

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MARCH 4, 2010

3                         The Owensboro Metropolitan Board of Adjustment  
4         met in regular session at 5:30 p.m. on Thursday, March  
5         4, 2010, at City Hall, Commission Chambers, Owensboro,  
6         Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: C.A. Pantle, Chairman  
8 Ward Pedley, Vice Chairman  
9 Ruth Ann Mason, Secretary  
Gary Noffsinger, Director  
Madison Silvert, Attorney  
Marty Warren  
Sean Dysinger  
Clay Taylor

11

12

13 CHAIRMAN: Let's call the meeting to order.

14       Want to welcome you all for our meeting. We start our  
15       meeting every month with a prayer and the pledge of  
16       allegiance. We invite you all to join us. Ruth Ann  
17       will have our prayer this evening.

18 ( INVOCATION AND PLEDGE OF ALLEGIANCE.)

19 CHAIRMAN: Again, I want to welcome you to the  
20 meeting of the Owensboro Metropolitan Board of  
21 Adjustment.

22 If you have any comments or questions on any  
23 item, please come to one of the microphones and state  
24 your name so we'll have record on file that you're  
25 here and whatever you have to say at that time.

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1                 With that we'll start. The first item is  
2 consideration of the minutes of February 4th. They're  
3 in the office. We don't think there's any problems  
4 with it.

5                 MR. NOFFSINGER: No, sir.

6                 CHAIRMAN: With that I'll entertain a motion.

7                 MR. DYSINGER: Move to approve the minutes.

8                 MS. MASON: Second.

9                 CHAIRMAN: A motion has been made and a  
10 second. Any other discussion?

11                 (No Response)

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

14                 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15                 CHAIRMAN: Motion carries.

16                 Next item, please.

17                 -----

18                 CONDITIONAL USE PERMIT

19                 ITEM 2

20                 320 Clay Street, zoned B-2 (Neighborhood Character  
Overlay District)

21                 Consider request for a Conditional Use Permit in order  
to construct a 1 story 1,200 square foot addition to  
22 an existing residence for males in crisis situations  
housing up to 14 residents and one manager.

23                 Reference: Zoning Ordinance, Article 8, Section 8.2A7

Applicant: New Horizons; Owensboro Christian Church,  
24 Inc.

25                 MR. SILVERT: State your name, please.

1 MS. EVANS: Melissa Evans.

2 (MELISSA EVANS SWORN BY ATTORNEY.)

3 ZONING HISTORY

4 The subject property is currently zoned B-2  
5 Central Business and is in the Neighborhood Character  
6 Overlay District. OMPC records indicate there have  
7 been no Zoning Map Amendments for the subject  
8 property.

9 This property is located in the Downtown  
10 Overlay District within the Neighborhood Character  
11 District and is regulated under Article 21 of the  
12 Zoning Ordinance. The application for the  
13 construction of the addition has been reviewed by the  
14 Downtown Design Administrator and a Certificate of  
15 Appropriateness has been issued.

16 There was a Conditional Use Permit to operate  
17 an institutional type housing center for females in  
18 crisis situations approved in 1992 and a Conditional  
19 Use Permit to operate a residence for up to 8 males in  
20 crisis situations approved in 1994. A minor  
21 subdivision plat was approved for the property in 1999  
22 and in February of 2010.

23 This Conditional Use Permit application is to  
24 construct a one-story, 1,200 square foot addition to  
25 the existing building and increase the number of

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1           residents from 8 to 14.

2           The applicant has submitted material with the  
3 application that addresses items 1 through 10 as  
4 required by the Zoning Ordinance. Based on the review  
5 of Article 21 by the Downtown Design Administrator,  
6 the site plan meets the requirements for parking and  
7 also conforms to the requirements within the Downtown  
8 Overlay District.

9           We would like to enter the Staff Report into  
10 the record as Exhibit A.

11           CHAIRMAN: Any comments or questions in the  
12 office?

13           MR. NOFFSINGER: No, sir.

14           CHAIRMAN: Is anyone wishing to speak on this  
15 item?

16           (NO RESPONSE)

17           CHAIRMAN: Does any board members have any  
18 questions on the item?

19           (NO RESPONSE)

20           CHAIRMAN: Staff have anything else?

21           MR. NOFFSINGER: No, sir.

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

24           MR. TAYLOR: Mr. Chairman, move to approve the  
25 Conditional Use Permit based on the findings that it

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1       does meet all the zoning ordinance requirements. It's  
2       generally permitted in the area as proven by  
3       Conditional Use Permits approved in the past for the  
4       area. It has met the Downtown Design Administration  
5       for Certificate of Appropriateness and they have  
6       submitted verification to meet all zoning  
7       requirements.

8                   CHAIRMAN: Is there a second?

9                   MS. MASON: Second.

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

13                  (NO RESPONSE)

14                  CHAIRMAN: Staff have anything else to add?

15                  MR. NOFFSINGER: No, sir.

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.

21                  ITEM 3

22                  115 West 7th Street, zoned R-4DT (Neighborhood  
Character Overlay District)

23                  Consider request for a Conditional Use Permit in order  
to operate a college facility for meeting rooms and  
24                  visiting faculty.

Reference: Zoning Ordinance, Article 8,  
25                  Section 8.2B14

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1       Applicant: Brescia University.

2       ZONING HISTORY

3           The subject property is currently zoned R-4DT  
4       Inner City Residential and is in the Neighborhood  
5       Character Overlay District. OMPC records indicate  
6       there have been no Zoning Map Amendments for the  
7       subject property.

8           This property is located in the Downtown  
9       Overlay District within the Neighborhood Character  
10      District and is regulated under Article 21 of the  
11      Zoning Ordinance. The application for the use of the  
12      facility has been reviewed by the Downtown Design  
13      Administrator and a Certificate of Appropriateness has  
14      been issued.

15           This Conditional Use Permit application is to  
16      use the facility to house overnight guests of the  
17      University such as faculty and staff coming for an  
18      interview, consultants from out of town and religious  
19      leaders visiting the campus. The facility will also  
20      have two meeting rooms with seating for no more than  
21      20 people.

22       LAND USES IN SURROUNDING AREA

23           All the surrounding properties are also zoned  
24      R-4DT Inner City Residential.

25           The Zoning Ordinance requirements are required

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1 by Article 21 as reviewed by the Downtown Design  
2 Administrator.

3 MS. EVANS: We would like to enter the Staff  
4 Report into the record as Exhibit B.

5 CHAIRMAN: Any comments sent in the office?

6 MR. NOFFSINGER: No, sir.

7 CHAIRMAN: Is anyone wishing to speak on this  
8 item?

9 Have anything you want to add, sir? State  
10 your name, please.

11 MR. YOUNGER: Larry Younger, representing  
12 Brescia University.

13 (LARRY YOUNGER SWORN BY ATTORNEY.)

14 MR. YOUNGER: I really don't have anything  
15 more to say. I think it's self-explanatory. I think  
16 it's fairly simple and straightforward. It's going to  
17 be a very low usage housing unit. We just want to  
18 make sure we're in line with all rules and  
19 regulations. I'll entertain any questions, if you  
20 have any.

21 CHAIRMAN: Any board members have any comments  
22 or questions?

23 (NO RESPONSE)

24 CHAIRMAN: Staff have anything else to add?

25 MR. NOFFSINGER: No, sir.

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1                   CHAIRMAN: Entertain a motion to dispose of  
2                   the item.

3                   MS. MASON: Mr. Chairman, I move for approval  
4                   based on the findings that it's a compatible use for  
5                   the area. There's no opposition. All the zoning  
6                   ordinance requirements have been met and a Certificate  
7                   of Appropriateness has been issued by the Downtown  
8                   Design Administration.

9                   MR. PEDLEY: Second.

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

13                  (NO RESPONSE)

14                  CHAIRMAN: Staff have anything else?

15                  MR. NOFFSINGER: No, sir.

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.

21                  -----

22                  VARIANCES

23                  ITEM 4

24                  1708 Todd Court, zoned R-3MF

25                  Consider a request for a Variance in order to reduce  
                      the street yard building setback line from 25 feet  
                      from the property line to 10 feet from the property

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1       line.

2              Reference: Zoning Ordinance, Article 8,  
3              Section 8.5.10(c)

4              Applicant: CTC Investments, LLC

5

6              MS. EVANS: Recently the City of Owensboro  
7              acquired the right-of-way along Southtown Boulevard  
8              for the roadway widening project. This caused the  
9              existing structure on the subject property to encroach  
10             into the newly applied setback and permanent utility  
11             easement.

12             In December of 2009, a Minor Subdivision Plat  
13             signed by the applicant was approved for the property  
14             dedicating the right-of-way. A note on this plat  
15             stated that the structure encroaching into the utility  
16             easement at 1708 Todd Court to be removed.

17             The applicant appears to have been compensated  
18             for the value of the entire building and its removal  
19             as part of this project. Now the applicant is  
20             proposing to remove only the portion of the structure  
21             within the utility easement leaving the remainder of  
22             the structure encroaching into the right-of-way; thus  
23             causing them to request this Variance.

24             If the Variance is denied, a smaller structure  
25             could be constructed on the property meeting the  
            appropriate setbacks. The removal of the entire  
            structure should not pose a financial hardship to the

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1       applicant as it appears they have been compensated for  
2       the value of the entire structure and its removal, and  
3       they signed the plat showing the structure as to be  
4       removed. Staff recommends denial of this Variance  
5       request.

6           We would like to enter the Staff Report into  
7       the record as Exhibit C. We would also like to enter  
8       a copy of the plat, the minor subdivision plat from  
9       December of 2009 into the record.

10          CHAIRMAN: Any comments filed in the office  
11       for or against?

12          MR. NOFFSINGER: No, sir.

13          CHAIRMAN: Board members have any questions of  
14       the applicant?

15           (NO RESPONSE)

16          CHAIRMAN: Is the applicant here?

17          Do you have anything?

18          MR. SILVERT: Would you state your name,  
19       please.

20          MR. RINEY: Jim Riney.

21           (JIM RINEY SWORN BY ATTORNEY.)

22          MR. RINEY: This is the first that I was aware  
23       that there was opposition to the application. The  
24       statement was that the applicant had been compensated  
25       for the building. It was my understanding from the

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1 owner, who is not here tonight. I'm representing the  
2 owner. That they were compensated but they were not  
3 compensated for the entire building. I don't have any  
4 appraisal documents or anything with me. I was not  
5 prepared to address that.

6 The applicant indicated he was prepared to  
7 remove the part of the structure that was encroaching.  
8 That may be the reference that is being made to the  
9 final plat. At the time we prepared that document for  
10 the City of Owensboro, but the applicant proposes to  
11 remove a portion of the structure. The structure  
12 appears to be two bedroom units and they're going to  
13 remove enough of the structure to convert it to a one  
14 bedroom unit. The statement was made a smaller  
15 structure could be built there, but it doesn't make  
16 sense to raise the structure and then rebuild one if  
17 you can remove part of it and then salvage the balance  
18 of the building and come back with still a liveable  
19 duplex, which this is. Residential unit.

20 MR. DYSINGER: Mr. Chairman, my only question  
21 would be: This variance, is it requesting -- if your  
22 client is willing to remove enough of the structure to  
23 meet with the setbacks, and I guess I'm confused with  
24 what the variance request is for. You don't have to  
25 tear the whole building down as long as you get out of

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1       the setback, unless I'm misunderstanding something.

2           MR. SILVERT: I need to clarify one thing  
3       before we continue down this. We need to make sure to  
4       the board that any questions that we ask of Mr. Riney  
5       are in his professional capacity. Not as an advocate  
6       for his client. Mr. Riney is not an attorney. His  
7       client is not present. To my knowledge Mr. Riney is  
8       not a member of CTC Investments. It would be  
9       inappropriate for him, as he knows, to advocate on  
10      anything. But if you want to ask him something in his  
11      professional capacity as an engineer, that's certainly  
12      appropriate. I know Mr. Riney knows that he won't be  
13      overstepping those bounds.

14           MR. RINEY: Just to answer, Mr. Silvert. Yes,  
15       I will be here to answer technical issues. What  
16       issues I can address or what I have been educated on,  
17       I have experience in or examined on that I'm expected  
18       to know about, survey, boundary law, things of that  
19       nature. I'm not here as an attorney or as an  
20       advocate.

21           I'm just stating to this board the information  
22       that I received from the client in terms of the  
23       compensation.

24           Now, your question was if you go ahead and  
25       honor the setback. The part of the building you would

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1 removed will be that portion that would allow him to  
2 configure the building to fit this variance. The 10  
3 foot setback instead of the 25 foot setback because  
4 when the state bought this property their right-of-way  
5 hit across the structure. Where we surveyed it, the  
6 very corner of this structure was actually over the  
7 right-of-way line that they created. So they created  
8 the situation where something had to give. They  
9 wanted the right-of-way. There was an easement  
10 imposed on there.

11 Now, we've understood that no one needs to  
12 have anything in the easement. Right now with the  
13 building there they can't have anything in the  
14 easement because the corner of the building is there.  
15 So his need is to remove that part of the structure  
16 that would occupy the 10 feet that he's requesting  
17 stay as a setback. He would allow the existing  
18 building to continue to occupy the 15 feet that we're  
19 asking the waiver for, if that makes sense. The  
20 drawing, it's better than my words.

21 MR. DYSINGER: I understand. The plat that is  
22 on file shows the building gone, correct?

23 MR. NOFFSINGER: The plat on file that I  
24 signed indicates the structure is to be, the existing  
25 structure is to be removed.

1                 Now, the description of the taking in a letter  
2         dated February 9, 2007, of Brantley Appraisal  
3         describes the description of the taking being  
4         approximately -- I'm not reading the entire.

5                 "An additional utility easement herein  
6         referred to as the permanent easement containing 1,116  
7         square feet will be required, being approximately 10  
8         additional feet inside of the permanent right-of-way.  
9         Encompassed in the permanent right-of-way is the  
10        duplex that improves the property, which constitutes  
11        the acquisition of that structure, leaving only a  
12        vacant lot."

13                That was the appraisal in the notes that you  
14        have in the application.

15                MR. RINEY: Mr. Noffsinger, would you mind  
16        repeating that last sentence or whatever it was again?

17                MR. NOFFSINGER: It says, "Encompassed in the  
18        permanent right-of-way is the duplex that improves the  
19        property which constitutes the acquisition of that  
20        structure, leaving only a vacant lot."

21                MR. RINEY: Well, at this point, Mr. Chairman,  
22        I'll say I wasn't aware of that. As Mr. Silvert says,  
23        I'm not here as an advocate. Maybe the prudent thing  
24        to do is ask this board to consider to postpone this  
25        until CTC can be here with somebody to deal with that

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1 because this was the first notice we had that there  
2 was an issue.

3 When we prepared the plat, we were under the  
4 impression that what was going to be removed was that  
5 area that was encroaching.

6 CHAIRMAN: Well, your assumption and what the  
7 appraisal states are two different things.

8 MR. RINEY: It's probably not appropriate for  
9 me to comment on that for reasons already stated.

10 CHAIRMAN: Any other comments from the board?  
11 Staff have any comments?

12 MR. PEDLEY: I have a question for Jim or Gary  
13 one.

14 Are you considering this rear yard or front  
15 yard?

16 Jim, would you step up to the podium, please.

17 MR. SILVERT: State your name, please.

18 MR. MISCHEL: Jim Mischel.

19 (JIM MISCHEL SWORN BY ATTORNEY.)

20 MR. MISCHEL: I think you asked if that was  
21 the front yard. In this case, you have two streets,  
22 you have two required frontage road.

23 MR. PEDLEY: What the attorney's findings are  
24 on Deed of Dedication restrictions it says, "No  
25 building shall be located on any lot nearer to the

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1       front lot line or nearer to the side lot lines than  
2       the minimum building setback lines shown. In any  
3       event, no building shall be located on any lot nearer  
4       than 25 feet to the front lot line or nearer than 10  
5       feet to any side street line. No residence shall be  
6       located on any interior lot nearer than 20 feet to the  
7       rear lot line."

8                     So it is a rear lot line or is it a front lot  
9       line? If it's considered rear, you're talking about  
10      20 feet according to the restrictions.

11                  MR. NOFFSINGER: Excuse me, if I might just  
12      interpret, please.

13                  Mr. Pedley, that issue has been addressed by  
14      the applicant's attorney as well as the OMPC counsel.  
15      They have deemed that it appears that the Deed of  
16      Dedication is not an issue here. So this variance  
17      case should stand on its own merits in terms of what  
18      the required building setback line is and what's  
19      proposed now. It's a very good question and we've  
20      raised those issues; however, we're getting into an  
21      area that legal counsel has already looked into and  
22      advised and I don't think that we should pursue  
23      that.

24                  MR. PEDLEY: Does your plat, the plat, 25 foot  
25      setback?

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1                   MR. NOFFSINGER: Yes, sir. The new plat that  
2 I signed December 4th of 2009 shows a 25 foot new  
3 building setback line from the newly acquired  
4 right-of-way on Southtown Boulevard.

5                   MR. PEDLEY: Okay.

6                   MR. WARREN: Is there a particular reason,  
7 does anybody know why the applicant is not here?

8                   MR. NOFFSINGER: No, sir. We had contact with  
9 the applicant's attorney a couple of days ago, was it,  
10 Melissa. They were certainly aware of this deed.

11                  MS. EVANS: We spoke to the applicant's  
12 attorney last Wednesday or I think the earlier part of  
13 last week and then last Thursday as well before we  
14 sent these packets out.

15                  MR. DYSINGER: Melissa, is it your opinion the  
16 applicant is aware of the issues the Staff has with  
17 this? They've been brought up to speed and they know  
18 what the recommendations of the Staff is?

19                  MS. EVANS: No, because Staff Reports for the  
20 Board of Adjustment meetings are not public record  
21 until the actual meeting. So no one but the Staff and  
22 the board members know what the Staff Report state  
23 until the meeting.

24                  MR. NOFFSINGER: Have we had any contact with  
25 the applicant advising them on this variance request

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1 prior to the submittal of the application?

2 MS. EVANS: Not to my knowledge.

3 MR. NOFFSINGER: So the variance just appeared  
4 in our office without any preliminary meetings with  
5 the Staff?

6 MS. EVANS: Yes, to my knowledge.

7 MR. RINEY: If I might just say, by  
8 coincidence I saw the applicant's representative at  
9 lunch today and he was with somebody. If I understood  
10 right, they were going to be out of town tonight. I  
11 just told him I was going to be here. He didn't  
12 express then any concern or any ideas that there was  
13 going to be contesting of it. It would leave me to  
14 believe that he didn't know that this was going to be  
15 contested.

16 MR. NOFFSINGER: He didn't feel like it needed  
17 to show up at this meeting to present his case on a  
18 variance request?

19 MR. RINEY: No, that's not what I said. I  
20 said he was out of town tonight.

21 MR. NOFFSINGER: Right. Why did he file the  
22 application for tonight's meeting if they were not  
23 going to show up to present their case? We scheduled  
24 the public hearing. They filed the application. Here  
25 we are. I guess you're here to do what you can, but

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1       it kind of puts this board in a position of where do  
2       we go.

3            MR. RINEY: I don't know that he knew at the  
4       time he had to be gone, Mr. Noffsinger, but I  
5       respectfully request that we ask the board to postpone  
6       it until we get the information out.

7            MR. DYSINGER: Mr. Chairman, Mr. Riney is in a  
8       difficult position, but I have to say I can't see a  
9       compelling reason to delay this action unless somebody  
10      else on the board can tell me something I'm not  
11      seeing. Everything we need to know appears to be in  
12      the application.

13           MR. TAYLOR: My only concern with it -- I  
14      agree that it seems like there's a lapse somewhere,  
15      but in reading it it seems that he obviously had some  
16      type of representation and there was some line of  
17      miscommunication either between what he thought was  
18      communicated to the board -- not that I'm saying the  
19      board had miscommunication to him, but his  
20      communication with the board and through his attorney  
21      and perhaps he thought his attorney was going to be  
22      here this evening. You know, you would assume if he  
23      paid for representation through this, his  
24      representation would probably realize, even if it  
25      wasn't he would be paid to be here to represent him.

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1       So he would show up. That's my only concern is if he  
2       knew his engineer was coming, perhaps he thought his  
3       representation was coming. His representation may not  
4       be here for some reason that we don't know. That  
5       would be my only concern. It does seem like a pretty  
6       big step that he thought the basis would be covered  
7       maybe not by himself being here, but at least his  
8       representation and obviously his surveyor and land  
9       engineer being here. That's my only qualm with  
10      denying a variance. I don't know. It's just a pretty  
11      big financial step to not have completely all the  
12      facts from their side. You know, not represented  
13      here.

14           CHAIRMAN: Staff have any other comments?

15           MR. DYSINGER: I don't see any indication,  
16       with all do respect, that the applicant failed to get  
17       something to us. To be honest it seems to me this  
18       application was just kind of thrown against the wall  
19       and let's see if it sticks. Not only in terms of the  
20       information that's provided to us, but in the absence  
21       of the applicant here. I don't mean that in perhaps  
22       negative connotation. I'm sure folks in this line of  
23       work does this kind of thing all the time.

24           CHAIRMAN: Any comment from the board?

25           MR. TAYLOR: I don't know what really words to

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1 say other than I would hate to vote on this with him  
2 not being here when I feel that it should be  
3 postponed, which I do, and for a motion to come across  
4 and then me vote against the motion just because I  
5 feel that it should be postponed. You know, I don't  
6 feel that I'm in a position right now where I would  
7 want to deny the variance at this point. I really  
8 think that there is, surely there's money that's been  
9 put forth in order to prepare this application and  
10 have representation. I think somewhere  
11 miscommunication, you know, happened. I really do  
12 think that something like that must have gone on.

13 MR. PEDLEY: I agree. I don't think I can  
14 properly make a decision on this tonight. I really  
15 believe it should be postponed and get Mr. Clark here.  
16 I need to research this and look at it a little  
17 stronger. Right now I can't make a good decision on  
18 it.

19 MR. RINEY: In light of some of the other  
20 actions that have come before this board, I would  
21 think it would be a reasonable request to allow  
22 another 30 days. It's not going to create an issue  
23 with this board that I see. It may allow Mr. Clark to  
24 have what he needs here and not rely on my not knowing  
25 or not being able to testify.

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1                   MR. WARREN: Would postponing this action  
2                   hinder the widening project in any way, to delay it 30  
3                   more days?

4                   MR. NOFFSINGER: No, sir. The action to  
5                   acquire the right-of-way has already taken place. The  
6                   information provided in the application provided by  
7                   Staff shows that the applicant has been compensated.  
8                   The applicant is coming back or coming to this board  
9                   asking that the newly required setback be waived so he  
10                  doesn't have to tear the structure down, which appears  
11                  he's been compensated for, for that action. So it's  
12                  not going to delay that in any way. It's a matter of  
13                  30 day delay is certainly not a question. It's just  
14                  that we scheduled this meeting and here we are and  
15                  it's unfortunate that the applicant is not here  
16                  tonight to present their case. That's why we  
17                  scheduled the meeting. To not have communicated with  
18                  the Staff before this application was presented to  
19                  find out what we might recommend was a mistake.

20                  Before any application is submitted, Mr. Riney  
21                  knows this, you should talk with the Staff to find out  
22                  what their position may or may not be on the case.  
23                  It's not going to delay that project. It's just  
24                  unfortunate that we can't move forward tonight. We  
25                  scheduled this hearing.

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1                   MR. DYSINGER: I would also say that we have  
2    been resonant to delay action in the past because of  
3    evidence that is entered at a late date. I think it  
4    little behooves us to delay now because of evidence  
5    that may or may not exist somewhere.

6                   MR. TAYLOR: On the same token, I've seen us  
7    delay this on the same thing. A guy from the car wash  
8    didn't show up one night and we delayed it for him.  
9    We could say both sides. I understand that we're  
10   saying, and he really may just be throwing a claim out  
11   there to say, I'm going to just throw this out there  
12   to see if it works. That may be the case, but that  
13   may not be the case as well. I realize he's been  
14   compensated and it appears he's just trying to take  
15   money where he got compensated and then go ahead and  
16   keep the structure, but I really don't know that for  
17   sure. Especially with the light load that we had  
18   tonight I just don't see why a postponement would  
19   really kill us. It's not like we had eight hours of  
20   presentation beforehand and bickering back and forth  
21   and we're going to say we're going to delay it another  
22   time. We didn't really have anything because Mr.  
23   Riney really can't say anything. He's in a very  
24   precarious position where he can't say anything. He  
25   knows the other side is there. He's obviously very

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1       ill-comfortable at this point.

2           MR. DYSINGER: He's the real victim in the  
3       room.

4           MR. TAYLOR: Yes, and I feel sorry for him.

5           MS. MASON: I'm also in agreement to postpone  
6       it because I feel like I would prefer to hear from the  
7       applicant. I want to say that there was possibly  
8       human error in him not showing up or someone for him  
9       not showing up, his attorney.

10          CHAIRMAN: I'll entertain a motion.

11          MR. PEDLEY: Mr. Chairman, I make a motion we  
12       postpone the item to the next meeting, the April  
13       meeting.

14          CHAIRMAN: Is there a second?

15          MR. TAYLOR: Second.

16          CHAIRMAN: Motion has been made and a second.  
17       All in favor raise your right hand.

18           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19          CHAIRMAN: Motion carries.

20          We need one final motion.

21          MR. DYSINGER: Move to adjourn.

22          MS. MASON: Second.

23          CHAIRMAN: All in favor raise your right  
24       hand.

25           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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1 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 25 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 25th day of March, 2010.

18

19

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LYNNETTE KOLLER FUCHS  
OHIO VALLEY REPORTING SERVICES  
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22 COMMISSION EXPIRES: DECEMBER 19, 2010

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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