

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MAY 4, 2023

3 The Owensboro Metropolitan Planning Board of
4 Adjustment met in regular session at 5:30 p.m. on
5 Thursday, May 4, 2023, at City Hall, Commission
6 Chambers, Owensboro, Kentucky, and the proceedings
7 were as follows:

8 MEMBERS PRESENT: Judy Dixon, Chairman
9 Lewis Jean, Vice Chairman
10 Ruth Ann Mason, Secretary
11 Brian Howard, Director
12 Terra Knight, Attorney
13 Andrew Howard
14 Bill Glenn

15 * * * * *

16 CHAIRMAN: We will call the Owensboro
17 Metropolitan Board of Adjustment May 4th meeting to
18 order. At this time Mr. Lewis Jean is going to do the
19 prayer and pledge.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: At this time we'll consider the
22 minutes of the April 13, 2023 meeting. All members
23 have received a copy. At this time I'll entertain a
24 motion.

25 MR. ANDREW HOWARD: Motion to approve.

CHAIRMAN: Motion by Andrew.

MR. GLENN: Second.

CHAIRMAN: Second by Bill. 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.

7 First item on the agenda, Mr. Howard, and I'm
8 going to recuse myself from this item.

9 -----

10 CONDITIONAL USE PERMITS

11 ITEM 2

12 735 Cedar Street, zoned R-4DT Inner-City Residential
13 Consider request for a Conditional Use Permit in order
14 to place a Class II Manufactured Home in an R-4DT
15 Inner-City Residential zone.
16 Reference: Zoning Ordinance, Article 8, Section
17 8.2(A)(10B)/7
18 Applicant: Krista Hall

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 a 55-foot
24 wide and 107-feet deep lot that is located along Cedar
25 Street and zoned R-4DT Inner-City Residential.

The applicant proposes to install a 16 by 56
Class II Manufactured Home.

As you can see on the aerial image on the

1 screen right now, all adjoining properties are zoned
2 R-4DT Inner-City Residential. There are no other
3 Class II Manufactured Homes in the immediate vicinity;
4 however, there are other single-family homes of
5 similar size and shape.

6 The site plan submitted with the application
7 indicates that each of the zoning ordinance
8 requirements will be met with the exception of two
9 requested waivers, including:

10 1. Waiver of the paved driveway requirement
11 to allow gravel surfaces instead of pavement to remain
12 consistent with the area around the subject property
13 where other single-family homes appear to have
14 existing gravel driveways; and,

15 2. A waiver of the 10 by 10 deck or patio in
16 order to allow an 8 by 10 deck.

17 If approved Special Conditions include:

18 1. 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 A.

23 MR. JEAN: Thank you, Trey.

24 Is there anybody here representing the
25 applicant?

1 Would you like to speak?

2 MS HALL: No.

3 MR. JEAN: Anybody in the audience that would
4 like to speak to this permit?

5 MR. JEAN: Mr. Dixon.

6 MS. KNIGHT: If you could state your name for
7 the record, please.

8 MR. DIXON: My name is Tom Dixon. I live at
9 4146 West 7th Street.

10 (TOM DIXON SWORN BY ATTORNEY.)

11 MR. DIXON: I've lived there for almost 52
12 years. When I moved in the area was, well, it was not
13 in very good conditions. It was going down. We
14 formed a neighborhood association. That was long
15 before the City came up with theirs. We had a
16 neighborhood association. Good portion of those years
17 I've been working very hard and my neighbors and all
18 to improve the area and increase homeownership.

19 I'm asking you to deny the conditional use
20 permit for Class II Mobile Home or manufactured home
21 at 735 Cedar.

22 Back in the days during the J.R. Miller
23 administration, we successfully restricted mobile home
24 placement in our area. The City has not allowed Class
25 II mobile home within this area for over the last 40

1 years.

2 I've got some pictures to show what you I'm
3 about ready to talk about. I'd like to pass those out
4 to the board.

5 There's a little bit of a description on the
6 back of them.

7 The first one is they're building affordable
8 housing at Fifth and Locus Street right across from
9 Haley-McGinnis Funeral Home. It's an apartment
10 complex.

11 The second one is the west side of Cedar in
12 the 600 block with a bunch of infill housing.

13 The third one is infill housing across from
14 that is the Catholic Charities.

15 Then further up the street in the 700 block of
16 Cedar there's some more infill housing.

17 The sixth one is some housing, same thing on
18 Cedar Street.

19 The seventh one is the proposed lot that
20 they've wanting to put the Class II mobile home on.
21 It backs up to a new home that was built on Locust by
22 Jagoes. You can see the back of it.

23 The eighth picture is a new Jagoe house that
24 they built on Locust Street. This lot like I said
25 backs up to it.

1 The ninth one is infill housing between
2 Seventh and Ninth on Locust street.

3 Then tenth one is just a few houses there on
4 the west side. That doesn't quite back up to the lot,
5 but it's nearby.

6 The infill housing will increase homeownership
7 and also increase city and county tax bases. Now,
8 from my understanding, Class II mobile homes are taxed
9 as personal property and other property with a
10 permanent structure is taxed as real property which is
11 a big difference in the taxation of it. So all this
12 infill housing they're also raising tax base up for
13 the city and the county. Now, all of this backs up to
14 what we're doing downtown.

15 You think what we built here and gone on
16 through. Of course, one of the greatest things we
17 built was the Riverpark Center, and then we built this
18 beautiful park down through here. We've got the
19 Bluegrass Center. We've got the Civic Center and then
20 two hotels. Then right across from the Civic Center
21 they're building another hotel and also the condos in
22 them. Going up 10, 12 stories, whatever. Two parking
23 garages over there. Behind the hotel between Cedar
24 and Walnut Street there on Third Street the city is
25 going to build a large sports complex. Like I say,

1 the city street runs right straight into basically the
2 Civic Center. It's not major artery, but it is a
3 small artery coming out of it.

4 I feel the City has set precedence by not
5 allowing any type of Class II manufactured home within
6 this area for over 40 years.

7 Any questions from anyone?

8 (NO RESPONSE)

9 MR. JEAN: Thank you, Mr. Dixon.

10 Ms. Hall, would you like to speak?

11 MS. HALL: Yes.

12 MS. KNIGHT: Ma'am, could you state your full
13 name for the record.

14 MS. HALL: My name is Krista Hall.

15 (KRISTA HALL SWORN BY ATTORNEY.)

16 MR. HALL: First off, my mobile home is a nice
17 mobile home. It's a 2003. It's a lot better than any
18 single-house on the street. Half of these houses need
19 to be, they're over 50, 60, 100 years old. They need
20 to be torn down. There's several mobile homes
21 throughout the city. I've seen a lots of them and
22 mine is nicer than most.

23 As far as this gentleman's house is concerned,
24 it's a house that sitting back behind me on a
25 different street. You can't even see my trailer from

1 his house unless you're sitting in his backyard. I
2 plan on putting a fence up blocking that back, from
3 the back of his yard. I'm doing what the City asked.
4 I'll be putting concrete foundation just like any
5 other requirement for mobile homes.

6 Is there anything else?

7 MR. JEAN: Do any of the board members have a
8 question of Ms. Hall?

9 MR. GLENN: I do.

10 MR. JEAN: Mr. Glenn.

11 MR. GLENN: You're putting this up for your
12 residence; this is not rental?

13 MS. HALL: No. It's my home.

14 MR. GLENN: Okay.

15 MR. JEAN: Any other questions?

16 MR. ANDREW HOWARD: I do have one.

17 Did you say you're going to have this on
18 concrete foundation, so it will be affixed to the real
19 estate?

20 MS. HALL: Yes.

21 MR. ANDREW HOWARD: Thank you.

22 MR. JEAN: Anybody else in the audience that
23 would like to speak?

24 MS. MASON: Do you have a picture of your
25 home?

1 MS. HALL: You can see it from Google Maps. I
2 have pulled it up and it shows the home there on
3 Google Earth.

4 MR. GLENN: The potential home?

5 MS. HALL: Yes.

6 MR. JEAN: Any other commissioners have any
7 questions?

8 (NO RESPONSE)

9 MR. JEAN: Anybody in the audience have any
10 question?

11 (NO RESPONSE)

12 MR. JEAN: At this time I'll accept a motion.

13 Mr. Glenn.

14 MR. GLENN: Based on the information that I've
15 heard here this evening, I made a site visit today to
16 that property, to that area, I'm going to vote to
17 approve or make a motion to approve this permit that
18 they've applied for. I don't think it will be out of
19 line with that neighborhood. Looking at the
20 neighborhood after I drove through there I think that,
21 I think what you're going to do would actually make
22 the neighborhood look better. I'm also saying that
23 you would meet the zoning ordinance requirements
24 except for the paved driveway. What I have seen there
25 is a number of concrete aprons and then a gravel

1 drive, which is what you're wanting to do. Also,
2 waiver the 10 by 10 deck patio so that you could put
3 in an 8 by 10 deck and you meet the one special
4 condition.

5 MR. JEAN: Do you have some findings of fact?

6 MR. GLENN: Well, the findings of fact is
7 that --

8 MS. KNIGHT: You did mention it's in line with
9 the neighborhood.

10 MR. GLENN: It's more than in line with the
11 character of the neighborhood after visiting that
12 site. That site is, that whole block or two blocks is
13 really dilapidated. I think that it will make that
14 area look better and increase in value possibly. I
15 don't think that manufactured home sitting on concrete
16 foundation will be out of line with that area.

17 MR. JEAN: We have a motion. Do we have a
18 second?

19 MS. MASON: I'll second it.

20 MR. JEAN: Second by Ms. Mason. Any questions
21 on the motion?

22 (NO RESPONSE)

23 MR. JEAN: All in favor signify by raising
24 your right hand.

25 (ALL BOARD MEMBERS PRESENT - WITH JUDY DIXON)

1 RECUSING HERSELF - RESPONDED AYE.)

2 MR. JEAN: Motion carries.

3 ITEM 3

4 731 Jackson Street, zoned P-1 Professional/Service
5 Consider request for a Conditional Use Permit in order
6 to operate an institution based residential treatment
7 program from the subject property.

8 Reference: Zoning Ordinance, Article 8,
9 Section 8.2(C)(1)

10 Applicant: Friends of Sinners, Inc.; Joe Welsh

11 MR. PEDLEY: This subject property is

12 1.856-acre parcel that is zoned P-1

13 Professional/Service.

14 At this time, the applicant intends to utilize

15 the existing facility in order to operate a

16 residential treatment program for recovery from

17 substance abuse.

18 The application states that the facility will

19 house up to 40 adult males year-round. Each client

20 may live in the facility for up to one-year while

21 receiving program services.

22 Adjoining properties in the immediate vicinity

23 are primarily zoned R-4DT Inner-City Residential with

24 the exception of two properties, both zoned B-4

25 General Business.

For this use the zoning ordinance would

require 15 parking spaces. The submitted site plan

shows 16 parking spaces.

1 The zoning ordinance would also require that a
2 3-foot tall continuous element and 1-tree per
3 40-linear-feet shall be installed where the vehicular
4 use area adjoins the right-of-way and/or residential
5 zoning.

6 If approved Special Conditions include:

- 7 1. The number of clients residing at the
8 property at one time shall not exceed 40 persons;
- 9 2. Obtain approval of a Final Development
10 Plan; and,
- 11 3. Obtain all necessary building, electrical
12 and HVAC permits, inspections and certificates of
13 occupancy and compliance.

14 We would like to enter the Staff Report into
15 the record as Exhibit B.

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

18 Do you want to step to the podium, please?

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

21 MR. WELSH: Joe Welsh.

22 (JOE WELSH SWORN BY ATTORNEY.)

23 MR. JEAN: Do you have anything to add to
24 what's been said?

25 MR. WELSH: Yes. I've been the director of

1 Friends of Sinners for eight years now, since 2015.
2 We're currently right here on Clay Street between
3 Third and Fourth Street. So we're in four really old
4 houses. They're probably over 100 years old, some of
5 them. You know, we bought the old Opportunity Center
6 which used to be an old school from the Arc of
7 Owensboro in 2020, I think, two years ago or
8 something. We waited on the architect for 18 months.
9 It's been a long process.

10 Our goal really is to get out of these houses
11 because these house were originally, I mean they're
12 residential. We have 36 men living in residential
13 houses. For 15 years it's taken the tole on those
14 houses and they're just not up to par. It's a lot of
15 wear and tear and it's hard for us to do what we do.
16 The services that we do offer to our clients, the
17 space doesn't allow us to do a lot more. We're not
18 increasing the number of clients, even though we're
19 going from 2,000-square-foot houses to
20 16,000-square-feet total, two buildings. We're going
21 way up in square footage, but we're not increasing the
22 number of clients at this time. It's our goal is to
23 have a more professional establishment facility to
24 offer better service. Really, some of the houses
25 we're in, I would be embarrassed to take you all on a

1 tour to them. This is really something that I've
2 dreamed about and planned on for a long time. This --
3 I looked for a school building in Owensboro and this
4 is the only one left, think that's still there. I
5 kind of spent years praying circles around this
6 building and I went in one day and the director of Arc
7 was there. I asked her if I could look at the
8 building. She said, why. I told her why. She
9 thought somebody had told me that they were going to
10 sell it, but nobody did. I just showed up. Year or
11 two later we bought it. That's kind of the story of
12 what we're trying to do.

13 I would just add that Lighthouse Recovery is
14 one block west on Eighth. Boulware is not very far.
15 RCD is just across the street. There is similar
16 recovery centers in the immediate vicinity.

17 CHAIRMAN: Thank you.

18 Does anyone in the audience have a question of
19 Mr. Welsh?

20 (NO RESPONSE)

21 CHAIRMAN: Anybody on the board?

22 MR. ANDREW HOWARD: You all are going to be
23 moving. I guess, what's your timeline on that and
24 would you operate out of both or are you strictly
25 going to move?

1 MR. WELSH: No. Our plan is to sell these.
2 My goal is to be there by the first of the year, end
3 of the year. I have to raise a million dollars
4 between now and then. We'll see how that goes. Our
5 goal is not to stay where we are currently at. Those
6 houses are, they were kind of grandfathered in for
7 what we do with them now. I think they're good for
8 that, but I also think there may be an opportunity.
9 It's a huge lot, huge parking lot beside it. I'm not
10 sure that we're going to try to sell them to a similar
11 service or tear down. Somebody might want the land.
12 May be more valuable than the houses.

13 MR. ANDREW HOWARD: Thank you. And seeing the
14 information provided, you can hold up to 40 clients.

15 Are there any stipulations on the number that
16 they can serve on that? I just wanted to make sure
17 that if you were going to exceed that, you continue to
18 grow, that we're okay.

19 MR. HOWARD: So this application request would
20 allow them to have, you said you have 36 now?

21 MR. WELSH: Yes.

22 MR. HOWARD: It would allow them 4 more
23 potentially to have a maximum of 40. If they did
24 decide to increase the scope of their operation at
25 some point in the future, with this maximum of 40. If

1 they want to go over that, they would have to come
2 back and update their Conditional Use Permit at that
3 time.

4 MR. ANDREW HOWARD: Okay.

5 CHAIRMAN: Anybody else have a question?

6 (NO RESPONSE)

7 CHAIRMAN: I think I will entertain a motion.

8 MR. JEAN: I would like to make a motion to
9 approve this Conditional Use Permit based on Staff
10 Report, site visit, the testimony heard here this
11 evening, with the two zoning ordinance requirements
12 and the three special conditions and with three
13 findings of fact. The property is zoned P-1
14 Professional/Service where operating a residential
15 treatment program is allowed by a Conditional Use
16 Permit. There is a need in our community for these
17 type of facilities. This use will be compatible with
18 the neighborhood as there are other similar facilities
19 in the area.

20 MS. MASON: I have a second.

21 CHAIRMAN: Any question on the motion?

22 (NO RESPONSE)

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 MR. WELSH: Thank you.

3 CHAIRMAN: Good luck.

4 -----

5 VARIANCES

6 ITEM 4

7 1920 Clinton Place West, zoned R-1A Single-Family
8 Residential

9 Consider request for a Variance in order to reduce the
10 side yard building setback from 10-feet from the side
11 property line to 5-feet from the side property line.
Reference: Zoning Ordinance, Article 8,
Section 8.5.5(d)
Applicant: Tyler Johnson

12 MR. PEDLEY: So this is a recommendation for
13 denial. As is common practice, in this situation we
14 will read the entire Staff Report into the record.

15 A. Special Circumstances? Are there special
16 circumstances that do not generally apply to land in
17 the general vicinity, or in the same zone? No.

18 The subject property is 102-feet wide and
19 106-feet deep, totaling 10,812 square feet in size.
20 The existing home on the property is roughly centered
21 on the lot. The applicant intends to construct a
22 master bathroom addition to the north side of the
23 home, requiring a variance to reduce the side yard
24 building setback from 10-feet to 5-feet from the side
25 property line.

1 Prior to submittal, it was necessary for the
2 applicant to amend the private deed restrictions for
3 the subject property as they previously required a
4 10-foot side yard setback; consistent with the zoning
5 ordinance requirements. In doing so, the applicant
6 obtained signatures from the majority (24 of 47) of
7 the current property owners from the original
8 subdivision plat dated 1949 and included Clinton Place
9 West, Clinton Place East, and the west side of Robin
10 Road. Of the 24 signatures obtained, 11 were the
11 owners of properties along Clinton Place West (there
12 are 18 possible properties addressed off Clinton Place
13 West). The 11 obtained signatures along Clinton Place
14 included all four adjoining properties: 1901, 1912,
15 2000 & 2007 Clinton Place West.

16 When reviewing OMPC records for similar
17 proposals in the surrounding areas, only the following
18 were found:

19 * 1927 Sheridan Place (two blocks west of the
20 subject property), a variance was granted in November
21 2022 to reduce the side yard setback to 5-feet;

22 * 2015 Sheridan Place (also two blocks west
23 from the subject property), a variance was granted in
24 May 2022 to reduce the side yard setback to 5-feet;
25 and,

1 * 1901 Robin Road (two blocks east of the
2 subject property), a variance was granted in September
3 1987 to reduce the side yard setback to 4-foot
4 9-inches.

5 When compared to the current proposal, all
6 three aforementioned items are similar requests,
7 similar in lot size, and located in relative close
8 proximity to the subject property; however, none of
9 the three are located within the immediate vicinity.
10 No similar variances have been approved, nor are there
11 any definitive similar encroachments located along
12 Clinton Place West, at nearby homes on Clinton Place
13 East, or at nearby homes on Mayfair Avenue (the
14 adjoining street to the west).

15 Nevertheless, the applicant has submitted PVA
16 maps with PVA measuring tools to illustrate similar
17 encroachments on nine different properties within the
18 general vicinity. The OMPC Staff reviewed three of
19 these sites (2014, 2017 and 2007 Clinton Place West).
20 Upon measurements from the OMPC GIS, only one of which
21 appears to encroach into the side yard building
22 setback (2014 Clinton Place West). Staff measurements
23 show the remaining two homes to be located 10 plus
24 feet from the side property line and in compliance
25 with the required building setback. In any event, it

1 should be noted that neither the PVA measurements nor
2 the measurements from the OMPC GIS aerials are survey
3 accurate and, as such, neither should be treated as
4 definitive distances. As a result, the OMPC Staff is
5 not aware of any definitive encroachments into the
6 side yards on properties located within the immediate
7 vicinity.

8 The remaining six properties provided by the
9 applicant are located along Clinton Place East and the
10 west side of Robin Road and are not close enough to
11 the subject property to be deemed within the immediate
12 vicinity. However, the applicant included them within
13 this application because they were all properties
14 shown on the original subdivision plat dated 1949, as
15 previously mentioned.

16 It should also be stated that, by maintaining
17 5-feet from the side property line, the proposed
18 structure shall maintain at least 10-feet from any
19 existing or future structures on the neighboring
20 property, compliant with the requirements of the
21 Kentucky Residential Building Code.

22 Although the proposal does not present a
23 concern to the public safety, approval of the variance
24 does appear to create an unreasonable circumvention of
25 the requirements of the zoning regulations. The

1 proposed bathroom extension is to be located off the
2 northern wall of the master bedroom. However, review
3 of the submitted floor plan illustrates that the
4 additional could just as easily be located off the
5 western wall of the bedroom, where the bathroom will
6 encroach deeper into the rear yard and will not need a
7 variance to reduce any required building setbacks.

8 As a result, reducing the building setback as
9 proposed, may not cause a public nuisance because 11
10 of 18 property owners along Clinton Place West have
11 indirectly shown their support of the proposed
12 variance by approving the modification to the private
13 deed restrictions, and will not adversely affect the
14 public safety because the structure shall maintain at
15 least 10-feet from any existing or future structures
16 on the adjoining property, compliant with the
17 requirements of the Kentucky Residential Building
18 Code.

19 However, approval of the variance may alter
20 the essential character of the general vicinity
21 because the proposal may be the first side yard
22 encroachment in the immediate vicinity, and will
23 create an unreasonable circumvention of the
24 requirements of the zoning regulations because review
25 of the submitted floor plan illustrates that the

1 proposed master bedroom could be located along the
2 rear of the home where it will comply with all
3 required building setbacks while still being connected
4 to the master bedroom.

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 all required setbacks are enforced, the
10 applicant could construct the desired master bathroom
11 off the rear of the home, which will still be
12 connected to the master bedroom and will be located
13 within the allowed building envelope.

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

18 If Yes: Willful Actions? Did the applicant
19 take Willful actions in violation of the zoning
20 regulation? If so, the board Shall Deny the variance.

21 FINDINGS: Granting This Variance:

22 1. Will not adversely affect the public
23 health, safety or welfare because the proposed garage
24 addition will maintain at least 10-feet from any
25 existing or future structures on the adjoining

1 property, compliant with the requirements of the
2 Kentucky Residential Building Code;

3 2. May alter the essential character of the
4 general vicinity because no other known encroachments
5 exist in the immediate vicinity;

6 3. May not cause a hazard or a nuisance to
7 the public because 11 of the 18 property owners along
8 Clinton Place West have indirectly shown support of
9 the proposed side yard encroachment by approving the
10 modification to the private deed restrictions; and,

11 4. Will allow an unreasonable circumvention
12 of the requirements of the zoning regulations because,
13 by constructing the bathroom off the rear of the
14 master bedroom, the proposed addition can be
15 accomplished without the need for a variance.

16 STAFF RECOMMENDATION:

17 Denial.

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

20 CHAIRMAN: Thank you.

21 Is there anybody here representing the
22 applicant?

23 MS. KNIGHT: Mr. Johnson, I know you're an
24 attorney so you are sworn, but you're here tonight
25 representing yourself so I have to swear you in.

1 (TYLER JOHNSON SWORN BY ATTORNEY.)

2 MS. KNIGHT: State your name for our court
3 reporter.

4 MR. JOHNSON: Tyler Johnson.

5 I'm not sure what materials you all received.
6 With my variance application there were several
7 documents with it. Did you get all of those
8 materials? It's pretty thick and I'm not going to go
9 through it all.

10 The first thing, and let me digress for a
11 second.

12 I want to thank Mr. Pedley for his willingness
13 to speak with me and the rest of the Staff. They were
14 fantastic throughout this process. I really
15 appreciate his patience with me.

16 The first step in this process is I went to my
17 neighbors. I talked to the neighbor who I would be
18 building towards. I talked to the neighbor on the
19 other side and the rest of my neighbors. I wasn't
20 going to do anything regarding this process without
21 their consent. In fact, two of my neighbors asked if
22 they should be here tonight to show their support. I
23 told them I didn't think that was necessary, because
24 they both, like Mr. Pedley mentioned, signed an
25 amendment to the original deed of restriction.

1 In 1949 Mr. Griffith developed portions off of
2 Griffith Avenue; one of which was this plat which
3 contained Clinton Place West, Clinton Place East and
4 Robin Road. All of those lots, according to the
5 original deed of restriction, had 10-foot side
6 setbacks on them.

7 Now, when you go back and look at that plat
8 and the homes that are on there now, several of which
9 are included on those materials, specifically on Robin
10 Road, when those homes were first built, they were
11 already in violation of that original deed of
12 restriction. There's I believe lot Number 1 of the
13 original plat is 2-foot from the side setback. There
14 hasn't been an addition or anything like that. They
15 were all well past the 10-foot setback. Then when you
16 moved to Clinton Place East there's also a few that
17 are either legally nonconforming because they were
18 done prior to the implementation of the zoning
19 ordinance, or they just didn't ask permission and
20 nobody said anything about them.

21 A lot of the home that were built in that
22 period of time contained single-car detached garages
23 with either a breezeway in-between that single-car
24 detach garage and the home itself. Over time as
25 families have changed and we've changed how we live in

1 the homes, many of those homes have since connected
2 that single-car garage and enclosed that what was once
3 an outdoor porch and made it one big structure. That
4 was the one on Clinton Place West. It's two doors
5 down from me that's probably five-ish-feet from the
6 sideline. I don't know how they did that, how they
7 got approval, when they did that, but it's definitely
8 closer than allowed. It wasn't built like that
9 originally, but over time the home changed. We live
10 in our homes a little different now.

11 I searched the zoning ordinances for some
12 definitions because there's some buzz words used in
13 the Staff Report they I don't necessarily understand
14 exactly what they mean.

15 "Immediate vicinity" is used. "General
16 vicinity" is used. I don't find "general" or
17 "immediate" defined by any type of measurable tool
18 anyway within the ordinance. I would say while not
19 every home on Clinton Place West consented or signed
20 that amended deed of restriction, homes on Clinton
21 Place East, which I'm right on the corner there, so
22 I'm closer to some homes on Clinton Place East than I
23 am all the way down on Clinton Place West. They are
24 in the immediate vicinity. They are closer to my
25 house than the other homes.

1 The one denial or the hardship issue, to
2 construct a desired master bath off the rear of the
3 home. I amended that a little bit.

4 May I approach?

5 MS. KNIGHT: Yes.

6 MR. JOHNSON: I think I made enough copies for
7 everybody.

8 This was originally attached to application
9 and then that addition right there, I copied the exact
10 dimensions of that and moved it to the back of my
11 home.

12 As you'll see, it crosses the easement, the
13 public utility easement. So regardless as to whether
14 or not it's on the side or the back, I would be in the
15 same place. I would be here asking for a rear setback
16 variance rather than a side setback variance. I just
17 wanted to point out that issue.

18 I think based on what I read in the report
19 that was one of the reasons for, that would create a
20 hardship.

21 The other hardship is a 10-year-old daughter,
22 she will have her own bathroom after this. So it's a
23 hardship to her I suppose.

24 I don't want to move. I love my neighborhood.
25 I love my neighbors. I plan on being there a long

1 time, but homes built in 1949 are not conducive to the
2 way we live now and I want to stay there. If I don't
3 get this variance and am able to add onto the home,
4 I'm going to have to go and I don't want to do that.

5 I'll be happy to answer any questions that you
6 all have or anything else that you may need from me.

7 CHAIRMAN: Thank you.

8 Is there anyone in the audience that has a
9 question or comment?

10 (NO RESPONSE)

11 CHAIRMAN: Board members?

12 (NO RESPONSE)

13 CHAIRMAN: No questions, no comments. I'll
14 entertain a motion.

15 Mr. Glenn.

16 MR. GLENN: I'm going to make a motion to
17 approve this variance. I know that it quite possibly
18 might set a precedence in that neighborhood, but I
19 visited the area of three, four block area and while
20 no variance has been requested for that street, in the
21 other areas, not vicinities, but areas there have been
22 variances granted. I do that because I really, it
23 won't affect the public health, safety or welfare if
24 we approve this variance because the addition will
25 still maintain 10-feet from the future obstruction, if

1 I'm reading this right and understand it right. It
2 would be in compliance with the requirements of this
3 Kentucky Residential Building Code. I don't think it
4 would cause a hazard or a nuisance to the public
5 because of the property owners that he contacted and
6 got to sign the papers saying that they were fine with
7 it. The fact also that there are no other neighbors
8 or property owners here that are decent of this
9 variance. Also, that he would meet all the
10 regulations, meet the electrical building codes,
11 etcetera, to put that up.

12 CHAIRMAN: We have a motion by Mr. Glenn. Do
13 I have a second?

14 MR. JEAN: Second.

15 CHAIRMAN: Second by Mr. Jean. Any question
16 on the motion?

17 (NO RESPONSE)

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 ITEM 5

23 2115 Sheridan Place, zoned R-1A Single=Family
Residential
24 Consider request for a Variance in order to reduce the
side yard building setback from 10-feet from the side
25 property line to 5-feet from the side property line.

1 Reference: Zoning Ordinance, Article 8,
Section 8.5.5(d)
2 Applicant: Brian Payne Custom Homes, LLC; Tyler Edge

3 MR. PEDLEY: So much like the proposal we
4 heard a moment ago, this property is zoned R-1A
5 Single-Family residential. It has a 10-foot side yard
6 setback.

7 As you can see on the aerial in front of you,
8 on the north side of the home is an existing one-car
9 garage. The applicant proposes to add to that to make
10 it a two-car garage. To do so he needs a variance to
11 reduce the setback to 5-feet from the side property
12 line.

13 When looking at OMPC records in the general
14 area, there were two other variances in the last year
15 on Sheridan. One two-doors down, and then another two
16 doors down from that, each reducing the side yard
17 setback down to 5-feet. With that Staff feels that
18 reducing the building setback will not cause a public
19 nuisance, will not alter the essential character of
20 the general vicinity, and will not create an
21 unreasonable circumvention requirements of the zoning
22 regulations because similar encroachments exist in the
23 immediate vicinity, and similar variances have been
24 approved in the past.

25 Additional, approval of the variance will not

1 adversely affect the public health and safety because
2 the structure will maintain at least 10-feet from any
3 existing or future structures on the adjoining
4 property, compliant with the requirements of the
5 Kentucky Residential Building Codes.

6 We would like to make a recommendation for
7 approval with the Condition:

8 1. Applicant obtain all necessary building,
9 electrical and HVAC permits, inspections and
10 certificate of occupancy and compliance.

11 We would like to enter the Staff Report into
12 the record as Exhibit D.

13 CHAIRMAN: Thank you, Mr. Pedley.

14 Is there anyone in the audience that has
15 something to add to this?

16 Yes.

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

19 MR. MADOLE: My name is John Madole. I own
20 the property immediately to the left of Mr. Edge at
21 2103 Sheridan Place.

22 (JOHN MADOLE SWORN BY ATTORNEY.)

23 MR. MADOLE: I grew up in that house at 2103
24 Sheridan Place and lived there for 19 years and then
25 spent another 30 years coming up here every two weeks

1 to visit with my parents.

2 I inherited the house from my deceased mother
3 and older brother in 2017. I currently live in
4 Nashville, Tennessee, but I have two farms here in
5 Owensboro and I have two other houses, residential
6 properties in Daviess County besides this house on
7 Sheridan Place.

8 I came here primarily tonight because I wanted
9 to -- I've spoken to Tyler Edge about this some months
10 back. He approached me and wanted me to sell him a
11 tiny 2-foot strip of grass which separates his
12 driveway from my driveway. Currently his one-car
13 garage is 10-feet from our property line, and my
14 attached two-car garage is also 10-feet from the
15 property line.

16 I am opposed to alternation of this setback.
17 It's been in place for seven years. It's serviced
18 this neighborhood quite well, and I can't think of any
19 other neighbors up and down this street that I've
20 walked a thousand times that have buildings any closer
21 than what Mr. Edge and I do at this present time. In
22 spite of the previous variances that were noted have
23 been issued in the past.

24 I just personally don't want to be looking at
25 a build any closer to my property than I am currently.

1 I'm also baffled by, if you add, reduced the setback
2 by 5-feet and this is to expand his one-car garage to
3 a two-car garage, you're in effect, assuming a garage
4 is 30-foot deep, grade could be 24-foot deep. So 5
5 times 30-feet, you're only adding 150-square-feet of
6 5-foot strip to create a two-car garage out of a
7 one-car garage. I don't even know how that works. I
8 don't think that's a sufficient space to create a
9 two-car garage.

10 I don't have anything else to add. I just
11 wanted to express my opposition and thank you for your
12 consideration.

13 CHAIRMAN: Would you like to come and address
14 this?

15 MR. EDGE: Yes.

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

18 MR. EDGE: My name is Tyler Edge.

19 (TYLER EDGE SWORN BY ATTORNEY.)

20 MR. EDGE: When addressing Mr. Madole's
21 concerns about my single-car garage, right now it is
22 just a single-wide car garage which I think is
23 typically a 12-foot garage door, but we do have a
24 little extension on the side where I've already got a
25 full bath off of it and then a little side area. So

1 currently my one-car garage is 16-foot wide. Yes,
2 adding that 5 extra feet to get closer we're going to
3 make it 24 or I think it's 26-foot wide. I'm sure it
4 shows. It shows 22-foot wide with a 16-foot wide
5 door.

6 As well as what Mr. Johnson just spoke about,
7 you know, our garage being right now 12-foot as it is
8 with a 9-foot door, I can barely fit my wife's Toyota
9 Highlander. Not alone my 2011 Ford pickup in the
10 garage that we have existing at this moment.

11 Then putting into play the two and four year
12 old kids that we have that stores toys, etcetera, you
13 know. Everybody knows if you've got a one-car garage,
14 you don't park any cars in it, and if you've got a
15 two-car garage, then you're able to park one.

16 I do agree with what Mr. Madole said. He is a
17 good steward of the property. His mother owned the
18 property for many, many years on the north side of me,
19 as well as down toward Sutton on the south side. They
20 grew up in the family neighborhood and have for many,
21 many years.

22 Mr. Madole does come and visit some from
23 Nashville and maintains his home well. Nothing there
24 that I have to speak about.

25 There is one thing I would like to address.

1 As Mr. Pedley said earlier, this Board has already
2 approved two variances on the neighborhood. One
3 actually begins just on the north side of Mr. Madole
4 being a neighbor. I'm on the south side. The one
5 that you guys have already approved is on the north
6 side. Then another home two houses down on the north
7 side on our cul-de-sac. I don't think it's precedence
8 that we're changing the neighborhood landscape at all.
9 I've spoken to the house two houses down, which is on
10 the north side of Mr. Madole. They are having the
11 same builder that I'm building with, Brian Payne.
12 They have a garage extension. That's the reason the
13 Board passed their 5-foot variance.

14 What I'm am asking for I don't feel like is
15 out of context from what has already happened in the
16 neighborhood and what the Board among you have already
17 approved already on the same street. That's it.
18 Thank you guys.

19 CHAIRMAN: Anyone have any questions of either
20 Mr. Madole or the owner?

21 MR. MADOLE: My only question --

22 CHAIRMAN: You need to go back to the podium.

23 MR. MADOLE: Sorry.

24 My only question is, are we sure that there is
25 going to be 5-feet between the existing property line

1 and the outer wall of your new addition; is that
2 correct?

3 MR. HOWARD: He'll be required to apply for
4 building permits.

5 MR. MADOLE: Sir?

6 MR. HOWARD: He'll be required to apply for
7 building permits. Part of the process for the
8 building permit is our inspectors will go out and do
9 the measurements. They'll have to identify, he'll
10 have to have a surveyor. I don't know if he's found
11 pins. If he hasn't found pins --

12 MR. MADOLE: I understand that.

13 MR. HOWARD: Make sure that there is a 5-foot
14 separation between the property lines.

15 MR. MADOLE: The intent of this variance is
16 that there will be no less than 5-feet between the
17 property line and the face of his addition?

18 MR. HOWARD: That's right.

19 MR. MADOLE: All right. Thank you.

20 CHAIRMAN: Anyone else have a comment or
21 question of either of these gentlemen?

22 (NO RESPONSE)

23 CHAIRMAN: I will entertain a motion.

24 MS. MASON: I'll make a motion for approval
25 based on the information that was presented this

1 evening and the Staff Report. The findings on
2 granting this variance is that it will not adversely
3 affect the public health, safety or welfare because
4 the garage addition will maintain at least 10-feet
5 from the existing or future structures, like we talked
6 about just a few minute ago, and compliant with the
7 requirements of the Kentucky Residential Building
8 Code. It will not alter the essential character of
9 the general vicinity because there's other
10 encroachments listed, and those are three different
11 addresses, I think, are listed above in the Staff
12 Report. It will not cause a hazard or nuisance to the
13 public because other attached garages and carports
14 have been approved to reduce the side yard building
15 setback to 5-feet. Then it will not allow an
16 unreasonable circumvention of the requirements of the
17 zoning regulations because similar variances have been
18 approved within this block of Sheridan Place.

19 CHAIRMAN: We have a motion. Do we have a
20 second?

21 MR. ANDREW HOWARD: Second.

22 CHAIRMAN: Second by Andrew. Any question on
23 the motion?

24 (NO RESPONSE)

25 CHAIRMAN: All in favor of the motion raise

1 your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 One more item.

5 MS. MASON: Motion for dismissal.

6 CHAIRMAN: Motion to adjourn.

7 MR. ANDREW HOWARD: Second.

8 CHAIRMAN: All those in favor raise your right
9 hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 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 38
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 31st day of May, 2023.

18

19

LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
COMMISSION NO. KYNP63124
2200 EAST PARRISH AVE., SUITE 205-C
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2026

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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