The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, July 2, 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
Clay Taylor

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CHAIRMAN: Want to call the Owensboro Metropolitan Board of Adjustment to order. We start our program each time with a prayer and the pledge of allegiance. I ask you all to join us. Ruth Ann will have our prayer this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I welcome you to the Owensboro Metropolitan Board of Adjustment meeting. If you have any comments on any item, please come to one of the podiums and state your name and we'll have a record in case there's problems down the road.

With that we'll start with our first item which is considerate the minutes of the last board meeting, June 4th. They're in the office on record.
There haven't seem to be any problems with it.

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MS. DIXON: Move to approve.

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please, sir.

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CONDITIONAL USE PERMITS

ITEM 2

3015 Rinaldo Road, zoned I-2
Consider a request for a Conditional Use Permit in order to construct and operate a tank farm facility for liquid fertilizer products.
Reference: Zoning Ordinance, Article 8, Section 8.2G4/27
Applicant: Owensboro Riverport Authority

MR. SILVERT: State your name, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned I-2 Heavy Industrial. OMPC records indicate there have been no Zoning Map Amendments on the subject property.

The subject property is currently vacant.
An additional Conditional Use Permit will need to be approved to construct the pipe line shown on the site plan in the floodway.

LAND USES IN SURROUNDING AREA

The property to the north, south, west and east are zoned I-2 Heavy Industrial with existing industrial activity.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - none.
2. Landscaping requirements - none.

SPECIAL CONDITIONS

1. Approval of an additional Conditional Use Permit to build the pipe line shown on the site plan in a floodway.

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

CHAIRMAN: Any objections filed in the office or comments?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Hearing none does the applicant have anything you want to bring forward at this time.

APPLICANT REP: No.
CHAIRMAN: A board have any comments to add to it?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Does the board have any questions of the applicant?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on findings it is in compatible use with the surrounding neighborhood and it will not have an adverse affect on future development, with conditions approval of an additional conditional use permit to build the pipeline shown on the site plan in a floodway.

CHAIRMAN: Is there a second to the motion?

MS. DIXON: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have any other thing to add to it?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor raise

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ITEM 3

2351 Triad Drive, zoned I-2
Consider a request for a Conditional Use Permit in order to construct and operate a marina in the floodway.
Reference: Zoning Ordinance, Article 8, 18, Section 8.2K7/42, 18-4(b)3, 18-5(b)4, 18-6(b)3
Applicant: Owensboro Marina; Pilot Properties, LLC

MR. NOFFSINGER: Item 3 the applicant has requested postponement. You will need to vote on that item.
CHAIRMAN: Entertain a motion to dispose of the item.

MS. DIXON: Move to postpone.
MS. MASON: Second.
CHAIRMAN: A motion has been made and a second. All in favor raise your right hand.

CHAIRMAN: Motion carries.
Next item.
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VARIANCES

ITEM 4

2800 Western Parkway, zoned R-1A
Consider a request for a Variance in order to reduce the side yard building setback line from 10 feet from the property line to 6 feet from the property line. Reference: Zoning Ordinance, Article 8, Section 8.5.5(d) Applicant: Hugh Patrick Bosley & Jennifer H. Bosley

MS. MASON: Mr. Chairman, I need to disqualify myself from this item.

CHAIRMAN: So noted.

(MS. RUTH ANN MASON LEAVES ROOM AT THIS TIME.)

MS. EVANS: The applicant is requesting a reduction in the side yard building setback line in order to construct a two-story residential addition. The subject property is zoned R-1A Single Family Residential and there have been no other variance requests on this street.

The applicant is proposing to build a two-story addition with a garage on the first floor and a master suite on the second floor according to the applicants' engineer.

Granting this Variance will alter the essential character of the general vicinity because there does not appear to be other encroachments in the area. Additionally, a two story addition located so close to the property line could block light and air from the neighboring property.

FINDINGS OF FACT:

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Granting this Variance:

1. May adversely affect the public health, safety or welfare because the proposed two-story addition located so close to the property line may block light and air from the adjacent home;

2. It will alter the essential character of the general vicinity because the addition will be considerably closer to the side yard property line than other structures in the area;

3. It will not cause a hazard or a nuisance to the public;

4. And it will allow an unreasonable circumvention of the requirements of the zoning regulations because no other structures in the area appear to encroach into the side yard building setback.

Staff recommends denial.

CHAIRMAN: Are there any comments or questions filed in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Is the applicant here and do you have any comments you would like to present?
MR. SILVERT: State your name, please.

MR. KAMUF: Charles Kamuf.

MR. SILVERT: Thank you, Mr. Kamuf.

MR. KAMUF: What we're asking for is a four foot side yard encroachment. The original Deed of Dedication in 1954 allowed for a two foot side yard exception.

The present OMPC regulations require a ten foot exception. What we are requesting is to build within six feet of the neighbor's property.

We're building a garage with a room above to the north side. I have a copy of the plat so you can fully understand. Here is a copy of the plat that we'll be talking about.

As you can see, what we have there is the plat of the Bosley property. If you see the driveway that goes back, there is a proposed addition where you can see the hash marks. To the rear there's an existing garage. That existing garage is within four feet of the property line at the present time. So you can see the garage is already closer to the property line, to the house than what our proposal is.

So the proposal will be a garage with a room at the top.

When we started this, Mr. Bosley went to the
Hafer & Associates. He asked them to prepare some type of plan that would blend into the neighborhood.

Pat Bosley wanted people to drive down the street and say, this is a beautiful house and not an addition.

When he came to me the first thing I told him to do was to go talk to the neighbors. There's one neighbor that is right next-door. This is Dr. Decker and Melissa Decker. They were ecstatic that he came over to talk to them. Dr. and Mrs. Decker will not be here tonight, but they've sent this letter strongly urging you to approve the approval. I have a copy of the letter that I would like to give you.

I would like to read this letter into the record, if I could.

"Owensboro Metropolitan Board of Adjustment

"To Whom It May Concern:

"We live at 2742 Western Kentucky Parkway.

Our property adjoins the Bosley's property to the north and we are the closest neighbors to the proposed building addition. We are familiar with the proposed plans of the Bosley's plan to construct a two story addition to the north of their property.

"We understand that the new addition will be within six feet of our property. It is pointed out
that the existing garage on the Bosley's property is less than four feet from our property. The proposed addition will not be closer to our property than the existing garage on the Bosley property. In addition we do not feel that the proposed addition is closer to our side yard than other structures in the neighborhood.

"We do not believe that the proposed addition to the Bosley's property will adversely affect the public health and safety of the neighborhood and do not feel that the two story addition will have any effect on the air flow to our house.

"We do not feel that the proposed addition will alter the essential character of the neighborhood. We feel that the proposed addition will enhance the neighborhood and increase the property values of the neighborhood.

"We will be out of town due to a prior commitment, but we strongly urge the Owensboro Metropolitan Board of Adjustment to approve the variance as requested by the Bosleys."

I will show you three exhibits.

This shows the property that we have. This is the Decker property. The Decker property will be garage to garage. If you look at that plat that I've
showed you, our proposed addition will be a garage.

This is what it will be next to.

I will pass that around in just a second.

This is a picture of the Bosley property. As you can see, this garage here is closer to the sideline of the Decker property than what we have proposed. That driveway that you see, and it's shown on the plat, the driveway, there will be addition over the top of the driveway. The driveway will not be disturbed.

The point I'm making here is that the green grass area that you see on this picture will not be disturbed. The concrete will not be disturbed. It will be built over the top of the concrete.

Here is another picture, and certainly you all probably drive by it every day. This is the Arnold property. Mr. Arnold passed away. I think the property has been purchased recently. Certainly they wouldn't object to it.

As you can see, this property that I show you here has a pond on it at the present time. The property that is owned by the Bosleys is directly past the fence that you see. So I would like to pass these out.

In addition in talking to Mr. Decker, he
talked to all the neighbors. Every neighbor that I
have listed on that petition of adjoining property
owners have agreed and want this addition to be done.

I guess the reason that Ruth Ann left, I think
her father lives next-door, but he has no objection to
this.

So we talked to Dr. Callis. Dr. Callis owns
the property directly across the street. His wife
thought it would be a lovely addition to the
neighborhood.

Also a two story house across the street is
Donald and Thelma Bivens. They liked the idea.

We talked to a Mr. Boling, which is also
across the street. He stated he has no objection, but
he would rely more on what Mr. and Mrs. Decker say.
As I told you, they have no objection.

What makes this neighborhood different is that
in 1954 there was a final plat made of the property.
Six months within that final plat they had a redesign
of the subdivision. One reason they did that, this
year -- in '54, I didn't know it went back that long,
but they had the Parade of Homes. When the Parade of
Homes came through many of the builders built
different type of designs. So this area that we have
has all kind of things. It has ranch type houses,
two-story houses, single-family houses. The reason that there are many, many changes have been made in that subdivision.

In Wesley Heights Subdivision this board approved the variance six houses away from this. Six house away. They approved a variance.

Number 2, the OMPC board signed off on an easement reduction for the construction of a carport that was within the easement area. I'll show you a photograph in a minute three houses down from this on Wildwood Drive. There are two houses that are very, a lot closer than what we are requesting.

So the question that you would have is tell me about those exceptions.

March 13, 1995 this board approved a front yard variance at 317 St. Claire Drive within one block or six houses down from this property.

I'll pass these to you at one time.

Here is what it looks like. That was a front yard exception. The front yard exception to this property you can see the window there. That was where they built a new room onto the front of the property and it was in violation of the setback line and it a variance was approved.

In May 11, 2001, the OMPC board signed off on
an easement reduction for the construction of a carport at 2940 Tanglewood Drive. That was within the setback area. This is a photograph of the carport that was approved on Tanglewood.

Located at 4133 Wildwood Drive, two houses down. This is on Western Parkway. If you go north on Western Parkway, two houses down at the address of 411 and 333 Wilder Drive there are two houses that are next to each other and they're closer than what we're asking for.

As you can see this plat here, those houses, that doesn't look like there's any setback between those. That's 411 and 333.

If you notice on that last exhibit where I told you on Wilder Drive. The reason that it doesn't make any difference is because it's garage to garage. That's what we have in this situation here. The garage is back up to one another and therefore it shouldn't have any affect whatsoever on the health and welfare.

So we see that exceptions have been made.

Now, Mr. Bosley will tell you that he would have never filed this variance, never if he thought the neighbors had any objection. We've talked to every neighbor. We tried to bring you the exceptions
that we have. I called the Planning and Zoning board
yesterday or the day before and there's no objection
that's been filed by anybody.

So we're asking you that we feel that a
variance will not have any adverse affect on the
public. We feel that the neighbors all support this
type, this little addition with a garage with a room
on top. We think that we have showed you that there
are plenty of exception to this neighborhood and it is
a different type of neighborhood. We have the plats
showing you what happened in 1954 and how they cut
these lots up within six months because the builders
wanted to build different type of homes in this
subdivision as a result of the Parade of Homes.

Mr. Bosley is here and he'll explain to you
just a little bit more than I have as to what's going
on. We'll try to answer any questions that you have.

MR. SILVERT: State your name, please.

MR. BOSLEY: Patrick Bosley.

(PATRICK BOSLEY SWORN BY ATTORNEY.)

MR. BOSLEY: My name is Patrick Bosley. I
live with my wife and two children at 2800 Western
Parkway. I don't just live in the Wesleyan Heights
Neighborhood. I grew up there. When a house came for
sale which I accord in the neighborhood that I grew up
in, I knew it was a place that I wanted to raise my 
family. We bought the house. It had been vacant for 
years. We moved in with my mother-in-law for a month 
while we cleaned, repaired, landscaped and remodeled 
the house.

I already knew some of my neighbors. I had 
grown up playing with their kids. Others have kids 
now that play with mine.

When we decided to add on to our house to 
allow more room for my family to grow, it was 
important that the house fit the neighborhood. I 
wanted people to drive by and say, that's a nice 
house. Not that's a nice addition.

So it May of 2008, over a year ago, we 
interviewed several architects and chose to work with 
a local firm of Hafer & Associates, formerly Colligan 
& Nunley. Over the next month they came to the 
neighborhood several times to help find the design 
that works. Through the combined efforts of my 
family, neighbors input, and advice from the 
architect, the final design was approved a year after 
we started. With the addition my house will not be 
out of place or larger than other houses in the 
neighborhood. Some neighbors believe that my addition 
may even increase property values.

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It is logical to add to the house, building a garage on top of the existing driveway. It is economical to add a room above the garage.

The architect delivered a design that I and my neighbors agree maintains the essence of the neighborhood.

For the garage addition to being built, I was informed by the architect that I would need a variance. Before contacting Mr. Kamuf to aid in my application now before this board, I had already been working for months with an architect and my neighbors. I would not have filed this application if my neighbors had objected to my plans. I was also aware of other variances being granted in the neighborhood and I feel that I’m not asking for an exception, but permission to build wisely. I have purposely left the survey flags by the surveyor, HRG, in place. They’re still there today.

This is a neighborhood where many residents walk around the block and visit with one another. I’ve had many conversations about the flags and my plans. Everyone has been very supportive and positive.

The Deckers, my next-door neighbor whose property my addition will be closest to, have given me
their full support. Mrs. Decker had originally
planned to attend this meeting to voice their support
until we received the meeting date and it conflicted
with plans they already had.

The Decker property is most impacted by the
matter before you tonight. Because of their scheduled
conflict and unwavering support, they have given me a
letter for this board strongly urging you to request
and approve my variance. The letter was already read
into the minutes.

Thank you very much.

CHAIRMAN: Are there any questions from the
board or Staff at this time of the applicant?

MR. PEDLEY: Mr. Bosley, do you have an
architectural drawing of the addition that you intend
to use?

MR. BOSLEY: I do.

MR. PEDLEY: Showing the elevation of the
house. That is a concern to me since I'm a builder.

(MR. BOSLEY HANDS OUT DOCUMENTS.)

MR. BOSLEY: What is before you, you know, the
rendering that has been done by the architectural
firm, Hafer & Associates, they are waiting the final
verdict of this hearing to do the actual floor plans
and interior diagrams of the building. I hope this is
suffice to answer your questions.

MR. PEDLEY: That's the only question I had of you. I did want to see this.

MR. BOSLEY: This is the same picture I've been showing my neighbors by the way. They think the house is of a lovely design.

MR. PEDLEY: I have some comments.

If other board members have any questions and then I have some comments.

MR. KAMUF: Mr. Chairman, I just want to point out one thing. If you look at that garage, that garage it's fixed where it can go all the way back and drive into the garage on the rear if necessary. It will be a through garage.

CHAIRMAN: Any board members have any questions at this time or Staff?

MR. NOFFSINGER: Yes. I do have a few questions of Mr. Kamuf.

First of all, in terms of the existing garage, on the property. That is a detached structure. Detached garages are allowed in all residential zones. They're allowed to be within 3 feet of a property line and outside of an easement, as long as they're to the rear of the main structure. So I don't think in any way that you should consider the location of this
detached garage in making your decision because that
is permitted by right and it's permitted in all your
residential zones.

Mr. Kamuf brought up three properties, at
least three properties where there have been some
variances or special exceptions made. I do have a
question of Mr. Kamuf.

On the St. Claire property, that was a front
yard variance or was it a setback reduction? What
board approved that and what were the dimensions that
were approved?

MR. KAMUF: First of all in answer to your
first question, and I'll find that. The first
question, if you look, and I'm not trying to say that
the detached garage, I'm just saying what it is it is,
but also that other exhibit that I showed you, if you
will, Wildwood Drive, it shows both of those houses,
garage to garage, if any setback on those. That's
number one. That photograph shows that on Wildwood
Drive.

Now, as far as this one here, if you have some
questions and I'll try to answer them.

St. Claire Drive. By the way, I went over to
the Planning & Zoning Board before I filed anything
and met with the Staff. That's where I got these
reports so I'm sure you have them too.

MR. NOFFSINGER: I just want to make sure the record is straight in terms of what board approved and what was approved.

MR. KAMUF: The Variance was approved, it says down at the bottom, property survey and building setback revision located at 317 St. Claire. It shows on this plat that there was an old setback line on the front for a building close to the street and there was a new setback, new building setback line established.

MR. NOFFSINGER: What were those dimensions, the old setback and the new setback?

MR. KAMUF: I don't know. You'll have to ask Riney.

MR. SILVERT: State your name, please.

MR. RINEY: Jim Riney.

(JIM RINEY SWORN BY ATTORNEY.)

MR. RINEY: The plat that was approved shows that the old building setback was 40 feet on part of the lot, Mr. Noffsinger. These lots were redivided from when they were first created. That's part of the problem in the neighborhood. These lots, numerous lots are now one and a half lots. This lot had a 40 foot setback and a 35 foot setback on the same yard, but the lot was 40 feet and 35 feet depending on where
you were from the house. It was reduced down to 34 feet according to this document, the new setback.

MR. NOFFSINGER: The zoning ordinance requires a minimum of 25 feet. So there was not a variance granted there. It was a setback reduction from the platted setback of the original subdivision to a setback that exceeded the zoning ordinance requirements.

MR. RINEY: If I understand correctly, the planning offices imposes that minimum setback that requires that the citizens honor the setback that was platted, if it is something different than a minimum setback. So they had to come in because it was a legal setback. They had to come before this body to get that revision.

MR. NOFFSINGER: Not before this body, but before the Planning Commission.

I guess the point is there was no variance granted there by this board or the Planning Commission. It was simply a reduction of the setback line that still exceeded the minimum ordinance requirements.

MR. RINEY: Yes, sir. Setback revision.

MR. NOFFSINGER: Thank you.

The second would be on Tanglewood. There was
a mention that there was a variance or something.

What are the specifics of that?

    MR. KAMUF: A reduction of an easement.

    MR. NOFFSINGER: What would that reduction be?

I'm just trying to make sure that we have it straight
for the record so that if we do have a case where a
variance or exception has been granted, then we know
what that is and this board can consider that in
making their findings.

    MR. RINEY: On the west side of the property
there was a grant by the Planning Commission for
easement reduction. The carport had to have this
reduction in order to encroach over into a side yard
where there was a 10 foot public utility easement and
in the front yard there was a 20 foot. On this
particular lot, a 20 foot building setback. Looks
like it was an easement release to accommodate the
carport that Mr. Kamuf said there was a setback into
that easement.

    MR. NOFFSINGER: Was this a detached carport
or was it attached to the home? Wouldn't there have
been a ten foot side yard setback?

    MR. RINEY: If it was attached. Just like the
case we're talking tonight. It was an attached garage
to the structure, to the physical structure. It was
not a detached garage.

MR. NOFFSINGER: So it was an attached carport. It would have allowed that carport to have been constructed into the setback, ten foot side yard setback?


MR. NOFFSINGER: No, sir, I don't have that one.

MR. RINEY: You want to see what I'm speaking about?

MR. NOFFSINGER: Yes, please.

MR. RINEY: I was pointing to the plat showing Mr. Noffsinger this is labeled the ten foot PUE. Graphically on the scale it shows the carport encroached into and across the PUE and the side yard. Then it shows there's a 20 foot building setback which the carport and part of the house encroached into.

MR. NOFFSINGER: So in this particular case, the Planning Commission Staff approved a survey of an existing lot of record and there was not an encroachment into the side yard setback. It was an encroachment into a public utility easement where the
easement, where the agencies, the utility agency signed off on an easement abandonment I guess you could say. It was not being built closer to the sideline. However, what you do have is a carport and a house that's built, well, closer than 20 feet to the right-of-way line where the zoning ordinance would have required a 25 foot setback.

I think that is important, Charlie, to note for your case. The easement is not the issue there. It's the fact that there is an existing home that was built into the front side yard setback.

MR. KAMUF: The point I'm making is the home there on Tanglewood, if you look at the address as you drive down Tanglewood, it doesn't front on Tanglewood. It fronts on the other street. It fronts on Wesleyan Place. The reason I'm trying to show you that is that this is a unique subdivision. They redivided and redivided those lots. It's the only house that I know that fronts on a certain street and has an address on another street.

MR. NOFFSINGER: I think what it actually shows there is that you do have an existing home that was built into the front setback line.

MR. KAMUF: Right.

MR. NOFFSINGER: There's not a side yard
violation there.

MR. KAMUF: I didn't try to say it was a side yard. There are exceptions all along there and that's just one of them that I tried to show you.

MR. NOFFSINGER: Then Wildwood Drive, what were the dimensions there?

MR. KAMUF: I don't have the plat there.

MR. NOFFSINGER: It's just the two attach garages are built --

MR. KAMUF: Right next to each other. The ones that I showed you -- what I'm trying to show you, I could have gone around there and taken pictures all day, but I tried to show the one that was closer to the house on those two. This is three houses down on Wildwood. It shows those two garages backing up to one another. Why is that important? That's what we're asking for. We've got two garages backing up to one another where nobody really cares as far as making a special objection to it because it's a garage to a garage.

MR. NOFFSINGER: I don't disagree with that photo. Again, I'm trying to help your case so that we have the dimensions. That's what I'm trying to get at. With those two garages that are attached, the photos tells the story.
We've got to make sure the record is correct and we have dimensions in there so if this board, if they chose to make findings for approval that they've got it documented into the record and they have those dimensions.

MR. KAMUF: Sure. On the dimensions I'll let Mr. Riney answer those. I'm not very good at that.

Are there any other questions that we can ask? The Bosleys are here to go over anything that you have.

We think it's a good proposal mainly because none of the neighbors have objected. They like this idea. There are two-story houses across the street. There are houses in the neighborhood that are closer with the ones that I showed you on Wildwood. Really as far as any environmental issue, we don't think there's any issue.

CHAIRMAN: Anyone on the Staff have any other comments?

MR. NOFFSINGER: No, sir.

MR. PEDLEY: I have some comments, Mr. Chairman. I'll try not to take too long.

I'm quite familiar with that neighborhood. Back 50 years ago when those houses were being built, I did a lot of work in there. Actually I could name
probably a third of the people that lived in there. I worked on most of those house. You're right, Mr. Kamuf. Seems like a lot has changed. I spent about 30 minutes this afternoon touring that neighborhood. I circled every street at least three times. I saw several structures encroaching into the setbacks. One of them you just described on Wildwood Western on the corner. That house is not any more than 15 feet off Wildwood. I put that basement in that house for Mr. Barns. I'm not guilty of the setback. That on the other corner, I can't name that street, but it's an attached carport. It doesn't have the rear yard requirement. There are several structures in that development that does not have either the side yard or rear yard. I didn't see front yard except that one. I don't about the variances. I don't know if this board gave variances or not. It hasn't been verified here tonight, but I do know there are several structures in there that are encroaching into the required setback. Three of them is on the rear yard. Two of them is on side yard. Then one we just described. I did do my homework. I spent quite a bit of time because I don't believe in giving these variances if it's out of character with the neighborhood.
I'm ready to make a motion, Mr. Chairman, if you're ready.

CHAIRMAN: I'm waiting.

MR. PEDLEY: I'm going to make a motion to approve this based on findings: Number one, the neighbors are aware of it. They have been approached. They seem to approve it. They like the idea. We haven't had any opposition and that's very important.

Then it will not adversely affect the public health, safety or welfare because there is adequate open space around those houses. There is adequate trees and green space. It's not an air circulation problem. It's not a health problem. So it will not adversely affect the public health, safety or welfare.

It will not alter the essential character of the general vicinity because there is several in there that are encroaching more severely than this, especially on those corner lots.

This addition to the house may enhance the general area because across the street is large two story homes. Several of them. One of them is Frank Hartz's home. It's a two-story home. Large columns directly across the street from this. It will not alter the essentially character.

It will not allow or cause any hazard or
nuisance to the public.

It will not allow an unreasonable

circumvention requirements of the zoning regulations

because there are already several in the neighborhood

encroaching. Because I think this R-1A zone was put

on that development after the development started. So

the burden was, I'm not sure when R-1A zone was put on

it. R-1A zone requires a ten foot side yard.

Based on those findings my motion is for

approval.

CHAIRMAN: Is there a second?

MR. TAYLOR: Second.

CHAIRMAN: A motion has been made and a

second. Any other questions or statements from the

Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Any other questions from the board?

(NO RESPONSE)

CHAIRMAN: Hearing none all in favor raise

your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

(RUTH ANN MASON REJOINS MEETING AT THIS TIME.)
ITEM 5

1031 East 18th Street, zoned B-5
Consider a request for a Variance in order to reduce
the landscape buffer along the west property line from
10 feet to 2 feet.
Reference: Zoning Ordinance, Article 17,
Section 17.3127
Applicant: Jim Yeckering; Jim Wieder Enterprises, LLC

MS. EVANS: The Applicant is requesting a
reduction in the landscape buffer along the west side
of the property in order to preserve parking that has
been in place for many years. The subject property
was rezoned from I-1 Light Industrial to B-5
Business/Industrial at the May 2009 OMPC meeting.
The applicant states there is an existing six
foot high privacy fence along the parking area with
two existing trees and a six foot high chain link
fence along the gravel area with an existing tree and
three proposed trees. The applicant also states there
is a six foot high privacy fence belonging to the
adjacent properties along the gravel area.

FINDINGS OF FACT:

1. This will not adversely affect the public
health, safety or welfare because there is existing
fences and trees that provide the intended screening;
2. It will not alter the essential character
of the general vicinity because the parking has been
used as is for many years;

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3. It will not cause a hazard or a nuisance
to the public because the existing screening
adequately blocks the headlights from parking cars
onto the residential property;

4. It will not allow an unreasonable
circumvention of the requirements of the zoning
regulations because the existing screening satisfies
the intended purpose of the regulations.

Staff recommends approval.

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

CHAIRMAN: Is there any opposition filed in
the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is there anyone in the audience
objecting to this item?

(NO RESPONSE)

CHAIRMAN: The applicant have any comments at
this time?

(NO RESPONSE)

CHAIRMAN: Hearing none does the board members
have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have any more comments
pertaining to this?
MR. NOFFSINGER: No, sir.

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

MR. TAYLOR: Mr. Chairman, move to grant the variance. Granting this variance will not adversely affect the public health, safety or welfare. What we're granting on this variance there's already an intended purpose there by the existing trees and fence rows. It won't alter the essential character of the neighborhood or cause a hazard or nuisance to the public, and it's not allowing an unreasonable circumvention.

MR. PEDLEY: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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NEW BUSINESS

ITEM 6

609 Wing Avenue, zoned R-4DT
Six month review of approved Conditional Use Permit.
Applicant: Boulware - The Mission on the Hill, Inc.

MR. NOFFSINGER: Mr. Mischel.

MR. SILVERT: State your name, please.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: As Mr. Noffsinger stated, as the
six month review came up and approximately on May 29th
I called Mr. Craig, Bill Craig, their attorney, and
asked that we be allowed to come in and do the
inspection, the six month inspection, which he agreed
to. I met him up there and he took me on a tour of
the place.

Essentially the first room we went into that
he was showing me, the security, just to give you a
lay our. They do have security cameras on the outside
and the inside of the building which they can monitor
24 hours a day. The day I was up there on the 29th
they had 38 people staying there. He took me to where
they're staying. It's not where the permanent place
is will be. They haven't remodeled that yet. They
have them in two separate rooms. I counted there was
approximately 38 cots, beds, located there.
Right now they have a staff of ten people that come and go at various times and everything.

On the Conditional Use Permit that was approved, it was approved for up to 90 people, which they haven't done that yet. Thirty-eight has been the most. He said in the future they will go to 90 people.

I did go down and the gates that had some questions in the past they were locked. They were there. There was some questions of them not being as strong at one time, but they are there and they were locked and the knox box was there. I don't know if you have any questions or not.

CHAIRMAN: Board members have any questions of him?

MR. MISCHEL: They did have the parking lot on the interior. It was being used while I was there.

CHAIRMAN: Any questions of Staff?

MR. NOFFSINGER: I do have a question.

Mr. Mischel, have you received any complaints noted in the office in the last, since the item was approved?

MR. MISCHEL: I haven't received any complaints. I received a comment today concerning some graffiti, but it wasn't necessarily a complaint.
It was just brought to our attention. Maybe if we could ask them to maybe see about taking the graffiti off. That's been it.

MR. NOFFSINGER: I think you mentioned this, but I think back several months ago we did receive some complaints in the office about the gate not being locked. Do you recall those complaints and what happened after that?

MR. MISCHEL: Yes. We received the complaints about the gates not being there and some of them being opened and being used. Traffic coming in and out. Essentially there was vehicles being parked on that side street. When we did go up there back that time ago there was some tree trimers in there. They were using, they were using that entrance to bring their equipment in to take some trees down. We informed them they should not do that. It was in front of the board and it was to be used for emergency personnel only and they quit doing it. They got the gates up. Put the knox box up.

As far as I know, that has not occurred or it hasn't been brought to our attention.

The day I was there it was closed and there wasn't any cars parked on that side or anything.

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

(NO RESPONSE)

CHAIRMAN: Anyone in the audience have briefly something to say one or the other?

(NO RESPONSE)

CHAIRMAN: Hearing no comments entertain a motion to adjourn.

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, LYNETTE 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 37 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 26th day of July, 2009.

LYNETTE 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

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