

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 JANUARY 4, 2018

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 January 4, 2018, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

- 8 MEMBERS PRESENT: Judy Dixon, Chairman
- 9 Robynn Clark, Vice Chairman
- 10 Ruth Ann Mason, Secretary
- 11 Brian Howard, Director
- 12 Terra Knight, Attorney
- 13 Jerry Yeiser
- 14 Fred Reeves
- 15 Bill Glenn
- 16 Lewis Jean

17 * * * * *

18 CHAIRMAN: We will call the January 4, 2018
19 Owensboro Metropolitan Board of Adjustment to order.
20 The first thing we're going to do is to have the
21 prayer and pledge.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: First item on the agenda is the
24 election of officers. At this point I'll turn it over
25 to Ms. Knight.

MS. KNIGHT: Thank you, Madam Chair.

As you all know, we have election each year.
We always do it in January. It is required by KRS and
by our bylaws. We have the following officers:

1 Chairman, vice chairman and secretary/treasurer; so we
2 will take the nominations and elect in that order.

3 At this time I will open the floor for
4 nominations for Chair.

5 MR. REEVES: I nominate Judy Dixon.

6 MR. YEISER: Second.

7 MS. KNIGHT: Ms. Dixon, do you accept the
8 nomination?

9 MS. DIXON: I do.

10 MS. KNIGHT: Any other nominations?

11 (NO RESPONSE)

12 MS. KNIGHT: There being none I will close the
13 floor and we will have a vote. All in favor of Ms.
14 Dixon as chair, please raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 MS. KNIGHT: Congratulations.

17 CHAIRMAN: Thank you.

18 MS. KNIGHT: We will open the floor for
19 nomination for vice chairman.

20 MR. YEISER: I nominate Robynn Clark.

21 MR. REEVES: Second.

22 CHAIRMAN: Ms. Clark, do you accept the
23 nominations?

24 MS. CLARK: I do.

25 MR. KNIGHT: Are there any other nominations?

1 (NO RESPONSE)

2 MS. KNIGHT: Hearing none I will close the
3 floor and we will have a vote. All in favor of
4 Ms. Clark as vice chair please raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 MS. KNIGHT: Congratulations.

7 Now secretary/treasurer. Nominations for that
8 position.

9 MR. GLENN: I nominate Ruth Ann Mason.

10 MS. KNIGHT: Is there a second?

11 MS. CLARK: Second.

12 MS. KNIGHT: Ms. Mason, do you accept that
13 nomination?

14 MS. MASON: I do.

15 MS. KNIGHT: Any other nominations?

16 (NO RESPONSE)

17 MS. KNIGHT: Hearing none I will close the
18 floor and we will have a vote. All in favor of
19 Ms. Mason as secretary/treasurer please raise your
20 right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 MS. KNIGHT: Good deal.

23 Madam Chair, I turn it back over to you.

24 CHAIRMAN: Next item on the agenda is to
25 consider the minutes of the December 7, 2017 meeting.

1 All members have been mailed a copy or received it one
2 way or the other. So at this time I'll entertain a
3 motion to dispose of this item.

4 MS. MASON: Move for approval of the minutes.

5 CHAIRMAN: Move for approval by Ms. Mason.

6 MR. JEAN: Second.

7 CHAIRMAN: Second by Mr. Jean. Any questions
8 on the motion?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimous.

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14 VARIANCE

15 ITEM 3

16 3485 Millers Fall Circle, zoned R-1C (postponed from
17 December 7, 2017)
18 Consider a request for a Variance in order to reduce a
19 side yard building setback line from 5 feet from the
20 side property line to 0.4 feet from the property line.
References: Zoning Ordinance, Article 8,
Section 8.5.7(d)
Applicant: Joyce Dianna Estes-Fulks

21 MR. HOWARD: At the meeting last month there
22 was a lot of discussion. I know the applicants is
23 here tonight. There was a lot of discussion about
24 what could happen. The Staff talked about the fact
25 that the building code requires the 10-foot separation

1 and all of that. We batted around a lot of ideas. I
2 know that Trey from our Staff has talked with the
3 applicant in the meantime and I know their surveyor,
4 Joe Simmons, was in the office today or yesterday and
5 talked to him. Of course, they can clarify. We've
6 gotten the impression there may be a request for a
7 postponement again maybe to allow some additional time
8 to work things out.

9 If you all want to address that, that would be
10 great.

11 MS. KNIGHT: Ma'am, if you could state your
12 name for the record, please.

13 MS. FULKS: Dianna Fulks.

14 (DIANNA FULKS SWORN BY ATTORNEY.)

15 MS. FULKS: I don't really think that there's
16 a need for a request to carry over. We have come to a
17 decision of, I guess, a suggestion of how we can
18 resolve the issue.

19 We did receive a call from Trey from Planning
20 and Zoning on December 20th inquiring as to what our
21 intentions were to correct this issue. Since our
22 meeting on December 7, 13 days earlier prior to that,
23 we've been working very diligently trying to find
24 someone who could modify our carport from the 22 foot
25 width down to the 18 foot width. After contacting

1 numerous contractors to no avail, we were unable to
2 find any contractors who could do that type of thing.
3 They said that was not something that they would be
4 able to do. We were able to find one person who did
5 tell us that he thought he could possibly do it for
6 us. He gave us an estimate to do that; however, he
7 said that he could give us no guarantees because it
8 was not something he had ever done before. He gave us
9 an estimate of \$3,600. This is a huge risk for such a
10 large sum of money. We are both retired and senior
11 citizens. Like many others we do live on a fixed
12 income. We feel that this would be too risky for us
13 to attempt to do this with no guarantees that he would
14 be able to get it done properly. So what we've
15 decided to do, we did call and get a price to replace
16 the current structure that we have with an 18 foot
17 carport from the same company that we got the current
18 structure from. We found that it would be less
19 expensive to go this route. Unfortunately, they will
20 not allow us any money for the current structure; nor
21 will they give us any discount towards a new one. So
22 we're basically just going to loose \$5,660 that we've
23 already spent on the current structure.

