OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

SEPTEMBER 4, 2008

The Owensboro Metropolitan Planning Commission
met in regular session at 5:30 p.m. on Thursday,
September, 2008, at City Hall, Commission Chambers,
Owensboro, Kentucky, and the proceedings were as
follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
                    Judy Dixon, Vice Chairman
                    Ruth Ann Mason, Secretary
                    Gary Noffsinger, Director
                    Madison Silvert, Attorney
                    Marty Warren
                    Sean Dysinger
                    C. A. Pantle

* * * * * * * * * * * * * * * * * *

CHAIRMAN:  Call the Owensboro Metropolitan
            Board of Adjustment to order.

            We will begin our meeting with a prayer and
            the pledge of allegiance to the flag.  Mr. Warren will
            lead us.  Please stand.

            (INVOCATION AND PLEDGE OF ALLEGIANCE.)

            CHAIRMAN:  I would like to welcome everyone.

            Anyone wishing to speak on any item we welcome your
            comments and questions.  We ask that you step to one
            of the podiums, state your name and be sworn in.

            First item on the agenda is consider the
            minutes of the August 7, 2008 meeting.  Are there any
additions or corrections?
(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. WARREN: Motion to approve the minutes as written.

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

Next item, please.

----------------------------------------------

CONDITIONAL USE PERMITS

ITEM 2

101-401 Blocks Veterans Boulevard, zoned B-2, B-4 (Postponed at the August 7, 2008 meeting)
Consider a request for a Conditional Use Permit to construct a phase of the Riverfront Project consisting of the Owensboro Riverwall construction within the floodway for approximately 1800 feet along the bank of the Ohio River from the Riverpark Center to the Veterans of Foreign Wars building. This phase of construction does not include improvements in Smothers Park.
Reference: Zoning Ordinance, Article 18, Section 18-4(B)(3) and 18-5(B)(4)
Applicant: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, on Item 2, the City of Owensboro has requested that you take action to postpone this item tonight. The permit from the Corp of Engineer has not been approved for river wall.
CHAIRMAN: Item 2 is postponed.

MR. NOFFSINGER: You will need to take action.

MS. DIXON: Move to postpone.

MS. MASON: Second.

CHAIRMAN: We have a motion and a second to postpone. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

MR. NOFFSINGER: Let me state for the record that that item will be considered the first Thursday in October at 5:30 p.m. in the same location.

ITEM 3

900 Walnut Street, zoned B-4
Consider a request for a Conditional Use Permit to operate a day care facility for the Head Start Program with an outdoor recreation area for no more than 38 children at one time.

Reference: Zoning Ordinance, Article 8, Section 8.2B3

Applicant: Audubon Area Head Start

MR. SILVERT: State your name, please.

MR. WILLIAMS: Zack Williams.

(ZACK WILLIAMS SWORN BY ATTORNEY.)

ZONING HISTORY

OMPC records indicate that a Conditional Use Permit was approved in July of 1986 to operate a pre-school program for up to 80 children. In July of 2007, an adjacent property to the south was purchased
by the applicants, rezoned and consolidated with 900 Walnut Street. This application will allow the Audubon Area Head Start program to relocate to this property and install an outdoor recreational area.

LAND USES IN SURROUNDING AREA

The adjoining properties to the west are zoned I-1 Light Industrial, to the north B-4 General Business, and to the east and south R-4DT Inner City Residential.

ZONING ORDINANCE REQUIREMENTS

1. Article 17, Table 17.311 requires a 10' wide landscape easement with a 6' high continuous screening element and a tree for every 40 lineal feet of property boundary between Business Zoning and Residential Zoning.

2. Article 17, Table 17.312 requires a 3' high continuous screening element and a tree for every 40 lineal feet of street frontage between the public streets and the vehicular use areas on the property.

MR. WILLIAMS: We would like to enter the Staff Report into the record as Exhibit A.

CHAIRMAN: Anyone here representing the applicant?

MS. SMITH: I am.

CHAIRMAN: Does anyone here have any questions
or comments of the applicant?

Would you step forward if you have questions or comments.

MR. SILVERT: State your name, please.

MS. YAGER: I'm Linda Yager.

(LINDA YAGER SWORN BY ATTORNEY.)

MS. YAGER: We own property on East 10th Street, 923, 925. It's rental duplex that we have. We're concerned with the 38 children. It adjoins our property. We're concerned with the 38 children playing there during the day. We have currently rented it to retired people now. The noise that would involve this.

We were wondering, he just mentioned a three foot fence or something, but we were wondering the type of fence that would be put there, the noise that would come from there, the days the day care would operate.

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: Let's get the applicant up here and get some answers to her questions.

MR. SILVERT: Please state your name.

MS. SMITH: Michelle Smith.
(MICHELLE SMITH SWORN BY ATTORNEY.)

CHAIRMAN: Would you address the lady's comments, questions and concerns?

MS. SMITH: We're prepared to put a fence up. If she wants a fence or landscaping. We worked with our other neighbor of putting a landscaping space up to six foot. At her space back there I guess is where the apartments are, we were going to start with the 6 foot privacy fence at that property line, but if she'd prefer landscape we can do landscape there.

As far as the children, the children are there anywhere from I think it's 6:30 to 5:30 Monday through Friday. Most likely the facility won't have more than 20 children. I went ahead and did it for 38 in the event that we eventually needed to add more slots to the center, but we're talking about 20 children ages six weeks to five years old. I don't think they're very loud. There's no nighttime so we shouldn't interfere with sleep hours or anything like that.

MS. YAGER: 6:30 a.m.

MS. SMITH: 6:30 to 7 a.m.

CHAIRMAN: Board member have any questions of the applicant?

MR. DYSINGER: I'm just a little unclear. You already plan on putting a 6 foot privacy fence all the
way around the area?

MS. SMITH: As the city has required. Either a fence or shrubbery and trees, yes.

MS. MASON: You said the city requires. It looks like they require a three foot fence.

MS. SMITH: No, ma'am. It's a six foot barrier.

CHAIRMAN: Mr. Mischel, do you have comments?

MR. SILVERT: State your name, please.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: The 6 foot privacy fence would be required as the buffer between the commercial and residential property. The three foot fence, the three foot shrubs are around the parked vehicle area. It is required to have a 6 foot high fence and a tree every 40 feet between the residential and commercial property.

MR. DYSINGER: Mr. Chairman, the rental property counts as that residential?

MR. MISCHEL: Rental property is part of residential, yes.

CHAIRMAN: Mr. Noffsinger, do you have comments?

MR. NOFFSINGER: Yes, thank you, Mr. Chairman.
Mr. Mischel, does that have to be a fence or can it be a six foot high continuous element?

MR. MISCHEL: It's a six foot high continuous element. Typically most people put in a six foot fence. You could put in landscaping. If you put in shrubs, they should be three foot tall when planted and grow to six foot at least at minimum. Typically people put in a privacy fence for that requirement. Ten foot buffer, green space buffer.

CHAIRMAN: Board members have additional questions of Mr. Mischel?

(NO RESPONSE)

CHAIRMAN: Ma'am, do you have additional questions or concerns you would like to make?

MS. YAGER: Yes, I do.

CHAIRMAN: Step forward, please.

MS. YAGER: Will there be playground equipment for the children there and what will the fence be constructed of? Is it like wood, block or chain-link?

MR. MISCHEL: Typically, as far as material, we don't have a requirement. We say that it has to be 80 percent capacity. So it's a pretty solid fence. Typically they put up a wood privacy fence, but that's not to say they have to do that, unless it's a condition.
As far as the playground equipment, the applicant will have to answer that.

MS. SMITH: There will be playground equipment installed. It's appropriate for the children and installed by manufacturing. Anything else?

MR. NOFFSINGER: I do have one statement or we need to get on record as to the screening element. I think there's some question here and we need to determine, if you approve this continual use permit, I think you need to be specific on that screening element at this adjoining property owner is requesting a particular or a fence over landscape material. Right now the applicant has a choice and I'm hearing fence, but if we determine that it needs to be one or the other or can be both, we just need to settle that here now. Not later.

MS. SMITH: Our other neighbor I think would like to address that.

MR. SILVERT: State your name, please.

MR. TAYLOR: My name is Tim Taylor. I'm the south boundary of the property.

(TIM TAYLOR SWORN BY ATTORNEY.)

MR. TAYLOR: Restoring 1880 Griffith Estate there at the property. I spoke with Ms. Smith here. I do not want a bare wood fence all the way across the
200 foot of my property for me to see out my front
door. I'd rather have landscaping. Shrubbery
barrier. Something that looks more natural. I don't
want a raw wood fence up there.

MS. SMITH: We had already agreed with our
neighbor to do a landscape section with him and allow
him to pick out the shrubs that he wants up there.
We're doing that and we'll do that with our other
neighbor. Whether she wants the wood privacy fence or
landscaping. We have no problem with that.

CHAIRMAN: I have a question of Mr. Mischel or
Mr. Noffsinger.

Is it continuous element, solid continuous
element?

MR. MISCHEL: Yes, that's a requirement.

CHAIRMAN: So either a fence or if it is
landscaping such as pine trees, then the spacing of
the trees would have to meet -- is it six foot high
continuous element? Is that what's required?

MR. MISCHEL: It might be kind of hard.

Usually if you use pine trees it's a double row. You
probably need a wider area for that. Typically we
have like a prima hedge, something like that that
grows together and up to six feet tall. Typically if
you use shrubs they should be at least three foot tall
when they're planted.

CHAIRMAN: At what spacing?

MR. MISCHEL: Well, depends on the plant. Typically they would hand in something to us to show the growth pattern and stuff like that.

CHAIRMAN: What would be the ordinance requirement? If you use landscaping, use trees, what would the requirement be?

MR. MISCHEL: Well, if it's the pine trees, if it's an evergreen we want the pine trees that grow to ground to provide that six foot solid element instead of having a tree that grows up and you have a space underneath.

Typically that's why you put the shrubs, to get that continuous element. Usually it's a preference between the two. If somebody wants the shrubs or the fencing requirements. It just says 80 percent capacity to meet that.

CHAIRMAN: The point being is we're trying to clarify what can be put there to meet the zoning ordinance and would the applicant be willing to put pine tree versus fence.

MR. MISCHEL: I'd say all the options. You could put a fence. You could put pine trees or you could put shrubbery with trees. You still have the
requirement of 40 foot, a tree every 40 foot.

CHAIRMAN: Thank you.

Mr. Noffsinger.

MR. NOFFSINGER: The question I have, the names. I've heard from Ms. Yager and I've heard from Mr. Taylor. Those two names, last names are not showing up on the site plan as being adjoining property owners. I need to figure out who owns what and what's going on and somebody help me, please.

MR. TAYLOR: I purchased the property that it shows the Hart property in August of last year.

MR. NOFFSINGER: And you want shrubs?

MR. TAYLOR: Yes. Right now on the property line there are at least eight 50 to 100 year old trees. They're on the tree line now. Really what we would have to do is put landscaping between those trees.

MR. NOFFSINGER: Along their south property line that adjoins your property, then you would like to see a six foot high continuous element be of landscape materials that meet an 80 percent opacity requirement.

MR. TAYLOR: An evergreen shrub that will not lose its leaves in the wintertime. Something that will stay green all year.
MR. NOFFSINGER: That meets the 80 percent opacity.

MR. TAYLOR: Right. I own probably, I think it's approximately 200 feet 250 foot property line. I think those are close figures.

MR. NOFFSINGER: Ms. Yager.

MS. YAGER: I'm with DRW & Associates.

MR. NOFFSINGER: Is that HSD Properties?


MR. NOFFSINGER: Okay. I'm really lost now.

MS. YAGER: Okay. It does say HSD Properties. We're the owners of that.

My only concern is the noise reduction, a buffer for that. If the children come in at 6:30 a.m., you know, what is their break time. I just have two retired people living there. I hate to lose renters. I hate not to be able to rent the property because of that.

MR. NOFFSINGER: Do you have a screening preference?

MS. YAGER: No. My neighbors want the natural look and I can certainly understand that. They have more property there than we do. My concern is the noise. I don't know if the natural element would do that better than a wood fence.
MS. SMITH: I would just like to add that I think that's the reason for the buffer is for the noise.

The center that we're operating right now is also in a residential community and we have not heard any complaints about our children playing in the playground in that community.

I also might add that in our neighborhood where we're at right now we have a bar that is very loud on the weekends and we've not said anything and I don't know if she has voiced any complaints about that. There's a lot of things going on in the evening from that that has nothing to do with us, but that's also in the neighborhood at the present time. We're hoping to make things a little better with our fence. The bar backs up to our property.

CHAIRMAN: Your preference is put a fence up rather than --

MS. SMITH: I'm fine with the landscape. I'll do the landscape or the fence. Whichever one the property owner wants. That's what I've agreed to with the one that owns the most of the property. The property line right now where we match up with her is overgrown weeds on the property line right there. There's nothing been done to clean anything up. We're
going to have to do that. We're willing to do that.

Just improve our property where we're trying to clean up that whole lot there. That was a dilapidated house about a year and a half ago that we tore down. We're trying.

CHAIRMAN: Thank you very much. I think we're clear on the issues.

Any board members have further questions?

(NO RESPONSE)

CHAIRMAN: Staff have anything else they would like to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Chair is ready for a motion.

MS. MASON: I move for approval. My findings of fact are that it's compatible with the current use of the property as is an extension of a previous approved conditional use permit. The day care will benefit and provide an essential service to the community.

The conditions would be a 6 foot fence in the area that is next to Ms. Yager's property and the trees or some sort of landscaping that would be a buffer in the area of Mr. Taylor's property.

CHAIRMAN: We have a motion. Is there a second?
MS. DIXON: Second.

CHAIRMAN: We have a motion and a second. Any comments or questions on the motion?

MR. PANTLE: Did Ms. Yager, did she say which ever she preferred? A natural barrier rather than a fence?

MS. YAGER: I did say I would like to work with my neighbor on that. He has the majority of the property. I'm just concerned with the noise. If the natural element, if the shrubs and the trees, if they're pines that are nice size and will grow fast, that would certainly be more attractive and last longer than a fence, but I'm just concerned that something be put up there of substance that will block some of the noise there. I'm willing to work with my neighbors on that and the Head Start Program.

MR. DYSINGER: Mr. Chairman, I feel like Ms. Mason's motion covers the bare necessities and it seems like these folks are going to be able to work out the details. I think if we try to get any more detailed than this excellent motion, I'm afraid we're going to get --

MS. MASON: I could amend it to the area where Ms. Yager's property is. Either a fence or continuous shrubbery of some sort that would be a buffer to be
worked out between the applicant and Ms. Yager.

CHAIRMAN: We have a motion.

MS. DIXON: I will second your amended motion.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

609 Wing Avenue, zoned R-4DT
Consider a request for a Conditional Use Permit to operate a homeless shelter with an occupancy of 90 residents providing educational, spiritual, financial and substance abuse recovery services to the residents and to non-residents, and to revise the previously approved site plan to increase the number of parking spaces, to revise the loading dock and to include a vehicular access point on Benita Avenue.
Reference: Zoning Ordinance, Article 8, Section 8.2C1 Applicant: Boulware - The Mission on the Hill, Inc.

ZONING HISTORY

The property is located at 609 Wing Avenue is zoned R-4DT Inner City Residential. OMPC records indicate that three previous Conditional Use Permits (CUP) have been approved for the Boulware Center at this address:

June 3, 1999 - to utilize existing facilities for the temporary care of children under the age 18, the rejuvenation of persons who provide spiritual assistance to others, and use by religious, charitable
or humanitarian organizations in an R-4DT zone. Approval was granted on the condition that there be no on-street parking used in conjunction with this facility, and that all parking for the use of this property must occur on site within the walls of the former monastery property.

April 7, 2005 - a Conditional Use Permit was granted to operate a homeless shelter serving 90 residents and to provide educational, spiritual, financial and substance abuse recovery services for residents of the shelter with the condition that a review will be conducted in six month intervals from the time of occupancy for a period of one year.

September 7, 2006 - a Conditional Use Permit was amended in order to revise the approved site plan to include renovations including adding a mechanical room and various external mechanical units, various platform and entrance reconfigurations, constructing a new wall and removing a portion of the existing wall, installing a new and larger electrical service and reconfiguring the existing parking lot. Approval of the Conditional Use Permit was granted on the condition that the wall being constructed must conform to the existing zoning ordinance unless a variance is granted by the OMBA.
This application is made to change the scope of services provided in rehabilitation counseling to include non-residents as well as residents at the facility, to add additional on-site parking and to revise a loading dock. Additionally, the applicant is requesting the access point on Benita Avenue to remain open for emergency and special events. Past approvals have been based on the physical closing of the Benita Avenue access point so that traffic to the facility will not have access from the residential street.

LAND USES IN SURROUNDING AREA

All adjoining properties are zoned R-4DT Inner City Residential.

ZONING ORDINANCE REQUIREMENTS

1. Article 13, Section 13.8C1 requires one parking space for every four beds and one space for each employee on maximum shift.

2. Article 17, Table 17.312 requires a 3' high continuous screening element and a tree for every 40 lineal feet of vehicular use area boundary when the area is adjacent to residential zoning.

3. Article 17, Section 17.32 requires interior landscaping for vehicular use areas that are at least 30,000 feet but less than 50,000 square feet in area, except in industrial zones.
SUGGEST CONDITIONS

1. That reviews be conducted at six month intervals after occupancy for a period of one year.

2. That the Benita Avenue access point be closed and not accessible by vehicular traffic.

MR. WILLIAMS: We would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Is anyone here representing the applicant?

MR. SILVERT: State your name, please.

MR. CRAIG: My name is Bill Craig.

MR. SILVERT: Mr. Craig, since you were here last, we've revised procedure. That I no longer swear in attorneys. I recognize the oath that you took when you became an attorney.

MR. CRAIG: Thank you.

Let me say first that this is an amendment to our previous filings.

Take what I think may be the easiest one sometimes is like picking apples. Take the easiest apple first.

The last time we were here we planned a wall down the side of our property, the side that's on Benita. The front of our property is on Wing Avenue. That wall has since been constructed.
We have two human gates that are open through that wall. We had planned at the beginning to have a large corrugated metal gate closed. That's the way we started originally.

The last time we understood the people objected and thought it would be much better if you had - people in the neighborhood I mean - much better if you had that gate openable in the event of an emergency because it is the only vehicular gate on the north side of the property. We have constructed a two-lane street off of Wing Avenue that enters from the west into our property.

So we don't have a major -- and I was not aware of the fact that the Staff recommendation was that we permanently close the Benita Avenue gate. That's not a big issue for us. We had thought that people much preferred that be there for emergency purposes. We are having gates constructed for all entrances and exits which are black rod iron gates. It will be very attractive. So we had thought the notion was to having an open space for emergency purposes or if you had an open house or something was preferred, but we're not going to make a big issue of that. We'll go with whatever is the sense. Our understanding the reason it's in there was we
understood that the people preferred that. That's kind of simple question.

We're really here on an amendment for a final development, final amendment to our development plan. We filed those before. Now we are completing phase one. We've completed phase one of our construction. So we have filed this final development plan which shows our improvements as constructed. We anticipate commencing occupancy shortly when we get an occupancy permit.

I have here this evening both our consulting engineer from HRG and our consulting architects from RBS to answer any technical questions on those improvements.

Those changes from a physical layout is we at one time anticipated a much more substantial loading dock near our kitchen area. You have a change in that. We are increasing parking spaces by about ten. All of them comply with the inside the wall requirement. All parking spaces are inside the enclosure. Then there's the issue of the north gate, which I just addressed. Those are the physical changes.

As explained in our application, a funny thing happened on the way to the monastery. We started out
we thought we would renovate the monastery for around $1 million. We found that to complete our phase one renovation we have now spent about 2 million to 2.2 million. We bought the property for $500,000. We've spent this additional money doing the renovations through phase one.

At the end of this current phase there will be 38 residents living there. Like our Hall Street campus they will live there continuously. We have kitchen facilities, bathing facilities, all the usual facilities for people to live there.

That 38 is an interim step. We except to complete phase two. We hope to start next year. That would then take us the rest of the way up to 90 residents living there. For now it's 38 residents at completion of phase one.

We also have renovated the old administration building in its entirety so that it will be a treatment annex. That was the treatment annex contemplated initially. It's in the very center of the property.

I imagine most everyone has seen the development plan, but the dark blue is the building. All the buildings are connected and all of them are two-story except for a walkway between this treatment
annex and the rest of the building and the chapel which has a high vaulted ceiling.

    We expect phase two will involve spending another 1.3 million or so. So by the time the dust clears we will have spent about $3.5 million on this project.

    As we stand here today, having spent the first couple of million dollars, we find that to do all of the things that not only comply with our regulations, but all the things that led us occupy the property efficiently, particularly efficient heating and cooling system, that kind of thing. All the infrastructure has been replaced, whether it's sewage lines, water lines, fire suppression, electrical, etcetera, etcetera. The idea has been that we are wiser to spend more money up front and to have a more competent space for the long term.

    Similarly in phase two the primary cost there is going to be around $900,000, which will be a heating and cooling system for the main part of that blue building. That will then used for resident spaces, offices, etcetera.

    Now, when we started this process there was a lot of doubt about whether Boulware from it's Hall Street operation was going to be able to afford this.
At this point I can tell you that we have spent money we have raised. We have borrowed money, but all of the borrowed funds are covered by commitments that come at one time or another. For example, trust when someone dies or bequest that's committed. So as I stand before you today, I'm glad to say that this community has made available to Boulware $2.5 million to get to where I'm standing in front of you having spent $2.5 million.

I suppose the most, other than the phase construction, which is explained in the application. I'll be glad to discuss any technical requirements or any technical questions. As I say we've got the additional people here to deal with those technical questions.

We find that we want to use the treatment annex both for people who are residents within Boulware and to make it available for people in the community. There are a number of background facts involved with that. The biggest and single fact is this. In order to operate a substance abuse treatment program, this by the way is a very structured program as explained in the application. Some people will come fairly early, for example. Might come in before breakfast and be there until noon time. Other people
will come in around noon time and be there until maybe
eight in the evening. We close up, as I said before,
before this group, at nine, ten in the evening and we
re-open after six in the morning.

The point is that in order to operate a fully
structured licensed treatment program that's going to
be available for our residents, there will be
significant excess capacity. We therefore want to
make that treatment program available to people in the
community who may choose to come there and
participate.

To be blunt, there cannot be any more pressing
need, I think, in this community than competent,
audited, licensed substance abuse treatment services
that are available regardless of economic
circumstance. That is why we have layed it out the
way we have. We now ask for that change in use.
Otherwise, our use is the same throughout. What we're
going to do is permit our excess capacity to be used
by people who come from the community.

We do not function and will not be functioning
as an extension of the judicial system, legal system,
correction system. This is for people who realize
they have a problem and their family who would be able
to come and use that treatment center.
The changes in the physical plan are relatively mild except for two important facts. One is that we have spent a lot more money than we might have initially anticipated. The second is we have done a far better job in terms of the quality of the improvements, which will save us money for the long term.

The second is we don't see any reason for waste. There is no reason to waste Boulware's expertise capability, etcetera. To avoid that waste we need to expand the treatment services so that people from the public can come.

I can tell you that throughout the renovation period there has been a lot of construction. People coming there to work. Equipment coming to do things. We have found that it has not presented traffic issues. It's been a fairly straightforward process. Through the excellent work of one of our board members, who is Al Ingleheart, an engineer recently retired from Texas Gas, but as a result the general contractor, Lanham Construction, which has done a wonderful job, as a result the project has been completed on time and on budget.

So with your help we will take this additional God send of this additional capacity for people to be
able to come and participate in the treatment
services.

That's basically our case.

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

MR. DYSINGER: I do, Mr. Chairman.

Mr. Craig, how do you anticipate, how do you
and your clients anticipate this change? As I
understand it, you're changing a little bit from the
original intent of having all live-in recovery to now
being a little bit more of a dare I say clinic. From
your point of view, how do you anticipate this change
impacting the neighborhood around you or do you? Am I
asking my question correctly?

MR. CRAIG: I understand.

Our facility on Hall Street already has this,
have certain services that are available to the
public. Those of you not familiar with Hall Street I
hope you would visit, but those buildings started
being built in 1921 and were added to in 1931 and
1955, I believe. To say that they're out of date
would be an understatement. There's no off-street
parking at all. There's no wall. There's no nothing.
We use the available street parking around us.

I think I can say we have not at any time had
a parking complaint, a traffic complaint, a tie up complaint at Hall Street. I want you to understand, Hall Street is a microcosm compared to the property we have on Wing Avenue. I don't think there's any legitimate reason to anticipate that there would be any different result when we expand into Wing Avenue.

By the way, something people seem to keep -- I want to get straight. Hall Street will continue to operate. Its services will be streamline to be in sequence with what goes on at the monastery so that people who come to the monastery to live will tend to have already been with us anywhere from a few weeks to two or three months. There are a number of advantages of having that stage approach.

The traffic pattern with respect to Wing Avenue is wildly better than it's been at Hall Street. The parking area within the wall is wildly better than the parking arrangements of Hall Street.

If you take the population density at Wing Avenue, it is wildly better meaning lower, than it is at Hall Street. I don't believe there is any legitimate factor that would indicate that Wing Avenue wouldn't be even more placid than the Hall Street operation has been which has had no adverse events. I asked particularly whether it was all the
construction, all the traffic in and out and all of the trucks, etcetera. There simply has not been an issue in terms of traffic.

We do want to add those ten additional parking spaces that are on the crest of a hill very near the treatment annex. The reason for that is that being 61 at this point I now realize that being closer when I walk someplace, particularly on the crest of a hill, is nice. So we wanted a few more parking spaces where people could easily go in and out of that building.

That's a long explanation. I think things are better in every respect.

I know that there was earlier some concern that there would be parking down on Benita. Benita is a side street. We will close that off entirely or not, whatever your choice is. The fact is the only time that anybody will be going through Benita entrance and exit would be if there was an emergency and we needed to do that or if there was some sort of large public event to which the entire community would be invited, which would be appropriate sometimes.

MR. DYSINGER: Also, Mr. Chairman, this Conditional Use Permit request and the earlier Conditional Use Permits that we approved, everything was kind of based on the 90 residents number.
This change that you describe, do you still see yourself serving 90 lets call them clients or are you going to look at people who are perhaps are not there all the time differently? What I want to avoid is -- we've always thought of this as a 90 resident proposal. I just want to avoid a situation where maybe a year from now we're looking at 200, 250 clients and it complicates the whole issue.

MR. CRAIG: No. The number of people who will live there, go to bed there, wake up there, etcetera, is 90. The number of staff members projected are the same as in the earlier filings with you. We will have people -- if you had 5 to 7 people in a room, you may well have 15 people in a room for certain sessions.

We have a cafeteria and dining facility that initially is designed to feed 38 residents and to feed staff and to meet, if someone coming to treatment services there is there at breakfast time they'll eat. If they're there at noontime, they'll eat. If they're there at dinnertime, they'll eat. Ultimately that food serving capability will be for the 90 residents who live there, for the staff as they are there from time to time, and others who may be there at a given time at meal time.

There's a good thing about food. If you do it
well, people will come. To give you an example. The
bar association here in town currently meets for lunch
once a month at Boulware. You don't have the whole
bar association, but they're all invited. They come
when they wish and they are familiar with what we do
and get to look at what the expansion is. It will be
that kind of thing. We're not running a public
eatery.

Ninety residents is it and will be it. This
is not a segway into some large population.

MR. DYSINGER: My question was specifically,
in fact, you use the term extra capacity. While
you're at this point at phase one with 38 residents
you have this extra capacity. As the 38 grows closer
and closer to the 90, the implication seems to be that
there will be less extra capacity and it will hover
around that 90 number or is it your intention now --
was extra capacity the term that you want to use with
all that implies?

MR. CRAIG: It doesn't have to do with -- the
extra capacity has to do with the number of people who
can come and participate in treatment services.

People live with us for up to two years. Even
with a population of 128, 90 on Wing Avenue and 38
over on Hall Street. Even with that total residential
population. People come and go through their initial work to start restoring their life, their ability to earn. You would be shocked if you came to Boulware on Hall Street. Most all day, most every day there's very few people there because the people who live there are working various places.

That will be true as well on Wing Avenue. People will go to work. Come back. It's a home.

The number of people actually participating at any given time in recovery treatment services in that treatment annex who are also living there may well be in the neighborhood of 20 to 25.

The treatment annex can easily accommodate double plus of that. Those phases rather than sitting there wasting that time and energy we will permit people from the public to come.

I didn't mean to throw you off base. It's no excess capacity in terms of living.

MR. DYSINGER: Got you.

Mr. Chairman, I have no other questions at this time.

MR. CRAIG: We're happy to respond to any other questions or concerns.

MS. DIXON: So you're saying that people who come from the community who voluntarily recognize the
need come to participate in say support groups or some
sort of interaction with the staff there, with the
staff as far as in recovery?

MR. CRAIG: That's right. To give you an
example.

It's the end of phase two and we have 90
people living there. We have 38 people living on Hall
Street. As I'm saying to you, the number of people
that live with us that are participating on a daily
basis let's say is 25 people. You've got four or
five, six rooms of various sizes. It's an amazing
facility. You need to see it.

Now let us suppose that John Smith or it could
be Mary Smith, but let's say it's John Smith working
at Acme Witchett Company has a problem. His employer,
Mr. Acme, knows it. Says, if you don't fix that
problem you're going to be fired. We are not going to
have you with a drug problem. He says, what do I do?
The employer says, go someplace where they treat this
disease. So he starts calling around. He would find
out what is true in Owensboro, Kentucky. He would
find that there is not a licensed substance abuse
treatment service that operates on the big treatment
centers. So he says, I need to go to Hazelton, as an
example. How much does it cost? It cost about
$10,000 a week. Close to $40,000 for 28 days. Mr. Smith would say, I don't have $48,000. Mr. Acme who owns the witchett company would be able to say, that's all right. You go to Boulware's treatment facility, you will pay what is appropriate given your economic circumstances. Someone completely on assistance may pay the price of a pack of cigarettes or Acme Witchett Company may have an employee citizens program. Mr. Smith might get there any number of ways. The important point is that Mr. Smith will have available the type of services that you would hope would be available in our community, but he will not be excluded because he's poor or has made a lot of unwise choices. He would be able to participate.

Now, the reason I keep looking back here is these people are more expert, but that's basically what's involved in it.

There was a time we had those types of services available at our hospital. Most hospitals have found that they can't do that and maintain it. That's been true in Owensboro. It was true in Henderson. I think in Evansville at this time. Program after program after program has gone under. That's because it requires a different approach to it. We want to have that available in this community.
By the way it might help Mr. Smith who lets
say is earning 45,000 a year to be sitting next to a
person who has lost it all. It might be a real good
way to get the obvious lesson. Maybe I've got to
change my lifestyle.

CHAIRMAN: Any other board members have any
questions? I have one, but I'll ask the board members
first.

MS. MASON: I still don't think I quite
understand. You're saying that it will have a
capacity of 90, but are you saying 25 more people
might be coming and going?

MR. CRAIG: Whatever is appropriate.

MS. MASON: Because I know you said part of
the 90 might be doing the rehabilitation. Will that
be people coming from Wing Avenue? Did I understand
that?

MR. CRAIG: They wouldn't necessarily be
coming from Wing Avenue. They could be coming from
anywhere in the community. They could be coming from
Spring Bank.

MS. MASON: What are you saying? What is the
maximum capacity of extra people that you can
accommodate?

MR. CRAIG: That is there during the day?
MS. MASON: For this rehabilitation, yes.

Maybe that's what -- that helps us to know about the traffic coming and going.

MR. CRAIG: That's something you can't answer in advance. Our experience so far has been that it hasn't caused any traffic or other types of issues in a much more congested place like Hall Street. Wildly more congested place like Hall Street.

If we make that available at the Wing Avenue campus, the number of people who will be coming will depend on how many residents may be at any given time. What are the spaces available for reasonable class size?

This treatment doesn't involve bottles hanging up above beds or anything. It is an educational counseling group meeting kind of process. So it's not medical in that sense.

We wouldn't know at any given time. We know that the amount of excess capacity will be substantial given how long people live with us after they have completed their treatment phase. The number of people that actually live with us at any given time there is going to be 90. The number of people who may come there during the day to participate otherwise isn't a fixed number. It would depend on what works.
CHAIRMAN:  Mr. Craig, April 7, 2005, you were approved to operate a homeless shelter for serving 90 residents.

MR. CRAIG:  Yes, sir.

CHAIRMAN:  September 7, 2006, we amended that for some walls, landscape. It hasn't been raised. You've been approved for 90.

MR. CRAIG:  That's correct.

CHAIRMAN:  Your request before us today it's still not being raised. It's still 90.

MR. CRAIG:  That's correct.

CHAIRMAN:  That's all you're approved for.

MR. CRAIG:  That's right. To be responsive to this question.

Let's say it's 10:00 on Wednesday morning.

Out of the 90 people who -- this is after phase two, but of the 90 people who live there, it is likely that 65 or 70 of them will be going to various places.

Most of them don't have cars. They ride buses or they're picked up or dropped off. You have this treatment program operating in this treatment annex. That is this building right here. Let's say at that given time you can have 25 slots of people who might participate in substance abuse recovery. They would come there during the day at times that are set up for
various type of like a school, classes, that kind of thing. They'll leave. They're not residents, but there are people who have come there to participate in that program during the day.

It's inconceivable to me that during the day you will have over 40, 50 people in a 28,000 square foot space, but those people, a lot of them are there just during the day. They're not there as residents living there.

CHAIRMAN: We have not approved that. We approved for 90 residents.

MR. CRAIG: That's right. That's why we're here.

CHAIRMAN: If you have those 90 residents there and then you want 30 or 40 additional people coming in during the day, this board hasn't approved that and you haven't made an application to do that.

MR. CRAIG: That's what the application here is to do. The application I have amended -- what we're asking for is an amendment to our Conditional Use Permit to permit us to conduct those treatment services and make them available. The treatment services that our residents would normally participate in also available to people who choose to come from the public.
CHAIRMAN: What is that number?

MR. CRAIG: It's not fixed. It will depend on how many chooses. It's not hundreds. It will be what is appropriate given the class sizes of the treatment program.

CHAIRMAN: Assuming that you had the 90 residents and then 50 to 80 people showed up, do you have the capacity to handle that?

MR. CRAIG: You wouldn't have the capacity to handle that many people coming from the public.

CHAIRMAN: So what number are you asking for above your 90 residents?

MR. CRAIG: It will depend upon how many people can participate effectively in those treatment programs. That is not a fixed number. We're not open to the public like Wal-Mart, everyone wants to come in. People would have to be accepted into it.

On the other hand, if at any given time you had 15 of your residents participating, then the number of people who would participate from the community would be higher. I can't give you a fixed number.

CHAIRMAN: But you're asking this board to approve a number. I don't see how we can approve this. If you don't put a number in this application
how can we -- number one, you might not even have
parking for it. You might not have the capacity for
it. What is the limitation?

One of the neighbors, we still have to listen
and hear from the neighbors. I'm fixing to ask for
that in just a minute. I want to hear from the
neighbors. There will be additional questions.

MR. CRAIG: Sure.

CHAIRMAN: You're asking for an unknown
number.

Mr. Noffsinger, do you have any comments on
that?

MR. NOFFSINGER: Mr. Chairman, the applicant
has stated in the application that the treatment annex
would easily accommodate 40 to 50 people; however,
the applicant has not stated a specific number in the
application.

It would be in my opinion within the rights of
this board to consider a particular number given the
nature of the parking and the site. That's what this
board is here to do. Is to consider a Conditional Use
Permit to ascertain whether or not this is compatible
with the neighborhood.

Now, we've done that in the past up to this
point, but tonight you're considering basically two
things. The access to Bonita, the additional parking, off-loading area, and then the opportunity for folks from the public to come in for treatment. The applicant has stated that number the annex could handle is 40 to 50. I think what you've got to figure out and work out with the applicant is what number is acceptable to integrate this into the neighborhood.

MR. CRAIG: Better response might come from our chief executive officer and staff level and that's Becky Hagan who is present. Let me ask her to respond to this situation.

MR. SILVERT: State your name, please.

MS. HAGAN: Becky Hagan.

(BECKY HAGAN SWORN BY ATTORNEY.)

MS. HAGAN: I'm not usually the one who tries to clarify things. So, Bill, thank you for the introduction. I'll try.

The reason we're having difficulty answering your question is because of what we are actually asking for you to approve. As an example, we currently do a group counseling session for our residents on Hall Street. The name of it is Marijuana Education. It's a six week course. One hour one day a week for six weeks. What we are asking is that we take that course, it's a course that so many families
call and ask for. Do you have services to educate families? This addresses the topic of I have a teenager, I know we're getting into trouble. Can you help me? What can we do? That course is one example of what we would like to offer.

In fact, one of the first things we would want to do is to offer that group to the public. In that case, it will be one group, once a week, an hour and a half each time it meets for six weeks. We're going to limit the size to 20 people for that group.

Now, at a later date when we are operating at full capacity, we may also say, wait a minute, there's Tuesday night and we have a group on methamphetamine that families might want or some other topic that this community is asking us to provide education services on. So we may open another one for Tuesday night and another one for Friday. That's what we're asking.

So when you ask how many people, it's very difficult to name that number of total people say in a week's time or at any time frame that we may have. Because the fact of the matter is we may also have say there are a group of folks who want the marijuana education group, but they work the night shift so they want it in the morning. I don't know that we would do this, but it is conceivable that we would say, okay,
we'll do this offering once in the morning and once in
the evening.

I hope that helps you to understand why it's
difficult to name the number of folks we may be
talking about. Because there are people who live in
our community who call us daily saying, help, help,
help. Are there any education courses available?

However, however, we will always be limited by
the number of staff, the number of rooms that we have
available, the number of parking slots that we have.
I don't know that I can name that number, but we can't
just expediently say, Owensboro, come to these
education groups. I don't know if that explains
anything.

MR. DYSINGER: Mr. Chairman.

Ma'am, the nature of what you all do does not, for me anyway, does not factor into this really at all. I come at this looking at you guys like any other business that would cater to a certain amount of clients. It doesn't really matter to me what that service is. Part of our responsibility is to gauge the impact on the neighborhood from the traffic that your business will generate. The times that we have looked at your all's, that you guys have come before us before 90 people. That's a number. I can get my
head around it and I can make a decision, a judgment on the impact that that is going to have on the neighborhood or the community or an area, whatever.

What you guys appear to now be telling us is that there is no, the sky is really the limit. I cannot make a decision on the impact you guys are going to have without some idea of -- just like we had the Head Start earlier. It was how many kids and hours of operation. It's pretty cut and dry for us. Unless I am sorely misunderstanding what you guys are saying, I am sensing a fundamental change in the conditional use that you guys are requesting, which is fine. We can look at that. That was not my understanding coming in to tonight. My understanding was that we were talking about some more parking spots, Bonita Avenue and a loading dock. I'm getting the feel that we're in a completely different area here.

I said the other stuff to help you understand why this suddenly seems like a big deal. For us it's all about numbers and impact on the neighborhood.

MS. HAGAN: Right. As I said, the numbers for us, our limitations will always be the number of staff to address the groups or sessions that we're wanting to offer to people and by our parking spots, and what
other groups are going on, you know, at any given
time. So it truly can't be expediational. It is
probably fewer than I would hope.

Once again if there would be a need to limit
how many, we can, if there's a way to determine that.
I don't know how it will be determined when we're
talking basically about one hour slots. Our parking
lot limits us. I don't know the street limitation.

MR. NOFFSINGER: Ma'am, could you give us a
number maximum in that treatment annex at any one
time? That might help.

MS. HAGAN: There will be a building capacity
that certainly can't be broken either. That would be
a given. There will be codes that required
limitations from that aspect.

MR. NOFFSINGER: Do you have a number? At
this point we're looking for a number.

MR. CRAIG: We can agree to a number and we
can limit ourselves in that respect. Then we can see
what the experience is and if we then need to
reconsider it, we can come back and say, this is what
the capacity has been. This is what's gone on and
this is what's happened in the interim.

Let us suppose that at this point the total,
what you really want is the total number of people who
may be there during the day in a treatment or educational mode. At any given time the participants in that number may be resident or non-resident. Let us assume that we then use let's say 50 as the maximum number of people who will be participating in that treatment annex at any given time. Period. Now, that's people who are using it during the day. It's not open all night. It is a -- we can live with that because we can then demonstrate what the experience is. Then come back if we're saying, you know, we're sitting here with X experience. Change that number. We would then have a background for changing that. If that is helpful to the board, we're willing to do that.

MS. MASON: Is that 50 in excess of the 90?

MR. CRAIG: That's 50 people who are participating in the treatment annex in a given day. Some of them may be members of the 90. Some of them may not.

My point is you don't have the 90 people there the vast majority of the daytime.

MR. PANTLE: You're beating all the way around us. There's a number of 90. Now you're going to add 40 to it. That's 130. You've given us a number of 130. We need a number before we can make a decision
on this.

MR. CRAIG: What you're really talking about is a maximum number of people at the facility at any given time in the whole facility. Because what you're worried about is people coming in and out.

MR. PANTLE: Total figure.

MR. CRAIG: I think we can certainly agree that at no time, other than staff, will there be more than 120 people located there. Period. Total. That's easy. The reason it's easy is this, I'm not being flipped. The reason it's easy is that the 90 people who are there overnight and leave the next day and are gone all day, the vast majority of those people are going to be gone all day.

If we had 40 or 50 people involved in treatment, they would not be there at the same time as the vast majority of those 90.

So if you want a maximum occupancy of the entire facility, we can live with 120 easily. Easily.

Does that help, sir? I'm trying to be helpful to you.

Our staffing, as we were earlier estimating, if you want to set an overall capacity of people there at any given moment, that's easy. The only addition to that 120 would be staff, which you have the figures
CHAIRMAN: You're saying the max at any one time is 120?

MR. CRAIG: Right.

CHAIRMAN: Plus staff?

MR. CRAIG: Plus staff.

CHAIRMAN: Staff is normally what?

MR. CRAIG: It's usually around 18. Can be as high as 22.

CHAIRMAN: Now we're looking at 138 people at one time.

MR. CRAIG: Absolutely. I think that's easy to do. We can live within that requirement. At the six month intervals we can come and discuss with staff what our experience has been and anybody else.

MS. DIXON: But your actual stay there, live there at night, for instance, would not exceed 90?

MR. CRAIG: No, it will not exceed that. That's correct.

MS. MASON: And you're asking for the increase in parking space is how many parking spaces will you have total?

MR. CRAIG: Total 56 parking spaces. We have -- those not familiar with it should mention, we have bought this corner property right here. We own that.
We have people that live there. They're usually office staff people. We have that entire square.

MS. DIXON: What percent of your actual residents have automobiles?

MR. CRAIG: About one in ten. That has been our experience forever. About one in ten.

CHAIRMAN: Mr. Craig, we've covered quite a bit. I think we need to hear from the neighbors, get their concerns and comments, questions. If you will yield, I'm going to ask the neighbors.

Anyone here wishing to speak on this item in opposition or questions or comments, please come forward.

MR. SILVERT: State your name, please.

MRS. EMBRY: My name is Donna Embry.

(DONNA EMBRY SWORN BY ATTORNEY.)

MS. EMBRY: Good evening, Mr. Chairman and Board.

As I stated, my name is Donna Embry. For over 13 years my husband and I have lived at 412 Geary Court, which is only three houses from the former Passionate Nun Monastery.

I'm standing before you now in response to Boulware Center Mission's proposed changes to the Conditional Use Permit that was granted on April 7,
Three changes requested by Boulware include the north gate and drive remain operable, expanding parking and open to the public.

I know several quotes from the April 7, 2005 transcript by Mr. Bill Craig, Boulware's Board Present, under oath to our neighborhood and Owensboro Metropolitan Board of Adjustment pertaining to the Benita Avenue entrance have probably already been stated tonight. But to our neighborhood, they are such a significant part of why we are here. I would like to briefly quote just a few lines, again, if I may.

"We will maintain in a very real sense, we will maintain the property in as cloister of a fashion as it always was. Maintaining the walls. We are going to shut off and construct a wall across the only paved exist that will go in and out on Benita. All parking will be inside of our facility. We will frankly be -- we will promote the idea of putting a yellow stripe on our side of Benita Avenue. There will not be traffic of anybody visiting us on Benita. Everyone will be coming in on Wing Avenue."

You have a transcript that says that.
Mr. Craig went on to say, "The question was asked about access in and out. We intend to have a drive in and a drive out side by side Wing Avenue. A lot of people don't understand our residents only one of ten will have a vehicle. We frankly expect to have at any time, it will be surprising if as many as 30 spaces are occupied, but if at any time all of our parking will be internal, inside our walls."

Again, you have a transcript.

Mr. Craig, those statements made by you sounded really good that April 7th meeting in 2005, and our neighborhood almost, I said "almost," believed you. But as we knew you would do, once you got your foot in the door, you would change.

Mr. Craig, just as we predicted, you now want to go back on your word and keep the Bonita gate operable, open the facility to the public and expand your parking to non-residents.

Mr. Craig, please tell our neighborhood and the Board of Adjustments what is the truth.

Mr. Craig and Boulware also requests an amendment to its Conditional Use Permit for the Wing Avenue campus to permit it to provide treatment at that location to individuals in the community who are not residents.
A small quote by Sue Fowler, Boulware's then board president, in the Wednesday, September 1, 2004, Messenger-Inquirer article titled, "Boulware's Planned Move Worries Neighbors," the facility would not contain anything that would generate a large amount of traffic.

We are not confused. By opening any Benita Avenue entrance to this facility to the public will be more people and more people will generate more traffic in and out of our narrow neighborhood streets. Fire, police, trash pick-up, school buses and ambulance services will have limited access because of Boulware's open public meetings as well as whatever else traffic they're proposing will generate.

Mr. Craig initially stated on April 7, 2005, it will take $1 million and six months to complete this project. It is now three and a half years and $2.7 million later with only the first of three phases just completed. No housing for the homeless. Just meeting areas.

The next phase will be housing costing approximately 1.3 million with the total estimated cost of at least how many more million? Does Boulware have the money now for completion of this monumental project? Where will the money come from and how many
more non-profits will close their doors because of Boulware's glutinous fund raising?

Will Boulware be able to support this multi-million dollar facility when Recovery Kentucky, a similar treatment program for substance abuse now being built on Veach Road? This Board of Adjustment is very familiar with Recovery Kentucky.

With inconsistencies, misleading statements, broken trust and now these new proposals, Mr. Craig, Boulware and its representatives has once again showed me, our neighborhood they cannot be trusted. They could not be trusted in the past. Cannot be trusted now. Therefore, how can we trust them in the future to do as they say as proven by these current issues Boulware has brought before this board tonight?

We are absolutely opposed to the proposed ingress/egress use of Benita Avenue entrance, any expanded parking and a change from homeless shelter to substance abuse as well as being open to the public.

When deciding on Boulware Center Mission's Conditional Use Permit changes, we please appeal to you to decide no on Boulware's proposed issue. We feel for the concerns and safety of our neighborhood. Thank you.

CHAIRMAN: Anyone else like to speak?
MR. SILVERT:  State your name, please.

MR. DARLING:  Robert Darling.

(ROBERT DARLING SWORN BY ATTORNEY.)

MR. DARLING:  I'm a current resident of 414 Geary Court.

I have also submitted a copy of my statement and the power point that I'm about to do for the record.

Tonight I would like to oppose Boulware's latest proposal before this Board of Adjustment. I would like to show a brief power point of the objections of my neighborhood.

This is my neighborhood before Boulware entered. Nice quiet streets. All home owners. Someone living in every house. Everybody knows everybody.

This is the proposal if it is adopted. This is my neighborhood after. Super busy streets. Lots of traffic 24/7, abandoned houses, lots of strangers, lots of police calls.

Do these slides not look familiar? They should as these two slides were presented at the first Board of Adjustment hearing before Boulware almost four years ago. It seems we were right then about Boulware's plans to cause traffic congestion in our
neighborhood.

The monastery property is completed surrounded by homes and most of them are home owners.

The latest proposal is to put 32 men in this chapel/dorm. With our current fire codes the exit doors to this dorm cannot be locked, which means lots of movement in and out of the closest exit to Benita.

Will Bill Craig be using this exit to save him ingress into the chapel as it will be the closest. He says he doesn't want to walk as much as he used to.

Let's look at the closest gate to the chapel dorm. Lovely gate, isn't it? Real high level security there. And with having up to 90 men on this site or even 32 security becomes the most important issue. Of course, they may shore up this gate, but remember this wall is only six foot high per code. Anyone wanting to enter or leave, of course, uses the shortest distance.

This neighborhood has a high level of single-family home owners. A lot of them seniors. With all these openings on Bonita means a lot of clients wondering around. How would you feel about having 90 men living next door?

This is another high security gate beside the vehicular gate on Benita. All the requested parking
lots mean a lot of traffic coming and going a lot.

When Boulware was in the homeless business, they said only one in ten might have cars. Now with the shift to paying clients, almost every one of them will have transportation. Don't forget the extra meetings, family, friends and, of course, the employees.

If this proposal is approved to open this gate, we would see several hundred extra car visits a day to my neighborhood. Several hundred. Would this not normally change the character of the neighborhood? Something I believe you have to review. I think you discussed it tonight. I mean why would they need more parking if they're not having more car visits. More cars mean more people.

Let's look at the gate they want to open. See any problems? It's flooding and raining and water is pouring out of the drive. Flooding is always a problem in Owensboro and allowing extra parking on this property will only cause extra flooding in the neighborhood as they have no way to contain this runoff in any retention ponds or such.

What happens when 150,000 gallons comes off this property like it does in every two inch rain like I photographed here.

This is a picture beside one of the gate and
all this extra runoff from their site is causing more
filth in the sewer system.

Beside filth we have lots of flooding. Of
course, not all of this water is Boulware's, but with
extra blacktop asked for it will still make this
problem worse.

By the way you really do need to stay out of
this water because it is crawling with Ecoli. In
other words, because of the combined sewer system this
also has your toilet flushings in it. Please notice
the water is covering the school yard too. Ecoli can
live for several days out of the water, which means
school children playing in this grass several days
later could become sick or die. Does the term
tomatoes mean anything? The EPA is looking at our
storm water to see if we need to treat it before it
reaches the river. Very costly. So every gallon that
doesn't soak in to the ground because someone puts in
asphalt parking could wind up costing us all higher
sewer rates.

Let's look at the problem using Bonita as an
entrance or extra or parking.

The street is only 24 feet wide and should be
marked as no parking on one side as per city
ordinance.
You can see in this picture there is no way a

car can pass or any emergency vehicle could pass on

this street.

This is a 12 foot high wall on top of a 12

foot high bank on the south side of Bonita.

Oops, you better stay out of the street

because you will be hit. I have personally been

struck by a car while trying to cross here and to this
day still have little feeling in my right foot. This

is one of the most dangerous intersections in the

city. You are totally blind when you exit off Bonita

onto Wing.

This is your view south of the stop sign at

Bonita. If you're sitting at the stop sign where you

should be, that's your view to the left.

This is your view four feet out in the street.

Notice you cannot see oncoming traffic.

Let's look at the cost of this project so far.

Total cost probably, if it doubles like they've
doubled what they've done before, it's going to be

almost $6 million. Who knows how much.

Executive Inn would have been cheaper to buy.

They could have bought and given 125 new homes with

the money that they've spent.

If they put the parking in, it will flood the
neighborhood more. They don't have containment ponds.

There will be heavy vehicular traffic, have dangerous
entrances. It's open property. Weak security and it
will only have men staying at night in the units.

This is a statement Bill Craig made before the
Owensboro City Commission on April 5th.

"Sometimes one should look at what one really
is saying rather than just the words coming out of our
mouths. They should stop and reflect on what's really
being said."

Our neighborhood is not responsible to
guarantee Boulware's success. If they keep changing
and trying to find a funding source that works, will
they become a Wal-Mart next? That makes the third
change since they've started in our neighborhood. You
know, it's one thing to be next-door to Wal-Mart and
another thing to find yourself suddenly in the middle
of Wal-Mart's parking lot. That's one reason we
oppose this change because of use of Boulware's
entrance and extra parking.

This restructuring means that there is no
longer, this is no longer your mother's Boulware.

They are now going full-time into the substance abuse
treatment business.

When Judy Dixon made her original motion that
it was because she had a similar center next to her, it was the Pitino Shelter. It looks like Boulware is getting out of the homeless care and into a more profitable model. What is now going to become of the homeless?

The one thing I would ask is that if you do not approve the gate, that the gate be sealed because I'm concerned with the gate to be suddenly left open for six months at a time. We'll have to complain before the gate is sealed or shut.

