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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
APRIL 13, 2023

The Owensboro Metropolitan Planning Board of Adjustment met in regular session at 5:00 p.m. on Thursday, April 13, 2023, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Judy Dixon, Chairman
- Lewis Jean, Vice Chairman
- Ruth Ann Mason, Secretary
- Brian Howard, Director
- Terra Knight, Attorney
- Laurna Strehl
- Tori Thompson
- Bill Glenn
- Andrew Howard

* * * * *

CHAIRMAN: We will call to order the meeting of the Owensboro Metropolitan Board of Adjustment April 13, 2023 to order. We're going to begin with a prayer and pledge to the flag by Ms. Strehl.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item on the agenda is to consider the minutes of the March 2, 2023 meeting. All members have been delivered a copy and have had a chance to look at it. At this time I'll entertain a motion.

MR. ANDREW HOWARD: Motion to approve.

CHAIRMAN: Motion to approve by Andrew.

1 MS. MASON: Second.

2 CHAIRMAN: Second by Ms. Mason. Any question
3 on the motion?

4 (NO RESPONSE)

5 CHAIRMAN: All in favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 First item, Mr. Howard.

9 MR. HOWARD: Just for an announcement to the
10 folks in the audience. We do have two meetings
11 tonight. One is the Board of Adjustment which is
12 going on now, and then after this we have a Planning
13 Commission meeting. So this meeting we'll do the
14 Conditional Use Permits and Variances. So if anybody
15 is here for the Panning Commission, just hang tight.
16 We'll be doing that next. Don't want you to be
17 worried that your item wasn't heard as we get towards
18 the end of the agenda.

19 -----

20 CONDITIONAL USE PERMITS

21 ITEM 2

22 10510 Main Cross Street & 10460 Franklin Street, zoned
23 R-1A Single-Family Residential
24 Consider request for a Conditional Use Permit in order
25 to expand an existing church and school in an R-1A
Single-Family Residential zone.
Reference: Zoning Ordinance, Article 8,
Section 8.2(B)(4)

1 Applicant: St. Mary of the Woods Parish, Inc.

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

4 MR. PEDLEY: Trey Pedley.

5 (TREY PEDLEY SWORN BY ATTORNEY.)

6 MR. PEDLEY: The subject properties are two
7 existing lots that have long housed the St. Mary of
8 the Woods and Whitesville Trinity church and school
9 operations.

10 At this time the applicant intends to remove
11 several existing buildings on both properties, install
12 additional parking and new access points and construct
13 a new school building and a new picnic shelter and
14 barbecue pit. The proposed new school will be located
15 at 10460 Franklin Street.

16 Due to the extent of this expansion the
17 previously approved Conditional Use Permit is required
18 to be amended before the Final Development Plan can be
19 approved.

20 Most adjoining properties appear to be zoned
21 residential with the exception of properties zoned B-4
22 General Business that's located at the intersection of
23 Main Cross Street and Locust Street, and a large farm
24 zoned A-U Urban Agriculture.

25 For this use the Zoning Ordinance require 219

1 parking spaces. The submitted site plan shows 434
2 parking spaces provided.

3 In regards to landscaping, the Zoning
4 Ordinance would require all vehicular use areas
5 adjoining public rights-of-way and/or residential
6 zoning to be screened by a 3-foot tall continuous
7 element and 1-tree per 40-linear feet. In addition to
8 the VUA screening, also have to provide interior
9 landscaping islands as well as interior trees.

10 If approved Special Conditions include:

11 1. Obtain approval of an amended Final
12 Development Plan;

13 2. 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 A.

18 CHAIRMAN: Thank you, Mr. Pedley.

19 Is there anyone here representing the
20 applicant?

21 You want to come to the podium?

22 APPLICANT REP: Not unless there's a question.

23 CHAIRMAN: Is there anyone in the audience
24 that has questions or comments related to this item?

25 (NO RESPONSE)

1 CHAIRMAN: Any board members have questions
2 comments?

3 (NO RESPONSE)

4 CHAIRMAN: Hearing none I will entertain a
5 motion.

6 MS. MASON: I'll make a motion. I make a
7 motion for approve as it's a logical expansion of the
8 existing use and it's consistent with the previously
9 approved Conditional Use Permit, and it needs to be
10 meet the Zoning Ordinance requirement and Special
11 Conditions 1 and 2 as they were read earlier.

12 MS. THOMPSON: Second.

13 CHAIRMAN: Motion by Ms. Mason. Second by
14 Tori Tompson. Any question on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor of the motion raise
17 your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item.

21 ITEM 3

22 2401 & 2430 New Hartford Road, zoned B-4 General
23 Business
24 Consider request for a Conditional Use Permit in order
25 to expand an existing activity day center for children
and adults.
References: Zoning Ordinance, Article 8,
Section 8.2(B)(3)

1 Applicant: Puzzle Pieces, Inc.; HBH Investments, LLC;
2 MKC Properties, LLC

3 MR. PEDLEY: The larger of the two tracts,
4 2401 New Hartford Road, is a 4 1/2 acre tract that
5 obtained a Conditional Use Permit in September 2019 to
6 operate an activity day center for children and adults
7 with intellectual disabilities.

8 At this time, the applicant intends to expand
9 the operation to include 2430 New Hartford Road. With
10 this expansion the applicant expects the maximum
11 number of persons under care to increase from 200 to
12 220.

13 Surrounding the new site is B-4 zoning to the
14 north, south and east; meanwhile, those to the west
15 are zoned R-1C Single-Family Residential.

16 For this use the Zoning Ordinance requires 24
17 parking space between the two sites. They are going
18 to have 112 parking spaces.

19 In terms of landscaping, zoning ordinance
20 states that as 2430 New Hartford Road redevelops, the
21 site shall maintain vehicular use area screen, as well
22 as 10-foot wide landscaping buffer consisting of a
23 10-foot tall continuous element and 1-tree per
24 40-linear feet for the B-4 General Business zoning
25 adjoins residential zoning to the west.

1 If approved Special Conditions include:

2 1. The operation at both sites shall not
3 exceed 220 persons served at one time;

4 2. At 2430 New Hartford Road, direct access
5 to New Hartford Road shall be limited to a single,
6 defined access point;

7 3. Obtain approval of an amended Final
8 Development Plan;

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

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

14 MS. THOMPSON: Madam Chairman, I need to
15 recuse myself, please.

16 CHAIRMAN: Okay.

17 Is there anyone here representing the
18 applicant?

19 MR. RAY: Good evening. Ed Ray here on behalf
20 of the owner. I'm a co-applicant of the property.

21 MS. KNIGHT: Mr. Ray, you're sworn as an
22 attorney.

23 MR. RAY: Thank you.

24 I don't really have anything to present, other
25 than owner of the property and landlord we support,

1 and this is the owner. I represent the owners of both
2 pieces of property. We support what Puzzle Pieces is
3 trying to do and their expansion and their use of the
4 property. Subject to any questions.

5 CHAIRMAN: Does anyone in the audience have
6 any questions of Mr. Ray or comments?

7 (NO RESPONSE)

8 CHAIRMAN: Anyone on the board have questions
9 or comments?

10 (NO RESPONSE)

11 CHAIRMAN: If not I will entertain a motion.

12 MS. STREHL: I'll make a motion to approve
13 based on this seems like a natural growth of this
14 building and this facility and it will have small
15 impact on the people around it and based on the
16 special conditions. As long as special conditions are
17 met, I vote to approve.

18 CHAIRMAN: Thank you, Ms. Strehl.

19 Do we have a second?

20 MR. GLENN: Second.

21 CHAIRMAN: Second by Mr. Glenn. Any question
22 on the motion?

23 (NO RESPONSE)

24 CHAIRMAN: All in favor of the motion raise
25 your right hand.

1 (ALL BOARD MEMBERS PRESENT - WITH TORI
2 THOMPSON RECUSING HERSELF - RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item.

5 RELATED ITEM

6 ITEM 3A

7 2430 New Hartford Road, zoned B-4 General Business
8 Consider a request for a Variance in order to
9 eliminate the required 3-foot tall continuous element
10 and 1-tree per 40-linear feet where the vehicular use
11 area adjoins public right-of-way.
Reference: Zoning Ordinance, Article 17,
Section 17.3121(b)
Applicant: Puzzle Pieces, Inc.; HBH Investments, LLC;
MKC Properties, LLC

12 MR. PEDLEY: As stated within the Conditional
13 Use Permit, as this property redevelops, it is
14 expected to install all necessary vehicular use area
15 screening elements.

16 However, as submitted with the application,
17 the applicant has obtained an email from OMU stating
18 that OMU will not allow anything planted under or near
19 their high voltage power lines. As a result, the
20 applicant has requested a variance to eliminate the
21 required vehicular use area screening along both New
22 Hartford Road and along East 25th Street.

23 Eliminating the required vehicular use area
24 screening along both roads will not adversely affect
25 the public safety; it will not create an unreasonable

1 circumvention of the requirements of the zoning
2 regulations because the proposal will protect the
3 existing utilities in the vicinity; and will not cause
4 a public nuisance; and will not alter the essential
5 character of the general vicinity because the site has
6 not historically implemented the required screening
7 elements and because defining a single access point
8 along New Hartford Road will be progression towards
9 compliance with current regulations.

10 Staff recommends approval with Conditions:

11 1. Direct access to New Hartford Road shall
12 be limited to a single, defined access point;

13 2. The existing asphalt within the public
14 right-of-way along New Hartford Road shall be removed
15 and replaced with properly sewn grass;

16 3. Obtain approval of a Final Development
17 Plan; and,

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

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

23 CHAIRMAN: Thank you.

24 MR. RAY: Madam Chairwoman, again, I'm Ed Ray
25 on behalf of the co-applicant and owners of the

1 property. We can support this, subject to any
2 questions.

3 CHAIRMAN: Thank you.

4 Is there anyone in the audience that has a
5 question or a comment on this?

6 (NO RESPONSE)

7 CHAIRMAN: Anyone on the board?

8 (NO RESPONSE)

9 CHAIRMAN: I'll entertain a motion.
10 Mr. Glenn.

11 MR. GLENN: I will make a motion to approve
12 this Variance based on the information that has been
13 read into tonight's record; especially since OMU would
14 not let them put up any kind of screening. Also,
15 because of the four findings listed, and that they
16 meet the four conditions that are listed.

17 CHAIRMAN: Do we have a second?

18 MR. ANDREW HOWARD: Second.

19 CHAIRMAN: Second by Andrew. Any question on
20 the motion?

21 (NO RESPONSE)

22 CHAIRMAN: All in favor of the motion raise
23 your right hand.

24 (ALL BOARD MEMBERS PRESENT - WITH TORI
25 THOMPSON RECUSING HERSELF - RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 ITEM 4

3 400 East Fourth Street, zoned B-2 Central Business
4 Consider request for a Conditional Use Permit in order
5 to operate a Community Center for recovery purposes
6 within the Downtown Transition Overlay District
7 References: Zoning Ordinance, Article 21,
8 Section 21.7(B)(7)
9 Applicant: Green River Regional Mental Health
10 Retardation Board, Inc., d/b/a River Valley Behavioral
11 Health; Riverwalk Properties, LLC

12 MR. PEDLEY: The subject property is located
13 at the intersection of East Fourth Street and
14 Crittenden Street. It's zoned B-2 Central Business
15 and is located within the Downtown Overlay District.
16 The existing building was previously used as a church.
17 The applicant now intends to use the facility as a
18 Community Center for recovery purposes.

19 Per the application, the Community Center is
20 expected to serve 40 to 50 people per day; serve
21 approximately 200 upduplicated individuals per year;
22 operate from 8 a.m. to 8 p.m., seven days a week;
23 staff at least two adult Peer Support Specialists at
24 all times; and, host daily group meetings for
25 participants.

26 This property is adjoined by B-2 zoning to the
27 west across Crittenden Street, R-4DT zoning to the
28 north across East Fourth Street, and additional R-4DT
29 zoning to the east. All adjoining properties are

1 located within the Downtown Overlay District.

2 In regard to parking, there are no parking
3 requirements by ordinance for this development because
4 it is zoned B-2 and located within the Downtown
5 Overlay District. However, the submitted site plan
6 does show they have approximately 32 spaces, but the
7 site plan does not illustrate compliance with ADA
8 requirements.

9 In regards to landscaping, the vehicular use
10 area shall be screened from public right-of-way along
11 Crittenden Street and along East Fourth Street by a
12 4-foot tall street screen.

13 In addition to the VUA screening, the
14 development shall be required to maintain a 10-foot
15 wide landscaping easement consisting of a 6-foot tall
16 continuous element and 1-tree per 40-linear feet when
17 adjoining residential zoning to the east.

18 If approved Special Conditions include:

19 1. The Conditional Use Permit Site Plan shall
20 be amended to reflect compliance with the ADA parking
21 requirements. Development of the site shall comply
22 with the amended Conditional Use Permit Site Plan;

23 2. The required 1-tree per 40-linear feet
24 where the subject property adjoins residential zoning
25 to the east shall be installed; and,

1 3. 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 D.

6 CHAIRMAN: Thank you.

7 Is there anyone here representing the
8 applicant?

9 MR. LAND: Sean Land for the applicant and
10 co-applicant on this matter.

11 MS. KNIGHT: You're sworn as an attorney.

12 MR. LAND: I have nothing to add.

13 CHAIRMAN: You have nothing to add?

14 MR. LAND: Other than the applicant and
15 co-applicant, this is part of a real estate
16 transaction, sale and purchase, of the property as
17 part of that transaction prior to occupancy. We'll
18 comply with the ADA requirements on parking, as well
19 as the other zoning requirements relevant to the
20 landscaping and screening.

21 Also represent, if you have any questions,
22 Polly Reynolds from River Valley is in-house counsel,
23 and Dr. Lionel Phelps who will be oversee the
24 proposed program and site.

25 CHAIRMAN: Thank you.

1 Does anyone in the audience have any questions
2 or comments on this item?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone on the board have questions
5 or comments on this item?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none I will entertain a
8 motion.

9 MS. MASON: I will make a motion for approval
10 based on the findings it will be compatible with the
11 land use of the area as it's similar to the existing
12 use. It will be a benefit to the community. That
13 they need to meet all of the zoning ordinance
14 requirement and special conditions that were read
15 earlier.

16 CHAIRMAN: Thank you. We have a motion. Do
17 we have a second?

18 MS. THOMPSON: Second.

19 CHAIRMAN: Second by Tori. Any question on
20 the motion?

21 (NO RESPONSE)

22 CHAIRMAN: All in favor of the motion raise
23 your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 Next item.

2 -----

3 VARIANCES

4 ITEM 5

5 1135 West 9th Street, zoned B-4 General Business
6 Consider request for a Variance in order to reduce the
7 street yard building setback along Plum Street from
8 25-feet from the property line to 10-feet from the
9 property line.

Reference: Zoning Ordinance, Article 8,

Section 8.5.16(c)

Applicant: Timothy L. Collier, Sr.

9

10 MR. PEDLEY: This property is zoned B-4
11 General Business and located at the intersection of
12 West 9th Street and Plum Street. The property is only
13 45.95-feet wide. As a result, the 25-foot building
14 setback along Plum Street leaves only a sliver of
15 land, about 20-feet wide to build within. As a
16 result, the applicant has requested to reduce the
17 setback along Plum Street from 25-feet to 10-feet from
18 the property line.

19 As further detailed in the Staff Report and
20 illustrated on the site plan, reducing the building
21 setback along Plum Street will not adversely affect
22 the public safety, and will not cause a public
23 nuisance because the proposal will not cause a
24 visibility issue at the street intersection nor along
25 the entrance or exit points of the development.

1 Additionally, granting the proposed variance will not
2 alter the essential character of the general vicinity
3 because similar encroachments exist on neighboring
4 lots; and granting the variance will not create an
5 unreasonable circumvention of the requirements of the
6 zoning regulations because the lot's narrow width
7 leaves a small building envelop.

8 Staff recommends approval with Conditions:

9 1. To ensure compliance with the site
10 triangle when entering and existing the site, direct
11 access to the subject property shall be limited to the
12 rear alley as shown on the various site plan;

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

15 3. 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 E.

20 CHAIRMAN: Thank you.

21 Do we have anyone here representing the
22 applicant?

23 MR. COLLIER: Yes.

24 CHAIRMAN: Does anybody in the audience have
25 questions or comments on this application?

1 (NO RESPONSE)

2 CHAIRMAN: Do you have anything you would like
3 to add?

4 MR. COLLIER: Other than what he just said.

5 MS. KNIGHT: Sir, if you could state your name
6 for the record, please.

7 MR. COLLIER: Timothy Collier.

8 (TIMOTHY COLLIER SWORN BY ATTORNEY.)

9 MR. COLLIER: Other than to add on to what he
10 already said, it would be impossible to have a
11 successful business there without adding that extra
12 10-feet there.

13 CHAIRMAN: You're okay with everything else
14 that is in here?

15 MR. COLLIER: Yes.

16 CHAIRMAN: Anybody in the audience have a
17 question?

18 (NO RESPONSE)

19 CHAIRMAN: Anybody on the board?

20 (NO RESPONSE)

21 CHAIRMAN: Hearing none I will entertain a
22 motion.

23 Mr. Jean.

24 MR. JEAN: I would like to make a motion we
25 approve this variance based on the Staff Report, the

1 site visit, and the testimony we heard here this
2 evening, with the three conditions and the four
3 findings of fact.

4 CHAIRMAN: We have a motion. Do I have a
5 second?

6 MR. GLENN: Second.

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

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item.

14 ITEM 6

15 2400 Highway 81, zoned I-1 Light Industrial
16 Consider request for a Variance in order to eliminate
17 2,465-linear-feet of a required 6-foot tall solid wall
18 fence surrounding a grave, outdoor storage yard.

Reference: Zoning Ordinance, Article 17,
Section 17.311(5)

Applicant: Crabtree Holdings, LLC

19 MR. PEDLEY: So this is a recommendation for
20 denial and as is common practice such situations we
21 will read the entire Staff Report into the record.

22 MS. MASON: Ms. Chairman, I need to recuse
23 myself.

24 CHAIRMAN: So noted.

25 MR. PEDLEY: I will read the entire report

1 into the record.

2 A. SPECIAL CIRCUMSTANCES?

3 Are there any special circumstances that do
4 not generally apply to land in the general vicinity,
5 or in the same zone? No.

6 The subject property is an existing
7 13.550-acre tract of land; 4.5 of which has
8 historically hosted Phil's Custom Cabinets. This
9 operation, now Cabinotch, has recently shown plans to
10 expand the operation to include the entirety of the
11 13.550-acres.

12 A recent Final Development Plan was approved
13 on February 17, 2023 and included a 76,260 square foot
14 building addition, a 24,500 square foot proposed
15 building (to be leased), and a very large amount of
16 gravel outdoor storage areas (all as shown on the
17 submitted variance site plan). While the submitted
18 site plan is drawn to-scale, it does not provide
19 perspective pertaining to the size of the operation.
20 In this case, it is important to re-iterate that this
21 activity (including the gravel outdoor storage areas)
22 will encompass the entirety of the 13+ acre
23 development.

24 As required by ordinance, the aforementioned
25 approved Final Development Plan showed the entirety of

1 the gravel outdoor storage yard to be fully enclosed
2 by a 6-foot tall solid wall or fence. For this
3 development, this totals 2,645-linear-feet of
4 screening. However, at this time, the applicant
5 states that the screening elements are not necessary
6 because the owner of the subject property also owns
7 the adjoining properties to the south and west, and
8 because the applicant has obtained letters from the
9 other two neighbors that are located to the north.
10 Such letters indicate their support of the proposed
11 variance. The application also states that the
12 adjoining properties located across Highway 81 are
13 "buffered from the property by KY Highway 81."

14 Staff disagrees with the applicant's reasoning
15 and does not support the requested variance for the
16 following reasons:

17 * Highway 81 may provide a separation from the
18 adjoining properties across the highway; however, it
19 certainly will not create a screening element as the
20 storage yard will be very visible from across the
21 road.

22 * In addition to the neighbors across the
23 street, if left unscreened, the proposed storage yard
24 will be visible to all whom travel Highway 81; a
25 highly trafficked Minor Arterial roadway located

1 within the Urban Service Area.

2 * Variances to reduce or eliminate the
3 required 6-foot tall solid wall or fence have been
4 granted in the past; however, in all known cases, they
5 have been granted because existing or proposed site
6 features (such as adjoining heavily wooded areas)
7 accomplish the intent of the ordinance. Granting a
8 variance to eliminate all of the required 6-foot tall
9 solid wall or fence without other viable screening
10 elements being present will be very unprecedented and
11 may alter the development of other outdoor storage
12 areas in the future.

13 * The inclusion of a solid wall or fence will
14 not only screen the property, but will also act as a
15 barricade to ensure that the approved rock limits are
16 not expanded to encroach closer to nearby properties,
17 highways, etc... and will lessen the extent of
18 dirt/dust from blowing onto neighboring properties or
19 into the road, causing a public nuisance.

20 * The application does not indicate any site
21 features that would prevent the required screening
22 elements from being installed (topography issues,
23 burdensome easements etc...). as such, it appears
24 that there are no obstacles preventing compliance with
25 the zoning ordinance requirements.

1 Granting the variance as requested will
2 adversely affect the public welfare and will cause a
3 public nuisance because the proposal is to leave the
4 gravel storage yard unscreened, where it will be
5 visible by all neighbors and all that travel Highway
6 81, and will allow dust to blow onto adjoining
7 properties and into the road without any form of a
8 barrier to help lessen such impacts. Additionally,
9 granting the variance will also alter the essential
10 character of the general vicinity and will allow an
11 unreasonable circumvention of the requirements of the
12 zoning regulations because the proposal is
13 unprecedented. To our knowledge, no variance has ever
14 been granted to eliminate all fences and walls
15 surrounding a gravel storage yard unless appropriate
16 alternative screening elements are present or
17 installed.

18 B. HARDSHIP?

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

23 If the request is denied, the applicant can
24 install the required screening elements as shown on
25 the approved Final Development Plan.

1 C. APPLICANT'S ACTIONS?

2 Are the circumstances from which relief is
3 sought a result of the applicant's actions taken after
4 adoption of the zoning regulations? No.

5 IF YES: WILLFUL ACTIONS? Did the applicant
6 take WILLFUL actions in violation of the zoning
7 regulation? IF SO, the board SHALL DENY the variance.

8 FINDINGS: GRANTING THIS VARIANCE:

9 1. Will adversely affect the public health,
10 safety or welfare because the proposed unscreened
11 gravel storage yard will be visible to the adjoining
12 property owners across Highway 81, as well as all whom
13 travel this portion of the highway (a Minor Arterial
14 roadway within the Urban Service Area);

15 2. Will alter the essential character of the
16 general vicinity, and the character of future outdoor
17 storage areas throughout the community, as the
18 proposal to eliminate all required screening
19 surrounding gravel outdoor storage area is
20 unprecedented;

21 3. Will cause a hazard or a nuisance to the
22 public because, without a screening element, dirt and
23 dust from the 13-acre site will blow into the
24 adjoining properties and into the state highway
25 without any form of a barrier to help lessen such

1 impacts;

2 4. Will allow an unreasonable circumvention
3 of the requirements of the zoning regulations because
4 there are no site features that prevent the required
5 walls or fences from being installed, nor are there
6 any existing features that create a natural screening
7 element (such as heavily wooded areas).

8 STAFF RECOMMENDATION

9 DENIAL

10 We would like to enter the Staff Report into
11 the record as Exhibit F.

12 CHAIRMAN: Thank you.

13 Is there anyone here representing the
14 applicant?

15 Could you come to the microphone, please?

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

18 MR. CRABTREE: Phillip Crabtree.

19 (PHILLIP CRABTREE SWORN BY ATTORNEY.)

20 MR. CRABTREE: Thank you, Board and Madam
21 Chairwoman, for hearing our variance tonight.

22 We do hear that you guys have recommend that
23 it's a, no, that we do not put up 65-foot fence
24 required around the perimeter of the property.

25 What we're here tonight to propose to

1 everybody, we've been on that facility for almost 25
2 years. We own the property all to the south and west.
3 Our parents live in the house that's actually on the
4 south side.

5 This 6-foot fence would literally completely
6 encapsulate their million dollar property that's
7 there. In addition to that, the property that's
8 across Highway 81 that was mentioned, 90 percent of
9 that is agricultural, and 90 percent along the north
10 is agricultural. The only connection that we have to
11 any other property that's not is on the northeast
12 corner, that property, and that's the church. It's a
13 couple of hundred feet and they were also the neighbor
14 that signed that they would be okay with us not
15 putting a fence up.

16 As of right now this option we would have
17 would be able to pave all of the area or to put an
18 outside storage area. Again, we've been on that
19 facility for almost 25 years. We love where we are.
20 We love the way it looks. If anybody goes past the
21 county building out there, it passes our facility. We
22 have beautiful flags that are flying all the time.
23 We've got landscape out in the front of our existing
24 offices and all of that is stained. All we're doing
25 is adding an additional manufacturing facility.

1 That's the reason for our ask tonight, is to not have
2 to put up almost a half mile fence around. We feel
3 like it would be an eyesore.

4 The things that were talked about tonight,
5 adversely affect the public health and safety and
6 welfare. Again, we've been there 25 years. We've had
7 no complaints. We have a very expensive dust
8 collection system that actually captures all of our
9 dust and it's hauled off properly from there. So
10 there is no places that are going to have extra dust.
11 There are farms are all the way around us. So as far
12 as extra dust coming that that fence would stop,
13 that's no feature because we're in an agricultural
14 area.

15 It will not affect the essential character of
16 the vicinity. If you look up and down 81, there are
17 operations that don't have fences all the way around
18 them that are actually buildings as well with gravel
19 parking lots. Our facility won't be what is actually
20 stated on there as an outdoor storage area. We're not
21 in the business of renting out outdoor storage. We're
22 in the business of cabinet production and that's all
23 we're going to do in that building.

24 The reason we don't want to put up the asphalt
25 around the facility is that we've had asphalt before.

1 We had trucks, semis that come in and spin, and spin,
2 and it just tears up the asphalt. It makes no sense
3 to put asphalt where the semis are going to be, and
4 that's the only thing that's coming in and out of that
5 building will be semi trucks.

6 We also respectfully disagree that it will not
7 cause a hazard or a nuisance to the public. As I
8 said, there will be no additional dust that's coming
9 from that. It's all collected from a system that we
10 have that's an internal dust collection system.

11 That's what we want to bring to the Board
12 tonight.

13 CHAIRMAN: Thank you.

14 Is there anyone in the audience that has a
15 question of Mr. Crabtree or comments that you would
16 like to add?

17 (NO RESPONSE)

18 CHAIRMAN: Anyone on the Board have questions?

19 Ms. Strehl.

20 MS. STREHL: I want to first clarify the dust.
21 Is that not from the gravel, the extra gravel being
22 installed, is that in reference to the dust and not
23 what's inside of your facility?

24 MR. CRABTREE: We assumed it was from the
25 extra dust from our facility.

1 MS. STREHL: Can somebody clarify if that's
2 from the gravel that will be installed?

3 MR. HOWARD: Yes. From our perspective, the
4 Staff Report pertaining to the outside storage yard
5 for gravel was dust that would be generated from the
6 semi trucks or whatever driving around the gravel.
7 Not to do with your proposed new facility.

8 MR. CRABTREE: If I may, the new facility, the
9 proposal where the gravel is listed that's shown, I
10 believe it's 150 or 160 feet off of Highway 81. So we
11 already have a large green buffer that's there. You
12 can see the large green buffer before Highway 81.

13 CHAIRMAN: Thank you.

14 MS. STREHL: Are there any natural land
15 buffers there now? Any wooded area, any berms or
16 anything like that in existence now?

17 MR. CRABTREE: No. When the wind blows, it
18 comes all the way across.

19 MS. STREHL: It's pretty flat?

20 MR. CRABTREE: Yes.

21 MS. STREHL: I thought it was.

22 CHAIRMAN: Any other questions?

23 MS. STREHL: I think that's it.

24 CHAIRMAN: Any other board members have
25 questions?

1 (NO RESPONSE)

2 CHAIRMAN: Hearing none --

3 MR HOWARD: I have one.

4 CHAIRMAN: Okay. Mr. Howard.

5 MR. HOWARD: Did you consider requesting a
6 partial variance or in your mind is it all or nothing?

7 MR. CRABTREE: We would be okay with a partial
8 variance, yes.

9 MR. HOWARD: Talking about it internally from
10 a Staff perspective, you know, the biggest concern we
11 have is the areas that could be seen from 81. Now,
12 granted from what I've heard from you tonight, you
13 don't intend to use this gravel area to actually store
14 anything outside. You're just using it for vehicle
15 maneuvering; is that correct?

16 MR. CRABTREE: That's correct. Again, my
17 family lives there. We work there. We would never
18 store anything in the front. We want it to be best
19 looking as we possibly can.

20 MR. HOWARD: So generally when we hear
21 "outdoor storage," again, that's not information we
22 had prior to the meeting, but when we hear "outdoor
23 storage," we're thinking pallets and stored cabinet,
24 you know, components and whatever outside. But you're
25 saying that won't be part of it.

1 Our biggest concern though is along the 81
2 frontage. Generally, as Mr. Pedley pointed out, if
3 we've seen a variance there's been a treeline or a
4 railroad track that's elevated that blocks some of
5 that visibility, but anybody going up and down 81 is
6 going to be able to see into the site. If you come in
7 with a request to screen there and maybe along the
8 north or whatever, we would have probably recommended
9 approval of it, but with it being an all out request
10 for the entire eliminated, we couldn't.

11 So I just wanted to ask you those couple of
12 questions. I don't if that will just from the mindset
13 of what we as Staff were looking at, I don't know if
14 the Board has any other questions, but just wanted to
15 discuss that with you a little bit.

16 MS. THOMPSON: At this point could they, I
17 guess we suggest that they put it along 81 and not --

18 MR. HOWARD: I wanted to express the concerns
19 that we as Staff have and why we recommended denial.

20 You all could make a motion to approve the
21 entire elimination or any portions that you wanted or
22 the entire thing would have to be screened. It's up
23 to you all. You have that latitude.

24 The request was for elimination of the entire
25 thing. As long as you could require more than what

1 they requested without granting the full thing. Does
2 that make sense?

3 MR. CRABTREE: It does.

4 MR. ANDREW HOWARD: And then also, just a
5 question. If we elect to go that route, being that
6 you mentioned no potential eyesore from your
7 perspective, you know, along 81, is there option of
8 rather than do a 6-foot continuous fence, that you
9 could do landscaping or something for more
10 beautification; is that an option?

11 MR. HOWARD: Yes. So the ordinance would
12 require a 6-foot tall solid element; because it's an
13 outdoor storage that is required. For other instances
14 in the Zoning Ordinance where a 6-foot tall element is
15 required, it would also allow an alternative of a
16 double-row of staggered pines or something like that,
17 that would provide some screening or buffering, but
18 maybe be a softer appearance than a 6-foot tall solid
19 wall or fence. If they're saying on record that
20 they're not going to be storing anything out there,
21 you know, something like that may be appropriate as
22 well. Again, it's part of what you all can discuss.
23 Of course, feedback from the applicant as well, as far
24 as whatever you may consider. You had the latitude to
25 grant any portion from -- you can say, no, you have to

1 put up an entire thing, we're going to eliminate the
2 entire thing or anything in-between.

3 MR. CRABTREE: I would be hoping to amending
4 the recommendation or amending the request to allow us
5 to do any of those that you said, the double-row of
6 pines up on 81. I think that would be a fair option.

7 MR. GLENN: Did I just hear you say that
8 you're willing to amend your application in the fact
9 that you want to eliminate all screening exception
10 what fronts Highway 81?

11 MR. CRABTREE: Yes, sir.

12 CHAIRMAN: You're willing to use the pines?

13 MR. CRABTREE: I would prefer not to put a
14 fence because I think that inhibits the look of the
15 whole thing.

16 MR. HOWARD: What kind of trees are lining the
17 driveway that goes back to your parents, what are
18 those?

19 MR. CRABTREE: They are pines.

20 MR. HOWARD: If you put pines in the front,
21 again the Board can do whatever they want. I'm just
22 throwing out ideas.

23 I think from a Staff perspective what we would
24 say that we're okay or what we would encourage would
25 be also then along that north boundary to wrap the

1 pines around maybe to the limits of the property line
2 of the church that's there because then that would
3 also, for people coming from the north heading south
4 on 81, that would also screen that view as well. If
5 you wrap it around along the east side of the property
6 along 81 with some pines, maybe matching what you did
7 along the driveway, I think that's a reasonable
8 compromise, especially with you saying on record that
9 you're not going to -- if you told us you're going to
10 be storing large bulk materials out there, my opinion
11 would be different as well. If that's kind of the
12 route you're going and you're agreeable to that. It's
13 up to them. From a Staff perspective, I think we
14 would be okay with that compromise.

15 CHAIRMAN: And you're okay with what he's
16 suggested?

17 MR. CRABTREE: Yes, ma'am.

18 CHAIRMAN: Any board members?

19 Yes, Mr. Glenn.

20 MR. GLENN: I would like to hear you repeat or
21 say what you're willing to do to amend your
22 application.

23 MR. CRABTREE: Tonight I would like to amend
24 my application. That we are willing to put a
25 double-row of pines along the eastern side of our

1 property that adjoins Highway 81, and also goes to the
2 west where it adjoins the church facility on the north
3 side of our line of our property.

4 MR. HOWARD: I think that's reasonable.

5 CHAIRMAN: Sounds like we're ready for a
6 motion.

7 MR. HOWARD: Again, just to clarify and just
8 to get it on the record.

9 This is a gravel outdoor storage area that you
10 will not be storing any materials outside?

11 MR. CRABTREE: No, sir.

12 MR. HOWARD: It will just be used for vehicle
13 maneuvering. You won't be storing semi-truck-trailer
14 full of materials. Just trucks coming in and out of
15 this area?

16 MR. CRABTREE: That's correct.

17 CHAIRMAN: We're ready for a motion.

18 Mr. Glenn.

19 MR. GLENN: I would recommend approval of this
20 application based on the new information that the
21 applicant has presented and the changes that he's
22 willing to adjust to with the screening. Also the
23 fact that -- yes, that would be it because that would
24 satisfy, it would set a precedent and it will satisfy,
25 as far as I'm concerned, the needs.

1 MR. HOWARD: We need more than that. If I
2 could.

3 MR. GLENN: Yes.

4 MR. HOWARD: Would you verbalize the
5 double-row of staggered pines along Highway 81 and
6 then wrapping around on the north side and east?

7 MR. GLENN: Yes. Also to approve that I would
8 add that the applicant is going to add the double-row
9 of pines on the east and then the west end where the
10 church is adjoining. I believe that's the west end.

11 MR. HOWARD: North.

12 MR. GLENN: North, I'm sorry. North end.

13 MR. HOWARD: We need findings of fact. Can I
14 put those out there too?

15 MS. KNIGHT: Yes.

16 MR. HOWARD: We don't have anything prepared
17 because we weren't sure where this would go. I'm
18 going to throw out some findings and if you like them
19 you can adopt them.

20 I would say granting the variance will not
21 adversely affect the public health, safety or welfare
22 because the gravel storage yard will not be used for
23 what is traditional considered to be outdoor storage,
24 and with the double-row of staggered pines along
25 Highway 81, and the north side along the church

1 property that will provide a nice screening buffer.
2 It will not alter the essential character of the
3 general vicinity because they will provide an
4 alternate form of screening that will, you know, the
5 trees will allow for any dust that may be kicked up in
6 the parking lot. It will have a place for it to
7 potentially land. That it will match in character or
8 look similar to the trees that line the driveway that
9 are on properties that are also owned and operated by
10 the applicant. It will not cause a hazard or a
11 nuisance to the public because the screening element
12 will be in place and be able to eliminate the sight
13 view of this gravel area for motorist traveling along
14 Highway 81. It will not allow an unreasonable
15 circumvention of the requirements of the zoning
16 regulations because the ordinance does allow for a
17 double-row of staggered pines in place of a 6-foot
18 tall element in some applications. What's being
19 proposed is more of a buffer or parking lot screening
20 versus an actual outdoor storage yard.

21 CHAIRMAN: Mr. Glenn, are you happy with
22 adding those findings of fact to your motion?

23 MR. GLENN: Yes, I'm happy.

24 CHAIRMAN: Do we have a second?

25 MR. ANDREW HOWARD: Second.

1 CHAIRMAN: Any question on the motion or the
2 second?

3 (NO RESPONSE)

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

6 (ALL BOARD MEMBERS PRESENT - WITH RUTH ANN
7 MASON RECUSING HERSELF - RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item.

10 ITEM 7

11 6810 US Highway 431, zoned I-1 Light Industrial
12 Consider request for a Variance in order to eliminate
13 810-linear feet of a required 6-foot tall solid wall
14 or fence along the rear portion of a proposed outdoor
15 storage yard, to eliminate the required 1-tree per
16 40-linear feet where the outdoor storage yard adjoins
17 residential zoning, and to widen the maximum width of
18 one-way driveways from 26-feet wide to 30-feet wide.
19 Reference: Zoning Ordinance, Article 17, Section
20 17.311(5) and 17.311(5s), Article 13, Section 13.231
21 Applicant: Martin Marietta Materials, Inc.; HJ Marks
22 Co.

23 MR. PEDLEY: The subject property is an
24 existing 31-acre tract of land located near the
25 intersection of US Highway 431 and Highway 554.

 The property is currently split-zoned as the
 front 12.5-acres are zoned I-1 Light Industrial and
 the remainder is A-R Rural Agriculture.

 The applicant intends to develop a wholesale
 supply establishment which will be primarily serve as

1 a rock yard for retail sales of aggregate. Outdoor
2 storage yards, such as the prosed, are required to be
3 properly screened.

4 The applicant has requested three total
5 variances, two of which pertain to screening.

6 As you can see on the site plan, the highlight
7 portions, the one on the left is to eliminate the
8 entirety of the screening element on the rear of the
9 property, of the storage yard. As you can see on the
10 image on the screen now, eliminating the screening on
11 the rear would be not visible along Highway 431
12 because the frontage and sides of the storage yard
13 will be appropriately screened. It wouldn't be
14 visible from Highway 554 because there's existing
15 landscaping there now that would block any kind of
16 view of the back of the storage yard. You can see it
17 from behind because it's on their own property and
18 beyond that is an existing heavily wood areas. It
19 would not visible to the north because of what is
20 Panther Creek and the vegetation surrounding it.

21 The second screening element variance they
22 requested, on the very top of that site plan is
23 another highlighted portion, a very small area. That
24 area, as you can see on this aerial, is adjoining R-1A
25 zoning that's located across the street. The Zoning

1 Ordinance requires whenever outdoor storage adjoins
2 residential, there should be one-tree every 40-linear
3 feet. This area is undeveloped and it's part of that
4 agricultural farm surrounding it.

5 The third variance they're requesting is to
6 widen the one-way access point from a maximum of
7 26-feet to allow 30-feet. On the right side, you can
8 see the site plan showing their truck template
9 illustrating that they need the additional width for
10 the types of trucks and trailers that will be visiting
11 this site for their proposed use.

12 Because of all of that Staff reports granting
13 the variances to relax the required screening element
14 because existing site features ensure that the storage
15 yard is appropriately screened and because the
16 residential zoning across Highway 431 is currently
17 undeveloped.

18 Additional, Staff Report widening the one-way
19 access point because the additional width is minimal
20 and is necessary to accommodate the anticipated
21 truck/trailer traffic at the subject property.

22 With that Staff recommends approval with the
23 Condition:

24 1. Obtain approval of a Final Development
25 Plan;

1 2. The proposed access points shall be
2 reviewed and approved by KYTC prior to approval of a
3 Final Development Plan;

4 3. Obtain all necessary building, electrical
5 and HVAC permits, inspections and certificates of
6 occupancy and compliance including those required by
7 the Division of Water for work in the
8 floodplain/floodway.

9 We would like to enter the Staff Report into
10 the record as Exhibit G.

11 CHAIRMAN: Thank you.

12 Is there anyone here representing the
13 applicant?

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

16 MR. McCOY: Matt McCoy with Martin Marietta
17 Materials.

18 (MATT McCOY SWORN BY ATTORNEY.)

19 MR. McCOY: I don't have any new information
20 to provide tonight. I just wanted to be here to
21 answer questions for the Board or anyone in the
22 audience.

23 CHAIRMAN: Does anyone in the audience have
24 questions?

25 (NO RESPONSE)

1 CHAIRMAN: Comments or concerns?

2 (NO RESPONSE)

3 CHAIRMAN: Anyone on the Board?

4 (NO RESPONSE)

5 CHAIRMAN: Hearing none I'll entertain -- oh,
6 excuse me.

7 Ma'am, you need to go to the podium so we can
8 get you on record.

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

11 MR. SHELTON: Evelyn Shelton.

12 (EVELYN SHELTON SWORN BY ATTORNEY.)

13 CHAIRMAN: Your question.

14 MR. SHELTON: I was just concerned about will
15 it have any affect to the church or anything?

16 MR. McCOY: I don't believe so. It would be a
17 Monday through Friday operation, maybe a half a day on
18 Saturdays. There is a screening. The fence will be
19 between us and the church parking lot.

20 CHAIRMAN: Do you have any other questions?

21 MR. SHELTON: No.

22 CHAIRMAN: Okay. Thank you.

23 Any board member have a question?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none I'll entertain a

1 motion.

2 MR. GLENN: I would make a motion to approve
3 this application based on the information in the Staff
4 Report and what we've heard; the four findings because
5 it will not adversely affect the public health or
6 safety or alter the essential character of that
7 vicinity. It will not be a hazard or a nuisance, and
8 wouldn't allow an unreasonable circumvention of the
9 requirements of that zoning regulation. Also, that
10 they meet the three conditions listed.

11 MS. MASON: Second.

12 CHAIRMAN: Second by Ms. Mason. Any question
13 on the motion?

14 (NO RESPONSE)

15 CHAIRMAN: All in favor of the motion raise
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Any other business, Mr. Howard?

20 MR. HOWARD: No.

21 CHAIRMAN: One more motion.

22 MS. MASON: Motion to adjourn.

23 MS. THOMPSON: Second.

24 CHAIRMAN: Motion by Ruth Ann and second by
25 Tori. All in favor raise your right hand.

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(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We were adjourned.

(Meeting ends at 5:45 p.m.)

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 44
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 April, 2023.

18

19

LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
COMMISSION NO. KYNP63124
2200 EAST PARRISH AVE., SUITE 205-C
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23 COMMISSION EXPIRES: DECEMBER 16, 2026

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25