The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, September 5, 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
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Andrew Howard
Teri Morgan Thompson
Melissa Evans

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CHAIRMAN: Call the September 5th, 2019, meeting of the Owensboro Metropolitan Board of Adjustment to order. First thing on the agenda, we're going to have Drew to give us our prayer and pledge.

(Invocation and Pledge of Allegiance.)

CHAIRMAN: Item Number 1, consider the minutes of the August 1st, 2019, meeting. All members have been mailed or sent via email a copy of those minutes and have had time to check them over. So at this time, I'll entertain a motion to dispose of this item.

MR. GLENN: Motion to approve minutes.

MS. MASON: Second.

CHAIRMAN: Motion to approve minutes. Second by
Ms. Mason. All in favor of the motion, raise your right hand.

(All board members present responded aye.)

CHAIRMAN: Motion carries unanimously.

First item.

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CONDITIONAL USE PERMITS

ITEM 2

2401 New Hartford Road, zoned B-4 General Business
Consider a request for a Conditional Use Permit in order to operate an activity day center for children and adults. References: Zoning Ordinance Article 8, Section 8.2B3
Applicant: Puzzle Pieces, Inc.; HBH Investments, LLC

MS. MORGAN: Madam Chairwoman, I'd like to recuse myself from this, please.

CHAIRMAN: Okay. Please note that Ms. Thomas will be (inaudible).

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

MR. PEDLEY: Trey Pedley.

(Mr. Pedley sworn by the attorney.)

MR. PEDLEY: The subject property, currently zoned B-4 General Business, is a 4.588-acre tract that was previously used by Daymar Colleges Group. All adjoining properties are zoned B-4 General Business and P-1 Professional/Services and appear to be utilized appropriately or appear to be vacant lots.
The applicant is requesting a conditional use permit in order to operate an activity day center for children and adults, eight years and older, that have intellectual disabilities.

For such facilities, the zoning ordinance requires a minimum of two parking spaces plus one additional space for every 10 persons under care. The applicant has stated that they do not anticipate growing larger than 200 persons being actively served. The submitted site plan illustrates that there are currently 96 parking spaces on the site. Based on the regulations, 200 persons served requires the proposed operation to maintain 22 parking spaces on the subject property.

Additionally, the zoning ordinance requires vehicular use area screening consisting of a three-foot tall continuous element and one tree per 40 linear feet to be located where the vehicular use area joins public rights-of-way.

Also, because the vehicular use area is greater than 30,000 square feet, interior landscaping totaling at least three percent of the total square footage of the vehicular use area shall be required. The site plan submitted illustrates compliance with all landscaping requirements.

If approved, special conditions include:
1. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificate of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit A.

CHAIRMAN: Thank you, Mr. Pedley.

Is anyone here representing the applicant?

MR. BRAY: Ed Bray here on behalf of HBH Investments and Puzzle Pieces. If there's any questions, we're happy to answer them.

CHAIRMAN: Does he need to be sworn?

MS. KNIGHT: Mr. Bray is an attorney.

CHAIRMAN: Okay. Thank you.

Does anyone have any question of the applicant?

(No response.)

CHAIRMAN: Any board member have questions of Puzzle Pieces or the applicant?

(No response.)

If not, I'll entertain a motion to dispose of this item.

Mr. Reeves.

MR. REEVES: Move to approve this application based the staff report and the fact that it is compatible with the other land uses in the area and this will not create a public nuisance, and they also abide by the
conditions under special conditions number 1.

CHAIRMAN: Thank you.

We have a motion by Mr. Reeves. Is there a second?

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. Anyone have a question about the motion?

(No response.)

CHAIRMAN: If not, I'll call for a vote. All in favor of the motion, raise your right hand.

(No response.)

CHAIRMAN: Opposed, like sign.

(No response.)

CHAIRMAN: Motion carries unanimously. Next item.

ITEM 3

4418 Highway 554, zoned R-1B Single-Family Residential
Consider a request for a Conditional Use Permit in order to operate an existing church and to construct an accessory activities building at the subject property.
References: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Brush Fork Baptist Church

MR. PEDLEY: The subject property, surrounded by residential property, is a 1.53-acre tract that is zoned R-1B Single-Family Residential and has an existing church on the premises. Churches are conditionally permitted in the residential zoning classifications; however, the
existing church operation is believed to predate the
zoning regulations and, consequentially, its conditional
use permit was never obtained.

At this time, the church would like to construct
an accessory activities building on the property. Such a
development requires the church to progress towards
compliance with current regulations, including various
site requirements and the need to obtain a Conditional Use
Permit for the church.

For churches, the zoning ordinance requires one
parking space per five seats within the main auditorium.
With 75 seats, a minimum of 15 parking spaces shall be
required. The site plan shows 40 existing parking spaces
on the site.

Additionally, Article 17 of the zoning ordinance
states that whenever vehicle use area adjoins public
rights-of-way and/or residentially-zoned properties, a
three-foot-wide landscape easement with a three-foot-tall
continuous element and one tree every 40 linear feet shall
be required. However, this is a legal non-conforming lot
with several site deficiencies, including required
screening elements. In order to progress towards
compliance, the site plan illustrates that the applicant
intends to install the necessary screening where the
parking lot adjoins the neighboring R-1B Single-Family
Residential properties to the west.

If approved, special conditions include:

1. Obtain approval of a site plan; and
2. All necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance shall be obtained.

We'd like to enter the staff report into the record as Exhibit B.

CHAIRMAN: Thank you, Mr. Pedley.

Is there anyone here representing the applicant?

(No response.)

CHAIRMAN: Is there anyone in the audience that has a question of the applicant or a comment related to this item?

(No response.)

CHAIRMAN: If not, I'll entertain a motion. Anybody on the board have a question?

(No response.)

CHAIRMAN: I'll entertain a motion.

MR. HOWARD: I'll make a motion. Based on the staff report provided to us here tonight, as well as conditions 1 and 2...

CHAIRMAN: Thank you.

We have a motion by Mr. Howard.

MS. THOMPSON: Second.
CHAIRMAN: Second by Ms. Thompson. Any questions on the motion?

(No response.)

All in favor of the motion, raise your right hand.

(All board members present responded aye.)

CHAIRMAN: Chair votes aye. Motion carries unanimously.

Number four.

ITEM 4

7364 Highway 815, zoned A-R Rural Agriculture
Consider a request for a Conditional Use Permit in order to expand the operation of an existing campground and construct a horse barn.

References: Zoning Ordinance, Article 8, Section 8.2K7/42
Applicant: Michael J. Lewis and Lori L. Lewis

MS. KNIGHT: Madam Chairwoman, we found out after the adjoining property owner notices were sent out, that the applicant failed to provide some of the adjoining property owners. We did not find this out until it was too late to notify them according to the KRS regulations of the 14-day notice. So this item will need to be postponed until next month so that we can resend out all of those adjoining property owner notices and follow the statute.

CHAIRMAN: So we need a motion to postpone.

MS. KNIGHT: Yes.
CHAIRMAN: Need a motion to postpone.

MR. JEAN: Make a motion to postpone.

CHAIRMAN: Is there a second to that motion?

MS. MASON: Second.

CHAIRMAN: Any questions on the motion?

(No response.)

CHAIRMAN: All in favor of the motion to postpone, raise your right hand.

(All board members present responded aye.)

CHAIRMAN: Chair votes aye. Motion carries unanimously.

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VARIANCES

1001 Frederica Street, zoned B-2 General Business
Consider a request for a Variance in order to increase the maximum height of a sign in the Frederica Boulevard Overlay District from 15 feet tall to 22 feet tall at the subject property.
References: Zoning Ordinance, Article 21, Section 21.13(3)
Applicant: Big Rivers Rubber & Gasket Company, Inc.

MR. PEDLEY: The subject property is located in the Frederica Boulevard Overlay District at the southeast corner of West Tenth Street and Frederica Street. The applicant proposes to construct a sign at the corner of the subject property that will be a total of 22 feet tall. However, Article 21 of the zoning ordinance states that the maximum height of a pole sign in this overlay district
is 15 feet tall. Consequentially, the applicant is requesting a variance to allow the construction of the desired pole sign. Prior to submittal of the variance application, this proposal was granted a Design Exception from the Historical Preservation Board.

The applicant states that the additional sign height is necessary for the semi-tractor trailers, which often utilize Tenth Street, as they attempt to turn onto Frederica Street. The applicant states that should the sign be 15 feet or shorter, as required by the ordinance, it may cause visibility issues for such truck drivers.

Within the application, the applicant also provides examples of other signs in the general area that appear to be greater than the allowed 15 feet in height.

Additionally, the subject property is located on the outskirts of the Downtown Overlay Districts. For properties that are not located in the Downtown Overlay Districts, pole signs may be as tall as 80 feet in height, depending on their proximity in relation to nearby residential properties.

Granting the variance to increase the maximum height of a pole sign as requested will not create a public nuisance and will not alter the essential character of the general vicinity because there appear to be other signs taller than 15 feet in height in the area and
because nearby properties that are located outside the
overlay districts may erect signs much taller than the
requested 22 feet.

Additionally, granting the variance will not
adversely affect the public safety because the sign will
be elevated to a height that will prevent visual
interference at the roadway intersection.

Staff recommends approval with the condition
that the applicant:

1. Obtain all necessary building, electrical,
and HVAC permits, inspections, and certificates of
occupancy and compliance.

We'd like to enter the staff report into the
record as Exhibit C.

CHAIRMAN: Thank you.

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

MR. TIERNEY: Matt Tierney on behalf of the
applicant, Big River Rubber & Gasket. I'm here to answer
any questions.

MS. KNIGHT: Mr. Tierney is an attorney as well.

CHAIRMAN: Does anyone have questions of Mr.
Tierney?

(No response.)

CHAIRMAN: Anyone on the board have a question?
CHAIRMAN: I'll entertain a motion.

MR. GLENN: I'll make a motion to approve this variance based on the information presented here tonight; also the fact that I visited that site this week, and I do find that there are other signs that are higher than that sign to begin with, and I don't believe that it would interfere with the public safety in any way. I would also add that they need the staff recommendation of approval to obtain all the necessary building, electrical, and HVAC permits necessary.

CHAIRMAN: Thank you.

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves. 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: Chair votes aye. Motion carries unanimously.

Next item.

ITEM 6

3001 Heartland Crossing, zoned B-4 General Business
Consider a request for a Variance in order to increase the maximum driveway width for a single lot commercial development without a median from 40-feet wide to 60-feet
MR. PEDLEY: The subject property is the existing Menards store, which is zoned B-4 general business, and located at the southern terminus of Heartland Crossing Boulevard.

The retail sales establishment intends to add an automated express lane in order to efficiently serve customers with online pick-ups. The desired express lane is planned to be located along the existing access point at the rear of the property. However, in order to establish this lane, the existing driveway will need to be widened to 60 feet, 4 inches.

The applicant states that without widening the access point, customers will need to make a difficult maneuver with limited space to do so.

In regards to the zoning regulations pertaining to the width of driveways, Article 13.22 states that the total width of all driveways shall not exceed 40 percent of the lot width. The four access points (including the proposed 60-foot, 4-inch wide entrance) totals to be approximately 11 percent of the property's road frontage, well under the allowed 40 percent.

Article 13.231 states that individual driveway widths for commercial single-lot developments have a
maximum allowance of 40-feet wide. The proposed access
point, at 60 feet, 4 inches, exceeds the allowed 40 feet
in width. Consequentially, the applicant has requested a
variance to allow such an increase.

Granting the variance to increase the maximum
driveway width as requested will not create a public
nuisance and will not alter the essential character of the
general vicinity because the widened driveway will be
located at the end of Heartland Crossing Boulevard behind
the store. Meanwhile, there are three other assess points
at the front of the store, where the majority of customers
will access the site.

Additionally, granting this variance will not
adversely affect the public safety because the widened
driveway creates a more accessible route for the desired
express lane.

Lastly, granting this variance will not create
an unreasonable circumvention of the zoning regulations
because, even with the widened access point, the store's
total width of all driveways is far less than the allowed
40 percent of the property's lot width.

Staff recommends approval with the conditions
that the applicant:

1. Obtain approval of an Amended Final
Development Plan; and
2. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit D.

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 speak against the proposal?

(No response.)

CHAIRMAN: I'll entertain a motion.

MR. HOWARD: Madam Chairwoman, I make a motion based on the staff report provided to us here tonight; as well as the special conditions made, obtaining an approval of the amended final development plan and all of the necessary building, electrical, and HVAC permits; as well as it not creating a public nuisance.

CHAIRMAN: We have a motion. Is there a second?

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves.

MS. KNIGHT: Would you like to add the conditions on as well?

MR. HOWARD: I'll add those on as well, yes.
MR. REEVES: I'll second the conditions.

CHAIRMAN: Okay. You'll second the conditions.

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: Chair votes aye. Motion carries unanimously.

ITEM 7

3175 Trails Way, zoned R-1C Single-Family Residential
Consider a request for a Variance in order to reduce the required side street yard building setback along Trails Way from 25 feet from the property line to 19 feet from the property line for the placement of a detached structure.

References: Zoning Ordinance, Article 3, Section 3-7(b)(2)
Applicant: Michael Schoenwald & Melinda Schoenwald

MR. PEDLEY: The subject property is located within the Heartlands subdivision along a 90-degree turn on Trails Way, essentially creating a corner lot configuration with road frontage on Trails Way along the front and the side of the house.

Because setbacks and easements encompass a large portion of the property, the applicant is requesting a variance to reduce the required side street yard building setback along Trails Way to 19 feet from the property line to place a 162-square-foot detached accessory structure in
the required setback and five feet from the rear property
line encroaching into an easement.

In the form of a Utility Encroachment Permit
Application, the applicant has submitted approvals from
all necessary utility companies and from the city
ingineer's office to allow the desired structure to
encroach into the rear yard drainage and public utility
easement at the proposed location.

In regards to the side street yard building
setback along Trails Way, it's important to note that the
residence on the subject property has a driveway that
faces south. Meanwhile, the subject property adjoins the
property to the rear as back-to-back lots, as the
adjoining property faces north with access to Trails Way
Garden.

The zoning ordinance states that side yard
building setbacks along local streets may be reduced to
15 feet from the property line where lots are
back-to-back.

Granting the variance to reduce the side street
yard building setback as requested will not alter the
essential character of the general vicinity and will not
adversely affect the public safety because the proposed
encroachment is for a small detached structure that should
be far enough back to where it will not create any site
visibility issues along Trails Way.

Additionally, granting this request will not cause a public nuisance and will not be an unreasonable circumvention of the requirements of the zoning ordinance because the subject property adjoins the property to the rear in a back-to-back lot configuration where 15-foot side street yard building setbacks are generally accepted and the neighboring driveways are not a concern.

Staff recommends approval with the conditions that the applicant:

1. Obtains a completed Utility Encroachment Permit; and
2. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

We would like to enter the staff report into the record as Exhibit E.

CHAIRMAN: Thank you.
Is there anyone here representing the applicant?

UNIDENTIFIED SPEAKER: Yes. We're the homeowners, and we'll we happy to answer any questions.

CHAIRMAN: Thank you. We'll see if there are any.

Any questions of the homeowners?

(No response.)
CHAIRMAN: Any questions from the board?

Mr. Reeves.

MR. REEVES: Just one procedural question. Mr. Howard --

MS. EVANS: Ms. Evans.

CHAIRMAN: Ms. Evans.

MR. REEVES: Excuse me. My humble apologies. We're much better served this evening.

Do they have to bring you all a copy of the utility encroachment permit?

MS. EVANS: Yes. The utility encroachment permit process is taken around to all of the utility companies to sign off on first. Once they receive all of those signatures, they then bring that to our office and pay the fee for the utility encroachment permit. And then we are the last ones to sign that.

MR. REEVES: Okay. Thank you very much.

MS. EVANS: You're welcome.

CHAIRMAN: Any other questions?

(No response.)

CHAIRMAN: Now I'll entertain a motion. Fred?

MR. REEVES: Motion to approve this application based on staff findings of fact 1 through 4, with conditions 1 and 2 and the staff recommendations of
approval.

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. 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: Chair votes aye. Motion carries unanimously.

Next item.

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ADMINISTRATIVE APPEALS

ITEM 8

2600 West Fourth Street, zoned B-4 General Business
Consider a request for an Administrative Appeal to change from one non-conforming use to another non-conforming use, specifically automobile sales, at the subject property
References: Zoning Ordinance, Article 4, Section 4.53
Applicant: Skyler Stewart; James Farmer

MR. PEDLEY: The subject property is currently zoned B-4 General Business and is located at the conner of West Fourth Street and Jeff Place. Per conversations with the applicant, the subject property was previously used as a tattoo parlor. The applicant now intends to utilize the subject property for automobile sales.

Although a permitted use in the B-4 General
business zoning classification, automobile sales and
tattoo parlors are different in use; and so the OMPC staff
was not able to approve the desired use without approval
of an Administrative Appeal due to several insufficient
site standards that do not comply with the zoning
ordinance; most notably, the building on the subject
property is currently approximately 25 feet from the
property line along Jeff Place and approximate 25 feet
from the back of the curb along West Fourth Street.
Neither is large enough to afford 18-foot-long parking
paces without packing toin the public right-of-way.

Additionally, both access points along West
Fourth Street and along Jeff Place are wider than allowed
by the current zoning regulations.

Because of the existing site layout that
predates the zoning makes redevelopment of the property
difficult, the applicant has requested an administrative
appeal.

The site plan illustrates that the applicant
intends to utilize the paved area along West Fourth Street
for the display of automobiles that are for sale.
Meanwhile, the paved area along Jeff Place is intended to
be utilized for customer parking and traffic, including
the backing out into public right-of-way.

Jeff Place is not considered a major street in
Owensboro; rather, it is considered to be a local street, the lowest roadway classification in regards to intensity.

Automobile sales at this location are required to maintain a minimum of five parking spaces, one of which shall be handicap-accessible. The desired parking lot appears to be approximately 58 feet wide, large enough to support five parking spaces and one additional handicap space, including the loading and unloading stall.

A motion to approve the appeal would allow the applicant to continue backing out onto public rights-of-way and for the non-conforming access points to remain how they are currently constructed in order to operate the desired automobile sales business.

A motion to deny the appeal would prevent the applicant from utilizing the subject property for automobile sales unless the site was brought into compliance with all current regulations. Otherwise, the site would be limited to the uses that are significantly similar in nature to the previous uses at the site.

If approved, special conditions include:

1. Approval of a site plan.
2. Designate locations for each of the parking spaces and handicap-accessible spaces; and
3. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of
occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit F.

CHAIRMAN: Thank you.

Is there anyone here representing the applicant?

MS. STEWART: I'm Skyler Stewart. I'm the property manager of 2600 West Fourth. I'd be happy to answer any questions that you all had.

CHAIRMAN: Do you need to swear her in?

MS. KNIGHT: I'll go ahead and swear her in just in case there are questions.

CHAIRMAN: Oh, sure.

(Ms. Stewart sworn by the attorney.)

CHAIRMAN: Thank you.

Anyone have questions on this item?

CHAIRMAN: Mr. Glenn.

MR. GLENN: I've got a question. If anyone in the audience -- this -- where this business is located, is there -- and maybe it was in here and I overlooked it when I was reading it. Do they have to have like a fencing or shrubbery separating it from the residential houses that are in there?

MR. PEDLEY: So that would -- this property is zoned B-4 for general business. All property surrounding are zoned residentially, which is typically -- you're
right -- screening requirements are -- typically require a buffer between the two.

MR. GLENN: Okay.

MR. PEDLEY: But I guess the administrative appeal would be -- All that stage would be grandfathered in for the time being also, because it's been an existing business for years to come. They're proposing to use the site essentially how the site's been used, with the exception of adding that display area for automobiles.

MR. GLENN: Thank you.

CHAIRMAN: Anyone else have questions?

Mr. Reeves.

MR. REEVES: What's in the old Ray's IGA property now? Is it still a club, or is it vacant?

MS. STEWART: That's across the street, correct?

MR. REEVES: Yes.

MS. STEWART: Yes. It is Vanessa's Place.

MR. REEVES: Okay.

CHAIRMAN: Anyone else have questions?

MR. GLENN: Nobody's here to speak one way or the other against it. And I'm going to make a motion to go on and approve this request based on the information that's been presented here tonight and also that they meet special conditions 1 through 3.

CHAIRMAN: Do you understand the motion?
MS. STEWART: Yes, ma'am.

CHAIRMAN: Any questions on the motion?

MR. REEVES: Did we get a second or not?

MS. KNIGHT: Don't have a second yet.

CHAIRMAN: We don't have a second. Do you want to second it to make us legal?

MR. REEVES: Uh-huh.

CHAIRMAN: Thank you.

Any question on the motion or the second?

(No response.)

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

(All board members present responded aye.)

CHAIRMAN: Chair votes aye. Motion carries unanimously.

Any other items, Ms. Evans?

MS. EVANS: No, ma'am.

CHAIRMAN: No other items. I'll hear one more motion.

MS. MASON: Motion to adjourn.

CHAIRMAN: Motion to adjourn.

UNIDENTIFIED SPEAKER: Second.

CHAIRMAN: Second. All in favor of the motion, gather your belongings and leave.

(The meeting adjourned at 5:55 p.m.)
STATE OF KENTUCKY  
  ) SS. REPORTER'S CERTIFICATE  
COUNTY OF DAVIESS  

I, Rhonda Simpson, Notary Public in and for the State of Kentucky-at-Large, do hereby certify that the foregoing Owensboro Metropolitan Planning Commission meeting was held at the time and place as stated in the caption to the 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 25 typewritten pages; and that no signature was requested to the transcript.

WITNESS my hand and notary seal on this the 7th day of October 2019.

__________________________
RHONDA SIMPSON, NOTARY PUBLIC  
STATE-AT-LARGE  
OHIO VALLEY REPORTING SERVICE  
2200 E. PARRISH AVENUE, SUITE 106-E  
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  
AUGUST 14, 2023  
COUNTY OF RESIDENCE  
DAVIESS COUNTY, KENTUCKY