

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 JUNE 2, 2022

3 The Owensboro Metropolitan Planning Board of  
4 Adjustment met in regular session at 5:30 p.m. on  
5 Thursday, June 2, 2022, at City Hall, Commission  
6 Chambers, Owensboro, Kentucky, and the proceedings  
7 were as follows:

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

15 \* \* \* \* \*

16 CHAIRMAN: Call the meeting of the Owensboro  
17 Metropolitan Board of Adjustment to order. We will  
18 begin our meeting with a prayer and the pledge by  
19 Mr. Glenn.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: First item is to consider the  
22 minutes of the May 5, 2022. Everyone should have a  
23 copy and have looked it over. So at this time I will  
24 entertain a motion.

25 MR. GLENN: Motion to approve.

CHAIRMAN: Motion to approve by Mr. Glenn.

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. Any questions

1 on the motion?

2 (NO RESPONSE)

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries.

7 First item, Mr. Howard.

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9 VARIANCES

10 ITEM 2

11 1500 Independence Avenue, zoned R-4DT Inner City  
12 Residential  
13 Consider a request for a Variance in order to reduce  
14 the building setback along Willis Avenue from 25-feet  
15 to 20.3-feet from the property line and to reduce the  
16 building setback along James David Court from 25-feet  
17 to 20.3-feet from the property line  
18 References: Zoning Ordinance, Article 8,  
19 Section 8.5.11(c)  
20 Applicant: Habitat for Humanity Owensboro-Daviess  
21 County

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

24 MS. EVANS: Melissa Evans.

25 (MELISSA EVANS SWORN BY ATTORNEY.)

26 MS. EVANS: The subject property is a 0.177  
27 acre tract of land located at the intersection of  
28 Willis Avenue and Independence Avenue and the  
29 intersection of James David Court and Independence  
30 Avenue.

1           Because of the small lot with road frontage  
2           along three sides, the required building setback only  
3           allow for a very small amount of buildable land on the  
4           subject property. As a result, the applicant has  
5           requested a variance to reduce the building setbacks  
6           along Willis Avenue and James David Court in order to  
7           construct a single-family residence. The proposal  
8           will shall maintain compliance with the required  
9           building setback from Independence Avenue and, as a  
10          result, there will not be a danger in creating  
11          visibility issues from the roadway intersections.

12                 Granting the variance will not adversely  
13          affect the public safety because the required setback  
14          along Independence Avenue will not be reduced.  
15          Additionally, granting the proposed variance will not  
16          cause a nuisance to the public and will not alter the  
17          essential character of the general vicinity because  
18          similar encroachments exist on neighboring lots.  
19          Lastly, granting the variance will not create an  
20          unreasonable circumvention of the requirements of the  
21          zoning regulations because the existing setbacks allow  
22          only a very small amount of buildable land on the  
23          subject property.

24                 Staff recommends approval with the following  
25          conditions:

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

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

6           CHAIRMAN: Thank you, Ms. Evans.

7           Is there anyone here representing the  
8 applicant?

9           MR. STEPHENS: Yes.

10          MS. KNIGHT: If you could go ahead and state  
11 your name, please.

12          MR. STEPHENS: Jerry Stephens.

13          (JERRY STEPHENS SWORN BY ATTORNEY.)

14          CHAIRMAN: Do you have anything to add to what  
15 has been presented?

16          MR. STEPHENS: Not at all. We'll be happy to  
17 take the applicable needs to stay within the  
18 requirements that were stated.

19          CHAIRMAN: Okay. Is there anyone in  
20 opposition to this item?

21          (NO RESPONSE)

22          CHAIRMAN: Any questions of anybody on the  
23 board?

24          (NO RESPONSE)

25          CHAIRMAN: I'll entertain a motion.

1 Mr. Jean.

2 MR. JEAN: I would like to make a motion that  
3 we approve this variance based on the Staff Report and  
4 the site visit with the one condition and the Findings  
5 of Facts 1 through 4.

6 CHAIRMAN: Do I have a second?

7 MS. THOMPSON: Second.

8 CHAIRMAN: We have a motion and a second. Any  
9 question on the motion?

10 (NO RESPONSE)

11 CHAIRMAN: All in favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Item Number 3, Mr. Howard.

15 ITEM 3

16 1740 Whispering Meadows Drive, zoned R-1A  
17 Single-Family Residential  
18 Consider a request for a Variance in order to reduce  
19 the rear yard building setback and rear project  
20 boundary buffer from 20-feet to 10-feet from the rear  
21 property line, and to reduce the side yard building  
22 setback and side project boundary buffer from 20-feet  
23 to 5-feet from the side property line.  
24 Reference: Zoning Ordinance, Article 10,  
25 Section 10.432  
Applicant: O'Bryan Development, Inc.

22 MS. EVANS: The subject property is a 0.314  
23 acre tract that is the first lot on the right when  
24 entering the Whispering Meadows subdivision. The  
25 property was initially platted in conjunction with

1 Unit 1 of Whispering Meadows; a 29-lot development  
2 that was created utilizing a Combined Final  
3 Development Plan/Preliminary Plat.

4 The zoning ordinance requires that the  
5 perimeter of the entire development include a 20-foot  
6 project boundary buffer to serve as building setback  
7 for all structures within the development providing  
8 extra separation between the Planned Residential  
9 Development and adjoining properties. When Unit 1 of  
10 Whispering Meadows was developed, it adjoined a large  
11 farm to the west and the project boundary buffer was  
12 included.

13 The builder now intends to build on the  
14 subject property, but requests to reduce the  
15 previously required project boundary buffer/building  
16 setback from 20-feet to 10-feet from the rear and  
17 5-feet on the side. The requested setback reductions  
18 can be found elsewhere in the neighborhood and the  
19 adjoining property that was a farm is now part of the  
20 Whispering Meadows subdivision.

21 Granting the variance will not adversely  
22 affect the public safety, will not cause a public  
23 nuisance, and will not be an unreasonable  
24 circumvention of the requirements of the zoning  
25 regulations because the adjoining property is now an

1 extension of Whispering Meadows subdivision, and so  
2 the project boundary buffer is not necessary.  
3 Additionally, granting the variance will not alter the  
4 essential character of the general vicinity because  
5 similar rear yard and side yard building setbacks can  
6 be found throughout Unit 1 of Whispering Meadows.

7 Staff would recommend approval of this  
8 Variance with the following conditions:

- 9 1. Obtain approval of an Amended Combined  
10 Final Development Plan/Preliminary Plat.
- 11 2. Obtain approval of an Amended Major  
12 Subdivision Final Plat; and,
- 13 3. Obtain all necessary building, electrical  
14 and HVAC permits, inspections and certificates of  
15 occupancy and compliance.

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

18 CHAIRMAN: Thank you, Ms. Evans.

19 Is the applicant here? Would you step up,  
20 please?

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

23 MR. O'BRYAN: Michael O'Bryan.

24 (MIKE O'BRYAN SWORN BY ATTORNEY.)

25 CHAIRMAN: Do you have anything to add to

1 what's been said?

2 MR. O'BRYAN: The only question I have is I  
3 was curious to why we gave to redo the whole plat when  
4 the whole unit is built except for two houses? Why do  
5 we have to revise the preliminary plat and the final  
6 plat? That's the only question I have.

7 CHAIRMAN: Mr. Howard, it sounds like a  
8 question for you.

9 MR. HOWARD: It was done as a combo major  
10 subdivision preliminary plat/final development plan.  
11 The final development plan portion of it, any time you  
12 alter setbacks, the plan has to be amended and it was  
13 for that whole section.

14 MR. O'BRYAN: According to what he's saying  
15 he's got to go back through and replat all the lots in  
16 that unit. He has to replat the whole unit is what he  
17 has to do, the 29 lots?

18 MR. HOWARD: Yes. My understanding was that  
19 you had a letter from your attorney that allowed you  
20 to sign for the changes.

21 MR. O'BRYAN: Right.

22 MR. HOWARD: That preliminary plat will need  
23 to be amended and so will that final plat. Just has  
24 been done, I think when we discussed it in the office,  
25 you know, there were a couple of examples, and I don't



1 know if it was this unit or another one. The people,  
2 within one calendar year two people wanted to put in  
3 in-ground pools and the project boundary buffer  
4 impacted them and they went through and had everything  
5 amended and changed and done. It's the same process.

6 MR. O'BRYAN: Okay. Thank you.

7 CHAIRMAN: Any other questions?

8 MR. O'BRYAN: I'm good.

9 CHAIRMAN: Anyone in the audience have a  
10 question of Mr. O'Bryan?

11 (NO RESPONSE)

12 CHAIRMAN: Any board member?

13 (NO RESPONSE)

14 CHAIRMAN: I will entertain a motion.

15 Mr. Glenn.

16 MR. GLENN: Based on the information that  
17 we've received here tonight and read and the comments,  
18 I will make a motion to approve this variance based on  
19 the Staff Report and the four Findings of Facts that  
20 are listed, and also that they meet the three  
21 conditions from the Staff recommendation.

22 CHAIRMAN: We have a motion. Do I have a  
23 second?

24 MS. THOMPSON: Second.

25 CHAIRMAN: Tori has a second. Any question on

1 the motion?

2 (NO RESPONSE)

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 ITEM 4

8 5940 Highway 2830, zoned I-1 Light Industrial  
9 Consider a request for a Variance in order to  
10 eliminate 433.7-linear feet of required 6-foot tall  
11 solid wall or fence surrounding an outdoor storage  
12 yard.

13 References: Zoning Ordinance, Article 17,  
14 Section 17.311(5a)

15 Applicant: S&S Earthscapes

16 MS. EVANS: The subject property is an 18-acre  
17 tract of land that is used as a shop of special trades  
18 which also sells rock and other excess materials that  
19 the contractor uses on job sites. The site is  
20 primarily gravel and whenever a property contains  
21 outdoor storage that is gravel, the zoning ordinance  
22 requires all storage yards to be fully enclosed by a  
23 6-foot tall wall or fence.

24 The site has been in existence for quite some  
25 time, but the screening along the railroad tracks has  
never been previously installed because those areas  
were originally shown to be paved, and also because it  
was adjoining the railroad tracks as shown as a

1 display area for heavy equipment.

2 The applicant proposes to construct all the  
3 required screening elements with the exception of the  
4 fence along the aforementioned railroad tracks, citing  
5 the existing eastern berm and railroad tracks as  
6 appropriate screening elements for the proposed site.  
7 A Staff site visit documented that the railroad sits  
8 above both Highway 2830 and the subject property and  
9 it does provide some level of screening.

10 Granting the variance will not adversely  
11 affect the public safety, will not cause a nuisance to  
12 the public, and may not create an unreasonable  
13 circumvention of the requirements of the zoning  
14 regulations because the outdoor storage yard is  
15 separated from the road by the existing railroad  
16 tracks and, as a result, sits far from the roadway and  
17 is adequately screened. Additionally, granting the  
18 variance may not alter the essential character of the  
19 general vicinity because all other required screening  
20 elements shall be installed.

21 We would like to recommend approval of this  
22 variance with two conditions:

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

1           2. Approval of an amended final development  
2 plan for the site.

3           We would like to enter the Staff Report into  
4 the record as exhibit C.

5           CHAIRMAN: Thank you, Ms. Evans.

6           Is there anybody here representing the  
7 applicant?

8           Would you step over, please.

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

11          MR. STASER: Marvin Staser.

12          (MARVIN STASER SWORN BY ATTORNEY.)

13          CHAIRMAN: Do you have anything to add to what  
14 has been read into the record?

15          MR. STASER: No, ma'am.

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

18          (NO RESPONSE)

19          CHAIRMAN: Any board members?

20          (NO RESPONSE)

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

22          MS. THOMPSON: I make a motion to approve  
23 based on the four Findings of Fact, also that the two  
24 conditions are to be met.

25          CHAIRMAN: We have a motion. Do I have a

1 second?

2 MR. REEVES: Second.

3 CHAIRMAN: Second by Mr. Reeves. Any question  
4 on the motion?

5 (NO RESPONSE)

6 CHAIRMAN: All in favor the motion raise your  
7 right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.  
10 Anything else, Mr. Howard?

11 MR. HOWARD: No, ma'am.

12 MR. GLENN: Motion to adjourn.

13 CHAIRMAN: We have a motion to adjourn by Mr.  
14 Glenn.

15 MR. REEVES: Second.

16 CHAIRMAN: Second by Mr. Reeves. All in favor  
17 of the motion raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 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 13  
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 JULY, 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

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