

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 AUGUST 5, 2010

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

- 8 MEMBERS PRESENT: C.A. Pantle, Chairman
- 9 Ward Pedley, Vice Chairman
- 10 Ruth Ann Mason, Secretary
- 11 Gary Noffsinger, Director
- 12 Madison Silvert, Attorney
- 13 Rev. Larry Hostetter
- 14 Marty Warren
- 15 Sean Dysinger

16 \* \* \* \* \*

17 CHAIRMAN: Let me call the meeting of the  
18 Owensboro Metropolitan Board of Adjustment at this  
19 time. I want to welcome you this evening. We start  
20 our meeting each month with a prayer and the pledge of  
21 allegiance. We invite you to join with us. Ruth Ann  
22 Mason will have the prayer.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Again, I want to welcome each one  
25 of you to our meeting this evening. If you have any  
comments on any of the items, please come to one of  
the podiums and be sworn in so we can have everything  
on record.

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1 CHAIRMAN: Entertain a motion to postpone the  
2 item, please.

3 MS. MASON: Motion to postpone.

4 MR. PEDLEY: Second.

5 CHAIRMAN: A motion has been made and a second  
6 to postpone. Any other comments?

7 (NO RESPONSE)

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries.

12 Next item, please.

13 ITEM 3

14 5650 Highway 56, zoned A-R

15 Consider request for a Conditional Use Permit in order  
16 to extend, operate and maintain an existing cemetery.

Reference: Zoning Ordinance, Article 8, Section 8.2J1

16 Applicant: Pleasant Grove Baptist Church, Inc. Of  
Owensboro, Kentucky

17

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

20 MS. EVANS: Melissa Evans.

21 (MELISSA EVANS SWORN BY ATTORNEY.)

22 ZONING HISTORY

23 The subject property is currently zoned A-R  
24 Rural Agriculture. OMPC records indicate there have  
25 been no Zoning Map Amendments for the subject

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1 property.

2 There have also been no previous Conditional  
3 Use Permits approved for the subject property.

4 The applicant is wishing to expand an existing  
5 cemetery and continue to operate and maintain it.

6 LAND USES IN SURROUNDING AREA

7 All the surrounding properties are zoned A-R  
8 Rural Agriculture and used as farm land, single family  
9 residence, or church property.

10 ZONING ORDINANCE REQUIREMENTS

11 1. Parking - Cemetery - No minimum parking  
12 established by the zoning ordinance.

13 2. Landscaping - None required by the zoning  
14 ordinance.

15 MS. EVANS: We would like to enter the Staff  
16 Report into the record as Exhibit A.

17 CHAIRMAN: Thank you.

18 Has there been any comments or anything in the  
19 office?

20 MR. NOFFSINGER: No, sir.

21 CHAIRMAN: Hearing none is anyone here  
22 representing the applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Do you have any comments you want  
25 to add at this time?

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1 APPLICANT REP: No.

2 CHAIRMAN: Any board members have any  
3 questions of the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Staff have any additions?

6 MR. NOFFSINGER: No.

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

9 MR. DYSINGER: Mr. Chairman, move to approve  
10 the Conditional Use Permit given the findings that it  
11 is merely an extension of an existing use and there  
12 appears to be no objection.

13 MR. WARREN: Second.

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

17 (NO RESPONSE)

18 CHAIRMAN: Hearing none we have a motion and a  
19 second. Any other comments from the Staff?

20 MR. NOFFSINGER: No, sir.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 Next item, please, sir.

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1       ITEM 4  
 2       7625 US Highway 431, zoned A-U  
       Consider request for a Conditional Use Permit in order  
 3       to construct a worship center.  
       Reference: Zoning Ordinance, Article 8, Section 8.2B4  
 4       Applicant: Trustees of Owensboro Gospel Kingdom  
       Church

5  
 6       ZONING HISTORY  
 7               The subject property is currently zoned A-U  
 8       Urban Agriculture. OMPC records indicate there have  
 9       been no Zoning Map Amendments for the subject  
 10      property.

11             The applicant is wishing to construct a 16,000  
 12      square foot worship center with seating capacity for  
 13      approximately 350 persons.

14      LAND USES IN SURROUNDING AREA  
 15             The properties to the north, south and east  
 16      are zoned A-U Urban Agriculture and are vacant or used  
 17      as farm land. The property to the west, across US  
 18      Highway 431, is zoned A-R Rural Agriculture and is  
 19      used as farm land.

20      ZONING ORDINANCE REQUIREMENTS  
 21             1. Parking - Churches and Sunday schools: 1  
 22      space for every 5 seats in the main auditorium  
 23      (minimum of 5). Approximately 350 seats = 70 spaces  
 24      as shown on the site plan submitted with the  
 25      application.

1                   2. Landscaping - 3 foot high continuous  
2                   element with 1 tree per 40 linear feet of the  
3                   vehicular use area boundary between the subject  
4                   property and US Highway 431, as shown on the site plan  
5                   submitted with the application.

6                   SPECIAL CONDITIONS

7                   The subject property shall be limited to one  
8                   access point onto US Highway 431 as shown on the site  
9                   plan.

10                  We would also like to remind the applicant  
11                  that they do need to obtain all the necessary permits  
12                  from the State Highway Department for the construction  
13                  of the access point.

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

16                  CHAIRMAN: Thank you.

17                  Is anyone here representing the applicant?

18                  APPLICANT REP: Yes.

19                  CHAIRMAN: Do you have any comments you want  
20                  to make at this time?

21                  APPLICANT REP: No.

22                  CHAIRMAN: Entertain a motion to dispose of  
23                  the item.

24                  MS. MASON: Mr. Chairman, I move for approval  
25                  based on the findings that it's compatible with the

1 land use and it's in harmony with the area since there  
2 is a school nearby and there's no opposition.

3 CHAIRMAN: Is there a second?

4 MR. WARREN: Second.

5 CHAIRMAN: A motion has been made and a  
6 second. Any other comments from the Staff?

7 MR. NOFFSINGER: No, sir.

8 CHAIRMAN: Any board member have any other  
9 comments or questions at this time?

10 (NO RESPONSE)

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 Next item, please.

16 -----

17 NEW BUSINESS

18 ITEM 5

19 609 Wing Avenue, zoned R-4DT

Review of Approved Conditional Use Permit

20 Applicant: Boulware-The Mission on the Hill, Inc.

21 MR. NOFFSINGER: Mr. Chairman, Mr. Jim  
22 Mischel, zoning administrator for the City of  
23 Owensboro, is here to discuss this issue with you.

24 MR. SILVERT: Will you state your name,  
25 please.



1 MR. MISCHEL: Jim Mischel.

2 (JIM MISCHEL SWORN BY ATTORNEY.)

3 MR. MISCHEL: Like Mr. Noffsinger said, this  
4 is pertaining to the Boulware Mission at 609 Wing  
5 Avenue.

6 A Conditional Use Permit was approved on  
7 November 6, 2008 with four conditions.

8 Before I start on that, I might say that this  
9 was supposed to be done every six months for two  
10 years. There was a lapse of three months. This  
11 inspection should have occurred I think in May instead  
12 of now.

13 With that being said, the four conditions at  
14 that meeting:

15 1) Reviews of operation be conducted at six  
16 month intervals after occupancy for a period of two  
17 years;

18 2) The Bonita Avenue access point must be  
19 gated, locked, contain a knox box and only accessible  
20 by emergency vehicles;

21 3) At no time will there be more than 120  
22 people in the facility;

23 4) The number of residents will not exceed 90  
24 people.

25 I conducted an inspection on July 21, 2010

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1 with Alan Englehart, the current president of the  
2 Boulware Mission and noted the following Conditions:

3 1) The Bonita Avenue access point was gated,  
4 locked and contained a knox box.

5 2) All residents at this time reside in the  
6 chapel. There was a total of 31 beds. There were 17  
7 beds on one side for the men and the other side  
8 contained 14 beds for women.

9 3) During the day approximately 30 people are  
10 transported. That's just approximate. I asked  
11 Mr. Englehart and he said approximately 30 people are  
12 transported from the Boulware Mission on Hall Street  
13 for counseling. They're usually gone by 5 p.m. that  
14 afternoon or sooner.

15 They do have counseling at night for the  
16 people in the community that have day jobs. I asked  
17 him about that number and he said it probably averages  
18 around 20 people.

19 Since we ran over three months, the occupancy  
20 that we issued the building CO was issued October 10th  
21 of 2008. So that's approximately three months from  
22 now. I probably, what I need to in three months is  
23 make a final inspection and let the board know.

24 I don't know if you have any questions. It  
25 seemed to me to be in compliance with all the

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1 conditions.

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

4 (NO RESPONSE)

5 CHAIRMAN: Being it's not required to vote at  
6 this time, we've listened to the report. Appreciate  
7 the job you did in checking. We'll look forward to  
8 hearing at the October meeting down the road.

9 MR. MISCHEL: I did contact the Boulware  
10 Mission and some of the neighbors and there's a person  
11 from each, from the neighborhood and from the Boulware  
12 Mission if they would like to say something.

13 CHAIRMAN: Do you all have anything? Like to  
14 come forward and state your name.

15 MR. SILVERT: State your name, please.

16 MR. DARLING: Bob Darling.

17 (BOB DARLING SWORN BY ATTORNEY.)

18 MR. DARLING: We're afraid that at the few  
19 times we've down here and spoken to the Board, Bob  
20 Kirtley, the neighbors, have kind of cautioned the  
21 Board that should Mission on the Hill not be  
22 successful what the neighborhood would be left with  
23 will not be a desirable piece of property.

24 I think we're moving in that direction just as  
25 fast as they can go because according to the

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1 Messenger-Inquirer Boulware is having problems.  
2 Possibly could close. Go bankrupt, whatever the issue  
3 is.

4 I sent Mr. Mischel some pictures this  
5 afternoon. Boulware has ceased maintaining the front  
6 part of the property or the north part of the  
7 property. The grass over the entire front part of the  
8 property, which is Bonita and part of Wing, is over 18  
9 inches tall. They have consistently mowed the south  
10 part of the property to where it's only about an inch  
11 tall. They have completely deserted doing any  
12 maintenance on the front part of the property.

