

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 JANUARY 3, 2013

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 January 3, 2013, 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 Jerry Yeiser
- 14 Sean Dysinger
- 15 Jason Strode
- 16 Fred Reeves

17 * * * * *

18 CHAIRMAN: Let me call the Owensboro
19 Metropolitan Board of Adjustment to order. We start
20 our meeting each evening with a prayer and the pledge
21 to the flag. If you all wish to join us, we will have
22 a prayer at this time.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: I want to welcome each one of you
25 to the meeting this evening. If you all have any
26 comments, please stand somewhere and be sure and talk
27 loud enough that she can get the name and transcript
28 that you say so we will have a record of it.

29 With that first thing we have this evening is

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1 election of officers.

2 MR. SILVERT: We need to swear in two new
3 members, Mr. Chairman.

4 We have Jerry Yeiser and Jason Strode who are
5 being sworn in as new members of the Board of
6 Adjustment.

7 If you, gentlemen, would please stand.

8 For those of you in the audience, if you've
9 never heard Kentucky's oath of office, you're in for a
10 treat.

11 After I read this, if you just say, "I so
12 swear."

13 (SWEARING IN NEW MEMBERS JERRY YEISER AND
14 JASON STRODE.)

15 MR. SILVERT: Welcome to the Board.

16 CHAIRMAN: Pleased to have you all on the
17 board. Welcome to have you with us, Jerry and Jason.

18 MR. SILVERT: Now every January we have our
19 election of officers. I'll begin by opening the floor
20 for nomination for chair.

21 MR. PEDLEY: I nominate Audie Pantle.

22 MS. MASON: Second.

23 MR. SILVERT: Audie, do you accept the
24 nomination?

25 MR. PANTLE: Yes.

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1 MR. PEDLEY: I make a motion that nomination
2 cease.

3 MR. DYSINGER: Second.

4 MR. SILVERT: All in favor of Audie Pantle
5 being Chair please raise your hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 MR. SILVERT: Congratulations, Mr. Chairman.

8 The next office is the office vice chairman.

9 Any nominations for the office of vice chairman?

10 CHAIRMAN: I nominate Ward Pedley.

11 MR. DYSINGER: Second.

12 CHAIRMAN: Move that he be elected by
13 acclamation.

14 MR. SILVERT: Mr. Pedley, do you accept?

15 MR. PEDLEY: Yes.

16 MR. SILVERT: All in favor raise your right
17 hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 MR. SILVERT: Congratulations, Mr. Pedley.

20 Finally the office of secretary. Nominations
21 for secretary.

22 MR. PEDLEY: I nominate Ruth Ann Mason.

23 MR. DYSINGER: Second.

24 MR. PEDLEY: Motion that nomination cease.

25 MR. DYSINGER: Second.

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1 MR. SILVERT: Mrs. Mason, do you accept?

2 MS. MASON: I do.

3 MR. SILVERT: All in favor of Ruth Ann Mason
4 remaining secretary please raise your hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 MR. SILVERT: Congratulations.

7 Mr. Chairman, over to you.

8 CHAIRMAN: Appreciate the nomination again and
9 hopefully I can do the job that you all will be proud
10 of in if the coming year.

11 With that the first item on the agenda this
12 evening is the minutes of the December 6th meeting.
13 They're on record in the office. I don't think they
14 found any problems or anybody have any additions or
15 anything?

16 (NO RESPONSE)

17 CHAIRMAN: If not entertain a motion to
18 dispose of the item.

19 MS. MASON: I move to approve.

20 MR. REEVES: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 Next item, please, sir.

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1 MR. NOFFSINGER: At this time we would like to
2 recognize a board member that's leaving us. That is
3 Marty Warren. Marty, would you please come up here.

4 (PRESENTATION TO MARTY WARREN.)

5 -----

6 CONDITIONAL USE PERMIT

7 ITEM 3

8 4795 Winkler Road, zoned A-U

Consider request for a Conditional Use Permit in order
9 to construct and operate a livestock sale and auction
facility with existing accessory structures.

10 Reference: Zoning Ordinance, Article 8, Section 8.2H7

Applicant: Daviess County Lions Club Fair, Inc.

11

12 MR. SILVERT: Would you state your name,
13 please?

14 MS. EVANS: Melissa Evans.

15 (MELISSA EVANS SWORN BY ATTORNEY.)

16 MS. EVANS: First of all, I would like to say
17 that approval of items here tonight does not allow the
18 applicant or owner to construct, alter, modify or
19 occupy a building on the subject property. It is the
20 applicant's or owner's responsibility to obtain all
21 approvals and inspections as necessary before the
22 occupancy of the building will be allowed. Please
23 contact the building and electrical division of the
24 OMPC prior to beginning any work on the subject
25 property.

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1 ZONING HISTORY

2 The subject property is currently zoned A-U
3 Urban Agriculture. OMPC records indicate there have
4 been no Zoning Map Amendments for the subject
5 property.

6 The subject property is part of the Daviess
7 County Lions Club fairgrounds and was created as a
8 separate lot by plat in 1972.

9 Currently there are several buildings on the
10 subject property used for housing and showing
11 livestock. The applicant is requesting to build a new
12 120 foot by 120 foot building for livestock sales and
13 auctions. This Conditional Use Permit will bring the
14 existing and proposed livestock activities into
15 compliance with the zoning ordinance.

16 LAND USES IN SURROUNDING AREA

17 The properties to the north, east and west are
18 zoned A-U Urban Agriculture. The properties to the
19 east are zoned A-U Urban Agriculture and I-1 Light
20 Industrial.

21 ZONING ORDINANCE REQUIREMENTS

22 Parking and landscaping are not required for
23 this use.

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

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1 CHAIRMAN: Any comments filed in the office?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Does the applicant have anything
4 you would like to add to what you have mailed to us
5 already?

6 MR. PEACOCK: Yes.

7 MR. SILVERT: Would you state your name,
8 please?

9 MR. PEACOCK: My name is Mike Peacock with the
10 Daviess County Lions Club.

11 (MIKE PEACOCK SWORN BY ATTORNEY.)

12 MR. PEACOCK: I'd just like to say, I know
13 there's been a few questions. Basically what we're
14 doing is adding this new building which will set
15 fairly close to our existing livestock building. It
16 just enables us to be able to get in and out of the
17 weather and be able to unload our animals during the
18 fair in a safe manner. Before we had to bring our
19 trucks and trailers in there and maneuver around a lot
20 of cars and people to try to get these people and
21 children to unload their show animals. This enables
22 us to come in and get them in a building, unload
23 without worrying about animals getting loose and then
24 there's no traffic problems. They can bring their
25 trucks and trailers in there and unload.

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1 We're not really doing anything really much
2 different than we normally do. All we're going to do
3 us during the fair we have a better facility to do
4 this. Then throughout the year, this is kind of a
5 partnership with us, the Daviess County Extension
6 Service, throughout the year if they want to come out,
7 which we're already doing there, like they have a
8 feeder calf program. They come out once or twice
9 during the year and they unload cattle in our barns.
10 They get their shots. They do a little training there
11 for their feeder a calf program.

12 That's really all we're doing. We're not
13 really adding any other uses than what we're already
14 doing. Thank you.

15 CHAIRMAN: Anyone else have any comments to
16 support this?

17 (NO RESPONSE)

18 CHAIRMAN: Anyone wishing to speak in
19 opposition come forward.

20 MR. SILVERT: Could you state your name,
21 please?

22 MR. SANDEFUR: Ron Sandefur.

23 (ROD SANDEFUR SWORN BY ATTORNEY.)

24 MR. SANDEFUR: I live at 4780 Winkler Road.
25 Where they're planning on building the

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1 building is directly in front of my house. There's
2 probably 120 yards different between the house. My
3 concern is are they going to have cattle animal
4 auction there. I know where they're going to store
5 them at. I get the odor from this. I also get the
6 building.

7 I've been there 20 years and now the
8 fairground is moving closer to me. I do not
9 appreciate the thought. I'm kind of surprised that
10 they're already constructing it. They've been out
11 there working on it and started in. So I feel like,
12 you know, I don't really have no say into this.

13 Mr. Peacock was real nice and sent a letter
14 about it, but we never did discuss it beforehand that
15 they're going to consider building or what it was. I
16 get it right here in the last couple of weeks. Here
17 it is right in your face. I'm just stating my
18 opposition that I really do not want this structure
19 built in front of my house.

20 CHAIRMAN: For information, when did you say
21 you moved out there?

22 MR. SANDEFUR: I'm sorry, sir, I don't hear
23 real well.

24 CHAIRMAN: When did you move to your location?

25 MR. SANDEFUR: I've lived there approximately

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1 23, 24 years.

2 CHAIRMAN: In other words, 17 years after the
3 fair was there; is that correct?

4 Thank you. Appreciate that.

5 Come forward and state your name, please, sir.

6 MR. HERMAN: My name is David Herman.

7 (DAVID HERMAN SWORN BY ATTORNEY.)

8 MR. HERMAN: I live at 4775 Winkler Road.

9 They've already started construction and it is
10 right next to my house. In all honesty, judging from
11 where they started excavating, it's probably about 40
12 yards from my kitchen window. My wife and I, we've
13 lived there for seven years. I'm extremely upset
14 about this. We had no prior notice. I saw some
15 construction metal laying out there in the spring.

16 I spoke with one of my neighbors, Don Gerbitz,
17 who is a member of the Lions Club. His best
18 understanding at that time was that it was going to be
19 a meeting hall for the 4-H.

20 I get the notice of this meeting here and a
21 week after that I get a letter from the Lions Club,
22 Mr. Peacock here. Met him for the first time this
23 evening. Seems like a very nice man. Informed me
24 that it is zoned as livestock.

25 I know that they were there before I moved

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1 there, but this livestock building wasn't there before
2 I moved there and it certainly wasn't that close to my
3 home.

4 Lions Club owns a big property there. There
5 is on the east side of their property, in my opinion,
6 on down Highway 54 there are no homes down there.
7 It's businesses. I think that would be a much better
8 location so that they're not building quite literally
9 between two houses. My house and then there's another
10 folks house that's just on the other side of this
11 property where they have been using as a parking area.

12 My wife and I put up with the dust and the
13 noise. We put up with the odor of the animals every
14 year for spring and we don't complain because they
15 were there first and that's only fair. We put up with
16 the dust and noise of the truck pulls and the
17 motorcycle raises. Now they're adding to it this
18 livestock facility right next to my home.

19 I'm very concerned with the property value of
20 my house. We just took out a \$20,000 equity loan
21 trying to cleanup my property. I'm very concerned
22 that if this facility is built next to my house what's
23 going to happen to that. Is it even going to be worth
24 me trying to continue to invest in my property now?

25 I wish the Lions Club had had the foresight to

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1 come and talk to its neighbors before they started
2 this process, but they didn't.

3 Now, my request to the Board is that you not
4 approve this request.

5 CHAIRMAN: Anyone have any comments at this
6 time?

7 MR. SILVERT: Could you state your name,
8 please?

9 MR. BALL: Manuel Ball.

10 (MANUEL BALL SWORN BY ATTORNEY.)

11 MR. BALL: I just want to clarify that the
12 OMPC office has not issued any permits with the
13 exception of a cut and fill permit. They have the
14 authority to do dirt work on the subject property, but
15 nothing else at this time.

16 MR. NOFFSINGER: Mr. Ball, who approved that
17 cut and fill permit besides you?

18 MR. BALL: I did along with the county
19 engineer.

20 MR. NOFFSINGER: The county engineer did
21 review the plans and approved that cut and fill
22 permit, and you by formality signed off?

23 MR. BALL: That is correct.

24 MR. NOFFSINGER: Thank you.

25 CHAIRMAN: Anyone else have any other comments

1 for or against?

2 MR. PEACOCK: Mike Peacock.

3 I was just going to clarify that we do have a
4 cut and fill permit. That's the only thing we've
5 started doing within the last couple of days, is
6 moving a little dirt. We had some drainage issues
7 that we knew we could work on while we were waiting
8 trying to get some things approved. We had the permit
9 to do the cut and fill.

10 As far as the location of the building, as far
11 as the Lions Club was concerned, we really didn't have
12 a really another good place to put it. We can't stick
13 it on the opposite end of the property. It doesn't
14 work with the fair if we do that. We already have
15 existing cattle barns there that will tie in and work
16 with this building here. That's the reason for that.
17 It sits in the middle of the field. It's a pretty
18 good ways from most of the surrounding boundaries.

19 In reality, nobody is going to notice hardly
20 anything different. Other than the building sitting
21 there, you're not going to notice anything different
22 than what we've been doing for years and years. Thank
23 you.

24 CHAIRMAN: Any other comments?

25 MR. SILVERT: State your name, please.

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1 MS. SANDEFUR: My name is Sandra Sandefur.

2 (SANDRA SANDEFUR SWORN BY ATTORNEY.)

3 MS. SANDEFUR: Now, he's talking about this
4 building, 120 by 120 feet right in front of my house.
5 And he thinks nobody is not going to notice it.
6 That's absurd. Yes, I'm going to notice it. In fact,
7 every time I go out my driveway, every time I look out
8 my front door, I'm going to have a 120 foot building,
9 metal building at that, in my driveway and at my
10 house. I mean it's just across the road. That's all.
11 It ain't probably 50 feet from my house. I don't
12 think anybody here would like to see 120 foot metal
13 building in their driveway, in their front porch, and
14 on their door every time they go in and out their
15 home. Nobody here would like that. Would you?
16 Somebody answer that question.

17 If this is all he's done, then I think he
18 needs to reconsider the location of this because it's
19 going to ruin our property.

20 CHAIRMAN: Any other comments?

21 (NO RESPONSE)

22 CHAIRMAN: Any board members have any
23 questions or comments of the applicant?

24 MR. DYSINGER: I have a question for the
25 Staff, Mr. Chairman.

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1 Does the proposed building site comply with
2 all minimum easement requirements, all that sort of
3 stuff, from the property line?

4 MR. NOFFSINGER: Yes, sir. Setbacks. There
5 are no variances.

6 MR. DYSINGER: Setbacks. Thank you.

7 MR. STRODE: I have a question.

8 Is this property going to be, is the use going
9 to change at all or is the amount of use, the amount
10 of animals that are put through there?

11 MR. PEACOCK: We don't foresee the amount of
12 animals changing at all. Everything that we've been
13 doing is what we're going to continue doing. The only
14 difference is we do have a partner in the construction
15 of the building, being the Daviess County Extension
16 Service, where they have had to come out before and
17 work around the weather when they do bring animals
18 out. Which it's only once or twice a year. They've
19 had to work around the weather and deal with that.
20 Now they'll be able to come in and we will be able to
21 keep it indoors.

22 Like I said, it's mostly for during the fair
23 and then if they want to do some training or
24 something, get a 4-H group together out there. When
25 they do that, they don't have 100 cows. They might

1 have 5.

2 I know it came out and it's been zoned as
3 livestock auctions and sales, that right there
4 probably scared a lot of people. The only auction
5 we'll ever have on animals is during the fair like
6 they normally do. They auction off the prize hog or
7 prize steer or something, but that's the only auctions
8 we'll have out there.

9 CHAIRMAN: Any other board members have any
10 questions of the applicant?

11 MR. REEVES: Mr. Peacock, would you be willing
12 to stipulate that as a condition of approval?

13 MR. PEACOCK: Stipulate what?

14 MR. REEVES: That you would conduct no
15 business beyond what you're currently doing out there?
16 That you would not increase the number of --

17 MR. PEACOCK: I think that's in our use
18 agreement with the OMPC. I think in the use we've
19 sent out there it pretty much describes that. I think
20 Manual should have it.

21 As far as if they would like to write
22 something in there that we won't run a commercial
23 livestock yard and have commercial auctions, we could
24 do that. I really don't want to tie myself down
25 because the extension service is not here to

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1 represents theirself. Because if they want to change
2 something and have a class out there twice a year or
3 something, I don't want to -- I can't speak for them
4 on that. I do know that the usage is basically the
5 same thing we're doing now. We just need a facility
6 to do it in.

7 MR. NOFFSINGER: Mr. Chairman, let me just
8 state that in the file the only thing I'm familiar
9 with is the applicant has stated new livestock sale
10 and auction building with existing similar uses.
11 There's no use, any other use stipulations other than
12 what's in the application that I'm aware of.

13 I will say too, and that this goes for someone
14 that speaks tonight, your word is taken under oath.
15 You will be bound as per past court cases by what you
16 say. So what you say on record is what would be
17 expected of you.

18 MR. REEVES: One additional question.

19 You may not be able to answer this, Mr.
20 Peacock. I'm not sure. Do you know if in the current
21 deed for that property if there are any restrictions
22 as to whether or not it can be sold again? Perhaps
23 somebody might have commercial operation there? How
24 did you acquire the property? Was it a gift from the
25 Lions Club with restrictions it can't be resold?

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1 MR. PEACOCK: I don't think there's any
2 restrictions on it. Can't 100 percent answer that,
3 but I'm pretty sure there's no restrictions on that,
4 but the piece of property the way it lays in the Lions
5 Club it's a small strip that goes right down the
6 middle. It's not something that we would be able to
7 sell separately from the rest of it.

8 MR. SILVERT: Mr. Reeves, if I may. There's a
9 letter from the firm of Johnson & Presser I believe in
10 the file that says that there are no restrictions
11 preventing this application.

12 MR. BALL: The letter or statement that Mr.
13 Peacock is referring to is a statement that he sent to
14 our office to determine what he was actually doing on
15 the property. I don't have that with me, but we
16 looked at two different things. We looked at
17 agri-tourism and also livestock sales and auction.
18 Agri-tourism really fit the majority of it with the
19 exception of the activities or what was actually being
20 grown on this farm. The cattle was not being housed
21 on the farm on a regular basis. Therefore it did not
22 meet the stipulation in the agri-tourism.

23 MR. REEVES: Sir, my question was: Was there
24 anything in the current deed that would prevent them
25 from selling it to a commercial operation? That was

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1 the question I had. Down the road, which might choose
2 to operate daily there. Evidently there isn't, as far
3 as we know.

4 CHAIRMAN: Any other comments or questions at
5 this time?

6 Come forward and state your name, please.

7 MR. HERMAN: My name is still David Herman.

8 Just last fall our PVA came back and we've had
9 an increase in property value. Again, I just wanted
10 to express our concern that if this is built next to
11 my house, the property line and their setoff is a
12 short bow shot from my kitchen window. What I was
13 going to do my property value, I'm very concerned with
14 that. We bought the house as an investment seven
15 years ago. Our area has grown. We've have three new
16 houses built on Winkler Road and King Road in the last
17 two years. They built three last spring. Our area is
18 growing with some nice homes out there.

19 The Lions Club has been good neighbors except
20 for right now we feel like they're not being very good
21 neighbors. We're just very concerned with how this is
22 going to affect the growth of our area and people
23 wanting to move into our area and build homes on that
24 street. We've got a nice quiet road. I just really
25 ask this board to please deny this request.

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1 CHAIRMAN: Any other comments or questions?

2 MR. REEVES: One more.

3 If the extension office was not interested in
4 this project, would the Lions Club be undertaking it
5 on their own?

6 MR. PEACOCK: We would.

7 MS. MASON: I have a question, Mr. Peacock.

8 I assume that you all have looked at all other
9 areas of the property that you own, as far as putting
10 this building?

11 MR. PEACOCK: Yes, ma'am. We looked -- when
12 we were trying to figure out what to do, we really
13 don't have any other place that work with what we're
14 presently doing. We would have to tear down all of
15 our existing livestock buildings and move everything
16 to the other end of the property and still wouldn't
17 work with the way the fair runs. We would have to
18 take up parking or something. It really, it just
19 wouldn't work for us.

20 MR. HERMAN: Mr. Chairman, may I.

21 They're taking up parking right now. The
22 place where they're building the building they use
23 every year is probably the busiest parking lot they
24 have during the fair. I know that because I live
25 there. I live right next to them. That area where

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1 they're building right now is Gate Number 2 and on up
2 from me is Gate Number 3 to the Lions Club. That
3 field they fill up with parking.

4 Again, with all due respect to Mr. Peacock,
5 they are taking up parking right now. So his argument
6 that they didn't want to lose parking doesn't really
7 fly.

8 MR. PEACOCK: I'll speak on that, please.

9 He's right. We are taking up a little of our
10 parking, but the parking area, the field that we are
11 in is our smallest parking area. I'm not sure, he
12 probably hasn't been around to the other side of the
13 property. Gate Number 1 is our main parking. Ninety
14 percent of the cars park there. This particular area
15 that this building was is mostly for vendors and
16 livestock people. That's where they came in and
17 parked.

18 The only parking we're losing is the footprint
19 of the building. When we do the dirt work and redo
20 our drainage according to the plan we submitted to the
21 county, it actually levels off some more area. By the
22 time we're done we will not lose any parking.

23 CHAIRMAN: Thank you.

24 Any other questions from the board?

25 (NO RESPONSE)

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1 CHAIRMAN: Staff have anything else to add?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Anyone else have any other
4 comments?

5 (NO RESPONSE)

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

8 MR. DYSINGER: Mr. Chairman, given the
9 findings based on testimony and the application that
10 the addition will improve the safety of what's already
11 going on in the area, the proposed use is compatible
12 with the existing uses, and with fairgrounds in
13 general. Further, that the requirements for bringing,
14 for making the addition is bringing the property into
15 compliance, I move that we grant the conditional use
16 permit.

17 CHAIRMAN: Is there a second?

18 MR. STRODE: Second.

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

22 (NO RESPONSE)

23 CHAIRMAN: Staff have any other comments?

24 MR. NOFFSINGER: No, sir.

25 CHAIRMAN: Hearing none all in favor raise

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1 your right hand.

2 (BOARD MEMBERS JERRY YEISER, SEAN DYSINGER,
3 WARD PEDLEY, FRED REEVES AND JASON STRODE RESPONDED
4 AYE.)

5 CHAIRMAN: All opposed.

6 (BOARD MEMBER RUTH ANN MASON RESPONDED NAY.)

7 CHAIRMAN: Motion carries five to one.

8 ITEM 4

9 9929 US Highway 60 West, zoned R-1A

10 Consider a request for a Conditional Use Permit in
11 order to install a Class 2, 14-foot by 70-foot
12 manufactured home in an R-1A zone

13 Reference: Zoning Ordinance, Article 8,
14 Section 8.2A10B

15 Applicant: Leslie McLimore

16 ZONING HISTORY

17 The subject property is currently zoned R-1A
18 Single Family Residential. OMPC records indicate
19 there have been no Zoning Map Amendments for the
20 subject property. A minor subdivision plat was
21 approved for the subject property November 15, 2012.

22 There appears to be other single wide (class
23 2) manufactured homes in the area.

24 The applicant is asking that the concrete
25 sidewalk requirement be waived and that the paved
26 parking requirement be waived. Based on the aerial
27 photography of the area from March 2012, there appear
28 to be no sidewalks in the area. This is a rural area

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1 where sidewalks are not typical. There is a mix of
2 paved and gravel driveways and parking areas along US
3 Highway 60 West in the vicinity of the subject
4 property.

5 LAND USES IN SURROUNDING AREA

6 The properties to the north, south and west
7 are zoned R-1A Single Family Residential. The
8 property to the east is zoned R-1A Single Family
9 Residential and B-4 General Business.

10 ZONING ORDINANCE REQUIREMENTS

11 The class-2 manufactured home site standards
12 based on the requirements of the Zoning Ordinance are
13 as follows:

- 14 1. A concrete or asphalt parking pad to
15 accommodate two 9'x18' spaces is required unless
16 waived by the OMBA.
- 17 2. A minimum 10'x10' deck or patio is
18 required.
- 19 3. A concrete sidewalk is required, but may
20 be waived along rural roads (w/o curbs).
- 21 4. The driveway apron shall not exceed 40% of
22 the lot width.
- 23 5. The property is required to have at least
24 three trees.
- 25 6. The manufactured home shall be permanently

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1 installed on a permanent foundation. A poured
2 concrete or masonry block skirting wall shall be
3 constructed beneath and along the entire perimeter of
4 the manufactured home.

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

7 8. The manufactured home shall be permanently
8 connected to an approved water and sewer system
9 when available.

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

12 CHAIRMAN: Thank you.

13 Staff have any comments at this time?

14 MR. NOFFSINGER: No, sir.

15 CHAIRMAN: Is the applicant here and have any
16 comments you would like to add at this time, please?

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

19 MR. McLIMORE: Leslie McLimore.

20 (LESLIE McLIMORE SWORN BY ATTORNEY.)

21 MR. McLIMORE: Just wanting to move a resident
22 in there. There's existing, as she stated, there's an
23 existing mobile homes. Matter of fact, right
24 next-door. Just trying to add to the community.
25 That's all I have.

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1 CHAIRMAN: Anyone else speaking for or against
2 this item?

3 (NO RESPONSE)

4 CHAIRMAN: Board have any comments or
5 questions at this time?

6 (NO RESPONSE)

7 CHAIRMAN: Staff have any other comments?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: Hearing none entertain a motion to
10 dispose of the item, please.

11 MS. MASON: Mr. Chairman, I make a motion to
12 approve with the findings of fact that it's compatible
13 with the neighborhood as there's other single-wide
14 manufactured homes in the area, and there's no
15 opposition. Then I move also to waive, that the
16 sidewalk requirement be waived as it is in a rural
17 area and there's not sidewalks. Also requirement for
18 paved parking be waived as there is mix of pavement
19 and gravel in the area.

20 CHAIRMAN: Is there a second?

21 MR. PEDLEY: Second.

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

24 (NO RESPONSE)

25 CHAIRMAN: Staff have any other comments?

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1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Hearing none all in favor raise
3 your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 Next item, please.

7 -----

8 VARIANCE

9 ITEM 5

10 3601 Jefferson Street, zoned R-1B

11 Consider a request for a Variance in order to reduce
12 the side street yard building setback line from 25
13 feet from the property line to 20 feet from the
14 property line along the north side of the proposed new
15 section of Lafayette Drive for a distance of 185 feet
16 from the intersection with Jefferson Street and to
17 reduce the side street yard building setback line from
18 25 feet from the property line to 20 feet from the
19 property line for the rear 34 square feet of the first
20 building on the south side of the proposed new section
21 of Lafayette Drive as shown on the site plan
22 submitted.

23 Reference: Zoning Ordinance, Article 8,
24 Section 8.5.6(c)

25 Applicant: J.E.D. Rentals Family Partnership, LTD

18

19 MS. EVANS: The applicant is proposing to
20 construct a Planned Residential Development on a
21 vacant piece of land. Typically, developers of a
22 planned residential development would have the
23 flexibility to set reduced setbacks along streets
24 within the development. However, in this case the
25 prescribed 20 foot setback is required on this planned

1 residential development because the public street has
2 origination and destination points beyond the project
3 area boundaries (Section 10.431). In fill development
4 where services exist or are easily extended is
5 encouraged by the Goals and Objectives of the
6 Comprehensive Plan, as is the inclusion of a variety
7 of housing types suitable to a wide range of people
8 within the same neighborhood.

9 The Planning Staff and the City Engineer agree
10 on the importance of the continuance of the public
11 street into this area and the connectivity to the
12 surrounding developed residential area.

13 In an effort to align the new portion of
14 Lafayette Drive with the existing Lafayette Drive as
15 required by the Planning Staff and the City Engineers
16 office, and still maximize the use of the property,
17 the applicant is seeking a Variance for the rear
18 corner of the building on the south side of the
19 proposed extension and the first two buildings on the
20 north side of the proposed extension.

21 In aligning Lafayette Drive, the applicant
22 loses some of the lot width on the north leaving them
23 with a narrower area and not enough room to construct
24 the desired size duplexes.

25 In choosing to take advantage of a Planned

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1 Residential Development, the applicant will be
2 required to submit a Development Plan for review and
3 approval before construction can begin. Granting this
4 Variance will not adversely affect the public health,
5 safety or welfare because only small portions of the
6 buildings will encroach into the prescribed setback.
7 The development enhances the public welfare by
8 developing in consistency with the Goals and
9 Objectives of the Comprehensive Plan. It will not
10 alter the essential character of the general vicinity,
11 currently this is a vacant lot and the proposed
12 duplexes will infill the area with a similar type of
13 development as occurred on the adjacent property at
14 Mallard Creek. It will not allow an unreasonable
15 circumvention of the requirements of the zoning
16 regulations because the proposed street will be
17 aligned as required by the City Engineer and Planning
18 Staff and only small portions of the buildings will
19 encroach into the prescribed setback.

20 Planning Staff recommends approval with the
21 following Conditions:

- 22 1. Approval of a Final Development Plan.
- 23 2. Obtain all necessary building, electrical
24 and mechanical permits, inspections and certificates
25 of occupancy and compliance.

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1 We would like to enter the Staff Report into
2 the record as Exhibit C.

3 CHAIRMAN: Been any comments or questions in
4 the office?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: Is the applicant here and do you
7 have any comments at this time?

8 MR. DAVIS: I'm Paul Davis, representative of
9 J.E.D. Rentals, and I have no comments.

10 CHAIRMAN: Anyone swishing to speak for or
11 against on this item?

12 State your name, please, sir.

13 MR. MARTIN: My name is Steve Martin.

14 (STEVE MARTIN SWORN BY ATTORNEY.)

15 MR. MARTIN: I live at 306 Stockton. Been
16 there about three months. Kind of jumped into the
17 whole situation with the development of this property
18 behind us, that's directly behind our backyard.

19 I guess essentially I'd just like to state
20 that, if I understand correctly, we're in a portion in
21 which this will be pushed closer to our backyard.
22 Being these are rental properties ideally my wife and
23 I would rather not have them any closer than
24 necessary. I understand there's rules to abide, but
25 there's also the possibility of changing the size of

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1 the structure in order to not go into the easement or
2 the setback.

3 If they are allowed a variance, we would
4 request that they possibly put up a fence or a
5 landscape buffer, one or the other, to comply with
6 some of our privacy. We're one of the houses on the
7 street that's more than one story and we're going to
8 be looking right into the back patio doors of
9 somebody's rental property. I would rather not have
10 that.

11 CHAIRMAN: Thank you.

12 Any other comments or questions?

13 MR. SILVERT: I need to swear you in now.

14 (PAUL DAVIS SWORN BY ATTORNEY.)

15 MR. DAVIS: What address did you say you live
16 at on Stockton, sir?

17 MR. MARTIN: 306.

18 MR. DAVIS: How many houses is that down
19 Stockton?

20 MR. MARTIN: Before the first cutoff street of
21 Jefferson, it's the fourth house.

22 MR. DAVIS: Sir, this variance that we're
23 asking for, it only is the first piece of property
24 coming off of Jefferson. So it won't go down. So
25 none of the duplexes would be any closer to your

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1 house. They would all still have the 25-foot buffer
2 there, plus there will be some backyard with them. I
3 don't know if you're familiar with Mallard Creek, but
4 we want to keep everything just like Mallard Creek.
5 We want to make it a nice -- you know, I don't know if
6 all of you are aware of Mallard Creek, but that's what
7 we're trying to continue on with this piece of
8 project. If we don't keep it up, it won't rent. Also
9 we're bringing it into the city. See, that piece of
10 property back there now city police, city fire
11 department, none of them people can patrol that area.

12 What we're trying to do is help the area, you
13 know. It will help your value of your property, you
14 know, because we'll keep them up.

15 Are there any questions?

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

18 (NO RESPONSE)

19 CHAIRMAN: Staff have any comments at this
20 time?

21 MR. NOFFSINGER: No, sir.

22 CHAIRMAN: Anyone wishing to speak for or
23 against this item?

24 (NO RESPONSE)

25 CHAIRMAN: Hearing none I'll entertain a
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1 motion to dispose of the item, please.

2 MR. PEDLEY: Mr. Chairman, I make a motion for
3 approval based on findings it will not adversely
4 affect the public health, safety or welfare because
5 only small portions of each building will encroach
6 into the prescribed setback and the development meets
7 the Goals and Objectives for residential development.
8 It will not alter the essential character of the
9 general vicinity because currently this is a vacant
10 lot and the proposed duplexes will infill the area
11 with construction similar to that on adjacent property
12 of Mallard Creek. It will not cause a hazard or a
13 nuisance to the public because the proposed duplexes
14 will still be located 20 feet from the property line
15 and the transportation system in the area will connect
16 the property to the surrounding residentially
17 developed property providing safe vehicular and
18 pedestrian access. It will not allow an unreasonable
19 circumvention of the requirements of the zoning
20 regulations because the proposed street will be
21 aligned as required by the City Engineer and Planning
22 Staff and only a small portions of the buildings will
23 encroach into the prescribed setback.

24 With the following Conditions:

25 1. Approval of a Final Development Plan.

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1 2. Obtain all necessary building, electrical
2 and mechanical permits, inspections and certificates
3 of occupancy and compliance.

4 CHAIRMAN: Thank you. Could I have a second,
5 please?

6 MS. MASON: Second.

7 CHAIRMAN: A motion has been made and a
8 second. Any board members have any other comments or
9 questions at this time?

10 (NO RESPONSE)

11 CHAIRMAN: Staff have anything else?

12 MR. NOFFSINGER: No.

13 Chairman: Hearing none all in favor raise
14 your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 Next item, please.

18 ITEM 6

19 200 East 18th Street, zoned B-4 (Postponed from the
December 6, 2012 meeting)

20 Consider a request for a Variance in order to
eliminate the roadway buffer along East 18th Street
21 and to eliminate the roadway buffer along JR Miller
Boulevard for a distance of approximately 250 feet
22 from the intersection of JR Miller Boulevard and East
18th Street south to the existing access point along
23 JR Miller Boulevard.

Reference: Zoning Ordinance, Article 13,
24 Section 13.6221

Applicant: MW Parrish, LLC

25

1 MR. NOFFSINGER: Mr. Chairman, since the last
2 meeting, the Planning Staff as well as the Engineering
3 Staff and the applicant did get together and we came
4 up with an agreement that we think satisfies not only
5 the applicant but the public as well. Melissa will
6 read the amended Staff Report and recommendation.

7 MS. EVANS: Since the December OMBA meeting,
8 meetings between the City Engineer and the Applicant's
9 Engineer and the OMPC Staff have taken place and an
10 agreement has been reached as Mr. Noffsinger stated.

11 There is an e-mail in your packet and in the
12 file from the applicant requesting that the Variance
13 along East 18th Street be withdrawn.

14 The City Engineer advised the applicant that
15 even though they would not support the elimination of
16 the roadway buffer along East 18th Street, they would
17 not require the applicant to remove anything that
18 exists in that buffer at this time. Therefore, we all
19 agreed that the Variance didn't need to be applied for
20 and the applicant has requested that that be
21 withdrawn.

22 In regards to JR Miller Boulevard, the City
23 Engineer would recommend that the roadway buffer along
24 JR Miller Boulevard be reduced by only 6 feet. A
25 reduction of only 6 feet would leave the roadway

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1 buffer in this area at 44 feet from the centerline of
2 the road.

3 The applicant has reconfigured the display
4 area for vehicle sales along JR Miler Boulevard to
5 accommodate this recommendation by the City Engineer
6 while still meeting the landscaping requirements as
7 shown on the site plan. If the roadway buffer is
8 reduced to 44 feet, the Staff would recommend that the
9 reduction be dedicated as right-of-way. Reducing the
10 roadway buffer to 44 feet from the centerline of the
11 road and dedicating the roadway buffer as right-of-way
12 is consistent with other Variances that have been
13 approved along JR Miller Boulevard in the past.

14 The granting of this variance would not alter
15 the essential character of the general vicinity
16 because other roadway buffers have been approved for
17 JR Miller Boulevard consistent with this request. The
18 variance will not affect the public health, safety or
19 welfare because with a 44 foot roadway buffer there
20 will be adequate room for roadway improvements in the
21 future. It will not cause a hazard or nuisance to the
22 public because a 41 foot right-of-way already exists
23 in this area. It will not allow an unreasonable
24 circumvention of the requirements of the zoning
25 regulations because similar Variances have been

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1 approved along JR Miller Boulevard in the past.

2 Staff would recommend approval with the
3 following Conditions:

4 1. Dedication of the roadway buffer as
5 right-of-way.

6 2. Obtain all necessary building, electrical
7 and mechanical permits, inspections and certificates
8 of occupancy and compliance.

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

11 CHAIRMAN: Does the applicant have any
12 comments at this time?

13 MR. McDANIEL: No, I don't. I'm Ryan
14 McDaniel.

15 CHAIRMAN: Does anyone have any other comments
16 for or against?

17 (NO RESPONSE)

18 CHAIRMAN: Board members have any questions of
19 the applicant?

20 (NO RESPONSE)

21 CHAIRMAN: Staff have anything else to add?

22 MR. NOFFSINGER: No, sir.

23 CHAIRMAN: Entertain a motion to dispose of
24 the item, please, sir.

25 MR. REEVES: Mr. Chairman, I move we approve

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1 this Variance based on Finding of Fact 1 through 4 by
2 the Staff and with the two conditions that are also
3 listed for approval.

4 CHAIRMAN: Is there a second?

5 MR. STRODE: Second.

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

9 (NO RESPONSE)

10 CHAIRMAN: Staff have anything else?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: The applicant have anything else to
13 add?

14 MR. McDANIEL: No, sir.

15 CHAIRMAN: Hearing none all in favor raise
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries.

19 Next item, please.

20 ITEM 7

21 9661 Highway 56, zoned B-4

22 Consider a request for a Variance in order to
23 eliminate 3 perimeter trees along Highway 56 and to
24 reduce approximately 300 linear feet of the required 6
25 foot high screening to 2 foot high by utilizing an
existing 4 to 6 foot high berm and an existing
unscreened 4 foot chain link fence along the northern
property boundary between 9661 and 9701 Highway 56.

Reference: Zoning Ordinance, Article 17,
Section 17.3113, 17.3114

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1 Applicant: West Louisville Preservation Hall, LLC
2 MS. EVANS: The applicant is redeveloping a
3 vacant school building to include many new uses, such
4 as a community center, fitness center, farmers market
5 and various vendor spaces. In redeveloping this
6 property the applicant is not only revitalizing a
7 vacant old school building, but also bringing the
8 property into compliance with the zoning regulations
9 and current building codes as shown on a Development
10 Plan that has been approved. The development plan
11 will need to be updated if the requested variances
12 receive approval.

13 The applicant is requesting that 3 perimeter
14 trees along Highway 56 for vehicular use area
15 screening be eliminated. The applicant states that
16 the trees would block the view of the neighboring
17 property owners when entering and existing their
18 property onto Highway 56. The front of the property
19 is elevated from the road; if the elevation change
20 does not block the view, then the required trees
21 should not either.

22 Along the southern property line between 9661
23 and 9701 Highway 56 there is a berm, creating an
24 elevation change, a chain link fence, and vegetation
25 along the chain link fence that provides screening

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1 between the properties. According to the applicant,
2 the owner of the property at 9701 Highway 56, Maurice
3 Drury, is in opposition to solid screening along the
4 common boundary. The applicant should provide
5 evidence to the OMBA documenting the adjoining
6 property owner does not want the additional screening
7 in place. There is a stockade fence along a portion
8 of this common boundary which screens the residential
9 structure from the neighboring property.

10 Granting the Variance to eliminate the three
11 perimeter trees along Highway 56 will adversely affect
12 the public health, safety or welfare by not providing
13 landscaping, as is consistently required along public
14 right-of-way. It will alter the essential character
15 of the general vicinity because the property has been
16 rezoned to general business and is redeveloping and
17 should meet the requirements of the zoning ordinance.
18 It will not cause a hazard or a nuisance to the
19 public. It will allow an unreasonable circumvention
20 of the requirements of the zoning regulations because
21 installation of perimeter trees is a requirement of
22 redeveloping property.

23 We would recommend denial of the Variance
24 request to eliminate the three trees along Highway 56.

25 Granting the Variance to reduce approximately

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1 lately 300 linear feet of required 6 foot high
2 screening to 2 foot high by utilizing an existing 4 to
3 6 foot high berm and an existing unscreened 4 foot
4 high chain link fence along the northern property
5 boundary between 9661 and 9701 Highway 56 will not
6 adversely affect the public health, safety or welfare
7 as the applicant states that the adjoining property
8 owner does not want additional screening; it will not
9 alter the essential character of the general vicinity
10 because the character of the neighborhood will be
11 unchanged; it will not cause a hazard or a nuisance to
12 the public because according to the applicant the
13 adjoining property owner does not want additional
14 screening; and it will not allow an unreasonable
15 circumvention of the requirements of the zoning
16 regulations because, again, the adjoining property
17 does not want the application of this requirement.

18 Staff would recommend approval of the Variance
19 to grant the reduction in the 300 linear feet of
20 screening, if the applicant can provide documentation
21 that the adjoining property owner does not want the
22 additional screening with the follow Condition:

- 23 1. Approval of an Amended Final Development
24 Plan.
- 25 2. Obtain all necessary building, electrical

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1 and mechanical permits, inspections and certificates
2 of occupancy and compliance.

3 We would like to enter the Staff Report into
4 the record as Exhibit E.

5 CHAIRMAN: Thank you.

6 Have we had any comments or questions in the
7 office?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: Is the applicant here and have any
10 comments at this time?

11 MS. HIGDON: We are here. I have evidence for
12 you.

13 MR. SILVERT: Could you state your name first,
14 please.

15 MS. HIGDON: Jennifer Higdon.

16 (JENNIFER HIGDON SWORN BY ATTORNEY.)

17 MS. HIGDON: I do have evidence. I have a
18 letter from Maurice Drury stating that he did not want
19 the fencing. Then I also have a letter from the
20 next-door neighbors, Keith and Chris Weise, saying
21 that they believe that adding the three trees to the
22 front of the property would be a safety hazard because
23 when there have been events at the school in the past
24 the way the property is elevated and the way that you
25 come out of that parking lot it's really hard to see

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1 especially at night. You cannot see headlights as
2 they come around that corner. They believe that if
3 those three trees are added, especially at night, it
4 would prevent being able to see the light as they come
5 around that corner.

6 We have no problem financially with putting
7 the three trees in front of the school. That is not a
8 concern of ours. We do believe that it will make
9 exiting the property hazardous for people because the
10 cars go by pretty quickly through there.

11 Is there anything else I should add?

12 CHAIRMAN: You want to hand those in, please.

13 (MS. HIGDON HANDS IN EVIDENCE OF LETTERS.)

14 CHAIRMAN: Any board members have any
15 questions of her right now?

16 (NO RESPONSE)

17 MR. SILVERT: State your name, please.

18 MR. RINEY: Jim Riney.

19 (JIM RINEY SWORN BY ATTORNEY.)

20 MR. RINEY: Regarding the trees along the
21 frontage we brought some photos.

22 From an engineering perspective, it will be
23 detriment to the public safety. I have some photos
24 that kind of starts you as you're coming from Sorgho,
25 from the east progressing west into West Louisville on

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1 past the site. As the Staff did acknowledge, there is
2 an elevated berm there and that is part of the
3 problem. That berm when you come along Highway 56
4 headed west toward the downtown West Louisville, if
5 there is such a thing, you lose the site of the
6 intersection where the driveway comes out from the
7 school property and the adjoining property to the west
8 which is the residence and the home of the Weise
9 family.

10 There's another property next to that, Mr.
11 Drury's property, that also has driveway. So there is
12 public safety issues.

13 I will I guess start these photos, start down
14 here with Mr. Yeiser.

15 It is a public safety issue. The other photos
16 here of that screening along the back property line.
17 I don't think that's an issue right now so I won't
18 bother you with those.

19 The elevation does come into play seriously in
20 that area for site distance. Grew up in the
21 community. Am familiar with it. As a matter of fact,
22 diagonally across the intersection there is where
23 James Roberts spent his first few days as a child. So
24 I am intimately familiar.

25 I know that intersection of Horrell Road you

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1 all may be interested. From where I first took a
2 picture there there's a low swag. Where there's a
3 culvert crossing under 56. The elevation change from
4 there up to Cecil Road is approximately three feet up
5 to the intersection where the school driveway, the
6 eastern driveway comes in is about 7 feet, but when
7 you get up to Horrell Road, which is also
8 coincidentally the intersection where the front
9 driveway comes out of the school property, you're
10 talking about a 12 foot differential. That elevation
11 compounded with that horizontal curve makes sight
12 distance horrible. It is not safe.

13 CHAIRMAN: Anybody else have any comments?

14 MR. SILVERT: Would you state your name,
15 please?

16 MR. WEISE: Keith Weise.

17 (KEITH WEISE SWORN BY ATTORNEY.)

18 MR. WEISE: I would like to confirm his
19 findings. Since the school has moved to their new
20 location, the speeds have increased through our area
21 because of less sheriffs and stuff out there. By
22 adding those I'm afraid that we couldn't see to get,
23 like she said, the vehicles coming around the curve in
24 front of Glen's home is where we can see traffic
25 coming. We don't want to block that. Right now it's

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1 a crap shoot getting out on the road. If we don't go
2 down in my father-in-law's driveway and go out, it's a
3 pretty good risk.

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

6 (NO RESPONSE)

7 CHAIRMAN: Staff have anything else to add?

8 MR. NOFFSINGER: I do have a question.

9 That would be: Can the three trees be placed
10 in the landscape area on the other side of that berm
11 from the driveway? Is there another location on the
12 property that the trees can be planted?

13 MR. RINEY: On the property, yes. I'm not
14 sure it accomplishes the intent. Are you speaking
15 about that median in the parking lot?

16 MR. NOFFSINGER: Well, you've got the berm and
17 then you have a drive. Then it looks like you have
18 some landscaping and then the parking area.

19 MR. RINEY: If you wouldn't mind, can we look
20 at the plan and you point for me, Gary? That might be
21 better.

22 (MR. RINEY AND MR. NOFFSINGER CONFER.)

23 MR. RINEY: Mr. Noffsinger is speaking of the
24 interior landscaping. We actually had to add one more
25 interior landscaping tree in there.

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1 You were speaking of up closer to the
2 building, Mr. Noffsinger. There is a sidewalk in
3 there that they use to accommodate the pedestrians.

4 MR. NOFFSINGER: Will the existing tree remain
5 in that berm?

6 MS. HIGDON: The large one, the large oak?

7 MR. RINEY: Oh, yes.

8 MR. NOFFSINGER: So there's one tree in that
9 area now. As you add three more trees, that's going
10 to increase the safety factor is what you're saying?

11 MR. RINEY: That's my opinion, yes.

12 MR. NOFFSINGER: What about the tree that's
13 already there?

14 MR. RINEY: It's there.

15 MS. HIGDON: It's almost dead. It's got
16 mistletoe in it. That means it's dying. Lots of it.

17 MR. RINEY: It's on the eastern side of the
18 curb where you approach it. So it is from a line of
19 sight, Mr. Noffsinger, closer to the school building
20 which takes a little bit more out of play. Not
21 totally. But the other trees as they're placed, they
22 move in a direction away from the school building
23 toward the highway. So they come into play. Just
24 like that one photo show, that's a mature maple that's
25 next-door on the Weise property. When those trees get

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1 sizeable you're going to have three of them stacked or
2 the foliage, and you know what happens. I mean that's
3 what happened here at City Hall. They took down trees
4 because of the foliage and so forth.

5 MR. NOFFSINGER: Have you considered taking
6 down the berm, if that's a safety issue? Have you
7 considered taking out that berm?

8 MR. RINEY: We've talked about that. There
9 are utilities in there that would be expensive to
10 remove. Utilities on both sides of the road, but
11 there are utilities in that berm.

12 CHAIRMAN: Board members have any questions at
13 this time?

14 State your name, please.

15 MR. WARREN: Marty Warren.

16 (MARTY WARREN SWORN BY ATTORNEY.)

17 MR. WARREN: Fourteen years and this is the
18 first time I've ever sat through a meeting on this
19 side.

20 I live in St. Joe. Not West Louisville. All
21 of my children went to school at West Louisville
22 Elementary.

23 I can tell you from being a past board member
24 and a community member, putting those trees in front
25 of that school would be the most dangerous thing that

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1 you can do. Pulling out of that driveway, picking up
2 your children in the broad daylight, if you can't see
3 where Mr. Weise here said, Glen's corner, if you can't
4 see there, you're pulling out in a blind -- taking
5 down the berm would be fine. It would be great, but
6 if they took the berm down you'd want them to put
7 three trees there. The trees cannot be put there.

8 In fact, when I was a child, there was a tree
9 there on the corner, and praise God it blew down.
10 There have been a number of wrecks on that corner.
11 It's just not a good idea. It's just not. It is a
12 huge public health and safety issue putting those
13 trees there.

14 Unfortunately, I was even thinking about where
15 else can we put the trees? Well, it's either blacktop
16 where it used to be parking. I don't know. I don't
17 think there's a good place. There's sidewalks.
18 There's blacktop.

19 MR. RINEY: I understand.

20 CHAIRMAN: Any other comments or questions?

21 MR. RINEY: Let me make one other question.

22 It is a safety issue. The trees I think if
23 there were an accident out there the trees, any
24 attorney worth his salt would find that in my opinion,
25 because I've dealt with them before, that the

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1 additional tree, that foliage and so forth would be a
2 contributing factor for that sight distance because it
3 is so bad. It is more than an intersection of the
4 school driveway. It's that Horrell Road driveway and
5 how it comes up. Horrell Road drops off rapidly so
6 your line of sight is compromised again from a
7 different dimension. Like I say, it could become a
8 real legal issue if you require those to be there.
9 You may be behind the 8 Ball.

10 MR. NOFFSINGER: Of course, Staff's concern
11 now is the berm. If the trees are unsafe and it's
12 unsafe here today in the daylight with the berm and
13 it's been brought to our attention, what can be done
14 with that berm? What should be done with that berm to
15 make it safer? That's our issue.

16 Staff, we have a hard time understanding why
17 the additional trees are going to be become an issue.
18 Is it the trees or is it the berm that's really the
19 issue. By just granting the variance on the trees,
20 doesn't make the safety issue go away. Certainly
21 we're aware, and you've made us aware of the safety
22 issue. What needs to be done to make this site safe,
23 if it's unsafe now?

24 MS. HIGDON: Jennifer Higdon.

25 I think part of it is just the fact that it
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1 comes around a curve. When you are approach West
2 Louisville school, you actually come around a curve
3 right before you get to the driveway entrance. So I
4 think that's part of it as well. By adding those
5 three trees in that curve in combination with the
6 berm, I don't think it is necessarily the fact that
7 there's a little bit of an elevation there, but I
8 think it's a combination of the both that would make
9 it unsafe.

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

12 MS. COOMES: Debra Coomes.

13 (DEBRA COOMES SWORN BY ATTORNEY.)

14 MS. COOMES: The tree that is there currently
15 the foliage is up really high. So that's one of the
16 reason that that tree is not affecting the vision as
17 much, but if you put new young trees in there, you
18 know how the leaves and the limbs will be lower.
19 That's going to make the vision a lot worse. They're
20 talking about that.

21 If you take down that bank a whole lot, you're
22 also going to affect the looks of that because the
23 driveway runs right around the top of that berm.

24 If you are concerned about the value and the
25 look of that property and what we're doing for the

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1 neighbors, why we need three trees, we are going to
2 really update that property and plant lots of bushes,
3 roses bushes. You name it. We're going to fence the
4 whole outside of that building and make it look nice.

5 The three trees will not affect the look of
6 that building and that property that we're going to
7 put in front. So if anything keeping that open will
8 keep that property much safer for the public.

9 There has been a school there for a long time.
10 Once there is a business in that area, they will slow
11 down again. Right now there's not anything gone on
12 there for a year. We'll get signs back up again to
13 make sure that they're obeying the speed limit through
14 there. People don't realize that once we get the
15 business going it will slow down again.

16 CHAIRMAN: Thank you.

17 Any other comments or questions?

18 (NO RESPONSE)

19 CHAIRMAN: Entertain a motion to dispose of
20 the item, please?

21 MR. PEDLEY: Mr. Chairman, I'm going to make a
22 motion in granting the variance to reduce the
23 approximately 300 linear feet of the required 6 foot
24 high screening to 2 foot high by utilizing an existing
25 4 to 6 foot high berm and an existing unscreened 4

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1 foot high chain link fence along the northern property
2 boundary between 9661 and 9701 Highway 56. Based on
3 that, that school has been there many, many years. I
4 went to school there over 50 years ago. It's probably
5 the same situation. It actually enhances and improves
6 the public health, safety or welfare of that community
7 and the people going in and out of that school,
8 picking up the kids, dropping off or whatever. With
9 Staff's findings 1, 2, 3 and 4. With the condition
10 the applicant can provide documentation that the
11 adjoining property owner does not want additional
12 screening. And with the Condition of an approval of a
13 Final Development Plan, and obtain all necessary
14 building, electrical and mechanical permits,
15 inspections and certificates of occupancy and
16 compliance.

17 CHAIRMAN: Thank you.

18 Is there a second?

19 MR. DYSINGER: Second.

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

23 MR. REEVES: Clarification. This still has
24 not yet deal with the trees and the berm, right? This
25 is just the fence?

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1 MR. PEDLEY: It eliminates the trees.

2 MR. REEVES: I didn't think it implied it
3 eliminated the trees.

4 MR. PEDLEY: The one I read in, to reduce
5 approximately 300 linear feet of the required 6 foot
6 high screening to 2 foot high by utilizing an existing
7 4 to 6 foot high berm and an existing unscreened 4
8 foot high chain link fence along the northern property
9 boundary between 9661 and 9701. They asked to
10 eliminate the trees. In order to eliminate the three
11 perimeter trees along Highway 56, that's in their
12 requested variance.

13 MS. MASON: So you're also making a motion to
14 eliminate the three perimeter trees along Highway 56?

15 MR. BALL: That's what the Variance is for.

16 MS. MASON: Okay. I didn't understand that.

17 MR. PEDLEY: I think it actually improves the
18 safety.

19 CHAIRMAN: Is there a second?

20 MR. REEVES: I'll second it.

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

24 (NO RESPONSE)

25 CHAIRMAN: Staff have anything else?

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1 MR. NOFFSINGER: No, sir.
2 CHAIRMAN: Hearing none all in favor raise
3 your right hand.
4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
5 CHAIRMAN: Motion carries.
6 Before I entertain one other motion, I want to
7 welcome the new board members to the Board of
8 Adjustment. Look forward to working with you.
9 Marty, we enjoyed working with you and good
10 luck.
11 With that I'll entertain a motion.
12 MR. PEDLEY: Move to adjourn.
13 MS. MASON: Second.
14 CHAIRMAN: A motion has been made and a
15 second. All in favor raise your right hand.
16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
17 CHAIRMAN: We are adjourned.

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1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 55 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 8th day of January, 2013.

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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