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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

SEPTEMBER 5, 2002

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, September 5, 2002, 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

\* \* \* \* \*

CHAIRMAN: Call the meeting to order.

Want to welcome you all to the Owensboro Metropolitan Board of Adjustments this evening. I want to set a few guidelines out for you for the ones that's here for the first time.

If you wish to speak on any item come to one of the microphones. Be sworn in by our legal counsel and then state whatever questions or comments you have. Everybody will be entitled to state your opinion, but when it gets to be an old hat and we hear

1 the same thing over and over we'll cut you off.

2 With that the first item on business this  
3 evening is to consider the minutes of the last meeting  
4 which was August 1st. They're on record in the  
5 office. Find no corrections that need to be made in  
6 it. The Chair will entertain a motion to dispose of  
7 it.

8 MS. DIXON: Move to approve.

9 MR. WILLIAMS: Second.

10 CHAIRMAN: Motion been made and a second  
11 to approve as filed in the office. All in favor say  
12 aye.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 First item of business, please.

16 -----

17 CONDITIONAL USE PERMIT

18 ITEM 2

19 1035 Frederica Street, in a B-4 zone (Map N-4)  
20 Consider request for a Conditional Use Permit to  
21 locate and operate a day care facility for 47 children  
22 on the second floor of an existing building  
Reference: Zoning Ordinance, Article 8, Section 8.2B3  
Applicant: Susan Dockery, Commonwealth Properties,  
Terry Blake

23 MR. NOFFSINGER: Mr. Chairman, this  
24 application has been reviewed by the Planning Staff.  
25 It's found to be in order. Has been advertised for

1 public hearing at this time. All adjoining property  
2 owners have been notified.

3 Mr. Chairman, Conditional Use Permit was  
4 issued on this property back some time ago, I think  
5 about a year ago, for an adult day care facility.  
6 This will be a child care facility for 47 children.

7 As I stated the application is in order  
8 and ready for your consideration.

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

11 (NO RESPONSE)

12 CHAIRMAN: Was any oppositions filed in  
13 the office?

14 MR. NOFFSINGER: No, sir.

15 CHAIRMAN: Does the applicant have  
16 anything they would like to add or does Staff have  
17 anything they need to ask them?

18 MR. NOFFSINGER: No, sir.

19 CHAIRMAN: Board members have any  
20 questions or comments?

21 (NO RESPONSE)

22 CHAIRMAN: Dispose of the item.

23 MS. DIXON: Move for approval.

24 MS. MASON: Second.

25 CHAIRMAN: Motion been made and a second

1 for approval. Any other discussion?

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.

8 ITEM 3

9 2946 KY 142, in an R-1A zone (Map CO-67)  
10 Consider request for a Conditional Use Permit to  
11 construct a 50-foot by 100-foot addition to an  
12 existing church  
13 Reference: Zoning Ordinance, Article 8, Section 8.2B4  
14 Applicant: Bethabara Baptist Church

15 MR. NOFFSINGER: Mr. Chairman, this  
16 application has been reviewed by the Planning Staff.  
17 Found to be in order. The application has been  
18 advertised for public hearing at this time and all  
19 adjoining property owners have been notified. It's  
20 ready for your consideration.

21 CHAIRMAN: Has there been any opposition  
22 filed in the office?

23 MR. NOFFSINGER: No, sir.

24 CHAIRMAN: Anyone in the audience wishing  
25 to speak in opposition of this Conditional Use Permit?

(NO RESPONSE)

CHAIRMAN: Is the applicant here and do

1 they have anything they want to add to it?

2 APPLICANT: No.

3 CHAIRMAN: Staff have any conditions that  
4 need to be added on?

5 MR. NOFFSINGER: No, sir. However I will  
6 add for the record that with the expansion I believe  
7 there's some property parameter landscaping being  
8 included to bring the property into compliance with  
9 the zoning ordinance.

10 CHAIRMAN: This has been discussed with  
11 the applicant?

12 MR. NOFFSINGER: Yes, sir, and it is  
13 included on their site plan.

14 CHAIRMAN: Any board member have any  
15 comments or questions of the applicant?

16 (NO RESPONSE)

17 CHAIRMAN: Again, you don't have anything  
18 you want to add to it?

19 APPLICANT: No.

20 CHAIRMAN: Chair will entertain a motion  
21 to dispose of the item.

22 MR. WILLIAMS: Motion to approve.

23 MS. DIXON: Second.

24 CHAIRMAN: Motion been made and a second  
25 to approve. Any other discussion?

1 (NO RESPONSE)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 4

8 4625, 4635 Philpot Heights, in an R-1A zone  
9 Consider request for a Conditional Use Permit to  
10 locate a 12-foot by 55-foot manufactured home to  
11 provide temporary living quarters during construction  
12 of a single-family residence.  
13 Reference: Zoning Ordinance, Article 8, Section  
14 8.2A10B  
15 Applicant: David and Traci Witherspoon

16 MR. NOFFSINGER: Mr. Chairman, Planning  
17 Staff has reviewed the application. It's found to be  
18 in order. It has been advertised for public hearing  
19 at this time. All adjoining property owners have been  
20 notified.

21 CHAIRMAN: Again, has there been any  
22 objections filed in the office?

23 MR. NOFFSINGER: Yes, sir, I do have one  
24 letter that I need to read into the record. This is  
25 to Becky Stone from a Judith Shemwell.

It says, "Becky Stone, I am very much  
against a trailer on this property. This property  
could not pass the perk or water test previously. A

1 trailer would be disastrous to our property value. I  
2 definitely do not want a trailer in our neighborhood  
3 even temporarily."

4 CHAIRMAN: Is there anyone in the audience  
5 wishing to object to this?

6 (NO RESPONSE)

7 CHAIRMAN: Is the applicant here?

8 APPLICANT: Yes.

9 CHAIRMAN: Do you have anything you want  
10 to state for the record, please? Come forward and  
11 state your name and be sworn in, please.

12 MR. WITHERSPOON: My name is David  
13 Witherspoon.

14 (MR. WITHERSPOON SWORN BY ATTORNEY.)

15 MR. WITHERSPOON: This is just, like it  
16 said here, a temporary residence. This home will be  
17 just used while the permanent residence is under  
18 construction which I am a builder and would be solely  
19 on that construction job and nothing else during the  
20 time. I don't think it would take very long to  
21 construct the home. Also there was a, I don't think  
22 they call it a perk test any more, but there was a  
23 test for a septic system to be put in and did pass.  
24 That's all I have to say.

25 CHAIRMAN: How long do you anticipate it

1 will take you to construct this?

2 MR. WITHERSPOON: I would hope three to  
3 four months.

4 CHAIRMAN: Is there any conditions the  
5 Staff has to add to this?

6 MR. NOFFSINGER: Staff would recommend  
7 that if you do approve a temporary placement of the  
8 home that a time limit be placed for removal of the  
9 unit.

10 When did you plan to start construction?

11 MR. WITHERSPOON: Right now we do not  
12 know. We have a house that is for sale, for sale or  
13 lease. We'll take either option there. As soon as  
14 either one of those is being completed, that home has  
15 been sold or leased out then we would begin  
16 immediately after that. As far as time to start, I do  
17 not know.

18 MR. NOFFSINGER: Is the manufactured home  
19 currently located on the property?

20 MR. WITHERSPOON: No. We do have one in  
21 mind that we have not purchased yet. We do have one  
22 just down Highway 54 from the property.

23 MR. WARREN: Once you finish with this  
24 home, you're going to have to sell it?

25 MR. WITHERSPOON: Yes, sir.



1                   CHAIRMAN: You will not put the home on it  
2 until you start construction; is that correct?

3                   MR. WITHERSPOON: True. Yes.

4                   CHAIRMAN: In other words, we could put  
5 conditions on it from the date that he sets it on  
6 there with so much time if the board so chooses.

7                   MR. NOFFSINGER: Yes, sir. I would  
8 recommend that you tie that to the issuance of a  
9 building permit, placement permit for the home on the  
10 property. That your time frame begin upon issuance of  
11 that permit and the home is not to be placed on the  
12 property until such time that you obtain that permit.

13                   CHAIRMAN: Can you comply with that with  
14 no problem?

15                   MR. WITHERSPOON: Yes, I think that will  
16 be just fine.

17                   CHAIRMAN: Any board member have any  
18 questions or comments?

19                   MR. WILLIAMS: Do we need to say six  
20 months or a year?

21                   MR. NOFFSINGER: I would think six months.

22                   MR. WILLIAMS: After the permit.

23                   MR. NOFFSINGER: Has be issued.

24                   MR. WITHERSPOON: That will be fine with  
25 me.

1                   CHAIRMAN: Any other comments or  
2 questions?

3                   (NO RESPONSE)

4                   CHAIRMAN: Entertain a motion to dispose  
5 of the item if no one else in the audience has any  
6 comments.

7                   MR. WILLIAMS: Make a motion to approve on  
8 those conditions.

9                   CHAIRMAN: Condition being six months  
10 after the issuance of the permit.

11                  MR. WILLIAMS: Yes.

12                  CHAIRMAN: Is there a second?

13                  MR. PEDLEY: Second.

14                  CHAIRMAN: Motion been made and a second.  
15 Any other discussion?

16                  (NO RESPONSE)

17                  CHAIRMAN: Hearing none all in favor raise  
18 your right hand.

19                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20                  CHAIRMAN: Motion carries.

21                  Next item, please, sir.

22                  ITEM 5

23                  6601 US 231, in an R-1A zone  
24                  Consider request for a Conditional Use Permit to  
25                  construct a 450 square foot bathroom addition and a  
                  24-foot by 30-foot lobby addition to an existing  
                  church building and a 28-foot by 32-foot garage on the

1 church property, and 24 by 20 carport.  
Reference: Zoning Ordinance, Article 8, Section 8.2B4  
2 Applicant: Masonville Baptist Church

3 MR. NOFFSINGER: This carport is shown on  
4 the site plan; however we failed to include it on the  
5 agenda for consideration. It should be considered  
6 tonight.

7 Mr. Chairman, this application has been  
8 advertised for public hearing at this time. All  
9 adjoining property owners have been notified. The  
10 application has been reviewed by the Planning Staff.  
11 The Planning Staff do have some concerns and issues  
12 regarding pave of vehicular use areas and landscaping  
13 around these vehicle use areas so I can't say that  
14 it's in order. We're recommending that you move  
15 forward until such time those issues are addressed.  
16 Mr. Jim Mischel is here tonight to present those  
17 issues to you. The applicant is here as well.

18 CHAIRMAN: Has there been any objection  
19 filed on this?

20 MR. NOFFSINGER: No, sir.

21 CHAIRMAN: Is the applicant here?

22 APPLICANT: Yes, sir.

23 MR. ELLIOTT: State your name, please.

24 MR. MISCHEL: Jim Mischel.

25 (MR. MISCHEL SWORN BY ATTORNEY.)

1                   MR. MISCHEL: I'd just like to give a  
2                   handout addressing the landscaping at this site right  
3                   now.

4                   I think like Gary said the only concerns  
5                   we have right now concerns the landscaping of the  
6                   parking areas and there's some spill-over parking on  
7                   the far side of the church that is now gravel. We  
8                   would like to address those items here tonight.

9                   CHAIRMAN: Proceed.

10                  MR. MISCHEL: If you look at that first  
11                  sheet that you have of the green marker at the top,  
12                  that kind of shows the elevation of the parking lot.  
13                  On the last sheet there is the site plan. The green,  
14                  what I have marked in green is the area we think  
15                  should be landscaped with shrubs and trees. The  
16                  elevation there is pretty much flat. We believe this  
17                  area should and could be used for landscaping, shrubs.  
18                  So that area I have in green we think that landscaping  
19                  should be put in shrubs.

20                  If you notice on that drawing of the site  
21                  plan, there's an area in the back that is blue. The  
22                  second photograph shows that area and there is an  
23                  elevation change on that. We believe this area of  
24                  shrubs will not serve the purpose in that area and we  
25                  believe in that blue area maybe just trees would

1 satisfy that. The shrubs should be in that area.

2 I'd like to put one of those in the record  
3 too.

4 The second area here if you look at the  
5 first two pages it shows a gravel driveway and gravel  
6 parking area. The third picture we have is aerial  
7 photo of the premises when the ordinance was adopted.  
8 You'll see that there is no gravel parking or gravel  
9 driveway. So therefore this came sometime after the  
10 adoption of the ordinance. We feel like this area,  
11 this spill-over parking area and the driveway should  
12 be paved or turned back to grass. If they choose to  
13 pave it, we think that area should be landscaped too.  
14 The option if they don't need it they can put it back  
15 in grass.

16 If you have any questions, I'll be glad to  
17 answer them.

18 CHAIRMAN: Does any board member have any  
19 questions at this time?

20 MR. MILLER: Jim, where is this spill-over  
21 on the site plan?

22 MR. MISCHEL: If you look on that second  
23 hand-out I gave you, it's over here in the corner.

24 MR. MILLER: Existing parking?

25 MR. MISCHEL: Yes.

1 MR. WARREN: You said it's where? In the  
2 corner?

3 MR. MISCHEL: Here.

4 MR. WARREN: The whole thing?

5 MR. MISCHEL: Yes. I think the church has  
6 told us that that's not used all the time. It's just  
7 used in certain cases, but he could probably explain  
8 that better than I can.

9 CHAIRMAN: Any board member have any  
10 questions of Jim at this time?

11 (NO RESPONSE)

12 CHAIRMAN: Will the applicant come forward  
13 and state his case or any comments.

14 MR. ELLIOTT: State your name, please.

15 MR. POSTLEWAITE: Gary Postlewaite.

16 (MR. POSTLEWAITE SWORN BY ATTORNEY.)

17 MR. POSTLEWAITE: The gravel lot was put  
18 in probably around 1980. It's there specifically to  
19 pick up usually about Easter just some overflow. It  
20 would put an imposition on us to have to pave that.  
21 We're asking not to have to pave that one particular  
22 lot. Plus it does have run off to water in the county  
23 too.

24 CHAIRMAN: Any board member have any  
25 questions of the applicant?

1                   MR. MILLER: Mr. Postlewaite, will you  
2 consider returning that area back to grass then as  
3 staff suggested?

4                   MR. POSTLEWAITE: We'll probably have too  
5 because probably don't have funds to pay for it. Then  
6 we'll just park in the grass.

7                   We have adequate parking for normal and  
8 per code we do have adequate paved parking which was  
9 put in around 1958. This is something that's not new.  
10 It's been there a good while.

11                  CHAIRMAN: Any other questions of the  
12 applicant? Staff have anything to add?

13                  MR. NOFFSINGER: Mr. Chairman, I would  
14 like to add for the record that I understand Mr.  
15 Postlewaite's concerns as well as the church; however,  
16 this Board and Planning Staff in dealing with  
17 applications on a routine basis we have to maintain  
18 consistency.

19                  MR. POSTLEWAITE: We understand.

20                  MR. NOFFSINGER: That is the reason that  
21 we're asking for these improvements is that there's a  
22 considerable amount of expansion here in different  
23 areas of the church. To be consistent with what this  
24 board has approved in the past, it's generally been  
25 with the improvements that we've described to you here

1 tonight. That's the reason that we're asking for  
2 those improvements. It's to maintain consistency.

3 MR. POSTLEWAITE: Just one comment from  
4 us. We're not adding enough square footage that would  
5 require us to add additional parking. Like I say this  
6 is just an overflow lot that kind of catches Easter  
7 and maybe Annual Day where we have large numbers. We  
8 just ask your consideration on that.

9 CHAIRMAN: Thank you, sir.

10 Any board members have any other questions  
11 or comments?

12 (NO RESPONSE)

13 CHAIRMAN: Chair will entertain a motion  
14 to dispose of the item.

15 MR. PEDLEY: Mr. Chairman, I make a motion  
16 for approval with the condition that landscape area  
17 according to the Staff's recommendations be put in  
18 place and the graveled parking area either be removed  
19 or paved.

20 CHAIRMAN: You've heard the motion. Is  
21 there a second?

22 MR. WARREN: Second.

23 CHAIRMAN: Any other discussion from the  
24 board or comments?

25 (NO RESPONSE)



1                   CHAIRMAN: You understand the motion the  
2 way it was made, sir?

3                   MR. POSTLEWAITE: Yes, sir.

4                   CHAIRMAN: Hearing no other comments all  
5 in favor raise your right hand.

6                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7                   CHAIRMAN: Motion carries unanimously.

8                   The Chairman's prerogative is to deviate  
9 from agenda we have and we're going to go pick up Item  
10 7 and 9 and then come back to 6 and 8 if the board  
11 doesn't object.

12                   Any objection from any board member?

13                   (NO RESPONSE)

14                   CHAIRMAN: If not would you read Item 7,  
15 please.

16 -----

17                   VARIANCE

18                   ITEM 7

19                   1829 Mayfair Avenue, in an R-1A zone  
20                   Consider request for a Variance to reduce an  
21                   interior side yard building setback from 10 feet to  
22                   5.360 feet in order to construct a 12-foot by 13-foot  
23                   addition to an existing residence.  
24                   Reference: Zoning Ordinance, Article 8, Section  
25                   8.5.5(d)  
                  Applicant: James G. Gaw

24                   MR. NOFFSINGER: Mr. Chairman, this  
25 variance application has been advertised for public

1 hearing at this time. All adjoining property owners  
2 have been notified. The application has been reviewed  
3 by the Planning Staff and it's found to be in order  
4 and ready for your consideration.

5 CHAIRMAN: Has there been any objections  
6 to this variance in the office?

7 MR. NOFFSINGER: Yes, sir, we do have one  
8 objection, a letter.

9 CHAIRMAN: Read that into the record,  
10 please.

11 MR. NOFFSINGER: This is from Attorney  
12 Garland Howard.

13 "To: Ladies and Gentlemen of the Board of  
14 Adjustment.

15 The undersigned represents Raymond and  
16 Irene Bell who live at 1909 Mayfair Drive. Mr. and  
17 Mrs. Bell's property adjoins the property owned by  
18 James Gerard Gaw at 1829 Mayfair Drive.

19 Mr. Gaw proposes to construct an  
20 additional room and attach it to the south side of his  
21 existing home. As proposed, the new addition would  
22 extend to a point within about five and one-half feet  
23 from their common property line. To permit this deep  
24 side yard violation Mr. Gaw is asking your Board to  
25 grant a variance to allow the construction as

1 proposed.

2                   Since I am unable to attend your September  
3 5 board meeting, because of another commitment at this  
4 time, I ask that you consider this letter and make it  
5 a part of your minutes.

6                   The Bells ask that I express their  
7 position in this matter and their reason for same.  
8 They feel that a nine or ten foot extension of the  
9 home may have been acceptable but they are totally  
10 opposed to a thirteen foot extension toward their  
11 property. They feel that a twelve by thirteen foot  
12 room is large for any purpose and is very large for a  
13 bathroom.

14                   The Bells are very elderly and likely will  
15 not attend the meeting.

16                   Please consider their objection.

17                   Sincerely, Garland W. Howard"

18                   CHAIRMAN: That will be made a part of the  
19 record.

20                   Any other objections in the office?

21                   MR. NOFFSINGER: There have been no other  
22 objections raised.

23                   CHAIRMAN: Is there anyone objecting at  
24 the meeting?

25                   LADY WITH MRS. BELL: Mrs. Bell is here

1 and has prepared a statement that she would like to  
2 read to you.

3 CHAIRMAN: Let me get the applicant then  
4 and we'll get the objection in.

5 Is the applicant here?

6 MR. GAW: Yes.

7 CHAIRMAN: Would you come forward.

8 MR. ELLIOTT: State your name for the  
9 record, please.

10 MR. GAW: James Gaw.

11 (MR. GAW SWORN BY ATTORNEY.)

12 MR. GAW: I brought here some pictures of  
13 some other residents on the street that have some  
14 structures that are within ten feet of the setback  
15 line. There's five or six pieces and you all can look  
16 at them.

17 The house I bought at 1829 Mayfair it  
18 hadn't been updated 1951. There are no closets and  
19 only a bath and a half on the ground floor, in the  
20 whole house actually. It would help the value of my  
21 property and also I believe even the neighbor's  
22 property. Goetz is the builder. It's going to be  
23 professionally done. It's going to be a brick  
24 structure just like the existing house. It will be  
25 painted. The roof line will match the existing roof

1 line.

2 I understand Mrs. Bell's concerns. I  
3 talked to her yesterday or the day before yesterday  
4 for an hour or so, I think. They had worried about  
5 noise. It's going to be a bathroom and a walk-in  
6 closet. Not going to be like a party room.

7 It looks like a carport or a garage would  
8 be more noisy than a bathroom and closet up on the  
9 side of the house.

10 What you have here is you're looking at is  
11 people have garages and carports that are attached and  
12 detached from their homes. This is going to be - -  
13 they're within 10 feet of the setback. This will be  
14 within 10 feet of the setback. It will be quiet  
15 building. That's really all I have.

16 CHAIRMAN: You want to attach this  
17 structure to the house, make it part of the house?

18 MR. GAW: Yes. It's going to be attached.

19 CHAIRMAN: What you show here on these  
20 pictures - -

21 MR. GAW: The top four pictures are my  
22 house. On the south side of the house there - -

23 CHAIRMAN: The bottom four pictures show  
24 detached structures?

25 MR. GAW: Not all of them. Some of them

1 are attached.

2 CHAIRMAN: Which ones are attached?

3 MR. GAW: I believe you see this here is  
4 attached. Right here is attached. This garage here  
5 is attached. That last one I showed you is attached  
6 garage. You know, what keeps them from turning that  
7 into a family room, enclosing it and being part of the  
8 home instead of a garage? It's right on the line.  
9 I'm thinking it's probably two or three feet. It's  
10 right on the line I think. That's actually just right  
11 across the street from Mrs. Bell.

12 CHAIRMAN: While the board members are  
13 looking at the pictures any comments from the board or  
14 question of the applicant from any board member?

15 MR. GAW: It will be landscaped. It will  
16 be professionally done. I bought the house about  
17 three months ago. I've already spent \$38,000 and most  
18 of that is on the outside. That has improved the  
19 property tremendously. It will just be another asset  
20 to the whole street, I believe.

21 CHAIRMAN: Staff have any comments or  
22 questions of the applicant?

23 MR. NOFFSINGER: Yes, Mr. Chairman. For  
24 the record I think Mr. Gaw pointed out that the house  
25 located at 2012 Mayfair Avenue does encroach in that

1 ten foot side yard. Upon examination by the Planning  
2 Staff, we did find that the chimney, as you'll see in  
3 that picture, does protrude into that setback by  
4 approximately two feet. However, the main building  
5 wall of that structure is located ten feet from the  
6 side property line which you do have that minor  
7 encroachment into the setback.

8 Also the carport I believe that you have  
9 described at 1908 Mayfair Avenue, the Staff looked at  
10 that home and it was identified as having an attached  
11 carport and it does encroach into the setback line;  
12 however, it's attached only at the roof line, I  
13 believe and is not enclosed on sides. That's just to  
14 clarify the record in terms of what the Staff found  
15 when they went out.

16 CHAIRMAN: Any board member have any other  
17 questions of the applicant at this type?

18 MR. PEDLEY: Yes, I do.

19 Mr. Gaw, have you talked to Mr. Goetz  
20 about turning that parallel with the house? Say 8 by  
21 20, that's 160 square feet. What you're proposing is  
22 156 square feet. If you turn that parallel with the  
23 house, 8 by 20, you don't need a variance. It would  
24 work with your roof line.

25 MR. GAW: Yes. We have talked about that.

1 The only thing is I'm going to lose three windows.  
2 I'm going to lose two upstairs windows and a  
3 downstairs bathroom window to go back further toward  
4 the backyard. We talked about that. Also if I add on  
5 to the back of the house, it wasn't financially  
6 feasible because I get into the roof line and make the  
7 back bedroom bigger, make that master bedroom and then  
8 add bathroom and closet onto that. This was  
9 financially feasible way to go. I would lose three  
10 windows in the house. Two upstairs windows and one  
11 downstairs bathroom window. The way it is 12 by 13 it  
12 stops at the bathroom window, comes down and leaves it  
13 there.

14 MR. PEDLEY: But that could be done.  
15 That's an option that you have if this board turns  
16 this down. You could still put an addition on that  
17 house?

18 MR. GAW: Yes, I could. There's a lot of  
19 things I could do. That is one option.

20 MR. PEDLEY: Yes.

21 CHAIRMAN: Any other questions of the  
22 applicant at this time?

23 (NO RESPONSE)

24 CHAIRMAN: You sit down and we'll take the  
25 objections from Mrs. Bell or anyone else.



1 MR. ELLIOTT: State your name for the  
2 record, please.

3 MRS. BELL: My name is Irene Bell.

4 (MRS. BELL SWORN BY ATTORNEY.)

5 MRS. BELL: My name is Irene Bell. My  
6 husband, Raymond Bell, and I own the property  
7 adjoining that of James Gaw who is requesting the  
8 proposed variance.

9 I wish to reiterate the reasons for the  
10 protest as set forth by my counsel in his  
11 communication regarding the variance application of  
12 James Gaw of 1829 Mayfair.

13 I would like to present to the commission  
14 a few points in addition to those provided by my  
15 attorney. I have exactly three.

16 To my knowledge there have been no  
17 additional rules built to houses extending beyond the  
18 setback boundaries established in the original areas  
19 as developed by Flemming Bowles. Perhaps garages or a  
20 fence in this area exist beyond those boundaries, but  
21 to my knowledge there have been no such structures as  
22 is proposed by this variance application.

23 Number 2, the original plat as set up in  
24 the 1950's require the building should have a setback  
25 of 10 feet from the property line. This has to my

1 knowledge never been changed. If it has been changed,  
2 we have never been notified of any such changes. This  
3 area was never set up for condominiums or homes that  
4 are in close proximity to each other. We think it  
5 should remain this way.

6 Number 3, because in the past we have  
7 noticed a water build-up and poor drainage in the yard  
8 at the site of the proposed addition and because of  
9 the close proximity to the property line we fear that  
10 we may experience a water problem if this variance is  
11 granted.

12 My husband and I hope that you will  
13 consider these points and will decide against granting  
14 the proposed variance. Thank you.

15 CHAIRMAN: Does any board member have any  
16 questions of Mrs. Bell at this time?

17 (NO RESPONSE)

18 CHAIRMAN: Anyone else wish to speak in  
19 opposition of this variance?

20 (NO RESPONSE)

21 CHAIRMAN: Does the applicant have  
22 anything else they would like to add at this time?

23 MR. GAW: I would like to add something.  
24 The original plat, it did call for things not be,  
25 additions be built. A lot of that expired in 1975, I

1 believe, garage apartments. I know the 10 foot  
2 setback is still there. The flood, I think the water  
3 problem I've been there three months. We haven't had  
4 any rain at all for three months so I don't know of  
5 any water problem. I could do something to, you know,  
6 make it drain toward the back of the yard or front of  
7 the yard or anything to make sure it doesn't drain  
8 toward her property if the water is a problem.  
9 There's not going to be any hard feeling either way.  
10 They're great neighbors. I want it to stay that way.  
11 I don't believe it will be a problem. It will be  
12 professionally done.

13 CHAIRMAN: Becky, is there anything on  
14 Deed of Dedication or anything on this?

15 MRS. STONE: Mr. Gaw submitted the Deed of  
16 Dedication because his attorney's letter referred to  
17 that, to those restrictions. I did not see anything  
18 in the deed that restricted the side yard setback to  
19 10 feet. I believe it called for the setback as per  
20 plat and the plat showed the front yard setback.  
21 Now, the zoning ordinance does require the 10 foot  
22 setback.

23 CHAIRMAN: If there was a Deed of  
24 Dedication, we couldn't even consider it.

25 Any other board member have any other

1 questions of the applicant?

2 (NO RESPONSE)

3 CHAIRMAN: Anyone have anything else you  
4 want to add to this application?

5 (NO RESPONSE)

6 CHAIRMAN: What's the board's pleasure on  
7 the item?

8 MR. PEDLEY: Mr. Chairman, I have a  
9 comment before I make a motion. R-1A zone, it's  
10 10-foot side yard, that allows 20 feet between houses.  
11 When you change this you change the character of the  
12 neighborhood. You change the intent of the R-1A zone.

13 So I make a motion for denial. The reason  
14 it will alter the essential character of the general  
15 vicinity and it will allow unreasonable circumvention  
16 of the requirements of the zoning regulations.

17 CHAIRMAN: You've heard the motion. Is  
18 there a second?

19 MS. DIXON: Second.

20 CHAIRMAN: A motion has been made and a  
21 second. Is there any other discussion?

22 (NO RESPONSE)

23 CHAIRMAN: Hearing none all in favor of  
24 the motion raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 Next item, please.

3 ITEM 9

4 2063 Wyandotte Avenue, in an R-1B zone  
5 Consider request for a Variance to reduce the rear  
6 yard setback from 20 feet to 16 feet in order to  
7 construct a 20-foot by 33-foot addition to an existing  
8 residence.

Reference: Zoning Ordinance, Article 8, Section  
8.5.6(e)

Applicant: Sisters of the Lamb of God

9 MR. NOFFSINGER: Mr. Chairman, this  
10 application has been advertised for public hearing at  
11 this time. All adjoining property owners have been  
12 notified. Planning Staff has reviewed the  
13 application. We find the application to be in order.

14 The subject property contains a  
15 single-family residence. The proposal is to add a 20  
16 by 33 foot addition to the rear of the property. The  
17 rear property line is at an angle. It's not a  
18 perfectly square or rectangular lot. There would be  
19 one corner of this proposed addition that will extend  
20 into that 20 foot setback by about four feet. The  
21 majority of the proposed addition will be in  
22 compliance with the setback requirements.

23 With that it's ready for your  
24 consideration. Excuse me. There is one other  
25 addition on the property. An 18 by 18 1/2 foot

1 garage, I believe. That addition will be in  
2 compliance with the setbacks.

3 CHAIRMAN: Is there any objections filed  
4 in the office?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: Is anyone wishing to object in  
7 the audience of this item?

8 (NO RESPONSE)

9 CHAIRMAN: Hearing none the applicant is  
10 here. You want to state your name for the record?

11 SISTER GOLD: I am Sister Audrey Mary Gold  
12 for the Sister of the Lamb of God.

13 (SISTER SWORN IN BY ATTORNEY.)

14 CHAIRMAN: Go ahead and state your case  
15 for the record, please. Do you have anything you want  
16 to add for the record?

17 SISTER: No. I would say it's really  
18 necessary for us.

19 CHAIRMAN: Everything is what we asked  
20 for.

21 Any board member have any questions of the  
22 applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Does anyone in the audience  
25 have any questions or comments?

1 (NO RESPONSE)

2 CHAIRMAN: Hearing none the Chair will  
3 entertain a motion to dispose of the item.

4 MS. DIXON: Move to approve.

5 CHAIRMAN: Motion been made for approval.

6 MR. WILLIAMS: Second.

7 CHAIRMAN: Second. Any other questions or  
8 comments from the board?

9 (NO RESPONSE)

10 CHAIRMAN: Hearing none all in favor raise  
11 your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries.

14 Proceed with Item 6.

15 ITEM 6

16 1253 Willett Road, in an A-R zone (POSTPONED)  
17 Consider request for a Conditional Use Permit to  
18 construct a 42-foot by 107-foot bunkhouse to house a  
19 maximum of 14 migrant farm workers.  
20 Reference: Zoning Ordinance, Article 8, Section 8.2AC  
21 Applicant: MISAS, Inc., Robert J. & Lisa C. Wimsatt

22 MR. NOFFSINGER: As I stated earlier  
23 earlier this item was postponed from our August  
24 meeting. We did have a postponement at that time to  
25 allow the Planning Staff to obtain additional  
information regarding the property as well as to  
provide the applicant and the residents that had

1 concern to hopefully get together and talk about the  
2 project.

3 Becky Stone on the Planning Staff does  
4 have a list that she would like to read into the  
5 record in terms of what some of the concerns were at  
6 the last meeting and what has been done in terms of  
7 answering those concerns.

8 MR. WARREN: Mr. Chairman, before Becky  
9 does that I would like to excuse myself from this  
10 item.

11 CHAIRMAN: So noted.

12 Could you bring us up to date?

13 MRS. STONE: Becky Stone.

14 (MRS. BECKY STONE SWORN BY ATTORNEY.)

