The Owensboro Metropolitan Board of Adjustment met in regular session at 6:00 p.m. on Thursday, May 4, 2006, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

CHAIRMAN: Let's call the meeting to order and welcome you all this evening. We start our each meeting with a prayer and the pledge of allegiance. We invite you to join with us if you so desire. We'll have the prayer by Ward Pedley.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome you all to the Owensboro Metropolitan Board of Adjustment meeting. Anything you want to add on any item, please come to the podium and state your name for the record and we'll proceed with the information with that.

If you have any questions, direct them to the chairman and we'll find out the information for you instead of arguing across one another.
With that we'll proceed with the first item which is the minutes of the April 6th meeting. They're on record. I don't think there's any addition that needs to be added or information from anyone that needs to be added.

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Is there a second?

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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CONDITIONAL USE PERMITS

ITEM 2

11144 KY 662, zoned R-1A (proposed A-R) Consider request for a Conditional Use Permit in order to use a 9'x18' addition to the existing residence as a beauty salon.

Reference: Zoning Ordinance, Article 8, Section 8.2 D3, 8.4/46

Applicant: Karen Fireline

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order. It has been advertised for
public hearing at this time. Each of the board
members have been mailed a copy of a Conditional Use
Permit Staff Report in which we give the description,
the zoning history and the land uses in the
surrounding area.

We would like to enter that into the record as
Exhibit A.

With that it's ready for your consideration.

CHAIRMAN: Any objections filed in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything
you would like to add on it, any comments?

APPLICANT REP: No, I don't.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add on?

MR. NOFFSINGER: Only that these uses are
allowed in an A-R Rural Agricultural zone so long as
it can be shown that there wouldn't be any negative
affects on the surrounding area. The zoning
ordinance, the intent of the zoning ordinance is to
allow small operations such as this to exist in rural areas so that it can take care of some convenient type needs in those rural areas rather than having to rezone to a B-4 general business zone or professional zone. It allows for these types of activities to occur in very limited locations and on limited activity basis so as you do not run into issues of changing the character of the area. The board can find that there should not be an adverse impact upon the area or to the contrary. If there's no one here that can show that there's a negative impact on the area, Staff certainly does not have any evidence to show either way. The only thing we're doing in the Staff Report is just describing to this board what the uses are within the area now.

CHAIRMAN: Anyone else in the audience have any comments?

(NO RESPONSE)

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

MR. DYSINGER: Move to approve the Conditional Use Permit given the findings that there is no objection from the neighbors. It should not have an negative impact on the area. It is in keeping with the intent of the zoning ordinance and with the
condition of a completion of a zoning change to A-R.

CHAIRMAN: Is there a second?

MS. DIXON: Second.

CHAIRMAN: A motion has been made and a

second. Any other comments from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add to it?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor of the

motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item please, sir.

ITEM 3

7061, 7105 KY 2830, zoned I-2, B-4 (Proposed I-2)
Consider request for a Conditional Use Permit for
reclaiming sheet steel from used fabrication items and
recycling and processing of automobiles
Reference: Zoning Ordinance, Article 8, Section 8.2G4
Applicant: Double T Investments, River Metals Recycling, LLC

MR. NOFFSINGER: Mr. Chairman, this

application has been reviewed by the Planning Staff.

It's found to be in order. It has been advertised for

public hearing at this time.

Each board member has been mailed a copy of a

Staff Report which we would like to enter into the
record as Exhibit B.

We would add to this that if this Conditional Use Permit is approved it should be approved with the condition that the next item, which is a variance related to the property, that that variance is also approved and that they complete their rezoning to heavy industrial.

The proposed use is very similar in nature to the uses or to the previous use on the property. With that it's ready for your consideration.

CHAIRMAN: Any objections or opposition filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone wishing to object to this item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you want to add at this time?

MR. KAMUF: We're here if there's any questions?

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

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.
CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, I make a motion to approve based on findings 1) we've heard no opposition, 2) the site is screened on two sides by wood area, 3) the previously use similar activities dating back to the 1987, 4) proposed use should not have adverse influence on the surrounding property. With conditions of completion of the zoning change and approval of a variance, and all proposed parking, screening, landscaping installed according to the plat.

CHAIRMAN: Is there a second to the motion?

MS. MASON: Second.

CHAIRMAN: Any other comments from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Board have any other questions or comments of the applicant?

(NO RESPONSE)

CHAIRMAN: The applicant understand the conditions put on it and stated so forth? Anything you need to add, Mr. Kamuf?

MR. ELLIOTT: State your name.

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)
MR. KAMUF: We have the engineer here that would like to talk about the slat fence around a certain area that we have.

This is a plat that we have. There will be a 12-foot solid steel fence around some of it, but I'd like for you to listen to the engineer before we go any further on that particular issue. This is a very, very expensive fence. Over $50,000.

MR. ELLIOTT: State your name, please.

MR. HOLDEN: Barry Holden.

(MR. BARRY HOLDEN SWORN BY ATTORNEY.)

MR. HOLDEN: I'm Barry Holden, director of engineering for River Metals Recycling.

The fence we alluded to on the back side of the property, along this side, it starts at this point along Pup Creek. Back along back here is an 8-foot high chain-link fence. Part of it is going to have fiberglass slats put in it for privacy.

The part starting at this point extending on the front along the frontage road and back to this point here is a 12-foot high steel fence. It's constructed with 4 x 4 wooden posts every 8-feet and the side itself is same the side you see on a steel building. It will be tan color. It's not obtrusive at all.
I do have some photographs on my computer of a very similar installation we did in Somerset, if anybody would be interested in seeing the construction of it and the color and what it would actually look like afterwards.

The cost associated with this, the wooden fence itself is probably about $40,000 and we'll have to pay for that. The steel chain-link fence, there's a contract left for that in the range of about $28,000. So it's a very expensive proposition we have to do, and we're willing to do that and we have no problem with that whatsoever.

CHAIRMAN: Board members have any questions or request to look at the plans or Staff?

MR. DYSINGER: Mr. Holden, just so I understand. This fence that you're talking about you are going to do it or you're asking us if you need to do it?

MR. HOLDEN: We would like to do that. We do that as part of our policy as trying to be responsible. We want to make sure that it's a buffer from the public. We don't want to be an attractive nuisance. People can see in and think maybe they can walk on in there and do what they feel like doing. What we try to do is be as unobtrusive as possible.
What we found the best way to do that is to put a privacy fence around the areas that is most visually acceptable or accessible to the general public.

MR. NOFFSINGER: I'm confused. I think what you're saying is that you would like the ability to put up this type of fence as opposed to what's shown on the plan, a chain-link with slats in it.

MR. HOLDEN: Well, the chain-link fence does show on the plat. The chain-link fence shows along the backside around to this point. There is what's referred to as a 12-foot wooden post vertical slat fence. That's what we're putting in along the rest of it.

MR. NOFFSINGER: So is it the wooden fence? I don't understand what you're --

MR. ELLIOTT: State your name, ma'am.

MS. BALLARD: Wanda Ballard Repasky.

(MS. WANDA BALLARD REPASKY SWORN BY ATTORNEY.)

MS. REPASKY: I am counsel for River Metals. I work out of Louisville so we've got Charlie's help here.

We're happy with everything except the chain-link fence, the slats along the backside. You've got a lot of trees back there and that's a significant expense. We mentioned that we do it in
accordance with the plat, but the plat was filed with
slats to be added in places where it's really not
visible from the road. That is the only amendment we
would make, the only amendment we would like to make
from the plat as filed.

MR. NOFFSINGER: So are you wanting to do away
with fencing there entirely?

MS. REPASKY: No, sir. We'll put the fence
in. Just not the slats in the chain. Those
fiberglass slats are amazingly expensive.

MR. NOFFSINGER: And you want to put up a
solid steel fence.

MR. HOLDEN: The solid steel fence we're
committed to that.

MR. NOFFSINGER: That you can't see through.

MS. REPASKY: Correct.

MR. NOFFSINGER: What's the height?

MR. HOLDEN: Twelve feet.

MR. NOFFSINGER: I think that's acceptable.

That exceeds what's shown here.

MR. KAMUF: Gary, just so you'll understand.

Around this area right here there's a chain-link fence
that will be all along the black area. The solid
fence will be around the rest. I didn't want to
mislead you.
MR. NOFFSINGER: Unless the board makes the chain-link fence with the slats a specific condition. We certainly don't have a problem with what you're proposing. It exceeds ordinance requirements.

MR. DYSINGER: Is your concern though, Mr. Kamuf or Ma'am, is your concern that the motion was that you comply with the plat as filed?

MS. REPASKY: Exactly.

MR. DYSINGER: What you're asking is that as long as you comply with the plat, I guess in spirit, nobody can see in there.

MS. REPASKY: Except the parenthetical where it says "slats to be added." It's got an 8-foot chain-link fence says, in the existing fence line, "slats to be added." We don't want to put slats in.

MR. DYSINGER: In areas where the trees cover up the view anyway.

MS. REPASKY: Correct.

MR. DYSINGER: Stewart, do we need to amend?

MR. ELLIOTT: I think so.

MR. PEDLEY: I made the motion and my motion was all proposed parking, screening, landscaping be installed according to plat. The amendment would be to change the plat because I'm stating according to plat and you're wanting to amend it to be a 12-foot
high solid steel fence.

MS. REPASKY: No, sir. We want to amend it to say -- may I?

CHAIRMAN: Come forward.

MS. REPASKY: All we've got on the plat is slats to be added. This is the plat as filed. We made a mistake. We volunteered to do something we'd rather not do. With your motion in accordance with the plat, I wanted to make sure that for the record that is pulled off.

MR. NOFFSINGER: And you're going to put a 12-foot metal fence there?

MS. REPASKY: No. The 12-foot metal fence is going to be where it is in accordance with the plat. This is a chain-link fence existing at the moment.

MR. PEDLEY: You're wanting to amend it to omit the slats?

MS. REPASKY: Just the slats. Not the fence. Just the slats.

MR. NOFFSINGER: I need to address that because we can't do that. This board does not have the ability to waiver from the ordinance requirement unless you file a variance specifically for doing away with that screening there because it's an ordinance requirement that storage yards be enclosed on all
sides by a I think it's a 8-foot high solid wall.

MR. HOLDEN: If we have to do it, we will.

It's a financial burden for us, but we're not going to
argue about that. If it comes right down to that,
that's not a problem.

MR. NOFFSINGER: You have to go by what the
ordinance requires and that's what is shown here. You
might reduce it and say we're not going to use this
area over here and bring the fence in and not have as
much fencing. We can do that here, but we can't waive
the ordinance requirements unless you file a variance
specific to doing away with that.

MR. HOLDEN: We won't do that. We'll go ahead
and put that in. We just thought we might be able to
save a little bit considering the amount of money,
from a financial standpoint.

For your information the fence has already
been installed. So the next step is go back and put
the slats in. That's what we were trying to save.

MR. NOFFSINGER: And you could come back at a
later date if you'd like with a variance application.

MR. PEDLEY: So my motion stands as stated
according to plat.

MR. DYSINGER: Second.

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

(NO RESPONSE)

CHAIRMAN: Or the staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: You all understand the situation and the opportunity to request a variance later on if you so desire.

MR. KAMUF: We do. Thank you.

CHAIRMAN: Any other comments?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

RELATED ITEM:

ITEM 3A

7061, 7105 KY 2830, zoned I-2, B-4 (Proposed I-2) Consider request for a Variance to reduce the required 300 foot buffer from any residential zone to zero feet for the continued use of existing buildings, storage areas and work areas associated with the heavy industrial use.

Reference: Zoning Ordinance, Article 8, Section 8.4/27

Applicant: Double T Investments, River Metals Recycling, LLC

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.
It's found to be in order. It has been advertised for public hearing at this time. All board members have received a copy of a variance Staff review which we would like to enter that into the record as Exhibit C. With that it's ready for your consideration.

CHAIRMAN: There hasn't been any opposition in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: No one wishing to oppose to it?

(NO RESPONSE)

CHAIRMAN: The applicant have anything else you want to add at this time?

MR. KAMUF: Are you going to read the report into the record?

CHAIRMAN: No.

MR. KAMUF: We have none unless you all have some questions.

CHAIRMAN: Any questions of the applicant or the attorney?

(NO RESPONSE)

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

MR. DYSEINGER: Move to grant the variance request 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, apparently will keep it exactly the same; it
will not cause a hazard or a nuisance to the public;
will not allow an unreasonable circumvention of the
requirements of the zoning regulations. With the
condition of a completion of a zoning change to I-2.

CHAIRMAN: Is there a second to the motion?

MR. PEDLEY: Second.

CHAIRMAN: Any other comments from the board
members?

(NO RESPONSE)

CHAIRMAN: Any other statements from the
Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: The applicant and attorney
understand everything?

MR. KAMUF: Yes, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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VARIANCE

ITEM 4
3000 Frederica Street, zoned P-1, R-3MF
Consider request for a Variance in order to construct
an 8 foot high fence with a 14 foot high fence
extension along Scherm Road for an existing baseball
field.
Reference: Zoning Ordinance, Article 3,
Section 3-7(g)(2)
Applicant: Kentucky Wesleyan College

MR. NOFFSINGER: Mr. Chairman, this
application has been reviewed by the Planning Staff.
It's found to be in order. It has been advertised for
public hearing at this time. The fence is existing.
It will look the same as it does today. We have been
working with Kentucky Wesleyan College to get this
variance before you for some time.
We have mailed the board members a Variance
Staff Review which we would like to enter into the
record as Exhibit D.
CHAIRMAN: Any opposition in the office?
MR. NOFFSINGER: No, sir.
CHAIRMAN: Anyone in the audience opposed to
this item?
(NO RESPONSE)
CHAIRMAN: Does the applicant have anything
you all would like to add?
APPLICANT REP: No.
CHAIRMAN: Staff or board have any other
questions or comments?
MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MS. MASON: Mr. Chairman, I move for approval as it will not adversely affect the public health safety or welfare; it will not alter the essential character of the general vicinity, since there's already a fence there; it will not cause a hazard or a nuisance to the public; it will not allow an unreasonable circumvention of the requirements of the zoning regulations.

MR. DYSINGER: Second.

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

MR. NOFFSINGER: No, sir.

CHAIRMAN: Board members have any other statements or questions?

(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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NEW BUSINESS

ITEM 5
Consider a change in the regular meeting time for the OMBA from 6:00 P.M. to 5:30 P.M.

MR. NOFFSINGER: Mr. Chairman, we've talked for some time about perhaps changing our meeting times. We're recommending that this board approve our regular meeting time to be at 5:30 on the first Thursday of each month. It will require a vote from this board to do that. That will be effective July 1 or the first meeting in July 2006.

CHAIRMAN: Entertain a motion.

MR. PEDLEY: Mr. Chairman, I make a motion to change our regular meeting time from 6 p.m. to 5:30 p.m. beginning July 1, '06.

MS. DIXON: Second.

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

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

One final motion.

MR. WARREN: Moved 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 21 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 24th day of May, 2006.

LYNNETTE KOLLER
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  DECEMBER 19, 2006
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY