

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MAY 5, 2022

3 The Owensboro Metropolitan Planning Board of  
4 Adjustment met in regular session at 5:30 p.m. on  
5 Thursday, May 5, 2022, at City Hall, Commission  
6 Chambers, Owensboro, Kentucky, and the proceedings  
7 were as follows:

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

15 \* \* \* \* \*

16 CHAIRMAN: Call the May 5, 2022 Owensboro  
17 Metropolitan Board of Adjustment meeting to order. We  
18 always start our meetings with a prayer and a pledge  
19 to the flag so if you will please stand and join me.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: The first thing we need to do is  
22 consider the minutes of the April 14th meeting. I  
23 think everybody has a copy. That came to you probably  
24 in the mail. I'll entertain a motion to approve those  
25 to file them, please.

MR. GLENN: Motion to approve.

CHAIRMAN: Motion by Mr. Glenn.

MS. MASON: Second.

1 CHAIRMAN: Second by Ms. Mason. Any comments  
2 or questions about the motion?

3 (NO RESPONSE)

4 CHAIRMAN: All in favor raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: The minutes are approved.

7 -----

8 CONDITIONAL USE PERMITS

9 ITEM 2

10 8237 Iceland Spur, zoned R-1A Single-Family  
11 Residential  
12 Consider request for a Conditional Use Permit in order  
13 to install a Class II Manufactured Home in an R-1A  
14 Single-Family Residential zone.  
Reference: Zoning Ordinance, Article 8,  
Section 8.2A10B/7  
Applicant: Thomas J. Steele

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

17 MR. PEDLEY: Trey Pedley.

18 (TREY PEDLEY SWORN BY ATTORNEY.)

19 MR. PEDLEY: The subject property is zoned  
20 R-1A Single-Family Residential; as are all adjoining  
21 properties. At this time the applicant intends to  
22 replace the existing Class II Manufactured Home with a  
23 new one. The proposed home will be larger and in a  
24 different location than the existing residence,  
25 requiring the applicant to obtain a conditional use

1 permit.

2 The site plan indicates that all zoning  
3 ordinance requirements related to Class II  
4 Manufactured Homes will be met, with the exception of  
5 two requested waivers:

6 1. The applicant proposes to allow a gravel  
7 driveway and a gravel driveway apron instead of the  
8 required pavement; and,

9 2. The applicant proposes to waive the  
10 sidewalk requirement.

11 If approved, special conditions shall include:

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

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

17 CHAIRMAN: Is there anyone here representing  
18 the applicant?

19 Would you come to the stand and be sworn in?

20 MS. KNIGHT: State your name, please.

21 MR. STEELE: Thomas Steele.

22 (THOMAS STEELE SWORN BY ATTORNEY.)

23 CHAIRMAN: Any comments you would like to  
24 make, Mr. Steele?

25 MR. STEELE: No.

1 CHAIRMAN: Would you just stay there in case  
2 we have questions for you.

3 MR. STEELE: All right.

4 CHAIRMAN: Anyone in the audience have any  
5 questions for Mr. Steele?

6 (NO RESPONSE)

7 CHAIRMAN: Anybody on the board have any  
8 questions?

9 (NO RESPONSE)

10 CHAIRMAN: Seeing none I would entertain a  
11 motion.

12 Mr. Jean.

13 MR. JEAN: I would like to make motion that we  
14 approve this Conditional Use Permit with the two  
15 requested waivers. One, to allow for the two 9 by 18  
16 parking spaces and driveway to be constructed with  
17 gravel and to eliminate the sidewalk requirement.

18 This motion is based on the Staff Report, a  
19 site visit with Zoning Ordinance 2, 4, 5, 6, 7 and 8,  
20 and one special condition with four findings of fact.  
21 This is an R 1-A Single-Family Residential zone where  
22 Class II Manufactured Homes are allowed by a  
23 Conditional Use Permit. It should be compatible with  
24 the neighborhood as there are other manufactured homes  
25 in the neighborhood. Single-family residences should

1 have no impact on traffic on Iceland Spur Road and it  
2 is consistent with previously approved Conditional Use  
3 Permits.

4 CHAIRMAN: Do I have a second?

5 MS. THOMPSON: Second.

6 CHAIRMAN: Second by Ms. Thompson. Any  
7 questions on the motion?

8 (NO RESPONSE)

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: The motion carries.

13 -----

14 VARIANCES

15 ITEM 3

16 2015 Sheridan Place, zoned R-1A Single-Family  
17 Residential  
18 Consider request for a Variance in order to reduce the  
19 required side yard building setback in an R-1A  
20 Single-Family Residential zone from 10-feet from the  
21 side property line to 5-feet from the side property  
22 line.

23 References: Zoning Ordinance, Article 8,  
24 Section 8.5.5(d)  
25 Applicant: Kenneth Greg Cheatham & Callie Barnett  
Cheatham

MR. PEDLEY: This is a recommendation for  
denial so as a common practice the entire Staff Report  
will be read into the record.

A. Special Circumstances? Are there special

1 circumstances that do not generally apply to the land  
2 in the general vicinity, or in the same zone? No.

3 The subject property is 118-feet wide, 98-feet  
4 deep, and is zoned R-1A Single-Family Residential.  
5 Located in the center of Sheridan Place, the property  
6 consists of an existing single-family residence and in  
7 surrounded by other existing homes within this largely  
8 developed neighborhood.

9 Per PVA records, the existing home is 52-feet  
10 wide and includes one-car garage located on the north  
11 side of the home. The submitted site plan and PVA  
12 records indicate that the garage has previously been  
13 converted into a bonus room utilized for laundry and  
14 other activities. Because of this conversion, the  
15 applicant is requesting a variance to construct an  
16 attached garage that will be 27-feet wide and 32-feet  
17 deep; encroaching into the required side yard building  
18 setback, reducing the setback from 10-feet to 5-feet  
19 from the side property line.

20 The applicant contends that the proposed  
21 addition will not adversely affect the public safety  
22 or cause a nuisance because the structure will remain  
23 approximately 25-feet from the neighboring home to the  
24 north; far larger than the 10-foot separation distance  
25 between residences as required by the Kentucky

1 Residential Building Codes. The applicant has also  
2 stated that by maintaining 5-feet from the side  
3 property line, the garage can be constructed without  
4 adversely affecting the neighbor's property, including  
5 the existing fence. The applicant also contents that  
6 the proposal is not out of character with the general  
7 vicinity because most other properties along Sheridan  
8 Place also have garages and/or carports.

9           However, it should be noted that when  
10 reviewing properties within this block of Sheridan  
11 Place, Old Cabin Road (which is the adjoining street  
12 to the west), Mayfair Avenue (which is the adjoining  
13 street to the east), the vast majority of homes appear  
14 to comply with the required 10-foot side yard building  
15 setback. The lone exception is located at the  
16 terminus of Sheridan Place, which previously received  
17 a variance to reduce the side yard building setback to  
18 5-feet from the side property line. This  
19 encroachment, although in close proximity to the  
20 subject property, is not believed to be a comparable  
21 situation because the proposed encroachment adjoins a  
22 neighboring side yard; whereas the previously approved  
23 variance adjoins the rear yard of a residence that  
24 fronts along a different street.

25           In regards to the applicant's statement that

1 many other properties on Sheridan Place have garages  
2 and/or carports, it should be mentioned that several  
3 of those properties have detached structures.  
4 Detached garages, when located to the rear of the  
5 home, can be located as close as 3-feet to side and  
6 rear property lines provided that they are outside of  
7 all easements and at least 6-feet from the home. With  
8 that in mind, there appears to be enough property  
9 available behind the home to construct a detached  
10 garage as others have done in the past; although, the  
11 floor-plan may need to be modified in order for it to  
12 fit.

13 The requested variance will not adversely  
14 affect the public safety and will not cause a nuisance  
15 to the public because the home will maintain the  
16 required 10-foot separation distance from the  
17 neighboring residences as required by the Kentucky  
18 Residential Building Code, and will maintain enough  
19 space to avoid encroaching into the neighboring  
20 property throughout construction and maintenance of  
21 the proposed structure. Granting this variance will  
22 alter the essential character of the general vicinity  
23 and will cause an unreasonable circumvention of the  
24 requirements of the zoning regulations because nearly  
25 all other dwelling units in the immediate vicinity



1 appear to comply with the required 10-foot side yard  
2 building setback and, when needed, have constructed  
3 detached structures to comply with the requirements of  
4 the zoning regulations.

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

9 If the application is denied, the applicant  
10 could construct a detached garage to the rear of the  
11 home, or could construct a smaller attached garage.

12 C. Applicant's Actions? Are the  
13 circumstances from which relief is sought a result of  
14 the applicant's actions taken after adoption of the  
15 zoning regulations? No.

16 If Yes: Willful Actions? Did the applicant  
17 take Willful Actions in violation of the zoning  
18 regulation? If so, the Board Shall Deny the variance.

19 FINDINGS: Granting this Variance:

20 1. Will Not adversely affect the public  
21 health, safety or welfare because the home will  
22 maintain the required 10-foot separation distance from  
23 the neighboring residences as required by the Kentucky  
24 Residential Building Code;

25 2. Will alter the essential character of the

1 general vicinity because it appears that nearly all  
2 homes within the immediate area comply with the  
3 required 10-foot side yard building setback;

4 3. Will not cause a hazard or a nuisance to  
5 the public because, with 5-feet between the structure  
6 and the adjoining property line, there should be  
7 enough room to construct and maintain the proposed  
8 structure without encroaching onto the adjoining  
9 property to the north; and,

10 4. Will allow an unreasonable circumvention  
11 of the requirements of the zoning regulations because  
12 there appears to be room to the rear of the home to  
13 construct a detached garage of similar square footage  
14 that complies with the requirements of the zoning  
15 regulations.

16 STAFF RECOMMENDATION: Denial.

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

19 CHAIRMAN: Thank you.

20 Is anyone here representing the applicant?

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

23 MS. CHEATHAM: Callie Barnett Cheatham.

24 (CALLIE CHEATHAM SWORN BY ATTORNEY.)

25 CHAIRMAN: Be happy to hear from you if you

1 would like to make a comment.

2 MS. CHEATHAM: Well, I would just like for you  
3 to consider an attached garage. We feel it would make  
4 our home more neatly. I'm a nervous wreck up here.

5 We just prefer to have an attached garage, and  
6 we would greatly appreciate you considering it.

7 CHAIRMAN: Thank you very much. You want to  
8 remain in case anybody has any questions for you just  
9 for a moment, please.

10 Do any of the board members have any questions  
11 for her?

12 (NO RESPONSE)

13 CHAIRMAN: Have we heard from any of the  
14 neighbors about this, Mr. Howard?

15 MR. HOWARD: I don't believe we have had any  
16 phone calls from anyone on this.

17 MRS. CHEATHAM: I did ask Kristy Aull, that is  
18 on the side, if she would mind us doing that and she  
19 said that she didn't have a problem with it at all, as  
20 long as we did not interfere with her fence.

21 MR. GLENN: Is that your neighbor that's north  
22 of you?

23 MRS. CHEATHAM: Yes.

24 MR. GLENN: Okay.

25 CHAIRMAN: Any other questions or concerns?

1           MR. JEAN: Is there a reason that you prefer  
2 not to put it behind the house?

3           MRS. CHEATHAM: Well, we are planning on this  
4 being our retirement home. So we think that for  
5 safety issues later on going in and out of the garage  
6 into the home would be safer and we just think that  
7 the structure would be nicer. Most of the houses have  
8 an attached garage. We just think it would look nice  
9 that way.

10          MR. JEAN: Thank you.

11          MS. MASON: As far as the size of it, if you  
12 did it smaller, I didn't pay attention to think of how  
13 wide a car is. Are you wanting to be able to do two  
14 cars in there?

15          MRS. CHEATHAM: We would like to and to have  
16 storage. We both at the time, right now we both have  
17 two pickup trucks. So we do have larger vehicles.

18          MS. MASON: So that size, the 27 by 34, you  
19 would have room for two cars and storage, two trucks  
20 and storage?

21          MRS. CHEATHAM: Yes. Just a little bit of  
22 storage.

23          MS. MASON: If you cut it back 5 feet, would  
24 --

25          MRS. CHEATHAM: That would make it tight to go

1 in.

2 MS. MASON: It would need to be, am I correct,  
3 5-feet less in order to be approved?

4 MR. HOWARD: Right. In order to fit and not  
5 meet a variance 22 would be the number.

6 The question about going to the rear. You  
7 know, when they were talking to Trey and the Staff and  
8 we were looking at it, this house is pretty much  
9 perfectly centered on that lot. If you try to put  
10 something to the rear, then you're going to get into  
11 either rear property line setback issues or things  
12 like that because that size of garage there's not a  
13 lot of room in the back, either based on how the home  
14 is situated. We were trying to brainstorm internally  
15 about how it could work as well. Going to the rear  
16 doesn't seem to make that much sense. To the side  
17 would make more sense from a logistic standpoint.  
18 You've already got a driveway there.

19 CHAIRMAN: Where she's proposing to put, would  
20 there be any kind of easements that would cause an  
21 issue down the road?

22 MRS. CHEATHAM: You mean for the back of the  
23 home, to get to the back of the home?

24 CHAIRMAN: No. I'm talking about any public  
25 easements whether it's OMU or RWRA, any public

1 easement that might require. Because if it goes in  
2 there, they can come back and make you tear it down.

3 MRS. CHEATHAM: Right.

4 MR. HOWARD: Trey, do we have any kind of plat  
5 for that?

6 MR. PEDLEY: The plat was actually in the  
7 packet.

8 MRS. CHEATHAM: You would still have access on  
9 the other side. There's a little out building that  
10 we're going to tear down. So you have access to go  
11 around that way if you needed to or if someone needed  
12 to.

13 MS. MASON: Will the outbuilding -- is it in  
14 this drawing? It's a gazebo.

15 MRS. CHEATHAM: Yes.

16 MS. MASON: The gazebo is being removed?

17 MRS. CHEATHAM: Yes.

18 MR. HOWARD: In looking at this plat it's old,  
19 but it doesn't really seem to indicate that there  
20 would be any type of easement there. Of course, that  
21 would be at the time when they would submit a building  
22 permit that would certainly be doubled checked as  
23 well. Doesn't appear to be any type of side yard  
24 public utilities there.

25 CHAIRMAN: Any other board members have any

1 questions or concerns?

2 MS. MASON: I'm talking to Brian.

3 So you all are thinking that that's the best  
4 place to put it, but at the same time it's saying in  
5 here that it shouldn't be. I'm confused.

6 MR. HOWARD: I think the side yard is the best  
7 location for the garage.

8 MS. MASON: Where they're wanting to put it?

9 MR. HOWARD: It doesn't seem to make sense to  
10 put it to the rear. However, as Staff, as Trey  
11 mentioned in his research, and you can see across the  
12 street there is a detached garage that's closer to the  
13 property line than 10-feet, but that's a detached  
14 structure. As Staff, when there's no precedence in  
15 the area to, you know, to lean on, we can't recommend  
16 approval of a variance. But it's up to you all as a  
17 Board to make the determination, is this acceptable in  
18 this area. To the side seems to make sense to us as a  
19 Staff. Do you think it should be 22-feet from the  
20 property line or are you okay with it going closer to  
21 the side property line and receiving a variance of  
22 5-feet or, I guess, in theory they could go anywhere  
23 from, you know -- at this meeting you could decide  
24 that you think 8-feet from the property line is  
25 approach and allow them 2 more feet. Anything in that

1 0 to 5 range you all could approve since we advertised  
2 it 5-feet, but it's up to you all to make that  
3 determination. We as Staff are going to rely on what  
4 is in that neighborhood, what's in this area and we  
5 didn't find any evidence of attached structures that  
6 were closer than 10-feet. Does that make sense?

7 MS. MASON: Yes.

8 CHAIRMAN: What will be the exterior be made  
9 of?

10 MRS. CHEATHAM: Brick.

11 MRS. THOMPSON: You said there's a fence on  
12 the property line in the adjoining?

13 MRS. CHEATHAM: Yes. On the side and on the  
14 back and there's a like picket fence on the other.

15 MS. MASON: The fence on the property line, is  
16 that the Hall's, Christy and Sonny's property?

17 MRS. CHEATHAM: Christy Aull.

18 MS. MASON: That fence there, their house is  
19 right next to it?

20 MRS. CHEATHAM: Yes.

21 MS. MASON: Okay. Okay.

22 MRS. CHEATHAM: I think their house is 20-foot  
23 to the fence.

24 CHAIRMAN: Any other questions or concerns?

25 (NO RESPONSE)



1           CHAIRMAN: Is anyone ready to make a motion?

2           MR. GLENN: I went by there yesterday and went  
3 by there again today and I was not, to be honest, was  
4 not in favor of doing it because I saw how that  
5 building was going to come up next to that fence and  
6 then the next-door neighbor. But then after hearing  
7 what I'm hearing tonight and have heard and you're  
8 telling me that you talked to this neighborhood next  
9 that is immediately north, Aull, and that person was  
10 fine with that. They didn't have an issue.

11           Based on that I'm going to make a motion to  
12 approve this extended 5-foot variance to be closer to  
13 the property line. I'm not sure of my reasons to be  
14 real honest. It's certainly not going to have any  
15 impact on the public health or safety naturally. I  
16 don't really think it's going alter the essential  
17 character of the neighborhood. It is going to be  
18 built out of brick, which matches the house and  
19 matches the homes that are around that area. I don't  
20 believe it's unreasonable circumvention of the zoning  
21 regulations either. I'm going to make that motion  
22 based on that and the fact that they need to make sure  
23 that they get all of the necessary permits and  
24 applications necessary.

25           MS. KNIGHT: So you're fine with the 10-feet,

1 reducing it from 10-feet to 5-feet?

2 MR. GLENN: Reducing it from 10-feet to  
3 5-feet, yes, ma'am.

4 MRS. THOMPSON: I'll second.

5 CHAIRMAN: We have a second. Any questions or  
6 concerns about the motion?

7 (NO RESPONSE)

8 CHAIRMAN: If not then all in favor raise your  
9 right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: It is approved.

12 Thank you for coming and participating in  
13 tonight and presenting your case.

14 MRS. CHEATHAM: Thank you.

15 CHAIRMAN: We need one final motion.

16 MR. GLENN: Motion to adjourn.

17 CHAIRMAN: Motion to adjourn by Mr. Glenn.

18 MS. MASON: Second.

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: We are adjourned.

23 -----

24

25

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 18  
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 1st day of June, 2022.

18

19

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

22

23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25