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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

DECEMBER 6, 2001

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, December 6, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: C. A. Pantle, Chairman
- Gary Noffsinger, Planning Director
- Marty Warren
- Ruth Ann Mason
- Judy Dixon
- Tim Miller
- Bill Williams
- Ward Pedley
- Stewart Elliott
- Attorney

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CHAIRMAN: The meeting of the Owensboro Metropolitan Board of Adjustment will come to order. Want to welcome you here this evening.

Set a few guidelines up before we start. If you wish to speak, come to the microphone. You need to be sworn in by our attorney so we can have a record of the minutes in case something develops, objection or need to go to court or something. Each one of you will have the privilege of being heard as long as it don't get the same thing said over and

1 over.

2 So with that we'll start with the approval  
3 of the last board meeting minutes. They're on record  
4 in the office. No problems or corrections come up or  
5 mistakes?

6 MR. NOFFSINGER: No, sir.

7 CHAIRMAN: Entertain a motion to approve  
8 the minutes.

9 MS. DIXON: Move to approve.

10 MS. MASON: Second.

11 CHAIRMAN: All in favor raise your right  
12 hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 First item on the agenda.

16 -----

17 CONDITIONAL USE PERMIT

18 ITEM 2

19 967 South Chestnut Grove Road, in an A-R zone  
20 Consider request for a Conditional Use Permit in order  
21 to construct an addition to the existing church  
22 building.

21 Reference: Zoning Ordinance, Article 8, Section 8.2B4

22 Applicant: Chestnut Grove Baptist Church, Gilbert Lee  
23 Oliver, et al.

23 MR. NOFFSINGER: Mr. Chairman, this  
24 application has been advertised for public hearing at  
25 this time. All adjoining property owners have been

1 notified. Planning Staff has reviewed the application  
2 and the application is found to be in order. It is an  
3 addition to a church and if it's approved it should be  
4 approved subject to the site plan as submitted in the  
5 application.

6 CHAIRMAN: Has there been any objections,  
7 anything filed in the office?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: Is there anyone wishing to  
10 speak in opposition to this item?

11 (NO RESPONSE)

12 CHAIRMAN: Is the applicant here?

13 APPLICANT: Yes.

14 CHAIRMAN: Do you have anything you would  
15 like to add?

16 APPLICANT: No.

17 CHAIRMAN: You understand the site plan  
18 and it's approved you must comply with that?

19 APPLICANT: Yes.

20 CHAIRMAN: Any board members have any  
21 questions of the applicant?

22 (NO RESPONSE)

23 CHAIRMAN: Hearing none the Chair will  
24 entertain a motion to dispose of the item.

25 MS. DIXON: Move to approve subject to the

1 site plan, the plan that's been submitted.

2 CHAIRMAN: Is there a second?

3 MR. WARREN: Second.

4 CHAIRMAN: Any other questions or  
5 discussions from the board members?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none all in favor raise  
8 your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, sir.

12 ITEM 3

13 7601 Iceland Road, in an I-2 zone  
14 Consider request for a Conditional Use Permit in order  
15 to erect twelve silo tanks to store bulk commodities  
16 in a floodway.

17 Reference: Zoning Ordinance, Article 8, Section  
18 8.2G4/27, Article 18, Section 18.5(b)4, Section  
19 18-4(b)3

20 Applicant: Lanham River Terminal, LLC

21

22 MR. NOFFSINGER: Mr. Chairman, this  
23 application has been advertised for public hearing at  
24 this time. All adjoining property owners have been  
25 notified. The application is for the construction of  
26 12 silo tanks that will store materials such as lime,  
27 grain, fly ash, corn, soy beans. The structures will  
28 be located within the floodway. The applicant has  
29 received approval from the Division of Water for the

1 construction of these tanks as well as the applicant's  
2 engineer has submitted a letter stating there will be  
3 no affect on the 100-year flood elevation on this  
4 property with this construction. With that it's ready  
5 for your consideration.

6 CHAIRMAN: No objections filed in the  
7 office?

8 MR. NOFFSINGER: There have been no  
9 objections filed; however, there has been at least one  
10 adjoining property that has expressed some interest in  
11 the activities taking place on the property.

12 CHAIRMAN: Is the applicant here?

13 MR. HAYNES: Yes.

14 CHAIRMAN: Come forward and state your  
15 name for the record.

16 MR. ELLIOTT: State your name, please.

17 MR. HAYNES: Brian Haynes.

18 (MR. BRYAN HAYNES SWORN BY ATTORNEY.)

19 MR. HAYNES: I'm here on behalf of the  
20 applicant as counsel just to help if there's any legal  
21 questions that come up. Kenny Lanham is here as  
22 president of Lanham, LLC to answer any technical or  
23 practical questions you have about the facility. I  
24 think Mr. Dan Griffith, he is the adjoining property  
25 owner that I believe expressed interest in this

1 hearing tonight. He may have some comments, but I  
2 don't have anything to say unless you all have got  
3 some specific questions. Mr. Griffith may have some  
4 comments.

5 CHAIRMAN: Any board member have any  
6 questions?

7 MR. MILLER: Mr. Chairman, just for matter  
8 of public record it may be a good idea maybe just to  
9 list what items might be stored at the facility. I  
10 think it's probably been addressed with the Staff.  
11 May not be a bad idea just to read it into the public  
12 record.

13 MR. HAYNES: Mr. Lanham could address that  
14 more specifically, but just bulk commodity such as  
15 grain. That is the intended primary use of the  
16 facility.

17 MR. MILLER: The liquid storage tanks that  
18 I saw on the drawing, is that something different?

19 MR. HAYNES: That's for lime, chemical  
20 lime.

21 MR. MILLER: Not petroleum products?

22 MR. HAYNES: No.

23 CHAIRMAN: And I'm correct if he puts  
24 hazardous material in, he has to have hazardous  
25 material approval from the state; am I correct, Gary?

1 MR. NOFFSINGER: We'll ask Mr. Jim Mischel  
2 from our office to address that question, please.

3 CHAIRMAN: Jim, would you come forward,  
4 please.

5 MR. ELLIOTT: State your name for the  
6 record, please.

7 MR. MISCHEL: Jim Mischel.

8 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

9 MR. MISCHEL: Most hazardous material  
10 would be prohibited in the floodway. If it has a  
11 probability of endangering either animal, or humans,  
12 things of that nature.

13 CHAIRMAN: Thank you, Jim.

14 Any other board member have any other  
15 questions?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone else have anything you  
18 want to add to it?

19 MR. GRIFFITH: Just a question.

20 CHAIRMAN: Come forward and state your  
21 name for the record, please.

22 MR. ELLIOTT: State your name, please.

23 MR. GRIFFITH: Dan M. Griffith, IV.

24 (MR. DAN GRIFFITH SWORN BY ATTORNEY.)

25 MR. GRIFFITH: The only question I had in

1 talking to Mr. Noffsinger and his able assistant a  
2 couple of day ago she said one of the materials you're  
3 planning to store was fly ash. I was just kind of  
4 curious as to were you going to generate this fly ash  
5 on the property or is it being trucked in? You want  
6 to explain to the group here.

7 MR. ELLIOTT: State your name, please.

8 MR. LANHAM: Kenny Lanham.

9 (MR. KENNY LANHAM SWORN BY ATTORNEY.)

10 MR. LANHAM: The fly ash is generated at  
11 local power plants. We blend that back into the lime  
12 system for soil stabilization and that's what goes in  
13 one of the tanks. It's non-hazardous. There's  
14 nothing hazardous about it.

15 MR. GRIFFITH: It's generated on the  
16 property?

17 MR. LANHAM: No.

18 CHAIRMAN: It'll be trucked in from  
19 somewhere else and stored and blended at the facility?

20 MR. LANHAM: Right. Exactly.

21 MR. WILLIAMS: That come from OMU mostly?

22 MR. LANHAM: No. Coleman Plant. It comes  
23 really from different places, but fly ash is a part of  
24 soil stabilization. I know the Executive Inn is built  
25 on it. Hampton Inn is built on it. I mean it's not

1 hazardous at all if that's the question on fly ash.  
2 Any more questions I would be glad to answer.

3 MR. NOFFSINGER: Mr. Lanham, the fly ash  
4 will be stored in these tanks, has that been approved  
5 by the State of Kentucky as part of - - is it  
6 beneficial reuse? Is that part of what you're doing  
7 at that site and has the state approved the storage in  
8 those tanks, or is that an activity that might be  
9 occurring elsewhere on the property? I know the state  
10 has approved the I guess the fly ash being brought to  
11 this facility, but is that fly ash, is the state  
12 involved and the storage of fly ash?

13 MR. LANHAM: I don't know if the state  
14 even needs to be involved in that. So far as I bring  
15 fly ash up to any of the state people, they have no  
16 problems at all with it. I don't know of any reason  
17 why the state would have any problem because the state  
18 uses it in soil stabilization. As a matter of fact,  
19 there's been a big - - in the last two weeks they've  
20 required or have inquiries of using it on the bypass  
21 around, they're going to loop around in the corridor  
22 they're going to build. I can't imagine the state  
23 having a problem with it if they're fixing to use a  
24 couple of hundred thousand tons of it.

25 MR. NOFFSINGER: I'm not questioning that

1 because I know the state has been involved in some  
2 type of contract with various companies for beneficial  
3 use.

4 MR. LANHAM: Right.

5 MR. NOFFSINGER: But the fly ash that's  
6 being stored in these tanks is not a part of any  
7 contract you have with the state for that type - -

8 MR. LANHAM: I specifically haven't  
9 addressed that situation with them, but I can't  
10 imagine any problem anywhere. I don't know why there  
11 would be a problem with it to be honest with you. I  
12 understand your question.

13 MR. NOFFSINGER: I'm not saying there  
14 would be. I'm just asking the question is the state  
15 involved in any type of contract with the storage of  
16 fly ash in these tanks?

17 MR. LANHAM: Not that I'm aware of. Not  
18 that I'm aware of.

19 CHAIRMAN: In other words, not at present?

20 MR. LANHAM: No. I mean they all have  
21 been on my site and nobody has ever - - I don't think  
22 there's any problem with it.

23 CHAIRMAN: Any other questions of the  
24 applicant?

25 MR. GRIFFITH: They indicated you were

1 planning on storing lime. Is there any special  
2 precaution that needs to be taken like heavy concrete  
3 foundations or something to keep the lime from  
4 leaching out?

5 MR. LANHAM: We have all of that. We've  
6 got dust collectors on our silos. We've got the whole  
7 program. It's been approved through the Division of  
8 Air and the whole works. It's a full-blown process  
9 with the silos.

10 CHAIRMAN: You'll just be using  
11 agricultural limes, wouldn't you?

12 MR. LANHAM: No. This is strictly for dry  
13 lime for soil stabilization for state highway jobs,  
14 federal highway jobs, airports runways. Closest place  
15 here is Mt. Carmel, Illinois.

16 CHAIRMAN: Any other questions?

17 (NO RESPONSE)

18 CHAIRMAN: Hearing none the Chair will  
19 entertain a motion to dispose of the item.

20 MR. WILLIAMS: Mr. Chairman, I make a  
21 motion we approve this Conditional Use Permit.

22 CHAIRMAN: Is there a second?

23 MR. PEDLEY: Second.

24 CHAIRMAN: A motion has been made and a  
25 second to approve the Conditional Use Permit. Any

1 other discussions?

2 (NO RESPONSE)

3 CHAIRMAN: Hearing none all in favor raise  
4 your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item please, sir.

8 ITEM 4

9 5760 US 60 West, in an A-R zone  
10 Consider request for a Conditional Use Permit in order  
11 to operate an outdoor and indoor arena with accessory  
12 retail sales of horse-related products.  
13 Reference: Zoning Ordinance, Article 8, Section  
14 8.2K7/42 and 8.2E3/45  
15 Applicant: Steve Young, President, Cowboys of  
16 Kentucky, Inc. and Marshal Whitmer

17 MR. NOFFSINGER: Mr. Chairman, this  
18 application has been advertised for public hearing at  
19 this time and all adjoining property owners have been  
20 notified. The application has been reviewed by the  
21 Planning Staff. It's found to be in order. I think  
22 each of the Board of Adjustment members received a  
23 copy of a summary of the business plan that describes  
24 the uses of the property.

25 The Planning Staff would remind the  
applicant that if this Conditional Use Permit is  
approved, should there be any changes to the facility  
in terms of adding additional seating than what's

1 shown and approved on this plan, you would have to  
2 come back before this board for a rehearing or if  
3 there are any changes to the character, the use of the  
4 property, meaning additional buildings being used for  
5 the tack sales or additional storage footage being  
6 used for retail sales. You would have to come back  
7 before this board.

8 Mr. Chairman, with that it's ready for  
9 your consideration.

10 CHAIRMAN: Thank you. Has there been any  
11 objections filed of this?

12 MR. NOFFSINGER: No, sir.

13 CHAIRMAN: Is there anyone in the audience  
14 wishing to object to this?

15 (NO RESPONSE)

16 CHAIRMAN: Does the applicant have  
17 anything he'd like to add to than what we have in the  
18 records?

19 APPLICANT: No, sir.

20 CHAIRMAN: Any board member have any  
21 questions of the applicant?

22 (NO RESPONSE)

23 CHAIRMAN: Staff have anything else to  
24 add?

25 MR. NOFFSINGER: No, sir.

1 MR. PEDLEY: Mr. Chairman, hearing no  
2 objections I make a motion for approval.

3 CHAIRMAN: Is there a second?

4 MS. MASON: Second.

5 CHAIRMAN: Is there any other discussion?

6 (NO RESPONSE)

7 CHAIRMAN: Hearing none all in favor raise  
8 your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, sir.

12 ITEM 5

13 1326 Washington Avenue, in an R-4DT zone  
14 Consider request for a Conditional Use Permit in order  
15 to place a 16-foot by 8-foot Class B manufactured home  
16 on the lot.

17 Reference: Zoning Ordinance, Article 8, Section  
18 8.2A10B/7

19 Applicant: James R. Foster, Anita Priest

20 MR. NOFFSINGER: Mr. Chairman, this  
21 application has been advertised for public hearing at  
22 this time. All adjoining property owners have been  
23 notified. The application has been reviewed by the  
24 Planning Staff and found to be in order and ready for  
25 your consideration.

26 CHAIRMAN: Again, has there been any  
27 objection filed in the office?

28 MR. NOFFSINGER: No, sir.

1                   CHAIRMAN: Is anyone wishing to object to  
2 this Conditional Use Permit?

3                   (NO RESPONSE)

4                   CHAIRMAN: Is the applicant here?

5                   APPLICANT: Yes, sir.

6                   CHAIRMAN: Do you have anything you would  
7 like to add?

8                   APPLICANT: No.

9                   CHAIRMAN: Any board member have any  
10 questions of the applicant?

11                   (NO RESPONSE)

12                   CHAIRMAN: Hearing none the Chair will  
13 entertain a motion to dispose of the item.

14                   MR. MILLER: Mr. Chairman, based on the  
15 information in the permit application, motion to  
16 approve.

17                   CHAIRMAN: Is there a second?

18                   MS. DIXON: Second.

19                   CHAIRMAN: Any other discussion?

20                   (NO RESPONSE)

21                   CHAIRMAN: Hearing none all in favor raise  
22 your right hand.

23                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24                   CHAIRMAN: Motion carries unanimously.

25                   Next item, please.

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ADMINISTRATIVE APPEAL

ITEM 6

302 East 20th Street, in an R-4DT zone  
Consider request for an Administrative Appeal to  
change one non-conforming use as a business to another  
non-conforming business use.

Reference: Zoning Ordinance, Article 4, Section 4.53,  
Article 7, Section 7.34 and 7.4

Applicant: Shiloh Barksdale, Tony Barksdale

MR. NOFFSINGER: Mr. Chairman, this appeal  
has been advertised for public hearing at this time.

All parties of record have been notified.

The application that's submitted is to change  
from one non-conforming use to another. Back a few  
months ago the applicant was before this board for a  
similar request and that was to operate a skate shop  
out of a building that had been used for retail sales  
for many years; however, the property is zoned  
residential. This gives the ability for the applicant  
to come before the Board of Adjustment to ask for  
conversions of the use of the building without having  
to go through a zoning change.

The applicant had intended on using the  
property for the skate shop as well as some type of  
salon, I believe. Since the time this application was  
filed, I believe the client that the applicant was  
working with has decided not to locate at this site.

1 So with that we do not have a proposed use to consider  
2 at this time.

3 When the board considers a change in one  
4 non-conforming use to another, they must have a  
5 specific use that the applicant is requesting so that  
6 they can determine whether or not the use would be  
7 appropriate in that facility. Take a look at parking  
8 as well as the effect that the change in character  
9 would have upon the adjoining properties in the  
10 neighborhood.

11 So, Mr. Chairman, unless there is a  
12 specific use being proposed for the property, Planning  
13 Staff would recommend that the applicant request a  
14 postponement until the next meeting of this board  
15 which will be the first Thursday in January so that  
16 use could be determined and applied for or in the case  
17 that that could not happen that the applicant would  
18 have no alternative but to withdraw the proposal until  
19 such time as they'd have a specific use for the  
20 property. So with that the applicant is here and it's  
21 ready for your consideration

22 CHAIRMAN: Before we get to the applicant,  
23 legal counsel, this we cannot act on something that  
24 doesn't have a definite use from one non-conforming to  
25 the other; am I correct?

1                   MR. ELLIOTT: Well, you could act on it,  
2 but the only action you could take would be a denial  
3 of appeal and then he would be left with an appeal  
4 that decision in circuit court. It would seem the  
5 better procedure would be to postpone it until he can  
6 come up with a specific use before you all can decide.

7                   CHAIRMAN: Is the applicant here?

8                   APPLICANT: Yes.

9                   CHAIRMAN: Do you have any comments?

10                  MR. ELLIOTT: State your name, please.

11                  MR. BARKSDALE: Tony Barksdale.

12                  (MR. TONY BARKSDALE SWORN BY ATTORNEY.)

13                  MR. BARKSDALE: I just have a few  
14 questions. I understand the procedures and the laws  
15 that you have to deal under and stuff. What I don't  
16 understand is that the Planning, well, Mr. Noffsinger  
17 and Mr. Mischel said that they would not oppose what  
18 we want to do. We have two office spaces in there  
19 that are a little over like, I think they're 14 by 14  
20 is basically what it amounts to.

21                  We're looking to have somebody that deals  
22 with computer or whatever in there. We did have a  
23 lady in there at one time, but because of  
24 misinformation and a little ignorance on my part not  
25 knowing what was going on as far as businesses were

1 concerned an everything, we lost her. She's gone.

2 I understand that we can postpone this for  
3 a month, but I don't think as you are business men, in  
4 a month I don't think we're going to find anybody  
5 that's going to want to do that, especially this time  
6 of the year. So we start all over again. We lose  
7 our money and everything else.

8 Is there any way in the laws that you  
9 could give, that your directors and guidelines so that  
10 we don't spend our wheels in trying to have somebody  
11 in this establishment. We don't want - - we want what  
12 you want. We don't want a lot of traffic and stuff.  
13 All we're trying to do is to make a few extra dollars  
14 in order to make things work for us in this position  
15 that we're in. As they've said, we've paved the  
16 parking lot like we've been asked to. We've got our  
17 plants, although they're kind of dead right now during  
18 the wintertime. We've cut the traffic down there by  
19 probably two-thirds compared to what J.D. Tong had in  
20 there.

21 I'm kind of caught in a situation here  
22 that if I get somebody in there or I get somebody that  
23 says, yes, I'd like to rent it and they say, yes, I  
24 want to move in in two weeks, but we might hit like,  
25 you know, it's not even a month that we're given for

1 your next meeting. So I know there's just no way.

2 I mean we can go ahead and postpone it,  
3 but I know in a month that's not going to happen, you  
4 know, to get somebody there. What I'm looking for is  
5 just some guidelines under which we could agree on to  
6 where when we get somebody in there that says, yes, I  
7 want to rent this place and everything. Say, okay,  
8 what are you having here? So that we can either say,  
9 no, we can't do that or, yes, we can. That's kind of  
10 what we're looking for.

11 CHAIRMAN: With the law the way it is,  
12 when you go from one non-conforming - -

13 MR. BARKSDALE: Each time and I understand  
14 that, right.

15 CHAIRMAN: And the reason for that is the  
16 neighbors need to be able to state their reasoning and  
17 we can't make a decision until we know what's going to  
18 be there.

19 Legal, am I correct?

20 MR. ELLIOTT: Yes.

21 MR. BARKSDALE: That's the way he  
22 explained it to me and I understand that. I guess  
23 what I'm looking for now because I know that in a  
24 month - - we're going to postpone it. In a month  
25 we're going to be back here and say, we haven't got

1 anybody so we're just going to have to wait. What I'm  
2 looking for is the guidelines so that I don't - - we  
3 had Stacy.

4 This young lady went in there. She  
5 completely redecorated this place, put a lot of money  
6 in it, and then we found out we couldn't do all of  
7 these things and then we were kind of caught up and  
8 she had to get her business started so she had to move  
9 some place else. I don't want to go through that  
10 again with anybody. I mean we gave her money back and  
11 everything, which we probably didn't have to but we  
12 did. I mean it was the right thing to do. We gave  
13 her money back and everything.

14 I don't want to have to go through that  
15 not only for my ownself but for somebody that's coming  
16 in. It's frustrating for them too. I know that when  
17 I do get somebody in there I'll have to call and tell  
18 them, I'll say, well, we'd like for you to be there  
19 and I'm going to have to find out. It won't be before  
20 this time that you can move in and stuff.

21 I'll just have to be up front. I mean  
22 we'll have to be up front with that situation. I  
23 don't have a problem with that. I would like maybe  
24 some guidelines to where if they come in we can ask  
25 them some questions or say, well, this isn't going to

1 work, you know, because we know that this isn't going  
2 to happen.

3 CHAIRMAN: Mr. Mischel, state your name.  
4 You've been sworn in already.

5 MR. MISCHEL: Jim Mischel.

6 As far as trying to address the  
7 guidelines, I would just say that if you have a  
8 perspective renter you might - - I think the neighbors  
9 might be concerned about the hours of operation. If  
10 it's going to be at night or 24 hours a day. I think  
11 you might talk to them about that, the use of the  
12 building. It is near a residential neighborhood so  
13 parking is a concern, the hours of operation, the type  
14 of use. If it's, you know, a lot of noise or things  
15 of that nature, whatever. If it's quiet use, you  
16 know, - -

17 MR. BARKSDALE: I really think we're on  
18 the same page. I really do.

19 MR. MISCHEL: Yes, I believe so. It's  
20 kind of hard for this board to prove something they  
21 don't know what's going in and the neighbors don't  
22 know. When we advertise that let's the general public  
23 know ahead of time if they choose to come or not.  
24 Lots of times if they would approve something blanket  
25 then the neighbor might say, well, if I had known that

1 I would have gone to the meeting.

2 MR. BARKSDALE: I guess what I'm asking is  
3 if we get a perspective applicant and we get the  
4 information, like you say his hours and so on and so  
5 forth, we can come to your office and - - if we get a  
6 perspective renter for this place and we get this  
7 information, then we could come to you and Mr.  
8 Noffsinger again and have you look it over and you  
9 could kind of maybe give us some guidelines and say,  
10 well, yes, I think this will be okay and then we'll  
11 come before the board. If they say it's okay, it's  
12 okay, or if they say it's not, it's not. You would  
13 give us some kind of, you know, whether we pursue it  
14 or not is basically what it amounts to.

15 CHAIRMAN: The staff pretty well  
16 understands and they can advise you accordingly.

17 MR. BARKSDALE: Because I know they've  
18 both been real - - since we've gone into this and had  
19 all the problems, they've been really good about it.  
20 Jim talked to me today and stuff. They've really been  
21 real helpful. I'm not complaining about that at all.  
22 It's just seems like we got the cart before the horse  
23 or whatever and we deal with that situation.

24 CHAIRMAN: We're regulated by law.

25 MR. BARKSDALE: I know that. Yes, I

1 understand that because I've been through your book.

2 I don't understand it all, but I'm working on it.

3 I thank you. Postponing will be fine with  
4 us and then we'll just go from there. Appreciate it.  
5 Merry Christmas to you all.

6 CHAIRMAN: Thank you, sir.

7 Chair entertain a motion to postpone this.

8 MS. DIXON: Move to postpone.

9 CHAIRMAN: Is there a second.

10 MS. MASON: Second.

11 CHAIRMAN: All in favor raise your right  
12 hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Any other business?

16 MR. NOFFSINGER: No, sir.

17 MR. MILLER: Mr. Chairman, one thing. On  
18 his fee I think he was asking how long maybe this  
19 could be postponed. Can it go beyond the 30 days?

20 MR. NOFFSINGER: Next month.

21 MR. MILLER: So after then he would have  
22 to reapply?

23 MR. ELLIOTT: I don't know of anything  
24 that says he'd have to act on it with any certain  
25 period of time on these Administrative Appeals.

1 Jim, do you know of anything?

2 MR. MISCHEL: Not off the top of my head,  
3 but I guess that's something we could research for the  
4 next meeting.

5 MR. ELLIOTT: We probably need to look at  
6 that and see. Most items that come before the board  
7 they have to be acted on within 60 days, but I do not  
8 think that this is one of them. I think it could be  
9 postponed.

10 MR. NOFFSINGER: In the past we've not  
11 extended beyond the 60 days because what you have is  
12 an item appearing on the agenda each and every month.  
13 It's been the past practice that we move forward  
14 within a 60 day time period.

15 MR. ELLIOTT: I know on some occasions  
16 we've tabled the item and then it stays on the table  
17 until we bring it off. So that may be a possibility  
18 to do it that way, but I'd have to look and see if  
19 there's any time limitation on it.

20 MR. MILLER: Could be addressed next  
21 month?

22 MR. ELLIOTT: Yes. But there's no problem  
23 postponing it until next month.

24 CHAIRMAN: Board will entertain one final  
25 motion.

1 MS. DIXON: Move to adjourn.

2 MR. MILLER: Second.

3 CHAIRMAN: All in favor raise your right  
4 hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Hearing no other business Merry  
7 Christmas and Happy New Year's. See you all next  
8 year.

9 Meeting is adjourned.

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1 STATE OF KENTUCKY)  
 ) SS: REPORTER'S CERTIFICATE  
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER, Notary Public in and for  
4 the State of Kentucky at Large, do hereby certify that  
5 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 the  
14 foregoing 26 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 19th day of December, 2001.

18

19

\_\_\_\_\_  
LYNNETTE KOLLER, NOTARY PUBLIC  
OHIO VALLEY REPORTING SERVICE  
202 WEST THIRD STREET, SUITE 2  
21 OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:  
DECEMBER 19, 2002

23

24 COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY

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