

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 AUGUST 4, 2022

3 The Owensboro Metropolitan Planning Board of
4 Adjustment met in regular session at 5:30 p.m. on
5 Thursday, August 4, 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 Ruth Ann Mason
13 Lewis Jean
14 Bill Glenn
15 Andrew Howard

16 * * * * *

17 CHAIRMAN: We'll call the Owensboro
18 Metropolitan Board of Adjustment August 4, 2022
19 meeting to order.

20 First on the agenda we are going to ask
21 Mr. Jean if he will give our prayer and pledge to the
22 flag.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Item Number 1 is to consider the
25 minutes of the July 7, 2022 meeting. All members have
been mailed a copy and have received one digitally.
So I will entertain a motion at this time.

MR. GLENN: Motion to approve.

1 CHAIRMAN: Motion to approve.

2 MS. MASON: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Item Number 2, Mr. Howard.

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9 CONDITIONAL USE PERMITS

10 ITEM 2

11 2134 Highway 81, zoned B-4 General Business
12 Consider a request for a Conditional Use Permit in
13 order to operate an adult day care and health care
14 facility from the subject property
15 Reference: Zoning Ordinance, Article 8,
16 Section 8.2(B)(3)
17 Applicant: Epic Health, LLC, dba Epic of Owensboro;
18 Karen Baptist Church, Inc.

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

21 MR. PEDLEY: Trey Pedley.

22 (TREY PEDLEY SWORN BY ATTORNEY.)

23 MR. PEDLEY: The subject property is
24 approximately 1.35 acres in size, zoned B-4 General
25 Business, and contains an existing church.

26 Surrounding properties include agricultural
27 and commercial zones and uses. Additional commercial
28 and industrial zoning can be found on the adjoining

1 properties across Highway 81.

2 The applicant proposes to utilize a portion of
3 the existing building in order to operate an adult day
4 care and health care facility. The application states
5 that this use will serve 5 adults and will have 5
6 employees at maximum shift.

7 This proposed use and the existing church
8 operation combine to require 18 total parking spaces.
9 The existing parking lot appears to contain more than
10 60 spaces, easily complying with zoning ordinance
11 requirements. However, the parking lot does lack in
12 required landscaping, specifically required screening
13 elements where the vehicular use area adjoins Highway
14 81.

15 If approved, special conditions include:

16 1. A 3-foot-tall continuous element and
17 1-tree per 40-linear-feet shall be installed where the
18 vehicular use area adjoins Highway 81; and,

19 2. Obtain all necessary building,
20 electrical, and HVAC permits, inspections, and
21 certificates of occupancy and compliance, including
22 those required by the State of Kentucky Department of
23 Housing, Building, and Construction.

24 We'd like to enter the Staff Report into the
25 record as Exhibit A.

1 CHAIRMAN: Thank you, Mr. Pedley.

2 Is there anyone in the audience representing
3 this item?

4 (NO RESPONSE)

5 CHAIRMAN: Is there anyone in the audience
6 desiring to speak against this item or ask questions
7 about it?

8 (NO RESPONSE)

9 CHAIRMAN: Hearing none I'll entertain a
10 motion.

11 MR. JEAN: I would like to a motion that we
12 approve this Conditional Use Permit based on the Staff
13 Report, a site visit, with the two zoning ordinance
14 requirements, two special conditions and with the
15 three finding of fact. One, this property is zoned
16 B-4 general business where adult day care centers are
17 allowed by conditional use. The use is compatible
18 with the area as there are other church facilities in
19 the neighborhood, and with the six parking spaces, the
20 existing parking lot will easily support the parking
21 requirements for the entire development.

22 CHAIRMAN: We have a motion by Mr. Jean.

23 MS. MASON: Second.

24 CHAIRMAN: Second by Ms. Mason. Any question
25 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 Next item, Mr. Howard.

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8 VARIANCES

9 ITEM 3

10 5940 Highway 2830, zoned I-1 Light Industrial
11 Consider a request for a Variance in order to
12 eliminate all required 6-foot tall solid fencing
13 surrounding an outdoor storage yard.
14 Reference: Zoning Ordinance, Article 17,
15 Sections 17.311(5a)
16 Applicant: S&S Earthscapes, LLC; Edward D. Staser

17 MR. PEDLEY: The subject property is an
18 18-acre tract of land that is used as a shop of
19 special trades which also sells rock and other
20 materials. These items are stored within a gravel
21 outdoor storage yard, which ordinance requires to be
22 fully enclosed by a 6-foot tall solid wall or fence.

23 The applicant received a variance in June of
24 2022 to waive the requirement for fencing along the
25 Highway 2830. At this time the applicant is
requesting a variance to eliminate the fencing
requirement for all other portions of the storage
yard.

1 It should first be mentioned that, along the
2 north side of the property, this storage yard consists
3 of a series of trees with significant gaps between
4 them, which is very far from forming a solid screening
5 element. As a result, Staff believes that the
6 required fencing should be installed along this side.

7 However, on other sides of the property, this
8 site adjoins US Highway 60 West, which sits much
9 higher than the subject property, and also adjoins a
10 very heavily wooded area that is located to the rear
11 of the storage yard. As a result, the required 6-foot
12 fence would not provide any screening from the Highway
13 and is not necessary along the rear. Additionally, on
14 the south side of the property is an existing
15 unscreened gravel storage yard, very similar to the
16 proposal.

17 Due to these existing conditions, staff can
18 support the requested variance along these sides
19 stating that such a variance will not adversely affect
20 the public safety, will not cause a nuisance to the
21 public, and will not create an unreasonable
22 circumvention of the requirements of the zoning
23 regulations because the existing site conditions
24 render the required fencing ineffective in certain
25 locations. Additionally, this will not alter the

1 essential character of the general vicinity because
2 other unscreened gravel storage yards exist on
3 adjoining properties.

4 Staff recommends approval with the conditions
5 that:

6 1. The gravel outdoor storage yard shall be
7 properly screened along the north side of the storage
8 areas, consisting of a 6-foot tall solid wall or fence
9 and shall span the entire depth of the gravel storage
10 yard;

11 2. If the dense treeline is ever removed or
12 thinned in a manner that no longer creates a 6-foot
13 tall solid element, then the typically required 6-foot
14 tall solid wall or fence shall be installed to
15 properly screen the rear of the gravel outdoor storage
16 yard; and,

17 3. Obtain all necessary building, electrical
18 and HVAC permits, inspections and certificates of
19 occupancy and compliance.

20 We'd like to enter the Staff Report into the
21 record as Exhibit B.

22 CHAIRMAN: Thank you.

23 Is there anyone in the audience wishing to
24 address this item?

25 Yes, sir. Step forward, please.

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

3 MR. STASER: Marvin Staser.

4 (MARVIN STASER SWORN BY ATTORNEY.)

5 MR. STASER: I just wanted to make note -- I
6 do appreciate the first variance that you all passed
7 across the front. I appreciate them saying the other
8 two sides they would not need fence on the north tree
9 line where it's open gap there. I know that front one
10 we went away with because of the 6-foot or the
11 railroad track or continuous 6-foot tall. That track
12 does continue down the road which would not let any
13 continuous elements going down that road for the site
14 coming in. We had just actually thinned that out for
15 people to look onto our yard because we do like our
16 curb appeal and we do have a rock yard full of rock
17 that we do want the public to see. We're not trying
18 to block it. If we do need a fence down that side, I
19 would rather see if we could maybe do pines. If
20 that's something that needs to be done instead of a
21 fence with black. I'm not trying to blow it off. I
22 would like people to be able to see onto my lot
23 because we are trying to beautify our property and we
24 do take a lot of pride in our property. So that would
25 be the only one. If we do need to do it, I would like

1 it to be pines instead of 6-foot tall fence. That
2 railroad track does extend down it and then the
3 overpass is 30 to 40 feet tall. So it doesn't really
4 matter, any fence I put up you're always going to be
5 able to see onto my lot. That's the only thing I had
6 to add onto that.

7 CHAIRMAN: Thank you.

8 Does anybody have any questions of Mr. Staser?

9 (NO RESPONSE)

10 CHAIRMAN: Anyone in the audience wishing to
11 address this item?

12 (NO RESPONSE)

13 CHAIRMAN: I will entertain a motion.

14 Mr. Glenn.

15 MR. GLENN: I will make a motion to approve
16 this variance based on the Staff Report submitted here
17 tonight. Also, the four findings that are listed on
18 this form, and that they also meet the three special
19 conditions.

20 CHAIRMAN: Thank you.

21 MR. REEVES: Second.

22 CHAIRMAN: We have a second by Mr. Reeves.

23 MR. HOWARD: The applicant requested as far as
24 the -- and if this is not your intent, that's
25 perfectly fine. I just want to make sure everybody is

1 on the same page.

2 Request that instead of a 6-foot tall solid
3 wall or fence along that north boundary, that pines be
4 allowed as a screening buffer. If that's something
5 you would like to consider, that's perfectly fine. If
6 you think it needs to be a fence, that's your right as
7 well. I just wanted to make sure that everybody was
8 on the same page and understood what was expected,
9 requested and expected of them in the future.

10 MR. GLENN: The fence that he's talking about
11 I thought was optional; is that correct?

12 MR. HOWARD: No. The Staff is saying along
13 the north boundary that since there was a tree line
14 there, but it's a thin tree line, that it doesn't meet
15 the intent of a 6-foot tall element. So along that
16 north boundary that a fence -- Staff is recommending
17 that a fence be required there. The applicant is
18 saying that instead of a fence they would like to put
19 up a solid --

20 MR. GLENN: The pine fence.

21 MR. HOWARD: Install pine trees.

22 MR. GLENN: Pine trees.

23 MR. STASER: Three or four feet or whatever
24 you all would recommend.

25 MR. HOWARD: As an alternate.

1 MR. GLENN: Yes. That would be included in my
2 motion then, if they want to put pine trees up.

3 CHAIRMAN: So are you amending your motion?

4 MR. GLENN: I'm amending my motion.

5 CHAIRMAN: And are you amending your second?

6 MR. REEVES: I'm amending mine as well.

7 MR. HOWARD: Typically to replace a 6-foot
8 tall solid element, it's one tree - it's a double row
9 of staggered pines - is it 10 or 20 feet on center?

10 MR. PEDLEY: They're double row, but they're
11 20-foot on the center, but two rows makes them one
12 every 10-feet basically.

13 MR. HOWARD: Is the applicant, are you okay
14 with that?

15 MR. STASER: Yes, sir.

16 CHAIRMAN: Anybody else have a question on the
17 motion?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor of the motion raise
20 your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimous.

23 We need one more motion or is there any other
24 business, Mr. Howard?

25 MR. HOWARD: No, ma'am.

1 MS. MASON: Motion to adjourn.

2 CHAIRMAN: We have a motion to adjourn by Ms.
3 Mason.

4 MR. GLENN: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 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 12
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 August, 2022.

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

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COMMISSION EXPIRES: DECEMBER 16, 2022

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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