

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 APRIL 11, 2019

3 The Owensboro Metropolitan Board of Adjustment
4 me tin regular session at 5:00 p.m. on Thursday, April
5 11, 2019, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Judy Dixon, Chairman
9 Fred Reeves, Vice-Chairman
10 Ruth Ann Mason, Secretary
11 Brian Howard, Director
12 Terra Knight, Attorney
13 Bill Glenn
14 Lewis Jean
15 Andrew Howard
16 Tori Morgan

17 * * * * *

18 CHAIRMAN: We will call the Owensboro
19 Metropolitan Board of Adjustment April 11, 2019
20 meeting to order.

21 First thing we're going to do is Mr. Reeves is
22 going to lead us in prayer. Will you please stand.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: The first item on the agenda is to
25 consider the minutes of the May 7, 2019 meeting. All
members should have received a copy and have had time
to look it over. I'm ready for a motion to deal with
the minutes.

MR. GLENN: Motion to approve the minutes.

1 CHAIRMAN: Motion by Mr. Glenn.

2 MS. MASON: Second.

3 CHAIRMAN: Second by Mrs. Mason. Any
4 questions?

5 (NO RESPONSE)

6 CHAIRMAN: All in favor of the motion raise
7 your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.
10 Mr. Howard.

11 -----

12 CONDITIONAL USE PERMIT

13 ITEM 2

14 6320 Old Highway 54, zoned R-1A Single-Family
Residential
15 Consider a request for a Conditional Use Permit in
order to operate an existing church and to construct a
16 new sanctuary
Reference: Zoning Ordinance, Article 8, Section 8.2B4
17 Applicant: Robert Young, Church of God

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

20 MS. EVANS: Melissa Evans.

21 (MELISSA EVANS SWORN BY ATTORNEY.)

22 MS. EVANS: As Mr. Howard stated, this is an
23 existing church on this property. It's been in
24 operation before the establishment of the Zoning
25 Ordinance. It's been in operation for quite some

1 time.

2 They are wanting to, I think, tear down the
3 current sanctuary that's there and construct a new
4 sanctuary on the property. So they're applying for
5 their Conditional Use Permit to make everything legal
6 for their use that's been on the property for all of
7 these years. Then the site plan to show that the new
8 sanctuary will be built on the property. They're also
9 going to bring into compliance as far as access
10 management is concerned and parking is concerned as
11 well.

12 Land Uses Surrounding Area:

13 All the adjoining properties along Old Highway
14 54 are also zoned R-1A Single-Family Residential and
15 appear to be residential in nature. There is an
16 additional lot on Old Highway 54 to the west of the
17 subject property that is zoned B-4. This property
18 adjoins the rear of the subject property.

19 Zoning Ordinance Requirements:

20 Parking - Churches - 1 for every 5 seats in
21 the main auditorium, with a minimum of 5. The site
22 plan indicates that there are 145 seats within the
23 main auditorium; requiring 29 parking spaces to be
24 on-site. The site plan submitted illustrates that
25 there will be 35 parking spaces on-site, all of which

1 will be located on a hard surface such as asphalt or
2 concrete.

3 Landscaping - Where vehicular use area adjoins
4 public right-of-way, a 3' wide landscape easement with
5 a 3' tall continuous element and 1 tree per 40 linear
6 feet will be required. The site plan submitted
7 illustrates compliance with this landscaping
8 requirement as well.

9 Special Conditions:

10 1. Obtain approval of a Site Plan or Final
11 Development Plan; and.

12 2. Obtain all necessary building, electrical
13 and HVAC permits, inspections and certificates of
14 occupancy and compliance.

15 We would like to enter the Staff Report into
16 the report as Exhibit A.

17 CHAIRMAN: Thank you, Ms. Evans.

18 Is there anyone here representing the
19 applicant?

20 APPLICANT REP: Yes.

21 CHAIRMAN: Anyone have any question of the
22 applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Is there anyone in the audience
25 wishing to address this issue?

1 (NO RESPONSE)

2 CHAIRMAN: Anyone on the commission have any
3 questions of the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Hearing none I will entertain a
6 motion.

7 MR. JEAN: I would like to make a motion that
8 we approve this Conditional Use Permit request with
9 the two special conditions, the two zoning ordinance
10 requirements, and it's based upon the Staff Report,
11 and site visit, and with three findings of fact.

12 Findings of fact are this property is located
13 in an R-1A zone where churches are permitted under
14 Conditional Use Permit. It will continue to be
15 compatible with the neighborhood, and it's been in
16 harmony with its residential community for over 50
17 years. This property has operated prior to the
18 establishment of the zoning ordinance.

19 CHAIRMAN: Motion by Mr. Jean.

20 MR. REEVES: Second.

21 CHAIRMAN: Second by Mr. Reeves. Is there a
22 question on the motion?

23 (NO RESPONSE)

24 CHAIRMAN: Hearing none all in favor of the
25 motion raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Mr. Howard.

4 -----

5 VARIANCES

6 ITEM 3

7 420 East Parrish Avenue; 1216, 1218, 1220 & 1222
8 Sweeney Street, zoned I-1 Light Industrial
9 Consider request for a Variance in order to reduce the
10 required building setback line along Sweeney Street
11 from 25-feet from the property line to 10-feet from
12 the property line.
13 Reference: Zoning Ordinance, Article 8, Section
14 8.5.3(c)
15 Applicant: GPM Greenwell Property Management, LLC
16 C/O Carl Greenwell

17 MS. EVANS: This variance comes before you
18 because they are requesting to add an addition or
19 build a new structure on the property. There are
20 currently several properties there with structures on
21 them that do not meet the front street yard setback.
22 One of those structures, where this new structure will
23 be going in its place, will be torn down. The other
24 structures will stay. Those structures are all 11 to
25 10 and then the existing structure that will be torn
down is 9 feet from the property line. So this won't
be any closer than what is already there; however,
these properties were also developed before the
establishment of the Zoning Ordinance so they're quite

1 short in their depth and narrow. So they're just
2 seeking to be able to maximize the property for what
3 they want to build on it.

4 Granting this variance to reduce the building
5 setback will not alter the essential character of the
6 general vicinity; it will not cause a public nuisance;
7 and will not be an unreasonable circumvention of the
8 requirements of the zoning ordinance because there are
9 existing structures in the area that encroach into the
10 required building setback. Additionally, granting
11 this variance will not adversely affect the public
12 safety because the building setback along East Parrish
13 Avenue will be maintained, limiting traffic visibility
14 concerns at the intersection.

15 The Staff would recommend approval of this
16 Variance with the following Conditions:

- 17 1. Obtain approval of a Minor Subdivision
18 Plat;
19 2. Obtain approval of a Final Development
20 Plan; and,
21 3. Obtain all necessary building, electrical
22 and HVAC permits, inspections and certificates of
23 occupancy and compliance.

24 We would like to enter the Staff report into
25 the record as Exhibit B.

1 CHAIRMAN: Thank you, Mrs. Evans.

2 Is there anyone here representing the
3 applicant?

4 APPLICANT REP: Yes.

5 CHAIRMAN: Anyone on the board have questions
6 of the applicant?

7 (NO RESPONSE)

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

10 MR. GLENN: I would make a motion to approve
11 this Variance based on the information that we've
12 received tonight and been presented before us, and
13 also that they meet the three special conditions of
14 obtaining subdivision plat, obtain final development
15 plan, and obtain all necessary building, electrical
16 and HVAC permits, inspections and certificates of
17 occupancy and compliance.

18 CHAIRMAN: Motion by Mr. Glenn.

19 MS. MORGAN: Second.

20 CHAIRMAN: Second by Tori. Any question on
21 the motion?

22 (NO RESPONSE)

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 Next, Mr. Howard.

3 ITEM 4

4 1096 Pleasure Point East, zoned RI-1 Single-Family
Residential

5 Consider request for a Variance in order to reduce the
6 required front yard building setback line along
Pleasure Point East from 25-feet from the front
property line to 10-feet from the property line

7 Reference: Zoning Ordinance, Article 8,
Section 9.5.5(c)

8 Applicant: Jon D. Taylor

9

10 MS. EVANS: This application comes before you
11 because the applicant is requesting to construct a 26
12 by 22 carport on the property. The applicant believes
13 that this location is the most appropriate location on
14 the property which happens to be located in the
15 building setback line. Because the property, although
16 it appears pretty large on the plat and on the aerial
17 photo, it has a steep drop-off toward the back
18 there, toward the back. In this area of this
19 property, this is really the only flat ground that he
20 has to be able to locate this carport.

21 Granting this variance to reduce the building
22 setback will not alter the essential character of the
23 general vicinity, and will not be an unreasonable
24 circumvention of the requirements of the zoning
25 ordinance because there are existing structures in the

1 area that encroach into the required building setback.

2 Additionally, granting this variance will not
3 adversely affect the public safety and will not cause
4 a public nuisance because the subject property is the
5 final lot on Pleasure Point East, so such an
6 encroachment will not create a visibility issue or
7 traffic concern.

8 Staff would recommend approval of this
9 variance with the following condition:

10 1. Obtain all necessary building, electrical
11 and HVAC permits, inspections and certificates of
12 occupancy and compliance.

13 We would like to enter the Staff Report into
14 the record as Exhibit C.

15 CHAIRMAN: Thank you.

16 Is there anyone here representing the
17 applicant?

18 (NO RESPONSE)

19 CHAIRMAN: Is there anyone in the audience
20 that have a question of the application?

21 (NO RESPONSE)

22 CHAIRMAN: Anyone on the board have a
23 question?

24 (NO RESPONSE)

25 CHAIRMAN: If not I'll entertain a motion.

1 Mr. Glenn.

2 MR. GLENN: I'll make a motion to approve this
3 Variance based on the information that has been
4 presented here to us tonight, and also that they meet
5 the one special condition.

6 CHAIRMAN: We have a motion by Mr. Glenn.

7 MR. HOWARD: Second.

8 CHAIRMAN: Second by Andrew. Any question on
9 the motion?

10 (NO RESPONSE)

11 CHAIRMAN: All in favor of the motion raise
12 your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 ITEM 5

16 211, 219 Cedar Street, 218, 220 Locust Street; 500,
17 510, 520 West Second Street; 511 West Third Street;
18 zoned B-2 Central Business & B-4 General Business,
19 Downtown Core Overlay District & Downtown Transition
20 Overlay District

21 Consider request for a Variance in order to increase
22 the maximum number of building stories to 15

23 Reference: Zoning Ordinance, Article 21

24 Sections 21.82(b)(ii) and 21.86(b)(i)

25 Applicant: Riverfront Brio, LLC; Matt Hayden

MS. MORGAN: Madam Chairman, I would like to
you recuse myself, please.

CHAIRMAN: Okay.

MS. EVANS: The subject property is located

1 and it takes up the entire block from Second to Third
2 and Cedar to Locust Street in the area of the Downtown
3 Overlay District. Since it is in the Downtown Core
4 Overlay District and the Downtown Transition Overlay
5 Districts the maximum height for buildings in those
6 districts are four to six stories, depending on which
7 district you're in.

8 The applicant has requested this variance to
9 increase the allowed number of building stories to be
10 15 stories; however, this request has already been
11 heard by the Historical Preservation Board on March
12 27, 2019 and was approved at that meeting with the
13 following finding:

14 1. The goals and intent of the downtown
15 master plan are met because the overall conceptual
16 design of the building fits within the character
17 sought for the Downtown Overlay District.
18 Furthermore, the plan and proposed building promotes
19 the development on a lot that has been vacant.
20 Furthermore, the proposed building and apartments will
21 promote residential living in the downtown area.

22 2. The requested dimensional variance is
23 necessary in order for the property to take advantage
24 of the views of the river, especially considering the
25 height of surrounding buildings such as the Owensboro

1 Convention Center and Hampton Inn and Suites.

2 3. Strict compliance with the zoning
3 regulations would harm the Owner by limiting its
4 ability to build or construct this building.

5 4. The requested building height variance
6 would promote the health and welfare of the general
7 public by providing increased living space and hotel
8 space in the Downtown Overlay District. Additionally,
9 the parking component of the development will aid the
10 general public by providing additional parking spaces
11 which will not overburden other public parking spots.
12 This project would have a major economic impact upon
13 the general public not only from a construction
14 standpoint, but by creating residential space
15 downtown, it would have an economic impact on other
16 retail and restaurant businesses.

17 5. Additional, the proposed building fits
18 within the adjoining design context since it is on the
19 western most edge of the Downtown Core Overlay
20 District in an area which previously has been
21 undeveloped. The proposed building will be
22 constructed around some of the taller buildings
23 located in downtown Owensboro and the proposed
24 building's mass is complimentary to (or in keeping
25 with) the mass of the other buildings in the Project's

1 proximity.

2 Granting this variance to increase the maximum
3 number of stories to 15 will not alter the essential
4 character of the general vicinity as there are other
5 tall structures within the area; it will not cause a
6 public nuisance; and it will not adversely affect the
7 public welfare because the proposed complex will
8 provide additional parking spaces and so it will not
9 overburden existing public parking; and it will not be
10 an unreasonable circumvention of the requirements of
11 the zoning ordinance because the proposal meets the
12 goals and intent of the downtown master plan.

13 We would request this variance for approval
14 with the following condition:

15 1. Rezone the subject properties as necessary
16 to B-2 Central Business;

17 2. Obtain approval of a Minor Subdivision
18 Plat;

19 3. Obtain approval of a Final Development
20 Plan; and.

21 4. Obtain all necessary building, electrical
22 and HVAC permits, inspections and certificates of
23 occupancy and compliance.

24 We would like to enter the Staff Report into
25 the record as Exhibit D.

1 CHAIRMAN: Thank you.

2 Is there anyone here representing the
3 applicant?

4 MR. RAY: Ed Ray on behalf of the applicant.
5 Be happy to answer any questions.

6 CHAIRMAN: Is there anyone in the audience who
7 has any questions regarding this application?

8 (NO RESPONSE)

9 CHAIRMAN: Is there anyone on the board who
10 has questions?

11 Mr. Reeves.

12 MR. REEVES: Just one for my information, Mr.
13 Ray, if you don't mind.

14 MS. KNIGHT: Mr. Ray, you're sworn as an
15 attorney.

16 MR. REEVES: It's my understanding some of
17 this is going to be residential rather than just
18 hotel. Do you have a notion how many floors you're
19 going to do for residential yet and what the nature of
20 that residential would be?

21 MR. RAY: Between the parking component and
22 the residential component right now it's going to be
23 somewhere in that 12 to 15 story range, but because of
24 the nature of the size of the block, some of the
25 parking willing have to be a podium system with the

1 residential construction.

2 MR. REEVES: Thank you.

3 CHAIRMAN: Anyone else have questions?

4 (NO RESPONSE)

5 CHAIRMAN: Anyone in the audience?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none I'll entertain a

8 motion.

9 Mr. Reeves.

10 MR. REEVES: Motion to approve this based on

11 Staff Findings 1 through 4 with Conditions 1 through

12 4.

13 CHAIRMAN: We have a motion by Mr. Reeves.

14 MS. MASON: Second.

15 CHAIRMAN: Second by Ms. Mason. Any question

16 on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor of the motion raise

19 your right hand.

20 (ALL BOARD MEMBERS PRESENT - WITH TORI MORGAN

21 RECUSING HERSELF - RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Anything else, Mr. Howard?

24 MR. HOWARD: No, ma'am.

25 CHAIRMAN: We need one more motion.

1 MS. MASON: Motion to adjourn.

2 MR. GLENN: Second.

3 CHAIRMAN: Motion to adjourn by Ms. Mason.

4 Second by Mr. Glenn. All in favor raise your right
5 hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: We are adjourned.

8 -----

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 foregoing 17
14 typewritten pages; and that no signature was requested
15 to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 30th day of April, 2019.

18

19

20

21

22

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KY 42303

23

COMMISSION EXPIRES: DECEMBER 16, 2022

24

COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25