The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, July 3, 2003, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  C. A. Pantle, Chairman
Ruth Ann Mason
Judy Dixon
Tim Miller
Ward Pedley
Becky Stone
Stewart Elliott
Attorney

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CHAIRMAN:  Call the meeting to order.

If you all desire, we start the meeting off each time with a prayer and the pledge of allegiance. If you all desire to join us, please stand and the prayer will be led by Mr. Miller this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  With that want to welcome all of you to the Owensboro Metropolitan Board of Adjustment this evening.

If any of you have anything you wish to
say, come to the microphone and you'll be sworn in.
Address your questions to the chair and we'll get the
answers or try to get the answers for you. We will
not sit here and argue over the same testimony or same
questions continuously. We'll cut you off if that
develops.

With that we'll start the first item on
the agenda is the reading of the minutes of the last
meeting. They're on file in the office. Have been
checked and haven't found any mistakes that we know
of. With that we'll entertain a motion to dispose of
the minutes.

MS. DIXON: Move to approve.

CHAIRMAN: Is there a second?

MR. MILLER: Second.

CHAIRMAN: All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

First item on the agenda, please.

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CONDITIONAL USE PERMITS

ITEM 2

2511, 2521, 2531 Riverrun Cove, in an R-1A zone
Consider request for a Conditional Use Permit to
install a set of steel stairs and a floating boat dock

Ohio Valley Reporting
(270) 683-7383
for seasonal use on the Ohio River Bank within a floodway.

Reference: Zoning Ordinance, Article 18, Section 18-5(b)(4), 18-6(b)(2)

Applicant: River Run Boat Club, Inc., Dave Howerton, agent

MS. STONE: The application is in order and ready for your consideration.

CHAIRMAN: Have there been any objections filed in the office on this?

MS. STONE: No, sir.

CHAIRMAN: Is there anyone wishing to speak in objection to this particular item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything they would like to add to the application at this time?

(NO RESPONSE)

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

MR. MILLER: Motion to approve.

CHAIRMAN: Motion has been made. Is there a second?

MR. PEDLEY: 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.

Next item, please.

ITEM 3

6501 Summit Drive, in an R-1A zone
Consider request for a Conditional Use Permit to
expand an existing golf course to include a PGA
training facility.
Reference: Zoning Ordinance, Article 8, Section 8.2K7
Applicant: M.W. Development Services, LLC, Miles
Farms, LLC

MS. STONE: This application is in order
and ready for your consideration.

CHAIRMAN: Again, has there been any
objections filed in the office?

MS. STONE: We've had one inquiry in the
office, but not an objection.

CHAIRMAN: Is there anyone in the audience
wishing to object to this or have questions of the
applicant?

(NO RESPONSE)

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

APPLICANT REP: No.

CHAIRMAN: Any board members have any?

questions of the applicant?

(NO RESPONSE)
CHAIRMAN: There's no objection and no questions. Hearing none the Chair will entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, I make a motion for approval.

CHAIRMAN: Is there a second?

MS. DIXON: 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 unanimously.

Next item, please.

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VARIANCE

ITEM 4

610 Hill Avenue, in an R-1B zone
Consider request for a Variance to reduce the front-yard building setback from 25 feet to 22 feet in order to construct a 26' by 6' covered porch addition to the existing residential structure.
Reference: Zoning Ordinance, Article 8, Section 8.5.6(c)
Applicant: Lewis L. Cary, Jr.

MS. STONE: This application is in order and ready for your consideration.

CHAIRMAN: Has there been any objections

Ohio Valley Reporting
(270) 683-7383
filed on this application?

MS. STONE: No, sir.

CHAIRMAN: Anyone in the audience wishing to speak in opposition of this variance?

(NO RESPONSE)

CHAIRMAN: Is the applicant here? Is there anything they would like to add?

APPLICANT: No.

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

(NO RESPONSE)

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.

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on findings 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: Is there a second to the motion.
MS. MASON: Second.

CHAIRMAN: Any other discussion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 5

1901 McCreary Avenue, in an R-1A zone
Consider request for a Variance to reduce the side yard building setback from 10 feet to 5 feet in order to construct a 20' by 25' bedroom and bathroom addition.
Reference: Zoning Ordinance, Article 8, Section 8.5.5(d)
Applicant: Greg and Elizabeth Floyd

MS. STONE: This application is in order and ready for your consideration.

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

MS. STONE: No, sir.

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

MR. AHNELL: Yes, I do.

CHAIRMAN: Is the applicant here?

MR. FLOYD: Yes.

CHAIRMAN: We're going to listen to you
first.

DR. AHNELL: I'm Dr. Ahnell.

(DR. AHNELL SWORN BY ATTORNEY.)

DR. AHNELL: I live adjacent to the people, Greg and his wife

CHAIRMAN: Your address is what?

DR. AHNELL: Our address is 1907 McCreary.

We live south of theirs.

I've done some measuring on the street in our area. If this variance is permitted -- first of all, we like our neighbors and we socialize with them. They have informed us of their intentions. We saw their plans. We measured the distance and so on. At first we thought maybe it would be all right.

Then our second thought, my wife and I, that's getting close to the property line. It only gives five feet. I did some eyeballing in our area of the neighborhood on the street. I went up and measured what I thought was the smallest distances between two houses which is between 1918 and 1920.

There's about 19 feet there from one end of the house to the other.

If this goes through that will only permit -- first of all, there is 23 feet now. If he puts -- give him an 8 foot variance that will only give 15
feet between our house and their house. Their house is only five feet from our property line. That is out of character with our area of the street in the neighborhood.

It is set precedent (CHECK) for that type of variance as well. Before you know it, people will be adding three feet here, four feet here, and the lots will become diminished which will destroy the overall appearance.

I would present an option that they start 15 feet back of the line that they propose and come over with the variance at that part. That would be diminishing the property size further back on the lot instead of closer toward the front. I would hope that you would take this into consideration and that you would vote against this variance.

Furthermore, if this is granted, then I would expect the commission and our neighbors to grant us the same variance. They're young. They need probably another bedroom. We're getting old and we may need to modify our house to build a hallway. I don't know. Things can change over a period of time.

First of all, I hope you would vote against this and then ask them to draw some plans and fit more in their plans in the rear part of the lot.
Thank you.

CHAIRMAN: Does anyone on the board have any questions of the gentleman?

(NO RESPONSE)

CHAIRMAN: Would the applicant like to come forward and state your name for the record and be sworn in.

MR. ELLIOTT: State your name, please.

MR. FLOYD: Greg Floyd.

(MR. GREG FLOYD SWORN BY ATTORNEY.)

MR. FLOYD: First of all, I want to say that, Ahnell, I appreciate your kind words. At the first meeting a few weeks ago, I invited him over and wanted to explain to him what I was doing. He listened and then mentioned that he wouldn't have a problem with it if I didn't have a problem with it later on. I told him if I come within five feet and he comes within five feet it still leaves us ten feet and I wouldn't have a problem with that. At the same time the last thing I want to is feel cramped. Again, I don't want them to feel cramped also. We get along. Wanted that to continue also.

What I did is I went up and down our street. It runs from Ford to Griffith. Within that
block, maybe actually longer than a block, but within
that one section there, from the property lines to the
houses I measured or counted 11, approximately 11
addresses where the property line and the house or
building, whether it be a major garage or something,
would be closer than ten feet. Now, the statement he
made was the distance between house to house, but what
I'm basing it on is the distance between houses and
property lines.

Again, two that I know of are within,
closer than five feet. I didn't go up and measure
them. When they're this far away you can tell that
it's pretty close. Those are some additions and so
forth.

Again, the last thing I want to do is be
cramped. I don't want him to be cramped.

Unfortunately my lot is one of the
narrowest ones on the street. What I would like to do
is just add on a bedroom and a bath and a couple of
walk-in closets. From what he mentioned, as far as
going back, it makes it tough because I've got to go
back real narrow and then expand wide. To get my
square footage I'm looking at 500 square feet. To get
the square footage that I need, going narrow at first
it's going to take me so deep into my property. I'm
wanting to save a little bit of back yard.

That's all I have. Just asking for a
simple five feet. Thank you.

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

MR. PEDLEY: I have a question, Mr. Floyd.

I looked at your plat and drawing here. Why you're
not moving the addition in behind the house further.
Is it getting too close to your garage?

MR. FLOYD: Well, as soon as my driveway
clears the house, it Y's out and it goes into a large
double car garage. There's a fence there. What I
have to do is, it's already cramped on that side
because my lot is narrow, I have to cut into my
driveway to get addition in. It cramps me even more
on that side.

MR. PEDLEY: If you moved it over, how
close would you be to the garage? You're allowed six
feet.

MR. FLOYD: It's my driveway is the
concern.

MR. PEDLEY: It's not the garage?

MR. FLOYD: No. The garage sits back.

It's taking a large chunk out of my small back yard to
begin with. It's just going to be cramping me too
much to go the other side. It wouldn't work out. At
same time, as far as privacy, the way my plans are, I
have zero intention of putting any windows or anything
on his side. My new addition will not have any
windows facing his property line. That gives us a
little privacy and it's not like that we'll be looking
window to window being that close.

Again, the last thing I want to do is be
cramped and I don't want him to be cramped. Again, I
don't have a problem if he comes -- because he
mentioned he wanted to come five feet to the line, if
not closer. I don't have any problem with it.

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

MS. MASON: So you wouldn't even be able
to go over another foot or two closer to your
driveway?

MR. FLOYD: I was going to go closer, but
I settled on five feet. I'm cramped as it is. What
it is I'm only I guess 25 feet wide and 20 feet deep.
It's hard for me scoot --

MS. MASON: So how many feet right now do
you have between the side closest to the driveway and
the driveway?

MR. FLOYD: Two feet, foot and a half.
Between my house and the driveway?

MS. MASON: Well, between the new addition and the driveway. It looks like more than two feet, but I don't know what scale this is drawn to.

MR. FLOYD: It's not to an exact scale.

MS. MASON: But it looks like more than two feet from the side of your addition. I guess that would be the north side of your addition.

MR. FLOYD: Correct.

MS. MASON: To the driveway?

MR. FLOYD: Correct. It just cuts into my driveway and it allows me -- I've got a fenced in backyard that runs between my driveway and the yard. I would to move all of that. It gives me no backyard that way. It would have to be so narrow that it would go deep into my backyard that I'm trying to avoid.

MS. STONE: There is a six foot separation requirement from the detached accessory building and the principal structure; isn't that correct, Jim?

MR. MISCHEL: Yes.

MS. STONE: So even if this variance was granted, he's going to have to maintain six foot separation between that garage and the house.

CHAIRMAN: And the addition.
MS. STONE: An the additional, right.

MS. MASON: Even though the addition doesn't go up to the garage?

MS. STONE: He has to be six feet from his accessory structure by the zoning ordinance.

MS. MASON: Okay.

MR. FLOYD: I guess one thing I was basing it on is I felt like there were -- I don't know if the city went and checked them out visually or had them surveyed or what, but the addresses I gave them I thought there was approximately 11 situations where the buildings, whether garage or house, was closer to the line.

MS. STONE: We did look at those properties. Now, several of them were detached garages which by ordinance can be closer than that ten feet. They're allowed to be three feet from the side yard or the rear yard, but there were several examples. 1935, 1920, 1918 and 1811 McCreary where the principal structure appeared to be closer than ten feet to the property line measuring visually where that property line, you know, between the two yards. We didn't locate pins, but it appeared to encroach on that ten foot. Then a dimensional variance was granted by this board in 1990 for a side yard setback.
at 1720 McCreary. And that granting of variance down
to I think a seven foot side yard setback on that
piece of property which is between, it's in this same
not block, but in this same uninterrupted frontage
between the two properties.

MR. FLOYD: Again, I'm looking at spending
between 35,000 and $50,000, but I'm trying to do
nothing but improve my property and the neighborhood
at the same time.

CHAIRMAN: Is there any other questions or
comments from the board to the applicant?

(NO RESPONSE)

CHAIRMAN: Doctor, do you have something
else you'd like to add?

DR. AHNELL: When I was talking about with
the distance between houses and not garage, and I
realize that the garages can be two, three, four feet
from the property line. I'm talking about just
in-between houses. Even when you cited a moment ago
between 1918 an 1920 McCreary, I know exactly the
property line because there's a driveway going through
there. The distance between the houses, the best I
could do without trespassing too far on their
property, was 19 feet from one house wall to the other
house wall. In our part of street our end, which is
the south end, that appears to be the narrowest
distance between the houses.

Now, if you look back from the property
lines, sure, there's some garages much closer. I
would have no objection to him going out further back
on his property and building closer to ours, but I
would like to maintain this 23 feet or so distance
between our two houses which is much in character with
the rest of the houses on our street. I don't believe
any house from house to house is much under 10 or much
under 20 feet. Even the distant from his house to the
neighbors is much more because of common driveway for
one thing.

CHAIRMAN: Thank you.

Any other comments or questions?

MR. FLOYD: Am I correct in saying that
the main concern is the distance between houses or
garages in each property in relation to its property
line?

CHAIRMAN: He's saying the distance
between your addition and his house would only be ten
feet and that's what he's objecting to.

MR. FLOYD: He's ten feet off his property
line now.

CHAIRMAN: That would be 15 feet.
MR. FLOYD: His house -- wouldn't you say your house is ten feet off the property line now.
Again, he mentioned building out. If he wanted to come within five feet.

DR. AHNELL: If he comes over eight feet, that gives only 15 feet.

MS. STONE: He's coming over -- well, it may be eight feet from your house. He'll be five feet from the property line.

MR. AHNELL: Yes, and I think that's too small, too narrow.

CHAIRMAN: You made a statement you wanted the grant the same privilege without an application. We can't grant privileges for variances. If you decide you want to add or something, you'll have to make an application, sir.

MR. AHNELL: Then I definitely oppose this.

CHAIRMAN: Any other question or comments from the board?

(NO RESPONSE)

CHAIRMAN: Do you have anything else? You have one thing last time.

MR. FLOYD: I don't believe so. Thank you.
CHAIRMAN: Anyone else in the audience have anything to add?

(NO RESPONSE)

CHAIRMAN: The Chair will entertain a motion to dispose of the item.

MR. MILLER: Mr. Chairman, since there are other encroachments in this area that have been noted by Staff and a dimensional variance was granted in 1990, from the facts that I've seen I don't think granting the variance will alter the essential character of the area; will not cause a public nuisance or be detrimental to the public health, safety or welfare. Therefore, I move to pass the variance, grant the variance.

CHAIRMAN: A motion has been made in favor of the variance. Is there a second?

MS. DIXON: Second.

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

(NO RESPONSE)

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

(THREE (3) COMMISSION MEMBERS PRESENT - MS. DIXON, MR. MILLER AND MR. PANTLE - RESPONDED AYE.)
20

CHAIRMAN: Opposed.

(TWO (2) COMMISSION MEMBERS PRESENT - MS. MASON AND MR. PEDLEY - RESPONDED NAY.)

CHAIRMAN: Motion carries three to two.

Next item, please.

ITEM 6

5345 Meadow Run Drive, in an R-1A zone
Consider request for a Variance to reduce the project boundary setback on the east side of the lot from 20 feet to 10 feet in order to construct a single-family residence.
Reference: Zoning Ordinance, Article 10, Section 10.432
Applicant: Paul Martin Builders, Inc.

MS. STONE: This application is in order and ready for your consideration.

CHAIRMAN: Any objections been filed in the office?

MS. STONE: No.

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

MR. MARTIN: No.

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

(NO RESPONSE)

CHAIRMAN: Chair entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, I make a motion
for approval based on the findings 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: Is there a second to the
motion?

MS. MASON: Second.

CHAIRMAN: Any other discussion or
question by the board?

(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 7

5348 Meadow Run Drive, in an R-1A zone
Consider request for a Variance to reduce the
project boundary setback on the east side of the lot
from 20 feet to 10 feet in order to construct a
single-family residence.
Reference: Zoning Ordinance, Article 10,
Section 10.432
Applicant: Paul Martin Builders, Inc.

MS. STONE: The application is in order
and ready for your consideration.
CHAIRMAN: Been no objections filed in the office?

MS. STONE: No.

CHAIRMAN: Applicant have anything they want to add to it?

MR. MARTIN: No.

CHAIRMAN: Chair entertain a motion to dispose of the item.

MS. DIXON: Move to approve because granting the variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the area; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

CHAIRMAN: Is there a second?

MR. PEDLEY: Second.

CHAIRMAN: Any other discussion or comments from the board?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.
ITEM 8

5389 Meadow Run Drive, in an R-1A zone
Consider request for a Variance to reduce the project
boundary setback on the west side of the lot from 20
feet to 10 feet in order to construct a single-family
residence.
Reference:  Zoning Ordinance, Article 10,
Section 10.432
Applicant:  Paul Martin Builders, Inc.

MS. STONE:  The application is in order
and ready for consideration.

CHAIRMAN: Same question. Any objections
been filed in the office?

MS. STONE:  No.

CHAIRMAN: Applicant have anything to add?

MR. MARTIN:  No.

CHAIRMAN: Chair entertain a motion to
dispose of the item.

MS. MASON: Make a motion for approval
with the findings 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; and
will not allow an unreasonable circumvention of the
requirements of the zoning regulations.

CHAIRMAN: Is there a second?

MS. DIXON: Second.

CHAIRMAN: All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Any other business?

(NO RESPONSE)

CHAIRMAN: We need one final motion.

MR. MILLER: Move to adjourn.

MS. DIXON: Second.

CHAIRMAN: All in favor of the motion 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 24 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 21st day of July, 2003

LYNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 212
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
DECEMBER 19, 2006

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting
(270) 683-7383