24 As you can see, this is going to be quite
25 costly to us and a great inconvenience. We do feel

1 this is very unfair to us, but apparently we have no
2 choice in the matter but to make the necessary
3 changes. So to correct the situation we will be
4 ordering another carport from the same company to
5 replace the one that we have now. We will not be able
6 to do this however until January 15th as the
7 dealership is currently closed until then for the
8 holidays. Once we place the order with the dealer, it
9 will be out of our hands as to how soon it will get
10 done. The dealer will send the order to the company
11 and we will have to wait for them to contact us with a
12 delivery date of when they can make the delivery on
13 the carport. The last time on our current carport it
14 took two months. We ordered it in June; they didn't
15 get there and put it up until August.

16 At this point we won't have any idea when that
17 it will be done once we order it. As I said, it will
18 be out of our hands at that point.

19 We would ask and hope that, as we were told at
20 the last meeting, that the board members and Planning
21 and Zoning would work with us, be patient and grant us
22 leniency until we can get this corrected.

23 If possible, we would like to ask for a
24 contact person to keep in touch with as we know more.
25 I will, as I did before, stay on top of this and keep

1 in touch, keep constant contact with the company to
2 try and speed up this process. The last time I called
3 them on a weekly basis for any updates to see if they
4 could tell me more about when they would be making our
5 delivery. I will be glad to pass this on to that
6 contact person as I get those updates.

7 We are making every effort to get this
8 resolved, but as you can see, we do not have full
9 control over the situation.

10 We do apologize for the delay, but this seems
11 to be the only way that we can get this fixed that we
12 can feasibly afford to do. This is a bad time of
13 year, as you all know, being winter and all, but we
14 hope that you can see we are making every effort to
15 try and get resolved. We hope this is acceptable to
16 everyone involved and ask that you will please be
17 patient with us while we work and trying to put this
18 to rest.

19 CHAIRMAN: Ms. Fulks, we appreciate your
20 cooperation and efforts and hope you realize that our
21 hands are tied in this too.

22 Mr. Howard, I'm sure you don't have a problem.

23 MR. HOWARD: No, we don't have a problem. You
24 know, Trey can be our contact. We can put it down on
25 our calendar and check back in in May or something.

1 That's not a big deal. We can work with you and give
2 you whatever time you need.

3 MS. FULKS: As long as we can have the time
4 because, like I said, once we make -- we're going to
5 be losing \$5,660 anyway because they're not going to
6 give us anything for the carport that we have. The
7 only option to have would be to try, once we get it
8 taken down, to maybe try and find someone that might
9 buy it from us. With any luck, maybe we can and
10 recoup a little bit of the cost. If not, then we've
11 just lost that money. Once we do make the order,
12 place the order, then we have to go with the dealer to
13 let him send the order in and then we're just at their
14 mercy to wait on them to contact us and let us know
15 when they'll be back in the area to do the switch out,
16 take the old one down and put the new one up.

17 MR. HOWARD: That's not a big deal.

18 MS. FULKS: We just want to make sure that
19 we're going to be allowed the time and not be
20 pressured or anything like that because we don't have
21 any control over it.

22 CHAIRMAN: Certainly.

23 MR. HOWARD: If you want to give Trey updates,
24 that's fine. We won't bug you. If we haven't heard
25 from you by May sometime, we may give you a call, but

1 otherwise, you can give us updates whenever. We'll
2 work with you. It's not a big deal.

3 MS. FULKS: As I said, the last time when we
4 placed the order, I called them diligently every week.
5 I said, you know, they have a scheduling department
6 and their scheduling department schedules the
7 deliveries, when they're going to be able to be in the
8 area, if they're even in the state. They may not even
9 be in our state, in the State of Kentucky for a month
10 or two or three or whatever. But they have a delivery
11 department or scheduling department and they schedule
12 whenever they're going to be in the area, and then
13 they contact us and let us know. At that time, once
14 we know that, then I can call Trey, if that be the
15 contact. I can call you and keep you updated. As I
16 said, I'll check with them every week, just like I did
17 before, and try to speed up the process.

18 Also, when we order this, I will also ask the
19 dealer if he will please put in a request that this is
20 a Planning and Zoning issue and that we would like for
21 him to try and put it to the top of the list, if they
22 can at all possibly do that. That way we can try and
23 just speed this along, get it done and be done with
24 it.

25 CHAIRMAN: Thank you.

1 MR. HOWARD: That sounds good.

2 I think from this board's perspective, all we
3 need from you tonight then is a request to withdraw
4 this application, and you can do that verbally. Then
5 it will be withdrawn. Because what you're going to do
6 will meet the setback requirements, and then we can
7 coordinate with Trey and move on and no big deal.

8 MS. FULKS: Are there any other issues other
9 than the width, before we go and invest any more
10 money? Are there any other issues, other than the
11 width, that we need to --

12 MR. HOWARD: The only other thing, and we
13 talked about a little bit last week, there's that 6
14 foot side yard easement and there's that utility
15 encroachment permit will need to be granted, but
16 you've got plenty of time and we can help walk you
17 through that process too.

18 To my knowledge, Staff, anything else that you
19 all are aware of or can think of?

20 MS. EVANS: No.

21 MR. HOWARD: I don't know of anything so that
22 would be it.

23 MS. FULKS: Didn't we say last time, didn't we
24 agree that the 18 foot would give that room that was
25 needed?

1 MR. HOWARD: If you're outside that 6 foot --
2 there were two things that we were talking about last
3 week. One was the 10-foot separation between
4 structures. Then the other is that platted 6-foot
5 public utility easement. If you're outside of that,
6 you don't need the utility encroachment permit either.
7 If you're inside that at all, you would need to get
8 that.

9 I guess we need to maybe get some kind of
10 drawing or something just to show how wide that thing
11 is going to be. Will it be in that easement; and if
12 it's not, then you'll be fine there. If it is, then
13 we can help you through that process.

14 MS. FULKS: There will be a total of 10 foot
15 between the neighbor's house and the side of our.
16 When we move it back to the 18 foot, there will be a
17 10 foot easement in there.

18 MR. HOWARD: That's great. So that satisfies
19 that. You won't need the variance for that. The only
20 thing you would need is that 6-foot public utility
21 easement is from the property line over into your lot.
22 If you're going to be in that at all, that's what you
23 need, a utility encroachment permit for.

24 Maybe Ms. Evans has a comment to make.

25 MS. KNIGHT: Please state your name for the

1 record.

2 MS. EVANS: Melissa Evans.

3 (MELISSA EVANS SWORN BY ATTORNEY.)

4 MS. EVANS: I wanted to point out; looking at
5 the site plan, the current structure is 22-foot wide
6 and they're asking for a .4 foot variance. If they're
7 only going down to an 18-foot wide carport, that's
8 only 4 feet. So that still doesn't meet the 5 yard
9 required setback.

10 MR. HOWARD: There is a gap between the
11 current structure and your house, correct?

12 MS. FULKS: Okay. And referring back to the
13 last meeting. We brought pictures in showing where
14 that we measured from the neighbor's house over to
15 where the edge of the carport is now, and there was a
16 6 foot measurement, which it should be on record.
17 There was a picture showing there was 6 foot there.
18 So that should mean that we would only need another 4
19 feet to make that 10 foot.

20 MR. HOWARD: That's true. Again, there are
21 two things we're talking about. There's the 10 foot
22 separation between structures, and then the setback
23 and that utility easement on your property. At the
24 end of the day, I know you all, you've had Joe Simmons
25 do work. If he could just put together a real simple

1 drawing that will show where your house is, where the
2 property line is, where that 6 foot public utility
3 easement is, how wide that structure is, then that
4 would satisfy everything and we can make sure that
5 we're moving in the right direction there. For that
6 matter, if we want to wait and postpone this tonight
7 until that can be prepared, I'm fine with that.

8 In theory, what Melissa is talking about, in
9 theory if it's not -- maybe they need to go down to 4
10 feet 4 inches or whatever it is instead of 5, if the
11 variance is still active, you all could take action to
12 approve that while still meeting that 10 foot
13 separation. Maybe tonight, I'm thinking tonight may
14 be best to postpone and then work with Joe Simmons,
15 talk with Trey, and Trey can help you through this as
16 well. We probably need some kind of drawing from Joe
17 Simmons to show all those dimensions and then we can
18 figure out the game plan from there. Do we need to
19 keep this variance active and actually request that
20 the board grant something next month, and then we'll
21 know something about that public utility easement as
22 well.

23 I think from Staff perspective, I would say
24 postpone it again tonight, work with Joe and Trey and
25 we'll come up, you know, we need some kind of drawing.

1 Then we'll know exactly what you need to do and give
2 you the guidance from there.

3 MS. FULKS: Okay. So, Trey, will you be
4 contacting Joe then and letting him know exactly what
5 we're needing? That way we'll know that he's got,
6 that we're getting exactly correct what we need in
7 case we're not sure and we don't get the right thing.
8 Once we order this, we have to pay a 10 percent
9 deposit before they even order it, and that's
10 nonrefundable. You know, we want to make sure.

11 MR. HOWARD: I would say, yes, let's not do
12 anything today. Of course, you said you can't order
13 until the 15th. We talk to Joe every day so we'll
14 talk with him and make sure he knows what he needs to
15 measure. Of course, he'll have to coordinate that
16 with you and do all of that stuff on your end. We can
17 have that conversation too. Just so he knows from
18 this board and Staff perspective what needs to be
19 measuring for. Yes, we can do that.

20 I would recommend, and you all as a board
21 tonight let's postpone this. Then next month we'll
22 either withdraw it and move on or potentially grant a
23 much smaller variance than the one initially
24 requested.

25 CHAIRMAN: We need a motion to postpone.

1 MR. HOWARD: Yes, a motion to postpone.

2 MS. FULKS: In doing that then, we won't be
3 required to pay for another application?

4 MR. HOWARD: That's correct. That's what I'm
5 trying to do. If you withdrew it tonight and then we
6 found out that you need it, you would have to do
7 another one and I'm trying to keep that from
8 happening.

9 MS. FULKS: Thank you. We appreciate it.

10 CHAIRMAN: Do we have a motion to postpone?

11 MR. JEAN: Motion to postpone.

12 CHAIRMAN: We have a motion to postpone from
13 Mr. Jean.

14 MS. MASON: Second.

15 CHAIRMAN: Second by Ms. Mason. Any questions
16 on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor of the motion raise
19 your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 MR. REEVES: The structure you have right now
23 is a very valuable sellable structure. I'd suggest,
24 maybe some farmer might be thrilled to death to pay
25 you a pretty good amount for that and just come take

1 it apart. I would put it Facebook. I'd try to sell
2 it because everything you have there has a value to
3 it, and you should recover everything. Quite
4 candidly, the dealer ought to help you do that because
5 they've already led you astray one time.

6 MS. MASON: My parents were members, had a
7 motor home and members of a motor home club and a lot
8 of people had those. So you might check with some of
9 the motor home clubs in Kentucky and see.

10 MS. FULKS: Thank you.

11 MR. HOWARD: Thank you.

12 ITEM 4

13 1805 West Parrish Avenue, zoned B-4
14 Consider a request for a Variance in order to reduce
15 the front building setback line from 75 feet from the
16 centerline of West Parrish Avenue of 51 feet from the
17 centerline of West Parrish Avenue and to reduce the
18 roadway buffer from 60 feet from the centerline of
19 West Parrish Avenue of 51 feet from the centerline of
20 West Parrish Avenue
21 References: Zoning Ordinance, Article 8,
22 Section 8.5.16c and Article 13.6221
23 Applicant: West Parrish Plaza, LLC

19 MS. KNIGHT: Please state your name for the
20 record.

21 MR. PEDLEY: Trey Pedley.

22 (TREY PEDLEY SWORN BY ATTORNEY.)

23 MR. PEDLEY: The subject property is zoned B-4
24 General Business and is a vacant corner lot located at
25 the intersection of West Parrish Avenue and

1 Independence Avenue with road frontage and building
2 setback on three sides.

3 The largest of these setbacks is along West
4 Parrish Avenue where a building setback is 75 feet and
5 roadway buffer is 60 feet, each from the centerline of
6 the road are required.

7 The applicant proposes to construct a 3,600
8 square foot building with 5 parking spaces on the
9 subject property. In order to do so, the applicant
10 has requested a variance to reduce the front building
11 setback and the roadway buffer each to 51 feet from
12 the centerline of West Parrish Avenue.

13 The subject property is located in an area
14 that was developed prior to the zoning ordinance. All
15 properties spanning from 1807 West Parrish Avenue to
16 1903 West Parrish Avenue appear to have structures
17 that encroach into both required building setback and
18 when applicable the required roadway buffer.

19 Granting this variance will not alter the
20 essential character of the general vicinity; will not
21 significantly impact the area; nor will it be an
22 unreasonable circumvention of the requirements of the
23 zoning ordinance because there are existing structures
24 on neighboring lots that encroach into the front yard
25 building setback and into the required roadway buffer

1 as a result from structures that predate the Zoning
2 Ordinance.

3 Staff recommends approval under the conditions
4 that a site plan or final development plan must be
5 approved and that all necessary building, electrical
6 and HVAC permits, inspections and certificates of
7 occupancy and compliance are obtained.

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

10 CHAIRMAN: Is there someone here representing
11 the applicant?

12 MR. KAMUF: Charles Kamuf representing the
13 applicant.

14 I agree with the findings. I'm here to answer
15 any questions that anybody would have.

16 CHAIRMAN: Thank you.

17 Is there anyone here wishing to speak in
18 opposition to this item?

19 (NO RESPONSE)

20 CHAIRMAN: Any member of the commission have a
21 question?

22 (NO RESPONSE)

23 CHAIRMAN: If not, I'll entertain a motion to
24 dispose of this item.

25 MR. GLENN: I make a motion to approve the

1 variance based on the two conditions that are stated
2 there.

3 MR. HOWARD: Including the findings of fact in
4 the Staff Report?

5 MR. GLENN: I'm sorry, yes. And including the
6 four Findings of Fact.

7 CHAIRMAN: We have a motion. Do we have a
8 second?

9 MS. MASON: Second.

10 CHAIRMAN: Second by Ms. Mason. Any questions
11 on the motion?

12 (NO RESPONSE)

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item.

18 ITEM 5

19 501 & 701 Reid Road, zoned I-1
20 Consider a request for a Variance in order to
21 eliminate the required vehicular use area screening
22 element of one tree per 40 linear feet of vehicle use
23 area along the Reid Road frontage.

Reference: Zoning Ordinance, Article 17.312

22 Applicant: Jonathon A. & Janice F. Lawson

23 MR. PEDLEY: Because this is a recommendation
24 for denial, the entire Staff Report will be read into
25 the record.

1 SPECIAL CIRCUMSTANCES? Are there special
2 circumstances that do not generally apply to the land
3 in the generally vicinity, or in the same zone? No.

4 The subject properties form a contiguous
5 10.733 acre site near the Highway 144 and Reid Road
6 intersection across from the Town and Country Trailer
7 Park. The properties are zoned I-1 Light Industrial
8 and the applicant intends to demolish the existing
9 structure and develop storage unit facilities on the
10 site. The proposed operation is located on a large,
11 open site that is believed to be a buildable lot due
12 to the flatness of the land and distance away from the
13 floodplain.

14 The site plan submitted illustrates that the
15 applicant wishes to limit the current development of
16 the facilities to the southern portion of the
17 properties where the tract are most narrow. With the
18 current configuration of the site plan, the vehicular
19 use area runs parallel with the public right-of-way.
20 Article 17.312 of the zoning ordinance states that
21 when any public or private right-of-way adjoins any
22 vehicular use area, a three feet wide landscape
23 easement shall be located along that portion of the
24 vehicular use area. Within the landscape easement,
25 the ordinance calls for screening requirements

1 consisting of a continuous element a minimum of 3 feet
2 in height, and one tree per 40 linear feet of the
3 vehicular use area along the right-of-way. The trees
4 do not have to be equally spaced, but may be grouped.

5 The site plan submitted shows a Big Rivers
6 Electric Corporation easement running along the
7 property line that adjoins the Reid Road right-of-way,
8 which includes the location of the required landscape
9 easement. The applicant states that the Big Rivers
10 Electric Corporation will allow the three foot tall
11 continuous element to be installed within their
12 easement, but will not allow any trees. And so, the
13 applicant is requesting a variance to eliminate the
14 required vehicular use area screening element of one
15 tree per 40 feet of vehicular use area along the Reid
16 Road frontage.

17 Granting the variance to eliminate the
18 required vehicular use area screening element of one
19 tree per 40 linear feet of vehicular use area along
20 the Reid Road frontage will alter the essential
21 character of the general vicinity as other commercial
22 properties in the area have been required to meet the
23 screening requirements; will cause a hazard or
24 nuisance to the area as a Mobile Home Park zoning
25 classification is across Reid Road and so proper

1 screening is necessary; and will be an unreasonable
2 circumvention of the requirements of the zoning
3 ordinance because it is possible for the site plan to
4 be reconfigured in a way to allow the site to be
5 developed without the need for a variance.

6 HARDSHIP? Would strict application of the
7 regulations deprived the applicant of the reasonable
8 use of the land, or create an unnecessary hardship on
9 the applicant? No.

10 If the application is denied, the applicant
11 can reorganize their site plan in a way that would not
12 require the variance request. The property is large
13 and buildable, and so the facilities can be shifted
14 further north on the site where the property is less
15 narrow and the design can allow the required VUA
16 screening to be out of the Big Rivers Electric
17 Corporation easement.

18 APPLICANT'S ACTIONS? Are the circumstances
19 from which relief is sought a result of the
20 applicant's actions taken after the adoption of the
21 zoning regulation? No.

22 IF YES: WILLFUL ACTIONS? Did the applicant
23 take willful actions in the violation of the zoning
24 regulation? If so, the board shall deny the variance.

25 FINDINGS:

1 1. Granting this Variance may adversely
2 affect the public health, safety or welfare because
3 although the parking spaces are directed away from the
4 public right-of-way, car lights still may shine onto
5 the highly trafficked road.

6 2. Granting this Variance will alter the
7 essential character of the general vicinity because
8 other commercial properties in the area have been
9 required to meet the screening requirements.

10 3. Granting this Variance will cause a hazard
11 or nuisance to the public because a Mobile Home Park
12 zoning is across the street.

13 4. Granting this Variance will allow an
14 unreasonable circumvention of the requirements of the
15 zoning regulations because it is possible for the site
16 plan to be reconfigured differently to negate the need
17 for a variance.

18 Staff recommendation: Denial.

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

21 CHAIRMAN: Thank you, Mr. Pedley.

22 Anyone here wishing to speak on behalf of this
23 application?

24 MR. STARNES: I am Mark Starnes. I'm attorney
25 for Mr. and Mrs. Lawson. This application was

1 prepared by Mr. Jim Riney. I think the report of the
2 Planning Staff does a good job of explaining some of
3 the background of this property.

4 MS. KNIGHT: Mr. Starnes, first of all, you're
5 sworn as an attorney. The second, do you mind to
6 speak up.

7 MR. STARNES: As was mentioned, the plan for
8 this property, which right now is undeveloped
9 property, is to at this point install six commercial
10 storage unit facility on the property. They'll be
11 well-designed, well-constructed. There will be five
12 parking spaces, which are maybe hard to see on that
13 particular plan.

14 Mr. Riney is going to indicate where those
15 parking spaces will be located.

16 MS. KNIGHT: State your name for the record.

17 MR. RINEY: Jim Riney.

18 (JIM RINEY SWORN BY ATTORNEY.)

19 MR. RINEY: There is five spaces that will
20 pull into the proposed building.

21 MR. STARNES: And then where are the
22 ingress/egress?

23 MR. RINEY: Ingress/egress would be in this
24 area. The spaces are just immediately off the
25 ingress/egress, right at the end of the proposed

1 building.

2 MR. STARNES: As the report correctly, the
3 Planning Staff reports correctly stated, this variance
4 request is limited solely to the one tree per 40
5 linear feet along the vehicle use area on the Reid
6 Road side of the property and only to this portion of
7 the property that is being developed. You will see
8 actually there is more land there. We're not asking
9 for a variance with respect to that portion of the
10 land. We just don't know what's going to be done with
11 the rest of the property, as far as development goes
12 at this point.

13 This is arising from some unique
14 circumstances, and that is that we've got this large
15 Big Rivers Electric Corporation power line easement
16 that is 50 feet wide. As you will see, it runs
17 directly along the southwestern portion of the
18 property along Reid Road. It is exactly within that
19 50-foot easement in which the 3-foot landscape
20 easement that is required would be placed. We have
21 every intention of putting trees, complying with the
22 ordinance, but we've run into a situation that is
23 entirely beyond our control, and that is that Big
24 Rivers for what they say are safety reasons will not
25 allow trees of any type within their easement. We

1 offered to put in shorter trees, trees that would not
2 grow, but got a flat refusal of no. It's their policy
3 or at least at the time it's their policy, we are not
4 going to allow trees within our easement.

5 The plan shows that the property is going to
6 contain the continuous 3-foot elements all along the
7 vehicular use area on Reid Road. So it will have that
8 portion of the green screening elements. Trees will
9 be placed on the northeast side of the property along
10 Highway 60 at the correct distance and number.

11 Of course, as the board is aware and very
12 familiar, the four criteria that need to be considered
13 in connection with the variance application. Not
14 withstanding the Staff Report, we do believe the
15 application satisfies this criteria and should be
16 approved. I will attempt to address each briefly in
17 turn, and please stop me if there's questions as I go
18 along.

19 First of all, that the requested variance,
20 whether it would or would not impact the public
21 health, safety or welfare in an adverse way. We
22 certainly don't see how that would be the case.

23 Initially we note that Big Rivers purportedly
24 does not allow those trees, it would not allow us to
25 comply with the ordinance by putting trees within the

1 landscape easement for public safety and welfare
2 reasons. I'm sure they don't want trees growing into
3 power lines. They have run into problems with that.

4 We think that the screening purpose of the
5 ordinance is satisfied for all intents and purposes
6 with the 3-foot continuous elements that will be
7 placed along the Reid Road side of the property. One
8 of the reasons being the mobile home park on the other
9 side of Reid Road and this property have the same
10 elevation. Nominal difference, if any. That
11 headlights, as we know, typically are not above 3
12 feet. We're not going to have coal trucks or
13 18-wheelers down at the storage facilities. So any
14 danger or harm from car lights that may be within the
15 storage unit area would be sufficiently screened by
16 the 3 foot high continuous element.

17 We further think that the design of the
18 parking spaces, those five spaces that Mr. Riney
19 showed you, they face away from Reid Road forcing cars
20 to parked in the opposite direction. Lights won't
21 shine on Reid Road.

22 So I don't think that this variance request in
23 any way creates a danger or adds to an existing
24 danger, and would note that the mobile home park
25 across the street has no landscape screening element.

1 Not that it has to, but it has none. It is much more
2 heavily traffic used than this property would be, just
3 by the nature of sign size and the number of people
4 that live there. There is no real, apparently no
5 danger from lights coming from that area onto Reid
6 Road more commonly because there's no landscape
7 element to shield those. We will have the continuous
8 3-foot element that will do that.

9 We do have pictures of the mobile home park to
10 indicate the lack of the landscape screening there.

11 Jim just corrected me. There will be vehicle
12 use areas adjoining that public road on the mobile
13 home park side.

14 To summarize that, the variance, we don't see
15 in any way, shape or form would lead to adverse impact
16 on the public health, safety or welfare.

17 With regard to the second criteria as to
18 whether the variance alters the essential character of
19 the general vicinity, we would claim that it does not.
20 That the area largely rural. It's large undeveloped.
21 There are only a few properties within the area of the
22 vicinity that are zoned for commercial purposes. One
23 of those is a lot, an existing lot that has storage
24 units on it, which is just to the south of the
25 existing mobile home park.

1 There is also at the northern end of the
2 mobile home park a small portion that is zoned I
3 believe B-4 for general business, and that houses an
4 office for the mobile home park and so forth. Neither
5 one of those properties have any landscaping elements
6 of any sort. No screening elements I should say. We
7 do have pictures of both of those. What appears from
8 a practical viewpoint, there are only a couple of
9 commercial properties, none of which have landscape
10 elements. We will, again, have a 3-foot screening
11 element that will be more than what those have.

12 MR. HOWARD: If I could ask a question there,
13 just for clarification.

14 What about on the north side of this property,
15 there is an office building built up there recently,
16 does it have appropriate screening and all of that?

17 MR. STARNES: Yes. What you're speaking to is
18 the Daviess County Farm Bureau office that is -- well,
19 it's the B-1 zoned lot just above the subject lot.
20 That was recently constructed, and I believe Mr. Riney
21 was involved in that, and it does have the screening
22 element along the Highway 144 side to the north, but
23 that is a different situation than ours. That
24 property does not have a 50-foot wide electric
25 easement running through it that would impact where

1 the screening element would go.

2 I do have a picture of that from our property.
3 So you'll see certainly in relation to this property
4 it's quite a bit away, particularly from the
5 development we are talking about. Certainly if
6 development continues on through this tract of land
7 and approaches that, that's a completely different
8 situation and we'll address the ordinance with respect
9 to that at that time.

10 Other than that Farm Bureau building, which
11 was recently done and just has the landscape element
12 on the north side of Highway 144, there is none around
13 there. That property is in a different situation than
14 the property we're dealing with.

15 Next, the third criteria is whether the
16 variance would cause a hazard or nuisance to the
17 public. I would note that the Planning Staff review
18 report does not identify what hazards or nuisance
19 would be created. I believe I said previously, we
20 don't see how it would create a hazard or a nuisance.
21 We'll have the 3-foot element to shield lights. Trees
22 per the ordinance would not assist that in any way.
23 They're 6 feet, well above the level of any vehicle
24 headlights. So we don't think that would add to any
25 addition protection for that purpose. We don't see

1 what the additional hazard would be for absence of the
2 trees or how they would reduce some type of hazard.

3 Lastly, the fourth criteria is whether the
4 variance would allow an unreasonable circumvention of
5 the ordinance requirement. I would say this is not
6 unreasonable, first of all, because the requested
7 variance is limited in scope. We're talking only
8 about the portion of this property that is addressed
9 in the site plan that is going to be developed. It is
10 the only portion that is impacted by this existing Big
11 Rivers easement, and by the fact that Big Rivers will
12 not allow us to put trees in that easement and comply
13 with the ordinance.

14 I would then note that the Planning Staff did
15 mention that it was possible to modify the site plan,
16 to move the proposed development north away from the
17 more narrow part of the property ostensibly to then
18 have a landscape easement further back, avoid the Big
19 Rivers easement. Although that is possible, it is not
20 particularly practical nor is it reasonable. That
21 will necessarily eliminate much of the property that
22 would be available for future development. Move it
23 north. Now we've got the southern end where it comes
24 into a triangle. That portion is going to be useless.
25 Not going to be able to do anything with it. Much

1 less land on the northern side to be able to use for
2 future development. And with regards to the criteria
3 for consideration by the board for variance
4 applications, I would argue that requiring them to
5 move that development further north on the property
6 would deprive the owner of reasonable use and it would
7 create an unnecessary hardship. Again, although
8 reconfiguring the development could be possible; it
9 wouldn't be the best and most beneficial use of the
10 property. Place an undue burden and restriction on
11 potential development of the remainder of the lot.
12 Simply reduces further development options due to
13 having less land, less size. That is also necessarily
14 going to diminish the value of the property. Again,
15 it renders the southern most portion of the property
16 just useless. Cannot use it. Have less land to the
17 north. Consequently the value of the property as a
18 whole is going to be unfairly reduced just by default.

19 Development of the entire property was the
20 goal when it was acquired. It remains the goal. It
21 was a key factor in Mr. Lawson's decision as to what
22 he would pay for the property. And now, for no fault
23 of his own and for what we can see is no public
24 benefit given the circumstances, rather unique
25 circumstances, he would be forced to alter his

1 potential development, lose the value of his
2 investment, and offer what seems to be none to nominal
3 benefit from the compliance with the tree requirements
4 would add.

5 Lastly, as is noted in the Planning Staff's
6 Report, the variance is not a result of any action or
7 request for the Variance is not the result of any
8 actions that were taken by Mr. Lawson. The applicant
9 subsequent to the adoption of the ordinance had done
10 nothing that would cause this. It's the result of a
11 pretty unique circumstance. In that we've got a large
12 bigger easement running adjacent to Reid Road. It is
13 within that easement where the landscape element would
14 fall, and Big Rivers is refusing to allows us to plant
15 trees there.

16 For those reasons, we think that the board
17 should approve the Variance and we would respectfully
18 request that they do so.

19 CHAIRMAN: Thank you.

20 For clarification, Mr. Howard, the mobile home
21 park and that office, those parcels predate the zoning
22 ordinance, do they not?

23 MR. HOWARD: I would assume so.

24 CHAIRMAN: I know they've been there 50 years.

25 MR. HOWARD: I'm not from this community, but

1 I know they've been here for a long, long time.

2 CHAIRMAN: Mr. Reeves.

3 MR. REEVES: Couple of questions for
4 Mr. Starnes, if you don't mind. Maybe two. Possibly
5 just one.

6 Were it not for the easement issue with the
7 Big Rivers power line, would you be seeking this
8 variance?

9 MR. STARNES: No, we would not.

10 MR. REEVES: Then if we were to place a
11 condition that starting with a continuous 40-foot
12 element on the south end going down towards the
13 easement, that a tree be planted within 5 feet of the
14 easement on the south side, within 5 feet of the
15 easement of the north side, and then a continuous
16 element continuing on to the property line; would the
17 owner be agreeable to that?

18 MR. STARNES: I'll let Mr. Riney speak to
19 that.

20 MR. REEVES: Do you understand what I'm
21 saying?

22 MR. STARNES: I'm afraid I got a little lost.

23 MR. RINEY: Little bit of history, if you bear
24 with me.

25 MR. REEVES: Sure. Absolutely.

1 MR. RINEY: We didn't go into this with
2 disregard for the regulation. Our initial plan had
3 exactly what the regulations called for. This is a
4 unique situation, and I'll try not to burden you with
5 a lot of history.

6 You've heard over and over again, Big Rivers
7 transmission line easement is the issue here. Big
8 Rivers is good people. It's just the transmission
9 line. Typically you don't see on these site plans,
10 development plans Big Rivers having to sign off. When
11 we went with our routine usual and customary utility
12 recruit people, Kenergy said, we've had some requests
13 from Big Rivers. We need for them to review this as
14 well. So I've got a contact person. I contacted him.
15 Said I'm going to send the plan. When I called him
16 back he says, we don't want any trees. We've got
17 shrubs and trees. I said, trying to compromise and
18 still try to meet the intent of the regulation, I
19 said, we would put a cap on those in the fact of a
20 species of tree that will typically not grow very tall
21 to meet the intent of the regulation or we'll put a
22 note on the plan that says, once they grow to a
23 certain height that they be trimmed. That would be
24 the obligation of the owner to do that. It took him a
25 millisecond to think about that and said, no. He

1 said, we don't want any trees. We've had trouble with
2 trees.

3 Then we came back, Mr. Reeves, and I think I'm
4 understanding what you're talking about. I'm going to
5 approach this in just a minute.

6 An option to put some trees in there, but they
7 would not be in the landscape easement area because
8 it's within the Big Rivers' easement, but it would
9 still be along the property. So I'll come forward and
10 see if I understood what you were asking.

11 This did not meet the planning definition.
12 What we had since the trees can be clustered, this
13 line right here, and I apologize for the rest of the
14 board for not being able to see, is the easement line.
15 We put the trees just east of that. We cluster four
16 here, four here, and two here, and that met the ratio
17 for the one to 40 for tree planting. But since it
18 wasn't within the landscape easement, it could not be
19 accepted by Staff. I'm not faulting Staff. I'm just
20 saying, without some sort of a waiver. At that point
21 we took those off because economically to develop this
22 and have -- it didn't make sense to start scooting
23 this whole development. Mr. Lawson had somebody
24 that's very familiar with storage units and so forth,
25 called a land planner, to do the study on this to come

1 up with a layout. So we felt like he had done the
2 highest and best use for property development.

3 Now, have I understood what you were talking
4 about, moving the trees, Mr. Reeves?

5 MR. REEVES: Where is the easement?

6 MR. RINEY: The easement, see these dash lines
7 here?

8 MR. REEVES: Yes. What I was saying is could
9 you put a tree say within 5 feet of the easement there
10 and 5 feet of the easement here? We understand you
11 can't plant where Kenergy won't let you, but could you
12 do that?

13 MR. RINEY: Yes, sir. And that was what the
14 intent was here, yes, sir. Where the storage is,
15 that's what we done. Even 2 feet outside the easement
16 we propose, but it's not within, we've got a whole lot
17 going on. It's not within -- that little green, and
18 again, I apologize to the board, that little green
19 crosshatch there is the landscaping easement where the
20 trees have to be to meet the regulations; that little
21 green strip right there. That's clearly within the 50
22 feet that Big Rivers controls their easement.

23 MR. REEVES: So you're saying Big Rivers also
24 controls what goes along this area too?

25 MR. RINEY: Yes sir. It comes from 144 --

1 MR. REEVES: I thought it was just simply this
2 piece right here.

3 MR. RINEY: No, sir. No. The main
4 transmission line, Mr. Reeves.

5 MR. HOWARD: Right now their site plan has
6 vehicular use areas on their parking and landscaping
7 within that easement, but as Mr. Starnes and Mr. Riney
8 has stated, they won't allow the trees. As Mr. Riney
9 stated, they did submit a version of the plan that had
10 trees in the vicinity that total number meeting one
11 tree per 40 feet. We certainly understood the intend,
12 but it doesn't meet with the ordinance. I did not
13 feel administratively that I could approve that type
14 of plan. Now, certainly you've made that request. If
15 they're willing to put them in the vicinity, that's
16 certainly something you all as a board could consider
17 for, you know, a compromise in place of putting them
18 within that landscape easement.

19 MR. REEVES: I'm just focusing on the intend.
20 I think the intend was, as it should be, wondering if
21 there's -- because I don't think this board should
22 ever pretend to tell a developer how to use their
23 land. To say, to move this development north, that
24 would be way out of our area of expertise. We should
25 never suggest that.

1 If we can make it work the way the development
2 is here. That's kind of where I am at this point in
3 time.

4 MR. STARNES: Mr. Reeves, to your point, this
5 is not a situation where the applicant does not want
6 the tree, doesn't want to spend the money on trees.
7 We have every intention of doing that. It's simply
8 beyond our control to comply with strictly.

9 Certainly is willing to put the trees as set
10 forth on the alternative plan.

11 CHAIRMAN: Anybody else wishing to speak to
12 this item?

13 MR. REEVES: At this point in time,
14 Mr. Howard, and I guess Mr. Starnes and Mr. Riney, are
15 we concerned about trees going on the undeveloped part
16 right now or just in the developed part?

17 MR. HOWARD: Right now the only thing, as
18 Mr. Starnes has mentioned tonight, the only thing that
19 this variance is a request on is for the trees to be
20 eliminated on the portion that is currently proposed
21 for development. Any development that would take
22 place on the northern portion that is undeveloped will
23 be done on its own merit and reviewed at that time.
24 This is just for the portion, the southern portion
25 that is proposed tonight for development.

1 MR. REEVES: I was thinking we were going to
2 do the entire property while they were at it.

3 MR. HOWARD: No. The only reason the trees
4 are requirement, as part of the screening element for
5 four vehicular use area, there's nothing in the
6 ordinance that would require anything on the north
7 portion that's undeveloped.

8 MR. REEVES: Okay.

9 MR. GLENN: I have a question again.
10 Can I have you bring your board back up here
11 and your picture. Your board there that you were
12 showing us. Flip over to where you were talking about
13 trying to meet the intention of everything by planting
14 a group of trees in the developed area, but not in the
15 area that the ordinance actually calls for.

16 MR. RINEY: Precisely. Just to try to meet
17 the intent.

18 MR. GLENN: You would be willing to do that to
19 meet that tree requirement?

20 MR. RINEY: Mr. Lawson has confirmed that
21 while I was sitting back there. We would resubmit a
22 plan, if that was the pleasure of the board, to have
23 that tied down and still have your trees. The trees
24 over here would not have to be there because of the
25 elevation of Highway 60, but trying to in good faith

1 try to beat it, it would have had to show those. We
2 thought we were doing good here, but they can't sign
3 off on something that's not in writing. I understand
4 that. If the board will allow that compromise for
5 approval, then I say you've got a deal here.

6 MR. GLENN: This is part of the developed area
7 then, this is included in this?

8 MR. RINEY: I put those there, Mr. Glenn,
9 because there's a vehicular use area here.

10 MR. GLENN: That's part of the developed area?

11 MR. RINEY: Yes, sir.

12 Brian, do you want to see it?

13 MR. HOWARD: I know what you're talking about.

14 From the Staff perspective, we're fine with
15 that. Again, I couldn't approve that
16 administratively. If you all are willing to do that
17 as a compromise, we don't have any objection
18 certainly.

19 MS. KNIGHT: I would just point out that the
20 board will have to make its own findings of fact for
21 approval.

22 MR. REEVES: Can we make them slowly?

23 MS. KNIGHT: Absolutely. Take a few minutes
24 and get your thoughts together.

25 MR. HOWARD: From a Staff perspective I'll

1 just recommend that somewhere in your findings
2 language crafting include the fact that this is an
3 easement that is not typical. I do not want this to
4 create a situation, if a waiver is granted tonight,
5 where then we see a 10-foot utility easement that is
6 on a site on a green fill site with nothing on it and
7 we start seeing variances to eliminate landscaping
8 certainly in an area that could be worked around. You
9 know, a 50-foot easement is much larger than normal
10 easement.

11 CHAIRMAN: This is not typical.

12 MR. HOWARD: This is not typical, but please
13 include something like that in your findings so that
14 there's not a precedence set tonight that would then
15 allow maybe some future circumvention that really
16 might be.

17 MR. RINEY: Might I suggest you include the
18 word unique situation because of the highly unusual
19 power transmission line.

20 MR. HOWARD: Yes. Mr. Starnes I think had
21 used the term that this was a unique circumstance;
22 that it was on the property that would not typically
23 be found everywhere certainly. As Mr. Riney stated,
24 Big Rivers' easements aren't, they're not found
25 everywhere. There's Kenergy and public utility

1 easements, but Big Rivers' easement are typically
2 larger, bigger lines, and that type of thing that
3 aren't your standard public utility easements found
4 throughout the community. So if you work some of that
5 in, then that makes this --

6 CHAIRMAN: Mr. Reeves.

7 MR. REEVES: Make a motion to approve this
8 request for a variance based on the findings of fact
9 that due to the uniqueness of this land-shape and the
10 easement requirements, while it may adversely affect
11 the public safety and health because the parking
12 spaces are directed away from the public right-of-way,
13 car lights will not still shine on the highly
14 trafficked road. It will not alter the essentially
15 character of the general vicinity because other
16 commercial properties in the area have been required
17 to meet the screening element; such as the Farm Bureau
18 office. It will not cause a hazard or nuisance to the
19 public because a mobile home park zoning is across the
20 street. It will not allow an unreasonable
21 circumvention of the requirements of the zoning
22 regulations because it is possible for the site
23 plan --

24 COURT REPORTER: Say again.

25 MR. REEVES: Number 4, will not allow an

1 unreasonable circumvention of the requirements of the
2 zoning regulation; with this condition -- I can put
3 condition on this motion, can't I?

4 MR. HOWARD: Yes. And if I could interpret on
5 that fourth one. You may want to say, will not allow
6 an unreasonable circumvention of the requirements of
7 the zoning regulations because of the unique
8 circumstances on the site including the 50 foot Big
9 Rivers' easement or something along those lines.

10 MR. REEVES: And will not allow an
11 unreasonable circumvention of the requirements of the
12 zoning regulations because of the unique circumstances
13 on the site including the 50 foot Big Rivers' easement
14 or something along those lines.

15 With the following condition: That the trees
16 be placed, the landscaping trees be placed per the
17 proposed development plan presented at this meeting.

18 CHAIRMAN: Are you in agreement with that
19 motion?

20 MR. STARNES: Yes, ma'am, I am.

21 CHAIRMAN: Does anyone on the board have a
22 question of that motion?

23 MS. CLARK: Excuse me. Should we say it's on
24 the south side of the property where the easement is
25 only, that way they have to continue with the regular

1 if they want to?

2 MR. REEVES: I think they'll have to come back
3 with us for that one.

4 MR. HOWARD: Yes. Any future development
5 would have to come back regardless.

6 MR. REEVES: That was my understanding. Thank
7 you.

8 CHAIRMAN: Anybody else have a question on
9 this motion?

10 (NO RESPONSE)

11 CHAIRMAN: Is there a second to the motion?

12 MR. GLENN: I'll second it.

13 CHAIRMAN: Any questions on the motion?

14 (NO RESPONSE)

15 MR. HOWARD: Staff understands.

16 CHAIRMAN: All in favor of the motion raise
17 your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Anything else to come before the commission?

21 (NO RESPONSE)

22 CHAIRMAN: If not, we'll entertain one more
23 motion.

24 MS. MASON: Motion to adjourn.

25 CHAIRMAN: We have a motion to adjourn by

1 Ms. Mason. Is there a second?

2 MR. GLENN: Second.

3 CHAIRMAN: Second by Mr. Glenn. All in favor
4 of the motion raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 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 47 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 29th day of January, 2018.

18

19

LYNNETTE KOLLER FUCHS
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OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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