

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 JUNE 2, 2011

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday, June
5 2, 2011, 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
- 10 Madison Silvert, Attorney
- 11 Brian Howard
- 12 Rev. Larry Hostetter
- 13 Shannon Raines
- 14 Sean Dysinger

15 * * * * *

16 CHAIRMAN: Let me call to order the Owensboro
17 Metropolitan Board of Adjustment this evening. I want
18 to welcome each one of you here. We start our
19 meetings each night with a prayer and pledge of
20 allegiance. We'll ask Father Larry to have our
21 prayer.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: Again, I want to welcome you to the
24 meeting this evening. If you have any comments on any
25 item, please come to one of the podiums and state your
name so we'll have a record on file.

With that the first item this evening is the
minutes of the April meeting. They're in the office.

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1 I don't think there's any problems with it. Entertain
2 a motion to dispose of the item.

3 MR. PEDLEY: Motion for approval.

4 FATHER HOSTETTER: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 Next item, please, sir.

10 -----

11 CONDITIONAL USE PERMITS

12 ITEM 2

13 9856 Kelly Cemetery Road, zoned R-1A and A-U
14 Consider a request for a Conditional Use Permit in
15 order to install a Class 2, 14 foot by 76 foot,
16 manufactured home in an R-1A zone.

17 Reference: Zoning Ordinance, Article 8,
18 Section 8.2A10B

19 Applicant: Joe Marksberry; Hacienda Properties, LLC,
20 c/o Tony Bates

21
22 MR. SILVERT: Would you state your name,
23 please?

24 MS. EVANS: Melissa Evans.
25 (MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned R-1A
Single Family Residential. OMPC records indicate
there have been no Zoning Map Amendments for the

1 subject property.

2 There are existing single wide (Class 2)
3 manufactured homes in the area.

4 The applicant is asking that the concrete
5 sidewalk requirement be waived and that the paved
6 parking requirement be waived. Based on the aerial
7 photography of the area from February 2010, there
8 appear to be no sidewalks in the area. This is a
9 rural area where sidewalks are not typical. There
10 also appear to be a mix of paved and gravel driveways
11 and parking areas along Kelly Cemetery Road in the
12 vicinity of the subject property.

13 LAND USE IN SURROUNDING AREA

14 The properties to the north and south are
15 zoned R-1A Single Family Residential and A-U Urban
16 Agriculture. The properties to the east are zoned A-U
17 Urban Agriculture and A-R Rural Agriculture. The
18 properties to the west are zoned R-1A Single Family
19 Residential.

20 ZONING ORDINANCE REQUIREMENTS

21 The Class 2 manufactured home site standards
22 based on the requirements of the Zoning Ordinance are
23 as follows:

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

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- 1 2. A minimum 10'x 10' deck or patio is
2 required.
- 3 3. A concrete sidewalk is required, but may
4 be waived along rural roads (with no curbs).
- 5 4. The driveway apron shall not exceed 40% of
6 the lot width.
- 7 5. The property is required to have at least
8 three trees.
- 9 6. The manufactured home shall be permanently
10 installed on a permanent foundation. A poured
11 concrete or masonry block skirting wall shall be
12 constructed beneath and along the entire perimeter of
13 the manufactured home.
- 14 7. All wheel, trailer-tongue and hitch
15 assemblies shall be removed upon installation.
- 16 8. The manufactured home shall be permanently
17 connected to an approved water and sewer system
18 when available.

19 We would like to enter the Staff Report into
20 the record as Exhibit A.

21 CHAIRMAN: Has there been any comments in the
22 office for or against?

23 MR. HOWARD: No.

24 CHAIRMAN: Is there anyone here this evening
25 wishing to speak in opposition of this item? For or

1 against?

2 MR. RICE: Against.

3 CHAIRMAN: Wait. I just want to see.

4 Is the applicant here and do you have any
5 comments at this time?

6 MR. MARKSBERRY: No comments.

7 CHAIRMAN: Opposition, come forward and state
8 your name, please, sir.

9 MR. SILVERT: Could you state your name,
10 please?

11 MR. RICE: My name is Gary Rice.

12 (GARY RICE SWORN BY ATTORNEY.)

13 MR. RICE: I live right across the street from
14 the property that they're going to put the trailer on.
15 This is the whole neighborhood right here, and we're
16 all opposed to this.

17 The trailer that I assume that they're going
18 to be put there has been sitting up there for a year.
19 Insulation and everything is hanging out from
20 underneath of it. We would really like to know some
21 information about this. We've heard some rumors. Are
22 they going to bring Mexicans in there and put them in
23 their housing or what's going on?

24 CHAIRMAN: Any other comments or questions?

25 MR. RICE: No, not at this time.

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1 Here are some pictures of it.

2 CHAIRMAN: Bring them up here. You want to
3 put on record?

4 MR. RICE: Yes.

5 CHAIRMAN: Any other comments or opposition at
6 this time?

7 (NO RESPONSE)

8 CHAIRMAN: Does the applicant have any
9 comments or answer his questions for us?

10 MR. SILVERT: Could you state your name,
11 please?

12 MR. MARKSBERRY: Joe Marksberry.

13 (JOE MARKSBERRY SWORN BY ATTORNEY.)

14 CHAIRMAN: You heard his comments and
15 questions. Answer them, please.

16 MR. MARKSBERRY: He's got concerns. The home
17 that Mr. Bates brought in was off another piece of
18 property that he had sold. He will make sure that
19 that home complies. There's loose insulation
20 underneath it. It will be in accordance. There will
21 be a certified state seal on the mobile home before
22 they can hook power to it. He's going to be put block
23 foundation on it. Even though they're waiving the
24 right to do the sidewalks and the gravel, he is going
25 to pave the driveway and the sidewalks. So he's going

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1 to make it look good.

2 MR. RICE: Who is going to live in it?

3 MR. MARKSBERRY: I have no idea.

4 CHAIRMAN: You have any questions ask the
5 chairman and we'll get your answer.

6 What's your comment?

7 MR. RICE: I want to know who IS going to live
8 in it.

9 CHAIRMAN: He said he did not know at present.

10 Any other comments or questions?

11 (NO RESPONSE)

12 CHAIRMAN: Staff have any other comments at
13 this time?

14 MR. HOWARD: No, sir.

15 MR. RICE: I've got one more.

16 CHAIRMAN: Okay.

17 MR. RICE: Would you also let it be known on
18 record that it's just not me opposing it. You know,
19 it's several in the neighborhood.

20 CHAIRMAN: So noted, please.

21 Any other comments or questions?

22 (NO RESPONSE)

23 CHAIRMAN: Board members have any questions or
24 comments?

25 MR. PEDLEY: Mr. Chairman, I have a question

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1 of the applicant.

2 Would you step up, please.

3 How far off the road is this?

4 MR. MARKSBERRY: I believe it's a minimum of
5 40 feet, isn't it? I think it is. I think the
6 minimum requirement was 35 and I believe it's past it.
7 75 feet.

8 MR. PEDLEY: That's what your plan, diagram
9 here shows, 75 feet. Is that where you're going to
10 set it?

11 MR. MARKSBERRY: At least that.

12 MR. PEDLEY: That answers my question. Thank
13 you.

14 CHAIRMAN: Any other comments from the board?

15 (NO RESPONSE)

16 CHAIRMAN: State your name, please.

17 MR. PATTON: Matthew Patton.

18 (MATTHEW PATTON SWORN BY ATTORNEY.)

19 MR. PATTON: My question is, I would like to
20 know when Mr. Bates plans on mowing this? I live, my
21 property is right next to it. I keep mine nice and
22 cut, clean. It's just about two and a half acres and
23 it's nasty. As you can see in the pictures, it's
24 almost 4 foot tall in some spots. It makes my
25 property look like junk. Not to mention the snakes

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1 and all of that are in there. If he can't take care
2 of an empty lot, is he going to take care of a lot
3 that's got a trailer there? You know, why not take
4 care of it now and make it look good. That's my
5 question.

6 CHAIRMAN: You want to come back forward and
7 make a comment.

8 MR. MARKSBERRY: I don't have any comments.
9 I'm with Clayton Homes. He had trouble filling out
10 the conditional permit and I helped him with it. I'm
11 sure that once he gets the home in place that it will
12 take care of the concerns that you have. I mean
13 that's part of the problem. There's nobody living
14 there.

15 MR. PATTON: On that note, I'm not sure how
16 long he's owned that. For a few years I know that I
17 myself along with others have called Mike Hamilton
18 down at the government operations and have to get them
19 to give him a notice of some sort so the property can
20 be mowed. I mean it shouldn't have to come to that.
21 If you've got a rental property, you should make it
22 look good. You shouldn't have to complain. That's
23 where my complaint is. Are we going to continue to
24 have a problem? I hope not. I like to get along with
25 everybody, but keep your yard looking nice.

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1 CHAIRMAN: Any other comments from the board
2 at this time?

3 (NO RESPONSE)

4 CHAIRMAN: State your name again, please.

5 MR. RICE: Gary Rice.

6 I would like to know if he puts one trailer on
7 there, can he put more?

8 CHAIRMAN: Staff, answer that.

9 MR. HOWARD: No. They would be limited to one
10 residence per lot.

11 CHAIRMAN: Any other comments?

12 (NO RESPONSE)

13 CHAIRMAN: You know, we can put conditions on
14 that if we so desire.

15 Hear a motion to dispose of the item.

16 MR. PEDLEY: Mr. Chairman, I'm going to make a
17 motion for approval based on the findings that it is
18 in a rural community and it's compatible in a rural
19 community with the surrounding area. It will not have
20 an adverse influence on the surrounding area. With
21 that we waive the concrete sidewalk and waive the
22 paved parking. All other items according to the
23 zoning ordinance must be obeyed. The condition put on
24 it that the lot be kept mowed to basic standards, with
25 that one condition. I think that's the only condition

1 I have to put on it. That the lot must be mowed. All
2 zoning ordinance must be according to -- Item 1 is
3 waived. Item 3 may be waived. All others must be
4 obeyed. That's my motion.

5 CHAIRMAN: We have a motion. Is there a
6 second?

7 MR. DYSINGER: I'll second it.

8 CHAIRMAN: A motion has been made and a
9 second. Is there any other comments or questions from
10 the board?

11 (NO RESPONSE)

12 CHAIRMAN: The applicant has heard that you
13 must comply with these regulations and one special
14 condition. That mowing must be done routinely to make
15 it look proper. Do you understand that?

16 MR. MARKSBERRY: I'll reenforce that to Mr.
17 Bates as well.

18 CHAIRMAN: Good deal.

19 Hear any other comments from the board?

20 (NO RESPONSE)

21 CHAIRMAN: All in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 Next item, please, sir.

25 ITEM 3

1 820 Pleasant Valley Road, zoned I-2
Consider request for a Conditional Use Permit in order
2 to operate an existing petroleum storage facility and
construct a 30 foot by 30 foot storage building
3 Reference: Zoning Ordinance, Article 8,
Section 8.2G4/27
4 Applicant: TransMontaigne Operating Co., LP

5 ZONING HISTORY

6 The subject property is currently zoned I-2
7 Heavy Industrial. OMPC records indicate the subject
8 property was rezoned from I-1 Light Industrial to I-2
9 Heavy Industrial at the May 2011 Planning Commission
10 Meeting.

11 The subject property is located on Pleasant
12 Valley Road where there are mixed uses and occupancies
13 of business, residential, industrial and
14 professional/service. In addition to the existing
15 hazardous occupancy on the subject property, petroleum
16 storage also exists on a site across the railroad
17 tracks to the southeast. The new site of the critical
18 care hospital, currently under construction, is
19 located across the railroad tracks just to the
20 southwest, across Pleasant Valley Road. The storage
21 of hazardous materials near a critical care hospital
22 presents potential risks for the hospital if there
23 were ever a leak or explosion. However, the hospital
24 was aware these facilities existed when they chose the
25 location for the new site and when the site was

1 conditionally approved to allow the hospital to be
2 located there. Evidence presented at the public
3 hearing to consider the Conditional Use Permit for the
4 hospital recognized these potential hazards and
5 information was presented about hazard mitigation
6 plans in the event of an incident.

7 The property was rezoned to bring it into
8 compliance with the current zoning regulations. It
9 had been operating in non-conformance and when the
10 applicant applied to construct the new storage
11 building on the property. It was brought to their
12 attention that the property would have to be rezoned
13 and brought into compliance with the current zoning
14 regulations before the storage building could be
15 constructed. The rezoning was approved with the
16 condition that a Conditional Use Permit and Variance
17 be approved before any construction permits be issued.

18 The applicant is requesting the Conditional
19 Use Permit in order to operate the existing petroleum
20 storage facility in an I-2 zone and to construct a new
21 30 foot by 30 foot metal maintenance shed on the
22 property.

23 LAND USES IN SURROUNDING AREA

24 The property to the north is zoned B-4 General
25 Business. The property to the south is zoned I-1

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1 Light Industrial. The properties to the east, across
2 Pleasant Valley Road, and to the west are zoned R-1A
3 Single Family Residential.

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

6 CHAIRMAN: Has there been any opposition of
7 comments to the office?

8 MR. HOWARD: No, sir.

9 CHAIRMAN: Is anyone wishing to speak in
10 opposition on this?

11 (NO RESPONSE)

12 CHAIRMAN: Is the applicant here and do you
13 have any comments you would like to make at this time?

14 APPLICANT REP: No.

15 CHAIRMAN: Board members have any comments of
16 the applicant?

17 (NO RESPONSE)

18 CHAIRMAN: Staff have any added comments?

19 MR. HOWARD: No, sir.

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

22 MR. PEDLEY: Mr. Chairman, I make a motion for
23 approval based on it is an existing use and has been
24 for a long period of time. It will not have an
25 adverse influence on the neighborhood. The hospital

1 was aware of the operation that was going on at the
2 time that they decided to build there. With one
3 condition that the variance be approved.

4 MS. RAINES: Second.

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

7 (NO RESPONSE)

8 CHAIRMAN: Staff have anything else to add?

9 MR. HOWARD: No.

10 CHAIRMAN: The applicant understand the
11 positions put on it from the board?

12 APPLICANT REP: Yes.

13 CHAIRMAN: All in favor of the motion raise
14 your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 Next item, please.

18 Related Item

19 ITEM 3A

20 820 Pleasant Valley Road, zoned I-2

Consider request for a Variance in order to reduce the

21 required buffer between a Residential Zone and any

hazardous use or occupancy along the northeast

22 property line, across Pleasant Valley Road, from 300

feet to 143 feet and to reduce the buffer along the

23 southwest property line from 300 feet to 128 feet.

Reference: Zoning Ordinance, Article 8,

24 Section 8.2G4/27

Applicant: TransMontaigne Operating Co., LP

25

1 CONSIDERATIONS

2 The subject property was just rezoned at the
3 May 2011 OMPC meeting from I-1 to I-2 to bring it
4 into compliance with the current zoning regulations.

5 The zoning ordinance requires that any
6 hazardous use or occupancy as determined by the
7 Kentucky Building Code, except for accessory parking
8 areas or structures, be located at least 300 feet from
9 any Residential Zone and at least 100 feet from any
10 other zone except an I-1 or A-R zone. The applicant
11 is requesting that the buffers between a residential
12 zone and any hazardous use or occupancy be reduced
13 along the northeast property line from 300 feet to 143
14 feet and along the southwest property line from 300
15 feet to 128 feet. These are the current distances
16 between the residential properties and the hazardous
17 uses which have been in use on the property for some
18 time.

19 Granting this variance will not alter the
20 essential character of the general vicinity because
21 this is an existing use that has been in operation for
22 some time at the current distance from the residential
23 property. It will not adversely affect the public
24 health, safety or welfare or cause a hazard or
25 nuisance to the public because the hazardous products

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1 have always been this close to the residential
2 properties and not caused any problems up to this
3 point. Granting this variance will not be an
4 unreasonable circumvention of the requirements of the
5 zoning ordinance because this is something that has
6 been in operation for some time and is being brought
7 more into compliance with the current regulations.

8 Staff recommends approval.

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

11 CHAIRMAN: Been any comments in the office?

12 MR. HOWARD: No, sir.

13 CHAIRMAN: Is the applicant here? Do you have
14 any comments?

15 APPLICANT REP: No.

16 CHAIRMAN: Boards members have any questions
17 of the applicant?

18 (NO RESPONSE)

19 CHAIRMAN: Staff have anything else?

20 MR. HOWARD: No, sir.

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

23 MR. DYSINGER: Mr. Chairman, given the
24 findings that the usage has been ongoing and therefore
25 continued usage will not cause a hazard or a nuisance,

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1 and further reducing the setback in this particular
2 situation will not allow an unreasonable circumvention
3 or requirements of the zoning ordinance as it is in
4 keeping with the mixed usage of the area. I move that
5 we grant the variance.

6 MS. MASON: Second.

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

10 (NO RESPONSE).

11 CHAIRMAN: Staff have anything else to add at
12 this time?

13 MR. HOWARD: No.

14 CHAIRMAN: All in favor raise your right hand.
15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 Next item, please, sir.

18 ITEM 4

19 3085 Taylor Road West, zoned R-1A

20 Consider request for a Conditional Use Permit in order
21 to operate a childcare facility for up to 12 children
operating 24 hours a day, 7 days a week.

22 Reference: Zoning Ordinance, Article 8, Section 8.2B3

23 Applicant: Charlotte A. Crowe; Norbert Earl Crowe

24

25 ZONING HISTORY

The subject property is currently zoned R-1A
Single Family Residential. OMPC records indicate

1 there have been no Zoning Map Amendments for the
2 subject property.

3 The applicant is wishing to operate a Type II
4 Childcare Facility in a 20 x 30 family room addition
5 that has been constructed on the property. According
6 to the applicant and Kentucky Childcare Regulations, a
7 Type II Childcare center shall be the primary
8 residence of the licensee in which childcare is
9 regularly provided for 7, but not more than 12
10 children, including children related to the licensee.
11 The applicant is seeking approval for up to
12 12 children, operating 24 hours a day, 7 days a week.

13 LAND USES IN SURROUNDING AREA

14 The properties to the north, south and west
15 are zoned A-R Rural Agriculture. The property to the
16 east is zoned R-1A Single Family Residential.

17 ZONING ORDINANCE REQUIREMENTS

18 1. Parking - Child day-care centers - 2 plus
19 1 per every 10 persons under care. Plus 2 spaces for
20 the residence. They will need a total of 6 spaces,
21 which is as shown on the site plan as submitted.

22 2. Landscaping - 1 tree per every 40 linear
23 feet of the vehicular use area boundary, plus a 3 foot
24 continuous high planting, hedge, wall or fence.

25 We would like to enter the Staff Report into

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1 the record as Exhibit D.

2 CHAIRMAN: Have there been any comments in the
3 office?

4 MR. HOWARD: No.

5 CHAIRMAN: Is the applicant here?

6 MS. CROWE: Yes, sir.

7 CHAIRMAN: Do you have any comments at this
8 time?

9 MS. CROWE: Not at this time.

10 CHAIRMAN: Anyone wishing to speak in
11 opposition of this item?

12 (NO RESPONSE)

13 CHAIRMAN: Entertain a motion to dispose of
14 the item.

15 MS. MASON: Mr. Chairman, I move for approval
16 and my findings are it would be in harmony with the
17 area and would be a proper integration into the
18 neighborhood and it will not endanger the public
19 health and safety.

20 CHAIRMAN: Is there a second?

21 MR. PEDLEY: Second.

22 CHAIRMAN: A motion has been made and second.
23 Any other comments or questions from the board?

24 (NO RESPONSE)

25 CHAIRMAN: Staff have anything else?

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1 MR. HOWARD: No, sir.

2 CHAIRMAN: The applicant understands all the
3 conditions that are stated and accept them?

4 MS. CROWE: Yes, sir.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 Next item please, sir.

10 RELATED ITEM

11 ITEM 4A

12 3085 Taylor Road West, zoned R-1A

Consider request for a Variance in order to eliminate
13 the required vehicular use area screening adjoining
residentially zoned property.

14 Reference: Zoning Ordinance, Article 17,
Section 17.3127

15 Applicant: Charlotte A. Crowe; Norbert Earl Crowe

16 CONSIDERATIONS

17 The subject property has a shared driveway
18 with the adjoining property to the east, which is 3099
19 Taylor Road West. Installing the required Vehicular
20 Use Area screening in this case would mean planting it
21 in the middle of the shared driveway and contiguous
22 parking area.

23 This variance request is warranted as long as
24 the residents of the adjoining property do not object
25 to the waiver. However, if they want some visual

1 protection from the Vehicular Use Area to be used by
2 the vehicles of the childcare facility, the drive
3 should be widened and the screening installed.

4 Granting this variance will not alter the
5 essential character of the general vicinity because
6 this is a residential area where Vehicular Use Area
7 screening is not typical. If the screening is not
8 installed, it will not adversely affect the public
9 health, safety or welfare or cause a hazard or
10 nuisance to the public because installing the
11 screening would reduce the available ingress and
12 egress area of the driveway and limit the turn around
13 area for the adjoining residential homeowners and
14 vehicles of the childcare facility. Granting this
15 variance will not be an unreasonable circumvention of
16 the requirements of the zoning ordinance because it is
17 not typical that screening is required in the
18 middle of a shared residential driveway.

19 Staff recommends approval.

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

22 CHAIRMAN: Been any comments on this item in
23 the office?

24 MR. HOWARD: No, sir.

25 CHAIRMAN: The applicant have anything you'd

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1 like to add at this time?

2 MS. CROWE: Yes. I have letter from --

3 CHAIRMAN: State your name, please.

4 MR. SILVERT: Let me swear you in, please.

5 Could you state your name, please.

6 MS. CROWE: Charlotte Crowe.

7 (CHARLOTTE CROWE SWORN BY ATTORNEY.)

8 MS. CROWE: I do have a letter here from the
9 resident that shares the driveway with myself and my
10 husband. They are happy to see this come about. Can
11 I give this to the board?

12 CHAIRMAN: Please. Put it on record. Got any
13 other comments, ma'am?

14 MS. CROWE: No, sir.

15 MR. KIRTLEY: That letter says they don't care
16 for the screening.

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

19 (NO RESPONSE)

20 CHAIRMAN: Any other comments from the Staff?

21 MR. HOWARD: No, sir.

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

24 MR. DYSINGER: Mr. Chairman, given the
25 findings that strict application in this case would be

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1 unpractical due to the fact of the shared driveway.
2 Further, it will not alter the essential character of
3 the general vicinity because it's a residential area
4 where vehicular use area screening is not typical. I
5 move that we grant the variance.

6 CHAIRMAN: Is there a second?

7 MS. MASON: Second.

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

11 (NO RESPONSE)

12 CHAIRMAN: Staff have anything else?

13 MR. HOWARD: No, sir.

14 CHAIRMAN: The applicant, do you understand
15 all the conditions?

16 MS. CROWE: Yes, sir.

17 CHAIRMAN: All in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 Next item please, sir.

21 ITEM 5

22 3585 Thruston Dermont Road, zoned A-U
23 Consider request for a Conditional Use Permit in order
24 to construct an expansion to an existing church
25 facility for use as a church, parish hall, elementary
26 school and high school.

27 Reference: Zoning Ordinance, Article 8,
28 Section 8.2B14

29 Applicant: Heritage Baptist Church

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ZONING HISTORY

The subject property is currently zoned A-U Urban Agriculture. OMPC records indicate there have been no zoning map amendments for the subject property.

There have been three previous Conditional Use Permits approved for the subject property. The latest one being approved by this Board in December of 2002 to construct a 20,541 square foot addition to the existing facility for the use as a church, parish hall, elementary school and high school.

The applicant is now wishing to construct a 17,600 square foot addition to the existing facility for use as a church, parish hall, elementary school and high school, instead of the originally proposed 20,541 square foot addition approved by this board in December 2010.

LAND USES IN SURROUNDING AREA

The properties to the north are zoned R-1A and R-1B Single Family Residential. The properties to the south are zoned P-1 Professional Service, A-U Urban Agriculture and R-3MF Multi Family Residential. The properties to the east are zoned R-1A Single Family Residential and A-U Urban Agriculture. The properties

1 to the west are zoned R-1B Single Family Residential.

2 ZONING ORDINANCE REQUIREMENTS

3 1. Parking - Church/Parish Hall - 1 space for
4 every 5 seats in the main auditorium or Elementary
5 School - 1 space for every classroom plus 1 space for
6 each employee on maximum shift or for the high school
7 - 1 space for every 5 classroom seats, whichever one
8 is greater. They are required to have a total of 90
9 parking spaces, which is shown on the site plan that
10 was submitted.

11 2. Landscaping - 1 tree per every 40 feet of
12 the vehicular use area boundary.

13 SPECIAL CONDITIONS

14 1. Approval of a Final Development Plan.

15 We would like to enter the Staff Report into
16 the record as Exhibit F.

17 MR. PEDLEY: Mr. Chairman, I need to
18 disqualify myself from this item.

19 CHAIRMAN: So noted.

20 Staff, did we get any comments in the office
21 or anything?

22 MR. HOWARD: Yes. We did have a couple of
23 questions pertaining to drainage. Met with one person
24 myself.

25 CHAIRMAN: Is anyone wishing to speak in

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1 opposition of this item?

2 MR. BOYCE: I'm not in opposition, but I have
3 a few questions.

4 CHAIRMAN: Just a minute.

5 MS. PURDY: Same here. I'm not in opposition,
6 but I just have some questions also.

7 CHAIRMAN: State your name for the record,
8 please.

9 MR. BOYCE: My name is David Boyce.

10 (DAVID BOYCE SWORN BY ATTORNEY.)

11 MR. BOYCE: My property is in their backyard.
12 With all their heavy equipment going on, things like
13 that, is there a possible way I could see a plan of
14 what it's going to look like. If I need to build a
15 privacy fence. Are they going to be parking in my
16 backyard? Is there a way I can see something like
17 that?

18 CHAIRMAN: Yes.

19 MS. EVANS: You can see the larger copy in the
20 office as well. Here is Thruston Dermont Road right
21 here.

22 MR. BOYCE: This is my property right here.

23 MS. EVANS: The parking is going to go here
24 and the building is going to go to the side of the
25 existing church.

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1 MR. BOYCE: So this has changed from what they
2 had before?

3 MS. EVANS: Yes. Before the building was
4 going to go, I think, back here.

5 MR. BOYCE: In this area? Because I saw some
6 of these where the parking was going to be over here.
7 The parking is going to come right up here?

8 MS. EVANS: Yes.

9 MR. BOYCE: Can I have this?

10 MS. EVANS: Yes, you can keep that copy.

11 MR. BOYCE: That's all I have. Thank you.

12 CHAIRMAN: You satisfied with what you see and
13 understand?

14 MR. BOYCE: Oh, yes, I understand.

15 CHAIRMAN: Good deal.

16 MR. BOYCE: Thank you.

17 CHAIRMAN: Ma'am, do you have any comments or
18 questions?

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

21 MS. PURDY: Cheryl Purdy.

22 (CHERYL PURDY SWORN BY ATTORNEY.)

23 MS. PURDY: My only question is, is with this
24 expansion of their facility, will they continue to use
25 the same entrance on Thruston Dermont Road or will

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1 this force them to build a road out to Highway 54 as
2 had been discussed, I don't know, eight to ten years
3 ago?

4 CHAIRMAN: Staff answer that, please.

5 MR. HOWARD: The plan still shows just using
6 the access off Thruston Dermont Road.

7 MS. PURDY: Thank you.

8 CHAIRMAN: Any other questions, ma'am?

9 MS. PURDY: No.

10 CHAIRMAN: Any other questions from anyone at
11 this time?

12 (NO RESPONSE)

13 CHAIRMAN: Entertain a motion to dispose of
14 the item.

15 MS. RAINES: I want to clarify real quick. Is
16 this just to reduce the size from 20,541 square feet
17 to 17,600 from something that was previously approved?

18 MR. HOWARD: The plan that was approved in
19 December of 2010 was for a larger footprint of the
20 building. So it has reduced. You're right in that.
21 However, the location of the building on site has also
22 relocated. The area of parking and drives on the site
23 have changed as well.

24 MS. RAINES: Okay.

25 MR. DYSINGER: Mr. Chairman, the Staff

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1 mentioned that somebody had called in regarding
2 drainage issues. I wonder, has that resolved? What
3 was the resolution?

4 MR. HOWARD: We had an adjoiner that came in
5 requesting some information about drainage. The
6 applicant has prepared a final development plan that
7 the county engineer has signed off already. We
8 instructed her that if he does have questions
9 pertaining to drainage that she should contact Mark
10 Bratcher, county engineer. She was satisfied with
11 that answer.

12 CHAIRMAN: Board members have any other
13 questions?

14 (NO RESPONSE)

15 CHAIRMAN: Is the applicant here and do you
16 have any comments?

17 (NO RESPONSE)

18 CHAIRMAN: Hearing none entertain a motion to
19 dispose of the item.

20 MR. DYSINGER: Mr. Chairman, given the finding
21 that the applicant is asking for less than what was
22 previously approved by this board and seeing no
23 evidence that the changes in the location changed the
24 nature of the original request that we approved, and
25 with the condition of an approval of a final

1 development plan, I move that we grant the Conditional
2 Use Permit.

3 CHAIRMAN: Is there a second to this motion?

4 FATHER HOSTETTER: Second.

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

8 (NO RESPONSE)

9 CHAIRMAN: Staff have anything else?

10 MR. HOWARD: No.

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

13 (ALL BOARD MEMBERS PRESENT - WITH THE
14 DISQUALIFICATION OF WARD PEDLEY - RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Next item, please.

17 ITEM 6

18 8541 Highway 81, zoned R-1A

Consider request for a Conditional Use Permit in order
19 to install a Class 2, 14 foot by 74 foot, manufactured
home in an R-1A zone

20 Reference: Zoning Ordinance, Article 8,
Section 8.2A10B

21 Applicant: James D. Warner; Alicia G. Warner

22 ZONING HISTORY

23 The subject property is currently zoned R-1A
24 Single Family Residential. OMPC records indicate
25 there have been no Zoning Map Amendments for the

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1 subject property.

2 There is one single wide (class 2)
3 manufactured home in the area and several double wide
4 (class 1) manufactured homes in the area, which are
5 principally permitted in an R-1A zone.

6 The applicant is asking that the concrete
7 sidewalk requirement be waived and that the paved
8 parking requirement be waived. Based on the aerial
9 photography of the area from February 2010, there
10 appear to be no sidewalks in the area. Upon
11 inspection of the area that was confirmed, there are
12 not sidewalks in the area. This is rural area where
13 sidewalks are not typical. There is a mix of paved
14 and gravel driveways and parking areas along Highway
15 81 in the vicinity of the subject property.

16 LAND USES IN SURROUNDING AREA

17 The properties to the north and south are
18 zoned R-1A Single Family Residential. The property to
19 the east is zoned I-1 Light Industrial. The
20 properties to the west are zoned R-1A Single Family
21 Residential and A-R Rural Agriculture.

22 ZONING ORDINANCE REQUIREMENTS

23 The Class-2 manufactured home site standards
24 based on the requirements of the Zoning Ordinance are
25 as follows:

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- 1 1. A concrete or asphalt parking pad to
2 accommodate two 9'x18' spaces is required.
- 3 2. A minimum 10'x10' deck or patio is
4 required.
- 5 3. A concrete sidewalk is required, but may
6 be waived along rural roads (w/o curbs).
- 7 4. The driveway apron shall not exceed 40% of
8 the lot width.
- 9 5. The property is required to have at least
10 three trees.
- 11 6. The manufactured home shall be permanently
12 installed on a permanent foundation. A poured
13 concrete or masonry block skirting shall be
14 constructed beneath and along the entire perimeter of
15 the manufactured home.
- 16 7. All wheel, trailer-tongue and hitch
17 assemblies shall be removed upon installation.
- 18 8. The manufactured home shall be permanently
19 connected to an approved water and sewer system
20 when available.

21 We would like to enter the Staff Report into
22 the record as Exhibit G.

23 CHAIRMAN: Any comments filed with the office?

24 MR. HOWARD: No, sir.

25 CHAIRMAN: Is the applicant here and have any

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1 comments at this time?

2 APPLICANT REP: No comments.

3 CHAIRMAN: Any opposition to this item?

4 (NO RESPONSE)

5 CHAIRMAN: Board members have any questions of
6 the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Hearing none entertain a motion to
9 dispose of the item.

10 MS. MASON: Mr. Chairman, I move for approval
11 with the findings that it's compatible with the
12 neighborhood as there are other mobile homes in the
13 area. On the zoning ordinance requirement, I move to
14 waive concrete sidewalk requirement and the paved
15 parking requirement based on the fact that in rural
16 areas sidewalks are not typical and there's a mixed of
17 paved and gravel driveways and parking areas in the
18 vicinity of the property.

19 MR. DYSINGER: Second.

20 CHAIRMAN: A motion has been made and a
21 second. Any other comments or questions from the
22 board?

23 (NO RESPONSE)

24 CHAIRMAN: Staff have anything else?

25 MR. HOWARD: No, sir.

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1 CHAIRMAN: The applicant understand all of the
2 conditions?

3 APPLICANT REP: Yes, sir.

4 CHAIRMAN: Hearing no other comments all in
5 favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 Next item, please.

9 ITEM 7

10 11330 US Highway 431, zoned A-R

Consider request for a Conditional Use Permit in order
11 to operate a beauty salon in an A-R zone.

Reference: Zoning Ordinance, Article 8,

12 Section 8.2D3/46

Applicant: Chasity Fambrough; Rodna Adkins

13

14 ZONING HISTORY

15 The subject property is currently zoned A-R
16 Rural Agriculture. OMPC records indicate there have
17 been no Zoning Map Amendments for the subject
18 property.

19 The applicant is wishing to operate a beauty
20 salon in the existing residence. Beauty salons are
21 Conditionally Permitted in the A-R Rural Agriculture
22 zone. The applicant states that the salon will have
23 two workstations with one shampoo chair and one dryer
24 chair. It will have a separate entrance and bathroom
25 from the residence.

1 LAND USES IN SURROUNDING AREA

2 The properties to the north, south and west
3 are zoned A-R Rural Agriculture. The properties to
4 the east are zoned A-U Urban Agriculture.

5 ZONING ORDINANCE REQUIREMENTS

6 1. Parking - Hair styling, beauty and barber
7 shops - 1 space per every 200 square feet. Plus 2
8 spaces for the residence in this case, which is a
9 total of three spaces required as stated on the site
10 plan they submitted.

11 2. Landscaping - none required.

12 We would like enter the Staff Report into the
13 record as Exhibit H.

14 CHAIRMAN: Been any comments in the office?

15 MR. HOWARD: No, sir.

16 CHAIRMAN: Does the applicant have anything
17 you would like to add at this time?

18 APPLICANT REP: No, sir.

19 CHAIRMAN: Anyone wishing to speak in
20 opposition?

21 (NO RESPONSE)

22 CHAIRMAN: Board have any questions of the
23 applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none entertain a motion to

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1 dispose of the item.

2 MR. PEDLEY: Mr. Chairman, I make a motion for
3 approval based on findings it's compatible use within
4 the neighborhood. It will not have an adverse
5 influence, and with the conditions it meets the zoning
6 ordinance requirements.

7 MR. DYSINGER: Second.

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

11 (NO RESPONSE)

12 CHAIRMAN: Staff have anything else?

13 MR. HOWARD: No, sir.

14 CHAIRMAN: All in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 Entertain one more motion.

18 MR. DYSINGER: Move to adjourn.

19 MS. MASON: Second.

20 CHAIRMAN: All in favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: We are adjourned.

23 -----

24

25

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

16 WITNESS my hand and notary seal on this the
17 22nd day of June, 2011.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25

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