

**Final Action.** All actions taken by the Board are final, and not subject to approval by the legislative body. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment may file an appeal in Circuit Court. All appeals shall be taken in the Circuit Court within thirty (30) days after the action or decision of the Board of Adjustment, and all decisions that have not been appealed within thirty (30) days shall become final.

**Legislative body.** The chief body of local government with legislative power within its jurisdiction. There are three (3) within Daviess County: the Owensboro City Commission, the Whitesville City Commission, and the Daviess County Fiscal Court.

**Minutes.** The official written record of all business transacted in a regular or special meeting. The Chairman and Secretary must sign the minutes.

**Nonconforming use or structure.** An activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulations that pertain to the zone in which it is located.

**Quorum.** The number of members of the Board of Adjustment required to be present to transact any official business, equal to a simple majority of the total membership -- four of seven.

**Subpoena Power.** The Board has the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.

**Testifying under oath.** The Chairman of the Board holds the power to administer oaths to witnesses prior to their testifying before the Board on any issue. This power is usually delegated to the Board's Attorney.

**Variance.** A departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces.

**Variance Requests.** The Board may approve, modify, or deny any application for a variance. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant. A variance applies to the property for which it is granted, and not the individual who applies for it. It also runs with the land and is transferable to any future owner of the land; the applicant cannot transfer it to a different site. The Board's approval or denial of a variance is considered a final action (refer above). The Planning staff records in the County Clerk's office a record of each variance approved by the Board of Adjustment.



C.A. Pantle  
OMBA Chair

## Welcome to the meeting of the Owensboro Metropolitan Board of Adjustment

Serving Owensboro, Whitesville, and Daviess County, Kentucky – [www.iompc.org](http://www.iompc.org)

### What is the Board of Adjustment?

The Owensboro Metropolitan Board of Adjustment is an agency of local government associated with the Owensboro Metropolitan Planning Commission. It is established by a joint agreement of the City of Owensboro, the City of Whitesville, and Daviess County, Kentucky, pursuant to Kentucky Revised Statutes, Chapter 100 -- Planning & Zoning Enabling Legislation. The seven (7) citizen Board members serve four (4) year terms. Owensboro appoints four (4) members and Daviess County, three (3).

### Purposes

The Board's primary purposes are to carry out provisions of the Owensboro Metropolitan Zoning Ordinance by considering and taking action upon **Conditional Use Permits, Variances, and Administrative Appeals**. These activities are described under **Key Terms**. The Board may employ a staff or contract with other persons, as it deems necessary to accomplish its assigned duties. The Board may also receive, hold, and spend funds legally received for the purpose of carrying out the provisions of the Zoning Ordinance.

**The Board of Adjustment meets regularly at 5:30 pm, the first Thursday of each month, at Owensboro City Hall, 4th Floor Auditorium. The general public and news media are encouraged to attend.**

### Open Meetings Law

Requires that the public be admitted to any meeting of a public agency at which public business is discussed, or action is taken. **Special Meetings** may be called at any time by the chair. They are open to the general public and news media. **Closed Meetings** may be conducted to discuss pending or proposed lawsuits or personnel matters. The general public and the news media are not allowed to attend closed meetings.



Marty Warren



Sean Dysinger



Ruth Ann Mason  
*Secretary*



Gary Noffsinger, AICP  
*Director*



C. A. Pantle  
*Chair*



Ward Pedley  
*Vice-Chair*



Judy Dixon



Clay Taylor

## Key Terms

**Administrative Appeal.** An appeal by an applicant who alleges that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation; or an appeal by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal or decision of any zoning enforcement officer. Appeals must be taken to the Board within thirty (30) days after receiving notice of official action by the zoning enforcement officer. Appeals also may be made to the Board to change from one nonconforming use to another nonconforming use, if the proposed use is in the same or a more restrictive classification. The Board's decision regarding an administrative appeal is considered a final action (refer below).

**Conditional Use.** A use that is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed by the zoning regulations.

## Addressing the Board

Any person wishing to be heard will be given an opportunity to address the Board. However, because the meetings of the Board of Adjustment are "trial-like" proceedings, the minutes are taken by a court reporter to form an official record. Therefore, to address the Board:

1. **The Chair must recognize you.**
2. **Step up to one of the podium microphones.**
3. **State your full name for the record.**
4. **The Board's Attorney will ask for your oath for the record.**

## Typical Agenda

1. Election of officers (January only)
2. Consideration of minutes
3. Conditional Use Permits
4. Variances
5. Administrative Appeals
6. New Business
7. Comments from Board members
8. Comments from general public
9. Closed session (if one is called)
10. Adjournment



Madison Silvert  
*Attorney*

**Conditional Use Permit.** The Board may approve, modify, deny, or revoke any application for a conditional use permit. The Board may impose any reasonable conditions or restrictions on any conditional use permit it decides to grant. A permit applies to the property for which it is granted, and not the individual who applies for it. It also runs with the land and is transferable to any future owner of the land, but the applicant cannot transfer it to a different site. The Board's approval or denial of a conditional use permit is considered a final action (refer below). The Planning staff record in the County Clerk's office a record of each conditional use permit approved by the Board. In any case where a conditional use permit has not been exercised within one year, if no specific time limit has been set, the Board shall reconsider the granting of that conditional use permit.

**Key Terms** continued on next page.