

## 1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 MAY 4, 2006

3 The Owensboro Metropolitan Board of Adjustment  
4 met in regular session at 6:00 p.m. on Thursday, May  
5 4, 2006, at City Hall, Commission Chambers, Owensboro,  
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: C.A. Pantle, Chairman  
8 Gary Noffsinger  
9 Marty Warren  
10 Sean Dysinger  
11 Ruth Ann Mason  
12 Ward Pedley  
13 Judy Dixon  
14 Stewart Elliott, Attorney  
15 Madison Silvert, Attorney

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

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: Again, I want to welcome you all to  
23 the Owensboro Metropolitan Board of Adjustment  
24 meeting. Anything you want to add on any item, please  
25 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.



1 public hearing at this time. Each of the board  
2 members have been mailed a copy of a Conditional Use  
3 Permit Staff Report in which we give the description,  
4 the zoning history and the land uses in the  
5 surrounding area.

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

8 With that it's ready for your consideration.

9 CHAIRMAN: Any objections filed in the office?

10 MR. NOFFSINGER: No, sir.

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

13 (NO RESPONSE)

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

16 APPLICANT REP: No, I don't.

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

19 (NO RESPONSE)

20 CHAIRMAN: Staff have anything else to add on?

21 MR. NOFFSINGER: Only that these uses are  
22 allowed in an A-R Rural Agricultural zone so long as  
23 it can be shown that there wouldn't be any negative  
24 affects on the surrounding area. The zoning  
25 ordinance, the intent of the zoning ordinance is to

1 allow small operations such as this to exist in rural  
2 areas so that it can take care of some convenient type  
3 needs in those rural areas rather than having to  
4 rezone to a B-4 general business zone or professional  
5 zone. It allows for these types of activities to  
6 occur in very limited locations and on limited  
7 activity basis so as you do not run into issues of  
8 changing the character of the area. The board can  
9 find that there should not be an adverse impact upon  
10 the area or to the contrary. If there's no one here  
11 that can show that there's a negative impact on the  
12 area, Staff certainly does not have any evidence to  
13 show either way. The only thing we're doing in the  
14 Staff Report is just describing to this board what the  
15 uses are within the area now.

16 CHAIRMAN: Anyone else in the audience have  
17 any comments?

18 (NO RESPONSE)

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

21 MR. DYSINGER: Move to approve the Conditional  
22 Use Permit given the findings that there is no  
23 objection from the neighbors. It should not have an  
24 negative impact on the area. It is in keeping with  
25 the intent of the zoning ordinance and with the

1 condition of a completion of a zoning change to A-R.

2 CHAIRMAN: Is there a second?

3 MS. DIXON: Second.

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

6 (NO RESPONSE)

7 CHAIRMAN: Staff have anything else to add to  
8 it?

9 MR. NOFFSINGER: No, sir.

10 CHAIRMAN: Hearing none all in favor of the  
11 motion raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries.

14 Next item please, sir.

15 ITEM 3

16 7061, 7105 KY 2830, zoned I-2, B-4 (Proposed I-2)  
17 Consider request for a Conditional Use Permit for  
18 reclaiming sheet steel from used fabrication items and  
19 recycling and processing of automobiles  
Reference: Zoning Ordinance, Article 8, Section 8.2G4  
Applicant: Double T Investments, River Metals  
Recycling, LLC

20 MR. NOFFSINGER: Mr. Chairman, this  
21 application has been reviewed by the Planning Staff.  
22 It's found to be in order. It has been advertised for  
23 public hearing at this time.

24 Each board member has been mailed a copy of a  
25 Staff Report which we would like to enter into the

1 record as Exhibit B.

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

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

11 CHAIRMAN: Any objections or opposition filed  
12 in the office?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Anyone wishing to object to this  
15 item?

16 (NO RESPONSE)

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

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

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

23 (NO RESPONSE)

24 CHAIRMAN: Staff have any other comments?

25 MR. NOFFSINGER: No, sir.

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

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

13           CHAIRMAN: Is there a second to the motion?

14           MS. MASON: Second.

15           CHAIRMAN: Any other comments from the Staff?

16           MR. NOFFSINGER: No, sir.

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

19           (NO RESPONSE)

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

23           MR. ELLIOTT: State your name.

24           MR. KAMUF: Charles Kamuf.

25           (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

1           MR. KAMUF: We have the engineer here that  
2 would like to talk about the slat fence around a  
3 certain area that we have.

4           This is a plat that we have. There will be a  
5 12-foot solid steel fence around some of it, but I'd  
6 like for you to listen to the engineer before we go  
7 any further on that particular issue. This is a very,  
8 very expensive fence. Over \$50,000.

9           MR. ELLIOTT: State your name, please.

10          MR. HOLDEN: Barry Holden.

11          (MR. BARRY HOLDEN SWORN BY ATTORNEY.)

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

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

19          The part starting at this point extending on  
20 the front along the frontage road and back to this  
21 point here is a 12-foot high steel fence. It's  
22 constructed with 4 x 4 wooden posts every 8-feet and  
23 the side itself is same the side you see on a steel  
24 building. It will be tan color. It's not obtrusive  
25 at all.



1           I do have some photographs on my computer of a  
2 very similar installation we did in Somerset, if  
3 anybody would be interested in seeing the construction  
4 of it and the color and what it would actually look  
5 like afterwards.

6           The cost associated with this, the wooden  
7 fence itself is probably about \$40,000 and we'll have  
8 to pay for that. The steel chain-link fence, there's  
9 a contract left for that in the range of about  
10 \$28,000. So it's a very expensive proposition we have  
11 to do, and we're willing to do that and we have no  
12 problem with that whatsoever.

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

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

19           MR. HOLDEN: We would like to do that. We do  
20 that as part of our policy as trying to be  
21 responsible. We want to make sure that it's a buffer  
22 from the public. We don't want to be an attractive  
23 nuisance. People can see in and think maybe they can  
24 walk on in there and do what they feel like doing.  
25 What we try to do is be as unobtrusive as possible.

1       What we found the best way to do that is to put a  
2       privacy fence around the areas that is most visually  
3       acceptable or accessible to the general public.

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

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

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

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

17              MS. BALLARD: Wanda Ballard Repasky.

18              (MS. WANDA BALLARD REPASKY SWORN BY ATTORNEY.)

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

22              We're happy with everything except the  
23      chain-link fence, the slats along the backside.  
24      You've got a lot of trees back there and that's a  
25      significant expense. We mentioned that we do it in

1       accordance with the plat, but the plat was filed with  
2       slats to be added in places where it's really not  
3       visible from the road. That is the only amendment we  
4       would make, the only amendment we would like to make  
5       from the plat as filed.

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

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

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

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

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

16              MS. REPASKY: Correct.

17              MR. NOFFSINGER: What's the height?

18              MR. HOLDEN: Twelve feet.

19              MR. NOFFSINGER: I think that's acceptable.  
20       That exceeds what's shown here.

21              MR. KAMUF: Gary, just so you'll understand.  
22       Around this area right here there's a chain-link fence  
23       that will be all along the black area. The solid  
24       fence will be around the rest. I didn't want to  
25       mislead you.

1           MR. NOFFSINGER: Unless the board makes the  
2 chain-link fence with the slats a specific condition.  
3 We certainly don't have a problem with what you're  
4 proposing. It exceeds ordinance requirements.

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

8           MS. REPASKY: Exactly.

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

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

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

18          MS. REPASKY: Correct.

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

20          MR. ELLIOTT: I think so.

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

1 high solid steel fence.

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

4 CHAIRMAN: Come forward.

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

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

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

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

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

20 MR. NOFFSINGER: I need to address that  
21 because we can't do that. This board does not have  
22 the ability to waiver from the ordinance requirement  
23 unless you file a variance specifically for doing away  
24 with that screening there because it's an ordinance  
25 requirement that storage yards be enclosed on all

1 sides by a I think it's a 8-foot high solid wall.

2 MR. HOLDEN: If we have to do it, we will.  
3 It's a financial burden for us, but we're not going to  
4 argue about that. If it comes right down to that,  
5 that's not a problem.

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

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

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

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

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

24 MR. DYSINGER: Second.

25 CHAIRMAN: A motion has been made and a

1 second. Any other comments from the board?

2 (NO RESPONSE)

3 CHAIRMAN: Or the staff?

4 MR. NOFFSINGER: No, sir.

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

8 MR. KAMUF: We do. Thank you.

9 CHAIRMAN: Any other comments?

10 (NO RESPONSE)

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 Next item, please.

16 RELATED ITEM:

17 ITEM 3A

18 7061, 7105 KY 2830, zoned I-2, B-4 (Proposed I-2)  
19 Consider request for a Variance to reduce the required  
20 300 foot buffer from any residential zone to zero feet  
21 for the continued use of existing buildings, storage  
22 areas and work areas associated with the heavy  
23 industrial use.

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

22 Applicant: Double T Investments, River Metals  
23 Recycling, LLC

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

1 It's found to be in order. It has been advertised for  
2 public hearing at this time. All board members have  
3 received a copy of a variance Staff review which we  
4 would like to enter that into the record as Exhibit C.

5 With that it's ready for your consideration.

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

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: No one wishing to oppose to it?

10 (NO RESPONSE)

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

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

15 CHAIRMAN: No.

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

18 CHAIRMAN: Any questions of the applicant or  
19 the attorney?

20 (NO RESPONSE)

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

23 MR. DYSINGER: Move to grant the variance  
24 request given the findings it will not adversely  
25 affect the public health, safety or welfare; it will



1 not alter the essential character of the general  
2 vicinity, apparently will keep it exactly the same; it  
3 will not cause a hazard or a nuisance to the public;  
4 will not allow an unreasonable circumvention of the  
5 requirements of the zoning regulations. With the  
6 condition of a completion of a zoning change to I-2.

7 CHAIRMAN: Is there a second to the motion?

8 MR. PEDLEY: Second.

9 CHAIRMAN: Any other comments from the board  
10 members?

11 (NO RESPONSE)

12 CHAIRMAN: Any other statements from the  
13 Staff?

14 MR. NOFFSINGER: No, sir.

15 CHAIRMAN: The applicant and attorney  
16 understand everything?

17 MR. KAMUF: Yes, sir.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries.

22 Next item, please.

23 -----

24 VARIANCE

25 ITEM 4

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

9 MR. NOFFSINGER: Mr. Chairman, this  
10 application has been reviewed by the Planning Staff.  
11 It's found to be in order. It has been advertised for  
12 public hearing at this time. The fence is existing.  
13 It will look the same as it does today. We have been  
14 working with Kentucky Wesleyan College to get this  
15 variance before you for some time.

16 We have mailed the board members a Variance  
17 Staff Review which we would like to enter into the  
18 record as Exhibit D.

19 CHAIRMAN: Any opposition in the office?

20 MR. NOFFSINGER: No, sir.

21 CHAIRMAN: Anyone in the audience opposed to  
22 this item?

23 (NO RESPONSE)

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

APPLICANT REP: No.

CHAIRMAN: Staff or board have any other  
questions or comments?

1 MR. NOFFSINGER: No, sir.

2 CHAIRMAN: Entertain a motion to dispose of  
3 the item.

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

12 MR. DYSINGER: Second.

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

15 MR. NOFFSINGER: No, sir.

16 CHAIRMAN: Board members have any other  
17 statements or questions?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries.

22 Next item, please.

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24 NEW BUSINESS

25 ITEM 5

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

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

10 CHAIRMAN: Entertain a motion.

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

14 MS. DIXON: Second.

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

17 (NO RESPONSE)

18 CHAIRMAN: All in favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries.

21 One final motion.

22 MR. WARREN: Moved to adjourn.

23 MR. DYSINGER: Second.

24 CHAIRMAN: All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: We are adjourned.

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1 STATE OF KENTUCKY.)  
2 )SS: REPORTER'S CERTIFICATE  
3 COUNTY OF DAVIESS )

4 I, LYNNETTE KOLLER, Notary Public in and for  
5 the State of Kentucky at Large, do hereby certify that  
6 the foregoing Owensboro Metropolitan Board of  
7 Adjustment meeting was held at the time and place as  
8 stated in the caption to the foregoing proceedings;  
9 that each person commenting on issues under discussion  
10 were duly sworn before testifying; that the Board  
11 members present were as stated in the caption; that  
12 said proceedings were taken by me in stenotype and  
13 electronically recorded and was thereafter, by me,  
14 accurately and correctly transcribed into the  
15 foregoing 21 typewritten pages; and that no signature  
16 was requested to the foregoing transcript.

17 WITNESS my hand and notary seal on this the  
18 24th day of May, 2006.

19

20

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

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COMMISSION EXPIRES: DECEMBER 19, 2006

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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