15 MRS. STONE: We ask that the applicant  
16 provide additional information based on some of the  
17 concerns from the last public hearing. I'll just go  
18 over that list with you and what we ask for and what  
19 was submitted for this meeting.

20 First of all there was a concern about  
21 identifying the lease area on the property. What area  
22 the Conditional Use Permit was going to be attached  
23 to. Since that meeting the owner of the property has  
24 submitted a subdivision plat dividing 2.16 acres at  
25 1253 Willett Road. This application will be tied to



1 that specific lot.

2 The plat has been approved by the Planning  
3 Director. It is not recorded yet. A condition, if  
4 approved, was granted tonight, will be that the plat  
5 and the deed will need to be recorded within seven  
6 days of approval.

7 We ask for detailed floor plans of this  
8 facility. We didn't have a floor plan in the original  
9 application that shows the areas that are going to be  
10 used. You know, what those uses are. The applicant  
11 believed that because the KHC funding process is site  
12 specific they did not have the moneys to commit to an  
13 architect until they have approved site. An  
14 additional floor plan will be provided if a building  
15 permit is applied for. That will be a required  
16 architectural drawing for that. We ask for an  
17 elevation of the building or something that shows what  
18 the building will look like.

19 Sister Lorraine Lauter was going to bring  
20 photographs tonight of the type of construction of the  
21 building.

22 We ask that the finished floor elevation  
23 be indicated and the setbacks of the building be  
24 indicated. That has been indicated on the site plan,  
25 the setbacks. The finished floor elevation is 387 and

1 that's also noted on the subdivision plat that they  
2 submitted. That's the base split elevation in that  
3 area.

4 We ask that a copy of KHC requirements and  
5 contracts be submitted. What they have is a copy of a  
6 letter that offers financial assistance. It's from  
7 the Kentucky Housing Corporation signed by Richard  
8 McQuaddy, Chief Program Officer. Included in this  
9 letter it says, "I am writing to offer financial  
10 assistance to MISAS for a farm work housing project in  
11 your area. KHC has allocated \$222,700 for this  
12 initiative and we offered these funds to you in the  
13 form of a challenge grant."

14 The permits that will be required by KHC,  
15 as I understand from the applicant, are those  
16 requirements that are going to be required locally.  
17 Will be required to have a permit to build in a flood  
18 plain, local building permit, septic system permit,  
19 and plumbing permit, electrical permit.

20 We ask that information be submitted  
21 regarding the sewage disposal requirements in the area  
22 with tentative or preliminary health department  
23 approval. The response is there has been extensive  
24 consultation with health department staff, Ed Cecil;  
25 the local waste water treatment plant operator, Bob

1 Stovall; and the state inspector for the EPA, Payton  
2 Adams. All agree to workable solution for the site.  
3 Whatever the soil commissions approve to be will be  
4 possible. The solution will likely be a mound system;  
5 although, this is not fully decided.

6 In any case the permit for this will be  
7 tied in compliance with local and state regulations.

8 The soil conditions are not yet  
9 determined. MISAS would prefer to schedule these  
10 tests with its attendant fees if and after a  
11 Conditional Use Permit is awarded.

12 We ask for a derange of services that will  
13 be provided in the facility to be submitted. They  
14 have indicated these services were described in the  
15 project overview which you got last month with your  
16 information for the August 1, 2000, hearing. They  
17 indicate here guests. They will have opportunities  
18 for recreation, shopping and laundry. Enrichment  
19 classes will be offered. Most notably classes in  
20 English.

21 It is our intention to offer health  
22 service counseling and intervention with the  
23 assistance of local health professionals and entities.  
24 This item was inadvertently omitted from the project  
25 overview. We do not consider the project overview to

1 be here binding or limiting for laundry services  
2 making possible to provide while some other unforeseen  
3 may arise.

4 The intention of any services is to  
5 provide inculcation, shelter and support of migrant  
6 workers in accordance with the mission of MISAS.

7 We ask that the qualifications of the  
8 on-site administrative be submitted and the response  
9 is the on-site administrator will be employed by MISAS  
10 solely for the purpose stated in the project overview  
11 as follows: They will have a full-time inn-keeper, a  
12 live-in administrator who will supervise the living  
13 arrangements of the residents and oversee care of the  
14 buildings and grounds. The successful applicant for  
15 this position will among other qualities demonstrate  
16 positive leadership ability, be bilingual, good  
17 rapport with the residents and a sense of  
18 organization.

19 Then we ask that they project future  
20 expansion possibilities and the expected number of  
21 migrants that will ultimately served at the site. The  
22 intention is slow and careful growth over a period of  
23 several years. Probably to a maximum of 50 to 60  
24 residents.

25 Any additional expansion of what they're

1 asking for tonight, if that's approved, would, of  
2 course, require another hearing before the board.

3 CHAIRMAN: Restate that. Slow growth over  
4 how many years and up to a maximum of how many,  
5 please?

6 MRS. STONE: Over a period of several  
7 years. Probably to a maximum of 50 to 60 residents.

8 CHAIRMAN: Any board member have any  
9 questions of the report she presented or comments at  
10 this time?

11 (NO RESPONSE)

12 CHAIRMAN: The applicant come forward and  
13 bring us up-to-date on new information, if you have it  
14 please.

15 MR. ELLIOTT: State your name, please.

16 SISTER LARRAINE: Sister Lorraine Lauter.

17 (SISTER LARRAINE SWORN BY ATTORNEY.)

18 SISTER LARRAINE: First, I have one  
19 picture of the Strawbale house that would be the same  
20 type of construction I'm proposing. I also brought in  
21 a picture taken half mile from the proposed site on  
22 adjoining property, and a picture taken one mile from  
23 the proposed site. Actually probably about half a  
24 mile as the crow flies which is also on the adjoining  
25 property, the type that I was describing at the last

1 meeting. I would like to pass those to you.

2 CHAIRMAN: You want to submit those in for  
3 the record?

4 SISTER LARRAINE: Yes, please.

5 I believe we have answered fully and been  
6 very forthright about answering all of the conditions  
7 or all of the points brought up by the zoning staff.  
8 We have a number of people who are ready and willing  
9 to speak on behalf of the project. If that's  
10 possible, I would like for them to do so now.

11 We have a number of farmers and we have  
12 Jim Burris who is an architect for Kentucky Housing  
13 Corporation and Jerry and Virginia Morgan who are  
14 residents on Boothfield Road. It's not very far from  
15 the proposed site, on the other side. Sister Diane  
16 Taylor and Wayne Witherspoon, Bob Wimsatt. We will  
17 begin with Jim.

18 CHAIRMAN: State your name for the record,  
19 please, sir.

20 MR. BURRIS: My name is James E. Burris.

21 (MR. JAMES BURRIS SWORN BY ATTORNEY.)

22 MR. BURRIS: I'm director of technical  
23 services for Kentucky Housing Corporation. I am a  
24 registered Kentucky architect. Have been doing these,  
25 taking care of these responsibilities for about 12

1 years at the Kentucky Housing Corporation.

2 What we would do with this project is to  
3 review all of the documents required and services of  
4 an architect and engineer. We would also perform  
5 inspections during the construction. We are part of  
6 the underlaying process for the project. We would  
7 require the documents that you are requiring and we  
8 would review those documents for their completeness  
9 and for the accuracy and that they have been properly  
10 signed and executed. We would require soil tests. If  
11 we have other findings, you know, during our review,  
12 we would also extend those. We would handle the  
13 project just as if it was regular multi-family project  
14 being processed and underwriting with all of the  
15 requirements as if it was a first mortgage on that  
16 property.

17 If you have any questions perhaps of our  
18 process.

19 CHAIRMAN: Any board member have any  
20 questions?

21 (NO RESPONSE)

22 CHAIRMAN: Does Staff?

23 MR. NOFFSINGER: No, sir.

24 MR. BURRIS: Thank you very much.

25 CHAIRMAN: Thank you, sir.

1 Next. State your name.

2 MR. ELLIOTT: I'm Joe Elliott.

3 (MR. JOE ELLIOTT SWORN BY ATTORNEY)

4 MR. ELLIOTT: It's been probably about two  
5 and a half years ago that we got a group of farmers  
6 together in the rural development. I sort of pushed  
7 to get-together and work towards this thing because  
8 there's a lot of migrant workers in town that comes in  
9 and has no place. Lot of people want to use them a  
10 week or two weeks and they have to go from one place  
11 to another and housing has been a real problem.  
12 Anyway, finally Sister Lorraine she took this on and I  
13 would say that it's really been a great thing that she  
14 has done it because nobody else has had time to do  
15 it. She's went through and done this. As far as  
16 farmers, it's not necessary that guys that migrant  
17 workers is not directly all to farming. You get a  
18 call during this time of year for several different  
19 contractors, restaurants and people building houses  
20 and different things that's looking for workers. It's  
21 not necessarily that she's going to be a contract  
22 worker or nothing like that. She's providing housing  
23 and moral support for these guys, especially when they  
24 can't or not being fully laborer. Basically it's a  
25 really good thing for the community and it's well



1 needed.

2 CHAIRMAN: Anyone have any questions of  
3 Mr. Elliott?

4 (NO RESPONSE)

5 CHAIRMAN: Thank you.

6 Next. State your name for the record,  
7 please, sir.

8 MR. CECIL: Gary Cecil.

9 (MR. GARY CECIL SWORN BY ATTORNEY.)

10 MR. CECIL: The project that Sister  
11 Larraine is working on is I think very necessary for  
12 the area as Joe alluded to about the migrant workers.  
13 There's more workers here every year and housing is a  
14 big problem. Myself I have 20 that stay here six to  
15 seven months out of the year and housing is my biggest  
16 problem. I have to have these guys because there's no  
17 other labor force out there that's going to do the  
18 stooped labor that we require in our vegetable  
19 operation and tobacco. She is offering some relief on  
20 this housing and the problem that we're running into  
21 throughout the county. I think it will be a very  
22 well-worth project.

23 CHAIRMAN: Anyone have any questions of  
24 Mr. Cecil?

25 (NO RESPONSE)

1                   CHAIRMAN: Thank you.

2                   Next. State your name for the record,  
3 please.

4                   MR. RINEY: Keith Riney.

5                   (MR. KEITH RINEY SWORN BY ATTORNEY.)

6                   MR. RINEY: The project that Sister has  
7 been working on we've met and talked several times  
8 throughout the year. It's been a great need, like  
9 Gary said, over the past several years. We've had  
10 difficulty in housing guys. We've always been  
11 short-handed. We've got people that we can get in to  
12 work and they're really good, dependable guys. They  
13 don't cause any problems. Some of them have been here  
14 three or four years. It's the only people we can get  
15 to do the jobs that we have. Without the housing  
16 we're either going to have to quit some of the jobs  
17 that we're into and it's sustaining us now as far as  
18 vegetables and with tobacco going out we rely on that  
19 type of worker more and more every day because it  
20 takes more manual labor hours per crop. It would  
21 really be beneficial to us to have extra housing. Not  
22 only that, but some of the things that you can  
23 administer for them as far as the English, learning a  
24 little bit more there. Some of them as far as getting  
25 back towards church and things of that nature. It

1 would really be a blessing for us.

2 CHAIRMAN: Any questions of Keith?

3 (NO RESPONSE)

4 CHAIRMAN: Any more comments on supporting  
5 or the need for? I think we've established that. You  
6 got something else new to add we want to get that  
7 down.

8 State your name for the record, please.

9 MR. MORGAN: Jerry Morgan.

10 (MR. JERRY MORGAN SWORN BY ATTORNEY.)

11 MR. MORGAN: One reason I wanted to  
12 comment is because I live probably within two miles of  
13 the proposed housing. I have no objection at all for  
14 these 14 migrant workers living in our area. I think  
15 it will be a lot better housing than what they're  
16 receiving now. There's some other housing close by  
17 that is not near the quality of housing that Sister  
18 Lorraine has proposed to provide.

19 CHAIRMAN: Anyone have any questions of  
20 him?

21 (NO RESPONSE)

22 MS. MASON: I have a question. I was not  
23 able to attend the last meeting so this may have been  
24 answered. Where are most of the migrant workers  
25 living now? Are they living on the individual farms

1 that they work for? I guess anyone can answer that.

2 CHAIRMAN: State your name again.

3 MR. CECIL: Gary Cecil.

4 At present, like I have three houses  
5 rented, but they're just scattered through the county.  
6 I don't own them. I just rent them. Two of them are  
7 in pretty dire shape, run down and I can't afford to -  
8 - the people that own them are just going to let them  
9 fall down eventually. That's where they are right now  
10 and that's the reason I - - housing is becoming a  
11 problem, finding adequate housing. I'm in the H2A  
12 Program also which we have a state inspector to  
13 inspect our housing. We have to meet certain  
14 standards and things like that. It's getting more  
15 difficult for housing than I have at the present to  
16 meet these conditions that they require. Also another  
17 reason for the need.

18 As Keith also said the workers like the  
19 H2A Program that I'm involved in, these workers just  
20 come here. We specify the date for them to come and  
21 the date that they have to leave to go back to Mexico.  
22 They just have a work visa to be here. Only the guys  
23 that have young families and kids back in Mexico and  
24 they send their money back. They make sure they don't  
25 get in trouble here because if they ever get in any

1 trouble at all at any time they can't come back to the  
2 United States. These guys bank on this just like we  
3 bank on them coming. It makes them a good living to  
4 live in Mexico. Their standard of living is a lot  
5 better than the average person down there because they  
6 can come up here and work during the year, months that  
7 we have work. As I say the housing is a big problem.  
8 That's the big issue that we're all faced with.

9 CHAIRMAN: Sister, is this housing only  
10 going to be for H2A workers?

11 SISTER LARRAINE: I would be hesitant to  
12 tie myself down to that. That's my intention. That's  
13 the intention of MISAS is to encourage the H2A  
14 program. One of the problems that we see repeatedly  
15 among this population, if people are illegal they are  
16 very vulnerable. They are very exploitable. Issues  
17 such as how they are housed is not even an issue for  
18 anybody. The H2A program these people are legal.  
19 They have coming and leaving date, all the things that  
20 Gary said. Year after year form relationships with  
21 them. It's a better situation for everyone, but the  
22 thing over and over that farmers tell me about the  
23 difficulty of using H2A is the housing. Any other  
24 questions?

25 CHAIRMAN: Being vaguely familiar with the

1 H2A, that eliminates a lot of problems that some of  
2 the others have. If that was tied to that, it might  
3 be easier to sell.

4 SISTER LARRAINE: I'm not sure that's the  
5 purvey of this board. Maybe it is. I'm thinking off  
6 my head. Excuse me.

7 CHAIRMAN: That's just my comment.

8 Any other questions?

9 MR. JOE ELLIOTT: Yes.

10 The comment on the H2A is the Cadillac way  
11 of golfing. The guy that calls you and wants his  
12 leaves raked or an older couple needs some maintenance  
13 work, or some repair, or just garden work, or just  
14 anything they need, usually try to be a green card.  
15 The green card legally we try to work towards the  
16 legal part. What Sister Lorraine is going to do,  
17 working with trying to do is support and have that  
18 option that she can work with most of the migrants.  
19 You going to find this town - - talk about housing.  
20 If you go to the Cadillac Motel - - not the Cadillac  
21 Motel. You're going to see 10 or 12 people in two  
22 beds in an apartment. That's their only alternative  
23 they got. They don't have no money so they put their  
24 money together. I don't know what the name of the  
25 motel is on 18th and Triplett. It's the one on the

1 left side. You go out there and those guys they got  
2 to do the best they can because the public has asked  
3 them to come to town whether we like it or not. They  
4 come here to work. So they work and they got limit of  
5 finance. So they'll book up a room or something like  
6 that and work. We're not saying all of the migrants  
7 is good people because there's a bad apple in every  
8 barrel regardless of who they are. For the majority  
9 when you go into McDonald's or the Executive Inn,  
10 anywhere, and get a salad some migrant worker has done  
11 picked that. They're here and we're going to have to  
12 provide housing for them. Which I have housing and I  
13 went through this board probably month or so ago and  
14 got a building permit from Mr. Mischel where you all  
15 worked fine with us. We do our housing and try to  
16 work it, but there's a lot of them in town that needs  
17 some support and Sister Lorraine has tried to do that  
18 and we need to back her. The farmers has actually got  
19 her interested in this thing over two years ago and  
20 she's done a lot of work. It's going to have to have  
21 housing some way, somehow. I don't know. She's got a  
22 real good start.

23 CHAIRMAN: Thank you. Any questions of  
24 Mr. Elliott?

25 (NO RESPONSE)

1                   CHAIRMAN: Mr. Wimsatt, state your name  
2                   and we'll swear you in.

3                   MR. WIMSATT: Bob Wimsatt.

4                   (MR. BOB WIMSATT SWORN IN BY ATTORNEY.)

5                   MR. WIMSATT: Mr. Chairman, I just wanted  
6                   to mention that we have tried to accommodate all of  
7                   the concerns of the staff and the committee about the  
8                   land. We do have this - - it's already been said. We  
9                   have a subdivision plat that's been approved. It just  
10                  hasn't been recorded. From the property owner's  
11                  standpoint I've tried to address all of the concerns  
12                  that the committee had.

13                  There is a lot of things that I could  
14                  potentially do with this property. What Sister is  
15                  proposing to do is a very worthwhile project and is  
16                  much better than a lot of other things that I could  
17                  possibly do with this property.

18                  CHAIRMAN: Thank you.

19                  Any questions of Mr. Wimsatt?

20                  (NO RESPONSE)

21                  CHAIRMAN: I think we've heard the pros.  
22                  Is there any objections? Anyone in the audience  
23                  wishing to object at this time? We heard a number of  
24                  those last month. You want to come forward. State  
25                  your name for the record.



1 MR. JACKSON: Brian Jackson.

2 (MR. BRIAN JACKSON SWORN BY ATTORNEY.)

3 MR. JACKSON: Having reviewed the minutes  
4 of the last meeting concerning this application, I  
5 took the liberty of bringing some of those with me  
6 just to jog my memory.

7 There are still many issues that were  
8 brought up at the last meeting that have not been  
9 addressed. The length of the lease has not been  
10 addressed. We still have no idea whether this is a 5  
11 year project or a 500 year project.

12 We still do not know about how water,  
13 specifically a 6-inch water line is going to be gotten  
14 to the property. I have a quote here from the minutes  
15 that says, from Sister Lorraine from the last meeting,  
16 "We talked to Kentucky Housing Corporation because the  
17 Ben Hawes Park doesn't have a hydrant. We asked them  
18 permission if we could also get a line attached so we  
19 could bring and use some of that money also to improve  
20 within the park." Mr. Wimsatt then said with  
21 reference to a water line, "We may try to work  
22 something out and run a 6-inch water line down the  
23 front of this site which would be a benefit to  
24 everybody." But that does not address how it's going  
25 to be paid for or where that money is going to come

1 from.

2 As to the impact on the community, this is  
3 truly the issue that must be addressed I believe by  
4 this board which is over the past 25 years or so there  
5 has been a particular movement of Planning & Zoning  
6 where this property is concerned and where this area  
7 is concerned, the entire Bon Harbor area surrounding  
8 the park. Twenty-five years ago, well, ten, fifteen  
9 years ago my wife and I rode horseback through most of  
10 that area. It's subdivisions now. It is fully  
11 regulated single-family dwelling subdivisions.

12 Two years ago or less when this property  
13 was brought before this board with a view in mind  
14 toward development, this board stated quite plainly  
15 that the area set precedent for years of moving away  
16 from any kind of agricultural use and moving toward  
17 fully regulated single-resident dwelling type  
18 subdivisions in use. A quick drive up and down Medley  
19 Road, a quick drive up and down Luthfield will show  
20 that that progress has been booming and that the  
21 movement of that area is certainly toward this type of  
22 usage.

23 On the other hand, I cannot find any  
24 precedent. I do not believe there is one. Any use of  
25 any land in the Bon Harbor area or any type of

1 multi-family boarding facility and now we're finding  
2 that the facility that's being proposed is not only an  
3 inn or a hotel of some kind, but it's also a  
4 counseling center, an education center. There's no  
5 precedent anywhere in the Bon Harbor area for any kind  
6 of property use for that type of usage.

7 Mr. Wimsatt - - let me quote again from  
8 the last meeting. "What happens if this turns into a  
9 cesspool? Can we revoke the lease? We can. There's  
10 standard language that you can put in a lease so if it  
11 turns into some crime ridden facility, you just revoke  
12 the lease and that's the end of the story."

13 That isn't the end of the story. If the  
14 language on revocation has to be exercised, it means  
15 that there have been crimes committed. Against whom?  
16 Well, we don't know yet, but we do have a history  
17 that's been established in the Stanley area of these  
18 types of efforts and they have all gone the same  
19 route.

20 Now, my discussion with the sheriff  
21 earlier today and with the chief of police and several  
22 other officers, gave me to understand that normally  
23 according to the way the police and sheriff's  
24 department in this county operate they find that the  
25 crimes committed by migrant workers are not normally

1 crimes perpetrated against others living in the area,  
2 but rather against each other. Stabbings, shootings,  
3 beatings. Much of this having to do with alcohol  
4 abuse. This, of course, is something that I'm  
5 extremely concerned about since I do travel and my  
6 wife is alone on our property. We are the only other  
7 human beings who live on Willett Road.

8 That brings me to another point that I  
9 have here in the minutes. The last thing in fact that  
10 chair person said as the issue was being dropped,  
11 "Please get in touch with your neighbors and discuss  
12 this with them. That would be of help." It's been 30  
13 days since that meeting. My phone has not rung. I  
14 have received no mail. I have received no phone call.  
15 No one. Mr. Wimsatt nor anybody from MISAS has  
16 attempted to contact me.

17 Again, my wife and I are the only people  
18 who live on Willett road north of the park.

19 I've had conversations with Mike Riney,  
20 with Mark Treesh, with the Mayor of Owensboro, and  
21 they have all expressed shock and dismay.  
22 Interestingly I was the first person to tell any of  
23 them about this. They had absolutely, neither the  
24 mayor, neither the chief of police, neither the  
25 sheriff or the county, neither Mark Treesh, our state

1 representative, neither Mike Riney who is the person  
2 on the fiscal court who is responsible specifically  
3 for that area, none of these people had any idea that  
4 this had even been proposed and were shocked, dismayed  
5 and gave me to understand, especially the mayor, under  
6 no uncertain terms that this type of usage did not  
7 meet his administration standards for the utilization  
8 of that area.

9 Now, that was said in a telephone  
10 conversation. I don't have a tape recording of it,  
11 but I am under oath and that is what the mayor said to  
12 me.

13 I'm speaking for my wife and I. We  
14 understand that there are difficulties in farming and  
15 we understand that there are difficulties in housing  
16 farm workers. We are certainly in support of any  
17 program that will make that an easier thing for folks  
18 in the county to do. The fact is the property that  
19 it's been proposed to be done on is completely  
20 inappropriate and there is no precedent for any type  
21 of use of this nature in the area. Once again, I have  
22 talked to the public official after public official  
23 who have expressed to me both shock and dismay over  
24 this proposal. We are still absolutely adamantly  
25 opposed do it.

1                   CHAIRMAN: Any board member have any  
2 questions of the speaker?

3                   (NO RESPONSE)

4                   CHAIRMAN: Anyone else have any comments  
5 in opposition? Come forward and be sworn in.

6                   CHAIRMAN: State your name for the record.

7                   MRS. KURZ: Gertrude Kurz.

8                   MRS. KURZ: Mr. Jackson alluded to the  
9 land being flood land. Why can't you move to Mount  
10 St. Joseph? They've got 200, 300 acres that never has  
11 any flood on it. There's plenty of places around here  
12 that has field. Mr. Wimsatt even has hills he could  
13 put this on. We're not against the migrant worker  
14 here. We're just sitting on the flood land. Putting  
15 them in a water hole really is what it amounts to.  
16 That floods down there every three or four years. If  
17 it gets up like the '37 flood, they won't have to  
18 worry about anything. It'll all be gone.

19                   CHAIRMAN: Thank you, ma'am.

20                   Any other comments from the opposition?

21                   (NO RESPONSE)

22                   CHAIRMAN: Staff have anything they want  
23 to add at this time?

24                   MR. NOFFSINGER: I would just to address  
25 Mr. Jackson's points. Not to be argumentative, but

1 just to clarify some of the items.

2 Mr. Jackson, in terms of the length of the  
3 lease, that's something that we did not proceed with  
4 trying to get an answer on any further once the  
5 subdivision plat was submitted to us because that  
6 addressed the issue of the lot being created. If  
7 there's going to be a long-term lease, we felt that  
8 the statutes would require that a lot division plat be  
9 submitted, approved and recorded. So they have met  
10 that. We did not pursue the length of the lease any  
11 further.

12 In terms of the extension of the water  
13 main, we don't know that the water main is going to be  
14 extended with this project or not. Maybe. Might not  
15 be. Certainly the water main could be extended by Mr.  
16 Wimsatt as the landowner at his expense. That would  
17 open that area up for continued development or more  
18 rapid development if that water line is extended.  
19 Meaning it would accelerate potentially the number of  
20 lots that are created in that area. I think right now  
21 the property is served by perhaps a two or three inch  
22 water main. That may very well be adequate to provide  
23 the domestic water that would be required for the  
24 project. Doesn't address fire protection. To my  
25 knowledge fire protection is not an issue here.

1       Whatever is required by the building code, they will  
2       have to meet the building code.

3                       In terms of the multi-family units, I  
4       agree with Mr. Jackson. I don't know of any other or  
5       any multi-family units in that area; however, we must  
6       consider that this is a dormitory. The occupants  
7       living here are living together as a single-family as  
8       defined by the zoning ordinance. They have one common  
9       kitchen. If they had multiple kitchens, then I think  
10      we would look at it differently and say, well, this is  
11      a multi-family unit and probably feel certain would  
12      not be allowed in this particular zone, but because  
13      they have a single kitchen and the occupants are  
14      living together as a single-family unit, then it is a  
15      use that's conditionally permitted in that zone.

16                      Again, that's not the argumentative.  
17      That's just to state the facts as what we've learned  
18      and described a picture of that area.

19                      MR. JACKSON: May I respond to that,  
20      please?

21                      CHAIRMAN: Please.

22                      MR. JACKSON: Brian Jackson.

23                      Well, that would be a satisfactory answer,  
24      it really would, had the issue not developed from what  
25      we were told 30 days ago. A dormitory for 14 people



1 period. To what we now learn is a plan apparently to  
2 develop some kind of community there of its own of 40,  
3 50, 60, now probably we are told within how many  
4 years? I can't see how that is - - I can't see how  
5 that fits in what was said last month at this  
6 meeting. Dormitory for 14 workers. Now we find that  
7 the plans apparently are already in place to increase  
8 that to 50 or 60. Apparently there's a great deal  
9 more going on than we know about.

10 CHAIRMAN: Let me add one thing. They  
11 applied for 14. If they put more than 14 people there  
12 at this time, their Conditional Use Permit will be  
13 revoked or they'll have to come back and apply for  
14 another four more. They're limited to 14 at this  
15 time.

16 MR. JACKSON: Let me ask what apparatus  
17 this board has to enforce, to check up on? Is there a  
18 way that this board can exercise continuous control  
19 over that?

20 CHAIRMAN: Counsel, you want to address  
21 that?

22 MR. ELLIOTT: Yes, there is. Under the  
23 Kentucky Revised Statutes, Chapter 100, a Conditional  
24 Use Permit can be revoked if they violate their  
25 condition. There's a procedure you have to go through

1 to do that. For instance, if you were to file a  
2 Complaint, it would be investigated. It could be  
3 brought back before this board and could be revoked by  
4 this board. A Conditional Use Permit if that was  
5 revoked then they could no longer use it. So there is  
6 a means to do that.

7 CHAIRMAN: Mr. Elliott, would you add a  
8 couple of more things or explain. We can put  
9 conditions on that have to be followed also.

10 MR. ELLIOTT: Yes. A Conditional Use  
11 Permit is just that. It's conditional use subject to  
12 conditions and this board places those conditions on  
13 use and they have to be complied with.

14 MR. JACKSON: But none of this addresses  
15 the issue of the impact on the community, the extreme  
16 variance that this represents between the current  
17 usage of property in the Bon Harbor area and the fact  
18 that many of us who have invested there specifically  
19 because we have followed the progress of the city.  
20 We've seen that the Bon Harbor area now has schools,  
21 post office. That area is being highly developed.  
22 There are more schools on the way. There are more  
23 subdivisions on the way. This is simply not the  
24 appropriate place for any type of endeavor at this  
25 time. That's still our point.

1                   CHAIRMAN: Thank you, sir.

2                   Now, the pros, do you have anything else  
3 you want to present at this time?

4                   SISTER LARRAINE: I don't think so, sir.

5                   CHAIRMAN: Any board member have any  
6 questions or comments?

7                   (NO RESPONSE)

8                   CHAIRMAN: Staff?

9                   (NO RESPONSE)

10                  CHAIRMAN: Anyone else in the audience?

11                  (NO RESPONSE)

12                  CHAIRMAN: Then I'm going to cut it off  
13 and ask for a vote.

14                  SISTER LARRAINE: I did want to offer that  
15 if we are able to use this site, we discussed this a  
16 little bit before, but not at the first meeting. It  
17 came up to me after the first meeting. I do think it  
18 would be appropriate to have a neighborhood advisory  
19 counsel, some sort of venue for neighbors to express  
20 concern or to receive information and updates to know  
21 where things are going. We don't have the agenda. We  
22 don't have a desire to create anything that will be  
23 any kind of mess at all. We would be very happy to  
24 have neighborhood input.

25                  I would also like to point out that this

1 area is on the other side of the Bon Harbor hills. If  
2 there were a flooding issue, we would move up the hill  
3 and be that much closer. Again, because of the flood  
4 plain and all of that we do not see this becoming an  
5 area that is going to be developed in the same sort of  
6 way than the other parts of Bon Harbor are.  
7 Completely different side of the Bon Harbor hills than  
8 where we are now, than where all of that is now.

9 CHAIRMAN: Thank you. Give you a couple  
10 of minutes. Do you have anything else you all want to  
11 add on this side?

12 (NO RESPONSE)

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

15 MR. PEDLEY: Mr. Chairman, I make a motion  
16 for approval based on statements here tonight for the  
17 need for this program and based on statements in the  
18 application, statements made last month by Sister  
19 Larraine that there will be rules and regulations and  
20 someone on duty to enforce them. That the facility  
21 will be maintained and kept in good appearance.

22 Condition 1: There shall not be any  
23 expansion in number of residents or in the site plan  
24 submitted without coming before this board for  
25 approval.

1                   Condition 2: If there are any severe  
2 rules and regulations and maintenance violations, this  
3 board may require the permit holder to appear before  
4 this board to address the problems. This board has  
5 the power to revoke the Conditional Use Permit and may  
6 do so.

7                   CHAIRMAN: You've heard the conditions and  
8 the motion. Is there a second?

9                   MR. MILLER: Second.

10                  CHAIRMAN: A motion has been made and a  
11 second. Any other discussion or comments from Staff?

12                  MR. NOFFSINGER: Mr. Chairman, I would  
13 like the board to consider two other conditions on  
14 approval. One would be within seven days that they  
15 will submit a copy of the recorded plat and recorded  
16 deed of the property to the Planning Commission and  
17 that there be a full-time live-in administrator on  
18 site at all times.

19                  MR. PEDLEY: Mr. Chairman, I will add  
20 those to my motion.

21                  CHAIRMAN: That will be noted in the  
22 record. Second accepts those?

23                  MR. MILLER: Yes.

24                  CHAIRMAN: You've heard the additions, two  
25 conditions to the motion. Any other discussion or

1 comments?

2 MR. MILLER: Mr. Chairman, might just say  
3 for the record that this is for the 2.16 acres and not  
4 for the original 35 acres that was on the original  
5 application?

6 CHAIRMAN: That's correct. Amended  
7 application.

8 MR. MILLER: Yes.

9 CHAIRMAN: Any other questions by the  
10 applicant?

11 SISTER LARRAINE: No, sir.

12 CHAIRMAN: The one opposed, you understood  
13 the motion? Whether you agree or disagree you  
14 understand it?

15 MR. JACKSON: Yes.

16 CHAIRMAN: Thank you.

17 Any other discussion?

18 (NO RESPONSE)

19 CHAIRMAN: Hearing none all in favor raise  
20 your right hand.

21 (ALL BOARD MEMBERS PRESENT WITH THE  
22 EXCEPTION OF MR. WARREN'S DISQUALIFICATION RESPONDED  
23 AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Why don't we take a five minute break.

1 - - - - (OFF THE RECORD) - - - -

2 CHAIRMAN: Let the record show that Mrs.  
3 Dixon has left. With that Item Number 8.

4 MR. NOFFSINGER: Let the record reflect  
5 that due to my professional relationship with the  
6 applicant and on advice of legal counsel, I'm going to  
7 disqualify myself from participation.

8 CHAIRMAN: With that will you read the  
9 application, please.

10 ITEM 8

11 1214 St. Ann Street, in an R-4DT zone  
12 Consider request for a Variance to reduce the rear  
13 yard setback from 20 feet to 4 feet in order to  
14 construct a 35.5-foot by 24-foot addition to an  
15 existing residence.

16 MS. STONE: The application is in order  
17 with an amended application. We have advertised it  
18 for public hearing and it's ready for your  
19 consideration.

20 CHAIRMAN: Has there been any objections  
21 filed in the office?

22 MS. STONE: No, sir.

23 CHAIRMAN: Is there anyone in the audience  
24 wishing to object?

25 (NO RESPONSE)

CHAIRMAN: With that the applicant can  
present his case, please.

1 MR. ELLIOTT: State your name, please.

2 MR. FREE: Keith Free.

3 (MR. KEITH FREE SWORN BY ATTORNEY.)

4 MR. FREE: Thank you very much. This is  
5 my wife Susan. We're requesting a variance in our  
6 rear yard setback. It's got a 20-foot required rear  
7 yard setback and we're requesting it to be reduced  
8 down to 4-foot.

9 We live on 1214 St. Ann Street which is  
10 within the J.Z. Moore Historical Neighborhood. It's  
11 kind of in the downtown area where there's some older  
12 bigger houses and things like that.

13 The zoning classification in our  
14 neighborhood is R-4DT. This zoning classification in  
15 a lot of different areas, it's mostly a zone that's  
16 been placed over older neighborhoods that were created  
17 prior to the classification being put on the property.  
18 In the majority of the areas, R-4DT works fine and the  
19 setbacks can be met even when you place it over  
20 existing development.

21 In our area it's kind of unique. We have  
22 these big old houses. They don't respect the setback  
23 lines too well with R-4DT. Actually that creates the  
24 character of the neighborhood is the way that the  
25 houses are as far as not setback very far from the



1 property and houses are very close. It adds a lot of  
2 character to the neighborhood.

3 One thing what Becky had said is that we  
4 did amend our application. Originally we had  
5 submitted our application the first floor plan, our  
6 initial floor plan we had included a mud room and a  
7 larger porch. The amended floor plan that's on the  
8 right, it's the same square footage, but initially  
9 when we created the floor plan - - I had talked with  
10 Mr. Mischel on several occasions to determine prior to  
11 submitting my application to make sure because I knew  
12 about maximum lot coverage. That I needed to really  
13 watch that. That's where I came up with the initial  
14 floor plan.

15 In the middle of the process, once I had  
16 submitted the application for the variance then I was  
17 told that the way that they're looking at considering  
18 how to figure maximum floor area is they're kind of  
19 looked at a lot closer and they're interpreting a  
20 little bit different than they had looked at  
21 previously. Plus, you know, to be honest maybe it  
22 doesn't make a whole lot sense, the investment that my  
23 wife and I have made in the property or even this may  
24 not make a lot of financial sense to a lot of people  
25 why we would be talking about doing this financial

1 investment in this older area. We love the  
2 neighborhood. This would add to the value of the  
3 area.

4 One of the things about this, and I  
5 understand I can't really get into it. It's more of a  
6 matter of maybe appealing decision of the  
7 interpretation. In the maximum lot coverage,  
8 basically what happened is if they look at my our  
9 front porch, its floor area, it's calculated as floor  
10 area when you calculate for how much building and  
11 space can fill a lot, if you count our porch in that  
12 then we can't do the initial plan. That's why we had  
13 to change it. We understood we couldn't come before  
14 this board this evening if we didn't amend that.

15 The area where it comes down to it in  
16 Article 14.34 where it specifically expresses, back  
17 like Article 3 it says all the stuff must meet all  
18 this stuff and then it kind of works it way down to a  
19 point. The point of the object in looking at or  
20 property is this Article 14.3 where it talks about  
21 floor area.

22 This first section where it talks about  
23 how you figure this floor area. What this first thing  
24 is saying is that measuring the floor area is from the  
25 exterior, I think it's the exterior face of exterior

1 walls. On our front porch, existing front porch, the  
2 exterior face of our exterior wall is actually the  
3 vinyl siding that's on the porch.

4 MR. ELLIOTT: Keith, I need to interrupt  
5 you just a minute. Aren't you getting into the appeal  
6 or interpretation of the zoning ordinance?

7 MR. FREE: I understand that the board  
8 cannot address this, cannot resolve this issue for me  
9 tonight. I guess what me and my wife want to do is  
10 make sure that if we were going to appeal the decision  
11 of the interpretation of the ordinance that, you know,  
12 we come back. The way we understand we have to pay  
13 \$75 and we've got to wait a whole month to then come  
14 back and address this. We come back, you know, in a  
15 month from now and then you guys be like what are you  
16 doing? We're here for that variance. I didn't want  
17 you guys to think that the amended floor plan that we  
18 were submitting was just something we decided to  
19 change. I definitely understand that and I'll just go  
20 through this without explaining.

21 MRS. STONE: The application that we have  
22 advertised does meet the interpretation of the zoning  
23 administrator for a floor coverage. That's really not  
24 an issue on this variance application.

25 MR. FREE: The issue specifically is

1 within the framework of the square footage. It's not  
2 really the total square footage. It's how I'm busting  
3 that up. Whether it's a mud room or how big I'm  
4 making the porch. That's really where it is.

5 As Becky said what was advertised was  
6 correct. This is still the variance, we still want  
7 to, we still would like to request this variance.  
8 We'll just flip this portion of it. I won't go into  
9 that.

10 One thing I might just pull out, I'm sure  
11 that Mr. Noffsinger brought to your attention, but the  
12 e-mail that he sent me last Tuesday to let me know,  
13 "Keith, please know that I do not think it appropriate  
14 for a person in your position to request a variance.  
15 Certainly an appeal of the zoning administrator's  
16 decision." You know, that was something that  
17 surprised me as far as the way the executive director  
18 is looking at it. I feel it is appropriate. This is  
19 a public forum for my wife and I to attempt to receive  
20 a variance. We appreciate you guys hearing this  
21 tonight.

22 Our property, it's kind of different than  
23 a lot of other properties. The alley, this that's  
24 running, you can see where the rear of our house is  
25 located where that arrow is pointing to. Over there

1 where the dumpsters are, that's where the doctor's  
2 office are. That's all commercial property.

3 On our block we have residential, but then  
4 we have the alley. Then we have commercial right  
5 against that.

6 Just another shot of the rear of the  
7 property and this parking lot right behind our  
8 property.

9 This is just a shot of the rear of our  
10 house and where the alley is. You can see right  
11 there, the 1220 St. Ann apartment, there's a garage  
12 underneath of it and an apartment above it. That's  
13 actually located right on our property line and it's  
14 located to the rear. It's right on the alley  
15 right-of-way. I understand this isn't necessarily  
16 connected to the primary structure, but it kind of  
17 shows you in our alley, you know, there's a lot of  
18 fences and garages and then apartment and things like  
19 this through the whole neighborhood.

20 CHAIRMAN: Let me interrupt. That  
21 particular building was built before the zoning  
22 ordinance went in effect.

23 MR. FREE: Yes, it was. I mean 99.9  
24 percent of everything built within this neighborhood  
25 was all built prior to this zoning classification that

1 I'm asking relief from was placed on all the property.

2 This shows 109 East 14th and 115 East  
3 14th. Shows the side yard setbacks, what those are,  
4 but then also the rear yard setback at this location  
5 at 109 East 14th is 9-foot.

6 This is 115 East Parrish. Show a 9-foot  
7 rear yard setback.

8 This is a rear yard setback on I think  
9 it's an apartment or something. Seems like somebody  
10 was living there at one time. It is about 3-foot from  
11 the rear yard.

12 This is an apartment building that's right  
13 on the alley, 1312 Allen Street. It's right on the  
14 alley.

15 This is property at 315 West 14th. I  
16 understanding that this is a side yard setback, but  
17 it's right on the alley. It's an attractive home  
18 there. Just to show that this area as far as setbacks  
19 go there's a lot of things in place.

20 This is 1309 Locust Street. Has a 4-foot  
21 rear yard setback. This is attached to the primary  
22 structure.

23 This is 705 Allen Street. This is like  
24 plus or minus a foot rear yard setback to the white  
25 house that's behind it. The brick house is the one

1 that's encroaching on the setback.

2 Also 301 East 24th Street has a 4-foot  
3 rear yard setback. Very visible property. You can  
4 see this property and other properties are located  
5 that have alleys. They're located near the rear yard  
6 setback.

7 This is again is a side yard setback that  
8 shows in the general vicinity how close. This is  
9 actually, this is not a detached garage. It's  
10 attached to the house. It just so happens that the  
11 door is facing Locust Street instead of 12th Street.

12 This is 515 West 12th. Has a one-foot  
13 rear yard setback.

14 There's our property as it sits now.

15 I've addressed and I think everybody has  
16 copies of the different - - all of these things here,  
17 we talked about here was talked about that we weren't  
18 going to alter the essential character of the  
19 neighborhood. If anything we're even fitting in more  
20 than we actually do now with the addition. Even if  
21 the variance was granted, the addition going into that  
22 4-foot on the alley. That's what all of those things  
23 address.

24 The next thing would be that granting the  
25 variance would not cause any hazard or nuisance to the

1 public or to the neighborhood. Also feel that the  
2 granting of this variance is not really an  
3 unreasonable circumvention of the zoning ordinance.  
4 It's actually a relief to properties in our  
5 neighborhood where the development of property  
6 predates the R-4DT zone classification.

7 Also note on July 5, 2001, Board of  
8 Adjustments approved a variance for a house two doors  
9 down from our house. From 20-foot to 8-feet. What  
10 we're looking at doing we're looking at probably a  
11 35,000 to \$40,000 addition onto our property. We feel  
12 it will enhance the value of the property within the  
13 neighborhood as well as fit in with the character of  
14 other existing structures of the neighborhood.

15 We're going to be sensitive to - - as you  
16 can see, which you saw from the photo of our house,  
17 our garage will carry that same feel and have the  
18 fish-scales of the point of the eaves and everything.

19 That kind of flows everything that we were  
20 requesting. We sure appreciate you guys considering  
21 this. We feel that if we're allowed to construct our  
22 addition that it would be something that would add to  
23 the neighborhood. It wouldn't be anything that would  
24 take away. We feel it's well within the ability of  
25 granting the variance with the different things that



1 we addressed in our application. Thank you.

2 CHAIRMAN: Let me ask you one question.

3 The construction date of this house was when?

4 MR. FREE: We built the house about six  
5 years ago. We designed it to fit into the  
6 neighborhood. Prior to us building the home it was a  
7 parking lot. Prior to even discussing with Mr.  
8 Mischel about, you know, before I submitted the  
9 application, about what we could maybe build and  
10 everything. My wife and I to be honest with you we  
11 were struggling with selling the house and moving to a  
12 different neighborhood. The house has a lot of  
13 amenities that we like, but we don't have - -parking  
14 is a problem with Lila Jean. I don't know if you're  
15 familiar with Lila Jean's. Tuesdays and Thursdays are  
16 pretty tough in our neighborhood about getting a  
17 parking space. There's a business up there that  
18 doesn't have any parking. It's pretty difficult to  
19 fight for a space. What we're trying to do is do  
20 something off of our alley with a garage. We  
21 understand we could do a detached garage. We could do  
22 a detached three car garage off the back and meet all  
23 the requirements and everything, but in looking at the  
24 cost of doing that for a little bit more we could  
25 attach it to the house and make something that just

1 work a lot better and looked a lot better for us.  
2 That's why we're requesting the variance.

3 CHAIRMAN: Any board members have any  
4 questions?

5 (NO RESPONSE)

6 CHAIRMAN: Staff have any comments or  
7 additions?

8 (NO RESPONSE)

9 CHAIRMAN: Anyone else? State your name  
10 for the record.

11 MS. KINCAID: Nita Kincaid.

12 (MRS. KINCAID SWORN BY ATTORNEY.)

13 MRS. KINCAID: I live at 1200 block of St.  
14 Ann with my husband and there were some other  
15 neighbors here but getting into the late hour had to  
16 leave. We are all encouraged with anyone in our  
17 neighborhood decides to improve their property. I'm  
18 going to read a statement that we've prepared from the  
19 neighborhood and we fully support the Frees's plan.

20 What I didn't realize was that Keith said  
21 that they could build a detached three car garage  
22 without having come before this board. Basically all  
23 they're asking to do is to make an attachment to the  
24 home.

25 As you did see in his presentation it's

1 not anything he's asking out of the ordinary in our  
2 neighborhood. Again, it's very rare that we have  
3 people that are willing to make the financial  
4 commitment that Keith and Susan would like to make to  
5 stay in our neighborhood. It is also true that our  
6 street is extremely narrow. That almost on a daily  
7 basis when we have cars parked going both north and  
8 south it is absolutely impossible for two cars to  
9 pass. That we either have to back up or try to dive  
10 in a place to get out of someone's way. We've been  
11 very lucky that we've not had more accidents at the  
12 south end of 1200 St. Ann because of Lila Jean's  
13 operating there and the fact that when there's cars  
14 there it is a track traffic hazard. I can understand  
15 why the Frees would want to build a garage and get  
16 their cars off the street.

17 I'll go ahead and read the prepared  
18 statement. "We are here to show our support for the  
19 addition that Keith and Susan Free are planning to  
20 construct. We realize the structure would extend to  
21 4-feet from the alley, but as we've experienced from  
22 the past Keith and Susan have constructed and  
23 maintained a beautiful property. Not only did they  
24 make a massive investment in our neighborhood six  
25 years ago, but today they are seeking to stay in the

1 neighborhood with the approval of adding on an  
2 addition that will only improve this area financially.  
3 We continue to see residents making improvements in  
4 the hope to keep residential housing that makes our  
5 historic areas of Owensboro attractive. Thank you for  
6 your consideration to our neighbors."

7 I also have a letter, that I will give to  
8 this lady, gentleman that could not be here tonight in  
9 support of this as well.

10 CHAIRMAN: Any other comments from anyone  
11 else wanting to speak? Come forward and state your  
12 name.

13 MR. HAGAN: Barry Hagan.

14 (MR. BARRY HAGAN SWORN BY ATTORNEY.)

15 MR. HAGAN: Something I would hope you all  
16 understand. We have tried and tried hard in our  
17 neighborhood, that's from Allen Street all the way  
18 from Daviess, Allen and St. Ann. We put a lot of  
19 money in our homes. We're trying to make this city  
20 proud of what we've done. We've gutted our homes.  
21 We've added more space. We have done about everything  
22 a person could imagine to bring our J.Z. Moore  
23 neighborhood back up to par where when somebody comes  
24 to this town they come out around that area. We've  
25 got a house on Allen Street that they're selling for

1 219,000, which before you could only probably get  
2 50,000 out of the thing if anything. Got another  
3 house that's around 200,000, 210,000 that's on St. Ann  
4 Street at the very end. At one time before they went  
5 in there and redone that house, you could probably got  
6 it for 35,000. What we're doing we're trying every  
7 way possible to get our homes back up to par and  
8 maintain the value. Which if we maintain value it  
9 becomes more accessible for the city. Also raises  
10 taxes for the city. Numerous different things can  
11 happen.

12 I would like and I think J.Z. Moore would  
13 like to do the same thing. Ask the commission to work  
14 with us. I'm fully for Keith and Susan's garage that  
15 they're putting on. They have a beautiful home. It  
16 has improved our neighborhood. Of course, like my  
17 Nita just said, the street is so narrow that you can't  
18 get down. You can't even park on your own street  
19 about half the time. We have just applied for a  
20 variance not too long ago and ours was approved. It  
21 was an attachment to the house. They're not asking  
22 for anything different than what we asked for. I  
23 would hope that you all approve this. Thank you.

24 CHAIRMAN: Anyone else?

25 (NO RESPONSE)

1                   CHAIRMAN: Staff have something they want  
2 to add to this, please?

3                   MR. MISCHEL: Jim Mischel.

4                   (MR. JIM MISCHEL SWORN BY ATTORNEY.)

5                   MR. MISCHEL: I realize it's late and  
6 we've heard a lot so I'll make this short, try to  
7 anyway.

8                   I have a couple of comments and I'd just  
9 like to say why the Staff recommendation was for  
10 denial. Basically as Kincaid said they've had a  
11 variance approved recently. A lot of the photos that  
12 Keith and Susan have, a lot of those structures if not  
13 all of them predate the ordinance where their  
14 structure is a different story. It was built in 1996.

15                   In general the ordinance looks at those  
16 two in different situations. A new structure we try  
17 to get to meet all of the ordinances that we can,  
18 setbacks and everything. Their lot is zoned R-4DT.  
19 In R-4DT it's required to have a minimum of 5000  
20 square feet. Which theirs I think is about 16 square  
21 feet shy of that. Therefore they pretty close to meet  
22 the standards of that zone.

23                   I think they did get an average setback on  
24 the front of the house with a structure on either side  
25 so they gain there. Essentially this structure being

1 built new in '96 is kind of a different animal if you  
2 want to say than some of these other structures.

3 I share their concerns and I applaud them.  
4 One other comment. It's hard for the Staff - - right  
5 now I'm working on about two or three items with the  
6 neighbors on different things as far as houses being  
7 up for sale and make sure they stay single-family if  
8 they lost their grandfather clause. There's been some  
9 parking concerns and we're working on those. It's  
10 hard for the staff to enforce those and then turn our  
11 back on something else such as a variance or approve  
12 something that really it doesn't go along with the  
13 guidelines of the ordinance.

14 To be consistent and fair I think we have  
15 to do that and be fair across the board. I applaud  
16 them too to keep the neighborhood like that.

17 One other comments unless you all have any  
18 questions. I'll just say this because Gary is not  
19 here. He left the room. There was a statement made  
20 about an e-mail being sent. I've heard part of that.  
21 I don't think there's any malice made or anything.  
22 Knowing both parties I think it was an extension for  
23 cooperation or whatever. I don't think anything was  
24 meant by it. I'm sure if he was here he would explain  
25 he didn't mean anything by that. I wanted to add that

1 in. Knowing both parties I don't think anything is  
2 there.

3 If you have any questions or if they have  
4 any questions. It's true the structure now could be  
5 built detached and we could issue a permit. It's just  
6 it's attached structure and it doesn't meet the 20  
7 foot rear setback which is required in this zone.

8 MRS. STONE: I would just like to add that  
9 if the Board determines that they will be approving  
10 this variance that the Staff would like them to  
11 consider a condition that the addition with the  
12 exception of the porch be used for vehicle parking  
13 area and not converted to habitat area so that they  
14 maintain their lot coverage requirement and that the  
15 vehicular use area should be constructed at ground  
16 level.

17 CHAIRMAN: Any other comments from the  
18 Staff?

19 (NO RESPONSE)

20 CHAIRMAN: Any questions from the board?

21 (NO RESPONSE)

22 CHAIRMAN: Applicant have anything they  
23 want to add before we proceed?

24 MR. FREE: On the R-4DT zone, I understand  
25 we did this crazy thing in building this very



1 expensive house in this neighborhood and we're asking  
2 relief to even do more to it. I think the newness of  
3 the house, and it's just six years old, you know,  
4 taking in account the neighborhood and looking at  
5 variances. It's under certain situations. If you  
6 look at the situations in the neighborhood and the  
7 situations in our neighborhood are such that if  
8 everything burned down and you built it all back to  
9 the R-4DT standard, it would not look like the same  
10 neighborhood. You couldn't build 50 percent of the  
11 neighborhood back and make it look like it did. I  
12 know you could if it burned down you could have the  
13 right to build it back. Just visually, you know, the  
14 neighborhood would not be the same if it was built  
15 today under the R-4DT standard. Me and my wife  
16 definitely appreciate your consideration. Thank you.

17 CHAIRMAN: Any other comments or questions  
18 from the board?

19 (NO RESPONSE)

20 CHAIRMAN: Hearing none entertain a motion  
21 to dispose of the item.

22 MR. PEDLEY: Mr. Chairman, I make a motion  
23 for approval with the findings it will not adversely  
24 affect the public health, safety or welfare; will not  
25 alter the essential character of the general vicinity;

1 will not cause a hazard or a nuisance to the public;  
2 will not allow an unreasonable circumvention of the  
3 requirements of the zoning regulations with the  
4 conditions that Mrs. Stone stated.

5 CHAIRMAN: You've heard the motion with  
6 the conditions. Is there a second?

7 MS. MASON: Second.

8 CHAIRMAN: Any other discussion or  
9 comments from the board?

10 (NO RESPONSE)

11 CHAIRMAN: Hearing none all in favor of  
12 the motion raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Entertain one more motion.

16 MR. MILLER: Motion to adjourn.

17 MR. WILLIAMS: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Meeting is adjourned.

22 -----

23

24

25

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 82 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 24th day of September, 2002.

18

19

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

22 COMMISSION EXPIRES:  
23 DECEMBER 19, 2002

24 COUNTY OF RESIDENCE:  
25 DAVIESS COUNTY, KENTUCKY