The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 5, 2005, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: C. A. Pantle, Chairman
Becky Stone
Ruth Ann Mason
Marty Warren
Judy Dixon
Tim Miller
Sean Dysinger
Ward Pedley
Ed Baylous
Attorney

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CHAIRMAN: Want to welcome each and every one of you coming this evening.

First thing we do when we start our meeting is we stand and have a prayer and pledge of allegiance. We invite you, if you so desire, to join us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome all of you again to the meeting. If you have anything you would like to add to any item that we have on the Ohio Valley Reporting (270) 683-7383
agenda, please come to one of the podiums. State your name and you'll be sworn in by the attorney.

The first item is consider the minutes of the April 7th meeting. I don't think there was any problems in the office.

MS. STONE: No.

CHAIRMAN: Chair is ready for a motion.

MR. MILLER: Motion to approve the minutes.

CHAIRMAN: Motion to approve.

MS. DIXON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

If you all want to say anything on any item, please come forward. State your name, as I told you, and say what you have to do. Now, if you're going to start doing the same over and over and argument, we'll stop that. We'll call you out of order. If you have any questions, direct them to the chairman and we'll get your answer the best we can. With that let's go on.

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CONDITIONAL USE PERMITS

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ITEM 2

3131 Alvey Park Drive West, in a B-4 zone
Consider a request for a Conditional Use Permit in
order to operate a ladies' fitness and weight loss
studio.
Reference: Zoning Ordinance, Article 8,
Section 8.2 B11, 8.4/13
Applicant: Don and Brenda Bowen

MS. STONE: This application is in order.

It's been reviewed by the Staff and it's ready for
your consideration.

CHAIRMAN: Any objections in the office?

MS. STONE: No, sir.

CHAIRMAN: Is there anyone in here who
wishes to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have
anything you'd like to present to us at this time?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRMAN: Staff have any questions?

(NO RESPONSE)

CHAIRMAN: What's the pleasure of the
board?

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

for approval based on hearing no opposition and it's

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compatible use with the neighborhood. Will not have an adverse affect on the community.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other questions from the board?
(NO RESPONSE)

CHAIRMAN: Staff have anything you'd like to add to it?

MS. STONE: No.

CHAIRMAN: The applicant have any further questions?
(NO RESPONSE)

CHAIRMAN: With that all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 3

6120 Old KY 54, in an R-1A zone
Consider request for a Conditional Use Permit in order to operate an indoor and outdoor recreational complex with principally permitted retail sales.
Reference: Zoning Ordinance, Article 8, Section 8.2 B11, K7, 8.4/13, 8.4/42
Applicant: Sports Promotions, LLC, RBC, LLC

MS. STONE: The application is in order.

It's ready for your consideration. The property needs to be zoned B-4 to apply for this Conditional Use
Permit and to have the retail sales. They've already
been before the Planning Commission. The Planning
Commission has made a recommendation to approve the
zoning to B-4. So any approval of this item should be
subject to that zoning item being completed through
the legislative body.

CHAIRMAN: Any objections in the office?
MS. STONE: No.
CHAIRMAN: Is anyone wishing to speak in
opposition of this item?
(NO RESPONSE)
CHAIRMAN: Does the applicant have
anything you would like to add?
(NO RESPONSE)
CHAIRMAN: Board members have any
questions of the applicant?
(NO RESPONSE)
CHAIRMAN: Staff have any other comments
or questions?
MS. STONE: No.
CHAIRMAN: Hearing none entertain a motion
to dispose of the item.
MS. DIXON: Move to approve subject to the
approval of the zoning change by the legislative
bodies and based upon testimony or lack thereof of
opposition and that it's compatible with the area around it.

MR. PEDLEY: Second.

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

(NO RESPONSE)

CHAIRMAN: Any other comments from the applicant?

(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 4

1120 Woodlawn Avenue, in an R-4DT zone
Consider request for a Conditional Use Permit to construct a 30' by 40' post frame picnic shelter. Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Woodlawn United Methodist Church

MS. STONE: The application is in order.

It is ready for your consideration.

The approval of this item should be subject to a development plan. This church is a non-conforming church currently and applying for a Conditional Use Permit, it would need to be brought into conformance with the zoning ordinance.
Their parking is adequate in the number of spaces they have, but it is not on the same site as the church lot. So they need to tie their parking by development plan to the church lot and that development plan should go to the Planning Commission for consideration. With that it's in order.

CHAIRMAN: One comment in the past. That wasn't acceptable a few years back. It had to be within one block.

MS. STONE: Right. The zoning ordinance has changed to allow development plans to tie the parking to the use on the property.

CHAIRMAN: Any objections in the office?

MS. STONE: No.

CHAIRMAN: Does the applicant have any comments he would like to present at this time?

Come forward and state your name and be sworn in by the attorney, please.

MR. PAYNE: I'm Charles Payne and I'm a member of Woodlawn.

(MR. CHARLES PAYNE SWORN BY ATTORNEY.)

MR. PAYNE: I guess I have more of a question than anything else. That's about the shrubbery in the parking lot. I didn't hear that. We had asked to not have to put the shrubbery around the
parking area because it is all asphalt and it would
have to be sawed out and would be quite an expense for
us. We had also requested that we not have to do
that.

MS. STONE: I failed to mention that. The
Staff would be in agreement with that because it would
limit, reduce the parking spaces that they would be
able to have. The alteration is not occurring on the
parking lot. The parking lot is going to continue to
exist just as it is currently.

CHAIRMAN: Does that answer your question?

MR. PAYNE: Yes, sir. That was all I had.

CHAIRMAN: Any other questions from the
Staff or anyone from the church like to come forward
and make any other comments?

(NO RESPONSE)

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

MS. MASON: I make a motion to approve the
Conditional Use Permit subject to the development plan
being given to the Planning Commission and also to
waive the landscaping requirements, and also because
there was no opposition in the neighborhood and
because it's compatible with the neighborhood.

CHAIRMAN: Is there a second?
MS. DIXON: Second.

CHAIRMAN: Any other questions from the Board, or Staff, or applicant?

(NO RESPONSE)

CHAIRMAN: 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 5

801 West Fifth Street, in a B-4, R-4DT zone
Consider request for a Variance to reduce the front yard building setback from 75 feet from the street centerline to 40 feet from the street centerline in order to construct a 24,162 square foot community center.
Reference: Zoning Ordinance, Article 8, Section 8.5.11(c), 8.5.16(c)
Applicant: H.L. Neblett Community Center

MS. STONE: This application is in order.
It's ready for your consideration.

CHAIRMAN: Any objections filed in the office?

MS. STONE: No, sir.

CHAIRMAN: Anyone in the meeting object to this item?

(NO RESPONSE)

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

MS. STONE: The lots would have to be consolidated in order to construct the facility and the improvements on the site. They did have a preliminary plan with their rezoning request and would need to consolidate the lots into one tract upon approval.

CHAIRMAN: You all understand that?

APPLICANT: Exactly what lots are you talking about?

MS. STONE: The lots that were proposed to be used for the facility to be constructed and for the parking on that property would need to be consolidated into one lot to have that all on one tract of property when that development occurs. If there's other lots that the center owns that aren't part of that proposal, they wouldn't necessarily have to be consolidated to this property, but the property that's going to be used to construct this community center and the parking would need to be consolidated.

MR. BAYLOUS: For the sake of making the record straight, I think we should probably have the person responding come forward and identify
MR. BRYANT: I have a quick comment. Don Bryant.

(MR. DON BRYANT SWORN BY ATTORNEY.)

MR. BRYANT: We're preparing the site plan. We prepared the application for the Variance. We're also doing a lot consolidation. That's included in our scope of work. The plat hasn't been submitted because the rezoning hasn't gone through the legislative body, but it will be as soon as that's completed. Everything that's been addressed has already been taken care of. It just hasn't been submitted yet, but we understand that.

CHAIRMAN: Applicant, you sure you understand everything along with your surveyor? You're acceptable with everything?

MR. BRYANT: This building will be built on the roadway buffer because of the size of the building. We're just barely meeting setback requirements at the rear. So we have to bring -- this is similar to an application that was approved a few months ago within the block just to the east.

CHAIRMAN: Any board members have any other questions?

(NO RESPONSE)
CHAIRMAN: Staff have any other comments?
(NO RESPONSE)
CHAIRMAN: Attorney have anything else you want to add?
MR. BAYLOUS: No.
CHAIRMAN: Entertain a motion to dispose of the item.
MS. DIXON: Move to approve the Variance because granting the Variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hardship or nuisance to the public; will not allow an unreasonable circumvention of the requirements of the zoning regulation, and subject to the condition of the submittal and approval of the consolidation plat.
CHAIRMAN: Is there a second?
MR. MILLER: Second.
CHAIRMAN: Any other 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.

ITEM 6

417 East 11th Street, in an I-1 zone
Consider request for an Administrative Review to
change from a non-conforming use as a storage and
warehouse facility with limited parking to another
non-conforming use as a workshop for the fabrication
of art objects and furniture repair with limited
parking.
Reference:  Zoning Ordinance, Article 4, Section 4.53,
Article 7, Section 7.34
Applicant:  Ann S. Demko

MS. STONE:  This application is in order.
It's ready for your consideration.
Mr. Mischel can answer questions regarding
the nature of this if you have questions.
CHAIRMAN:  Come forward and be sworn in.
(MR. JIM MISCHEL SWORN BY ATTORNEY.)
MR. MISCHEL:  I'm Jim Mischel, Zoning
Administrator for the planning office. If you have
any questions I'll be glad to answer them.
Essentially I think we have a piece of
property that is zoned I-1. For years it was used for
a body shop. I think the previous owner has passed
away. Now his wife would like to sell the property.
She has some people wanting to buy it and they want to
use it for I guess I'd say a work shop, furniture
repair, things of that nature. I believe at this time
they don't plan on doing any retail sales or anything.
It's typically a work shop which would be okay in an
I-1 light industrial zone. The non-conforming use
says that it doesn't meet the parking standards that
are set forth. It didn't meet it when he had his body
shop there either. They would like to change it from
one non-conforming use to another non-conforming use.

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

MS. STONE: No, sir

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MS. STONE: No.

CHAIRMAN: Hearing none entertain a motion
to dispose of it.

MR. MILLER: Mr. Chairman, motion to allow
the non-conforming use as this property as it exist as
I understand is non-conforming I guess on all sides
and in the future will only be non-conforming on the
rear setback.

Am I on the wrong one?

MS. STONE: This is non-conforming because
it doesn't meet parking requirements. They want to
continue a non-conforming use without parking, without
minimum park requirements.

MR. MILLER: We are on Number 6?

MS. STONE: Yes.

MR. MILLER: Still a motion to allow the
non-conforming use as it is compatible. Just
continuing use as a work shop.

CHAIRMAN: Is there a second?

MS. DIXON: Second.

CHAIRMAN: Any other questions from the
board members or any comments from the staff?

(NO RESPONSE)

CHAIRMAN: The applicant have anything
else you all would like to add to it?

APPLICANT REP: No.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 7

704 Hathaway Street, in an R-4DT zone
Consider request for an Administrative Review in
order to demolish the existing non-conforming
structure and construct a non-conforming structure in
another location on the lot.
Reference: Zoning Ordinance, Article 4, Section 4.43,
Article 7, Section 7.34

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Applicant:  Ralph Thomas

MS. STONE: This is the one that Mr. Miller was referring to. The structure does not meet the setbacks on any sides currently and they're asking that to be relocated to another position on the lot that will meet the setbacks on the front setback and will still be non-conforming on the rear setback.

CHAIRMAN: Any objections in the office?

MS. STONE: No.

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

(NO RESPONSE)

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

APPLICANT REP: No.

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

MR. DYSINGER: Move to grant the request as it is actually reducing the non-conforming nature of the existing property and given the findings that there is no opposition and it is compatible with the nature of the area.

CHAIRMAN: Is there a second?

MS. DIXON: Second.

CHAIRMAN: Any other questions or comments

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from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else you'd like to add to it?

MS. STONE: No.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

We need one final motion.

MS. DIXON: Move to adjourn.

MR. DYSINGER: 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)  
) SS: REPORTER’S CERTIFICATE  
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 17 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 16th day of March, 2005.

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

COMMISSION EXPIRES:  
DECEMBER 19, 2006  

COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY  

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