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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

JUNE 6, 2019

The Owensboro Metropolitan Board of Adjustment
met in regular session at 5:30 p.m. on Thursday, June
6, 2019, at City Hall, Commission Chambers, Owensboro,
Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Judy Dixon, Chairman
- Fred Reeves, Vice-Chairman
- Ruth Ann Mason, Secretary
- Brian Howard, Director
- Terra Knight, Attorney
- Bill Glenn
- Lewis Jean
- Tori Morgan

* * * * *

CHAIRMAN: We'll call the Owensboro
Metropolitan Board of Adjustment June 6, 2019 meeting
to order. The first thing that we're going to do is
Mr. Jean is going to lead us in prayer and the pledge.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Next on the agenda is to consider
the minutes of the May 2, 2019 meeting. All members
have been mailed a copy. So at this time I will
entertain a motion.

MR. GLENN: Motion to approve the minutes.

CHAIRMAN: Motion by Mr. Glenn.

MS. MASON: Second.

CHAIRMAN: Second by Mrs. Mason. Any question

1 on the motion?

2 (NO RESPONSE)

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries.

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8 CONDITIONAL USE PERMITS

9 ITEM 3

10 2624 New Hartford Road, zoned B-4 General Business
11 Consider a request for a Conditional Use Permit in
12 order to operate a child day-care center from the
13 subject property.
14 Reference: Zoning Ordinance, Article 8, Section 8.2B3
15 Applicant: Christina Bolton; ToastandJ, LLC, Jason
16 Tanner Properties

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

19 MR. PEDLEY: Trey Pedley.
20 (TREY PEDLEY SWORN BY ATTORNEY.)

21 MR. PEDLEY: The subject property is a 1.112
22 acre lot that is zoned B-4 General Business.

23 All adjoining properties to the west and to
24 the north, across Sunrise Drive, are zoned R-1C
25 Single-Family Residential and appear to be residential
in nature. The adjoining property to the south and
those to the east, across New Hartford Road, are zoned
B-4 General Business and appear to be utilized in

1 accordance with their zoning classification.

2 A Final Development Plan that was approved in
3 2018 indicates that the property was planned to be
4 redeveloped utilizing all three buildings on the
5 property as office space.

6 The applicant is requesting a Conditional Use
7 Permit in order to operate a child daycare facility
8 from one of the existing buildings.

9 For child daycare facility the Zoning
10 Ordinance requires a minimum of 2 parking spaces plus
11 an additional space for every 10 children, all of
12 which are required to be located on a hard surface
13 such as asphalt or concrete. The application states
14 that the child daycare center will be a maximum of 35
15 children so the facility will be required to maintain
16 6 parking space. Additionally, the professional
17 offices on the site are required to maintain 20
18 parking spaces. Combined, the two uses will require
19 26 parking spaces; the development plan submitted
20 illustrates that the property currently has 37 spaces
21 available.

22 Additionally, Vehicular Use Area Screening
23 consisting of a 3-foot tall continuous element and 1
24 tree per 40 linear feet shall be located where the
25 vehicular use area adjoins public rights-of-way.

1 Where the subject property adjoins residentially zoned
2 properties, a 10-foot wide landscape easement shall be
3 maintained with a 6-foot tall solid element and 1 tree
4 per 40 linear feet. The Development Plan illustrates
5 compliance with these landscape requirements.

6 If approved Special Conditions: Obtain all
7 necessary building, electrical and HVAC permits,
8 inspections and certificates of occupancy and
9 compliance.

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

12 CHAIRMAN: Thank you.

13 Is there anyone here representing the
14 applicant?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Let's see if we have anybody that
17 has questions.

18 Is there anyone who has objections or
19 questions of the applicant related to this item?

20 (NO RESPONSE)

21 CHAIRMAN: Anyone on the board have a question
22 or a concern?

23 (NO RESPONSE)

24 CHAIRMAN: Hearing none I will entertain a
25 motion.

1 Mr. Reeves.

2 MR. REEVES: Motion to approve this
3 application based on the fact it seemed to be
4 compatible with the surrounding area, and it will not
5 create a public nuisance.

6 CHAIRMAN: We have a motion by Mr. Reeves. Is
7 there a second to the motion?

8 MS. MORGAN: Second.

9 CHAIRMAN: Second by Ms. Morgan. Any question
10 on the motion?

11 (NO RESPONSE)

12 CHAIRMAN: Hearing none all in favor of the
13 motion raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item.

17 ITEM 4

18 7765 Highway 56, zoned A-R Rural Agriculture
19 Consider a request for a Conditional Use Permit in
20 order to operate a silviculture industry from the
21 subject property.

22 References: Zoning Ordinance, Article 8,
23 Section 8.2H10/58

24 Applicant: Knott Farms, LLC

25 MR. PEDLEY: The subject property is a 47.145
26 acre tract. This property and all adjoining
27 properties are zoned A-R Rural Agriculture and appear
28 to be residential or agricultural in nature.

1 The applicant is requesting a Conditional Use
2 Permit in order to operate a silvicultural industry
3 from the subject property. Such an activity may be
4 conditionally permitted within the agricultural zoning
5 provided that the activity and the property complies
6 with specific criteria as laid out in the Owensboro
7 Metropolitan Zoning Ordinance.

8 Within the application and referencing the
9 included site plan, the applicant states that this
10 operation will take wet sawdust, dry the material, and
11 then store the sawdust in bulk for use in poultry
12 farms. The sawdust is then processed into firelogs
13 and packaged for pick up. This work will take place
14 within two buildings, each less than 10,000 square
15 feet in size. The operation will employ no more than
16 five persons.

17 Zoning Ordinance requires one parking space
18 for every two employees on maximum shift with a
19 minimum of five parking spaces. All parking spaces
20 and drive aisles are to be on a hard surface such as
21 asphalt, concrete or gravel.

22 No additional landscaping is required since
23 the property is surrounding by agricultural zoning and
24 the parking area is not adjacent to any public
25 rights-of-way; however, the Board may choose to

1 require any landscaping deemed necessary to buffer or
2 screen this operation from adjoining properties.

3 If approved Special Conditions include:

- 4 1. Obtain approval of a Site Plan or Final
5 Development Plan;
- 6 2. Obtain all necessary building, electrical
7 and HVAC permits, inspections and certificates of
8 occupancy and compliance.

9 We would like to enter the Staff Report into
10 the record as Exhibit B.

11 CHAIRMAN: Thank you.

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

14 MR. KAMUF: Yes. Charles Kamuf.

15 I represent Knott Brothers Farming out at
16 Sorgho. They're a large, they farm approximately
17 4,500 acres of land. They now have 33 chicken houses.
18 As part of the raising of chickens, I think they laid
19 it out pretty well. They take sawdust and use it for
20 bedding for the chicken houses. Also, they found out
21 later that it's pretty good deal that they take the
22 sawdust and they run it through a presser and they
23 make these logs for fireplace. This is what will be
24 happening out there.

25 This is the first case that you all have had

1 under this new zoning ordinance. I want to compliment
2 you about the fact that you're progressive; also, the
3 Staff and also the Board because three months ago we
4 couldn't come up and make this application. We did
5 eventually go over to McLean County and got approved
6 over there, but we're tickled to death to have it over
7 here now and have a conditional use.

8 The location of the property, I think the map
9 that you have up there lays it out. You all can see
10 what is the -- that's this big map. That lays it out.
11 It shows exactly where it is. It's 47.145 acres.
12 Here is a road that goes to Sorgho, 56. It's back
13 here by itself. One the main reasons it's back here
14 by itself is that they tried to keep it away from the
15 chicken houses. The chicken houses are on down the
16 road. The reason for that is to keep any disease away
17 from the chickens because of the traffic.

18 I have some photographs here that I will pass
19 out.

20 One shows, there's two buildings that we have
21 there. They're approximately 4,500 square feet.
22 They'll be enlarged, but all of them under the
23 requirements that you all have for the 10,000 square
24 feet, that's the minimum that you have, but I'll pass
25 this out so you can get an idea of what we're doing.

1 I have another one and I'll pass out on the
2 way back.

3 This last one that I show shows the barn there
4 and there are two barns that are presently on the
5 property because we had no idea that we had to get the
6 approval, but once we did we have filed a Conditional
7 Use Permit.

8 As I explained there are two barns on the
9 property. We don't think it will cause any negative
10 impact or nuisance because you can see they're further
11 are away from anyplace. If you had to draw it up on a
12 board, it's probably one of the best places in Daviess
13 County to have this type of operation.

14 We've checked with all the neighbors; the
15 Bittels and the Timbrooks. Nobody has any objection,
16 as far as the operation.

17 It's 25 acres. We meet that requirement. Not
18 more than 50. Neither of the structures will be over
19 10,000 square feet. The operation will not employ
20 more than five people, and the operation should be
21 limited to agricultural and the necessary uses.

22 Kenny Knott, one of the owners, is here to
23 testify, if you have any questions. You'd like to see
24 this log; a log is a log, I guess. That's the type of
25 log. They'll put these in packages of four or five

1 and there's no retail sales on the property. People
2 will come and pick up these logs. It's been a very
3 good deal for them, to manufacture these logs and the
4 market is pretty good. I think you all will find out
5 that one of your alls big clients from here on will be
6 agricultural. They're doing so many different things.
7 Your last ordinance approved this also approved solar
8 farms. I saw on TV last night in Evansville they have
9 different types of solar farms and those are going to
10 be issues, but there are many things that are changing
11 agriculture and we hope you'll approve this.

12 If you have any questions, Mr. Knott is here
13 to answer them.

14 CHAIRMAN: Thank you.

15 Is there anyone here wishing to speak in
16 opposition to this item or have any questions of
17 either Mr. Kamuf or Mr. Knott?

18 (NO RESPONSE)

19 CHAIRMAN: Hearing none any board members have
20 questions or concerns?

21 (NO RESPONSE)

22 CHAIRMAN: I'll entertain a motion at this
23 time.

24 MR. JEAN: I'd like to make a motion to
25 approve this Conditional Use Permit with Special

1 Condition 1 and 2, based on the Staff Report and the
2 site visit and the testimony that was presented here
3 this evening with findings of fact that the applicant
4 will follow the Article 8.2H10/58 of the Owensboro
5 Metropolitan Planning Ordinance. The property is a
6 A-U Zone where this activity may be permitted by a
7 Conditional Use Permit. This use will not adversely
8 affect the neighborhood because this is an
9 agricultural activity that is appropriate in this
10 rural community.

11 MR. GLENN: Second.

12 CHAIRMAN: Second by Mr. Glenn. Any question
13 on the motion, any board members?

14 (NO RESPONSE)

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

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Next item, Mr. Howard.

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21 VARIANCE

22 ITEM 5

23 6338 Highway 762, zoned A-U Urban Agriculture
24 Consider a request for a Variance in order to reduce
25 the required front yard building setback from 30-feet
from the front property line to 29-feet from the front
property line.

Reference: Zoning Ordinance, Article 8,

1 Section 8.5.2(c)
2 Applicant: Homes by Benny Clark, Inc.; Luke & Lynsey
3 Thomas

4 MR. PEDLEY: The subject property is a 1.004
5 acre tract that is zoned A-U Urban Agriculture and is
6 located on a relatively straight portion of Highway
7 762.

8 A building permit was issued for a
9 single-family residence to be constructed on the
10 subject property provided that all building setbacks
11 are maintained. However, an offset of the home
12 mistakenly constructed approximately 8-inches into the
13 required front yard building setback. Retroactively,
14 the applicant is requesting a variance to reduce the
15 front yard building setback on the subject property
16 from 30 feet from the property line to 29 feet from
17 the property line.

18 Such an encroachment can be found elsewhere in
19 the area. For example, the property that is
20 immediately west of the subject property believes to
21 have been developed prior to the established of the
22 zoning regulations, appears to encroach into the front
23 yard building setback by more than the requested
24 1-foot.

25 Granting this variance to reduce the front
yard building setback will not alter the essential

1 character of the general vicinity, will not cause a
2 public nuisance, it will not be an unreasonable
3 circumvention of the requirements of the zoning
4 ordinance because there are existing structures in the
5 area that appear to encroach closer than 29-feet from
6 the front property line, and its request for a small
7 portion of the residence, not for the entire width of
8 the home.

9 Additionally, granting this Variance will not
10 adversely affect the public safety because this is a
11 relatively straight portion of the highway where
12 encroaching into the front building setback will not
13 cause visibility issues for vehicles traveling along
14 Highway 762.

15 Staff recommends approval with the condition
16 that the applicant obtains all necessary building,
17 electrical and HVAC permits, inspections and
18 certificates of occupancy and compliance.

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

21 CHAIRMAN: Thank you, Mr. Pedley.

22 Is there anyone hereby wishing to speak on
23 behalf of the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Is there anyone here wishing to

1 speak in opposition or express concerns about this
2 item?

3 (NO RESPONSE)

4 CHAIRMAN: Any board members?

5 (NO RESPONSE)

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

7 MR. GLENN: I'll make a motion to approve this
8 request based on these facts presented here tonight.
9 The fact that there are already some structures that
10 you can find encroachment already; so it's not going
11 to alter any essential character, not going to be a
12 public nuisance, it's not going to be an unreasonable
13 circumvention of any of the requirements. So saying
14 all of that, based on the four findings of fact and
15 that they also meet the conditions of obtaining all
16 permits and inspection and certifications necessary.

17 CHAIRMAN: Thank you, Mr. Glenn.

18 Is there a second?

19 MS. MASON: Second.

20 CHAIRMAN: Second by Ms. Mason. Any question
21 on the motion or the second?

22 (NO RESPONSE)

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.
2 Any other items, Mr. Howard?
3 MR. HOWARD: No.
4 CHAIRMAN: If not we have one more motion.
5 MS. MASON: Move to adjourn.
6 MR. GLENN: Second.
7 CHAIRMAN: All in favor raise your right hand.
8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
9 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 foregoing 14
14 typewritten pages; and that no signature was requested
15 to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 10th day of July, 2019.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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