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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MAY 5, 2005

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 5, 2005, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: C. A. Pantle, Chairman
- Becky Stone
- Ruth Ann Mason
- Marty Warren
- Judy Dixon
- Tim Miller
- Sean Dysinger
- Ward Pedley
- Ed Baylous
- Attorney

* * * * *

CHAIRMAN: Want to welcome each and every one of you coming this evening.

First thing we do when we start our meeting is we stand and have a prayer and pledge of allegiance. We invite you, if you so desire, to join us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome all of you again to the meeting. If you have anything you would like to add to any item that we have on the

1 agenda, please come to one of the podiums. State your
2 name and you'll be sworn in by the attorney.

3 The first item is consider the minutes of
4 the April 7th meeting. I don't think there was any
5 problems in the office.

6 MS. STONE: No.

7 CHAIRMAN: Chair is ready for a motion.

8 MR. MILLER: Motion to approve the
9 minutes.

10 CHAIRMAN: Motion to approve.

11 MS. DIXON: Second.

12 CHAIRMAN: All in favor raise your right
13 hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 If you all want to say anything on any
17 item, please come forward. State your name, as I told
18 you, and say what you have to do. Now, if you're
19 going to start doing the same over and over and
20 argument, we'll stop that. We'll call you out of
21 order. If you have any questions, direct them to the
22 chairman and we'll get your answer the best we can.
23 With that let's go on.

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25 CONDITIONAL USE PERMITS

Ohio Valley Reporting
(270) 683-7383

1 ITEM 2

2 3131 Alvey Park Drive West, in a B-4 zone
3 Consider a request for a Conditional Use Permit in
4 order to operate a ladies' fitness and weight loss
5 studio.

6 Reference: Zoning Ordinance, Article 8,
7 Section 8.2 B11, 8.4/13

8 Applicant: Don and Brenda Bowen

9 MS. STONE: This application is in order.
10 It's been reviewed by the Staff and it's ready for
11 your consideration.

12 CHAIRMAN: Any objections in the office?

13 MS. STONE: No, sir.

14 CHAIRMAN: Is there anyone in here who
15 wishes to speak in opposition of this item?

16 (NO RESPONSE)

17 CHAIRMAN: Does the applicant have
18 anything you'd like to present to us at this time?

19 (NO RESPONSE)

20 CHAIRMAN: Does any board member have any
21 questions of the applicant?

22 (NO RESPONSE)

23 CHAIRMAN: Staff have any questions?

24 (NO RESPONSE)

25 CHAIRMAN: What's the pleasure of the
26 board?

27 MR. PEDLEY: Mr. Chairman, I make a motion
28 for approval based on hearing no opposition and it's

1 compatible use with the neighborhood. Will not have
2 an adverse affect on the community.

3 MR. DYSINGER: Second.

4 CHAIRMAN: A motion has been made and a
5 second. Any other questions from the board?

6 (NO RESPONSE)

7 CHAIRMAN: Staff have anything you'd like
8 to add to it?

9 MS. STONE: No.

10 CHAIRMAN: The applicant have any further
11 questions?

12 (NO RESPONSE)

13 CHAIRMAN: With that all in favor raise
14 your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 Next item, please.

18 ITEM 3

19 6120 Old KY 54, in an R-1A zone
20 Consider request for a Conditional Use Permit in
21 order to operate an indoor and outdoor recreational
22 complex with principally permitted retail sales.
23 Reference: Zoning Ordinance, Article 8, Section 8.2
24 B11, K7, 8.4/13, 8.4/42
25 Applicant: Sports Promotions, LLC, RBC, LLC

23 MS. STONE: The application is in order.
24 It's ready for your consideration. The property needs
25 to be zoned B-4 to apply for this Conditional Use

1 Permit and to have the retail sales. They've already
2 been before the Planning Commission. The Planning
3 Commission has made a recommendation to approve the
4 zoning to B-4. So any approval of this item should be
5 subject to that zoning item being completed through
6 the legislative body.

