The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, May 1, 2008, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Ward Pedley, Chairman
Judy Dixon, Vice Chairman
Ruth Ann Mason, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Marty Warren
Clay Taylor

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CHAIRMAN: Call the Owensboro Metropolitan Board of Adjustments to order.

We'll begin our meeting with the prayer and pledge of allegiance to the flag. Audie Pantle will lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone.

If you would like to speak on any item, we welcome your comments. We ask you to come to one of the podiums. State your name and be sworn in.

With that the first item on the agenda is to consider the minutes of the April 10, 2008 meeting. Are there any additions or corrections?

(NO RESPONSE)
CHAIRMAN: If not chair is ready for a motion.

MR. PANTLE: Move to approve the minutes.

CHAIRMAN: We've got a motion.

MR. WARREN: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

Next item, please.

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CONDITIONAL USE PERMITS

ITEM 2

9310 Highway 1389, zoned A-R
Consider a request for a Conditional Use Permit to construct a detached 40 foot by 60 foot fellowship hall to the rear of an existing church building.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Bethlehem Church

MR. SILVERT: State your name, please.

MR. WILLIAMS: Zack Williams.

(ZACK WILLIAMS SWORN BY ATTORNEY.)

ZONING HISTORY

A Conditional Use Permit was granted for the construction of a fellowship hall at the December 2007 OMBA. The board found that the area was compatible for an existing church on this lot as the church has been located on the lot for a long time. The Applicant desires to construct this building behind
the existing church building instead of beside it as originally planned. This property is zoned Rural Agricultural. Churches and accessory uses such as a fellowship hall require a conditional use permit in an agricultural zone.

LAND USES IN SURROUNDING AREA

The subject property is located in a rural area with large agricultural and wooded tracts and scattered rural large-lot residential uses. All adjoining property is zoned A-R Rural Agriculture.

ZONING ORDINANCE REQUIREMENTS

1. One parking space per five seats in the main auditorium.

2. Vehicular use area screening.

MR. WILLIAMS: We would like to enter the Staff report into the record as Exhibit A.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes, sir.

CHAIRMAN: Anyone here have any comments or questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Any board members have any questions on the application?

(NO RESPONSE)
CHAIRMAN: If not chair is ready for a motion.

MS. DIXON: Move to approve because it is a logical use and compatible with the area and subject to meeting the zoning ordinance requirements.

MR. PANTLE: Second.

CHAIRMAN: We have a motion by Ms. Dixon and a second by Mr. Pantle. 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.

Next item.

ITEM 3

5404 Highway 54, zoned A-U/A-R
Consider a request for a Conditional Use Permit to construct an addition to a mausoleum on the southeast side of the property.
Reference: Zoning Ordinance, Article 8, Section 8.2J1
Applicant: Catholic Cemeteries; Diocese of Owensboro

ZONING HISTORY

A Conditional Use Permit was granted on April 11, 2002 for the construction of a mausoleum on the southeast corner of Resurrection Cemetery. This project was planned for two phases. The first of two crypts was built in 2002. The applicant has requested a Conditional Use Permit to build the second crypt and place a permanent covering over both.
LAND USES IN SURROUNDING AREA

The subject property is located in a mixed use area containing Urban Agricultural, Rural Agricultural, Light Industrial, General Business and Residential uses.

MR. WILLIAMS: I'd like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Anyone here representing the applicant?

MR. KAMUF: Yes, sir, Mr. Chairman.

MR. SILVERT: State your name, please.

MR. KAMUF: Charles Kamuf.

MR. SILVERT: Mr. Kamuf, I recognize the oath you took when admitted to the bar.

MR. KAMUF: Let me show you what we have.

This is a picture of the mausoleum which is on the southeast side of the cemetery on Highway 54. What you see here is this little crypt that is on this side. That has been built. That was built, I think, according to Zack in 2002.

What we propose is to build another one directly, it would be to the east of it. We didn't ask for this at this time, but just as soon as we get that built then we'll put a little chapel area right in that particular area where you see the orange.
This will be about, it also cost about $178,000. We intend to do the construction right away.

Art Hodde is here from the Catholic Cemeteries. We have all kind of plans if you would like to see them.

