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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MAY 6, 2004

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 6, 2004, 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: Call the Owensboro Metropolitan Board of Adjustment to order.

First thing we do at each meeting is we invite you all to join us if you so desire. We have a brief prayer and then pledge to allegiance. If you wish to join with us, we'd appreciate it.

Ward Pedley is going give our prayer.

(PRAYER AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Want to welcome all of you to the meeting this evening. Set a few guidelines before

1 we start.

2 Anyone that wishes to speak, come to one
3 of the microphones and state your name and be sworn in
4 because we can get a transcript of the information
5 that you may say. If we're listening to more than one
6 thing, after awhile we'll call you out of order.
7 There's no need to keep hearing the same thing over.

8 With that we'll proceed with the first
9 item which is considering the minutes of the April 1st
10 meeting. They're on record in the office. Found no
11 problems. Anyone have anything that you think needs
12 to be added to it?

13 (NO RESPONSE)

14 CHAIRMAN: If not, we'll entertain a
15 motion.

16 MR. WARREN: Motion to approve the
17 minutes.

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

20 MS. MASON: Second. All in favor raise
21 your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 Next item, please.

25 -----

1 CONDITIONAL USE PERMIT

2 ITEM 2

3 901, 927, 1017, 1019, 1021, 1025, 1033 Breckenridge
4 Street in a B-4, P-1 zone

5 Consider request for a Conditional Use Permit in
6 order to construct a parking lot.

7 Reference: Zoning Ordinance, Article 8,
8 Section 8.2 F11

9 Applicant: Owensboro Medical Health System, Inc.,
10 City of Owensboro

11

12 CHAIRMAN: Mr. Chairman, Planning Staff

13 has reviewed this application. It's found to be in

14 order. It's found to meet all the development

15 requirements contained in the Zoning Ordinance as well

16 as it's in compliance with the adopted comprehensive

17 plan.

18 I will note for the record that the

19 application states that this will be a temporary

20 parking lot; however, the applicant is applying and we

21 have advertised and it's on the agenda tonight to be a

22 permanent parking lot. With that it's ready for your

23 consideration.

24 CHAIRMAN: Any objections filed in the

25 office?

26 MR. NOFFSINGER: No, sir.

27 CHAIRMAN: Is there anyone wishing to

28 speak in opposition of this item?

29 (NO RESPONSE)

1 CHAIRMAN: If not, does the applicant have
2 anything you'd like to add?

3 MR. DEXTER: Yes.

4 CHAIRMAN: Come forward and state your
5 name, please.

6 MR. ELLIOTT: State your name, please.

7 MR. DEXTER: William Dexter.

8 (MR. WILLIAM DEXTER SWORN BY ATTORNEY.)

9 MR. DEXTER: Members of the Board, my name
10 is William Dexter. I'm here on behalf of the
11 applicant. We also have a representative from the
12 hospital to answer any questions that you may have;
13 otherwise, we have nothing else to add.

14 CHAIRMAN: Thank you.

15 Any board member have any questions?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none I'll entertain a
18 motion to vote on the item.

19 MR. PEDLEY: Mr. Chairman, I make a motion
20 for approval based on no opposition and it is
21 compatible with the neighborhood and it will not have
22 an adverse affect on the neighborhood.

23 CHAIRMAN: Is there a second to the
24 motion?

25 MR. DYSINGER: Second.

1 CHAIRMAN: A motion has been made and a
2 second. Any other question or discussion?

3 (NO RESPONSE)

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 Next item, please.

9 ITEM 3

10 4321 Gate Way, in a B-4 zone
11 Consider request for a Conditional Use Permit to
12 operate a woman's fitness center.
13 Reference: Zoning Ordinance, Article 8,
14 Section 8.2 B11
15 Applicant: Brenda Bowen, Wayne Foster,
16 d/b/a Foster Enterprises

17 MR. NOFFSINGER: Mr. Chairman, this
18 application has been reviewed by the Planning Staff.
19 It's found to be in order.

20 The property contains an existing building
21 which was most recently used as a pharmacy. The
22 application is for a fitness center. It meets all the
23 development requirements contained in the zoning
24 ordinance and the zoning is in compliance with the
25 adopted comprehensive plan. With that it's ready for
your consideration.

CHAIRMAN: Is there any objections in the
office?

1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Is anyone wishing to speak in
3 opposition of this?

4 (NO RESPONSE)

5 CHAIRMAN: Does the applicant have
6 anything they would like to add or any comment?

7 (NO RESPONSE)

8 CHAIRMAN: Board members have any comments
9 or questions?

10 (NO RESPONSE)

11 CHAIRMAN: Entertain a motion to dispose
12 of the item.

13 MR. DYSINGER: Mr. Chairman, I make a
14 motion that we grant the Conditional Use Permit given
15 the findings that it is in compliance with the zoning
16 and comprehensive plan and will not negatively impact
17 the area.

18 CHAIRMAN: Is there a second?

19 MS. MASON: Second.

20 CHAIRMAN: A motion has been made and a
21 second. Is there any other question or comments from
22 the board?

23 (NO RESPONSE)

24 CHAIRMAN: Hearing none all in favor raise
25 your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

3 Next item, please.

4 ITEM 4

5 1315 Hathaway Street, in a P-1 zone
6 Consider request for a Conditional Use Permit in
7 order to construct a parking lot.
8 Reference: Zoning Ordinance, Article 8,
9 Section 8.2 F11
10 Applicant: Owensboro Medical Plaza, LLC, Owensboro
11 Medical Health System

12 MR. NOFFSINGER: Mr. Chairman, Planning
13 Staff has reviewed this application. It's found to be
14 in order. The proposed development meets with the
15 site development requirements contained in the adopted
16 zoning ordinance. The zoning is in compliance or the
17 proposed use is in compliance with the comprehensive
18 plan as well as the zoning ordinance.

19 When this property was rezoned back a few
20 months ago, there was a finding made that there has
21 been substantial change in the character of this area
22 due to the hospital and other medical facilities
23 acquiring properties in the area. That has resulted
24 in the demolition or raising of many residential
25 structures to accommodate or provide for parking for
the expansion of the hospital. With that it's ready
for your consideration.

CHAIRMAN: Again, is there any objections

1 filed in the office?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Is there anyone wishing to
4 speak in opposition of this item?

5 (NO RESPONSE)

6 CHAIRMAN: Does the applicant have
7 anything they would like to add?

8 Come forward and state your name for the
9 record, please.

10 MR. MEYER: J.D. Meyer.

11 (MR. J.D. MEYER SWORN BY ATTORNEY.)

12 MR. MEYER: Mr. Chairman, Ladies and
13 Gentlemen of the Board, my name is J.D. Meyer. I
14 represent the applicant, Owensboro Medical Plaza, LLC.
15 We don't have anything further to add other than to
16 answer any questions that the board may have.

17 CHAIRMAN: Any board member have questions
18 for the gentleman?

19 (NO RESPONSE)

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

22 MS. DIXON: Move to approve because it's
23 compatible with the comprehensive land use plan and
24 because of the past changes in the character of the
25 area.

1 CHAIRMAN: Is there a second?

2 MR. MILLER: Second.

3 CHAIRMAN: A motion has been made and a
4 second. Any other questions or comments by the board?

5 (NO RESPONSE)

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 Next item, please.

11 ITEM 5

12 1321, 1327 Hathaway Street, in a P-1 zone
13 Consider request for a Conditional Use Permit in
14 order to construct a parking lot.
15 Reference: Zoning Ordinance, Article 8,
16 Section 8.2 F11
17 Applicant: Owensboro Medical Plaza, LLC, Owensboro
18 Medical Health System

19 MR. NOFFSINGER: Mr. Chairman, Planning
20 Staff has reviewed this applicant. It's found to be
21 in order. The proposal meets with the site
22 development requirements of the P-1 zone and the
23 adopted zoning ordinance. This too is just a
24 continuation of the parking that's being created for
25 the expansion of the medical facilities in the area.
With that it's ready for your consideration.

26 CHAIRMAN: Again, is there any objections
27 filed in the office?

1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Anyone wishing to speak in
3 opposition?

4 (NO RESPONSE)

5 CHAIRMAN: Applicant have anything they
6 would like to add?

7 MR. MEYER: J.D. Meyer.

8 Just here to answer any questions you all
9 may have.

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

12 (NO RESPONSE)

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

15 MS. DIXON: Move to approve because it's
16 compatible with the comprehensive plan and because of
17 the significant changes in the area.

18 CHAIRMAN: Is there a second?

19 MR. MILLER: Second.

20 CHAIRMAN: A motion has been made and a
21 second. Board have any other comments or questions?

22 (NO RESPONSE)

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries.

2 Next item, please.

3 ITEM 7

4 1831 McCulloch Avenue, in an R-4DT zone (POSTPONED)
5 Consider request for a Conditional Use Permit to
6 place a 16x80 Class 2 manufactured home on the
7 property.

8 Reference: Zoning Ordinance, Article 8,
9 Section 8.2 10B

10 Applicant: Denise Marcum

11 CHAIRMAN: Mr. Chairman, this application
12 has been reviewed by the Planning Staff. It's found
13 to be in order. The proposal is for placement of a
14 manufactured home on the property.

15 There has been at least one property owner
16 to phone into the office to voice some question and
17 concern. I don't know that that property owner is
18 here tonight, but there may be some discussion from
19 neighbors in the area.

20 They do have the proper site plan drawing
21 which shows connection to the existing sanitary sewer
22 service. With that it's ready for your
23 consideration.

24 CHAIRMAN: Said there's no objections in
25 the office?

MR. NOFFSINGER: Well, there has been at
least one call, a neighbor voicing some concern or
questions.

1 CHAIRMAN: Is anyone here wishing to ask
2 questions on this application this evening?

3 AUDIENCE: Yes.

4 CHAIRMAN: We'll get you next.

5 The applicant have anything you'd like to
6 lead off or start with, please? Please come forward
7 and state your name.

8 MR. ELLIOTT: State your name, please.

9 MS. MARCUM: Denise Marcum.

10 (MS. DENISE MARCUM SWORN BY ATTORNEY.)

11 MS. MARCUM: I'd just like to state that
12 by placing a brand new manufactured home on the
13 property would be much of an improvement to what is
14 there now. If you'd like to see pictures, I have
15 those with me. I understand that some of the
16 neighbors have some concerns, possibly property value.
17 I think that by putting a brand new manufactured home
18 would be an improvement to what is there now. Feel
19 free to ask any questions. I'll try to answer them
20 the best way I can.

21 CHAIRMAN: Any board member have any for
22 the applicant at this time?

23 MS. MASON: Can we see the pictures?

24 MR. MILLER: Yes, I'd like to see the
25 pictures.

1 MS. MARCUM: Yes.

2 MR. DYSINGER: These pictures are what is
3 on the property currently; is that correct?

4 MS. MARCUM: Yes. These pictures were
5 taken less than a week ago.

6 CHAIRMAN: Do you have anything you want
7 to add?

8 MR. BROWN: Yes, sir.

9 CHAIRMAN: State your name for the record,
10 please.

11 MR. BROWN: Steve Brown.

12 (MR. STEVE BROWN SWORN BY ATTORNEY.)

13 MR. BROWN: I'd just like to say that I'm
14 acting as a construction advisor for cost and other
15 things for Denise.

16 The house has major structural damage to
17 the roof. The house is tier foundation. All the
18 floors are unlevel in it. The plumbing is completely
19 shot. The wiring is shot. The roof is literally
20 rotted off the house. The house has three roofs
21 currently on it and maybe four. I can't tell without
22 tearing the roof off. I'd like to give to the board,
23 this is just a sketch of what is proposed and also an
24 existing footprint of what is there currently.

25 The existing structure is 1.5 feet

1 currently off the east property line. Riley Avenue is
2 undeveloped currently. No curb or gutter. The
3 manufactured home would be more centered on the lot
4 and would give more room for construction and
5 development as far as curb and gutter and any other
6 improvements that would be made. That's about all I
7 have to say.

8 CHAIRMAN: Anyone from the board or staff
9 have any questions of the applicant before we proceed?

10 MR. MILLER: Mr. Chairman, I have just one
11 question.

12 If I understand it right, there is a
13 single-wide and a double-wide. There's one on either
14 side; am I right?

15 MS. MARCUM: Yes. There's a single-wide
16 along my side and then across the street is a
17 double-wide.

18 MR. NOFFSINGER: I have a question of the
19 applicant.

20 Understand your application you state that
21 the single-wide manufactured home is located at 1811
22 McCulloch Avenue; is that correct?

23 MS. MARCUM: Yes.

24 MR. NOFFSINGER: Do you understand that if
25 this application is approved that the unit you would

1 place on the property you would have to remove the
2 tires, tongue, wheels and axle?

3 MS. MARCUM: Yes.

4 MR. NOFFSINGER: There would have to be a
5 permanent concrete or masonry type skirting around the
6 perimeter of the home to give it a site built home
7 appearance, if you will.

8 MS. MARCUM: That's the way I would want
9 it anyway, yes.

10 MR. NOFFSINGER: Understand, is there a
11 curb and gutter on McCulloch Avenue now?

12 MR. BROWN: Yes, sir, there is.

13 MR. NOFFSINGER: There are no sidewalks
14 within this area as I understand it.

15 MR. BROWN: No.

16 MR. NOFFSINGER: And you are asking the
17 Board of Adjustment to relieve you from the
18 responsibility of placing a sidewalk along the
19 frontage of this property on McCulloch Avenue. That's
20 what you have. No sidewalk existing on Riley.

21 MS. MARCUM: Right.

22 MR. NOFFSINGER: So you're asking that you
23 not install a sidewalk?

24 MS. MARCUM: If the manufactured home is
25 put there, then there would be enough room to put a

1 sidewalk in front and along the side because where the
2 house, the structure that sits there now, if you were
3 to put a sidewalk along the side of it on Riley, I
4 mean that would be like right on top of the house.

5 CHAIRMAN: In other words, they're sitting
6 back. The new home would be further back.

7 MR. NOFFSINGER: I would recommend the
8 board does approve this application. It would be
9 subject to the installation of the sidewalk along
10 McCulloch Avenue in front of this property. That
11 would be your responsibility. Now, there could be a
12 conflict with existing utilities. If the Planning
13 Staff after further review find that there is a
14 conflict, then that requirement may be waived, but at
15 this point it would be a requirement that you would
16 install a sidewalk.

17 MR. BROWN: I would like to add something.
18 There is an existing fire hydrant in the
19 front yard. As you said, the water line itself might
20 very well come into play on that.

21 MR. NOFFSINGER: Right. That's a concern
22 I had in talking with Staff. Usually this board
23 requires a sidewalk be installed within the
24 right-of-way. There could be, very well be a
25 situation here where utilities, existing utilities

1 would be in the way and it would not be cost effective
2 for the applicant to put the sidewalk in. There are
3 no other sidewalks on Riley or McCulloch. I think it
4 would be reasonable for the Staff to take a further
5 look at this. If it's feasible, we'll do it. If not,
6 then I think the sidewalk requirement should be
7 waived.

8 CHAIRMAN: Any other questions of the
9 applicant at this time?

10 (NO RESPONSE)

11 CHAIRMAN: The ones that have questions or
12 opposition come forward and state your name, please.

13 MR. DANT: Charlie Dant.

14 (MR. CHARLIE DANT SWORN BY ATTORNEY.)

15 MR. DANT: I live right beside her. I've
16 got a \$90,000 home sitting on three lots. There's
17 several houses in the neighborhood along that street
18 that people are buying and tearing down, building new
19 ones and also some of them that they're buying. As a
20 matter of fact, there's one right across the street
21 somebody bought it and they're remodeling it. We're
22 bringing the neighborhood up, fixing it up. I've got
23 other rental property that I've bought there that
24 we're fixing up. I believe as we come into the city
25 and you start putting in trailers, I mean that's going

1 to bring everybody's value down. I don't want to come
2 out my carport door and the first thing I see is a
3 trailer. We just don't need to be putting trailers in
4 neighborhoods. They belong in trailer courts. That's
5 why I'm totally against it being right beside me.

6 CHAIRMAN: Any other comments?

7 MR. DANT: No.

8 CHAIRMAN: Any board member have any
9 questions of the gentleman?

10 (NO RESPONSE)

11 CHAIRMAN: Anything else you want to add
12 before you sit down?

13 MR. DANT: No.

14 CHAIRMAN: Next please

15 MS. PHILLIPS: Sheila Phillips. I own the
16 two properties located across the street.

17 (MS. SHEILA PHILLIPS SWORN BY ATTORNEY.)

18 MS. PHILLIPS: As Ms. Marcum stated, there
19 is two homes that is modular on McCulloch Avenue.
20 That was prior to me ever owning any property. One of
21 them is off the street. It sets back and there is a
22 house on each side of it. It's not very noticeable on
23 the same side as her side of the street.

24 The other one is a double-wide. If they
25 had two lots - - and that was also bought prior to me

1 owning the two houses that I do own.

2 We have a great concern of what's going to
3 happen when we get ready to sell these houses. My
4 husband, and I apologize. My husband is in Chicago
5 and he is the one that has the most concern. He says
6 that he feels that the houses will not bring the value
7 with a modular home across the street. All the houses
8 in the area are going up. They are vinyl siding. The
9 retail property, you can check in the surrounding
10 area, you can market all the retail value of the
11 houses has increased at this point by a great deal.
12 We just feel that it would not be a good thing.

13 CHAIRMAN: Any other comments?

14 MS. PHILLIPS: No, sir.

15 CHAIRMAN: Any questions for the lady?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone else have anything else
18 to add?

19 MR. WARREN: Mr. Chairman, do we know how
20 long the mobile homes, the current mobile homes have
21 been there?

22 CHAIRMAN: When they were put in?

23 MR. WARREN: Yes.

24 CHAIRMAN: Does anyone know how long
25 the trailers that are in there area have been there?

1 MS. PHILLIPS: One of them has at least 15
2 years and the other one is a very, very, the one on
3 the same side of the street where she is wanting to
4 put this one has been there, I can't tell you. I mean
5 probably maybe 20 years.

6 CHAIRMAN: Ten years plus.

7 MS. PHILLIPS: Yes, sir. It's really an
8 eyesore, but it does set back. It sets back off the
9 road and there is a house right here and one here.
10 Unless you look very hard, you would not be able to
11 see it.

12 CHAIRMAN: Any other questions?

13 MR. NOFFSINGER: Mr. Chairman, just for
14 the record, the double-wide unit would be principally
15 permitted in this zone. Meaning you can place a
16 double-wide manufactured home on a residentially zoned
17 property without coming to this board for a
18 Conditional Use Permit. It's only the single-wide
19 manufactured homes that have to come before this board
20 for special review. So here you have one single-wide
21 manufactured home in the neighborhood. The other home
22 is permitted by right.

23 CHAIRMAN: The board have any other
24 questions?

25 (NO RESPONSE)

1 CHAIRMAN: Does the applicant have
2 anything else you would like to add?

3 AUDIENCE: I do.

4 CHAIRMAN: Come forward and state your
5 name, please.

6 MS. TUDOR: My name is Martha Tudor.

7 (MS. MARTHA TUDOR SWORN BY ATTORNEY.)

8 MS. TUDOR: I live across the street at
9 1901 McCulloch Avenue. I feel any improvement that
10 Denise can do is going to bring my property value up.
11 It will have to. Her house is about to fall down.
12 Anybody can see that. If it does, then there's just
13 going to be an empty lot there. There's going to be
14 nothing there. I think it's a wonderful idea.

15 CHAIRMAN: Any board members have any
16 question?

17 (NO RESPONSE)

18 CHAIRMAN: Thank you.

19 Any other questions from the board
20 members?

21 (NO RESPONSE)

22 CHAIRMAN: Anyone else have anything else
23 they want to add to the item?

24 MS. PHILLIPS: My husband had said that if
25 Ms. Marcum was interested in selling the property, he

1 might be interested in buying it just to remove the
2 house that is there.

3 CHAIRMAN: Any other comment?

4 (NO RESPONSE)

5 CHAIRMAN: Hearing none entertain a motion
6 to dispose of the item.

7 MR. DYSINGER: Mr. Chairman, I'd like to
8 make a motion that we grant the Conditional Use Permit
9 given the findings that it is not inconsistent with
10 the structure that's already in the neighborhood and
11 it does not violate zoning or comprehensive plan;
12 subject to the installation of a sidewalk along the
13 property unless that should be cost prohibited due to
14 the presence of utilities.

15 CHAIRMAN: Is there a second?

16 MR. MILLER: I'll second.

17 CHAIRMAN: A motion has been made and a
18 second. Any other questions, comments by 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.

24 Next item, please, sir.

25

1 ITEM 6

2 9525 KY 144 in an R-1A zone
3 Consider request for a Conditional Use Permit to
4 construct a 30'x40' storage building on the premises
5 to support the existing church related activities.
6 Reference: Zoning Ordinance, Article 8,
7 Section 8.2 B4
8 Applicant: St. Williams Catholic Church, Diocese of
9 Owensboro

10 MR. NOFFSINGER: Mr. Chairman, this
11 application has been reviewed by the Planning Staff.
12 It's found to be in order. The proposal is to
13 construct an accessory storage unit on the property.
14 Churches are conditionally permitted in the R-1A
15 single-family residential zones. The site development
16 requirements of the zoning ordinance are proposed to
17 be met. The Staff finds no conflict with the adopted
18 comprehensive plan in that churches are allowed in
19 residential zones. This would be accessory to the
20 existing church facility.

21 CHAIRMAN: Any objections filed in the
22 office?

23 MR. NOFFSINGER: No, sir.

24 CHAIRMAN: Is anyone wishing to speak in
25 opposition?

 (NO RESPONSE)

 CHAIRMAN: Does the applicant have
 anything he'd like to add?

1 APPLICANT: Just here to answer to any
2 questions.

3 CHAIRMAN: Any board members have any
4 questions or comments or Staff?

5 (NO RESPONSE)

6 CHAIRMAN: Hearing none entertain a motion
7 to dispose of the item.

8 MS. DIXON: Move to approve because it is
9 compatible with the comprehensive plan.

10 CHAIRMAN: Is there a second?

11 MR. WARREN: Second.

12 CHAIRMAN: A motion has been made and a
13 second. Any other comments or questions from the
14 board?

15 (NO RESPONSE)

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 Next item, please, sir.

21 ITEM 8

22 4715 Sutherland Road, in a B-4 zone
23 Consider request for a Conditional Use Permit to
24 construct mini-warehouses (individual storage) on the
25 property.

Reference: Zoning Ordinance, Article 8,
Section 8.2 L7

Applicant: Jim Hawkins

1 MR. CHAIRMAN: Mr. Chairman, this plan has
2 been reviewed by the Planning Staff. It's found to be
3 in order. The plan complies with the site development
4 requirements of the B-4 zone. The zoning that is
5 found on the property, proposed use is compatible with
6 that zone based upon the ordinance amendment that the
7 Daviness County Fiscal Court adopted back several years
8 ago to allow mini-warehousing or individual storage
9 units in the B-4 zone. So with that we find no
10 conflict in review with the adopted comprehensive plan
11 and feel that it can be properly integrated into the
12 neighborhood.

13 CHAIRMAN: Any opposition put in the
14 office?

15 MR. NOFFSINGER: No, sir.

16 CHAIRMAN: Is anyone wishing to speak in
17 opposition of that?

18 (NO RESPONSE)

19 CHAIRMAN: Does the applicant have
20 anything you'd like to add?

21 (NO RESPONSE)

22 CHAIRMAN: Board members have any
23 questions on the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none entertain a motion

1 to dispose of the item.

2 MS. MASON: Mr. Chairman, I move to
3 approve the Conditional Use Permit in the fact that it
4 is compatible with the zoning ordinances.

5 CHAIRMAN: Is there a second?

6 MR. DYSINGER: Second.

7 CHAIRMAN: A motion has been made and a
8 second. Any other questions or comments from the
9 board members?

10 (NO RESPONSE)

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 Next item, please.

16 ITEM 9

17 2737 Veach Road, in a B-4 zone
18 Consider request for a Conditional Use Permit to
19 reconstruct a building in a floodway.
20 Reference: Zoning Ordinance, Article 18, Section
18-6(b)2, 18-5(b)4, 18-4(b)3
Applicant: Tom Blue Furniture, Inc., c/o James Perry
Blue, Sr., Mike and Ruth Ann Mason

21 MS. MASON: Mr. Chairman, I need to
22 disqualify myself from this item.

23 CHAIRMAN: I guess we might do that.

24 (MS. MASON LEAVES THE ROOM AT THIS TIME.)

25 MR. NOFFSINGER: Mr. Chairman, this

1 application has been reviewed by the Planning Staff.
2 It's found to be in order.

3 This is the location of Tom Blue Furniture
4 where it existed for many years. Of course, we all
5 know that an unfortunate happening occurred and the
6 facility burned. The site has now been cleared and
7 they're ready to redevelop the site and build back.

8 During the review process, we found that
9 the property is located in a floodway and the
10 requirement before we can issue a permit, even though
11 we had an unfortunate accident, FEMA requires that you
12 go through this process through the Board of
13 Adjustment to determine that proper flood proofing
14 will occur. So to be in compliance with FEMA
15 regulations that's why this application is here.

16 It's been reviewed. Found to be in order.
17 We have the supporting documentation from a local
18 engineer stating that there would be very minimal
19 affect to the flood plain. In fact, it will not
20 increase flood levels during the occurrence of base
21 flood discharge that existed when the original
22 building existed. That's signed by Roy Iler, P.E. So
23 with that, Mr. Chairman, it's recommended for
24 consideration.

25 CHAIRMAN: Any opposition filed with the

1 office?

2 MR. NOFFSINGER: No, sir. I will state
3 they do have the construction permit approved by the
4 Division of Water.

5 CHAIRMAN: Anyone wishing to speak in
6 opposition?

7 (NO RESPONSE)

8 CHAIRMAN: The applicant have anything
9 they'd like to add onto it?

10 APPLICANT: No.

11 CHAIRMAN: Board members have any
12 questions?

13 MR. PEDLEY: I have a question, Gary.
14 Before we can approve this, has all the flood hazard
15 provisions, Subsection 18.5(b)4 been met? Has it been
16 certified that the finished floor elevation and all -
17 - you stated that the flood hazard, certified
18 registered engineer demonstrating encroachment shall
19 not result in increase flood levels. You stated that,
20 but I didn't hear you state where - -

21 MR. NOFFSINGER: States here the completed
22 construction must either have a finished floor
23 elevation at or above 398. That's based upon the
24 permit from the Division of Water. Is that what
25 you're asking?

1 MR. PEDLEY: Yes. I'm referring to
2 Subsection 18.5(b) and 4, the finished floor
3 elevation. After it is constructed, is it required to
4 be certified by an engineer that it is above the base
5 flood elevation?

6 MR. NOFFSINGER: I will refer to Mr. Jim
7 Mischel that's better educated on that.

8 MR. PEDLEY: The only thing I'm trying to
9 do is prevent future problems for the Tom Blue
10 Furniture store. I have dealt with this a time or two
11 and it can be very, very costly and time consuming. I
12 just want to make sure everything is in order.

13 MR. NOFFSINGER: Yes. Let me just state:
14 The applicant must submit an Elevation Certificate or
15 a Flood Proofing Certificate form due within 90 days
16 after completion of the construction.

17 MR. PEDLEY: And that will be done?

18 MR. NOFFSINGER: It should be done.

19 MR. ELLIOTT: State your name, please.

20 MR. MISCHEL: Jim Mischel.

21 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

22 MR. MISCHEL: Typically since the state
23 has issued a construction stream permit they set the
24 elevation and we're going to base that permit off of
25 that elevation. Once that floor is put in, it's a

1 concrete floor, they'll have to submit an Elevation
2 Certificate to our office before, actually before we
3 do a rough-in inspection. We're going to require
4 that. We're going to see that it's guided. Then a
5 copy will go to the state and we'll have one.

6 CHAIRMAN: Anybody have a question for
7 Jim?

8 MR. PEDLEY: That answered my question.

9 CHAIRMAN: Thank you, Jim.

10 Do you have anything else you'd like to
11 add, Applicant?

12 MR. MASON: Mike Mason.

13 (MR. MIKE MASON SWORN BY ATTORNEY.)

14 MR. MASON: Actually we're going to be
15 three inches above what the state says we need to be
16 to not even have flood insurance. So we will be
17 completely out of it. The level, I think the final
18 level that we've asked them to put it to will be about
19 three inches higher than what they asked us to do.

20 CHAIRMAN: Any other questions of the
21 applicant?

22 (NO RESPONSE)

23 CHAIRMAN: Thank you.

24 Entertain a motion to dispose of the item,
25 if there's no questions.

1 MR. PEDLEY: Mr. Chairman, I make a motion
2 for approved based on findings that it meets the flood
3 plain zoning ordinance and regulations and will not
4 have an adverse affect on the community.

5 CHAIRMAN: Is there a second?

6 MR. MILLER: Second.

7 CHAIRMAN: Any other questions by the
8 board or comments?

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 Next item, please.

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16 VARIANCE

17 ITEM 10

18 1815 South Griffith Avenue, in an R-1A zone
19 Consider request for a Variance to reduce the side
20 yard setbacks from 10 feet to 7.5 feet in order to
21 construct a single-family residence.
22 Reference: Zoning Ordinance, Article 8,
23 Section 8.5.5(d)
24 Applicant: Homes by Benny Clark, Inc.

25 MR. NOFFSINGER: Mr. Chairman, Planning
Staff has reviewed this application. The application
is found to be in order. Planning Staff has visited
the site. We've made a recommendation for you as well

1 as finding for your review. With that it's ready for
2 consideration.

3 CHAIRMAN: Has any objections been filed
4 in the office?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: Anyone objecting in the
7 audience?

8 (NO RESPONSE)

9 CHAIRMAN: The applicant have anything
10 you'd like to add?

11 APPLICANT: No.

12 CHAIRMAN: Any board members have any
13 questions of the applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Staff have anything else to
16 add?

17 MR. NOFFSINGER: No, sir.

18 CHAIRMAN: Board entertain a motion to
19 dispose of the item.

20 MR. PEDLEY: Mr. Chairman, I make a motion
21 for approval based on findings it will not adversely
22 affect the public health, safety or welfare; will not
23 alter essential character of the general vicinity;
24 will not cause a hazard or a nuisance to the public;
25 will not allow unreasonable circumvention of the

1 requirements of the zoning regulations.

2 CHAIRMAN: Is there a second?

3 MR. WARREN: Second.

4 CHAIRMAN: Any more comments or questions
5 from the board or staff?

6 (NO RESPONSE)

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries.

11 Next item, please.

12 ITEM 11

13 1815 South Griffith Avenue, in an R-1 A zone
14 Consider request for a Variance to reduce the rear
15 yard setback from 20 feet to 15 feet in order to
16 construct a single-family residence.

17 Reference: Zoning Ordinance, Article 8,
18 Section 8.5.5(e)

19 Applicant: Homes By Benny Clark, Inc.

20 MR. NOFFSINGER: Mr. Chairman, Planning

21 Staff has reviewed the application. Found the

22 application to be in order. Planning Staff has

23 prepared a recommendation that will enter into the

24 record that describes the property as well as the

25 surrounding properties. Staff has recommended

approval that we do include findings of fact. The

Staff in their review did find that there are other

encroachments in the area.

1 CHAIRMAN: Any objections filed in the
2 office?

3 MR. NOFFSINGER: No, sir. There's also,
4 there was a variance approved by this board back on
5 March 4th of 1999 to reduce the rear yard setback at
6 2038 Old Cabin Road to 11 feet. That's located
7 directly behind this property.

8 CHAIRMAN: Applicant have anything you
9 want to say or add onto it?

10 APPLICANT: No.

11 CHAIRMAN: Any board members have any
12 questions or Staff?

13 (NO RESPONSE)

14 CHAIRMAN: Hearing none dispose of the
15 item.

16 MR. WARREN: I make a motion to grant this
17 variance with the findings that it will not adversely
18 affect the public health, safety or welfare; it will
19 not alter the essential character of the general
20 vicinity; it will not cause a hazard or a nuisance to
21 the public; and it will not allow an unreasonable
22 circumvention of the requirements of the zoning
23 regulations.

24 CHAIRMAN: Is there a second?

25 MS. MASON: Second.

1 CHAIRMAN: Any other questions or comments
2 from the board or Staff?

3 (NO RESPONSE)

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 Next item.

9 ITEM 12

10 714, 716 720 West 5th Street, in a B-4 zone
11 Consider request for a Variance to reduce the front
12 yard setback from 75 feet from street centerline (50
13 feet from property line) to 40 feet from street
14 centerline (15 feet from property line) in order to be
15 able to build on the property. The property has
16 received a favorable recommendation from the OMPC to
17 change the zoning classification to R-4DT.
18 Reference: Zoning Ordinance, Article 8,
19 Section 8.5.16(c)
20 Applicant: H&K Property Management, LLC, Jeremy Kamuf

21 MR. NOFFSINGER: Mr. Chairman, Planning
22 Staff has reviewed the application. I'll let Ms.
23 Becky Stone address this application as to the
24 recommendation and findings.

25 CHAIRMAN: State your name for the record,
please.

MS. STONE: Becky Stone.

(MS. BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: This property was recommended
for zoning of R-4DT and that has in fact been

1 accomplished. City Commission had second reading on
2 that Tuesday night.

3 The property are existing lots of record
4 that if the 75 feet is applied to the setback it's
5 going to make an usable lot for any kind of building
6 structure on there. So our recommendation would be to
7 approve the front yard setback. The applicant is
8 adhering to the roadway buffer along West Fifth
9 Street. They would accommodate a roadway widening or
10 that type of thing. The recommendation is to approve.

11 CHAIRMAN: Any board members have any
12 questions?

13 (NO RESPONSE)

14 CHAIRMAN: Any objections filed in the
15 office?

16 MR. NOFFSINGER: No, sir.

17 CHAIRMAN: No objections here. Any board
18 members have questions of anyone?

19 (NO RESPONSE)

20 CHAIRMAN: If not entertain a motion to
21 dispose of the item.

22 MR. DYSINGER: Mr. Chairman, I make a
23 motion that we grant the variance given the findings
24 that it will not adversely affect the public health,
25 safety or welfare; it will not alter the essential

1 character of the general vicinity; it will not cause a
2 hazard or a nuisance to the public; and it will not
3 allow an unreasonable circumvention of the
4 requirements of the zoning regulations.

5 CHAIRMAN: Is there a second to the
6 motion?

7 MR. PEDLEY: Second.

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

10 (NO RESPONSE)

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 One last item.

16 MR. NOFFSINGER: Mr. Chairman, I have one
17 new business.

18 The Planning Staff received a letter in
19 the office. I'd just like to read that into the
20 record.

21 "As my neighborhood has seen the addition
22 or planned additions of dormitories, I would like to
23 request that the Owensboro Metropolitan Planning
24 Commission open a review of the current Planning &
25 Zoning Ordinance on dormitories. This review should

1 be held in public to help obtain the entire
2 community's views and beliefs on this subject. With
3 community changes so should our zoning ordinance
4 change. Thank you. Nita Kincaid."

5 Mr. Chairman, this letter comes from a
6 resident of the J.Z. Moore area. As this board is
7 well aware, we've had dormitory applications come
8 before the board. The regulations regarding
9 dormitories are somewhat vague. I mean there are no
10 clear guidelines. The Board of Adjustment recently
11 has been put in a position of not really feeling
12 comfortable in terms of reviewing applications because
13 of what they may or may not be able to ask. I think
14 it would be an issue that this board might want to
15 direct Staff to look into, to work with the community,
16 groups that might be affected that have dormitories
17 such as Brescia University, Kentucky Wesleyan College,
18 folks from the Old Owensboro Neighborhood Alliance,
19 perhaps any other applicants that have had dormitory
20 applications before us. Just to set down and review
21 this issue. Look at what we do, other communities do
22 and come to some recommendation that could be
23 submitted to the Planning Commission as to how to
24 address it. We may be addressing dormitories the best
25 way we can in this community. We may not be. This

1 particular property owner, as well as others I've
2 heard from that have spoke with me privately, have
3 stated that they would like to see this issue
4 addressed. Planning Staff would look to this board to
5 advise us in terms of how to proceed.

6 CHAIRMAN: I would like the Staff proceed
7 to do some studying and recommendation on the
8 dormitories.

9 What about the rest of the Board?

10 MS. DIXON: I think there's a need for
11 some consistency, for some clear guidelines. I would
12 hope that the Staff, it would be my wish that the
13 Staff would meet and come to some consensus for a
14 recommendation to the Planning Commission.

15 MR. DYSINGER: Mr. Chairman, I'd like to
16 add that instances of these things coming up are only
17 going to increase as we move forward. Some sort of
18 consistent policy needs to be adopted.

19 CHAIRMAN: Everybody on the board agrees
20 it should be studied. Do you need a motion to that or
21 just order you to do it?

22 MR. NOFFSINGER: I think we have a
23 consensus. We have our direction.

24 CHAIRMAN: Now entertain a motion to
25 adjourn.

1 MS. DIXON: Move to adjourn.

2 MS. MASON: Second.

3 CHAIRMAN: All in favor raise your right

4 hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 40 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 21st day of May, 2004.

18

19

20 _____
LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
21 OWENSBORO, KENTUCKY 142303

22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

25