The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, March 5, 2020, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Fred Reeves, Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Andrew Howard

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CHAIRMAN:  Call the March 5 meeting of the Owensboro Metropolitan Board of Adjustment to order. We start every meeting with a prayer and pledge to the flag. I will do that tonight. If you all will stand, please.

(INVOCATION AND PLEDGE)

CHAIRMAN:  All of you should have received a copy of the minutes of the last meeting in the mail and have had a chance to look over them. If there are no corrections or additions, then I'll entertain a motion to approve those minutes.

MR. GLENN:  Motion to approve.

CHAIRMAN:  Motion by Mr. Glenn.

MR. ANDREW HOWARD:  Second.
CHAIRMAN: Second by Mr. Howard. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENTED AYE.)

CHAIRMAN: Motion carries.

Mr. Howard.

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CONDITIONAL USE PERMITS

ITEM 2

528 Camden Circle, zoned R-1B Single-Family Residential
Consider a request for a Conditional Use Permit in order to operate a retail sales business as a Home Occupation from the subject property.
Reference: Zoning Ordinance, Article 8, Section 8.2D5a
Applicant: Jessica Oglesby & Matthew Oglesby

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

MR. PEDLEY: Trey Pedley.

(TREY PEDLEY SWORN BY ATTORNEY.)

MR. PEDLEY: The subject property is located in the Graystone Estates subdivision. The applicant proposes to utilize the attached garage as a pick-up location in conjunction with a retail sales operation in which all customers shopping and ordering performed online. This unit of Graystone Estate has various private restrictions including the statement that: "No noxious or offensive trade or activity shall be
carried on upon any lot nor shall anything be done
thereon which may be or will become an annoyance or
nuisance to the neighborhood."

The prepared Certification of No Deed
Restrictions states that "the proposed use of the
subject property does not appear to be noxious or
offensive trade," however, this restriction was
pointed out due to the "vague and general" nature of
the statement.

Home Occupations that have non-residents of
the home coming to the property are Conditionally
Permitted within the residential zoning
classifications. The application states that planned
hours of operation are Monday and Tuesday from 9 to 11
and from 4 to 7:30, and Wednesday and Friday from 4 to
7:30 p.m.

The Zoning Ordinance requires one parking
space for 400 square feet of the activity. The floor
plan that was submitted illustrates that the garage is
422 square feet and so only one parking space is
required per the Zoning Ordinance. The site plan
submitted shows that the driveway is 17-feet wide and
26-feet long, easily complying with the size
requirements for the one necessary off-street parking
space.
Additionally, Article 17.312 of the Zoning Ordinance deems that this driveway is not required to install any landscape screening elements. All the specific requirements or home occupations have been addressed within the application; however, the Owensboro Metropolitan Board of Adjustment may impose further conditions as necessary to ensure proper integration of the use into the area.

If approved, Special Conditions include:

1. The OMBA should consider establishing conditions limiting the number of customers that may come to the site at one time, as well as the hours of operation that the customers may come to the subject property.

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

CHAIRMAN: Is anyone here representing the applicant?

Would you mind to come to the podium and be sworn in?

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

MS. OGLESBY: Jessica Oglesby.

(JESSICA OGLESBY SWORN BY ATTORNEY.)
CHAIRMAN: Does anyone in the audience have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: I have one. Do you understand these ten continues and you're prepared to meet all of them?

MS. OGLESBY: Yes, sir.

CHAIRMAN: Very good.

Any commissioners have any questions of the applicant?

MS. MASON: I do.

You said you agree to do the hours of operation Monday and Tuesday from 9 to 11 and 4 to 7:30, and Wednesday and Friday from 4 to 7:30?

MS. OGLESBY: Yes, ma'am.

MS. MASON: How many customers do you think will be there at one time?

MS. OGLESBY: I was going to limit to two to make sure there are no more than two there at one time.

MS. MASON: Okay.

CHAIRMAN: Anyone else have any questions?

(NO RESPONSE)

CHAIRMAN: If not then the Chair will entertain a motion.
MR. GLENN: I make a motion to approve this based on the information that we have received and heard here tonight. Also that it would include the fact that it would only be open Monday through Tuesday 9 to 11 and 4 to 7:30, and also Wednesday and Friday 4 to 7:30.

Ma'am, as you stated, there would be no more than two customers there at a time.

MS. OGLESBY: Correct. Also, can I add, I am in the process of looking for me a building to rent or to buy, but property in Owensboro is very expensive. So I'm trying, I am trying to find a space also. So hopefully, this will only be temporary.

CHAIRMAN: When you do that, let me suggest that you go and meet with Mr. Howard or Melissa or Trey to make sure that what you have will meet all the zoning regulations so you don't make a commitment to rent something and all of a sudden you find you've got to do $5,000 worth of work.

MS. OGLESBY: Okay. Thank you.

CHAIRMAN: Anything else?

(NO RESPONSE)

CHAIRMAN: We've got a motion. We need a second.

MR. ANDREW HOWARD: Second.
CHAIRMAN: Question about the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Good luck with your business.

MS. OGLESBY: Thank you very much.

ITEM 3

5272 West 5th Street Road, zoned R-1C Single-Family Residential

Consider a request for a Conditional Use Permit in order to utilize a detached structure on the subject property for wood-working and similar activities in conjunction with a Home Occupation

Reference: Zoning Ordinance, Article 8, Section 8.2D5a

Applicant: Steve Morgan

MR. PEDLEY: The subject property is roughly 0.6 acres in size, zoned R-1C Single-Family Residential, and located across the street from the West Fifth Street Road and Euclid Court intersection.

The adjoining property to the west and properties across West Fifth Street Road are zoned R-1C Single-Family Residential and A-U Urban Agriculture; all of which, appear to be utilized as single-family residences. To the east and to the south of the subject property is a couple of large farm operations.

The applicant proposes to utilize the 30 by 60 detached garage in order to build kitchen cabinets,
built-in shelves and similar products for a customer. The structure in question to the rear of the residence approximately 9 to 10 feet from the closest property line.

Home Occupation that utilize a property's detached structure are Conditionally Permitted within the residential zoning classification with specific criteria. Special criteria state that no more than 400 square feet of detached structure shall be used in conjunction with the business operation. However, the criteria also states that such a condition may be waived by OMBA if deemed that the waiver will not adversely affect other uses in the immediate neighborhood.

The proposed use is most likely closely classify by the Zoning Ordinance as "Assembling" which requires one parking space per two employees on maximum shifts with a minimum of five parking spaces. It is also worth noting that other light industrial uses require one parking space per 600 square feet of operation. Because the applicant does not intend to have employees or customers at the site, the OMPC Staff believes that allowing one parking space for 600 square feet will be sufficient should the OMBA deem that such a waiver will not interfere
with the operation's ability to properly integrate into the neighborhood. Doing so will require two off-street parking spaces as opposed to the originally stated minimum of five parking spaces.

The site plan submitted illustrates a 12-foot wide driveway leading to the structure in question as well as a 12-foot wide circle-drive in front of the home. At 12-feet wide, each driveway is wide enough to support one of the required parking spaces.

Additionally, a 3-foot tall continuous element and 1 tree per 40 linear feet shall be required where the vehicular use area adjoins public rights of way. The site visit documented shrubbery and trees along the perimeter of the circle drive which shall effectively comply with this landscaping requirement. The OMBA may require additional landscaping elements to be installed if deemed necessary.

The majority of the criteria for Home Occupation have been addressed. However, the requested waivers to these conditions include:

1. The applicant requests a waiver to increase the maximum square footage of work area in a detached structure from 400 square feet to 1,080 square feet; and

2. The applicant requests a waiver to modify
the required total parking spaces from a minimum of five parking space to a total of one space per 600 square feet of the operation, reducing the total to two required parking spaces.

While the application, supporting documents and requested waivers have address all of the zoning ordinance requirements, the OMBA may impose further conditions if deemed necessary to ensure that the operation will integrate into the neighborhood appropriately.

If approved, Special Conditions includes:

1. The OMBA should consider establishing conditions limiting the number of customers and employees that may come to the site at one time as well as the hours of operation that the proposed activity will be taking place within the detached structure on the subject property.

2. The applicant shall obtain all necessary building, electrical and HVAC permits, inspections and certificates of occupancy and compliance; including those that may be in conjunction with the detached structure on the subject property, as well as any that may be necessary in regards to work performed at a customer's location.

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

CHAIRMAN: Thank you.

Anyone in the audience representing the applicant?

Would you come up and be sworn in, in case we have any questions for you?

MS. KNIGHT: State your name for the record.

MR. MORGAN: Steve Morgan.

(STEVE MORGAN SWORN BY ATTORNEY.)

CHAIRMAN: Anyone in the audience have questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Do you understand all of the requirements, the ten requirements and the two additional suggested conditions to approve this?

MR. MORGAN: Far as -- the building itself is only 30 by 36 actually.

CHAIRMAN: 30 by 36. Is that the 1,080 square feet then?

MR. BRIAN HOWARD: Yes, that's 1,080.

CHAIRMAN: Okay. Any commissioners have any questions of the applicant?

Mr. Jean.

MR. JEAN: I have a couple of questions.

About how many customers and employees do you
expect to have?

MR. MORGAN: No employees and no customers. I have like a demo that I take out to people's property. That way they can see. It's easier to go there to place because I can measure. Then we do everything right there trying to figure out what they want. They have an idea. They can see the pulls that I have, the door slides, things like that.

MR. JEAN: Occasionally somebody will come in there?

MR. MORGAN: They may drop in, but there WON'T be any showroom or anything like that.

MR. JEAN: Will you have deliveries there or will you just go get that stuff?

MR. MORGAN: Yes, I do have deliveries. Like occasionally I order drawer boxes which comes. You know, if you order say six or seven drawer boxes, they're usually done by Fed Ex. Fed Ex usually brings them.

MR. JEAN: My other question is what are your hours of operation going to be?

MR. MORGAN: I really don't -- I'm not per se open. Basically people can call me if they need. I've always worked by word of mouth.

MR. JEAN: What I was asking or concerned
about is how late in the evening will you be working
out there work running a machine?

MR. MORGAN: Normally about 5:00. That's
because I still have children that has got to get
picked up and things like that. I probably wold be
out there later if I could, but I would probably get
in trouble.

MR. JEAN: You start at 5 or 7?

MR. MORGAN: Probably not that late. I know
generally when it gets about 5:00 that's when I
usually have to start picking kids up.

MR. JEAN: That's all the questions I have.
Thank you.

CHAIRMAN: Anybody else have any a question?

(NO RESPONSE)

CHAIRMAN: Mr. Jean, if you felt like you
needed to put hour of operation condition on there,
you certainly can do that. I don't know if that's
necessary or not. That's your judgement.

MR. JEAN: I didn't understand the question.

CHAIRMAN: I said if you felt like you wanted
to put a condition that limited the hours of
operation, you could certainly do that, if you think
it's necessary.

MR. JEAN: I'm going to make it wider than
what he gave. What my concern was if he was out there running a planning machine at 2:00 in the morning.

CHAIRMAN: Counsel, you may have to help us with the motion on this because it's a little bit complex here, I think.

Mr. Jean, you want to make a motion and our counselor may need to help you to define it a little bit, if necessary.

MR. JEAN: My motion is to approve this Conditional Use Permit with the two waivers based upon the Staff Report, and site visits, and testimony heard this evening with three conditions: Limiting the number of customers and employees to one with hours of operation between 7 and 6, 7 in the morning to 6 in the evening. The applicant shall obtain all necessary building, electric, HVAC permits, inspections and/or certificates of occupancy and compliance; including those that may be in conjunction with the detached structure on the subject property, as well as any that may be necessary in regards to work performed at a customers location.

The findings of facts are this property is zoned R-1C Single-Family Residential where business operations that utilize the property's detached structure for business-related purposes are allowed by
a Conditional Use Permit. This will have practically
no impact on traffic due to very low number of
employees and customer. This should be compatible
with the neighborhood as there are similar uses and
operations in the neighborhood.

CHAIRMAN: Is that all your motion, Mr. Jean?

MR. JEAN: That's it.

CHAIRMAN: Could I have a second to that
motion?

MS. MASON: I'll second it.

CHAIRMAN: Sir, do you understand all of the
conditions that are here and the conditions that
Mr. Jean put in his motion?

MR. MORGAN: Yes, sir.

CHAIRMAN: And you can comply with those?

MR. MORGAN: Yes, sir.

CHAIRMAN: Counsel?

MS. KNIGHT: Sounds adequate to me.

CHAIRMAN: Anyone in the audience have
questions about the motion?

(NO RESPONSE)

CHAIRMAN: Any of the commissioners have
questions about the motion?

(NO RESPONSE)

CHAIRMAN: If not, all in favor raise your
right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The application is approved.

Good luck with your operation.

MR. MORGAN: Thank you.

CHAIRMAN: We have one more motion.

MS. MASON: Motion to adjourn.

MR. GLENN: Second.

CHAIRMAN: All in favor 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 16
typewritten pages; and that no signature was requested
to the foregoing transcript.

WITNESS my hand and notary seal on this the
30th day of March, 2012.

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