The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, August 4, 2016, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ruth Ann Mason, Chairman
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Fred Reeves

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CHAIRMAN:  Call to order the Owensboro Metropolitan Board of Adjustment.

The first thing on the agenda tonight will be the prayer and pledge of allegiance.  All stand please and Mr. Jean will have the prayer for us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  The second thing on the agenda is to consider the minutes of the July 7, 2016 meeting. Everyone has seen those or has access to them.  I would like to have a motion for approval, please.

MR. GLENN:  I make a motion to approve the minutes.

CHAIRMAN:  And a second?
MR. REEVES: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

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CONDITIONAL USE PERMIT

ITEM 2

5010 Back Square Drive, zoned B-4

Consider a request for a Conditional Use Permit in

order to operate an adult daycare facility.

Reference: Zoning Ordinance, Article 8, Section 8.2B3

Applicant: Puzzle Pieces, Harold G & Gayla O. Peach

MS. KNIGHT: Please state your name for the

record.

MR. HILL: Mike Hill.

(MIKE HILL SWORN BY ATTORNEY.)

MR. HILL: The subject property is a half-acre

parcel located just west of the rear of the Towne

Square Mall. It is zoned B-4 General Business and all

the adjacent properties are also zoned B-4 General

Business.

The applicant proposes to utilize the property

in its current condition; structure, parking lot,

etcetera, which was previously used as an office to be

used as adult daycare center.

ZONING ORDINANCE REQUIREMENTS

The parking and landscaping appear to be met,
on site plan that is in your packet, and is currently
on the screen.

Parking that is required is two spaces plus
one space for every 10 persons under care at the
facility. The applicant indicates there may be as
many as 30 persons under care, which creates a minimum
parking requirement of 5 spaces. The site has 29
existing spaces. So they obviously comply.

There will be a vehicular use area screening
required between the parking lot and Back Square
Drive, and it is also shown on the site plan.

Staff requests that the Staff Report be
entered into the record as Exhibit A.

CHAIRMAN: Brian, has there been anyone call
the office concerning this application?

MR. HOWARD: No.

CHAIRMAN: Is there anyone here in opposition
to the application?

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

APPLICANT REP: Yes.

CHAIRMAN: Do you have anything you want to
say?

APPLICANT REP: No.

CHAIRMAN: Does any board members have any
questions?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

MR. REEVES: I'll make a motion to approve this with the following Findings of Facts:

This area has a variety of businesses that are already there. This operation will not seem to be inconsistent with some of the other types of businesses that are there. There's also a great deal of open space which would probably limit itself with these type of clients, about being able to get into the place where they could not be found easily so. I would make this with no special conditions.

CHAIRMAN: Do we have a second?

MR. JEAN: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 3

409 East 25th Street, zoned R-1C
Consider a request for a Conditional Use Permit in order to operate a photography studio.
Reference: Zoning Ordinance, Article 8, Section 8.2B14A
Applicant: Rebecca Simon

MS. KNIGHT: State your name for the record.

MS. EVANS: Melissa Evans.
MS. EVANS: This property is located on the corner of East 25 Street and Clay Street between J.R. Miller Boulevard and Veach Road.

In 2008, there was a Conditional Use Permit approved to operate a daycare for the subject property. The daycare has since moved from this location.

The current applicant recently purchased this property and intends to open a photography studio.

All the surrounding properties are zoned R-1C Single-Family Residential.

ZONING ORDINANCE REQUIREMENTS

1. Parking - Photography Studio - 1 space for every 400 square feet of building space. Building = 760 square feet; Parking required = 2; Parking provided = 4; including 1 ADA

2. Landscaping - Vehicular use area screening from the right-of-way along Clay Street, as shown on the site plan submitted.

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

CHAIRMAN: Has there been any calls into the office on this application?

MR. HOWARD: No.
CHAIRMAN: Is there anyone here in opposition to it or have anything to say?

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

APPLICANT REP: Yes.

CHAIRMAN: Do you have anything you want to say?

APPLICANT REP: No, ma'am.

MR. REEVES: Could I ask a question of the applicant, please?

CHAIRMAN: Sure.

Can you come up to the podium please, and be sworn in.

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

MS. SIMON: Rebecca Simon.

(REBECCA SIMON SWORN BY ATTORNEY.)

MR. REEVES: Ms. Simon, what are your intended hours of operations, please?

MS. SIMON: Right now I'm operating on the weekends, Saturday and Sunday and a few night during the evenings during the weekdays.

MR. REEVES: What would you say, if you're operating Sunday, when would you typically start and when would you close down?
MS. SIMON: Usually around 12 to 2.

MR. REEVES: What about in the evenings, when do you quit operating at night?

MS. SIMON: Usually from 6:00 to 7.

MR. REEVES: That's all the questions I have.

Thank you.

CHAIRMAN: Anyone else on the board have any questions?

(NO RESPONSE)

CHAIRMAN: Chair will entertain a motion of this application.

MR. REEVES: I will make a motion to approve this based on the following of finding of fact:

This type of operation would have a lot of light traffic so there would not be any burden on the roadway system. Also, due to the type of operation, will be low intensity in terms of noise. So I don't think would be a bothersome to the noise. Also, the hours of operation are such that it will not be a bothersome to the neighbors, and there are no special conditions applied.

CHAIRMAN: Do I have a second?

MR. GLENN: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Approved.

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VARIANCE

ITEM 4

6941 Lamplite Circle, zoned MHP
Consider a request for a Variance in order to increase
the maximum sign height for a business sign in an MHP
zone from 10 feet to 25 feet.
Reference: Zoning Ordinance, Article B,
Section 8.2B14A
Applicant: Owensboro MHC, LLC

MS. EVANS: If you all will remember a couple
of months ago, we had a variance request for a sign
for this same property or actually the property in
front of it located by the office there for the River
Bend Mobile Home Park. That variance application was
denied based on the height and it not being necessary
in that location. At that meeting it was discussed
about moving the sign location to a different spot and
reapplying for this Variance. So that's what they've
done. The sign is the same size as previous so it
will be 25 feet tall with a base or the sign will be
18 feet tall with a 7 foot sign and 16 feet wide. So
it's a 112 square feet.

They're now proposing to put the sign back
further into the development, in a field that is
currently used as a soccer field. I think maybe it's
soccer field type. They're proposing it along the
Highway 60 corridor there where it would be visible from Highway 60 where there's also other billboard type signs in that area.

We would also find it important that it be noted that this variance is for this specific location on this property, in this soccer field on the side there, on north side by Highway 60. If they chose to put this in a different location, this variance does not stand for any location except in the vicinity of what it's being approved for.

Granting this Variance to increase the maximum sign height from 10 feet to 25 feet at 6941 Lamplite Circle will not adversely affect the public health, safety or welfare or alter the essential character of the general vicinity because there are other billboard type signs located along Highway 60 East in this vicinity;

It will not cause a hazard or nuisance to the public because the sign will be in an open area of the complex away from the manufactured homes;

It will not be an unreasonable circumvention of the requirements of the zoning regulations because there are large signs along Highway 60 East in this vicinity.

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

1. The sign shall be placed in the general vicinity as shown site plan submitted within the Variance request.

2. Would be necessary to obtain all building and electrical permits, inspections and certificate of occupancy and compliance as necessary.

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

CHAIRMAN: Has there been any calls to the office concerning the variance?

MR. HOWARD: No.

CHAIRMAN: Anyone here in opposition?

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

APPLICANT REP: Yes.

CHAIRMAN: Do you have anything you want to say.

APPLICANT REP: No. It's just located right there --

CHAIRMAN: If you want to say something, you need to go up to the podium and be sworn in.

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

MS. COOPER: Denise Cooper.
(DENISE COOPER SWORN BY ATTORNEY.)

CHAIRMAN: Go ahead.

MR. COOPER: It's located right within our facility. It's a good distance from the road. It wouldn't affect any area, as far as the neighbors, anybody in the community. What is next to it is a field, and there's quite a bit of field difference between Highway 60 and that. We will be able to raise it up where it can be seen from the road.

CHAIRMAN: Any board members have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion for this Variance.

MR. GLENN: I'll make a motion to approve this application based on the findings of fact that it will not adversely affect the public health, safety or welfare; also because it would not alter the essential character of the general vicinity along Highway 60 East; and it would not cause a hazard or nuisance to the public because of the location; also would not allow an unreasonable circumvention of the requirements of the zoning regulations because there are similar signs there. And also on the Staff Recommendations that the sign be placed in the general
vicinity as shown on the site plan as submitted with 
the variance request, and that they would obtain all 
necessary electrical permits, inspections and 
certificates of occupancy and compliance.

CHAIRMAN: Do we have a second?

MR. JEAN: Second.

CHAIRMAN: All those in favor raise your right 
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion passes.

ITEM 5

7100 US Highway 431, zoned I-1 
Consider a request for a Variance in order to alter 
the screening requirements for an outdoor storage area 
from the required 6 foot tall solid element to a 6 
foot tall fence. 
Reference: Zoning Ordinance, Article 17, Section 
17.311 
Applicant: Ballard Development Properties, LLC 

MR. HILL: The subject property is located in 
a rural area that includes a mixture of agricultural, 
industrial and professional service land uses. The 
property is zoned I-1 Light Industrial and received 
development plan approval for a storage facility in 
the year 2000. The proposed buildings that were shown 
on that development plan that were nearest US 431 has 
not been constructed since that time, and in their 
absence a 6 foot tall solid wall or fence is required
by the zoning ordinance.

Instead, the applicant proposes to provide a 6 foot tall decorative wrought iron fence with 3 foot tall evergreen style trees placed every 20 feet across the front of the property, as shown on the development plan or the site plan you have before you. Other portions of the site will either be screened by existing buildings or where there aren't any buildings and the gaps between the buildings by a 6 foot tall solid fence as required by the zoning ordinance.

The applicant argues that because the property is in a rural area, is surrounded by industrial land uses and has operated for several years without the solid screening element in place, that the solid screening requirement is not necessary.

Staff feels that there is no hardship in this case. The applicant, if the request is denied, could install screening on the property that meets the requirements.

Staff findings that the granting of this variance will not adversely affect the public health, safety or welfare because the site will still be fenced for security reasons even though the fencing will not include a solid screening element.

It will not alter the essential character of
the general vicinity because the property is located in a rural area, is surrounded by industrial land uses and has operated for several years without the solid screening element.

It will not cause a hazard or nuisance to the public because the facility, it's patrons and their contents will be protected by the proposed fencing.

It will not allow an unreasonable circumvention of the requirements of the zoning regulations because there will still be fencing and additional shrubbery/trees provided around the entire facility which is located in an industrial area and not near any residential properties.

Staff recommends approval of the variance with one condition: Installation of a 6 foot tall decorative wrought iron fence with continuous 3 foot high trees every 20 feet.

Staff request that the Staff Report be entered into the record as Exhibit D.

CHAIRMAN: Thank you.

Have there been any calls into the office concerning this?

MR. HOWARD: No, there have not.

CHAIRMAN: Is anyone here in opposition to this?
(NO RESPONSE)
CHAIRMAN: Is the applicant here?
APPLICANT REP: Yes.
CHAIRMAN: Do you have anything you want to say?
APPLICANT REP: No, ma'am.
CHAIRMAN: Any board members have any questions?
(NO RESPONSE)
CHAIRMAN: Entertain a motion.
MR. JEAN: I make a motion we approve the variance with the one condition, based on the Staff Report and the Finding of Fact 1 through 4.
MR. REEVES: I'll second the motion.
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: I need one final motion.
MR. REEVES: I make a motion we adjourn.
MR. GLENN: Second.
CHAIRMAN: All in favor race 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 15 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
28th day of August, 2016.

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

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