The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, August 2, 2018, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Brian Howard, Director
Terra Knight, Attorney
Jerry Yeiser
Fred Reeves
Bill Glenn
Lewis Jean

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CHAIRMAN: We will call the August 2, 2018 meeting of the Owensboro Metropolitan Board of Adjustment to order. The first item on the agenda will be the our prayer and pledge.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: We will consider the minutes of the July 5, 2018 meeting. All members have been either mailed or e-mailed a copy of them. So at this time we'll entertain a motion to dispose of the item.

MR. JEAN: Motion to approve.

CHAIRMAN: Motion to approve by Mr. Jean.

MR. GLENN: Second.

CHAIRMAN: Second by Mr. Glenn. Any question
on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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VARIANCE

ITEM 2

3850 Frederica Street, zoned B-4 General Business
Consider a request for a Variance in order to reduce a
30-foot long portion of the required side street yard
building setback along the future extension of
Monticella Drive that is shown on the preliminary
subdivision plat from 25-feet from the property line
to 15-feet from the property line as illustrated on
the variance site plan.
Reference: Zoning Ordinance, Article 8.5.16c
Applicant: Levi Reames and The Shoppes at 3800
Frederica, LLC

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

MR. PEDLEY: Trey Pedley.

(TREY PEDLEY SWORN BY ATTORNEY.)

MR. PEDLEY: This is a recommendation for
denial so the entire Staff Report will be read into
the record.

SPECIAL CIRCUMSTANCES? Are there special
circumstances that do not generally apply to land in
the general vicinity, or in the same zone? No.

The subject property is zoned B-4 General
Business, approximately 148 feet by 251 feet in size

and is located at the northern corner of Frederica
Street and the future extension of Monticello Drive,
directly across Frederica Street from the Fairfax
Drive intersection. The site is currently vacant,
although the site plan indicates plans for a future
4,445 square-foot car-wash with 23 accessory vacuum
stations located on this lot.

Because this is a corner lot with road
frontage on three sides, the subject property has 25
foot wide building setback along three of the four
property lines. In an attempt to maximize their
square footage, the applicant has requested a variance
to reduce a 30-foot long portion of the required
building setback along the future extension of
Monticello Drive from 25-feet to 15-feet from the
property line, as shown on the site plan, to allow a
payment kiosk to be located within the planned service
drive.

The subject property is vacant and is located
within the The Shoppes at 3800 Frederica Street, a
29.7 acre development which received preliminary
subdivision plat approval at the December 2017 OMPC
meeting. The proposal development consists of 11 lots
with an internal private street network. This will be
one of the first lots to develop within this proposed
new development and will set precedence as to how the
other properties are developed in the future.

Granting the variance to reduce the building
setback will alter the essential character of the
general vicinity and will allow an unreasonable
circumvention of the requirements of the zoning
ordinance because this is an open lot within a newly
planned subdivision where there are no special
circumstances that would prohibit the applicant from
meeting all required setbacks, and approving this
request may create a precedence for future variances
in the area as other lots are developed. However,
granting this variance will not adversely affect the
public health and may not cause a nuisance to the
public because the portion of the reduced setback is
only large enough for the kiosk and so additional
structures will not be able to be located within the
reduced setback.

Hardship? Would strict application of the
regulation deprive the applicant of the reasonable use
of the land, or create an unnecessary hardship on the
applicant? No. If the application is denied, the
applicant can relocate this kiosk outside of the
required building setback.
Applicant actions? Are the circumstance from which relief is sought a result of the applicant's actions taken after the adoption of the zoning regulations? No.

If yes: Willful actions? Did the applicant take willful actions in violation of the zoning regulation? If so, the board shall deny the variance. No.

FINDINGS: Granting this Variance:

1. Will not adversely affect the public health, safety or welfare because the setback along Frederica Street is being upheld, limiting traffic visibility concerns at the intersection;

2. Granting this variance will alter the essential character of the general vicinity because allowing the reduced setback may create a precedence for future requests in the area as other vacant lots are developed.

3. Granting this variance may not cause a hazard or a nuisance to the public because the portion of the reduced setback is only long enough for the kiosk, and so additional structures will not be able to be located within the reduced setback; and

4. Granting this variance will allow an unreasonable circumvention of the requirements of the
zoning regulations because this is a newly proposed subdivision with no special circumstances that would prohibit the applicant from meeting all required setbacks.

Staff recommendation: Denial.

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

CHAIRMAN: Thank you, Mr. Pedley.

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

(NO RESPONSE)

CHAIRMAN: Is there anyone here wishing to address this issue one way or the other?

(NO RESPONSE)

CHAIRMAN: Commission members?

Mr. Reeves.

MR. REEVES: Question for Mr. Pedley, I suppose.

The applicant not being present, I assume they're aware of our recommendation for denial?

MR. PEDLEY: We sent the Staff Report to both Levi Reames and The Shoppes at 3800 Frederica, LLC, and to the engineering firm who prepared the site plan.

MR. REEVES: Thank you very much.
CHAIRMAN: Any board members have a question or comment?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

Mr. Glenn.

MR. GLENN: I would make a motion to deny this application on this request based upon the findings presented here tonight; although, they will not adversely affect the public health, safety or welfare because the setback along Frederica is being upheld; but it will alter the essential character of the general vicinity because allowing the reduced setback may create a precedence for future request in the area as other vacant lots are developed. Although it may not cause a hazard or nuisance to the public because the portion of the reduced setback is only long enough for the kiosk, and so additional structures will not be able to be located within the reduced setback; but it would allow an unreasonable circumvention of the requirements of the zoning regulations because this is a newly proposed subdivision, and there are no special circumstances that would prohibit the applicant from meeting all the required setbacks.

CHAIRMAN: Thank you, Mr. Glenn.

Is there a second on the motion?
MR. YEISER: Second.

CHAIRMAN: 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.

Next item, Mr. Howard.

ITEM 3

2400 Winning Colors Way, zoned R-1C Single-Family Residential

Consider a request for a Variance in order to increase the allowed height of a fence along a side street yard from 4 feet tall to 6 feet tall.

References: Zoning Ordinance, Article 3-7(g)(3)

Applicant: Mary Catherine Head

MR. PEDLEY: The subject property is zoned R-1C Single-Family Residential and is located at the southwest intersection of Trifecta Place and Winning Colors Way in the Keeneland Trace Subdivision. The subject property backs up to a single-family residential home and has driveway on the far side of the property. In order to create privacy on the corner lot, the property owner enclosed her backyard with an existing 6-foot tall fence; however, the because zoning ordinance requires a fence in a side yard along the street forward of the building setback

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line to be no more than 4-feet tall, the applicant is seeking a variance to increase the allowed height of the fence, just as others within Keeneland Trace have previously done.

Granting this variance will not adversely affect the public safety because the location of the fence will not violate the sight triangle; will not alter the essential character of the general vicinity or allow an unreasonable circumvention of the zoning regulations because similar variance requests in the neighborhood have been previously approved; and may not cause a hazard to the public because the home behind the subject property has a driveway on the far side of the property, which should allow sufficient visibility around the existing fence.

Staff recommends approval of this request, and we would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Thank you.

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

APPLICANT REP: Yes.

CHAIRMAN: Does the applicant have anything to add?

APPLICANT REP: Nothing to add.
CHAIRMAN: Anyone wishing to speak in opposition to this item?
(NO RESPONSE)
CHAIRMAN: Any board member have any questions?
(NO RESPONSE)
CHAIRMAN: If not I'll entertain a motion.
Mr. Reeves.
MR. REEVES: I move to approve this application based on Staff Recommendations and the Staff Findings of Fact 1 through 4.
CHAIRMAN: We have a motion by Mr. Reeves. Is there a second?
MR. YEISER: Second.
CHAIRMAN: Second by Mr. Yeiser. Any question on the motion?
(NO RESPONSE)
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
ITEM 4
2403 Winning Colors Way, zoned R-1C Single-Family Residential
Consider a request for a Variance in order to increase the allowed height of a fence along a side street yard from 4 feet tall to 6 feet tall.
Reference: Zoning Ordinance, Article 3-7(g)(3)
Applicant: Bin Yang & Jiang J. Yang

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MR. PEDLEY: The subject property is zoned R-1C Single-Family Residential and is located at the northwest intersection of Trifecta Place and Winning Colors Way in the Keeneland Trace Subdivision. The subject property backs up to the planned future extension of Trifecta Place; which is currently vacant land. The property owners have recently enclosed their backyard with a 6-foot tall fence; however, because the zoning ordinance requires a fence in a side yard along a street forward of the building setback line to be no more than 4-feet tall, the applicant is seeking a variance to increase the allowed height of the fence, just as others within Keeneland Trace has previously done.

As the site plan shows, the property obtained an 8-foot wide public utility and drainage easement along the rear property line. The applicant was denied the utility encroachment permit to place a fence within this easement.

Granting this variance will not adversely affect the public safety because the location of the fence will not violate the sight triangle. It will not alter the essential character of the general vicinity because similar variance requests in the neighborhood have been previously approved; and will
not cause a hazard to the public or allow an unreasonable circumvention of the zoning regulations because the property behind the subject property is undeveloped; but should homes be built behind the subject property, there will be an 8-foot wide separation between the fence line and the shared property line due to the public utility and drainage easement that a fence shall not be constructed within.

Staff recommends approval of this request.

We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Thank you, Mr. Pedley.

Is there anyone wishing to speak on behalf of this application?

APPLICANT REP: Yes.

CHAIRMAN: Add anything?

APPLICANT REP: No.

CHAIRMAN: Is there anyone wishing to speak in opposition to this item?

(NO RESPONSE)

CHAIRMAN: Any board members have a question or comment?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

MR. JEAN: Motion to approve based on the
Staff Report and Findings of Fact 1 through 4.

MR. GLENN: Second.

CHAIRMAN: A motion by Mr. Jean and a 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: Motion carries unanimously.

Next item, Mr. Howard.

ITEM 5

1609 West 5th Street, zoned R-4DT Inner-City Residential
Consider a request for a Variance in order to increase the allowed height of a fence in the front yard from 3 feet tall to 4 feet tall.
Reference: Zoning Ordinance, Article 3-7(g)(3)
Applicant: Mark and Ruth Gordon

MR. PEDLEY: The subject property is zoned R-4DT Inner-City Residential and is located on West 5th Street between other residential properties. The property owners would like to install a 4-foot tall aluminum picket fence in their front yard; however, because the zoning ordinance requires a fence in the front yard that is forward of the building setback line to be no more than 3-feet tall, the applicant is seeking a variance to increase the allowed height of the fence.
The neighboring property to the west currently has a 4-foot tall chain link fence in the front yard, which is believed to predate this zoning regulation. Within this block, all vehicular access to the properties is done so through the alley located to the rear of the homes.

Granting this variance will not alter the essential character of the general vicinity or allow an unreasonable circumvention of the zoning regulations because there are fences of the same height in front yard of the continuous property; and will not adversely affect the public health safety or cause a nuisance to the public because access to all properties within this block of West 5th Street is limited to the alleys to the rear of the home, and the 4-foot tall fence will not create visibility issues for vehicles accessing West 5th Street.

Staff recommends approval of this request.

We would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Thank you, Mr. Pedley.

Anyone wishing to address this item or add anything?

(NO RESPONSE)

CHAIRMAN: Anyone wishing to speak in
opposition to this item?

(NO RESPONSE)

CHAIRMAN: Any board member have a question?

(NO RESPONSE)

CHAIRMAN: If not I'll entertain a motion.

MR. GLENN: I'll make a motion to approve this application based on the findings presented here by the Staff, Numbers 1 through 4.

CHAIRMAN: We have a motion by Mr. Glenn.

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. Any question on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Are there any other items, Mr. Howard?

MR. HOWARD: No, ma'am.

CHAIRMAN: One more item.

MR. GLENN: Motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Glenn. Do I have a second?

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves. All in favor
raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
COUNTY OF DAVIESS )

I, LYNNETTE 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 16 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 25th day of August, 2018.

LYNNETTE 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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