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.

Ohio Valley Reporting  
(270) 683-7383
Board members, you have a copy of that. It's in your packet. Are there any additions or corrections?

(NO RESPONSE)

CHAIRMAN: If not the 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: Motion carries. The minutes are approved.

Next item, please.

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

VARIANCE

ITEM 2

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

MS. KNIGHT: State your name for the record.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

(MR. REEVES LEAVES ROOM AT THIS TIME.)
MS. EVANS: The subject property is located in Creek Haven Subdivision. Creek Haven was developed under the preliminary plat/final development plan process. It is a plan residential development where they have a 20 foot project boundary buffer along the perimeter of the entire project which is intended to buffer the residential development from other developments in the area that may be different lot sizes or such.

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

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

The review of all of our OMPC files show that there hasn't been any variances approved for the subject property nor does it appear from GIS that there are any other encroachments into that rear yard setback. That this is a fairly new property, but the
Board of Adjustment has granted several variances similar to this regarding the project boundary buffer just recently as a couple of months ago, in other subdivisions in the city and in the county.

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

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

Granting the variance does not significantly impact the area because the adjacent residence to the rear is located a significant distance from the proposed pool. Granting the variance will not be an unreasonable circumvention of the requirements of the zoning ordinance because the original design of this subdivision included many lots, including the lot in question, that are relatively narrow and shallow which significantly limits a homeowners options for
utilizing their compact back yards.

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

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

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

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

(MR. REEVES JOINS MEETING.)

CHAIRMAN: Is anybody here representing the application?

APPLICANT REP: Yes.

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

APPLICANT REP: No.

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

MR. REEVES: Mr. Chairman, I apologize for having to leave. I've got a case of shingles and my doctor was calling me. I will abstain from voting, but I don't think that's going to be a problem for you, unless you need me for a quorum. I apologize.
CHAIRMAN: Board members, do you have any questions on behalf of the application?

(NO RESPONSE)

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

Has there been any opposition in the Planning Office?

MR. HOWARD: No, sir.

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

MS. MASON: I move for approval with the findings that granting this variance will not adversely affect the public health, safe or welfare because the residence next to it, adjacent to the rear of it is located distance from the proposed pool and the pool will be completely fenced in. It will not alter the essential character of the general vicinity because the pool will be located in an area secluded from the neighbors because of the fencing, trees, floodplain and the drainage easement. It will not cause a hazard or nuisance to the public because a buffer will exist with the adjacent property. It will not allow an reasonable circumvention of the requirements of the zoning regulations because the original design of this subdivision included many
lots, including the lot in question, that are narrow
and shallow which significantly limits the homeowners
options for utilizing his backyard.

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

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

MS. DIXON: Second.

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

(NO RESPONSE)

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

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

CHAIRMAN: Motion carries unanimously.

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

CHAIRMAN: We had one abstain.

Next item.

ITEM 3

3108, 3110 Fairview Drive, zoned B-4
Consider a request for a Variance in order to eliminate the required 6 foot tall continuous element along the southern boundary where adjoining 3104 Fairview Drive.

Reference: Zoning Ordinance, Article 17, Section 17.3114

Applicant: Koger Properties, LLC

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

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

As the applicant was developing the property and looking a little closer at the development plan 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
this at 3104 Fairview Drive. It's a rental house. The tenants that they rent to watches this property for them during nonbusiness hours. If that screening were installed, according to the applicant, then this tenant wouldn't be able to see the commercial property and keep an eye on it causing, you know, a hazard, potential security hazards for the property.

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

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

Granting the variance will not adversely affect the public health, safety or welfare; in fact, it will protect the area by allowing the neighboring property to continue to watch over the subject property during nonbusiness hours. It will not alter the essential character of the general vicinity.
because the residential use at 3104 Fairview Drive and
the business at 3110 Fairview Drive have existed for
some time with no screening element in place. The
metal shop in the rear of the subject property is the
building being redeveloped and required screening will
be installed in that area. Granting the variance will
not allow an unreasonable circumvention of the
requirements of the zoning regulations because the
applicant currently owns all properties involved and
is agreeable to install the required screening should
the property to the south at 3104 Fairview Drive be
sold.

Planning Staff recommends approval of the
Variance request with the following conditions:
1. Approval of an amended Final Development
Plan.
2. In the event the adjoining property at
3104 Fairview Drive is ever sold by the applicant, the
required screening shall be installed along the
southern property boundary where adjoining 3104
Fairview Drive.

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

CHAIRMAN: Anyone here representing the
applicant?
NO RESPONSE

CHAIRMAN: Evidently not.
Anyone like to speak in opposition.

NO RESPONSE

CHAIRMAN: Evidently not.
Any opposition in the Planning Office?

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

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

NO RESPONSE

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

MS. DIXON: Mr. Chairman, I place a motion to
grant the variance based upon the findings that it
will not adversely affect the public health, safety
and welfare; that it will not alter the essential
character of the neighborhood because the residential
use and business have existed for some time with no
screening; it will not cause a hazard or a nuisance to
the public because eliminating the 6 foot continuous
element would only impact the single property to the
south, which is also on owned by the applicant; it
will not allow an unreasonable circumvention of the
requirements of the zoning regulations. And subject to the conditions; the approval of an amended Final Development Plan and that in the event that the adjoining property of 3104 Fairview Drive is ever sold by the applicant, the required screening shall be installed along the southern property boundary where they're adjoining 3104 Fairview Drive.

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

MS. CLARK: Second.

CHAIRMAN: Second by Ms. Clark. 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 need a motion to adjourn.

MS. DIXON: Move to adjourn.

MR. REEVES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: We are adjourned.

----------------------------------
STATE OF KENTUCKY )
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 13 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 24th day of October, 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