

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 FEBRUARY 1, 2018

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 February 1, 2018, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Judy Dixon, Chairman
9 Ruth Ann Mason, Secretary
10 Brian Howard, Director
11 Terra Knight, Attorney
12 Jerry Yeiser
13 Fred Reeves
14 Bill Glenn
15 Lewis Jean

16 * * * * *

17 CHAIRMAN: We'll call the Owensboro
18 Metropolitan Board of Adjustment February 1st meeting
19 to order.

20 First item on the agenda is the prayer and
21 pledge, and Mr. Jean is going to lead us.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: First item on the agenda is to
24 consider the minutes of the January 4, 2018 meeting
25 minutes. Members have been sent a copy, and hopefully
26 have had time to look it over. So at this time I'll
27 entertain a motion.

28 MR. GLENN: I'll make a motion to accept the

1 minutes.

2 MS. MASON: Second.

3 CHAIRMAN: A motion by Mr. Glenn and second by
4 Ms. Mason. Any question on the motion?

5 (NO RESPONSE)

6 CHAIRMAN: All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Second item, Mr. Howard.

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11 VARIANCE

12 ITEM 2

13 3485 Millers Fall Circle, zoned R-1C (postponed from
14 January 4, 2018 meeting)
15 Consider a request for a Variance in order to reduce a
16 side yard building setback line from 5 feet from the
17 side property line to 0.4 feet from the property line.
References: Zoning Ordinance, Article 8,
Section 8.5.7(d)
Applicant: Joyce Dianna Estes-Fulks

18 MR. HOWARD: This item was last postponed at
19 the January 4, 2018 meeting. It was also postponed at
20 the December meeting.

21 Since that time the applicant has had Joe
22 Simmons, surveyor, come out and do measurements and do
23 some things. Trey has amended our Staff Report to
24 reflect a much smaller request, as far as dimension on
25 the variance. So he'll go over that quickly. I know

1 the applicant is here, as well, if they went to speak
2 after that.

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

5 MR. PEDLEY: Trey Pedley.

6 (TREY PEDLEY SWORN BY ATTORNEY.)

7 MR. PEDLEY: Since the January meeting Simmons
8 Surveying has provided a plat plan indicating that the
9 applicant intends to remove the existing 22.1 foot
10 wide carport and replace it with one that is 18 feet
11 wide.

12 Doing so will allow the applicant to maintain
13 a 10 foot separation distance from the neighboring
14 resident, complying with the Kentucky Residential
15 Building Code Requirement. To ensure that this
16 separation distance is maintained, the variance
17 request has been altered to propose the reduction of
18 the side yard building setback line along the eastern
19 property line from 5 feet to 4.8 feet along the
20 southeastern point of the carport, and 4.6 feet along
21 the northeastern point of the carport, as shown on the
22 site plan.

23 There is a 6 foot wide public utility and
24 drainage easement spanning the length of the eastern
25 property line. No structure shall be permitted to

1 encroach into this easement without first obtaining a
2 Utility Encroachment Permit.

3 Staff recommends approval of this request
4 under the condition that the applicant obtains the
5 Utility Encroachment Permit, and all necessary
6 building, electrical and HVAC permits, inspections
7 and certificates of occupancy and compliance.

8 We would like to enter the Staff Report into
9 the record as Exhibit A.

10 CHAIRMAN: Anyone wishing to address this?

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

13 MR. FULKS: Hi, I'm Dianna Fulks.

14 (DIANNE FULKS SWORN BY ATTORNEY.)

15 MS. FULKS: Since our last meeting, I have met
16 with Matt with Planning and Zoning on Tuesday of this
17 week. I did obtain from him the appropriate papers
18 that he was requiring for the construction permit
19 application, and also the utility encroachment
20 application.

21 In the process of getting all of the
22 signatures required for that, and as of present have
23 all of the signatures with the exception of one being
24 the cable. They were supposed to have been to our
25 home today to take care of that, but the gentleman

1 called this morning and said that he would not be able
2 to make it until tomorrow.

3 So I did contact Matt this morning and let him
4 know that as well. At that time Matt said once we get
5 everything, all the final signatures, I am to return
6 this paperwork to him and the rest I guess is up to
7 you guys.

8 CHAIRMAN: Thank you.

9 Anyone else wishing to address this?

10 (NO RESPONSE)

11 CHAIRMAN: Anybody on the commission have a
12 comment?

13 (NO RESPONSE)

14 CHAIRMAN: I'm ready for a motion.

15 Mr. Glenn.

16 MR. GLENN: I would like to make a motion to
17 approve the application based on this Staff Review and
18 also the Staff Recommendation on the two conditions;
19 one, that they obtain all Utility Encroachment
20 Permits, and then obtain all necessary building,
21 electrical and HVAC permits, along with the
22 inspections and certificates of occupancy and
23 compliance.

24 CHAIRMAN: Thank you.

25 MR. HOWARD: And that motion did include the

1 four Findings of Fact that were part of the Staff
2 Report, I assume?

3 MR. GLENN: And including the four Findings of
4 Fact, yes, that is true.

5 CHAIRMAN: Thank you.

6 Do we have a second?

7 MR. REEVES: Second.

8 CHAIRMAN: Second by Mr. Reeves. Any question
9 on the motion?

10 (NO RESPONSE)

11 CHAIRMAN: All in favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Mr. Howard.

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16 ADMINISTRATIVE APPEAL

17 ITEM 3

18 2400 West Second Street, zoned I-1
19 Consider a request for an Administrative Appeal to
20 relocate a non-conforming use on the subject property
21 by replacing the existing structure with a new
22 structure in a different location.

Reference: Zoning Ordinance, Article 4, Section 4.3

21 Applicant: Edward Croslin and Judy Towery

22 MR. HOWARD: So this application comes before
23 you all. You all don't see a whole lot of
24 Administrative Appeals so I'll just give you a little
25 bit of background or whatever, if you will.

1 This Administrative Appeal basically, the site
2 is considered to be a nonconforming site. It's had a
3 car lot on it since, we looked at PVA, and I believe
4 the existing structure was built in 1978, if I
5 remember, but it predates zoning.

6 What they're requesting to do is remove the
7 existing -- well, they're requesting to put a new
8 structure on the site that will be current and modern
9 and up-to-date and meeting code requirements, and then
10 take the old structure off. We cannot approve that
11 administratively as Staff because this is a
12 nonconforming site and we can't approve that just at
13 the Staff level. It does require this Administrative
14 Appeal to come before you all, the Board of
15 Adjustment.

16 We've reviewed the application. Basically
17 what they're proposing to do meets the requirements.
18 The new structure of the new location will meet all
19 setback requirements. There aren't any issues that we
20 see from a planning perspective.

21 What your all's role tonight is is to
22 determine if the relocation of the building on the
23 site, taking one down, putting a new one up, is in
24 conformance with the requirements. If you believe
25 that's it's okay, that it meets the requirements, and

1 that this will work well with the site, you make a
2 motion to approve. You do not have to have findings
3 of fact for your approval. You just have to make a
4 motion to approve the relocation of the nonconforming
5 structure from one location on the site to another.

6 If you do not agree that this is appropriate
7 for the site, you make a recommendation for denial and
8 then we would discuss with the applicant what the next
9 step would be with Staff.

10 That's your role tonight. You either need to
11 make a motion to approve the relocation or make a
12 motion to deny the relocation. Again, findings of
13 fact are not required with an Administrative Appeal.

14 That's the brief overview. Of course, the
15 applicants are here if they want to address anything
16 or if you all have any questions for me or the
17 applicant, we'd be glad to answer those.

18 CHAIRMAN: Do either of you wish to address
19 this?

20 MR. CROSLIN: Just here to answer questions.

21 CHAIRMAN: Thank you.

22 MR. REEVES: I've got one brief question, if
23 they don't mind. Just a clarification for me.

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

1 MR. CROSLIN: Edward E. Croslin.

2 (EDWARD CROSLIN SWORN BY ATTORNEY.)

3 MR. REEVES: Isn't this the old Hutson Car
4 Lot?

5 MR. CROSLIN: Yes, sir, it is.

6 MR. REEVES: I wanted to make sure that's
7 where it was.

8 CHAIRMAN: Any other questions?

9 MR. JEAN: I have a question.

10 Why are you not replacing it in the same
11 location?

12 MR. CROSLIN: The other one I have not got
13 ready to move yet and I have another trailer already,
14 if this is approved, to come in and then we're going
15 to tear the other one out.

16 MR. HOWARD: This is the type of thing, as
17 they've discussed with us; they want to be able to
18 stay there and stay open. So they'll keep the old one
19 in place until the new one comes in. Once the new one
20 comes in, that would be part of our permitting
21 process; they have to have the old one removed within
22 a set amount of time.

23 CHAIRMAN: Any other questions?

24 (NO RESPONSE)

25 CHAIRMAN: I'll entertain a motion.

1 Mr. Jean.

2 MR. JEAN: I'll make a motion to approve based
3 on the Staff Report with the two special conditions.

4 CHAIRMAN: Motion by Mr. Jean. Is there a
5 second?

6 MS. MASON: Second.

7 CHAIRMAN: Second by Ms. Mason. Any questions
8 on the motion?

9 (NO RESPONSE)

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Any other business, Mr. Howard?

15 MR. HOWARD: I have none.

16 CHAIRMAN: I'll entertain one more motion.

17 MS. MASON: Motion to adjourn.

18 CHAIRMAN: Motion to adjourn by Ms. Mason.

19 MR. GLENN: Second.

20 CHAIRMAN: Second by Mr. Glenn. All in favor
21 of the motion raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: We are adjourned.

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25

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

16 WITNESS my hand and notary seal on this the
17 20th day of February, 2018.

18

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

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