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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

SEPTEMBER 1, 2016

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, September 1, 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
- Fred Reeves
- Bill Glenn
- Lewis Jean

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CHAIRMAN: Call the Owensboro Metropolitan Board of Adjustment September 1, 2016 meeting to order. We will begin with a prayer and pledge to the flag. Mr. Howard has agreed to lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item on the agenda is to consider the minutes of the August 4, 2016 meeting. Everyone should have been mailed a copy. You've had time to look it over. I'll entertain a motion.

MS. MASON: Motion to approve.

MR. GLENN: Second.

CHAIRMAN: A motion to approve by Ms. Mason.

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

2 (NO RESPONSE)

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Next item on the agenda,
7 Mr. Howard.

8 -----

9 VARIANCE

10 ITEM 2

11 5175 Seabiscuit Loop, zoned R-1C
12 Consider a request for a Variance in order to increase
13 the maximum fence height in a side street yard from 4
14 feet to 6 feet tall.

15 Reference: Zoning Ordinance, Article 3,
16 Section 3-7(g)(3)

17 Applicant: Sandra K. Dawdy

18 MS. KNIGHT: Please state your name.

19 MS. EVANS: Melissa Evans.

20 (MELISSA EVANS SWORN BY ATTORNEY.)

21 MS. EVANS: The subject property is located in
22 Keeneland Trace Subdivision at the intersection of
23 Seabiscuit Loop and Winning Colors Way. The property
24 directly behind the subject property, faces Winning
25 Colors Way and is currently vacant.

26 This variance request came about because there
27 was a Notice of Violation issued for the property
28 owner on April 26th of 2016. The Notice of Violation

1 was because of the fence height in a side street yard.
2 So this Variance is to correct that Notice of
3 Violation. The fence is 6 feet tall on that side
4 street property line along Winning Colors Way. The
5 Zoning Ordinance requirement is for 4 feet tall. The
6 fence does enclose the applicant's background where
7 there is an in-ground swimming pool so it does provide
8 some safety from the neighborhood for that swimming
9 pool.

10 The fence currently is also located within a
11 public utility easement. Your Staff Report says that
12 we were provided by the applicant approval from the
13 utilities for that fence to be there. We don't
14 currently have that, but I have been told by the
15 applicant's attorney that that is coming and we should
16 have it within the next couple of days.

17 I would recommend or Staff would recommend
18 that that be a condition; that if it were to be
19 approved, that we do get that approval from the public
20 utilities for that fence to be located in the
21 easement.

22 Granting this Variance will not adversely
23 affect the public health, safety or welfare because
24 the fence has existed for some time with no issues to
25 date.

1 It will not alter the essential character of
2 the general vicinity because there are similar fences
3 throughout the neighborhood.

4 It will not cause a hazard or a nuisance to
5 the public and the fence will actually protect the
6 applicant and the public from trespassing into the
7 pool.

8 It will not allow an unreasonable
9 circumvention of the requirements of the zoning
10 regulations because similar variance requests have
11 been granted by the OMBA in the past.

12 We would recommend approval of this variance
13 with the condition that the Staff receive approval
14 from the utilities for the fence to be located within
15 the public utility easement.

16 We would request that the Staff Report be
17 entered into the record as Exhibit A.

18 CHAIRMAN: Thank you.

19 Is there anyone here representing the
20 applicant?

21 MR. TIERNEY: Matt Tierney on behalf of the
22 applicant, Sandra K. Dawdy.

23 MS. KNIGHT: Mr. Tierney, you're sworn as an
24 attorney.

25 MR. TIERNEY: Just to add to Ms. Evans'

1 report. I have submitted a request to the utility
2 company for that approval for the fence to be located
3 within the easement. I will apologize to the Board.
4 It is my fault on that. I had the dates wrong. I had
5 next week as the date for this hearing. So the reason
6 that's not been sent to the Staff is my fault. I will
7 correct that. I advised Ms. Dawdy of that as well.
8 Subject to that at this point, like I said, the Staff
9 Report speaks for itself. I don't have anything to
10 add to the Staff Report. I think it speaks for
11 itself, unless anyone has any questions.

12 CHAIRMAN: Thank you.

13 Has there been inquiries in the office?

14 MR. HOWARD: No, ma'am.

15 CHAIRMAN: Anyone have a question of
16 Mr. Tierney?

17 MR. REEVES: Just real quick. Maybe of Staff.

18 What was the source of the Notice of
19 Violation?

20 MR. HOWARD: We received a complaint on
21 multiple sites in the neighborhood at one time.

22 MR. REEVES: Okay. Is this the only site
23 there was a notice?

24 MR. HOWARD: No. We sent three Notices of
25 Violations.

1 MR. REEVES: This is the first response then I
2 assume.

3 MR. HOWARD: This one, this variance to solve
4 the problem. One fence has been relocated to solve
5 that problem, and the other has not contacted our
6 office.

7 MR. REEVES: Okay. Thank you.

8 CHAIRMAN: Any questions?

9 (NO RESPONSE)

10 CHAIRMAN: I will entertain a motion.

11 MR. JEAN: Motion to approve with the
12 condition that the approval received from the utility
13 companies.

14 CHAIRMAN: And based upon the findings of fact
15 listed in the Staff Report.

16 MR. JEAN: Yes.

17 CHAIRMAN: Do I have a second?

18 MS. MASON: Second.

19 CHAIRMAN: Any questions on the motion.

20 (NO RESPONSE)

21 CHAIRMAN: All in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 We'll entertain one more motion.

25 MR. REEVES: Motion to adjourn.

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MS. MASON: Second.

CHAIRMAN: 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 7 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 1st day of October, 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

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