The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, May 1, 2014, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Ruth Ann Mason, Secretary
Gary Noffsinger, Director
Terra Knight, Attorney
Jerry Yeiser
Sean Dysinger
Lewis Jean

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CHAIRMAN: Want to welcome everyone to the May 1, 2014 Board of Adjustment. Would you please stand for our prayer and pledge of allegiance.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item is to consider the minutes of the March 6, 2014 meeting. Members should have been mailed a copy and have had time to look it over. So I will entertain a motion to approve.

MS. MASON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: Motion by Ms. Mason. Second by Mr. Dysinger. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.

MR. DYSINGER: Madam Chairman, before you read in the first item, I need to recuse myself as an adjacent property owner.

CHAIRMAN: So noted.

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CONDITIONAL USE PERMITS

ITEM 2

830 Bolivar Street, zoned I-1
Consider a request for a Conditional Use Permit in order to construct and operate a storage facility.
Reference: Zoning Ordinance, Article 8, Section 8.2L8
Applicant: Ryan McDaniel; Greater Yelvington Investments, LLC

MS. KNIGHT: Please state your name for the record.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned I-1 Light Industrial. OMPC records indicate there have been no Zoning Map Amendments for the subject property.

There was a variance granted for the subject property on February 6, 2014 to reduce the front yard building setback along Bolivar Street to reduce the side yard building setback along East 9th Street and
to eliminate the roadway buffer along East 9th Street.

The applicant is proposing to construct an
approximately 2500 foot storage facility on the
subject property.

LAND USES IN SURROUNDING AREA

The properties to the north, east and south
are zoned I-1 Light Industrial uses and appear to be a
mix of residential and industrial uses. The property
to the west is zoned B-4 General Business.

ZONING ORDINANCE REQUIREMENTS

1. Parking - no parking is required. Five
parking spaces are proposed as shown on the site plan
submitted.

2. Landscaping - Vehicular use area
landscaping as shown on the site plan submitted.

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

CHAIRMAN: Thank you.

Is there anyone here wishing to speak in
opposition to this item?

Come to the microphone and state your name for
the record and be sworn in.

MR. SURVANT: Jon Survant.

(JON SURVANT SWORN BY ATTORNEY.)

MR. SURVANT: I just got the letter in the
mail. I come down to see what it was about. This is
the first I've heard of it.

My concern is when I built, anything I built
I've got setbacks, landscaping, water retention all of
that. I'm looking at this lot and I'm thinking how
they're going to incorporate all of this in this
little lot. I'm down here to find out what's going on
and how that's proposed to be done.

CHAIRMAN: We'll see if we can get you some
answers.

MR. NOFFSINGER: Melissa, would you please
describe how the proposed property is to be developed.

Sir, you can have a copy of my site plan, if
you would like. You can just keep that.

MS. EVANS: First of all, to address the
issues with the setbacks. Those were reduced at the
February 6, 2014 meeting. The front yard building
setback along Bolivar Street was reduced from 25 feet
from the property line to 19.1 feet from the property
line. The setback along East 9th Street was reduced
to 42 feet from the street centerline, and then the
roadway buffer along East 9th Street was reduced.
That's how they're being able to develop a small piece
of property like that. They had a variance request
that was approved by the Board of Adjustment to reduce
those building setback lines.

With a storage facility like this, they are not required to have any parking, but they do show some parking on the property. The parking is along to -- the landscaping is to screen the parking requirements, the vehicular use area landscaping that's shown along East 9th Street, the rear of the property along the alley then it's also shown on Bolivar Street and East 9th Street in the front of the property.

The property to the north is also zoned I-1 so there is no screening or landscaping requirement between those two properties because they are a like zone.

As far as retention basin, that would be something for the city engineer's office to address on their site plan when that is submitted.

CHAIRMAN: Does that answer your questions, Mr. Survant?

MR. SURVANT: Well, I guess it does answer some questions, but I still have some concerns how they was able to get the setback reduced so little when I have over 30 foot I think it was for all my setbacks on everything I have built. Now they're getting away with look like a 10 foot setback and a
lot less landscaping than I was required. I'm trying
to see where the fairness is here.

MR. NOFFSINGER: Mr. Survant, this board
considered a variance back a month or two ago on this
property to reduce those setback. This was a small
lot of record that was zoned industrial that would be
pretty much, it would be very difficult at best to
develop anything on it because of the setback. The
applicant submitted a variance request which anyone in
the community may submit a variance request. If there
is justification for that variance, this board would
review that and they would either approve it or not
approve it.

In this particular case, you had other
properties in the area where the setbacks were
encroached upon by existing buildings. The applicant
is still required to put the required landscaping
materials in; however, the roadway buffer was waived
there because the improvements to 9th Street have
already occurred and it was deemed by the city
engineering office that additional right-of-way was
not going to be necessary.

So the fairness here is that this applicant
has gone through the proper steps, taken the proper
steps to have those setbacks waived and reduced.
Everyone in the community has that same opportunity. It's just you may be able to justify your request. You may not.

MR. SURVANT: I understand. This is the first I've heard of it. If I had been aware of it back then, maybe I would have voiced my opinion then. The neighbors adjacent to this property, I take it they don't have any objections for the traffic coming in off of Bolivar?

MR. NOFFSINGER: Well, the adjoining property owner just left the room.

MR. SURVANT: I take it, is he in with this project?

MR. NOFFSINGER: No.

MR. SURVANT: That's what I'm here for. To see exactly what was going on because I wasn't aware of what was going on. The lot being as small as it is I was kind of puzzled as to what they was going to do with it. I didn't know if it was going to be a personal facility or a business facility. There again, like I say, water retention is that something that's going to have to be figured out later or what?

MR. NOFFSINGER: This is a very small lot. It's less than 5,000 square feet. It's likely that on site retention will be required; however, the
applicant will be required to submit a full site plan to the city engineer's office prior to the issuance of a building permit. If the retention or whatever drainage requirements are required, then they will be required to follow that. If it requires that he come back before this board with a new conditional use permit, he will have to do that. At this point in time, we don't know. We will not know that until he submits an application for a building permit. It is such a small lot it's likely that retention would not be required. We don't have any say so over that.

MR. SURVANT: What do you mean you don't have any say so over water retention?

MR. NOFFSINGER: That is a requirement by the City of Owensboro and is regulated by the city engineer. Not the Board of Adjustment. Not the Planning Commission.

MR. SURVANT: Thank you.

MR. NOFFSINGER: Thank you.

CHAIRMAN: Is that all of your questions?

MR. SURVANT: For the time being, yes.

CHAIRMAN: Any board members have comments or questions?

MR. YEISER: Will they be bringing it up before -- can he go to the city engineer and talk to
them about that if he wants to?

MR. NOFFSINGER: Sure.

I would recommend you go tomorrow, if you have
any concerns about that to put them on notice. There
is not any other public meeting that you would go to.
Typically there aren't public meetings to discuss
development on such a small lot anyway, but because
this requires a Conditional Use Permit, there is this
public hearing. We do not address the drainage side,
unless there are known issues here. I haven't heard
of any drainage issues being raised by the adjacent
landowner. What I'm hearing is the gentleman's
concern about why they're not proposing something or
why he's not seeing something on their site plan that
perhaps he had been required to do in the past. I can
tell you each site is different. You have large lots,
small lots, major developments. I can't speak for why
it's not shown here other than it's either not a
requirement or it has not been reviewed by the city
engineer. We're considering the use of the property.
Not approving that full site development of how it's
going to develop.

MR. YEISER: In other words, he can go to the
city engineer or whoever as you say and should do it
quickly and find out what's going on?
MR. NOFFINGER: Yes.

CHAIRMAN: Any other board members have questions or comments?

(NO RESPONSE)

CHAIRMAN: If not I'll entertain a motion to dispose of the item.

MS. MASON: Madam Chairman, I move for approval of this Conditional Use Permit with the findings of fact that is a continuation of the variance that was issued back in February of this year, and that it is compatible use for the area as it's zoned light industrial and it is subject to the zoning requirements being met.

CHAIRMAN: Is there a second?

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. Any discussion on the motion?

(NO RESPONSE)

CHAIRMAN: If not all in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT - WITH SEAN DYSINGER BEING RECUSED FROM THE ITEM - RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

ITEM 3
730 Triplett Street, zoned R-4DT
Consider a request for a Conditional Use Permit in
order to construct and operate a residential
transitional living facility.
Reference: Zoning Ordinance, Article 8,
Section 8.2A7/6a
Applicant: Friends of Sinners Ministry; William G. Barron

ZONING HISTORY
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 minor subdivision plat was approved April
17, 2014 consolidating three properties to make what
is now 730 Triplett Street.
The criteria for conditional permitted group
housing has been met as demonstrated by the
information included in the application.
The applicant is proposing a 12 bed facility.

LAND USES IN SURROUNDING AREA
The properties to the north, west and south
are zoned R-4DT and appear to be residential in
nature. The property to the east is zoned P-1 and is
the Wendell Foster Center.

ZONING ORDINANCE REQUIREMENTS
1. Parking - 5 spaces plus 1 space for every
5 beds - required 8 parking spaces.
2. Landscaping - Vehicular use area

landscaping as shown on the site plan submitted.

There are also with the criteria for
conditionally permitted group housing which is
demonstrated in the application that they have all
been met.

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

CHAIRMAN: Anyone here wishing to speak in
opposition of this item?

(NO RESPONSE)

CHAIRMAN: Anyone here wishing to add any
information about this item?

(NO RESPONSE)

CHAIRMAN: Anyone on the board have a
question?

(NO RESPONSE)

CHAIRMAN: If not I'll entertain a motion.

MR. DYSINGER: Madam Chairman, given the
findings that it serves a productive need in our
community and it will not conflict with the nature of
the neighborhood, I move that we approve the
Conditional Use Permit.

CHAIRMAN: Motion by Mr. Dysinger.

MR. YEISER: Second.
CHAIRMAN: Second by Mr. Yeiser. Any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

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VARIANCE

ITEM 4

315 Worthington Road, zoned I-1 Postponed from the April 3, 2014 meeting

Consider a request for a Variance in order to waive a portion of the required 6 foot solid element around the perimeter of an outdoor storage yard as shown on the site plan submitted with the variance application.

Reference: Zoning Ordinance, Article 17, Sections 17.311

Applicant: ERB Equipment Co., Sara Jane McNulty

MR. NOFFSINGER: This item will need to be postponed again. The item is being considered for final zoning to I-1 tonight by the Daviess County Fiscal Court. Until the item has received final approval, it cannot be acted upon by this board. So we would recommend that you vote to postpone this item until the June Board of Adjustment meeting which will be the first Thursday in June.

MR. DYSINGER: Madam Chair, so moved.

CHAIRMAN: Motion to postpone by Mr. Dysinger.

MS. MASON: Second.
CHAIRMAN: Second by Ms. Mason. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We need one final motion.

MR. DYSINGER: Move to adjourn.

MS. MASON: 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 14 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
13th day of May, 2014.

LYNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY 42303

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