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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

SEPTEMBER 4, 2003

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, September 4, 2003, 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
- Sean Dysinger
- Ward Pedley
- Stewart Elliott
- Attorney

* * * * *

CHAIRMAN: We'll stand for the invocation and pledge of allegiance and then we'll get started.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Want to call the Owensboro Metropolitan Board of Adjustment to order. Want to welcome all of you this evening. Set a couple of guidelines.

If you wish to speak on any item, come to one of the microphones. State your name for the record and be sworn in. We'll try to get the answers

1 to your questions, if you have them, or your comments
2 related to the items.

3 If you have any major questions, direct
4 those to the Chair and we'll get the answers for that.

5 With that the first item on the agenda is
6 the minutes of the August 7th meeting. They're on
7 record in the office downstairs. I don't think
8 there's been any problems with them. With that I'll
9 entertain a motion to approve them as on file.

10 MS. DIXON: Move to approve.

11 MR. MILLER: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Next item on the agenda, please.

17 -----

18 CONDITIONAL USE PERMITS

19 ITEM 2

20 1647 Creek Haven Loop, 3500 Blk Old Hartford Road, in
21 an R-1C zone

22 Consider request for a Conditional Use Permit to
23 construct an "at grade" walking/biking trail
24 (connector to the City of Owensboro Greenbelt/Horse
25 Fork Trail) within a designated floodway.

Reference: Zoning Ordinance, Article 18,
Section 18-6(b)(2)

Applicant: Creek Haven Development, Inc., City of
Owensboro

1 MR. PEDLEY: Mr. Chairman, I need to
2 disqualify myself from this item.

3 CHAIRMAN: So noted for the record.

4 MR. NOFFSINGER: Mr. Chairman, this
5 application has been reviewed by the Planning Staff.
6 It contains all necessary approval. Is ready for
7 consideration.

8 CHAIRMAN: Have there been any objections
9 filed in the office or anything?

10 MR. NOFFSINGER: No, sir.

11 CHAIRMAN: Is there anyone in the audience
12 wishing to object to this particular item?

13 (NO RESPONSE)

14 CHAIRMAN: Does the applicant have any
15 comments?

16 (NO RESPONSE)

17 CHAIRMAN: Does any board member have any
18 comments?

19 MR. NOFFSINGER: I just wanted to add for
20 the record that the developers, Creek Haven developers
21 are doing this project at their own expense. This
22 will provide a connector to the Greenbelt for that.

23 CHAIRMAN: The Chair entertain a motion to
24 dispose of the item.

25 MS. MASON: Motion for approval.

1 MS. DIXON: Second

2 CHAIRMAN: Any other discussion?

3 (NO RESPONSE)

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

6 (ALL BOARD MEMBERS PRESENT, WITH THE
7 DISQUALIFICATION OF MR. WARD, RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 Next item, please, sir.

10 ITEM 3

11 1539 West Second Street, in an R-4DT zone
12 Consider request for a Conditional Use Permit to
13 operate a non-hospital non-medical based long-term
14 rehabilitation facility for alcohol and other drug
15 abuse problems.
16 Reference: Zoning Ordinance, Article 8, Section 8.2C1
17 Applicant: Roger Stacey, d/b/a Victory Properties,
18 LLC, David Baker

19 MR. NOFFSINGER: Mr. Chairman, this
20 application has been reviewed by the Planning Staff.
21 We should note that there will be a condition that the
22 maximum number of occupants will be eight. With that
23 it's ready for your consideration.

24 CHAIRMAN: Has there been any objections
25 filed on this in the office?

MR. NOFFSINGER: No objections.

CHAIRMAN: Is there any objections in the
audience?

1 MR. KASEY: Yes.

2 ME. ELLIOTT: State your name, please.

3 MR. KASEY: Jerry Kasey.

4 (MR. JERRY KASEY SWORN BY ATTORNEY.)

5 MR. KASEY: We are kind of concerned about
6 having that type of facility in our neighborhood
7 because of the people that's going to be staying
8 there. There are only two people, myself and an
9 individual, that lives next-door to this piece of
10 property that even got a letter about it. We've got
11 quite a bit of drug problems down there in English
12 Park right now and two or other three other places
13 around there within three or four blocks of where I
14 live. We're concerned about these type of individuals
15 being in our neighborhood. Where they're going to be,
16 I can throw a baseball and hit the back door from my
17 yard. It wouldn't take much to throw. I work swing
18 shift. My wife is at home at night every other week
19 by herself. There's some other individuals in the
20 area that works swing like I do too. I'm kind of
21 concerned about the safety. I mean, what type of
22 restrictions are going to be on these people, who's
23 going to be watching them. I mean what's the whole
24 deal?

25 CHAIRMAN: We'll try to get some answers

1 to your questions. We'll let the applicant come
2 forward and state his plans and then you come back up
3 and reask your questions.

4 MR. KASEY: Thank you.

5 MR. STACEY: I'm Roger Stacey.

6 (MR. ROGER STACEY SWORN BY ATTORNEY.)

7 MR. STACEY: I first want to say the
8 gentleman has raised some very valid questions, and if
9 I lived in the neighborhood I would have the same
10 questions. I want to go through what we're actually
11 doing with these houses. This is our third house.
12 Try to for his benefit, as well as the rest of the
13 neighborhood's benefit, explain to them what we're
14 doing and assure them that their neighborhood will be
15 better in the long run with these residents in this
16 home than not there.

17 First of all this is a lady's house.
18 Eight people there. Most of these people will have
19 been through some drug treatment program. They all
20 will be in recovery. They all have to get a job.
21 They have to pay rent. They have to go to AA every
22 day. We strongly suggest they go to church on Sunday.
23 We can't make them, but half of them do attend church
24 because there's a very strong relationship between the
25 faith element and getting sober and clean and getting

1 their lives back in order.

2 They live a very structured life in that
3 Sandy Rich, who is the director of women for
4 Lighthouse Recovery, will have the responsibility of
5 this house. She'll be in there daily. That house
6 will also have a live-in senior resident that will be
7 the person that we feel is the most capable and the
8 most mature in their recovery program who is the
9 senior resident in this house.

10 They have curfew. No men are allowed
11 They're randomly drug tested by the contract they have
12 with Lighthouse Recovery. They're randomly drug
13 tested as required by the drug court of which most of
14 these ladies is referred to this program from drug
15 court.

16 I would submit to the gentleman that the
17 people living in this house are far less to be using
18 drugs and causing problems in the neighborhood than
19 someone who is just renting this house as an
20 individual who can go in there and be cooking
21 methamphetamine for this Saturday afternoon. That
22 will not happen in this house.

23 We have two homes on Clay Street. One
24 home in operational for about a year. One has been
25 operational for residents for about three months.

1 We've had zero, no occurrences or problems in the
2 neighborhood.

3 These folks are living in this structured
4 environment because once you go through a treatment
5 program and/or come out of the drug court system, you
6 have one choice. That is either they go back home in
7 that same drug environment you came out of or go back
8 to jail. Those people that choose to go into a
9 structured living environment, they have a chance to
10 pull their lives back together. We see men and women
11 getting their families together, getting their
12 families and children back.

13 It's a positive thing that has to happen
14 if a person who has a drug or alcohol problem intends
15 to get into recovery. They cannot do it by going back
16 into the community. They have to live for what we
17 hope at least a year in this structured environment,
18 but it is totally controlled.

19 If somebody goofs up, if a lady doesn't
20 clean the bathroom or burns the eggs of a morning,
21 whatever happens, any infraction, I'm serious about
22 this, any infraction, they have what's called
23 community. That person goes before the entire group
24 that lives there and tells what they've done wrong.
25 The group then will decide if they want that person

1 even staying in that house or not. If the infraction
2 is serious enough, if this person, for example, got
3 caught dirty on a drug test, they would probably very
4 likely be asked to leave the house and not come back,
5 but it's a self-governing body that these people live
6 there because the ones that are there are very
7 thankful for having the opportunity to have a place
8 that is safe and clean, a place they can get their
9 lives back together, and they can't do that on the
10 street.

11 Again, I say to this gentleman back here
12 as I did to one of the other neighbors that called me
13 with some concerns, who is disabled, had concerns
14 about physical violence and all of these kinds of
15 things. These people for the most part all have jail
16 sentences hanging over their heads. We know where
17 they are. They're accessible. They're right there.
18 We can pick them up that fast. So those things just
19 don't happen.

20 So I ask the gentleman to certainly accept
21 us as good neighbors. My name is in the phone book.
22 I'm not unlisted. Any problems you have, I will
23 respond to and correct immediately. I assure you of
24 that, sir. I hope I've answered your questions. Any
25 other questions, I'll be happy to address them.

1 CHAIRMAN: Any board member have any
2 questions of Mr. Stacey?

3 (NO RESPONSE)

4 CHAIRMAN: Any other objections or
5 questions at this time?

6 (NO RESPONSE)

7 CHAIRMAN: Does that answer part of your
8 questions?

9 MR. KASEY: It answered part of it. Like
10 I said one of my biggest problems - -

11 CHAIRMAN: Come to the mike so we can get
12 it all on the record. State your name again for the
13 record.

14 MR. KASEY: Jerry Kasey.

15 My biggest concern about was the
16 availability of what these people are trying to get
17 over. I've lived in that neighborhood all my life.
18 From 1953 until I went in the Air Force. Then I've
19 live in the house where I live now for 27 years. I
20 guarantee you go to English Park any night you want to
21 and score anything you can score. Same thing is true
22 over around Lee Manor. Anybody that lives down there
23 knows where the stuff is at. Unfortunately, need a
24 lot done to get rid of some of these people and some
25 of these problems or maybe they're just not getting

1 caught.

2 What he was saying about, you know, making
3 meth in that house. That's what the last guy did. He
4 got busted.

5 My major concern is my wife's welfare and
6 her safety. Like I said the availability of all this
7 stuff of these people that are trying to kick this
8 stuff. It's all over down there. Any time you want a
9 score, all you've got to do is just walk down the
10 block. You can't take a kid down there and let them
11 play now.

12 CHAIRMAN: Any board member have any
13 comments or questions?

14 (NO RESPONSE)

15 CHAIRMAN: Anyone else? Do you have any
16 other objections?

17 MR. DYSINGER: I'm sorry, I do have a
18 question. What's the drug testing policy of - -

19 CHAIRMAN: Mr. Stacey, would you come
20 forward.

21 MR. DYSINGER: Mr. Chairman, I'm sorry for
22 being late. I apologize to the board.

23 What's the drug testing policy?

24 MR. STACEY: In order to be in one of our
25 Lighthouse Recovery homes, it's a random drug testing

1 program which is required both by the contract of
2 being in the Lighthouse Recovery Program as well as
3 being part of the drug court program. There's two
4 things we're talking about here.

5 As far as the gentleman back here, I'm
6 interest in what he said about. If we had any concern
7 about the location being a bad location, being
8 detrimental to the recovery of these people, we
9 wouldn't have it there.

10 First of all, these people are the least
11 likely to be using the drugs because we have complete
12 control. We know where they are basically every hour
13 of the day. If they're at work, they're at work. We
14 check on them to make sure they are at work. We have
15 a curfew at night. No men are allowed on the
16 premises. Nobody. If Mr. Baker, who owns this home,
17 if he rented this house today - -

18 MR. DYSINGER: Mr. Stacey, it's random.
19 How often do you test?

20 MR. STACEY: I cannot address that. I
21 would say this much, - -

22 MR. DYSINGER: Is it daily? Is it weekly?

23 MR. STACEY: No. Any time we would
24 suspect that a person has any problem at all, we would
25 test them automatically. I can't tell you how often.

1 MR. DYSINGER: So if they relapse with no
2 warning, then they wouldn't have been tested
3 beforehand?

4 MR. STACEY: Say again, please.

5 MR. DYSINGER: If they relapse with no
6 warning, then they would not have been tested
7 beforehand?

8 MR. STACEY: The testing wouldn't keep
9 somebody from relapsing. I don't understand the
10 question.

11 MR. DYSINGER: The question - - this one
12 alarms me. I read this one beforehand. It's scary to
13 live in a neighborhood with a high concentration of
14 admitted addicts and you don't know if they're being
15 tested. You say they're being controlled. How much
16 are they tested? How much are they - - how much can
17 you guarantee that there's not going to be a relapse?

18 MR. STACEY: I can't guarantee there's not
19 going to be a relapse. I can assure you there will be
20 relapses. Any addicts or alcoholics that knows the
21 program, they're going to have relapses. There's no
22 perfect world. Again, I'm just saying, at least in
23 this situation, if Mr. Baker, the owner of this home,
24 decides to rent it to XYZ Family, I don't think that
25 they'd have to come here to get a permit to do that.

1 I don't think so. If they did, as you said, sir, and
2 I knew that had been a methamphetamine manufactured
3 home before, they could be in there cooking meth at
4 9:00 tonight. That will not happen with this program.

5 Yes, these women are, they are addicts and
6 alcoholics, but they're paying their price. If I was
7 living down there under the circumstances, I'd much
8 rather have the guarantee of what I'm offering here
9 this evening as to run the risk of someone else move
10 into that home that has no control. It's all thrown
11 to the wind.

12 This is a drug court program that is
13 coming out of Judge Castlen's court. He's on top of
14 this. These people go back before him maybe once a
15 month to review what they're doing. Do you have a
16 job? Have you had any problems? When that happens,
17 our counselors go back in with these residents and
18 tell the judge, yes, he has got a job, but he's had a
19 problem. He failed to come in one night before
20 curfew, whatever, because these people aren't perfect.
21 I want to say as far as causing problems because
22 they're living in a community that has a large
23 concentration of drugs being used down there, I think
24 that's positive for the community. That's one home
25 that will not be making methamphetamine in the bathtub

1 this weekend. That won't happen there.

2 Sean, does that answer your question?

3 MR. DYSINGER: Yes, it does.

4 MR. STACEY: I cannot tell you for sure
5 what the drug testing schedule is. I know that the
6 people there, when you're in this program, if I were
7 on drugs and walked into the house, the people there
8 would know before I sat down in the chair that I had
9 been doing something. It's just that evident. When
10 that happens, they're tested that quickly because
11 there's no one there that wants to lose the privilege
12 of living in that home. That's their only choice,
13 their only chance of getting sobriety is to have that
14 kind of home environment. They don't want to screw
15 that up because their roommate over here is using
16 anything stronger than an aspirin.

17 CHAIRMAN: Any other - -

18 MR. ELLIOTT: If I can help you with the
19 answer to that question. I'm familiar with both the
20 Lighthouse and the drug court program.

21 I know the drug court program they have
22 mandatory drug testing. If you test positive, you
23 jeopardize your place in the drug court and usually
24 the consequence of it you're placed back into the
25 custody or in the jail for the weekend. It's an

1 excellent program. Judge Castlen meets with these
2 people on a weekly basis. They meet every Monday and
3 a report is made and drug testing is done. If they
4 don't comply, they're no longer in drug court. The
5 consequence of that is that they go to the
6 penitentiary. Lighthouse Program is similar. I know
7 that they have random drug testing, depending on the
8 degree of your addiction, but there are drug testing
9 and they do an excellent job in doing that. Both of
10 these programs do, if that helps you any.

11 MR. DYSINGER: It does.

12 CHAIRMAN: Any board member have any
13 questions?

14 (NO RESPONSE)

15 CHAIRMAN: Anyone else in the audience
16 have any other comments?

17 (NO RESPONSE)

18 CHAIRMAN: The applicant have anything
19 else they want to add?

20 MR. STACEY: No.

21 CHAIRMAN: Staff have anything to add?

22 MR. NOFFSINGER: No, sir.

23 CHAIRMAN: Chair entertain a motion to
24 dispose of the item.

25 MR. PEDLEY: Mr. Chairman, based on Mr.

1 Stacey's statements and the need for this program, I
2 make a motion for approval.

3 CHAIRMAN: Is there a second?

4 MR. WARREN: Second.

5 CHAIRMAN: Any other discussion or
6 comments?

7 MR. NOFFSINGER: I want to clarify the
8 motion. Is that for a maximum of eight occupants?

9 CHAIRMAN: That will be limited to eight.

10 MR. PEDLEY: Is that the request in the
11 application?

12 MR. NOFFSINGER: No. It was brought up
13 tonight. They did not include that in the
14 application.

15 MR. PEDLEY: Mr. Stacey, would you step
16 back up.

17 MR. DYSINGER: Our approval is based on
18 that.

19 MR. PEDLEY: Are you asking for eight?

20 MR. STACEY: Eight max. Probably six, but
21 eight max. If you have a situation where you have
22 people that does really need to come in, you'll
23 probably have eight there. Normally they have six
24 people there.

25 MS. MASON: How many bedrooms are there?

1 MR. STACEY: Three. Three bedrooms. It's
2 a nice house.

3 MR. PEDLEY: I want to add to my motion
4 that it be a maximum of eight.

5 MR. STACEY: That's fine. That's good.

6 CHAIRMAN: That's in the motion.

7 MR. WARREN: Second.

8 CHAIRMAN: Any other discussion?

9 MR. DYSINGER: Is there any sort of review
10 involved with this? Will we look at this in a year
11 and see if it was six?

12 MR. NOFFSINGER: Only in terms of
13 complaints. If we get a complaint that there are ten
14 occupants there, we go out and do a review. If
15 they're not in compliance with what's approved, then
16 we report that to the board of adjustment.

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

19 (NO RESPONSE)

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries. Next item,
24 please.

25 -----

1 VARIANCE

2 ITEM 4

3 4028 US 60 E, in an I-1 zone
4 Consider request for a Variance to waive the
5 requirement for a solid wall or fence at least six (6)
6 feet in height to be installed on all sides of the
7 gravel outdoor storage area.
8 Reference: Zoning Ordinance, Article 8, Section
9 8.5(j)
10 Applicant: American Road Express, Charles Redmon

11 MR. NOFFSINGER: Mr. Chairman, Planning
12 Staff reviewed this application. We do have a
13 recommendation. That recommendation will be for
14 approval in that it will not alter or adversely affect
15 the public health, safety or welfare; will not alter
16 the essential character of the general vicinity; will
17 not cause a hazard or a nuisance to the public; will
18 not allow an unreasonable circumvention of the
19 requirements of the zoning regulations.

20 That is conditioned upon screening being
21 installed on the south and west sides of the property.
22 That the proposed property be paved, the parking
23 areas and drive as shown on the attached site plan,
24 and that the screening fabric be placed in the
25 existing fence on the west and south of the storage
26 area. So that will be a partial, recommending
27 approval of a partial variance on the property whereby
28 they still have to do their required paving as shown

1 on the site plan as well as they have to do the
2 screening on the south and west sides. They're exempt
3 at this time on the north and east.

4 Should some activity occur down the road
5 to where there's a change and use on the property or
6 there's additional building expansion, then we would
7 need to look at additional screening on the north and
8 east.

9 CHAIRMAN: Have we had any objections
10 filed in the office on this?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Is the applicant here?

13 APPLICANT: Yes, sir.

14 CHAIRMAN: Is there anyone wishing to
15 object to this particular item in the audience?

16 (NO RESPONSE)

17 CHAIRMAN: Do you have anything you want
18 to add to?

19 APPLICANT: No, sir. We're going to do
20 everything he spoke of.

21 CHAIRMAN: You understand all that has
22 been put down?

23 APPLICANT: Yes, sir.

24 CHAIRMAN: Any board member have any
25 questions of the applicant or comments on the

1 variance?

2 (NO RESPONSE)

3 CHAIRMAN: Hearing none I'll entertain a
4 motion to dispose of the item.

5 MR. PEDLEY: Mr. Chairman, I make a motion
6 for approval based on findings stated by Mr.
7 Noffsinger and also the conditions approval that was
8 recommended, the north and east side only on the
9 condition that the proposed paved parking and drive as
10 proposed be installed and on the condition that
11 screening fabric be placed in the existing fencing to
12 the west and south of the outdoor storage area.

13 CHAIRMAN: Is there a second to this
14 motion?

15 MR. MILLER: Second.

16 CHAIRMAN: Any other discussion or
17 comments from the board?

18 (NO RESPONSE)

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 -----

24 ADMINISTRATIVE APPEALS

25 ITEM 5

1 302 East 20th Street, in an R-4DT zone (POSTPONED)
2 Consider request for an Administrative Appeal to
3 change from one non-conforming use as a skateboard
4 shop to another non-conforming use as a retail store
5 for handmade furniture.
6 Reference: Zoning Ordinance, Article 4, Section 4.53
7 Appellant: Shiloh Barksdale

8 MR. NOFFSINGER: Mr. Chairman, the
9 applicant has indicated, has desired to withdraw this
10 application; however, we've tried on a number of
11 occasions to have the applicant submit a letter to
12 that effect and we have not received that. So if the
13 applicant is not here tonight to withdraw or to
14 present a case, that would recommend that you deny the
15 appeal and affirm the decision of the zoning
16 administrator.

17 CHAIRMAN: Is the applicant here?

18 (NO RESPONSE)

19 CHAIRMAN: Board, you've heard the Staff's
20 recommendation. What is your pleasure?

21 MS. DIXON: Move to deny the appeal and
22 uphold the decision of the zoning administrator.

23 CHAIRMAN: Is there a second?

24 MR. DYSINGER: Second.

25 CHAIRMAN: Any other comments from the
board?

(NO RESPONSE)

CHAIRMAN: If not, all in favor raise your

1 right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries.

4 ITEM 6

5 212 Oak Drive, in an R-1A zone
6 Consider request for an Administrative Appeal to
7 appeal the zoning administrator's interpretation that
8 placing a new manufactured home on the property is in
9 violation of the Zoning Ordinance because the property
10 currently is occupied with an illegal principal
11 business use.

12 Reference: Zoning Ordinance, Article 5, Section 5.2,
13 Article 3, Section 3-2(c) Section 3-2(c)(1)
14 Appellant: Wanda Aldridge

10

11 MR. NOFFSINGER: Mr. Chairman, the Planning
12 Staff review was conducted by Mr. Jim Mischel, the
13 zoning administrator. He is here tonight to describe
14 his side of the story as well as the appellant I
15 believe is in the audience tonight as well.

16 CHAIRMAN: Ms. Aldridge here?

17 MS. ALDRIDGE: Yes.

18 MR. ELLIOTT: State your name, please.

19 MR. MISCHEL: Jim Mischel.

20 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

21 MR. MISCHEL: I'm just going to give you a
22 little bit of history on this property.

23 I'd probably say about the last week of
24 June I think Ms. Wanda Aldridge come into our office
25 to obtain a building permit to place a manufactured

1 home on the property at 212 Oak Drive. In discussions
2 with her, as far as the site plan and things of that
3 nature, it was discovered that this property is zoned
4 R-1A, which is single-family, has a commercial
5 business on there. It's a body shop, I believe or
6 repair shop. She was wanting to place a manufactured
7 home, I think it was 28 feet by 60 feet.

8 In the course of that discussion, in a
9 single-family zone, of course, you're not allowed to
10 have a business. I guess that's why we're here, to
11 determine if that is grandfathered in or not.

12 The county adopted the ordinance in
13 December 1979. So I guess that's our starting point.
14 If this business has been there since '79, is it
15 grandfathered in?

16 I think there's two things to look at.
17 One, the business being there before '79 and also this
18 manufactured home. If the business was there since
19 '79, that's grandfathered in. Shouldn't make any
20 changes without coming into compliance. Now, if the
21 business and the manufactured home was there, both of
22 them before '79, then they're allowed both to stay
23 because they're grandfathered in. They shouldn't make
24 any changes if that manufactured home back in '78.
25 Whatever size you can replace it with the same size or

1 smaller. You shouldn't go any larger.

2 So I guess that's what we're here to try
3 to determine what was there.

4 In the discussions that followed in a few
5 days or weeks, it just was not clear to me if this was
6 the case or not. I'll just give you a little hand out
7 here to kind of show you where this property is.

8 Essentially this is just showing you where
9 the property is. Where I've highlighted in yellow is
10 the property. You can see it's zoned R-1A. It's off
11 Oak Drive.

12 The second page is, I believe, the
13 applicant has talked to Kenergy about a utility bill
14 which they did fax to us. If you look at it, I
15 highlighted it, this bill was for July of 2003. Under
16 customer name it states that it's a storage shed, but
17 also down at the bottom it says commercial. That's
18 all the information I have. Now, Kenergy says, well,
19 we can't tell you if it's being used as a business.
20 We can't tell you if it's been there since '79 or '90
21 or 2000 or just moved in last month. This is what
22 they have. I wanted to let you all have a copy of it
23 too.

24 With that I think you pretty well know
25 what I know. That's the reason why I felt I couldn't

1 approve that permit because I wasn't clear if it was
2 non-conforming use. I don't know if you have any
3 questions now or what.

4 CHAIRMAN: Do any board member have any
5 questions of Mr. Mischel at present?

6 (NO RESPONSE)

7 CHAIRMAN: Jim, may have to call you back.
8 Would Ms. Aldridge have anything she wants
9 to add, please?

10 State your name for the record, please.

11 MS. ALDRIDGE: Wanda Aldridge.

12 (MS. WANDA ALDRIDGE SWORN BY ATTORNEY.)

13 MS. ALDRIDGE: The problem with this
14 property is the man that owned it is dead. It was
15 George Hutchason's father.

16 Mr. Mischel asked me to prove that it had
17 been there for 25 years. I have called the IRS. I've
18 called everybody I know, but the IRS says that they
19 can't track records of this man because after you're
20 dead four years they give your Social Security Number
21 to somebody else. This man paid sales tax. He had a
22 legal business license, but they tell me I can't trace
23 it. Not even to Frankfort because his Social Security
24 Number no longer exist. So how do you prove a
25 business has been in for 25 years? I asked Jim

1 Mischel to help me. Every time he would send me
2 somewhere, it wasn't good enough. So I didn't know
3 what to do. So he suggested the electricity, which so
4 did the IRS, but I didn't think he would accept it.
5 So when he mentioned it I thought he would. So I
6 thought I had found something when Kenergy told me
7 that this building has had electricity since 1972. I
8 only brought him one month bill to show him at the
9 bottom it listed commercial even though it said
10 storage shed. They listed things different in 1972.
11 This building has had electricity since 1972 and
12 running as a business, but the man is dead that
13 started it.

14 As far as what's sitting on the property
15 now that I live in, it has been there since 1979
16 because his sister lived in it and she says that they
17 was moved in when her father was alive, but how do you
18 prove it? The man is dead.

19 I don't know anything else to do. I
20 didn't try to hide the fact of anything. I called
21 him. Asked him for a permit. He said if there is an
22 existing home, an existing septic tank, I see no
23 problem. I didn't hide a thing. He told me there
24 couldn't be two things on one property. I told him
25 there was no two homes on one property. There was a

1 business and a house, because the business is
2 legitimate so I wasn't trying to hide a thing.

3 I just don't know what to do to prove the
4 business, you know, is in compliance. It was in
5 business since '72. I'm asking to put a double-wide
6 where one already exist.

7 MS. MASON: There was a double-wide there?

8 MS. ALDRIDGE: There is one right now.
9 I'm living in it.

10 MS. MASON: No. Before then.

11 MS. ALDRIDGE: I'm living in the only
12 thing that's ever been on 212 Oak Drive.

13 MR. NOFFSINGER: You have not moved the
14 new home on the property?

15 MS. ALDRIDGE: No, I can't. I don't have
16 a permit.

17 MS. MASON: Okay. You have not moved the
18 new home?

19 MS. ALDRIDGE: No. I'm asking for a
20 permit to move a new one in.

21 MS. MASON: I misunderstood and thought
22 the new home had already been moved in.

23 MS. ALDRIDGE: No. I can't move it in
24 without a permit.

25 CHAIRMAN: To be sure we've got it

1 correct. You are living in a double-wide now that is
2 there?

3 MS. ALDRIDGE: I'm living in two singles
4 that were put together years ago in 1979.

5 CHAIRMAN: What size are they?

6 MS. ALDRIDGE: I have no idea, but it had
7 an addition built on years ago too, but the laws in
8 1979 are different than the laws now. I didn't do all
9 of this. I didn't build onto it. I just moved into
10 it seven years ago.

11 MR. DYSINGER: Do we know what the
12 footprint is currently of the structure? Jim, do you
13 know?

14 MR. MISCHEL: No.

15 MR. NOFFSINGER: Mr. Chairman, I have a
16 few questions of Ms. Aldridge.

17 Ms. Aldridge, what is the current business
18 use of the property?

19 MS. ALDRIDGE: It's his business. Do you
20 want to talk to him?

21 MR. NOFFSINGER: Please.

22 The reason I ask these questions we need
23 to determine two things. One, the residential use of
24 the property, and number two, the business use of the
25 property.

1 MR. ELLIOTT: State your name, please.

2 MR. HUTCHASON: George Hutchason.

3 (MR. GEORGE HUTCHASON SWORN BY ATTORNEY.)

4 MR. HUTCHASON: It's a garage. It used to
5 be Hutchason's Garage. I'm pretty sure Mr. Pantle
6 knows.

7 CHAIRMAN: That's the back one.

8 MR. HUTCHASON: Correct. I do mechanic
9 work.

10 MR. NOFFSINGER: Mechanic work. How long
11 have you been at that location?

12 MR. HUTCHASON: My dad had been there
13 since '72. I worked for him for all them years.
14 Since he's been there. I don't know how many years
15 it's been.

16 MR. NOFFSINGER: So you've been familiar
17 with the property since 1972?

18 MR. HUTCHASON: Yes.

19 MR. NOFFSINGER: And you're stating your
20 father operated a business at that location since
21 1972?

22 MR. HUTCHASON: Yes.

23 MR. NOFFSINGER: And the current use would
24 be mechanic work. What was it back in 1972?

25 MR. HUTCHASON: He built trailers, worked

1 on cars. He done a little bit of everything. Didn't
2 do just one thing out there. He done everything.

3 MR. NOFFSINGER: Has there ever been a
4 time where a business use of the property ceased?

5 MR. HUTCHASON: No.

6 MR. NOFFSINGER: Do you know approximately
7 what size the manufactured homes would be on that
8 property, foot-print?

9 MR. HUTCHASON: No, not really. I don't
10 know for sure how they measure them. I've got 11
11 acres back there if that makes any difference.

12 CHAIRMAN: George, she stated that there
13 was two single trailers put together and an addition
14 built on to that also.

15 MR. HUTCHASON: Yes. It's a pretty good
16 place size now where it's been added on to, but it's
17 gotten in such bad shape it needs to be replaced.

18 MR. NOFFSINGER: I have a question of Ms.
19 Aldridge when you're finished with Mr. Hutchason.

20 CHAIRMAN: Anyone have any questions of
21 Mr. Hutchason?

22 MR. DYSINGER: Is there any question that
23 a residence has existed there since prior to 1979? Is
24 there a question to that? Do we accept that?

25 MR. NOFFSINGER: I guess what you're

1 saying is how long have the two manufactured homes
2 that Ms. Aldridge is currently living in, how long
3 have they been there?

4 MR. HUTCHASON: Since '79. My sister is
5 the one who lived there. Her and her husband is the
6 one that built it. She got married and moved to
7 Lexington so I bought it from her and give it to Ms.
8 Aldridge so she could live there because I've got a
9 daughter from her.

10 MR. NOFFSINGER: You stated you have 11
11 acres there. Is it in one lot?

12 MR. HUTCHASON: Yes.

13 MR. NOFFSINGER: You're going to be
14 selling the lot to Ms. Aldridge?

15 MR. HUTCHASON: No.

16 MR. NOFFSINGER: Renting.

17 MR. HUTCHASON: I told her she could stay
18 there as long as she wanted.

19 MR. NOFFSINGER: Is she the caretaker
20 perhaps?

21 MR. HUTCHASON: No. She's got my child so
22 I want her as close as I can. We get along good and
23 everything.

24 MR. NOFFSINGER: I still have questions
25 for Ms. Aldridge.

1 MR. DYSINGER: I have no further questions
2 at this time.

3 CHAIRMAN: Come up again please, ma'am.

4 MS. ALDRIDGE: I don't know if this helps,
5 but I got a petition. He had it in his business of
6 people that are older and know this business has been
7 in existence since 1978 or '72, whatever it is. I've
8 got 157 names. Would anyone like to look at them or
9 can I turn them in for consideration?

10 CHAIRMAN: Bring them forward and we'll
11 put them in the record.

12 MR. NOFFSINGER: You're going to be
13 purchasing this home. It's a new double-wide
14 manufactured home?

15 MS. ALDRIDGE: Yes.

16 MR. NOFFSINGER: Did Mr. Mischel go over
17 with you the installation requirements on manufactured
18 homes?

19 MS. ALDRIDGE: No, he did not.

20 MR. NOFFSINGER: If you're successful in
21 your appeal and allowed to place the home on the
22 property, there are certain installation requirements
23 that you have to meet. That means the removal of the
24 tires, tongue, wheel and axle from the unit as well as
25 the unit has to be placed on the proper foundation

1 with masonry type skirting all the way around.

2 MS. ALDRIDGE: They're going to do that.

3 MR. NOFFSINGER: Wanted to make sure that
4 you're aware of that, if you're successful.

5 MS. ALDRIDGE: Yes.

6 MR. NOFFSINGER: What I've gathered in
7 this series of questioning from Mr. Hutchason is that
8 his father has operated the business there since 1972.
9 We have his word. I don't know what else we have to
10 go on. We have this petition that I'm sure is a valid
11 petition. Mr. Hutchason has stated that there's been
12 mechanic work there, building trailers, and it's been
13 ongoing. There's been no lapse. To me the issue of
14 the business, I don't know how much more evidence
15 you're going to be able to find that the business did
16 exist there.

17 If you determine that that business is a
18 non-conforming use in an R-1A zone, then the business
19 end of it is out. Then you look at the manufactured
20 home and you see that the property is zoned R-1A,
21 which is single-family residential. A double-wide
22 manufactured home is principally permitted in that
23 zone.

24 I think the real issue is whether or not
25 you have a non-conforming business and not so much as

1 the placement of the manufactured home on the
2 property. So I think if you find that the business is
3 not in illegal use because it's a non-conforming use
4 that can't be expanded, then with that I think you
5 also provide the avenue for Ms. Aldridge to place the
6 home on the property since it is residential and
7 that's the proposed use.

8 MR. DYSINGER: So, Gary, are you saying
9 that we're looking at the wrong issue all the way
10 around?

11 MR. NOFFSINGER: I think you very well
12 could be. I think you need to focus on the business
13 use of the property. The property is zoned R-1A which
14 is single-family residential. What should the
15 property be used for? Residential. That's what Ms.
16 Aldridge is proposing to do with the property. She
17 agrees that she's going to meet all the installation
18 requirements for the R-1A zone. You have an 11 acre
19 tract that certainly it may have the ability to be
20 subdivided. Put the business on one lot and put the
21 residential unit on the other. I don't think you have
22 to go that far so long as you find that the business
23 is a non-conforming use. Then they're not - - by
24 placing the manufactured home on the property, they
25 are, in my opinion, they are not increasing the

1 non-conforming. They're bringing the use more into
2 conformance in that it's going to be used for
3 residential. The business cannot expand over what it
4 is today. Now, that's not a legal opinion. That's
5 just my opinion.

6 MR. DYSINGER: Just so I understand, if
7 it's all right.

8 CHAIRMAN: Let me make a comment. I
9 checked with the attorney and he says I can comment.

10 The business has been there since early
11 the '70s because I've bought trailers and stuff from
12 him.

13 I would disqualify myself. I won't be
14 voting.

15 It has been there. Ever since his dad was
16 there I've bought parts, welding repairs, trailers.
17 So that has been there that long.

18 MR. NOFFSINGER: I think in terms of what
19 Mr. Mischel is charging with, when Mr. Mischel reviews
20 a case and he sees that there's non-conforming, he has
21 to have proof, sufficient evidence, in this case the
22 business, is a legally non-conforming use or is it
23 violation. Unless you produce evidence that would
24 support your case, he can't approve it. That's why
25 you have to come before this board. By coming before

1 this board, it's a matter of public record and you
2 have the opportunity to introduce evidence that
3 perhaps Mr. Mischel, as the zoning administrator,
4 can't just act on. It needs to come before the public
5 board and a decision granted.

6 CHAIRMAN: You want to go ahead and ask
7 your question now?

8 MR. DYSINGER: It seems to me that Ms.
9 Aldridge is not applying for anything that is out of
10 the ordinary necessarily. The business on the
11 location makes it out of the ordinary, but the
12 business itself is the non-conforming use. I guess my
13 question is: Gary, how do we handle this exactly?

14 MR. NOFFSINGER: Well, I think - -

15 CHAIRMAN: An existing non-conforming
16 going back to a non-conforming that's not increased in
17 size can be granted.

18 MR. NOFFSINGER: That's right. I think
19 this board has the ability, number one, to determine
20 that the use of the property for the mechanic shop,
21 the commercial use of the property, non-residential
22 use of the property could be considered legally
23 non-conforming use. By doing that you open up, as I
24 stated earlier, an avenue for Ms. Aldridge to come in
25 and ask for placement of the manufactured home on the

1 property because it's not increasing the
2 non-conforming. The residential use is separate, is a
3 separate issue from the business; although, Mr.
4 Mischel couldn't issue the permit because he had to
5 clear up the issue of the business first. So I think
6 you have the ability to determine that the existing
7 business is a non-conforming use and that because the
8 property is zoned R-1A single-family residential, the
9 placement of the manufactured home would be in keeping
10 with the zoning requirements.

11 MR. PEDLEY: Does she have to come back
12 before this board for a conditional use permit after
13 we rule on the administrative appeal?

14 MR. NOFFSINGER: That's a very good
15 question, but if it's going to be a double-wide
16 manufactured home that meets all requirements for a
17 Class A manufactured home, then no. If it were a
18 single-wide manufactured home, then yes, she would.

19 MR. DYSINGER: Mr. Chair, are you familiar
20 with the residence on the property?

21 CHAIRMAN: Yes. It's been there.

22 MR. DYSINGER: Is it about the size of a
23 double-wide, a new modern double-wide?

24 CHAIRMAN: With the addition to the two
25 trailers probably.

1 MR. DYSINGER: Footprint-wise.

2 CHAIRMAN: Probably. I would have to
3 measure. I said probably.

4 MR. MILLER: Gary, is the size of the new
5 mobile home, is it restricted to the size of the
6 current?

7 MR. NOFFSINGER: In my opinion, no,
8 because the proposed use of the manufactured home
9 would be a use that's permitted in that zone. Again,
10 you're not increasing the non-conforming. That's the
11 key. I think that's what you should find there and I
12 think you should base your decision on.

13 MS. MASON: So you're saying even if it
14 was a single-wide it still would be okay for the
15 double-wide because it meets the requirements?

16 MR. NOFFSINGER: That's my opinion, yes.

17 MR. DYSINGER: It's actually zoned for
18 what she's asking to do.

19 MR. NOFFSINGER: That's correct.

20 CHAIRMAN: Do you have anything else you'd
21 like to add?

22 MS. ALDRIDGE: I guess not.

23 CHAIRMAN: What's the board's pleasure at
24 this time, please? Chair entertain a motion to
25 dispose of the item.

1 MR. PEDLEY: I'm not completely sure how
2 to make the motion.

3 I'm going to make a motion in favor of the
4 appellant. That the business is non-conforming and
5 also residence is non-conforming. The zoning
6 administrator's interpretation is incorrect.

7 CHAIRMAN: A motion has been made that we
8 have a non-conforming use that's been in existence and
9 grandfathered in and that the zoning administrator's
10 interpretation was - won't say wrong, but appreciate
11 you questioning it at this time, and that it is okay
12 to approve her request or her appeal. Will entertain
13 a second at this time.

14 MS. MASON: Second.

15 CHAIRMAN: Any other comments?

16 (NO RESPONSE)

17 CHAIRMAN: Do you understand the motion,
18 that you'll be approved?

19 MS. ALDRIDGE: What do I do now?

20 CHAIRMAN: Nothing.

21 All in favor of the motion raise your
22 right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE
24 WITH THE DISQUALIFICATION OF THE CHAIRMAN.)

25 CHAIRMAN: Motion carries.

1 Next item, please.

2 ITEM 7

3 5016 West Fifth Street Road, in an R-1A zone
4 Consider request for an Administrative Appeal to
5 appeal the zoning administrator's interpretation that
6 the business activity located on the property (Bill's
7 Transmission Service) is an illegal use and must cease
8 operation.

9 Reference: Zoning Ordinance, Article 4, Section 4.3

10 Appellant: William C. Pointer

11

12 MR. NOFFSINGER: Mr. Chairman, Mr. Mischel

13 has been very busy here lately, but anyhow we'll let

14 him present his side.

15 CHAIRMAN: Is the appellant here this

16 evening?

17 APPLICANT REP: Yes.

18 MR. MISCHEL: Jim Mischel.

19 Let me give you a little history on this

20 one. Around the last week of June our office received

21 a complaint about vehicles being repaired at 5016 West

22 Fifth Street Road. The complaint was that this is a

23 residential neighborhood. This place hadn't operated

24 for that long of a period. We sent one of our

25 inspectors out to take a look at it. I think he came

back and said, yes, it looked like there's about eight

vehicles at this site. Looks like it's a repair

garage.

Let me give you a copy, and I'll put one

1 in the record, of the memo we sent to Mr. William
2 Porter discussing this.

3 I'm not sure of the date, but he did come
4 in to talk to us about this situation. After we
5 talked, I felt like it would be appropriate for him to
6 file an appeal in front of this board if this business
7 had been there prior to '79. I thought it would be
8 good to get it on record so he could continue, and
9 also to give the complainant, the person that
10 complained, a chance to be here.

11 Now, today I went through my files to see
12 that person that called to complain. I was going to
13 give them a call and tell them the meeting was going
14 on tonight and they could be here if they wanted to
15 and give their side of the story.

16 What happens, a lot of times we get calls
17 and people don't leave their name or phone number.
18 They don't want anybody to know who they are. I
19 didn't have a chance to tell that person.

20 Anyway I think it's good to get it on
21 record if the business has been there. It's kind of a
22 form of protection for them. Also if we knew the
23 person was that complained, they could be here and
24 have their concerns heard too.

25 Anyway, that's all I know of this

1 situation. It is zoned like the letter said R-1A
2 single-family residential. I don't know if you have
3 any questions right now or not.

4 CHAIRMAN: Any board member have any
5 questions for Mr. Mischel?

6 (NO RESPONSE)

7 CHAIRMAN: Do you have anything else you
8 want to add at this time?

9 MR. NOFFSINGER: No, sir.

10 CHAIRMAN: The appellant want to come
11 forward. State your name for the record and give us
12 the information you have please, sir.

13 MR. ELLIOTT: State your name, please.

14 MR. WETHINGTON: Larry Wethington.

15 (MR. LARRY WETHINGTON SWORN BY ATTORNEY.)

16 MR. WETHINGTON: I'm Mr. Pointer's
17 son-in-law. He was quite upset when it happened and
18 he called me.

19 I came down and talked to Mr. Mischel.
20 Called Bobby Whitmer. Bobby knows this business has
21 been there. I've got a book here with 33 signatures
22 in it; David Boswell, Keith Caine. The sheriff's
23 department has been doing business down there for a
24 long time. David Boswell's father has done business
25 there.

1 This is a vendetta thing from a
2 competitor. He lost a car to Mr. Pointer. They
3 called Mr. Pointer. He didn't know it was coming from
4 a competitor. He told them, sure, bring the car down.
5 When the wrecker went out to the competitor, hooked up
6 to the car. He ran to the wrecker and asked the
7 wrecker where he was taking it. He told him to take
8 it down to Mr. Pointer's. There's where the phone
9 calls from from.

10 Mr. Pointer, he's lived there for a very
11 long time. Has been doing business there since
12 January 1 of '74. We've got letters here from all the
13 neighbors. No one has ever complained. He's a good
14 neighbor. He's been doing business there. It's a
15 vendetta thing. He definitely falls under the
16 grandfather clause. We would like the board to
17 consider that, please.

18 CHAIRMAN: Any board member have any
19 questions?

20 (NO RESPONSE)

21 CHAIRMAN: Any board member have any
22 comments?

23 MR. DYSINGER: I have a question.

24 Are there any of those definitive pieces
25 of evidence that proves that it was in existence prior

1 to 1979?

2 MR. ELLIOTT: Larry, will you make that a
3 part of the record here?

4 MR. WETHINGTON: Sure.

5 MR. NOFFSINGER: I think the best that we
6 have to work with will be those signatures.

7 MR. WETHINGTON: There are lot of people
8 who offered to come down here tonight and give their
9 time. Boots Norris, a lot of people. I just didn't
10 feel like it would be necessary. Told Mr. Pointer I
11 didn't think it would be necessary. I thought we had
12 the signatures. Now, these are people that's not
13 going to lie on a sworn affidavit. They know this
14 business has been there since 1974. I've know Mr.
15 Pointer that long. I'm married to his daughter. I'm
16 not going to come up here and sit here and tell you
17 people something that's not true. It's not just going
18 to happen. It's a vendetta thing.

19 I understand Mr. Mischel doing his job. I
20 appreciate the opportunity, I really appreciate the
21 opportunity to come up here and get it made public
22 record so this doesn't happen again. I really
23 appreciate that. The man has been doing business for
24 a very long time. Two-thirds of the people in this
25 community knows it. Like I said I don't know what

1 else to do. We didn't know what else to bring up here
2 to show except those signatures.

3 MR. NOFFSINGER: Sean, regarding your
4 question just to elaborate on it. The location of
5 this property is such that it's in an area where we do
6 not have good records because we just started
7 enforcing the zoning ordinance outside the City of
8 Owensboro in the year 2000. Our records start about
9 that time. We have access to some records that go
10 back before that, but not a lot. A lot of those files
11 aren't available.

12 In this situation, you know, you have
13 people here that I don't think we need to hear from
14 them because I think I know what they're going to say.
15 You look at the petition. That's the only evidence
16 you have to consider. You do not have any evidence to
17 the contrary. If someone were here, the person
18 complaining were here to produce evidence to the
19 contrary, you would have that to take into
20 consideration, but you don't.

21 It is good that you're here tonight
22 because this will set it as a matter of public record
23 so that if we get another call we can point to this
24 meeting. I'm going to instruct Mr. Mischel to have
25 one of his staff come out and take pictures tomorrow

1 or in the very near future so that we can make that a
2 part of the file for future reference, as well as on
3 the previous case, so we have at least that documented
4 as to when this public hearing occurred. I think
5 based upon the evidence it's the petitions and what
6 Mr. Wethington has stated.

7 CHAIRMAN: Anyone have any questions of
8 Mr. Wethington?

9 (NO RESPONSE)

10 CHAIRMAN: Chair entertain a motion to
11 dispose of the item.

12 MS. DIXON: Move to affirm the appeal.

13 CHAIRMAN: Is there a second?

14 MR. WARREN: Second.

15 CHAIRMAN: Motion has been and a second
16 that we affirm the appeal. Is there any other
17 questions?

18 (NO RESPONSE)

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries.

23 Let me add one thing, if I may. You
24 brought up the one previous that we had, the 11 acres.
25 If they decide down the road to do any divisions and

1 stuff or change, they would have to come before the
2 zoning committee?

3 MR. NOFFSINGER: No. That would be - -

4 CHAIRMAN: If they sell part of it off as
5 a division.

6 MR. NOFFSINGER: No, sir. We would
7 probably - - as long as the division met all
8 requirements, we would approve that division in-house.
9 It would not come before this board.

10 CHAIRMAN: Any other business come before
11 the meeting?

12 (NO RESPONSE)

13 MR. MILLER: Motion to adjourn.

14 MR. DYSINGER: Second.

15 CHAIRMAN: All in favor raise your right
16 hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Meeting is adjourned.

19 -----

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

16 WITNESS my hand and notarial seal on this
17 the 25th day of September, 2003.

18
19 _____
20 LYNNETTE KOLLER, NOTARY PUBLIC
21 OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:
23 DECEMBER 19, 2006

24 COUNTY OF RESIDENCE:
25 DAVIESS COUNTY, KENTUCKY