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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

APRIL 13, 2017

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:00 p.m. on Thursday, April 13, 2017, 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
- Lewis Jean

\* \* \* \* \*

CHAIRMAN: We will call the April 13, 2017 Owensboro Metropolitan Board of Adjustment to order.

Just to make sure that everybody is in the correct location, there are two meetings tonight back-to-back. Our meeting will be followed by the Planning Commission, just so we all know where we are.

We will begin our meeting with Mr. Jean leading us in our pledge and prayer.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item on the agenda is to consider the minutes of the March 2, 2017 meeting.

All members have been mailed a copy and have

1 had time to check it. At this point I will entertain  
2 a motion to dispose of this item.

3 MS. MASON: Move to approve.

4 CHAIRMAN: Move to approve by Ms. Mason.

5 MR. REEVES: Second.

6 CHAIRMAN: Second by Mr. Reeves. All in favor  
7 of the motion raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 Item Number 2, Mr. Howard.

11 -----

12 CONDITIONAL USE PERMITS

13 ITEM 2

14 301 Breckenridge Street, 331 Leitchfield Road,  
15 Zoned I-1  
16 Consider a request for a Conditional Use Permit in  
17 order to construct a fully enclosed grain drying  
18 operation.  
19 Reference: Zoning Ordinance, Article 8,  
20 Section 8.2H6/33  
21 Applicant: Owensboro Grain Co., LLC

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

24 MS. EVANS: Melissa Evans.

25 (MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

26 The subject property is zoned I-1 Light  
27 Industrial. OMPC records indicate the property at 301

1 Breckenridge was rezoned from B-4 General Business to  
2 I-1 Light Industrial in April of 2016.

3 A fully enclosed grain drying facility is  
4 conditionally permitted in an I-1 zone provided it is  
5 at least 300 feet from any residential or commercial  
6 zones. In 1996, a Variance was approved waiving this  
7 requirement. Also, in 1996 a Conditional Use Permit  
8 was approved for four grain storage bins; this project  
9 was never constructed.

10 The applicant proposes to construct the  
11 project now but in a different configuration than what  
12 was previously approved and with different size bins  
13 and more of them than the four that were proposed  
14 previously. Because of the multiple buildings on the  
15 property and the multiple changes with this, they're  
16 seeking a new Conditional Use Permit. The variance  
17 request that was previously approved does still stand  
18 however.

19 Because there are multiple buildings on the  
20 property, there will also be a requirement of an  
21 Amended Final Development Plan be approved for the  
22 property.

23 LAND USES IN SURROUNDING AREA

24 The property to the north is zoned I-2 Heavy  
25 Industrial which is the Owensboro Grain facility. The

1 properties to the west are zoned B-4 General Business  
2 and R-4DT Inner City Residential and are a variety of  
3 residential and commercial uses. The property to the  
4 south is zoned I-1 Light Industrial and is Clark's  
5 Distributing. The properties to the east are zoned  
6 I-1 Light Industrial and are a variety of residential  
7 and commercial uses.

8 ZONING ORDINANCE REQUIREMENTS

9 1. Parking - 1 for every 2 employees on the  
10 maximum shift plus 1 for each vehicle owned or  
11 operated by the use. The applicant has shown 5  
12 parking spots on this site plan and on the previous  
13 site plans.

14 2. Landscaping - Vehicular use area screening  
15 between the parking lot and any road right-of-way.

16 SPECIAL CONDITIONS

17 Approval of an Amended Final Development Plan.

18 MS. EVANS: We would like to submit the Staff  
19 Report into the record as Exhibit A.

20 CHAIRMAN: Thank you.

21 Is there someone here representing the  
22 applicant?

23 MR. RINEY: Yes.

24 CHAIRMAN: Would you like to step forward in  
25 case someone has questions?

1 MS. KNIGHT: Please state your name for the  
2 record.

3 MR. RINEY: Jim Riney.

4 (JIM RINEY SWORN BY ATTORNEY.)

5 CHAIRMAN: Do you have anything to add to what  
6 has been read in, Mr. Riney?

7 MR. RINEY: No. The representative is here  
8 from Owensboro Grain. Between the team that's here,  
9 we will try to fill any questions, if any questions  
10 are asked.

11 CHAIRMAN: Thank you.

12 Is there anyone here wishing to ask questions  
13 or comment on this item?

14 (NO RESPONSE)

15 CHAIRMAN: Any board members?

16 (NO RESPONSE)

17 CHAIRMAN: Sounds like it's ready for us to  
18 dispose of the item. Do I have a motion?

19 MS. MASON: I make a motion that we approve  
20 this Conditional Use Permit. My finding of fact are  
21 it's consistent with the previously approved  
22 Conditional Use Permit and it's a logical expansion of  
23 the existing use of the property. And that they do  
24 the zoning ordinance requirements and the special  
25 conditions that there be approval of a Final

1 Development Plan.

2 CHAIRMAN: We have a motion to approve by  
3 Ms. Mason. Do I have a second?

4 MR. JEAN: Second.

5 CHAIRMAN: Second by Mr. Jean. Any questions  
6 on the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor of the motion raise  
9 your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, Mr. Howard.

