The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, July 6, 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:  Call the Owensboro Metropolitan Board of Adjustment to order.

Want to welcome everyone. Invite you to join with us. We start our meetings with a prayer and the pledge of allegiance and we invite you to join us if you so desire. We'll have the prayer this evening by Madison Silvert.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Again, want to welcome you to our meeting. If you have any comments to be made on any item, please come to the podium, one or the other. State your name for the court reporter and be sworn in and go from there.

With that the first item this evening is the
minutes of the June 1st meeting. They're on record in
the office. I don't think there's been found any
problems with it.

MR. NOFFSINGER: No, sir.

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

MS. DIXON: Move to approve.

MR. PEDLEY: Second.

CHAIRMAN: A motion has been made and a
second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please

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CONDITION USE PERMITS

ITEM 2

3905 Carter Road, zoned B-4
Consider request to amend a Conditional Use Permit to
construct a 20'x40' picnic canopy for an existing
major outdoor recreational facility.
Reference: Zoning Ordinance, Article 8, Section 8.2
K7, Section 8.4/42
Applicant: Atlantis Swim Club, Floyd Tapp

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.

At this time I would like to ask Mr. Doug Lane
of the Planning Staff to give a brief description of
the proposed use.

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

MR. LANE: Doug Lane.

(MR. DOUG LANE SWORN BY ATTORNEY.)

MR. LANE: There have been four conditional
use permits approved for the operation of a swimming
pool and other recreational activities on this
property since 1983. The proposed construction of the
picnic canopy is consistent with the previous
conditional use approvals. It's also consistent with
the overall character of the property. However, the
property is operated under a development plan so the
applicant would need to submit a revised plan for
approval.

MR. NOFFSINGER: I do have one question
regarding access on the property. There were some
notations on the previous approval by this board that
access would have to be changed if there was any new
building area. Would you please address what's being
done, if there's a change in that.

MR. LANE: Right now they have a wooden slide
that's been standing there and it's being removed. It
actually takes up more room. It's actually bigger
than the proposed picnic canopy. So it would be less
intensive, I guess, than what the slide would be.

MR. NOFFSINGER: I think that notation said
any additional building area they would have to close
some access.

MR. LANE: Correct.

MR. NOFFSINGER: What you're saying is the
building area, this is actually replacing an existing
building area. Would be less perhaps and staff is not
recommending a change at this time.

MR. LANE: Correct.

MR. NOFFSINGER: But any future additional
building area they would have to address access as
described on the plan.

MR. LANE: Correct.

CHAIRMAN: Has there been any opposition for
or against in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Board members have any comments or
questions?

(NO RESPONSE)

CHAIRMAN: Entertain a motion to dispose of
the item, please.

MS. DIXON: Move to grant the Conditional Use Permit based upon findings of fact that the use on this site is consistent with previous conditional use approvals and there's no opposition here tonight or filed in the office.

CHAIRMAN: Is there a second?

MS. MASON: Second.

CHAIRMAN: Any other comments or questions from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 3

360 Rudy Road, zoned A-U (Withdrawn)
Consider request to amend a Conditional Use Permit in order to add an additional bedroom within the existing psychiatric residential treatment facility for children to accommodate a total of nine residents. Reference: Zoning Ordinance, Article 8, Section 8.2C1 Applicant: Green River Regional Mental Health/Mental Retardation Board, Inc.

MR. NOFFSINGER: Item 3 has been withdrawn,
Mr. Chairman. This use is a use that is classified by state statute as a residential care facility. Therefore, they do not need a Conditional Use Permit. That application has been withdrawn.

CHAIRMAN: Next item, please.

VARIANCE

ITEM 4

1854 Whispering Meadows Drive, zoned R-1A
Consider request for a Variance to reduce the project boundary setback on the south side of the lot from 20 feet to 10 feet in order to construct a single-family residence.

Reference: Zoning Ordinance, Article 10, Section 10.432
Applicant: Paul Martin Builders, Inc.

MR. NOFFSINGER: Mr. Chairman, this application has been advertised for public hearing at this time. The application is found to be in order. Mr. Doug Lane with the Planning Staff will give a brief description of the proposal.

MR. LANE: The subject property is part of Whispering Meadows Subdivision that was developed as a plan residential development. The property is zoned R-1A. Typically the required site or setback in a R-1A zone is 10 feet. However since the property is part of a plan residential development, the zoning ordinance require a 20 foot property boundary which
affects the side yard on the south side of the subject
lot.

The intended 20 foot property boundary is to
buffer adjacent property that is not part of an
ongoing development. Since the subject property
adjoins the proposed extension of the same development
reducing 20 foot project boundary to 10 feet is a
reasonable request.

In the past there have been several variances
approved for Whispering Meadows Subdivision to reduce
the 20 foot property boundary to 10 feet in order to
accommodate an extension of the same development.
Staff would recommend approval.

CHAIRMAN: Is there any opposition been filed
in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

(NO RESPONSE)

CHAIRMAN: Hearing none does the board have
any comments or questions at this time?

(NO RESPONSE)

CHAIRMAN: Anything else from the Staff?
MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item?

MR. DYSINGER: Mr. Chairman, move to grant the Variance request given the findings that it will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations. Further, compliance would actually compel the creation of an unreasonable 40 foot setback.

CHAIRMAN: Is there a second?

MR. WARREN: 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?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.
ITEM 5

22 Lakewood Drive, 21 Bon Harbor Hills, zoned B-4
Consider request for an Administrative Appeal to move
an existing non-conforming billboard to another part
of the same lot to make the property more suitable for
development.
Reference: Zoning Ordinance, Article 4, Section 4.43
Applicant: Robert H. Steele

MR. NOFFSINGER: Mr. Chairman, Mr. Doug Lane
is here tonight to give a brief description of the
proposal.

MR. LANE: Article 4, Section 4.43 of the
Zoning Ordinance states that a non-conforming
structure may be moved to another part of the same lot
by appeal of the Board of Adjustment.

The existing sign is nonconforming due to the
area of the sign. Article 9, Section 9-5A1 states
that in the county an area sign shall not exceed 380
square feet when located along US highways. This
billboard is actually located along US Highway 60.
The existing sign is 672 square feet. So it is a
nonconforming sign. They are moving it to another
location. They're proposing to.

MR. NOFFSINGER: Mr. Chairman, I do have a few
questions of Mr. Lane.

One, I would like to know how far they're
moving the sign and where?

Two, what's the justification that the applicant has given for relocating that sign?

MR. LANE: Justification is for development purposes. Basically wanting to redesign. I think they had some land that they're wanting to sell. They're wanting to move the billboard to make room for that sale of the development. The distance, which I don't have the site plan in front of me.

MR. NOFFSINGER: I think it's 140 feet.

MR. LANE: 140 feet.

MR. NOFFSINGER: The applicant is represented here by their engineer so you may want to hear from the engineer as to the justification would be for moving that sign?

CHAIRMAN: The applicant have any questions you'd like to add at this time?

APPLICANT REP: No.

MR. NOFFSINGER: Mr. Chairman, I would like to hear what the justification is for moving the sign as referenced in their application. Do you have a copy of it?

MR. WEAVER: Yes, I have a copy of it.

MR. ELLIOTT: State your name, please.

MR. WEAVER: David Weaver.
MR. WEAVER: The applicant is basically wanting to move nonconforming use on the same lot. He's moving it 140 feet to the west. The basic reason for that is where the sign exist now it exist on the corner of Lakewood and Highway 60. Moving it away from that intersection opens that intersection up. Of course, it's a corner lot which will be more suitable for development there. If you would like, I could read the findings.

MR. NOFFSINGER: That's okay. I think you hit on it there in terms of that last paragraph.

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MR. DYSINGER: Mr. Chairman, move to find for the applicant primarily because it's just the movement of a current nonconforming pre-existing use with the understanding that the new sign or the moved sign will not be any larger than it was previously, with respect to the fact that it's grandfathered in prior to the
current ordinance.

CHAIRMAN: Is there a second?

MS. MASON: Second.

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

(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

2120 Southtown Boulevard, zoned B-1
Consider request for an Administrative Appeal to move an existing non-conforming billboard to another part of the same lot in order to accommodate the proposed roadway construction on Southtown Boulevard.
Reference: Zoning Ordinance, Article 4, Section 4.43
Applicant: City of Owensboro, James T. Goode

MR. NOFFSINGER: Mr. Chairman, Mr. Lane is here to address this proposal.

MR. LANE: Once again the existing sign is nonconforming due to the area of the sign. The Zoning Ordinance states that in the county the sign shall not exceed 300 feet located along roadways and not designated as a US highway. The existing sign there right now is possibly 600 feet, square feet. They're proposing to do some construction on Southtown
Boulevard and they require some right-of-way. When they require the right-of-way the existing billboard is actually located in the right-of-way. So they're moving the billboard back on to private property and away from the intersection, the location.

CHAIRMAN: The applicant here have any comment?

(NO RESPONSE)

MR. WARREN: This sign too is grandfathered in?

MR. LANE: Yes.

CHAIRMAN: Board have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

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 the appeal for reason we've heard no opposition on the item. It is allowable by the Zoning Ordinance. It is to make room for expanding the road right-of-way. It will not adversely affect the neighborhood and the billboard shall not be increased in size.
CHAIRMAN: Is there a second?

MS. DIXON: Second.

CHAIRMAN: Any other comments or questions from the board or the Staff.

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Anything else at this time?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Move for adjournment.

MS. MASON: 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 14 typewritten pages; and that no signature 
was requested to the foregoing transcript. 

WITNESS my hand and notary seal on this the 
24th day of July, 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