The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, March 3, 2005, 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: The meeting of the Owensboro Metropolitan Board of Adjustment will come to order. We will begin our meeting with a prayer and pledge of allegiance to the flag. You can join us if you like. If you'll stand, please.

(PRAYER AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Good evening. I would 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 and be sworn in.
First item on agenda is consider the minutes of the February 3, '05 meeting. They have been read and placed on file in the Planning Office. Were there any additions or corrections?

(NO RESPONSE)

CHAIRMAN: We're ready for a motion for approval.

MS. DIXON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second for approval. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

Next item.

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CONDITIONAL USE PERMITS

ITEM 2

2301 Ebach Street, in an I-2 zone Consider request for a Conditional Use Permit in order to operate for the distribution of agricultural chemicals and fertilizer, selling of packaged chemical and fertilizer and repackaging of bulk chemical product. Reference: Zoning Ordinance, Article 8, Section 8.2 G4, 8.4/27

Applicant: Helena Chemical Company, Charles Medley and Associates, LLC

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application and the application is found to be in order. There's another item that is
related to this that will be considered next on the
to this that will be considered next on the
agenda, and that is a Variance request filed by the same
related to this that will be considered next on the
applicants.

The first item to be considered tonight is
the Conditional Use Permit. This considers whether or
the Conditional Use Permit. This considers whether or
not the proposed use can be properly integrated into a
not the proposed use can be properly integrated into a
particular neighborhood. By the use itself and the
particular neighborhood. By the use itself and the
characteristics of itself, it lends itself toward a
characteristics of itself, it lends itself toward a
Conditional Use Permit and a public hearing, where the
Conditional Use Permit and a public hearing, where the
public has an opportunity to have a say in terms of what
public has an opportunity to have a say in terms of what
this type of use being integrated into their
this type of use being integrated into their
neighborhood.
neighborhood.

The second item will be a Variance request.
The second item will be a Variance request.
The Variance request is necessary because this particular
The Variance request is necessary because this particular
use requires a 300 foot separation be provided from a
use requires a 300 foot separation be provided from a
residential zone. The proposal in this case, there will
residential zone. The proposal in this case, there will
be some residential areas that will be located within
be some residential areas that will be located within
that 300 foot buffer. So, there is a need for a
that 300 foot buffer. So, there is a need for a
Variance.
Variance.

Now, the Conditional Use Permit could be
Now, the Conditional Use Permit could be
approved or it could be denied, or this Board can approve
approved or it could be denied, or this Board can approve
the Conditional Use Permit and set conditions. If the
the Conditional Use Permit and set conditions. If the
Conditional Use Permit is approved or if it's
Conditional Use Permit is approved or if it's
conditionally approved, then the Board can consider
conditionally approved, then the Board can consider
granting the Variance. The Board can grant the Variance
granting the Variance. The Board can grant the Variance
or they can choose to deny the Variance. In both cases, the Board of Adjustment must make findings of fact, and there's certain criteria that must be considered when evaluating each of these proposals.

The Conditional Use Permit that you're now considering indicates that all activities related to the chemical company except for parking will take place within an existing building. The size approximately 23.184 acres in size. There's an existing building on the property and there will be an asphalt or concrete parking area located to the south of the existing building. There is a note on the plan that says there will be no outdoor storage at Helena Chemical Company building.

So with that, the applicant is represented here tonight by counsel and is ready for the Board's consideration.

MR. DYSINGER: Mr. Chairman, I find it necessary to disqualify myself from the consideration of Items 2 and if necessary 2a.

CHAIRMAN: So noted.

Mr. Noffsinger, has there been any correspondence in the Planning Office in opposition of this item?

MR. NOFFSINGER: We received one telephone
message today, March 3, 2005, from a James Wayne Hall.

He asked that this information be entered into the record, and I can give you a brief summary of what this individual stated if you would like.

CHAIRMAN: Yes.

MR. NOFFSINGER: Mr. Hall was calling for parents, James and Mary Hall, who own property adjoining. They live at 2309 Nelson and also own property at French Street and Ebach Street. They're opposed to the Conditional Use Permit and Variance for chemical storage and use because of health concerns. They cannot attend because Mr. Hall is taking his mother to Nashville for a medical appointment. He has indicated the health problems that they do have, and he did leave a telephone number where he can be reached.

I will say that should this Conditional Use Permit be approved tonight, it will require and should be conditioned upon the approval of the state Office of Housing, Building and Construction.

That is the only complaint of record that has been registered in the office.

CHAIRMAN: Thank you. Is anyone here representing the applicant?

MR. KAMUF: Yes.

MR. ELLIOTT: State your name, please.
MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: Ladies and gentlemen, I represent Helena Corporation, which is a chemical company. What they intend to do at the Medley Distillery is operate a distribution point for agricultural products such as fertilizer and chemical. To my knowledge, I checked everybody that came in and I don't think there's any objectors here tonight. Nearly all these people -- it's a new corporation that's coming to Owensboro. They looked at specific places to try to get something that would be applicable, that would be good for this type of operation, and this is the area that they picked.

The building is the old Medley Distillery building. I have some photographs that I'll show you. The first one, this shows you -- and I'll pass those around. We can mark those exhibits as we get them.

This shows you the railroad track. The railroad track is a buffer area. The building that is in light color is the building that we will use. There's a lot of individuals that will explain exactly what the use will be. That's the first exhibit. Why don't I just read them all to you and then I'll pass them down.

Another reason that we chose this particular area that is enclosed, the area that you see behind it is
pretty well isolated, that one building. And this is the
building that they'll use for their packaging and also
for their bulk storage. Everything in the area will be
enclosed. It will not be anything on the outside, as Mr.
Noffsinger explained earlier.

The next three pictures that we have pretty
well just show the general layout of the area. There's
nothing new; nothing different. It shows the area that
we're going to store the material in. And that's the
same -- as to the next photograph. These three are all,
all of those are relative, those are the same area. So
you'll have an idea what we're talking about.

The existing building will not change in
character in any way. You will not -- the neighbors
will not even know that there is a change in the area,
except the fact there will be some activity there. The
building has been vacant for years. The old Medley
Distillery buildings have been down there for
approximately 100 years. The fertilizer and chemical
company that we have is nothing unusual that you would
see in a residential area.

We went out today and took some photographs,
which I think are very important. This shows you the
most -- sometime you think about these type of chemical
companies just being in an older section of town. This
is the newest section of town, and you see Southern
States. They have an operation and distribution system
similar to the one that we have, only they do more than
we do and it's adjacent to a nursing home. It's adjacent
to Heritage Park Nursing Home. This is out on Carter
Road across from the new industrial park.

So in other words, I don't think there's
anything to be afraid of as far as this type of activity
or they wouldn't have built one next to a nursing home.

The next one that we have is this shows the
other, one of the other distribution areas that they have
the same type of chemical and fertilizer. This is Miles
Farm. And if you see directly in front of their
operation is the Miles home. This is where Mr. and Mrs.
Miles used to live. Directly across the road there's
some commercial operation. The Amish store is across the
area. So, we don't think that that is a big issue.

We have a couple more photographs. This one
here, the question I'm sure you have is what would -- in
other words, most of this is package. If you see, this
type of package that you have here, this is a picture of
some Roundup in the area. Most of you know about
Roundup. This is a packaged material that they will be
selling, but it will be in package and it will be lifted
with a forklift.
And then the next photograph that I show is the picture -- in other words, you say well what if some of this would -- what if there would be a fire? Or something along this line. This shows you how there is a Bourne all around the inside of the building to prevent this type of chemical from spreading in case of a fire or in case something would burst.

Basically, the Staff has given the report and I don't think that -- we have several individuals that'll be glad to talk concerning the inside of the building. We'll have other individuals to talk as exactly what they'll be doing there. We're here to answer any questions that you might have. Basically that's just a summary of what we're going to do. It's not anything unusual that you wouldn't see in a residential area at the present time in Owensboro, Kentucky. I'll be glad to answer any questions or I have other individuals that can.

CHAIRMAN: Any board members have any question of Mr. Kamuf?

MR. MILLER: I have just a couple of questions. At this point, do you know what the hours of operations will be at this facility?

MR. KAMUF: I'll have to ask somebody.

Mr. Mattingly, come up here.
MR. ELLIOTT: State your name, please.

MR. MATTINGLY: Jerry Mattingly.

(MR. JERRY MATTINGLY SWORN BY ATTORNEY.)

MR. MATTINGLY: The hours of operation will be 7 in the morning till we finish loading trucks, somewhere around 7, 8:00 in the evening in season, which is agricultural season. You know, in off season, we'll be 7 to 5.

MR. MILLER: I'd like to ask one other question while you're up here. I noticed in the application it said there would be no storage outside. What about as far as transferring of the chemical? I mean, is there -- would any of that take place outside or?

MR. MATTINGLY: No.

MR. MILLER: All activities will be inside the building?

MR. MATTINGLY: Inside. We have six loading and unloading bays. Truck can back up to that and be loaded inside the building to the truck.

MR. MILLER: Just for clarification. Understand your plans have to be approved by the Kentucky Department of Housing, Building and Construction.

MR. MATTINGLY: Sure.

MR. MILLER: Can you just kind of tell us
what they will look at? What are they responsible for?

MR. MATTINGLY: Okay. I was there yesterday in Frankfort submitting the permit. I had to take up drawings of the building, the site. After discussions with those folks, they think Monday they'll have it passed and ready to go. Didn't see any problems at all with it.

MR. MILLER: What do they look at?

MR. MATTINGLY: They were looking at the -- it's a fully sprinkled building inside. They wanted to see that and elevation on the drawings.

MR. MILLER: Containment. Do they look at containment?

MR. MATTINGLY: Yes. Uh-huh.

MR. MILLER: In case there is a --

MR. MATTINGLY: Well, we will have a Department of Housing, Building inspector come by probably tomorrow and look. They looked at the type of business that we were doing transporting in and out of packaged chemicals and pretty well said they'd fast track it through. They didn't see any problem with it at all.

MR. KAMUF: Mr. Miller, I'd like to point out that we do have, the building has already been inspected by the fire marshal and we do have a permit.

MR. MILLER: Thank you. That's all the
questions I've got.

MR. WARREN: I have a question for Mr. Mattingly. What type of bulk chemicals are you -- liquid chemicals, all powder?

MR. MATTINGLY: What we're going to have is packaged chemical like you see in the picture.

MR. WARREN: Like the Roundup.

MR. MATTINGLY: We will also have on pallets a bag, 50-pound bag type materials and up to 250 gallons of tanks of chemicals, and those tanks are approved and tested by the Department of Transportation and --

MR. WARREN: So, you won't have tanker trucks -

MR. MATTINGLY: No.

MR. WARREN: - coming in of chemical, liquid chemical?

MR. MATTINGLY: No. At this time we're not going to have any operation there.

CHAIRMAN: Any other board members have any questions?

(NO RESPONSE)

CHAIRMAN: Thank you, sir.

MR. MATTINGLY: Uh-huh.

CHAIRMAN: Anyone else like to speak on safety issues or anything that might be a concern to any
of the neighbors who are in opposition?

(NO RESPONSE)

CHAIRMAN: If not, I'm going to go to the opposition side. Is anyone here in opposition of this item that would like to speak?

(NO RESPONSE)

MR. NOFFSINGER: Mr. Chairman, I have a question, but we will get to that.

CHAIRMAN: We don't have anyone here in opposition. So, if the applicant doesn't have anything else to say, Mr. Noffsinger has a comment and then we will go for a motion to vote.

MR. NOFFSINGER: Just had one comment just to make sure that the applicant understands that should there be a change in the use of this building regarding a change from what you have stated here tonight and what you're making an application for, that you will have to come back before this Board for a rehearing on the Conditional Use Permit. So, we make sure we get that in the record and the applicant understands that this is a Conditional Use Permit that the Board is acting upon based upon your testimony as well as what's included in this application. Any deviation from that, you'll have to come back before this Board for a rehearing.

MR. KAMUF: They understand.
CHAIRMAN: Any board members have any more questions before we ask for a vote?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. MILLER: Mr. Chairman, I'll make a motion for approval and that -- and Gary, am I right in saying that it would be contingent upon approval by the Kentucky Department of Housing, Buildings and Construction?

MR. NOFFSINGER: Yes, sir.

MR. MILLER: Personally, I mean, it seems to be well planned and I see no safety or health concerns to the public if operated within the parameters outlined tonight.

MR. NOFFSINGER: Excuse me, Mr. Miller. I think I would add to that approval of a Variance to allow these activities to occur within the 300 foot buffer.

MR. MILLER: We're not on the Variance yet, are we?

MR. NOFFSINGER: No, but it will be necessary in order for the Conditional Use Permit to be exercised.

MR. MILLER: I'm sorry.

MR. NOFFSINGER: So I think you should add that as a condition.

MR. MILLER: Also contingent upon approval of the Variance.
MR. WARREN: Second.

CHAIRMAN: We have a motion and a second.

Any question on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT - WITH THE DISQUALIFICATION OF SEAN DYSINGER - RESPONDED AYE.)

CHAIRMAN: It's unanimous for approval.

RELATED ITEM:

ITEM 2a

2301 Ebach Street, in an I-2 zone.
Consider request for a Variance to reduce the required 300 foot distance from any residential zone to 260 feet in order for the property to operate as a heavy industrial use.
Reference: Zoning Ordinance, Article 8, Section 8.4/27
Applicant: Helena Chemical Company, Charles Medley and Associates, LLC

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application. It's found to be in order. It has been described to you in previous testimony. However, as this Board is aware, there are certain findings of fact of considerations that you must take into account before granting this Variance.

The Staff has prepared a Staff Report which recommends approval of the Variance. The considerations that, yes, there are special circumstances that generally
do not apply to the property, other properties; and if the Variance is not granted, it would pose a hardship upon the applicant.

Staff finds that it will not adversely affect 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 Ordinance.

Now, this recommendation is made subject to there not being any opposition registered here tonight from a landowner that is located within this affected buffer, meaning within 300 feet from the activity. Staff has found the subject property is located in a heavy industrial zone. The applicant seeking the Variance proposes to operate agricultural chemical fertilizer, selling a packaged chemical fertilizer and repacking of bulk chemical products within 260 feet from the nearest residential zone.

The granting of this 40 foot variance will not alter the essential character of the vicinity and will not constitute a reasonable circumvention of the Zoning Ordinance as long as it's approved by the Kentucky Office of Housing and Building Construction and there's no opposition registered.
MR. KAMUF: Mr. Chairman, I'd like to point out that the telephone call evidently that you got was from a Mr. Hall, and he's certainly not within 300 feet of this area. I checked it on this plat.

CHAIRMAN: Mr. Noffsinger, has there been any correspondence in opposition of the Variance in the Planning Office other than what you read into the record?

MR. NOFFSINGER: Your statement is correct. The gentleman that did register that complained is beyond 300 feet. It looks like it's probably in excess of 375 to 425 feet from the nearest corner of the building where the activities will occur. There's been no other opposition registered in the office.

CHAIRMAN: Is there anyone here that would like to speak in opposition of the Variance?

(NO RESPONSE)

CHAIRMAN: Does the applicant have any further statement he'd like to make? I think we're okay with what you've stated. Do you have anything else to add?

(NO RESPONSE)

CHAIRMAN: If not, we'll go for a motion. Board members have any questions on the Variance?

MR. WARREN: I have a question for Mr. Noffsinger, I think. So, the testimony given in the
Conditional Use Permit will apply here, too? It doesn't have to be restated?

MR. NOFFSINGER: That would be a question for Mr. Elliott.

MR. ELLIOTT: No.

MR. WARREN: It does not?

MR. ELLIOTT: No. Just the findings for the Variance.

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve based upon the findings from the Staff 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.

MR. MILLER: Second.

CHAIRMAN: Any question on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT - WITH THE DISQUALIFICATION OF SEAN DYSINGER - RESPONDED AYE.)

CHAIRMAN: Motion is approved by unanimous vote.
MR. KAMUF: Thank you, Mr. Chairman and ladies and gentlemen.

ITEM 3

6028 KY 1389, in an R-1A zone
Consider request for a Conditional Use Permit to temporarily place a 14' by 60' class 2 manufactured home on the property.
Reference: Zoning Ordinance, Article 8, Section 8.2A10B
Applicant: Tracy Robertson

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application and the application is found to be in order. The applicant is requesting placement of this unit on a temporary basis, and they are asking we waive the requirements for the removal of tire, tongue, wheels, axles, as well as the concrete or masonry type skirting around the perimeter of the trailer, the concrete porch or deck and other items.

And while the Staff, we do not have any opposition to this, we would like to hear from the applicant in terms of their timeframe for construction because we do understand they are going to build a house and we need to get on the record as to what their timetable is.

CHAIRMAN: Anyone here representing the applicant?

MR. ROBERTSON: Yes.

MR. ELLIOTT: State your name, please.
MR. ROBERTSON: Tracy Robertson.

(MR. TRACY ROBERTSON SWORN BY ATTORNEY.)

MR. ROBERTSON: Like I said, it's going to be temporary, just as soon as possible. Hopefully this spring to go ahead and start building.

MR. NOFFSINGER: Okay. So would you say -- this spring. So, within -- we're looking for a timeframe here in terms of this unit to be removed from the property. And this is --

MR. ROBERTSON: Six to nine months to build the home. So, as soon as the home is liveable so we can move in.

MR. NOFFSINGER: Right.

CHAIRMAN: Any board members have any question for Mr. Robertson?

MR. MILLER: I don't think I heard you. Did you say you were going to obtain a building permit this spring?

MR. ROBERTSON: To build the home. Yes.

MR. MILLER: Okay.

CHAIRMAN: Let me see if we have any opposition here. Anyone here in opposition to this item?

(NO RESPONSE)

CHAIRMAN: Any board members have any questions?
1 (NO RESPONSE)
2
3        CHAIRMAN: Chair is ready for a motion.
4
5        MR. DYSINGER: I have a question on how we
6 phrase this. Is it possible to grant it pending
7 application for building permit and then like a secondary
8 approval for gone by the first of January? I mean, I
9 don't know that the date -- six to nine months, kind of
10 the rest of the year.
11
12        MR. NOFFSINGER: Staff would recommend that
13 you set a specific date as to when the unit is to be
14 removed. We would recommend that you consider approving
15 the Conditional Use Permit for a temporary placement not
16 to exceed a date of -- it has to be removed by November
17 1, 2005. That gives you, what, 9 to 10 months, I think.
18
19        MR. DYSINGER: That seems a little short.
20 Would the applicant be free to reapply at that time for
21 some sort of extension if necessary?
22
23        MR. NOFFSINGER: Yes. Yes. But the
24 applicant would need to come in before November 1.
25
26        Does November 1 sound reasonable to you?
27
28        MR. ROBERTSON: If everything gets going like
29 it's supposed to. Yes. I mean, I've already got the
30 contractor on the house, I mean, you know, ready to get
31 started. So, but I need to be living there also, you
32 know, to help him out.
MR. NOFFSINGER: Right. And that's understandable. The reason I'm thinking about November 1, I think that if we go beyond that and get into the wet season and you may not be able to get that unit off. So, if we know that it's November 1, that's the date we're going to be shooting for, perhaps that'll push you along in the process.

But, yes, the applicant would be able to come back in ahead of time and ask for an extension.

MR. DYSINGER: Would he have to pay the reapplication fee and all that?

MR. NOFFSINGER: Yes.

MS. MASON: I have a question. Do we need to act on, like, the driveway apron and all that? That's all part of it, what he's asking for?

MR. NOFFSINGER: That'd be part of the application.

MS. MASON: Okay. Part of the application. Okay.

MR. NOFFSINGER: Temporary placement for up to a particular date.

MS. MASON: Okay.

MR. DYSINGER: Mr. Chairman, move to approve Conditional Use Permit, given the findings that there appears to be no opposition, the request seems to be
reasonable, that the applicant be allowed to temporarily place 14 by 60 class 2 manufactured home on the property until November 1, 2005, with leave to reapply if necessary. Does that cover it, about cover it?

MR. NOFFSINGER: Yes.

MR. WARREN: Second.

CHAIRMAN: I have a motion to second. Is there any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion approved unanimously.

MR. ROBERTSON: Thank you.

VARIANCE

ITEM 4

1230 Allen Street, in an R-4DT zone
Consider request for a Variance to reduce the rear yard setback from 10 feet to 3 feet in order to construct a carport.

Reference: Zoning Ordinance, Article 3, Section 3-7(c)(1), 3-5(e)

Applicant: Julius Carl Holton, Ruth LeFaye Holton

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this application. The application is found to be in order. Ms. Stone is here tonight to describe what is taking place and Staff's recommendation.
MR. ELLIOTT: State your name, please.

MS. STONE: Becky Stone.

(MS. BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: In reviewing the application for this Variance, we've visited the site and we noticed that there had been concrete poured from the alley to an existing curb cut and beyond on Parrish Avenue. So, upon investigation with the city engineer's department, we learned that indeed there was a permit granted to put concrete in the area that had been grass stripped where that existing curb cut occurred on Parrish Avenue. However, the concrete does extend beyond that curb cut to the east to the landscaped area on the property, which allows some movement, makes that driveway access look wider there.

So, in reviewing the application for the Variance, we find that the Variance should be granted based on existing setbacks that are allowable in that zone and also on existing conditions in that area, but we would like to impose the condition that that grass strip of the right-of-way be reestablished just to the existing curb cut on that driveway and allow the concrete to extend to the curb cut, but no further to the east.

Our reasons are based on the granting of the Variance would not adversely affect the public health,
safety or welfare; would not alter the essential character of the general vicinity; would not cause a hazard or a nuisance to the public; and would not allow an unreasonable circumvention of the requirement of the zoning regulations.

CHAIRMAN: Anyone here representing the applicant?

MR. HOLTON: Me.

CHAIRMAN: Is there something you'd like to say?

MR. HOLTON: Well, the only reason that we did that - -

CHAIRMAN: Step up to the podium.

MR. ELLIOTT: State your name, please.

MR. HOLTON: Carl Holton.

(MR. CARL HOLTON SWORN BY ATTORNEY.)

MR. HOLTON: The reason we did that was there's lots of people that use the alley, and all of them cut across, cut short, and there's just a mud hole there where they dropped off, hit the mud hole and went on across. How much would you say it is there?

MS. STONE: Probably about seven feet to the existing curb cut that's on Parrish.

MR. HOLTON: I don't know how far it is, but, you know, it was an area there where people cut across.
So, we re-poured the concrete, sidewalk was bad. So we re-poured it along with part of my drive up here and we just, you know, curved it out there where people pulled in there and don't drop in the hole and make a mess. It'll be a whole lot neater job like it is. If you request it, then we will put it back dirt, but it would be a lot neater job, you know, to leave the concrete there.

MR. DYSINGER: Mr. Chairman, can I ask a question of the -- oh, I'm sorry. Go ahead.

MS. STONE: I was just going to comment for Mr. Holton we're not requesting the concrete where the alley was widened to be removed. Over to where that curb cut is fine, and that should keep the people from cutting across the yard because that's widening that alley. What we're requesting is east of the existing curb cut back and they've got a landscaped area there back to that grass strip, for that right-of-way to be reestablished as grass strip.

MR. DYSINGER: So, Becky, it's the Staff's opinion that putting it -- meeting this condition is not going to put them in a situation where they got the mud hole and --

MS. STONE: No, because they will be allowed to keep that widening of the alley. So, they shouldn't --
MR. DYSINGER: It's not going back to the way it was before, in other words?

MS. STONE: Right.

MR. DYSINGER: Okay. Thank you.

Sir, do you concur with that? Do you think you understand what we're suggesting?

MR. HOLTON: I would love to leave it like it is, but we'll go back and, you know, do whatever you all recommend and if we get the Variance, but it would make a lot neater driveway. It would make a lot neater area there if the concrete is left in there because we got shrubbery on this side of it and it would make a lot better place where we can get into the driveway.

CHAIRMAN: Ms. Stone, is that a barrier type of curb or is it a roll curb?

MS. STONE: It's a roll curb. You can drive over it. And it makes the driveway wider by having that concrete beyond that curb cut, and we're saying that the driveway should not be wider than where the existing curb cut is.

CHAIRMAN: That roll curb allows vehicles to cross it where a barrier curb does not?

MS. STONE: Right.

CHAIRMAN: And it is a roll curb?
MS. STONE: Yes.

CHAIRMAN: So if they remove the concrete and it does create a place for vehicles to cross, but up there again -- is that what --

MS. STONE: Well, they still will have the widened alley. So people who are turning into the alley have seven feet more. We're not asking them to remove the concrete between where the alley is and where there was an existing curb cut on Parrish. But to the east of that curb cut should be reestablished as grass because what happens is that's just made that access that much wider.

CHAIRMAN: Right.

MR. NOFFSINGER: Mr. Chairman, if I might add to the record that this situation, if this were allowed to stand, we have this situation all over Owensboro where people would like to concrete or asphalt their grassplot for various reasons. One, they'd like to park up on it so they can get their wheels off the curb or out of the street; they can get their vehicle up out of the street. If we were to do that, then we would have no grassplots; and grassplots are one thing that adds to the aesthetic beauty of our community as well as help alleviate some of our drainage concerns. We all know we have drainage concerns in this community.
It's just, it may not seem to be that big of a deal, but if you look at it in the bigger picture of it and what precedence you're setting and would be setting, it is a big deal. Now, if the applicant were to go in and make a larger curb cut and it's on a state right-of-way where we have access control; but if they were to widen that curb cut, they would have to get a license bonding contractor to go in and actually cut that curb and reform it to do it correctly.

And that's not what was done here. It was just a matter of they took the existing curb cut and concreted all the way in front of it toward the proposed carport and then they just extended on into the grassplot and just decided to roll it up over the curb, which would not be the proper way to do it. You would actually go in and cut that curb.

So, I think it goes beyond just this particular site even though it may not seem to be that big of a deal. It's the message you're sending to other folks that have similar requests that simply want to pave or asphalt their grassplot. Maybe they don't want to mow it or maybe they're parking, using it for parking now but it's a mud hole. I have seen that, but that is really not an issue for this Board but it is a consideration on this Variance.
CHAIRMAN: Any board members have any more questions?

MR. DYSINGER: I have one more question.

Moving away from that condition, for the record, does the Staff know of any precedent of the, you know, approval of this happening beforehand, situations that matched this, that meet this that have been approved in the past?

MR. NOFFSINGER: I'm not aware of any.

MR. DYSINGER: Okay.

CHAIRMAN: Any more questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve the Variance because 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; and subject to the condition that the applicant remove the concrete, restore the grass strip to the east of the curb cut on Parrish Avenue between the curb and the sidewalk.

MR. DYSINGER: Second.

CHAIRMAN: I have a motion and a second. Any question on the motion?
(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion approved unanimously.

Are there any more motions?

MR. DYSINGER: Move to adjourn.

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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

WITNESS my hand and notarial seal on this the 25th day of March, 2005.

______________________________
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