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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

APRIL 14, 2016

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:00 p.m. on Thursday, April 14, 2016, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Robynn Clark, Vice Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Jerry Yeiser
Bill Glenn
Fred Reeves
Jean Lewis

* * * * *

CHAIRMAN: I will call the April 14, 2016 Owensboro Metropolitan Board of Adjustment to order.

First item on the agenda is Mr. Glenn is going to give our prayer and pledge to the flag.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item on the agenda is to consider the minutes of the January 7, 2016 meeting.

All the members should have a copy. Entertain a motion to approve or correct or whatever.

MR. GLENN: Motion to approve.

MR. REEVES: Second.

CHAIRMAN: A motion to approve by Mr. Glenn.

1 Second by Mr. Reeves. Any question on the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: The minutes are approved.

6 -----

7 CONDITIONAL USE PERMIT

8 ITEM 2

9 1321 Reid Road, zoned A-U
10 Consider a request for a Conditional Use Permit in
11 order to construct and operate a business for the
12 limited retail sales of gifts, hobby items and flea
13 market items.

14 Reference: Zoning Ordinance, Article 8,
15 Section 8.2E3/45

16 Applicant: Daniel L. & Marian R. Turley

17

18 MS. KNIGHT: Please state your name for the
19 record.

20 MR. HILL: Mike Hill.

21 (MIKE HILL SWORN BY ATTORNEY.)

22 MR. HILL: This tract was recently created
23 through a minor subdivision plat. The parent tract
24 had a history of two previous conditional use permit
25 approvals on it.

In 2006 a conditional use permit for a private
school was granted. The school was never constructed
and never came to fruition.

Then in January of 2015, a conditional use

1 permit for retail sales of gifts was approved on this
2 site towards the rear of the larger parent tract.
3 There was a condition placed on that conditional use
4 permit that the driveway be paved back to the site.
5 The condition proved to be cost prohibitive and has
6 come up with this idea to locate a gift shop up front
7 on Reid Road on this new tract that they've recently
8 created.

9 They propose to construct a 900 square foot
10 building, as shown on the site plan that's in your
11 packet and on your screen.

12 All parking areas are required to be paved.
13 Of those four parking spaces, three are required by
14 the Zoning Ordinance.

15 Staff suggest if approved to add a condition
16 that they obtain necessary building, electrical and
17 mechanical permits, inspections and certificates of
18 occupancy and compliance from the OMPC.

19 Staff request that the Staff Report be entered
20 into the record as Exhibit A.

21 CHAIRMAN: Is there anyone representing the
22 applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Is there anyone in opposition to
25 this item?

1 (NO RESPONSE)

2 CHAIRMAN: Have we had any calls, Mr. Howard?

3 MR. HOWARD: No.

4 CHAIRMAN: Board members have any questions?

5 (NO RESPONSE)

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

7 MR. REEVES: I'll make a motion to approve

8 based on the fact that two previous conditional use

9 permits have been issued on this property that seem to

10 be appropriate. This particular project is not very

11 different from the previous project, but has been

12 proposed here, and it will not have an adverse impact

13 on the neighborhood.

14 CHAIRMAN: We have a motion by Mr. Reeves. Do

15 I have a second?

16 MS. MASON: Second.

17 CHAIRMAN: Second by Ms. Mason. Any questions

18 on the motion?

19 (NO RESPONSE)

20 CHAIRMAN: All in favor of the motion raise

21 your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 ITEM 3

25 2608 Westwood Avenue, zoned R-4DT
Consider a request for a Conditional Use Permit in

1 order to install a class 2 manufactured home in an
2 R-4DT zone.
3 Reference: Zoning Ordinance, Article 8,
4 Section 8.2A10B/7
5 Applicant: Michaela Garcia & Jorge Garcia;
6 Greensprings Homebuyers, LLC

7 MR. HILL: This is an R-4DT zone property on
8 Westwood Avenue. The Staff did research along
9 Westwood Avenue in that area and found 13 previous
10 conditional use permit approvals for similar situation
11 for manufactured homes.

12 The applicant is proposing a 15' by 72'
13 manufactured home. They were seeking a waiver of a
14 sidewalk requirement as there are no other sidewalks
15 in the vicinity. You can see the aerial photo too.

16 The Zoning Ordinance requirements for
17 manufactured homes are listed in your Staff Report.
18 There are eight items there. They have agreed to
19 comply with all except Number 3 which is the
20 sidewalk-related requirement.

21 Staff request that the Staff Report be entered
22 into the record as Exhibit B.

23 CHAIRMAN: Do we have anyone representing the
24 applicant?

25 MR. PFEIFER: Yes. Mark Pfeifer.

MS. KNIGHT: Mr. Pfeifer, you're sworn as an
attorney.

1 MR. PFEIFER: I'm here with the applicant,
2 Michaela Garcia.

3 Like Mr. Hill said, I went to the PVA office
4 this morning and found nine or ten current properties
5 on Westwood Avenue that have mobile homes. There are
6 no private restrictions against that in this area, and
7 we would ask it be approved and if you have any
8 questions we're here to answer them.

9 CHAIRMAN: We'll see if there's any
10 opposition.

11 Is there any opposition on this item?

12 (NO RESPONSE)

13 CHAIRMAN: Board members have any questions?

14 (NO RESPONSE)

15 CHAIRMAN: I'll entertain a motion.

16 MS. MASON: I make a motion for approval with
17 the findings of fact that it's consistent with the
18 neighborhood as there has been 13 previously
19 conditional use permits for class 2 manufactured
20 homes. That they meet all the zoning requirements
21 except for Number 3, and that we would waive the
22 required sidewalk since there's no sidewalk in the
23 vicinity of the property along Westwood Avenue.

24 CHAIRMAN: We have a motion by Ms. Mason.

25 MR. JEAN: Second.

1 CHAIRMAN: Second by Mr. Jean. Any comments
2 on the motion?

3 (NO RESPONSE)

4 CHAIRMAN: All in favor of the motion raise
5 your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 MR. PFEIFER: Thank you.

9 ITEM 4

10 6500 US Highway 231, zoned R-1A
11 Consider a request for a Conditional Use Permit in
12 order to operate a church.
13 Reference: Zoning Ordinance, Article 8, Section 8.2B4
14 Applicant: The Pentecostals of Owensboro, Inc.

15 MR. HILL: This subject property is 9.89 acre
16 parcel that has previously been used as Beacon Central
17 High School and Masonville Elementary School.

18 Recently the Pentecostals of Owensboro,
19 Incorporated have acquired the property. Plan to
20 convert the school into a church building. They
21 submitted a site plan which is included in your
22 information shows the parking layout. They will have
23 76 parking spaces shown on it. Zoning Ordinance
24 requirement a minimum of 70. So their requirement of
25 minimum parking requirement. They will be required to
provide some screening around the parking area. So
they will have to submit a site plan if approved that

1 demonstrate compliance with parking, landscaping
2 setbacks, access, signage, etcetera.

3 If approved Staff suggest three conditions
4 listed on the Staff Report.

5 1. Approval of a Site Plan.

6 2. All existing and proposed parking areas
7 will be required to be paved surfaces and parking
8 spaces must be striped.

9 3. Obtain all necessary building, electrical
10 and HVAC permits, inspections and certificates of
11 occupancy and compliance as required.

12 Staff request that the Staff Report be entered
13 into the record as Exhibit C.

14 CHAIRMAN: Is there anyone here representing
15 the applicant?

16 MS. KNIGHT: State your name for the record,
17 please.

18 MR. HUFF: Bill Huff.

19 (BILL HUFF SWORN BY ATTORNEY.)

20 MR. HUFF: Just the pastor of the church. It
21 is our desire and we would like for it to be zoned to
22 where we can use it as a church. We have outgrew our
23 facilities. Property is hard to find. That lays out
24 really nice there in that area. I believe we could
25 also be an asset to the community. We've been talking

1 with the fire department to use the lower property
2 there. We're going to try to keep one of the ball
3 fields available for the area. It is our desire to
4 use that as a church, and in the future even perhaps
5 be able to build a new sanctuary. We are wanting to
6 use the gym as present right now for a sanctuary and
7 then later present the permit drawings to build a
8 sanctuary on that property and still use the other for
9 education and gym and what have you.

10 CHAIRMAN: Is there any opposition to the
11 site?

12 (NO RESPONSE)

13 CHAIRMAN: Any board members have any
14 questions?

15 MR. REEVES: I have a quick question, if you
16 don't mind, sir.

17 I'm always a little bit sensitive to these
18 things when we start talking about ball fields. Is
19 this ball field lighted?

20 MR. HUFF: The lights are still there. Yes,
21 sir, they are still there.

22 MR. REEVES: Are there very many residences
23 around the property there close to the ball field?

24 MR. HUFF: On the one ball field is on, I
25 believe, Barton Avenue I think is the name of it.

1 There's houses across the street. The ball field is
2 near Deer Valley. Apparently during construction of
3 Deer Valley, they eliminated the power source. So the
4 only lights that are available at this point is the
5 ones on the Burton Street side.

6 This is new to me. I'm sure we're going to
7 have to work our way through this. We may not be able
8 to use the lights. I don't know. During the daylight
9 hours, the field could still be available for the
10 community.

11 MR. REEVES: Sure. That answers my question,
12 sir. Appreciate it.

13 CHAIRMAN: I will entertain a motion to
14 dispose of the item.

15 MR. REEVES: I would like to make a motion to
16 approve this conditional use permit based on the facts
17 that his use is consistent with that type of property
18 in a small community. It will not have an adverse
19 affect on the neighborhood. I also want to impose the
20 three conditions. I want to add a fourth one.

21 1. Approval of the site plan.

22 2. That all existing and proposed parking
23 areas will be required to be on paved surfaces and
24 parking spaces must be striped.

25 3. Obtain all necessary building, electrical

1 and HVAC permits, inspections and certificates of
2 occupancy and compliance as required.

3 4. That the church endeavor strongly not to
4 have the lights on the ball field on past 10:00 in the
5 evening.

6 CHAIRMAN: Thank you. We have a motion by
7 Mr. Reeves. Do we have a second?

8 MS. CLARK: Second.

9 CHAIRMAN: Second by Ms. Clark. Any questions
10 on the motion?

11 (NO RESPONSE)

12 CHAIRMAN: All in favor of the motion raise
13 your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

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17 ADMINISTRATIVE APPEAL

18 ITEM 5

19 201 Church Street, zoned I-1 & I-2
20 Consider request for an Administrative Appeal
21 concerning the proposal to change from one
22 non-conforming use to another non-conforming use with
23 regards to parking and landscaping.
24 Reference: Zoning Ordinance, Articles 4 & 7,
25 Sections 4.53 & 7.34
Applicant: Gary Cecil; JLRC Realty Corp

24 MR. HILL: This is an industrially zoned
25 property. The applicant is requesting a change from

1 one non-conforming use as a distillery that was used
2 on this site for many years to another non-conforming
3 use as a vegetable packing, shipping and distribution
4 business with the non-conforming issue becoming in
5 effect with regard to existing parking and landscaping
6 situation and requirements of the zoning ordinance.

7 According to the applicant the buildings on
8 this property have been used previously prior to the
9 adoption of the current Zoning Ordinance for packing
10 and shipping and distributing distilled spirits. Now
11 they're asking to do similar thing to vegetables and
12 other light items.

13 There's a section listed in the Staff Report
14 regarding Chapter 4 and Chapter 7 from the Zoning
15 Ordinance. They granted the Board authority to in
16 effect switch from one non-conforming use to another.

17 Basically a motion to approve this request
18 tonight would allow the operation of this vegetable
19 packing, shipping and distribution business to occur
20 on the site as it is without making any improvements
21 to parking or landscaping or anything of that nature.

22 A motion to deny would require the applicant,
23 if they wish to proceed, to submit a final development
24 plan that would show compliance with parking
25 requirements, landscaping requirements, any other

1 applicable zoning requirements.

2 That's a brief summary of the request before
3 you.

4 Staff request that the Staff Report be entered
5 into the record as Exhibit D.

6 CHAIRMAN: Anyone here wishing to address this
7 issue?

8 MR. KAMUF: Yes. Charles Kamuf. I represent
9 the applicant. The applicant is Gary Cecil and also
10 the realty company that purchased the property down in
11 Stanley.

12 This is the old Stanley distilling company.
13 The question that we have is to convert an existing
14 non-conforming use to another non-conforming use.

15 The property previously was owned by the
16 distilling company to package and distribute distilled
17 spirits. Now we're asking for basically the same
18 thing.

19 Mr. Cecil and Kamuf Brothers are a large
20 producers of watermelons. They need this area down
21 there to package and distribute the watermelons that
22 they have. We do not plan to do anything different
23 than what was there previously. We do not plan on
24 adding any buildings or increasing any of the
25 structures whatsoever. Basically it's a continuation

1 of the existing non-conforming use.

2 The reason that we're here, there were several
3 years that the property was not used so that's why
4 we're asking, it was vacant for a period. I forget
5 what the requirements are of Planning Zoning.

6 Fred, you might remember this. Part of these
7 buildings were used previously for Kimberly-Clark when
8 they came to Owensboro.

9 Basically that's what we're asking for. I
10 have a copy for you all that shows the buildings on
11 the property.

12 Basically you see two building. These
13 buildings were there prior to the zoning ordinance.
14 Therefore, they're non-conforming and that's why we're
15 here tonight, to continue the same use.

16 I have Gary Cecil here, the owner of the
17 realty company. Mr. Cecil and them will be renting
18 the building from the realty company and using it for
19 the distribution and the packaging of these
20 watermelons.

21 I'm here to answer any questions. They're
22 here. We think it would certainly be an advantage to
23 the community. Be a lot of employees that will be
24 here. A lot of economic development. We want to
25 continue. We've been doing this for years. We've

1 been doing it down off of 279 in another building,
2 which is approximately a mile from this. We're here
3 to answer any questions.

4 CHAIRMAN: Let's see if we have any
5 opposition.

6 Is there anyone in opposition to this item?

7 (NO RESPONSE)

8 CHAIRMAN: Any board members have any
9 questions?

10 (NO RESPONSE)

11 CHAIRMAN: I'll entertain a motion unless
12 someone has a question.

13 MR. REEVES: I think this is simply a motion
14 to approve. I'll make a motion to approve this
15 application.

16 MS. MASON: Second.

17 CHAIRMAN: We have a motion by Mr. Reeves and
18 a second by Ms. Mason. Any other questions?

19 (NO RESPONSE)

20 CHAIRMAN: All those in favor of the motion
21 raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 CHAIRMAN: Do we have any other business for
25 this board?

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(NO RESPONSE)

CHAIRMAN: I'll will entertain one more
motion.

MR. GLENN: Motion to adjourn.

CHAIRMAN: We have a motion to adjourn by
Mr. Glenn.

MS. MASON: Second.

CHAIRMAN: Second by Ms. Mason. 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 stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 16 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 10th day of April, 2016.

18
19 _____
20 LYNNETTE KOLLER FUCHS
21 NOTARY ID 524564
22 OHIO VALLEY REPORTING SERVICES
23 2200 E. PARRISH AVE., SUITE 106-E
24 OWENSBORO, KENTUCKY 42303

25 COMMISSION EXPIRES: DECEMBER 16, 2018
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY