The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, June 5, 2003, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: C. A. Pantle, Chairman
Gary Noffsinger, Planning Director
Ruth Ann Mason
Judy Dixon
Tim Miller
Sean Dysinger
Stewart Elliott
Attorney

CHAIRMAN: Want to call the Owensboro Metropolitan Board of Adjustment to order. Want to welcome all of you this evening.

First thing we started doing, if you wish to join us you feel free to. We'll open with a brief prayer and then the pledge to allegiance. If you wish to join us, please stand.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome you to the Board of Adjustment. Set up a few guidelines.

Everybody will have the opportunity to
speak on any item, if you wish, as long as we don't
have repeats or go over the same thing continuously or
drag it out excessively long.

With that we'll go on with the first item
of business and that's approve the minutes of the May
1st meeting. They're on record in the office. No
errors have been found in them. Entertain a motion to
approve as recorded.

MS. DIXON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a
second. All in favor say aye.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, Mr. Noffsinger.

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

CONDITIONAL USE PERMIT

ITEM 2

316 Hale Avenue, in an R-4DT zone
Consider request to amend a Conditional Use Permit
to expand a child day-care center in Unit 7-A Harry
Smith Apartments to Unit 7-B Harry Smith Apartments
and to increase the number of children served from 15
to 31 children.
Reference: Zoning Ordinance, Article 8, Section 8.2B3
Applicant: Housing Authority of Owensboro

MR. NOFFSINGER: Mr. Chairman, this item
is in order and ready for consideration.

Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Has there been any objections filed in the office Mr. Noffsinger?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there anyone in the audience wishing to object to this item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything that he would like to say, he or she?

APPLICANT REP: No.

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

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion been made for approval. Is there a second?

MR. MILLER: Second.

CHAIRMAN: A motion has been made and a second. Any other discussion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.
Next item, please, sir.

ITEM 3

3802 Legacy Run, in a P-1 zone
Consider request for a Conditional Use Permit to construct and operate a childcare facility to serve 90 children.
Reference: Zoning Ordinance, Article 8, Section 8.2B3
Applicant: Franklin J. and Susan J. Dockery

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order.

If they receive an approval tonight, they will be required to have a development plan approved by the Planning Commission and that is scheduled to occur on June 12th of this year. This is to construct a new free-standing daycare with the appropriate number of off-street parking areas and drop-off points. It will also require approval from the State of Kentucky, Division of Licensing From Child Care.

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

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there anyone in the audience wishing to object to this tonight?

(NO RESPONSE)

CHAIRMAN: Hearing none does the applicant have anything they would like to add to it?

Ohio Valley Reporting
(270) 683-7383
APPLICANT REP: No.

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

(NO RESPONSE)

CHAIRMAN: The applicant know he'll have to get all the licenses and approval and things through the state and from the zoning?

APPLICANT REP: Yes.

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

MR. MILLER: Mr. Chairman, motion to approve.

CHAIRMAN: Is there a second?

MS. MASON: Second.

CHAIRMAN: Any other discussion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

5400 Todd Bridge Road, in an A-R zone
Consider request for a Conditional Use Permit to construct and operate a recreational complex consisting of a softball field, baseball field, soccer field and parking lot.

Ohio Valley Reporting
(270) 683-7383
MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. The application is found to be in order and ready for consideration.

CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: There has been one adjoining property owner that has had some representation in the office, they're in the audience tonight, that has raised some questions about the proposal.

CHAIRMAN: Does the applicant want to make any comments now or do you want to listen to the questions?

SISTER VIVIAN: We would prefer responding to the questions.

MR. ELLIOTT: State your name, please.

SISTER VIVIAN: Sister Vivian Bowles.

(SISTER VIVIAN BOWLES SWORN BY ATTORNEY.)

SISTER VIVIAN: We have been notified that there is a question about several issues, but the main ones seem to be a noise buffer. In our plan, we do intend to have what we would consider environment

Ohio Valley Reporting
(270) 683-7383
friendly buffer for sound. Possibly planting pine
trees along the property line. If that is not
acceptable to the neighboring property, we would be
open to recommendations from that individual.

We do have with us this evening Don
Bryant, the engineer, who has a full design of the
park, and counselor, Charlie Kamuf. We will address
any questions. Thank you, sir.

CHAIRMAN: Anyone wishing to object to
this item or raise questions on it?

MR. McINTYRE: We've just got some
questions about it.

CHAIRMAN: Come and be sworn in by the
counsel. Direct your questions to the Chair and we'll
get the answer.

MR. ELLIOTT: State your name, please.

MR. McINTYRE: David McIntyre.

(MR. DAVID McINTYRE SWORN BY ATTORNEY.)

MR. McINTYRE: Our main concern is the
noise buffer and also the run-off water, you know,
considering the fact that we're in a flood plain.
Most of our property, well, it's all in the flood
plain, but our houses are, and I live next-door to my
parents, are built up above where the floods get. In
'97 the water came up and got my parents house and got
in mine somewhat. The run-off water and the built-up
ground is what we're mainly concerned about and what
kind of adverse affect that will have to our houses
and our property. That's basically what our main
concern is.

CHAIRMAN: We will get that answer for
you.

Would the designer, Mr. Bryant, come
forward and be sworn in and address these items,
please.

MR. ELLIOTT: State your name, please.

MR. BRYANT: Don Bryant.

(MR. DON BRYANT SWORN BY ATTORNEY.)

MR. BRYANT: Basically this entire area,
the entire site, this entire area is in the flood
plain.

What we're proposing to do is if you'll
notice the plan only the very front part of the plan
along Todd Bridge Road is actually being developed.
That's going to be raised to -- the maximum elevation
is going to be 393. That's just going to be for the
concession building, to protect them and also the
in-fields of the baseball diamonds.

The balance of the property is going to be
fill, but it's going to be filled with material that's
coming from the excavation area to the rear and that
is going to be left open. We're required, of course,
to do Division of Water Flood Plain Permiting. All
the fill material that's going to be placed on this
site is going to be material from the site. So we're
not going to encroach on the flood plain. We're going
to provide for every cubic yard fill we're going to
provide an offset with a cubic yard of volume.

Now, the additional excavation that will
come out of the permanent impoundment or the lake
area, that can be made as large as Brescia would like
to make it, but any material that comes out of that
area, since it's permanent impoundment, will have to
be removed from the site and deposited outside the
flood plain.

So there will be no impact on the flood
plain, no impact on adjoining properties. This entire
property, this is a branch of the Goetz ditch along
the side by the lake. The entire property drains
directly now and under the new design will drain
directly into that ditch.

CHAIRMAN: This has to be approved by the
Division of Water?

MR. BRYANT: Before any work is done, yes.

CHAIRMAN: Does that answer your question?
MR. McINTYRE: So far, yes.

CHAIRMAN: Well, in '97 best I can remember all the impoundments in Daviess County were having that problem.

MR. McINTYRE: One concern we had with the city park that's there seems like the water in the ditch that runs along Todd Bridge has raised and stayed, you know, high after even a half inch of rain or so or will stay full a lot longer than it had in the past. I'm a little bit concerned about that with the wash-outs. My parents are having a little bit of trouble with their driveway right now where the land around the culvert is actually being kind of rubbed away. That's a main concern too. When we live out there everything kind of -- every time it rains you've got to wonder what's going to happen next.

CHAIRMAN: By taking any fill material off of that property and stacking it up will not have a joint affect on the adjoining property. Any other questions?

MRS. McINTYRE: I have a little one.

CHAIRMAN: Come up and be sworn in, ma'am.

MR. ELLIOTT: State your name, please.

MRS. McINTYRE: Dorothy Jean McIntyre.

(MRS. DOROTHY McINTYRE SWORN BY ATTORNEY.)
MRS. McINTYRE: What I'm concerned about is how close the driveway where they're going to go in on that to ours. Is that the part you're going to buffer? Put a buffer between our driveways? There's no shoulder on the road at all out there absolutely. There's just the two deep ditches.

MR. BRYANT: The buffer would be provided along the side property line where we join your property. We are providing landscaping along the front edge of the paved area that's required by ordinance. That's not a visual buffer. That's a three foot element that's very short. What we're talking about is something that would actually block the view of the facilities from your home along the side property line. This would be pine trees. There's a number of ways to do this. Staggered pine trees or something of that nature is one common method.

MRS. McINTYRE: I was just wondering, you know, how close we was going to be where they come in because when we try to turn in our driveway we almost get run over. There's no speed limit signs out there on the road at all. They go pretty fast.

CHAIRMAN: That would be a county problem, enforcement problem. It wouldn't be their problem.
MRS. McINTYRE: You know, a sign of some thing or something to let them know. We did have one, but some people took it one day and they never put another one back. They think they can go I guess whatever speed they want since there's no sign.

CHAIRMAN: You need to get in touch with the judge-executive or your commissioner and the law enforcement and complain to them about that.

MRS. McINTYRE: We have quite a bit of drag racing and things going on. I was just a little worried about how close our driveways were going to be, you know.

MR. DYSINGER: Mr. Chairman, can I ask a question?

CHAIRMAN: Okay. We have a question.

MR. DYSINGER: Will there not be some sort of lane or something provided? I assume that when you have people come out it will be large numbers of people at one time. Will there not be some sort of lane provided so that people can kind of pull off the main roadway before they pull into your space or will they be pulling into your space at the speed limit of the main artery there?

MS. MASON: You mean a turning lane?

MR. DYSINGER: Right. Exactly.
MR. BRYANT: We're really not generating that much traffic from this site. We have a little over 200 park spaces and estimated seating capacity of 500. So I would even say even in comparison with the city park there's much less traffic demand for this site than what they will be.

MR. DYSINGER: But anticipating 200 cars all arriving approximately at the same time, would they not?

MR. BRYANT: No, they wouldn't. I wouldn't think they would be coming in all at the same time. You wouldn't have 200 vehicles out there waiting to make a right turn at one time.

MR. DYSINGER: To come watch a game or play at the field. You don't anticipate people arriving roughly at the same time to do that?

SISTER VIVIAN: Our history is they come and go and since there's not a gate where they have to pay to get in or people don't usually come at the beginning. They just come when it's convenient and they leave when it's convenient. At least that's what's happening at all three of our separate fields right now.

MR. KAMUF: Charles Kamuf.

(MR. CHARLIE KAMUF SWORN BY ATTORNEY.)
MR. KAMUF: At the city park they don't have a turn lane. There will be substantially more traffic there at the city park than they have at our. The last time I was out there they didn't have any turn lane.

SISTER VIVIAN: Don, won't our entrance be much wider for the safety of getting in and out than say the small driveway besides their home?

MR. BRYANT: The driveway we're talking about is there's a joint driveway at the front of the property. There's an ingress and egress easement there. So with this plan actually we will be abandoning our use of that entrance. It will become their personal entrance.

MR. KAMUF: The entrance that's there at the present time was placed there by me in 1981 before these people owned that property. It was a joint driveway that I had with Mr. Bittel who owned the remaining property. In other words, it's my understanding that it will be their driveway and there will be a new driveway that will be prepared directly north of that.

CHAIRMAN: Do you have any other questions, ma'am?

MRS. McINTYRE: I guess that's about it.
I still worry about the water so I hope that works out all right. The ditches that are there will not carry the water if there's any that comes over. They just won't do it.

CHAIRMAN: As long as it's approved by the Division of Water, there's nothing we can do. They will have the final say so on this development plan and approve it. They will override anything we do here, if it needs to be, and the county engineer.

MRS. McINTYRE: Won't there be a road some day connecting these with probably Town Square Mall? Are there plans for that?

MR. NOFFSINGER: Ma'am, if I might address that. Right now there are no plans to make that connector. There's a plan to bring a road in from Frederica Street and run that roadway west toward Todd Bridge Road, but it would make a turn to the north and go up to Southtown Boulevard and intersect there right in front of Farmview Court. At one time it was talked about this roadway would extend on over to Todd Bridge Road from Frederica Street, but that is not what the Transportation Policy Committee approved. That's not to say that roadway couldn't happen some day in the future. I certainly hope that at some point it does, but there's no plan that has been approved for that to
MRS. McINTYRE: Actually how many feet are going to be between us? Do you have an idea on that?

CHAIRMAN: Mr. Bryant, can you give us the distance roughly that your entrance will be from the edge of the property.

MR. NOFFSINGER: Looks like from center to center it will be about 50 to 85 feet.

MR. BRYANT: Our entrance is 24, pavement is 24 feet wide.

CHAIRMAN: How far is it off the line?

MR. BRYANT: It's over 50 feet. It's approximately 80. Let's say 50 to 60 feet center line to center line.

CHAIRMAN: From off the property line to the center. It will be roughly 60 feet from the property line to the center of their drive.

MRS. McINTYRE: That's all I have concerns about. Will there be a fence? Are you planning to fence it, enclose it?

SISTER VIVIAN: Yes, ma'am. The entire property will be fenced and we will have a security gate so that it will be open only when representatives from Brescia are there using it and then individual fields may also have other fencing.

Ohio Valley Reporting
(270) 683-7383
MRS. McINTYRE: I was concerned about if they could wander over on to our property or something.

SISTER VIVIAN: You're asking if our fencing will come on our property?

MRS. McINTYRE: No. I was concerned about if there wasn't a fence,

SISTER VIVIAN: No. We are going to have a fence. We want security for the property.

CHAIRMAN: The plans shows security fence and protection.

SISTER VIVIAN: The fence will be inside, I believe it will be inside the buffer. The buffer would be on -- we can do it either way and it may be staggered to help with the noise more.

MRS. McINTYRE: How do they plan to handle the sewer? Is that going to be --

SISTER VIVIAN: Yes, we've addressed that. You want to do it? I know it roughly, but he can do it in more technical terms.

MR. BRYANT: We're working with RWRA to have sewer facilities now at the park. We'll have a gravity line from our site over to a lift station that will pump into the public system. There will be no septic tanks on the site. Everything will be public.
sewer.

MRS. McINTYRE: Is there any possibility that we could hook onto that sewer?

CHAIRMAN: That would be the sewer department. They would have to approve that.

MR. BRYANT: The lift station will have capacity to serve additional areas.

MRS. McINTYRE: I guess that's all I can think of.

MR. NOFFSINGER: Mr. Chairman, I would like to hinder some statistics into the record. These come from the Green River Area Development District regarding traffic. The most recent traffic counts along this section of Todd Bridge Road would indicate that there's about 1,000 vehicles per day. The speed limit that they have indicated here is 55 miles per hour. Todd Bridge Road currently operates a level of Service A, which is the most acceptable level of service you can have.

In projecting, in order to bring the roadway down to a level of Service C, it would require an additional 9,250 vehicles trips per day. So you'd be looking at increasing traffic about nine times over what it is today. It's projected that the traffic from this development should not more than double the
existing traffic and that would be make it about 2000
per day and it would reduce it to a level of Service
B, which means good progression, short delay.
I'd like to enter these into the record, please as Exhibit A.

CHAIRMAN: Any board members have any other questions?

MR. DYSINGER: I just have one other question. If I'm reading this right, it will be the softball field which sort of points towards these folks property; is that correct? Not the baseball field.

SISTER VIVIAN: Yes, sir.

CHAIRMAN: The applicant have anything else they'd like to add?

APPLICANT: No.

CHAIRMAN: Do you all have any more questions?

MRS. McINTRYRE: When we was talking about the speed limit, the sign that was out there was 35 miles an hour. The speed limit was 35. That's the sign they took.

MR. NOFFSINGER: Ma'am, they have the speed limit indicated here as 55 so what that would do if it's actually 35 it should increase the level of
service, based upon their projections, but that is an
issue you would need to take up with the State
Transportation Department in terms of the speed limit
on that roadway since it's a state maintained road.

CHAIRMAN: As much as we'd like to tell the
state what to do, there's times we can't do it, ma'am,
I'm sorry.

MRS. McINTYRE: We asked for a sign I
guess for two years and they did come out and put up a
sign, but they put it on Keller Road where they don't
really need it where it's at right now. We need it on
Todd Bridge because when they come off the hill they
fly. There's a lot of speeding out there.

CHAIRMAN: That's something we can't
control.

MRS. McINTYRE: It's a danger.

CHAIRMAN: I understand that. You need to
talk to your elected officials and your county
commissioners and complain to them. That's in their
ball park of responsibility, ma'am.

Anything else?

(NO RESPONSE)

CHAIRMAN: Any other board member have any
other comments or questions?

(NO RESPONSE)
CHAIRMAN: Chair entertain a motion to dispose of the item.

MR. MILLER: Mr. Chairman, motion to approve. Would like to add the condition that some type of sound barrier be added to the southwest corner of the property adjacent to the parking lot. Something similar or equal to a double row of pines.

CHAIRMAN: Is there a second to the motion?

MR. DYSINGER: Second.

CHAIRMAN: The applicant understand the condition that we put on?

SISTER VIVIAN: Yes.

CHAIRMAN: A motion has been made and a second. Any other discussion or comments?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please, sir.

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

VARIANCE

ITEM 5

4404 Fairbairn Court, in an R-1C zone

Ohio Valley Reporting
(270) 683-7383
Consider request for a Variance to reduce the front-yard building setback from 25 feet to 23.4 feet to accommodate an encroachment that occurred when the house was built.

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

Applicant: Steve and Susan Bratcher

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order.

We have been to the site and visited the site. The home has been constructed. It's my understanding that the home is occupied now. This encroachment was found during a mortgage inspection after the home had already received a final occupancy permit from the inspection office. We have provided a recommendation to each of the board members regarding or recommending that this variance be approved and that it will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; will not allow an unreasonable circumvention of the requirements of the zoning regulations.

CHAIRMAN: There's no conditions put on it, right?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone wishing to object to
this?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything they would like to add?

APPLICANT REP: Nothing to add. We're available for questions.

CHAIRMAN: Thank you, sir.

Any board member have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon the findings that were cited by Mr. Noffsinger.

CHAIRMAN: Is there a second?

MS. MASON: Second.

CHAIRMAN: Any other discussion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Entertain one more motion.

MS. MASON: Motion to adjourn.

MR. DYSINGER: Second.
CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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

I, LYNNETTE 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 24 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 22nd day of June, 2003.

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
DECEMBER 19, 2006

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting
(270) 683-7383