

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

OCTOBER 1, 2015

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, October 1, 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
- Fred Reeves
- Robynn Clark

* * * * *

CHAIRMAN: Call to order the Owensboro Metropolitan Board of Adjustment October 1, 2015 meeting. We begin our meeting with a prayer and pledge of allegiance to the flag. Mr. Howard will lead us. Would you stand please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone. We have a big audience tonight. If you would like to speak on any item, we ask you to come to one of the podiums and be sworn in.

The first item on the agenda is to consider the minute of the September 3, 2015 meeting.

1 Board members, you have a copy of that. It's
2 in your packet. Are there any additions or
3 corrections?

4 (NO RESPONSE)

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

7 MS. DIXON: Move to approve.

8 MS. MASON: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries. The minutes are
13 approved.

14 Next item, please.

15 -----

16 VARIANCE

17 ITEM 2

18 1561 Creek Haven Loop, zoned R-1C
19 Consider a request for a Variance in order to reduce
20 the project boundary buffer from 20 feet from the
21 property line to 10 feet from the property line.
Reference: Zoning Ordinance, Article 10,
Section 10.432
Applicant: Judi Head; Norman T. Smith

22 MS. KNIGHT: State your name for the record.

23 MS. EVANS: Melissa Evans.

24 (MELISSA EVANS SWORN BY ATTORNEY.)

25 (MR. REEVES LEAVES ROOM AT THIS TIME.)

1 MS. EVANS: The subject property is located in
2 the Creek Haven Subdivision. Creek Haven was
3 developed under the preliminary plat/final development
4 plan process. It is a plan residential development
5 where they have a 20 foot project boundary buffer
6 along the perimeter of the entire project which is
7 intended to buffer the residential development from
8 other developments in the area that may be different
9 lot sizes or such.

10 With those requirements, if the variance is
11 approved tonight those preliminary plats and final
12 plats will have to be amended to show the corrected
13 project boundary buffer for this lot if this variance
14 is approved.

15 The applicant in this case proposes to
16 construct a 12 by 24 in-ground pool with a fenced
17 concrete area surrounding the pool. The pool will be
18 located 6 feet to the rear of the existing residence
19 and will encroach into the 20 foot project boundary
20 buffer by 10 feet.

21 The review of all of our OMPC files show that
22 there hasn't been any variances approved for the
23 subject property nor does it appear from GIS that
24 there are any other encroachments into that rear yard
25 setback. That this is a fairly new property, but the

1 Board of Adjustment has granted several variances
2 similar to this regarding the project boundary buffer
3 just recently as a couple of months ago, in other
4 subdivisions in the city and in the county.

5 A portion of the proposed pool will also be
6 located within the public utility easement that's
7 along the back of the property. The applicant has
8 obtained letters from the City Engineer, Atmos, Time
9 Warner, OMU, AT&T and RWRA that would allow the pool
10 to be placed within their easement.

11 Granting the variance to reduce the project
12 boundary buffer will not alter the essential character
13 of the general vicinity because the pool will be
14 located in an area secluded from the neighbors via
15 fencing, trees, and a swath of floodplain and a
16 drainage easement.

17 Granting the variance does not significantly
18 impact the area because the adjacent residence to the
19 rear is located a significant distance from the
20 proposed pool. Granting the variance will not be an
21 unreasonable circumvention of the requirements of the
22 zoning ordinance because the original design of this
23 subdivision included many lots, including the lot in
24 question, that are relatively narrow and shallow which
25 significantly limits a homeowners options for

1 utilizing their compact back yards.

2 Staff would recommend approval of this
3 variance request with the following conditions:

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

7 2. Approval of amended Major Subdivision
8 Preliminary Plat/Final Development Plan and Major
9 Subdivision Plat.

10 We would like to enter the Staff Report into
11 the record as Exhibit A.

12 (MR. REEVES JOINS MEETING.)

13 CHAIRMAN: Is anybody here representing the
14 application?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Do you have anything you want to
17 share with us?

18 APPLICANT REP: No.

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

21 MR. REEVES: Mr. Chairman, I apologize for
22 having to leave. I've got a case of shingles and my
23 doctor was calling me. I will abstain from voting,
24 but I don't think that's going to be a problem for
25 you, unless you need me for a quorum. I apologize.

1 CHAIRMAN: Board members, do you have any
2 questions on behalf of the application?

3 (NO RESPONSE)

4 CHAIRMAN: We don't have anyone here in
5 opposition.

6 Has there been any opposition in the Planning
7 Office?

8 MR. HOWARD: No, sir.

9 CHAIRMAN: With that the chair is ready for a
10 motion.

11 MS. MASON: I move for approval with the
12 findings that granting this variance will not
13 adversely affect the public health, safe or welfare
14 because the residence next to it, adjacent to the rear
15 of it is located distance from the proposed pool and
16 the pool will be completely fenced in. It will not
17 alter the essential character of the general vicinity
18 because the pool will be located in an area secluded
19 from the neighbors because of the fencing, trees,
20 floodplain and the drainage easement. It will not
21 cause a hazard or nuisance to the public because a
22 buffer will exist with the adjacent property. It will
23 not allow an reasonable circumvention of the
24 requirements of the zoning regulations because the
25 original design of this subdivision included many

1 lots, including the lot in question, that are narrow
2 and shallow which significantly limits the homeowners
3 options for utilizing his backyard.

4 With the conditions that they obtain all
5 necessary building, electrical and HVAC permits,
6 inspections and certificates of occupancy and
7 compliance, and they get approval of an amended Major
8 Subdivision Preliminary Plat/Final Development Plan
9 and Major Subdivision Final Plat.

10 CHAIRMAN: We have a motion for approval by
11 Ms. Mason.

12 MS. DIXON: Second.

13 CHAIRMAN: We have a second by Ms. Dixon. Any
14 comments or questions on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor of the motion raise
17 your right hand.

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

20 CHAIRMAN: Motion carries unanimously.

21 MR. REEVES: And I abstained, Mr. Chairman.

22 CHAIRMAN: We had one abstain.

23 Next item.

24 ITEM 3

25 3108, 3110 Fairview Drive, zoned B-4

1 Consider a request for a Variance in order to
2 eliminate the required 6 foot tall continuous element
3 along the southern boundary where adjoining 3104
4 Fairview Drive
5 Reference: Zoning Ordinance, Article 17,
6 Section 17.3114
7 Applicant: Koger Properties, LLC

8 MS. EVANS: This application is being brought
9 to you because the property is being redeveloped
10 currently. There has always historically been two
11 buildings on the property. The front building was an
12 office. The rear building, which is now under
13 redevelopment, was a warehouse that stored equipment
14 for the front office building. The rear building is
15 now being developed into office space thus requiring a
16 development plan because now there's going to be two
17 principal uses on the property.

18 A development plan was approved for this
19 property on May 13, 2015 and the development plan did
20 show all of the required zoning ordinance requirements
21 on there, as far as landscaping and screening and
22 whatnot.

23 As the applicant was developing the property
24 and looking a little closer at the development plan
25 and installing the required screening, they realized
that part of the screening would be blocking what they
sort of use as a watch house for this property. The
applicant also owns the property just to the south of

1 this at 3104 Fairview Drive. It's a rental house.
2 The tenants that they rent to watches this property
3 for them during nonbusiness hours. If that screening
4 were installed, according to the applicant, then this
5 tenant wouldn't be able to see the commercial property
6 and keep an eye on it causing, you know, a hazard,
7 potential security hazards for the property.

8 The applicant is agreeable to a condition
9 being placed on this that if the property at 3104
10 Fairview Drive were to ever be sold, that the
11 screening would then be installed according to the
12 zoning ordinance requirements. So as long as he owns
13 it and it's being used as rental, that screening won't
14 have to be there, but if sold then he would be
15 required to install that.

16 He is also proposing to install the rest of
17 the landscaping requirements, as far as screening and
18 trees around the rest of the perimeter of the
19 property.

20 Granting the variance will not adversely
21 affect the public health, safety or welfare; in fact,
22 it will protect the area by allowing the neighboring
23 property to continue to watch over the subject
24 property during nonbusiness hours. It will not alter
25 the essential character of the general vicinity

1 because the residential use at 3104 Fairview Drive and
2 the business at 3110 Fairview Drive have existed for
3 some time with no screening element in place. The
4 metal shop in the rear of the subject property is the
5 building being redeveloped and required screening will
6 be installed in that area. Granting the variance will
7 not allow an unreasonable circumvention of the
8 requirements of the zoning regulations because the
9 applicant currently owns all properties involved and
10 is agreeable to install the required screening should
11 the property to the south at 3104 Fairview Drive be
12 sold.

13 Planning Staff recommends approval of the
14 Variance request with the following conditions:

15 1. Approval of an amended Final Development
16 Plan.

17 2. In the event the adjoining property at
18 3104 Fairview Drive is ever sold by the applicant, the
19 required screening shall be installed along the
20 southern property boundary where adjoining 3104
21 Fairview Drive.

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

24 CHAIRMAN: Anyone here representing the
25 applicant?

1 (NO RESPONSE)

2 CHAIRMAN: Evidently not.

3 Anyone like to speak in opposition.

4 (NO RESPONSE)

5 CHAIRMAN: Evidently not.

6 Any opposition in the Planning Office?

7 MR. HOWARD: We had one person come in and ask
8 questions, but they were not in opposition. They were
9 just gathering information.

10 CHAIRMAN: Any board members have any comments
11 or questions on the application?

12 (NO RESPONSE)

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

15 MS. DIXON: Mr. Chairman, I place a motion to
16 grant the variance based upon the findings that it
17 will not adverse ly affect the public health, safety
18 and welfare; that it will not alter the essential
19 character of the neighborhood because the residential
20 use and business have existed for some time with no
21 screening; it will not cause a hazard or a nuisance to
22 the public because eliminating the 6 foot continuous
23 element would only impact the single property to the
24 south, which is also on owned by the applicant; it
25 will not allow an unreasonable circumvention of the

1 requirements of the zoning regulations. And subject
2 to the conditions; the approval of an amended Final
3 Development Plan and that in the event that the
4 adjoining property of 3104 Fairview Drive is ever sold
5 by the applicant, the required screening shall be
6 installed along the southern property boundary where
7 they're adjoining 3104 Fairview Drive.

8 CHAIRMAN: We have a motion for approval by
9 Ms. Dixon.

10 MS. CLARK: Second.

11 CHAIRMAN: Second by Ms. Clark. Comments or
12 questions on the motion?

13 (NO RESPONSE)

14 CHAIRMAN: All in favor of the motion raise
15 your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimous.

18 Any new business?

19 (NO RESPONSE)

20 CHAIRMAN: If not we need a motion to adjourn.

21 MS. DIXON: Move to adjourn.

22 MR. REEVES: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 24th day of October, 2015.

18
19
20
21
22

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

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

25