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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

NOVEMBER 6, 2003

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The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, November 6, 2003, 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
- Tim Miller
- Sean Dysinger
- Ward Pedley
- Edward Baylous
- Attorney

* * * * *

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

Want to welcome you this evening. We're going to, as we've been doing in the past, we're going to start and ask one member to give a prayer. If you wish to join with us, we'd appreciate it, and then the pledge of allegiance afterwards.

With that Ward Pedley will give the invocation.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

1 CHAIRMAN: Want to briefly welcome you. I
2 think most of you have been here in the past. If you
3 have anything you wish to add to any item, please come
4 to the podium and state your name for the record.
5 We're not going to listen to the same thing over and
6 over again. We'll listen to each item once. If
7 there's a lot of continuous talking on the same thing,
8 we'll cut you off.

9 With that we want to welcome Ed Baylous
10 who is taking Stewart's place who is sick and unable
11 to be with us.

12 We'll proceed with the minutes of the
13 October 2nd meeting. They're on record in the office.
14 I think there's not been any additions or mistakes we
15 need to add to it.

16 MR. NOFFSINGER: No. She continues to do
17 a fine job.

18 CHAIRMAN: If not entertain a motion to
19 approve the minutes.

20 MR. MILLER: Motion to approve the minutes
21 as submitted.

22 MR. DYSINGER: Second.

23 CHAIRMAN: A motion has been made and a
24 second. All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries.

2 First item please, sir.

3 -----

4 CONDITIONAL USE PERMITS

5 ITEM 2

6 1370 South Chestnut Grove Road, in an A-R zone
7 Consider request for a Conditional Use Permit for
8 construction of eighteen (18) additional campsites at
9 an existing outdoor recreational facility.
10 Reference: Zoning Ordinance, Article 8,
11 Section 8.2/K7
12 Applicant: Daviess County Fish and Game Association

13 MR. NOFFSINGER: Mr. Chairman, this
14 Conditional Use Permit is in order and ready for
15 consideration.

16 CHAIRMAN: Is there any objections in the
17 office?

18 MR. NOFFSINGER: No, sir.

19 CHAIRMAN: Is there anyone wishing to
20 object on the first item?

21 (NO RESPONSE)

22 CHAIRMAN: Is the applicant here to add
23 anything on to it?

24 APPLICANT REP: No.

25 CHAIRMAN: Does any board member have any
questions of the applicant?

MR. MILLER: Mr. Chairman, just one
observation. Under the description of proposed use

1 and activity, it does mention possible further
2 expansion at a later date. Might want to say if that
3 does happen, am I right, Gary, they would have to come
4 before this board again?

5 MR. NOFFSINGER: Yes, sir, that is
6 correct. If this board considers or makes a motion
7 for approval, you should do so with a finding and
8 might I suggest that one finding would be that this
9 facility has existed for a number of years. It
10 predates the zoning ordinance. This would be a minor
11 expansion to that existing facility.

12 CHAIRMAN: Planning commission have
13 anything to add on to it?

14 MR. NOFFSINGER: No, sir. It's in order
15 and ready.

16 CHAIRMAN: Any other board members have
17 any other comments or questions?

18 (NO RESPONSE)

19 CHAIRMAN: Hearing none entertain a motion
20 to dispose of the item.

21 MS. MASON: I make a motion for approval
22 based on findings.

23 MR. NOFFSINGER: You need to attach a
24 proper finding to that motion. I suggest that the - -
25 the facility predates the zoning ordinance. It's been

1 there for a number of years. This would be a minor
2 expansion of that facility. You can accept that.

3 MS. MASON: I'll accept that.

4 CHAIRMAN: Is there a second?

5 MR. MILLER: Second.

6 CHAIRMAN: Any other discussion or
7 comments?

8 (NO RESPONSE)

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 Next item, please.

14 ITEM 3

15 193 Phillips Court, in an R-4DT zone
16 Consider request for a Conditional Use Permit to
17 construct a 30-foot by 30-foot garage and storage
18 building on the existing campus.
19 Reference: Zoning Ordinance, Article 8,
20 Section 8.2/C1
21 Applicant: Mary Kendall Campus/KY United Methodist
22 Homes for Children and Youth, Methodist Home of
23 Kentucky, Inc.

24 MR. NOFFSINGER: Mr. Chairman, Planning
25 Staff has reviewed this application. We find that the
26 addition to the project as proposed is minor and
27 insignificant and should be compatible with the
28 neighborhood and not change the character of the
29 neighborhood; however, that finding is made upon the

1 information contained in the application itself and
2 not information that may be presented at this public
3 hearing.

4 CHAIRMAN: Is there any objections in the
5 office?

6 MR. NOFFSINGER: No, sir.

7 CHAIRMAN: Is anyone objecting to the Mary
8 Kendall Campus?

9 (NO RESPONSE)

10 CHAIRMAN: Any board members have any
11 comments or questions?

12 (NO RESPONSE)

13 CHAIRMAN: Does the applicant want to add
14 anything to it?

15 APPLICANT REP: No.

16 CHAIRMAN: Hearing none we'll entertain a
17 motion to dispose of the item.

18 MR. WARREN: Motion to approve the
19 Conditional Use Permit with the findings.

20 MR. NOFFSINGER: What I'm suggesting is
21 since there has not been any evidence submitted at
22 this public hearing, other than the application as
23 submitted, and staff would recommend that your motion
24 be accompanied by a finding that the use is minor
25 consequence to the facility and that the facility has

1 existed at this location for a number of years. The
2 issuance of the Conditional Use Permit would be
3 compatible with the neighborhood and surrounding area.

4 MR. WARREN: I couldn't have said it any
5 better myself.

6 CHAIRMAN: Is there a second?

7 MR. DYSINGER: Second.

8 CHAIRMAN: Is there any other discussion
9 or comments?

10 (NO RESPONSE)

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 Next item, please.

16 ITEM 4

17 1253 Willett Road, in an A-R zone
18 Consider request for a Conditional Use Permit to
19 construct a 3,946 square foot bunkhouse with a 2,818
20 square foot deck to house a maximum of 14 migrant farm
21 workers and one supervisor.

Reference: Zoning Ordinance, Article 8, Section 8.2A7

20 Applicant: MISAS, Inc., Robert J. & Lisa C. Wimsatt

21 MR. NOFFSINGER: Mr. Chairman, this is a
22 rehearing of a Conditional Use Permit that was
23 approved by this board on September 5th of 2002. It
24 was also considered in August of 2002, but the motion
25 to approve and findings were presented in September,

1 actually September 5th of 2002.

2 A Conditional Use Permit is good for one
3 year. If that Conditional Use Permit is not
4 exercised, then the applicant must come back before
5 this board for a rehearing on the Conditional Use
6 Permit, and that is what's occurring here tonight.

7 If you'll permit me, I do have a handout
8 for each of you that I will read into the record that
9 will describe the differences in the application in
10 terms of Staff's review.

11 After comparison of the original
12 Conditional Use Permit application approved for MISAS
13 at 1253 Willett Road and the current Conditional Use
14 Permit for the same use of the property on the OMBA
15 agenda for the November 6, 2003 meeting, our planner,
16 Becky Stone, finds the following differences:

17 1) The original application requested
18 approval of the bunkhouse for a maximum of 14 minor
19 farm workers. New application is also requesting
20 approval of a bunkhouse for a maximum of 14 migrant
21 farm workers and one live-in supervisor for a total of
22 15 residents.

23 The approval of the original Conditional
24 Use Permit included a condition that a live-in
25 administrator must be on site at all times. So the

1 assumption could be made that the original approval
2 was also for 15, 14 migrant workers and an
3 administrator.

4 2) The site plan has changed from the
5 original application of approval. The proposed
6 parking previously was located around the perimeter of
7 the building. The parking spaces are now proposed to
8 be located forward of the building. The configuration
9 of the building has changed. A 2,818 square foot deck
10 has been added that was not on the original submittal.

11 3) In addition to these changes, the
12 applicant has submitted a copy of an approval site
13 evaluation for the septic system. A stream
14 construction permit issued by the Kentucky Division of
15 Water valid until May of 2004 and numerous letters of
16 support for various agencies and citizens.

17 Now, I read this into the record and asked
18 our planner to prepare this simply to illustrate to
19 the board and to the audience the differences we found
20 on this application from when it was approved in
21 September 5th.

22 We also indicate the conditions of
23 approval of the Conditional Use Permit on September 5,
24 2002 were as follows:

25 1) There should shall not be any

1 expansion in number of residents or in the site plan
2 submitted without coming before the OMBA Board for
3 approval.

4 2) If there are any severe rules and
5 regulations and maintenance violation, the OMBA Board
6 may require the permit holder to appear before the
7 board to address the problems. The board has the
8 power to revoke the Conditional Use Permit and may do
9 so.

10 3) Within seven days of copying the
11 recorded plat and recorded deed of the property must
12 be submitted to the Planning Commission. This
13 condition was satisfied within the time limit set
14 forth. That has already taken place.

15 4) A full-time live-in administrator must
16 be on site at all times.

17 So with that we submit this into the
18 record as the Staff's review as well as the
19 application will be entered into the record for
20 consideration tonight. I believe the applicant is
21 here as well as there may be some residents from the
22 area that wish to speak.

23 CHAIRMAN: The applicant come forward, if
24 they have anything they want to add please.

25 SISTER LORRAINE: I have nothing to add.

1 CHAIRMAN: Anyone objecting to have
2 anything and come forward and state your name.

3 MR. JACKSON: My name is Brian Jackson. I
4 live at 811 Willett Road.

5 (MR. BRIAN JACKSON SWORN BY ATTORNEY.)

6 MR. JACKSON: I want to make sure you all
7 know why my wife and I are here. I don't know that
8 you do. There are no other human residents of Willett
9 Road besides Rebecca and myself. We're the only other
10 people who live on that road. Ours is the only
11 dwelling and the only residence. We share a 3,000
12 foot, roughly, property line with the co-applicant.

13 Still yet even under these circumstances,
14 now at the third hearing on this issue in this room,
15 my wife and I have found out about this hearing agenda
16 item by hearsay from neighbors. On none of the three
17 occasions have we been notified by mail as adjacent
18 property owners.

19 Now, I'm satisfied that somehow in the
20 reading of the script of the text of the statute the
21 co-applicant has found a way in which to ignore the
22 fact that we're the only other people who live on that
23 street, but I doubt if there's a judge in this county
24 who would look at the circumstances and not agree that
25 we are legitimately adjacent property owners who have

1 the right to be notified in advance of these
2 proceedings in order to prepare, in order to have some
3 opportunity to think on the issues and maybe consult
4 some counsel.

5 This I find a pattern that I find very
6 disturbing. At the end of the last meeting when the
7 variance was approved we went to the co-applicants,
8 expressed our desire to be good neighbors. Expressed
9 our desire to try to do everything we could do to help
10 and not be a hindrance, and yet in a full year that
11 has past we've heard not word one from either of the
12 co-applicants in any way, shape, form or fashion to
13 tell us of their plans, to engage us in any kind of
14 colloquy of any kind or to show themselves to be good
15 neighbors.

16 Now, this pattern of ignoring us may be
17 simply rudeness and discourtesy, and we're willing to
18 accept that. We've had rude, discourteous neighbors
19 before. But it may be contemptuous disrespect. That
20 I find it necessary to address because if the project
21 has not even had a shovel full of ground moved yet and
22 the neighbors are being treated with contemptuous
23 disrespect, then God help us as this thing moves
24 forward.

25 I actually contacted a friend of mine,

1 Attorney Charles Kamuf, to ask if he would represent
2 me in this matter. Despite the fact that we were told
3 at the last hearing that the Diocese of Kentucky was
4 not significantly involved in this process, Mr. Kamuf
5 after consulting with the diocese informed me that he
6 could not represent me because it represented to him a
7 conflict of interest as attorney of record for the
8 diocese.

9 Now I find not one but two areas in which
10 I must consider whether or not the co-applicants have
11 acted with disrespect for due process, having spoken
12 in this room to the denial of that fact, the diocese
13 was not involved.

14 So I come here knowing that you're
15 probably going to go ahead and approve the process
16 anyhow, but I feel it's necessary as the property, the
17 only other property owner who's a resident of Willett
18 Road to come here and raise some objection and say
19 that I do not believe that proper due process has been
20 followed and that we feel that - - in fact, after
21 having only a moment to consult my attorney, who is
22 out of town, that this process may indeed be subject
23 to some scrutiny.

24 I'd like to hear someone address those
25 issues.

1 CHAIRMAN: Do you have anything you would
2 like to add?

3 SISTER LORRAINE: Yes.

4 CHAIRMAN: State your name, please.

5 SISTER LORRAINE: Sister Lorraine Lauter,
6 8030 Cummings Road.

7 (SISTER LORRAINE LAUTER SWORN BY
8 ATTORNEY.)

9 CHAIRMAN: You live on that road?

10 MR. JACKSON: Yes, sir.

11 CHAIRMAN: Does your property adjoin to
12 their property?

13 MR. JACKSON: Our property shares about a
14 3,000 foot line with Mr. Wimsatt's property to the
15 north of our property and to the south of his.

16 CHAIRMAN: Thank you.

17 SISTER LORRAINE: May I respond to that?

18 CHAIRMAN: Yes.

19 SISTER LORRAINE: There's a deed recorded
20 at the courthouse of this being a separate lot as
21 required. That means that there's no longer a shared
22 property line. We showed this to Ms. Stone when I
23 submitted the application. I discussed that, of the
24 change.

25 CHAIRMAN: In other words, there's a

1 division of - -

2 SISTER LORRAINE: There's a division from
3 that acreage of 2.16 acres from this project that's
4 recorded at the courthouse.

5 MR. NOFFSINGER: Mr. Chairman, if I might
6 add for the record - -

7 SISTER LORRAINE: Hundred acres
8 in-between.

9 MR. NOFFSINGER: Excuse me, - - as well.
10 Even before that division occurred, this property
11 consisted of three tracts. The original tract
12 boundary of this 2.16 acres came off of would not have
13 adjoined the Jacksons' property. So even with that
14 there still would not have been a requirement by
15 statute that the Jacksons be notified.

16 In this particular case, there were three
17 adjoining property owners notified. Bob and Lisa
18 Wimsatt, Curtis Alvey and a J.R. Kerns. By statute, I
19 think legal counsel would agree, that these statutes
20 require that all adjoining property owners be
21 notified. In this situation, it appears that those
22 would be only three adjoining property owners. The
23 2.16 acre tract is currently separated from the
24 Jacksons' property by three tracts.

25 SISTER LORRAINE: Secondly, there's about

1 100 acres between the two sites and I believe close to
2 half a mile of road frontage. So I just want to point
3 that out.

4 Thirdly, there really hasn't been any
5 desire to act in an underhanded way or anything like
6 that. I don't need to do that or any desire to do
7 that.

8 The character of this discussion hasn't
9 inspired me to reach out for conversation. Certainly
10 would not have meant rudeness or discourtesy or
11 contemptuous disrespect of any kind.

12 I'm not sure about the concern about
13 conflict of interest. I'm not sure why the - - I
14 would reiterate that the diocese - - MISAS is an
15 ecumenical organization stating it's bylaws,
16 etcetera. This is not a project in any way connected
17 with the diocese. I suppose that my being a director
18 as an Ursuline sister and a valid religious of the
19 Catholic church might have led Mr. Kamuf to consult
20 and decide that there would be a conflict of
21 interest. However, I also fail to see that there
22 would be any sort of negative implication from the
23 involvement of the diocese if that were true. I'm not
24 sure what that's going to apply.

25 Aside from that, I really don't have

1 anything else to say. Thank you.

2 CHAIRMAN: Does anyone on the board have
3 any questions of either the applicant or those
4 opposed?

5 MR. DYSINGER: I just have a question, Mr.
6 Chairman.

7 On this map, Gary, can you show me where
8 the Jacksons' property is? If it's not shown on here,
9 - -

10 MR. NOFFSINGER: It would be south.

11 MR. DYSINGER: Okay. In this area?

12 MR. NOFFSINGER: North is straight up.
13 Their property will be to the south.

14 MR. DYSINGER: It's not directly across
15 the street?

16 MR. NOFFSINGER: I know this is off the
17 record. You can't see the exhibit. 2.16 acre tract
18 is located at the intersection of Willett Road and
19 Griffith Station Road. The Jackson property is
20 located to the south, and it's this property. So it's
21 separated by three tracts.

22 Mr. Jackson, this is the 2.16 acre tract,
23 Willett, Griffith Station. This would be your
24 property here.

25 MR. JACKSON: So what separates us is

1 basically - (inaudible - off record discussion.)

2 MR. NOFFSINGER: This is the old property
3 line I was speaking of. You have a tract here this
4 2.16 acres came off of. We have a tract here as well
5 and a tract back here. That existed back several
6 years ago. I can't tell you exactly how far back it
7 went. That's the way it existed prior to this
8 division.

9 MR. JACKSON: So on this entire stretch of
10 road north of the park, ours is the only residence.
11 Again, I find - - the way the statute is written, I'm
12 not saying that they did anything illegal.

13 CHAIRMAN: The statute says adjoining
14 property are required for us to notify.

15 MR. JACKSON: Right. I'm satisfied that
16 under statute that - - I've already spoken to people -
17 -

18 CHAIRMAN: I want to make sure that we
19 were correct, that we were doing what we were suppose
20 to do legally.

21 MR. NOFFSINGER: Mr. Chairman, for the
22 record I just might reiterate that the applicant has
23 submitted an application that contains numerous
24 letters of support for this facility from different
25 agencies and public officials. Those will be entered

1 into the record, made a part of the transcript as well
2 as a permit from the Division of Water construction
3 permit issued by the Division of Water and expires if
4 work is not begun by May 29th of 2004. They've also
5 submitted for the record a project overview that's
6 made a part of the application. Each board member has
7 been sent a copy of this application. They've been
8 aware of this application and what it contains. It
9 will be made a part of the transcript here tonight.

10 CHAIRMAN: Do you have any other comments
11 you'd like to make at this time, either one of you?

12 MR. JACKSON: Not of any material
13 difference. I am satisfied and I want you all to know
14 that I am perfectly satisfied that this has been
15 followed according to statute, but when you think
16 about it from any kind of reasonable standpoint, if
17 there is violence, if there is misbehavior, if there
18 is any kind of trouble at this facility of the type
19 that we've come to expect from these type of
20 facilities, then the only people who stand to be
21 immediately affected by it are my wife and I in terms
22 of the people who live near. For us not to be
23 considered as adjacent property owners under any kind
24 of reading of any kind of statute is really
25 unconscionable.

1 CHAIRMAN: Unfortunately we've got to go
2 by the state laws and statutes.

3 MR. JACKSON: But those are all subject to
4 review by a judge.

5 CHAIRMAN: You have stated your
6 reasonings.

7 MR. JACKSON: And it was important for me
8 to be at this meeting to speak up.

9 CHAIRMAN: We appreciate it.
10 Do you have anything else you'd like to
11 add?

12 SISTER LORRAINE: No, sir.

13 MR. NOFFSINGER: Mr. Chairman, if there
14 are no objections, I would like to enter a copy of the
15 transcript from the September 5, 2002, as well as the
16 August 2, 2002 meetings of this board and made a part
17 of the record.

18 CHAIRMAN: Okay. Has any board member
19 have any questions of anyone?

20 MR. DYSINGER: I have a question of Sister
21 Lorraine if possible.

22 What are the requirements of residency?
23 Do the residents have to be employed?

24 SISTER LORRAINE: The residents have to
25 pay rent. It's not a shelter. Seasonal farm work it

1 would be difficult to require that at all time a
2 resident would be employed, if you know how seasonal
3 farm work works. As there are in other farm work
4 projects across the country, residents are expected to
5 pay rent. Be a rate of rent that would be reasonable
6 and workable for those residents, but it's not a
7 shelter.

8 MR. DYSINGER: Is there any - at the risk
9 of sounding insensitive - is there any checks done
10 into the background of the individuals before they
11 come over? Who is responsible for that? Are they
12 contracted with an independent contractor of some kind
13 that locates them here?

14 SISTER LORRAINE: All of those
15 circumstances vary from farmer to farmer, for example,
16 from situation to situation. We would be a housing
17 provider under the laws of fair housing of the state.
18 So whatever requirements under fair housing, whatever
19 expectations, all of those would be followed closely,
20 the laws of fair housing.

21 MR. DYSINGER: Thank you.

22 CHAIRMAN: Would be required to have
23 proper cards and everything, correct?

24 SISTER LORRAINE: Will be required to
25 register those with us.

1 CHAIRMAN: Any other questions?

2 (NO RESPONSE)

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

5 MR. DYSINGER: These conditions that we're
6 discussing in the report that you gave out, Gary, do
7 we need to - - do we need to discuss any part of those
8 in terms of the verbiage used?

9 MR. NOFFSINGER: Well, the board may want
10 to. We provided these conditions for your review and
11 to let you know what the conditions were attached to
12 the previous approval. Now, certainly Condition
13 Number 3 I would recommend, if you're going to make a
14 recommendation for approval, that you strike Condition
15 3 because the plat has already been prepared, recorded
16 and the deed recorded. So there's no need for that
17 condition.

18 You may want to take a look at the second
19 condition. Talking about if there are any severe
20 rules of regulations and maintenance violations, the
21 board may require the permit holder to appear before
22 the board to address the problems. The board has the
23 power to revoke the Conditional Use Permit and may do
24 so. I would recommend that - - let me think about
25 that for a minute.

1 You may want to consider another way to
2 approach the situation through a review. I'm not
3 suggesting a yearly review of this particular permit,
4 but when you talk about if there are any severe rules.
5 In discussion with our attorney representing us, whose
6 call is that? It may be appropriate, more appropriate
7 for you to instruct the zoning administrator to
8 conduct a review within a time frame, to conduct a
9 review of the facility and report that back to this
10 board every so often for some time period. That
11 review would consist of communicating with the
12 appropriate law enforcement agencies perhaps.

13 I see Sister Lorraine, she's looking and
14 we certainly want to hear from her. It just concerns
15 me the way that this condition is written about
16 severity and regulations. May be more appropriate way
17 to handle it.

18 SISTER LORRAINE: I'm a little concerned
19 about it too because my first question would be I
20 wonder if there are comparable conditions set for
21 other similar projects. We have many bunkhouses in
22 this county and I doubt there are those conditions
23 set. If this became an issue, I would have to
24 question it from that regard.

25 The fourth one as well, the full-time

1 live-in administrator must be at site at all times.
2 As it's stated, I think that's rather demanding where,
3 you know, the administrator went to the grocery store
4 and suddenly we have someone before the board.

5 I'm also wondering if we could have a
6 discussion about what exactly is the motivation for
7 those particular conditions. I know this was a lot
8 more heated last time so I just kind of let it ride as
9 it was. I really have some questions as to the
10 appropriateness of some of the wording here. I think
11 I understand where some of the concern comes from, but
12 I'm not sure that there is anything that is - how do I
13 say this? - legally defensible at that.

14 MR. NOFFSINGER: Mr. Chairman, given the
15 nature of the issues presented by Sister Lorraine here
16 in this public hearing and the request by the
17 landowner within the area, to postpone action on this
18 item. I would recommend that this board postpone
19 taking action on this item until your next meeting and
20 for us to establish some correspondence with the
21 applicant as to what concerns they have and what they
22 might be agreeable to because back in September of
23 2002 the applicant had agreed to certain conditions.
24 We need to discuss these conditions further and we
25 have a landowner in the area that's requesting

1 postponement. I would recommend that we not take
2 action.

3 CHAIRMAN: Yes, ma'am.

4 SISTER LORRIANE: I would like to request
5 a statement of the exact nature of the concern.

6 MR. NOFFSINGER: I think that's what we
7 want to better understand. We have a landowner in the
8 area that's requesting time for them to become better
9 prepared because they weren't notified from what they
10 feel like in a timely manner.

11 Then, two, there were some conditions set
12 on the previous approval that you were agreeable to.
13 Certainly you didn't question them at that time and
14 there was a considerable amount of evidence presented
15 in the record. I want to be able to go back, since we
16 have all agreed to submit that previous transcript
17 into record, to get a better understanding as to what
18 those conditions were, what the issues were, and then
19 see where we go from here because your disagreement
20 and your raising the issue in terms of questioning the
21 previously approved conditions, that certainly
22 concerns me. I would think that it would concern this
23 board. That's just a recommendation for the board to
24 consider whether to move forward or not.

25 SISTER LORRAINE: I believe that there

1 were statements in the record about the concerns
2 behind these conditions. I would again reiterate that
3 I think these conditions are extraordinary. That
4 there were similar projects that do not have these
5 conditions and that these conditions arose out of the
6 nature of the discussion the previous year. I think
7 that the conditions because, as you brought up, are
8 rather, are worded in a rather to say the least
9 open-ended and widely interpretable ways. That these
10 conditions as they are, are really not appropriate for
11 the board. Not so much for MISAS.

12 CHAIRMAN: I think for us to be sure that
13 we're on correct ground for each one of us I will
14 entertain a motion to table this until our next
15 meeting to be sure we state all the things correct for
16 the applicant and reasons.

17 MR. DYSINGER: Are you looking for a
18 motion, Mr. Chairman?

19 CHAIRMAN: Yes.

20 MR. DYSINGER: I move that we table the
21 item until the next meeting.

22 CHAIRMAN: Is there a second?

23 MR. MILLER: I'll second with just a
24 comment.

25 I hope you understand if we do postpone

1 this is in no way trying to tort the efforts. We're
2 just trying to make sure we fulfill our obligations.

3 SISTER LORRAINE: I understand that. I
4 think that's actually wise that the conditions were
5 brought up. I was not going to bring this up. I
6 think it is wise that the conditions were brought up.
7 I wish it could be resolved tonight, but I understand
8 that. I think that there are certainly, they're not
9 necessarily legally defensible at all. They're
10 aspects. I'd rather us have a very clear agreement.
11 I'd also rather us have a very clear understanding of
12 the motivations behind the conditions.

13 MR. NOFFSINGER: I agree with that. Let
14 me state that those conditions, as I recall, were
15 based upon application that you submitted. I want to
16 have the opportunity to go back through that
17 application and see because you presented evidence
18 that support these conditions back one year ago. Now,
19 you're questioning those conditions. That concerns
20 me. I want to go back to the application because the
21 application you presented is what you're to go by and
22 nothing more in terms of what you stated there. So I
23 just want to make sure that you're comfortable with
24 what you've stated and that this board is comfortable
25 with in their motion.

1 SISTER LORRAINE: I'd like to please add
2 to the record that, for example, the fourth one is not
3 part of our condition or our request. We did say that
4 there would be a live-in administrator.

5 We did not put in the original request
6 Number 1, the number of residents submitted.

7 We did not write in anything like Number
8 2.

9 Number 3 I believe was a situation or a
10 concern about the plat be recorded, etcetera, that was
11 raised at the original meeting in August.

12 MR. NOFFSINGER: Let me just state for the
13 record that you have in your application, "our inn
14 will have a full-time inn-keeper, a live-in
15 administrator who will supervise the living
16 arrangements of the residents."

17 SISTER LORRAINE: Right.

18 MR. NOFFSINGER: Now, that will be
19 consistent with four, a full-time live-in
20 administrator must be on the site at all times.

21 MR. BAYLOUS: I don't want to interrupt,
22 but I think you're both saying the same thing. I
23 think what she's saying is she reads that as requiring
24 whoever the live-in resident is to never leave the
25 property.

1 SISTER LORRAINE: At all times.

2 MR. BAYLOUS: When you say at all times,
3 and I think what you're really talking about is a
4 live-in, there must be a live-in administrator
5 employed at all times.

6 SISTER LORRAINE: Yes. We don't have an
7 issue with that. It's the "at all times" I'm
8 uncomfortable with.

9 CHAIRMAN: Let's not debate the thing this
10 evening. We'll talk, everybody can talk between now
11 and the next meeting and supply a copy to you and to
12 the other applicant. The next meeting will be the
13 December, the first Thursday night of December. We
14 will proceed from there because we're going to sit
15 here and argue and come up with something not correct
16 from either one of us I'm afraid.

17 We've made a motion.

18 MR. MILLER: I did second the motion.

19 CHAIRMAN: A motion has been made and a
20 second. All in favor to postpone until next month
21 raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 Now, one other thing I want to bring up.
25 All of you need to know that on November 13th we're

1 going to have the update zoning reviews. All of you
2 should try to attend and listen to those.

3 MR. DYSINGER: That is next Thursday
4 night?

5 CHAIRMAN: That is next Thursday night.
6 Review of the new zoning update plan.

7 MR. NOFFSINGER: There will be a
8 presentation to the Planning Commission. You're
9 invited to attend.

10 CHAIRMAN: If there's nothing else, we'll
11 entertain one final motion.

12 MR. MILLER: Motion to adjourn.

13 MS. MASON: Second.

14 CHAIRMAN: All in favor raise your right
15 hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Meeting is adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 30 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 15th day of November, 2003.

18

19

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

22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

COUNTY OF RESIDENCE:
24 DAVIESS COUNTY, KENTUCKY

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