13 They've also got trees and large bushes that  
14 are now growing on the Wing Avenue side, the hillside  
15 that are actually growing and leaning out in the  
16 street. I've seen several cars have to get a little  
17 bit in the left lane coming over the hill going north  
18 to avoid hitting some of that stuff.

19 I know we can use the excuse, It's Hot Don,  
20 but if it's hot then why are they mowing the south  
21 part of the property every week and have completely  
22 deserted the north part of the property.

23 We also had an issue, which we didn't bring to  
24 the Board, that they had some obscenity on the very  
25 front wall right by the front gate that stayed for two

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1 years. Eventually that did get taken off. Like the  
2 neighborhood said, they're not doing any maintenance  
3 on the front. If they've got crews or residents to  
4 mow the back, they ought to have them to mow the  
5 entire property.

6 Like I said, we're very concerned, you know,  
7 should Mission on the Hill fail that we're going to be  
8 left with a mess up there that, you know, that the  
9 City or somebody is going to have to take over and  
10 mow.

11 That's the only issue we've had. We haven't,  
12 as far as I know, have any issues with the clients,  
13 but it's just been on maintenance of the property.

14 CHAIRMAN: Any board members have any  
15 questions for this gentleman?

16 (NO RESPONSE)

17 CHAIRMAN: Anybody else have any comments?

18 MR. DYSINGER: Mr. Chairman, if it's  
19 appropriate, I wouldn't mind if the Boulware, if  
20 anyone here is representing them could respond to  
21 that.

22 MR. SILVERT: Could you state your name,  
23 please.

24 MR. CRAIG: My name is Bill Craig.

25 MR. SILVERT: Mr. Craig, I honor the oath you

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1 took as an attorney.

2 MR. CRAIG: I'm past president and still  
3 member of the board of Boulware. I came tonight to  
4 listen to what might be said. We're always concerned,  
5 of course, to maintain our properties appropriately.  
6 So I'll look into the comments by Mr. Darling.

7 The times are difficult for a charitable  
8 organization which raises money through grants and  
9 public donations. We have been straight-forward with  
10 the community that we need assistance when our  
11 contributions are reduced. When we expanded, we  
12 increased our monthly budget, our annual budget. We  
13 have been able to maintain that budget and to maintain  
14 operations, but we have not been able to complete the  
15 second phase of our renovation and we will not do so  
16 until it's financially responsible to do so.

17 With respect to the details of mowing and  
18 trimming and that kind of thing, I'll call that to the  
19 attention of the committee responsible for the  
20 facilities and we will make every effort to be  
21 satisfactory in appearance.

22 Overall the operation has proved to be  
23 extraordinarily successful and has been  
24 extraordinarily over-subscribed in this community. At  
25 any given time we have an incredible need to fill more

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1 requests for help than we can accomplish. So we make  
2 judgment calls on what we can do and can't do. I  
3 believe that any fair review of the operations of  
4 Boulware would reflect a highly responsible citizen of  
5 this community and we're grateful that Mr. Mischel has  
6 been diligent in telling us about any complaints that  
7 come his way. Any complaints that anyone wants to  
8 make, they can also make to me personally. I practice  
9 law in Owensboro. I'm easy to find and we act  
10 promptly.

11 I'm happy to answer any questions anyone may  
12 have.

13 CHAIRMAN: Any board members have any  
14 questions of Mr. Craig?

15 (NO RESPONSE)

16 CHAIRMAN: Jim, will you follow up down the  
17 road and be sure that things are progressing, please?

18 MR. MISCHEL: Yes. Any time I get a call or  
19 anything, we did get a call about the graffiti on the  
20 wall, which I passed on, and apparently they took care  
21 of. I think there was a complaint once about some  
22 kids playing on top of the wall. I called about that  
23 and I think they took care of that.

24 The grass, I don't remember that. The day I  
25 went out we had to walk through the yard down to the

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1 locked gate. I don't remember how tall it was, but I  
2 remember walking through the yard. If it was very  
3 tall, I think I would remember that. I don't know.

4 If anyone wants to call me, I'll pass that on  
5 to the Boulware Mission about grass or whatever.

6 Like I said, in three months I'll conduct  
7 another inspection and come back in front of the  
8 Board.

9 CHAIRMAN: Any board members have any other  
10 comments or questions at this time?

11 (NO RESPONSE)

12 CHAIRMAN: Hearing none I'll entertain a  
13 motion to adjourn at this time.

14 MR. WARREN: Motion to adjourn.

15 FATHER LARRY: Second.

16 CHAIRMAN: All in favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 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 16 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 August, 2010.

18  
19 \_\_\_\_\_  
20 LYNNETTE KOLLER FUCHS  
21 OHIO VALLEY REPORTING SERVICES  
22 202 WEST THIRD STREET, SUITE 12  
OWENSBORO, KENTUCKY 42303

23 COMMISSION EXPIRES: DECEMBER 19, 2010

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

25

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