

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

NOVEMBER 4, 2010

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, November 4, 2010, 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
- Rev. Larry Hostetter
- Marty Warren
- Sean Dysinger
- Clay Taylor

* * * * *

CHAIRMAN: I want to call to order the Owensboro Metropolitan Board of Adjustment. We start our program each month with a prayer and the pledge of allegiance. Ask Madison to give our prayer this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I want to welcome you all to the meeting this evening. If you have any comments on any item, please come to one of the podiums and state your name so we'll have record of that.

With that the first item on the agenda is the minutes of the October 7th meeting. They're in the

1 office. We haven't found any problems.

2 MR. NOFFSINGER: Correct.

3 CHAIRMAN: With that I'll entertain a motion
4 to dispose of the item.

5 MR. DYSINGER: Move to approve.

6 MS. MASON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries.

11 Next item, please.

12 -----

13 CONDITIONAL USE PERMIT

14 ITEM 2

15 523, 529, 531, 533 Leitchfield Road, zoned B-5

16 Consider request for a Conditional Use Permit in order
17 to operate an outdoor storage facility.

18 Reference: Zoning Ordinance, Article 8, Section 8.2L8

19 Applicant: J.E.D. Rentals Family Partnership, LTD

20 MR. SILVERT: Would you state your name,
21 please?

22 MS. EVANS: Melissa Evans.

23 (MELISSA EVANS SWORN BY ATTORNEY.)

24 ZONING HISTORY

25 The subject property is currently zoned B-5
Business Industrial. OMPC records indicate there was
a zoning map amendment approved by the OMPC for a

Ohio Valley Reporting

(270) 683-7383

1 portion of the subject property (523 Leitchfield Road)
2 from R-4DT to B-4 in 1983 and a zoning map amendment
3 for the entire subject property from R-4DT and B-4 to
4 B-5 approved by the OMPC in September 2010.

5 The zoning map amendment application approved
6 in September 2010 was submitted after the applicant
7 received a violation notice in July of 2010 for the
8 operation of a storage yard in an inappropriate zone.

9 Accesses is obtain to the subject property
10 using a public alley along the southeast side of 533
11 Leitchfield Road and there is also a public alley
12 along the backside of the subject property. Both
13 alleys are covered in gravel and appear to be used by
14 the applicant as their private property. In fact,
15 there is a fenced gate stretching across the alley of
16 the backside of the property blocking public access to
17 the alley. Neither alley's boundaries are clearly
18 defined because of the gravel covering. Both alleys
19 need to be formally returned to public use or the
20 applicant should request from the City of Owensboro
21 that those alleys be closed. Only screened areas of
22 an outdoor storage yard can be gravel, and all other
23 areas outside of the fence shall be paved or returned
24 to grass.

25 A variance application to waive the screening

Ohio Valley Reporting

(270) 683-7383

1 requirement accompanies this request. Staff would
2 recommend that appropriate screening from the roadway
3 be considered as a condition of the conditional use
4 permit if granted, to assure the appropriate
5 integration of the expanded outdoor storage use in the
6 neighborhood.

7 The applicant is proposing to continue to
8 utilize the subject property as outdoor storage.

9 LAND USES IN SURROUNDING AREA

10 The properties to the north, south and east
11 are zoned I-1 Light Industrial. The property to the
12 west is zoned R-4DT Inner City Residential.

13 ZONING ORDINANCE REQUIREMENTS

14 1. Parking - No minimum established by the
15 zoning ordinance.

16 2. Landscaping - A six foot solid wall or
17 fence around the entire perimeter of the subject
18 property and one tree per 40 linear feet where
19 adjoining residential zoning.

20 SPECIAL CONDITIONS

21 1. Approval of a minor subdivision plat
22 consolidating the subject property.

23 2. All vehicular use areas outside of the
24 fencing shall be paved or returned to grass, if not
25 used as vehicular use area.

Ohio Valley Reporting

(270) 683-7383

1 3. Return public alleys to public use or have
2 alleys formally closed.

3 4. Appropriate screening of outdoor storage
4 lot from adjoining roadway.

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

7 CHAIRMAN: Thank you.

8 Do we have any comments in the office for or
9 against?

10 MR. NOFFSINGER: No, sir.

11 CHAIRMAN: Is anyone wishing to speak in
12 opposition to this item?

13 (NO RESPONSE)

14 CHAIRMAN: Is the applicant here and are you
15 ready to present?

16 MR. DAVIS: I'm the applicant.

17 CHAIRMAN: Come to the podium and state your
18 name.

19 MR. SILVERT: State your name, please.

20 MR. DAVIS: My name is Paul Davis.

21 (PAUL DAVIS SWORN BY ATTORNEY.)

22 MR. DAVIS: We was talking about it today. Me
23 and Ernie and Jerry, which is the owners of J.E.D.
24 Rental Properties, that we would like to try with the
25 variance and the conditional use permit to leave the

1 front side of the fence, you know, don't make it
2 blocked in. Like put in the panels. We would like to
3 try to be able to get a variance to leave it open due
4 to the fact of we've had a lot of equipment
5 vandalized, stolen through the years. We pay Night
6 Hawk Security to secure all the areas, which they do
7 of what we have on Leitchfield Road as well 1518 where
8 Ernie Davis Mechanical is.

9 What we want to do is just use this strictly
10 for parking equipment, dump trucks. We want to kind
11 of keep it from being vandalized.

