OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

AUGUST 1, 2013

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY,
AUGUST 1, 2013, AT CITY HALL, COMMISSION CHAMBERS,
OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS
FOLLOWS:

MEMBERS PRESENT:  WARD PEDLEY, CHAIRMAN
RUTH ANN MASON, SECRETARY
GARY NOFFSINGER, DIRECTOR
CLAUD PORTER, ATTORNEY
SEAN DYSINGER
FRED REEVES

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CHAIRMAN:  CALL THE OWENSBORO METROPOLITAN
BOARD OF ADJUSTMENT TO ORDER.  WE'LL BEGIN OUR MEETING
WITH A PRAYER AND PLEDGE OF ALLEGIANCE TO THE FLAG.
WOULD YOU STAND, PLEASE.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  I WOULD LIKE TO WELCOME EVERYONE.
IT LOOKS LIKE WE HAVE A BIG CROWD.  ANYONE WISHING TO
SPEAK, WE ASK YOU TO COME TO ONE OF THE PODIUMS AND
STATE YOUR NAME AND SPEAK INTO THE MICROPHONE, PLEASE.

ALSO, BOARD MEMBERS, YOU DO THE SAME.  WHEN
YOU'RE SPEAKING, WOULD YOU PLEASE SPEAK INTO THE
MICROPHONE.

WITH THAT, THE FIRST ITEM ON THE AGENDA IS TO
CONSIDER THE MINUTES OF THE JUNE 11, 2013. ARE THERE ANY ADDITIONS OR CORRECTIONS?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A MOTION.

MR. DYSGINGER: MOVE TO APPROVE.

MS. MASON: SECOND.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL AND A SECOND. ALL IN FAVOR OF THE MOTION RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

NEXT ITEM, PLEASE.

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CONDITIONAL USE PERMIT

ITEM 2

1010 JACKSON STREET, ZONED R-4DT

CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN ORDER TO INSTALL A CLASS 2 MANUFACTURED HOME IN AN R-4DT ZONE.

REFERENCE: ZONING ORDINANCE ARTICLE 8, SECTION 8.2A10B/7

APPLICANT: SARA E. OLLER

MR. PORTER: WOULD YOU STATE YOUR NAME, PLEASE?

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

OHIO VALLEY REPORTING
(270) 683-7383
THE SUBJECT PROPERTY IS CURRENTLY ZONED R-4DT INNER-CITY RESIDENTIAL. OMPC RECORDS INDICATE THERE HAVE BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT PROPERTY.

A CONDITIONAL USE PERMIT TO INSTALL A CLASS 2 MANUFACTURED HOME ON THE SUBJECT PROPERTY WAS APPROVED IN 1992 BY THE OMBA. ACCORDING TO A NOTE IN THE FILE SIGNED BY THE PREVIOUS OWNER OF THE PROPERTY, THAT MANUFACTURED HOME WAS REMOVED IN 2006.

THE APPLICANT PROPOSES TO INSTALL A 16' BY 80' MANUFACTURED HOME ON THE SUBJECT PROPERTY.

LAND USES IN SURROUNDING AREA

ALL SURROUNDING PROPERTIES ARE ZONED R-4DT INNER-CITY RESIDENTIAL. THERE APPEARS TO BE OTHER MANUFACTURED HOMES IN THE AREA.

THE PLAN SITE SUBMITTED DOES INDICATE THAT THE APPLICANT WILL ABIDE BY ALL OF THE CLASS 2 MANUFACTURED HOME SITE STANDARD BASED ON THE ZONING ORDINANCE REQUIREMENTS.

WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT A.

CHAIRMAN: IS ANYONE HERE REPRESENTING THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: EVIDENTLY WE HAVE NO QUESTIONS OR
COMMENTS.

BOARD MEMBERS HAVE ANY COMMENTS OR QUESTIONS ON THE APPLICATION?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A MOTION.

MS. MASON: MR. CHAIRMAN, I MAKE A MOTION FOR APPROVAL WITH THE FINDINGS OF FACTS THAT IT'S CONSISTENT WITH THE PREVIOUSLY APPROVED CONDITIONAL USE PERMIT AND IT'S ALSO COMPATIBLE WITH THE NEIGHBORHOOD AS THERE ARE OTHER MANUFACTURED HOMES IN THE NEIGHBORHOOD.

MR. DYSINGER: SECOND.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL AND A SECOND. ANY COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR OF THE MOTION RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

NEXT ITEM, PLEASE.

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VARIANCE

ITEM 3

1735 FREEMAN AVENUE, ZONED R-1A
CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE THE SIDE YARD SETBACK FOR AN ACCESSORY STRUCTURE FROM 3 FEET FROM THE PROPERTY LINE TO 1 FOOT FROM THE PROPERTY LINE AND TO REDUCE THE REAR YARD SETBACK FOR AN ACCESSORY STRUCTURE FROM 3 FEET FROM THE PROPERTY LINE TO 1 FOOT FROM THE PROPERTY LINE TO CONSTRUCT A DETACHED GARAGE.

REFERENCE: ZONING ORDINANCE, ARTICLE 3, SECTION 3-7(B)(2)

APPLICANT: NICK SETTLES

MS. EVANS: THE SUBJECT PROPERTY IS LOCATED IN AN AREA ESTABLISHED BEFORE THE CURRENT ZONING ORDINANCE REQUIREMENTS WERE IN PLACE. THERE IS AN ALLEY WHICH RUNS BEHIND THE SUBJECT PROPERTY PARALLEL WITH FREEMAN AVENUE.

THE APPLICANT PROPOSES TO CONSTRUCT A 20 FOOT BY 20 FOOT DETACHED GARAGE TOWARDS THE REAR OF THE PROPERTY IN LINE WITH THE EXISTING DRIVEWAY ACROSS FROM FREEMAN AVENUE.

UPON INSPECTION OF THE AREA, THERE APPEAR TO BE A NUMBER OF ACCESSORY STRUCTURES THAT ENCROACH INTO THE REAR AND SIDE YARD BUILDING SETBACK ALONG THE EAST SIDE OF FREEMAN AVENUE ALONG THAT ALLEY. ACCORDING TO THE DIGITAL AERIAL PHOTOGRAPHY ON GIS THERE APPEAR TO BE APPROXIMATELY 20 DETACHED ACCESSORY STRUCTURES THAT MAY ENCROACH INTO THE REAR AND SIDE YARD BUILDING SETBACK LINES ALONG FREEMAN AVENUE.

GRANTING THIS VARIANCE TO REDUCE THE REAR AND SIDE YARD BUILDING SETBACK LINES FOR A DETACHED
ACCESSORY STRUCTURE FROM 3 FEET FROM THE PROPERTY LINE
TO 1 FOOT FROM THE PROPERTY LINES WILL NOT ADVERSELY
AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE OR CAUSE A
HAZARD OR NUISANCE TO THE PUBLIC BECAUSE THE STRUCTURE
WILL BE LOCATED WITHIN AN ENCLOSED BACK YARD ALONG A
PUBLIC ALLEY. IT WILL NOT ALTER THE ESSENTIAL
CHARACTER OF THE GENERAL VICINITY OR BE AN
UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE
ZONING REGULATIONS BECAUSE THERE ARE A NUMBER OF OTHER
DETACHED ACCESSORY STRUCTURES THAT APPEAR TO ENCROACH
INTO THE REAR AND SIDE YARD BUILDING SETBACK ALONG
FREEMAN AVENUE.

STAFF RECOMMENDS APPROVAL AND WE WOULD LIKE TO
ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT B.

CHAIRMAN: ANYONE HERE REPRESENTING THE
APPLICANT?

(NO RESPONSE)

CHAIRMAN: DOES ANYONE HAVE ANY COMMENTS OR
QUESTIONS ON THIS?

(NO RESPONSE)

CHAIRMAN: BOARD MEMBERS HAVE ANY COMMENTS OR
QUESTIONS?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A
MOTION.
MR. DYSINGER: MR. CHAIRMAN, GIVEN THE SPECIAL CONSIDERATIONS AND AFFIRMING THE FINDINGS AND THE STAFF'S REVIEW, I MOVE WE APPROVE THE VARIANCE REQUEST.

MR. REEVES: SECOND.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL AND A SECOND. ANY COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: IF NOT ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

ITEM 4

3418, 3420, 3422, 3424, 3426, 3432, 3434, 3436, 3438 PROFESSIONAL PARK DRIVE, ZONED R-3MF

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE REQUIRED SPILLOVER PARKING FROM 102 SPACES TO 27 SPACES AND TO INCREASE THE MAXIMUM BUILDING HEIGHT FROM 36 FEET TO 46 FEET FOR BUILDING TYPES 1, 2 AND 3 AS NOTED ON THE DEVELOPMENT PLAN.

REFERENCE: ZONING ORDINANCE, ARTICLE 10 & 8, SECTIONS 10.46, 8.5.10(F)

APPLICANT: G&T, LLC; FMU, LLC

MS. EVANS: THE APPLICANT PROPOSES TO CONSTRUCT 108 APARTMENT UNITS OVER 1,000 SQUARE FEET AND 42 APARTMENT UNITS UNDER 1,000 SQUARE FEET. THERE ARE NO EXISTING PHYSICAL CONSTRAINTS ON THE SITE THAT WOULD DICTATE THE NEED TO WAIVER FROM THE REQUIRED SPILLOVER PARKING OR WHICH WOULD PREVENT STRUCTURES TO
BE BUILT IN CONFORMANCE WITH THE SPECIFIC HEIGHT
REQUIREMENTS WITHIN THE ZONING ORDINANCE.

HOWEVER, VARIANCES HAVE BEEN APPROVED IN THE
PAST FOR BOTH BUILDING HEIGHT AND SPILLOVER PARKING IN
A SIMILAR ZONE AND IN A SIMILAR SITUATION. VARIANCES
WERE APPROVED BY THE OMBA IN OCTOBER OF 2008 FOR THE
PROPERTY LOCATED AT 3200 HIGHLAND POINTE DRIVE. ON
JANUARY 10, 2013 BY THE OMPC IN CONJUNCTION WITH THE
REZONING REQUEST FOR THE PROPERTY LOCATED AT 3750
RALPH AVENUE, THAT’S THE PROPERTY DIRECTLY ADJACENT TO
THE SUBJECT PROPERTY.

THE STAFF WOULD RECOMMEND APPROVAL WITH THE
FOLLOWING FINDINGS: GRANTING THIS VARIANCE FOR
SPILLOVER PARKING WILL NOT ADVERSELY AFFECT THE PUBLIC
HEALTH, SAFETY OR WELFARE BECAUSE SUFFICIENT ROOM
SHOULD EXIST ON SITE TO PARK AND MANEUVER VEHICLES; IT
WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE GENERAL
VICINITY BECAUSE THE SITE IS ADJACENT TO EXISTING
COMMERCIAL AND PROPOSED MULTI-FAMILY RESIDENTIAL
DEVELOPMENTS THAT HAVE SIMILAR PARKING REQUIREMENTS;
IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC
BECAUSE EVIDENCE PRESENTED INDICATES SUFFICIENT
PARKING WILL BE PROVIDED FOR THE DEVELOPMENT; IT WILL
NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF THE
REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE THE
PARKING PROPOSED MEETS THE MINIMUM PRESCRIBED PARKING
REQUIREMENTS, PROVIDES 26 PERCENT OF THE REQUIRED
SPILLOVER PARKING, AND MEETS OR EXCEEDS NATIONAL
PARKING AVERAGES FOR SIMILAR DEVELOPMENTS.

GRANTING THIS VARIANCE FOR THE BUILDING HEIGHT
WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY OR
WELFARE BECAUSE EXISTING FIRE EQUIPMENT WITHIN THE
COMMUNITY IS SUFFICIENT TO SERVE THE SITE; IT WILL NOT
ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY
BECAUSE THE SITE IS ADJACENT TO EXISTING COMMERCIAL
DEVELOPMENT WHICH DOES NOT HAVE A MAXIMUM BUILDING
HEIGHT AND A PROPOSED MULTI-FAMILY RESIDENTIAL ZONING
WHICH WILL HAVE A VERY SIMILAR DEVELOPMENT PATTERN; IT
WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC
BECAUSE EXISTING FIRE EQUIPMENT WITHIN THE COMMUNITY
IS SUFFICIENT TO SERVE THE SITE; IT WILL NOT ALLOW AN
UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE
ZONING REGULATIONS BECAUSE THE BUILDING HEIGHT IS
CONSISTENT WITH PREVIOUSLY APPROVED VARIANCES IN A
SIMILAR ZONE.

STAFF RECOMMENDS APPROVAL WITH THE CONDITION
OF APPROVAL OF AN AMENDED FINAL DEVELOPMENT PLAN.

WE WOULD LIKE TO ENTER THE STAFF REPORT INTO
THE RECORD AS EXHIBIT C.

CHAIRMAN: COUNSEL, SHOULD WE VOTE ON THESE
SEPARATELY?

MR. PORTER: YES, WE SHOULD.

CHAIRMAN: THE FIRST TO CONSIDER IS THE 
SPILLOVER PARKING.

IS ANYONE HERE REPRESENTING THE APPLICANT?

APPLICANT REP: YES.

CHAIRMAN: DO YOU HAVE ANY COMMENTS?

APPLICANT REP: NO.

CHAIRMAN: BOARD MEMBERS HAVE ANY COMMENTS?

(NO RESPONSE)

CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. REEVES: I MOVE WE APPROVE THIS VARIANCE 
IN THAT IT MEETS THE REQUIREMENTS AND THAT SIMILAR 
VARIANCES HAVE BEEN GRANTED IN THE SAME NEIGHBORHOOD.

MR. PORTER: FOR THE SPILLOVER PARKING.

MR. REEVES: YES, ON THE SPILLOVER PARKING.

MR. DYSINGER: SECOND.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL AND A 
SECOND. COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

NOW WE'LL VOTE ON THE BUILDING HEIGHT. CHAIR 
IS READY FOR A MOTION.

OHIO VALLEY REPORTING
(270) 683-7383
MS. MASON: I MOVE FOR APPROVAL OF THE BUILDING HEIGHT WITH THE STAFF FINDINGS, TO USE THE STAFF FINDINGS. EXISTING FIRE EQUIPMENT WITHIN THE COMMUNITY IS SUFFICIENT TO SERVE THE SITE, IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC BECAUSE THE FIRE EQUIPMENT WITHIN THE COMMUNITY IS SUFFICIENT; AND IT WILL NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING REGULATION BECAUSE THE BUILDING HEIGHT IS CONSISTENT WITH PREVIOUSLY APPROVED VARIANCES IN A SIMILAR ZONE.

MR. DYSINGER: SECOND.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL AND A SECOND. ANY COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR OF THE MOTION RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

ANY NEW BUSINESS?

(NO RESPONSE)

CHAIRMAN: IF NOT WE'RE READY FOR ONE FINAL MOTION.

MS. MASON: MOVE TO DISMISS.

MR. DYSINGER: SECOND.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: WE ARE ADJOURNED.

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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 12 TYPED PAGES; AND THAT NO SIGNATURE
WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

WITNESS MY HAND AND NOTARY SEAL ON THIS THE
2ND DAY OF AUGUST, 2013.

LYNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:   DECEMBER 16, 2014
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KY

OHIO VALLEY REPORTING
(270) 683-7383