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.
MR. YEISER: Second.

CHAIRMAN: I have a motion by Mr. Glenn and a second by Mr. Yeiser. 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: Motion carries unanimously.

First item on the agenda, Mr. Howard.

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CONDITIONAL USE PERMITS

ITEM 2

10 Distillery Road, zoned I-2
Consider a request for a Conditional Use Permit in order to construct and operate a banquet hall and a hotel/motel, cocktail lounge, nightclub, and restaurant in conjunction with a distillery that has obtained, or intends to obtain a statewide or national accreditation with the distilling industry.

References: Zoning Ordinance, Article 8, Sections 8.2A11/55, 8.2B12/55, 8.2B13/55, 8.2B18

Applicant: O.Z. Tyler Distillery; TerrePURE Kentucky Distilleries, Inc.

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

MR. HILL: Mike Hill.

(MIKE HILL SWORN BY ATTORNEY.)

MR. HILL: This, as Mr. Howard said, is a Conditional Use Permit request for various ven uses, all to be associated with the O.Z. Tyler Distillery.
The property is zoned I-2 Heavy Industrial.

The applicant currently operates a distillery at this property and plans to construct and operate a 10,000 square foot banquet hall, 10 room hotel, a 900 square foot cocktail lounge/nightclub, and 4,000 square foot restaurant in the future.

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

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

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

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

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

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

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

SPECIAL CONDITIONS

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

2. Approval of a Final Development Plan.

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

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

(NO RESPONSE)
CHAIRMAN: Anyone here wishing to speak in opposition to this item?
(NO RESPONSE)
CHAIRMAN: Anyone on the commission or on the Board have any questions or comments on the item?
MR. REEVES: I have a question.
CHAIRMAN: Mr. Reeves.
MR. REEVES: I'm surprised that no one here for applicant, which I would have questions for them. I can't ask them if they're not here.
I guess my concern is there are it looks like at least one, two, three, four different conditional uses they're asking for under the same permit or the same application.
One of them, the hotel is not even in the same building as they're proposing for the other. So is it appropriate for us to act on all of these even though they're four different uses? Three of them are compatible uses, you expect to find in the same place, but the other is a different use. It probably has the same address, but it's not in the same building at all. It's pretty far across the property here.
MR. HOWARD: They're all going to be on the same parcel. That's why we would take it as one application with these various things listed.
I guess in theory and, counsel, correct me if I'm wrong, I guess in theory they can take action and approve some and not others.

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

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

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

MR. HOWARD: Yes, I think they can be bundled. In theory, you could approve some and not all, if you chose to. On your future example, that could be the case. They might want three different things that aren't really associated together in any capacity. You think that one of those three could properly integrate into that neighborhood. The other two
can't. You can chose to approve some aspects of it and not others. I don't want to put Mr. Weaver on the spot. We know that David Weaver is here and he is the engineer that's prepared their development plan. So if you do have some other questions, he may be able to address some of those.

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

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

CHAIRMAN: Have you had any calls in the office?

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

CHAIRMAN: Any other comments or questions?

MS. CLARK: I've got one.

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

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

CHAIRMAN: Any other questions?

(NO RESPONSE)

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

MS. MASON: I move for approval with the finding of fact that it is a logical expansion of existing use and it's appropriate in the location since there's a distillery and also it's part of being accredited nationwide or statewide accreditation, to be recognized as a distillery in the state.
CHAIRMAN: We have a motion by Ms. Mason. Is there a second?

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves.

MR. HOWARD: Would you entertain the conditions?

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

CHAIRMAN: Does your second still hold?

MR. REEVES: Yes.

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 unanimously.

Next item, Mr. Howard.

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VARIANCE

ITEM 3

2625, 2633 Frederica Street, zoned B-4
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.
Reference: Zoning Ordinance, Article 13, Section 13.6221
Applicant: The JDQ Building, LLC

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

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

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

Staff does not feel there's a hardship in this case; whereas if the variance was denied the applicant could theoretically reconfigure the addition and the parking to meet the requirements.
The applicant does not feel like the applicant 
or that there are circumstances from which relief is 
sought that the applicant's actions taken after the 
zoning adoption.

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

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

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

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

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

CHAIRMAN: Thank you.

Is there anyone here that wishes to speak on
behalf of the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions from anyone on the board?

(NO RESPONSE)

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

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

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

MR. JEAN: Second.
CHAIRMAN: Second by Mr. Jean. Any 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 unanimously.

Any other business this evening?

MR. HOWARD: No, ma'am.

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

MS. MASON: Make a motion to adjourn.

CHAIRMAN: Move to adjourn by Ms. Mason.

MS. CLARK: Second.

CHAIRMAN: Second by Ms. Clark. All in favor of the motion 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 30 typewritten pages; and that no signature was requested to the foregoing transcript.

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

LYNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
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OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2018
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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