
22 Ebach Street, we get this, it will be new jobs and a
23 win/win for everybody.

24 Exhibit Number 10 also shows the west side.
25 We make our comparison as to what the lease property

1 that we have now on Ebach Street as compared to the --
2 this is Exhibit Number 11.

3 Then we also have Exhibit Number 12 which is
4 the north corner of the Ebach Street warehouse and the
5 east side.

6 In other words, we think that we're making an
7 improvement to Owensboro. We think there will be
8 additional jobs hopefully down the road for both the
9 distilling property and also for our property there on
10 Harbor Road.

11 I have the officials with Helena. They're all
12 here to answer any questions. Jerry Mattingly, he has
13 spent hours and hours working on this state permit, as
14 I explained it. I understand you'll probably have to
15 approve it subject to the state permit. We're in the
16 process of doing everything we can, hiring engineers,
17 and we hope to get that soon. We're here to answer
18 any questions.

19 CHAIRMAN: Board members, comments or
20 questions of Mr. Kamuf?

21 (NO RESPONSE)

22 CHAIRMAN: Anyone in the audience have any
23 comments or questions on this item?

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

1 motion.

2 MR. REEVES: Mr. Chairman, I make a motion to
3 approve this conditional use permit given the
4 following facts:

5 That the land is currently zoned for
6 heavy-industrial. There are similar operations to
7 this on Riverport property. This new warehouse
8 they'll be using is not near any residential area, and
9 with the conditions that they obtain the necessary
10 state permits and OMPC permits.

11 CHAIRMAN: We have a motion by Mr. Reeves for
12 approval.

13 MR. DYSINGER: Second.

14 CHAIRMAN: We have a second by Mr. Dysinger.
15 Comments or questions on the motion?

16 (NO RESPONSE)

17 CHAIRMAN: All in favor of the motion raise
18 your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimous.

21 Next item, please.

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23 VARIANCE

24 ITEM 3

25 1046, 1646 Pleasant Valley Road, zoned I-2
Consider a request for a Variance in order to

1 eliminate the required 6 foot solid fence around the
2 perimeter of an outdoor storage area along the north,
south and west boundaries.

3 Reference: Zoning Ordinance, Article 17,
4 Section 17.311
Applicant: Marathon Pipe Line; Marathon Petroleum
Company

5 MS. EVANS: The applicant is currently using
6 an area behind the building as an outdoor storage
7 area; outdoor storage areas are required to be
8 screened. The applicant is proposing to install the
9 required screening along the east boundary of the
10 outdoor storage area. The applicant is requesting a
11 Variance for the required solid screening along the
12 north, south and west boundaries of the outdoor
13 storage area.

14 The north boundary of the outdoor storage area
15 is bound by the railroad tracks which provides
16 screening and a buffer to adjoining property. The
17 south is similarly zoned industrial and there is a
18 tree line there, and then the west boundary has two
19 OMU reservoirs.

20 Granting this Variance will not alter the
21 essential character of the general vicinity because
22 this is an industrial area where outdoor storage is
23 currently taking place with no screening. It will not
24 allow an unreasonable circumvention of the
25 requirements of the zoning regulations because the

1 applicant will install the required screening along
2 the road right-of-way screening the outdoor storage
3 from the right-of-way; the other sides are screened by
4 existing elements, meeting the intent of the
5 Ordinance.

6 Staff would recommend approval with one
7 special condition. Installation of the required 6
8 foot tall solid wall or fence along the east boundary
9 of the outdoor storage area.

10 We would like to enter the Staff Report into
11 the record as Exhibit B.

12 CHAIRMAN: Anyone here representing the
13 applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Board members, do you have any
16 comments or questions on the application?

17 MR. DYSINGER: I just have one question, Mr.
18 Chairman.

19 The mentioned, existing non-screened outdoor
20 storage, is that in compliance with the current
21 ordinance or is it just grandfathered in?

22 MS. EVANS: No, it's not in compliance. I
23 believe it may be a grandfathered use. They came in
24 to do a new project out there, and with that new
25 project we tried to bring the property into compliance

1 where we can. The screening was one of those things
2 that we were trying to bring into compliance. With
3 the elements that are around the property the
4 screening is not going to serve much of a purpose on
5 those other sides because of the railroad tracks and
6 the tree line and the OMU reservoirs back there. They
7 are going to screen them on the right-of-way though.

8 MR. DYSINGER: Because of the particular
9 nature of this property Staff is recommending
10 approval?

11 MS. EVANS: Yes.

12 MR. DYSINGER: Just wanted to get that into
13 the record.

14 CHAIRMAN: Any other questions?

15 (NO RESPONSE)

16 CHAIRMAN: Anyone from the audience would like
17 to comment on this?

18 (NO RESPONSE)

19 CHAIRMAN: Chair is ready for a motion.

20 MS. MASON: Mr. Chairman, I move for approval
21 granting with the findings of fact that it will not
22 adversely affect the public health, safety and welfare
23 because it's an existing ongoing use and it's
24 separated from the public right-of-way by existing
25 building and required solid screening will be

1 installed along the right-of-way; and it will not
2 alter the essential character of the general vicinity
3 because this is an existing use and in industrial
4 area; and it will not cause a hazard or a nuisance to
5 the public because this is an existing industrial use
6 in an industrial area and the required screening will
7 be installed along the boundary visible from the
8 right-of-way; and it will not allow an unreasonable
9 circumvention of the requirements of the zoning
10 regulations because the applicant will install the
11 required screening along the road right-of-way
12 screening the outdoor storage from the right-of-way;
13 the other sides are screened by existing elements,
14 meeting the intent of the zoning ordinance. With the
15 condition that there will be an installation of the
16 required 6 foot tall solid wall or fence along the
17 east boundary of the outdoor storage area.

18 MR. DYSINGER: Second.

19 CHAIRMAN: We have a motion for approval by
20 Ms. Mason and a second by Mr. Dysinger. Comments or
21 questions on the motion?

22 (NO RESPONSE)

23 CHAIRMAN: All in favor of the motion raise
24 your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimous.

2 Next item, please.

3 ITEM 4

4 1302 West 7th Street, zoned R-4DT
5 Consider a request for a Variance in order to reduce
6 the side street yard building setback line along
7 Orchard Street from 25 feet from the property line to
8 10 feet from the property line.

9 Reference: Zoning Ordinance, Article 8,
10 Sections 8.5.11(c)

11 Applicant: Habitat for Humanity

12 MS. EVANS: The applicant is requesting that
13 the east side yard setback, along Orchard Street, be
14 reduced from 25 feet from the property line to 10 feet
15 from the property line to construct a new home on the
16 property.

17 This neighborhood is in an area developed
18 before the establishment of the Zoning Ordinance where
19 it appears other principal structures also encroach
20 into the building setback line. Additionally, the
21 OMBA has granted similar variance requests to reduce
22 the side street yard building setback lines in August
23 2012 at 2402 West Ninth Street and along Hocker Street
24 at 2400 West Fifth Street and 2400 Cravens Avenue in
25 June of 2012.

Granting this variance will not alter the
essential character of the general vicinity because
there appear to be other encroachments into the

1 building setback lines within the area. It will not
2 adversely affect the public health, safety or welfare
3 because this will be a new home as part of the Habitat
4 for Humanity project that will create affordable
5 housing for the community and will enhance the health,
6 safety and welfare of the public in this area. It
7 will not allow an unreasonable circumvention of the
8 requirements of the zoning regulations because similar
9 variances have been approved in this area.

10 Staff would recommend approval with the
11 condition that they obtain the necessary building,
12 electrical and mechanical permits, inspections and
13 certificates of occupancy and compliance.

14 We would like to enter the Staff Report into
15 the record as Exhibit C.

16 CHAIRMAN: Anyone here representing the
17 applicant?

18 MS. KNIGHT: State your name, please.

19 MR. COLEMAN: Whaylon Coleman.

20 (WHAYLON COLEMAN SWORN BY ATTORNEY.)

21 MR. COLEMAN: I'm here just to make sure that
22 the execution of this variance doesn't affect any loss
23 of land for the neighboring property of 1318 West
24 Seventh.

25 CHAIRMAN: Board members have any questions of

1 the applicant?

2 MR. DYSINGER: Staff may want to respond.

3 MS. EVANS: Here is your property. Here is
4 the alley that we discussed over the phone. This is
5 the one where they're putting the house right now.
6 They've divided the property. This is where they're
7 asking for the variance. The variance is over here on
8 Orchard Street side.

9 MR. COLEMAN: Okay. Great. Thank you very
10 much.

11 MS. EVANS: You're welcome.

12 CHAIRMAN: The applicant have any further
13 comments?

14 (NO RESPONSE)

15 CHAIRMAN: Anyone have comments or questions?

16 MR. REEVES: I have a question.

17 Mr. Coleman, are you satisfied with the
18 response you just received, as far as encroach on your
19 property?

20 MR. COLEMAN: Yes.

21 CHAIRMAN: Any further comments?

22 (NO RESPONSE)

23 CHAIRMAN: If not the chair is ready for a
24 motion.

25 MR. DYSINGER: Mr. Chairman, I move to grant

1 the variance request on the grounds that granting this
2 variance will not adversely affect the public health,
3 safety or welfare because the applicant will be
4 constructing a new home on a vacant lot enhancing the
5 area; and due to the nature of these lots in general.
6 With the condition that the applicant obtain the
7 necessary building, electric and mechanical permits,
8 inspections and certificates of occupancy and
9 compliance.

10 CHAIRMAN: We have a motion for approval by
11 Mr. Dysinger.

12 MS. DIXON: Second.

13 CHAIRMAN: Second by Ms. Dixon. Comments or
14 questions on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor of the motion raise
17 your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimous.

20 We need one final motion.

21 MS. MASON: Motion to adjourn.

22 MS. DIXON: Second.

23 CHAIRMAN: We have a motion by Ms. Mason and a
24 second by Ms. Dixon. All in favor of the motion raise
25 your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: We are adjourned.

3 (Meeting ends at 5:50 p.m.)

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

16 WITNESS my hand and notary seal on this the
17 21st day of AUGUST, 2014.

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21
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LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY 42303

23 COMMISSION EXPIRES: DECEMBER 16, 2014
24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY
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