

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MAY 3, 2007

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, May
5 3, 2007, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

- 7 MEMBERS PRESENT: C.A. Pantle, Chairman
- 8 Gary Noffsinger, Staff
- 9 Ward Pedley
- 10 Marty Warren
- 11 Sean Dysinger
- 12 Ruth Ann Mason
- 13 Judy Dixon
- 14 Clay Taylor
- 15 Madison Silvert, Attorney

16 * * * * *

17 CHAIRMAN: I want to call the meeting of the
18 Owensboro Metropolitan Board of Adjustment to order.

19 Want to welcome each one of you. We start our
20 meeting each month with A prayer and the pledge to
21 allegiance. We invite you to join with us if you so
22 desire. Gary will have the prayer this evening.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Again, I want to welcome each one
25 of you to the Board of Adjustment meeting.

If you have any comments on any item, come to
one the podiums and be sworn in because we'll get a
record by the clerk for our record.

With that the first item is the minutes of the

1 last meeting. We've got April 5th first. These are
2 on record in the office. We don't have any problems
3 with it. No one has anything to add to it, I'll
4 entertain a motion.

5 MS. DIXON: Move to approve the minutes.

6 MS. MASON: Second.

7 CHAIRMAN: We have a motion and a second. All
8 in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries.

11 April 26th is not ready so we'll go with the
12 first item, please, sir.

13 -----

14 CONDITIONAL USE PERMITS

15 ITEM 2

16 6731 Pond River Road, zoned A-R
17 Consider request for a Conditional Use Permit in order
18 to provide migrant farmer housing for a maximum of
19 eight people that will be occupied six months out of
20 the year.

Reference: Zoning Ordinance, Article 8,
Section 8.2 A7A

Applicant: Brad Stephen and Clint Hardy

21 MR. NOFFSINGER: Mr. Chairman, this
22 application has been reviewed by the Planning Staff.
23 It's found to be in order. It's been advertised for
24 public hearing at this time.

25 Mr. Brian Howard on Planning Staff has a Staff

1 Report to read and enter into the record.

2 MR. WARREN: Mr. Chairman, I need to excuse
3 myself from this item, please.

4 CHAIRMAN: So noted.

5 MR. SILVERT: State your name, please.

6 MR. HOWARD: Brian Howard.

7 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

8 ZONING HISTORY

9 The subject property is currently zoned A-R
10 Rural Agriculture. OMPC records indicate that the
11 subject property has always been under its current
12 zoning classification.

13 LAND USES IN SURROUNDING AREA

14 The subject property is located in an area of
15 primarily agricultural uses with scattered rural
16 residences. All property adjacent to the subject
17 property is zoned A-R.

18 ZONING ORDINANCE REQUIREMENTS

19 The following criteria apply to a conditional
20 use permit for seasonal farm worker housing:

21 1. Any person residing in the referenced
22 housing situation shall be subject to all state,
23 federal or local jurisdiction laws.

24 2. The facility shall be located within half
25 mile of public transit.

1 3. The facility shall not be located within
2 an identified historic district recognized by the
3 legislative body.

4 4. The facility shall employ an on-site
5 administrator, who is directly responsible for the
6 supervision of the residents and the implementation of
7 house rules.

8 5. The applicant shall provide the Board of
9 Adjustment, the Zoning Administrator, the public and
10 the residents a phone number and address of the
11 responsible person or agency managing the facility.

12 6. A fire exit plan shall be submitted with
13 the conditional use permit application showing the
14 layout of the premises, escape routes, location,
15 operation of each means of egress, location of
16 portable fire extinguishers, and location of the
17 electric main. The fire exit plan shall be
18 prominently displayed within a common area within the
19 facility.

20 7. Hallways, stairs and other means of egress
21 shall be kept clear of obstructions.

22 8. The facility shall comply with all
23 applicable building and electrical codes.

24 9. A list of house rules shall be submitted
25 to the Board of Adjustment with the application for a

1 conditional use permit and shall be prominently
2 displayed in a common area within the facility. The
3 rules should be adequate to address the following:
4 Noise control, disorderly behavior, property garbage
5 disposal, and cleanliness of sleeping areas and common
6 areas.

7 10. The Owensboro Metropolitan Board of
8 Adjustment may impose additional conditions as may be
9 necessary for the property integration of the use into
10 the planning area.

11 Condition two, which was the facility shall be
12 located within half mile of public transit, the Board
13 of Adjustment has the ability to waive that provided
14 that:

15 1. The housing for the seasonal farm workers
16 is located on the premises where the work is being
17 conducted or is located on the same premises as the
18 home of the provider of the seasonal farm worker
19 housing; and,

20 2. Sufficient evidence is presented to
21 demonstrate that transportation is being provided or
22 is available to permit residents to adequately access
23 necessary community services.

24 The applicant has submitted information that
25 addresses each one of those ten points. They do

1 request waiver from the public of transit requirement.
2 They say in the letter that the seasonal workers will
3 be housed on the site where they will be able to work
4 and they will be provided a vehicle for transportation
5 and that a license driver will be required to do that.

6 They also included in the packet of
7 information regarding the exits, the fire extinguisher
8 and all the information.

9 With that the application is in order. I'd
10 like to enter the Staff Report as Exhibit A.

11 CHAIRMAN: Was there any objections or
12 anything filed in the office, please?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Is there anyone objecting to this
15 item this evening?

16 We'll get you in a minute. Just wanted to see
17 if somebody was there.

18 Is the applicant here and do you have any
19 comments you want to add at this time, please?

20 APPLICANT REP: No comment yet.

21 CHAIRMAN: Hearing none from the applicant, is
22 there any questions from the board to ask the
23 applicant at this time?

24 MR. DYSINGER: I have a question of Staff, but
25 I can wait.

1 Do we have a fire plan, an exit plan that can
2 be put in the record at this time?

3 MR. HOWARD: Yes. They did submit a plan. I
4 believe Mr. Noffsinger has a copy of that I'd like to
5 enter that into the record.

6 MR. DYSINGER: Thank you.

7 CHAIRMAN: Any other questions from the board?

8 (NO RESPONSE)

9 CHAIRMAN: Staff have anything else to add
10 right now?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Objecting to the item, please come
13 forward one at a time and state your name for the
14 record, please.

15 MS. PIKE: My name is Sherry Pike.

16 (MS. SHERRY PIKE SWORN BY ATTORNEY.)

17 MS. PIKE: Larry and I reside about an eighth
18 of a mile to the east of the site where they're
19 requesting that. There has been trailers and things
20 there before that housed migrant workers. There were
21 problems with trash and that kind of thing in the
22 area. I know this is different. These are different
23 people that have applied for that, but our concern is
24 that there are so many of these popping up in our area
25 that are so close to our property that we're concerned

1 about a decrease in property value occurring.

2 Also the location of people that have applied
3 for it. They're at least 30 minutes away. Law
4 enforcement is at least 30 minutes away. So if there
5 are any problems we're the first ones to be there and
6 have to deal with it.

7 The time of the season that it's going to be
8 occupied is the summer months. Obviously it's going
9 to be more outdoor activity. We have witnessed
10 parties at the other locations and music and, of
11 course, there's beer and that kind of thing going on.
12 It's happening within a quarter of a mile or an eighth
13 of a mile from our home.

14 In the winter months if it's unsupervised,
15 nobody is around to watch it, there has been meth labs
16 located in the area and things. I'm concerned about
17 somebody knowing no nobody is around. Possibly, you
18 know, wanting to use it for something like that.

19 I know several years ago there were numerous
20 trailers and things that were popping up and located.
21 Like a park type atmosphere in the Stanley area. It
22 was just unbelievable. I'm concerned that this permit
23 may lead to another and another because already this
24 would be the third such home located in our area.
25 Those are my concerns.

1 CHAIRMAN: We'll try to get the answers for
2 you from the applicant.

3 Anyone else objecting at this time?

4 MS. PAYNE: I'm objecting.

5 CHAIRMAN: Would you come forward.

6 MR. SILVERT: State your name, please.

7 MS. PAYNE: My name is Donna Payne.

8 (MS. DONNA PAYNE SWORN BY ATTORNEY.)

9 MS. PAYNE: I live on the same road that this
10 complex is wanting to be built. I have three
11 children. I have dealt with migrant workers there
12 before in the area.

13 Actually there was a wreck down the road from
14 me. We went down there to help them and they didn't
15 want help because they were drunk. We called the
16 police, called the ambulance. They went through my
17 back yard, stopped at my barn to hide in the barn.
18 The fire department actually had to chase them through
19 the field.

20 The police department has been down there
21 numerous amount of times to arrest them. I don't want
22 it in my neighborhood. I've got children that stay
23 home during the summertime. My children have been
24 approached by migrant workers when they're out in the
25 yard. I don't want it. That's my concern is my

1 children.

2 CHAIRMAN: Appreciate it. Anyone else
3 objecting come forward for the record, please.

4 State your name, please.

5 MR. WRIGHT: Joey Wright.

6 (MR. JOEY WRIGHT SWORN BY ATTORNEY.)

7 MR. WRIGHT: We live about three-tenths of a
8 mile from the site.

9 My biggest concern is don't know the guy that
10 owns the property. I've met him maybe once or twice.
11 Seemed like a nice guy.

12 My concern is who is watching them. That's my
13 biggest concern. If people are going to have these
14 homes and going to have these workers, I think they
15 ought to have them where they have them at, with them.
16 I think they ought to be able to be within a matter of
17 minutes of getting there and taking care of the
18 problems that we're going to have to deal with.

19 I'm with these other people that we can hear
20 the music. I can understand people are going to have
21 parties. I have no problem with that. My problem is
22 what kind of parties they're having.

23 We've drove down to the intersection, they're
24 standing there the corner. No lights. No nothing.
25 Just standing there. Our biggest concern is that I've

1 got daughters, young ones that are going to be riding
2 bicycles down through there. I'm going to make sure
3 that they're safe.

4 When you don't understand these people and
5 they don't understand what you're saying, it makes a
6 little bit of conflict in-between everybody.

7 I'm just concerned about the safety of
8 everybody and who is going to take care of them.

9 CHAIRMAN: Any other objections?

10 (NO RESPONSE)

11 CHAIRMAN: Hearing none would the applicant
12 come forward.

13 You've heard the comments and questions. Give
14 us some answers, please.

15 MR. SILVERT: State your name, please.

16 MR. STEPHEN: Brad Stephen.

17 (MR. BRAD STEPHEN SWORN BY ATTORNEY.)

18 MR. STEPHEN: I understand everybody's
19 concerns.

20 Only thing about the living 30 minutes away.
21 I personally probably live 30 minutes away, but I've
22 got Clint and my brother and uncle that probably live
23 less than 10 minutes away.

24 I'll personally be working with these guys
25 every day. I was going to put these guys at my house,

1 but I'm in the floodplain so I there's no way I can
2 get a permit to do that.

3 I don't know what else to say. I can answer
4 questions.

5 We'll be working with these guys personally
6 every day ourselves. They're a great bunch of guys to
7 work with. I've heard all these stories like in
8 Stanley. It's nothing like what got started here
9 several years ago. That's why we're going to this H2A
10 route.

11 You see all the guidelines and everything. We
12 already have to go by the H2A requirements itself.
13 That's just a total different thing than what a lot of
14 people are used to when you think of migrant workers.

15 MR. DYSINGER: Mr. Chairman, would you explain
16 that to me, H2A, what you mean when you say it?

17 MR. STEPHEN: Well, it's on contract labor.
18 Actually you go through the government. It's just all
19 these regulations that we have to follow. They even
20 make sure we're taking care of these guys as if we was
21 taking care of our own family. It's our
22 responsibility to stay with them. They have to keep
23 the property clean. So many guidelines to go by.

24 MR. DYSINGER: So the people you'll be
25 employing, they're coming to you through a program.

1 They've been screened, so on and so forth?

2 MR. STEPHEN: Yes.

3 MR. DYSINGER: Do you have to undergo
4 inspections where the house will be located?

5 MR. STEPHEN: Yes. I have copies of all of
6 that where the house has done been inspected. These
7 guys go through a recruiter.

8 MR. DYSINGER: Are there unscheduled
9 inspection? Again, just out of curiosity.

10 MR. STEPHEN: I don't know about any --

11 MR. DYSINGER: If you don't know, you can say
12 you don't know.

13 MR. STEPHEN: At least once a year.

14 CHAIRMAN: Any other questions from the board?

15 MR. PEDLEY: I have one question.

16 Mr. Stephen, what are your plans of
17 transportation for the migrant workers going to and
18 from the site?

19 MR. STEPHEN: Well, they'll be riding with us.
20 I'll have them a van to where they'll go to Wal-Mart
21 and the grocery store and stuff on Sundays. That will
22 be their way to the field and back home.

23 MR. PEDLEY: You're committed to
24 transportation for their needs?

25 MR. STEPHEN: Yes.

1 MR. PEDLEY: Get them to and from and to the
2 market, whatever they need?

3 MR. STEPHEN: Yes.

4 MR. PEDLEY: You're committed to that. Okay.
5 Thank you.

6 MS. MASON: I have a question.

7 Is this just going to be totally men or is
8 there going to be some families or is it just totally
9 men?

10 MR. STEPHEN: No. It'd just be eight guys.

11 CHAIRMAN: What's the dates you plan on
12 bringing them in and turning them loose?

13 MR. STEPHEN: Somewhere around the end of May
14 to the first of December.

15 CHAIRMAN: There will be someone there
16 supervising at all times at that location?

17 MR. STEPHEN: No, not at the location. After
18 work they'll go home and I'll go home. I'll be there
19 some. I'll probably be there twice a week to check on
20 the location and stuff and also be down there. I can
21 guarantee you there will be no garbage or nothing like
22 that.

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

25 (NO RESPONSE)

1 CHAIRMAN: Gary.

2 MR. NOFFSINGER: I do have a question and I
3 thought it would be good to read into the record part
4 of the application that addresses some of the noise
5 issues and items that some folks have raised questions
6 about that I don't think any answers have been given.

7 If I could, first of all what size
8 manufactured home are you going to place on this
9 property?

10 MR. STEPHEN: Fourteen by seventy.

11 MR. NOFFSINGER: So it'd be a 14 by 70
12 manufactured home.

13 Manufactured housing of that type, which is a
14 single-wide manufactured home, is principally
15 permitted in that zone. That means that type of
16 housing is allowed to occur by right. The only thing
17 they need to do is get an electrical permit or a
18 placement permit to place a manufactured home on the
19 property. So keep in mind that the use or facility
20 that's being proposed, the structure that's being
21 proposed is principally permitted in that zone. The
22 only thing we're talking about is the use.

23 The applicant states, "I take" - and I guess
24 that's you Mr. Stephen - "responsibility in letting
25 the guys know that they must follow all state, federal

1 and local jurisdiction laws. I will have laws posted
2 in living quarters.

3 "I will take the exemption for the seasonal
4 farm workers, transportation because you're going to
5 be providing that transportation for them.

6 "The proposed site is not located within an
7 identified historic district recognized by the
8 legislative body."

9 These are requirements that he must meet in
10 order for this board to consider the proposed use.

11 "I, Brad Stephen, take responsibility of being
12 on-site administrator being responsible for the
13 supervision of the residents and the implementation of
14 house rules. I will see that noise control stays
15 under tolerable level and that disorderly behavior
16 does not occur. I will check premises once a week to
17 make sure all garbage is picked up and grass mowed.

18 "All hallways will be kept clear from all
19 obstructions. There is no stairs in manufactured
20 home.

21 "The facility will comply with all building
22 and electrical codes. I will have fire extinguisher
23 in facility along with two smoke detectors. The
24 trailer will have a B1 sticker on it through the
25 state.

1 "A list of house rules will be displayed in
2 living area and they include: Noise control will be
3 held to minimum, disorderly behavior will not be
4 accepted, garbage will be disposed in proper places,
5 sleeping living areas will be kept clean."

6 The question I have here and point out to you
7 that you are required to have an on-site administrator
8 being responsible for the supervision. You're taking
9 on that role. However, you're not going to be on site
10 at all times. You're not going to be living there.
11 You will need to designate an on-site administrator to
12 enforce these rules along with you as the additional
13 administrator.

14 MR. DYSINGER: Mr. Chairman, Mr. Noffsinger
15 brings up a point of an on-site administrator. I'm
16 troubled that the plan is we have it in the
17 application. The outline does not satisfactorily
18 address that at this time. I'm not entirely convinced
19 that the applicant kind of didn't just find out that
20 you needed someone.

21 Were you aware that you needed someone on site
22 all the time? You seem to indicate that that would
23 not be the case when you were asked by a commissioner.

24 MR. STEPHEN: No, not all the time. No. Just
25 checking on the place a couple of times a week.

1 MR. DYSINGER: The ordinance calls for an
2 on-site at all time administrator. I do not believe
3 that this application outlines that at this time. I'm
4 just putting that out there right now. I don't think
5 this is in order at this time.

6 CHAIRMAN: Any other questions from the board
7 at this time?

8 The one that has an objection, you want to add
9 some more?

10 MR. PIKE: Yes.

11 MR. SILVERT: Please state your name, again.

12 MR. PIKE: Larry Pike.

13 Saturday as windy as it was there was an old
14 barn that had blown down on the place. They piled it
15 all up and burned it on Saturday as windy as it was.
16 As soon as the fire got down low enough that it might
17 not be out of control, they all jumped in their trucks
18 and left. Left it up to us to watch it just like the
19 migrant workers. Left us to deal with the smoke just
20 like the migrant workers. That's what we're
21 complaining about. Got it on all three sides. We got
22 it on all three sides of us now. We don't need no
23 more.

24 CHAIRMAN: Thank you.

25 You want to address some of these questions

1 again?

2 MR. STEPHEN: I know a lot of other H2A houses
3 that don't have an on-site administrator around the
4 clock. Matter of fact, I don't know of any.

5 MR. TAYLOR: When it refers to on-site
6 administrator, does it mean that it has to be an
7 on-site administrator be it him or could it be another
8 one of the H2A employees that he designates as an
9 administrator within the household?

10 MR. NOFFSINGER: That's what I was trying to
11 get to. I think as long as you designate someone to
12 be employed as an on-site administrator, I think
13 you're covered there. That's going to be responsible
14 for the supervision of the rules. It doesn't say who
15 that person has to be. It just says that you shall
16 employ an on-site administrator to enforce those
17 rules.

18 MR. TAYLOR: So it's not precluding that one
19 of the eight that are living in the home could be
20 administrator. He could be responsible for making
21 sure that everything got taken care of.

22 MR. NOFFSINGER: Right. That's correct.

23 MR. PIKE: Is that like putting the fox in
24 charge of the hen house?

25 CHAIRMAN: Appreciate your comment.

1 Come back please, ma'am.

2 MR. SILVERT: State your name again.

3 MS. PAYNE: Donna Payne.

4 When I had the incident with the migrant
5 workers down there, there was nobody down there that
6 could speak English. That's my problem with one of
7 the persons living in the home. The person living in
8 the home needs to be able to communicate with the
9 community if there is a problem. That is my concern.
10 I do not talk Mexican, I'm sorry. I do not, Spanish.
11 I'm not going to go out and learn it just because of
12 this. They need to have somebody there on that site
13 24 hours a day.

