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

MEMBERS PRESENT: Fred Reeves, Vice-Chairman
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Andrew Howard
Tori Morgan

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CHAIRMAN: I would like to call the November 5th Owensboro Metropolitan Board of Adjustment meeting to order. We start every meeting with a prayer and pledge to the flag. That will be lead tonight by Bill Glenn.

(INVOCATION AND PLEDGE TO THE FLAG.)

CHAIRMAN: Before we get started, just a little bit of information for you. To make the meeting run smooth and be cordial and productive, if you wish to speak on any issue, we ask you please come to the nearest mike. If you have questions, please direct your questions to the Chair and I will direct the question back to whoever in the audience that
needs to answer it or on the Staff rather than have
the audience talk back and forth. We keep very close
records of our conversations here. Ask you to please
do that for me. Appreciate it very much.

The first item on our agenda is to consider
the minutes of our October 1, 2020 meeting. Everybody
has had a chance to read them. Do I have a motion?

MR. ANDREW HOWARD: Motion.

CHAIRMAN: Motion by Mr. Howard.

MS. THOMPSON: Second.

CHAIRMAN: Tori has a second. So we have a
motion and a second. All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Mr. Howard.

CONDITIONAL USE PERMIT

ITEM 2

4459 Greenacre Drive, zoned R-1A Single-Family
Residential
Consider a request for a Conditional Use Permit in
order to operate an online retail sales business as a
Home Occupation with one non-resident employee
References: Zoning Ordinance Article 8,
Section 8.2D5A
Applicant: Patrick and Alma Ward

MS. KNIGHT: Please state your name for the
record.
MR. CRUM: Daniel Crum.

(DANIEL CRUM SWORN BY ATTORNEY.)

MR. CRUM: The subject property is a 0.51 acre residential parcel that is zoned R-1A Single-Family Residential. There have been no zoning map amendments for the subject property. The applicant whom resides on the property is requesting to utilize 800 square feet of the basement of the home, shown on the screen in front of you, for an online retail sale business with one nonresident employee. The applicant's proposed use involves packaging athletic chest wrappings, which are then sold online and mailed to the respective customers. The employee will use the off-street parking available in the residential driveway that serves the subject property. No on-site sales or commercial traffic to the home are proposed with this use.

Home Occupations that have nonresidence of the home coming to the property for business related purposes are conditionally permitted within the residential zoning classifications with specific criteria. The criteria, as described below, states that one nonresident employee shall be allowed at the residence and does not designate specific hours of operation. The applicant has indicated that the
nonresident employee will be working on site from 8 a.m. to 2 p.m. Monday through Thursday.

While it is stated within the application, should the proposal be approved, it is recommended that the Board of Adjustment attach conditions in relation to the hours of operation and number of permitted nonresident employees.

Land Uses in Surrounding Area: All adjoining properties are zoned R-1A Single-Family Residential and appear to be utilized residentially.

As far as Zoning Ordinance Requirements:

1. Parking - One parking space per 400 square feet of the activity required. For 800 square foot space two parking spaces are required. The site plan submitted with the application shows that the existing driveway can accommodate the parking for use as well as parking for the resident.

2. Landscaping - Because the driveway on the property is less than 1,800 square feet and is not serving six or more vehicles, it is not required by the ordinance to be screened with landscaping; however, the Board may choose to require any landscaping deemed necessary.

The Zoning Ordinance has 10 requirements that apply to Conditionally Permitted Home Occupations
shown in the Staff Report. All ten of these requirements have been addressed within the application; however, the OMBA may impose further conditions as necessary to ensure proper integration of the use into the area.

Suggested Conditions are as follows:

1. Limiting the hours of operations for the use from 8 a.m. to 2 p.m. Monday through Thursday; and,

2. The use shall be limited to one on-site nonresident employee with no customers on-site.

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

CHAIRMAN: Is anyone here representing the applicant?

MR. WARD: Yes.

CHAIRMAN: Would you mind to come to the podium just in case there are questions for you.

MS. KNIGHT: I'll go ahead and swear you in.

If you could state your name for the record.

MR. WARD: Patrick Ward.

MRS. WARD: Alma Ward.

(PATRICK AND ALMA WARD ARE SWORN BY ATTORNEY.)

CHAIRMAN: Any of the board members have questions for the applicants?
CHAIRMAN: Anyone in the audience have questions for the applicants?

(No response)

CHAIRMAN: That being the case, then I am ready for a motion.

Yes, Mr. Glenn.

MR. GLENN: I will make a motion to approve this conditional use permit based on the findings presented here tonight. The fact that they'll conform to the zoning ordinance requirements that are stated in this application, and also that they meet the two special conditions and that would be limiting the hours of operation for use from 8 a.m. to 2 p.m. on Monday through Thursday, and that the use shall be limited to one on-site nonresident employee with no customers on site.

CHAIRMAN: We have a motion. Do we have a second?

MR. ANDREW HOWARD: Second.

CHAIRMAN: Second by Mr. Howard. Any questions about the motion?

(No response)

CHAIRMAN: If not, then all in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The application is approved. Thank you.

ITEM 3

417 Skinner Lane, 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 zone

Reference: Zoning Ordinance Article 8, Section 8.2A10/B7

Applicant: Chad Himes

MR. CRUM: The subject property is a vacant property that is 2.57 acres in size and is zoned R-1A Single-Family Residential. There has been no history of zoning map amendments at the subject property. In the immediate vicinity, several other properties were granted conditional use approval for Class 2 Manufactured Home.

The applicant proposes to place a 14 by 70 Class 2 Manufactured Home on the western portion of the subject property outside of the intersection utility easements. The manufactured home will include a 10 by 10 patio and an 8 by 20 deck. The applicant is proposing a gravel driveway that connects to the end of Skinner Lane and gravel parking.

The applicant is requests a waiver of the sidewalk requirement to remain consistent with the area around the subject property where sidewalks are
not present. They're also requesting that the two
parking spaces and the driveway apron to be gravel
surfaces since the property is not within the city
limits and neighboring properties utilize gravel
drives.

Land Uses In Surrounding Area:
Adjoining properties on all sides of the
subject property are zoned R-1A Single-Family
Residential and appear to be utilized residentially
with a mix of Class 2 Manufactured Homes and
single-family dwellings.

As far as the Zoning Ordinance Requirements,
the ordinance specifics eight requirements for Class 2
Manufactured Home. The site plan submitted with the
application indicates that each of the zoning
requirements will be met with the exception of two
requested waivers.

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

2. The applicant is requesting a waiver to
allow 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.
Suggested Conditions:

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

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

CHAIRMAN: Is the applicant present? Would you mind coming to the podium in case we have questions?

MS. KNIGHT: Would you please state your name for the record?

MR. HIMES: Chad Himes.

(CHAD HIMES SWORN BY ATTORNEY.)

CHAIRMAN: Do any of the board members have any questions for Mr. Himes?

(NO RESPONSE)

CHAIRMAN: Anyone in the audience have a question for Mr. Himes?

(NO RESPONSE)

CHAIRMAN: If not I will entertain a motion and remind you to be sure that you include all of the conditions and the special requirements in your motion, please.

Mr. Jean.

MR. JEAN: I'd like to make a motion that we
approve this Conditional Use Permit and to eliminate
the sidewalk requirement and to allow two 9 by 18
parking spaces and a driveway to be constructed of
gravel. This motion is based on the Staff Report,
site visit, with the zoning ordinance requirements 1
through 8 and one suggested condition.

Three Findings of Fact:
1. This is a R-1A Single-Family Residential
zone where Class 2 Manufactured Homes are allowed.
2. It should be compatible with the
neighborhood as there are other manufactured homes in
the neighborhood.
3. The single-family residence should have no
traffic impact on Skinner Road.

CHAIRMAN: We have a motion. Do I have a
second?
MR. ANDREW HOWARD: Second.
CHAIRMAN: Second by Mr. Howard. Any
questions in the audience regarding the motion?
(NO RESPONSE)
CHAIRMAN: Any questions from the Board
members regarding the motion?
MS. THOMPSON: I have a question. On your
motion, I didn't hear where you said they were okay to
eliminate the sidewalk and you referenced --
MR. HOWARD: He included those in the very beginning.

MS. THOMPSON: I'm okay.

CHAIRMAN: Hearing no other questions all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That permit is granted.

ITEM 4

2992 Taylor Road West, zoned R-1A Single-Family Residential
Consider a request for a Conditional Use Permit in order to operate a Hair Salon as a Home Occupation
References: Zoning Ordinance Article 8, Section 8.2D5A
Applicant: Heather and Barry Raymer, Jr.

MR. CRUM: The subject property is 0.85 acres in size. It is zoned R-1A Single Family Residential and is located at the intersection of Taylor Road West and US Highway 231. Our records indicate there have been no zoning map amendments for the subject property.

The applicant, whom resides at the property, proposes to operate a hair salon in a 225 square foot portion of the home's existing attached garage. Access to the use will be achieved through the existence gravel residential driveway and the use will utilize the existing paved parking area.

Home Occupations that have non-residents of
the homes coming to the property for business-related purposes are conditionally permitted within the residential zoning classification with specific criteria. This criteria as stated below states that customers shall be allowed at the residence but does not designate specific hours of operation. The applicant has indicated that the use will operate approximately three days a week with operating hours from 9 a.m. to 6 p.m. by appointment only. There will be only one client at a time with no other employees working. While this is stated within the application, should the proposal be approved, it is recommended that the Board of Adjustment attach agreed upon conditions in relation to the commercial traffic and hours of operation to ensure that the use will properly integrate into the area.

Adjoining properties to the north and east of the subject property are zoned A-U Urban Agriculture and A-R Rural Agriculture and appear to be utilized agriculturally. Adjoining properties to the south are zoned I-2 Heavy Industrial and appear to contain a light industrial use. Adjoining properties to the west are zoned B-4 General Business and consist of a vacant service station and single-family residential use.
Zoning Ordinance Requirements: For hair stylist or beauty shop the parking requirement is one parking space per 200 square feet of the activity. The floor plan submitted indicate that 225 square feet of the attached garage will be utilized for the use resulting in one required off-street parking space. The submitted site plan illustrates the existing paved parking area can easily support the required parking for the hair salon and the resident.

As far as landscaping, vehicular use landscaping is required where the VUA area adjoins the public right-of-way. The subject property has existing trees and landscaping along both frontages which appears to create such a screening element.

In addition, Conditionally Permitted Home Occupations have ten additional requirements as shown in your Staff Report.

All requirements have been addressed within the application; however, the OMBA may impose further conditions as necessary to ensure proper integration of the use into the area. It should also be noted that while all zoning ordinance requirements appear to have been met, local Conditional Use Permits do not constitute as approval for any state licensing and/or permits that may pertain to the proposed activity.
Should the proposal be approved, all such items that are required by the State of Kentucky shall be obtained prior to occupancy of the proposed use.

There are two Suggested Conditions:

1. Limiting the number of customers/clients that may come to the site at one time, as well as the days and hours of operation that customers or clients may come to the subject property; and,

2. Obtain all necessary building, electrical, and HVAC permits, inspections and certificates of occupancy and compliance, as well as any permits or licenses that are required by the State of Kentucky.

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

CHAIRMAN:  Now, you all come to the podium, please.

MS. KNIGHT: Would you both state your name for the record.

MRS. RAYMER: Barry and Heather Raymer.

CHAIRMAN: One question. Do you understand the suggested condition number 1?

MRS. RAYMER: The hours?

CHAIRMAN: Which relates to the hours of operation and so forth. Do you understand that
condition?

MRS. RAYER: Yes.

CHAIRMAN: And you're prepared to meet that condition?

MRS. RAYER: To work from 8 to 6 or 9 to 6?

MR. JEAN: Nine to six.

MS. KNIGHT: Three days a week.

MRS. RAYER: Yes.

CHAIRMAN: You're fine with that?

MRS. RAYER: Yes.

CHAIRMAN: Anyone in the audience have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: Board members, any of you have questions?

MR. JEAN: What three days of the week do you plan on operating?

MRS. RAYER: My three days they change, just because he's a fireman. So when he works the 24 hours, I don't work. I'm doing this at home to make it a little bit easier on myself with the kids being in virtual school. It changes. So every third day I'm off.

MR. GLENN: So you're operating three days, but they could vary each week. Is that what you're
saying?

MRS. RAYMER: Yes.

MR. GLENN: So any time Monday through Sunday?

MRS. RAYMER: No, not Sunday or Saturday. I don't work weekends, and usually I'm off on Mondays. So it's be more Tuesday through Friday.

MR. GLENN: Okay. Essentially Tuesday through Friday?

MRS. RAYMER: Yes.

MR. GLENN: And 9 to 6, no more than three days a week?

MRS. RAYMER: Yes.

MR. GLENN: You would have one client there working on them and maybe one client that could be pulling up and waiting to come in. Is that the way I'm understanding that; a maximum of two at any one time?

MRS. RAYMER: Yes.

MR. GLENN: That's all I have.

CHAIRMAN: Any other questions?

(NO RESPONSE)

CHAIRMAN: Did we have a motion?

MR. HOWARD: No.

CHAIRMAN: Then I'll entertain a motion.

MR. JEAN: I'd like to make a motion that we

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approve this Conditional Use Permit based on the Staff Report, the site visit and the testimony we heard here this evening, with the ten ordinance requirements or zoning ordinance requirement. Two special conditions: Hours operation will be from 9 a.m. until 6 p.m. with one client at a time three days a week. Obtain all necessary building, electric and HVAC permits, inspections and certification of occupancy and compliance, as well as permits or licenses that are required by the State of Kentucky. This is with three findings of fact.

This property is zoned R-1A Single-Family Residential where clients come into the home are allowed by a Conditional Use Permit. There will be a minimal impact on traffic due to the number of vehicles accessing the property daily. This use will not create a nuisance and will be compatible with the neighborhood.

CHAIRMAN: Do we have a second?

MR. ANDREW HOWARD: Second.

CHAIRMAN: Second by Mr. Howard. Any questions about the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: This permit is granted.

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VARIANCE

ITEM 5
4615 Tanglewood Park Cove, zoned R-1C Single-Family Residential
Consider a request for a Variance in order to reduce the rear street setback along Millers Mill Road from 30 feet from the rear property line to 25 feet 7b inches from the rear property line.
Reference: Zoning Ordinance Article 8, Section 8.5.7(C)
Applicant: Sweetwater Pools and Outdoor Living; Doug Sandifer

MR. CRUM: As Staff is recommending denial, I will be reading the Staff Report verbatim.

Special Circumstances? Are there special circumstances that do not generally apply to land in the general vicinity, or in the same zone? No.

The subject property is a 0.23 acre lot that is zoned R-1C Single-Family Residential that has frontage on both Tanglewood Park Cove and Millers Mill Road.

The applicant, Sweetwater Pools and Outdoor Living, was contracted to construct a 16 foot by 34 foot pool in the rear yard of the subject property. Because the rear portion of the property adjoins Millers Mill Road, a major collector roadway, the property is required to meet a 30 foot setback from
the rear property line rather than the standard 20 foot rear setback. The applicant began preliminary construction activity including installation of the pool's liner without checking to verify the property's setbacks. When the applicant applied for building permits, the inspection revealed that a portion of the pool encroached into the rear platted setback. The applicant has requested a 4 foot 5 inches variance in order to reduce the rear setback from 30 feet from the rear property line along Millers Mill Road to 25 feet 7 inches from the rear property line along Millers Mill Road in order to construct the pool as proposed. Based on Staff research, it appears that the subject property would become the sole property in the Tanglewood or Millers Mill neighborhoods with a permitted structure located within this street yard setback area.

Granting the variance to reduce the rear yard street setback from 30 feet to 25 feet 7 inches will not adversely affect the public safety or cause a public nuisance because the pool's location meets the required side setbacks from the adjacent residential properties and does not encroach on the public utility easement running along the rear portion of the subject property. It will alter the essential character of
the general vicinity because no other structures in
the general vicinity have been permitted within this
platted setback, and it will create an unreasonable
circumvention of the requirements of the zoning
ordinance because there is no hardship unique to the
property.

Hardship? Would strict application of the
regulations deprive the applicant of the reasonable
use of the land, or create an unnecessary hardship on
the applicant? No.

The applicant has enough room on the subject
property to construct the pool at its current size
while meeting all setback requirements. However,
relocating the pool on a location that meets setbacks
would require the applicant to redo the work that has
already been completed.

Applicant's Actions? Are the circumstances
from which relief is sought a result of the
applicant's actions taken after adoption of the zoning
regulations? Yes.

If Yes: Willful Actions? Did the applicant
take willful actions in violation of the zoning
regulation? If so, the Board shall Deny the variance.
The applicant's actions were taken after the
adoption of the zoning regulations, but were a result
of an error, not a willful violation of the ordinance.

FINDINGS: Granting This Variance:

This Variance will not adversely affect the public health, safety or welfare because the pool's location meets required side setbacks from the adjacent residential properties;

It will alter the essential character of the general vicinity because no other structures in the general vicinity have been permitted within this platted setback.

It will not cause a hazard or a nuisance to the public because the pool's location does not encroach on the public utility easement running along the rear portion of the subject property and will still be over 25 feet from Millers Mill Road.

It will allow an unreasonable circumvention of the requirements of the zoning regulations because there is no hardship unique to the subject property.

Staff would recommend for Denial.

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

CHAIRMAN: Is the applicant here?

You want to come to the mike?

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

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MR. HOPEWELL: Chad Hopewell.

(CHAD HOPEWELL SWORN BY ATTORNEY.)

CHAIRMAN: I assume you're with Sweetwater Pools?

MR. HOPEWELL: I am.

CHAIRMAN: I guess I have one question for you. I'm assuming you have installed a number of pools during a year, don't you?

MR. HOPEWELL: We do.

CHAIRMAN: I guess I'm a little bit concerned about how you would not be aware of this regulation and how you would --

MR. HOPEWELL: It was an error on our behalf. So we're 30 foot on one side and 25.7 on the other. So it was an error on our behalf.

MR. HOWARD: As you can see, and what he's talking about on the map is you can see that that back parking is at an angle. They just measured wrong so it was off. They've done quite a few pools here. This is the first error that we have seen from them. This isn't like a habitual type of thing.

MR. HOPEWELL: No, and it's going to be the last one.

CHAIRMAN: We understand. I just wanted to know.
MR. HOWARD: Just for the Board's information and your all's too, the Staff, on something like this where you've got the room to do it, we're never going to recommend approval of a Variance after the fact.

CHAIRMAN: Sure.

MR. HOWARD: In this instance, they didn't do it viciously. It just happened. It was an error. It's still going to be 25 feet beyond where, you know, like a normal setback would be. We don't have a whole lot of heartburn with it, but it's still one that we're just not going to recommend approval.

CHAIRMAN: I understand.

Any other board members have any questions?

(NO RESPONSE)

MR. GLENN: I was just wondering if there's anybody here in the audience that has anything to say right now.

AUDIENCE: We live right behind. We were just curious.

CHAIRMAN: Thank you. Appreciate you coming.

Anyone else in the audience have any questions or concerns?

(NO RESPONSE)

CHAIRMAN: Does the Board have enough information to make a motion?
CHAIRMAN: I don't see any nodding. I will accept a motion.

MS. THOMPSON: I'll make a motion to approved based on it will not adversely affect the public health, safety or welfare because the pool's location meets the required side setbacks. Although it may alter the essential character of the general vicinity because no other structures in the general vicinity have been permitted with a setback. It will not cause a hazard or a nuisance and it may allow unreasonable circumvention of the requirements of the zoning regulations because there is no hardship unique to the subject property.

CHAIRMAN: Your motion is to recommend approval?

MRS. THOMPSON: I would recommend approval. Because it is a minimal intrusion and just based on my experience with my construction background, I don't see that being an issue.

CHAIRMAN: Very good.

Do we have a second to that motion?

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. Any question from anyone in the audience with regard to the motion?
CHAIRMAN: Any questions from the Board with regard to the motion?

(NO RESPONSE)

CHAIRMAN: If not all in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That motion passes. You may have your pool.

I need one more motion.

MR. GLENN: Motion to adjourn.

MR. ANDREW HOWARD: 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, 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 25 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 1st day of December, 2020.

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E PARRISH AVE, SUITE 205-C
OWENSBORO, KY 42303

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

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