The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, March 2, 2006, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
            Gary Noffsinger
            Ruth Ann Mason
            Marty Warren
            Judy Dixon
            Sean Dysinger
            Madison Silvert
            Attorney
            Stewart Elliott
            Attorney

* * * * * * * * * * * * * * * * * * * * * * * * *

CHAIRMAN:  We will begin our meeting with a prayer and pledge of allegiance to the flag.  Ms. Mason will lead us in prayer.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

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

First item on the agenda is to consider the minutes of the February 2, 2006 meeting.  They
have been read and they're on file in the planning office. Are there any additions or corrections?

(NO RESPONSE)

CHAIRMAN: If not, the chair is ready for a motion.

MS. DIXON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

-----------------------------------------

CONDITIONAL USE PERMITS

ITEM 2

5741 KY 144, zoned R-1A, A-U

Consider request for a Conditional Use Permit to construct an approximately 30,000 square foot addition to an existing church facility to house multipurpose uses of pre-school area, fellowship space, recreation area, kitchen, offices and future Sunday School and training space.

Reference: Zoning Ordinance, Article 8, Section 8.2B4

Applicant: Yellow Creek Baptist Church

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.

The application is found to be in order.

They are adding a 30,000 square foot addition to the existing church facility which has
been located here for many years. They are adding a
significant amount of landscaping as shown on the site
plan. With that it is ready for your consideration.

CHAIRMAN: Has there been any
correspondence in the planning office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone here wishing to speak in
opposition of this item?

(NO RESPONSE)

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

APPLICANT REP: No.

CHAIRMAN: Anyone wishing to speak on the
application?

MR. NOFFSINGER: Mr. Chairman, there was
some issue as to whether or not the site plan was in
order this afternoon; however, all landscaping issues
and parking issues, including access, vehicular access
points have been addressed.

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

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. DYSINGER: Mr. Chairman, move to
approve the Conditional Use Permit given the findings
that it will be a benefit to public welfare as it will serve for a recreational use and preschool area and will not compromise the character of the neighborhood because no one has appeared to put that into evidence.

CHAIRMAN: Do we have a second?
MS. MASON: Second.
CHAIRMAN: We have a motion and a second.
Any questions on the motion?
(NO RESPONSE)
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimous.

ITEM 3
1315, 1329 Reid Road, zoned A-U
Consider request for a Conditional Use Permit to construct and operate a private school including two 40' by 60' classroom areas, a 40' by 60' multi-purpose building and a 70' by 100' future gymnasium for 160 children with operating hours from 7:30 a.m. to 5:00 p.m.
Reference: Zoning Ordinance, Article 8, Section 8.2B14
Applicant: Majestic Academy, Inc., Daniel L. Turley & Marian R. Turley

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this application. The application is found to be in order. You have received a copy of the application as well as the site plan that's being proposed for this facility. There have not been any
issues raised in the office by anyone from the area.

There may be some folks here tonight to comment on the
application, but Staff has reviewed and find it to be
in order.

CHAIRMAN: Anyone here wishing to speak in
opposition of this item?

MR. REID: Comment, can we make a comment?

CHAIRMAN: You step up to the podium,
please.

MR. ELLIOTT: State your name for the
record, please.

MR. REID: William H. Reid.

(MR. WILLIAM REID SWORN BY ATTORNEY.)

MR. REID: The question, I picked up kind
of the layout. My name is, of course, Billy Reid. My
wife, Kathy Reid, we own the property on all three
sides of this piece of property.

The question I have is there's a 50 foot
private driveway through here and they're showing part
of the existing road they're putting through here with
a loop. My concern or question is, on this loop that
they have in the center, if this is a private
driveway, this cannot be built up or anything so if I
move some heavy equipment through there, does that
still gives me the right to use all 50 foot
right-of-way? If you look, it's a private drive, 50 foot. There's two separate properties that goes back to that.

CHAIRMAN: We will get you an answer on that.

MR. REID: Okay. Another thing, I guess, would be down the road is the drainage situation, putting this type of a system in there. Will the county engineer have to come up with some type of deal on how the drainage? The north side of this property, which I own, is a place where a lot of water will stand. I'm just kind of concerned. What's the process of going through on the drainage, who takes care of that or if the county engineer will be in charge.

CHAIRMAN: Mr. Noffsinger, could you address that concern?

MR. NOFFSINGER: Yes, sir.

The county engineer will be required to review a drainage plan prior to construction and prior to Mr. Jim Mischel issuing a building permit for this facility.

I do not have any answers for you regarding the access easement and the use; although, would state that we should hear from the applicant as
to what they intend to do in this area. We did not require any type of turn around or the actual arrangement within that area. That was just prepared by the applicant and their site plan. However, access to the property is limited to that access easement. I certainly understand your concerns, Mr. Reid, and the applicant hopefully is here tonight to address those.

MR. REID: Thank you.

CHAIRMAN: Would the applicant come forward and address Mr. Reid's concerns.

MR. ELLIOTT: State your name, please.

MR. RINEY: Jim Riney.

(MR. JIM RINEY SWORN BY ATTORNEY.)

MR. RINEY: I'm Jim Riney. We prepared the concept plan on behalf of the applicant.

If I understood the question correctly regarding the drive, the 50 foot private easement is actually that. An easement. The applicants own the property and this easement was on there for the benefits of the folks that would access on back the lane. I believe I understood the question, if the drive were going to be built up. The board may have to read that question back. There wasn't any intention to build up or elevate. The concept for the loop was to go ahead and handle bus traffic and drop
off on the south side of the building and then let the parental traffic, the moms and dads, drop off and pick up the kids in front of the school, out parallel to Reid Road. I hope I've addressed the question. I don't anticipate that there's any difference in the use that Mr. Reid would experience later on than he and his neighbors enjoy today.

CHAIRMAN: I think his question was:

Would it be built up to where he would have a problem crossing with his equipment.

MR. RINEY: That's what I understood, the elevation.

CHAIRMAN: Right.

MR. RINEY: No. There's no intention to elevate that. Basically they want to try to utilize what's there already in terms of pavement. Probably make it a little wider and make it a little more substantial, if that answers his question.

MR. REID: It does.

CHAIRMAN: Does anyone else have any questions of Mr. Riney?

MR. ELLIOTT: State your name, please.

MR. THORPE: C.W. Thorpe. I live at 1401 Reid Road.

(MR. C.W. THORPE SWORN BY ATTORNEY.)

Ohio Valley Reporting
(270) 683-7383
MR. THORPE: My question is, there is a driveway there. This plan shows a driveway north of there. Is this where a new driveway put in just for this property or is the driveway that we have to our resident now going to be utilized as part of that?

CHAIRMAN: I would have to get Mr. Riney to address that.

MR. RINEY: The driveway that we've shown the intent is to reflect the location of the existing driveway that's there. Mr. Noffsinger indicated we recognized that the access points by the regulations are limited along Reid Road. So we want the driveway for this facility to coincide with the existing drive that's out there now, if that answers his question. It would be one in the same.

CHAIRMAN: Anyone else like to address the board?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. MASON: I move for approval. The findings of facts are that it will promote the public health, safety and welfare because it is going to be a
school constructed there. The location and the
character of the vicinity it will not cause any
problems there because there was no opposition this
evening.

CHAIRMAN: Do we have a second?

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second.

Any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right

hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

ITEM 4

514 East Fourth Street, 429 Clay Street, zoned R-4DT
Consider request for a Conditional Use Permit to
construct an 80' by 100' church parish hall on the
site with an existing church related school facility.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Saints Joseph & Paul Church

MR. NOFFSINGER: Mr. Chairman, the

Planning Staff has reviewed this application. The
application is found to be in order. It is for an
addition to existing church facilities that are
located on the property. The applicant is proposing
an additional asphalt parking area. Will be
landscaping, as required by ordinance, as well as I
believe it involves closure of an existing access
point on Fourth Street. The applicant has been made aware of that. So with that it's ready for your consideration.

CHAIRMAN: Anyone here that wishes to speak in opposition of this application?

MS. HONEYCUTT: I just have a couple of questions.

MR. ELLIOTT: State your name, please.

MS. HONEYCUTT: Geneva Honeycutt.

(MS. HONEYCUTT SWORN BY ATTORNEY.)

MS. HONEYCUTT: My question is: Approximately how many parking spaces are they planning on adding? Just for the fact that I live across the street and have had problems when they've had events at the current facility with either blocking my driveway or even parking in my driveway. I just want to know how much parking are they going to add for the facility?

CHAIRMAN: Mr. Noffsinger, would you address that concern?

MR. NOFFSINGER: It appears that they're proposing 57 parking spaces on the site. The zoning ordinance require them to have 50 parking spaces. So that would be the minimum that they're required to have. So they'll have seven above that.
They are adding the parking to the rear of
the proposed parish hall and then along Clay Street.
I'm not sure exactly how many additional parking
spaces they're going to have, but it looks like there
might be about 27 new parking spaces in all. I see 8
and 8 is 16 and 11 so that will make it about 27
additional parking spaces.

MS. HONEYCUTT: Thank you.

CHAIRMAN: Anyone else have any questions
of the applicant?

(NO RESPONSE)

CHAIRMAN: Does the applicant have
anything that they would like to present to the board?

(NO RESPONSE)

CHAIRMAN: Board member have any questions
of the applicant?

MR. DYSINGER: I have a question that even
staff can probably handle. Did I understand you to
say that there would be a net gain of 27 parking
spots?

MR. NOFFSINGER: Yes, sir. I believe
there are 30 on the site now. It looks like there
will be 27 additional parking spaces.

CHAIRMAN: State your name, please.

MR. RHoads: My name is Rick Rhoads.
MR. RHOADS: I have a plan here of the building. Do you need to see that, what the building is going to look like?

CHAIRMAN: Unless there's questions about it. I don't think we need to see it. Thank you.

MR. NOFFSINGER: The board has a site plan showing it. Each board member has received a site plan showing the building footprint, as well as the parking areas and the facilities that will be located on the property. They have not seen an architectural or an elevation shot of what the building will look like, but they have reviewed the physical site plan.

CHAIRMAN: Are there any more questions from the board?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. DYSINGER: Move to approve the Conditional Use Permit, Mr. Chairman, given the findings that it will be essential for the public health, safety and welfare by providing space for wedding receptions, religious celebrations, church meetings and special events. Also given the finding that the improvement in parking is going to be a benefit to the area and in addition to which given the

Ohio Valley Reporting
(270) 683-7383
finding that it is not incompatible with the current
use of what I can only assume be decades of use of the
area that it is now.

CHAIRMAN: We have a motion. Do I hear a
second?

MR. WARREN: Second.

CHAIRMAN: We have a motion and a second.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

VARIANCES

ITEM 5

1907, 1912 Paddock Pointe Cove, zoned R-3MF
Consider request for a Variance to reduce the 20
foot project boundary setback to 5 feet along the
north side of the planned residential development
(lots 3 and 4)
Reference: Zoning Ordinance, Article 10,
Section 10.432
Applicant: Paul J. Martin, Paddock Swim & Tennis
Club, Inc.

MR. NOFFSINGER: Mr. Chairman, Planning
Staff has reviewed this application. We find the
application to be in order.

The applicant is here tonight to describe
what he intends to do with the property. Then after
that the staff would have a report that they would
like to read into the record.

CHAIRMAN: Anyone here that would like to

Ohio Valley Reporting
(270) 683-7383
speak in opposition of this item?

MR. ELLIOTT: State your name for the record, please.

MR. ANDERSON: Richard Anderson.

(MR. RICHARD ANDERSON SWORN BY ATTORNEY.)

MR. ANDERSON: I own the property that borders this property on the north side. It's multi-family housing. In fact, I've owned it for about 20 years.

A few years ago I had to purchase a strip of land that lies between my property and this property that I thought I already owned, but I purchased it instead of going to court to prove I owned it by adverse possession. The reason I purchased it is because it was an absolute requirement in order to use the multi-family facility that I have to provide parking that's necessary for it. It's been that way ever since I bought the property and it was that way for 10 or 12 years before I bought the property. I know that there's no extra room there. It's absolute minimum.

I also own a lot of multi-family property around the community. A lot of it is joining single-family houses. I know that five feet does not give adequate room between multi-family property and
single-family property for the normal activities to be carried on without any problems being created between the occupants. On that basis, I object to this variance.

CHAIRMAN: Anyone else that would like to speak in opposition, and we'll try to give you an answer on that?

MR. ELLIOTT: State your name for the record, please.

MR. OBERST: David Oberst.

(MR. DAVID OBERST SWORN BY ATTORNEY.)

MR. OBERST: I'm not here opposing or in agreement with anything. I just have some questions. I live at 1920 Tomy Lee Court, which would adjoin this new property. I just want to see if it's going to change from the Paddock to the rear of my residence, how it would affect me as far as setbacks or easements, etcetera. I'm just trying to get some information.

CHAIRMAN: Anyone else?

(NO RESPONSE)

CHAIRMAN: Would the applicant like to address those concerns.

MR. ELLIOTT: State your name, please.

MR. MARTIN: Paul Martin.
MR. MARTIN: First of all, on Mr. Anderson's concerns, the property in question, of course, he has a 25 foot rear yard that actually abuts the side of the property that we're speaking of. We're also going to construct a fence along the north boundary of this property. So really that five foot is not going to make any difference to him because he's going to have a fence there anyway.

As far as Mr. Oberst's concerns, it really doesn't affect the property along Tomy Lee Court. We're just talking about the property along the north side of the Paddock. So the rear setbacks and everything will be as if they were single-family homes, which is what they're going to be.

This is an R-3 zone. An R-3 zone, as you all know, you only have to have a minimum of five foot side yard. This has been a contiguous part of Thoroughbred Acres from the very beginning. The entire Thoroughbred Acres is zoned R-3. So a five foot side yard is the only requirement in an R-3 zone.

If you have any other questions, I'll be glad to answer them.

CHAIRMAN: Any board members have any questions of Mr. Martin?

Ohio Valley Reporting
(270) 683-7383
MR. DYSINGER: Not at this time.

CHAIRMAN: Thank you.

MR. ANDERSON: May I approach and comment?

CHAIRMAN: Step forward, please.

MR. ELLIOTT: Restate your name.

MR. ANDERSON: Richard Anderson.

If Mr. Martin is not going to build anything within 20 feet of the property line, then he doesn't need the variance.

CHAIRMAN: Would the staff like to address this issue?

MR. NOFFSINGER: Doug Lane from the Planning Staff would have a statement.

MR. ELLIOTT: State your name, please.

MR. LANE: Doug Lane.

(MR. DOUG LANE SWORN BY ATTORNEY.)

MR. LANE: I have a statement here from the Planning Staff that I would like to read into the record.

The applicant is proposing to reduce the required 20 foot project boundary setback to 5 feet along lots 3 and 4. The applicant submitted and received approval for a combined Final Development Plan/Major Subdivision Preliminary plat that identified the 20' buffer along lots 3 and 4. The
subject properties are located on the north side of a proposed planned residential development and a 20' setback is required by the zoning ordinance to provide a buffer between the existing development in the surrounding area and the proposed planned development.

Planning Staff recommends denial of this variance for the following reasons:

1. It will allow an unreasonable circumvention of the requirements of the zoning regulations because:
   a. By submitting a Combined Final Development Plan/Major Subdivision Preliminary Plan, it already allows for flexibility in the design of the proposed development that wouldn't normally be permitted by the regulations of the Zoning Ordinance.
   b. The subject lots appear to have similar sized building floor areas as the other nine lots in this proposed development.
   c. The adjoining properties to the north of lots 3 and 4 are not a part of the proposed residential development.

2. It may alter the essential character of the general vicinity because:
   a. The Development Plan for Paddock Pointe is contained with orientation to an interior
street, which does not follow the development patterns of adjoining properties fronting Carter Road. Therefore, a reduction of the 20' buffer, along with potential future re-development of adjoining properties, could alter the essential character of the neighborhood.

CHAIRMAN: Mr. Martin, do you have any additional comments on that?

MR. MARTIN: I know this has been done before because it was done down at Whispering Meadows when there was a 20 foot buffer zone around that. It came back and that was reduced to 10 feet because it was in keeping with the neighborhood, which was R-1A. So I don't think it would be any different than what's been done before.

Again, I say that with 20 foot rear, they've already got 25 foot yard in the back. By going to 5 foot on the side line it is going to make a difference for those lots because they become irregular on the north boundary. Like I say it has been done before. It's been approved by this commission before. I don't think it's going to alter the character of the neighborhood because all the houses in the area only have to have a five foot side yard and most of them do only have five foot side

Ohio Valley Reporting
(270) 683-7383
yards.

CHAIRMAN: Any board members have any questions of Mr. Martin?

(NO RESPONSE)

CHAIRMAN: Thank you, Mr. Martin.

MR. ANDERSON: My name is Richard Anderson.

Mr. Martin is misrepresenting the issue. There is not 25 feet of back yard where I'm talking about on our property. In fact, there's zero feet. My parking lot goes right up to the property line. There's not one inch. I don't want his buildings built within five feet of that property. It'd just be unmanageable.

MR. DYSINGER: Mr. Chairman, could I ask a question of Mr. Anderson?

CHAIRMAN: Yes.

MR. DYSINGER: Mr. Anderson, it seems to me your testimony earlier was that most of this community observes a 20 foot setback; is that correct?

MR. ANDERSON: Whenever there's multi-family development in conjunction or adjoining single-family residences, yes, there's usually a 20 foot separation or better.

MR. DYSINGER: In this area though you
find that to be the case?

MR. ANDERSON: Yes. In fact, beyond me, to the east of me there's additional multi-family housing. The condition that Mr. Martin was talking about does exist there, but my property line is close to 100 feet long and I use every inch of it for parking. There's zero lawn there. His property line is right on my pavement.

MR. DYSINGER: Thank you, sir.

CHAIRMAN: Mr. Martin, would you step back up.

MR. MARTIN: I just want to clarify one thing. This 20 foot rear yard is what Mr. Anderson's property is to this property is a rear year. Not a side yard. We're asking for a side yard variance. Not a rear yard variance. We're still going to have 20 feet in the rear and on the south side, but we're asking for the variance for the 5 feet, which would be our side yard would be his rear yard.

MR. NOFFSINGER: I just have a comment. Mr. Martin is right. This board on several occasions has approved a reduction in the 20 foot non-project boundary setback in a planned residential development. However, that is part of an ongoing development that is being developed in phases. There's been an
understanding that we're going to do that in separate pieces, but we're not going to have a 20 foot boundary within each one of those modules. The Planning Staff has recommended in that situation to this board that those variances be approved.

Here the difference is that we're going into an area that was developed many, many years ago. This is exactly what that 20 foot non-project setback is for in the ordinance. If it's not going to be observed in this particular situation, we should do away with the 20 foot non-project boundary setback in a planned residential development because when would it ever be used.

The Planning Staff is coming from the standpoint that it would allow an unreasonable circumvention of the ordinance in what I just stated. I do think it is there for a reason. It should be observed in areas where you have redevelopment within an existing developed neighborhood and you have the pattern of development that's set and defined. It has been for many years within the neighborhood.

This flexibility of being able to go into an area, if you have one acre in size and redevelop an area with this type of use has significant impact throughout this community in residential areas. It
allows a lot of flexibility that's built into the
development plan. A phase of this to allow some
flexibility in the requirements for a development to
go in and redevelop areas that have already developed.
If we're to go and start taking away some of those
elements that are built in for the protection of the
adjoining properties, then Staff feels we're allowing
that unreasonable circumvention of the ordinance
because it certainly can change the character of the
area. One could argue that it would here. Others
might argue that it wouldn't. That's what this
planned residential development does. It opens up
some areas in the community for redevelopment.

MR. MARTIN: The only difference here, I
think, is this property is zoned R-3 multi-family. If
we went over there and built multi-family, built 75
units in there, that would certainly change the
character of the neighborhood a lot more than what
this is going to.

You say that boundary, Gary, but you
changed it out. Whispering Meadows you changed it on
what would be the west side of that property which was
not part of the boundary too. You changed that to 10
foot as well because you determined that that was a
non or restricted than what the other part of this
subdivision was, which is R-1A. I know what you're
talking about. As you go back and that development
occurs, you can do away with the 20 foot here and add
it on to the next part of it, but you also did away
with it on the west side of it as well.

MR. NOFFSINGER: We may have. Speaking to
this application, I think you see a difference in that
all the area around it has already developed. This is
a total redevelopment of it. I really think in this
situation it's much different than Whispering Meadows.

MR. MARTIN: The only thing I would say is
a little different is that we've got a rear yard to a
side yard in this particular case. So you're going to
have a bigger boundary than you were going to have
anyway because you've got -- I don't know how far it
is from the back of this building to your property
line, but you've got a car parked there so I know it's
at least 20 foot. So it's probably 25 feet. He's not
going to gain anything because they're still going to
put a fence right on the property line. Whatever his
car can come up to is going to be the fence.

MR. WARREN: Mr. Noffsinger, in the
variance it says nothing about side yard and rear yard
other than it just specifies project boundaries
setback. So we're really not discussing side yard
versus rear yard setbacks, right?

MR. NOFFSINGER: That is not what the variance is about. It's about that 20 foot non-project setback. Even though Mr. Martin is using as part of his defense that the typical side yard would be 5 foot, that is true, but because it was developed as this planned residential development with a different orientation of lots, they had that 20 foot setback as opposed to a five foot setback.

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

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. DYSINGER: Move to deny the variance request, Mr. Chairman, given the findings that it may alter the essential character of the general vicinity because the side yard setback and the project setback would be inconsistent with what is currently there; and therefore will allow an unreasonable circumvention of the requirements of the zoning regulation.

CHAIRMAN: We have a motion. Do I hear a second?

MS. DIXON: Second.

CHAIRMAN: We have a motion and a second.

All in favor raise your right hand.

Ohio Valley Reporting
(270) 683-7383
MR. DYSINGER: Could I just say something real quick, Mr. Chairman, to Mr. Martin. The burden on us is to have a reason to grant the variance. I didn't see that in this. So it's a difficult issue and you presented a good case. I don't normally explain why I make a motion, but I felt like I should this time.

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 6

407 East Ninth Street, zoned B-4
Consider request for Administrative Appeal to change the use of the property from a non-conforming use as a pawn shop/storage facility with no on-site parking to another non-conforming use as a retail sales of ethnic food and related products with no on-site parking.
Reference: Zoning Ordinance, Articles 4 & 7, Section 4.53, Section 7.34
Appellant: Schay Properties, Inc.

MR. NOFFSINGER: Mr. Chairman, Planning Staff member Jim Mischel would like to present his side of the story.

MR. ELLIOTT: State your name, please.

MR. MISCHEL: Jim Mischel.

(MR. JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: This property at 407 East Ohio Valley Reporting (270) 683-7383
Ninth Street, if you've been by there you'll see that it's a concrete block building. It was originally built as a business and it's always been used as a business. It hasn't been used as residential, as far as I can tell.

I think the owners would like to change the use. It's had various uses over the years. They would like to put in I guess a neighborhood type store to sell food-related items. We don't necessarily object to that. It does have a history of commercial use. I would say in the future though if this use changes to something else, it'd probably be appropriate to come back in front of the board to see what that use would be, to see if it would still be appropriate. As far as we can tell, it has had commercial activity throughout the year.

CHAIRMAN: Any board members have any questions of Mr. Mischel?

(NO RESPONSE)

CHAIRMAN: Would the applicant like to address the board?

MR. ELLIOTT: State your name, please.

MR. HAYNES: Brian Haynes.

(MR. BRIAN HAYNES SWORN BY ATTORNEY.)

MR. HAYNES: I'm one of the owners. I'm
here to answer any questions you might have.

CHAIRMAN: Any board members have any

questions of Mr. Haynes?

Mr. Noffsinger.

MR. NOFFSINGER: Mr. Haynes, could you
describe the amount of traffic that you have had at
the facility in the past versus what you might
anticipate with this new proposed use?

MR. HAYNES: I can't describe. Me and Mr.
Schmitt bought that building at a city property tax
sale. We have not been the former -- we've owned it
for several years, but the use there, there was a
gentleman in there and all he was doing out of that
property was operating I think a pawn shop very
informally. I don't know what the traffic would have
been. It would all have been drawn directly from that
neighborhood and that's what will occur with this
facility. It's just a neighborhood shop kind of like
you have the sandwich shop that's on the next corner
and then you've got the new anticipated park over
here. It's just something that would benefit the
neighborhood. We don't anticipate people driving down
there to use this.

MR. NOFFSINGER: The reason I ask that I
was wondering in looking at the difference in the

Ohio Valley Reporting
(270) 683-7383
uses. With the pawn shop it would seem to me that it
might draw people in from other areas of the community
that might perhaps visit pawn shops; whereas this
particular use might be geared toward the neighborhood
and serving the needs of the neighborhood. Is that
what you see?

MR. HAYNES: Yes. I'm not real familiar
with pawn shops. Mr. Schmitt probably is. I would
think they're probably -- it's going from a public
use to just a general neighborhood use.

CHAIRMAN: Anyone have any comments on the
item?

(NO RESPONSE)

CHAIRMAN: Any board members have any
questions?

MR. DYSINGER: I just would add, Mr.
Chairman, I live on Bolivar Street, 824. There's a
Chinese grocery just kind of around the corner, not
unlike I think what you guys are describing. Several
businesses in the area like that.

MS. MASON: So you're saying you think a
lot of it would be walking traffic?

MR. HAYNES: I think it all would be.

CHAIRMAN: Any more questions or comments?

(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Mr. Chairman, I'll make a motion to approve the request because the property has a history of retail operations of one way or another and it would definitely serve the purpose within that area for the public use, providing walk-in operation for an inner city area.

CHAIRMAN: We have a motion for approval for the appeal?

MR. DYSINGER: So we're overturning Jim's that we're voting on?

MR. NOFFSINGER: No, not necessarily. You're voting on whether or not to grant the administrative appeal. To change from this non-conforming use to another. It's not like a zoning violation or overruling Jim.

CHAIRMAN: Do we have a second on the motion?

MS. MASON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous. We need one final motion.

MS. DIXON: Move to adjourn.

Ohio Valley Reporting
(270) 683-7383
MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

-----------------------------------------
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 32 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 30th day of March, 2006.

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