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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

JULY 5, 2018

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, July 5, 2018, 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
- Fred Reeves
- Bill Glenn
- Lewis Jean

* * * * *

CHAIRMAN: We will call the Owensboro Metropolitan Board of Adjustment July 5th meeting to order. First item on the agenda will be our prayer and pledge by Ms. Clark.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Item Number 1 is to consider the minutes of the June 7, 2018 meeting. All members have received a copy via mail or electronic media and have had time to look it over. So at this time I will entertain a motion to deal with these.

MS. MASON: Move to approve.

CHAIRMAN: Move to approve by Ms. Mason.

MR. GLENN: Second.

1 CHAIRMAN: Second by Mr. Glenn. Any question
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 unanimously.

8 First item on the agenda, Mr. Howard.

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10 CONDITIONAL USE PERMITS

11 ITEM 2

12 3117 Alvey Park Drive West, zoned B-4 General Business
13 Consider request for a Conditional Use Permit in order
14 to operate a preschool/child day-care center from the
15 subject property.

16 Reference: Zoning Ordinance, Article 8, Section 8.2B3
17 Applicant: Trina Pryor and Jill Payne

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

20 MR. PEDLEY: Trey Pedley.

21 (TREY PEDLEY SWORN BY ATTORNEY.)

22 MR. PEDLEY: The subject property is 0.64 acre
23 lot in which a physical therapy office that is owned
24 and operated by the applicant is currently located.
25 The applicant is requesting a Conditional Use Permit
in order to operate a preschool facility in the
existing building. As the site plan illustrates, the

1 applicant desires to utilize for existing operation
2 and 630 square feet of the building for the proposed
3 preschool. The neighboring property to the south and
4 the property across Alvey Park Drive West are all
5 zoned B-4 general business and operate accordingly.

6 The property next-door to the north is zoned
7 I-1 Light Industrial, and all properties behind the
8 subject property that face Alvey Park Drive East are
9 zoned B-3 Highway Business Center. All of which are
10 either vacant properties or operate in accordance with
11 their zoning classification.

12 For this use the Zoning Ordinance requires a
13 minimum of two parking spaces, plus an additional space
14 for every 10 children, all of which are required to be
15 located on a hard surface such as asphalt or concrete.
16 The application states that the child day-care
17 facility will host up to 18 children and will be
18 required to maintain 4 parking spaces.

19 Additionally, the physical therapy office is
20 required to maintain 15 parking space based on their
21 square footage. Combined, the two uses will be
22 required to host 19 parking spaces; the site plan
23 submitted illustrates that the property currently has
24 22 parking spaces available.

25 Because the property is surrounded by business

1 and industrial zones, perimeter landscaping is not
2 required; however, a 3-foot tall continuous element
3 and 1 tree every 40-linear feet is required to be
4 maintained in locations where the vehicular use area
5 adjoins the public right-of-way.

6 If approved special conditions include:

- 7 1. Approval of an amended Site Plan; and,
- 8 2. All necessary building, electrical and
9 HVAC permits, inspections and certificates of
10 occupancy and compliance shall be obtained.

11 We would like to enter the Staff Report into
12 the record as Exhibit A.

13 CHAIRMAN: Thank you, Mr. Pedley.

14 Is there anyone here wishing to speak on
15 behalf of the applicant?

16 MS. PRYOR: That would be me.

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

19 MS. PRYOR: Trina Pryor.

20 (TRINA PRYOR SWORN BY ATTORNEY.)

21 CHAIRMAN: Do you need to add anything to
22 what's already been read into the record?

23 MS. PRYOR: No, I don't think so.

24 CHAIRMAN: Stay put in case we have any
25 opposition.

1 Is there anyone in the audience that wishes to
2 speak in opposition or have questions on this item?

3 (NO RESPONSE)

4 CHAIRMAN: Thank you.

5 Anyone on the board have questions?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none I'll entertain a
8 motion.

9 Mr. Glenn.

10 MR. GLENN: I would make a motion to approve
11 this Conditional Use Permit based on all of the
12 information that we have heard here this evening and
13 also on the two special conditions of an amended site
14 plan; and, of course, obtaining all building,
15 electrical and HVAC permits that are required.

16 CHAIRMAN: We have a motion by Mr. Glenn. Any
17 question on the motion?

18 (NO RESPONSE)

19 CHAIRMAN: Do I hear a second?

20 MS. CLARK: Second.

21 CHAIRMAN: Second by Ms. Clark. Any question
22 on the motion?

23 (NO RESPONSE)

24 CHAIRMAN: All in favor of the motion raise
25 your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 ITEM 3

4 5541 Highway 54, zoned I-1 Light Industrial
5 Consider request for a Conditional Use Permit in order
6 to operate a fitness facility as an indoor
7 recreational activity from an existing structure on
8 the subject property.

9 References: Zoning Ordinance, Article 8, Section
10 8.2B11

11 Applicant: Bruce Hardesty.

12 MR. PEDLEY: OMPC records indicate that the
13 subject property was rezoned from R-1A Single-Family
14 Residential to I-1 Light Industrial in 2011 in order
15 to operate a powder coating business from the subject
16 property and utilize the residential home on the
17 property as a dwelling unit for the caretaker of the
18 business. The powder coating business is no longer in
19 operation and so the applicant is requesting a
20 Conditional Use Permit in order to operate a fitness
21 facility as an indoor recreational activity from the
22 existing detached structure on the property. The
23 existing home will continue to operate as a dwelling
24 unit for the caretaker of the business.

25 The majority of the surrounding properties are
zoning R-1A Single-Family Residential and appear to be
residential in nature. Across Highway 142 is a
property zoned B-4 General Business and is an

1 operating car dealership. To the south across Highway
2 54 is a combination of R-1A and B-4 and A-U Urban
3 Agricultural zones that comprise a business use, a
4 vacant lot, and a cemetery.

5 Based on the number of employees on the
6 maximum shift, the number of participants and the
7 number of spectators seats available, the Zoning
8 Ordinance requires 10 parking spaces as shown on the
9 site plan.

10 The landscaping requirements for the proposed
11 use remain consistent with the current use. Perimeter
12 landscaping consisting of a 10 foot wide landscape
13 easement, a 6 foot tall continuous element, and 1 tree
14 every 40-linear feet is required where the subject
15 property adjoins residential properties.
16 Additionally, a 3-foot tall continuous element and 1
17 tree every 40-linear feet is required to be maintained
18 in locations where the vehicular use area adjoins the
19 public right-of-way, as shown on the site plan.

20 If approved the Special Conditions include:

- 21 1. Approval of an amended Site Plan.
- 22 2. All necessary building, electrical, HVAC
23 permits, inspections and certificates of occupancy and
24 compliance shall be obtained.

25 We would like to enter the Staff Report into

Ohio Valley Reporting

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1 the record as Exhibit B.

2 CHAIRMAN: Thank you.

3 Is anyone here wishing to speak on behalf of
4 the applicant?

5 Would you come up please.

6 MS. KNIGHT: Please state your name for the
7 record.

8 MR. HARDESTY: My name is Bruce Hardesty.

9 (BRUCE HARDESTY SWORN BY ATTORNEY.)

10 CHAIRMAN: Do you have anything you need to
11 add to what's been read in?

12 MR. HARDESTY: The physical therapy, it's not
13 physical therapy. What we're doing this is bungee.
14 Have you ever heard of Astro-Durance Bungee? What
15 happens is you build a harness that goes around your
16 waist and your legs. The bungee comes from 10 foot in
17 the air, hooks to the back. I take and make you
18 buoyant or less buoyant. I take about 40 to 60 pounds
19 off of you so that when you're exercising it's very
20 low impact. It's really good for older people. It
21 fires your lymphatic system up. Your lymphatic system
22 is what feeds all of your ligaments, your discs in
23 your neck and your back. Doing this you'll actually
24 regain height because it will stretch you back out.
25 You have 867 muscles in your body and it stretches all

1 of them at one time.

2 It's very, very new technology. Lou Ferrigno,
3 he has bought into the company, bought part of it, and
4 Mr. Smith, which is head of all of the exercise in the
5 United States for multiple sclerosis. So those two
6 have bought into this and now it's becoming a
7 franchise.

8 Anybody have any questions.

9 CHAIRMAN: Stick around and see if we have
10 any.

11 Is there anyone here wishing to speak in
12 opposition to or has questions of this use?

13 MS. SHOLAR: I just have a question.

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

16 MS. SHOLAR: Linda Sholar.

17 (LINDA SHOLAR SWORN BY ATTORNEY.)

18 MS. SHOLAR: I'm right next door. I just need
19 to know what are the operating hours that he intends
20 to have?

21 MR. HARDESTY: Oh, it will just be during the
22 day.

23 CHAIRMAN: Wait just a minute and we'll get
24 the answer. We'll have him come to the mike.

25 Operating hours?

1 MS. SHOLAR: Yes.

2 CHAIRMAN: What else?

3 MS. SHOLAR: Does he have sufficient parking,
4 I guess? Those would be my questions.

5 CHAIRMAN: Okay. Mr. Hardesty, you want to
6 come up.

7 MR. HARDESTY: That's what I had BEI for.
8 They have helped me and we have developed a plan so
9 that we have and are in, I guess --

10 MR. HOWARD: What are your hours?

11 MR. HARDESTY: Well, the hours are going to be
12 probably somewhere around 8:30 to maybe 7:30 at night,
13 and probably won't run Sundays.

14 CHAIRMAN: Okay.

15 Yes, sir.

16 MR. WEIKEL: My name is Bill Weikel.

17 (BILL WEIKEL SWORN BY ATTORNEY.)

18 MR. WEIKEL: The other question that the lady
19 had to address, we do show the ten parking spaces that
20 are required. There's four additional places in
21 addition to the existing six.

22 CHAIRMAN: Thank you.

23 Do you have other questions or concerns?

24 (NO RESPONSE)

25 CHAIRMAN: Anyone on the board have questions?

1 MR. HOWARD: I'll just add that parking
2 requirement is based upon information that they
3 provided, that the applicant provided as shown on the
4 site plan.

5 You know, if your business grows and you have
6 more people than you intended, then we'll need to
7 revisit, this board would then need to revisit that
8 kind of thing. If you really succeed well and there's
9 a lot of people, but that's just part of the process.

10 MR. HARDESTY: That is our plan. We sort of
11 did this in stages. Our next plan is to take the
12 house down, build a house off the place, use that for
13 parking and actually expanding the building in the
14 opposite direction.

15 CHAIRMAN: Thank you.

16 Do you have any other questions or concerns?

17 MS. SHOLAR: Not unless he starts to expand.

18 CHAIRMAN: That will be a whole other meeting.

19 Any board members have questions?

20 (NO RESPONSE)

21 CHAIRMAN: I'll entertain a motion to dispose
22 of this item.

23 Mr. Reeves.

24 MR. REEVES: Motion to approve this
25 Conditional Use Permit based on the findings that the

1 operation is compatible with other operations in the
2 general area. It's general business. There's a car
3 lot there so it's not inconsistent with that. Also,
4 given the hours of operation and the type of therapy
5 they're going to provide, it should not be a public
6 nuisance.

7 CHAIRMAN: Thank you. Do I have a second on
8 the motion?

9 MR. JEAN: Second.

10 CHAIRMAN: Second by Mr. Jean.

11 MR. HOWARD: If I could interject real quick.

12 Do you want to add the two special conditions
13 that were provided?

14 MR. REEVES: Yes. I do want those two
15 conditions be part of the motion. I'm sorry.

16 MS. KNIGHT: Do you second that as well,
17 Mr. Jean?

18 MR. JEAN: I do, yes.

19 CHAIRMAN: Any question on the motion?

20 (NO RESPONSE)

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimous.

25 Any other business, Mr. Howard?

1 MR. HOWARD: No, ma'am.
2 CHAIRMAN: We have one more motion.
3 MS. MASON: Motion to adjourn.
4 CHAIRMAN: Motion to adjourn by Ms. Mason.
5 MR. GLENN: Second.
6 CHAIRMAN: Second by Mr. Glenn. All in favor
7 of the motion raise your right hand.
8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
9 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 13 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 31st day of July, 2018.

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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