

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 AUGUST 6, 2015

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 August 6, 2015, 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 Brian Howard, Director
12 Terra Knight, Attorney
13 Susan Free
14 Robynn Clark

15 * * * * *

16 CHAIRMAN: Call to order the Owensboro
17 Metropolitan Board of Adjustment August 6, 2015
18 meeting. We will begin our meeting with a prayer and
19 pledge of allegiance to the flag. Mrs. Mason will
20 lead us. Will you stand, please.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: I would like to welcome everyone.
23 Anyone wishing to speak on any item come to one of the
24 podiums and state your name and be sworn in. We
25 welcome your comments and questions.

With that the first item on the agenda is to
consider the minutes of the July 2, 2015 meeting.

Board members, you have a copy of the minutes

1 in your packet. Are there any additions or
2 corrections?

3 (NO RESPONSE)

4 CHAIRMAN: If not chair is ready for a motion.

5 MS. DIXON: Move to approve.

6 MS. MASON: Second.

7 CHAIRMAN: We have a motion and a second for
8 approval. All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: The minutes are approved.

11 Next item, please.

12 -----

13 CONDITIONAL USE PERMIT

14 ITEM 2

15 5004 Grandview Drive, zoned R-1A
16 Consider request for a Conditional Use Permit in order
17 to install a class 2 manufactured home in an R-1A zone
Reference: Zoning Ordinance, Article 8,
18 Section 8.2A10B/7
Applicant: Judith Westerfield

19 MS. KNIGHT: State your name.

20 MR. HILL: Mike Hill.

21 (MIKE HILL SWORN BY ATTORNEY.)

22 MR. HILL: This request is, as mentioned, a
23 Conditional Use Permit for a manufactured home. It's
24 actually to replace an existing manufactured home with
25 slightly larger and newer model.

1 This particular subdivision, the Staff did
2 research using aerial photography and did not find any
3 other single-family manufactured home within the
4 existing subdivision, but in the vicinity of Graham
5 Lane, which is nearby, there are several that could be
6 seen during our research.

7 There are eight specific conditions that go
8 along with this particular Conditional Use Permit, and
9 they are listed at the bottom of your Staff Report.

10 The applicant requesting waivers of the first
11 four, 1 through 4, on your list. They're related to
12 requirement to have a concrete sidewalk, a paved
13 parking area, a paved driveway apron, and a cement
14 patio of 10 by 10 in size.

15 In doing research, it's apparent that this
16 area is not typical to have sidewalks. You don't see
17 a lot of them. You don't see a lot of curbing. Most
18 driveways that appears in the area are paved; however,
19 there are several that appear to be gravel, including
20 the driveway aprons and sparking area.

21 The applicant's new model of home does include
22 a raised 8 by 16 porch and they are requesting that
23 that would satisfy the 10 by 10 cement patio
24 requirement.

25 Staff request to enter the Staff Report into

1 the record as Exhibit A.

2 CHAIRMAN: Anyone here representing the
3 applicant?

4 APPLICANT REP: Yes.

5 CHAIRMAN: Is there anything you would like to
6 share with us?

7 APPLICANT REP: No. I just want to replace an
8 old trailer.

9 CHAIRMAN: Is there anyone here that would
10 like to speak in opposition of this application?

11 (NO RESPONSE)

12 CHAIRMAN: Board members, do you have any
13 comments or questions?

14 (NO RESPONSE)

15 CHAIRMAN: If not the chair is ready for a
16 motion.

17 MS. MASON: Mr. Chairman, I move for approval
18 based on the findings of facts that it's compatible
19 with the area because there are several single-wide
20 mobile homes in the vicinity and it's also replacing
21 an existing mobile home. To waive the concrete
22 sidewalk requirement, the paved parking requirement
23 and the paved driveway apron. The concrete sidewalks,
24 there are not any sidewalks in the area and it's
25 located in an area where curbs and sidewalks are not

1 typical, and the applicant has a 8 by 16 porch that
2 will take the place of the patio.

3 CHAIRMAN: We have a motion for approval by
4 Mrs. Mason. Do I hear a second?

5 MS. FREE: Second.

6 CHAIRMAN: We have a second by Mrs. Free. Any
7 comments or questions on the motion?

8 (NO RESPONSE)

9 CHAIRMAN: If not all in favor of the motion
10 raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimous.

13 Next item, please.

14 -----

15 VARIANCE

16 ITEM 3

17 1924 Littlewood Drive, zoned R-1A
18 Consider a request for a Variance in order to reduce
19 the rear yard building setback line from 20 feet from
20 the property line to 3 feet from the property line.
Reference: Zoning Ordinance, Article 8,
Section 8.5.5(e)
Applicant: Amelia Hunt

21 MR. HILL: The applicant proposes a rear
22 addition to the residence on their property. The
23 requirement is 20 feet according to the setback zoning
24 ordinance. The applicant has request a 3 foot rear
25 setback for their structure.

1 There appears to be several similar primary
2 structure encroachments in this neighborhood on this
3 street and adjacent streets. Several of which we have
4 found documentation and OMPC office that variances
5 have been granted in the past; although, there were
6 several that we had noted on the aerial photography
7 that we could not find variance documentation. So
8 there's a mixture. Both of those make up a situation
9 in the neighborhood that this is not out of character.
10 There are several other similar examples.

11 Variances have been approved anywhere between
12 3 and 12 feet from the rear property lines on some of
13 these other examples.

14 Staff feels that granting the variance to
15 reduce the rear yard setback from 20 to 3 feet will
16 not alter the essential character of the general
17 vicinity or be an unreasonable circumvention of the
18 requirements of zoning ordinance, due in fact that
19 this would not be an unusual development pattern in
20 this area.

21 Granting this variance will not adversely
22 affect the public health, safety or welfare because
23 the requested variance will not encroach any further
24 toward the south side of the property line than the
25 existing residence, and the rear yard encroachment

1 will be located near the rear of the two detached
2 structures on adjoining parcels lessening the visual
3 impact on those adjacent property owners.

4 Granting the variance will not alter the
5 essential character of the general vicinity because
6 this type of rear yard encroachment is not unusual in
7 the area near the subject property.

8 Granting the variance will not cause a hazard
9 or a nuisance to the public as there will still be
10 adequate space for pedestrian movement around the
11 property perimeter for access to and maintenance of
12 the structure.

13 Granting the variance will not allow an
14 unreasonable circumvention of the requirements of the
15 zoning regulations and due to the number of other
16 similar situations in the area this variance request
17 will not have a significant negative impact on the
18 area.

19 Staff recommends approval of this request, and
20 Staff also request that the Staff Report be entered
21 into the record as Exhibit B.

22 CHAIRMAN: Anyone here representing the
23 applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Do you have anything you would like

1 to share with us?

2 APPLICANT REP: No.

3 CHAIRMAN: Anyone here that would like to
4 speak in opposition?

5 (NO RESPONSE)

6 CHAIRMAN: Board members, have any comments or
7 questions?

8 (NO RESPONSE)

9 CHAIRMAN: If not the chair is ready for a
10 motion.

11 MS. DIXON: Mr. Chairman, I move to grant
12 approval based upon Staff Report that there seems to
13 be several other similar rear yard encroachments, some
14 authorized by OMPC records, and some not necessarily
15 noted. That it will not adversely affect the public
16 health, safety or welfare because the requested
17 variance will not encroach any further toward the
18 south property line than the existing structures
19 residence and the rear yard encroachment will be
20 located near the rear of two detached structures on
21 adjoining parcels lessening visual impact of those
22 property owners. That it will not alter the character
23 of general vicinity because of the type of rear yard
24 encroachment is not unusual in this area. That it
25 won't cause a hazard or nuisance because there will

1 still be adequate space for maintenance of the
2 structure and that it does not allow for an
3 unreasonable circumvention of the requirements.

4 CHAIRMAN: We have a motion by Mrs. Dixon for
5 approval. Do I hear a second?

6 MS. MASON: Second.

7 CHAIRMAN: Second by Mrs. Mason. Any comments
8 or questions on the motion?

9 (NO RESPONSE)

10 CHAIRMAN: If not all in favor of the motion
11 raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimous.

14 Next item.

15 ITEM 4

16 5748 Panther Creek Park Drive, zoned A-R
17 Consider a request for a Variance in order to reduce
18 the side street yard building setback line from 25
19 feet from the property line to 20 feet from the
20 property line.

Reference: Zoning Ordinance, Article 8,

Section 8.5.1(c)

Applicant: Donald & Jan Coomes

21 MS. KNIGHT: State your name for the record.

22 MS. EVANS: Melissa Evans.

23 (MELISSA EVANS SWORN BY ATTORNEY.)

24 MS. EVANS: This Staff Report recommendation
25 is for denial. So in accordance with that we usually

1 read the entire Staff Report. I will start off by
2 reading the entire Staff Report tonight.

3 SPECIAL CIRCUMSTANCES?

4 The Staff does not feel that there are special
5 circumstances in this case.

6 The subject property is located on the corner
7 of Panther Creek Park Drive and Highway 279 South;
8 with the subject property being a corner lot, the side
9 street yard building setback along Highway 279 South
10 is 25 feet from the property line.

11 The applicant proposes to construct a 24 foot
12 by 40 foot garage on the property between the house
13 and Highway 279 South. The required setbacks for the
14 proposed garage are 25 feet from the front property
15 line, 25 feet from the side street yard property line
16 and 6 feet from the house.

17 The site plan submitted by the applicant shows
18 the proposed garage situated 7 feet from the house and
19 toward the rear of the house. Situated as is, the
20 proposed garage does not meet the required side street
21 yard building setback, therefore the applicant is
22 requesting that the setback be reduced by 5 feet.

23 If the garage were moved 1 foot closer to the
24 house, meeting the required 6 foot distance between
25 structures and moved forward in line with the front of

1 the house, based on rough measurements using GIS, the
2 garage would fit on the property meeting all the
3 required setbacks.

4 Granting the variance to reduce the side
5 street yard building setback will alter the essential
6 character of the general vicinity because no other
7 structures in the vicinity are located closer to
8 Highway 279 South. It will be an unreasonable
9 circumvention of the requirements of the zoning
10 regulation because the proposed garage could be moved
11 to a different location the subject property and meet
12 the required setbacks and no other variances have been
13 issued regarding the side street yard setback in the
14 vicinity.

15 HARDSHIP?

16 Would strict application of the regulation
17 deprive the applicant of the reasonable use of the
18 land or create an unnecessary hardship on the
19 applicant?

20 The Staff believes no. If the applicant is
21 denied, the applicant could construct the garage in a
22 different location on the property meeting the
23 required setbacks.

24 APPLICANT'S ACTIONS?

25 Are there circumstances from which relief is

1 sought a result of the applicant's action taken after
2 adoption of the zoning regulation?

3 No.

4 FINDINGS OF FACT

5 Granting this Variance will not adversely
6 affect the public health, safety or welfare;

7 It will alter the essential character of the
8 general vicinity because no other structures in the
9 vicinity are located closer than 25 feet to the
10 property line along Highway 279 South;

11 It will not cause a hazard or a nuisance to
12 the public;

13 It will allow an unreasonable circumvention of
14 the requirements of the zoning regulations because the
15 proposed garage could be placed in a different
16 location on the property and meet the required
17 setbacks and there have been no other variances
18 approved in the area.

19 Staff recommends denial.

20 We would like to enter the Staff Report into
21 record as Exhibit C.

22 I would also like to note that the applicant
23 was mailed a copy of the Staff Report prior to the
24 meeting. Once they received the copy of the Staff
25 Report, they did call into the office and offer some

1 other information that was not included in their
2 application. They are here and I believe would have
3 to present to you all regarding this application.

4 CHAIRMAN: Anyone here representing the
5 applicant? Do you have anything you would like to
6 share with us?

7 MR. COOMES: Yes.

8 MS. KNIGHT: Please state your name for the
9 record.

10 MR. COOMES: My name is Donnie Coomes.

11 (DONNIE COOMES SWORN BY ATTORNEY.)

12 MR. COOMES: I don't know if you want to swear
13 her in at the time? I thought we would do this
14 together.

15 MS. KNIGHT: That's fine. Ma'am, what's your
16 name?

17 MRS. COOMES: Jan Coomes.

18 (JAN COOMES SWORN BY ATTORNEY.)

19 MR. COOMES: One of the main things I think
20 that the Staff thought we could do, the reason why
21 they thought we could build further out toward the
22 road, toward the front of the property, is the reason
23 why they thought they should deny it. It seems that
24 we left out some information. It's kind of an
25 oversight on our part. That's where our power line

1 is. Our underground power line runs to the side of
2 the building about 20 feet from the front of the
3 property or from the house. If we relocate our
4 underground, we can only have -- they only allow three
5 90-degrees angles. We're still coming to our meter.
6 It won't allow us to relocate our underground line and
7 still have a spot where we can position our garage
8 differently.

9 We would be able to set it in front of the
10 underground power line which would be in our front
11 yard, and we don't want to do that.

12 MRS. COOMES: We can't put it in the back
13 because our lateral lines are in our backyard.

14 MR. COOMES: Another fact would be that the
15 side yard setback, it only applies to the Kenny
16 McCarty's property. He's on the corner next to us.
17 We're within inches of what their building is going to
18 be setback from the road.

19 MRS. COOMES: We would be within 9 inches --

20 CHAIRMAN: Ma'am, would you step closer to the
21 microphone. We have people at home that like to watch
22 this. Speak in to the microphone, please.

23 MRS. COOMES: We measured and we would be
24 within 9 inches of Kenny McCarty, which is across the
25 street from us, if we were bringing that 5 foot

1 variance, put that building where we need to.

2 The reason no other variance has been granted
3 in that area is because we have the corner lot and
4 there hasn't been any reason for anybody else to need
5 one.

6 MR. COOMES: The Paynes' property that has
7 similar setback, the highway -- the 50 foot width of
8 the highway is in our backyard only applies to the
9 Paynes' property across the road and that's their
10 front yard. So we're trying to build in our side
11 yard, and it just doesn't match, you know.

12 MRS. COOMES: What the other would need if
13 they requested a variance. If the Paynes' requested a
14 variance, whatever they built would be in their front
15 yard, and I don't see them doing that.

16 MR. COOMES: We're trying to get a variance to
17 locate our building on our side yard toward the back
18 instead of the front.

19 CHAIRMAN: Board members, do you have any
20 questions of the applicant?

21 Is anyone here that would like to speak on the
22 application of this?

23 MS. MASON: I see on here something about
24 Kenergy, something about Kenergy, it says about
25 possibly relocating secondary conductor due to a new

1 garage he wanted to construct. The original location
2 of the building was clipping the corner of an existing
3 utility easement. Have you worked that out with
4 Kenergy?

5 MR. COOMES: We reduced our original size of
6 our building to stay within --

7 MS. MASON: Okay. You may have just said that
8 and I didn't catch it.

9 MR. COOMES: I don't know if I did. We
10 intended to build the building 26 feet and have it 10
11 feet from our house. I thought it would be nice to be
12 able to drive a vehicle in-between. I wanted to keep
13 it further away, but in order to fit it not into the
14 right-of-way, the utility right-of-way, we can scoot
15 it over to 7 feet or even 6 feet, but we still don't
16 have enough room to pull it forward like they were
17 talking about. The power line is there.

18 CHAIRMAN: Anyone else? Any board members
19 with questions?

20 (NO RESPONSE)

21 CHAIRMAN: Staff, do you have any further
22 comments?

23 MR. HOWARD: No.

24 CHAIRMAN: If not, no more questions from the
25 board and we have no opposition, the chair is ready

1 for a motion.

2 MRS. FREE: I do have a question. With the
3 new information that we were just presented by the
4 Staff member, would that influence the outcome of what
5 the Staff decided in that situation?

6 MR. HOWARD: It certainly could have. I think
7 they made a valid point there a couple of minutes ago
8 about the width of the right-of-way there. You can
9 see on the aerial photo that in front of you, due to
10 the bridge on 279 south the right-of-way is quite a
11 bit larger there and it cuts into their property. If
12 there wasn't the wider right-of-way there they
13 wouldn't have needed the variance either. You know,
14 with all of that taken in, I don't know. I haven't
15 really thought about whether or not we would have
16 recommended approval necessarily, but I think they
17 certainly have given you some information that we
18 didn't have that we could have taken into account.
19 With the lateral lines in the rear, the property line
20 in the front, it sounds like it's very limited where
21 they could locate a building on their property that
22 would still be close enough -- I mean they may be able
23 to go way in the rear, but then it's not close enough
24 to the house to really serve what the purposes would
25 be. I think they made some, certainly some valid

1 points.

2 MRS. FREE: Thank you.

3 CHAIRMAN: Any further questions?

4 (NO RESPONSE)

5 CHAIRMAN: If not the chair is ready for a
6 motion.

7 MS. MASON: Mr. Chairman, I move for approval
8 as it will not adversely affect the public health,
9 safety or welfare; it will not alter the essentially
10 character of the general vicinity because there is
11 some property that's close to the line in the area, as
12 well as with the lateral lines in the rear and the
13 property lines in the front and wider right-of-way;
14 and it will not cause a hazard or nuisance to the
15 public; and it will not allow an unreasonable
16 circumvention of the requirements of the zoning
17 regulations because they do have a hardship in the
18 fact that their power lines being in the area where if
19 they moved the building the power lines would be in
20 the way, the right-of-way and the property lines and
21 so forth.

22 CHAIRMAN: We have a motion for approval by
23 Mrs. Mason. Do I hear a second?

24 MS. FREE: Second.

25 CHAIRMAN: We have a second by Mrs. Free. Any

1 comments or questions on the motion?

2 (NO RESPONSE)

3 CHAIRMAN: If not all in favor of the motion
4 raise your right hand.

5 (BOARD MEMBERS WARD PEDLEY, JUDY DIXON, RUTH
6 ANN MASON AND SUSAN FREE RESPONDED AYE.)

7 CHAIRMAN: All opposed.

8 (BOARD MEMBER ROBYNN CLARK RESPONDED NAY.)

9 CHAIRMAN: Four to one. Motion carries.

10 ITEM 5

11 6410 Summit Drive, zoned R-1A
12 Consider a request for a Variance in order to reduce
13 the project boundary buffer from 20 feet from the rear
14 property line to 10 feet from the rear property line.
15 Reference: Zoning Ordinance, Article 10,
16 Section 10.432
17 Applicant: Barbara L. Bridges Trust

18 MS. EVANS: This application is in The Summit,
19 as you can see. The Summit was developed by a
20 preliminary plat/final development plans in phases.
21 It was a planned residential development where they
22 required a 20 foot project boundary buffer around the
23 outskirts of each section that was developed.

24 So in this case the section that was developed
25 was where you see these houses that back up to the
26 golf course. So there's a 20 foot project boundary
27 buffer between those houses along that hole of the
28 golf course and the golf course itself.

1 As you can see by the aerial photos up there,
2 there are several houses that are up and down that
3 street that look like they're closer than 20 feet from
4 the property line in this area. All these house were
5 constructed prior to OMPC issuing building permits.
6 That's when the county issued building permits. We do
7 not have records of building permits for any of these
8 structures to know if they were permitted or not
9 permitted, but there have not been actual variances
10 granted for any of these to be like this.

11 The property in question, there's an existing
12 deck to the rear of the property that's already there
13 that encroaches into the project boundary buffer. The
14 proposal is to square that deck up. They're going to
15 take part of the deck off, reduce the size of it, and
16 then enclose the deck. So it will then be attached to
17 the house and encroach into that project boundary
18 buffer as well.

19 The Staff feels that granting this variance to
20 reduce the project boundary buffer will not alter the
21 essential character of the general vicinity or be an
22 unreasonable circumvention of the requirements of the
23 zoning ordinance because other structures, including
24 the existing structure on the subject property, appear
25 to encroach into the property boundary buffer.

1 Granting the variance does not significantly impact
2 the area because the golf course acts as a buffer
3 between this development and other uses in the area.

4 Staff would recommend approval of this
5 application with the following conditions:

6 CONDITIONS:

7 1. Obtain all necessary building, electrical
8 and HVAC permits, inspections and certificates of
9 occupancy and compliance;

10 2. Approval of an amended Major Subdivision
11 Preliminary Plat/Final Development Plan and approval
12 of a Major Subdivision Final Plat.

13 We would like to enter the Staff Report into
14 the record as Exhibit D.

15 CHAIRMAN: Anyone here representing the
16 applicant?

17 APPLICANT REP: Yes.

18 CHAIRMAN: Do you have anything you would like
19 to share with us?

20 APPLICANT REP: No.

21 CHAIRMAN: Anyone here in opposition of this
22 application?

23 (NO RESPONSE)

24 CHAIRMAN: Any board members have any comments
25 or questions?

1 (NO RESPONSE)

2 CHAIRMAN: If not the chair is ready for a
3 motion.

4 MS. MASON: Mr. Chairman, I move for approval
5 based on the findings that it will not adversely
6 affect the public health, safety or welfare because
7 the golf course serves as a buffer between the
8 development and the area; it will not alter the
9 essential character of the general vicinity because
10 other structures appear to encroach into the project
11 boundary buffer including the existing deck that is on
12 the property right now. It will not cause a hazard or
13 a nuisance to the public because a buffer will still
14 exist with the golf course. It will not allowance
15 unreasonable circumvention of the requirements of the
16 zoning regulations because other structures on the
17 street, including the subject property, appear to
18 encroach into the project boundary buffer and the golf
19 course will, again, still serve as buffer between the
20 development and the surrounding area. With the
21 conditions to obtain all necessary building,
22 electrical and HVAC permits, inspections and
23 certificates of occupancy and compliance; and approval
24 of an amended Major Subdivision Preliminary Plat/Final
25 Development Plan and Major Subdivision Final Plat.

1 CHAIRMAN: We have a motion for approval by
2 Mrs. Mason. Is there a second?
3 MS. DIXON: Second.
4 CHAIRMAN: Second by Mrs. Dixon. Any comments
5 or questions on the motion?
6 (NO RESPONSE)
7 CHAIRMAN: All in favor of the motion raise
8 your right hand.
9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
10 CHAIRMAN: Motion carries unanimous.
11 We need one more motion to adjourn.
12 MS. DIXON: Move to adjourn.
13 MS. MASON: Second.
14 CHAIRMAN: We have a motion and a second to
15 adjourn. All in favor raise your right hand.
16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
17 CHAIRMAN: We are adjourned.
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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 23 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 30th day of August, 2015.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25