7 CHAIRMAN: Any objections in the office?

8 MS. STONE: No.

9 CHAIRMAN: Is anyone wishing to speak in
10 opposition of this item?

11 (NO RESPONSE)

12 CHAIRMAN: Does the applicant have
13 anything you would like to add?

14 (NO RESPONSE)

15 CHAIRMAN: Board members have any
16 questions of the applicant?

17 (NO RESPONSE)

18 CHAIRMAN: Staff have any other comments
19 or questions?

20 MS. STONE: No.

21 CHAIRMAN: Hearing none entertain a motion
22 to dispose of the item.

23 MS. DIXON: Move to approve subject to the
24 approval of the zoning change by the legislative
25 bodies and based upon testimony or lack thereof of

1 opposition and that it's compatible with the area
2 around it.

3 MR. PEDLEY: Second.

4 CHAIRMAN: A motion has been made and a
5 second. Any other questions from the board?

6 (NO RESPONSE)

7 CHAIRMAN: Any other comments from the
8 applicant?

9 (NO RESPONSE)

10 CHAIRMAN: Hearing none all in favor raise
11 your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries.

14 Next item, please.

15 ITEM 4

16 1120 Woodlawn Avenue, in an R-4DT zone
17 Consider request for a Conditional Use Permit to
18 construct a 30' by 40' post frame picnic shelter.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Woodlawn United Methodist Church

19 MS. STONE: The application is in order.
20 It is ready for your consideration.

21 The approval of this item should be
22 subject to a development plan. This church is a
23 non-conforming church currently and applying for a
24 Conditional Use Permit, it would need to be brought
25 into conformance with the zoning ordinance.

1 Their parking is adequate in the number of
2 spaces they have, but it is not on the same site as
3 the church lot. So they need to tie their parking by
4 development plan to the church lot and that
5 development plan should go to the Planning Commission
6 for consideration. With that it's in order.

7 CHAIRMAN: One comment in the past. That
8 wasn't acceptable a few years back. It had to be
9 within one block.

10 MS. STONE: Right. The zoning ordinance
11 has changed to allow development plans to tie the
12 parking to the use on the property.

13 CHAIRMAN: Any objections in the office?

14 MS. STONE: No.

15 CHAIRMAN: Does the applicant have any
16 comments he would like to present at this time?

17 Come forward and state your name and be
18 sworn in by the attorney, please.

19 MR. PAYNE: I'm Charles Payne and I'm a
20 member of Woodlawn.

21 (MR. CHARLES PAYNE SWORN BY ATTORNEY.)

22 MR. PAYNE: I guess I have more of a
23 question than anything else. That's about the
24 shrubbery in the parking lot. I didn't hear that. We
25 had asked to not have to put the shrubbery around the

1 parking area because it is all asphalt and it would
2 have to be sawed out and would be quite an expense for
3 us. We had also requested that we not have to do
4 that.

5 MS. STONE: I failed to mention that. The
6 Staff would be in agreement with that because it would
7 limit, reduce the parking spaces that they would be
8 able to have. The alteration is not occurring on the
9 parking lot. The parking lot is going to continue to
10 exist just as it is currently.

11 CHAIRMAN: Does that answer your question?

12 MR. PAYNE: Yes, sir. That was all I had.

13 CHAIRMAN: Any other questions from the
14 Staff or anyone from the church like to come forward
15 and make any other comments?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none from anyone
18 entertain a motion to dispose of the item.

19 MS. MASON: I make a motion to approve the
20 Conditional Use Permit subject to the development plan
21 being given to the Planning Commission and also to
22 waive the landscaping requirements, and also because
23 there was no opposition in the neighborhood and
24 because it's compatible with the neighborhood.

25 CHAIRMAN: Is there a second?

1 MS. DIXON: Second.

2 CHAIRMAN: Any other questions from the
3 Board, or Staff, or applicant?

4 (NO RESPONSE)

5 CHAIRMAN: All in favor raise your right
6 hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 Next item, please.

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11 VARIANCE

12 ITEM 5

13 801 West Fifth Street, in a B-4, R-4DT zone
14 Consider request for a Variance to reduce the front
15 yard building setback from 75 feet from the street
16 centerline to 40 feet from the street centerline in
17 order to construct a 24,162 square foot community
18 center.

16 Reference: Zoning Ordinance, Article 8,
Section 8.5.11(c), 8.5.16(c)

17 Applicant: H.L. Neblett Community Center

18 MS. STONE: This application is in order.

19 It's ready for your consideration.

20 CHAIRMAN: Any objections filed in the
21 office?

22 MS. STONE: No, sir.

23 CHAIRMAN: Anyone in the meeting object to
24 this item?

25 (NO RESPONSE)

1 CHAIRMAN: Does the applicant have
2 anything you would like to add at this time?

3 (NO RESPONSE)

4 MS. STONE: The lots would have to be
5 consolidated in order to construct the facility and
6 the improvements on the site. They did have a
7 preliminary plan with their rezoning request and would
8 need to consolidate the lots into one tract upon
9 approval.

10 CHAIRMAN: You all understand that?

11 APPLICANT: Exactly what lots are you
12 talking about?

13 MS. STONE: The lots that were proposed to
14 be used for the facility to be constructed and for the
15 parking on that property would need to be consolidated
16 into one lot to have that all on one tract of property
17 when that development occurs. If there's other lots
18 that the center owns that aren't part of that
19 proposal, they wouldn't necessarily have to be
20 consolidated to this property, but the property that's
21 going to be used to construct this community center
22 and the parking would need to be consolidated.

23 MR. BAYLOUS: For the sake of making the
24 record straight, I think we should probably have the
25 person responding come forward and identify

1 themselves.

2 MR. BRYANT: I have a quick comment. Don
3 Bryant.

4 (MR. DON BRYANT SWORN BY ATTORNEY.)

5 MR. BRYANT: We're preparing the site
6 plan. We prepared the application for the Variance.
7 We're also doing a lot consolidation. That's included
8 in our scope of work. The plat hasn't been submitted
9 because the rezoning hasn't gone through the
10 legislative body, but it will be as soon as that's
11 completed. Everything that's been addressed has
12 already been taken care of. It just hasn't been
13 submitted yet, but we understand that.

14 CHAIRMAN: Applicant, you sure you
15 understand everything along with your surveyor?
16 You're acceptable with everything?

17 MR. BRYANT: This building will be built
18 on the roadway buffer because of the size of the
19 building. We're just barely meeting setback
20 requirements at the rear. So we have to bring - -
21 this is similar to an application that was approved a
22 few months ago within the block just to the east.

23 CHAIRMAN: Any board members have any
24 other questions?

25 (NO RESPONSE)

1 CHAIRMAN: Staff have any other comments?

2 (NO RESPONSE)

3 CHAIRMAN: Attorney have anything else you
4 want to add?

5 MR. BAYLOUS: No.

6 CHAIRMAN: Entertain a motion to dispose
7 of the item.

8 MS. DIXON: Move to approve the Variance
9 because granting the Variance will not adversely
10 affect the public health, safety or welfare; will not
11 alter the essential character of the general vicinity;
12 will not cause a hardship or nuisance to the public;
13 will not allow an unreasonable circumvention of the
14 requirements of the zoning regulation, and subject to
15 the condition of the submittal and approval of the
16 consolidation plat.

17 CHAIRMAN: Is there a second?

18 MR. MILLER: Second.

19 CHAIRMAN: Any other questions from the
20 board?

21 (NO RESPONSE)

22 CHAIRMAN: Hearing none all in favor raise
23 your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries.

1 Next item, please.

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3 ITEM 6

4 417 East 11th Street, in an I-1 zone
5 Consider request for an Administrative Review to
6 change from a non-conforming use as a storage and
7 warehouse facility with limited parking to another
8 non-conforming use as a workshop for the fabrication
9 of art objects and furniture repair with limited
10 parking.
11 Reference: Zoning Ordinance, Article 4, Section 4.53,
12 Article 7, Section 7.34
13 Applicant: Ann S. Demko

14 MS. STONE: This application is in order.
15 It's ready for your consideration.

16 Mr. Mischel can answer questions regarding
17 the nature of this if you have questions.

18 CHAIRMAN: Come forward and be sworn in.

19 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

20 MR. MISCHEL: I'm Jim Mischel, Zoning
21 Administrator for the planning office. If you have
22 any questions I'll be glad to answer them.

