

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MARCH 6, 2008

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, March
5 6, 2008, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Ward Pedley, Chairman
8 Judy Dixon, Vice Chairman
9 Ruth Ann Mason, Secretary
10 Gary Noffsinger, Director
11 Madison Silvert, Attorney
12 Marty Warren
13 Sean Dysinger
14 Clay Taylor

15 * * * * *

16 CHAIRMAN: Call the Owensboro Metropolitan
17 Board of Adjustment to order.

18 We will begin our meeting with the prayer and
19 pledge of allegiance to the flag. Ruth Ann will lead
20 us.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: I would like to welcome everyone to
23 our meeting. If anybody would like to speak on any of
24 these items, we welcome your comments. We ask that
25 you come to one of the podiums, state your name and be
sworn in.

First item on the agenda is consider the
minutes of the February 7, 2008 meeting. They're on

1 file in the planning office. Are there any additions
2 or corrections?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion for
5 approval.

6 MS. DIXON: Move to approve.

7 MR. DYSINGER: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: The minutes are approved.

12 Next item.

13 -----

14 CONDITIONAL USE PERMITS

15

16 ITEM 2

17 1328 Griffith Avenue, zoned P-1, R-1A
18 Consider request for a Conditional Use Permit to
19 construct a canopy addition over the side doorway and
20 a new asphalt driveway for an existing church.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: First Presbyterian Church

21 MR. SILVERT: State your name, please.

22 MR. WILLIAMS: Zachary Williams.

23 (MR. ZACHARY WILLIAMS SWORN BY ATTORNEY.)

24 ZONING HISTORY

25 OMPC records indicate that the property has

1 historically been split zoned P-1 Professional/Service
2 and R-1A Single-Family Residential. No conditional
3 use permits or variances are on file for the subject
4 property.

5 Churches are principally permitted in P-1
6 zones and conditionally permitted in R-1A zones. The
7 applicant is proposing a canopy addition to the
8 existing church building. The canopy will serve as a
9 property entrance that faces Clinton Place West.
10 Based upon the submitted plans, a variance application
11 has been submitted because the canopy, as proposed,
12 will encroach into the front yard building setback.

13 LAND USES IN SURROUNDING AREA

14 All the surrounding properties are zoned R-1A
15 and are residential in nature.

16 ZONING ORDINANCE REQUIREMENTS

17 Vehicular Use Area Screening installed along
18 new drive where adjacent to road right-of-way.

19 SPECIAL CONDITIONS

20 If variance is not approved, the proposed
21 canopy must be altered to conform to the required
22 building setback.

23 MR. WILLIAMS: I would like to enter the Staff
24 Report into the record as Exhibit A.

25 CHAIRMAN: Anyone here representing the

1 applicant?

2 MR. BLAKE: Yes.

3 CHAIRMAN: Let me see if we have any questions
4 or opposition of you first.

5 Anyone here would like to ask any questions or
6 make any comments on this issue?

7 (NO RESPONSE)

8 CHAIRMAN: Mr. Blake, would you like to give a
9 presentation?

10 MR. BLAKE: I'm Terry Blake. I'm with RBS
11 Design Group.

12 (MR. TERRY BLAKE SWORN BY ATTORNEY.)

13 MR. BLAKE: I have two drawings just to
14 facilitate hopefully everyone understanding what is
15 taking place.

16 This is Griffith Avenue. This is Clinton
17 Place. The black outline is the west portion of the
18 educational wing with the sanctuary being on the north
19 end. This being north. What we are proposing is a
20 new drive coming in and emptying into the existing
21 drive with a canopy right here. I'll show you that in
22 just a moment.

23 Again, Griffith Avenue, this is a larger
24 blow-up section of it in plan view. Griffith Avenue
25 is here. Clinton Place West is right here. The hash

1 part is the existing educational wing. This is the
2 proposed canopy coming out. Actually this represents
3 a 25 foot setback from the property line. This is the
4 property line. Instead of being 25, this front will
5 be around 17 feet 6 inches from the property line, as
6 it presently is proposed. Give you an idea.

7 What we really want to do, they need a shelter
8 place to drop people off, especially as all of us get
9 older we need more help. This will be a drive-up
10 canopy. It will not be enclosed. It will be open.
11 They will pull in from this parking lot, come up this
12 drive and be dropped off here. Then people could come
13 around and come back into Clinton Place or go around
14 and exit onto Griffith Avenue.

15 CHAIRMAN: Any board members have any
16 questions of Mr. Blake?

17 (NO RESPONSE)

18 CHAIRMAN: Thank you. We will move on if no
19 one has any questions.

20 Chair is ready for a motion.

21 MR. DYSINGER: Mr. Chairman, I move that given
22 the findings that the use is similar to that reports,
23 which would be permitted, and the use is compatible
24 with the surrounding neighborhood, I move that we
25 approve the conditional use permit.

1 MR. TAYLOR: Second.

2 CHAIRMAN: We have a motion and a second. Any
3 questions on the motion?

4 MR. NOFFSINGER: I do have one question, Mr.
5 Chairman.

6 Staff would recommend that with a motion of
7 approval it be entertained with a condition that a
8 variance be granted. That if the variance is not
9 granted, the canopy could not be constructed as
10 requested in this conditional use permit.

11 CHAIRMAN: Would you include that in your
12 motion?

13 MR. DYSINGER: I will. Subject to the
14 granting of the variance.

15 MR. TAYLOR: I second that.

16 CHAIRMAN: Any other questions on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item.

22 Related Items:

23 ITEM 2A

24 1328 Griffith Avenue, zoned P-1, R-1A
25 Consider a Variance to reduce the required building
setback from 25' from the property line to 17' 6" from
the property line along Clinton Place West for a

1 building canopy addition.
Reference: Zoning Ordinance, Article 8,
2 Section 8.5.12(d) and 8.5.5(d)
Applicant: First Presbyterian Church
3

4 MR. WILLIAMS: The proposed canopy addition is
5 classified as an unenclosed accessory building, having
6 a water tight and solid roof covering that is open on
7 three sides and supported only by columns except for
8 the building from which it will project. The Zoning
9 Ordinance explicitly states that such a structure "may
10 be located anywhere on a lot where principal buildings
11 are permitted."

12 As proposed, the canopy will provide covered
13 access for pedestrians and motorists exiting vehicles
14 for entrance into the principal building. This
15 function is similar to that of a covered porch, which
16 is permitted to project into a front yard setback up
17 to eight feet. The Zoning Ordinance does not
18 explicitly restrict the definition of a porch of
19 residential property. The similarity is consistent
20 with the use of the canopy. The Staff has no
21 objection to granting this variance.

22 There is one condition. We recommend that the
23 canopy addition shall remain open on all three sides.

24 I would like to enter the Staff Report as
25 Exhibit B.

1 CHAIRMAN: Anyone here have any questions of
2 the applicant on this issue or opposition on this?

3 (NO RESPONSE)

4 CHAIRMAN: Any board members have any
5 questions of the applicant?

6 (NO RESPONSE)

7 CHAIRMAN: If not the chair is ready for a
8 motion.

9 MS. MASON: Mr. Chairman, I move for approval.
10 My findings are in granting this Variance is it will
11 not adversely affect the public health, safety or
12 welfare; it will not alter the essential character of
13 the general vicinity; it will not cause a hazard or a
14 nuisance to the public; and it will not allow an
15 unreasonable circumvention of the requirements of the
16 zoning regulations. I would like to put in the
17 condition that it be left open on three sides.

18 CHAIRMAN: We have a motion.

19 MR. DYSINGER: Second.

20 CHAIRMAN: We have a motion and a second. Any
21 question on the motion or comments?

22 (NO RESPONSE)

23 CHAIRMAN: All in favor raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 Next item.

2 ITEM 3

3 1117 Oglesby Street, zoned R-4DT
4 Consider request for a Conditional Use Permit in order
5 to replace an existing 1972 model, 12'x60' Class-2
6 manufactured home with a 2008 model, 14'x66' Class-2
7 manufactured home on the property.
8 Reference: Zoning Ordinance, Article 8, Section 8.2B4
9 Applicant: Katy S. Hempfling

10 ZONING HISTORY

11 The subject property is currently zoned R-4DT
12 Inner-City Residential. OMPC records indicate that
13 four Conditional Use Permits have been approved for
14 manufactured housing within this block of Oglesby
15 Street. Based on a site visit, two manufactured homes
16 are located along this section of the street. The
17 existing manufactured home was placed on the subject
18 property prior to zoning regulation. Thus, no
19 Conditional Use Permit was approved for the existing
20 home and it is legally non-conforming.