13 ITEM 3

14 5600-5900 Block, 5760 Little Hickory Road, 7800 Texas  
Gas Road, zoned EX-1 to A-R

15 Consider a request for a Conditional Use Permit in  
16 order to operate an outdoor recreational facility for  
guide horseback rides.

17 Reference: Zoning Ordinance, Article 8,  
Section 8.2K7/42

18 Applicant: Kenneth & Rebecca Fischer, LLC

19 ZONING HISTORY

20 The subject property is currently zoned EX-1  
21 Coal Mining. The applicant has submitted an  
22 application to rezone the property to A-R Rural  
23 Agriculture, which will be heard by the Planning  
24 Commission meeting immediately following this meeting.

25 The applicant proposes to operate guided

1 horseback trail rides on their large farm. The rides  
2 will be led by first aid and CPR certified guides  
3 consisting of 6-8 guests for 1 to 2 hours by  
4 appointment only.

5 The subject property is currently zoned EX-1  
6 Coal Mining where outdoor recreational uses are not  
7 allowed. The applicant has submitted a zoning map  
8 amendment application in conjunction with this  
9 application which will be heard by the Planning  
10 Commission immediately following this meeting. If the  
11 zoning map amendment application is denied, this  
12 conditional use permit shall become invalid.

#### 13 LAND USES IN SURROUNDING AREA

14 All surrounding properties are zoned EX-1 Coal  
15 Mining and A-R Rural Agriculture and consist of  
16 agriculture and residential uses.

#### 17 ZONING ORDINANCE REQUIREMENTS

18 1. Parking - 1 space for each employee on the  
19 maximum shift, plus 1 space for every 3 participants,  
20 plus 1 space for every 3 spectator seats. The  
21 applicant has provided 5 parking spaces, including 1  
22 ADA space as shown on their site plan submitted.

23 2. Landscaping - Vehicular Use Area screening  
24 consisting of a 3 foot high continuous element with 1  
25 tree every 40 feet of the vehicular use area between

1 the right-of-way and the vehicular use area. The  
2 parking lot will not be located near the right-of-way,  
3 as shown on the site plan submitted. So there is no  
4 vehicular use area screening required.

5 SPECIAL CONDITIONS

6 1. Approval of a zoning map amendment  
7 rezoning the subject properties from EX-1 Coal Mining  
8 to A-R Rural Agriculture.

9 2. Approval of a site plan.

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

12 CHAIRMAN: Do we have someone here wishing to  
13 speak on behalf of the applicant?

14 You want to come to the podium to be sworn in?

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

17 MRS. FISCHER: Rebecca Fischer.

18 (REBECCA FISCHER SWORN BY ATTORNEY.)

19 CHAIRMAN: Do you have anything to add to what  
20 has been said?

21 MRS. FISCHER: Not unless anyone has any  
22 questions.

23 CHAIRMAN: Anyone in the audience have  
24 questions or comments on this application?

25 (NO RESPONSE)



1 CHAIRMAN: Thank you.

2 Any staff members?

3 (NO RESPONSE)

4 CHAIRMAN: At this point I'll entertain a  
5 motion to dispose of the item.

6 MR. REEVES: I have one question before you do  
7 that.

8 You want to come back to the microphone so you  
9 can be captured. How close are the nearest residents  
10 of what you're proposing to do, approximately?

11 MRS. FISCHER: The nearest driveway, what,  
12 maybe half a mile down the road.

13 MR. REEVES: How far down the road?

14 MRS. FISCHER: Half a mile down the road on  
15 the opposite side of us.

16 MR. REEVES: What time of the day, what days  
17 of the week would you plan to do this business?

18 MRS. FISCHER: Wednesday through Sunday and  
19 just various times. Like we stated, call ahead,  
20 appointment only.

21 MR. REEVES: Would it ever be after dark?

22 MRS. FISCHER: No.

23 MR. REEVES: That's all the questions I have.  
24 Thank you.

25 CHAIRMAN: Any other questions by board

1 members?

2 MR. JEAN: I have a question.

3 Would the trail rides primarily be in the  
4 wooded area?

5 MRS. FISCHER: It's going along our crop  
6 grounds through pastures and in the woods, yes.

7 MR. JEAN: Thank you.

8 CHAIRMAN: Any other questions?

9 (NO RESPONSE)

10 CHAIRMAN: I'll entertain a motion.

11 MR. REEVES: I make a motion to approve this  
12 Conditional Use Permit based on the following facts:  
13 That it's on what is currently coal mining property  
14 and a lot of the surrounding property tends to be of  
15 that nature. It seems to be an appropriate use of the  
16 land. There will not be any activity on there at  
17 times of the day or week that would seem to interfere  
18 with any of the neighbors. With the conditions that  
19 approval of a zoning map amendment rezoning the  
20 subject properties from EX-1 Coal Mining to A-R Rural  
21 Agriculture and approval of a site plan.

22 CHAIRMAN: We have a motion by Mr. Reeves. Do  
23 I have a second?

24 MR. YEISER: Second.

25 CHAIRMAN: Second by Mr. Yeiser. Any

1 questions 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: Motion carries unanimously.

7 Next item.

8 ITEM 4

9 4598 Lucky Strike Loop, zoned B-4  
10 Consider a request for a Conditional Use Permit in  
11 order to construct and operate an adult day care  
12 facility.

11 References: Zoning Ordinance, Article 8,  
12 Section 8.2B3

12 Applicant: Kenneth J. Klekamp, Inc.; Ione Jones

13 ZONING HISTORY

14 The subject property is an undeveloped 1.323  
15 acre parcel located on the corner of Lucky Strike Loop  
16 and Salem Drive. The property is zoned B-4 General  
17 Business.

18 The applicant proposes to construct a 12,000  
19 square foot building on the property to be used for  
20 retail, office and an adult day care facility. The  
21 active day center will be approximately 7,500 square  
22 feet serving up to 60 clients.

23 If more than 2 uses are proposed in the  
24 building, a Final Development Plan must be approved  
25 for the property.

1 LAND USES IN SURROUNDING AREA

2 The properties to the north and west are all  
3 zoned B-4 General Business and are currently  
4 undeveloped. The properties to the south and east are  
5 zoned A-R Rural Agriculture and are used for  
6 agriculture and residential purposes.

7 ZONING ORDINANCE REQUIREMENTS

8 1. Parking - Adult Day Care Center - 2 spaces  
9 plus 1 space for every 10 persons under care. The  
10 applicant indicates there may be as many as 60 persons  
11 under care at this facility, which creates a minimum  
12 parking requirement of 8 spaces. There are 34  
13 proposed parking spaces shown on the site plan  
14 submitted including 2 ADA spaces. Plus additional  
15 parking based on the square footage of retail or  
16 commercial uses in the remainder of the proposed  
17 building.

18 2. Landscaping - Vehicular use area screening  
19 between the parking lot and the drive lanes and the  
20 right-of-way along Salem Drive, Lucky Strike Loop and  
21 Sutherland Road is required.

22 SPECIAL CONDITIONS

23 Approval of a final development plan.

24 MS. EVANS: We would like to enter the Staff  
25 Report into the record as Exhibit C.

1 CHAIRMAN: Thank you.

2 Is there someone here that wishes to speak on  
3 behalf of the applicant?

4 MR. REYNOLDS: Brian Reynolds and I'm here  
5 with the applicant. We're ready to answer any  
6 questions you may have.

7 MS. KNIGHT: Mr. Reynolds is sworn as an  
8 attorney.

9 CHAIRMAN: Do we have anyone that has  
10 questions of the applicant or comments?

11 (NO RESPONSE)

12 CHAIRMAN: Any board members?

13 MR. REEVES: I'm assuming the Conditional Use  
14 Permit is only for part of the building that they  
15 propose to erect and that we don't have to be  
16 concerned about the retail office spaces, it's already  
17 approved?

18 MR. HOWARD: The Conditional Use Permit would  
19 be for, yes, the Adult Day Care portion. The lot is  
20 zoned B-4 so retail and office would be permitted in  
21 that zone.

22 MR. REEVES: So this is an exception to that?

23 MR. HOWARD: Right.

24 MR. REEVES: That answers my question.

25 CHAIRMAN: Any other board members?

1 (NO RESPONSE)

2 CHAIRMAN: If not, I'll entertain a motion.

3 MS. MASON: I'll move for approval with the  
4 findings that it's appropriate in the location as  
5 there is general business zoning in the area and it  
6 would be kind of compatible with that, and it also  
7 would be in harmony with the area too, with the  
8 businesses that are around it. With the special  
9 condition that there be approval of a final  
10 development plan.

11 CHAIRMAN: We have a motion. Do I hear a  
12 second?

13 MS. CLARK: Second.

14 CHAIRMAN: Second by Ms. Clark. Any question  
15 on the motion?

16 (NO RESPONSE)

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Any other business, Mr. Howard?

22 MR. HOWARD: Not that I know of.

23 CHAIRMAN: If not, I will entertain a motion  
24 to adjourn.

25 MR. JEAN: Motion to adjourn.

1           CHAIRMAN: Motion to adjourn by Mr. Jean. Do  
2 I have a second?

3           MS. MASON: Second.

4           CHAIRMAN: Second by Ms. Mason. All in favor  
5 raise your right hand.

6           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7           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 30th day of April, 2017.

18

19

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

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23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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