The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, August 5, 2004, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Ward Pedley, Chairman
Gary Noffsinger,
Planning Director
Marty Warren
Ruth Ann Mason
Judy Dixon
Tim Miller
Sean Dysinger
Stewart Elliott,
Attorney

CHAIRMAN: Call the meeting of the Owensboro Metropolitan Board of Adjustment to order. We'll start our meeting with a prayer and the pledge of allegiance. Mr. Tim Miller will lead us in prayer.

(PRAYER AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I'd like to welcome everyone. Anyone wishing to speak on any item may do so. We ask that you come to one of the podiums, state your name to be sworn in.

First item on agenda is to consider the
minutes of the July 2, '04 meeting. They have been read and placed on file in the Planning Office. With that, they're ready for your approval.

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

MR. DYSINGER: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Minutes are approved.

Item 2.

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CONDITIONAL USE PERMITS

ITEM 2

3045 Burlew Boulevard, in an B-4 zone
Consider request for a Conditional Use Permit to expand daycare facility with a 60' by 25' addition to serve a total of 134 children.
Reference: Zoning Ordinance, Article 8, Section 8.2 B3 Applicant: Willard Gribbin and Nancy Gribbin

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has review this application and is found to be in order. This property has been used for several years as a daycare facility. It has received Conditional Use Permits by this -- issued by this board in the past. Property is located in a commercial area. It meets with all the requirements of the Zoning Ordinance. With that,
it's ready for consideration.

CHAIRMAN: Anyone here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anyone here in opposition to this application?

(NO RESPONSE)

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. DYSINGER: Move to approve the Conditional Use Permit as it's -- nobody in opposition to it and it's compliant with what it's currently being used for.

MS. MASON: Second.

CHAIRMAN: We have a motion and a second.

Any question on the motion?

(NO RESPONSE)

CHAIRMAN: Chair is ready. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

ITEM 3

1833 Willis Avenue, in an R-4DT zone Consider request for a Conditional Use Permit to place a
16' by 56' class 2 manufactured home on the property. Reference: Zoning Ordinance, Article 8, Section 8.2 A10B

Applicant: Alton Howard

MR. NOFFSINGER: Mr. Chairman, this application's been reviewed by the Planning Staff. It is a proposal to place a manufactured home from a lot that had been previously approved for placement of a manufactured home by Conditional Use Permit somewhere in the early 1980s. As I understand it, the home was damaged during the severe weather we've had this season. The applicant is asking to place a little bit larger home on the property.

The applicant has been made aware of the installation requirements, which means that the tires, tongue, wheel and axles on the unit be removed. The applicant has also been made aware of the Board's policy and zoning requirements to install a sidewalk along Willis Avenue as well as pave the parking spaces for the unit.

The applicant is requesting that the Board waive that requirement for the sidewalk as well as paving and the parking. Staff has reviewed, gone out and looked at the property, and would recommend that the Board of Adjustment consider waiving -- if they approve a Conditional Use Permit, consider waiving the requirement
to install the sidewalk because there are no sidewalks in
the area and installation of the sidewalk would be
somewhat challenging due to the existing features in the
area, utilities as well as vegetation.

We would ask that the requirement to pave the
parking area not be waived. Board of Adjustment has
routinely approved these Conditional Use Permits in these
situations with paved parking and would recommend that
the Board approve the Conditional Use Permit and require
that the parking be paved.

With that, it's ready for your consideration.

CHAIRMAN: Anyone here representing the
applicant?

MR. HOWARD: Yes.

CHAIRMAN: Would you like to step to the
podium, please? State your name. Answer any questions
the board might have.

MR. HOWARD: Yes. I'm Alton Howard.

(MR. ALTON HOWARD SWORN BY ATTORNEY.)

CHAIRMAN: Just a minute, sir.

Any board members have any questions on
Mr. Howard?

(NO RESPONSE)

CHAIRMAN: Concerning the required paving,
you've requested that we waive the paving and also the
sidewalk. You understand what Mr. Noffsinger said when
we're asking that you do the paving?

MR. HOWARD: Yes, sir.

CHAIRMAN: Okay. Any board members have any
questions?

(NO RESPONSE)

CHAIRMAN: Thank you, sir.

MR. MILLER: Ward, just to clarify. Paving
of the -- just the parking and not the sidewalk?

CHAIRMAN: Right.

MR. MILLER: Okay.

CHAIRMAN: Anyone here in opposition to this
application?

(NO RESPONSE)

CHAIRMAN: Any board members have any
comments or questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. DYSINGER: We move that we grant the
Conditional Use Permit with the condition of sidewalk-
the area waived. However, and I'm just going to state
this for the record, that the parking area does get
paved, given that it's conducive with the general use of
the area and there's no one in opposition.

MR. NOFFSINGER: And a Conditional Use Permit
had been approved previously on this property and there
has been a manufactured home.

MR. DYSINGER: So stipulated.

MS. DIXON: Second.

CHAIRMAN: We have a motion and a second.

Anyone have any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It is unanimous.

ITEM 4

1102, 1114 West Seventh Street, in an B-4, R-4DT zone
Consider request for a Conditional Use Permit to
construct a 25' by 33' addition to an existing church
with the required parking located on the R-4DT portion of
the lot.
Reference: Zoning Ordinance, Article 8, Section 8.2 B4
Applicant: Church of God in Christ

MR. NOFFSINGER: Mr. Chairman, the Planning
Staff has reviewed this application. The application is
found to be in order. This is for an expansion of an
existing church. The churches by the ordinance are
conditionally permitted in residential zones, principally
permitted in B4 zones. So, since we have the split
zoning, it was necessary to come before this board under
the Conditional Use Permit. With that, it's ready for
your consideration.
CHAIRMAN: Anyone here representing the applicant?
(NO RESPONSE)
CHAIRMAN: Anyone here in opposition to this application?
(NO RESPONSE)
CHAIRMAN: Any board members have any have any questions?
(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.
MS. DIXON: Move to approve because it's an expansion of an existing use and is compatible with the area and there's no opposition.
MR. DYSINGER: Second.
CHAIRMAN: We have a motion and a second. Question on the motion?
(NO RESPONSE)
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: It's unanimous.

VARIANCES

ITEM 5
2015 Autumn Lake Cove, in an R-1C zone
Consider request for a Variance to reduce front building
setback from 25' to 24.4'.

Reference: Zoning Ordinance, Article 8, Section 8.5.7(c)
Applicant: Homes by Benny Clark

CHAIRMAN: I need to disqualify myself from this item and turn the gavel over to our secretary, Ms. Ruth Ann Mason.

MR. NOFFSINGER: Ms. Chairperson, the Planning Staff reviewed this application and we found the application to be in order. This application is for review of a slight encroachment to the 25 foot building setback line that's required for new construction along a local street. The applicant did submit application for a building permit. It was reviewed by the building department. The applicant received all the necessary inspections and our staff went out and performed the inspections and found the unit to be properly located as best they could.

Well, the home has been completed, and there was organs inspection done. And the survey, which is very detailed and very accurate, indicated that there is a slight encroachment of one corner of this building, end of the building setback line. There is a slight curve here in Autumn Lake Cove which skews that setback somewhat. So, it could be understandable as to how a mistake could be made in the field. Especially when you're looking at a 25 foot setback and the structure is
Irregardless, in order to move forward with the closing of this home and to make it legal, the applicant had to apply for a variance to be considered by this board. The applicant has looked at options of shaving a corner of the building to bring it into compliance. And each of these different options, although could be done, it would come at somewhat of a hardship to the applicant. And you have to take a look at would altering the face of this building for such a slight encroachment alter the character of the area; or if the building is not moved back, would it alter the character of the area.

In review of the application, Staff has found that, in looking at all the options, that the granting of this Variance 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 will not allow an unreasonable circumvention of the requirements of the zoning regulations.

I think this is a case here where it was an honest mistake on the builder's part staking out the building, and our inspectors didn't catch it. When you go out and you're dealing in the construction site and
you have inspectors that are trying to do the best job possible and get accurate measurements; when you're looking at a few inches on a setback, if it's somewhat skewed, you can see where mistakes can happen.

But with such a slight encroachment and given the fact that the applicant did apply for a building permit and did make the proper request for inspections and those were made, Staff would recommend that you grant the Variance.

CHAIRPERSON: Is the applicant here?

MR. CLARK: Yes.

CHAIRPERSON: Does the applicant have anything to add to what Mr. Noffsinger said?

MR. ELLIOTT: State your name, please.

MR. CLARK: Charles Benny Clark.

(MR. BENNY CLARK SWORN BY ATTORNEY.)

MR. CLARK: The address on this 2015. It should be 3015 Autumn Lake Cove. That's it.

CHAIRPERSON: Is there anyone here in opposition?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRPERSON: I'm ready for a motion then
from the board.

MR. DYSINGER: Move that we grant the

Variance, given the findings it will not adversely affect
the public health, safety or welfare; it will not alter
the essential character of the general vicinity; 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 regulation.

MR. MILLER: Second.

CHAIRPERSON: Okay. We have a motion and a
second. Any questions from the board?

(NO RESPONSE)

CHAIRPERSON: If not, all in favor please
raise your right hand.

(ALL BOARD MEMBERS PRESENT - WITH THE
DISQUALIFICATION OF WARD PEDLEY - RESPONDED AYE.)

CHAIRPERSON: Motion approved.

We have one more motion.

MS. DIXON: Move to adjourn.

MR. DYSINGER: Second.

CHAIRPERSON: All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRPERSON: We are adjourned.
COMMONWEALTH OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

I, Sara Wilson, Notary Public in and for the State of Kentucky, 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 12 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 20th day of August, 2004.

______________________________
SARA E. WILSON, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET
SUITE 12, ODDFELLOWS BUILDING
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: JUNE 10, 2006
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY