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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

JANUARY 7, 2010

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, January 7, 2010, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: C.A. Pantle, Chairman
- Ward Pedley, Vice Chairman
- Ruth Ann Mason, Secretary
- Gary Noffsinger, Director
- Madison Silvert, Attorney
- Marty Warren
- Sean Dysinger
- Clay Taylor

* * * * *

CHAIRMAN: Let me call the meeting to order. First thing I want to welcome you to the Owensboro Metropolitan Board of Adjustment. We start our meeting each month with a prayer and then the pledge of allegiance. We ask you to join us if you so desire.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome you to the meeting. There's one thing that we need to do this evening that I kind of hate to see happen, but I want to ask Judy Dixon to come forward.

(PRESENTATION FOR JUDY DIXON.)

1 CHAIRMAN: With that the first thing on the
2 agenda this evening is the election of the officers.
3 I'll turn it over to Madison at this time.

4 MR. SILVERT: Thank you, Mr. Chairman.

5 Every January we conduct the election of
6 officers for the Owensboro Metropolitan Board of
7 Adjustment.

8 The first office that will be up for election
9 tonight is the office of secretary. So now taking
10 nominations for the office of secretary.

11 MR. DYSINGER: I nominate Ruth Ann Mason.

12 MR. WARREN: I'll second that.

13 MR. SILVERT: There's a second.

14 Ms. Mason, do you accept?

15 MS. MASON: I accept.

16 MR. SILVERT: Are there any other nominations?

17 (NO RESPONSE)

18 MR. PANTLE: Move that nomination cease and
19 she be elected by acclamation.

20 MR. SILVERT: Is there a second?

21 MR. DYSINGER: Second.

22 MR. SILVERT: All in favor raise your right
23 hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 MR. SILVERT: Mrs. Mason is now the new

1 secretary for the year 2010. Congratulations.

2 The office of vice chair, will now accept
3 nominations for vice chair.

4 MR. DYSINGER: Nominate Ward Pedley.

5 MS. MASON: Second.

6 MR. SILVERT: Nomination for Ward Pedley. Any
7 other nominations?

8 (NO RESPONSE)

9 MR. PANTLE: Move that nomination cease and be
10 elected by acclamation.

11 MR. WARREN: Second.

12 MR. SILVERT: All in favor.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 MR. SILVERT: Congratulations, Mr. Pedley.

15 Finally the office of chairman.

16 MR. PEDLEY: I nominate Audie Pantle.

17 MR. WARREN: I'll second that.

18 MR. SILVERT: Are there any other nominations?

19 (NO RESPONSE)

20 MR. PEDLEY: I make a motion that nomination
21 cease and he be elected by acclimation.

22 MS. MASON: Second.

23 MR. SILVERT: All in favor.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 MR. SILVERT: Congratulations, Mr. Pantle.

1 You are again Chairman. I'll turn it back over to
2 you.

3 CHAIRMAN: We'll proceed with our meeting now.

4 Couple of things before we start. If you have
5 any comments to make on any item, please come to the
6 podium, one or the other, and be sworn in so we can
7 have your name and everything on the minutes at that
8 time.

9 With that the first item is the consideration
10 of the minutes of the December 3rd meeting. They're
11 in the office and available if you need to read them.
12 I don't think there's any corrections that need to be
13 made on them. With that I'll entertain a motion.

14 MR. PEDLEY: Motion to approve.

15 MR. DYSINGER: Second.

16 CHAIRMAN: Motion has been made and a second.

17 All in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 Next item, please.

21 -----

22 CONDITIONAL USE PERMIT

23 ITEM 3

24 1911 Old Calhoun Road, zoned I-2
25 Consider request for a Conditional Use Permit in order
to bring the existing facility into compliance with
the zoning ordinance and to add grain bins for the

1 treatment of agricultural seed on the property.
Reference: Zoning Ordinance, Article 8,
2 Section 8.2G4/27
Applicant: Miles Farm Supply, LLC
3

4 MR. SILVERT: State your name, please.

5 MS. STONE: Becky Stone.

6 (BECKY STONE SWORN BY ATTORNEY.)

7 MR. DYSINGER: Mr. Chairman, as is customary
8 for the purpose of full disclosure, my wife works for
9 Miles Farms Supply; however, it would have no impact
10 on the way I would vote or any motions I would make.

11 CHAIRMAN: So noted in the minutes.

12 ZONING HISTORY

13 The subject property was rezoned from B-4 to
14 I-1 in 1980. The applicant has applied to build grain
15 bins for the agricultural treatment of seed on the
16 property. While the seed bins are not a hazardous
17 use, they will be located on the site with fertilizer
18 and hazardous storage. The existing use has existed
19 on the subject property. The Planning Staff
20 recommended a zoning change to I-2 and a conditional
21 use permit to bring the site into conformance with the
22 current zoning ordinance prior to the construction of
23 the additional grain bins on the site. The OMPC
24 recommended approval of a zoning change to I-2 Heavy
25 Industrial at the December 10, 2009 meeting. The

1 zoning change was final on January 1, 2010. All
2 activities on the subject property appear to meet the
3 minimum separation distances from residential zones
4 and commercial uses other than industrial of 300 feet
5 and 100 feet, respectively. Nineteen parking spaces
6 are provided on the site on a gravel parking lot. The
7 parking lot is an existing lot that has historically
8 served the site. The Planning Staff would recommend
9 at a minimum pavement of the access drive to the
10 existing gate located on the lot in order to prevent
11 the gravel and rock from entering the paved county
12 roadway. The site plan does reflect that.

13 ZONING ORDINANCE REQUIREMENTS

14 1. One parking space for every two employees
15 on maximum shift (minimum of 5)

16 SPECIAL CONDITIONS

17 Pavement of the access drive to the existing
18 gate on the subject property.

19 MS. STONE: We would like to enter the Staff
20 Report as Exhibit A.

21 CHAIRMAN: Thank you.

22 Are there any comments filed in the office for
23 or against?

24 MR. NOFFSINGER: No, sir.

25 CHAIRMAN: Is anyone in the audience wishing

1 to speak on this particular item for or against?

2 (NO RESPONSE)

3 CHAIRMAN: Seeing none, does the board have
4 any comments or questions about the application?

5 (NO RESPONSE)

6 CHAIRMAN: Staff have any other comments?

7 MR. NOFFSINGER: No, sir.

8 CHAIRMAN: Hearing none entertain a motion to
9 dispose of the item.

10 MR. PEDLEY: Mr. Chairman, I make a motion for
11 approval based on it is compatible with the
12 surrounding neighborhood. It will not have an adverse
13 influence on future development, with the condition
14 pavement of the access drive to the existing gate on
15 the subject property.

16 MR. WARREN: I'll second.

17 CHAIRMAN: A motion has been made and a
18 second. Any other comments form the board?

19 (NO RESPONSE)

20 CHAIRMAN: Anything else from the staff?

21 MR. NOFFSINGER: No, sir.

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.

2 -----

3 VARIANCES

4 ITEM 4

5 2000 Clinton Place W, zoned R-1A
6 Consider request for a Variance in order to reduce the
7 rear yard setback from 20 feet to 7.5 feet.
8 Reference: Zoning Ordinance, Article 8,
9 Section 8.5.5(e)
10 Applicant: Doug & Sheila Webster

11 MS. STONE: This is an area that was built
12 back in the '50s. The applicants are requesting a
13 rear yard setback. There are several encroachments in
14 the area. In fact, there was a variance approved for
15 a rear yard setback to 6.1 feet in 1997 on a lot in
16 the neighborhood.

17 So the Planning Commission would recommend
18 approval of this variance application because it will
19 not adversely affect the public health, safety or
20 welfare, as the addition is to the rear of the home
21 and the utility easement will be maintained clear of
22 obstruction; it will not alter the essential character
23 of the general vicinity as similar encroachments exist
24 in the neighborhood; it will not cause a hazard or a
25 nuisance to the public; it will not allow an
unreasonable circumvention of the requirements of the
zoning regulations because other existing homes in the

1 area encroach similar distances into the rear setback.

2 We would like to enter the Staff Report as
3 Exhibit B.

4 CHAIRMAN: Been any comments for or against
5 filed in the office?

6 MR. NOFFSINGER: No, sir.

7 CHAIRMAN: Anyone in the audience have any
8 comments you would like to make at this time?

9 (NO RESPONSE)

10 CHAIRMAN: Does the applicant have anything
11 you want to add.

12 APPLICANT REP: No, sir.

13 CHAIRMAN: Board members have any questions of
14 the applicant?

15 (NO RESPONSE)

16 CHAIRMAN: Anything else from the Staff?

17 MR. NOFFSINGER: No, sir.

18 CHAIRMAN: Entertain a motion to dispose of
19 the item.

20 MR. TAYLOR: Mr. Chairman, move to grant the
21 Variance based upon the findings that there are
22 previous approvals in the neighborhood. The
23 neighborhood did predate the zoning ordinance.
24 Therefore, it won't affect the adverse public health,
25 safety or welfare; it won't alter the essential

1 character of the neighborhood or cause a hazard or a
2 nuisance, and it won't allow an unreasonable
3 circumvention of the requirements of the zoning
4 regulations.

5 MR. PEDLEY: Second.

6 CHAIRMAN: A motion has been made and a
7 second. Any other comments or questions from the
8 board?

9 (NO RESPONSE)

10 CHAIRMAN: Staff have any other comments?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Hearing none all in favor raise
13 your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Next item, please.

17 ITEM 5

18 1205 West 4th Street, zoned R-4DT
19 Consider request for a Variance in order to reduce the
20 side yard setback on the west side of the property
21 from 5 feet to 4 feet.

22 Reference: Zoning Ordinance, Article 8,
23 Section 8.5.11(d)

24 Applicant: Habitat for Humanity

25 MS. STONE: This lot also predates the zoning
ordinance. It's narrower than the current ordinance
would allow, but it's similar to other lots in the
area. The applicant has submitted survey information

1 from the lots either side of this property where the
2 house is to be built. Both of those encroach into the
3 side yard setback.

4 Planning Commission would recommend granting
5 the variance. It will not adversely affect the public
6 health, safety or welfare; instead it will increase
7 the public health, safety and welfare by providing
8 affordable housing. It will not alter the essential
9 character of the general vicinity because similar
10 encroachments exist in the neighborhood. It will not
11 cause a hazard or a nuisance to the public; instead it
12 will reduce hazard or nuisance by redeveloping a lot
13 and impacting the development of the neighborhood. It
14 will not allow an unreasonable circumvention of the
15 requirements of the zoning regulations because other
16 similar encroachments exist in the neighborhood and
17 the lot would be difficult to develop given the
18 reduced width of the lot.

19 We would like to enter this as Exhibit C.

20 CHAIRMAN: Any comments in the office?

21 MR. NOFFSINGER: No, sir.

22 CHAIRMAN: The applicant have anything you
23 would like to say?

24 (NO RESPONSE)

25 CHAIRMAN: Any questions from the board?

1 (NO RESPONSE)

2 CHAIRMAN: Entertain a motion to dispose of
3 the item.

4 MR. DYSINGER: Mr. Chairman, move to grant the
5 variance based on the findings that it will not alter
6 the essential character of the general vicinity,
7 because similar encroachments exist in the
8 neighborhood. Further denying the variance would deny
9 the owner the reasonable use of their property.

10 MS. MASON: Second.

11 CHAIRMAN: A motion has been made and a
12 second. Any other comments or questions from the
13 board?

14 (NO RESPONSE)

15 CHAIRMAN: Staff have any other comments?

16 MR. NOFFSINGER: No, sir.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries.

21 Entertain one final motion.

22 MR. DYSINGER: Move to adjourn.

23 MS. MASON: Second.

24 CHAIRMAN: All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: We are adjourned.

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 26th day of January, 2010.

18
19 _____
20 LYNNETTE KOLLER FUCHS
21 OHIO VALLEY REPORTING SERVICES
22 202 WEST THIRD STREET, SUITE 12
23 OWENSBORO, KENTUCKY 42303

24 COMMISSION EXPIRES: DECEMBER 19, 2010
25 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY