

MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT

DECEMBER 3, 2007

CASE NO. 9106

Applicant/Owners:

JECBLA, LLC
Don Blackburn
3215 North Buckeye Lane
Goshen, Kentucky 40026

Attorney:

Paul Whitty
Greenebaum Doll & McDonald
3500 National City Tower
Louisville, Kentucky 40202

Subject:

An application for a Conditional Use Permit to allow a proposed rehabilitation home (halfway house) in an OR-2 zoning district.

Premises affected:

and being in Louisville Metro.

On property known as 801 Mary Street

Appearances for Applicant:

Paul Whitty, Attorney, 3500 National City Tower, Louisville, Kentucky 40202.

Eric Buckley, Kentucky Dept. of Corrections, 275 E. Main Street, Frankfort, Kentucky 40601-2321.

Don Blackburn, 206 Sequoya Road, Louisville, Kentucky 40206.

Appearances- Interested Parties:

No one.

Appearances Against Applicant:

Craig Atherton, 720 East St. Catherine Street #1, Louisville, Kentucky 40203; who submitted a petition of area residents in opposition to the proposal.

Rick Miller, 1125 S. Shelby Street, Louisville, Kentucky 40203.

The recording of this hearing will be found on the CD of the December 3, 2007 proceedings.

On June 11, 2007, JECBLA, LLC filed an application for a Conditional Use Permit to allow a rehabilitation home in an OR-2 zoning district.

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On December 3, 2007, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

The recording of this hearing will be found on the cd of the December 3, 2007 proceedings.

SUMMARY OF STAFF PRESENTATION:

11:22:10 Staff case manager, Jon Crumby, gave a brief presentation of the case to the Board, which included a PowerPoint presentation. He said there will be 16 units with a fulltime resident manager on site at all times. He said the property to the east was also approved for a rehabilitation home. Mr. Crumby said he didn't receive information from the fire department regarding the parking, but said he didn't see why it would be a problem. He said item A & D on page 5 of the staff report have been met, but that the applicant is requesting a waiver of item C.

SUMMARY OF TESTIMONY OF PROPONENTS:

11:25:31 Paul Whitty, the applicant's attorney, said he met Don Blackburn 7 years ago, when he applied for a CUP for the Beacon Home. He said Mr. Blackburn will have a contract with the Kentucky Department of Corrections, who will monitor the residents. He said the prison system is overcrowded and will allow offenders to transition back into society. He said there will be no sex offenders or arsonists allowed in the program. He said the residents will stay 3 to 4 months and that they have to be employed. He said the program has a zero tolerance policy for alcohol and drug use and if any of the rules are violated, would be considered a parole violation, and they go back to prison. He said they choose prisoners who are likely to be successful. He said there will be a full-time resident manager on site at all times and there will be 3 checks on the residents per day. He said this is an adaptive reuse of the building; and that no exterior changes will be made and no signage proposed. He said Mr. Blackburn purchased this building 5 years ago and renovated it. He said the units will be furnished and individuals will prepare their own meals. He said he told area residents at the neighborhood meeting they would have a direct line to the owner

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if there are any problems. He said there are a number of these facilities throughout the community; and that parolees can really live anywhere they want to. He said Councilman Tandy is in support of the proposal. Mr. Whitty said they get a one space parking credit for being on a TARC line; and the deficit won't be a nuisance since the residents will not be driving.

11:35:22 Eric Buckley, with the Kentucky Department of Corrections, said he is branch manager over the state monitored halfway houses. He said currently there are 19 halfway houses, not including privately owned. He said the applicant wants to have a contract with them. He said they make various inspections and visits, both announced and unannounced. He said if there are complaints in the neighborhood relating to tenants' actions, they can remove the tenant(s) and even cancel the contract with the owner. He said this hasn't been an issue in the past though. He said there's a great need for these facilities because of an overcrowded prison system. Chair Francis asked if the applicant has had a contract with them in the past. Mr. Buckley said no. She asked if they would agree to a condition of approval pertaining to receiving the contract. Mr. Buckley said yes. Member Stewart asked if the facility would be for men only. Mr. Buckley said yes, and that this too could be a condition of approval. Mr. Buckley said the food would be provided for the residents, but that they have to cook it themselves.

11:43:19 Don Blackburn, the applicant, said he's owned the property for 5 years. He said there were problems with the tenants when he first purchased the property, but that there hasn't been any in the past 4 years. He said the tenants he has now, pledge not to drink alcohol or do drugs on the premises. He said they will continue to have this policy if approved. He said they provide 400 square feet of living space, with 2 people per unit (30 people total). He said it's better to have 2 people per room, because they have to answer to a roommate as well. He said the food will be provided by his staff, and that he even employs a dietician who will help with menu planning and show residents how to cook if needed. He said the meals will be balanced and healthy. Chair Francis asked if he will have contracts with different food vendors. Mr. Blackburn said he's not sure yet, but will probably use Sysco Foods. Chair Francis said Sysco has large transportation trucks. Mr. Blackburn said he doesn't anticipate this being the case. She said she would like to know the delivery days and times. Mr. Buckley said he would agree to another condition of approval for this. Mr. Buckley discussed the other halfway houses he owns or is on their board of directors. He said they would not be providing transportation to A.A. meetings or work.

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SUMMARY OF TESTIMONY OF INTERESTED PARTIES:

No one spoke as an interested party.

SUMMARY OF TESTIMONY OF OPPONENTS:

11:58:22 Craig Atherton said he lives on St. Catherine and has a business at Shelby and Oak. He said he just heard about this proposal within the last few days; and that a lot of the neighbors didn't know about it. He said he has worked on this building's heat and air system; and that it's a multi-family building. He said he's lived in this area for 25 years and it's a depressed neighborhood with drug dealing and prostitution. He said people are fixing up the homes in the area, so it's getting better. He said he started a petition to let the area residents know about the proposal and submitted this into the record. He said this will not be fitting to the neighborhood and that there is too much rental property in the area as is. He said there are dozens of treatment centers within a ½ mile radius of this site. He said these types of facilities should be evenly distributed throughout the city instead of putting them all in this area. He mentioned some of the other similar facilities that are in the neighborhood. He said the area is coming back somewhat, but this will inhibit this progression; and affect their property values. He said he's had to call the police on people selling drugs and prostitution. He said he sees 10-20 people walking to A.A. meetings; and that there are too many of these facilities in such a small area.

12:08:22 Rick Miller said he owns a home on Shelby Street, and has lived in the area for 12 years. He said he went door to door to inform people about the proposal, since he wasn't given notice. He said most people he talked to didn't know about it nor want it in the neighborhood. He said if this is approved, he'll probably sell his property. He said most people do not want to live next door to a halfway house; and asked the Board if they would want it next to their homes. He said he called the Police last week because of a fight. He said this development will not be good for the neighborhood.

REBUTTAL:

12:12:28 Mr. Whitty said no one wants this type of facility next to them. He said the configuration of the lot is good and will face Mary Street. He said the area has gotten better; and they need these types of transitional facilities. He said the residents will go back to prison if they violate any of the rules.

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BUSINESS SESSION:

12:14:51 The Board discussed area residents who received public hearing notices. Member Anderson asked if any of the neighborhood groups received notice. Chair Francis said she received a letter from someone who had to leave the meeting, but said they are opposed. Mr. Whitty said there was a stipulation in the old Land Development Code that these types of facilities had to be 500 feet away from each other, but that this was taken out of the new code. Chair Francis said they need to screen the dumpster and limit the hours of food delivery. She said they are only short one parking space, but otherwise, have met all the guidelines. Member Anderson said he doesn't like the heavy concentration of halfway houses in this area. He said we don't want this area to be considered the "rehab area of Louisville". He said he's also concerned that there are so few neighborhood residents in attendance of the meeting today.

12:24:58 After the public hearing and in open business session, Member Grisanti moved to approve the Conditional Use Permit with the following conditions to be met on page 6 of the staff report; and additional conditions of approval that any deliveries to support the facility be limited to the hours of 7:00 a.m. to 6:00 p.m.; that the facility be gender specific (either all male or all female); and that the dumpster as shown on the plan be screened; and was seconded by Member Rhodes.

12:26:34 After further discussion, Member Grisanti then amended his motion to include an additional condition of approval that the owner of the rehabilitation facility enter into a contract with the Kentucky State of Corrections and that the contract is granted; and was seconded by Member Rhodes and the following resolution was adopted:

WHEREAS, the Board finds, from the file of this case, the staff report, and the evidence and testimony submitted at the public hearing that the applicant is requesting a Conditional Use Permit to allow a rehabilitation home in an OR-2 zoning district; and

WHEREAS, the Board finds that the property is within a Traditional Neighborhood Form District; and

WHEREAS, the Board finds that the proposal is compatible with surrounding land uses and general character of the area because this is an adaptive reuse of an existing two-story brick multi-family building; and because the exterior of the building will not be altered; and no signage is proposed; and because essentially

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the actual land use will not change except for the nature of the tenants (parolees); and because parolees are not usually restricted as to where they relocate upon release; and because the rehabilitation program is intended for those who have been identified as likely to succeed in a more structured transitional environment; and because all will be employed and monitored daily by a full-time resident manager and a parole officer and are subject to a "zero tolerance" policy with respect to drug and alcohol use; and because one infraction will terminate their parole; and because based on the applicant receiving the contract with the Commonwealth of Kentucky Department of Corrections, and per Mr. Buckley's testimony at the public hearing, said any excessive disturbances in the neighborhood from the tenants of the subject property could lead to cancelling the contract; and

WHEREAS, the Board finds that the necessary public facilities are available at this location to adequately serve the proposed use such as public transportation to allow tenants without automobiles or drivers licenses to travel to and from work; and because all utility infrastructure is in place, as it has always adequately served the existing multi-family use; and

WHEREAS, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives of the Comprehensive Plan, as it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

NOW, THEREFORE, BE IT RESOLVED, that the Conditional Use Permit is hereby **APPROVED ON CONDITION**.

The conditions are as follows:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a rehabilitation home without further review and approval by the Board.
3. The maximum number of residents at any given time shall be 30.

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4. There shall be one staff person on site at all times.
5. The rehabilitation facility shall enter into a contract with the Commonwealth Kentucky State of Corrections and this contract be granted.
6. The rehabilitation facility shall be gender specific.
7. The dumpster as shown on the plan shall be enclosed.
8. Deliveries that support the rehabilitation facility shall be limited to the hours of 7:00 a.m. to 6:00 p.m.

The vote was as follows:

YES: Members Francis, Grisanti, Rhodes, Stewart and Jarboe.

NO: Member Anderson.

NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.

ABSTAINING: No one.

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