

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 SEPTEMBER 2, 2021

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 September 2, 2021, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Judy Dixon, Chairman
9 Fred Reeves, Vice-Chairman
10 Brian Howard, Director
11 Terra Knight, Attorney
12 Bill Glenn
13 Lewis Jean
14 Tori Thompson

15 * * * * *

16 CHAIRMAN: We will call the September 2, 2021
17 meeting of the Owensboro Metropolitan Board of
18 Adjustment to order. We're going to begin our meeting
19 with a prayer and the pledge from Mr. Jean.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: First item on the agenda is to
22 consider the minutes of the August 5, 2021 meeting.
23 Members have been mailed or received a copy via
24 e-mail. I'm ready for a motion.

25 MR. GLENN: Motion to approve the minutes.

CHAIRMAN: Motion to approve by Mr. Glenn.

MS. THOMPSON: Second.

CHAIRMAN: Any question on the motion?

1 (NO RESPONSE)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.
6 First item, Mr. Howard.

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8 VARIANCES

9 ITEM 2

10 5421 Gerald Drive, zoned R-1B Single-Family
11 Residential
12 Consider a request for a Variance in order to reduce
13 the required side street yard building setback from
14 25-feet from the side property line to 10-feet from
15 the side property line.
16 References: Zoning Ordinance Article 8,
17 Section 8.5.6(c)
18 Applicant: Ryan Stanley & Shawnda Stanley

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

20 MR. CRUM: Daniel Crum.

21 (DANIEL CRUM SWORN BY ATTORNEY.)

22 MR. CRUM: The subject property is a 0.257

23 acre residential parcel that is zoned R-1B

24 Single-Family Residential and is located on Gerald

25 Drive within the Friendly Park Subdivision.

26 The original subdivision plat for this area
27 included a 50-foot wide street named Thomas Avenue
28 that would intersect with Gerald Drive adjacent to the
29 subject property. This road was never constructed;

1 however, the subject property was platted with a
2 25-foot setback from the road's proposed location.

3 The applicant intends to construct a 24 by 24
4 detached garage within this flight setback so there
5 will be access for Gerald Drive. The applicant is
6 requesting a side street building setback at this
7 location be reduced to 10-feet from the side property
8 line in order to accommodate the garage as proposed.

9 Staff finds the requested variance will not
10 adversely affect the public health, safety or welfare
11 because in the event that Thomas Avenue is
12 constructed, the structure will maintain the minimum
13 10-feet of separation from the road right-of-way.
14 Granting this variance will not alter the essential
15 character of the general vicinity because the
16 structure will be located in a rear yard, where it is
17 screened from view by a 6-foot tall solid fence. It
18 will not cause a hazard or a nuisance to the public
19 because in the event that Thomas Avenue is
20 constructed, access to the garage will be limited to
21 the existing driveway on Gerald Drive in order to
22 prevent encroachments into the right-of-way. It will
23 not allow an unreasonable circumvention of the
24 requirements of the zoning regulations because there
25 are currently no plans to develop Thomas Avenue and

1 under normal circumstances residential accessory
2 structures can be constructed as close as 3-feet to
3 side property lines.

4 Staff recommends approval subject to the
5 following Conditions:

6 1. In the event that Thomas Avenue is ever
7 constructed, the garage shall not have direct access
8 to Thomas Avenue. Access shall be limited to Gerald
9 Drive; and,

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

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

15 CHAIRMAN: Thank you.

16 Do we have anyone here representing the
17 applicant?

18 Do you want to step forward to the podium?

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

21 MR. STANLEY: Ryan Stanley.

22 (RYAN STANLEY SWORN BY ATTORNEY.)

23 CHAIRMAN: Do you have anything to add to what
24 has already been read into the record?

25 MR. STANLEY: No, ma'am. I'm just doing what

1 I needed to do.

2 CHAIRMAN: Okay. Thank you.

3 Any board members have any questions?

4 (NO RESPONSE)

5 CHAIRMAN: I'll entertain a motion.

6 Mr. Jean.

7 MR. JEAN: I'd like to make a motion we
8 approve this request based on the Staff Report, the
9 site visit, with the four findings and the two
10 conditions.

11 CHAIRMAN: We have a motion by Mr. Jean. Is
12 there a second?

13 MR. REEVES: Second.

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

16 (NO RESPONSE)

17 CHAIRMAN: All in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item.

21 ITEM 3-A

22 2629 West Parrish Avenue & 1401 Carter Road, zoned B-4
General Business

23 Consider a request for a Variance in order to reduce
24 the required building setback along Carter Road from
25 75-feet from the street centerline to 50-feet from the
street centerline, to eliminate the required 550-foot
roadway buffer along Carter Road, and to eliminate the
required 60-foot roadway buffer along West Parrish

1 Avenue.
Reference: Zoning Ordinance Article 8, Section
2 8.5.16(c) & Article 13, Section 13.6221
Applicant: Burch Byrne Riney Currey, LLC; Mary Ann
3 Leucht

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

6 MR. PEDLEY: Trey Pedley.

7 (TREY PEDLEY SWORN BY ATTORNEY.)

8 MR. PEDLEY: The subject properties are two
9 adjacent lots located at the intersection of West
10 Parrish Avenue and Carter Road and Old Henderson Road.
11 The two properties have many deficiencies; however,
12 each development predates current regulations and are
13 considered to be legal nonconforming properties.

14 The applicant intends to redevelop the lot
15 and to put a car-wash development on the property.
16 However, to increase building setback and roadway
17 buffers along West Parrish and Carter Road make it
18 very difficult for these lots to redevelop and
19 maintain compliance with the current regulations.

20 To combat this the applicant has requested to
21 reduce the building setback on Carter Road 50 feet
22 from the street centerline and to eliminate the
23 roadway buffers along Carter Road and West Parrish
24 Avenue. With the additional space the applicant will
25 be able to properly close the access point along West

1 Parrish Avenue and Carter Road greatly improving the
2 lots.

3 As a result of the requested variance the lot
4 will not adversely affect the public safety and will
5 not cause a hazard to the public because the proposed
6 development shall be required to close any direct
7 access to West Parrish Avenue and/or Carter Road and
8 shall install city sidewalk along Carter Road.

9 Additionally, granting this variance will not
10 alter the essential character of the general vicinity
11 because the sites do not currently support any roadway
12 buffers and the proposed reduction in building setback
13 is closer to compliance than those of the existing
14 site conditions. Lastly, it will not allow an
15 unreasonable circumvention of the requirements of the
16 zoning regulations because the subject property are
17 very narrow lots and strict application of the zoning
18 ordinance would render the majority of the site as
19 unusable property.

20 Staff would recommend approval with the
21 Conditions:

22 1. Obtain approval of Minor Subdivision Plat
23 consolidating the two subject properties;

24 2. Direct access to the subject properties
25 shall be limited to a single access point along Old

1 Henderson Road. No direct access to West Parrish
2 Avenue or Carter Road shall be permitted. Any
3 existing access points along either roadway shall be
4 closed with the installation of a barrier curb that is
5 approved by the City Engineer;

6 3. The applicant shall install an approved
7 city-sidewalk within the public right-of-way along
8 Carter Road in order to provide pedestrian
9 connectivity between the existing sidewalks along West
10 Parrish Avenue and the existing sidewalks located
11 along the adjoining property to the north across Old
12 Henderson Road;

13 4. Obtain approval of a Site Plan or Final
14 Development Plan; and,

15 5. Obtain all necessary building, electrical
16 and HVAC permits, inspections and certificates of
17 occupancy and compliance.

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

20 CHAIRMAN: Thank you.

21 Is there anyone here representing the
22 applicant?

23 MR. LITTLEPAGE: Good evening. I'm T. Tommy
24 Littlepage.

25 MS. KNIGHT: Mr. Littlepage, you're sworn as

1 an attorney.

2 MR. LITTLEPAGE: And I'm representing the
3 applicants today. Couple of the members of that LLC
4 are current; Sean Byrne in particular. If there are
5 any questions that I can't address, he may be able to
6 address those as well.

7 Nothing really to add to what's already been
8 provided, unless you all have questions.

9 I'll just state it's a challenging spot and
10 it's required a great deal of cooperation back and
11 forth with Staff, and I know we're appreciative of
12 what Staff has done so far.

13 CHAIRMAN: Thank you.

14 Does anyone have any questions of
15 Mr. Littlepage?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone in the audience have
18 questions?

19 (NO RESPONSE)

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

21 Mr. Glenn.

22 MR. GLENN: I'll make a motion to approve this
23 variance based and the information that we've heard
24 here tonight; also, on the four findings that are
25 listed, and also that they meet the five conditions

1 that Staff has recommended.

2 CHAIRMAN: We have a motion by Mr. Glenn. Do

3 I have a second?

4 MS. THOMPSON: Second.

5 CHAIRMAN: Second by Tori. Any question on

6 the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item.

12 ITEM 3-B

13 2629 West Parrish Avenue & 1401 Carter Road, zoned B-4

14 General Business

15 Consider a request for a Variance in order to allow a

16 driveway that exceeds 40 percent of the lot's width

17 and to reduce the required separation distance of

18 non-residential driveways from 50-feet from the

19 right-of-way line to 25.1-feet from the right-of-way

20 line.

21 References: Zoning Ordinance Article 13,

22 Section 13.22

23 Applicant: Burch Byrne Riney Curry, LLC; Mary Ann

24 Leucht

25 MR. PEDLEY: As stated in the previous Staff

Report, the two subject properties have many site

deficiencies that are going towards compliance as the

site redevelops. Such progression includes the

closure of an existing access points along Carter Road

and West Parrish Avenue, and as a result the

1 utilization of a single access point along Old
2 Henderson Road. The proposed access point of
3 32.4-feet wide and located 25.1-feet from the street
4 intersection.

5 In order to fully comply with access
6 regulations, the proposed access point will need to be
7 pushed as far east as possible with an access width of
8 roughly 25-feet, which while possible is very
9 undesirable because the applicant contends that the
10 widened access point is centrally located on the lot
11 is ideal for the operation of circular traffic flow.

12 As further stated in the Staff Report, Staff
13 believes that the requested variance will not
14 adversely affect the public safety and will not cause
15 a hazard to the public because the proposed
16 development will close the existing access points
17 along Carter Road and West Parrish Avenue which will
18 bring the sites into compliance along major roadways.

19 Additionally, granting the variance will not
20 alter the essential character of the general vicinity
21 because the proposed access point is much closer to
22 compliance than the existing access point along Carter
23 Road which will be closed.

24 Lastly, it will not allow an unreasonable
25 circumvention of the requirements of the zoning

1 regulations because the subject properties are very
2 narrow lots and strict application of the zoning
3 ordinance requirements would limit the proposed access
4 point to a maximum of 25-feet, which would make it
5 difficult to provide adequate space for circular
6 vehicular traffic throughout the site.

7 Would that Staff would approval with the same
8 five conditions as the previous Staff Report
9 recommended.

10 CHAIRMAN: Thank you.

11 Is there anyone here representing the
12 applicant.

13 MR. LITTLEPAGE: Again, T. Tommy Littlepage
14 for the applicant.

15 CHAIRMAN: Do you have anything to add to what
16 he's read into the record?

17 MR. LITTLEPAGE: No, ma'am, nothing further.

18 CHAIRMAN: Does anyone in the audience have a
19 question of the applicant?

20 (NO RESPONSE)

21 CHAIRMAN: Anyone on the board?

22 (NO RESPONSE)

23 CHAIRMAN: I'll entertain a motion.

24 MS. THOMPSON: I'll make a motion to approve
25 based on the report with the four findings and the

1 five conditions in the Staff recommendations.

2 CHAIRMAN: Thank you. We have a motion by Ms.
3 Thompson.

4 MR. JEAN: Second.

5 CHAIRMAN: Second by Mr. Jean. Any question
6 on the motion?

7 (NO RESPONSE)

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 ITEM 4

13 700 & 710 West Second Street, 711 West Third Street,
14 zoned B-2 Central Business, Downtown Transition
Overlay District
Consider a request for a Variance in order to increase
15 the maximum building setback in the Downtown
Transition overlay district along West Second Street
16 from 15-feet from the property line to 47-feet from
the property line.
17 Reference: Zoning Ordinance Article 21,
Section 21.86(a)(ii)
18 Applicant: Envision Contractors LLC; City Of
Owensboro
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20 MS. THOMPSON: Madam Chairman, I need to
21 recuse myself from this item.

22 CHAIRMAN: Note she has recused herself.

23 MR. CRUM: The subject properties consist of
24 three recently consolidated properties totaling 2.068
25 acres in size that are zoned B-4 General Business and

1 located within the Downtown Transition Overlay
2 District in the block between West Second Street and
3 West Third Street.

4 The applicant intends to redevelop the site
5 into a corporate office for Big Rivers Electric
6 Corporation consisting of a four-story office
7 structure and open landscape along West Second Street
8 road frontage and accompanying parking areas. The
9 ordinance requires the applicant to construct the
10 building at a maximum 15-feet from the front property
11 line; however, constructing the building in this
12 location will require relocating an existing sewer
13 line running along West Second Street.

14 The applicant is requesting a variance in
15 order to build a structure 47-feet from the front
16 property line in order to avoid having to relocate the
17 existing sewer and the structure.

18 Since the property is located within the
19 Downtown Transition Overlay District, the Owensboro
20 Historic Preservation Board must make a recommendation
21 prior to consideration by the Board of Adjustment.
22 This request was heard by the Historic Preservation
23 Board on August 4, 2021, at which time the request was
24 recommended for approval.

25 Staff finds that the request of the variance

1 will not adversely affect the public health, safety or
2 welfare because the proposed park-like setting in
3 front of the office building will promote the public
4 health and welfare.

5 Granting this variance will not alter the
6 essential character of the general vicinity because
7 the proposed design incorporates themes from Smothers
8 Park and other nearby structures,

9 It will not cause a hazard or a nuisance to
10 the public because by locating the building further
11 back the applicant avoids the need to relocate the
12 existing sewer line.

13 It not allow an unreasonable circumvention of
14 the requirements of the zoning regulations because the
15 proposal complies with the goals and intent of the
16 Downtown Master Plan because the overall conceptual
17 plan fits within the character sought for the Downtown
18 Transition Overlay District.

19 Staff recommends approval of this request
20 subject to the following Conditions:

21 1. Obtain approval of a site plan or final
22 development plan; and,

23 2. Obtain all necessary building, electrical
24 and HVAC permits, inspections and certificates of
25 occupancy and compliance.

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

3 CHAIRMAN: Thank you.

4 Does anyone in the audience have a question or
5 comment or anyone representing the applicant?

6 MR. RAY: Ed Ray for Envision Contractors.
7 Also with me here today is the architect, Axiom
8 Architecture, which is Ben Rowe, and then from Big
9 Rivers Electric Corporation their project manager for
10 this headquarters project Downtown Owensboro. Rob's
11 name for the record, his last name is spelled
12 T-o-e-r-n-e. I get that question after the fact.

13 Here to answer any questions you may have.
14 The only thing I would add to that is just to put into
15 concept. This sewer line that needs to be -- it
16 doesn't really go along Second Street as much as it
17 goes across the property. It's massive. I understand
18 it's somewhere between 6 and 7-foot in diameter. It's
19 the main sewer system that goes through serving the
20 west side of town, which is a very wide berth down
21 there that needs to be protected from any structure.
22 That is the only thing I had to add. We're here to
23 answer any questions you may have.

24 CHAIRMAN: Is there anyone in the audience
25 that has questions?

1 (NO RESPONSE)

2 CHAIRMAN: Anyone on the board?

3 (NO RESPONSE)

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

5 Mr. Reeves.

6 MR. REEVES: Motion to approve this
7 application based on the testimony we've heard
8 tonight, the Staff's Findings of Fact 1 through 4 and
9 their recommendation for approval with Conditions 1
10 and 2.

11 CHAIRMAN: We have a motion by Mr. Reeves.

12 MR. GLENN: Second.

13 CHAIRMAN: We have a second by Mr. Glenn. Any
14 question on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT - WITH TORI
18 THOMPSON RECUSING HERSELF - RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, Mr. Howard.

21 MR. HOWARD: Our next item is a variance
22 request at 2024 Highway 81. This item, they have
23 requested that it be postponed until the regularly
24 scheduled meeting next month. You all would need to
25 take action to postpone.

1 CHAIRMAN: We need a motion to postpone.

2 MR. REEVES: Motion to postpone Item Number 5
3 until the applicant request we hear their application.

4 MR. JEAN: Second.

5 CHAIRMAN: Second by Mr. Jean. All in favor
6 of the motion raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 We need one more motion.

10 MR. GLENN: Motion to adjourn.

11 CHAIRMAN: Motion to adjourn by Mr. Glenn.

12 MS. THOMPSON: Second.

13 CHAIRMAN: Second by Ms. Tompson. All in
14 favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: We are adjourned.

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