I've talked to Ms. Dame. She is one of the neighbors. She has no objection to the mausoleum, but she does have some complaint about the drainage. Evidently there's been some drainage on the back farm.

This is on the front part of a farm that's located out at Philpot. It's been there for years. The back part of a farm. She has some questions about it. We'll be glad to address her issues as they come forward.

CHAIRMAN: Thank you, Mr. Kamuf.
Let's see if we have any opposition or questions on this.
Would anyone like to speak in opposition or have any comments or questions?

Please step to the podium, please.

MR. SILVERT: State your name, please.

DAME: Juanita Dame.

(JUANITA DAME SWORN BY ATTORNEY.)

MS. DAME: My main concern is water run-off.
We've been having major flood problems. We need some road work done, some ditches opened up so this water will flow through there. You know, the more we have the more run-off we're going to have, the more building up. I'm really concerned. We only have one way to get in to where I live and that's through Ed Foster Road, which is covered with water and has been quite a few times. I don't know if this will have any effect on it or not. That's my question. What can I do about getting some road work done, some ditches cleaned?

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: We will address this and get some answers for you. I think the county engineer will be involved in this to make sure the drainage is done properly.

MS. DAME: I have already replaced part of my driveway once. The way it's looking it's going to have to be replaced again. There's just so much water that gathers. There's a ditch that once was open and it's closed up now. The water has no place to go.

CHAIRMAN: Again, the county engineer will be involved in this and make sure that your --
MS. DAME: I have talked to him about it once before and he said that the drainage was on private property, the drain tile and he couldn't do anything about it. Now, that's what he told me. It seems like something could be done. I'm really concerned about it.

CHAIRMAN: Let's see if we can get an answer for you from the applicant.

MS. DAME: I'd appreciate it. Thank you.

CHAIRMAN: Mr. Kamuf, you want to address the drainage issue.

MR. KAMUF: Mr. Chairman, I went out there this afternoon and looked at it. I'll pass these photographs around. Sorry I don't have larger photos.

The property that we're getting ready to construct on is the green area; in other words, it's in grass. I'll show you these pictures. There is some run-off there, but mainly it's the farm that's to the rear. I think recently the county has come out and cleaned part of the ditch out. It shows that it's a pretty, it looks like to me a pretty cleaned out ditch. Some of this water also comes from the Hines Center which is directly east of this. If you look at the plat that I filed, on it it shows the drainage area going to a particular ditch. I don't know
whether you can see this photograph. This shows the
rift-raft and also you can see that it's a large green
area of grass. In other words, the mud does not come
from the cemetery. It comes from the farm that is
directly behind.

I'll pass this around. You can see this
mausoleum here in the picture. All around the
mausoleum is green area. The run-off, mainly the
run-off comes from the farm that is directly behind.
You can see it from this photograph. I'll pass these
around. This shows the farm. I'm sure that when they
put out the crop that there is dirt that comes across
the road. I can see where there was dirt along the
road.

Here is another one which shows the ditch. I
guess the county commissioner has recently cleaned out
the ditch. It looks like it's better. Let me pass
these around and let you look at them. If you have
more questions, I'll be glad to answer them.

Ark can explain to you, if you would like to
hear it, the history of the ditch. It's been somewhat
of a problem. What we're doing here today will not
add anything to whatever the drainage problem is.

As you can see, the only thing that we're
doing is on the pad which is on, would be my right
side. We're just adding a pad which is already, the
ground is already prepared for it.

Let me pass these around. We've got plenty of
pictures. I imagine there will be some questions.
Art can tell you the history of it, if you'd like to
hear that.

I don't know whether that's helped Ms. Dame or
not. As far as, I explained some of this to her
before the meeting.

I think the issue is what we're doing here
tonight will not add any more water. It's in a green
area. It will not add any more dirt because all we do
is cut the grass. It's on the southeast part way back
in a field. Ms. Dame's house is, what, a mile back,
half a mile?

MS. DAME: Not quite a half mile.
MR. KAMUF: About half a mile of the road and
this lays in-between them.
CHAIRMAN: Have you had the county engineer
out to look at it?

MR. KAMUF: Art will answer that.
MR. SILVERT: State your name, please.
MR. HODDE: Arthur Hodde.

(ARTHUR HODDE SWORN BY ATTORNEY.)

MR. HODDE: Ms. Dame called me a while back
about the ditch. I contacted the county office and
they told me they would come out and clean it out,
which I'm assuming they did. I never saw it. I never
saw them out there, but as Charlie said the ditch is
relatively clean right now.

There has to be some run-off when we have
down-pours. I don't have any doubt about that. The
area where she's talking about, I think I'm right,
it's almost like a bowl situation. It comes from all
different directions. It just comes into one area. I
know the road does flood. Not all of it is
necessarily from us, but it does flood.

CHAIRMAN: Any board members have any
questions?
(NO RESPONSE)

CHAIRMAN: Mr. Noffsinger, would you fill us
in on the county engineer's role, what he has to do
before a building permit can be issued on this.

MR. NOFFSINGER: The county engineer will be
required to review the applicant's drainage plan and
sign off on the drainage plan before we issue the
permits. It's the landowner's responsibility to take
care of their own storm water run-off, to make sure
that they don't impede upon the adjoining property
owner's rights.
At this point we do not have a drainage plan. There are no engineers to speak about drainage on either side. There's not a whole lot I can comment on there except to say the county engineer will review any drainage plan prior to the issuance of a permit. You can certainly make that a condition to this permit which reinforces that requirement.

CHAIRMAN: Any board members have any questions on the drainage issue or any other questions?

(NO RESPONSE)

CHAIRMAN: Have we answered your questions?

MS. DAME: Pretty much. We need some ditches cleaned. We need more cleaned out. We just need more ditches cleaned than what's been cleaned. It's just a partial job.

I would like to see this drainage tile looked at again that he told me he couldn't do anything about. That used to be a free-flowing water way there. That's part of the problem.

CHAIRMAN: It's not up to this board to say what will be done and will not be done. We can put a condition on the approval. Whatever the board might decide that needs to be on there. As Mr. Noffsinger stated, we can't say, in my opinion, we can't say what
must be done. We can only put a condition.

MS. DAME: I don't want to be a bad neighbor, but I would like some of that looked into, the water issue. I appreciate you all listening to me.

CHAIRMAN: Thank you.

Any board members have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. TAYLOR: Mr. Chairman, I move to approve the Conditional Use Permit based upon the findings of fact it's in general doing with the Conditional Use Permit which was granted back in 2002, as well as the zone surrounding. This property I guess we could also place a condition on there like Mr. Noffsinger said. That even though it is part of the process anyway, but as long as it does not contribute to the excess drainage and the county engineer signs off on it. I move to approve based on those conditions.

CHAIRMAN: We have a motion. Is there a second?

MR. WARREN: Second.

CHAIRMAN: We have a motion and a second. Any comments or questions on the motion?

(NO RESPONSE)
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

2501 Old Hartford Road, zoned R-3MF
Consider a request for a Conditional Use Permit to
construct a building addition to the front of the
existing main structure, an attached canopy located
near the front entrance, a parking area on the
southwest corner of the subject property, and to
renovate existing parking areas at an existing rest
home.
Reference: Zoning Ordinance, Article 8, Section 8.2C1
Applicant: Carmel Home; Carmelite Sisters of the
Divine of Heart of Jesus

ZONING HISTORY

OMPC records indicate that the Carmel Home was
built before zoning regulation. Two (2) Conditional
Use Permits have been granted in 1985 and 1989 for
additions to the facility. The facility is a
convalescent and rest home, which is conditionally
permitted in a R-3MF zone.

LAND USES IN SURROUNDING AREA

The subject property surrounded by residential
zoning. Multi-Family Residential Zoning is located to
the northeast, north and southwest. A large portion
of this area is used for a cemetery. Single family
residences are located to the south and southeast, and
a professional zone is located to the east.
ZONING ORDINANCE REQUIREMENTS

1. One (1) parking space for every four (4) beds plus one (1) space for each employee on maximum shift.

2. Vehicular use area screening along Old Hartford Road and along the west edge of the proposed new parking area.

MR. WILLIAMS: We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here have any comments or opposition on the application?

MR. HOBBS: Yes.

MR. SILVERT: State your name, please.

MR. HOBBS: Thomas Hobbs.

(THOMAS HOBBS SWORN BY ATTORNEY.)

MR. HOBBS: My only concern is I live right next-door to the Carmel Home or two house down. There's a vacant house in-between. I'm concerned about the water run-off that comes down that way. That's my only concern.

CHAIRMAN: Anyone have any questions or comments?
CHAIRMAN: Anyone here from the Carmel Home application that would like to address his question?

MR. SILVERT: State your name, please.

MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

MR. BAKER: Where do you say you live?

MR. HOBBS: I live at 2541 Old Hartford Road. There's a house next-door to me and then I'm the next residence.

MR. BAKER: The proposed construction has been submitted through, there's an existing site plan that has been approved through the city engineer's office on this. We haven't modified really the drainage patterns at all. The construction includes the addition of a parking lot to the west of the existing structure. That parking lot is going to be used to aid in providing parking while they take out some existing parking in front of the building to construct the proposed building addition.

As I said, the drainage patterns will not change as a result of the construction. We are required to design the parking lot such that the run-off cannot increase due to the construction work.

CHAIRMAN: Is it city engineer or county
MR. BAKER: City engineer.

CHAIRMAN: Has the engineer signed off on it?

MR. BAKER: Yes, sir.

CHAIRMAN: Thank you.

Any boards member have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. MASON: Mr. Chairman, I move for approval.

My findings of fact are the addition is compatible with the use of the property and renovating the parking area will create a visual upgrade to the property and adding an attached canopy will shelter residents and visitors from the weather as they enter and exist the building. Then adding additional parking is needed for the addition.

CHAIRMAN: I hear a motion. Is there a second?

MS. DIXON: Second.

CHAIRMAN: We have a motion and a second. Any comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.

Next item.

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VARIANCE

ITEM 5

9063 Highway 1389, zoned A-R
Consider a Variance to reduce a building setback from
49 feet from the centerline of Highway 1389 to 45 feet
from the centerline of Highway 1389
Reference: Zoning Ordinance, Article 8,
Section 8.5.1(c)
Applicant: Larry and Debra Smeathers

MR. WILLIAMS: The Staff finds that there are
special circumstances with regards to this
application.

On March 6, 2003, the applicants were granted
a variance to reduce the front yard building setback
from 60 to 49 feet from the centerline of Highway
1389.

Due to topographical limitations of the lot,
the manufactured home had to be placed or has to be
placed perpendicular to the road in this vicinity.
That is the way the original home was oriented.

The replacement home is two feet longer than
the original. Due to unforeseen circumstances when
they placed the home, it ended up being 46 feet from
the centerline of the road, which the granted variance
would not satisfy.
So they're back to request a variance from 49 feet down to 45 feet from the centerline of Highway 1389.

If this is not granted, it will put some hardship on the applicants because there is nowhere else on this portion of the property where they can place the home due to the topography. They would have to relocate. The purpose of applying for the variance was to mitigate cost and not have to move from the site where they are. The septic system is already there, etcetera.

The Staff finds that this application would 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 will not allow an unreasonable circumvention of the requirements of the zoning regulations. Therefore, we recommend approval.

I would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here have any questions or comments for the applicant?
CHAIRMAN: Board members have any questions or comments?

CHAIRMAN: Chair is ready for a motion.

MR. PANTLE: Move to grant the Variance for the reasons stated in the conditions and on May 6, 2003 there was a request for 45 foot setback and it only came out with 46 foot setback. That was one of the things that was because of the setback and the reason with topography effecting on it. Approve the Variance for findings 1, 2, 3 and 4 that were read into the record.

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

MR. TAYLOR: Second.

CHAIRMAN: We have a motion and a second. Any comments or questions on the motion?

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We need one more motion.

MR. WARREN: Move to adjourn.

MR. TAYLOR: 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 FUCHS, 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 27th day of May, 2008.

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

COMMISSION EXPIRES: DECEMBER 19, 2010
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY