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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

AUGUST 4, 2016

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, August 4, 2016, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Ruth Ann Mason, Chairman  
Brian Howard, Director  
Terra Knight, Attorney  
Bill Glenn  
Lewis Jean  
Fred Reeves

\* \* \* \* \*

CHAIRMAN: Call to order the Owensboro Metropolitan Board of Adjustment.

The first thing on the agenda tonight will be the prayer and pledge of allegiance. All stand please and Mr. Jean will have the prayer for us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The second thing on the agenda is to consider the minutes of the July 7, 2016 meeting. Everyone has seen those or has access to them. I would like to have a motion for approval, please.

MR. GLENN: I make a motion to approve the minutes.

CHAIRMAN: And a second?

1 MR. REEVES: Second.

2 CHAIRMAN: All in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: The minutes are approved.

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6 CONDITIONAL USE PERMIT

7 ITEM 2

8 5010 Back Square Drive, zoned B-4  
9 Consider a request for a Conditional Use Permit in  
10 order to operate an adult daycare facility.  
11 Reference: Zoning Ordinance, Article 8, Section 8.2B3  
12 Applicant: Puzzle Pieces, Harold G & Gayla O. Peach

11 MS. KNIGHT: Please state your name for the  
12 record.

13 MR. HILL: Mike Hill.

14 (MIKE HILL SWORN BY ATTORNEY.)

15 MR. HILL: The subject property is a half-acre  
16 parcel located just west of the rear of the Towne  
17 Square Mall. It is zoned B-4 General Business and all  
18 the adjacent properties are also zoned B-4 General  
19 Business.

20 The applicant proposes to utilize the property  
21 in its current condition; structure, parking lot,  
22 etcetera, which was previously used as an office to be  
23 used as adult daycare center.

24 ZONING ORDINANCE REQUIREMENTS

25 The parking and landscaping appear to be met,

1 on site plan that is in your packet, and is currently  
2 on the screen.

3 Parking that is required is two spaces plus  
4 one space for every 10 persons under care at the  
5 facility. The applicant indicates there may be as  
6 many as 30 persons under care, which creates a minimum  
7 parking requirement of 5 spaces. The site has 29  
8 existing spaces. So they obviously comply.

9 There will be a vehicular use area screening  
10 required between the parking lot and Back Square  
11 Drive, and it is also shown on the site plan.

12 Staff requests that the Staff Report be  
13 entered into the record as Exhibit A.

14 CHAIRMAN: Brian, has there been anyone call  
15 the office concerning this application?

16 MR. HOWARD: No.

17 CHAIRMAN: Is there anyone here in opposition  
18 to the application?

19 (NO RESPONSE)

20 CHAIRMAN: Is the applicant here?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Do you have anything you want to  
23 say?

24 APPLICANT REP: No.

25 CHAIRMAN: Does any board members have any

1 questions?

2 (NO RESPONSE)

3 CHAIRMAN: I'll entertain a motion.

4 MR. REEVES: I'll make a motion to approve  
5 this with the following Findings of Facts:

6 This area has a variety of businesses that are  
7 already there. This operation will not seem to be  
8 inconsistent with some of the other types of  
9 businesses that are there. There's also a great deal  
10 of open space which would probably limit itself with  
11 these type of clients, about being able to get into  
12 the place where they could not be found easily so. I  
13 would make this with no special conditions.

14 CHAIRMAN: Do we have a second?

15 MR. JEAN: Second.

16 CHAIRMAN: All in favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries.

19 ITEM 3

20 409 East 25th Street, zoned R-1C  
21 Consider a request for a Conditional Use Permit in  
22 order to operate a photography studio.  
23 Reference: Zoning Ordinance, Article 8,  
24 Section 8.2B14A  
25 Applicant: Rebecca Simon

MS. KNIGHT: State your name for the record.

MS. EVANS: Melissa Evans.

1 (MELISSA EVANS SWORN BY ATTORNEY.)

2 MS. EVANS: This property is located on the  
3 corner of East 25 Street and Clay Street between J.R.  
4 Miller Boulevard and Veach Road.

5 In 2008, there was a Conditional Use Permit  
6 approved to operate a daycare for the subject  
7 property. The daycare has since moved from this  
8 location.

9 The current applicant recently purchased this  
10 property and intends to open a photography studio.

11 All the surrounding properties are zoned R-1C  
12 Single-Family Residential.

13 ZONING ORDINANCE REQUIREMENTS

14 1. Parking - Photography Studio - 1 space for  
15 every 400 square feet of building space. Building =  
16 760 square feet; Parking required = 2; Parking  
17 provided = 4; including 1 ADA

18 2. Landscaping - Vehicular use area screening  
19 from the right-of-way along Clay Street, as shown on  
20 the site plan submitted.

21 We would like to enter the Staff Report into  
22 the record as Exhibit B.

23 CHAIRMAN: Has there been any calls into the  
24 office on this application?

25 MR. HOWARD: No.

1           CHAIRMAN: Is there anyone here in opposition  
2 to it or have anything to say?

3           (NO RESPONSE)

4           CHAIRMAN: Is the applicant here?

5           APPLICANT REP: Yes.

6           CHAIRMAN: Do you have anything you want to  
7 say?

8           APPLICANT REP: No, ma'am.

9           MR. REEVES: Could I ask a question of the  
10 applicant, please?

11          CHAIRMAN: Sure.

12          Can you come up to the podium please, and be  
13 sworn in.

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

16          MS. SIMON: Rebecca Simon.

17          (REBECCA SIMON SWORN BY ATTORNEY.)

18          MR. REEVES: Ms. Simon, what are your intended  
19 hours of operations, please?

20          MS. SIMON: Right now I'm operating on the  
21 weekends, Saturday and Sunday and a few night during  
22 the evenings during the weekdays.

23          MR. REEVES: What would you say, if you're  
24 operating Sunday, when would you typically start and  
25 when would you close down?

1 MS. SIMON: Usually around 12 to 2.

2 MR. REEVES: What about in the evenings, when  
3 do you quit operating at night?

4 MS. SIMON: Usually from 6:00 to 7.

5 MR. REEVES: That's all the questions I have.  
6 Thank you.

7 CHAIRMAN: Anyone else on the board have any  
8 questions?

9 (NO RESPONSE)

10 CHAIRMAN: Chair will entertain a motion of  
11 this application.

12 MR. REEVES: I will make a motion to approve  
13 this based on the following of finding of fact:

14 This type of operation would have a lot of  
15 light traffic so there would not be any burden on the  
16 roadway system. Also, due to the type of operation,  
17 will be low intensity in terms of noise. So I don't  
18 think would be a bothersome to the noise. Also, the  
19 hours of operation are such that it will not be a  
20 bothersome to the neighbors, and there are no special  
21 conditions applied.

22 CHAIRMAN: Do I have a second?

23 MR. GLENN: Second.

24 CHAIRMAN: All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Approved.

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3 VARIANCE

4 ITEM 4

5 6941 Lamplite Circle, zoned MHP  
6 Consider a request for a Variance in order to increase  
7 the maximum sign height for a business sign in an MHP  
8 zone from 10 feet to 25 feet.  
9 Reference: Zoning Ordinance, Article 8,  
10 Section 8.2B14A  
11 Applicant: Owensboro MHC, LLC

12 MS. EVANS: If you all will remember a couple  
13 of months ago, we had a variance request for a sign  
14 for this same property or actually the property in  
15 front of it located by the office there for the River  
16 Bend Mobile Home Park. That variance application was  
17 denied based on the height and it not being necessary  
18 in that location. At that meeting it was discussed  
19 about moving the sign location to a different spot and  
20 reapplying for this Variance. So that's what they've  
21 done. The sign is the same size as previous so it  
22 will be 25 feet tall with a base or the sign will be  
23 18 feet tall with a 7 foot sign and 16 feet wide. So  
24 it's a 112 square feet.

25 They're now proposing to put the sign back  
further into the development, in a field that is  
currently used as a soccer field. I think maybe it's  
soccer field type. They're proposing it along the



1 Highway 60 corridor there where it would be visible  
2 from Highway 60 where there's also other billboard  
3 type signs in that area.

4 We would also find it important that it be  
5 noted that this variance is for this specific location  
6 on this property, in this soccer field on the side  
7 there, on north side by Highway 60. If they chose to  
8 put this in a different location, this variance does  
9 not stand for any location except in the vicinity of  
10 what it's being approved for.

11 Granting this Variance to increase the maximum  
12 sign height from 10 feet to 25 feet at 6941 Lamplite  
13 Circle will not adversely affect the public health,  
14 safety or welfare or alter the essential character of  
15 the general vicinity because there are other billboard  
16 type signs located along Highway 60 East in this  
17 vicinity;

18 It will not cause a hazard or nuisance to the  
19 public because the sign will be in an open area of the  
20 complex away from the manufactured homes;

21 It will not be an unreasonable circumvention  
22 of the requirements of the zoning regulations because  
23 there are large signs along Highway 60 East in this  
24 vicinity.

25 Staff would recommend approval of this

1 variance application with the following conditions:

2 1. The sign shall be placed in the general  
3 vicinity as shown site plan submitted within the  
4 Variance request.

5 2. Would be necessary to obtain all building  
6 and electrical permits, inspections and certificate of  
7 occupancy and compliance as necessary.

8 We would like to enter the Staff Report into  
9 the record as Exhibit C.

10 CHAIRMAN: Has there been any calls to the  
11 office concerning the variance?

12 MR. HOWARD: No.

13 CHAIRMAN: Anyone here in opposition?

14 (NO RESPONSE)

15 CHAIRMAN: Is the applicant here?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Do you have anything you want to  
18 say.

19 APPLICANT REP: No. It's just located right  
20 there --

21 CHAIRMAN: If you want to say something, you  
22 need to go up to the podium and be sworn in.

23 MS. KNIGHT: Please state your name for the  
24 record.

25 MS. COOPER: Denise Cooper.

1 (DENISE COOPER SWORN BY ATTORNEY.)

2 CHAIRMAN: Go ahead.

3 MR. COOPER: It's located right within our  
4 facility. It's a good distance from the road. It  
5 wouldn't affect any area, as far as the neighbors,  
6 anybody in the community. What is next to it is a  
7 field, and there's quite a bit of field difference  
8 between Highway 60 and that. We will be able to raise  
9 it up where it can be seen from the road.

10 CHAIRMAN: Any board members have a question  
11 of the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: I'll entertain a motion for this  
14 Variance.

15 MR. GLENN: I'll make a motion to approve this  
16 application based on the findings of fact that it will  
17 not adversely affect the public health, safety or  
18 welfare; also because it would not alter the essential  
19 character of the general vicinity along Highway 60  
20 East; and it would not cause a hazard or nuisance to  
21 the public because of the location; also would not  
22 allow an unreasonable circumvention of the  
23 requirements of the zoning regulations because there  
24 are similar signs there. And also on the Staff  
25 Recommendations that the sign be placed in the general

1 vicinity as shown on the site plan as submitted with  
2 the variance request, and that they would obtain all  
3 necessary electrical permits, inspections and  
4 certificates of occupancy and compliance.

5 CHAIRMAN: Do we have a second?

6 MR. JEAN: Second.

7 CHAIRMAN: All those in favor raise your right  
8 hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion passes.

11 ITEM 5

12 7100 US Highway 431, zoned I-1  
13 Consider a request for a Variance in order to alter  
14 the screening requirements for an outdoor storage area  
15 from the required 6 foot tall solid element to a 6  
16 foot tall fence.

Reference: Zoning Ordinance, Article 17, Section  
17.311

Applicant: Ballard Development Properties, LLC

17 MR. HILL: The subject property is located in  
18 a rural area that includes a mixture of agricultural,  
19 industrial and professional service land uses. The  
20 property is zoned I-1 Light Industrial and received  
21 development plan approval for a storage facility in  
22 the year 2000. The proposed buildings that were shown  
23 on that development plan that were nearest US 431 has  
24 not been constructed since that time, and in their  
25 absence a 6 foot tall solid wall or fence is required

1 by the zoning ordinance.

2           Instead, the applicant proposes to provide a 6  
3 foot tall decorative wrought iron fence with 3 foot  
4 tall evergreen style trees placed every 20 feet across  
5 the front of the property, as shown on the development  
6 plan or the site plan you have before you. Other  
7 portions of the site will either be screened by  
8 existing buildings or where there aren't any buildings  
9 and the gaps between the buildings by a 6 foot tall  
10 solid fence as required by the zoning ordinance.

11           The applicant argues that because the property  
12 is in a rural area, is surrounded by industrial land  
13 uses and has operated for several years without the  
14 solid screening element in place, that the solid  
15 screening requirement is not necessary.

16           Staff feels that there is no hardship in this  
17 case. The applicant, if the request is denied, could  
18 install screening on the property that meets the  
19 requirements.

20           Staff findings that the granting of this  
21 variance will not adversely affect the public health,  
22 safety or welfare because the site will still be  
23 fenced for security reasons even though the fencing  
24 will not include a solid screening element.

25           It will not alter the essential character of

1 the general vicinity because the property is located  
2 in a rural area, is surrounded by industrial land uses  
3 and has operated for several years without the solid  
4 screening element.

5 It will not cause a hazard or nuisance to the  
6 public because the facility, it's patrons and their  
7 contents will be protected by the proposed fencing.

8 It will not allow an unreasonable  
9 circumvention of the requirements of the zoning  
10 regulations because there will still be fencing and  
11 additional shrubbery/trees provided around the entire  
12 facility which is located in an industrial area and  
13 not near any residential properties.

14 Staff recommends approval of the variance with  
15 one condition: Installation of a 6 foot tall  
16 decorative wrought iron fence with continuous 3 foot  
17 high trees every 20 feet.

18 Staff request that the Staff Report be entered  
19 into the record as Exhibit D.

20 CHAIRMAN: Thank you.

21 Have there been any calls into the office  
22 concerning this?

23 MR. HOWARD: No, there have not.

24 CHAIRMAN: Is anyone here in opposition to  
25 this?

1 (NO RESPONSE)  
2 CHAIRMAN: Is the applicant here?  
3 APPLICANT REP: Yes.  
4 CHAIRMAN: Do you have anything you want to  
5 say?  
6 APPLICANT REP: No, ma'am.  
7 CHAIRMAN: Any board members have any  
8 questions?  
9 (NO RESPONSE)  
10 CHAIRMAN: Entertain a motion.  
11 MR. JEAN: I make a motion we approve the  
12 variance with the one condition, based on the Staff  
13 Report and the Finding of Fact 1 through 4.  
14 MR. REEVES: I'll second the motion.  
15 CHAIRMAN: All in favor raise your right hand.  
16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
17 CHAIRMAN: I need one final motion.  
18 MR. REEVES: I make a motion we adjourn.  
19 MR. GLENN: Second.  
20 CHAIRMAN: All in favor raise your right hand.  
21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
22 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 15 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 28th day of August, 2016.

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