

**Owensboro Metropolitan Board of Adjustment**

**Address:** 5400 BLK WILLOW BROOK LOOP

**Agenda:** November 10, 2005

**Zone/Ref:** Proposed R-1A, Zoning Ordinance, Article 10, Section 10.44

**Applicant:** O'Bryan Development, Inc.

**DESCRIPTION of requested Variance**

To eliminate the 20 foot project boundary buffer for the proposed Whispering Meadows Subdivision, Section 3.

**CONSIDERATIONS - Refer to applicant's reasons, attached**

**YES**

**A. SPECIAL CIRCUMSTANCES?** Are there special circumstances that do not generally apply to land in the general vicinity, or in the same zone?

The subject property is part of an ongoing residential subdivision development with this proposal constituting the third phase of the subdivision. Since the subject property is proposed as a planned residential development, a 20 foot boundary buffer is required per zoning ordinance. The developer has chosen to submit preliminary plat/final development plans in sections for this subdivision which initiates the requirement for the 20 foot boundary buffer that would not otherwise be required if the whole area proposed for residential development was submitted in its entirety. Since the proposal is bounded on all sides by existing or proposed future development of the Whispering Meadows Subdivision, the 20 foot boundary buffer is unnecessary. The intent of the requirement is to buffer adjacent property that is not part of an ongoing development not to buffer different sections of a subdivision proposal.

**YES**

**B. HARDSHIP?** Would strict application of the regulations deprive the applicant of the reasonable use of the land, or create an unnecessary hardship on the applicant?

Since the property is a planned residential development a 20 foot roadway buffer is required. Since it adjoins other sections of the same subdivision, the 20 foot boundary buffer would result in a total buffer width of 40 feet between lots within the same subdivision.

**NO**

**C. APPLICANT'S ACTIONS?** Are the circumstances from which relief is sought a result of the applicant's actions taken after adoption of the zoning regulation?

- **IF YES: WILLFUL ACTIONS?** Did the applicant take WILLFUL actions in violation of the zoning regulation? IF SO, the board SHALL DENY the variance.

**FINDINGS: Granting this Variance...**

WILL NOT  
WILL NOT  
WILL NOT  
WILL NOT

1. Adversely affect the public health, safety or welfare.
2. Alter the essential character of the general vicinity.
3. Cause a hazard or a nuisance to the public.
4. Allow an unreasonable circumvention of the requirements of the zoning regulations.

**STAFF RECOMMENDATION**

**APPROVAL**

**Conditions:**

None