

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MARCH 5, 2020

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

7 MEMBERS PRESENT: Fred Reeves, Chairman
8 Ruth Ann Mason, Secretary
9 Brian Howard, Director
10 Terra Knight, Attorney
11 Bill Glenn
12 Lewis Jean
13 Andrew Howard

14 * * * * *

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

20 (INVOCATION AND PLEDGE)

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

MR. GLENN: Motion to approve.

CHAIRMAN: Motion by Mr. Glenn.

MR. ANDREW HOWARD: Second.

1 CHAIRMAN: Second by Mr. Howard. All those in
2 favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENTED AYE.)

4 CHAIRMAN: Motion carries.

5 Mr. Howard.

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7 CONDITIONAL USE PERMITS

8 ITEM 2

9 528 Camden Circle, zoned R-1B Single-Family
10 Residential
11 Consider a request for a Conditional Use Permit in
12 order to operate a retail sales business as a Home
13 Occupation from the subject property.
14 Reference: Zoning Ordinance, Article 8,
15 Section 8.2D5a
16 Applicant: Jessica Oglesby & Matthew Oglesby

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

19 MR. PEDLEY: Trey Pedley.

20 (TREY PEDLEY SWORN BY ATTORNEY.)

21 MR. PEDLEY: The subject property is located
22 in the Graystone Estates subdivision. The applicant
23 proposes to utilize the attached garage as a pick-up
24 location in conjunction with a retail sales operation
25 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

1 carried on upon any lot nor shall anything be done
2 thereon which may be or will become an annoyance or
3 nuisance to the neighborhood."

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

10 Home Occupations that have non-residents of
11 the home coming to the property are Conditionally
12 Permitted within the residential zoning
13 classifications. The application states that planned
14 hours of operation are Monday and Tuesday from 9 to 11
15 and from 4 to 7:30, and Wednesday and Friday from 4 to
16 7:30 p.m.

17 The Zoning Ordinance requires one parking
18 space for 400 square feet of the activity. The floor
19 plan that was submitted illustrates that the garage is
20 422 square feet and so only one parking space is
21 required per the Zoning Ordinance. The site plan
22 submitted shows that the driveway is 17-feet wide and
23 26-feet long, easily complying with the size
24 requirements for the one necessary off-street parking
25 space.

1 Additionally, Article 17.312 of the Zoning
2 Ordinance deems that this driveway is not required to
3 install any landscape screening elements.

4 All the specific requirements or home
5 occupations have been addressed within the
6 application; however, the Owensboro Metropolitan Board
7 of Adjustment may impose further conditions as
8 necessary to ensure proper integration of the use into
9 the area.

10 If approved, Special Conditions include:

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

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

18 CHAIRMAN: Is anyone here representing the
19 applicant?

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

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

24 MS. OGLESBY: Jessica Oglesby.

25 (JESSICA OGLESBY SWORN BY ATTORNEY.)

1 CHAIRMAN: Does anyone in the audience have
2 any questions of the applicant?

3 (NO RESPONSE)

4 CHAIRMAN: I have one.

5 Do you understand these ten continues and
6 you're prepared to meet all of them?

7 MS. OGLESBY: Yes, sir.

8 CHAIRMAN: Very good.

9 Any commissioners have any questions of the
10 applicant?

11 MS. MASON: I do.

12 You said you agree to do the hours of
13 operation Monday and Tuesday from 9 to 11 and 4 to
14 7:30, and Wednesday and Friday from 4 to 7:30?

15 MS. OGLESBY: Yes, ma'am.

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

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

21 MS. MASON: Okay.

22 CHAIRMAN: Anyone else have any questions?

23 (NO RESPONSE)

24 CHAIRMAN: If not then the Chair will
25 entertain a motion.

1 MR. GLENN: I make a motion to approve this
2 based on the information that we have received and
3 heard here tonight. Also that it would include the
4 fact that it would only be open Monday through Tuesday
5 9 to 11 and 4 to 7:30, and also Wednesday and Friday 4
6 to 7:30.

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

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

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

20 MS. OGLESBY: Okay. Thank you.

21 CHAIRMAN: Anything else?

22 (NO RESPONSE)

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

25 MR. ANDREW HOWARD: Second.

1 CHAIRMAN: Question about the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Good luck with your business.

6 MS. OGLESBY: Thank you very much.

7 ITEM 3

8 5272 West 5th Street Road, zoned R-1C Single-Family
Residential

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

11 Reference: Zoning Ordinance, Article 8,
Section 8.2D5a

12 Applicant: Steve Morgan

13 MR. PEDLEY: The subject property is roughly
14 0.6 acres in size, zoned R-1C Single-Family
15 Residential, and located across the street from the
16 West Fifth Street Road and Euclid Court intersection.

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

24 The applicant proposes to utilize the 30 by 60
25 detached garage in order to build kitchen cabinets,

1 built-in shelves and similar products for a customer.
2 The structure in question to the rear of the residence
3 approximately 9 to 10 feet from the closest property
4 line.

5 Home Occupation that utilize a property's
6 detached structure are Conditionally Permitted within
7 the residential zoning classification with specific
8 criteria. Special criteria state that no more than
9 400 square feet of detached structure shall be used in
10 conjunction with the business operation. However, the
11 criteria also states that such a condition may be
12 waived by OMBA if deemed that the waiver will not
13 adversely affect other uses in the immediate
14 neighborhood.

15 The proposed use is most likely closely
16 classify by the Zoning Ordinance as "Assembling" which
17 requires one parking space per two employees on
18 maximum shifts with a minimum of five parking spaces.

19 It is also worth noting that other light
20 industrial uses require one parking space per 600
21 square feet of operation. Because the applicant does
22 not intend to have employees or customers at the site,
23 the OMPC Staff believes that allowing one parking
24 space for 600 square feet will be sufficient should
25 the OMBA deem that such a waiver will not interfere

1 with the operation's ability to property integrate
2 into the neighborhood. Doing so will requires two
3 off-street parking spaces as opposed to the originally
4 stated minimum of five parking spaces.

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

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

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

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

25 2. The applicant requests a waiver to modify

1 the required total parking spaces from a minimum of
2 five parking space to a total of one space per 600
3 square feet of the operation, reducing the total to
4 two required parking spaces.

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

11 If approved, Special Conditions includes:

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

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

25 We would like to enter the Staff Report into

1 the record as Exhibit B.

2 CHAIRMAN: Thank you.

3 Anyone in the audience representing the
4 applicant?

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

7 MS. KNIGHT: State your name for the record.

8 MR. MORGAN: Steve Morgan.

9 (STEVE MORGAN SWORN BY ATTORNEY.)

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

12 (NO RESPONSE)

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

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

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

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

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

23 Mr. Jean.

24 MR. JEAN: I have a couple of questions.

25 About how many customers and employees do you

1 expect to have?

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

9 MR. JEAN: Occasionally somebody will come in
10 there?

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

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

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

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

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

25 MR. JEAN: What I was asking or concerned

1 about is how late in the evening will you be working
2 out there work running a machine?

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

8 MR. JEAN: You start at 5 or 7?

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

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

14 CHAIRMAN: Anybody else have any a question?

15 (NO RESPONSE)

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

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

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

25 MR. JEAN: I'm going to make it wider than

1 what he gave. What my concern was if he was out there
2 running a planning machine at 2:00 in the morning.

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

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

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

22 The findings of facts are this property is
23 zoned R-1C Single-Family Residential where business
24 operations that utilize the property's detached
25 structure for business-related purposes are allowed by

1 a Conditional Use Permit. This will have practically
2 no impact on traffic due to very low number of
3 employees and customer. This should be compatible
4 with the neighborhood as there are similar uses and
5 operations in the neighborhood.

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

7 MR. JEAN: That's it.

8 CHAIRMAN: Could I have a second to that
9 motion?

10 MS. MASON: I'll second it.

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

14 MR. MORGAN: Yes, sir.

15 CHAIRMAN: And you can comply with those?

16 MR. MORGAN: Yes, sir.

17 CHAIRMAN: Counsel?

18 MS. KNIGHT: Sounds adequate to me.

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

21 (NO RESPONSE)

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

24 (NO RESPONSE)

25 CHAIRMAN: If not, all in favor raise your

1 right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: The application is approved.

4 Good luck with your operation.

5 MR. MORGAN: Thank you.

6 CHAIRMAN: We have one more motion.

7 MS. MASON: Motion to adjourn.

8 MR. GLENN: Second.

9 CHAIRMAN: All in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 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 16
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 30th day of March, 20120.

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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