

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 DECEMBER 5, 2019

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 December 5, 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 * * * * *

17 CHAIRMAN: We will call the Owensboro
18 Metropolitan Board of Adjustment December 5, 2019
19 meeting to order. If you will all stand, I will lead
20 with the prayer and then the pledge.

21 (PLEDGE OF ALLEGIANCE AND INVOCATION)

22 CHAIRMAN: First item on the agenda is to
23 consider the minutes of the November 7, 2019 meeting.
24 Everyone has received a copy and has had time to check
25 it out. At this time I will entertain a motion.

MS. MASON: I move for approval.

CHAIRMAN: Move for approval by Ms. Mason.

MR. ANDREW HOWARD: Second.

1 CHAIRMAN: Second by Mr. Howard. Any
2 questions 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, Mr. Howard.

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10 CONDITIONAL USE PERMITS

11 ITEM 2

12 744 Higdon Road, zoned R-1A Single-Family Residential
13 Consider a request for a Conditional Use Permit in
14 order to install a Class 2 Manufactured Home in an
15 R-1A Single-Family Residential zoning classification.
16 References: Zoning Ordinance Article 8,
17 Section 8.2A10B/7
18 Applicant: Steven Roper; Cathy W. Roper

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

21 MR. PEDLEY: Trey Pedley.

22 (TREY PEDLEY SWORN BY ATTORNEY.)

23 MR. PEDLEY: The subject property and the
24 adjoining property on both sides are zoned R-1A
25 Single-Family. Both neighboring properties are
utilized residentially with a Class 2 manufactured
home.

The applicant would like to place a Class 2

1 manufactured home on the subject property located
2 approximately 75 feet from the rear property line
3 placing structure near the end of the existing gravel
4 driveway.

5 Such a structure is conditionally permitted in
6 an R-1A Single-Family Residential zone so long as the
7 site complies with all zoning ordinance requirements.

8 The site plan submitted with the application
9 indicates each of the zoning ordinance requirements
10 will be met with the exception of the requested
11 waivers, including:

12 1. The applicant requests a waiver to
13 eliminate the required sidewalk because the subject
14 property is located along a rural road where sidewalks
15 have not been constructed; and.

16 2. The applicant requests a waiver to allow
17 the two 9 by 18 parking spaces and the driveway apron
18 to be a gravel surface to remain consistent with the
19 other properties in the general vicinity.

20 If approved Special Condition:

21 1. 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 A.

1 CHAIRMAN: Thank you.

2 Is anyone here representing the applicant?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone here have any opposition or
5 question about this item?

6 (NO RESPONSE)

7 CHAIRMAN: I'll entertain a motion.

8 MR. JEAN: I would like to make a motion to
9 approve this Conditional Use Permit based on the Staff
10 Report, the site visit with the 8 zoning ordinance
11 requirements, and with the one suggested condition
12 and, the three findings of fact. This property is in
13 an R-1A zone where Class 2 manufactured homes are
14 conditionally permitted. 2) The two 9 by 18 parking
15 spaces and the gravel driveway will be allowed into
16 the property; it's not within the City of Owensboro,
17 and many of the other properties along Higdon Road
18 utilize gravel driveways. The sidewalk requirement
19 will be waived as to remain consistent with the other
20 properties on Higdon road.

21 CHAIRMAN: We have a motion by Mr. Gene. Do
22 we have a second?

23 MR. GLENN: Second.

24 CHAIRMAN: Second by Mr. Glenn. Any question
25 on the motion?

1 (NO RESPONSE)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, Mr. Howard.

7 ITEM 3

8 3000 Trails Way, zoned R-1C Single-Family Residential
9 Consider a request for a Conditional Use Permit in
10 order to operate a bakery as a Home Occupation from
11 the subject property
12 References: Zoning Ordinance, Article 8,
13 Section 8.2D5a
14 Applicant: Haleigh Woodard; Zachary Woodard

15 MR. PEDLEY: The subject property is zoned
16 R-1C Single-Family Residential and is located at the
17 corner of Trails Way and Avenue Park of the Parks in
18 the Heartlands Subdivision. The applicant proposes to
19 operate a bakery from the residence in which customers
20 will visit the residential property to pick up their
21 orders. The application states that the visitors will
22 be minimal (approximately 5 people per week, typically
23 on Fridays and Saturdays).

24 Such operations are conditionally permitted in
25 the residentially zoning classification with specific
26 criteria, all of which have been addressed within the
27 application. However, the Board of Adjustment may
28 impose further conditions as necessary to ensure

1 proper integration of the use into the area.

2 In addition to the criteria, specific for
3 conditionally permitted home occupation, the zoning
4 ordinance requires one parking space per 400 square
5 feet of the activity. There are no landscaping
6 requirements for this proposed use at the subject
7 property.

8 If approved such conditions includes:

9 1. The Board of Adjustment shall establish
10 conditions limiting the number of customers that may
11 come to the site at one time, as well as the hours of
12 operation that customers may come to the subject
13 property; and,

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

17 We would like to enter the Staff Report into
18 the record as Exhibit B.

19 CHAIRMAN: Thank you.

20 Is there anyone here representing the
21 applicant?

22 MS. WOODWARD: Yes.

23 CHAIRMAN: Do you want to come to the
24 microphone in case we have any questions?

25 MS. KNIGHT: If you would state your name for

1 the record, please?

2 MS. WOODWARD: Haleigh Woodward.

3 (HALEIGH WOODWARD SWORN BY ATTORNEY.)

4 CHAIRMAN: Do you want to add anything to
5 what's been read into the record?

6 MS. WOODWARD: No.

7 CHAIRMAN: Is there anyone that has a question
8 of Ms. Woodward?

9 MS. MASON: I do.

10 What will be the hours that you will be having
11 people come into your home?

12 MS. WOODWARD: Probably no -- well, I work
13 until 5:00. So usually between 5 and 7 in the
14 evening.

15 MS. MASON: Okay.

16 CHAIRMAN: Any other questions?

17 Mr. Reeves.

18 MR. REEVES: I guess this is just for the
19 staff.

20 How can we set the condition on the number of
21 customers that come to the site at any one time? I
22 don't see how we can do that.

23 MR. HOWARD: It's one of these things, these
24 are new; the ordinance has been recently amended to
25 allow this. I think you could make a condition that

1 no more than "X" number at a time so that, you know,
2 and hopefully her business grows and does great, and
3 you don't end up though with a time where she has 15
4 people coming to the house at one time; because then
5 you lose the character of the residential feel if
6 you've got a business that's operating from 8 to 5
7 Monday through Friday and Saturday and you've got
8 people coming and going all the time.

9 Do you have an idea about how many people
10 would come at a time?

11 MS. WOODWARD: I work full-time so I really
12 don't have time to do like a maximum of probably five
13 people a week. Really most of them will be on
14 Fridays. My husband is off on Fridays so it might be
15 during the day on Fridays.

16 MR. HOWARD: We don't want to do a disservice
17 to the neighbors, which I don't think any neighbors
18 are here on that. If this does grow and get to the
19 point that she would have a whole lot of people coming
20 in and out, at that point you need to look at like a
21 commercial location instead of being residential.
22 Just have that conversation in some capacity so that
23 it doesn't get out of control in a residential
24 setting.

25 MR. REEVES: I guess my question for you is:

1 Is it your hope that you would outgrow this to the
2 point where you would have a commercial site somewhere
3 or is this what you're wanting to do?

4 MS. WOODWARD: Just want to do this. It's
5 just something I do on the side. Honestly, I started
6 to pay off medical bills. It's not -- like I said, I
7 have a full-time job. I'm an accountant.

8 MR. REEVES: I assume you're doing specialized
9 cakes or something; is that what you do?

10 MS. WOODWARD: It's cookies.

11 MR. REEVES: Cookies. Okay.

12 CHAIRMAN: Anyone else have any questions of
13 the applicant or comments?

14 (NO RESPONSE)

15 CHAIRMAN: I'll entertain a motion.

16 MR. GLENN: I will go on and move to approve
17 this application based on the information that's been
18 presented here tonight. Assuming that she does meet
19 the zoning ordinance requirements that are listed, and
20 also that she would follow the suggested conditions
21 that might be presented later on by the Owensboro
22 Metropolitan Board of Adjustment.

23 MS. KNIGHT: Well, I think we would have to
24 impose the condition tonight.

25 MR. REEVES: Could I suggest to maybe include

1 that into the motion; that no more than two customers
2 on site at any time or whatever you want to do.

3 MR. GLENN: Let me ask a question then. How
4 many parking places are in front of your house?

5 MS. WOODWARD: In my driveway or --

6 MR. GLENN: In front on the street. One or
7 two?

8 MS. WOODWARD: Probably two, maybe three.

9 MR. GLENN: You could park one or two in the
10 drive?

11 MS. WOODWARD: Yes.

12 MR. GLENN: I would amend that to read that
13 there would be no more than five customers there at
14 any one time.

15 CHAIRMAN: Is that all right?

16 MS. WOODWARD: Oh, yes, that's fine. There
17 will never be that many.

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

19 MR. ANDREW HOWARD: Second.

20 CHAIRMAN: Second by Mr. Howard. Any question
21 on 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: It is unanimous.

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3 VARIANCES

4 ITEM 4

5 1902 Daviess Street, zoned B-4 General Business
6 Consider a request for a Variance in order to reduce
7 the required street yard building setback along
8 Daviess Street from 25-feet from the property line to
9 10-feet from the property line.
References: Zoning Ordinance Article 8,
Section 8.5.16(c)
Applicant: Executive Transportation Service, LLC;
William T. Pogue, Jr.

10 MR. PEDLEY: The subject property is located
11 at the southwest corner of Daviess Street and East
12 19th Street and is zoned B-4 General Business.
13 However, it should be noted that the remaining 13 lots
14 within this block of East 19th Street are zoned R-4DT
15 Inner-City Residential. All the lots in this area,
16 including the subject property, have an atypical width
17 of 45-feet wide. Because this property is on a corner
18 lot, it has a 25-foot street yard setback off Daviess
19 Street which, which coupled with the narrow lot size,
20 has left very little room for additions or new
21 development on the site.

22 Consequently, the applicant is now requesting
23 a variance to reduce the street yard building setback
24 along Daviess Street from 25-feet to 10-feet to allow
25 the construction of an attached 3-car garage. As

1 depicted on the site plan, the existing building is
2 approximately 10-feet from the property line in
3 question and the existing portion is even closer. The
4 applicant would like to construct a garage that will
5 closely line up with the perimeter wall of the
6 existing building, but will not be closer than 10-feet
7 to the property line along Daviess Street.

8 The proposed garage will be utilized in
9 conjunction with a taxi service that is currently
10 operating from the site. At the moment, to the rear
11 of the building is a large paved area without
12 designated parking spaces or organized traffic flow on
13 the site. The construction of this garage will
14 eliminate a portion of the existing asphalt, which
15 will create parking area that will promote backing
16 into the alley rather than backing into Daviess
17 Street.

18 Granting the variance to reduce the street
19 yard building setback as requested will not adversely
20 affect the public safety and will not cause a public
21 nuisance because the site's proposed layout will
22 encourage backing into the alley rather than Daviess
23 Street. Additionally, granting the variance will not
24 be an unreasonable circumvention of the zoning
25 regulations and will not alter the essential character

1 of the general vicinity because the proposed garage
2 will be approximately an in-line extension of the
3 existing building.

4 Staff Recommends approval with the condition
5 that:

6 1. Obtain approval of a Site Plan or Final
7 Development Plan; and

8 2. Obtain all necessary building, electrical
9 and HVAC permits, inspections and certificates of
10 occupancy and compliance.

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

13 CHAIRMAN: Thank you.

14 Do we have anyone here representing the
15 applicant?

16 MR. POGUE: Yes.

17 CHAIRMAN: If you will come to the podium,
18 please.

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

21 MR. POGUE: William Pogue.

22 (WILLIAM POGUE SWORN BY ATTORNEY.)

23 CHAIRMAN: Do you have anything you want to
24 add to what's been said?

25 MR. POGUE: No. I think Trey summed it up.

1 Basically I want to add a 24 by 30 addition, which is
2 going to house a three-car garage. Still leaves ample
3 park. It conforms with the area. He summed it up.

4 CHAIRMAN: Thank you.

5 MR. POGUE: You're welcome.

6 CHAIRMAN: Anyone have any questions of
7 Mr. Pogue.

8 (NO RESPONSE)

9 CHAIRMAN: Anyone in the audience wishing to
10 speak?

11 (NO RESPONSE)

12 CHAIRMAN: I'll entertain a motion on this
13 item.

14 Mr. Reeves.

15 MR. REEVES: Move to approve this application
16 based on the Findings 1 through 4 that the Staff had
17 in their report with Conditions 1 and 2.

18 MR. JEAN: Second.

19 CHAIRMAN: Second by Mr. Jean. Any question
20 on the motion?

21 (NO RESPONSE)

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

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 ITEM 5

2 2121 Griffith Place East, zoned R-1A Single-Family
3 Residential
4 Consider a request for a Variance in order to reduce
5 the required rear yard building setback from 20-feet
6 from the rear property line to 3-feet from the
7 property line.
8 Reference: Zoning Ordinance Article 8,
9 Section 8.5.5(e)
10 Applicant: Gary L. Cecil

11 MR. PEDLEY: The subject property is zoned
12 R-1A Single-Family Residential and is located on
13 Griffith Place East near the street's intersection
14 with Ford Avenue.

15 The applicant proposes to attach a covered
16 porch to the rear of the existing residence, which
17 will encompass the existing driveway. Doing so will
18 cause the principal structure to encroach into the
19 required rear yard building setback; so the applicant
20 has requested a variance to reduce the rear yard
21 setback from 20-feet to 3-feet from the rear property
22 line.

23 In the general vicinity, no other principal
24 structures appear to encroach into the required rear
25 yard setback. However, it is worth noting that the
26 zoning ordinance does not have a required setback
27 between unenclosed accessory structures and principal
28 structures. The zoning ordinance does allow accessory
29 structures to be as close as 3-feet to the rear

1 property line.

2 Consequently, the applicant could construct an
3 unenclosed detached structure inches away from the
4 residence and encroach into the rear yard setback as
5 proposed, and do so without the need for a variance.

6 Granting the variance to reduce the rear yard
7 setback as requested will not create an unreasonable
8 circumvention of the zoning regulations, will not
9 alter the essential character of the general vicinity,
10 and will not adversely affect the public safety
11 because the structure will be unenclosed and
12 unenclosed structures are permitted at the requested
13 setback.

14 Additionally, granting the variance will not
15 cause a nuisance to the public because the requested
16 structure will be covering and screening the existing
17 driveway at the rear of the subject property.

18 Staff recommends approval with Conditions:

19 1. The residential addition shall remain an
20 unenclosed structure;

21 2. If the proposed location is within a
22 Public Utility Easement or a Drainage Easement, then a
23 Utility Encroachment Permit shall be obtained or the
24 structure shall not encroach into the easement; and,

25 3. Obtain all necessary building, electrical

1 and HVAC permits, inspections and certificates of
2 occupancy and compliance.

3 We would like to enter the Staff Report into
4 the record as Exhibit D.

5 CHAIRMAN: Thank you.

6 Is there anyone here representing the
7 applicant?

8 MR. CECIL: Yes.

9 CHAIRMAN: Step forward in case we have any
10 questions.

11 MS. KNIGHT: State your name for the record.

12 MR. CECIL: Gary Cecil.

13 (GARY CECIL SWORN BY ATTORNEY.)

14 CHAIRMAN: Do you have anything you want to
15 add to what has been read in?

16 MR. CECIL: I don't know how to act without
17 people down here opposing me. I'm a little taken
18 back.

19 I'm sorry I missed the last two meetings.

20 CHAIRMAN: Anyone have any questions of
21 Mr. Cecil?

22 Mr. Reeves.

23 MR. REEVES: Again, I don't know if Mr. Cecil.
24 It's probably Staff.

25 How do we know that the applicant in fact

1 would have been in touch with all the public utilities
2 with regard to the necessary easements?

3 MR. HOWARD: When he applies for the building
4 permit to do this, a plat will be part of what's
5 submitted and we'll verify that.

6 MR. REEVES: They will sign off on?

7 MR. HOWARD: Well, there may not be -- do you
8 how if there's an easement back there?

9 MR. CECIL: According to the plat, there's no
10 easement.

11 MR. HOWARD: There may not be one. We just
12 put that in there to cover it in case there's a plat
13 from 1963 that shows an easement that we haven't seen
14 yet or wonder.

15 MR. REEVES: Thank you.

16 CHAIRMAN: Any other questions?

17 (NO RESPONSE)

18 CHAIRMAN: I'm ready for a motion.

19 MS. MASON: I make a motion to approve this
20 variance based on the Staff Report, Findings 1 through
21 4, and with Conditions 1 through 3.

22 CHAIRMAN: We have a motion by Mrs. Mason.

23 MR. ANDREW HOWARD: Second.

24 CHAIRMAN: Second by Mr. Howard. Any question
25 on the motion?

1 (NO RESPONSE)

2 CHAIRMAN: All in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Any other business, Mr. Howard?

6 MR. HOWARD: No, ma'am.

7 CHAIRMAN: We have one final motion.

8 MR. GLENN: Motion to adjourn.

9 CHAIRMAN: We have a motion to adjourn by Mr.

10 Glenn.

11 MS. MASON: Second.

12 CHAIRMAN: Second by Ms. Mason. All in favor
13 raise your right hand.

14 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 foregoing 10
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 31st day of December, 2019.

18

19

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

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23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25