The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, September 1, 2016, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Robynn Clark, Vice Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Jerry Yeiser
Fred Reeves
Bill Glenn
Lewis Jean

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CHAIRMAN: Call the Owensboro Metropolitan Board of Adjustment September 1, 2016 meeting to order. We will begin with a prayer and pledge to the flag. Mr. Howard has agreed to lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item on the agenda is to consider the minutes of the August 4, 2016 meeting. Everyone should have been mailed a copy. You've had time to look it over. I'll entertain a motion.

MS. MASON: Motion to approve.

MR. GLENN: Second.

CHAIRMAN: A motion to approve by Ms. Mason.
Second by Mr. Glenn. Any question on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Next item on the agenda,

Mr. Howard.

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VARIANCE

ITEM 2

5175 Seabiscuit Loop, zoned R-1C
Consider a request for a Variance in order to increase the maximum fence height in a side street yard from 4 feet to 6 feet tall.
Reference: Zoning Ordinance, Article 3, Section 3-7(g)(3)
Applicant: Sandra K. Dawdy

MS. KNIGHT: Please state your name.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: The subject property is located in Keeneland Trace Subdivision at the intersection of Seabiscuit Loop and Winning Colors Way. The property directly behind the subject property, faces Winning Colors Way and is currently vacant.

This variance request came about because there was a Notice of Violation issued for the property owner on April 26th of 2016. The Notice of Violation
was because of the fence height in a side street yard. So this Variance is to correct that Notice of Violation. The fence is 6 feet tall on that side street property line along Winning Colors Way. The Zoning Ordinance requirement is for 4 feet tall. The fence does enclose the applicant's background where there is an in-ground swimming pool so it does provide some safety from the neighborhood for that swimming pool.

The fence currently is also located within a public utility easement. Your Staff Report says that we were provided by the applicant approval from the utilities for that fence to be there. We don't currently have that, but I have been told by the applicant's attorney that that is coming and we should have it within the next couple of days.

I would recommend or Staff would recommend that that be a condition; that if it were to be approved, that we do get that approval from the public utilities for that fence to be located in the easement.

Granting this Variance will not adversely affect the public health, safety or welfare because the fence has existed for some time with no issues to date.
It will not alter the essential character of
the general vicinity because there are similar fences
throughout the neighborhood.

It will not cause a hazard or a nuisance to
the public and the fence will actually protect the
applicant and the public from trespassing into the
pool.

It will not allow an unreasonable
circumvention of the requirements of the zoning
regulations because similar variance requests have
been granted by the OMBA in the past.

We would recommend approval of this variance
with the condition that the Staff receive approval
from the utilities for the fence to be located within
the public utility easement.

We would request that the Staff Report be
entered into the record as Exhibit A.

CHAIRMAN: Thank you.

Is there anyone here representing the
applicant?

MR. TIERNEY: Matt Tierney on behalf of the
applicant, Sandra K. Dawdy.

MS. KNIGHT: Mr. Tierney, you're sworn as an
attorney.

MR. TIERNEY: Just to add to Ms. Evans'
report. I have submitted a request to the utility company for that approval for the fence to be located within the easement. I will apologize to the Board. It is my fault on that. I had the dates wrong. I had next week as the date for this hearing. So the reason that's not been sent to the Staff is my fault. I will correct that. I advised Ms. Dawdy of that as well. Subject to that at this point, like I said, the Staff Report speaks for itself. I don't have anything to add to the Staff Report. I think it speaks for itself, unless anyone has any questions.

CHAIRMAN: Thank you.

Has there been inquiries in the office?

MR. HOWARD: No, ma'am.

CHAIRMAN: Anyone have a question of Mr. Tierney?

MR. REEVES: Just real quick. Maybe of Staff. What was the source of the Notice of Violation?

MR. HOWARD: We received a complaint on multiple sites in the neighborhood at one time.

MR. REEVES: Okay. Is this the only site there was a notice?

MR. HOWARD: No. We sent three Notices of Violations.
MR. REEVES: This is the first response then I assume.

MR. HOWARD: This one, this variance to solve the problem. One fence has been relocated to solve that problem, and the other has not contacted our office.

MR. REEVES: Okay. Thank you.

CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: I will entertain a motion.

MR. JEAN: Motion to approve with the condition that the approval received from the utility companies.

CHAIRMAN: And based upon the findings of fact listed in the Staff Report.

MR. JEAN: Yes.

CHAIRMAN: Do I have a second?

MS. MASON: Second.

CHAIRMAN: Any questions on the motion.

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

We'll entertain one more motion.

MR. REEVES: Motion 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 7 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 1st 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

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