14 My children live in this community. I've
15 lived there all my life. I'm not going to have to be
16 forced to move because of this. My children are not
17 going to have to be forced to stay inside all summer
18 because of this. I don't want to get a phone call
19 from town that I need to come home every day. I'm
20 sorry, that's the way I feel.

21 CHAIRMAN: We appreciate your comment.

22 Mr. Stephen, you have any comments or someone
23 there that will be able to speak English so they can
24 understand all the time?

25 MR. STEPHEN: Well, these eight guys that I'm

1 getting they are friends of some other guys that have
2 done been here for 10 to 12 years and they speak well
3 English. They'll be living directly across the road
4 from them guys. I don't know what else you all expect
5 me to do. We've got raise tobacco for a living and
6 migrant labor is the only thing we have. You can't
7 get Americans to cut tobacco.

8 CHAIRMAN: Ma'am, state your name.

9 MR. PAYNE: Donna Payne.

10 My sister and my brother-in-law are farmers
11 that do work in that area. You can find people that
12 do work. My concern is you all are not going to be
13 there. You don't have to put up with that. We do.
14 You all work with them. You don't live with them.

15 MR. SILVERT: Ma'am, please address your
16 comments to the board.

17 MS. PAYNE: They don't work with them. We
18 have to live with them on the weekends when they have
19 their parties. I'm not kidding. I live right there
20 every day. They go by my house 80 miles an hour.
21 There's an S curve on my road. I've seen them flip
22 their vehicles. If my kids are out there on that
23 road, what is going to happen to them? My concern is
24 my children, the neighborhood, their children, my
25 neighbor's children.

1 CHAIRMAN: We've heard your concerns.
2 Anything else new to bring in at this time?
3 MR. WRIGHT: My name is Joey Wright.
4 I'm kind of confused on a few things. This
5 housing that you're calling a housing, my concern is I
6 thought it was like a pole barn. It's not really a
7 house-house. That's my understanding. I've seen them
8 built before and they look like pole barn buildings to
9 me.
10 MR. NOFFSINGER: Excuse me. No, sir. This is
11 a trailer. I say "trailer" because some people refer
12 to manufactured housing or mobile homes as trailers.
13 Professionally I call it a manufactured home. It's a
14 single-wide manufactured home.
15 MR. WRIGHT: So this trailer it's designed for
16 eight people?
17 MR. NOFFSINGER: To my knowledge it is a
18 manufactured home like you would go out to any
19 dealership here in the community and purchase. It's
20 constructed no differently than --
21 MR. WRIGHT: So you're basically saying
22 they're going to be sleeping two in a room, maybe
23 three?
24 MR. NOFFSINGER: That is what they're saying.
25 It has a proper seal from the State of Kentucky that

1 it has been inspected and certified as safe. There
2 are no limits in terms of this board has imposed
3 regarding or in our zoning ordinance that says you can
4 have two people per residence or ten people per
5 residence. That's usually addressed by the building
6 code. However, the building code does not apply here
7 since this is a manufactured home. That's why there's
8 a requirement that they have a certification from the
9 state housing and building office to certify that the
10 structure is safe for occupancy.

11 Am I correct on that, Mr. Mischel, what I
12 said?

13 MR. MISCHEL: Yes.

14 CHAIRMAN: Is there any new comments?

15 State your name, please

16 MS. KAREN: My name is Dawn Karen. I live
17 right next-door to Ms. Payne.

18 (MS. DAWN KAREN BY ATTORNEY.)

19 MS. KAREN: I live right next-door to Ms.
20 Payne on Pond River so we're probably going to be one
21 of their closest neighbors. I work very late. My
22 husband also works very late and my very elderly
23 in-laws take care of my two small, very small
24 children. Ages six and three. I'm very concerned
25 about this. I've had them passed out in my front yard

1 before like Donna said. Vehicles flipped over in the
2 farmland right beside us. Flying up and down the
3 highways. I'm very concerned about it because I do
4 have two small children. That's my concern.

5 CHAIRMAN: Thank you, ma'am.

6 Is there any new information from either side?

7 (NO RESPONSE)

8 CHAIRMAN: The Applicants have anything else
9 to add?

10 CHAIRMAN: Come forward and state your name.

11 MR. HARDY: Clint Hardy.

12 (MR. CLINT HARDY SWORN BY ATTORNEY.)

13 MR. HARDY: I just want to kind of echo the
14 comments of the folks who do live down there in that
15 ara.

16 I mean the place has been a dump. We
17 purchased the property last fall. Began the process
18 of getting it cleaned up. Certainly not got it to
19 where we want it to be, but I guess I did want to
20 eliminate any confusion that's associated with past
21 people who have lived there and the way the property
22 was maintained with how it will be maintained now. It
23 was just really a dump. It was pitiful.

24 Again, the property is under new ownership now
25 and new management as you would say. I can't really

1 speak for how folks travel the roadways and things
2 like that, but it's going to have a lot closer watch
3 over it than it has in the past.

4 CHAIRMAN: Thank you.

5 You have something new to add at this time?

6 MS. WRIGHT: I've got a question for the
7 owner. My name is Stacy Wright.

8 (MS. STACY WRIGHT SWORN BY ATTORNEY.)

9 MS. WRIGHT: I know that back in the fall
10 Clint was one the owners that bought it, but about the
11 other gentleman that's addressing the commission. Are
12 you one of the legal owners of the farm?

13 CHAIRMAN: Answer that for us, please. State
14 your name again.

15 MR. STEPHEN: Brad Stephen.

16 No, ma'am, I'm not a legal owner. Me and
17 Clint are friends. We're going to get these guys
18 together to both harvest our tobacco.

19 CHAIRMAN: Thank you.

20 MS. WRIGHT: Then I have a question on -- you
21 said that you give them a van for them to drive
22 around. Will one of them have a legal driver's
23 license?

24 MR. STEPHEN: Yes, ma'am.

25 MS. WRIGHT: Also down in that area we've had

1 other inspections before. We've had Section 8 housing
2 down there. Supposedly there's suppose to be other
3 inspections, but apparently inspections don't do any
4 good. I'm just wondering what kind of inspections
5 they will have.

6 CHAIRMAN: Do you have any other comments you
7 want to add to that, please?

8 MR. STEPHEN: Yes. I can understand where
9 everybody's concern is coming from. We've got
10 Mexicans that's here today and gone tomorrow. I don't
11 know how many he employees. Unless you've been around
12 these H2A guys they're just not the same thing. It's
13 totally different. That's why we are going this way
14 to get legal to get away from all this stuff and these
15 stories that people have. I don't know what else to
16 say.

17 CHAIRMAN: Anything else you want to add?

18 MS. WRIGHT: We would just like to hear again
19 why you're not putting them on your property and
20 exactly where do you live if it's in floodplain, if
21 you're going to be that close to us?

22 CHAIRMAN: Answer that, please.

23 MR. STEPHEN: I live in Stanley. When we
24 started this process last fall, it was all intentions
25 of putting this thing in at my house. Actually I was

1 going to build a bunk house and had no problem with
2 it. My wife didn't. We have a little girl. Had a
3 surveyor down there. We are about six and a half feet
4 below floodplain. You can't get a permit in
5 floodplain to build.

6 MS. WRIGHT: So if you live in Stanley, then
7 you're quite a bit further away than ten minutes?
8 You're almost as far as Clint.

9 MR. STEPHEN: Like I said we farm in Sorgho
10 and I have an uncle that lives right there in Sorgho.

11 MS. WRIGHT: I'm talking about you. You're
12 going to be the one responsible.

13 MR. SILVERT: Ma'am, you need to address your
14 comments to the board.

15 MS. WRIGHT: He's going to be the one
16 responsible for them, not the uncle, if he's bring
17 them over. Him and Clint are bringing them over, then
18 they need to be the ones responsible. Not the uncle
19 who lives in Sorgho. If he's farming, he's not going
20 to be farming in Sorgho all night or on weekends.

21 CHAIRMAN: Thank you.

22 Try to answer that too, please.

23 We're going to take one more question and then
24 we're going to get a motion.

25 MR. STEPHEN: Like I said I don't know what

1 else to say. Like I said I had all intentions of
2 putting them at my house and it just didn't work out.
3 All I can say is we do the best we can. My name is on
4 the paper of being the responsible owner. We have
5 people that can get there quicker than 30 minutes is
6 what we said earlier.

7 CHAIRMAN: Thank you.

8 Do you have anything new to add?

9 MS. PIKE: My name is Sherry Pike.

10 I just have a comment. I have the concerns
11 that I expressed earlier when I arrived. After
12 hearing Mr. Stephen speak, he does not appear to me to
13 have investigated this and be fully aware of what he
14 is getting into and what all this entails. He has
15 been very vague to me. I have felt like that he is
16 unsure of himself on a lot of these issues. If I was
17 concerned when I came in the door, I am even more so
18 at this point.

19 CHAIRMAN: Are there any other questions from
20 the board at this time?

21 MR. TAYLOR: I have a question.

22 My main question is it seems like it's getting
23 stressed, this H2A is getting stressed pretty
24 prominently. I know I'm not versed well enough. It
25 seems to me like a bunch of the concerns that may be

1 addressed by both sides may be answered in the
2 application process of him to get these H2A employees.
3 He said he had to have an inspector. I'm not saying
4 that either party's concerns should be alleviated from
5 it, but I would like to know a little more of the
6 requirements that are so strict for an H2A employee as
7 opposed to just a regular migrant worker that people
8 are used to and having these troubles out of, if there
9 is a difference.

10 MR. DYSINGER: Further, Mr. Chairman the issue
11 of on-site administrator again, to my way of thinking,
12 has not been answered in this application. As near as
13 I can tell the applicant, and I'm not unsympathetic to
14 what you guys are wanting to accomplish here, but the
15 ordinance is fairly clear on this matter. The
16 application as it is submitted states that Mr. Stephen
17 will be the on-site administrator. We've determined
18 through testimony that's clearly not case. I just
19 don't think this application is in order at this time.

20 CHAIRMAN: Any further other comments from the
21 board or questions?

22 (NO RESPONSE)

23 CHAIRMAN: Staff.

24 MR. NOFFSINGER: No, sir.

25 CHAIRMAN: Entertain a motion to dispose of it

1 one way or the other or whatever.

2 MR. DYSINGER: Mr. Chairman, I move that we
3 postpone this matter to give us a chance or to give
4 the applicant a chance to address the on-site
5 administrator issue. It's the most important part of
6 the zoning ordinance. I think that may alleviate some
7 concerns over here hopefully and in essence it will
8 bring them within compliance. I move that we postpone
9 this item.

10 CHAIRMAN: Is there a second?

11 MR. TAYLOR: Second.

12 CHAIRMAN: A motion has been made and a second
13 to postpone this. All in favor raise your right hand.

14 (ALL BOARD MEMBERS PRESENT - WITH THE
15 DISQUALIFICATION OF MARTY WARREN - RESPONDED AYE.)

16 CHAIRMAN: Motion to be postponed until next
17 month.

18 MR. NOFFSINGER: That will be the first
19 Thursday in June.

20 CHAIRMAN: Bring more information of what an
21 H2A worker is.

22 MS. MASON: Also some information on the
23 on-site administrator too.

24 CHAIRMAN: Next item, please, sir.

25 MR. NOFFSINGER: Item 3, Mr. Chairman, the

1 applicant has requested that the Board of Adjustment
2 postpone this item until the June meeting of the
3 Planning Commission. There is a letter in the record
4 from their legal counsel which I will not read that
5 letter in its entirety. They have agreed to shut down
6 use of the gun range until the item is decided on by
7 the Board of Adjustment and they wish to come back at
8 our June meeting and bring expert witnesses and
9 testimony from individuals from the NRA that are
10 certified in gun range construction and design. We
11 have made the only known party of record that's
12 questioning or in opposition to this matter aware when
13 we found out that they were requesting postponement.
14 It was the Haydens who are represented by legal
15 counsel, Mr. Bob Kirtley. So we would recommend that
16 you take a vote in favor of postponing this
17 application or action on this application until such
18 time as we can reconvene in June.

19 CHAIRMAN: Entertain a motion to postpone.

20 MR. WARREN: Motion to postpone the item to
21 the June meeting.

22 CHAIRMAN: Is there a second?

23 MR. PEDLEY: Second.

24 CHAIRMAN: A motion has been made and a
25 second. All in favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

3 Next item, please.

4 -----

5 VARIANCE

6 ITEM 4

7 2630 Frederica Street, zoned B-4

8 Consider request for a Variance to reduce the building
9 setback along Park Plaza Drive from 25 feet to 10 feet
10 in order to construct a truck dock.

11 Reference: Zoning Ordinance, Article 8,
12 Section 8.5.16(c)

13 Applicant: Kroger Limited Partnership I; David Hocker
14 and Associates, Inc.

15

16 MR. NOFFSINGER: Mr. Chairman, this

17 application has been reviewed by the Planning Staff.

18 It's been advertised for public hearing at this time.

19 All adjoining property owners have been notified.

20 The Planning Staff has submitted to you or

21 mailed to you a Variance Staff Review which we would

22 certainly enter into the record recommending that this

23 variance be granted. There are findings attached to

24 that and there is a condition and that's submission of

25 approval of an amended final development plan.

CHAIRMAN: Any other comments by the staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there any opposition sent to the

office?

1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Is the applicant here at this time?

3 APPLICANT REP: Yes.

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

6 (NO RESPONSE)

7 CHAIRMAN: Will the applicant come forward.
8 Do you have anything you want to present to us at this
9 time?

10 I thought there wasn't anything else?

11 MR. NOFFSINGER: That's what I thought, Mr.
12 Chairman. My staff is not adequately advising me.

13 CHAIRMAN: State your name.

14 MR. HOWARD: Brian Howard.

15 We have a letter to enter into the record.
16 They have asked that we read it here at the meeting
17 tonight.

18 It states, "Dear Board of Adjustments: As the
19 owner of that property located at 325 Park Plaza Drive
20 which is behind and adjacent to the Kroger store at
21 Wesleyan Park Plaza, I issue this letter to ask the
22 Owensboro Metropolitan Board of Adjustment to approve
23 the variance to reduce the building setback along Park
24 Plaza Drive from 25 feet to 10 feet in order that
25 Kroger may construct a truck dock. Specifically, I am

1 in favor or the variance requested by Kroger Limited
2 Partnership I and David Hocker & Associates, Inc.
3 which is agenda Item Number 4 on the Owensboro
4 Metropolitan Board of Adjustment meeting scheduled for
5 May 3, 2007.

6 "The proposed modification substantially
7 improves visibility to my business and will also offer
8 a new grass area in front of my property. I very much
9 appreciate your cooperation in granting the
10 applicant's request for a variance.

11 "Sincerely, Norman Woodward."

12 CHAIRMAN: Does the applicant at this time
13 have anything else you want to add?

14 MR. SILVERT: State your name, please.

15 MR. BRYANT: Don Bryant.

16 (MR. DON BRYANT SWORN BY ATTORNEY.)

17 MR. BRYANT: Really at this time we're here to
18 answer any questions. We have representatives from
19 Heritage Engineering, also from Kroger and David
20 Hocker & Associates.

21 I think our application is complete and pretty
22 straight forward.

23 We have exhibits on what is being proposed.
24 Also photographs of the conditions that exist as of
25 today. We can present any details that you ask for.

1 CHAIRMAN: Thank you.

2 Any board members have any questions at this
3 time of the applicant?

4 MR. DYSINGER: I do, Mr. Chairman.

5 Just so long as I'm clear. The set up that
6 you currently have, trucks are required to back in the
7 right-of-way; is that correct?

8 MR. BRYANT: That's correct. I have three
9 photographs that will really indicate it better than I
10 can explain it.

11 MR. DYSINGER: Your proposed change would
12 eliminate that?

13 MR. BRYANT: The proposed change will
14 eliminate the truck loading facilities where the
15 trucks have to drive directly out and back in off of
16 Park Plaza Drive. Also the parking along the rear of
17 the building, 90 degree parking that's there now will
18 be eliminated. The new truck loading facility will be
19 at the location shown where the existing Macy's
20 loading facility is. That will be newly constructed,
21 but it will be located at that point and oriented so
22 the trucks do not have to pull out or back in off of
23 Park Plaza Drive.

24 This building is also, the existing building
25 is located within 10 feet of the right-of-way. So

1 we're not asking for a variance to get closer than we
2 have today. Just to rebuild in that same location.

3 CHAIRMAN: Staff have any comments or
4 questions at this time?

5 MR. NOFFSINGER: Yes. I just wanted to add to
6 that.

7 Mr. Bryant, to make it clear you are proposing
8 to remove that wide open access along Park Plaza Drive
9 and to restore the grass plot in the right-of-way as
10 well as landscape as necessary along Park Plaza Drive,
11 as well as quite a bit of landscaping, interior
12 landscaping I think out in the main parking lot in
13 front of Kroger as well?

14 MR. BRYANT: Yes. We agree to all of those
15 terms and all of those items will be addressed in
16 detail on the amended final development plan.

17 CHAIRMAN: Any other questions from the board
18 at this time?

19 (NO RESPONSE)

20 CHAIRMAN: Staff have anything else to add?

21 MR. NOFFSINGER: No, sir.

22 CHAIRMAN: The applicant have anything else
23 you want to add at this time?

24 MR. BRYANT: No.

25 CHAIRMAN: Entertain a motion to dispose of

1 the item.

2 MS. MASON: Mr. Chairman, I move for approval
3 to grant this variance. My findings of fact are it
4 will not adversely affect the public health, safety or
5 welfare, as the truck will maneuver on the site and
6 will not use the public right-of-way; it will not
7 alter the essential character of the vicinity, because
8 there's already a dock there; it will not cause a
9 hazard or a nuisance to the public; and it will not
10 allow an unreasonable circumvention of the
11 requirements of the zoning regulations. The condition
12 is submission and approval of an amended final
13 development plan.

14 CHAIRMAN: Is there a second to the motion?

15 MR. DYSINGER: Second.

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

18 (NO RESPONSE)

19 CHAIRMAN: Staff have anything else?

20 MR. NOFFSINGER: No, sir.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 Next item, please, sir.

1 ITEM 5

2 5364 Meadow Run Road, zoned R-1A
3 Consider request for a Variance to reduce the rear
4 project boundary setback from 20 feet to 10 feet in
5 order to construct an in-ground swimming pool.
6 Reference: Zoning Ordinance, Article 10,
7 Section 10.432
8 Applicant: James and Nicki May

9 MR. NOFFSINGER: Mr. Chairman, this
10 application has been reviewed by the Planning Staff.
11 It's found to be in order. Has been advertised for
12 public hearing at this time and all adjoining property
13 owners have been notified.

14 Mr. Brian Howard on the staff is here to
15 address this application.

16 MR. HOWARD: The application request that the
17 project boundary setback, which is established on this
18 plat and other sections of the same subdivision,
19 because the subdivision has been developed in phases
20 and with each phase they have to be put a 20 foot
21 project boundary buffer. That's the downside of a
22 combined preliminary plat and final development plan.

23 The circumstance here is that this lot abuts
24 property that is planned to be a future phase of the
25 same subdivision. The property boundary buffer was
26 established to buffer a development from an adjoining
27 property owner, which was not a plan to be part of the
28 future development.

1 If the project buffer remains on both phases
2 of the subdivision, you would have a 40 foot buffer
3 between lots. We've issued several variances in the
4 same subdivision for individual lots to reduce the
5 project boundary buffer. We've also issued for one
6 section of subdivision the elimination of the entire
7 project boundary buffer where it adjoin the future
8 phases of the same subdivision.

9 They're requesting this so that they could
10 install a swimming pool in their backyard. There is
11 some history as far as what they're requesting.
12 However, the reduction of the project boundary buffer
13 for this one lot it could somewhat change the
14 character of the neighborhood.

15 As the applicant will, I believe it was our
16 recommendation when this was first brought to our
17 office that they bring in application to remove the
18 entire project boundary. That was not done. If this
19 is approved, then it would be required that the
20 preliminary plat and final development plan and final
21 plat for this section of the subdivision would have to
22 be revised for this one lot. We would also recommend
23 that if it's in the best interest of the subdivision
24 that maybe at that time it be advisable to reduce the
25 entire project boundary buffer.

1 As far as hardship on the applicant, they knew
2 what the project boundary buffer was when they bought
3 the lot. That's basically the background.

4 Overall Staff feels that it would not
5 adversely affect the overall scope of the project. We
6 would recommend that it be approved and that
7 information is in the Staff Report and would be happy
8 to answer any questions that you may have.

9 CHAIRMAN: Any questions from the board?

10 (NO RESPONSE)

11 CHAIRMAN: Staff have anything else?

12 MR. NOFFSINGER: I just have one comment and
13 that would be to direct the Staff that we've had quite
14 a few of these out in that development. Any future
15 plans that come through, we should address this issue
16 up front as opposed to coming back and addressing it
17 on an individual or after the fact basis. We need to
18 do something to address what happens out there in the
19 future so we don't keep coming back before this board
20 for variance request.

21 CHAIRMAN: Any objections filed in the office
22 against it?

23 MR. NOFFSINGER: No.

24 CHAIRMAN: Does the applicant here have
25 anything to add or comments at this time please?

1 State your name for the record.

2 MR. LAND: Sean Land on behalf of the
3 applicants.

4 (MR. SEAN LAND SWORN BY ATTORNEY.)

5 MR. LAND: Mr. Chairman, Members of the Board,
6 I would submit the strict application of the present
7 zoning ordinance with 20 foot building setback would
8 deprive the applicants a reasonable use of the
9 property here. Other than that, I would echo
10 everything Mr. Howard has already stated into the
11 record.

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

14 MR. DYSINGER: So the applicants weren't aware
15 of the 20 foot setback when they purchased the
16 property?

17 MR. LAND: Yes. It was on the plat.

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

20 (NO RESPONSE)

21 CHAIRMAN: Staff have anything else to add?

22 MR. NOFFSINGER: No, sir.

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

25 MR. TAYLOR: Mr. Chairman, I move to grant the

1 variance based on the findings of fact it will not
2 adversely affect the public health, safety or welfare;
3 will not alter the essential character of the general
4 vicinity; will not cause a hazard or a nuisance to the
5 public; and also will not allow an unreasonable
6 circumvention of the requirements of the zoning
7 regulations.

8 I recommend that they follow the conditions,
9 two conditions set forth. They submit and get
10 approval of an amended preliminary plat/final
11 development plat for Meadow Run and Whispering Meadows
12 prior to the issuance of any permits. Also suggest
13 that they have to submit and approve of an amended
14 final plat for Meadow Run at Whispering Meadows prior
15 to the issuance of any permits.

16 MR. NOFFSINGER: Mr. Taylor, are you making
17 specific reference to particulars on your findings in
18 terms of other variances that have been granted?

19 MR. TAYLOR: I was making the variance based
20 upon the fact that the initial setback was intended
21 for a different matter as opposed to this and that in
22 the past variances like this have been issued and as
23 long as they meet these conditions it will be in check
24 I believe.

25 CHAIRMAN: Is there a second?

1 MS. DIXON: Second.

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

4 MR. DYSINGER: I would just kind of echo Mr.
5 Noffsinger's comment. If we're getting that many
6 variances it needs to be fixed.

7 CHAIRMAN: Staff have anything else to add?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: All in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries. Next item, please.

12 ITEM 6

13 9251 KY 144, zoned B-4
14 Consider request for a Variance to waive the
15 requirement for a six foot tall fence and one tree
16 every 40 linear feet along the west and south property
17 boundary as required between commercially and
18 residentially zoned property.
19 Reference: Zoning Ordinance, Article 17,
20 Section 17.3111
21 Applicant: Richard and Mary Howard

22 MR. NOFFSINGER: Mr. Chairman, this
23 application has been reviewed by the Planning Staff.
24 It's found to be in order. It has been advertised for
25 public hearing and Brian Howard, no relation, is here
to address the application.

MR. HOWARD: That is correct, no relation.

24 Basically this variance comes before you, they
25 rezoned the property sometime last year. It was

1 partially zoned B-4 and partially zoned R-1A. They
2 are rezoning the entire tract to B-4 and they're
3 operating a hair salon on the property.

4 Basically the request states that they would
5 like to have the waiver the requirement for a 6 foot
6 tall fence removed and one tree every 40 linear feet
7 removed. The application states that that is mostly
8 due to site visibility from the roadway. That it
9 would block the visibility of their property.

10 However, the Staff recommendation would be
11 that that be denied. The ordinance is there for a
12 reason, to provide the buffering. I don't know if the
13 adjoining property owners would be in objection to
14 this at this point, but in the future as things change
15 it would be good to have a buffer there, especially if
16 the use changes on the property.

17 Staff would recommend denial, but the issue is
18 open to you for consideration.

19 CHAIRMAN: Any Opposition filed in the office?

20 MR. NOFFSINGER: No, sir.

21 CHAIRMAN: Board members have any questions of
22 the Staff at this time?

23 (NO RESPONSE)

24 CHAIRMAN: The applicant want to come forward.

25 MR. SILVERT: State your name, please.

1 MR. RICK HOWARD: My name is Rick Howard.

2 (MR. RICK HOWARD SWORN BY ATTORNEY.)

3 MR. RICK HOWARD: The reason we was wanting
4 this variance was for one reason, because the way the
5 property lies. You wouldn't be able to see the
6 business until, if you're going east on 144, until you
7 actually got past it. You would have to look
8 backwards to see the business, if we had the fence
9 there.

10 The second reason is because it's been broken
11 into three times since probably the first of the year.
12 If you put a privacy fence up there, it'd just make it
13 that much more appealing for somebody that wanted to
14 break in. It seems like to me that it would be bad.

15 If we put a privacy fence up there, there's
16 only one person that would be able to see it and they
17 wouldn't be able to see it then. People would have an
18 easy way to steel stuff it seems like to me.

19 CHAIRMAN: Does the board have any questions
20 of the applicant?

21 MR. DYSINGER: What's the nature of the
22 business?

23 MR. RICK HOWARD: It's a hair salon, beauty
24 salon.

25 CHAIRMAN: Any other questions from the board?

1 (NO RESPONSE)

2 CHAIRMAN: Staff.

3 MR. NOFFSINGER: Mr. Chairman, the use of the
4 property as a salon is a professional service use.
5 They're in a B-4 general business zone. They could
6 just as easily be in a professional service zone.
7 They could rezone the property to perhaps rezone the
8 property to professional service, which would not
9 require the fence to be installed along the south and
10 west boundary as they've asked the variance for.

11 The difference here I think is from the use
12 and what the zone actually allows. You do not have
13 outdoor storage and you do not have any display of
14 materials on the site.

15 If I might ask the applicant if that's a
16 correct statement?

17 MR. RICK HOWARD: There is outdoor storage
18 right now, yes. Yes, there is, but as far as display
19 of any property other than the building itself, no.

20 MR. NOFFSINGER: What would the outdoor
21 storage be?

22 MR. RICK HOWARD: Right now we have a lawn
23 mower in there. Nothing really of much value other
24 than --

25 MR. WARREN: But it's a building?

1 MR. RICK HOWARD: It is a building, yes.

2 MR. WARREN: You're not storing tractors and
3 things?

4 MR. RICK HOWARD: No.

5 MR. NOFFSINGER: I think the difference is the
6 use here. The use that they have right now probably
7 wouldn't warrant the screening. The P-1 zone would
8 require screening between the roadway and the parking
9 area which is a 3 foot high continuous element and one
10 tree per 40 feet. Rather than recommending denial of
11 this variance request, I would recommend that you
12 grant the variance based upon the use of the property
13 that you have today, which is more in line with the
14 professional service use. So long as the use remains
15 a beauty salon they would not be required to put in
16 the privacy fence along that south and west boundary
17 and one tree per 40 feet. However, they would have to
18 put up a three foot high shrub row in front of the
19 parking lot and one tree per 40 feet.

20 As a compromise to them, understanding their
21 situation but then trying to think about five, ten
22 years down the road if it becomes something else. The
23 adjoining property owners might see that more
24 screening is necessary. That would just be a
25 compromise Staff would offer to help them out.

1 MR. RICK HOWARD: That would be fine with me.
2 We was planning on doing that anyway as far as the
3 landscaping.

4 CHAIRMAN: Any other comments from the board?

5 (NO RESPONSE)

6 CHAIRMAN: Staff have anything else to add at
7 this time?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: You're agreeable to the conditions
10 by the Staff?

11 MR. RICK HOWARD: Yes.

12 CHAIRMAN: With that I'll entertain a motion
13 to dispose of the item.

14 MR. DYSINGER: Would it not make more sense to
15 rezone the property? I guess it's a question of
16 Staff. Would it not make more sense to rezone the
17 property?

18 MR. NOFFSINGER: Here's the thing. You're
19 talking about a rather lengthy process and filing
20 fees. I don't even know that the plan would recommend
21 rezoning. It possibly would, but that is an
22 alternative. They have B-4 General Business. In the
23 future, the use could change and then you address it
24 as the use changes. It helps them for now.

25 MR. DYSINGER: So if the property were

1 rezoned, it wouldn't matter what -- your
2 recommendation would allow them to do, what I agree
3 would seem appropriate for the nature of their
4 business, without the danger of somebody else moving
5 in after them and taking advantage of that. Whoever
6 they are would have to come back before this board at
7 that time. Am I understanding your recommendation,
8 Mr. Noffsinger?

9 MR. NOFFSINGER: Should the use of the
10 property change from a beauty salon to another use,
11 they would have to address the screening issue at that
12 point with the change in use.

13 MR. DYSINGER: So hypothetically speaking if I
14 were to make a motion, your suggested condition would
15 be a 3 foot high barrier with a tree every 40 feet.

16 MR. NOFFSINGER: In front of the parking area
17 along Knottsville-Mt. Zion Road between the property
18 line and the parking area. Making sure that landscape
19 is planted on private property and that they have
20 three feet there. Basically what it would do would
21 run along Knottsville-Mt. Zion Road and come down
22 toward Kentucky 144 on the east end.

23 MS. MASON: Not a fence. Just landscaping.

24 MR. NOFFSINGER: Right. It'd be three foot
25 high shrubs. They're already showing the landscape

1 buffer. It looks like they're already showing it
2 around the parking lot. I just want to make sure that
3 what they're showing here is a 3 foot high continuous
4 element and one tree per 40 feet. Then that addresses
5 the screening that would be required in a professional
6 service zone. It's all that would be required. If
7 they change the use to where it's no longer a salon,
8 then they have to come back or they have to put in the
9 required landscaping.

10 MR. DYSINGER: Thank you.

11 CHAIRMAN: Motion to dispose of the item.

12 MR. PEDLEY: Mr. Chairman, I make a motion for
13 approval to waive the variance requirement based on
14 the findings it will not adversely affect the public
15 health, safety or welfare; will not alter essential
16 character of the general vicinity; will not cause a
17 hazard or a nuisance to the public; and will not allow
18 an unreasonable circumvention of the requirements of
19 the zoning regulations. With the conditions that the
20 landscape buffer between the parking and Mr. Zion road
21 be a 3 foot continuous element with a tree every 40
22 feet. In the event of the use of the building
23 changes, then the fence shall be required.

24 CHAIRMAN: Is there a second?

25 MR. DYSINGER: Mr. Chairman, I second. That

1 sounds like a pretty good idea.

2 CHAIRMAN: A motion has been made and a
3 second. Any other questions from the board or staff?

4 (NO RESPONSE)

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 Staff, work on the items of the subdivision so
10 we don't have to look at them every time on variances,
11 please.

12 With that entertain one final motion.

13 MS. DIXON: Move to adjourn.

14 MR. WARREN: Second.

15 CHAIRMAN: All in favor raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: We are adjourned.

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