23 Essentially I think we have a piece of
24 property that is zoned I-1. For years it was used for
25 a body shop. I think the previous owner has passed
away. Now his wife would like to sell the property.
She has some people wanting to buy it and they want to
use it for I guess I'd say a work shop, furniture
repair, things of that nature. I believe at this time

1 they don't plan on doing any retail sales or anything.
2 It's typically a work shop which would be okay in an
3 I-1 light industrial zone. The non-conforming use
4 says that it doesn't meet the parking standards that
5 are set forth. It didn't meet it when he had his body
6 shop there either. They would like to change it from
7 one non-conforming use to another non-conforming use.

8 CHAIRMAN: Have there been any objections
9 in the office on this?

10 MS. STONE: No, sir

11 CHAIRMAN: Does the applicant have
12 anything you all would like to add to it?

13 (NO RESPONSE)

14 CHAIRMAN: Staff have anything else?

15 MS. STONE: No.

16 CHAIRMAN: Hearing none entertain a motion
17 to dispose of it.

18 MR. MILLER: Mr. Chairman, motion to allow
19 the non-conforming use as this property as it exist as
20 I understand is non-conforming I guess on all sides
21 and in the future will only be non-conforming on the
22 rear setback.

23 Am I on the wrong one?

24 MS. STONE: This is non-conforming because
25 it doesn't meet parking requirements. They want to

1 continue a non-conforming use without parking, without
2 minimum park requirements.

3 MR. MILLER: We are on Number 6?

4 MS. STONE: Yes.

5 MR. MILLER: Still a motion to allow the
6 non-conforming use as it is compatible. Just
7 continuing use as a work shop.

8 CHAIRMAN: Is there a second?

9 MS. DIXON: Second.

10 CHAIRMAN: Any other questions from the
11 board members or any comments from the staff?

12 (NO RESPONSE)

13 CHAIRMAN: The applicant have anything
14 else you all would like to add to it?

15 APPLICANT REP: No.

16 CHAIRMAN: Hearing none all in favor raise
17 your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 Next item, please.

21 ITEM 7

22 704 Hathaway Street, in an R-4DT zone
23 Consider request for an Administrative Review in
24 order to demolish the existing non-conforming
25 structure and construct a non-conforming structure in
another location on the lot.
Reference: Zoning Ordinance, Article 4, Section 4.43,
Article 7, Section 7.34

1 Applicant: Ralph Thomas

2 MS. STONE: This is the one that Mr.
3 Miller was referring to. The structure does not meet
4 the setbacks on any sides currently and they're asking
5 that to be relocated to another position on the lot
6 that will meet the setbacks on the front setback and
7 will still be non-conforming on the rear setback.

8 CHAIRMAN: Any objections in the office?

9 MS. STONE: No.

10 CHAIRMAN: Any board member have any
11 questions of the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: The applicant have anything
14 you'd like to add to it?

15 APPLICANT REP: No.

16 CHAIRMAN: Hearing none entertain a motion
17 to dispose of the item?

18 MR. DYSINGER: Move to grant the request
19 as it is actually reducing the non-conforming nature
20 of the existing property and given the findings that
21 there is no opposition and it is compatible with the
22 nature of the area.

23 CHAIRMAN: Is there a second?

24 MS. DIXON: Second.

25 CHAIRMAN: Any other questions or comments

1 from the board?

2 (NO RESPONSE)

3 CHAIRMAN: Staff have anything else you'd
4 like to add to it?

5 MS. STONE: No.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 We need one final motion.

11 MS. DIXON: Move to adjourn.

12 MR. DYSINGER: Second.

13 CHAIRMAN: All in favor raise your right
14 hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 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 17 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 16th day of March, 2005.

18

19

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

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22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

25