

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 NOVEMBER 2, 2006

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 November 2, 2006, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

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

16 CHAIRMAN: Call the Owensboro Metropolitan
17 Board of Adjustment to order.

18 I want to welcome you all. We always start
19 our meetings with a prayer and the pledge of
20 allegiance. We invite you all to join us if you so
21 desire.

22 Judy will have our prayer this evening.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Again, I want to welcome each one
25 of you this evening to the board meeting. If you have
any comments you wish to add to any item, please come
to the podium. State your name and you'll be sworn in
and then we'll have a record for everything that

1 happens.

2 With that the first item on the agenda this
3 evening is the minutes of the last board meeting.
4 They're on record. September 7th was the last one we
5 had. None in October. They're on record. I think
6 they're all checked and pretty well correct. With
7 that I'll entertain a motion to dispose of the
8 minutes.

9 MS. DIXON: Move to approve.

10 MR. PEDLEY: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries.

15 Next item, please.

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17 CONDITIONAL USE PERMITS

18 ITEM 2

19 1100 Walnut Street, zoned B-4
20 Consider request for a Conditional Use Permit in order
21 to remodel approximately 6,925 square feet within the
22 existing building to provide up to 12 beds for the
23 Crisis Stabilization Program treating adults with
24 short-term mental health crisis.

25 Reference: Zoning Ordinance, Article 8, Section 8.2C1

Applicant: Cigar Factory Complex, Inc.

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

1 The application is found to be in order. I will read
2 from the Staff Report, which will be submitted into
3 the record, the zoning history of the property.

4 The subject property is located at the Cigar
5 Factory Complex. The existing zoning classification
6 of the property is B-4 General Business. The property
7 was zoned from I-1 Light Industrial, I-2 Heavy
8 Industrial and R-4DT Inner City Residential to B-4
9 General Business in 1981. A conditional use permit
10 was granted in 1983 for a surgical center.
11 Additionally, a setback variance was granted in 1983
12 so that a canopy could be constructed for the surgical
13 center. An approved development plan is on file at
14 the Owensboro Metropolitan Planning Commission office
15 for the entire property indicating a mix of retail,
16 general office, medical office, surgical center,
17 restaurant and wholesale space with adequate parking
18 to accommodate the uses. The applicant wishes to
19 convert approximately 6,925 square feet (approximately
20 5.5% of the total space of the building) from office
21 space to a crisis stabilization program for up to 12
22 beds to treat adults dealing with short term mental
23 health crisis. The space to be renovated is entirely
24 within the existing building and most recently was
25 used as a general office space housing the Social

1 Security Office. The surrounding neighborhood
2 consists of parking areas across 12th Street and
3 Walnut Street and single-family residential
4 structures. The Owensboro Metropolitan Zoning
5 Ordinance requires 1 parking space for every 4 every
6 bed and 1 parking space for each employee on maximum
7 shift. The previous occupancy required one parking
8 space for every 400 square feet of space, or a minimum
9 of 17 spaces. Adequate parking exists on the site to
10 accommodate the proposed use.

11 MR. NOFFSINGER: With that it's ready for your
12 consideration.

13 CHAIRMAN: Mr. Noffsinger, have we received
14 any objections in the office?

15 MR. NOFFSINGER: No, sir.

16 CHAIRMAN: Is there anyone in the audience
17 this evening wishing to object to this particular
18 item?

19 We'll get you in a minute. I just want to be
20 sure.

21 The applicant have anything you want to add at
22 this time? Come forward and state your name for the
23 record, please.

24 MR. ELLIOTT: State your name, please.

25 MR. STEIN: Ken Stein.

1 (MR. KEN STEIN SWORN BY ATTORNEY.)

2 MR. STEIN: My name is Ken Stein. I'm the
3 vice president of operations at River Valley
4 Behavioral Health. River Valley owns the Cigar
5 Factory. I'm here to answer any questions that
6 anybody might have about this application.

7 CHAIRMAN: Any board members have any
8 questions of this gentleman at this time?

9 MS. DIXON: Could you just describe what kind
10 of treatment is involved in your plan for short-term
11 mental health problems, what that entail.

12 MR. STEIN: Yes, ma'am. The Crisis
13 Stabilization is currently located at 1224 Venable
14 Avenue. It has eight beds. We anticipate also having
15 eight beds if we move, but we're asking for up to
16 twelve in case in the future the State of Kentucky
17 decides that we should have more beds. It's one of
18 those decisions that the state makes.

19 People with short-term crisis may have severe
20 depression. They may have schizophrenia. They may
21 have other issues that they're dealing with on a
22 short-term basis.

23 The Crisis Center was designed so that people
24 would not have to be incarcerated or go to Western
25 State Hospital. Those are the other two options for

1 someone who may be exhibiting crisis problems with
2 mental health.

3 It's staffed 24 hours a day, 7 days a week.
4 We have nurses on duties, two shifts out of the three.
5 We have psychiatrists who visit. All people who work
6 at the Crisis Center are trained in crisis
7 intervention, nursing skills similar to that.

8 MS. MASON: I have a question.

9 Has the state approved this site or is that
10 something that you - - I'm not real familiar with all
11 that.

12 MR. STEIN: No. The state does not have to
13 approve the change of the location. The crisis unit
14 is licensed as part of the Mental Health Center which
15 is River Health Behavioral Health. They're not
16 individually licensed as a facility.

17 In renovating we would have to submit plans to
18 the state and they would have to approve the plans,
19 but not the physical location.

20 MS. MASON: I assume you all are going to have
21 kitchen facilities and so forth.

22 MR. STEIN: We would have kitchen facility,
23 showers, bathrooms. Again, it is a 24/7 facility
24 where people are staffed there 24 hours a day with the
25 residents.

1 CHAIRMAN: Board members have any other
2 questions or the staff at this time?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone wishing to object come
5 forward and state your name, please.

6 MRS. GOETZ: My name is Mary Goetz. I live at
7 808 West 12th Street.

8 (MRS. MARY GOETZ SWORN BY ATTORNEY.)

9 MRS. GOETZ: What concerns me is the Boiler
10 Room being there. I live right across the street from
11 it and on the weekends the Boiler Room is wild out
12 there. Loud, screaming, hooten and hollering. I just
13 think that would disturb, you know, somebody who is
14 sick already, it would disturb them. That's the only
15 thing I wanted to say.

16 CHAIRMAN: You want to add anything else?

17 MRS. GOETZ: No. That was my concern.

18 CHAIRMAN: Board members have any questions of
19 her?

20 (NO RESPONSE)

21 CHAIRMAN: Any other objections?

22 MS. MASON: I have another question for Mr.
23 Stein.

24 CHAIRMAN: Come forward please and state your
25 name again.

1 MR. STEIN: Ken Stein.

2 MS. MASON: What she is addressing there, I
3 know that's a big complex. There's an upstairs there
4 too. It's been a long time since I've been there.

5 MR. STEIN: There are two levels, yes.

6 MS. MASON: Is this going to be close to the
7 area where the Boiler Room is?

8 MR. STEIN: Everything at the Cigar Factory is
9 relatively close to the Boiler Room simply because the
10 Boiler Room sits - -

11 MS. MASON: See, I don't frequent it.

12 MR. STEIN: It sits approximately in the
13 middle of the building. The Cigar Factory is 126,000
14 square feet total. So the Boiler Room is probably 7
15 or 8,000 square feet that sits in the middle of the
16 building. It opens to the back along the railroad
17 tracks. They may have some type of outdoor in the
18 summertime. There's not direct access to the Boiler
19 Room from other offices in the Cigar Factory, but
20 they're relatively close to everything.

21 CHAIRMAN: Any other questions from the board
22 or the staff?

23 (NO RESPONSE)

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

1 MR. PEDLEY: Mr. Chairman, I make a motion for
2 approval based on the findings it is a compatible use
3 with other uses and activities in the building such as
4 medical facilities in that building and in the
5 neighborhood. It meets the requirements of the zoning
6 ordinance and will not have an adverse influence on
7 the neighborhood.

8 CHAIRMAN: Is there a second to the motion?

9 MS. MASON: Second.

10 CHAIRMAN: A motion has been made and a
11 second. Any other comments or questions from the
12 board?

13 (NO RESPONSE)

14 CHAIRMAN: Staff have anything else to add?

15 MR. NOFFSINGER: No, sir.

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 Next item, please.

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22 VARIANCE

23 ITEM 3

24 1211, 1221, 1225 Frederica Street, zoned B-4
25 Consider request for a Variance to reduce the required
roadway buffer from 60 feet from the street centerline
to 46 feet from the street centerline on Frederica

1 Street in order to construct a pharmacy.
2 Reference: Zoning Ordinance, Article 13,
3 Section 13.622, 13.6221
4 Applicant: Gene Warren, Jr., David and Sandra Young

5 MR. NOFFSINGER: Mr. Chairman, this
6 application has been reviewed by the Planning Staff.
7 The application is found to be in order. The
8 application comes to you with a Staff Report regarding
9 the variance.

10 The Staff Report makes note that there has
11 been other roadway variance buffers granted by this
12 board over the past few years for properties located
13 north of 25th Street on Frederica. That is because
14 the transportation plan does not call for widening of
15 Frederica Street from 25th Street North.

16 Based upon that and other items contained in
17 the Staff Report along with the conditions that you
18 have previously received, we would recommend approval.

19 The conditions, I'm not sure that the
20 applicant has been made aware of those conditions. I
21 do know this, the applicant has submitted a
22 development plan for the property and that development
23 plan does meet all the conditions contained within
24 this Staff Report. With that it's ready for your
25 consideration.

CHAIRMAN: Has there been any objections filed

1 in the office?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Is there anyone this evening
4 objecting to this?

5 (NO RESPONSE)

6 CHAIRMAN: Is the applicant here and want to
7 give their presentation, please?

8 MR. ELLIOTT: State your name, please.

9 MR. LITTLEPAGE: T. Tommy Littlepage. I'm the
10 attorney representing the Gene Warren Company.

11 (MR. TOMMY LITTLEPAGE SWORN BY ATTORNEY.)

12 MR. LITTLEPAGE: I also have with me today Mr.
13 Warren, the project manager for Gene Warren Company,
14 as well as the engineer for that as well. Both of
15 them can also answer any questions.

16 CHAIRMAN: Do you have anything you want to
17 present at this time?

18 MR. LITTLEPAGE: No, sir.

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

21 (NO RESPONSE)

22 CHAIRMAN: Staff have anything?

23 MR. NOFFSINGER: Mr. Chairman, if I might just
24 read the conditions just to make sure that the
25 applicant understands those conditions and they are

1 agreeable.

2 1. Close existing access points onto
3 Frederica Street as indicated on the site plan and
4 provide new access point on Frederica Street at north
5 corner of property as indicated on site plan
6 accompanying this application.

7 2. Close the existing access point on East
8 Parrish Avenue and provide new access at existing
9 alley as indicated on site plan accompanying the
10 application.

11 3. Consolidate properties into one single
12 lot.

13 4. Dedicate the reduced roadway buffer area
14 on Frederica Street as right of way on consolidation
15 plat.

16 5. Provide public access easement to adjacent
17 property to the north on consolidation plat.

18 The site as I stated earlier, the site plan
19 that has been submitted to our office indicates those
20 conditions will be met.

21 MR. LITTLEPAGE: That's correct.

22 CHAIRMAN: You understand the conditions?

23 MR. LITTLEPAGE: Yes, we do.

24 CHAIRMAN: Any board members have any other
25 comments of the applicant or questions?

1 (NO RESPONSE)

2 CHAIRMAN: Staff have anything else to add?

3 (NO RESPONSE)

4 CHAIRMAN: Do you all want to add anything
5 else?

6 MR. LITTLEPAGE: Nothing else.

7 CHAIRMAN: Entertain a motion to dispose of
8 the item.

9 MR. PEDLEY: Mr. Chairman, I make a motion for
10 approval based on findings it will not adversely
11 affect the public health, safety or welfare; will not
12 alter the essential character of the general vicinity;
13 will not cause a hazard or nuisance to the public;
14 will not allow an unreasonable circumvention of the
15 requirements of the zoning regulations, and with the
16 conditions stated by Mr. Noffsinger and as stated on
17 the Staff Review.

18 CHAIRMAN: They're on record. Is there a
19 second to the motion?

20 MR. WARREN: Second.

21 CHAIRMAN: Any other comments or questions
22 from the board?

23 (NO RESPONSE)

24 CHAIRMAN: Staff have anything else?

25 MR. NOFFSINGER: No, sir.

1 CHAIRMAN: All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries.

4 Next item, please.

5 -----

6 ADMINISTRATIVE APPEAL

7 ITEM 4

8 6000 KY 81, zoned R-1A (Map CO-28) zoned R-1A, A-R
9 Consider a request for an Administrative Appeal in
10 order to move a non-conforming gift shop from an
11 existing building on the site to another existing
12 building on the site.

13 Reference: Zoning Ordinance, Articles 4, Section
14 4.43, Article 7, Section 7.34

15 Appellant: Gifted Hand, Carol M. Oliver

16 MR. NOFFSINGER: Mr. Chairman, this
17 application has been reviewed by the Planning Staff.
18 It's found to be in order.

19 You are here to consider tonight whether or
20 not to approve this moving one non-conforming use,
21 which is a gift shop, from one building to another
22 building on the site.

23 Mr. Jim Mischel is here tonight just to give
24 you a brief description of what is taking place. So
25 with that I will turn it over to Jim.

MR. ELLIOTT: State your name, please.

MR. MISCHEL: Jim Mischel.

(MR. JIM MISCHEL SWORN BY ATTORNEY.)

1 MR. MISCHEL: Just to kind of give you a brief
2 introduction of this.

3 Back in September our office had a call
4 concerning a business being located at 6000 Kentucky
5 81. So therefore we responded to that. We went out
6 there and saw a business being conducted.

7 We contacted the people and it was the
8 Olivers. They came into our office and said that
9 their business, it was a ceramic business and also a
10 ceramic class business had been operated out of there
11 since before the early '70s. Before '77 when the
12 ordinance came to being. At that time, like I said,
13 they had the ceramics class and they were selling
14 ceramic items.

15 Back in 2000 when the tornado came through, it
16 damaged the house and they were operating out of two
17 accessory buildings, the businesses. It damaged one
18 of them so they moved. My understanding is they moved
19 both of these uses into one accessory building.

20 In the meantime, they rebuilt the house.
21 Since then I think the house was rebuilt in May of
22 2000.

23 In October of 2003 they built a new accessory
24 building. At that time they located the business back
25 into the new accessory building. They went from two

1 accessory buildings to one back to two.

2 They have told me that sometime in 2000 or
3 something like that they stopped having the ceramic
4 classes and they started teaching diving classes.
5 That kind of gives you a history of what's going on.

6 I believe they're here tonight to kind of
7 maybe produce some evidence to show that these
8 businesses have been there prior to the zoning
9 ordinance, which if that's the case it would be
10 legally non-conforming use.

11 I don't know if you have any questions at this
12 time.

13 CHAIRMAN: Any board members have any
14 questions at this time?

15 (NO RESPONSE)

16 MR. MISCHER: I think this first item is just
17 taking - - since they got the new building they've
18 taken one of the uses out into the new building.
19 That's what's being considered here.

20 CHAIRMAN: Is the appellants here this evening
21 to bring us up-to-date?

22 MR. ELLIOTT: State your name, please.

23 MS. OLIVER: Carol Oliver.

24 (MS. CAROL OLIVER SWORN BY ATTORNEY.)

25 MR. ELLIOTT: State your name.

1 MS. OLIVER: Susan Oliver.

2 (MS. SUSAN OLIVER SWORN BY ATTORNEY.)

3 CHAIRMAN: Do you have any evidence to bring
4 us up-to-date to support?

5 MS. SUSAN OLIVER: We submitted records of
6 when her business was started and that was submitted
7 with the original application. I do have from my
8 personal business I have some information that would
9 establish when my business was started.

10 Basically my business is located in a portion
11 of one of her buildings that exist at our home. I
12 have that.

13 CHAIRMAN: Does the board members have any
14 questions?

15 MR. WARREN: What's your business?

16 MS. SUSAN OLIVER: My business is Blue
17 Meridian Dive Center, scuba instruction. Her business
18 is the Gifted Hand, but they're at the same location.

19 MR. WARREN: These were in two separate
20 buildings and then the tornado came along and you put
21 them both in one building and now you've separated
22 them again?

23 MS. SUSAN OLIVER: My business did not exist
24 before the tornado. She had on site a building that
25 was there when we moved there in 1974. Then they

1 built an additional cinder block building that was
2 utilized. Both of those buildings were utilized by
3 her business.

4 MS. MASON: When was the second building
5 built?

6 MS. SUSAN OLIVER: 1977. Then in July of 1999
7 my father was diagnosed with cancer and at that point
8 in time she stopped teaching to be with my father.
9 Then he was in Louisville in the hospital so basically
10 the business had come to a screeching halt at that
11 point, other than what my sister was doing. Then the
12 tornado came through in January of 2000 and completely
13 destroyed one of the buildings that was used in her
14 business. Everything we could salvage from that
15 building was squished and pushed into the existing
16 building that was built in '77, and another pole barn
17 that we had built for personal storage. It was just
18 put wherever it could be placed. Because the primary
19 concern was to get the house rebuilt nothing was
20 really done to re-establish the second building or
21 rebuild it at that point.

22 My father was able to come home eight months
23 later. My sister was able to start doing a little
24 more and they actually were able to do what they could
25 in the building that was built in 1977, but I had

1 found myself unemployed at that point too so I took
2 about 800 square feet of her building, which actually
3 ended up being the area where she used to teach her
4 ceramic classes and opened a scuba diving store where
5 I now teach scuba diving.

6 When my father passed away in 2002, my mother
7 found herself at that point needing to support herself
8 again and not having the space to do it. So we built
9 the pole barn, which is now where she's located. The
10 original intent of that being utilized for a workshop
11 storage and moving some of the molds around and
12 getting some more space, but then it involved it just
13 makes sense to make that the gift shop at that point.

14 That's kind of where we are. She's in that
15 building. Two-thirds of the building I'm in is still
16 hers. It has her molds and her pouring tables and
17 things in there and then I'm in about one-third of her
18 building.

19 MR. WARREN: From the time that your father
20 went to Louisville and you decided that you were going
21 to have to stop the business for a while, until the
22 time that you started - - I kind of think I heard you
23 say your sister was doing some work all along. No or
24 yes?

25 MS. SUSAN OLIVER: Yes. Not really teaching.

1 MR. WARREN: So the business really didn't
2 stop?

3 MS. SUSAN OLIVER: It didn't stop completely.
4 She would pour green ware and we do a lot of craft
5 festivals. She and I together would sell things at
6 the craft festivals. So she would have to pour the
7 ceramics and we would finish it and fire it, which the
8 kenal and everything are located in the building that
9 I'm in. So there was some activity all along. The
10 instruction that she used to offer to students that
11 had to stop because she needed to be with my dad 24/7.

12 MR. WARREN: How long did the instruction
13 period, what was the length of time that there was no
14 instruction?

15 MS. OLIVER: She stopped teaching I would say
16 - - he got sick in July. Went to Louisville in
17 August. So I would say August of '99. I started my
18 business in 2000, December of 2000.

19 MR. NOFFSINGER: So they're within the 18
20 month period. Really what this is doing is replacing,
21 changing buildings because one was torn down. So
22 putting the uses in a different building. Then, two,
23 going from the ceramic teaching to the scuba diving.

24 Is that a fair assessment?

25 MS. SUSAN OLIVER: Yes.

1 MR. NOFFSINGER: For my information, in
2 looking at the site plan, where are you teaching the
3 diving lessons? Which one of these building?

4 MS. SUSAN OLIVER: The 1977 building I have
5 about 800 square feet of that building.

6 MR. NOFFSINGER: Next to the pool.

7 MS. SUSAN OLIVER: Actually it's not next to
8 the pool. It's on the north end of that building.

9 MR. NOFFSINGER: But the building is next - -

10 MS. SUSAN OLIVER: Yes. The one next to the
11 pool.

12 CHAIRMAN: Then the Gifted Hand is also in
13 that building?

14 MS. SUSAN OLIVER: The Gifted Hand has
15 probably two-thirds of the bottom and then the area up
16 above. It's a two story building. Yes, she's in that
17 building as well.

18 MR. NOFFSINGER: On your site plan, I'm going
19 to put a little arrow and I'm going to put "diving
20 classes" so that I know which building that's in and
21 we have that in the record.

22 MS. SUSAN OLIVER: Okay.

23 MR. NOFFSINGER: The Gifted Hand is also in a
24 pole barn, in a second building, right?

25 MS. SUSAN OLIVER: Yes. The gift shop is

1 located in the pole barn, the pole barn across the
2 parking lot.

3 MR. NOFFSINGER: Those are the only buildings
4 where activities are being conducted?

5 MS. SUSAN OLIVER: Yes.

6 MR. NOFFSINGER: Thank you.

7 CHAIRMAN: Any other questions from the board?

8 (NO RESPONSE)

9 CHAIRMAN: Staff have anything else to add to
10 it?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Entertain a motion to dispose of
13 the item.

14 MR. NOFFSINGER: Excuse me. Did we ask from
15 the audience if there's anyone else?

16 CHAIRMAN: Excuse me. No. I forgot.

17 Anyone in the audience have anything else to
18 add at this time for or against?

19 MR. ELLIOTT: State your name, please.

20 MR. FAULKNER: David Faulkner.

21 (MR. DAVID FAULKNER SWORN BY ATTORNEY.)

22 MR. FAULKNER: I was telling Susan I don't
23 know if the board would want to entertain to look at
24 them. We did take some photographs of the area. It
25 might give you a better idea of what you're looking

1 at.

2 I guess in regards to what I've heard here
3 tonight, when I sit here and think about the uses is
4 that there's nothing there as far as us working
5 together, the instruction that trace any kind of
6 conflict with noise, with major concerns I think with
7 any of the neighbors. It's a very clean business.
8 It's contributory to the economy.

9 Susan has worked diligently to help with her
10 charity work through organizations and through her
11 business to help in that. I just see that it's a big
12 plus. I would like to see it continue.

13 MS. MASON: Are you an employee? Do you work
14 with her?

15 MR. FAULKNER: I work part-time with her as an
16 instructor, yes, I do.

17 CHAIRMAN: Any other questions from the board
18 or the staff at this time?

19 (NO RESPONSE)

20 CHAIRMAN: Any other comments from anybody?

21 (NO RESPONSE)

22 CHAIRMAN: Hearing none I'll entertain a
23 motion to dispose of the item, please.

24 MR. PEDLEY: Mr. Chairman, I move in favor of
25 the appeal in order to move a non-conforming business

1 from one existing building to another existing
2 building on the site based on the findings it is not
3 an expansion of the business, it will not increase
4 traffic and activities and we've heard no opposition
5 from the neighbors.

6 CHAIRMAN: Is there a second to the motion?

7 MS. MASON: Second.

8 CHAIRMAN: A motion has been made and a
9 second. Any other comments from the board or the
10 questions or from the staff?

11 MR. NOFFSINGER: No, sir.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Next item, please.

17 ITEM 5

18 6000 KY 81, zoned R-1A, A-R
19 Consider a request for an Administrative Appeal in
20 order to change one non-conforming business of
21 teaching ceramic classes to another non-conforming
22 business of teaching diving lessons within an existing
23 accessory building on the site.
24 Reference: Zoning Ordinance, Articles 4, Section
25 4.53, Article 7, Section 7.34
Appellant: Blue Meridian Dive Center, Susan Oliver,
Carol M. Oliver

24 MR. NOFFSINGER: Mr. Chairman, this item is in
25 order and ready for consideration.

1 The discussion that we just had pertaining to
2 Item 4 also pertain to Item 5. With that it's ready
3 for consideration.

4 CHAIRMAN: There's nothing else to be added on
5 to it?

6 MR. NOFFSINGER: The Staff has nothing else to
7 add.

8 CHAIRMAN: Do you have anything else you feel
9 like you need to add?

10 MS. SUSAN OLIVER: No. Like Mr. Faulkner
11 said, you know, we do put back into the community with
12 our charity work. It's possible that if I can't stay
13 here I don't know that I can continue the business.

14 CHAIRMAN: Any other questions from any board
15 member?

16 (NO RESPONSE)

17 CHAIRMAN: Anything else from the Staff?

18 MR. WARREN: Jim, I have a question. I can't
19 remember exactly.

20 As long as the same family or same - - they
21 can go from one business to the next, to the next, to
22 the next and still fall under it as long as it doesn't
23 change hands; is that right?

24 MR. MISCHEL: It can change hands. The
25 important thing is it stays in the same type of

1 classification, same use. Teach ceramics. If they
2 wanted to open up a little restaurant or a different
3 type of business, that would be a different situation,
4 but this is kind of the same use.

5 CHAIRMAN: If it cease for longer than 18
6 months - -

7 MR. MISCHEL: Longer than 18 months they can
8 lose.

9 CHAIRMAN: Any other comments?

10 (NO RESPONSE)

11 CHAIRMAN: Entertain a motion to dispose of
12 the item.

13 MR. PEDLEY: Mr. Chairman, I'll make a motion
14 in favor of the appeal in order to change a
15 non-conforming business to another non-conforming
16 business with the existing building on the site based
17 on the finding that it is compatible with an existing
18 business on the same site and it will not increase
19 traffic activities and we have heard no opposition
20 from the neighbors.

21 CHAIRMAN: Is there a second to the motion?

22 MR. WARREN: Second.

23 CHAIRMAN: Any other questions or comments
24 from the board?

25 (NO RESPONSE)

1 CHAIRMAN: Anything else from the Staff?

2 MR. NOFFSINGER: No, sir.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries.

7 One final motion.

8 MR. WARREN: Motion to adjourn.

9 MS. MASON: Second.

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 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 FUCHS, Notary Public in and
5 for the State of Kentucky at Large, do hereby certify
6 that 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 27 typewritten pages; and that no signature
16 was requested to the foregoing transcript.

17 WITNESS my hand and notary seal on this the
18 26th day of November, 2006.

19

20

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

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23 COMMISSION EXPIRES: DECEMBER 19, 2006

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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