

OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

June 1, 2017

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, June 1, 2017, at City Hall, Commission Chambers, Owensboro, Kentucky; and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Robynn Clark, Vice Chairman
Jerry Yeiser
Terra Knight, Attorney
Brian Howard, Director
Fred Reeves

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CHAIRMAN: We'll call the Owensboro Metropolitan Board of Adjustment June 1, 2017, meeting to order. First item on the agenda will be the prayer and then the pledge to the flag. Would you please stand and pray with me?

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Consider the minutes of the May 4th, 2017, meeting. All members should have a copy and have had time to check it over, so entertain a motion to dispose of this item.

MS. CLARK: Motion to approve.

CHAIRMAN: We have a motion to approve by Ms. Clark.

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves. All in favor

1 of the motion, raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED.)

3 MADAM CHAIRMAN: Motion carries.

4 Okay. First item on the agenda.

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6 CONDITIONAL USE PERMITS

7 ITEM 2

8 9515 Highway 144, zoned R-1A
9 Consider a request for a Conditional Use Permit in order
10 to operate an existing church and construct a new parish
11 hall.

12 References: Zoning Ordinance, Article 8, Section 8.2B4
13 Applicant: St. Williams Catholic Church

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

16 MS. EVANS: Melissa Evans.

17 (MELISSA EVANS SWORN BY ATTORNEY.)

18 Zoning History:

19 The subject property is currently zoned R-1A
20 Single Family Residential. OMPC records indicate there
21 have been no zoning map amendments for the subject
22 property.

23 The applicant has been operating a church with
24 related structures on the subject property since before
25 the establishment of the zoning ordinance. Currently, the
applicant is proposing to construct a 12,000-square-foot
parish hall on the subject property. Some parking will be
provided on the subject property, but the majority of the

1 parking will be across Highway 144 on the Mary Carrico
2 School property, also owned by the applicant. A final
3 development plan will be required showing that parking can
4 be met for both uses.

5 Land Uses in Surrounding Area:

6 The surrounding properties are all zoned either
7 B-4 General Business or R-1A Single Family Residential and
8 consist of the Mary Carrico School, the Bishop Seonneker
9 Home, a single-family residence and vacant land zoned B-4.

10 Zoning Ordinance Requirements:

11 1. Parking -- one for every five seats in the
12 main auditorium as shown on the site plan submitted.

13 2. Landscaping -- vehicular use area screening
14 between the vehicular use area and the road right-of-way
15 consisting of a three-foot continuous element and one tree
16 every forty feet of the boundary.

17 Special Conditions:

18 1. Obtain all necessary building, electrical,
19 and HVAC permits, inspections, and certificates of
20 occupancy and compliance.

21 2. Approval of a final development plan showing
22 the required parking off site.

23 Along with all other applicable zoning ordinance
24 requirements, we would like to enter the staff report into
25 the record as Exhibit A.

1 CHAIRMAN: Is there anyone here wishing to speak
2 on behalf of the applicant?

3 (NO RESPONSE.)

4 CHAIRMAN: Anyone here have any questions or
5 comments on this item?

6 (NO RESPONSE.)

7 CHAIRMAN: If not, we'll entertain a motion.
8 Mr. Reeves?

9 MR. REEVES: Yes. I move for approval of the
10 conditional use permit based on the following facts:

11 The church was operating before the zoning
12 ordinance was established and so therefore was not in
13 contradiction to any current regulations that we might
14 have. Adding a new parish hall is consistent with all
15 churches as they grow.

16 Second, the use of the church's plan is
17 compatible with ordinary uses. And that we use the two
18 zoning ordinance requirements for parking and landscaping
19 and also conditions one and two.

20 CHAIRMAN: We have a motion. Is there a second
21 on the motion?

22 MS. CLARK: Second.

23 CHAIRMAN: Ms. Clark.

24 Any questions on the motion?

25 (NO RESPONSE.)

1 CHAIRMAN: If not, all in favor of the motion,
2 raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, Mr. Howard.

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7 VARIANCE

8 ITEM 3

9 1533 Creek Haven Loop, zoned R1C
10 Consider a request for a Variance in order to decrease the
11 project boundary buffer from 20 feet to 15 feet.

12 References: Zoning Ordinance, Article 10, Section 10.432

13 Applicant: Patty Coppage; Terry Abell

14 Considerations:

15 The subject property is located in Creek Haven
16 subdivision. The subdivision was developed as a planned
17 residential development. This process allows for
18 flexibility in development in many ways, but also requires
19 a 20-foot project boundary buffer around the entire
20 perimeter of the project. The intent of the project
21 boundary buffer is to separate the entire development from
22 adjoining properties. If the variance is approved, a
23 preliminary plat/final development plan and a major
24 subdivision final plat will both be required to be amended
25 reflecting any changes.

 The applicant proposes to construct a
 fourteen-foot wide in-ground pool with a fenced concrete

1 area surrounding the pool. The proposed pool will be
2 located six feet from the rear of the existing residence
3 and will encroach into the twenty-foot project boundary
4 buffer by five feet, requiring a five-foot variance.
5 Review of OMPC files show that a similar variance request
6 was approved for the property at 1561 Creek Haven Loop in
7 2005 [sic].

8 Granting the variance to reduce the project
9 boundary buffer will not alter the essential character of
10 the general vicinity because the pool will be located in a
11 secluded area from the neighbors via fencing, trees, and a
12 drainage easement. Granting the variance does not
13 significantly impact the area because the adjacent
14 property to the rear is a vacant common area of the
15 adjoining neighborhood. Granting the variance will not be
16 an unreasonable circumvention of the requirements of the
17 zoning ordinance because a similar variance to reduce the
18 project boundary buffer by ten feet in order to construct
19 an in-ground pool was approved in October of 2015.

20 Staff would recommend approval of the variance
21 with the following conditions:

- 22 1. Obtain all necessary building, electrical,
23 and HVAC permits, inspections, and certificates of
24 occupancy and compliance.
- 25 2. Approval of a Major Subdivision Preliminary

1 Plat/Final Development Plan and a Major Subdivision Final
2 Plat.

3 We would like to enter the staff report into the
4 record as Exhibit B.

5 CHAIRMAN: Is there anyone here wishing to speak
6 on behalf of the applicant?

7 (NO RESPONSE.)

8 CHAIRMAN: Anyone here have comments or
9 questions about this application?

10 (NO RESPONSE.)

11 CHAIRMAN: Hearing none, I will entertain a
12 motion.

13 MS. CLARK: I have a motion to approve based
14 upon that it will not adversely affect the public, health,
15 safety, or welfare; it will not alter the essential
16 character of the general vicinity; it will not cause a
17 hazard or nuisance to the public; and it will not allow an
18 unreasonable circumvention of the requirements of the
19 zoning regulations because a similar variance to reduce
20 the project boundary buffer by ten feet in 2015; and the
21 conditions to obtain all necessary building, electrical,
22 and HVAC permits, inspections, and certificates of
23 occupancy and compliance; and the approval of an amended
24 Major Subdivision Preliminary Plat/Final Development Plan
25 and Major Subdivision Final Plat.

1 CHAIRMAN: We have a motion by Ms. Clark. Is
2 there a second?

3 MR. YEISER: Second.

4 CHAIRMAN: Second by Mr. Yeiser. Any questions
5 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.)

10 CHAIRMAN: Opposed?

11 (NO RESPONSE.)

12 CHAIRMAN: Motion carries unanimously.

13 One more item, Mr. Howard.

14 ITEM 4

15 522 Griffith Avenue, zoned R-1A

16 Consider a request for a Variance in order to increase the
17 height of a fence along a side street yard from four-feet
18 tall to six-feet tall.

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

18 Applicant: Robert A. Greene

19 Considerations:

20 The subject property is located at the
21 intersection of Griffith Avenue and McCreary Avenue. An
22 alley runs along the rear of subject property, separating
23 the subject property from the adjoining property to the
24 rear, which faces McCreary Avenue.

25 The applicant proposes to construct a six-foot

1 fence to enclose their backyard. The zoning ordinance
2 requires a fence in a side yard along the street to be no
3 more than four-feet tall. The Owensboro Public School
4 Central Office is located across McCreary Avenue from the
5 subject property. They have an eight-foot tall fence
6 along McCreary Avenue and Griffith Avenue. The school
7 board is exempt from the zoning ordinance requirements,
8 however, as they are a public facility.

9 Granting this Variance will not adversely affect
10 the public health, safety, or welfare because the fence
11 will sit back from the intersection and not interfere with
12 the sight triangle. The Variance will not cause a hazard
13 or nuisance to the public as it actually protects the
14 neighbors and the property owner from people trespassing
15 through the yard. This Variance will not alter the
16 essential character of the general vicinity as the school
17 board across McCreary Avenue has a taller fence than is
18 proposed by the applicant. And the Variance will not be
19 an unreasonable circumvention of the requirements of the
20 zoning regulations because similar variance requests have
21 been approved by the OMBA in the past.

22 We would recommend this application for
23 approval, and we would like to enter the staff report into
24 the record as Exhibit C.

25 CHAIRMAN: Thank you.

1 Do we have anyone here representing the
2 applicant?

3 MR. GREENE: Robert Greene, homeowner.

4 (ROBERT GREENE WAS SWORN BY THE ATTORNEY.)

5 CHAIRMAN: Do you have anything to add, Mr.
6 Greene?

7 MR. GREENE: Yeah. One reason why we decided to
8 go with the six-foot fence, the way our property slopes
9 down a little bit, about three and a half feet to go to
10 McCreary Street, if we would put a four-foot fence, that
11 would really not give much privacy. I've walked along it,
12 just hypothetically, looking at this yard, and it's still
13 somewhat -- we've got two kids under the age of four and a
14 dog as well. So that's the reason we chose to go with a
15 six-foot fence.

16 CHAIRMAN: Thank you.

17 MR. GREENE: Thank you.

18 CHAIRMAN: Anyone have any questions for Mr.
19 Greene?

20 (NO RESPONSE.)

21 CHAIRMAN: Does anyone here have any questions
22 about the application?

23 (NO RESPONSE.)

24 CHAIRMAN: If not, we will entertain a motion

25 MR. REEVES: Motion to approve this application

1 for Variance based on staff findings of fact one through
2 four.

3 CHAIRMAN: Thank you. We have a motion by Mr.
4 Reeves. Do I have a second?

5 MS. CLARK: Second.

6 CHAIRMAN: Second by Ms. Clark. Any questions
7 on the motion?

8 (NO RESPONSE.)

9 CHAIRMAN: All in favor, raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED.)

11 CHAIRMAN: Opposed?

12 (NO RESPONSE.)

13 CHAIRMAN: Motion carries unanimously. One
14 more.

15 ITEM 5

16 5940 Highway 2830, zoned I-1
17 Consider a request for a Variance in order to eliminate
18 200 feet of required screening along the northwest
19 boundary of the property along the railroad.
20 References: Zoning Ordinance, Article 13, Section 13.511.
21 Applicant: S&S Earthscapes, LLC

22 Considerations:

23 The subject property is located on Highway 2830
24 near the new U.S. Highway 60 East extension. The CSX
25 railroad lies between the subject property and Highway
26 2830.

27 The applicant proposes to use a 200-foot by

1 200-foot area of the property in the northern corner for
2 display of heavy equipment. For outdoor display of heavy
3 equipment, the zoning ordinance requires a three-foot wide
4 easement with a three-foot high continuous element and one
5 tree every forty linear feet between the display area and
6 the road right-of-way. The applicant is requesting to
7 eliminate all of the screening requirements for the 200
8 feet of the boundary along Highway 2830.

9 Upon inspection of the site, the distance from
10 Highway 2830 and the existing berm that the railroad sits
11 on meet the intent of the screening requirements of the
12 ordinance. The berm would likely block a three-foot wide
13 easement and a three-foot tall continuous element because
14 of its height.

15 However, we would recommend the trees be
16 installed for additional screening beyond the railroad
17 berm. There appear to be several trees located along the
18 property line now that would meet this requirement.
19 However, more may need to be installed if there are not
20 enough to meet the requirement.

21 Granting this Variance to eliminate the
22 three-foot wide landscape easement and the three-foot tall
23 continuous element will not adversely affect the public
24 health, safety, or welfare or cause a hazard or nuisance
25 to the public because the existing berm in place exceeds

1 the zoning ordinance requirements and would block the
2 requirements if they were installed. The Variance to
3 eliminate the three-foot wide landscape easement and the
4 three-foot tall continuous element will not alter the
5 essential character of the general vicinity because this
6 is an existing industrial and commercial area. The
7 Variance to eliminate the three-foot wide landscape
8 easement and three-foot tall continuous element will not
9 be an unreasonable circumvention of the requirements of
10 the zoning ordinance regulations because similar variance
11 requests have been approved by the OMBA in the past and
12 the existing berm meets the intent of the requirements.

13 Staff would recommend approval of the Variance
14 to eliminate the three-foot wide landscape easement and
15 the three-foot tall continuous element with the following
16 conditions:

17 1. Install the required trees, one for every
18 forty feet along the northwestern property boundary.

19 2. Install all other screening requirements for
20 the site as required.

21 3. Approval of a Final Development Plan.

22 We would like to enter the staff report into the
23 record as Exhibit D.

24 CHAIRMAN: Thank you.

25 Do we have anyone here on behalf of the

1 applicant?

2 (NO RESPONSE.)

3 CHAIRMAN: Anyone have any questions of the
4 applicant and his representative?

5 (NO RESPONSE.)

6 CHAIRMAN: Does anyone have any questions about
7 this application?

8 (NO RESPONSE.)

9 CHAIRMAN: If not, I will entertain a motion.

10 MR. REEVES: Motion to approve this application
11 for Variance based on staff findings of fact one through
12 four and conditions one, two, and three.

13 CHAIRMAN: We have a motion by Mr. Reeves. Any
14 question on the motion? Call for a second.

15 MR. YEISER: Second.

16 CHAIRMAN: Second by Mr. Yeiser. All in favor
17 of the motion, raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED.)

19 CHAIRMAN: Motion carries unanimously.

20 Mr. Howard, any more business?

21 MR. HOWARD: I have none.

22 CHAIRMAN: We have one more motion.

23 MS. CLARK: Motion to adjourn.

24 MR. REEVES: Second.

25 CHAIRMAN: All in favor.

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(ALL BOARD MEMBERS PRESENT RESPONDED.)
CHAIRMAN: Gather your things and leave.
(The meeting adjourned at 5:45 p.m.)

1 STATE OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS:)

3 ?

4 I, RHONDA SIMPSON, Notary Public in and for the
5 State of Kentucky at Large, do hereby certify that the
6 foregoing Owensboro Metropolitan Board of Adjustment
7 meeting was held at the time and place as stated in the
8 caption to the foregoing proceedings; that each person
9 commenting on issues under discussion were duly sworn
10 before testifying; that the Board members present were as
11 stated in the caption; that said proceedings were taken by
12 me in stenotype and electronically recorded and was
13 thereafter, by me, accurately and correctly transcribed
14 into the foregoing 15 typewritten pages; and that no
15 signature was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this, the 3rd
17 day of July 2017.

18

19

20

RHONDA SIMPSON, NOTARY PUBLIC
STATE-AT-LARGE
OHIO VALLEY REPORTING SERVICE
2200 E. PARRISH AVENUE, SUITE 106-E
OWENSBORO, KENTUCKY 42303

23

24 COMMISSION EXPIRES:
AUGUST 17, 2019

25 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY