The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, July 1, 2010, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  C.A. Pantle, Chairman
Ward Pedley, Vice Chairman
Gary Noffsinger, Director
Madison Silvert, Attorney
Rev. Larry Hostetter
Marty Warren
Clay Taylor

* * * * * * * * * * * * * * * * * *

CHAIRMAN:  Let me call the Owensboro Metropolitan Board of Adjustment to order. I want to welcome you to the meeting this evening. We start our program each meeting with a prayer and the pledge of allegiance. We invite you to please join with us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Again, I want to welcome you to the meeting. If you have any comments you want to make on any item, please come to one of the podiums. State your name so we'll have a record and a recording if any problems or something develops down the road.

The first item at this time are the minutes of the June 3rd meeting. We don't have any problems I don't think in the office.

Ohio Valley Reporting

(270) 683-7383
MR. NOFFSINGER: Correct.

CHAIRMAN: Entertain a motion to dispose of the item.

MR. PEDLEY: Motion for approval.

MR. WARREN: Second.

CHAIRMAN: A motion has been made and a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

First thing I want to ask the board for permission to change Number 5 item on the agenda to the last number. Move Number 6 up because I have to ask to be relieved and I'll ask vice chairman, Mr. Pedley, to take the chair at that time, please.

MR. WARREN: Motion to move Item Number 5 on the agenda to Number 6 and Number 6 to Number 5.

CHAIRMAN: Is there a second?

MR. PEDLEY: Second.

CHAIRMAN: A motion has been made and a second. Any other comments?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

-------------------------------
Ohio Valley Reporting
(270) 683-7383
CONDITIONAL USE PERMIT

ITEM 2

1903 Daniels Lane, zoned A-U

Consider request for a Conditional Use Permit in order
to operate a landscaping business.

Reference: Zoning Ordinance, Article 8,
Section 8.2H8/33a

Applicant: Norman King; Franklin J. Dockery & Susan
J. Dockery

MR. SILVERT: State your name, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned A-U
Urban Agriculture. OMPC records indicate there have
been no Zoning Map Amendments for the subject
property.

There is a paved driveway and a paved parking
pad existing on the property that is shown on the site
plan.

LAND USES IN SURROUNDING AREA

The properties to the north, south and east
are all zoned A-U Urban Agriculture. The property
across Daniels Lane is zoned R-1A Single Family
Residential.

ZONING ORDINANCE REQUIREMENTS

1. There is no minimum amount of parking
   established based on the zoning ordinance, the paved

Ohio Valley Reporting
(270) 683-7383
drive and parking pad serve as adequate space for parking.

2. Vehicular use area screening is not required because the parking pad is located so far off the road.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit A.

CHAIRMAN: Been any comments in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Board have any questions of the applicant at this time?

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

(NO RESPONSE)

CHAIRMAN: Board members have any other questions or the Staff have any comments?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on findings that it is a compatible use with the surrounding neighborhood. We've heard no opposition on the item and it will not have an adverse influence on the future.

CHAIRMAN: Is there a second?

Ohio Valley Reporting

(270) 683-7383
MR. TAYLOR: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add to it?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

VARIANCES

ITEM 3

529 Cedar Street, zoned R-4DT

Consider a request for a Variance in order to reduce the side yard building setback line from 5 feet to 1 foot.

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

Applicant: Roman Catholic Bishop of Owensboro, a/k/a Owensboro Catholic Diocese

MS. EVANS: The Applicant is requesting to reduce the side yard building setback line along the south property line in order to construct a new house and garage for their retiring bishop.

Ohio Valley Reporting

(270) 683-7383
This is an older area of town developed for the zoning ordinance with substandard lots and a modern size house could not properly fit on the lot. According to the Kentucky Building Code, a distance of 10 feet is required between structures. If a structure is built in the parking lot next to this proposed residence, it will have to be 9 feet from the shared property line in order to maintain the 10 foot distance between structures required by the building code.

FINDINGS OF FACT: Granting this Variance;
1. Will not adversely affect the public health, safety or welfare because the property to the south is a parking lot and emergency services could access the property through that parking lot;
2. It will not alter the essential character of the general vicinity because most lots on this street are approximately the same size with structures built on or near the property lines;
3. It will not cause a hazard or a nuisance to the public because the adjoining property to the south is owned by the applicant and is a parking lot;
4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because it appears most other houses on Ohio Valley Reporting (270) 683-7383
this street also encroach into the side yard setbacks.

The Staff recommends approval and we would
like to enter the Staff Report into the record as
Exhibit B.

CHAIRMAN: Any comments in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is the applicant here this evening?

MR. KAMUF: Yes, sir, Mr. Chairman. I'm here
to explain anything. I don't think there's any
objection to it, but I'm ready to go forward if you
want me to or however you want me to proceed.

CHAIRMAN: Board members have any questions of
the applicant at this time?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Do you have anything that we need
to really know real quick?

MR. KAMUF: Not real quick. I think I'll
leave it at that.

CHAIRMAN: Honestly, do you have anything you
need to add that we need to know at this time?

MR. KAMUF: It's a new home for the old bishop
and we've got both the bishops on call. They're down
praying.
CHAIRMAN: We need the prayers.

With that does the board members have any questions?

(NO RESPONSE)

CHAIRMAN: Staff have any comments?

MR. NOFFSINGER: No, sir.

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

MR. TAYLOR: Mr. Chairman, move to grant the variance based on the findings that the neighborhood was developed prior to the zoning ordinance. There are many other occasions and cases in the neighborhood that are similar to this and the improvement will actually be an improvement to the neighborhood rather than hinder.

CHAIRMAN: Is there a second?

MR. WARREN: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor raise your right hand.
ITEM 4

9924 Delaware Ferry Lane, zoned A-U
Consider a request for a Variance in order to reduce the street yard building setback line from 60 feet from the centerline of the road to 45 feet from the centerline of the road.
Reference: Zoning Ordinance, Article 8, Section 8.5.2(c)
Applicant: Patricia Simpson

MS. EVANS: The subject property is a corner lot at the intersection of Delaware Ferry Lane and Highway 258. The variance is for the side yard of the structure since the site plans shows the house will face Highway 258.

The property is partially located in the Special Flood Hazard Area with a base flood elevation of 386 feet. According to the applicant's engineer, the elevation of the property severely declines from the north to the south. The applicant is requesting this variance in order to build the structure on the area of the property that it was located at or above the base flood elevation.

The applicant has already applied with the Ohio Valley Reporting
(270) 683-7383
FEMA for a letter of Map Amendment to remove the portion of the property that is at or above the base flood elevation from the Special Flood Hazard Area. If FEMA approves the LOMA, the proposed location of the house would no longer be in the Special Flood Hazard Area.

The county engineer has recommended the area behind the proposed location of the house not be filled because the impact of filling the area would not be warranted when the structure could be moved forward.

We have some e-mail correspondence with the county engineer in the file folder if anybody would like to see that.

FINDINGS OF FACT: Granting this Variance;

1. Will not adversely affect the public health, safety or welfare because the proposed structure will still be located off the street and not in the Special Flood Hazard Area;

2. It will not alter the essential character of the general vicinity because they are replacing an existing residence with a new one;

3. It will not cause a hazard or a nuisance to the public because it will prevent the structure from being built in the Special Flood Hazard Area;

Ohio Valley Reporting
(270) 683-7383
4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because the topography of the land prevents the structure from being located in a different area on the subject property.

Staff recommends approval. We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Any comments filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone in the audience representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do you have any comments?

(NO RESPONSE)

CHAIRMAN: Any board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone objecting to the item?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on the Staff Report and the Findings of

Ohio Valley Reporting

(270) 683-7383
Facts 1 through 4.

CHAIRMAN: Is there a second?

MR. WARREN: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 5

1708 Todd Court, zoned R-3MF

Consider a request for a Variance in order to reduce the street rear yard building setback line from 25 feet from the property line to 13.6 feet from the property line

Reference: Zoning Ordinance, Article 8, Section 8.5.10(c)

Applicant: CTC Investments, LLC

MS. EVANS: The Applicant is requesting to reduce the street yard building setback line along Southtown Boulevard from 25 feet from the property line to 13.6 feet from the property line. Recently the City of Owensboro acquired right-of-way along Ohio Valley Reporting

(270) 683-7383
Southtown Boulevard for the roadway widening project of Southtown Boulevard. This acquisition caused the existing building to encroach into the newly applied setback of 25 feet.

The Applicant proposes to remove only a portion of the structure leaving the remainder of the building encroaching 11.4 feet into the new setback. The structures at 1700 and 1704 Todd Court also encroaches into the new setback line along Southtown Boulevard as a result of the acquisition of the right-of-way by the City of Owensboro.

At 1700 Todd Court 285 square feet of the structure encroach into the new setback whereas on the subject property, 228 square feet of the structure will encroach into the setback if this variance is approved.

The structure at 1700 Todd Court encroaches 13.3 feet into the setback line, 1.9 feet further into the setback than the proposed encroachment of the structure on the subject property.

FINDINGS OF FACT: Granting this Variance;

1. Will not adversely affect the public health, safety or welfare because the properties at 1700 and 1704 Todd Court also encroach into the setback line;

Ohio Valley Reporting

(270) 683-7383
2. It will not alter the essential character
of the general vicinity because other structures on
the same side of Todd Court also encroach into the
setback line. At 1700 Todd Court, 285 square feet of
the structure encroach into the setback whereas on the
subject property, 228 square feet of the structure
will encroach into the setback if this variance is
approved;

3. It will not cause a hazard or a nuisance
to the public because the structure at 1700 Todd Court
encroaches 1.9 feet further into the setback than the
proposed encroachment of the structure on the subject
property;

4. It will not allow an unreasonable
circumvention of the requirements of the zoning
regulations because the structures at 1700 and 1704
Todd Court encroach into the setback as well.

Staff recommends approval. We would like to
enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Is there any comments in the
office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is the applicant here?

MR. REYNOLDS: The applicant representative.

CHAIRMAN: Do you have any comments?

Ohio Valley Reporting
(270) 683-7383
Come forward at this time. State your name, please.

MR. REYNOLDS: David Reynolds representing the applicant, CTC Investments.

I'm here to answer any questions that you may have, but I think the exhibits, the charts that we showed, made pictures, and would ask if there is any questions we'll try to answer them, but otherwise we'd ask you to consider the stuff we've presented for recommendation and grant the request.

CHAIRMAN: Thank you.

Does any board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MR. WARREN: Motion to grant this variance based on the findings that have been stated in the Staff Report. It will not adversely affect the public health, safety; it will not alter the essential character of the general vicinity; it will not cause a hazard or a nuisance to the public; and it also will not allow an unreasonable circumvention of the

Ohio Valley Reporting

(270) 683-7383
requirements of the zoning regulation.

MR. TAYLOR: Second.

CHAIRMAN: A motion has been made and a second. Is there any other comments from the board at this time?

(NO RESPONSE)

CHAIRMAN: Staff have any comments?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

This last item I'm involved, have interest in it and I will turn the chair over to Mr. Pedley and he will handle that at this time.

ITEM 6

Emma's River Ridge Subdivision, zoned R-3MF (Proposed 301 Pantle PT, lots not established by final plat.)

Consider a request for a Variance in order to eliminate the required landscaping screening along the east property line from the top of the river bank forward 75 feet.

Reference: Zoning Ordinance, Article 17, Section 17.331/3D

Applicant: Emma's River Ridge, LLC

MS. EVANS: The applicant is requesting the elimination of the screening element on the east side of the property line from the top of the river bank forward 75 feet to maintain the existing river view of Ohio Valley Reporting

(270) 683-7383
the neighboring property owner to the east. The neighboring property owner supports and endorses this variance request.

The property to the east is zoned B-4 General Business but is currently not developed. We would recommend that if the property to the east ever develops commercially, as it is zoned, that the required screening be installed at that time.

FINDINGS: Granting this Variance;

1. Will not adversely affect the public health, safety or welfare, it will positively affect it providing a scenic view of the river for the adjoining property to the east;

2. It will not alter the essential character of the general vicinity because there is no screening in place currently;

3. It will not cause a hazard or a nuisance to the public; in fact, if the screening is required from the river bank forward 75 feet, it will cause a nuisance blocking the river view the neighboring property has always had;

4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because this requirement is designed to provide a screen between commercially and

Ohio Valley Reporting
(270) 683-7383
residentially zoned property. The adjoining property to the east is not developed commercially at this time and the adjoining property owners are requesting the screening not be installed.

Staff recommends approval with one condition:

1. If the adjoining property to the east develops commercially the required screening shall be installed.

We would like to enter the Staff Report into the record as Exhibit E.

MR. PEDLEY: Has there been any correspondence in the planning office?

MR. NOFFSINGER: No, sir.

MR. PEDLEY: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do you have any comments?

MR. RINEY: Yes.

MR. SILVERT: State your name, please.

MR. RINEY: Jim Riney.

(JIM RINEY SWORN BY ATTORNEY.)

MR. RINEY: Counsel, I recognize I'm not counsel so I will be dealing with facts, statements.

MR. SILVERT: Thank you.

MR. RINEY: This represents what this project

Ohio Valley Reporting

(270) 683-7383
is all about. It's the river view. From here to there it's kind of limited, but let me pass this around just so you can see the impact.

Around the Riney household I'm not known as a photographer, but I got lucky. We got these photos together that I took.

The project was conceived and moved forward because of the location and the river vista. The screening, the variance request for the screening was made in order to keep that vista that's been there all these years. Both for the subject property and for the adjoining property. The Julians live next-door and expressed their interest to the owners that they want to keep that open. The 75 feet from the top of the river bank, I've measured that and that comes back to an area where there's an existing building. So that's within reason of what has been at the site.

What I just heard was that the Staff has recommended that if this is ever commercial that the screening be installed. That's going to take away, at least what the owners have told me, that's going to take away from the value of their land. We would ask that the variance be approved based on the submittal that there not be additional conditions because of the unique location and the character of the property.

Ohio Valley Reporting

(270) 683-7383
along the Ohio River. There's just not that much
that's available.

I've got a plat, but I think you all have
those. If we look at that.

MR. NOFFSINGER: Excuse me. Staff is fine
with that. If the adjoining landowners are not here
to raise an issue, the Board is comfortable with it,
it's not an issue with us.

MR. RINEY: Thank you. I'll sit down.

MR. PEDLEY: Any board members have any
questions of Mr. Riney?

(NO RESPONSE)

MR. PEDLEY: Evidently we have no one here in
opposition.

Any board members have any questions on the
application?

(NO RESPONSE)

MR. PEDLEY: Chair is ready for a motion.

MR. TAYLOR: Mr. Chairman, move to grant the
variance based on that it does provide a scenic view
of the river, the adjoining property to the east as
well as this property owner. There's no screening in
place currently and the screening will generally be of
the benefit of the residency over the commercial
property so I don't feel that the screening would

Ohio Valley Reporting

(270) 683-7383
provide benefit there. I recommend approval of the variance.

MR. PEDLEY: We have a motion by Clay.

MR. WARREN: Second.

MR. PEDLEY: Second by Marty. Any comments or questions on the motion?

(NO RESPONSE)

MR. PEDLEY: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. PEDLEY: Motion carries unanimously.

We need one final motion.

MR. WARREN: Motion to adjourn.

MR. TAYLOR: Second.

MR. PEDLEY: All in favors raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. PEDLEY: We are adjourned.

-----------------------------------------------

Ohio Valley Reporting

(270) 683-7383
STATE OF KENTUCKY )

)SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS )

I, LYNETTE KOLLER FUCHS, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Board of Adjustment meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 21 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 27th day of July, 2010.

LYNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  DECEMBER 19, 2010

COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting
(270) 683-7383