The Owensboro Metropolitan Planning Commission met in regular session at 5:00 p.m. on Thursday, January 8, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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MR. PEDLEY: Call the Owensboro Metropolitan Board of Adjustment to order.

We will begin our meeting with a prayer and the pledge of allegiance to the flag. Stand please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

MR. PEDLEY: At the beginning of each year we elect new officers. I will turn that over to counsel for that. I want to announce that I'm not a candidate for chairman this year.

With that, Madison, will you take over.

MR. SILVERT: We have three offices to fill.

First we'll take nominations for the office of
MR. PEDLEY: I nominate Audie Pantle.

MS. MASON: Second.

MR. SILVERT: We've got a second for Audie Pantle. Any other nominations?

MR. PEDLEY: Make a motion that nomination cease.

MR. SILVERT: Do we have a second?

MS. DIXON: Second.

MR. SILVERT: Second. All in favor of electing Audie Pantle as Chairman for the Board of Adjustment please signify by saying aye.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. SILVERT: All opposed.

(NO RESPONSE)

MR. SILVERT: Congratulations, Mr. Chairman.

Now I take the nominations for the office of vice chair. Any nominations?

MS. DIXON: I nominate Ward Pedley.

MR. DYSINGER: Second.

MR. PANTLE: Move that nomination cease and he be elected by acclamation.

MS. MASON: Second

MR. SILVERT: All in favor of the motion.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
MR. SILVERT: All opposed.

(NO RESPONSE)

MR. SILVERT: Congratulations, Ward.

And finally the office of secretary.

MS. DIXON: I nominate Ruth Ann Mason.

MR. WARREN: Second.

MR. PEDLEY: Move that nomination cease and she be elected by acclamation.

MR. WARREN: Second.

MR. SILVERT: All in favor of the motion.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. SILVERT: All opposed.

(NO RESPONSE)

MR. SILVERT: Congratulations, Ruth Ann.

That concludes our elections for this year.

Turn it back over to the Chair, Mr. Audie Pantle.

CHAIRMAN: Let the meeting proceed. At this time I want to thank Ward Pedley for the job that he did last year. Appreciate all your time that you've donated. Thank you.

With that and with the other officers, I want to welcome you all to your position.

With that the next item is the minutes of the December meeting. They're on file in the office. I don't think there's been any problems or anything with
them, have there?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion.

MS. DIXON: Move to approve.

MS. MASON: Second.

CHAIRMAN: A motion has been made and a second. Any other discussion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

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CONDITIONAL USE PERMITS

ITEM 3

81 Church Street, zoned R-1A
Consider request for a Conditional Use Permit to construct a 7,200 square foot parish hall on the premises with an existing church.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: St. Peter of Alcantra Church

MR. SILVERT: State your name, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned R-1A
Single Family Residential. There are no records in our office with OMPC to indicate any zoning changes of the subject property. There is an existing church on the property that is shown on the site plan that was submitted with the application. There also was a Minor Subdivision Plat approved in March 30 of 1995 that consolidated the property.

LAND USES IN SURROUNDING AREA

The property to the north, across US Highway 60 West is zoned B-4 General Business with an existing convenience store and gas station on the property. The property to the west is zoned R-1A Single-Family Residential with a single-family residence. The property to the east and to the south are both zoned A-R Rural Agriculture, the property to the south is used as farm land and the property to the east is used as a single-family residence.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirement - Churches - one space for every five seats in the main auditorium (minimum of 5). The applicant stated there were 222 seats which equals 45 parking spaces required. The applicant is providing 46 spaces including 4 handicap spaces.

2. Landscape easement between the vehicular
use area and the right-of-way consisting of a three
foot continuous element with one tree every 40 feet.

We would like to enter the Staff Report as
Exhibit A into the record.

Are there any questions?

(NO RESPONSE)

CHAIRMAN: Thank you.

Were there any objections filed in the office on this?

MS. EVANS: Not to my knowledge.

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

(NO RESPONSE)

CHAIRMAN: If not, is the applicant here?

APPLICANT REP: Yes.

CHAIRMAN: Do you all have anything you want to add at this time?

APPLICANT REP: No.

CHAIRMAN: Hearing none are there any questions from the board?

(NO RESPONSE)

CHAIRMAN: Or anything else from the Staff?

MR. NOFFSINGER: No, sir.

MS. DIXON: Mr. Chairman, move to approve based upon findings of fact that it is a logical
expansion of the existing use and is compatible with surrounding property and subject to the zoning ordinance requirements.

CHAIRMAN: Is there a second?
MR. DYSINGER: Second.
CHAIRMAN: A motion has been made and a second.

Are there any other questions from the board or comments from the Staff?
(NO RESPONSE)
CHAIRMAN: Hearing none we'll vote on the item. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion passes.
Next item, please.

ITEM 4
2601 New Hartford Road, zoned B-4
Consider request for a Conditional Use Permit to construct and operate a 9,600 square foot indoor recreational facility.
Reference: Zoning Ordinance, Article 8, Section 8.2B11
Applicant: Sonrise Chapel, LLC; Independene Bank

ZONING HISTORY
The subject property is currently zoned B-4
General Business and OMPC records do not indicate any zoning changes on the subject property. There was a Minor Subdivision Plat approved September 2, 2008,
with an identified access point. The other access point on the subject property is to be closed with redevelopment of the site, according to that minor subdivision plat. The site plan submitted for this Conditional Use Permit shows the approved access point to be used with the other existing access to be closed.

LAND USES IN SURROUNDING AREA

All surrounding properties are zoned B-4 General Business. The property to the north is a grocery store, the south property is a bank, the west property is a school and the east property, it's listed in the Staff Report as vacant, but I think there is a store, I think it's the Dollar General Store, under construction on that property currently.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Recreational activities, indoor - 1 per each employee-0, plus 1 per every 2 participants-12, plus 1 per every 3 spectator seats-17, 29 total required, plus 2 handicap spaces.  

2. Landscape easement along west property line with a three foot high continuous element and one tree every 40 feet.

SPECIAL CONDITIONS

1. Access to New Hartford Road shall be
limited to the existing shared access point only as
required by the approved Minor Subdivision Plat, with
the second existing entrance to be closed and
curb/gutter, sidewalks and grass be installed.

We would like to enter the Staff Report into
the record.

CHAIRMAN: Any objection filed in the office?
MR. NOFFSINGER: No, sir.
CHAIRMAN: Is anyone in the audience wishing
to speak in opposition to this?

(NO RESPONSE)
CHAIRMAN: Is the applicant present and have
anything he would like to add at this time?

(NO RESPONSE)
CHAIRMAN: Hearing none the board is ready for
a motion.

MS. MASON: Mr. Chairman, I make a motion for
approval. My findings of fact is that it is
compatible with the land use in the area and special
conditions that were mentioned beforehand need to be
used in this, with this report.

CHAIRMAN: Is there a second?
MR. PEDLEY: Second.
CHAIRMAN: A motion has been made and a
second. Any other comments from the office or Staff?
(NO RESPONSE)

CHAIRMAN: Any other questions or comments from the board members?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 5

4801 Towne Square Court, zoned B-4
Consider request for a Conditional Use Permit to operate a licensed child care facility for a maximum of 120 children.
Reference: Zoning Ordinance, Article 8, Section 8.2B3
Applicant: Franklin J. (Jerry) Dockery; Susan J. Dockery

ZONING HISTORY

The subject property is currently zoned B-4 General Business and OMPC records do not indicate any zoning changes on the subject property. The subject property is developed with an existing building, existing paved parking with the vehicular use area landscaping.

LAND USES IN SURROUNDING AREA

The property to the north is zoned R-3MF Multi-Family Residential with existing apartments on the property. The properties to the south, west and
east are zoned B-4 General Business with service and
commercial businesses.

Since the adjoining property to the north is
zoned R-3MF Multi-Family Residential, screening
between the subject property and the residential
property will be required. The screening requirement
includes a 10 foot landscape buffer with a six foot
high continuous element with one tree every 40 linear
feet. Upon inspection of the property, the six foot
high element is intact for a portion of the north
boundary but is not complete from the existing fence
to the property line along Towne Square Court.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirement - Daycare - 2 plus one
   per 10 children - 14 total.

2. Ten foot landscape buffer with a six foot
   high fence and one tree every 40 feet along the entire
   north boundary.

SPECIAL CONDITIONS

1. Complete the screening requirements by
   extending the existing fence with required trees along
   the north property line to Towne Square Court.

MS. EVANS: Staff would like to enter this
Staff Report as Exhibit C.

CHAIRMAN: Thank you.
Are there any objections or comments filed in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Is the applicant here?

APPLICANT REP: Yes.

CHAIRMAN: Do you have any comments?

APPLICANT REP: No.

CHAIRMAN: Any board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on that we have heard no opposition.

Requirements of the zoning ordinance, it will allow proper integration, because it is a compatible use it will not have an adverse influence on the neighborhood. With conditions, complete the screening requirements by extending the fence with required trees along the north property line to the property
boundary at Towne Square Court.

MR. WARREN: Second.

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

MR. NOFFSINGER: No, sir.

CHAIRMAN: Board members have any other comments or questions?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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VARIANCES

ITEM 6

1811 Littlewood Drive, zoned R-1A
Consider request for a Variance to reduce the side yard setback from 10 feet to 6 feet to construct a 16 foot by 16 foot in-ground swimming pool and an 8 foot by 8 foot pergola.
Reference: Zoning Ordinance, Article 8, Section 8.5.5(d)
Applicant: Shannon S. Wright

MS. EVANS: A little background information on this property.

It was developed prior to the current zoning
ordinance. They're asking for this variance because there is a power line running through the back of their property. According to OMU there's not a specific easement set on a plat of this property, but according to OMU that a pool has to be ten feet from any power line. That's according to the Standards of the National Electric Code. So with that there leaves very little room to put anything in their backyard. That's why they're asking this to be in the side yard and that setback reduced.

The applicant has also proposed the four foot fence required around the swimming pool and pergola, and upon inspection of the area we did find several instances where there are encroachments, other encroachments in that side yard setback.

Granting this variance will not adversely affect the public health, safety or welfare; it will not alter the essential character of the general vicinity; it will not cause a hazard or a nuisance to the public; and it will not allow an unreasonable circumvention of the requirements of the zoning ordinance. Staff recommends approval.

We would like to enter this as Exhibit D in the record.

CHAIRMAN: Thank you.
Is there any opposition filed in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: The applicant here and have any statements you would like to add at this time?

MR. SILVERT: State your name, please.

MR. JACOBS: Marty Jacobs.

MR. SILVERT: I recognize the oath you took as an attorney, Mr. Jacobs.

MR. JACOBS: I'm here simply to answer any questions on behalf of the applicant that the board may have.

CHAIRMAN: Any board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none entertain a motion.

MR. TAYLOR: Mr. Chairman, move to grant the variance considering there are special circumstances. It will not cause a hazard or nuisance to the public. There are other homes in the area that appear to encroach using the same setback variance. Granting
this variance will not adversely affect the public health, safety or welfare; and it will not alter the essential character of the general vicinity; it won't cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. So I do move to grant the variance.

MR. PEDLEY: Second.

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

MR. NOFFSINGER: No, sir.

CHAIRMAN: Any other questions or comments from the board?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 7

1564 River Road, zoned I-2
Consider request for a Variance to eliminate the 8 foot solid fence screen required along the south and west property lines, to eliminate the 10 foot landscape easement and perimeter trees required along the south and west property lines, and to eliminate the 100-foot buffer required along the south and west property lines.

Reference: Zoning Ordinance, Article 17.8, Section 17.311(d), 17.3112, 17.3113, 17.3114, 8.4/27
Applicant: N.T.N. Properties, LLC
MS. EVANS: A little background information on this property. There was a season conditional use permit approved last month by the board. There was also a similar variance application approved in July of 2007 for the neighboring property to the north requesting to eliminate this same requirement along their western boundary.

Along the southern boundary there is an existing 201 foot fence already. So this variance is just to eliminate the remaining 561 feet of fence that would be required for the southern boundary.

Along the western boundary of the property and the southern boundary of this property the topography limits the effectiveness of the required screening because there is an elevation change and it's heavily wooded. That separates the subject property from the balance of the neighboring properties.

Staff recommends approval of this. It will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; it will not cause a hazard or a nuisance to the public; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Staff recommends approval with the following
conditions:

1. If development occurs on the property to the west or south, the applicant shall be required to install the screening requirements.

2. Access shall be limited to the existing access point on River Road.

3. Stacking of material shall not exceed the required screening height of eight feet.

We would like to enter the Staff Report as Exhibit E.

CHAIRMAN: Any other comments from the Staff at this time or any objection in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Is the applicant here and have any comments?

MR. KAMUF: We're here to answer any questions, Mr. Chairman.

CHAIRMAN: Thank you.

Any questions of the applicant from the board?

(NO RESPONSE)

CHAIRMAN: Other comments from the Staff?

MR. NOFFSINGER: I would just ask Mr. Kamuf:
You have heard the conditions. Are you agreeable to the conditions?

MR. KAMUF: We do. I looked at my client as she was reading them and he agreed to them.

MR. NOFFSINGER: Thank you.

MR. PEDLEY: Mr. Chairman, I have a question on the conditions.

It says, "If this development occurs on the property to the west or south the applicant shall be required to install the screening requirements." I think it should be added and the 100 foot buffer into that condition. It says screening.

MR. WARREN: And what?

MR. PEDLEY: Add 100 foot buffer. Because that is the zoning ordinance.

MR. KAMUF: Mr. Chairman, along that line I only have one question.

When you development, the property now is vacant. It's pretty well grown up. It's trees and kind of rugged. When you say development, you're talking about any type of development? What are we talking, Gary, just for clarification?

MR. NOFFSINGER: I think Staff's perspective we would be looking at it if it's a residential type development. If it were to be an industrial type
development, I would say probably would not be warranted. But the way it's written it's not specified, but I think the intent there, at least from the Staff's level, would be if it's a residential type development.

MR. KAMUF: We agree to that. We agree to those conditions.

CHAIRMAN: That is in the record.

Any other comments?

MR. TAYLOR: Mr. Chairman, move to grant the variance based upon we have granted similar variances to adjoining properties in the past. Topography extremely limits the effectiveness of the zoning requirements and required screening. It will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; and will not cause a hazard or a nuisance to the public; and won't allow an unreasonable circumvention of the requirements of the zoning regulations.

I do place these special conditions upon the variance: That if development occurs on the property to the west or south the applicant shall be required to install the screening requirements, and adhere to the 100 foot buffer. Access shall be limited to the
existing access point on River Road, and stacking of
material shall not exceed the required screening
height of eight feet.

MR. PEDLEY: Second.

CHAIRMAN: A motion has been made and a
second. Is there any other questions from the boards?
(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: The applicant understand all the
conditions that were stated?

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

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

We need one final motion.

MS. DIXON: Move to adjourn.

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
) SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS )

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

WITNESS my hand and notary seal on this the

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

COMMISSION EXPIRES:  DECEMBER 19, 2010

COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY