OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

OCTOBER 3, 2019

The Owensboro Metropolitan Board of Adjustment meeting in regular session at 5:30 p.m. on Thursday, October 3, 2019, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Tori Morgan

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CHAIRMAN: We will call the Owensboro Metropolitan Board of Adjustment October 3, 2019 meeting to order. We will begin our meeting with a prayer and the pledge by Mr. Glenn.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item on the agenda is to consider the minutes of the September 5, 2019 meeting. All members have received a copy of the minutes and hopefully have had time to check them over.

So at this time I'll entertain a motion.

MS. MORGAN: I'll make a motion to approve the minutes.

CHAIRMAN: Motion to approve by Tori.
MS. MASON: Second.

CHAIRMAN: Second by Ruth Ann Mason. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Thank you.

First item on the agenda, Mr. Howard.

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ITEM 2

2974 Wrights Landing Road, zoned A-R Rural Agriculture
Consider a request for a Conditional Use Permit in
order to operate a Commercial Kitchen as a Home
Occupation from an accessory structure on the subject
property.
References: Zoning Ordinance, Article 8,
Section 8.2D5a
Applicant: Alisha Hardison

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

MR. PEDLEY: Trey Pedley.

(TREY PEDLEY SWORN BY ATTORNEY.)

MR. PEDLEY: The subject property is zoned A-R
Rural Agriculture and is utilized agricultural and/or
residentially.

The subject property is a 3.14 acre tract with
a single-family residence, a detached workshop, and a
barn on the property. The applicant proposes to
partially renovate the existing workshop in order to
utilize the structure as a commercial kitchen; prepare
food items in order to serve food at the Farmer's
Market and from a food truck.

For such uses the zoning ordinance requires
one parking space for every two employees on a maximum
shift for the minimum of five spaces. The site plan
illustrates room for five parking spaces on the
property.

No landscaping is required since the property
is surrounded by agricultural zoning and the parking
area is not adjacent to any public right-of-way.
However, the Board may choose to require any
landscaping deemed necessary to buffer or screen this
from adjoining properties.

All additional requirements have been
addressed with the exception of the size of the
operation within a detached structure and the number
of employees that are allowed to report to the site.
For which, the applicant has requested waivers to
allow the operation within the detached structure to
be as large as 1,340 square feet in size and to allow
two non-resident employees to report to the site, but
at different times. Additionally, the OMBA may impose
further conditions as necessary to ensure proper
integration of the use into the area.
If approved special conditions include:

1. 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 A.
   
   CHAIRMAN: Thank you, Mr. Pedley.
   
   Is there anyone here representing the applicant?
   
   APPLICANT REP: I am the applicant.
   
   CHAIRMAN: Just hold up in case we have some questions.
   
   Is there anyone here that has opposition or questions about this application?
   
   (NO RESPONSE)
   
   CHAIRMAN: Any board member?
   
   (NO RESPONSE)
   
   CHAIRMAN: Hearing no opposition or concerns and no questions, I'll entertain a motion.
   
   MR. GLENN: Motion to approve this application based on the information presented here and, of course, they meet Special Condition Number 1.
   
   CHAIRMAN: We have a motion.
   
   MR. HOWARD: If I could interrupt real quick.
   
   CHAIRMAN: Yes.
MR. HOWARD: They did specifically request a couple of waivers. I think we should mention the fact that with your motion to approve granting the waivers on the maximum square footage that's allowed and the employees.

MR. GLENN: Yes, I am.

CHAIRMAN: Is there a second to the motion?

MS. MORGAN: I'll second.

CHAIRMAN: Second by Tori. 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.

Next item, Mr. Howard.

ITEM 3

7364 Highway 815, zoned A-R Rural Agriculture (Postponed at the September 5, 2019 meeting)
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

MR. PEDLEY: The subject property and all adjoining property is zoned A-R Rural Agriculture and appear to be residential or agriculture in nature with the exception of the property to the west and the
subject property which is labeled as a strip pit on a recent subdivision plat.

The subject property is an 18 acre tract that has historically been the location of a campground that predates the establishment of the current zoning regulations.

Campgrounds are conditionally permitted in an A-R zone; however, because this operation predates the zoning ordinance, one has not been previously obtained. Currently, there are six existing campsites on site. The Conditional Use Permit is now being required as the applicant proposes to expand the existing operation by adding ten new campsites and a horse barn on the subject property.

For such a use the Zoning Ordinance requires one parking space for each campsite within the development, and a vehicular use area screening consisting of a 3-foot tall continuous element and 1 tree per 40-linear feet shall be located where the vehicular use area adjoins public rights-of-way.

The campsites appear to be located further back on the subject property with the existing woodlands on property separating the vehicular use areas from the public rights-of-way. However, because the full site layout is not shown on the submitted
site plan, the OMPC staff cannot say for certain whether or not such landscaping requirements have been met. Such regulations will be reviewed with the required Final Development Plan should the proposal be approved.

If approved, special conditions include:

1. Obtain approval of a Final Development plan.

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 B.

CHAIRMAN: Thank you, Mr. Pedley.

Is there anyone here representing the applicant?

MR. PFEIFER: Mark Pfeifer. I'm here with Michael and Lori Lewis.

CHAIRMAN: You want to come to the podium and wait in case we have some concerns or questions.

Do you have anything to add what has been read into the record?

MR. PFEIFER: No.

CHAIRMAN: Is there anyone in the audience that has questions or concerns about this item?
Step to the podium please.

MS. KNIGHT: Sir, could you state your name for the record.

MR. SMITH: Brian Smith.

(BRIAN SMITH SWORN BY ATTORNEY.)

MR. SMITH: My questions are, I'm not familiar with the use of the farm. Is it going to be for boarding horses or is there going to be trail rides? I don't know what other use there might be. That's the question that I have.

MR. PFEIFER: I would defer to Mr. Lewis. He would probably be able to speak as to what he's planning to do with the horse farm.

MS. KNIGHT: Sir, could you state your name for the record, please.

MR. LEWIS: Michael Lewis.

(MICHAEL LEWIS SWORN BY ATTORNEY.)

CHAIRMAN: Can you answer his question about the barn and the horses?

MR. LEWIS: Yes. We have mini horses. We have a camp for foster children. That's what we primarily do. We're 25 year foster parents. During the summer we offer free camping to foster and adoptive families. It's just for the children.

CHAIRMAN: By "mini" you mean m-i-n-i.
MR. LEWIS: Little tiny horses, yes, ma'am.

CHAIRMAN: Thank you.

Does that answer your question?

MR. SMITH: That answers my question.

CHAIRMAN: Do you have any other concerns?

MR. SMITH: Many, but not to do with this.

CHAIRMAN: Any board member have questions of Mr. Lewis or his representative?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

MS. MASON: Madam Chairman, I make a motion to approve based on the information that we received tonight, and also it is a logical expansion of the existing use of the campground and it's compatible with the land use and there's already a campground there. The campground has been there for a long time. And with the Special Conditions of 1 and 2 that were noted earlier by Mr. Pedley.

CHAIRMAN: Thank you.

Do you have a question on the motion?

MR. SMITH: Can I ask another question?

CHAIRMAN: Come right ahead.

MR. SMITH: I'm Brian Smith again.

I'm just curious. Do they plan to use the existing entrance that they have been using all along
or are they constructing a new entrance to the campground?

CHAIRMAN: Mr. Lewis, you want to go back?

MR. LEWIS: We will be using our same entrance and it is a shared entrance. There are three properties that come through that road.

CHAIRMAN: Thank you.

Does that answer your concern?

MR. SMITH: Yes.

CHAIRMAN: Thank you.

We have a motion on the floor. Is there a second to the motion?

MR. GLENN: Second.

CHAIRMAN: 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.

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ITEM 4

2505 Krauss Court, zoned R-1C Single-Family Residential
Consider a request for a Variance in order to increase the maximum fence height on a side street yard from 6-feet tall to 8-feet tall at the subject property. References: Zoning Ordinance, Article 3, Section 3-7(g)(3)
Applicant: Casandra Layman

MR. PEDLEY: The subject property is located at the northeast intersection of Krauss Court and Dillard Court in the Bluegrass Commons subdivision. As stated in the application, the property currently has a patio and a pool in the backyard which is visible from the street. To obtain more privacy the property owner would like to construct a privacy fence. However, the applicant has stated that the subject property has a significant slope as the yard approaches Dillard Court. Consequentially, constructing a 6-foot fence at the bottom of the sloped area would not provide the desired privacy. In order to construct an affected screening element, the applicant is requesting a variance to increase the maximum height of a fence on a side street yard from 6-feet tall to 8-feet tall. In doing so, the applicant plans to install a 2-foot tall retaining wall, 12-foot 2-inches from the side of the property line, and then place a 6-foot tall privacy fence on top of the retaining wall in order to accomplish the desired screening element. Once finished, the element
would then be 8-foot tall on the outside of the fence area.

Although Bluegrass Commons is a new development without any previously approved 8-foot tall fences to be located along side street yard, the applicant has submitted a notice of approval from the developer of the subdivision stating that the Architectural Review Committee and the Homeowners Association Board are both in agreement that the desired fence will be compatible with the character of the community.

Granting this variance will not adversely affect the public safety and will not cause a hazard to the public because the fence will be located outside of the 12-foot wide public utility easement and will not violate the sight triangle.

Granting this variance will not alter the essential character of the general vicinity because the request has been reviewed and approved by the neighborhood's Architectural Review Committee and the Homeowners Association Board; and will not be an unreasonable circumvention of the zoning regulations because the fence itself will only be 6-feet in height, which is allowed by the ordinance.

Staff recommends approval with the condition
that all necessary building, electrical and HVAC
permits, inspections and certificates of occupancy and
compliance are obtained.

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

CHAIRMAN: Thank you, Mr. Pedley.

Is anyone here representing the applicant?

MS. MITCHELL: Lauren Mitchell and the
applicant Casandra Layman.

CHAIRMAN: Go to the podium and identify
yourself.

Just wait there until we see if there are any
questions. Well, go ahead and identify yourselves.

MS. LAYMAN: Casandra Layman, I'm the
homeowner.

(CASANDRA LAYMAN SWORN BY ATTORNEY.)

MS. KNIGHT: And, Ms. Mitchell, go ahead.

MS. MITCHELL: I'm just her friend, Lauren
Mitchell.

(LAUREN MITCHELL SWORN BY ATTORNEY.)

CHAIRMAN: Do you have anything to add to what
has been read?

MS. MITCHELL: The only thing is I have talked
to the building gentleman, Matt Warren. He has no
building concerns, as far as with the site plan and
everything. I talked to Mike Hamilton and we have a
permit. He's actually currently -- he's already been
to the site, done his inspection, and he's all good
with everything.

CHAIRMAN: Is there anyone in the audience
that has a question or concern about this item?

(NO RESPONSE)

CHAIRMAN: Any board members?

(NO RESPONSE)

CHAIRMAN: If not I'll entertain a motion.

MS. MORGAN: I'll make a motion to approve
based on a site visit and everything stated here
tonight, and that they do Special Condition 1 that is
listed.

CHAIRMAN: Any question on the motion?

(NO RESPONSE)

CHAIRMAN: Is there a second to the motion?

MS. MASON: Second.

CHAIRMAN: Second by Ms. Mason. Any question
on the motion?

(NO RESPONSE)

CHAIRMAN: Hearing none I'll entertain a vote.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.
Mr. Howard, is there any other business?

MR. HOWARD: No, ma'am.

CHAIRMAN: Hearing none I'll entertain a

motion.

MR. GLENN: Motion to adjourn.

MS. MASON: Second.

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

WITNESS my hand and notary seal on this the
1st day of November, 2019.

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

COMMISSION EXPIRES: DECEMBER 16, 2022
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY