The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 6, 2004, 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
Sean Dysinger
Ward Pedley
Stewart Elliott
Attorney

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

First thing we do at each meeting is we invite you all to join us if you so desire.  We have a brief prayer and then pledge to allegiance.  If you wish to join with us, we'd appreciate it.

Ward Pedley is going give our prayer.

(PRAYER AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Want to welcome all of you to the meeting this evening.  Set a few guidelines before
Anyone that wishes to speak, come to one of the microphones and state your name and be sworn in because we can get a transcript of the information that you may say. If we're listening to more than one thing, after awhile we'll call you out of order. There's no need to keep hearing the same thing over. With that we'll proceed with the first item which is considering the minutes of the April 1st meeting. They're on record in the office. Found no problems. Anyone have anything that you think needs to be added to it?

(NO RESPONSE)

CHAIRMAN: If not, we'll entertain a motion.

MR. WARREN: Motion to approve the minutes.

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

MS. MASON: Second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.
CONDITIONAL USE PERMIT

ITEM 2

901, 927, 1017, 1019, 1021, 1025, 1033 Breckenridge Street in a B-4, P-1 zone
Consider request for a Conditional Use Permit in order to construct a parking lot.
Reference: Zoning Ordinance, Article 8, Section 8.2 Pl1
Applicant: Owensboro Medical Health System, Inc., City of Owensboro

CHAIRMAN: Mr. Chairman, Planning Staff has reviewed this application. It's found to be in order. It's found to meet all the development requirements contained in the Zoning Ordinance as well as it's in compliance with the adopted comprehensive plan.

I will note for the record that the application states that this will be a temporary parking lot; however, the applicant is applying and we have advertised and it's on the agenda tonight to be a permanent parking lot. With that it's ready for your consideration.

CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there anyone wishing to speak in opposition of this item?

(NO RESPONSE)

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CHAIRMAN: If not, does the applicant have anything you'd like to add?

MR. DEXTER: Yes.

CHAIRMAN: Come forward and state your name, please.

MR. ELLIOTT: State your name, please.

MR. DEXTER: William Dexter.

(MR. WILLIAM DEXTER SWORN BY ATTORNEY.)

MR. DEXTER: Members of the Board, my name is William Dexter. I'm here on behalf of the applicant. We also have a representative from the hospital to answer any questions that you may have; otherwise, we have nothing else to add.

CHAIRMAN: Thank you.

Any board member have any questions?

(NO RESPONSE)

CHAIRMAN: Hearing none I'll entertain a motion to vote on the item.

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on no opposition and it is compatible with the neighborhood and it will not have an adverse affect on the neighborhood.

CHAIRMAN: Is there a second to the motion?

MR. DYSINGER: Second.
CHAIRMAN: A motion has been made and a second. Any other question or 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
4321 Gate Way, in a B-4 zone
Consider request for a Conditional Use Permit to operate a woman's fitness center.
Reference: Zoning Ordinance, Article 8,
Section 8.2 B11
Applicant: Brenda Bowen, Wayne Foster,
d/b/a Foster Enterprises

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.
It's found to be in order.
The property contains an existing building which was most recently used as a pharmacy. The application is for a fitness center. It meets all the development requirements contained in the zoning ordinance and the zoning is in compliance with the adopted comprehensive plan. With that it's ready for your consideration.

CHAIRMAN: Is there any objections in the office?
MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone wishing to speak in opposition of this?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRMAN: Board members have any comments or questions?

(NO RESPONSE)

CHAIRMAN: Entertain a motion to dispose of the item.

MR. DYSINGER: Mr. Chairman, I make a motion that we grant the Conditional Use Permit given the findings that it is in compliance with the zoning and comprehensive plan and will not negatively impact the area.

CHAIRMAN: Is there a second?

MS. MASON: 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.

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(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 4

1315 Hathaway Street, in a P-1 zone
Consider request for a Conditional Use Permit in
order to construct a parking lot.
Reference: Zoning Ordinance, Article 8,
Section 8.2 F11
Applicant: Owensboro Medical Plaza, LLC, Owensboro Medical Health System

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this application. It's found to be in order. The proposed development meets with the site development requirements contained in the adopted zoning ordinance. The zoning is in compliance or the proposed use is in compliance with the comprehensive plan as well as the zoning ordinance.

When this property was rezoned back a few months ago, there was a finding made that there has been substantial change in the character of this area due to the hospital and other medical facilities acquiring properties in the area. That has resulted in the demolition or raising of many residential structures to accommodate or provide for parking for the expansion of the hospital. With that it's ready for your consideration.

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

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there anyone wishing to speak in opposition of this item?

(NO RESPONSE)

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

Come forward and state your name for the record, please.

MR. MEYER: J.D. Meyer.

(MR. J.D. MEYER SWORN BY ATTORNEY.)

MR. MEYER: Mr. Chairman, Ladies and Gentlemen of the Board, my name is J.D. Meyer. I represent the applicant, Owensboro Medical Plaza, LLC. We don't have anything further to add other than to answer any questions that the board may have.

CHAIRMAN: Any board member have questions for the gentleman?

(NO RESPONSE)

CHAIRMAN: Hearing none I'll entertain a motion to dispose of the item.

MS. DIXON: Move to approve because it's compatible with the comprehensive land use plan and because of the past changes in the character of the area.

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CHAIRMAN: Is there a second?

MR. MILLER: Second.

CHAIRMAN: A motion has been made and a second. Any other questions or comments by the board?

(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 5

1321, 1327 Hathaway Street, in a P-1 zone
Consider request for a Conditional Use Permit in order to construct a parking lot.
Reference: Zoning Ordinance, Article 8, Section 8.2 P11
Applicant: Owensboro Medical Plaza, LLC, Owensboro Medical Health System

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this applicant. It's found to be in order. The proposal meets with the site development requirements of the P-1 zone and the adopted zoning ordinance. This too is just a continuation of the parking that's being created for the expansion of the medical facilities in the area. With that it's ready for your consideration.

CHAIRMAN: Again, is there any objections filed in the office?
MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone wishing to speak in opposition?

(NO RESPONSE)

CHAIRMAN: Applicant have anything they would like to add?

MR. MEYER: J.D. Meyer.

Just here to answer any questions you all may have.

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

(NO RESPONSE)

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

MS. DIXON: Move to approve because it's compatible with the comprehensive plan and because of the significant changes in the area.

CHAIRMAN: Is there a second?

MR. MILLER: Second.

CHAIRMAN: A motion has been made and a second. Board have any other comments or questions?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: Motion carries.

Next item, please.

ITEM 7

1831 McCulloch Avenue, in an R-4DT zone (POSTPONED)
Consider request for a Conditional Use Permit to
place a 16x80 Class 2 manufactured home on the
property.
Reference: Zoning Ordinance, Article 8,
Section 8.2 10B
Applicant: Denise Marcum

CHAIRMAN: Mr. Chairman, this application
has been reviewed by the Planning Staff. It's found
to be in order. The proposal is for placement of a
manufactured home on the property.

There has been at least one property owner
to phone into the office to voice some question and
concern. I don't know that that property owner is
here tonight, but there may be some discussion from
neighbors in the area.

They do have the proper site plan drawing
which shows connection to the existing sanitary sewer
service. With that it's ready for your
consideration.

CHAIRMAN: Said there's no objections in
the office?

MR. NOFFSINGER: Well, there has been at
least one call, a neighbor voicing some concern or
questions.
CHAIRMAN: Is anyone here wishing to ask questions on this application this evening?

AUDIENCE: Yes.

CHAIRMAN: We'll get you next.

The applicant have anything you'd like to lead off or start with, please? Please come forward and state your name.

MR. ELLIOTT: State your name, please.

MS. MARCUM: Denise Marcum.

(MS. DENISE MARCUM SWORN BY ATTORNEY.)

MS. MARCUM: I'd just like to state that by placing a brand new manufactured home on the property would be much of an improvement to what is there now. If you'd like to see pictures, I have those with me. I understand that some of the neighbors have some concerns, possibly property value. I think that by putting a brand new manufactured home would be an improvement to what is there now. Feel free to ask any questions. I'll try to answer them the best way I can.

CHAIRMAN: Any board member have any for the applicant at this time?

MS. MASON: Can we see the pictures?

MR. MILLER: Yes, I'd like to see the pictures.

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MS. MARCUM: Yes.

MR. DYSINGER: These pictures are what is on the property currently; is that correct?

MS. MARCUM: Yes. These pictures were taken less than a week ago.

CHAIRMAN: Do you have anything you want to add?

MR. BROWN: Yes, sir.

CHAIRMAN: State your name for the record, please.

MR. BROWN: Steve Brown.

(MR. STEVE BROWN SWORN BY ATTORNEY.)

MR. BROWN: I'd just like to say that I'm acting as a construction advisor for cost and other things for Denise.

The house has major structural damage to the roof. The house is tier foundation. All the floors are unlevel in it. The plumbing is completely shot. The wiring is shot. The roof is literally rotted off the house. The house has three roofs currently on it and maybe four. I can't tell without tearing the roof off. I'd like to give to the board, this is just a sketch of what is proposed and also an existing footprint of what is there currently.

The existing structure is 1.5 feet
currently off the east property line. Riley Avenue is undeveloped currently. No curb or gutter. The manufactured home would be more centered on the lot and would give more room for construction and development as far as curb and gutter and any other improvements that would be made. That's about all I have to say.

CHAIRMAN: Anyone from the board or staff have any questions of the applicant before we proceed?

MR. MILLER: Mr. Chairman, I have just one question.

If I understand it right, there is a single-wide and a double-wide. There's one on either side; am I right?

MS. MARCUM: Yes. There's a single-wide along my side and then across the street is a double-wide.

MR. NOFFSINGER: I have a question of the applicant.

Understand your application you state that the single-wide manufactured home is located at 1811 McCulloch Avenue; is that correct?

MS. MARCUM: Yes.

MR. NOFFSINGER: Do you understand that if this application is approved that the unit you would
place on the property you would have to remove the
tires, tongue, wheels and axle?

MS. MARCUM: Yes.

MR. NOFFSINGER: There would have to be a
permanent concrete or masonry type skirting around the
perimeter of the home to give it a site built home
appearance, if you will.

MS. MARCUM: That's the way I would want
it anyway, yes.

MR. NOFFSINGER: Understand, is there a
curb and gutter on McCulloch Avenue now?

MR. BROWN: Yes, sir, there is.

MR. NOFFSINGER: There are no sidewalks
within this area as I understand it.

MR. BROWN: No.

MR. NOFFSINGER: And you are asking the
Board of Adjustment to relieve you from the
responsibility of placing a sidewalk along the
frontage of this property on McCulloch Avenue. That's
what you have. No sidewalk existing on Riley.

MS. MARCUM: Right.

MR. NOFFSINGER: So you're asking that you
not install a sidewalk?

MS. MARCUM: If the manufactured home is
put there, then there would be enough room to put a
sidewalk in front and along the side because where the house, the structure that sits there now, if you were to put a sidewalk along the side of it on Riley, I mean that would be like right on top of the house.

CHAIRMAN: In other words, they're sitting back. The new home would be further back.

MR. NOFFSINGER: I would recommend the board does approve this application. It would be subject to the installation of the sidewalk along McCulloch Avenue in front of this property. That would be your responsibility. Now, there could be a conflict with existing utilities. If the Planning Staff after further review find that there is a conflict, then that requirement may be waived, but at this point it would be a requirement that you would install a sidewalk.

MR. BROWN: I would like to add something. There is an existing fire hydrant in the front yard. As you said, the water line itself might very well come into play on that.

MR. NOFFSINGER: Right. That's a concern I had in talking with Staff. Usually this board requires a sidewalk be installed within the right-of-way. There could be, very well be a situation here where utilities, existing utilities

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would be in the way and it would not be cost effective for the applicant to put the sidewalk in. There are no other sidewalks on Riley or McCulloch. I think it would be reasonable for the Staff to take a further look at this. If it's feasible, we'll do it. If not, then I think the sidewalk requirement should be waived.

CHAIRMAN: Any other questions of the applicant at this time?

(NO RESPONSE)

CHAIRMAN: The ones that have questions or opposition come forward and state your name, please.

MR. DANT: Charlie Dant.

(MR. CHARLIE DANT SWORN BY ATTORNEY.)

MR. DANT: I live right beside her. I've got a $90,000 home sitting on three lots. There's several houses in the neighborhood along that street that people are buying and tearing down, building new ones and also some of them that they're buying. As a matter of fact, there's one right across the street somebody bought it and they're remodeling it. We're bringing the neighborhood up, fixing it up. I've got other rental property that I've bought there that we're fixing up. I believe as we come into the city and you start putting in trailers, I mean that's going...
to bring everybody's value down. I don't want to come out my carport door and the first thing I see is a trailer. We just don't need to be putting trailers in neighborhoods. They belong in trailer courts. That's why I'm totally against it being right beside me.

CHAIRMAN: Any other comments?

MR. DANT: No.

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

(NO RESPONSE)

CHAIRMAN: Anything else you want to add before you sit down?

MR. DANT: No.

CHAIRMAN: Next please

MS. PHILLIPS: Sheila Phillips. I own the two properties located across the street.

(MS. SHEILA PHILLIPS SWORN BY ATTORNEY.)

MS. PHILLIPS: As Ms. Marcum stated, there is two homes that is modular on McCulloch Avenue. That was prior to me ever owning any property. One of them is off the street. It sets back and there is a house on each side of it. It's not very noticeable on the same side as her side of the street.

The other one is a double-wide. If they had two lots -- and that was also bought prior to me
owning the two houses that I do own.

We have a great concern of what's going to happen when we get ready to sell these houses. My husband, and I apologize. My husband is in Chicago and he is the one that has the most concern. He says that he feels that the houses will not bring the value with a modular home across the street. All the houses in the area are going up. They are vinyl siding. The retail property, you can check in the surrounding area, you can market all the retail value of the houses has increased at this point by a great deal. We just feel that it would not be a good thing.

CHAIRMAN: Any other comments?

MS. PHILLIPS: No, sir.

CHAIRMAN: Any questions for the lady?

(NO RESPONSE)

CHAIRMAN: Anyone else have anything else to add?

MR. WARREN: Mr. Chairman, do we know how long the mobile homes, the current mobile homes have been there?

CHAIRMAN: When they were put in?

MR. WARREN: Yes.

CHAIRMAN: Does any of you know how long the trailers that are in there area have been there?
MS. PHILLIPS: One of them has at least 15 years and the other one is a very, very, the one on the same side of the street where she is wanting to put this one has been there, I can't tell you. I mean probably maybe 20 years.

CHAIRMAN: Ten years plus.

MS. PHILLIPS: Yes, sir. It's really an eyesore, but it does set back. It sets back off the road and there is a house right here and one here. Unless you look very hard, you would not be able to see it.

CHAIRMAN: Any other questions?

MR. NOFFSINGER: Mr. Chairman, just for the record, the double-wide unit would be principally permitted in this zone. Meaning you can place a double-wide manufactured home on a residentially zoned property without coming to this board for a Conditional Use Permit. It's only the single-wide manufactured homes that have to come before this board for special review. So here you have one single-wide manufactured home in the neighborhood. The other home is permitted by right.

CHAIRMAN: The board have any other questions?

(NO RESPONSE)
CHAIRMAN: Does the applicant have anything else you would like to add?

AUDIENCE: I do.

CHAIRMAN: Come forward and state your name, please.

MS. TUDOR: My name is Martha Tudor.

(MS. MARTHA TUDOR SWORN BY ATTORNEY.)

MS. TUDOR: I live across the street at 1901 McCulloch Avenue. I feel any improvement that Denise can do is going to bring my property value up. It will have to. Her house is about to fall down. Anybody can see that. If it does, then there's just going to be an empty lot there. There's going to be nothing there. I think it's a wonderful idea.

CHAIRMAN: Any board members have any question?

(NO RESPONSE)

CHAIRMAN: Thank you.

Any other questions from the board members?

(NO RESPONSE)

CHAIRMAN: Anyone else have anything else they want to add to the item?

MS. PHILLIPS: My husband had said that if Ms. Marcum was interested in selling the property, he...
might be interested in buying it just to remove the
house that is there.

CHAIRMAN: Any other comment?
(NO RESPONSE)

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

MR. DYSINGER: Mr. Chairman, I'd like to
make a motion that we grant the Conditional Use Permit
given the findings that it is not inconsistent with
the structure that's already in the neighborhood and
it does not violate zoning or comprehensive plan;
subject to the installation of a sidewalk along the
property unless that should be cost prohibited due to
the presence of utilities.

CHAIRMAN: Is there a second?

MR. MILLER: I'll second.

CHAIRMAN: A motion has been made and a
second. Any other questions, comments by the board?
(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 6

9525 KY 144 in an R-1A zone
Consider request for a Conditional Use Permit to construct a 30'x40' storage building on the premises to support the existing church related activities.
Reference: Zoning Ordinance, Article 8, Section 8.2 B4
Applicant: St. Williams Catholic Church, Diocese of Owensboro

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.
It's found to be in order. The proposal is to construct an accessory storage unit on the property.
Churches are conditionally permitted in the R-1A single-family residential zones. The site development requirements of the zoning ordinance are proposed to be met. The Staff finds no conflict with the adopted comprehensive plan in that churches are allowed in residential zones. This would be accessory to the existing church facility.

CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone wishing to speak in opposition?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything he'd like to add?
APPLICANT: Just here to answer to any questions.

CHAIRMAN: Any board members have any questions or comments or Staff?

(NO RESPONSE)

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

MS. DIXON: Move to approve because it is compatible with the comprehensive plan.

CHAIRMAN: Is there a second?

MR. WARREN: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions from the board?

(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 8

4715 Sutherland Road, in a B-4 zone
Consider request for a Conditional Use Permit to construct mini-warehouses (individual storage) on the property.
Reference: Zoning Ordinance, Article 8, Section 8.2 L7

Applicant: Jim Hawkins

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MR. CHAIRMAN: Mr. Chairman, this plan has been reviewed by the Planning Staff. It's found to be in order. The plan complies with the site development requirements of the B-4 zone. The zoning that is found on the property, proposed use is compatible with that zone based upon the ordinance amendment that the Daviess County Fiscal Court adopted back several years ago to allow mini-warehousing or individual storage units in the B-4 zone. So with that we find no conflict in review with the adopted comprehensive plan and feel that it can be properly integrated into the neighborhood.

CHAIRMAN: Any opposition put in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone wishing to speak in opposition of that?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you'd like to add?

(NO RESPONSE)

CHAIRMAN: Board members have any questions on the applicant?

(NO RESPONSE)

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

MS. MASON: Mr. Chairman, I move to approve the Conditional Use Permit in the fact that it is compatible with the zoning ordinances.

CHAIRMAN: Is there a second?

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other questions or comments from the board members?

(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 9

2737 Veach Road, in a B-4 zone Consider request for a Conditional Use Permit to reconstruct a building in a floodway. Reference: Zoning Ordinance, Article 18, Section 18-6(b)2, 18-5(b)4, 18-4(b)3 Applicant: Tom Blue Furniture, Inc., c/o James Perry Blue, Sr., Mike and Ruth Ann Mason

MS. MASON: Mr. Chairman, I need to disqualify myself from this item.

CHAIRMAN: I guess we might do that.

(MS. MASON LEAVES THE ROOM AT THIS TIME.)

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

This is the location of Tom Blue Furniture where it existed for many years. Of course, we all know that an unfortunate happening occurred and the facility burned. The site has now been cleared and they're ready to redevelop the site and build back.

During the review process, we found that the property is located in a floodway and the requirement before we can issue a permit, even though we had an unfortunate accident, FEMA requires that you go through this process through the Board of Adjustment to determine that proper flood proofing will occur. So to be in compliance with FEMA regulations that's why this application is here.

It's been reviewed. Found to be in order. We have the supporting documentation from a local engineer stating that there would be very minimal affect to the flood plain. In fact, it will not increase flood levels during the occurrence of base flood discharge that existed when the original building existed. That's signed by Roy Iler, P.E. So with that, Mr. Chairman, it's recommended for consideration.

CHAIRMAN: Any opposition filed with the Ohio Valley Reporting (270) 683-7383
office?

MR. NOFFSINGER: No, sir. I will state they do have the construction permit approved by the Division of Water.

CHAIRMAN: Anyone wishing to speak in opposition?

(NO RESPONSE)

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

APPLICANT: No.

CHAIRMAN: Board members have any questions?

MR. PEDLEY: I have a question, Gary. Before we can approve this, has all the flood hazard provisions, Subsection 18.5(b)4 been met? Has it been certified that the finished floor elevation and all - - you stated that the flood hazard, certified registered engineer demonstrating encroachment shall not result in increase flood levels. You stated that, but I didn't hear you state where - -

MR. NOFFSINGER: States here the completed construction must either have a finished floor elevation at or above 398. That's based upon the permit from the Division of Water. Is that what you're asking?
MR. PEDLEY: Yes. I'm referring to Subsection 18.5(b) and 4, the finished floor elevation. After it is constructed, is it required to be certified by an engineer that it is above the base flood elevation?

MR. NOFFSINGER: I will refer to Mr. Jim Mischel that's better educated on that.

MR. PEDLEY: The only thing I'm trying to do is prevent future problems for the Tom Blue Furniture store. I have dealt with this a time or two and it can be very, very costly and time consuming. I just want to make sure everything is in order.

MR. NOFFSINGER: Yes. Let me just state: The applicant must submit an Elevation Certificate or a Flood Proofing Certificate form due within 90 days after completion of the construction.

MR. PEDLEY: And that will be done?

MR. NOFFSINGER: It should be done.

MR. ELLIOTT: State your name, please.

MR. MISCHEL: Jim Mischel.

(MR. JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: Typically since the state has issued a construction stream permit they set the elevation and we're going to base that permit off of that elevation. Once that floor is put in, it's a
concrete floor, they'll have to submit an Elevation Certificate to our office before, actually before we do a rough-in inspection. We're going to require that. We're going to see that it's guided. Then a copy will go to the state and we'll have one.

CHAIRMAN: Anybody have a question for Jim?

MR. PEDLEY: That answered my question.

CHAIRMAN: Thank you, Jim.

Do you have anything else you'd like to add, Applicant?

MR. MASON: Mike Mason.

(MR. MIKE MASON SWORN BY ATTORNEY.)

MR. MASON: Actually we're going to be three inches above what the state says we need to be to not even have flood insurance. So we will be completely out of it. The level, I think the final level that we've asked them to put it to will be about three inches higher than what they asked us to do.

CHAIRMAN: Any other questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Thank you.

Entertain a motion to dispose of the item, if there's no questions.
MR. PEDLEY: Mr. Chairman, I make a motion for approved based on findings that it meets the flood plain zoning ordinance and regulations and will not have an adverse affect on the community.

CHAIRMAN: Is there a second?

MR. MILLER: Second.

CHAIRMAN: Any other questions by the board or comments? (NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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VARIANCE

ITEM 10

1815 South Griffith Avenue, in an R-1A zone Consider request for a Variance to reduce the side yard setbacks from 10 feet to 7.5 feet in order to construct a single-family residence.

Reference: Zoning Ordinance, Article 8, Section 8.5.5(d)

Applicant: Homes by Benny Clark, Inc.

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this application. The application is found to be in order. Planning Staff has visited the site. We've made a recommendation for you as well.
as finding for your review. With that it's ready for
consideration.

CHAIRMAN: Has any objections been filed
in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone objecting in the
audience?

(NO RESPONSE)

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

APPLICANT: No.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else to
add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Board 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 essential character of the general vicinity;
will not cause a hazard or a nuisance to the public;
will not allow unreasonable circumvention of the
requirements of the zoning regulations.

CHAIRMAN: Is there a second?

MR. WARREN: Second.

CHAIRMAN: Any more comments or questions from the board or staff?

(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 11

1815 South Griffith Avenue, in an R-1 A zone
Consider request for a Variance to reduce the rear yard setback from 20 feet to 15 feet in order to construct a single-family residence.

Reference: Zoning Ordinance, Article 8, Section 8.5.5(e)

Applicant: Homes By Benny Clark, Inc.

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed the application. Found the application to be in order. Planning Staff has prepared a recommendation that will enter into the record that describes the property as well as the surrounding properties. Staff has recommended approval that we do include findings of fact. The Staff in their review did find that there are other encroachments in the area.
CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: No, sir. There's also, there was a variance approved by this board back on March 4th of 1999 to reduce the rear yard setback at 2038 Old Cabin Road to 11 feet. That's located directly behind this property.

CHAIRMAN: Applicant have anything you want to say or add onto it?

APPLICANT: No.

CHAIRMAN: Any board members have any questions or Staff?

(NO RESPONSE)

CHAIRMAN: Hearing none dispose of the item.

MR. WARREN: I make a motion to grant this variance with the findings that it will not adversely affect the public health, safety or welfare; it will not alter the essential character of the general vicinity; it will not cause a hazard or a nuisance to the public; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations.

CHAIRMAN: Is there a second?

MS. MASON: Second.
CHAIRMAN: Any other questions or comments from the board or Staff?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

ITEM 12

714, 716 720 West 5th Street, in a B-4 zone
Consider request for a Variance to reduce the front yard setback from 75 feet from street centerline (50 feet from property line) to 40 feet from street centerline (15 feet from property line) in order to be able to build on the property. The property has received a favorable recommendation from the OMPC to change the zoning classification to R-4DT.
Reference: Zoning Ordinance, Article 8, Section 8.5.16(c)
Applicant: H&K Property Management, LLC, Jeremy Kamuf

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed the application. I'll let Ms. Becky Stone address this application as to the recommendation and findings.

CHAIRMAN: State your name for the record, please.

MS. STONE: Becky Stone.

(MS. BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: This property was recommended for zoning of R-4DT and that has in fact been
accomplished. City Commission had second reading on that Tuesday night.

The property are existing lots of record that if the 75 feet is applied to the setback it's going to make an usable lot for any kind of building structure on there. So our recommendation would be to approve the front yard setback. The applicant is adhering to the roadway buffer along West Fifth Street. They would accommodate a roadway widening or that type of thing. The recommendation is to approve.

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: No objections here. Any board members have questions of anyone?

(NO RESPONSE)

CHAIRMAN: If not entertain a motion to dispose of the item.

MR. DYSINGER: Mr. Chairman, I make a motion that we grant the variance given the findings that it will not adversely affect the public health, safety or welfare; it will not alter the essential
character of the general vicinity; it will not cause a hazard or a nuisance to the public; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations.

CHAIRMAN: Is there a second to the motion?

MR. PEDLEY: Second.

CHAIRMAN: Any other questions or comments from the board or Staff?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

One last item.

MR. NOFFSINGER: Mr. Chairman, I have one new business.

The Planning Staff received a letter in the office. I'd just like to read that into the record.

"As my neighborhood has seen the addition or planned additions of dormitories, I would like to request that the Owensboro Metropolitan Planning Commission open a review of the current Planning & Zoning Ordinance on dormitories. This review should
be held in public to help obtain the entire
community's views and beliefs on this subject. With
community changes so should our zoning ordinance
change. Thank you. Nita Kincaid."

Mr. Chairman, this letter comes from a
resident of the J.Z. Moore area. As this board is
well aware, we've had dormitory applications come
before the board. The regulations regarding
dormitories are somewhat vague. I mean there are no
clear guidelines. The Board of Adjustment recently
has been put in a position of not really feeling
comfortable in terms of reviewing applications because
of what they may or may not be able to ask. I think
it would be an issue that this board might want to
direct Staff to look into, to work with the community,
groups that might be affected that have dormitories
such as Brescia University, Kentucky Wesleyan College,
folks from the Old Owensboro Neighborhood Alliance,
perhaps any other applicants that have had dormitory
applications before us. Just to set down and review
this issue. Look at what we do, other communities do
and come to some recommendation that could be
submitted to the Planning Commission as to how to
address it. We may be addressing dormitories the best
way we can in this community. We may not be. This
particular property owner, as well as others I've heard from that have spoke with me privately, have stated that they would like to see this issue addressed. Planning Staff would look to this board to advise us in terms of how to proceed.

CHAIRMAN: I would like the Staff proceed to do some studying and recommendation on the dormitories.

What about the rest of the Board?

MS. DIXON: I think there's a need for some consistency, for some clear guidelines. I would hope that the Staff, it would be my wish that the Staff would meet and come to some consensus for a recommendation to the Planning Commission.

MR. DYSINGER: Mr. Chairman, I'd like to add that instances of these things coming up are only going to increase as we move forward. Some sort of consistent policy needs to be adopted.

CHAIRMAN: Everybody on the board agrees it should be studied. Do you need a motion to that or just order you to do it?

MR. NOFFSINGER: I think we have a consensus. We have our direction.

CHAIRMAN: Now entertain a motion to adjourn.
MS. DIXON: Move to adjourn.

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY)   
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 40 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 21st day of May, 2004.

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
OWENSBORO, KENTUCKY 142303

COMMISSION EXPIRES:
DECEMBER 19, 2006

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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