Another thing I would like to ask the chairman. If he counted the people in this room tonight to see whether we exceed the requirements for this room? Because no matter what number they say, who is going to count and who is going to count everybody in the facility? There's no guarantee to the neighborhood that this won't exceed it.

I realize you have to have a number, but I'm not quite sure that you, you know, we could find a workable number that the neighborhood would trust.

So for all these reasons I ask that you not approve this proposal tonight. Thank you.

CHAIRMAN: Anyone else like to speak in opposition?

MR. SILVERT: State your name, please.
MR. KIRTLEY: I'm Bob Kirtley.

MR. SILVERT: I recognize the oath you took as an attorney, Mr. Kirtley.

MR. KIRTLEY: I live at 1500 North Highland Avenue which is a block over from Boulware.

What it was, let me just say from my perspective. I served proudly on Boulware's Board for several years before I was asked to be removed. I was removed for question cost, things of that nature I'm afraid.

I don't know if you understand. Boulware founded its fame in this community based on 12 step AA at no cost. Each one to each one. It was a helping thing. A very created thing. Boulware founded its popularity and its honor of providing homeless shelter to people. Letting them get their head back together and then go out and work in the community. When they were able to go alone, they would have whatever money. They would not be charged a thing. This was probably the most fantastic program.

Now, that has had a remarkable and a dramatic change. The clinical side of rehabilitation cost money.

When I was on the board, the board allocated $50,000 from when the hospital dropped the clinical.
It was agreed by the board that they would drop it if it didn't work.

Well, this is when I was removed from the board, I guess. I don't know.

Because I'm a neighbor that wanted this to work. I was very supportive of it, but I wanted a lock and key facility. I'm afraid what I see now is totally not a lock and key facility by any means.

We're talking numbers. You said they had 90. Bill said 120.

I know Bill's heart is totally good in this and I respect him for that.

But you say things that you cannot comply with. You say things that you cannot realize. What are the aftermath of this?

Now we have the chapel, the sanctuary's Mission on the Hill. It's a dormitory for men only.

Boulware was founded on a family. Anybody could come there. Men and women. In fact, when they came into the community or initially to say they were joining us, they were young girls were coming around hanging out folders for us to come to some event.

That's it. That's Boulware. Boulware is fabulous.

Now Boulware has gotten to this point where it's clinical. I don't know how much clinical is
taken place.

Now, there's two different things here. Clinical is like Hazelton, 28 days. It's intense therapy, in-house therapy. The way it ought to be. Having marijuana talks, that's a whole different concept. That's just teaching. That is not a clinical necessarily program. It's totally -- that goes in conjunction with 12 step, AA.

I'm just saying the program is fabulous, but the ideas are great, but the reality of this thing it's taking the chapel, and it's no longer Mission on the Hill. It's the dorm on the hill.

My greatest fear, and when I gladly joined that group was that it be a lock and key. Now what I see is a total building, a kitchen that's finished, a dining room. That's the two floors on the main structure. What I laugh about because I jokingly said at one of the meetings, you know, I bet it will cost a million bucks to retrofit the annex. Well, I think those numbers are probably pretty accurate. We've spent 2.7 million to date doing some internals. I don't know if they've done the HVAC or the other things for the main building, but to retro fit the annex.

What this is and what it tells me is, clinical
has been working since 2004 or attempted to be
working. They should have specific numbers of what
they serve.

I do know that when I looked at the books one
meeting a month or two before I was asked -- I was not
renewed. That it had grossed $600 to date in fees.

Now, this is another thing that you have to
understand. We're going from a free donation, no cost
to a person, to where you have to pay for service.

Now, granted if you're unable to and all of
this, but you pay -- it's generating tremendous cost
to maintain itself. That really was not Boulware
theory. It was simply you come there, you had a home,
get your life together, and you're fine.

I'm saying to you that I'm deeply concerned
that you have a two-story structure that only has
housing unit in the chapel for 32 people, male only.
That is what's in this application, I believe.

Now, you say you have this 90 figure. Why 120
when you're only going to have 32 people until phase
two is completed. Phase two may never be completed.
Starting in 2009.

Really I can remember, I've had two
anniversaries. It's always usually in September or
October when going into the facility. I don't mean
that in a bad way. I love Boulware. I also love my neighborhood. I see what is happening is what I had the greatest fear for. Good ideas that are not being realized.

What they're saying and they want, let us have the higher numbers and then we'll figure it out. They right now have clinical or should have that at Hall Street campus. They ought to be able to have the numbers and be running on that. Ninety is more than they will ever need for anything. I don't know that you should approve a general public. Until they show they can serve the people that they historically are for. The homeless and the people that take up residency. Let them have a test run of that. Then come back here if it's working, if those programs are working. That's your Hazelton. Inpatient 28 day type program. Serious clinical rehab. And not meetings on marijuana, which is good.

All of these people are my friends. I'm just saying I now -- our community.

We're talking about how it's been draining from other charities. Bobby Darling is say it's come a bit. Well, it has to maintain the clinical. You have to get money from somewhere to pay people to do this type of work. It's totally visible where it
would not recognize Boulware today because it was
solely a 12 step and you brought in the vegetables,
you brought in and donated food, donated things and
went on. It was really a shoe string operation that
worked well. I bet everybody on that board -- I have,
I've taken food there in the past. Even before I was
a board member.

What I'm saying to you is, I think you ought
to deny that application to the public until there's a
track record established. Something more than an
estimate. Because I can tell you right now only 32
people -- 58 is the number -- that's 18 more than the
40 was asked for anyway because they only housing unit
for 32 people they say. So this 140 you're climbing
numbers that are -- I think it's right. What are you
going to do? Have a meter there? You're going to
have to take people's word for it fine or require them
to submit their -- not names because of
confidentiality, but have them submit their daily
attendance charts or numbers or something to keep a
handle on how many people actually attend and in what
capacity like that.

Because this is a neighborhood that would
welcome Boulware that Ms. Boulware started. This is a
neighborhood though that is, and I say that and it's
very convenient that I never did see in that
application where it's for emergency only as was said
today for the Bonita drive. That was a killer point
when this thing first come up here and it was done
away with.

Now the application didn't say anything for
emergency use. The application said to keep it open.
What I'm trying to say these people have a real
concern there. They're told something and something
different happens.

If Boulware is going to be a success, which I
wish it will be, they need to prove something now.
Prove. Prove through the operation of the programs
and do it. Then come back to this board. I'll vote
with them. I'll stand beside them, if they're proving
it. They're actually doing it.

This is premature by any stretch of the
imagination. I don't think that it hurts them in any
way to -- you can approve a loading lock and approve
-- I don't know about the parking. Bobby, you know,
this flooding thing. I'm not here on the water fall
and everything else like that.

But I do think offering this to the public is
a mistake at this time until somebody -- because
they've only been in the clinical business three or
four years. See, that's what you may not realize. Boulware and even there it hasn't been operating. We're not talking a long, 1921 track record or '31, excuse me. We're talking only two or three years and I know the first year it didn't do anything. It exhausted $50,000 the first three months of 2006. It was going in the hole about 4,000 a month.

I'm just simply saying I feel that Boulware is needed in this community, but it needs to prove itself to you all and this community before it be allowed to go further, as far as outreaching for the other clinic. Thank you.

CHAIRMAN: Mr. Kirtley and Mr. Darling, you've been critical in asking for a number and you should know. We cannot enforce this permit if there's not a number. If you go out there and if we get a call from the neighbor who says there's 150 people out there, if we didn't put a number on that, we can't say you're not in compliance. We will revoke their permit. Without a number we cannot do that. You should know that. So we'll put that to rest.

Anyone else like to speak?

MR. SILVERT: State your name, please.

MR. FICKEY: I'm Mr. Fickey. I'm own the adjoining property.
MR. FICKEY: I purchased the property that's adjoining this particular piece of property. It has nothing to do with this. It was sold to me under false pretenses. The realtor told me this had nothing to do with a drug rehab facility. This was a homeless shelter for unwed mothers.

Had I known what I know now, I wouldn't probably be in this neighborhood, but however I love the home I purchased. I love the neighborhood. I would like to see it like it is.

The facility -- can't stop the facility. They're there. I can live with that, but to expand it. I mean 90 people, 90 residents. Well, they leave during the day, then another 120 can come in and somebody said there would be a morning session and then maybe another evening session. So that 120 that leaves becomes another 120. Now we're talking you need a parking garage. Not just some more parking spots sounds to me like. Where is this going to stop? It just keeps expanding and expanding. They'll be tearing down the wall between me and them so they can have room for expansion. I think they should draw a line somewhere.

I wish I knew more about this facility. I
know that there are a lot of drug problems out there. It's good a thing that they can get treatment. I just think they should definitely get their ducks in a row and come up with some limited -- if there's only going to be 90 people there and they're residents and they leave, let 90 more come in. Don't break it up to 140, 120. Ninety sounds like an awful lot of people in that neighborhood. You have a kitchen that people come in and if they want to eat there, then they can eat while they're there and leave. They don't have to be residents to eat in this kitchen. Pretty soon it will a soup kitchen. They'll come up at 5:00. You'll see them dragging in there with their bed rolls and get a meal and then they have to find someplace to lay down and sleep. It sounds to me like it's just going to get out of hand. I just want to be recognized as a concerned neighbor even though I don't have all the answers. I don't profess to have the answers. I would like to hear some of the more definite answers before you vote on something that just sounds like it's whipping a dead horse.

That's all I've got to say. I'm proud to be a member of this neighborhood. I would like to see it be a livable neighborhood. Thank you.

CHAIRMAN: Thank you for your comments.
Anyone else?

(NO RESPONSE)

CHAIRMAN: Anyone like to speak before I call Mr. Craig back?

(NO RESPONSE)

CHAIRMAN: Mr. Craig, would you like to come
back to the podium and address some of the issues and
concerns?

MR. CRAIG: I thought I made it clear earlier.
That we do not have an issue about closing that gate
on Bonita Avenue. The only reason we put in for it to
be open was at the last meeting we understood that
there were objections to it being closed. So we have
no problem whatsoever in walling up that gate. Very
simple.

Number two, whatever drainage problems have
existed in the past, we have had drainage studies
done, I believe our consulting engineer would tell us.
We have not had drainage problems during very heavy
water times. They certainly have not been exacerbated
by anything that we have done.

The picture depicting this huge amount of
water is not something that happened as a result of
anything we did. The sewer lines have been rerun. If
anything, the drainage from that property is better as
a result of Boulware's construction.

The slide that was shown of the parking on Bonita Avenue was taken when we had a public meeting there at the very beginning of this, before anything else was done. That same slide is being shown three years later as to show a parking problem that exist on Bonita Avenue. There hasn't been any problem, there hasn't been any parking on Bonita Avenue for three years.

That gate has only been open on occasion for a piece of equipment to go in or out because of construction. There was a block on the Wing Avenue exit and entrance which was in construction and has now been completed.

With respect to drainage, with respect to parking, with respect to that gate, I respectfully suggest those are red herrings.

The operation of Boulware is constantly an open book. As Mr. Kirtley should know, our finances are always audited. Our finances are always matter of monthly financial statements, etcetera, etcetera.

The additional money that we have spent is to build a more competent facility that can operate efficiently for the long term.

Yes, you could put in the through the wall
motel kind of heating and cooling. What you would
then have is a utility cost nightmare, plus noise,
etcetera, etcetera, etcetera. There's a reason for
each of the things that we have done to improve the
construction.

The reason that the chapel is being used as a
sleeping facility currently is not in disrespect to
its spiritual purposes. It is that we constantly have
people who request services. Sometimes they die
before they can get services. For now the chapel will
be occupied as a group facility. When the
construction is completed, it will return to chapel
use.

All of this is clearly stated in what we filed
with you.

Someone said, you're going to have 90 men
there. That is not true. Anyone who looked at the
situation knows that we have always contemplated that
there will be men and women. Some with children and
families. The gender population for now will be men
only because we have not completed additional bathing
and other facilities that will permit us to have both
men and women in the facility until we complete phase
two.

Throughout the time period that we have been
there with all that's gone on, all the construction, etcetera, there has not been a single solitary traffic issue. When we are done there will not be traffic having to do with Boulware going back and forth on Bonita Avenue. As I said before, the only reason we proposed leaving that open is that we understood the neighbors wanted it to be open.

I take offense at someone who will take a picture of an existing gate that is in fact a wire pipe contraption. That was during the time of construction. All of those gates will become what I said they would become. That is rod iron gates that are open and closing.

If you looked at the type of construction that has been completed, you will be very pleased. I think we have had a number of building inspectors there as we have reached the point of taking occupancy. It is not remotely a trashy facility as depicted. Yes, it has involved more time and effort and resources than we planned initially. That's because we're responding to make it work well and be a quality facility. For the same purposes for which Miss Boulware, who was never a Mrs. by the way. For which Miss Boulware and her sister and three other teachers established in 1921.
Now, if there were a single statistic about problems that develop at Hall Street, we would be hearing about it. You haven't heard about it. If there were a single statistic with respect to the construction process we've been through, you would be hearing about it. There aren't any.

What you have is an extraordinarily complex, but extraordinarily well done transition in taking this facility to what it should be.

Our consulting architect has told us, even with our expanded cost by the time we're done we're getting by 50 cents on the dollar compared to what it would have cost to start some place else all over.

The facility is ideally suited for us. There will be 90 residents who live there. The same as we have been telling you since we were first here.

The changes in physical characteristics of the property involve a loading dock, which doesn't seem to bother anybody. Involves an additional ten parking spaces on the crest of a hill to make it easier for people to walk in rather than having to walk up a hill. It involves the gate that I've already explained at least twice. We don't care about it. If it's the decision to have it closed, if that's the recommendation of the Staff, it is fine with us. We
haven't lied to anybody.

The quote which was put up on your screen was quoting me at a time saying this tragedy of this empty facility gradually tumbling in on itself, becoming a black hole in the community is awful. Let us bring it back to life and use it for the benefit of this facility. For the benefit of this community. That's exactly what we have done. Any of us could be quoted out of context. I refuse to roll over and be quoted out of context.

I can respond to the detail of Mr. Kirtley or any of these others, but those are the main points. This is already more continuant than it should be.

We will have day in and day out people that come and go. People come to our existing facility, we may have 30 people come to an AA meeting. In little bitty Hall Street, 30 people come to an AA meeting. They come in. They're there for an hour and a half or so and they leave.

Do you know how many problems that has caused on Hall Street? Zero. It will cause that sort of problem on Wing Avenue as well.

We have been operating an existing program that we now want to make available because it has excess capacity for people to come in to that facility
during the day when most people are gone. We are
perfectly happy to set, to establish a max number.
That is fine with us.

We think you will find over the next few
months it will be the same non-issue that it has been
until now.

I'm happy to respond to any specific questions
board members may have.

CHAIRMAN: Any board members have any
questions of Mr. Craig at this time?

MR. CRAIG: Or anyone who is not a board
member.

MR. NOFFSINGER: Mr. Chairman, I would like to
state for the record that as part of the application
we do have a drainage plan report prepared by Mr. Jim
Riney, PE. He is here tonight. It has been approved
by Mr. Joe Shepherds, city engineer.

In that plan Mr. Riney states in his summary
that, "It should be noted that the net result of this
parking lot scenario resulted in an actual reduction
in the overall post-development site discharge."

Just make sure that information is entered
into the record since there have been some drainage
concerns.

CHAIRMAN: Anyone have any questions of
Mr. Craig? I'm going to wrap it up here.

(NO RESPONSE)

CHAIRMAN: I'm going to ask the neighbors one more time just very briefly. I'm going to wrap it up.

MR. CRAIG: I understand. I don't want to
continuant the meeting either. I think I responded to
the things that were the most sacred. Thank you.

CHAIRMAN: Thank you very much.

Anyone like very briefly, any additional
comments?

(NO RESPONSE)

CHAIRMAN: Any board members have any
questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Mr. Chairman, I move to approve
the conditional use permit with the findings of fact
that:

1. It fulfills the need within the community;
2. That it has a history of Conditional Use Permit that address the same issues;
3. That the Boulware Center has exhibited a commitment of financial and labor incentive resources to their mission.

With the conditions that reviews be conducted
at six month intervals after occupancy for a period of one year. That the Bonita Avenue access point be closed and not accessible by vehicular traffic, and that at no time will there be more than 120 people in the facility. The residential group will stay at 90.

CHAIRMAN: We have a motion. Do I hear a second?

MR. WARREN: I will second that motion.

CHAIRMAN: I have a motion by Ms. Dixon and a second by Mr. Warren.

MR. SILVERT: Excuse me. I would caution the board that this motion should contain some statement about compatibility with the neighborhood.

MR. NOFFSINGER: Specific. Not just a blanket statement.

MS. DIXON: Specifically it fulfills a need to have an adaptive use for an existing facility that was in this neighborhood for years upon years. That the Boulware Center Board has made every effort to accommodate the needs of the neighborhood with parking structures and so forth. That there are other neighborhoods who have similar uses surrounding them. AA meetings at churches around residential neighborhoods. Homeless shelters that are in reasonable proximity to other residential
neighborhoods.

CHAIRMAN: An addition to the motion.

MR. WARREN: I will accept that.

CHAIRMAN: Any other comments or question on

the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise

your right hand.

(BOARD MEMBERS WARD PEDLEY, MARTY WARREN, JUDY

DIXON, RUTH ANN MASON AND C.A. PANTLE RESPONDED AYE.)

CHAIRMAN: All opposed.

(BOARD MEMBER SEAN DYSINGER RESPONDED NAY.)

CHAIRMAN: Motion carries five to one.

Next item, please.

ITEM 5

822 East Second Street, zoned B-4
Consider a request for a Conditional Use Permit to
operate a fitness center to provide exercise and
health related activities for employees of Owensboro
Grain Company in an existing building on the property.
Reference: Zoning Ordinance, Article 8,
Section 8.2B11
Applicant: Owensboro Grain Company, LLC

ZONING HISTORY

The property is zoned B-4 General Business.

OMPC records contain no conditional use permits or
variances for the subject property.

LAND USES IN SURROUNDING AREA
The property located to the west is zoned I-1 Light Industrial. The property located to the north is zoned I-2 Heavy Industrial. The properties to the east are zoned B-4 General Business and R-4DT Inner City Residential. The properties to the south are also zoned R-4DT Inner City Residential.

ZONING ORDINANCE REQUIREMENTS

1. Article 17, Table 17.312 requires a 3’ high continuous screening element and a tree for every 40 lineal feet of vehicular use area boundary when the area is adjacent to residential zoning or a public or private street.

2. Article 17, Section 17.32 requires interior landscaping for vehicular use areas that are at least 30,000 but less than 50,000 square feet in area, except in industrial zones.

MR. WILLIAMS: We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here have any questions or comments of the applicant?

(NO RESPONSE)

CHAIRMAN: Any board member have any
questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. MASON: Mr. Chairman, I move for approval given the findings that there is no opposition and it will be a benefit to the community as exercise and good health produce a better work force.

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

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second. Any comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

VARIANCES

ITEM 6

3223 Baybrook Street, zoned R-1C

Consider a Variance to reduce the prescribed building setback along Dalton Street from 25' to 15' for the purpose of enlarging the principle building.

Reference: Zoning Ordinance, Article 8, Section 8.5.7(c)

Applicant: J&W Building - Remodeling Dream Design, Melissa Pate and Mary Ann B. Pate
MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. I think in this particular application there is an issue regarding a statement by the attorneys. Mr. Williams or Mr. Silvert will address that, please.

MR. SILVERT: I will.

The application requires a statement by an attorney stating "After researching the records of the Daviess County Clerk, I found there are no deed restrictions, no deeds of dedication, no other convenance of record that would prohibit the proposed use of the subject property or invalidate consideration of the request for variance by the Owensboro Metropolitan Board of Adjustment."

Statement by the attorney that was provided did not make this statement.

Mr. Williams, I believe that this was brought to the attorney's attention. The attorney was asked to resubmit and that resubmittal did not occur; is that correct?

MR. WILLIAMS: That's correct. I did not speak with the attorney directly, but with his staff. He was unreachable a couple of times that I tried to call. This morning I spoke with one of his staff members. Faxed some paperwork to him to get that
returned back to give us some examples of what we needed. Unfortunately we didn’t receive that. He was unable to be reached immediately before the meeting tonight.

MR. SILVERT: The application is not in order because without this we cannot know whether or not there is any prohibition in the property records of the Daviess County that would prevent this request.

CHAIRMAN: So do we need to postpone on it?

MR. SILVERT: I think postponement would be in order.

MR. PANTLE: Mr. Chairman, move for postponement for 30 days for more information.

MS. DIXON: Second.

CHAIRMAN: We have a motion and a second to postpone for 30 days. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 7

1421 Locust Street, zoned R-4DT
Consider a Variance to reduce the prescribed building setback along 15th Street from 25' to 0' for the purpose of enlarging the principle building.

Reference: Zoning Ordinance, Article 8, Section 8.5.11(C)
Applicant: Carl V. and Maureen O. Greenwell
MR. WILLIAMS: Staff finds that there are some special circumstances that do not generally apply to land in the general vicinity or in the same zone.

The subject property is located at the corner of Locust Street and West 15th Street. Several properties along West 15th Street have structures built very close to the property line along West 15th. The applicants have explained in the application that adding to the north or east of the residence is either cost prohibitive or structurally complex. Because so many of the homes along West 15th are already built very close to the property line, granting this variance would not be out of charter with the surrounding neighborhood. The room addition would be no closer than 10 1/2 feet from the street, which is 29 feet from curb to curb.

However, this proposal will allow the structure to be located closer than ten feet from the public right-of-way. The zoning ordinance requires a minimum of 10 feet from the public right-of-way even for in-line extensions or setback averaging. Section 3-5(e) allows an existing principle building adjoining any legally nonconforming yard to build additions in line with existing buildings but must maintain at least 10' between the structure and any right-of-way,
including alleys. Section 3-5(d) allows an average setback to be applied for new additions to reduce the prescribed setbacks in areas where other buildings are nonconforming and encroach into the setbacks, but also requires a 10' minimum setback from the edge of the right-of-way, even if the average setback is less than 10 feet. The intent of the ordinance by requiring a minimum of 10 feet from the street right-of-way is to provide a minimum separation from the public right-of-way for the sake of safety and to avoid creating a hazard.

Staff finds that a strict application of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

Denial of the variance would not permit the applicants to expand the home to the side. There is room in the rear yard for a building addition. If the applicants maintain a 10 foot setback from the right-of-way they could construct within the framework of the zoning ordinance and no variance would be required. Thus, approving this variance would be an unreasonable circumvention of the zoning ordinance.

The applicants have not taken any action to violate the zoning regulations and definitely nothing
willful has been done in violation of.

Therefore the Staff finds that granting this variance will adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; may cause a hazard or a nuisance to the public; and will allow an unreasonable circumvention of the requirements of the zoning regulations.

Staff recommends denial. The zoning ordinance has relief already built in.

Would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Anyone here representing the applicant?

MR. GREENWELL: Yes.

CHAIRMAN: Anyone here in opposition of this application first?

(NO RESPONSE)

CHAIRMAN: Would the applicant step forward, please.

MR. SILVERT: State your name, please.

MR. GREENWELL: Carl Greenwell.

(CARL GREENWELL SWORN BY ATTORNEY.)

MR. GREENWELL: I'm not sure I got all of that. You all have a big job here. I hope this will
be easy.
I gave some pictures. I think you all have those.

MR. WILLIAMS: I'll put them on the screen if you would like.

MR. GREENWELL: That would be good.

MR. WILLIAMS: I will put them on the screen.

If you all will raise that up.

MR. GREENWELL: Top picture there, that was on the corner of 15th and Frederica. All of the homes on the north side of 15th Street face other streets.

They do not face 15th Street.

So starting at Frederica Street you can see that there is part of this house at 15th and Frederica that comes all the way up to the sidewalk. They've got basically is zero variance.

The next picture at the bottom of the screen there, 15th and Waverly, that house is directly behind my house. That also is built up to zero. In fact, I have a picture. I don't know if that would show up or not. I got this at the PVA office I guess it is.

This house right here where I'm pointing, that is the house that is directly behind me. They've got an overhead view. There's a yellow line showing there actually where his addition goes beyond the zero
variance. So he's actually over that.

MR. SILVERT: Pardon me, Mr. Greenwell.

Let the record reflect that that's the corner
of 15th and Waverly.

MR. GREENWELL: 15th and Waverly, yes. Thank
you.

So that is the house that is directly behind
me. They are closer yet to the street than what I'm
asking to go for.

Actually just the bottom on that will be all
that would be applicable.

That one right there is at 15th and Cedar
Street. I took this toward dusk. It's not real
strong there. I apologize. Again, this structure is
built right up to the sidewalk. So they've got a zero
variance on that particular piece of property there.

So there's three or four pieces of property on
15th Street at this time that have the zero or less
than zero variance.

I'm just asking to do no more than what some
other people have done in that particular area.

The reason for this, my mother-in-law -- I
don't know if you need to know why. My mother-in-law
is 87 years old and more than likely is going to be
moving in with us within the next year or so. We need
to have everything on one floor. We've got a nice big house, but most of it is upstairs and there's not much room left on the main floor for any of that purpose. So we're going to add on to be able to accommodate her particular needs coming to live with us.

We did look into the expanding into the back of our house or to the north of our house. Just as I said, we talked to two or three people. The way our house is constructed, it would be really cost prohibited to add on those two parts of the house versus the side that we're asking for.

Anyone have any questions?

CHAIRMAN: Anyone have any questions of Mr. Greenwell?

MR. DYSINGER: Yes, Mr. Chairman.

What made it cost prohibited?

MR. GREENWELL: The plumbing and everything comes in on the east side or the south side of the house, which would be able to very easily tie into if we go on that side. As far as the back of the house goes, we've got a kitchen and everything on the back of the house. So we're going to be putting a bedroom and that kind of stuff. You'd be coming in the house into a bedroom and then into your kitchen. Our garage is in the back of the house. Plus it would have taken
the entire backyard. That was really not my concern there. We were coming into a bedroom for my mother-in-law at that point.

CHAIRMAN: Any other questions of Mr. Greenwell?

(NO RESPONSE)

CHAIRMAN: Staff have any comments?

MR. WILLIAMS: No.

CHAIRMAN: Mr. Noffsinger, do you have any comments or questions?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Thank you.

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

The 15th and Waverly and 15th and Adam Street properties, what's Staff's opinions on those? They were just grandfathered before or something bias here or what?

MR. NOFFSINGER: Those uses would be grandfathered in. They were constructed that way many years ago. The home directly behind this subject property extends into the setback and probably, you know, as close as this one would. A shorter distance. It's not the full length of the house. It kind of comes out and then it jogs back in as you can see on
the PVA map.

MR. DYSINGER: The one at 15th and Waverly?

MR. NOFFSINGER: 15th and Waverly. Directly behind the subject property. The zoning ordinance has relief built in in that you can do in-line extensions, which the Greenwells could do an in-line extension of their existing structure so long as they're 10 feet back from the property line. Ten foot is the minimum. Twenty-five is the setback, but then if we do in-line extensions and whatnot, 10 foot is the bare minimum you're to set off of the property line. When you go closer, when you go right on that property line, you're right at the public right-of-way.

MS. MASON: Is that what these other homes are? They're right at the setback?

MR. NOFFSINGER: Some of them are for some distance. Not necessarily the full distance of the home. Those homes could not be, you could not do an in-line extension of those homes because they do meet the ten foot minimum. Ten foot is the bare minimum to do an in-line extension if you're already encroaching the setback, but 25 foot is the prescribed setback. Some of those homes, yes, they do encroach into that setback for a portion of their distance, but not the full distance. They would not be able to be enlarged
without a variance as Mr. Greenwell is asking for.

CHAIRMAN: Any other comments or questions?

MR. GREENWELL: If I could just so you can understand everything.

This is my neighbor's house. This line where I'm pointing to right there, that's the 10 foot setback right there. His room addition comes out further. If you notice back over here, and this is my house where I'm pointing. I've already got a permitted fence there. I'm just basically asking to be able to build the house out to where we already have a fence. I don't know if that helps you any.

MR. DYSINGER: What kind of fence is it, sir?

MR. GREENWELL: The fence I currently have is a wooden fence. It's not a stockade. It's a very sturdy fence. I paid well to have that fence put in. Solid. Yes, it's solid. It's eight foot tall. It was the maximum.

MR. DYSINGER: Thank you.

CHAIRMAN: Any other comments?

MR. GREENWELL: I don't know if you want to see. This is a side view of my house from the front of my house. You can see where I'm pointing right there. That is the fence if you go all the way down the side of the street. That's where I'm talking
about expanding from there to there.

MR. WARREN: Just to where the fence is?

MR. GREENWELL: Yes. Well, the fence is right on the zero setback. Might be a few inch one way or the other, but when the fence was built it was suppose to be.

MR. WILLIAMS: I would like to make one brief comment.

Take a look at this property here at the top. You can see it does come maybe within ten feet of this sidewalk. This is one example of homes along there that do not go all the way up to property line. Not every home is like the one below that's built right into the sidewalk, right up to the property line, but there are several along that street.

MR. DYSINGER: It's Staff's belief that all the instances where they are built that way predates the current zoning ordinance?

MR. WILLIAMS: Yes, to my knowledge.

CHAIRMAN: Any other comments?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Mr. Chairman, I move to deny the variance because it will adversely affect the public health, safety and welfare. That there are built in
to the zoning ordinances relief for this situation and that the other properties within the area that exceeds the setback were grandfathered in, predated the zoning ordinance.

CHAIRMAN: We have a motion for denial by Mrs. Dixon. Do I have a second?

MR. DYSINGER: I will second.

CHAIRMAN: Second by Mr. Dysinger. Any comments or question on the motion?

(NO RESPONSE)

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

(BOARD MEMBERS JUDY DIXON AND SEAN DYSINGER RESPONDED AYE.)

CHAIRMAN: All opposed.

(BOARD MEMBERS MARTY WARREN, RUTH ANN MASON AND C.A. PANTLE RESPONDED NAY.)

CHAIRMAN: Two to three. Now we need a motion for approval.

MR. DYSINGER: I would encourage my fellow commissioners if you don't want to vote, no, I would encourage you to make a motion.

CHAIRMAN: We need a motion for approval since the motion for denial denied.

MR. WARREN: I would like to make a motion to
approve the variance based on the findings of fact that it will not adversely affect the public health, safety or welfare, because there's already an eight foot fence in the exact same location which is probably in as much hindrance to the view than public safety as the building itself would be. So we're not making it any worse.

It will not alter the essential character of the general vicinity due to the other homes in the area. I do not feel that it would cause a hazard or nuisance to the public, and it will not allow an unreasonable circumvention of the zoning requirements.

CHAIRMAN: We have a motion for approval. Do I hear a second?

MS. MASON: Second.

CHAIRMAN: We have a second. Any comments or questions?

(NO RESPONSE)

CHAIRMAN: All in favor of approval raise your right hand.

(BOARD MEMBERS MARTY WARREN, RUTH ANN MASON AND C.A. PANTLE RESPONDED AYE.)

CHAIRMAN: Three.

All opposed.

(BOARD MEMBERS JUDY DIXON AND SEAN DYSINGER
CHAIRMAN: Motion carries three to two.

Need one more motion.

MR. DYSINGER: Move to adjourn, Mr. Chairman.

MR. PANTLE: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

----------------------------------------------
STATE OF KENTUCKY )
     )SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

I, LYNNETTE KOLLER FUCHS, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Board of Adjustment meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 98 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 21st day of September, 2008.

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

COMMISSION EXPIRES:  DECEMBER 19, 2010
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY