

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 SEPTEMBER 4, 2008

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

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

16 * * * * *

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

19 We will begin our meeting with a prayer and
20 the pledge of allegiance to the flag. Mr. Warren will
21 lead us. Please stand.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: I would like to welcome everyone.
24 Anyone wishing to speak on any item we welcome your
25 comments and questions. We ask that you step to one
of the podiums, state your name and be sworn in.

26 First item on the agenda is consider the
minutes of the August 7, 2008 meeting. Are there any

1 additions or corrections?

2 (NO RESPONSE)

3 CHAIRMAN: Chair is ready for a motion.

4 MR. WARREN: Motion to approve the minutes as
5 written.

6 MR. DYSINGER: Second.

7 CHAIRMAN: We have a motion and a second. All
8 in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: The minutes are approved.

11 Next item, please.

12

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CONDITIONAL USE PERMITS

14 ITEM 2

15 101-401 Blocks Veterans Boulevard, zoned B-2, B-4
16 (Postponed at the August 7, 2008 meeting)
17 Consider a request for a Conditional Use Permit to
18 construct a phase of the Riverfront Project consisting
19 of the Owensboro Riverwall construction within the
20 floodway for approximately 1800 feet along the bank of
21 the Ohio River from the Riverpark Center to the
22 Veterans of Foreign Wars building. This phase of
23 construction does not include improvements in Smothers
24 Park.

25 Reference: Zoning Ordinance, Article 18,
Section 18-4(B)(3) and 18-5(B)(4)

Applicant: City of Owensboro

22 MR. NOFFSINGER: Mr. Chairman, on Item 2, the
23 City of Owensboro has requested that you take action
24 to postpone this item tonight. The permit from the
25 Corp of Engineer has not been approved for river wall.

1 CHAIRMAN: Item 2 is postponed.

2 MR. NOFFSINGER: You will need to take action.

3 MS. DIXON: Move to postpone.

4 MS. MASON: Second.

5 CHAIRMAN: We have a motion and a second to
6 postpone. All in favor of the motion raise your right
7 hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 MR. NOFFSINGER: Let me state for the record
11 that that item will be considered the first Thursday
12 in October at 5:30 p.m. in the same location.

13 ITEM 3

14 900 Walnut Street, zoned B-4
15 Consider a request for a Conditional Use Permit to
16 operate a day care facility for the Head Start Program
17 with an outdoor recreation area for no more than 38
18 children at one time.
19 Reference: Zoning Ordinance, Article 8, Section 8.2B3
20 Applicant: Audubon Area Head Start

21 MR. SILVERT: State your name, please.

22 MR. WILLIAMS: Zack Williams.

23 (ZACK WILLIAMS SWORN BY ATTORNEY.)

24 ZONING HISTORY

25 OMPC records indicate that a Conditional Use
Permit was approved in July of 1986 to operate a
pre-school program for up to 80 children. In July of
2007, an adjacent property to the south was purchased

1 by the applicants, rezoned and consolidated with 900
2 Walnut Street. This application will allow the
3 Audubon Area Head Start program to relocate to this
4 property and install an outdoor recreational area.

5 LAND USES IN SURROUNDING AREA

6 The adjoining properties to the west are zoned
7 I-1 Light Industrial, to the north B-4 General
8 Business, and to the east and south R-4DT Inner City
9 Residential.

10 ZONING ORDINANCE REQUIREMENTS

11 1. Article 17, Table 17.311 requires a 10'
12 wide landscape easement with a 6' high continuous
13 screening element and a tree for every 40 lineal feet
14 of property boundary between Business Zoning and
15 Residential Zoning.

16 2. Article 17, Table 17.312 requires a 3'
17 high continuous screening element and a tree for every
18 40 lineal feet of street frontage between the public
19 streets and the vehicular use areas on the property.

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

22 CHAIRMAN: Anyone here representing the
23 applicant?

24 MS. SMITH: I am.

25 CHAIRMAN: Does anyone here have any questions

1 or comments of the applicant?

2 Would you step forward if you have questions
3 or comments.

4 MR. SILVERT: State your name, please.

5 MS. YAGER: I'm Linda Yager.

6 (LINDA YAGER SWORN BY ATTORNEY.)

7 MS. YAGER: We own property on East 10th
8 Street, 923, 925. It's rental duplex that we have.
9 We're concerned with the 38 children. It adjoins our
10 property. We're concerned with the 38 children
11 playing there during the day. We have currently
12 rented it to retired people now. The noise that would
13 involve this.

14 We were wondering, he just mentioned a three
15 foot fence or something, but we were wondering the
16 type of fence that would be put there, the noise that
17 would come from there, the days the day care would
18 operate.

19 CHAIRMAN: Any board members have any
20 questions?

21 (NO RESPONSE)

22 CHAIRMAN: Let's get the applicant up here and
23 get some answers to her questions.

24 MR. SILVERT: Please state your name.

25 MS. SMITH: Michelle Smith.

1 (MICHELLE SMITH SWORN BY ATTORNEY.)

2 CHAIRMAN: Would you address the lady's
3 comments, questions and concerns?

4 MS. SMITH: We're prepared to put a fence up.
5 If she wants a fence or landscaping. We worked with
6 our other neighbor of putting a landscaping space up
7 to six foot. At her space back there I guess is where
8 the apartments are, we were going to start with the 6
9 foot privacy fence at that property line, but if she'd
10 prefer landscape we can do landscape there.

11 As far as the children, the children are there
12 anywhere from I think it's 6:30 to 5:30 Monday through
13 Friday. Most likely the facility won't have more than
14 20 children. I went ahead and did it for 38 in the
15 event that we eventually needed to add more slots to
16 the center, but we're talking about 20 children ages
17 six weeks to five years old. I don't think they're
18 very loud. There's no nighttime so we shouldn't
19 interfere with sleep hours or anything like that.

20 MS. YAGER: 6:30 a.m.

21 MS. SMITH: 6:30 to 7 a.m.

22 CHAIRMAN: Board member have any questions of
23 the applicant?

24 MR. DYSINGER: I'm just a little unclear. You
25 already plan on putting a 6 foot privacy fence all the

1 way around the area?

2 MS. SMITH: As the city has required. Either
3 a fence or shrubbery and trees, yes.

4 MS. MASON: You said the city requires. It
5 looks like they require a three foot fence.

6 MS. SMITH: No, ma'am. It's a six foot
7 barrier.

8 CHAIRMAN: Mr. Mischel, do you have comments?

9 MR. SILVERT: State your name, please.

10 MR. MISCHEL: Jim Mischel.

11 (JIM MISCHEL SWORN BY ATTORNEY.)

12 MR. MISCHEL: The 6 foot privacy fence would
13 be required as the buffer between the commercial and
14 residential property. The three foot fence, the three
15 foot shrubs are around the parked vehicle area. It is
16 required to have a 6 foot high fence and a tree every
17 40 feet between the residential and commercial
18 property.

19 MR. DYSINGER: Mr. Chairman, the rental
20 property counts as that residential?

21 MR. MISCHEL: Rental property is part of
22 residential, yes.

23 CHAIRMAN: Mr. Noffsinger, do you have
24 comments?

25 MR. NOFFSINGER: Yes, thank you, Mr. Chairman.

1 Mr. Mischel, does that have to be a fence or
2 can it be a six foot high continuous element?

3 MR. MISCHEL: It's a six foot high continuous
4 element. Typically most people put in a six foot
5 fence. You could put in landscaping. If you put in
6 shrubs, they should be three foot tall when planted
7 and grow to six foot at least at minimum. Typically
8 people put in a privacy fence for that requirement.
9 Ten foot buffer, green space buffer.

10 CHAIRMAN: Board members have additional
11 questions of Mr. Mischel?

12 (NO RESPONSE)

13 CHAIRMAN: Ma'am, do you have additional
14 questions or concerns you would like to make?

15 MS. YAGER: Yes, I do.

16 CHAIRMAN: Step forward, please.

17 MS. YAGER: Will there be playground equipment
18 for the children there and what will the fence be
19 constructed of? Is it like wood, block or chain-link?

20 MR. MISCHEL: Typically, as far as material,
21 we don't have a requirement. We say that it has to be
22 80 percent capacity. So it's a pretty solid fence.
23 Typically they put up a wood privacy fence, but that's
24 not to say they have to do that, unless it's a
25 condition.

1 As far as the playground equipment, the
2 applicant will have to answer that.

3 MS. SMITH: There will be playground equipment
4 installed. It's appropriate for the children and
5 installed by manufacturing. Anything else?

6 MR. NOFFSINGER: I do have one statement or we
7 need to get on record as to the screening element. I
8 think there's some question here and we need to
9 determine, if you approve this continual use permit, I
10 think you need to be specific on that screening
11 element at this adjoining property owner is requesting
12 a particular or a fence over landscape material.
13 Right now the applicant has a choice and I'm hearing
14 fence, but if we determine that it needs to be one or
15 the other or can be both, we just need to settle that
16 here now. Not later.

17 MS. SMITH: Our other neighbor I think would
18 like to address that.

19 MR. SILVERT: State your name, please.

20 MR. TAYLOR: My name is Tim Taylor. I'm the
21 south boundary of the property.

22 (TIM TAYLOR SWORN BY ATTORNEY.)

23 MR. TAYLOR: Restoring 1880 Griffith Estate
24 there at the property. I spoke with Ms. Smith here.
25 I do not want a bare wood fence all the way across the

1 200 foot of my property for me to see out my front
2 door. I'd rather have landscaping. Shrubbery
3 barrier. Something that looks more natural. I don't
4 want a raw wood fence up there.

5 MS. SMITH: We had already agreed with our
6 neighbor to do a landscape section with him and allow
7 him to pick out the shrubs that he wants up there.
8 We're doing that and we'll do that with our other
9 neighbor. Whether she wants the wood privacy fence or
10 landscaping. We have no problem with that.

11 CHAIRMAN: I have a question of Mr. Mischel or
12 Mr. Noffsinger.

13 Is it continuous element, solid continuous
14 element?

15 MR. MISCHEL: Yes, that's a requirement.

16 CHAIRMAN: So either a fence or if it is
17 landscaping such as pine trees, then the spacing of
18 the trees would have to meet -- is it six foot high
19 continuous element? Is that what's required?

20 MR. MISCHEL: It might be kind of hard.
21 Usually if you use pine trees it's a double row. You
22 probably need a wider area for that. Typically we
23 have like a prima hedge, something like that that
24 grows together and up to six feet tall. Typically if
25 you use shrubs they should be at least three foot tall

1 when they're planted.

2 CHAIRMAN: At what spacing?

3 MR. MISCHEL: Well, depends on the plant.
4 Typically they would hand in something to us to show
5 the growth pattern and stuff like that.

6 CHAIRMAN: What would be the ordinance
7 requirement? If you use landscaping, use trees, what
8 would the requirement be?

9 MR. MISCHEL: Well, if it's the pine trees, if
10 it's an evergreen we want the pine trees that grow to
11 ground to provide that six foot solid element instead
12 of having a tree that grows up and you have a space
13 underneath.

14 Typically that's why you put the shrubs, to
15 get that continuous element. Usually it's a
16 preference between the two. If somebody wants the
17 shrubs or the fencing requirements. It just says 80
18 percent capacity to meet that.

19 CHAIRMAN: The point being is we're trying to
20 clarify what can be put there to meet the zoning
21 ordinance and would the applicant be willing to put
22 pine tree versus fence.

23 MR. MISCHEL: I'd say all the options. You
24 could put a fence. You could put pine trees or you
25 could put shrubbery with trees. You still have the

1 requirement of 40 foot, a tree every 40 foot.

2 CHAIRMAN: Thank you.

3 Mr. Noffsinger.

4 MR. NOFFSINGER: The question I have, the
5 names. I've heard from Ms. Yager and I've heard from
6 Mr. Taylor. Those two names, last names are not
7 showing up on the site plan as being adjoining
8 property owners. I need to figure out who owns what
9 and what's going on and somebody help me, please.

10 MR. TAYLOR: I purchased the property that it
11 shows the Hart property in August of last year.

12 MR. NOFFSINGER: And you want shrubs?

13 MR. TAYLOR: Yes. Right now on the property
14 line there are at least eight 50 to 100 year old
15 trees. They're on the tree line now. Really what we
16 would have to do is put landscaping between those
17 trees.

18 MR. NOFFSINGER: Along their south property
19 line that adjoins your property, then you would like
20 to see a six foot high continuous element be of
21 landscape materials that meet an 80 percent opacity
22 requirement.

23 MR. TAYLOR: An evergreen shrub that will not
24 lose its leaves in the wintertime. Something that
25 will stay green all year.

1 MR. NOFFSINGER: That meets the 80 percent
2 opacity.

3 MR. TAYLOR: Right. I own probably, I think
4 it's approximately 200 feet 250 foot property line. I
5 think those are close figures.

6 MR. NOFFSINGER: Ms. Yager.

7 MS. YAGER: I'm with DRW & Associates.

8 MR. NOFFSINGER: Is that HSD Properties?

9 MS. YAGER: No. It's DRW & Associates.

10 MR. NOFFSINGER: Okay. I'm really lost now.

11 MS. YAGER: Okay. It does say HSD Properties.
12 We're the owners of that.

13 My only concern is the noise reduction, a
14 buffer for that. If the children come in at 6:30
15 a.m., you know, what is their break time. I just have
16 two retired people living there. I hate to lose
17 renters. I hate not to be able to rent the property
18 because of that.

19 MR. NOFFSINGER: Do you have a screening
20 preference?

21 MS. YEAGER: No. My neighbors want the
22 natural look and I can certainly understand that.
23 They have more property there than we do. My concern
24 is the noise. I don't know if the natural element
25 would do that better than a wood fence.

1 MS. SMITH: I would just like to add that I
2 think that's the reason for the buffer is for the
3 noise.

4 The center that we're operating right now is
5 also in a residential community and we have not heard
6 any complaints about our children playing in the
7 playground in that community.

8 I also might add that in our neighborhood
9 where we're at right now we have a bar that is very
10 loud on the weekends and we've not said anything and I
11 don't know if she has voiced any complaints about
12 that. There's a lot of things going on in the evening
13 from that that has nothing to do with us, but that's
14 also in the neighborhood at the present time. We're
15 hoping to make things a little better with our fence.
16 The bar backs up to our property.

17 CHAIRMAN: Your preference is put a fence up
18 rather than --

19 MS. SMITH: I'm fine with the landscape. I'll
20 do the landscape or the fence. Whichever one the
21 property owner wants. That's what I've agreed to with
22 the one that owns the most of the property. The
23 property line right now where we match up with her is
24 overgrown weeds on the property line right there.
25 There's nothing been done to clean anything up. We're

1 going to have to do that. We're willing to do that.
2 Just improve our property where we're trying to clean
3 up that whole lot there. That was a dilapidated house
4 about a year and a half ago that we tore down. We're
5 trying.

6 CHAIRMAN: Thank you very much. I think we're
7 clear on the issues.

8 Any board members have further questions?

9 (NO RESPONSE)

10 CHAIRMAN: Staff have anything else they would
11 like to add?

12 MR. NOFFSINGER: No, sir.

13 CHAIRMAN: Chair is ready for a motion.

14 MS. MASON: I move for approval. My findings
15 of fact are that it's compatible with the current use
16 of the property as is an extension of a previous
17 approved conditional use permit. The day care will
18 benefit and provide an essential service to the
19 community.

20 The conditions would be a 6 foot fence in the
21 area that is next to Ms. Yager's property and the
22 trees or some sort of landscaping that would be a
23 buffer in the area of Mr. Taylor's property.

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

1 MS. DIXON: Second.

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

4 MR. PANTLE: Did Ms. Yager, did she say which
5 ever she preferred? A natural barrier rather than a
6 fence?

7 MS. YAGER: I did say I would like to work
8 with my neighbor on that. He has the majority of the
9 property. I'm just concerned with the noise. If the
10 natural element, if the shrubs and the trees, if
11 they're pines that are nice size and will grow fast,
12 that would certainly be more attractive and last
13 longer than a fence, but I'm just concerned that
14 something be put up there of substance that will block
15 some of the noise there. I'm willing to work with my
16 neighbors on that and the Head Start Program.

17 MR. DYSINGER: Mr. Chairman, I feel like Ms.
18 Mason's motion covers the bare necessities and it
19 seems like these folks are going to be able to work
20 out the details. I think if we try to get any more
21 detailed than this excellent motion, I'm afraid we're
22 going to get --

23 MS. MASON: I could amend it to the area where
24 Ms. Yager's property is. Either a fence or continuous
25 shrubbery of some sort that would be a buffer to be

1 worked out between the applicant and Ms. Yager.

2 CHAIRMAN: We have a motion.

3 MS. DIXON: I will second your amended motion.

4 CHAIRMAN: All in favor of the motion raise
5 your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 4

10 609 Wing Avenue, zoned R-4DT
11 Consider a request for a Conditional Use Permit to
12 operate a homeless shelter with an occupancy of 90
13 residents providing educational, spiritual, financial
14 and substance abuse recovery services to the residents
15 and to non-residents, and to revise the previously
16 approved site plan to increase the number of parking
17 spaces, to revise the loading dock and to include a
18 vehicular access point on Benita Avenue.
19 Reference: Zoning Ordinance, Article 8, Section 8.2C1
20 Applicant: Boulware - The Mission on the Hill, Inc.

21 ZONING HISTORY

22 The property is located at 609 Wing Avenue is
23 zoned R-4DT Inner City Residential. OMPC records
24 indicate that three previous Conditional Use Permits
25 (CUP) have been approved for the Boulware Center at
26 this address:

27 June 3, 1999 - to utilize existing facilities
28 for the temporary care of children under the age 18,
29 the rejuvenation of persons who provide spiritual
30 assistance to others, and use by religious, charitable

1 or humanitarian organizations in an R-4DT zone.
2 Approval was granted on the condition that there be no
3 on-street parking used in conjunction with this
4 facility, and that all parking for the use of this
5 property must occur on site within the walls of the
6 former monastery property.

7 April 7, 2005 - a Conditional Use Permit was
8 granted to operate a homeless shelter serving 90
9 residents and to provide educational, spiritual,
10 financial and substance abuse recovery services for
11 residents of the shelter with the condition that a
12 review will be conducted in six month intervals from
13 the time of occupancy for a period of one year.

14 September 7, 2006 - a Conditional Use Permit
15 was amended in order to revise the approved site plan
16 to include renovations including adding a mechanical
17 room and various external mechanical units, various
18 platform and entrance reconfigurations, constructing a
19 new wall and removing a portion of the existing wall,
20 installing a new and larger electrical service and
21 reconfiguring the existing parking lot. Approval of
22 the Conditional Use Permit was granted on the
23 condition that the wall being constructed must conform
24 to the existing zoning ordinance unless a variance is
25 granted by the OMBA.

1 This application is made to change the scope
2 of services provided in rehabilitation counseling to
3 include non-residents as well as residents at the
4 facility, to add additional on-site parking and to
5 revise a loading dock. Additionally, the applicant is
6 requesting the access point on Benita Avenue to remain
7 open for emergency and special events. Past approvals
8 have been based on the physical closing of the Benita
9 Avenue access point so that traffic to the facility
10 will not have access from the residential street.

11 LAND USES IN SURROUNDING AREA

12 All adjoining properties are zoned R-4DT Inner
13 City Residential.

14 ZONING ORDINANCE REQUIREMENTS

15 1. Article 13, Section 13.8C1 requires one
16 parking space for every four beds and one space for
17 each employee on maximum shift.

18 2. Article 17, Table 17.312 requires a 3'
19 high continuous screening element and a tree for every
20 40 lineal feet of vehicular use area boundary when the
21 area is adjacent to residential zoning.

22 3. Article 17, Section 17.32 requires
23 interior landscaping for vehicular use areas that are
24 at least 30,000 feet but less than 50,000 square feet
25 in area, except in industrial zones.

1 SUGGEST CONDITIONS

2 1. That reviews be conducted at six month
3 intervals after occupancy for a period of one year.

4 2. That the Benita Avenue access point be
5 closed and not accessible by vehicular traffic.

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

8 CHAIRMAN: Is anyone here representing the
9 applicant?

10 MR. SILVERT: State your name, please.

11 MR. CRAIG: My name is Bill Craig.

12 MR. SILVERT: Mr. Craig, since you were here
13 last, we've revised procedure. That I no longer swear
14 in attorneys. I recognize the oath that you took when
15 you became an attorney.

16 MR. CRAIG: Thank you.

17 Let me say first that this is an amendment to
18 our previous filings.

19 Take what I think may be the easiest one
20 sometimes is like picking apples. Take the easiest
21 apple first.

22 The last time we were here we planned a wall
23 down the side of our property, the side that's on
24 Benita. The front of our property is on Wing Avenue.
25 That wall has since been constructed.

1 We have two human gates that are open through
2 that wall. We had planned at the beginning to have a
3 large corrugated metal gate closed. That's the way we
4 started originally.

5 The last time we understood the people
6 objected and thought it would be much better if you
7 had - people in the neighborhood I mean - much better
8 if you had that gate openable in the event of an
9 emergency because it is the only vehicular gate on the
10 north side of the property. We have constructed a
11 two-lane street off of Wing Avenue that enters from
12 the west into our property.

13 So we don't have a major -- and I was not
14 aware of the fact that the Staff recommendation was
15 that we permanently close the Benita Avenue gate.
16 That's not a big issue for us. We had thought that
17 people much preferred that be there for emergency
18 purposes. We are having gates constructed for all
19 entrances and exits which are black rod iron gates.
20 It will be very attractive. So we had thought the
21 notion was to having an open space for emergency
22 purposes or if you had an open house or something was
23 preferred, but we're not going to make a big issue of
24 that. We'll go with whatever is the sense. Our
25 understanding the reason it's in there was we

1 understood that the people preferred that. That's
2 kind of simple question.

3 We're really here on an amendment for a final
4 development, final amendment to our development plan.
5 We filed those before. Now we are completing phase
6 one. We've completed phase one of our construction.
7 So we have filed this final development plan which
8 shows our improvements as constructed. We anticipate
9 commencing occupancy shortly when we get an occupancy
10 permit.

11 I have here this evening both our consulting
12 engineer from HRG and our consulting architects from
13 RBS to answer any technical questions on those
14 improvements.

15 Those changes from a physical layout is we at
16 one time anticipated a much more substantial loading
17 dock near our kitchen area. You have a change in
18 that. We are increasing parking spaces by about ten.
19 All of them comply with the inside the wall
20 requirement. All parking spaces are inside the
21 enclosure. Then there's the issue of the north gate,
22 which I just addressed. Those are the physical
23 changes.

24 As explained in our application, a funny thing
25 happened on the way to the monastery. We started out

1 we thought we would renovate the monastery for around
2 \$1 million. We found that to complete our phase one
3 renovation we have now spent about 2 million to 2.2
4 million. We bought the property for \$500,000. We've
5 spent this additional money doing the renovations
6 through phase one.

7 At the end of this current phase there will be
8 38 residents living there. Like our Hall Street
9 campus they will live there continuously. We have
10 kitchen facilities, bathing facilities, all the usual
11 facilities for people to live there.

12 That 38 is an interim step. We expect to
13 complete phase two. We hope to start next year. That
14 would then take us the rest of the way up to 90
15 residents living there. For now it's 38 residents at
16 completion of phase one.

17 We also have renovated the old administration
18 building in its entirety so that it will be a
19 treatment annex. That was the treatment annex
20 contemplated initially. It's in the very center of
21 the property.

22 I imagine most everyone has seen the
23 development plan, but the dark blue is the building.
24 All the buildings are connected and all of them are
25 two-story except for a walkway between this treatment

1 annex and the rest of the building and the chapel
2 which has a high vaulted ceiling.

3 We expect phase two will involve spending
4 another 1.3 million or so. So by the time the dust
5 clears we will have spent about \$3.5 million on this
6 project.

7 As we stand here today, having spent the first
8 couple of million dollars, we find that to do all of
9 the things that not only comply with our regulations,
10 but all the things that led us occupy the property
11 efficiently, particularly efficient heating and
12 cooling system, that kind of thing. All the
13 infrastructure has been replaced, whether it's sewage
14 lines, water lines, fire suppression, electrical,
15 etcetera, etcetera. The idea has been that we are
16 wiser to spend more money up front and to have a more
17 competent space for the long term.

18 Similarly in phase two the primary cost there
19 is going to be around \$900,000, which will be a
20 heating and cooling system for the main part of that
21 blue building. That will then used for resident
22 spaces, offices, etcetera.

23 Now, when we started this process there was a
24 lot of doubt about whether Boulware from it's Hall
25 Street operation was going to be able to afford this.

1 At this point I can tell you that we have spent money
2 we have raised. We have borrowed money, but all of
3 the borrowed funds are covered by commitments that
4 come at one time or another. For example, trust when
5 someone dies or bequest that's committed. So as I
6 stand before you today, I'm glad to say that this
7 community has made available to Boulware \$2.5 million
8 to get to where I'm standing in front of you having
9 spent \$2.5 million.

10 I suppose the most, other than the phase
11 construction, which is explained in the application.
12 I'll be glad to discuss any technical requirements or
13 any technical questions. As I say we've got the
14 additional people here to deal with those technical
15 questions.

16 We find that we want to use the treatment
17 annex both for people who are residents within
18 Boulware and to make it available for people in the
19 community. There are a number of background facts
20 involved with that. The biggest and single fact is
21 this. In order to operate a substance abuse treatment
22 program, this by the way is a very structured program
23 as explained in the application. Some people will
24 come fairly early, for example. Might come in before
25 breakfast and be there until noon time. Other people

1 will come in around noon time and be there until maybe
2 eight in the evening. We close up, as I said before,
3 before this group, at nine, ten in the evening and we
4 re-open after six in the morning.

5 The point is that in order to operate a fully
6 structured licensed treatment program that's going to
7 be available for our residents, there will be
8 significant excess capacity. We therefore want to
9 make that treatment program available to people in the
10 community who may choose to come there and
11 participate.

12 To be blunt, there cannot be any more pressing
13 need, I think, in this community than competent,
14 audited, licensed substance abuse treatment services
15 that are available regardless of economic
16 circumstance. That is why we have layed it out the
17 way we have. We now ask for that change in use.
18 Otherwise, our use is the same throughout. What we're
19 going to do is permit our excess capacity to be used
20 by people who come from the community.

21 We do not function and will not be functioning
22 as an extension of the judicial system, legal system,
23 correction system. This is for people who realize
24 they have a problem and their family who would be able
25 to come and use that treatment center.

1 The changes in the physical plan are
2 relatively mild except for two important facts.

3 One is that we have spent a lot more money
4 than we might have initially anticipated. The second
5 is we have done a far better job in terms of the
6 quality of the improvements, which will save us money
7 for the long term.

8 The second is we don't see any reason for
9 waste. There is no reason to waste Boulware's
10 expertise capability, etcetera. To avoid that waste
11 we need to expand the treatment services so that
12 people from the public can come.

13 I can tell you that throughout the renovation
14 period there has been a lot of construction. People
15 coming there to work. Equipment coming to do things.
16 We have found that it has not presented traffic
17 issues. It's been a fairly straight forward process.
18 Through the excellent work of one of our board
19 members, who is Al Ingleheart, an engineer recently
20 retired from Texas Gas, but as a result the general
21 contractor, Lanham Construction, which has done a
22 wonderful job, as a result the project has been
23 completed on time and on budget.

24 So with your help we will take this additional
25 God send of this additional capacity for people to be

1 able to come and participate in the treatment
2 services.

3 That's basically our case.

4 CHAIRMAN: Any board members have questions of
5 Mr. Craig?

6 MR. DYSINGER: I do, Mr. Chairman.

7 Mr. Craig, how do you anticipate, how do you
8 and your clients anticipate this change? As I
9 understand it, you're changing a little bit from the
10 original intent of having all live-in recovery to now
11 being a little bit more of a dare I say clinic. From
12 your point of view, how do you anticipate this change
13 impacting the neighborhood around you or do you? Am I
14 asking my question correctly?

15 MR. CRAIG: I understand.

16 Our facility on Hall Street already has this,
17 have certain services that are available to the
18 public. Those of you not familiar with Hall Street I
19 hope you would visit, but those buildings started
20 being built in 1921 and were added to in 1931 and
21 1955, I believe. To say that they're out of date
22 would be an understatement. There's no off-street
23 parking at all. There's no wall. There's no nothing.
24 We use the available street parking around us.

25 I think I can say we have not at any time had

1 a parking complaint, a traffic complaint, a tie up
2 complaint at Hall Street. I want you to understand,
3 Hall Street is a microcosm compared to the property we
4 have on Wing Avenue. I don't think there's any
5 legitimate reason to anticipate that there would be
6 any different result when we expand into Wing Avenue.

7 By the way, something people seem to keep -- I
8 want to get straight. Hall Street will continue to
9 operate. Its services will be streamline to be in
10 sequence with what goes on at the monastery so that
11 people who come to the monastery to live will tend to
12 have already been with us anywhere from a few weeks to
13 two or three months. There are a number of advantages
14 of having that stage approach.

15 The traffic pattern with respect to Wing
16 Avenue is wildly better than it's been at Hall Street.
17 The parking area within the wall is wildly better than
18 the parking arrangements of Hall Street.

19 If you take the population density at Wing
20 Avenue, it is wildly better meaning lower, than it is
21 at Hall Street. I don't believe there is any
22 legitimate factor that would indicate that Wing Avenue
23 wouldn't be even more placid than the Hall Street
24 operation has been which has had no adverse events. I
25 asked particularly whether it was all the

1 construction, all the traffic in and out and all of
2 the trucks, etcetera. There simply has not been an
3 issue in terms of traffic.

4 We do want to add those ten additional parking
5 spaces that are on the crest of a hill very near the
6 treatment annex. The reason for that is that being 61
7 at this point I now realize that being closer when I
8 walk someplace, particularly on the crest of a hill,
9 is nice. So we wanted a few more parking spaces where
10 people could easily go in and out of that building.

11 That's a long explanation. I think things are
12 better in every respect.

13 I know that there was earlier some concern
14 that there would be parking down on Benita. Benita is
15 a side street. We will close that off entirely or
16 not, whatever your choice is. The fact is the only
17 time that anybody will be going through Benita
18 entrance and exit would be if there was an emergency
19 and we needed to do that or if there was some sort of
20 large public event to which the entire community would
21 be invited, which would be appropriate sometimes.

22 MR. DYSINGER: Also, Mr. Chairman, this
23 Conditional Use Permit request and the earlier
24 Conditional Use Permits that we approved, everything
25 was kind of based on the 90 residents number.

1 This change that you describe, do you still
2 see yourself serving 90 lets call them clients or are
3 you going to look at people who are perhaps are not
4 there all the time differently? What I want to avoid
5 is -- we've always thought of this as a 90 resident
6 proposal. I just want to avoid a situation where
7 maybe a year from now we're looking at 200, 250
8 clients and it complicates the whole issue.

9 MR. CRAIG: No. The number of people who will
10 live there, go to bed there, wake up there, etcetera,
11 is 90. The number of staff members projected are the
12 same as in the earlier filings with you. We will have
13 people -- if you had 5 to 7 people in a room, you may
14 well have 15 people in a room for certain sessions.

15 We have a cafeteria and dining facility that
16 initially is designed to feed 38 residents and to feed
17 staff and to meet, if someone coming to treatment
18 services there is there at breakfast time they'll eat.
19 If they're there at noontime, they'll eat. If they're
20 there at dinnertime, they'll eat. Ultimately that
21 food serving capability will be for the 90 residents
22 who live there, for the staff as they are there from
23 time to time, and others who may be there at a given
24 time at meal time.

25 There's a good thing about food. If you do it

1 well, people will come. To give you an example. The
2 bar association here in town currently meets for lunch
3 once a month at Boulware. You don't have the whole
4 bar association, but they're all invited. They come
5 when they wish and they are familiar with what we do
6 and get to look at what the expansion is. It will be
7 that kind of thing. We're not running a public
8 eatery.

9 Ninety residents is it and will be it. This
10 is not a segway into some large population.

11 MR. DYSINGER: My question was specifically,
12 in fact, you use the term extra capacity. While
13 you're at this point at phase one with 38 residents
14 you have this extra capacity. As the 38 grows closer
15 and closer to the 90, the implication seems to be that
16 there will be less extra capacity and it will hover
17 around that 90 number or is it your intention now --
18 was extra capacity the term that you want to use with
19 all that implies?

20 MR. CRAIG: It doesn't have to do with -- the
21 extra capacity has to do with the number of people who
22 can come and participate in treatment services.

23 People live with us for up to two years. Even
24 with a population of 128, 90 on Wing Avenue and 38
25 over on Hall Street. Even with that total residential

1 population. People come and go through their initial
2 work to start restoring their life, their ability to
3 earn. You would be shocked if you came to Boulware on
4 Hall Street. Most all day, most every day there's
5 very few people there because the people who live
6 there are working various places.

7 That will be true as well on Wing Avenue.
8 People will go to work. Come back. It's a home.

9 The number of people actually participating at
10 any given time in recovery treatment services in that
11 treatment annex who are also living there may well be
12 in the neighborhood of 20 to 25.

13 The treatment annex can easily accommodate
14 double plus of that. Those phases rather than sitting
15 there wasting that time and energy we will permit
16 people from the public to come.

17 I didn't mean to throw you off base. It's no
18 excess capacity in terms of living.

19 MR. DYSINGER: Got you.

20 Mr. Chairman, I have no other questions at
21 this time.

22 MR. CRAIG: We're happy to respond to any
23 other questions or concerns.

24 MS. DIXON: So you're saying that people who
25 come from the community who voluntarily recognize the

1 need come to participate in say support groups or some
2 sort of interaction with the staff there, with the
3 staff as far as in recovery?

4 MR. CRAIG: That's right. To give you an
5 example.

6 It's the end of phase two and we have 90
7 people living there. We have 38 people living on Hall
8 Street. As I'm saying to you, the number of people
9 that live with us that are participating on a daily
10 basis let's say is 25 people. You've got four or
11 five, six rooms of various sizes. It's an amazing
12 facility. You need to see it.

13 Now let us suppose that John Smith or it could
14 be Mary Smith, but let's say it's John Smith working
15 at Acme Witchett Company has a problem. His employer,
16 Mr. Acme, knows it. Says, if you don't fix that
17 problem you're going to be fired. We are not going to
18 have you with a drug problem. He says, what do I do?
19 The employer says, go someplace where they treat this
20 disease. So he starts calling around. He would find
21 out what is true in Owensboro, Kentucky. He would
22 find that there is not a licensed substance abuse
23 treatment service that operates on the big treatment
24 centers. So he says, I need to go to Hazelton, as an
25 example. How much does it cost? It cost about

1 \$10,000 a week. Close to \$40,000 for 28 days.
2 Mr. Smith would say, I don't have \$48,000. Mr. Acme
3 who owns the witchett company would be able to say,
4 that's all right. You go to Boulware's treatment
5 facility, you will pay what is appropriate given your
6 economic circumstances. Someone completely on
7 assistance may pay the price of a pack of cigarettes
8 or Acme Witchett Company may have an employee citizens
9 program. Mr. Smith might get there any number of
10 ways. The important point is that Mr. Smith will have
11 available the type of services that you would hope
12 would be available in our community, but he will not
13 be excluded because he's poor or has made a lot of
14 unwise choices. He would be able to participate.

15 Now, the reason I keep looking back here is
16 these people are more expert, but that's basically
17 what's involved in it.

18 There was a time we had those types of
19 services available at our hospital. Most hospitals
20 have found that they can't do that and maintain it.
21 That's been true in Owensboro. It was true in
22 Henderson. I think in Evansville at this time.
23 Program after program after program has gone under.
24 That's because it requires a different approach to it.
25 We want to have that available in this community.

1 By the way it might help Mr. Smith who lets
2 say is earning 45,000 a year to be sitting next to a
3 person who has lost it all. It might be a real good
4 way to get the obvious lesson. Maybe I've got to
5 change my lifestyle.

6 CHAIRMAN: Any other board members have any
7 questions? I have one, but I'll ask the board members
8 first.

9 MS. MASON: I still don't think I quite
10 understand. You're saying that it will have a
11 capacity of 90, but are you saying 25 more people
12 might be coming and going?

13 MR. CRAIG: Whatever is appropriate.

14 MS. MASON: Because I know you said part of
15 the 90 might be doing the rehabilitation. Will that
16 be people coming from Wing Avenue? Did I understand
17 that?

18 MR. CRAIG: They wouldn't necessarily be
19 coming from Wing Avenue. They could be coming from
20 anywhere in the community. They could be coming from
21 Spring Bank.

22 MS. MASON: What are you saying? What is the
23 maximum capacity of extra people that you can
24 accommodate?

25 MR. CRAIG: That is there during the day?

1 MS. MASON: For this rehabilitation, yes.
2 Maybe that's what -- that helps us to know about the
3 traffic coming and going.

4 MR. CRAIG: That's something you can't answer
5 in advance. Our experience so far has been that it
6 hasn't caused any traffic or other types of issues in
7 a much more congested place like Hall Street. Wildly
8 more congested place like Hall Street.

9 If we make that available at the Wing Avenue
10 campus, the number of people who will be coming will
11 depend on how many residents may be at any given time.
12 What are the spaces available for reasonable class
13 size?

14 This treatment doesn't involve bottles hanging
15 up above beds or anything. It is an educational
16 counseling group meeting kind of process. So it's not
17 medical in that sense.

18 We wouldn't know at any given time. We know
19 that the amount of excess capacity will be substantial
20 given how long people live with us after they have
21 completed their treatment phase. The number of people
22 that actually live with us at any given time there is
23 going to be 90. The number of people who may come
24 there during the day to participate otherwise isn't a
25 fixed number. It would depend on what works.

1 CHAIRMAN: Mr. Craig, April 7, 2005, you were
2 approved to operate a homeless shelter for serving 90
3 residents.

4 MR. CRAIG: Yes, sir.

5 CHAIRMAN: September 7, 2006, we amended that
6 for some walls, landscape. It hasn't been raised.
7 You've been approved for 90.

8 MR. CRAIG: That's correct.

9 CHAIRMAN: Your request before us today it's
10 still not being raised. It's still 90.

11 MR. CRAIG: That's correct.

12 CHAIRMAN: That's all you're approved for.

13 MR. CRAIG: That's right. To be responsive to
14 this question.

15 Let's say it's 10:00 on Wednesday morning.
16 Out of the 90 people who -- this is after phase two,
17 but of the 90 people who live there, it is likely that
18 65 or 70 of them will be going to various places.
19 Most of them don't have cars. They ride buses or
20 they're picked up or dropped off. You have this
21 treatment program operating in this treatment annex.
22 That is this building right here. Let's say at that
23 given time you can have 25 slots of people who might
24 participate in substance abuse recovery. They would
25 come there during the day at times that are set up for

1 various type of like a school, classes, that kind of
2 thing. They'll leave. They're not residents, but
3 there are people who have come there to participate in
4 that program during the day.

5 It's inconceivable to me that during the day
6 you will have over 40, 50 people in a 28,000 square
7 foot space, but those people, a lot of them are there
8 just during the day. They're not there as residents
9 living there.

10 CHAIRMAN: We have not approved that. We
11 approved for 90 residents.

12 MR. CRAIG: That's right. That's why we're
13 here.

14 CHAIRMAN: If you have those 90 residents
15 there and then you want 30 or 40 additional people
16 coming in during the day, this board hasn't approved
17 that and you haven't made an application to do that.

18 MR. CRAIG: That's what the application here
19 is to do. The application I have amended -- what
20 we're asking for is an amendment to our Conditional
21 Use Permit to permit us to conduct those treatment
22 services and make them available. The treatment
23 services that our residents would normally participate
24 in also available to people who choose to come from
25 the public.

1 CHAIRMAN: What is that number?

2 MR. CRAIG: It's not fixed. It will depend on
3 how many chooses. It's not hundreds. It will be what
4 is appropriate given the class sizes of the treatment
5 program.

6 CHAIRMAN: Assuming that you had the 90
7 residents and then 50 to 80 people showed up, do you
8 have the capacity to handle that?

9 MR. CRAIG: You wouldn't have the capacity to
10 handle that many people coming from the public.

11 CHAIRMAN: So what number are you asking for
12 above your 90 residents?

13 MR. CRAIG: It will depend upon how many
14 people can participate effectively in those treatment
15 programs. That is not a fixed number. We're not open
16 to the public like Wal-Mart, everyone wants to come
17 in. People would have to be accepted into it.

18 On the other hand, if at any given time you
19 had 15 of your residents participating, then the
20 number of people who would participate from the
21 community would be higher. I can't give you a fixed
22 number.

23 CHAIRMAN: But you're asking this board to
24 approve a number. I don't see how we can approve
25 this. If you don't put a number in this application

1 how can we -- number one, you might not even have
2 parking for it. You might not have the capacity for
3 it. What is the limitation?

4 One of the neighbors, we still have to listen
5 and hear from the neighbors. I'm fixing to ask for
6 that in just a minute. I want to hear from the
7 neighbors. There will be additional questions.

8 MR. CRAIG: Sure.

9 CHAIRMAN: You're asking for an unknown
10 number.

11 Mr. Noffsinger, do you have any comments on
12 that?

13 MR. NOFFSINGER: Mr. Chairman, the applicant
14 has stated in the application that the treatment annex
15 would easily accommodate 40 to 50 people; however,
16 the applicant has not stated a specific number in the
17 application.

18 It would be in my opinion within the rights of
19 this board to consider a particular number given the
20 nature of the parking and the site. That's what this
21 board is here to do. Is to consider a Conditional Use
22 Permit to ascertain whether or not this is compatible
23 with the neighborhood.

24 Now, we've done that in the past up to this
25 point, but tonight you're considering basically two

1 things. The access to Bonita, the additional parking,
2 off-loading area, and then the opportunity for folks
3 from the public to come in for treatment. The
4 applicant has stated that number the annex could
5 handle is 40 to 50. I think what you've got to figure
6 out and work out with the applicant is what number is
7 acceptable to integrate this into the neighborhood.

8 MR. CRAIG: Better response might come from
9 our chief executive officer and staff level and that's
10 Becky Hagan who is present. Let me ask her to respond
11 to this situation.

12 MR. SILVERT: State your name, please.

13 MS. HAGAN: Becky Hagan.

14 (BECKY HAGAN SWORN BY ATTORNEY.)

15 MS. HAGAN: I'm not usually the one who tries
16 to clarify things. So, Bill, thank you for the
17 introduction. I'll try.

18 The reason we're having difficulty answering
19 your question is because of what we are actually
20 asking for you to approve. As an example, we
21 currently do a group counseling session for our
22 residents on Hall Street. The name of it is Marijuana
23 Education. It's a six week course. One hour one day
24 a week for six weeks. What we are asking is that we
25 take that course, it's a course that so many families

1 call and ask for. Do you have services to educate
2 families? This addresses the topic of I have a
3 teenager, I know we're getting into trouble. Can you
4 help me? What can we do? That course is one example
5 of what we would like to offer.

6 In fact, one of the first things we would want
7 to do is to offer that group to the public. In that
8 case, it will be one group, once a week, an hour and a
9 half each time it meets for six weeks. We're going to
10 limit the size to 20 people for that group.

11 Now, at a later date when we are operating at
12 full capacity, we may also say, wait a minute, there's
13 Tuesday night and we have a group on methamphetamine
14 that families might want or some other topic that this
15 community is asking us to provide education services
16 on. So we may open another one for Tuesday night and
17 another one for Friday. That's what we're asking.

18 So when you ask how many people, it's very
19 difficult to name that number of total people say in a
20 week's time or at any time frame that we may have.
21 Because the fact of the matter is we may also have say
22 there are a group of folks who want the marijuana
23 education group, but they work the night shift so they
24 want it in the morning. I don't know that we would do
25 this, but it is conceivable that we would say, okay,

1 we'll do this offering once in the morning and once in
2 the evening.

3 I hope that helps you to understand why it's
4 difficult to name the number of folks we may be
5 talking about. Because there are people who live in
6 our community who call us daily saying, help, help,
7 help. Are there any education courses available?

8 However, however, we will always be limited by
9 the number of staff, the number of rooms that we have
10 available, the number of parking slots that we have.
11 I don't know that I can name that number, but we can't
12 just expedientially say, Owensboro, come to these
13 education groups. I don't know if that explains
14 anything.

15 MR. DYSINGER: Mr. Chairman.

16 Ma'am, the nature of what you all do does not,
17 for me anyway, does not factor into this really at
18 all. I come at this looking at you guys like any
19 other business that would cater to a certain amount of
20 clients. It doesn't really matter to me what that
21 service is. Part of our responsibility is to gauge
22 the impact on the neighborhood from the traffic that
23 your business will generate. The times that we have
24 looked at your all's, that you guys have come before
25 us before 90 people. That's a number. I can get my

1 head around it and I can make a decision, a judgment
2 on the impact that that is going to have on the
3 neighborhood or the community or an area, whatever.

4 What you guys appear to now be telling us is
5 that there is no, the sky is really the limit. I
6 cannot make a decision on the impact you guys are
7 going to have without some idea of -- just like we had
8 the Head Start earlier. It was how many kids and
9 hours of operation. It's pretty cut and dry for us.
10 Unless I am sorely misunderstanding what you guys are
11 saying, I am sensing a fundamental change in the
12 conditional use that you guys are requesting, which is
13 fine. We can look at that. That was not my
14 understanding coming in to tonight. My understanding
15 was that we were talking about some more parking
16 spots, Bonita Avenue and a loading dock. I'm getting
17 the feel that we're in a completely different area
18 here.

19 I said the other stuff to help you understand
20 why this suddenly seems like a big deal. For us it's
21 all about numbers and impact on the neighborhood.

22 MS. HAGAN: Right. As I said, the numbers for
23 us, our limitations will always be the number of staff
24 to address the groups or sessions that we're wanting
25 to offer to people and by our parking spots, and what

1 other groups are going on, you know, at any given
2 time. So it truly can't be expediential. It is
3 probably fewer than I would hope.

4 Once again if there would be a need to limit
5 how many, we can, if there's a way to determine that.
6 I don't know how it will be determined when we're
7 talking basically about one hour slots. Our parking
8 lot limits us. I don't know the street limitation.

9 MR. NOFFSINGER: Ma'am, could you give us a
10 number maximum in that treatment annex at any one
11 time? That might help.

12 MS. HAGAN: There will be a building capacity
13 that certainly can't be broken either. That would be
14 a given. There will be codes that required
15 limitations from that aspect.

16 MR. NOFFSINGER: Do you have a number? At
17 this point we're looking for a number.

18 MR. CRAIG: We can agree to a number and we
19 can limit ourselves in that respect. Then we can see
20 what the experience is and if we then need to
21 reconsider it, we can come back and say, this is what
22 the capacity has been. This is what's gone on and
23 this is what's happened in the interim.

24 Let us suppose that at this point the total,
25 what you really want is the total number of people who

1 may be there during the day in a treatment or
2 educational mode. At any given time the participants
3 in that number may be resident or non-resident. Let
4 us assume that we then use let's say 50 as the maximum
5 number of people who will be participating in that
6 treatment annex at any given time. Period. Now,
7 that's people who are using it during the day. It's
8 not open all night. It is a -- we can live with that
9 because we can then demonstrate what the experience
10 is. Then come back if we're saying, you know, we're
11 sitting here with X experience. Change that number.
12 We would then have a background for changing that. If
13 that is helpful to the board, we're willing to do
14 that.

15 MS. MASON: Is that 50 in excess of the 90?

16 MR. CRAIG: That's 50 people who are
17 participating in the treatment annex in a given day.
18 Some of them may be members of the 90. Some of them
19 may not.

20 My point is you don't have the 90 people there
21 the vast majority of the daytime.

22 MR. PANTLE: You're beating all the way around
23 us. There's a number of 90. Now you're going to add
24 40 to it. That's 130. You've given us a number of
25 130. We need a number before we can make a decision

1 on this.

2 MR. CRAIG: What you're really talking about
3 is a maximum number of people at the facility at any
4 given time in the whole facility. Because what you're
5 worried about is people coming in and out.

6 MR. PANTLE: Total figure.

7 MR. CRAIG: I think we can certainly agree
8 that at no time, other than staff, will there be more
9 than 120 people located there. Period. Total.
10 That's easy. The reason it's easy is this, I'm not
11 being flipped. The reason it's easy is that the 90
12 people who are there overnight and leave the next day
13 and are gone all day, the vast majority of those
14 people are going to be gone all day.

15 If we had 40 or 50 people involved in
16 treatment, they would not be there at the same time as
17 the vast majority of those 90.

18 So if you want a maximum occupancy of the
19 entire facility, we can live with 120 easily. Easily.

20 Does that help, sir? I'm trying to be helpful
21 to you.

22 Our staffing, as we were earlier estimating,
23 if you want to set an overall capacity of people there
24 at any given moment, that's easy. The only addition
25 to that 120 would be staff, which you have the figures

1 on.

2 CHAIRMAN: You're saying the max at any one
3 time is 120?

4 MR. CRAIG: Right.

5 CHAIRMAN: Plus staff?

6 MR. CRAIG: Plus staff.

7 CHAIRMAN: Staff is normally what?

8 MR. CRAIG: It's usually around 18. Can be as
9 high as 22.

10 CHAIRMAN: Now we're looking at 138 people at
11 one time.

12 MR. CRAIG: Absolutely. I think that's easy
13 to do. We can live within that requirement. At the
14 six month intervals we can come and discuss with staff
15 what our experience has been and anybody else.

16 MS. DIXON: But your actual stay there, live
17 there at night, for instance, would not exceed 90?

18 MR. CRAIG: No, it will not exceed that.
19 That's correct.

20 MS. MASON: And you're asking for the increase
21 in parking space is how many parking spaces will you
22 have total?

23 MR. CRAIG: Total 56 parking spaces. We have
24 -- those not familiar with it should mention, we have
25 bought this corner property right here. We own that.

1 We have people that live there. They're usually
2 office staff people. We have that entire square.

3 MS. DIXON: What percent of your actual
4 residents have automobiles?

5 MR. CRAIG: About one in ten. That has been
6 our experience forever. About one in ten.

7 CHAIRMAN: Mr. Craig, we've covered quite a
8 bit. I think we need to hear from the neighbors, get
9 their concerns and comments, questions. If you will
10 yield, I'm going to ask the neighbors.

11 Anyone here wishing to speak on this item in
12 opposition or questions or comments, please come
13 forward.

14 MR. SILVERT: State your name, please.

15 MRS. EMBRY: My name is Donna Embry.

16 (DONNA EMBRY SWORN BY ATTORNEY.)

17 MS. EMBRY: Good evening, Mr. Chairman and
18 Board.

19 As I stated, my name is Donna Embry. For over
20 13 years my husband and I have lived at 412 Geary
21 Court, which is only three houses from the former
22 Passionate Nun Monastery.

23 I'm standing before you now in response to
24 Boulware Center Mission's proposed changes to the
25 Conditional Use Permit that was granted on April 7,

1 2005 by the Owensboro Metropolitan Board of
2 Adjustment.

3 Three changes requested by Boulware include
4 the north gate and drive remain operable, expanding
5 parking and open to the public.

6 I know several quotes from the April 7, 2005
7 transcript by Mr. Bill Craig, Boulware's Board
8 Present, under oath to our neighborhood and Owensboro
9 Metropolitan Board of Adjustment pertaining to the
10 Benita Avenue entrance have probably already been
11 stated tonight. But to our neighborhood, they are
12 such a significant part of why we are here. I would
13 like to briefly quote just a few lines, again, if I
14 may.

15 "We will maintain in a very real sense, we
16 will maintain the property in as cloister of a fashion
17 as it always was. Maintaining the walls. We are
18 going to shut off and construct a wall across the only
19 paved exist that will go in and out on Benita. All
20 parking will be inside of our facility. We will
21 frankly be -- we will promote the idea of putting a
22 yellow stripe on our side of Benita Avenue. There
23 will not be traffic of anybody visiting us on Benita.
24 Everyone will be coming in on Wing Avenue."

25 You have a transcript that says that.

1 Mr. Craig went on to say, "The question was
2 asked about access in and out. We intend to have a
3 drive in and a drive out side by side Wing Avenue. A
4 lot of people don't understand our residents only one
5 of ten will have a vehicle. We frankly expect to have
6 at any time, it will be surprising if as many as 30
7 spaces are occupied, but if at any time all of our
8 parking will be internal, inside our walls."

9 Again, you have a transcript.

10 Mr. Craig, those statements made by you
11 sounded really good that April 7th meeting in 2005,
12 and our neighborhood almost, I said "almost," believed
13 you. But as we knew you would do, once you got your
14 foot in the door, you would change.

15 Mr. Craig, just as we predicted, you now want
16 to go back on your word and keep the Bonita gate
17 operable, open the facility to the public and expand
18 your parking to non-residents.

19 Mr. Craig, please tell our neighborhood and
20 the Board of Adjustments what is the truth.

21 Mr. Craig and Boulware also requests an
22 amendment to its Conditional Use Permit for the Wing
23 Avenue campus to permit it to provide treatment at
24 that location to individuals in the community who are
25 not residents.

1 A small quote by Sue Fowler, Boulware's then
2 board president, in the Wednesday, September 1, 2004,
3 Messenger-Inquirer article titled, "Boulware's Planned
4 Move Worries Neighbors," the facility would not
5 contain anything that would generate a large amount of
6 traffic.

7 We are not confused. By opening any Benita
8 Avenue entrance to this facility to the public will be
9 more people and more people will generate more traffic
10 in and out of our narrow neighborhood streets. Fire,
11 police, trash pick-up, school buses and ambulance
12 services will have limited access because of
13 Boulware's open public meetings as well as whatever
14 else traffic they're proposing will generate.

15 Mr. Craig initially stated on April 7, 2005,
16 it will take \$1 million and six months to complete
17 this project. It is now three and a half years and
18 \$2.7 million later with only the first of three phases
19 just completed. No housing for the homeless. Just
20 meeting areas.

21 The next phase will be housing costing
22 approximately 1.3 million with the total estimated
23 cost of at least how many more million? Does Boulware
24 have the money now for completion of this monumental
25 project? Where will the money come from and how many

1 more non-profits will close their doors because of
2 Boulware's glutinous fund raising?

3 Will Boulware be able to support this
4 multi-million dollar facility when Recovery Kentucky,
5 a similar treatment program for substance abuse now
6 being built on Veach Road? This Board of Adjustment
7 is very familiar with Recovery Kentucky.

8 With inconsistencies, misleading statements,
9 broken trust and now these new proposals, Mr. Craig,
10 Boulware and its representatives has once again showed
11 me, our neighborhood they cannot be trusted. They
12 could not be trusted in the past. Cannot be trusted
13 now. Therefore, how can we trust them in the future
14 to do as they say as proven by these current issues
15 Boulware has brought before this board tonight?

16 We are absolutely opposed to the proposed
17 ingress/egress use of Benita Avenue entrance, any
18 expanded parking and a change from homeless shelter to
19 substance abuse as well as being open to the public.

20 When deciding on Boulware Center Mission's
21 Conditional Use Permit changes, we please appeal to
22 you to decide no on Boulware's proposed issue. We
23 feel for the concerns and safety of our neighborhood.
24 Thank you.

25 CHAIRMAN: Anyone else like to speak?

1 MR. SILVERT: State your name, please.

2 MR. DARLING: Robert Darling.

3 (ROBERT DARLING SWORN BY ATTORNEY.)

4 MR. DARLING: I'm a current resident of 414
5 Geary Court.

6 I have also submitted a copy of my statement
7 and the power point that I'm about to do for the
8 record.

9 Tonight I would like to oppose Boulware's
10 latest proposal before this Board of Adjustment. I
11 would like to show a brief power point of the
12 objections of my neighborhood.

13 This is my neighborhood before Boulware
14 entered. Nice quiet streets. All home owners.
15 Someone living in every house. Everybody knows
16 everybody.

17 This is the proposal if it is adopted. This
18 is my neighborhood after. Super busy streets. Lots
19 of traffic 24/7, abandoned houses, lots of strangers,
20 lots of police calls.

21 Do these slides not look familiar? They
22 should as these two slides were presented at the first
23 Board of Adjustment hearing before Boulware almost
24 four years ago. It seems we were right then about
25 Boulware's plans to cause traffic congestion in our

1 neighborhood.

2 The monastery property is completely surrounded
3 by homes and most of them are home owners.

4 The latest proposal is to put 32 men in this
5 chapel/dorm. With our current fire codes the exit
6 doors to this dorm cannot be locked, which means lots
7 of movement in and out of the closest exit to Benita.

8 Will Bill Craig be using this exit to save him
9 ingress into the chapel as it will be the closest. He
10 says he doesn't want to walk as much as he used to.

11 Let's look at the closest gate to the chapel
12 dorm. Lovely gate, isn't it? Real high level
13 security there. And with having up to 90 men on this
14 site or even 32 security becomes the most important
15 issue. Of course, they may shore up this gate, but
16 remember this wall is only six foot high per code.
17 Anyone wanting to enter or leave, of course, uses the
18 shortest distance.

19 This neighborhood has a high level of
20 single-family home owners. A lot of them seniors.
21 With all these openings on Bonita means a lot of
22 clients wondering around. How would you feel about
23 having 90 men living next door?

24 This is another high security gate beside the
25 vehicular gate on Benita. All the requested parking

1 lots mean a lot of traffic coming and going a lot.
2 When Boulware was in the homeless business, they said
3 only one in ten might have cars. Now with the shift
4 to paying clients, almost every one of them will have
5 transportation. Don't forget the extra meetings,
6 family, friends and, of course, the employees.

7 If this proposal is approved to open this
8 gate, we would see several hundred extra car visits a
9 day to my neighborhood. Several hundred. Would this
10 not normally change the character of the neighborhood?
11 Something I believe you have to review. I think you
12 discussed it tonight. I mean why would they need more
13 parking if they're not having more car visits. More
14 cars mean more people.

15 Let's look at the gate they want to open. See
16 any problems? It's flooding and raining and water is
17 pouring out of the drive. Flooding is always a
18 problem in Owensboro and allowing extra parking on
19 this property will only cause extra flooding in the
20 neighborhood as they have no way to contain this
21 runoff in any retention ponds or such.

22 What happens when 150,000 gallons comes off
23 this property like it does in every two inch rain like
24 I photographed here.

25 This is a picture beside one of the gate and

1 all this extra runoff from their site is causing more
2 filth in the sewer system.

3 Beside filth we have lots of flooding. Of
4 course, not all of this water is Boulware's, but with
5 extra blacktop asked for it will still make this
6 problem worse.

7 By the way you really do need to stay out of
8 this water because it is crawling with Ecoli. In
9 other words, because of the combined sewer system this
10 also has your toilet flushings in it. Please notice
11 the water is covering the school yard too. Ecoli can
12 live for several days out of the water, which means
13 school children playing in this grass several days
14 later could become sick or die. Does the term
15 tomatoes mean anything? The EPA is looking at our
16 storm water to see if we need to treat it before it
17 reaches the river. Very costly. So every gallon that
18 doesn't soak in to the ground because someone puts in
19 asphalt parking could wind up costing us all higher
20 sewer rates.

21 Let's look at the problem using Bonita as an
22 entrance or extra or parking.

23 The street is only 24 feet wide and should be
24 marked as no parking on one side as per city
25 ordinance.

1 You can see in this picture there is no way a
2 car can pass or any emergency vehicle could pass on
3 this street.

4 This is a 12 foot high wall on top of a 12
5 foot high bank on the south side of Bonita.

6 Oops, you better stay out of the street
7 because you will be hit. I have personally been
8 struck by a car while trying to cross here and to this
9 day still have little feeling in my right foot. This
10 is one of the most dangerous intersections in the
11 city. You are totally blind when you exit off Bonita
12 onto Wing.

13 This is your view south of the stop sign at
14 Bonita. If you're sitting at the stop sign where you
15 should be, that's your view to the left.

16 This is your view four feet out in the street.
17 Notice you cannot see oncoming traffic.

18 Let's look at the cost of this project so far.
19 Total cost probably, if it doubles like they've
20 doubled what they've done before, it's going to be
21 almost \$6 million. Who knows how much.

22 Executive Inn would have been cheaper to buy.
23 They could have bought and given 125 new homes with
24 the money that they've spent.

25 If they put the parking in, it will flood the

1 neighborhood more. They don't have containment ponds.
2 There will be heavy vehicular traffic, have dangerous
3 entrances. It's open property. Weak security and it
4 will only have men staying at night in the units.

5 This is a statement Bill Craig made before the
6 Owensboro City Commission on April 5th.

7 "Sometimes one should look at what one really
8 is saying rather than just the words coming out of our
9 mouths. They should stop and reflect on what's really
10 being said."

11 Our neighborhood is not responsible to
12 guarantee Boulware's success. If they keep changing
13 and trying to find a funding source that works, will
14 they become a Wal-Mart next? That makes the third
15 change since they've started in our neighborhood. You
16 know, it's one thing to be next-door to Wal-Mart and
17 another thing to find yourself suddenly in the middle
18 of Wal-Mart's parking lot. That's one reason we
19 oppose this change because of use of Boulware's
20 entrance and extra parking.

21 This restructuring means that there is no
22 longer, this is no longer your mother's Boulware.
23 They are now going full-time into the substance abuse
24 treatment business.

25 When Judy Dixon made her original motion that

1 it was because she had a similar center next to her,
2 it was the Pitino Shelter. It looks like Boulware is
3 getting out of the homeless care and into a more
4 profitable model. What is now going to become of the
5 homeless?

6 The one thing I would ask is that if you do
7 not approve the gate, that the gate be sealed because
8 I'm concerned with the gate to be suddenly left open
9 for six months at a time. We'll have to complain
10 before the gate is sealed or shut.

11 Another thing I would like to ask the
12 chairman. If he counted the people in this room
13 tonight to see whether we exceed the requirements for
14 this room? Because no matter what number they say,
15 who is going to count and who is going to count
16 everybody in the facility? There's no guarantee to
17 the neighborhood that this won't exceed it.

18 I realize you have to have a number, but I'm
19 not quite sure that you, you know, we could find a
20 workable number that the neighborhood would trust.

21 So for all these reasons I ask that you not
22 approve this proposal tonight. Thank you.

23 CHAIRMAN: Anyone else like to speak in
24 opposition?

25 MR. SILVERT: State your name, please.

1 MR. KIRTLEY: I'm Bob Kirtley.

2 MR. SILVERT: I recognize the oath you took as
3 an attorney, Mr. Kirtley.

4 MR. KIRTLEY: I live at 1500 North Highland
5 Avenue which is a block over from Boulware.

6 What it was, let me just say from my
7 perspective. I served proudly on Boulware's Board for
8 several years before I was asked to be removed. I was
9 removed for question cost, things of that nature I'm
10 afraid.

11 I don't know if you understand. Boulware
12 founded its fame in this community based on 12 step AA
13 at no cost. Each one to each one. It was a helping
14 thing. A very created thing. Boulware founded its
15 popularity and its honor of providing homeless shelter
16 to people. Letting them get their head back together
17 and then go out and work in the community. When they
18 were able to go alone, they would have whatever money.
19 They would not be charged a thing. This was probably
20 the most fantastic program.

21 Now, that has had a remarkable and a dramatic
22 change. The clinical side of rehabilitation cost
23 money.

24 When I was on the board, the board allocated
25 \$50,000 from when the hospital dropped the clinical.

1 It was agreed by the board that they would drop it if
2 it didn't work.

3 Well, this is when I was removed from the
4 board, I guess. I don't know.

5 Because I'm a neighbor that wanted this to
6 work. I was very supportive of it, but I wanted a
7 lock and key facility. I'm afraid what I see now is
8 totally not a lock and key facility by any means.
9 We're talking numbers. You said they had 90. Bill
10 said 120.

11 I know Bill's heart is totally good in this
12 and I respect him for that.

13 But you say things that you cannot comply
14 with. You say things that you cannot realize. What
15 are the aftermath of this?

16 Now we have the chapel, the sanctuary's
17 Mission on the Hill. It's a dormitory for men only.

18 Boulware was founded on a family. Anybody
19 could come there. Men and women. In fact, when they
20 came into the community or initially to say they were
21 joining us, they were young girls were coming around
22 hanging out folders for us to come to some event.
23 That's it. That's Boulware. Boulware is fabulous.

24 Now Boulware has gotten to this point where
25 it's clinical. I don't know how much clinical is

1 taken place.

2 Now, there's two different things here.
3 Clinical is like Hazelton, 28 days. It's intense
4 therapy, in-house therapy. The way it ought to be.
5 Having marijuana talks, that's a whole different
6 concept. That's just teaching. That is not a
7 clinical necessarily program. It's totally -- that
8 goes in conjunction with 12 step, AA.

9 I'm just saying the program is fabulous, but
10 the ideas are great, but the reality of this thing
11 it's taking the chapel, and it's no longer Mission on
12 the Hill. It's the dorm on the hill.

13 My greatest fear, and when I gladly joined
14 that group was that it be a lock and key. Now what I
15 see is a total building, a kitchen that's finished, a
16 dining room. That's the two floors on the main
17 structure. What I laugh about because I jokingly said
18 at one of the meetings, you know, I bet it will cost a
19 million bucks to retrofit the annex. Well, I think
20 those numbers are probably pretty accurate. We've
21 spent 2.7 million to date doing some internals. I
22 don't know if they've done the HVAC or the other
23 things for the main building, but to retro fit the
24 annex.

25 What this is and what it tells me is, clinical

1 has been working since 2004 or attempted to be
2 working. They should have specific numbers of what
3 they serve.

4 I do know that when I looked at the books one
5 meeting a month or two before I was asked -- I was not
6 renewed. That it had grossed \$600 to date in fees.

7 Now, this is another thing that you have to
8 understand. We're going from a free donation, no cost
9 to a person, to where you have to pay for service.

10 Now, granted if you're unable to and all of
11 this, but you pay -- it's generating tremendous cost
12 to maintain itself. That really was not Boulware
13 theory. It was simply you come there, you had a home,
14 get your life together, and you're fine.

15 I'm saying to you that I'm deeply concerned
16 that you have a two-story structure that only has
17 housing unit in the chapel for 32 people, male only.
18 That is what's in this application, I believe.

19 Now, you say you have this 90 figure. Why 120
20 when you're only going to have 32 people until phase
21 two is completed. Phase two may never be completed.
22 Starting in 2009.

23 Really I can remember, I've had two
24 anniversaries. It's always usually in September or
25 October when going into the facility. I don't mean

1 that in a bad way. I love Boulware. I also love my
2 neighborhood. I see what is happening is what I had
3 the greatest fear for. Good ideas that are not being
4 realized.

5 What they're saying and they want, let us have
6 the higher numbers and then we'll figure it out. They
7 right now have clinical or should have that at Hall
8 Street campus. They ought to be able to have the
9 numbers and be running on that. Ninety is more than
10 they will ever need for anything. I don't know that
11 you should approve a general public. Until they show
12 they can serve the people that they historically are
13 for. The homeless and the people that take up
14 residency. Let them have a test run of that. Then
15 come back here if it's working, if those programs are
16 working. That's your Hazelton. Inpatient 28 day type
17 program. Serious clinical rehab. And not meetings on
18 marijuana, which is good.

19 All of these people are my friends. I'm just
20 saying I now -- our community.

21 We're talking about how it's been draining
22 from other charities. Bobby Darling is say it's come
23 a bit. Well, it has to maintain the clinical. You
24 have to get money from somewhere to pay people to do
25 this type of work. It's totally visible where it

1 would not recognize Boulware today because it was
2 solely a 12 step and you brought in the vegetables,
3 you brought in and donated food, donated things and
4 went on. It was really a shoe string operation that
5 worked well. I bet everybody on that board -- I have,
6 I've taken food there in the past. Even before I was
7 a board member.

8 What I'm saying to you is, I think you ought
9 to deny that application to the public until there's a
10 track record established. Something more than an
11 estimate. Because I can tell you right now only 32
12 people -- 58 is the number -- that's 18 more than the
13 40 was asked for anyway because they only housing unit
14 for 32 people they say. So this 140 you're climbing
15 numbers that are -- I think it's right. What are you
16 going to do? Have a meter there? You're going to
17 have to take people's word for it fine or require them
18 to submit their -- not names because of
19 confidentiality, but have them submit their daily
20 attendance charts or numbers or something to keep a
21 handle on how many people actually attend and in what
22 capacity like that.

23 Because this is a neighborhood that would
24 welcome Boulware that Ms. Boulware started. This is a
25 neighborhood though that is, and I say that and it's

1 very convenient that I never did see in that
2 application where it's for emergency only as was said
3 today for the Bonita drive. That was a killer point
4 when this thing first come up here and it was done
5 away with.

6 Now the application didn't say anything for
7 emergency use. The application said to keep it open.
8 What I'm trying to say these people have a real
9 concern there. They're told something and something
10 different happens.

11 If Boulware is going to be a success, which I
12 wish it will be, they need to prove something now.
13 Prove. Prove through the operation of the programs
14 and do it. Then come back to this board. I'll vote
15 with them. I'll stand beside them, if they're proving
16 it. They're actually doing it.

17 This is premature by any stretch of the
18 imagination. I don't think that it hurts them in any
19 way to -- you can approve a loading lock and approve
20 -- I don't know about the parking. Bobby, you know,
21 this flooding thing. I'm not here on the water fall
22 and everything else like that.

23 But I do think offering this to the public is
24 a mistake at this time until somebody -- because
25 they've only been in the clinical business three or

1 four years. See, that's what you may not realize.
2 Boulware and even there it hasn't been operating.
3 We're not talking a long, 1921 track record or '31,
4 excuse me. We're talking only two or three years and
5 I know the first year it didn't do anything. It
6 exhausted \$50,000 the first three months of 2006. It
7 was going in the hole about 4,000 a month.

8 I'm just simply saying I feel that Boulware is
9 needed in this community, but it needs to prove itself
10 to you all and this community before it be allowed to
11 go further, as far as outreaching for the other
12 clinic. Thank you.

13 CHAIRMAN: Mr. Kirtley and Mr. Darling, you've
14 been critical in asking for a number and you should
15 know. We cannot enforce this permit if there's not a
16 number. If you go out there and if we get a call from
17 the neighbor who says there's 150 people out there, if
18 we didn't put a number on that, we can't say you're
19 not in compliance. We will revoke their permit.
20 Without a number we cannot do that. You should know
21 that. So we'll put that to rest.

22 Anyone else like to speak?

23 MR. SILVERT: State your name, please.

24 MR. FICKEY: I'm Mr. Fickey. I'm own the
25 adjoining property.

1 (HOWARD FICKEY SWORN BY ATTORNEY.

2 MR. FICKEY: I purchased the property that's
3 adjoining this particular piece of property. It has
4 nothing to do with this. It was sold to me under
5 false pretenses. The realtor told me this had nothing
6 to do with a drug rehab facility. This was a homeless
7 shelter for unwed mothers.

8 Had I known what I know now, I wouldn't
9 probably be in this neighborhood, but however I love
10 the home I purchased. I love the neighborhood. I
11 would like to see it like it is.

12 The facility -- can't stop the facility.
13 They're there. I can live with that, but to expand
14 it. I mean 90 people, 90 residents. Well, they leave
15 during the day, then another 120 can come in and
16 somebody said there would be a morning session and
17 then maybe another evening session. So that 120 that
18 leaves becomes another 120. Now we're talking you
19 need a parking garage. Not just some more parking
20 spots sounds to me like. Where is this going to stop?
21 It just keeps expanding and expanding. They'll be
22 tearing down the wall between me and them so they can
23 have room for expansion. I think they should draw a
24 line somewhere.

25 I wish I knew more about this facility. I

1 know that there are a lot of drug problems out there.
2 It's good a thing that they can get treatment. I just
3 think they should definitely get their ducks in a row
4 and come up with some limited -- if there's only going
5 to be 90 people there and they're residents and they
6 leave, let 90 more come in. Don't break it up to 140,
7 120. Ninety sounds like an awful lot of people in
8 that neighborhood. You have a kitchen that people
9 come in and if they want to eat there, then they can
10 eat while they're there and leave. They don't have to
11 be residents to eat in this kitchen. Pretty soon it
12 will a soup kitchen. They'll come up at 5:00. You'll
13 see them dragging in there with their bed rolls and
14 get a meal and then they have to find someplace to lay
15 down and sleep. It sounds to me like it's just going
16 to get out of hand. I just want to be recognized as a
17 concerned neighbor even though I don't have all the
18 answers. I don't profess to have the answers. I
19 would like to hear some of the more definite answers
20 before you vote on something that just sounds like
21 it's whipping a dead horse.

22 That's all I've got to say. I'm proud to be a
23 member of this neighborhood. I would like to see it
24 be a livable neighborhood. Thank you.

25 CHAIRMAN: Thank you for your comments.

1 Anyone else?

2 (NO RESPONSE)

3 CHAIRMAN: Anyone like to speak before I call
4 Mr. Craig back?

5 (NO RESPONSE)

6 CHAIRMAN: Mr. Craig, would you like to come
7 back to the podium and address some of the issues and
8 concerns?

9 MR. CRAIG: I thought I made it clear earlier.
10 That we do not have an issue about closing that gate
11 on Bonita Avenue. The only reason we put in for it to
12 be open was at the last meeting we understood that
13 there were objections to it being closed. So we have
14 no problem whatsoever in walling up that gate. Very
15 simple.

16 Number two, whatever drainage problems have
17 existed in the past, we have had drainage studies
18 done, I believe our consulting engineer would tell us.
19 We have not had drainage problems during very heavy
20 water times. They certainly have not been exacerbated
21 by anything that we have done.

22 The picture depicting this huge amount of
23 water is not something that happened as a result of
24 anything we did. The sewer lines have been rerun. If
25 anything, the drainage from that property is better as

1 a result of Boulware's construction.

2 The slide that was shown of the parking on
3 Bonita Avenue was taken when we had a public meeting
4 there at the very beginning of this, before anything
5 else was done. That same slide is being shown three
6 years later as to show a parking problem that exist on
7 Bonita Avenue. There hasn't been any problem, there
8 hasn't been any parking on Bonita Avenue for three
9 years.

10 That gate has only been open on occasion for a
11 piece of equipment to go in or out because of
12 construction. There was a block on the Wing Avenue
13 exit and entrance which was in construction and has
14 now been completed.

15 With respect to drainage, with respect to
16 parking, with respect to that gate, I respectfully
17 suggest those are red herrings.

18 The operation of Boulware is constantly an
19 open book. As Mr. Kirtley should know, our finances
20 are always audited. Our finances are always matter of
21 monthly financial statements, etcetera, etcetera.

22 The additional money that we have spent is to
23 build a more competent facility that can operate
24 efficiently for the long term.

25 Yes, you could put in the through the wall

1 motel kind of heating and cooling. What you would
2 then have is a utility cost nightmare, plus noise,
3 etcetera, etcetera, etcetera. There's a reason for
4 each of the things that we have done to improve the
5 construction.

6 The reason that the chapel is being used as a
7 sleeping facility currently is not in disrespect to
8 its spiritual purposes. It is that we constantly have
9 people who request services. Sometimes they die
10 before they can get services. For now the chapel will
11 be occupied as a group facility. When the
12 construction is completed, it will return to chapel
13 use.

14 All of this is clearly stated in what we filed
15 with you.

16 Someone said, you're going to have 90 men
17 there. That is not true. Anyone who looked at the
18 situation knows that we have always contemplated that
19 there will be men and women. Some with children and
20 families. The gender population for now will be men
21 only because we have not completed additional bathing
22 and other facilities that will permit us to have both
23 men and women in the facility until we complete phase
24 two.

25 Throughout the time period that we have been

1 there with all that's gone on, all the construction,
2 etcetera, there has not been a single solitary traffic
3 issue. When we are done there will not be traffic
4 having to do with Boulware going back and forth on
5 Bonita Avenue. As I said before, the only reason we
6 proposed leaving that open is that we understood the
7 neighbors wanted it to be open.

8 I take offense at someone who will take a
9 picture of an existing gate that is in fact a wire
10 pipe contraption. That was during the time of
11 construction. All of those gates will become what I
12 said they would become. That is rod iron gates that
13 are open and closing.

14 If you looked at the type of construction that
15 has been completed, you will be very pleased. I think
16 we have had a number of building inspectors there as
17 we have reached the point of taking occupancy. It is
18 not remotely a trashy facility as depicted. Yes, it
19 has involved more time and effort and resources than
20 we planned initially. That's because we're responding
21 to make it work well and be a quality facility. For
22 the same purposes for which Miss Boulware, who was
23 never a Mrs. by the way. For which Miss Boulware and
24 her sister and three other teachers established in
25 1921.

1 Now, if there were a single statistic about
2 problems that develop at Hall Street, we would be
3 hearing about it. You haven't heard about it. If
4 there were a single statistic with respect to the
5 construction process we've been through, you would be
6 hearing about it. There aren't any.

7 What you have is an extraordinarily complex,
8 but extraordinarily well done transition in taking
9 this facility to what it should be.

10 Our consulting architect has told us, even
11 with our expanded cost by the time we're done we're
12 getting by 50 cents on the dollar compared to what it
13 would have cost to start some place else all over.
14 The facility is ideally suited for us. There will be
15 90 residents who live there. The same as we have been
16 telling you since we were first here.

17 The changes in physical characteristics of the
18 property involve a loading dock, which doesn't seem to
19 bother anybody. Involves an additional ten parking
20 spaces on the crest of a hill to make it easier for
21 people to walk in rather than having to walk up a
22 hill. It involves the gate that I've already
23 explained at least twice. We don't care about it. If
24 it's the decision to have it closed, if that's the
25 recommendation of the Staff, it is fine with us. We

1 haven't lied to anybody.

2 The quote which was put up on your screen was
3 quoting me at a time saying this tragedy of this empty
4 facility gradually tumbling in on itself, becoming a
5 black hole in the community is awful. Let us bring it
6 back to life and use it for the benefit of this
7 facility. For the benefit of this community. That's
8 exactly what we have done. Any of us could be quoted
9 out of context. I refuse to roll over and be quoted
10 out of context.

11 I can respond to the detail of Mr. Kirtley or
12 any of these others, but those are the main points.
13 This is already more continuant than it should be.

14 We will have day in and day out people that
15 come and go. People come to our existing facility, we
16 may have 30 people come to an AA meeting. In little
17 bitty Hall Street, 30 people come to an AA meeting.
18 They come in. They're there for an hour and a half or
19 so and they leave.

20 Do you know how many problems that has caused
21 on Hall Street? Zero. It will cause that sort of
22 problem on Wing Avenue as well.

23 We have been operating an existing program
24 that we now want to make available because it has
25 excess capacity for people to come in to that facility

1 during the day when most people are gone. We are
2 perfectly happy to set, to establish a max number.
3 That is fine with us.

4 We think you will find over the next few
5 months it will be the same non-issue that it has been
6 until now.

7 I'm happy to respond to any specific questions
8 board members may have.

9 CHAIRMAN: Any board members have any
10 questions of Mr. Craig at this time?

11 MR. CRAIG: Or anyone who is not a board
12 member.

13 MR. NOFFSINGER: Mr. Chairman, I would like to
14 state for the record that as part of the application
15 we do have a drainage plan report prepared by Mr. Jim
16 Riney, PE. He is here tonight. It has been approved
17 by Mr. Joe Shepherds, city engineer.

18 In that plan Mr. Riney states in his summary
19 that, "It should be noted that the net result of this
20 parking lot scenario resulted in an actual reduction
21 in the overall post-development site discharge."

22 Just make sure that information is entered
23 into the record since there have been some drainage
24 concerns.

25 CHAIRMAN: Anyone have any questions of

1 Mr. Craig? I'm going to wrap it up here.

2 (NO RESPONSE)

3 CHAIRMAN: I'm going to ask the neighbors one
4 more time just very briefly. I'm going to wrap it up.

5 MR. CRAIG: I understand. I don't want to
6 continuant the meeting either. I think I responded to
7 the things that were the most sacred. Thank you.

8 CHAIRMAN: Thank you very much.

9 Anyone like very briefly, any additional
10 comments?

11 (NO RESPONSE)

12 CHAIRMAN: Any board members have any
13 questions?

14 (NO RESPONSE)

15 CHAIRMAN: Chair is ready for a motion.

16 MS. DIXON: Mr. Chairman, I move to approve
17 the conditional use permit with the findings of fact
18 that:

19 1. It fulfills the need within the community;

20 2. That it has a history of Conditional Use
21 Permit that address the same issues;

22 3. That the Boulware Center has exhibited a
23 commitment of financial and labor incentive resources
24 to their mission.

25 With the conditions that reviews be conducted

1 at six month intervals after occupancy for a period of
2 one year. That the Bonita Avenue access point be
3 closed and not accessible by vehicular traffic, and
4 that at no time will there be more than 120 people in
5 the facility. The residential group will stay at 90.

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

8 MR. WARREN: I will second that motion.

9 CHAIRMAN: I have a motion by Ms. Dixon and a
10 second by Mr. Warren.

11 MR. SILVERT: Excuse me. I would caution the
12 board that this motion should contain some statement
13 about compatibility with the neighborhood.

14 MR. NOFFSINGER: Specific. Not just a blanket
15 statement.

16 MS. DIXON: Specifically it fulfills a need to
17 have an adaptive use for an existing facility that was
18 in this neighborhood for years upon years. That the
19 Boulware Center Board has made every effort to
20 accommodate the needs of the neighborhood with parking
21 structures and so forth. That there are other
22 neighborhoods who have similar uses surrounding them.
23 AA meetings at churches around residential
24 neighborhoods. Homeless shelters that are in
25 reasonable proximity to other residential

1 neighborhoods.

2 CHAIRMAN: An addition to the motion.

3 MR. WARREN: I will accept that.

4 CHAIRMAN: Any other comments or question on
5 the motion?

6 (NO RESPONSE)

7 CHAIRMAN: All in favor of the motion raise
8 your right hand.

9 (BOARD MEMBERS WARD PEDLEY, MARTY WARREN, JUDY
10 DIXON, RUTH ANN MASON AND C.A. PANTLE RESPONDED AYE.)

11 CHAIRMAN: All opposed.

12 (BOARD MEMBER SEAN DYSINGER RESPONDED NAY.)

13 CHAIRMAN: Motion carries five to one.

14 Next item, please.

15 ITEM 5

16 822 East Second Street, zoned B-4
17 Consider a request for a Conditional Use Permit to
18 operate a fitness center to provide exercise and
19 health related activities for employees of Owensboro
20 Grain Company in an existing building on the property.
Reference: Zoning Ordinance, Article 8,
Section 8.2B11
Applicant: Owensboro Grain Company, LLC

21 ZONING HISTORY

22 The property is zoned B-4 General Business.

23 OMPC records contain no conditional use permits or
24 variances for the subject property.

25 LAND USES IN SURROUNDING AREA

1 The property located to the west is zoned I-1
2 Light Industrial. The property located to the north
3 is zoned I-2 Heavy Industrial. The properties to the
4 east are zoned B-4 General Business and R-4DT Inner
5 City Residential. The properties to the south are
6 also zoned R-4DT Inner City Residential.

7 ZONING ORDINANCE REQUIREMENTS

8 1. Article 17, Table 17.312 requires a 3'
9 high continuous screening element and a tree for every
10 40 lineal feet of vehicular use area boundary when the
11 area is adjacent to residential zoning or a public or
12 private street.

13 2. Article 17, Section 17.32 requires
14 interior landscaping for vehicular use areas that are
15 at least 30,000 but less than 50,000 square feet in
16 area, except in industrial zones.

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

19 CHAIRMAN: Anyone here representing the
20 applicant?

21 APPLICANT REP: Yes.

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

24 (NO RESPONSE)

25 CHAIRMAN: Any board member have any

1 questions?

2 (NO RESPONSE)

3 CHAIRMAN: Chair is ready for a motion.

4 MS. MASON: Mr. Chairman, I move for approval
5 given the findings that there is no opposition and it
6 will be a benefit to the community as exercise and
7 good health produce a better work force.

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

10 MR. DYSINGER: Second.

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

13 (NO RESPONSE)

14 CHAIRMAN: All in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item.

18 -----

19 VARIANCES

20 ITEM 6

21 3223 Baybrook Street, zoned R-1C
22 Consider a Variance to reduce the prescribed building
23 setback along Dalton Street from 25' to 15' for the
24 purpose of enlarging the principle building.
25 Reference: Zoning Ordinance, Article 8,
Section 8.5.7(c)
Applicant: J&W Building - Remodeling Dream Design,
Melissa Pate and Mary Ann B. Pate

1 MR. NOFFSINGER: Mr. Chairman, this
2 application has been reviewed by the Planning Staff.
3 I think in this particular application there is an
4 issue regarding a statement by the attorneys.
5 Mr. Williams or Mr. Silvert will address that, please.

6 MR. SILVERT: I will.
7 The application requires a statement by an
8 attorney stating "After researching the records of the
9 Daviess County Clerk, I found there are no deed
10 restrictions, no deeds of dedication, no other
11 convenance of record that would prohibit the proposed
12 use of the subject property or invalidate
13 consideration of the request for variance by the
14 Owensboro Metropolitan Board of Adjustment."

15 Statement by the attorney that was provided
16 did not make this statement.

17 Mr. Williams, I believe that this was brought
18 to the attorney's attention. The attorney was asked
19 to resubmit and that resubmittal did not occur; is
20 that correct?

21 MR. WILLIAMS: That's correct. I did not
22 speak with the attorney directly, but with his staff.
23 He was unreachable a couple of times that I tried to
24 call. This morning I spoke with one of his staff
25 members. Faxed some paperwork to him to get that

1 returned back to give us some examples of what we
2 needed. Unfortunately we didn't receive that. He was
3 unable to be reached immediately before the meeting
4 tonight.

5 MR. SILVERT: The application is not in order
6 because without this we cannot know whether or not
7 there is any prohibition in the property records of
8 the Daviess County that would prevent this request.

9 CHAIRMAN: So do we need to postpone on it?

10 MR. SILVERT: I think postponement would be in
11 order.

12 MR. PANTLE: Mr. Chairman, move for
13 postponement for 30 days for more information.

14 MS. DIXON: Second.

15 CHAIRMAN: We have a motion and a second to
16 postpone for 30 days. All in favor of the motion
17 raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item.

21 ITEM 7

22 1421 Locust Street, zoned R-4DT
23 Consider a Variance to reduce the prescribed building
24 setback along 15th Street from 25' to 0' for the
25 purpose of enlarging the principle building.
Reference: Zoning Ordinance, Article 8,
Section 8.5.11(C)
Applicant: Carl V. and Maureen O. Greenwell

1 MR. WILLIAMS: Staff finds that there are some
2 special circumstances that do not generally apply to
3 land in the general vicinity or in the same zone.

4 The subject property is located at the corner
5 of Locust Street and West 15th Street. Several
6 properties along West 15th Street have structures
7 built very close to the property line along West 15th.
8 The applicants have explained in the application that
9 adding to the north or east of the residence is either
10 cost prohibitive or structurally complex. Because so
11 many of the homes along West 15th are already built
12 very close to the property line, granting this
13 variance would not be out of charter with the
14 surrounding neighborhood. The room addition would be
15 no closer than 10 1/2 feet from the street, which is
16 29 feet from curb to curb.

17 However, this proposal will allow the
18 structure to be located closer than ten feet from the
19 public right-of-way. The zoning ordinance requires a
20 minimum of 10 feet from the public right-of-way even
21 for in-line extensions or setback averaging. Section
22 3-5(e) allows an existing principle building adjoining
23 any legally nonconforming yard to build additions in
24 line with existing buildings but must maintain at
25 least 10' between the structure and any right-of-way,

1 including alleys. Section 3-5(d) allows an average
2 setback to be applied for new additions to reduce the
3 prescribed setbacks in areas where other buildings are
4 nonconforming and encroach into the setbacks, but also
5 requires a 10' minimum setback from the edge of the
6 right-of-way, even if the average setback is less than
7 10 feet. The intent of the ordinance by requiring a
8 minimum of 10 feet from the street right-of-way is to
9 provide a minimum separation from the public
10 right-of-way for the sake of safety and to avoid
11 creating a hazard.

12 Staff finds that a strict application of the
13 regulations would not deprive the applicant of the
14 reasonable use of the land or create an unnecessary
15 hardship on the applicant.

16 Denial of the variance would not permit the
17 applicants to expand the home to the side. There is
18 room in the rear yard for a building addition. If the
19 applicants maintain a 10 foot setback from the
20 right-of-way they could construct within the framework
21 of the zoning ordinance and no variance would be
22 required. Thus, approving this variance would be an
23 unreasonable circumvention of the zoning ordinance.

24 The applicants have not taken any action to
25 violate the zoning regulations and definitely nothing

1 willful has been done in violation of.

2 Therefore the Staff finds that granting this
3 variance will adversely affect the public health,
4 safety or welfare; will not alter the essential
5 character of the general vicinity; may cause a hazard
6 or a nuisance to the public; and will allow an
7 unreasonable circumvention of the requirements of the
8 zoning regulations.

9 Staff recommends denial. The zoning ordinance
10 has relief already built in.

11 Would like to enter the Staff Report into the
12 record as Exhibit D.

13 CHAIRMAN: Anyone here representing the
14 applicant?

15 MR. GREENWELL: Yes.

16 CHAIRMAN: Anyone here in opposition of this
17 application first?

18 (NO RESPONSE)

19 CHAIRMAN: Would the applicant step forward,
20 please.

21 MR. SILVERT: State your name, please.

22 MR. GREENWELL: Carl Greenwell.

23 (CARL GREENWELL SWORN BY ATTORNEY.)

24 MR. GREENWELL: I'm not sure I got all of
25 that. You all have a big job here. I hope this will

1 be easy.

2 I gave some pictures. I think you all have
3 those.

4 MR. WILLIAMS: I'll put them on the screen if
5 you would like.

6 MR. GREENWELL: That would be good.

7 MR. WILLIAMS: I will put them on the screen.
8 If you all will raise that up.

9 MR. GREENWELL: Top picture there, that was on
10 the corner of 15th and Frederica. All of the homes on
11 the north side of 15th Street face other streets.
12 They do not face 15th Street.

13 So starting at Frederica Street you can see
14 that there is part of this house at 15th and Frederica
15 that comes all the way up to the sidewalk. They've
16 got basically is zero variance.

17 The next picture at the bottom of the screen
18 there, 15th and Waverly, that house is directly behind
19 my house. That also is built up to zero. In fact, I
20 have a picture. I don't know if that would show up or
21 not. I got this at the PVA office I guess it is.

22 This house right here where I'm pointing, that
23 is the house that is directly behind me. They've got
24 an overhead view. There's a yellow line showing there
25 actually where his addition goes beyond the zero

1 variance. So he's actually over that.

2 MR. SILVERT: Pardon me, Mr. Greenwell.

3 Let the record reflect that that's the corner
4 of 15th and Waverly.

5 MR. GREENWELL: 15th and Waverly, yes. Thank
6 you.

7 So that is the house that is directly behind
8 me. They are closer yet to the street than what I'm
9 asking to go for.

10 Actually just the bottom on that will be all
11 that would be applicable.

12 That one right there is at 15th and Cedar
13 Street. I took this toward dusk. It's not real
14 strong there. I apologize. Again, this structure is
15 built right up to the sidewalk. So they've got a zero
16 variance on that particular piece of property there.

17 So there's three or four pieces of property on
18 15th Street at this time that have the zero or less
19 than zero variance.

20 I'm just asking to do no more than what some
21 other people have done in that particular area.

22 The reason for this, my mother-in-law -- I
23 don't know if you need to know why. My mother-in-law
24 is 87 years old and more than likely is going to be
25 moving in with us within the next year or so. We need

1 to have everything on one floor. We've got a nice big
2 house, but most of it is upstairs and there's not much
3 room left on the main floor for any of that purpose.
4 So we're going to add on to be able to accommodate her
5 particular needs coming to live with us.

6 We did look into the expanding into the back
7 of our house or to the north of our house. Just as I
8 said, we talked to two or three people. The way our
9 house is constructed, it would be really cost
10 prohibited to add on those two parts of the house
11 versus the side that we're asking for.

12 Anyone have any questions?

13 CHAIRMAN: Anyone have any questions of Mr.
14 Greenwell?

15 MR. DYSINGER: Yes, Mr. Chairman.

16 What made it cost prohibited?

17 MR. GREENWELL: The plumbing and everything
18 comes in on the east side or the south side of the
19 house, which would be able to very easily tie into if
20 we go on that side. As far as the back of the house
21 goes, we've got a kitchen and everything on the back
22 of the house. So we're going to be putting a bedroom
23 and that kind of stuff. You'd be coming in the house
24 into a bedroom and then into your kitchen. Our garage
25 is in the back of the house. Plus it would have taken

1 the entire backyard. That was really not my concern
2 there. We were coming into a bedroom for my
3 mother-in-law at that point.

4 CHAIRMAN: Any other questions of
5 Mr. Greenwell?

6 (NO RESPONSE)

7 CHAIRMAN: Staff have any comments?

8 MR. WILLIAMS: No.

9 CHAIRMAN: Mr. Noffsinger, do you have any
10 comments or questions?

11 MR. NOFFSINGER: No, sir.

12 CHAIRMAN: Thank you.

13 MR. DYSINGER: Mr. Chairman, I do have a
14 question for the Staff.

15 The 15th and Waverly and 15th and Adam Street
16 properties, what's Staff's opinions on those? They
17 were just grandfathered before or something bias here
18 or what?

19 MR. NOFFSINGER: Those uses would be
20 grandfathered in. They were constructed that way many
21 years ago. The home directly behind this subject
22 property extends into the setback and probably, you
23 know, as close as this one would. A shorter distance.
24 It's not the full length of the house. It kind of
25 comes out and then it jogs back in as you can see on

1 the PVA map.

2 MR. DYSINGER: The one at 15th and Waverly?

3 MR. NOFFSINGER: 15th and Waverly. Directly
4 behind the subject property. The zoning ordinance has
5 relief built in in that you can do in-line extensions,
6 which the Greenwells could do an in-line extension of
7 their existing structure so long as they're 10 feet
8 back from the property line. Ten foot is the minimum.
9 Twenty-five is the setback, but then if we do in-line
10 extensions and whatnot, 10 foot is the bare minimum
11 you're to set off of the property line. When you go
12 closer, when you go right on that property line,
13 you're right at the public right-of-way.

14 MS. MASON: Is that what these other homes
15 are? They're right at the setback?

16 MR. NOFFSINGER: Some of them are for some
17 distance. Not necessarily the full distance of the
18 home. Those homes could not be, you could not do an
19 in-line extension of those homes because they do meet
20 the ten foot minimum. Ten foot is the bare minimum to
21 do an in-line extension if you're already encroaching
22 the setback, but 25 foot is the prescribed setback.
23 Some of those homes, yes, they do encroach into that
24 setback for a portion of their distance, but not the
25 full distance. They would not be able to be enlarged

1 without a variance as Mr. Greenwell is asking for.

2 CHAIRMAN: Any other comments or questions?

3 MR. GREENWELL: If I could just so you can
4 understand everything.

5 This is my neighbor's house. This line where
6 I'm pointing to right there, that's the 10 foot
7 setback right there. His room addition comes out
8 further. If you notice back over here, and this is my
9 house where I'm pointing. I've already got a
10 permitted fence there. I'm just basically asking to
11 be able to build the house out to where we already
12 have a fence. I don't know if that helps you any.

13 MR. DYSINGER: What kind of fence is it, sir?

14 MR. GREENWELL: The fence I currently have is
15 a wooden fence. It's not a stockade. It's a very
16 sturdy fence. I paid well to have that fence put in.
17 Solid. Yes, it's solid. It's eight foot tall. It
18 was the maximum.

19 MR. DYSINGER: Thank you.

20 CHAIRMAN: Any other comments?

21 MR. GREENWELL: I don't know if you want to
22 see. This is a side view of my house from the front
23 of my house. You can see where I'm pointing right
24 there. That is the fence if you go all the way down
25 the side of the street. That's where I'm talking

1 about expanding from there to there.

2 MR. WARREN: Just to where the fence is?

3 MR. GREENWELL: Yes. Well, the fence is right
4 on the zero setback. Might be a few inch one way or
5 the other, but when the fence was built it was suppose
6 to be.

7 MR. WILLIAMS: I would like to make one brief
8 comment.

9 Take a look at this property here at the top.
10 You can see it does come maybe within ten feet of this
11 sidewalk. This is one example of homes along there
12 that do not go all the way up to property line. Not
13 every home is like the one below that's built right
14 into the sidewalk, right up to the property line, but
15 there are several along that street.

16 MR. DYSINGER: It's Staff's belief that all
17 the instances where they are built that way predates
18 the current zoning ordinance?

19 MR. WILLIAMS: Yes, to my knowledge.

20 CHAIRMAN: Any other comments?

21 (NO RESPONSE)

22 CHAIRMAN: Chair is ready for a motion.

23 MS. DIXON: Mr. Chairman, I move to deny the
24 variance because it will adversely affect the public
25 health, safety and welfare. That there are built in

1 to the zoning ordinances relief for this situation and
2 that the other properties within the area that exceeds
3 the setback were grandfathered in, predated the zoning
4 ordinance.

5 CHAIRMAN: We have a motion for denial by
6 Mrs. Dixon. Do I have a second?

7 MR. DYSINGER: I will second.

8 CHAIRMAN: Second by Mr. Dysinger. Any
9 comments or question on the motion?

10 (NO RESPONSE)

11 CHAIRMAN: All in favor of the motion raise
12 your right hand.

13 (BOARD MEMBERS JUDY DIXON AND SEAN DYSINGER
14 RESPONDED AYE.)

15 CHAIRMAN: All opposed.

16 (BOARD MEMBERS MARTY WARREN, RUTH ANN MASON
17 AND C.A. PANTLE RESPONDED NAY.)

18 CHAIRMAN: Two to three.

19 Now we need a motion for approval.

20 MR. DYSINGER: I would encourage my fellow
21 commissioners if you don't want to vote, no, I would
22 encourage you to make a motion.

23 CHAIRMAN: We need a motion for approval since
24 the motion for denial denied.

25 MR. WARREN: I would like to make a motion to

1 approve the variance based on the findings of fact
2 that it will not adversely affect the public health,
3 safety or welfare, because there's already an eight
4 foot fence in the exact same location which is
5 probably in as much hindrance to the view than public
6 safety as the building itself would be. So we're not
7 making it any worse.

8 It will not alter the essential character of
9 the general vicinity due to the other homes in the
10 area. I do not feel that it would cause a hazard or
11 nuisance to the public, and it will not allow an
12 unreasonable circumvention of the zoning requirements.

13 CHAIRMAN: We have a motion for approval. Do
14 I hear a second?

15 MS. MASON: Second.

16 CHAIRMAN: We have a second. Any comments or
17 questions?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor of approval raise your
20 right hand.

21 (BOARD MEMBERS MARTY WARREN, RUTH ANN MASON
22 AND C.A. PANTLE RESPONDED AYE.)

23 CHAIRMAN: Three.

24 All opposed.

25 (BOARD MEMBERS JUDY DIXON AND SEAN DYSINGER

1 RESPONDED NAY.)

2 CHAIRMAN: Motion carries three to two.

3 Need one more motion.

4 MR. DYSINGER: Move to adjourn, Mr. Chairman.

5 MR. PANTLE: Second.

6 CHAIRMAN: All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 98 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 21st day of September, 2008.

18

19

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

22

COMMISSION EXPIRES: DECEMBER 19, 2010

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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25