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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

* * * * *

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.

1 MS. MASON: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Thank you.

6 First item on the agenda, Mr. Howard.

7 -----

8 CONDITIONAL USE PERMITS

9 ITEM 2

10 2974 Wrights Landing Road, zoned A-R Rural Agriculture
11 Consider a request for a Conditional Use Permit in
12 order to operate a Commercial Kitchen as a Home
13 Occupation from an accessory structure on the subject
14 property.

15 References: Zoning Ordinance, Article 8,
16 Section 8.2D5a
17 Applicant: Alisha Hardison

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

20 MR. PEDLEY: Trey Pedley.

21 (TREY PEDLEY SWORN BY ATTORNEY.)

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

25 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

1 utilize the structure as a commercial kitchen; prepare
2 food items in order to serve food at the Farmer's
3 Market and from a food truck.

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

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

15 All additional requirements have been
16 addressed with the exception of the size of the
17 operation within a detached structure and the number
18 of employees that are allowed to report to the site.
19 For which, the applicant has requested waivers to
20 allow the operation within the detached structure to
21 be as large as 1,340 square feet in size and to allow
22 two non-resident employees to report to the site, but
23 at different times. Additionally, the OMBA may impose
24 further conditions as necessary to ensure proper
25 integration of the use into the area.

1 If approved special conditions include:

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

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

7 CHAIRMAN: Thank you, Mr. Pedley.

8 Is there anyone here representing the
9 applicant?

10 APPLICANT REP: I am the applicant.

11 CHAIRMAN: Just hold up in case we have some
12 questions.

13 Is there anyone here that has opposition or
14 questions about this application?

15 (NO RESPONSE)

16 CHAIRMAN: Any board member?

17 (NO RESPONSE)

18 CHAIRMAN: Hearing no opposition or concerns
19 and no questions, I'll entertain a motion.

20 MR. GLENN: Motion to approve this application
21 based on the information presented here and, of
22 course, they meet Special Condition Number 1.

23 CHAIRMAN: We have a motion.

24 MR. HOWARD: If I could interrupt real quick.

25 CHAIRMAN: Yes.

1 MR. HOWARD: They did specifically request a
2 couple of waivers. I think we should mention the fact
3 that with your motion to approve granting the waivers
4 on the maximum square footage that's allowed and the
5 employees.

6 MR. GLENN: Yes, I am.

7 CHAIRMAN: Is there a second to the motion?

8 MS. MORGAN: I'll second.

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

11 (NO RESPONSE)

12 CHAIRMAN: All in favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, Mr. Howard.

16 ITEM 3

17 7364 Highway 815, zoned A-R Rural Agriculture
18 (Postponed at the September 5, 2019 meeting)
19 Consider a request for a Conditional Use Permit in
20 order to expand the operation of an existing
21 campground and construct a horse barn.
22 References: Zoning Ordinance, Article 8,
23 Section 8.2K7/42
24 Applicant: Michael J. Lewis and Lori L. Lewis

22 MR. PEDLEY: The subject property and all
23 adjoining property is zoned A-R Rural Agriculture and
24 appear to be residential or agriculture in nature with
25 the exception of the property to the west and the

1 subject property which is labeled as a strip pit on a
2 recent subdivision plat.

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

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

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

21 The campsites appear to be located further
22 back on the subject property with the existing
23 woodlands on property separating the vehicular use
24 areas from the public rights-of-way. However, because
25 the full site layout is not shown on the submitted

1 site plan, the OMPC staff cannot say for certain
2 whether or not such landscaping requirements have been
3 met. Such regulations will be reviewed with the
4 required Final Development Plan should the proposal be
5 approved.

6 If approved, special conditions include:

7 1. Obtain approval of a Final Development
8 plan.

9 2. Obtain all necessary building, electrical
10 and HVAC permits, inspections and certificates of
11 occupancy and compliance.

12 We would like to enter the Staff Report into
13 the record as Exhibit B.

14 CHAIRMAN: Thank you, Mr. Pedley.

15 Is there anyone here representing the
16 applicant?

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

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

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

23 MR. PFEIFER: No.

24 CHAIRMAN: Is there anyone in the audience
25 that has questions or concerns about this item?

1 Step to the podium please.

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

4 MR. SMITH: Brian Smith.

5 (BRIAN SMITH SWORN BY ATTORNEY.)

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

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

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

16 MR. LEWIS: Michael Lewis.

17 (MICHAEL LEWIS SWORN BY ATTORNEY.)

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

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

25 CHAIRMAN: By "mini" you mean m-i-n-i.

1 MR. LEWIS: Little tiny horses, yes, ma'am.

2 CHAIRMAN: Thank you.

3 Does that answer your question?

4 MR. SMITH: That answers my question.

5 CHAIRMAN: Do you have any other concerns?

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

7 CHAIRMAN: Any board member have questions of

8 Mr. Lewis or his representative?

9 (NO RESPONSE)

10 CHAIRMAN: I'll entertain a motion.

11 MS. MASON: Madam Chairman, I make a motion to

12 approve based on the information that we received

13 tonight, and also it is a logical expansion of the

14 existing use of the campground and it's compatible

15 with the land use and there's already a campground

16 there. The campground has been there for a long time.

17 And with the Special Conditions of 1 and 2 that were

18 noted earlier by Mr. Pedley.

19 CHAIRMAN: Thank you.

20 Do you have a question on the motion?

21 MR. SMITH: Can I ask another question?

22 CHAIRMAN: Come right ahead.

23 MR. SMITH: I'm Brian Smith again.

24 I'm just curious. Do they plan to use the

25 existing entrance that they have been using all along

1 or are they constructing a new entrance to the
2 campground?

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

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

7 CHAIRMAN: Thank you.

8 Does that answer your concern?

9 MR. SMITH: Yes.

10 CHAIRMAN: Thank you.

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

13 MR. GLENN: Second.

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

16 (NO RESPONSE)

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, Mr. Howard.

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23 VARIANCES

24 ITEM 4

25 2505 Krauss Court, zoned R-1C Single-Family
Residential

1 Consider a request for a Variance in order to increase
2 the maximum fence height on a side street yard from
3 6-feet tall to 8-feet tall at the subject property.
4 References: Zoning Ordinance, Article 3,
5 Section 3-7(g)(3)
6 Applicant: Casandra Layman

7 MR. PEDLEY: The subject property is located
8 at the northeast intersection of Krauss Court and
9 Dillard Court in the Bluegrass Commons subdivision.
10 As stated in the application, the property currently
11 has a patio and a pool in the backyard which is
12 visible from the street. To obtain more privacy the
13 property owner would like to construct a privacy
14 fence. However, the applicant has stated that the
15 subject property has a significant slope as the yard
16 approaches Dillard Court. Consequentially,
17 constructing a 6-foot fence at the bottom of the
18 sloped area would not provide the desired privacy. In
19 order to construct an affected screening element, the
20 applicant is requesting a variance to increase the
21 maximum height of a fence on a side street yard from
22 6-feet tall to 8-feet tall. In doing so, the
23 applicant plans to install a 2-foot tall retaining
24 wall, 12-foot 2-inches from the side of the property
25 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

1 would then be 8-foot tall on the outside of the fence
2 area.

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

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

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

25 Staff recommends approval with the condition

1 that all necessary building, electrical and HVAC
2 permits, inspections and certificates of occupancy and
3 compliance are obtained.

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

6 CHAIRMAN: Thank you, Mr. Pedley.

7 Is anyone here representing the applicant?

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

10 CHAIRMAN: Go to the podium and identify
11 yourself.

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

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

16 (CASANDRA LAYMAN SWORN BY ATTORNEY.)

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

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

20 (LAUREN MITCHELL SWORN BY ATTORNEY.)

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

23 MS. MITCHELL: The only thing is I have talked
24 to the building gentleman, Matt Warren. He has no
25 building concerns, as far as with the site plan and

1 everything. I talked to Mike Hamilton and we have a
2 permit. He's actually currently -- he's already been
3 to the site, done his inspection, and he's all good
4 with everything.

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

7 (NO RESPONSE)

8 CHAIRMAN: Any board members?

9 (NO RESPONSE)

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

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

15 CHAIRMAN: Any question on the motion?

16 (NO RESPONSE)

17 CHAIRMAN: Is there a second to the motion?

18 MS. MASON: Second.

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

21 (NO RESPONSE)

22 CHAIRMAN: Hearing none I'll entertain a vote.
23 All in favor raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 Mr. Howard, is there any other business?

2 MR. HOWARD: No, ma'am.

3 CHAIRMAN: Hearing none I'll entertain a
4 motion.

5 MR. GLENN: Motion to adjourn.

6 MS. MASON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 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 10
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 1st day of November, 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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