The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, August 2, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: C. A. Pantle, Chairman
                  Gary Noffsinger, Planning Director
                  Marty Warren
                  Ruth Ann Mason
                  Judy Dixon
                  Tim Miller
                  Bill Williams
                  Ward Pedley
                  Stewart Elliott
                  Attorney

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

The first item on the business is to consider the minutes of the July 5th meeting. They're on file in the office and have been checked. I don't think any mistakes have been found in them or corrections. Entertain a motion to dispose of the item.

MS. DIXON: Motion to approve.

CHAIRMAN: Motion been made. Is there a
second?

MR. MILLER: Second.

CHAIRMAN: All in favor say aye.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Couple of guidelines before we get started. If you have any comments about any item, please come to the microphone, be sworn in by counsel. State anything you have to say about the item, objections or in favor of it. Everybody will be given the opportunity to speak.

The first item, please.

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CONDITIONAL USE PERMIT

ITEM 2

2514 Ebach Street, in an R-4DT zone
Consider request for a Conditional Use Permit for placement of a 14'x70' Class B manufactured home. Reference: Zoning Ordinance, Article 8, Section 8.2A10B, Section 8.47
Applicant: Archie Freels

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order. It has been advertised for public hearing at this time and all adjoining property owners have been notified. This is for placement of a Class A, which is single-wide manufactured home on the
Like to remind the applicant of the installation standards if this Conditional Use Permit is approved. That would mean that the tires, tongue, wheels and axles of the unit must be removed. It would require a skirting around the perimeter of the manufactured home of a masonry or concrete block type. The applicant is proposing a ten foot concrete patio as well as two paved off street parking spaces. With that, Mr. Chairman, it's ready for your consideration.

CHAIRMAN: Has there been any objections filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone here wishing to object to this particular item?

(NO RESPONSE)

CHAIRMAN: Would the applicant have anything he would like to add?

State your name for the record, please.

MR. FREELS: My name is Archie Freels.

(MR. ARCHIE FREELS SWORN IN BY ATTORNEY.)

MR. FREELS: I moved a trailer off and was going to put another on. I called the City Planning and found out that things has changed since I had the other one put on there. So what happened was he says...
I have to build a foundation of blocks and all this other stuff. The one thing that I ask that I not have to do was to put a --

MR. NOFFSINGER: Excuse me, Mr. Freels.

Is this regarding the sidewalk?

MR. FREELS: Yes.

MR. NOFFSINGER: The sidewalk is not shown on your site plan. It is not a consideration on this application due to the gas line and water utilities.

MR. FREELS: This was why I have a piece of paper from the city people. That they went down and acknowledged that. That was the only thing that I was going to ask about.

MR. NOFFSINGER: Okay. Thank you.

MR. FREELS: Outside of that like I said, you know, I have confirmed to whatever the city has asked do on this particular lot.

CHAIRMAN: Sounds good. You understand all the conditions and will comply with them?

MR. FREELS: Yes.

CHAIRMAN: Any board member have any comments?

(NO RESPONSE)

CHAIRMAN: If not the Chair will entertain a motion to dispose of the item unless there's anybody
else wishing to speak on this particular item.

MS. MASON: I make a motion that we approve this Conditional Use Permit for placement of the manufactured home.

CHAIRMAN: You've heard the motion. Is there a second?

MR. MILLER: Second.

CHAIRMAN: Any other discussion?

(NO RESPONSE)

CHAIRMAN: Hearing none all in favor of the item raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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ADMINISTRATIVE APPEAL

ITEM 3

2745 Hayden Road, in an R-1A zone
Consider request for an administrative review to consider a request to change one nonconforming use as an automobile body/paint shop to another nonconforming use as a pest management business.
Reference: Zoning Ordinance, Article 4, Section 4.53, Article 7, Section 7.34, 7.4
Applicant: JIC Holdings, June Frey

MR. NOFFSINGER: Mr. Chairman, this application comes before the Board of Adjustment to change the use of the property which has been used for Ohio Valley Reporting

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industrial activities since somewhere in the late 1960's. We do have information in the file that confirms this property has been used for industrial activity since that time. We have also taken pictures on site of the property to verify the existing improvements to date that are on the lot.

This application is being considered by this board in that we have an existing use of the property which is getting ready to change and in order to change that use that use must be approved by this board. The Board of Adjustment would consider evidence by the applicant as well as by any evidence or testimony by adjoining property owners or property owner within the area and then take action as to whether or not this is an appropriate change in use of the property.

The Planning Staff have reviewed the premises. As I said we do have pictures in the record to show how the property exist today. The applicant is reminded there can be no expansions to the property. The area that's used today is the only area that could be used for the industrial type activities. There could not be any building expansions, building additions or any of the grassed area that's not being used now could not be used for industrial activities.
If the board wishes to approve this change in use, the Planning Staff would ask the board to consider the paving of the driveway at Hayden Road in constructing or, if you will, paving a driveway apron 25 feet back from the edge of pavement of Hayden Road. Right now a portion of this site is paved or concrete; however, the area that's providing access to the property off Hayden Road is gravel and we do have gravel that's being slung out into Hayden Road. Typically when we find this we do recommend that the driveway apron be paved. So with that it's ready for your consideration.

CHAIRMAN: Has there been any objections or complaints filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is the applicant here?

MR. INMAN: Yes.

CHAIRMAN: Before you come forward, is anyone in the audience wishing to object to this particular item?

(NO RESPONSE)

CHAIRMAN: Proceed, sir.

MR. ELLIOTT: State your name, please.

MR. INMAN: Todd Inman.

(MR. TODD INMAN SWORN IN BY ATTORNEY.)

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MR. INMAN: Obviously on behalf of JIC Holding, which is a holding company for the real estate, we have no problems with most of the considerations from the Planning Staff. The one thing we do have a little bit of concern about is in regard to the paving requirements on the apron.

The site has been used since 1963 as an industrial site. Our intentions, of course, with the property are to actually enhance the property to a certain degree within the first year with new roof and painting material and to clean up some other non-conforming uses that are going on there right now. That is our intention. Paving the apron immediately would create an additional financial concern to us. It will not allow us to continue on those improvements at least on the lot itself. Other non-conforming uses around the county per se typically use gravel. We have no intentions to go ahead and gravel any further areas or to make any further improvements in regard to the parking structure. Intention only to have been four or five vehicles in that area per day at a maximum. Four to five work vehicles that could be there and one or two officers or secretarial people that would be there. So with that in mind, we would like to go forward with the non-conforming use;
however, we're slightly hesitant in regard to having
to pave the apron.

CHAIRMAN: You were kind of caught in a
catch 17 because you're going from non-conforming use
to -- you lose your grandfathering clause when you
change part of it. There's improvements that could be
required by the board.

Anybody else have any comments?

(NO RESPONSE)

CHAIRMAN: You want to add to it? Any
board member have any questions or comments? Gary.

MR. NOFFSINGER: I just have a comment for
the record. When Planning Staff reviewed this site,
we took into consideration the adjoining properties
which were zoned residential and considered the
screening of the property as well for outside storage
areas and from the driveways and whatnot. Realizing
that certainly what we don't want to do is encourage
the survival of this property for industrial use.
What we are trying to do is accommodate the change in
use in a non-confirming situation such as this where
you have all the surrounding property that's zoned
residential. The Comprehensive Plan and Zoning
Ordinance for the community encourages these types of
activities to be faded out over time. That's why in
terms of the staff's recommendation, we're not looking
for compliance with screening requirements. We're not
looking for full pavement of the property and full
compliance with the ordinance. We're asking that the
situation be remedied in terms of paving that driveway
apron for safety to the public as well as some form of
dust control, if you will, as well.

MR. INMAN: With that in mind, would the
staff or the panel -- one consideration we do have is
we have a 50 foot wide area which is basically the
entryway which is graveled through there leading
directly off Hayden Road. Obviously 50 foot is much
more exaggerated than what we would need for our uses
or for any type of vehicle uses. In regard to choking
down that area to a smaller or consistent amount to be
paved and then either eliminating gravel for that
area, would that be a consideration that would be or
an alternative to having put that much pavement on
just an entrance way and the exit way?

MR. NOFFSINGER: We would certainly
encourage you to do that in terms of reducing the
width of the driveway. Certainly encourage you to do
it and only pave that portion that will be used and
then remove the gravel in the area that you're not
going to use and seed it down. That certainly will be
MR. INMAN: The other alternative is we discussed or I had mentioned at one point, based on where our contract stands on the purchase of this property, it's contingent contract, for some evictions to occur or for some notices to be given to the current tenants, we will not be able to take, possibly take possession until October 1st. With that being in mind, we would like to ask for an extension, if the panel so approves the paving, at least until sometime in the future so that we can be in the paving season. Is that something that we can consider?

MR. NOFFSINGER: Typically the board based upon Zoning Ordinance you have six months to pave. That's typical, if we're nearing the end of the paving season. Paving season runs somewhere around mid November to the end of November, depending on weather conditions. If we miss this paving season, then we're in the next years paving season which probably starts somewhere the end of March, first of April. That would be beyond the six month time period. However, in this board considering the change in use and the way the property has existed for a number of years, I think it would be within reason for the board to set a deadline of May 1st, if the board is comfortable with
that. That gives you the opportunity to do it this paving season, if you can get a contractor out there, or you can be geared up and ready when the next years paving season.

MR. INMAN: And that also give us the time to handle the choking off the property as we need be for the preparation.

MR. NOFFSINGER: Right.

MR. INMAN: With that in mind, I think we could probably go forward, if we can bring it down and then be able to have that extension until May 1st.

MR. NOFFSINGER: Keep in mind if it doesn't happen between now and May 1st, then you would have to appear back before this board and they would have to reconsider the use of the property.

MR. INMAN: Certainly.

CHAIRMAN: Any board member have any question of the applicant?

(NO RESPONSE)

CHAIRMAN: Anyone else have any comments they want to make?

(NO RESPONSE)

CHAIRMAN: Hearing none the board will entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, I make a motion
to approve. To change from one non-conforming use to another non-conforming use with the condition that the driveway be paved 24 feet wide and 25 feet back from the edge of Hayden Road and this shall be done by May 1st of 2002.

CHAIRMAN: You've heard the motion. Is there a second?

MR. WILLIAMS: Second.

CHAIRMAN: Any other questions or comments?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Any other business?

MR. NOFFSINGER: No, sir.

MS. MASON: Make a motion to adjourn.

MR. HAYDEN: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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STATE OF KENTUCKY
   )  SS: REPORTER’S CERTIFICATE
COUNTY OF DAVIESS)

I, LYNETTE KOLLER, 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 13 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 10th day of August, 2001.

LYNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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