The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, June 1, 2017, at City Hall, Commission Chambers, Owensboro, Kentucky; and the proceedings were as follows:

MEMBERS PRESENT:  Judy Dixon, Chairman
Robynn Clark, Vice Chairman
Jerry Yeiser
Terra Knight, Attorney
Brian Howard, Director
Fred Reeves

CHAIRMAN:  We'll call the Owensboro Metropolitan Board of Adjustment June 1, 2017, meeting to order. First item on the agenda will be the prayer and then the pledge to the flag. Would you please stand and pray with me?

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Consider the minutes of the May 4th, 2017, meeting. All members should have a copy and have had time to check it over, so entertain a motion to dispose of this item.

MS. CLARK:  Motion to approve.

CHAIRMAN:  We have a motion to approve by Ms. Clark.

MR. REEVES:  Second.

CHAIRMAN:  Second by Mr. Reeves. All in favor
of the motion, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED.)

MADAM CHAIRMAN: Motion carries.

Okay. First item on the agenda.

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CONDITIONAL USE PERMITS

ITEM 2

9515 Highway 144, zoned R-1A
Consider a request for a Conditional Use Permit in order to operate an existing church and construct a new parish hall.
References: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: St. Williams Catholic Church

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

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

Zoning History:

The subject property is currently zoned R-1A Single Family Residential. OMPC records indicate there have been no zoning map amendments for the subject property.

The applicant has been operating a church with related structures on the subject property since before the establishment of the zoning ordinance. Currently, the applicant is proposing to construct a 12,000-square-foot parish hall on the subject property. Some parking will be provided on the subject property, but the majority of the
parking will be across Highway 144 on the Mary Carrico School property, also owned by the applicant. A final development plan will be required showing that parking can be met for both uses.

Land Uses in Surrounding Area:

The surrounding properties are all zoned either B-4 General Business of R-1A Single Family Residential and consist of the Mary Carrico School, the Bishop Seonneker Home, a single-family residence and vacant land zoned B-4.

Zoning Ordinance Requirements:

1. Parking -- one for every five seats in the main auditorium as show on the site plan submitted.
2. Landscaping -- vehicular use area screening between the vehicular use area and the road right-of-way consisting of a three-foot continuous element and one tree every forty feet of the boundary.

Special Conditions:

1. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.
2. Approval of a final development plan showing the required parking off site.

Along with all other applicable zoning ordinance requirements, we would like to enter the staff report into the record as Exhibit A.
CHAIRMAN: Is there anyone here wishing to speak on behalf of the applicant?
(NO RESPONSE.)

CHAIRMAN: Anyone here have any questions or comments on this item?
(NO RESPONSE.)

CHAIRMAN: If not, we'll entertain a motion. Mr. Reeves?

MR. REEVES: Yes. I move for approval of the conditional use permit based on the following facts:

The church was operating before the zoning ordinance was established and so therefore was not in contradiction to any current regulations that we might have. Adding a new parish hall is consistent with all churches as they grow.

Second, the use of the church's plan is compatible with ordinary uses. And that we use the two zoning ordinance requirements for parking and landscaping and also conditions one and two.

CHAIRMAN: We have a motion. Is there a second on the motion?

MS. CLARK: Second.

CHAIRMAN: Ms. Clark.

Any questions on the motion?
(NO RESPONSE.)
CHAIRMAN: If not, all in favor of the motion, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED.)

CHAIRMAN: Motion carries unanimously.

Next item, Mr. Howard.

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VARIANCE

ITEM 3

1533 Creek Haven Loop, zoned R1C
Consider a request for a Variance in order to decrease the project boundary buffer from 20 feet to 15 feet.
References: Zoning Ordinance, Article 10, Section 10.432
Applicant: Patty Coppage; Terry Abell

Considerations:

The subject property is located in Creek Haven subdivision. The subdivision was developed as a planned residential development. This process allows for flexibility in development in many ways, but also requires a 20-foot project boundary buffer around the entire perimeter of the project. The intent of the project boundary buffer is to separate the entire development from adjoining properties. If the variance is approved, a preliminary plat/final development plan and a major subdivision final plat will both be required to be amended reflecting any changes.

The applicant proposes to construct a fourteen-foot wide in-ground pool with a fenced concrete
area surrounding the pool. The proposed pool will be located six feet from the rear of the existing residence and will encroach into the twenty-foot project boundary buffer by five feet, requiring a five-foot variance. Review of OMPC files show that a similar variance request was approved for the property at 1561 Creek Haven Loop in 2005 [sic].

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 a secluded area from the neighbors via fencing, trees, and a drainage easement. Granting the variance does not significantly impact the area because the adjacent property to the rear is a vacant common area of the adjoining neighborhood. Granting the variance will not be an unreasonable circumvention of the requirements of the zoning ordinance because a similar variance to reduce the project boundary buffer by ten feet in order to construct an in-ground pool was approved in October of 2015.

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

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

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

We would like to enter the staff report into the record as Exhibit B.

CHAIRMAN: Is there anyone here wishing to speak on behalf of the applicant?

(NO RESPONSE.)

CHAIRMAN: Anyone here have comments or questions about this application?

(NO RESPONSE.)

CHAIRMAN: Hearing none, I will entertain a motion.

MS. CLARK: I have a motion to approve based upon that it will not adversely affect the public, health, safety, or welfare; it will not alter the essential character of the general vicinity; 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 a similar variance to reduce the project boundary buffer by ten feet in 2015; and the conditions to obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance; and the approval of an amended Major Subdivision Preliminary Plat/Final Development Plan and Major Subdivision Final Plat.
CHAIRMAN: We have a motion by Ms. Clark. Is there a second?

MR. YEISER: Second.

CHAIRMAN: Second by Mr. Yeiser. Any questions on the motion?

(NO RESPONSE.)

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

(ALL BOARD MEMBERS PRESENT RESPONDED.)

CHAIRMAN: Opposed?

(NO RESPONSE.)

CHAIRMAN: Motion carries unanimously.

One more item, Mr. Howard.

ITEM 4

522 Griffith Avenue, zoned R-1A

Consider a request for a Variance in order to increase the height of a fence along a side street yard from four-feet tall to six-feet tall.

Reference: Zoning Ordinance, Article 3, Section 3-7(g)(3)

Applicant: Robert A. Greene

Considerations:

The subject property is located at the intersection of Griffith Avenue and McCreary Avenue. An alley runs along the rear of subject property, separating the subject property from the adjoining property to the rear, which faces McCreary Avenue.

The applicant proposes to construct a six-foot
fence to enclose their backyard. The zoning ordinance requires a fence in a side yard along the street to be no more than four-feet tall. The Owensboro Public School Central Office is located across McCreary Avenue from the subject property. They have an eight-foot tall fence along McCreary Avenue and Griffith Avenue. The school board is exempt from the zoning ordinance requirements, however, as they are a public facility.

Granting this Variance will not adversely affect the public health, safety, or welfare because the fence will sit back from the intersection and not interfere with the sight triangle. The Variance will not cause a hazard or nuisance to the public as it actually protects the neighbors and the property owner from people trespassing through the yard. This Variance will not alter the essential character of the general vicinity as the school board across McCreary Avenue has a taller fence than is proposed by the applicant. And the Variance will not be an unreasonable circumvention of the requirements of the zoning regulations because similar variance requests have been approved by the OMBA in the past.

We would recommend this application for approval, and we would like to enter the staff report into the record as Exhibit C.

CHAIRMAN: Thank you.
Do we have anyone here representing the applicant?

MR. GREENE: Robert Greene, homeowner.

(ROBERT GREENE WAS SWORN BY THE ATTORNEY.)

CHAIRMAN: Do you have anything to add, Mr. Greene?

MR. GREENE: Yeah. One reason why we decided to go with the six-foot fence, the way our property slopes down a little bit, about three and a half feet to go to McCreary Street, if we would put a four-foot fence, that would really not give much privacy. I've walked along it, just hypothetically, looking at this yard, and it's still somewhat -- we've got two kids under the age of four and a dog as well. So that's the reason we chose to go with a six-foot fence.

CHAIRMAN: Thank you.

MR. GREENE: Thank you.

CHAIRMAN: Anyone have any questions for Mr. Greene?

(NO RESPONSE.)

CHAIRMAN: Does anyone here have any questions about the application?

(NO RESPONSE.)

CHAIRMAN: If not, we will entertain a motion

MR. REEVES: Motion to approve this application
for Variance based on staff findings of fact one through four.

CHAIRMAN: Thank you. We have a motion by Mr. Reeves. Do I have a second?

MS. CLARK: Second.

CHAIRMAN: Second by Ms. Clark. Any questions on the motion?

(NO RESPONSE.)

CHAIRMAN: All in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED.)

CHAIRMAN: Opposed?

(NO RESPONSE.)

CHAIRMAN: Motion carries unanimously. One more.

ITEM 5

5940 Highway 2830, zoned I-1
Consider a request for a Variance in order to eliminate 200 feet of required screening along the northwest boundary of the property along the railroad.
References: Zoning Ordinance, Article 13, Section 13.511.
Applicant: S&S Earthscapes, LLC

Considerations:

The subject property is located on Highway 2830 near the new U.S. Highway 60 East extension. The CSX railroad lies between the subject property and Highway 2830.

The applicant proposes to use a 200-foot by
200-foot area of the property in the northern corner for
display of heavy equipment. For outdoor display of heavy
equipment, the zoning ordinance requires a three-foot wide
easement with a three-foot high continuous element and one
tree every forty linear feet between the display area and
the road right-of-way. The applicant is requesting to
eliminate all of the screening requirements for the 200
feet of the boundary along Highway 2830.

Upon inspection of the site, the distance from
Highway 2830 and the existing berm that the railroad sits
on meet the intent of the screening requirements of the
ordinance. The berm would likely block a three-foot wide
easement and a three-foot tall continuous element because
of its height.

However, we would recommend the trees be
installed for additional screening beyond the railroad
berm. There appear to be several trees located along the
property line now that would meet this requirement.
However, more may need to be installed if there are not
enough to meet the requirement.

Granting this Variance to eliminate the
three-foot wide landscape easement and the three-foot tall
continuous element will not adversely affect the public
health, safety, or welfare or cause a hazard or nuisance
to the public because the existing berm in place exceeds
the zoning ordinance requirements and would block the 
requirements if they were installed. The Variance to 
eliminate the three-foot wide landscape easement and the 
three-foot tall continuous element will not alter the 
essential character of the general vicinity because this 
is an existing industrial and commercial area. The 
Variance to eliminate the three-foot wide landscape 
easement and three-foot tall continuous element will not 
be an unreasonable circumvention of the requirements of 
the zoning ordinance regulations because similar variance 
requests have been approved by the OMBA in the past and 
the existing berm meets the intent of the requirements.

Staff would recommend approval of the Variance 
to eliminate the three-foot wide landscape easement and 
the three-foot tall continuous element with the following 
conditions:

1. Install the required trees, one for every 
forty feet along the northwestern property boundary.

2. Install all other screening requirements for 
the site as required.

3. Approval of a Final Development Plan.

We would like to enter the staff report into the 
record as Exhibit D.

CHAIRMAN: Thank you.

Do we have anyone here on behalf of the
applicant?

(NO RESPONSE.)

CHAIRMAN: Anyone have any questions of the applicant and his representative?

(NO RESPONSE.)

CHAIRMAN: Does anyone have any questions about this application?

(NO RESPONSE.)

CHAIRMAN: If not, I will entertain a motion.

MR. REEVES: Motion to approve this application for Variance based on staff findings of fact one through four and conditions one, two, and three.

CHAIRMAN: We have a motion by Mr. Reeves. Any question on the motion? Call for a second.

MR. YEISER: Second.

CHAIRMAN: Second by Mr. Yeiser. All in favor of the motion, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED.)

CHAIRMAN: Motion carries unanimously.

Mr. Howard, any more business?

MR. HOWARD: I have none.

CHAIRMAN: We have one more motion.

MS. CLARK: Motion to adjourn.

MR. REEVES: Second.

CHAIRMAN: All in favor.
(ALL BOARD MEMBERS PRESENT RESPONDED.)

CHAIRMAN: Gather your things and leave.

(The meeting adjourned at 5:45 p.m.)

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STATE OF KENTUCKY )
COUNTY OF DAVIESS: ) SS: REPORTER'S CERTIFICATE

I, RHONDA SIMPSON, 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 3rd day of July 2017.

RHONDA SIMPSON, NOTARY PUBLIC
STATE-AT-LARGE
OHIO VALLEY REPORTING SERVICE
2200 E. PARRISH AVENUE, SUITE 106-E
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:
AUGUST 17, 2019
COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY