The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, August 6, 2015, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Ward Pedley, Chairman
Judy Dixon, Vice Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Susan Free
Robynn Clark

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CHAIRMAN: Call to order the Owensboro Metropolitan Board of Adjustment August 6, 2015 meeting. We will begin our meeting with a prayer and pledge of allegiance to the flag. Mrs. Mason will lead us. Will you stand, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone. Anyone wishing to speak on any item come to one of the podiums and state your name and be sworn in. We welcome your comments and questions.

With that the first item on the agenda is to consider the minutes of the July 2, 2015 meeting.

Board members, you have a copy of the minutes

Ohio Valley Reporting
(270) 683-7383
in your packet. Are there any additions or corrections?

(NO RESPONSE)

CHAIRMAN: If not chair is ready for a motion.

MS. DIXON: Move to approve.

MS. MASON: Second.

CHAIRMAN: We have a motion and a second for approval. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

Next item, please.

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CONDITIONAL USE PERMIT

ITEM 2

5004 Grandview Drive, zoned R-1A
Consider request for a Conditional Use Permit in order to install a class 2 manufactured home in an R-1A zone
Reference: Zoning Ordinance, Article 8, Section 8.2A10B/7
Applicant: Judith Westerfield

MS. KNIGHT: State your name.

MR. HILL: Mike Hill.

(MIKE HILL SWORN BY ATTORNEY.)

MR. HILL: This request is, as mentioned, a Conditional Use Permit for a manufactured home. It's actually to replace an existing manufactured home with slightly larger and newer model.
This particular subdivision, the Staff did research using aerial photography and did not find any other single-family manufactured home within the existing subdivision, but in the vicinity of Graham Lane, which is nearby, there are several that could be seen during our research.

There are eight specific conditions that go along with this particular Conditional Use Permit, and they are listed at the bottom of your Staff Report.

The applicant requesting waivers of the first four, 1 through 4, on your list. They're related to requirement to have a concrete sidewalk, a paved parking area, a paved driveway apron, and a cement patio of 10 by 10 in size.

In doing research, it's apparent that this area is not typical to have sidewalks. You don't see a lot of them. You don't see a lot of curbing. Most driveways that appears in the area are paved; however, there are several that appear to be gravel, including the driveway aprons and sparking area.

The applicant's new model of home does include a raised 8 by 16 porch and they are requesting that that would satisfy the 10 by 10 cement patio requirement.

Staff request to enter the Staff Report into
the record as Exhibit A.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Is there anything you would like to share with us?

APPLICANT REP: No. I just want to replace an old trailer.

CHAIRMAN: Is there anyone here that would like to speak in opposition of this application?

(NO RESPONSE)

CHAIRMAN: Board members, do you have any comments or questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MS. MASON: Mr. Chairman, I move for approval based on the findings of facts that it's compatible with the area because there are several single-wide mobile homes in the vicinity and it's also replacing an existing mobile home. To waive the concrete sidewalk requirement, the paved parking requirement and the paved driveway apron. The concrete sidewalks, there are not any sidewalks in the area and it's located in an area where curbs and sidewalks are not
typical, and the applicant has a 8 by 16 porch that
will take the place of the patio.

CHAIRMAN: We have a motion for approval by
Mrs. Mason. Do I hear a second?

MS. FREE: Second.

CHAIRMAN: We have a second by Mrs. Free. Any
comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: If not 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

1924 Littlewood Drive, zoned R-1A
Consider a request for a Variance in order to reduce
the rear yard building setback line from 20 feet from
the property line to 3 feet from the property line.
Reference: Zoning Ordinance, Article 8,
Section 8.5.5(e)
Applicant: Amelia Hunt

MR. HILL: The applicant proposes a rear
addition to the residence on their property. The
requirement is 20 feet according to the setback zoning
ordinance. The applicant has request a 3 foot rear
setback for their structure.
There appears to be several similar primary structure encroachments in this neighborhood on this street and adjacent streets. Several of which we have found documentation and OMPC office that variances have been granted in the past; although, there were several that we had noted on the aerial photography that we could not find variance documentation. So there's a mixture. Both of those make up a situation in the neighborhood that this is not out of character. There are several other similar examples.

Variances have been approved anywhere between 3 and 12 feet from the rear property lines on some of these other examples.

Staff feels that granting the variance to reduce the rear yard setback from 20 to 3 feet will not alter the essential character of the general vicinity or be an unreasonable circumvention of the requirements of zoning ordinance, due in fact that this would not be an unusual development pattern in this area.

Granting this variance will not adversely affect the public health, safety or welfare because the requested variance will not encroach any further toward the south side of the property line than the existing residence, and the rear yard encroachment
will be located near the rear of the two detached
structures on adjoining parcels lessening the visual
impact on those adjacent property owners.

Granting the variance will not alter the
essential character of the general vicinity because
this type of rear yard encroachment is not unusual in
the area near the subject property.

Granting the variance will not cause a hazard
or a nuisance to the public as there will still be
adequate space for pedestrian movement around the
property perimeter for access to and maintenance of
the structure.

Granting the variance will not allow an
unreasonable circumvention of the requirements of the
zoning regulations and due to the number of other
similar situations in the area this variance request
will not have a significant negative impact on the
area.

Staff recommends approval of this request, and
Staff also request that the Staff Report be entered
into the record as Exhibit B.

CHAIRMAN: Anyone here representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do you have anything you would like
to share with us?

APPLICANT REP: No.

CHAIRMAN: Anyone here that would like to speak in opposition?

(NO RESPONSE)

CHAIRMAN: Board members, have any comments or questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MS. DIXON: Mr. Chairman, I move to grant approval based upon Staff Report that there seems to be several other similar rear yard encroachments, some authorized by OMPC records, and some not necessarily noted. That it will not adversely affect the public health, safety or welfare because the requested variance will not encroach any further toward the south property line than the existing structures residence and the rear yard encroachment will be located near the rear of two detached structures on adjoining parcels lessening visual impact of those property owners. That it will not alter the character of general vicinity because of the type of rear yard encroachment is not unusual in this area. That it won't cause a hazard or nuisance because there will
still be adequate space for maintenance of the structure and that it does not allow for an unreasonable circumvention of the requirements.

CHAIRMAN: We have a motion by Mrs. Dixon for approval. Do I hear a second?

MS. MASON: Second.

CHAIRMAN: Second by Mrs. Mason. Any comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Next item.

ITEM 4

5748 Panther Creek Park Drive, zoned A-R
Consider a request for a Variance in order to reduce the side street yard building setback line from 25 feet from the property line to 20 feet from the property line.
Reference: Zoning Ordinance, Article 8, Section 8.5.1(c)
Applicant: Donald & Jan Coomes

MS. KNIGHT: State your name for the record.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: This Staff Report recommendation is for denial. So in accordance with that we usually
read the entire Staff Report. I will start off by reading the entire Staff Report tonight.

SPECIAL CIRCUMSTANCES?

The Staff does not feel that there are special circumstances in this case.

The subject property is located on the corner of Panther Creek Park Drive and Highway 279 South; with the subject property being a corner lot, the side street yard building setback along Highway 279 South is 25 feet from the property line.

The applicant proposes to construct a 24 foot by 40 foot garage on the property between the house and Highway 279 South. The required setbacks for the proposed garage are 25 feet from the front property line, 25 feet from the side street yard property line and 6 feet from the house.

The site plan submitted by the applicant shows the proposed garage situated 7 feet from the house and toward the rear of the house. Situated as is, the proposed garage does not meet the required side street yard building setback, therefore the applicant is requesting that the setback be reduced by 5 feet.

If the garage were moved 1 foot closer to the house, meeting the required 6 foot distance between structures and moved forward in line with the front of
the house, based on rough measurements using GIS, the
garage would fit on the property meeting all the
required setbacks.

Granting the variance to reduce the side
street yard building setback will alter the essential
classic character of the general vicinity because no other
structures in the vicinity are located closer to
Highway 279 South. It will be an unreasonable
circumvention of the requirements of the zoning
regulation because the proposed garage could be moved
to a different location the subject property and meet
the required setbacks and no other variances have been
issued regarding the side street yard setback in the
vicinity.

HARDSHIP?

Would strict application of the regulation
deprive the applicant of the reasonable use of the
land or create an unnecessary hardship on the
applicant?

The Staff believes no. If the applicant is
denied, the applicant could construct the garage in a
different location on the property meeting the
required setbacks.

APPLICANT'S ACTIONS?

Are there circumstances from which relief is
sought a result of the applicant's action taken after adoption of the zoning regulation?

No.

FINDINGS OF FACT

Granting this Variance will not adversely affect the public health, safety or welfare;

It will alter the essential character of the general vicinity because no other structures in the vicinity are located closer than 25 feet to the property line along Highway 279 South;

It will not cause a hazard or a nuisance to the public;

It will allow an unreasonable circumvention of the requirements of the zoning regulations because the proposed garage could be placed in a different location on the property and meet the required setbacks and there have been no other variances approved in the area.

Staff recommends denial.

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

I would also like to note that the applicant was mailed a copy of the Staff Report prior to the meeting. Once they received the copy of the Staff Report, they did call into the office and offer some
other information that was not included in their application. They are here and I believe would have
to present to you all regarding this application.

CHAIRMAN: Anyone here representing the applicant? Do you have anything you would like to
share with us?

MR. COOMES: Yes.

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

MR. COOMES: My name is Donnie Coomes.

(JONNIE COOMES SWORN BY ATTORNEY.)

MR. COOMES: I don't know if you want to swear her in at the time? I thought we would do this
together.

MS. KNIGHT: That's fine. Ma'am, what's your name?

MRS. COOMES: Jan Coomes.

(JAN COOMES SWORN BY ATTORNEY.)

MR. COOMES: One of the main things I think that the Staff thought we could do, the reason why
they thought we could build further out toward the road, toward the front of the property, is the reason
why they thought they should deny it. It seems that we left out some information. It's kind of an
oversight on our part. That's where our power line
is. Our underground power line runs to the side of the building about 20 feet from the front of the property or from the house. If we relocate our underground, we can only have -- they only allow three 90-degrees angles. We're still coming to our meter. It won't allow us to relocate our underground line and still have a spot where we can position our garage differently.

We would be able to set it in front of the underground power line which would be in our front yard, and we don't want to do that.

MRS. COOMES: We can't put it in the back because our lateral lines are in our backyard.

MR. COOMES: Another fact would be that the side yard setback, it only applies to the Kenny McCarty's property. He's on the corner next to us. We're within inches of what their building is going to be setback from the road.

MRS. COOMES: We would be within 9 inches --

CHAIRMAN: Ma'am, would you step closer to the microphone. We have people at home that like to watch this. Speak in to the microphone, please.

MRS. COOMES: We measured and we would be within 9 inches of Kenny McCarty, which is across the street from us, if we were bringing that 5 foot
variance, put that building where we need to.

The reason no other variance has been granted in that area is because we have the corner lot and there hasn't been any reason for anybody else to need one.

MR. COOMES: The Paynes' property that has similar setback, the highway -- the 50 foot width of the highway is in our backyard only applies to the Paynes' property across the road and that's their front yard. So we're trying to build in our side yard, and it just doesn't match, you know.

MRS. COOMES: What the other would need if they requested a variance. If the Paynes' requested a variance, whatever they built would be in their front yard, and I don't see them doing that.

MR. COOMES: We're trying to get a variance to locate our building on our side yard toward the back instead of the front.

CHAIRMAN: Board members, do you have any questions of the applicant?

Is anyone here that would like to speak on the application of this?

MS. MASON: I see on here something about Kenergy, something about Kenergy, it says about possibly relocating secondary conductor due to a new
garage he wanted to construct. The original location of the building was clipping the corner of an existing utility easement. Have you worked that out with Kenergy?

MR. COOMES: We reduced our original size of our building to stay within --

MS. MASON: Okay. You may have just said that and I didn't catch it.

MR. COOMES: I don't know if I did. We intended to build the building 26 feet and have it 10 feet from our house. I thought it would be nice to be able to drive a vehicle in-between. I wanted to keep it further away, but in order to fit it not into the right-of-way, the utility right-of-way, we can scoot it over to 7 feet or even 6 feet, but we still don't have enough room to pull it forward like they were talking about. The power line is there.

CHAIRMAN: Anyone else? Any board members with questions?

(NO RESPONSE)

CHAIRMAN: Staff, do you have any further comments?

MR. HOWARD: No.

CHAIRMAN: If not, no more questions from the board and we have no opposition, the chair is ready
MRS. FREE: I do have a question. With the new information that we were just presented by the Staff member, would that influence the outcome of what the Staff decided in that situation?

MR. HOWARD: It certainly could have. I think they made a valid point there a couple of minutes ago about the width of the right-of-way there. You can see on the aerial photo that in front of you, due to the bridge on 279 south the right-of-way is quite a bit larger there and it cuts into their property. If there wasn't the wider right-of-way there they wouldn't have needed the variance either. You know, with all of that taken in, I don't know. I haven't really thought about whether or not we would have recommended approval necessarily, but I think they certainly have given you some information that we didn't have that we could have taken into account.

With the lateral lines in the rear, the property line in the front, it sounds like it's very limited where they could locate a building on their property that would still be close enough -- I mean they may be able to go way in the rear, but then it's not close enough to the house to really serve what the purposes would be. I think they made some, certainly some valid
points.

MRS. FREE: Thank you.

CHAIRMAN: Any further questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a
motion.

MS. MASON: Mr. Chairman, I move for approval
as it will not adversely affect the public health,
safety or welfare; it will not alter the essentially
character of the general vicinity because there is
some property that's close to the line in the area, as
well as with the lateral lines in the rear and the
property lines in the front and wider right-of-way;
and it will not cause a hazard or nuisance to the
public; and it will not allow an unreasonable
circumvention of the requirements of the zoning
regulations because they do have a hardship in the
fact that their power lines being in the area where if
they moved the building the power lines would be in
the way, the right-of-way and the property lines and
so forth.

CHAIRMAN: We have a motion for approval by
Mrs. Mason. Do I hear a second?

MS. FREE: Second.

CHAIRMAN: We have a second by Mrs. Free. Any
comments or questions on the motion?

(NO RESPONSE)

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

(BOARD MEMBERS WARD PEDLEY, JUDY DIXON, RUTH ANN MASON AND SUSAN FREE RESPONDED AYE.)

CHAIRMAN: All opposed.

(BOARD MEMBER ROBYNN CLARK RESPONDED NAY.)

CHAIRMAN: Four to one. Motion carries.

ITEM 5

6410 Summit Drive, zoned R-1A
Consider a request for a Variance in order to reduce the project boundary buffer from 20 feet from the rear property line to 10 feet from the rear property line.
Reference: Zoning Ordinance, Article 10, Section 10.432
Applicant: Barbara L. Bridges Trust

MS. EVANS: This application is in The Summit, as you can see. The Summit was developed by a preliminary plat/final development plans in phases. It was a planned residential development where they required a 20 foot project boundary buffer around the outskirts of each section that was developed.

So in this case the section that was developed was where you see these houses that back up to the golf course. So there's a 20 foot project boundary buffer between those houses along that hole of the golf course and the golf course itself.
As you can see by the aerial photos up there, there are several houses that are up and down that street that look like they're closer than 20 feet from the property line in this area. All these house were constructed prior to OMPC issuing building permits. That's when the county issued building permits. We do not have records of building permits for any of these structures to know if they were permitted or not permitted, but there have not been actual variances granted for any of these to be like this.

The property in question, there's an existing deck to the rear of the property that's already there that encroaches into the project boundary buffer. The proposal is to square that deck up. They're going to take part of the deck off, reduce the size of it, and then enclose the deck. So it will then be attached to the house and encroach into that project boundary buffer as well.

The Staff feels that granting this variance to reduce the project boundary buffer will not alter the essential character of the general vicinity or be an unreasonable circumvention of the requirements of the zoning ordinance because other structures, including the existing structure on the subject property, appear to encroach into the property boundary buffer.
Granting the variance does not significantly impact the area because the golf course acts as a buffer between this development and other uses in the area.

Staff would recommend approval of this application with the following conditions:

CONDITIONS:

1. Obtain all necessary building, electrical and HVAC permits, inspections and certificates of occupancy and compliance;

2. Approval of an amended Major Subdivision Preliminary Plat/Final Development Plan and approval of a Major Subdivision Final Plat.

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

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do you have anything you would like to share with us?

APPLICANT REP: No.

CHAIRMAN: Anyone here in opposition of this application?

(NO RESPONSE)

CHAIRMAN: Any board members have any comments or questions?
(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MS. MASON: Mr. Chairman, I move for approval based on the findings that it will not adversely affect the public health, safety or welfare because the golf course serves as a buffer between the development and the area; it will not alter the essential character of the general vicinity because other structures appear to encroach into the project boundary buffer including the existing deck that is on the property right now. It will not cause a hazard or a nuisance to the public because a buffer will still exist with the golf course. It will not allowance unreasonable circumvention of the requirements of the zoning regulations because other structures on the street, including the subject property, appear to encroach into the project boundary buffer and the golf course will, again, still serve as buffer between the development and the surrounding area. With the conditions to obtain all necessary building, electrical and HVAC permits, inspections and certificates of occupancy and compliance; and approval of an amended Major Subdivision Preliminary Plat/Final Development Plan and Major Subdivision Final Plat.
CHAIRMAN: We have a motion for approval by Mrs. Mason. Is there a second?

MS. DIXON: Second.

CHAIRMAN: Second by Mrs. Dixon. 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.
We need one more motion to adjourn.

MS. DIXON: Move to adjourn.

MS. MASON: Second.

CHAIRMAN: We have a motion and a second to adjourn. 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 23 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 30th day of August, 2015.

LYNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2018
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

Ohio Valley Reporting
(270) 683-7383