The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, December 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
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Andrew Howard

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CHAIRMAN:  We will call the Owensboro Metropolitan Board of Adjustment December 5, 2019 meeting to order. If you will all stand, I will lead with the prayer and then the pledge.

(PLEDGE OF ALLEGIANCE AND INVOCATION)

CHAIRMAN:  First item on the agenda is to consider the minutes of the November 7, 2019 meeting. Everyone has received a copy and has had time to check it out. At this time I will entertain a motion.

MS. MASON:  I move for approval.

CHAIRMAN:  Move for approval by Ms. Mason.

MR. ANDREW HOWARD:  Second.
CHAIRMAN: Second by Mr. Howard. Any questions 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.
First item, Mr. Howard.

CONDITIONAL USE PERMITS

ITEM 2
744 Higdon Road, zoned R-1A Single-Family Residential
Consider a request for a Conditional Use Permit in
order to install a Class 2 Manufactured Home in an
R-1A Single-Family Residential zoning classification.
References: Zoning Ordinance Article 8,
Section 8.2A10B/7
Applicant: Steven Roper; Cathy W. Roper

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

MR. PEDLEY: Trey Pedley.
(TREY PEDLEY SWORN BY ATTORNEY.)
MR. PEDLEY: The subject property and the adjoining property on both sides are zoned R-1A Single-Family. Both neighboring properties are utilized residentially with a Class 2 manufactured home.

The applicant would like to place a Class 2
manufactured home on the subject property located approximately 75 feet from the rear property line placing structure near the end of the existing gravel driveway.

Such a structure is conditionally permitted in an R-1A Single-Family Residential zone so long as the site complies with all zoning ordinance requirements.

The site plan submitted with the application indicates each of the zoning ordinance requirements will be met with the exception of the requested waivers, including:

1. The applicant requests a waiver to eliminate the required sidewalk because the subject property is located along a rural road where sidewalks have not been constructed; and.

2. The applicant requests a waiver to allow the two 9 by 18 parking spaces and the driveway apron to be a gravel surface to remain consistent with the other properties in the general vicinity.

If approved Special Condition:

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.

Is anyone here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anyone here have any opposition or question about this item?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

MR. JEAN: I would like to make a motion to approve this Conditional Use Permit based on the Staff Report, the site visit with the 8 zoning ordinance requirements, and with the one suggested condition and, the three findings of fact. This property is in an R-1A zone where Class 2 manufactured homes are conditionally permitted. 2) The two 9 by 18 parking spaces and the gravel driveway will be allowed into the property; it's not within the City of Owensboro, and many of the other properties along Higdon Road utilize gravel driveways. The sidewalk requirement will be waived as to remain consistent with the other properties on Higdon road.

CHAIRMAN: We have a motion by Mr. Gene. Do we have a second?

MR. GLENN: Second.

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

3000 Trails Way, zoned R-1C Single-Family Residential
Consider a request for a Conditional Use Permit in order to operate a bakery as a Home Occupation from the subject property.

References: Zoning Ordinance, Article 8, Section 8.2D5a

Applicant: Haleigh Woodard; Zachary Woodard

Mr. Pedley: The subject property is zoned R-1C Single-Family Residential and is located at the corner of Trails Way and Avenue Park of the Parks in the Heartlands Subdivision. The applicant proposes to operate a bakery from the residence in which customers will visit the residential property to pick up their orders. The application states that the visitors will be minimal (approximately 5 people per week, typically on Fridays and Saturdays).

Such operations are conditionally permitted in the residentially zoning classification with specific criteria, all of which have been addressed within the application. However, the Board of Adjustment may impose further conditions as necessary to ensure
proper integration of the use into the area.

In addition to the criteria, specific for conditionally permitted home occupation, the zoning ordinance requires one parking space per 400 square feet of the activity. There are no landscaping requirements for this proposed use at the subject property.

If approved such conditions includes:

1. The Board of Adjustment shall establish conditions limiting the number of customers that may come to the site at one time, as well as the hours of operation that customers may come to the subject property; 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 B.

CHAIRMAN: Thank you.

Is there anyone here representing the applicant?

MS. WOODWARD: Yes.

CHAIRMAN: Do you want to come to the microphone in case we have any questions?

MS. KNIGHT: If you would state your name for
the record, please?

MS. WOODWARD: Haleigh Woodward.

(HALEIGH WOODWARD SWORN BY ATTORNEY.)

CHAIRMAN: Do you want to add anything to what's been read into the record?

MS. WOODWARD: No.

CHAIRMAN: Is there anyone that has a question of Ms. Woodward?

MS. MASON: I do.

What will be the hours that you will be having people come into your home?

MS. WOODWARD: Probably no -- well, I work until 5:00. So usually between 5 and 7 in the evening.

MS. MASON: Okay.

CHAIRMAN: Any other questions?

Mr. Reeves.

MR. REEVES: I guess this is just for the staff.

How can we set the condition on the number of customers that come to the site at any one time? I don't see know how we can do that.

MR. HOWARD: It's one of these things, these are new; the ordinance has been recently amended to allow this. I think you could make a condition that
no more than "$X" number at a time so that, you know,
and hopefully her business grows and does great, and
you don't end up though with a time where she has 15
people coming to the house at one time; because then
you lose the character of the residential feel if
you've got a business that's operating from 8 to 5
Monday through Friday and Saturday and you've got
people coming and going all the time.

Do you have an idea about how many people
would come at a time?

MS. WOODWARD: I work full-time so I really
don't have time to do like a maximum of probably five
people a week. Really most of them will be on
Fridays. My husband is off on Fridays so it might be
during the day on Fridays.

MR. HOWARD: We don't want to do a disservice
to the neighbors, which I don't think any neighbors
are here on that. If this does grow and get to the
point that she would have a whole lot of people coming
in and out, at that point you need to look at like a
commercial location instead of being residential.
Just have that conversation in some capacity so that
it doesn't get out of control in a residential
setting.

MR. REEVES: I guess my question for you is:
Is it your hope that you would outgrow this to the point where you would have a commercial site somewhere or is this what you're wanting to do?

MS. WOODWARD: Just want to do this. It's just something I do on the side. Honestly, I started to pay off medical bills. It's not -- like I said, I have a full-time job. I'm an accountant.

MR. REEVES: I assume you're doing specialized cakes or something; is that what you do?

MS. WOODWARD: It's cookies.

MR. REEVES: Cookies. Okay.

CHAIRMAN: Anyone else have any questions of the applicant or comments?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

MR. GLENN: I will go on and move to approve this application based on the information that's been presented here tonight. Assuming that she does meet the zoning ordinance requirements that are listed, and also that she would follow the suggested conditions that might be presented later on by the Owensboro Metropolitan Board of Adjustment.

MS. KNIGHT: Well, I think we would have to impose the condition tonight.

MR. REEVES: Could I suggest to maybe include
that into the motion; that no more than two customers
on site at any time or whatever you want to do.

MR. GLENN: Let me ask a question then. How
many parking places are in front of your house?

MS. WOODWARD: In my driveway or --

MR. GLENN: In front on the street. One or
two?

MS. WOODWARD: Probably two, maybe three.

MR. GLENN: You could park one or two in the
drive?

MS. WOODWARD: Yes.

MR. GLENN: I would amend that to read that
there would be no more than five customers there at
any one time.

CHAIRMAN: Is that all right?

MS. WOODWARD: Oh, yes, that's fine. There
will never be that many.

CHAIRMAN: We have a motion by Mr. Glenn.

MR. ANDREW HOWARD: Second.

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

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
1 CHAIRMAN: It is unanimous.
2
3 ----------------------------------------------
4 VARIANCES
5 ITEM 4
6
7 1902 Daviess Street, zoned B-4 General Business
8 Consider a request for a Variance in order to reduce
9 the required street yard building setback along
10 Daviess Street from 25-feet from the property line to
11 10-feet from the property line.
12 References: Zoning Ordinance Article 8,
13 Section 8.5.16(c)
14 Applicant: Executive Transportation Service, LLC;
15 William T. Pogue, Jr.
16
17 MR. PEDLEY: The subject property is located
18 at the southwest corner of Daviess Street and East
19 19th Street and is zoned B-4 General Business.
20 However, it should be noted that the remaining 13 lots
21 within this block of East 19th Street are zoned R-4DT
22 Inner-City Residential. All the lots in this area,
23 including the subject property, have an atypical width
24 of 45-feet wide. Because this property is on a corner
25 lot, it has a 25-foot street yard setback off Daviess
26 Street which, which coupled with the narrow lot size,
27 has left very little room for additions or new
28 development on the site.
29
30 Consequently, the applicant is now requesting
31 a variance to reduce the street yard building setback
32 along Daviess Street from 25-feet to 10-feet to allow
33 the construction of an attached 3-car garage. As
depicted on the site plan, the existing building is approximately 10-feet from the property line in question and the existing portion is even closer. The applicant would like to construct a garage that will closely line up with the perimeter wall of the existing building, but will not be closer than 10-feet to the property line along Daviess Street.

The proposed garage will be utilized in conjunction with a taxi service that is currently operating from the site. At the moment, to the rear of the building is a large paved area without designated parking spaces or organized traffic flow on the site. The construction of this garage will eliminate a portion of the existing asphalt, which will create parking area that will promote backing into the alley rather than backing into Daviess Street.

Granting the variance to reduce the street yard building setback as requested will not adversely affect the public safety and will not cause a public nuisance because the site's proposed layout will encourage backing into the alley rather than Daviess Street. Additionally, granting the variance will not be an unreasonable circumvention of the zoning regulations and will not alter the essential character
of the general vicinity because the proposed garage will be approximately an in-line extension of the existing building.

Staff Recommends approval with the condition that:

1. Obtain approval of a Site Plan or Final Development Plan; 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 C.

CHAIRMAN: Thank you.

Do we have anyone here representing the applicant?

MR. POGUE: Yes.

CHAIRMAN: If you will come to the podium, please.

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

MR. POGUE: William Pogue.

(WILLIAM POGUE SWORN BY ATTORNEY.)

CHAIRMAN: Do you have anything you want to add to what's been said?

MR. POGUE: No. I think Trey summed it up.
Basically I want to add a 24 by 30 addition, which is going to house a three-car garage. Still leaves ample park. It conforms with the area. He summed it up.

CHAIRMAN: Thank you.

MR. POGUE: You're welcome.

CHAIRMAN: Anyone have any questions of Mr. Pogue.

(NO RESPONSE)

CHAIRMAN: Anyone in the audience wishing to speak?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion on this item.

Mr. Reeves.

MR. REEVES: Move to approve this application based on the Findings 1 through 4 that the Staff had in their report with Conditions 1 and 2.

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: Motion carries unanimously.
ITEM 5

2121 Griffith Place East, zoned R-1A Single-Family Residential
Consider a request for a Variance in order to reduce the required rear yard building setback from 20-feet from the rear property line to 3-feet from the property line.
Reference: Zoning Ordinance Article 8, Section 8.5.5(e)
Applicant: Gary L. Cecil

MR. PEDLEY: The subject property is zoned R-1A Single-Family Residential and is located on Griffith Place East near the street's intersection with Ford Avenue.

The applicant proposes to attach a covered porch to the rear of the existing residence, which will encompass the existing driveway. Doing so will cause the principal structure to encroach into the required rear yard building setback; so the applicant has requested a variance to reduce the rear yard setback from 20-feet to 3-feet from the rear property line.

In the general vicinity, no other principal structures appear to encroach into the required rear yard setback. However, it is worth noting that the zoning ordinance does not have a required setback between unenclosed accessory structures and principal structures. The zoning ordinance does allow accessory structures to be as close as 3-feet to the rear
Consequently, the applicant could construct an unenclosed detached structure inches away from the residence and encroach into the rear yard setback as proposed, and do so without the need for a variance. Granting the variance to reduce the rear yard setback as requested will not create an unreasonable circumvention of the zoning regulations, will not alter the essential character of the general vicinity, and will not adversely affect the public safety because the structure will be unenclosed and unenclosed structures are permitted at the requested setback.

Additionally, granting the variance will not cause a nuisance to the public because the requested structure will be covering and screening the existing driveway at the rear of the subject property.

Staff recommends approval with Conditions:

1. The residential addition shall remain an unenclosed structure;

2. If the proposed location is within a Public Utility Easement or a Drainage Easement, then a Utility Encroachment Permit shall be obtained or the structure shall not encroach into the easement; and,

3. 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 D.

CHAIRMAN: Thank you.

Is there anyone here representing the applicant?

MR. CECIL: Yes.

CHAIRMAN: Step forward in case we have any questions.

MS. KNIGHT: State your name for the record.

MR. CECIL: Gary Cecil.

(GARY CECIL SWORN BY ATTORNEY.)

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

MR. CECIL: I don't know how to act without people down here opposing me. I'm a little taken back.

I'm sorry I missed the last two meetings.

CHAIRMAN: Anyone have any questions of Mr. Cecil?

Mr. Reeves.

MR. REEVES: Again, I don't know if Mr. Cecil.

It's probably Staff.

How do we know that the applicant in fact
would have been in touch with all the public utilities
with regard to the necessary easements?

MR. HOWARD: When he applies for the building
permit to do this, a plat will be part of what's
submitted and we'll verify that.

MR. REEVES: They will sign off on?

MR. HOWARD: Well, there may not be -- do you
how if there's an easement back there?

MR. CECIL: According to the plat, there's no
easement.

MR. HOWARD: There may not be one. We just
put that in there to cover it in case there's a plat
from 1963 that shows an easement that we haven't seen
yet or wonder.

MR. REEVES: Thank you.

CHAIRMAN: Any other questions?

(NO RESPONSE)

CHAIRMAN: I'm ready for a motion.

MS. MASON: I make a motion to approve this
variance based on the Staff Report, Findings 1 through
4, and with Conditions 1 through 3.

CHAIRMAN: We have a motion by Mrs. Mason.

MR. ANDREW HOWARD: Second.

CHAIRMAN: Second by Mr. Howard. 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.

Any other business, Mr. Howard?

MR. HOWARD: No, ma'am.

CHAIRMAN: We have one final motion.

MR. GLENN: Motion to adjourn.

CHAIRMAN: We have a motion to adjourn by Mr. Glenn.

MS. MASON: Second.

CHAIRMAN: Second by Ms. Mason. All in favor raise your right hand.

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

WITNESS my hand and notary seal on this the
31st day of December, 2019.

LYNNETTE 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