21 The applicant requests a waiver of the
22 sidewalk requirement since there is no sidewalk along
23 the east side of Oglesby Street. It does not appear
24 that sidewalks have been required in the past for the
25 previous Conditional Use Permits. However, sidewalks
26 are in existence on the west side of Oglesby Street
27 and the east side does have curbing. In order to
28 eventually have sidewalks on both sides of the street,

1 a sidewalk should be constructed as part of this
2 conditional use permit application.

3 The applicant also request a reduction of the
4 required patio size from 10'x10' to 4'x10'. The
5 property width of 25' will not permit the required
6 10'x10' patio or deck. The patio could be two feet
7 wider if paved to the property line but the applicant
8 has requested the four foot dimension to prevent the
9 potential of water run off sheet-flowing onto the
10 adjoining property.

11 LAND USES IN SURROUNDING AREA

12 The adjacent property to the north and to the
13 west across Oglesby Street are zoned R-4DT Inner-City
14 Residential. Each property contains single-family
15 residence. The adjacent property to the south is
16 zoned R-4DT and does not contain any building
17 structure. The property to the East, across an alley,
18 is zoned I-1, Light Industrial.

19 ZONING ORDINANCE REQUIREMENTS

20 The class-2 manufactured home site standards
21 based on the requirements of the Zoning Ordinance are
22 as follows:

23 1. A concrete or asphalt parking pad to
24 accommodate two 9'x18' spaces is required.

25 2. A minimum 10'x10' deck or patio is

1 required.

2 3. A concrete sidewalk is required, but may
3 be waived along rural roads (w/o curbs).

4 4. The property is required to have at least
5 three trees.

6 5. The manufactured home shall be permanently
7 installed on a permanent foundation. A poured
8 concrete or masonry block skirting wall shall be
9 constructed beneath and along the entire perimeter of
10 the manufactured home.

11 6. All wheel, trailer-tongue and hitch
12 assemblies shall be removed upon installation.

13 7. The manufactured home shall be permanently
14 connected to an approved water and sewer system when
15 available.

16 The site plan submitted by the applicant
17 addresses each of these items satisfactorily with the
18 exception of the requested sidewalk waiver and
19 reduction in patio size. Since sidewalks are
20 installed on the opposite side of Oglesby Street, a
21 sidewalk should be installed with this application.

22 MR. WILLIAMS: We would like to submit the
23 Staff Report into the record as Exhibit C.

24 CHAIRMAN: Anyone here representing the
25 applicant?

1 APPLICANT REP: Yes.

2 CHAIRMAN: Anyone here have any questions or
3 comments? Anyone like to speak in opposition?

4 Step forward please to the mike.

5 MR. SILVERT: State your name please.

6 MS. LARSON: My name is Stella Larson.

7 (MS. STELLA LARSON SWORN BY ATTORNEY.)

8 MS. LARSON: My name is Stella Larson. I live
9 next-door to their house, the trailer. I live at 1115
10 Oglesby Street. What I want to know is when they're
11 trying to put a bigger trailer in, I want to know will
12 it be going on my side of my land? Can they move in
13 on part of my land? Can they take any of my land when
14 they bring it in? I don't want them tearing up my
15 land or anything. I want them to stay on their land.

16 MR. DYSINGER: You mean during the
17 installation, ma'am?

18 MS. LARSON: Yes. When they move it all in.
19 I've got a big tree in my front yard and it's on my
20 property. Now they've been parking right in front of
21 it and everything. They're parking almost in front of
22 my front door. Now, can they do that? Can they take
23 my property from me?

24 CHAIRMAN: Let me see if I can get some
25 answers for your questions. Is that all the questions

1 you have?

2 MS. LARSON: Yes. I want to make sure that
3 everything -- if they tear up my land, I want to make
4 sure they fix my land back the same way I had it. I'm
5 not trying to be hateful and I'm not trying to be
6 smart or nothing. I'm just trying to understand
7 things that's going on, you know. That's all I
8 wanted. I just want to know. The kids needs a new
9 trailer, but I just want to make sure it stays on
10 their land.

11 CHAIRMAN: Let me see if I can get some
12 answers for you.

13 MS. LARSON: I'd sure appreciate it.

14 CHAIRMAN: Mr. Mischel, did you have some
15 comments you would like to make on this?

16 MR. SILVERT: State your name, please.

17 MR. MISCHEL: Jim Mischel.

18 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

19 MR. MISCHEL: I thought her first question was
20 how far off the property line. Minimum feet, they've
21 got to stay at least five feet off the side property
22 line. That's the minimum by zoning ordinance.
23 Hearing the rest of the questions, they should not get
24 on your property when they install it. They should be
25 coming off the other driveway for installation of

1 that.

2 CHAIRMAN: Thank you, Jim.

3 MR. MISCHEL: The only other question I have
4 was make sure the applicant understands about the
5 sidewalk, installation of the sidewalk. Make sure
6 they understand that that needs to be put in.

7 MR. DYSINGER: Mr. Chairman, I have a question
8 for Mr. Mischel on that.

9 Is it Staff's opinion that it's in the zoning
10 ordinance or is a condition required to make that
11 happen?

12 MR. MISCHEL: It's in the site statistics on
13 the layout of the manufactured home.

14 MR. DYSINGER: You don't need a condition from
15 us to make that happen. You believe it's in there
16 already?

17 MR. MISCHEL: I would think it would be good
18 to reaffirm that with the condition.

19 CHAIRMAN: Any other board members have
20 questions of Mr. Mischel?

21 (NO RESPONSE)

22 CHAIRMAN: Would the applicant step up and
23 address the lady's concerns.

24 MR. SILVERT: State your name, please.

25 MS. HEMPFLING: Katy Hempfling.

1 (MS. KATY HEMPFLING SWORN BY ATTORNEY.)

2 MS. HEMPFLING: I have a comment about the
3 parking situation. What she's talking about is a
4 public street. It's not in her yard or nothing. It's
5 right on the street on the curb. It's not in her yard
6 or nothing. Park right there in the street. It's not
7 nowhere near her property. It's city property.

8 That's what I mean. I just wanted to comment on that.

9 Actually he wants to talk.

10 MR. SILVERT: State your name, please.

11 MR. HEMPFLING: Ricky Hempfling.

12 (MR. RICKY HEMPFLING SWORN BY ATTORNEY.)

13 MR. HEMPFLING: The only thing that I can
14 think of that I wanted to talk about was the sidewalk
15 in the front. Back where the trailer sits there's
16 going to be a pad, 4 by 10. As you come up past the
17 end of the trailer that's there, the yard humps up.
18 There may be this much difference from the curb
19 edge -- you want would -- all on our side of the
20 street there's sidewalks there from the porch out
21 flat. They taper down just a little.

22 In this case you would almost have to bring
23 the sidewalk up and then back down. You cut that down
24 then we would start getting into the tree roots that
25 are in our yard, but we're actually talking about the

1 tree that's in her yard. Once we start breaking
2 through the grass we would get into them roots. We
3 would have to break that yard down kind of low.
4 That's why we were asking if we could use stepping
5 stones.

6 MR. MISCHEL: I believe we would have to leave
7 that up to the city engineer. The city engineer's
8 office has stats for sidewalk construction. I think
9 it would be good for them to go out and show them how
10 to accomplish this. I don't think we could do that.

11 CHAIRMAN: Any board members or, Mr.
12 Noffsinger, do you have a question of the applicant or
13 Jim? I'm not sure what either one of them are stating
14 on that sidewalk or stepping stones.

15 MR. NOFFSINGER: That's why I had my hand up.

16 Sir, the sidewalk we're speaking of will run
17 along the street. From one side of your lot to the
18 other for a distance of 25 feet. We're not speaking
19 of a sidewalk that runs from the street to your patio.
20 We're talking about out front for a distance of 25
21 feet like you have on the other side of the street
22 where there's a sidewalk all along.

23 MR. HEMPFLING: You want us to put one of them
24 in?

25 MR. NOFFSINGER: Yes, sir. That is a

1 requirement that this board has placed upon
2 manufactured home request and other request in
3 residential areas before them in areas where you have
4 curb and gutter, if it's an urban type street. That
5 is the requirement of 25 feet. Not back to your front
6 door.

7 MR. MISCHEL: Typically under new
8 construction, whether it's commercial or residential
9 houses, that's a requirement, that a sidewalk goes in
10 out front. Then as the next property develops, they
11 put in a sidewalk. At some future time it all will be
12 connected. It's done a piece at a time. That's why
13 the city engineer needs to be involved because it's on
14 public right-of-way and they have special
15 requirements.

16 Then hopefully in the future when your
17 neighbor decides to do something or a neighbor down
18 the street, it will all connect eventually. I guess
19 you have to start somewhere to get started.

20 MR. LARSON: So you want us to put a sidewalk
21 in 25 foot long running long ways with the road?

22 MR. NOFFSINGER: Yes, sir.

23 MR. LARSON: Okay.

24 MR. NOFFSINGER: Thank you.

25 CHAIRMAN: Any other board members have any

1 questions?

2 MR. DYSINGER: I had another question for the
3 Staff.

4 With regards to this lessening of the 10 by 10
5 patio size. If you guys said something about that, I
6 missed it. What was the Staff's feelings on that? Is
7 that reasonable?

8 MR. MISCHEL: We think it is. The property is
9 just not wide enough to put everything on there. We
10 really didn't want it to go to the property line
11 because of the drainage issue. We would rather have
12 it two feet short to let the run-off kind go off.

13 MR. DYSINGER: Two feet short?

14 MR. MISCHEL: Yes. It's four feet and that
15 would leave but two feet from the property line for
16 the run-off.

17 CHAIRMAN: Do you have any other comments you
18 would like to make to the board?

19 MR. HEMPFLING: The only thing else I can
20 think of is we have an empty lot beside us. Then
21 there's an alley. Then the house where they live. It
22 just don't -- I'm not saying that I won't do it. I'll
23 pour the sidewalk. I'll put the sidewalk in. That's
24 fine. But it's really just going to be sitting there
25 by itself. The people that own that lot next to us,

1 they don't even live around here. That lot --
2 somebody might build on it some day, but for a long
3 time -- it just seems like that sidewalk is just going
4 to be a strip of concrete across our front yard. I
5 don't know how we would work around this, but I wish
6 we could.

7 What you were saying a minute ago, and I've
8 never done none of this before so I don't really know
9 a whole lot about this so you'll have to excuse me.

10 What you were saying before, you was talking
11 about the city engineer. What do we have got to do to
12 get their input on this? Just on the sidewalk deal.
13 I'm really hoping that this trailer would be approved
14 because my grandkids, they live there and it's an old
15 trailer and I worry about it all the time. I really
16 need for them to get a new trailer. Like I said, I'll
17 put the sidewalk in if it has to be. It would really
18 be nice is if some more sidewalk started happening and
19 then -- I mean I could do that any time. Put that
20 sidewalk in there any time. If something else started
21 happening on the street, you know, give it something
22 to connect to, you know. It would look out of place.
23 That's all. I just feel like it would look out of
24 place. I'll make the lot look good. I mean we'll
25 pour the pad, the patio, the parking pad. We'll put

1 some nice stepping stones out through the front. It
2 just seems like the sidewalk, just a 25 foot strip of
3 sidewalk that would be going nowhere crossways just
4 don't seem like it would look right. That's all I'm
5 saying. The city engineer, if he would maybe look at
6 our lot he might say the same thing.

7 MR. MISCHEL: The only thing I can say is if
8 this item is approved tonight they would have to get a
9 building permit. If you came in tomorrow to get that
10 building permit, we could call the city engineer's
11 office and see if you could come over and they could
12 describe to you how to install it.

13 MR. HEMPFLING: That would be fine. We can do
14 that.

15 MR. MISCHEL: That would be fine.

16 CHAIRMAN: Mr. Noffsinger, would you like to
17 comment on this issue?

18 MR. NOFFSINGER: Sir, let me perhaps help you
19 understand this maybe from a different perspective.

20 You're going to have to put a driveway apron
21 into this lot to park two vehicles.

22 MR. HEMPFLING: Yes, sir.

23 MR. NOFFSINGER: And you're going to have to
24 concrete that driveway apron in the right-of-way.
25 That driveway apron is going to be about 20 feet wide.

1 MR. HEMPFLING: In our property situation,
2 there's a push pole. Are you familiar with what I'm
3 talking about? It's where they take a pole and then
4 they put another one crooked. That comes across our
5 property. We were asking to put a single-wide, two
6 cars deep instead of two cars wide.

7 MR. NOFFSINGER: Is your parking going to be
8 in the front or the rear?

9 MR. HEMPFLING: Our parking pad is going to be
10 in the rear. Out front they park in the street.

11 One more thing I want to say. We have a new
12 house that just got built on that side of the road.
13 It's three houses up. It has a sidewalk coming from
14 the porch to the curb. You know, they didn't build a
15 sidewalk running long ways. That house was just built
16 a year or so ago.

17 MR. MISCHEL: That house should have a
18 sidewalk and we'll just have to check in to that.

19 CHAIRMAN: This application hasn't asked for
20 this board to approve waiving the city sidewalk. I
21 need to get Mr. Noffsinger to fill us in on exactly.

22 If the city sidewalk is required, the purpose
23 for you putting in the city sidewalk is if someone
24 buys the lot next to you, they put in the city
25 sidewalk. Eventually you have city sidewalks on that

1 whole street. That's the purpose. We require
2 everyone that constructs a home or a double-wide,
3 whatever, manufactured home there, to put a sidewalk
4 in. Eventually the whole street. I'm reading here.

5 Mr. Noffsinger, the applicant request waiving
6 of the sidewalk. There are no sidewalks on his side
7 of the street. Is that something that we can do in
8 our approval here tonight, waive it? Do we have the
9 option to waive it?

10 MR. NOFFSINGER: It's something you can waive;
11 however, Staff is not recommending that you waive
12 since it is a curb and gutter urban type street. You
13 have not waived that in the past, but it is something
14 you can do because this is a requirement set by this
15 board.

16 CHAIRMAN: That does not have to be approved
17 by the city engineer? If it's their requirement, does
18 it have to be approved by the city engineer to waive
19 this?

20 MR. NOFFSINGER: No.

21 CHAIRMAN: This board can do it?

22 MR. NOFFSINGER: Yes.

23 CHAIRMAN: That clarifies waiving the sidewalk
24 to the board.

25 You've asked to waive the sidewalk. When we

1 say "sidewalk" we're talking about city walk on the
2 public right-of-way. That's what you're asking to
3 waive?

4 MR. HEMPFLING: The one that would run long
5 ways of the street.

6 CHAIRMAN: That's the city sidewalk on the
7 public right-of-way.

8 MR. HEMPFLING: Yes.

9 CHAIRMAN: Any board members have any other
10 questions on the item?

11 MS. MASON: The question I have is what if
12 someone else comes before this board wanting to do
13 something similar? If we waive the sidewalk for him,
14 it has to be -- like Mr. Mischel said. You have to
15 start somewhere as far as the sidewalk requirement. I
16 hate to put these people at a disadvantage, but I'm
17 just saying I'm afraid if someone else comes before us
18 then we're never going to end up with a sidewalk on
19 that side of the street.

20 MS. DIXON: Sooner or later as property
21 develops, you'll be glad you have the sidewalk.

22 CHAIRMAN: That's the very purpose of
23 requiring the sidewalk. So as that land develops and
24 you have additional homes or whatever. Eventually you
25 get a sidewalk all up and down that street. That's

1 the purpose. As Ms. Mason said, if we waive this and
2 the next one comes along and then we're required to
3 waive that. First thing you know we don't have
4 sidewalks anywhere. That's the purpose of this.
5 That's what this board must consider. Requiring you
6 or not requiring you put the sidewalk in.

7 MR. HEMPFLING: We'll install the sidewalk.
8 If I could just get with, I'll get with the city
9 engineer and he'll tell me what I need to do to put it
10 in. That's no problem. I don't mind putting it in. I
11 just felt like it was going to be sticking out there
12 by itself for a long, long, long time. We want the
13 trailer.

14 CHAIRMAN: So you are agreeing to put the
15 sidewalk in?

16 MR. HEMPFLING: Yes. I don't care to put it
17 in. I'll find out what I need to do. Exactly what
18 size it needs to be and everything.

19 CHAIRMAN: Any other questions of the board
20 members?

21 (NO RESPONSE)

22 CHAIRMAN: Any questions from the opposition
23 side? Lady, have your questions been answered?

24 MS. HUTCHINS: Yes. I was just trying to help
25 him understand because I was the one that filled the

1 application out. I was just trying to help him
2 understand.

3 CHAIRMAN: If you have comments we ask you to
4 speak at the mike.

5 MR. SILVERT: State your name, please.

6 MS. HUTCHINS: Misty Hutchins.

7 (MS. MISTY HUTCHINS SWORN BY ATTORNEY.)

8 MS. HUTCHINS: I was just trying to help him
9 understand the application because I was the one that
10 filled it out. Really, actually this is the first
11 time he's really had a chance to proofread it, other
12 than her proofreading it. I was just trying to help
13 him out. Thank you.

14 CHAIRMAN: Any other questions or comments
15 from the applicant?

16 (NO RESPONSE)

17 CHAIRMAN: Chair is ready for a motion.

18 MR. TAYLOR: Mr. Chairman, I move to approve
19 the conditional use permit based upon that it is
20 permitted in this zone. It does conform with the
21 neighborhood. I do require that it meets all zoning
22 ordinance requirements for the Class-2 manufactured
23 home site, with the exception of the minimum 10 by 10
24 deck or patio required. We're willing to waive that
25 down to 4 by 10.

1 CHAIRMAN: Do we have a second?

2 MS. DIXON: Second.

3 CHAIRMAN: We have a motion and a second. Any
4 comments or questions on the motion?

5 (NO RESPONSE)

6 CHAIRMAN: All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10

11

VARIANCE

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ITEM 4

13

3621 Ralph Avenue, zoned B-4

14

Consider a Variance to decrease the building side yard setback from 10' to 5.3' for an as-built canopy over a pay island.

15

Reference: Zoning Ordinance, Article 8, Section 5.16(d)

16

Applicant: Clean Car Properties, LLC

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MR. WILLIAMS: The subject property was

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rezoned from R-1A to B-4 at the November 2006 Planning

19

Commission meeting. A development plan was approved

20

for the subject property on March 8, 2007. The

21

development plan shows a canopy adjacent to

22

residential zoning to the south that meets all zoning

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ordinance setbacks. However, during construction, the

24

canopy was built in violation of the approved

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development plan and encroaches nearly 5' into the

1 required setback. Additionally, two more canopies
2 that were not shown on the approved development plan
3 were constructed on the site.

4 No variances or encroachments into the
5 required setback shave been approved in the vicinity
6 of the subject property. Unless evidence is submitted
7 to indicate future use of adjoining property will be
8 non-residential, granting of this variance would allow
9 an unreasonable circumvention of the zoning ordinance
10 by decreasing the required setback that serves as a
11 buffer to residential property. Granting of this
12 variance could also alter the character of the
13 residential nature along this side of Ralph Avenue if
14 it is maintained for residential properties.

15 Strict application of the zoning ordinance
16 would not impose a hardship upon the applicant because
17 there is sufficient space on the property as the
18 development plan indicates to meet all zoning
19 requirements. The Staff recommends denial.

20 We would like to enter the Staff Report into
21 the record as Exhibit D.

22 CHAIRMAN: Anyone here representing the
23 applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Anyone here like to speak in

1 opposition of this item?

2 (NO RESPONSE)

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

5 (NO RESPONSE)

6 CHAIRMAN: Chair is ready for a motion.

7 MS. DIXON: Move to deny the request for a
8 Variance because there are no special circumstances.
9 The construction occurred in violation of an approved
10 development plan. It would not constitute a hardship
11 and would alter the general character of the vicinity.

12 MR. DYSINGER: Second.

13 CHAIRMAN: We have a motion and a second. Any
14 comments or questions on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries.

19 Next item.

20 -----

21 OTHER BUSINESS

22 ITEM 5

23 3905 Carter Road, zoned B-4
24 Monthly review of paint ball screening and operation
since the February 7, 2008 meeting.

25 MR. WILLIAMS: During the month since the last

1 Board of Adjustment meeting there have been no
2 complaints of the subject property. I drove by today
3 to view the netting. The netting is up on all sides.
4 There seems to be no conflict or problems at this
5 time.

6 CHAIRMAN: Anyone in the audience have any
7 comments on this issue?

8 (NO RESPONSE)

9 CHAIRMAN: Any board members have any comments
10 or questions?

11 (NO RESPONSE)

12 CHAIRMAN: We need one more motion.

13 MR. DYSINGER: Move to adjourn.

14 MS. MASON: 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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1 STATE OF KENTUCKY)
)SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that 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 29 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 26th day of March, 2008.

18

19

LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
21 OWENSBORO, KENTUCKY 42303

22

COMMISSION EXPIRES: DECEMBER 19, 2010

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

24

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