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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

JULY 6, 2017

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, July 6, 2017, 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: I will call the Owensboro Metropolitan Board of Adjustment July 6, 2017 meeting to order. We will begin the meeting with a prayer and pledge to the flag by Mr. Jean.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item on the agenda is to consider the minutes of the June 1, 2017 meeting. All members have been mailed or received some sort of copy of the minutes and have had time I assume to look them over. At this time I'll entertain a motion to dispose of this item.

MR. GLENN: Make a motion we approve the minutes.

1 MR. YEISER: Second.

2 CHAIRMAN: I have a motion by Mr. Glenn and a  
3 second by Mr. Yeiser. Any question on the motion?

4 (NO RESPONSE)

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 First item on the agenda, Mr. Howard.

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11 CONDITIONAL USE PERMITS

12 ITEM 2

13 10 Distillery Road, zoned I-2  
14 Consider a request for a Conditional Use Permit in  
15 order to construct and operate a banquet hall and a  
16 hotel/motel, cocktail lounge, nightclub, and  
17 restaurant in conjunction with a distillery that has  
18 obtained, or intends to obtain a statewide or national  
19 accreditation with the distilling industry  
20 References: Zoning Ordinance, Article 8,  
21 Sections 8.2A11/55, 8.2B12/55, 8.2B13/55, 8.2B18  
22 Applicant: O.Z. Tyler Distillery; TerrePURE Kentucky  
23 Distilleries, Inc.

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

21 MR. HILL: Mike Hill.

22 (MIKE HILL SWORN BY ATTORNEY.)

23 MR. HILL: This, as Mr. Howard said, is a  
24 Conditional Use Permit request for various ven uses,  
25 all to be associated with the O.Z. Tyler Distillery.

1           The property is zoned I-2 Heavy Industrial.  
2           The applicant currently operates a distillery at this  
3           property and plans to construct and operate a 10,000  
4           square foot banquet hall, 10 room hotel, a 900 square  
5           foot cocktail lounge/nightclub, and 4,000 square foot  
6           restaurant in the future.

7           The applicant also is endeavoring to be  
8           accepted under the state's Bourbon Trail, which is a  
9           statewide accreditation within the distill industry.

10           If the Conditional Use Permit is approved, a  
11           final development plan will be required to be  
12           submitted that shows all the compliances that all  
13           zoning ordinance requirements related to parking,  
14           setbacks and landscaping and other applicable zoning  
15           ordinance regulations.

16           The zoning ordinance was recently updated  
17           actually, or amended rather, to allow the various uses  
18           that the applicant is requesting as conditionally  
19           permitted uses when in conjunction with either  
20           distilleries or brewery. So this is the first  
21           application for the recently adopted text amendment  
22           for this specific use.

23           All properties in the vicinity are either  
24           zoned industrially or some are residentially.

25           As far as the parking requirements, all the

1 parking areas are required to be paved. The applicant  
2 has submitted an exhibit, which is on your screen and  
3 in your packet, which is approximately what the final  
4 development plan will end up looking like, but the  
5 exhibit shows all of the parking requirements being  
6 met.

7 On your Staff Report each use is listed out in  
8 zoning ordinance requirement for parking for a  
9 distillery, a banquet hall, a hotel, a cocktail lounge  
10 and a restaurant. All of those in their case add up  
11 to 103 spaces and their exhibit shows 103 spaces on  
12 the site.

13 Staff does suggest two conditions if the board  
14 is inclined to approve the case.

15 SPECIAL CONDITIONS

16 1. Obtain all necessary building, electrical  
17 and HVAC permits, inspections and certificates of  
18 occupancy and compliance before occupancy of any of  
19 the proposed uses.

20 2. Approval of a Final Development Plan.

21 MR. HILL: Staff request that the Staff Report  
22 be entered into the record as Exhibit A.

23 CHAIRMAN: Is there anyone in the audience  
24 that wishes to speak on behalf of the applicant?

25 (NO RESPONSE)

1           CHAIRMAN:  Anyone here wishing to speak in  
2  opposition to this item?

3           (NO RESPONSE)

4           CHAIRMAN:  Anyone on the commission or on the  
5  Board have any questions or comments on the item?

6           MR. REEVES:  I have a question.

7           CHAIRMAN:  Mr. Reeves.

8           MR. REEVES:  I'm surprised that no one here  
9  for applicant, which I would have questions for them.  
10  I can't ask them if they're not here.

11           I guess my concern is there are it looks like  
12  at least one, two, three, four different conditional  
13  uses they're asking for under the same permit or the  
14  same application.

15           One of them, the hotel is not even in the same  
16  building as they're proposing for the other.  So is it  
17  appropriate for us to act on all of these even though  
18  they're four different uses?  Three of them are  
19  compatible uses, you expect to find in the same place,  
20  but the other is a different use.  It probably has the  
21  same address, but it's not in the same building at  
22  all.  It's pretty far across the property here.

23           MR. HOWARD:  They're all going to be on the  
24  same parcel.  That's why we would take it as one  
25  application with these various things listed.

1           I guess in theory and, counsel, correct me if  
2 I'm wrong, I guess in theory they can take action and  
3 approve some and not others.

4           MS. KNIGHT: Actually they can do that with  
5 any application.

6           MR. HOWARD: We would take it as one  
7 application. Based on what we have come to understand  
8 about the requirements to get on the Bourbon Trail,  
9 these are the various uses that they have to have on  
10 site.

11          MR. REEVES: I have enthusiasm for this, but  
12 my concern was down the road could there be a similar  
13 application that people coming to us wanting three or  
14 four different uses on a tract of land that maybe were  
15 not necessarily related, but expect us to bundle them  
16 together. That's my only concern. If it's  
17 appropriate to bundle them together, in your opinion,  
18 that suits me fine.

19          MR. HOWARD: Yes, I think they can be bundled.  
20 In theory, you could approve some and not all, if you  
21 chose to. On your future example, that could be the  
22 case. They might want three different things that  
23 aren't really associated together in any capacity.  
24 You think that one of those three could properly  
25 integrate into that neighborhood. The other two

1 can't. You can chose to approve some aspects of it  
2 and not others.

3 I don't want to put Mr. Weaver on the spot.  
4 We know that David Weaver is here and he is the  
5 engineer that's prepared their development plan. So  
6 if you do have some other questions, he may be able to  
7 address some of those.

8 MR. REEVES: No. The only question I had is  
9 was it appropriate to do this with all of them on the  
10 same application. If they're all in the same  
11 building, I would have less concern, but one being a  
12 little further off. I just want to make sure that we  
13 weren't hanging ourselves out down the road for  
14 another one that we would have.

15 MR. HOWARD: I don't think so. We didn't feel  
16 that way when it was submitted or have any concerns  
17 about that at this point.

18 CHAIRMAN: Have you had any calls in the  
19 office?

20 MR. HOWARD: Not that I'm aware of, no.

21 CHAIRMAN: Any other comments or questions?

22 MS. CLARK: I've got one.

23 Brian, you said these were the conditions to  
24 be on the Bourbon Trail or to be listed accreditation.

25 MR. HOWARD: There's some amenities that are

1 -- it's our understanding that these amenities are  
2 desirable in order for a distillery to have a  
3 potential favorable review in order to get that  
4 accreditation. This would apply to any distillery.  
5 Owensboro has a history of that. There's been a  
6 significant uptick in bourbon production, these  
7 microbreweries and those type of things. That's why,  
8 as Mike mentioned, there was a text amendment to the  
9 zoning ordinance to potentially allow these things,  
10 but we're seeing them in many communities across the  
11 state, especially in the Bardstown, Central Kentucky  
12 area, and those types where these things are popping  
13 up. So this is something that we want to get kind of  
14 ahead of or be along with in case we have folks here  
15 locally that want to do the same thing and we have  
16 means for them to follow that path.

17 CHAIRMAN: Any other questions?

18 (NO RESPONSE)

19 CHAIRMAN: If not, I'll entertain a motion.

20 MS. MASON: I move for approval with the  
21 finding of fact that it is a logical expansion of  
22 existing use and it's appropriate in the location  
23 since there's a distillery and also it's part of being  
24 accredited nationwide or statewide accreditation, to  
25 be recognized as a distillery in the state.



1 CHAIRMAN: We have a motion by Ms. Mason. Is  
2 there a second?

3 MR. REEVES: Second.

4 CHAIRMAN: Second by Mr. Reeves.

5 MR. HOWARD: Would you entertain the  
6 conditions?

7 MS. MASON: The special conditions to obtain  
8 all necessary building, electrical and HVA permits,  
9 inspections and certificates of occupancy and  
10 compliance before occupancy of any of the proposed  
11 uses; and approval of final development plan would be  
12 the special conditions.

13 CHAIRMAN: Does your second still hold?

14 MR. REEVES: Yes.

15 CHAIRMAN: Any questions on the motion?

16 (NO RESPONSE)

17 CHAIRMAN: All in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, Mr. Howard.

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22 VARIANCE

23 ITEM 3

24 2625, 2633 Frederica Street, zoned B-4  
25 Consider a request for a Variance in order to reduce  
the roadway buffer from 60 feet from the centerline of  
the road to 35 feet from the centerline of the road.

1 Reference: Zoning Ordinance, Article 13, Section  
13.6221

2 Applicant: The JDQ Building, LLC

3 MR. HILL: The applicant proposes to redevelop  
4 the subject property. Initial site improvements  
5 include an addition to the front of the existing  
6 building along Frederica Street and to adjust the  
7 required parking and landscaping. The proposed  
8 addition would push the required parking and  
9 landscaping into the roadway buffer.

10 The applicant states that this request is  
11 consistent with previous actions taken by the board on  
12 similar variances in this vicinity, namely the  
13 Independence Bank, Walgreens and Starbucks.

14 Staff did research our variance files in that  
15 vicinity and found that there were six variance  
16 requests approved in early 2000 up through 2013 along  
17 this section of Frederica Street. All of those reduce  
18 the roadway buffer from 60 feet to between 50 and 34  
19 feet. The applicant here is requesting 35 feet. So  
20 within that range of other nearby variance request  
21 examples.

22 Staff does not feel there's a hardship in this  
23 case; whereas if the variance was denied the applicant  
24 could theoretically reconfigure the addition and the  
25 parking to meet the requirements.

1           The applicant does not feel like the applicant  
2 or that there are circumstances from which relief is  
3 sought that the applicant's actions taken after the  
4 zoning adoption.

5           Granting of the variance Staff believes will  
6 not adversely affect the public health, safety or  
7 welfare because even though the roadway buffer will be  
8 reduced the building will be set back from Frederica  
9 Street causing no obstructions.

10           Granting the variance will not alter the  
11 essential character of the general vicinity because  
12 there have been a number of other roadway buffer  
13 reductions granted in this area.

14           Granting the variance will not cause a hazard  
15 or a nuisance to the public because the building will  
16 be set back from Frederica Street.

17           Granting the variance will not allowance an  
18 unreasonable circumvention of the requirements of the  
19 zoning regulations because this Board has historically  
20 granted other roadway buffer reductions.

21           Staff recommends approval of the variance and  
22 would request that the report be entered into the  
23 record as Exhibit B.

24           CHAIRMAN: Thank you.

25           Is there anyone here that wishes to speak on

1       behalf of the applicant?

2                   (NO RESPONSE)

3                   CHAIRMAN: Any questions from anyone on the  
4 board?

5                   (NO RESPONSE)

6                   CHAIRMAN: If not, I'll entertain a motion.

7                   MR. GLENN: I'll make a motion to approve the  
8 variance based on this report here and Finding 1  
9 through 4; that it's not going to adversely affect the  
10 public health, safety or welfare because even though  
11 the roadway buffer will be reduced the building will  
12 be set back from Frederica Street causing no  
13 obstructions. Also, also it's not going to alter the  
14 essential character of the general vicinity because  
15 there have been a number of other roadway buffer  
16 reductions granted in the area. Three, because it  
17 would not cause a hazard or nuisance to the public  
18 because the building will be set back from Frederica  
19 Street; and Number 4, because it will not allow an  
20 unreasonable circumvention of the requirements of the  
21 zoning regulations because this Board has granted  
22 other roadway buffer reductions in the past.

23                   CHAIRMAN: We have a motion by Mr. Glenn. Is  
24 there a second to the motion?

25                   MR. JEAN: Second.

1           CHAIRMAN:  Second by Mr. Jean.  Any questions  
2 on the motion?

3           (NO RESPONSE)

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

6           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7           CHAIRMAN:  Motion carries unanimously.

8           Any other business this evening?

9           MR. HOWARD:  No, ma'am.

10          CHAIRMAN:  If not, I'll entertain one more  
11 motion.

12          MS. MASON:  Make a motion to adjourn.

13          CHAIRMAN:  Move to adjourn by Ms. Mason.

14          MS. CLARK:  Second.

15          CHAIRMAN:  Second by Ms. Clark.  All in favor  
16 of the motion raise your right hand.

17          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18          CHAIRMAN:  We are adjourned.

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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 30 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 25th day of July, 2017.

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19

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

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23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25