12 Also, we have no problem whatsoever of
13 asphaltting the entrance way where the one alley comes
14 in between 533 and 535. Which 535 is a warehouse.
15 It's been there 70, 80 years and we would like to
16 leave that alley way open, but we're in the process
17 now of closing the alley way that adjoins the backside
18 which would be the east side of the property. It's
19 between 529, 531 and 533 Leitchfield and Mudd's
20 Warehouse. We're wanting to consolidate all of the
21 properties and then also closing that alley way, but
22 we want to leave the one alley way open that comes off
23 of Leitchfield Road for Mudd's Warehouse to have
24 access to their property.

25 All we're doing is just asking if we could

Ohio Valley Reporting

(270) 683-7383

1 with the variance just the front piece of the
2 property, not cover it, the railing or the slats put
3 in the fence. Then we're willing to asphalt. Put
4 trees every 40 feet or if we need to put trees every
5 30 or every 20 feet, you know, just to keep from
6 having to block off that property from view from Night
7 Hawk Security. That's all. We're willing to work
8 with you all on however we can. We would just like to
9 be able to keep that open if possible.

10 CHAIRMAN: If any board members have any
11 questions of the applicant?

12 MR. TAYLOR: For Staff.

13 Would that be a separate variance than the one
14 that they have applied for?

15 MR. NOFFSINGER: No. I believe the next item
16 would be the variance.

17 MR. TAYLOR: I didn't know if that meant --

18 MR. NOFFSINGER: However Staff's
19 recommendation on the conditional use permit is it be
20 approved with the four conditions. If the four
21 conditions are approved, then there might need to be a
22 stipulation there that if a variance is approved for
23 any of these that that would be acceptable. Because
24 the conditions that we are recommending specifically
25 speak to this conditional use permit application and

Ohio Valley Reporting

(270) 683-7383

1 many of them are contrary to what the applicant wants
2 to do.

3 MR. TAYLOR: Right. That's what I was
4 wondering. The conditions seem to kind of conflict
5 with, it seems like he's somewhat meeting some of the
6 conditions, but what he's saying is conflicting with
7 them as well.

8 MR. NOFFSINGER: Right. Staff's position
9 would be we would not recommend approval on the
10 conditional use permit unless these conditions are
11 met.

12 MR. DAVIS: And the only condition we're
13 asking for is just the slats in the fencing. You
14 know, we're willing to do the landscaping in the
15 front. You know, do the asphaltting for the
16 conditional use permit and also this variance and
17 stuff, you know, because we know all traffic use areas
18 has to be paved. It's like -- the alley way is ten
19 foot, but we're willing to pave more in going all the
20 way back to the fence line and everything on the
21 properties.

22 MS. MASON: But you're willing to return the
23 alley way back to public use is what you're saying.
24 Leave one the alley ways open and close the other?

25 MR. DAVIS: Yes, ma'am. I don't think --

Ohio Valley Reporting

(270) 683-7383

1 Mr. Weikel is helping us at Bryant. We're not
2 planning on trying to close the one alley way between
3 -- it's right beside 533 and 535, but we just want to
4 close because we own all the property surrounding both
5 alleys. J.E.D. Rental owns every piece of property in
6 that area. We're just wanting to close that one back
7 alley way because it's for nothing. There's no use
8 for that alley way for public use or anything.

9 MS. MASON: You spoke to the city about this
10 then?

11 MR. DAVIS: Yes.

12 MR. PEDLEY: Mr. Davis, are you stating that
13 you're not wanting to screen the Leitchfield Road
14 front area?

15 MR. DAVIS: Yes, sir, Mr. Pedley. We would
16 like to leave that open due to the fact of Night Hawk
17 Security. Because they'll drive up and down the road
18 there. If we put a solid screen fence in at that
19 area, they would not be able to see what's in the lot.
20 They do that for every piece of property we have.
21 Because we've had a lot of vandalism, you know,
22 things stolen. We notice like one piece of the fence
23 I think is almost on the property line. We're willing
24 to move it back to give -- there was one section that
25 was right on the property line that we move it back a

Ohio Valley Reporting

(270) 683-7383

1 little bit on the buffer to be able to put trees. We
2 put more trees or whatever to make it look better on
3 that property. That's the only thing that we're
4 asking, is not put the slats in the front piece of the
5 property facing Leitchfield road.

6 CHAIRMAN: But you're willing to put a
7 chain-link fence up where you can see through if
8 possible?

9 MR. DAVIS: Yes, sir. Continuous 6 foot
10 chain-link fence all the way around the property and
11 then just not put the slats in the front, but we'll
12 put the trees, whatever we need to in the front.
13 We'll asphalt, you know, the entrance way for the
14 conditional use permit and also for the variance to
15 help with that. We would like to have six months, you
16 know, if possible because the asphalt plant will
17 probably be closing here in the next month or so. I
18 don't know if we'll be able to get on the schedule
19 enough to be able to do it this year.

20 You all state paving. Can we pour concrete
21 instead of paving? Is there a reason why we wouldn't
22 be able to do that? We already have some concrete
23 poured.

24 MR. NOFFSINGER: Concrete is fine. The trees
25 are a requirement. The trees you're going to have to

Ohio Valley Reporting

(270) 683-7383

1 meet that buffer. You're going to have to back that
2 up. The ordinance requirement for the screening is to
3 screen the south storage yard from the public's view.
4 From Staff's perspective that is very critical in
5 terms of these new developing areas and existing
6 developing areas that these storage yards be screened
7 from public view. If this is not one that should be
8 screened from public view, and there are reasons for
9 it, we should be looking towards an ordinance
10 amendment because it wouldn't be necessary anywhere.
11 This is why the ordinance is written, to screen
12 outdoor storage yards such as this.

13 MR. DYSINGER: Mr. Chair, I have a question
14 for the applicant. A couple of questions actually.

15 First on had the screening issue, you
16 testified that you've had vandalism and so forth in
17 the area currently.

18 MR. DAVIS: Yes, sir.

19 MR. DYSINGER: Is it screened now?

20 MR. DAVIS: No, sir. We haven't had the
21 problems since we've hired Night Hawk Security.
22 They've been doing it for us probably I'd say three
23 years and it's really helped with somebody watching
24 the property.

25 MR. DYSINGER: Your testimony is that because

Ohio Valley Reporting

(270) 683-7383

1 they can see in there that there hasn't been a problem
2 since that time?

3 MR. DAVIS: Yes, sir. Which J.E.D. is part of
4 Ernie Davis Mechanical. Every lot that Ernie Davis
5 Mechanical is in is owned by J.E.D. Rentals.

6 MR. DYSINGER: On the alley issue, this is
7 probably more for legal counsel than anyone else.

8 This is public use land and it should be
9 returned to that or dealt with that in a formal waiver
10 regardless of what have we do on this -- well, not
11 regardless. If we approve with the condition that
12 that be returned to public use, that doesn't prejudice
13 any action that they would take with the City or
14 otherwise to do one thing or the other; is that
15 correct? I just want to make sure it's taken care of
16 as far as tonight is concerned, but I also don't want
17 to make their process more complicated to actually
18 return it to public use or take it on theirself.

19 MR. NOFFSINGER: No. This says, either return
20 it to public use or formally close it. One or the
21 other. They need to address it.

22 MR. DAVIS: We understand what the conditions
23 are, as far as the screened in front part of the fence
24 from the public eye, but that's why we're going
25 through with the variance. Trying to see if we can

Ohio Valley Reporting

(270) 683-7383

1 keep from that to help protect our equipment and stuff
2 like that. Because we have a big investment in
3 equipment and trailers and stuff. What we're going to
4 do is cleanup the lower lot. That way help open stuff
5 up more. Make it a lot more presentable than what was
6 there prior.

7 MR. DYSINGER: Mr. Chair, I do have one other
8 item which may again be for counsel.

9 We do have two items ahead of us. We're kind
10 of taking testimony on both. For the purposes of
11 moving through the agenda, if we were to approve the
12 conditional use permit which requires the screening,
13 that would not affect us dealing with the variance
14 that comes right after it, to do whatever we would
15 decide to do at that point; is that correct?

16 MR. SILVERT: Variance would be on that
17 requirement.

18 MR. DYSINGER: Hypothetically we could
19 enforcement requirement just to turn right around and
20 review that requirement of the next without putting us
21 in any position of having it second-guessed later on?

22 MR. NOFFSINGER: Yes. That's why I stated we
23 need to make it clear that if it's approved as written
24 here, that they have the right to seek the variance on
25 the next item.

1 MR. DYSINGER: Just wanted to make sure of
2 that for the record.

3 MR. TAYLOR: One question.

4 Would it tie the applicant's hands any more if
5 this conditional use is approved and then if the
6 variance is then denied? Would it put them in a
7 situation worse than they are right now?

8 MR. NOFFSINGER: No. The conditions that we
9 have right here are conditions of the zoning
10 ordinance.

11 MR. TAYLOR: Correct. I understand that. Say
12 that we did approve this conditional use permit and
13 then the board voted and said that they really need to
14 have that screening because that's what it says, what
15 situation will they be in then?

16 MR. DYSINGER: In compliance.

17 MR. NOFFSINGER: Right. That's what I'm
18 asking. It seems to me that if board was leaning in a
19 direction to deny a variance, would it thus be better
20 on the applicant to deny the conditional use permit as
21 well?

22 MR. SILVERT: Then they would not be in
23 compliance.

24 MR. TAYLOR: So either way they would not be
25 in compliance.

1 CHAIRMAN: Any other?

2 MR. NOFFSINGER: Excuse me.

3 The use, this is not an industrial zone. It's
4 B-5 commercial and industrial zone. In that
5 commercial industrial zone, in order to operate an
6 outdoor storage yard, you have to have a conditional
7 use permit. If it were an industrial zone, they would
8 not need this conditional use permit, but you still
9 have the same conditions.

10 MR. TAYLOR: Right.

11 MR. DAVIS: So, in other words, if we went to
12 change it to industrial, we wouldn't have needed --

13 MR. NOFFSINGER: You wouldn't need a
14 conditional use permit, but you still have the same
15 site development requirements.

16 CHAIRMAN: Any other questions from the board?

17 (NO RESPONSE)

18 CHAIRMAN: Staff have anything else to add?

19 MR. NOFFSINGER: No, sir. No, sir.

20 CHAIRMAN: You have any other questions you
21 want to ask?

22 MR. DAVIS: No, sir.

23 CHAIRMAN: What's the board's pleasure?

24 MR. DYSINGER: Mr. Chairman, given that this
25 usage has been ongoing in a noncompliance matter and

Ohio Valley Reporting

(270) 683-7383

1 the purpose of this matter is just to bring them into
2 compliance, I move that we grant the conditional use
3 permit with the following conditions:

4 1. Approval of a minor subdivision plat
5 consolidating the subject property;

6 2. All vehicular use areas outside of the
7 fencing shall be paved or returned to grass, if not
8 used as a vehicular use area;

9 3. Return public alleys to public use or have
10 alleys formally closed;

11 4. Appropriate screening of outdoor storage
12 lot from adjoining roadway;

13 5. That there be a review in seven months to
14 ensure compliance.

15 CHAIRMAN: Is there a second to the motion?

16 MR. TAYLOR: Second.

17 CHAIRMAN: A motion has been made and a
18 second.

19 Staff, do you have any other comments?

20 MR. NOFFSINGER: No, sir.

21 CHAIRMAN: Board have any other comments or
22 questions?

23 MS. MASON: Do we have to add to that if the
24 variance is approved it will be acceptable? What Gary
25 had said earlier, would that have to be added into the

1 motion or not?

2 MR. DYSINGER: Mr. Chair, I would say that a
3 review could take many forms, and if it's not
4 necessary in seven months, it's reviewed and we not
5 deal with it.

6 CHAIRMAN: Mr. Attorney, are we clear?

7 MR. SILVERT: We are clear.

8 MR. TAYLOR: I still second.

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

11 (NO RESPONSE)

12 CHAIRMAN: Do you have any questions at this
13 time?

14 MR. DAVIS: No, sir.

15 CHAIRMAN: All in favor raise your right hand.
16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries.

18 Next item, please.

19 -----

20 VARIANCE

21 ITEM 3

22 523, 529, 531, 533 Leitchfield Road, zoned B-5
23 Consider request for a Variance in order to install
24 six foot high chain link fence instead of the required
25 six foot high continuous solid wall or fence for an
outdoor storage yard.

Reference: Zoning Ordinance, Article 8, 17,

25 Section 8.5.17(1), 17.311(5a), 17.3114

Applicant: J.E.D. Rentals Family Partnership, LTD

1 MS. EVANS: The Applicant is requesting to
2 install a six foot high chain-link fence instead of
3 the required six foot high continuous solid wall or
4 fence as required by the zoning ordinance. The
5 applicant states that he wishes to construct a six
6 foot chain-link fence that can be seen through with
7 three runs of barbwire on top for security purposes.

8 OMPC records indicate there was a zoning map
9 amendment to bring this property into compliance with
10 a B-5 zone and then you just granted the conditional
11 use permit application.

12 The applicant currently owns the properties to
13 the north, south and east of the subject property
14 using them all in conjunction with the subject
15 property as warehouses and outdoor storage yards. The
16 properties to the north, south and east are zoned
17 light industrial and are currently nonconforming with
18 regards to screening and landscaping.

19 We have pictures that are on your screen that
20 that show the front of this outdoor storage yard along
21 Leitchfield Road coming from the north going to the
22 south and then coming from the south going to the
23 north and then the last picture shows the residential
24 properties across the street.

25 If the applicant would be willing to install a

Ohio Valley Reporting

(270) 683-7383

1 6 foot high solid wall or fence along Leitchfield Road
2 from the north end of the adjoining property to the
3 north of the subject property, to the south end of 533
4 Leitchfield Road and install one tree every 40 linear
5 feet, the Staff would recommend waiving the
6 requirement of the 6 foot high solid wall or fence
7 along the other boundaries of the subject property.

8 The applicant's entire property is bounded to
9 the north and south by buildings that provide
10 sufficient screening into the west by the railroad
11 tracks and a tree line that provides sufficient
12 screening.

13 If the applicant is not willing to provide
14 screening and landscaping along the entire length of
15 their property along Leitchfield Road, the Staff would
16 recommend the variance be denied and the applicant be
17 required to install a 6 foot high solid wall or fence
18 around the entire perimeter of the subject property.
19 Screening along the entire frontage would provide
20 appropriate screening of the existing nonconforming
21 storage yard and the proposed continuation of that
22 storage yard from the street right-of-way.

23 Granting the variance along the street
24 frontage will cause a nuisance to the public because
25 it will be creating an expansion of unscreened,

Ohio Valley Reporting

(270) 683-7383

1 unslightly storage across from residential properties.
2 It will allow an unreasonable circumvention of the
3 requirements of the zoning regulations because it will
4 allow the applicant to expand an existing
5 nonconformity without due consideration of the
6 ordinance requirements and their intent.

7 Staff would recommend denial unless the
8 applicant agrees to screen and landscape the subject
9 property and adjoining outdoor storage yard along
10 Leitchfield Road.

11 Staff would recommend approval of the request
12 along the boundaries not abutting the roadway if the
13 applicant agrees to screen and landscape along the
14 entire length of their property containing outdoor
15 storage along Leitchfield Road with the conditions:

- 16 1. Approval of a minor subdivision plat
17 consolidating the subject property.
- 18 2. All vehicular use areas outside of the
19 fencing shall be paved or returned to grass, if not
20 used as vehicular use area.
- 21 3. Return public alleys to public use or have
22 alleys formally closed.

23 We would like to enter the Staff Report into
24 the record as Exhibit B, and we would like to enter
25 the pictures that I have printed off for the court

1 reporter as Exhibit C.

2 CHAIRMAN: Does the applicant have any other
3 comments you would like to make on this item?

4 MR. DAVIS: Not other than what I did just a
5 moment ago.

6 CHAIRMAN: Any board member have any questions
7 of the applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Staff have any other comments?

10 MR. NOFFSINGER: No, sir.

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

13 MR. TAYLOR: I do have one question just of
14 the applicant. Just something real --

15 CHAIRMAN: Come to the podium, please.

16 MR. TAYLOR: It's more just of recognizing
17 what you just said.

18 What she's saying is kind of what we're tasked
19 to do and what it seems like that we are definitely
20 supposed to do here, is follow the ordinance as it's
21 written. In doing that, they would recommend what
22 you're requesting of the screening. While they're
23 saying approval on part of it, they're still saying to
24 deny you that right and that you still need to screen
25 the road there. I just wanted to make sure that that

Ohio Valley Reporting

(270) 683-7383

1 was clear and that when we're saying that, that's kind
2 of clear from that recommendation for that report.

3 MR. DAVIS: Yes, sir. I understand that.
4 That's what I was wanting the board to understand too.
5 A lot of you are business owners or been involved in
6 businesses. We're asking for the variance of the
7 fencing to not have to screen the front of it due to
8 the fact of vandalism in that area. We've been in
9 that area now I guess I was two years old. So 20
10 years ago. We've had quite a bit of vandalism through
11 the years and we've had to go and pay someone now to
12 keep it from things being vandalized, stolen. That's
13 what we're asking, for the variance of not putting the
14 slats in the fencing. We are willing to do the
15 landscaping. If you want us to put trees every 20
16 feet, you know, that would kind of help build a little
17 more buffer through there. Also, we'd like to
18 asphalt. We have no problem asphalt or concrete the
19 entrance way coming in off Leitchfield Road. That way
20 it helps Mudd's Furniture. It helps another business
21 in Owensboro operate. Then also we're willing to --
22 the fencing.

23 The alley way, we want to keep that one alley
24 way open, but we want to close, which we're in the
25 process of now consolidating all the pieces of

Ohio Valley Reporting

(270) 683-7383

1 property which is 523, 29, 30, 31 and 33 together.
2 We're wanting to consolidate and take that alley way
3 and put with those pieces of property. Considering we
4 own all the property in the surrounding except for
5 across the west side of Leitchfield Road.

6 MR. TAYLOR: Whatever way the vote turns out,
7 if it is denied, it's not for being unsympathetic.
8 It's that we're tasked to kind of carry out the letter
9 of that ordinance and what the vision of it was in
10 case something is against it. It appears to me in
11 that case that the ordinance is kind of strict on it.
12 Not that our hands are tied, but we wouldn't have that
13 ability, but the ordinance is kind of clear on that.
14 I don't want any ruling to look unsympathetic. We try
15 to do the best we can, but it's almost as if our hands
16 would be tied on that. I'd be ready to make a motion.

17 MR. DAVIS: That is the reason why we were
18 asking for the variance, you know, from having to put
19 the slats in the fencing. That's why we come forward
20 and is asking for the variance. We're willing to do,
21 like I said, everything else on there. We would just
22 like to be able to that property adjoining Leitchfield
23 Road not to put slats.

24 MR. DYSINGER: And staff is saying that's the
25 one part that they absolutely must have.

Ohio Valley Reporting

(270) 683-7383

1 MR. DAVIS: That's the reason why we're doing
2 the variance and coming in front of. To see if that's
3 something we can do due to the fact of vandalism,
4 steeling, all of that.

5 MR. DYSINGER: As Mr. Taylor points out, it is
6 a difficult situation.

7 MR. DAVIS: I understand that. I understand
8 that.

9 CHAIRMAN: I'll entertain a motion at this
10 time, please.

11 MR. PEDLEY: Mr. Chairman, I'm going to make a
12 motion to grant the variance, to waive the
13 requirements for a 6 foot high solid wall or fence
14 along the north, east and south boundaries of the
15 applicant's property with appropriate screening and
16 landscaping along Leitchfield Road of the subject
17 property.

18 Findings for granting this variance will not
19 adversely affect the public health, safety or welfare
20 because installing the screening will greatly improve
21 the appearance of the area. It will not alter the
22 essential character of the general vicinity because
23 installing the screening will improve the character of
24 the area. Will not cause a hazard or nuisance to the
25 public. Screening will improve the unsightly

Ohio Valley Reporting

(270) 683-7383

1 conditions. It will not allow an unreasonable
2 circumvention of the zoning ordinance requirements
3 because it is improving the unsightly conditions of
4 the area.

5 With the Conditions:

- 6 1. Approval of minor subdivision plat
7 consolidating the subject property;
- 8 2. All vehicular use areas outside of the
9 fencing shall be paved or returned to grass, if not
10 used as vehicular use area;
- 11 3. Return public alleys to public use or have
12 alleys formally closed;
- 13 4. Install appropriate screening and one tree
14 every 40 feet along Leitchfield Road off the subject
15 property;
- 16 5. Install slats in the chain-link fence for
17 screening on the nonconforming property to the north
18 of the subject property. One 1 tree every 40 feet may
19 be waived on this section because the fence is on the
20 property line and the trees would have to be in the
21 public right-of-way.

22 MR. SILVERT: Mr. Pedley, for clarification.
23 At the beginning of your motion you stated that the
24 solid wall or fence would not have to be erected. Is
25 it the fence that you want to vary or the fact that

Ohio Valley Reporting

(270) 683-7383

1 it's solid?

2 MR. NOFFSINGER: Mr. Pedley, are you saying
3 that the 6 foot chain-link fence is appropriate;
4 however, it's to contain slats along the frontage of
5 the subject property as well as the nonconforming
6 property adjoining that along Leitchfield Road?

7 MR. PEDLEY: That's correct.

8 MR. NOFFSINGER: So it's to have a chain-link
9 fence with slats along the entire frontage of
10 Leitchfield Road for the existing storage area as well
11 as the new storage area?

12 MR. PEDLEY: That's correct.

13 MR. NOFFSINGER: And you're waiving the
14 requirements for the fence on the other boundaries?

15 MR. PEDLEY: On the nonconforming north of the
16 subject property. We're waiving the tree
17 requirements.

18 MR. NOFFSINGER: Yes.

19 MR. DYSINGER: Second.

20 CHAIRMAN: A motion has been made and a
21 second.

22 MR. DAVIS: Let me understand what he just
23 said.

24 The slats on the entire frontage of
25 Leitchfield?

Ohio Valley Reporting

(270) 683-7383

1 MR. PEDLEY: Yes. Slats on the subject
2 property which of these lots and the chain-link fence
3 you have, slats in it, and a tree, 1 tree every 40
4 feet. Then on the property north of that, the
5 nonconforming part of your property, you put slats in
6 the existing chain-link fence, but no trees are
7 required.

8 MR. DAVIS: In other words, you're saying no
9 trees, but put the slats in the fence that's been
10 there on the north side of the property?

11 MR. PEDLEY: Yes. That's to screen the entire
12 Leitchfield Road.

13 MR. DAVIS: You're asking for us to screen the
14 entire Leitchfield Road property that's facing it
15 waiving the trees?

16 MR. PEDLEY: Yes.

17 MR. DAVIS: Where did the north side property
18 become involved in this piece of property that we're
19 doing now? Because that's been an existing piece of
20 property that's been chain-linked since the late '50s.
21 What we're doing now is 523, 531, 529 and 533. I
22 don't want to involve the other pieces of property in
23 on it. Because you're saying now that you don't want
24 me to slat the entire piece of property all the way
25 down. Instead of just what we're going in and have it

Ohio Valley Reporting

(270) 683-7383

1 rezoned and just pass the conditional use permit for?

2 MR. PEDLEY: Yes, that's correct. That's a
3 trade off because we're not requiring you to install a
4 6 foot high solid fence around the entire perimeter of
5 the property and install trees, 1 tree every 40 feet
6 around the entire perimeter. This on the Leitchfield
7 Road side, we feel it needs to be screened because of
8 the equipment and everything that you have in there is
9 very unsightly. Screen the entire length. It just
10 gives Leitchfield Road --

11 MR. DAVIS: You're saying equipment is
12 unsightly? Is that what you said?

13 MR. PEDLEY: Yes.

14 MR. DAVIS: In other words, you're asking to
15 do the entire Leitchfield Road in spite of the trees?
16 You know, because I don't want to do the entire
17 Leitchfield Road because we don't want to involve the
18 north piece of property. We're only wanting to
19 involve the piece of property that we just had
20 rezoned.

21 MR. TAYLOR: Since he wasn't asking for -- I
22 mean is it legal for something that's already been
23 grandfathered in for us to place a restriction upon
24 it?

25 MR. SILVERT: Only if it's negotiated as such.

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: That's what he's trying to do.

2 MR. DAVIS: That's defeating the purpose of
3 what we want to do.

4 MR. TAYLOR: That's kind of why I was asking
5 on the conditional use, if it would be opening them up
6 to anything else.

7 MR. NOFFSINGER: I don't think it is. What
8 the requirements that you have right now on the
9 subject property to do would be screening the subject
10 property from public view. That would be along
11 Leitchfield Road, plus as you drive up and down
12 Leitchfield Road you can see in on the two sides of
13 the property. If you put screening there, you
14 wouldn't be able to see it.

15 So what Mr. Pedley is saying, that as a trade
16 off to having to screen the other three sides of the
17 subject property, that that screening be moved to the
18 Leitchfield Road frontage and you not have to screen
19 the interior part of that lot. That's the trade off
20 in the variance that he's speaking of. So that if you
21 screen the entire frontage, you don't need the
22 screening on the back portion and you don't need it on
23 the two sides.

24 MR. DAVIS: I thought the variance of what
25 we're doing was just the said property that we've been

Ohio Valley Reporting

(270) 683-7383

1 involved with of doing those. Just putting slats in
2 it. Not the existing piece of property that has
3 already been grandfathered in.

4 MR. NOFFSINGER: You are correct. And the
5 Staff's recommendation is that that variance be
6 denied.

7 Now Mr. Pedley is making a recommendation for
8 approval and saying if you're willing to screen the
9 frontage of the nonconforming area as a trade off, we
10 will approve the variance. If you're not willing to
11 do that, then there's not a motion for that, but
12 that's the motion he has on the table.

13 MR. DAVIS: But then that defeats what I've
14 just been asking for, you know, on that said property
15 to the north side. That defeats the purpose of what
16 I'm asking for as far as the variance.

17 CHAIRMAN: We understand what you're asking
18 and we understand what his motion is. You have the
19 opportunity if they pass for or if they pass it, then
20 you can go along with his wishes or then you cannot
21 have anything unless we get another motion.

22 MR. NOFFSINGER: Compliance with the ordinance
23 or compliance with the variance. That is the choice.
24 It hasn't subjected him on anything on that adjoining
25 property unless he's --

Ohio Valley Reporting

(270) 683-7383

1 MR. TAYLOR: Unless it's approved.

2 MR. NOFFSINGER: -- unless it's approved and
3 he's willing to do that. But he still has the option
4 of complying with the zoning ordinance requirement
5 even if the variance is approved.

6 MR. DYSINGER: In other words, there would be
7 no undue burden. It's not necessary that he comply
8 with our decision here. He has the choice to comply
9 with the law as it stands. The Burden does not
10 change. He's not under any additional burden.
11 There's just an opportunity to do it in a way that I
12 think, if I may say, would be a little bit more
13 fitting with the situation that he's in while still in
14 keeping with our responsibility to uphold.

15 CHAIRMAN: You understand now?

16 MR. DAVIS: Which you're saying just the said
17 property that we're dealing with now?

18 MR. DYSINGER: If this motion passes, then you
19 can comply with the motion and screen the areas that
20 Mr. Pedley has said and you will be at that point in
21 compliance. If you chose not to do that, then the
22 standing burden of the ordinance as it stands still
23 applies to you. You'll have to screen the entire
24 perimeter of the existing property.

25 Now, you are correct in that the property that

Ohio Valley Reporting

(270) 683-7383

1 you discussed, the grandfathered property, however you
2 want to refer to it, is not necessarily wrapped up in
3 this situation in except as much as there is a
4 compromise here in the form of Mr. Pedley's motion.
5 So that we remain true to the ordinance, the spirit of
6 the ordinance, while taking some of the burden off of
7 you for screening property that doesn't face anyone,
8 which we all can see is somewhat burdensome in your
9 case. If you chose not to do that, you're totally
10 within your rights to do that. However, the burden of
11 the ordinance is still on you and you must comply with
12 that.

13 MR. DAVIS: If I did anything, I would rather,
14 you know, put the screening or the slats in the said
15 property that we're dealing with than do the entire
16 length of Leitchfield Road and put the trees every 40
17 feet. I would rather do that property, you know, if
18 that takes to get it passed where I can use it for a
19 storage lot. Because now the property was old homes
20 that were tore down. I took care of them and I got
21 rid of -- there was drug activity going on in there
22 and I had the police there quite a bit. We tore the
23 old house down and made it a storage area because we
24 said, you know, we own all the property around. I
25 would be more willing to put slats in just the

Ohio Valley Reporting

(270) 683-7383

1 sections on Leitchfield Road the property that we're
2 dealing with than have to do the other piece of
3 property also. Because I want it left alone. It's
4 all grandfathered in. I want that piece of property
5 left alone because we bought as is. It's still got
6 the smokestack from the old warehouse or whatever that
7 burned in the early '70s, I believe, or whatever. We
8 want that piece of property left alone. If I'm going
9 to do anything, I'll do it to the piece of property
10 that we're dealing with, 523.

11 I understand, sir, and you'd be within your
12 rights to do either.

13 CHAIRMAN: We all understand then and we've
14 got his motion on the floor. We did get a second.

15 MR. DYSINGER: Yes. I second.

16 CHAIRMAN: A motion has been made and a
17 second. Any other comments at this time?

18 MR. NOFFSINGER: No, sir.

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

21 (BOARD MEMBERS MARTY WARREN, SEAN DYSINGER,
22 WARD PEDLEY, RUTH ANN MASON AND FATHER HOSTETTER ALL
23 RESPONDED AYE.)

24 CHAIRMAN: Opposed.

25 (BOARD MEMBER CLAY TAYLOR RESPONDED NAY.)

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: Motion is passed.

2 ITEM 4

3 507 East Parrish Avenue, zoned B-4

4 Consider request for a Variance in order to reduce the
5 roadway buffer along East Parrish Avenue from 50 feet
6 from the centerline of the road to 32 feet from the
7 centerline of the road.

8 Reference: Zoning Ordinance, Article 13, Section
9 13.6221

10 Applicant: Clarth Properties, LLC

11

12 MR. NOFFSINGER: Before we move forward on
13 this, it's my understanding that the applicant wishes
14 to amend the application to read that this would be a
15 reduction in the roadway buffer from 50 feet from the
16 center line of the road to 36 feet from the center
17 line of the road.

18 Is that correct?

19 You need to get the applicant on the record
20 stating that that is correct.

21 MR. SILVERT: Would you state your name,
22 please?

23 MR. CLARK: Aaron Clark.

24 (AARON CLARK SWORN BY ATTORNEY.)

25 MR. NOFFSINGER: So that will be 36 feet,
correct?

MR. CLARK: Correct.

MR. NOFFSINGER: Thank you.

CHAIRMAN: Staff, state your comments,

1 please.

2 MS. EVANS: The applicant is requesting to
3 reduce the roadway buffer along East Parrish Avenue
4 from 50 feet from the center line of the road to 36
5 feet from the center line of the road to accommodate
6 the parking layout as shown on the site plan submitted
7 with the application.

8 The applicant states that the grade of the
9 land falls off sharply from the front corner of the
10 building to the northwest of the corner of the
11 property. This is causing a steep grade for the
12 planned parking lot with the entrance located off of
13 Sweeney Street. They also state the grading is
14 causing difficulties meeting the ADA standards for a
15 handicapped parking spot. The granting of the
16 Variance would allow the applicant to place the
17 handicapped parking spot further south and require
18 less grading work to meet the ADA standards.

19 The applicant is required to provide 17
20 parking spaces on the site, but they are proposing to
21 provide 23. They have room on the site to provide the
22 required number of spaces without the reduction of the
23 roadway buffer. Upon inspection of the property it
24 was found that the applicant could locate the
25 handicapped parking spot somewhere else on the

Ohio Valley Reporting

(270) 683-7383

1 property and still meet the ADA requirements. It was
2 also found that the applicant could locate the
3 entrance to the parking lot off of the alley to the
4 rear of the property instead of off Sweeney Street and
5 reduce the negative effect of the grading issues and
6 provide more parking spots.

7 Granting this variance will alter the
8 essential character of the general vicinity by
9 allowing this parking lot to be closer to East Parrish
10 Avenue than other properties that may develop in the
11 area.

12 It will also allow an unreasonable
13 circumvention of the requirements of the zoning
14 ordinance because there is adequate room on the
15 property to meet the parking requirements.

16 There have been no other roadway buffers
17 granted in this area for granting this variance.

18 Staff would recommend denial.

19 We would like to enter the Staff Report into
20 the record as Exhibit D.

21 CHAIRMAN: Any comments filed in the office?

22 MR. NOFFSINGER: No, sir.

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

25 (NO RESPONSE)

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: The applicant ready to come forward
2 and state your reasons?

3 MR. CLARK: Yes, sir.

4 Of course, safety is our number one concern.
5 It is my understanding, from the people that we have
6 hired, due to the sloping this will be the best
7 positioning for the handicapped parking place and
8 proximity to the front door of the practice.

9 CHAIRMAN: Any board members have any
10 questions of the applicant at this time?

11 MR. DYSINGER: What's the nature of the
12 business, Mr. Chairman?

13 MR. CLARK: Chiropractic practice.

14 CHAIRMAN: Staff have any comments at this
15 time?

16 MR. NOFFSINGER: No, sir.

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

19 MR. TAYLOR: I have a question.

20 It's kind of hard if somebody recommended to
21 him for this layout and for it not to be and for him
22 not to possibly realize the gravity of what if this
23 was to be denied and if it would have brought that
24 individual with him, that perhaps maybe if it was
25 extended to another month for him to bring that

Ohio Valley Reporting

(270) 683-7383

1 consultant with him onto why this was to be or even to
2 explore the options that the Staff had.

3 Oh, that person is here. I didn't want to
4 just go vote without anybody talking. It seemed like
5 we were getting somewhere kind of quick.

6 MR. SILVERT: State your name, please.

7 MR. BRUCE: Mike Bruce.

8 (MIKE BRUCE SWORN BY ATTORNEY.)

9 MR. BRUCE: Requesting this variance we can
10 locate the handicap parking on another lot on the back
11 site side of the building off of an alley, but due to
12 the nature of his business that's not adequate service
13 for a handicap individual to get around to the front
14 side of the building to have access. The parking lot
15 on the west side of the building does slope off
16 steeply and there is high ground and flat area in the
17 front of the building area next to Parrish Avenue.
18 The existing parking for this building is the full
19 width of the building off of Parrish Avenue. That's
20 being closed and grassed, but that would have been or
21 that is currently is in the buffer zone.

22 In the neighboring blocks, there are
23 intrusions into this buffer zone that haven't been
24 complied with yet. We figured that until the
25 remainder of the properties along Parrish Avenue

Ohio Valley Reporting

(270) 683-7383

1 comply with the buffer zone or until the land was
2 needed at that point that we could get by with this
3 and be willing to change those handicap parking spaces
4 to the other lot as such time that the buffer, full
5 buffer zone was needed.

6 CHAIRMAN: The applicant have any questions of
7 the gentleman?

8 MS. EVANS: I would like to make one comment.

9 The Staff's recommendation is based on the
10 rest of this area developing. As he stated, currently
11 there are places where the parking is in this buffer
12 zone, but all of those are nonconforming situations.
13 We would like to protect the area for future
14 development in keeping that buffer where it is for
15 future development purposes.

16 CHAIRMAN: Any board members have any
17 questions of either one?

18 MR. CLARK: I just want to make sure that it
19 is clear that our front door entrance is going to be
20 facing Sweeney Street also. In the event that there
21 is development and that road is widen, of course, we
22 would be willing to move that parking place at that
23 time.

24 MR. NOFFSINGER: That would also include
25 installation of your redesign on your parking area to

Ohio Valley Reporting

(270) 683-7383

1 remove some pavement as well as relocate your
2 landscape materials. Are you willing to take full
3 responsibility and cost of relocating the landscape
4 materials, removing that asphalt and removing that
5 handicap spot from that buffer area should this land
6 be necessary for the widening of Parrish Avenue?

7 MR. CLARK: Yes, sir.

8 MR. NOFFSINGER: Staff is comfortable with
9 that.

10 We welcome your business. Let me tell you
11 this would be great for this area. We're also
12 concerned about future improvements on that roadway
13 and we take those very serious. I think what you're
14 going to do there is just going to be outstanding. We
15 want to work with you. I think with what the
16 applicant just stated here on the record I think that
17 it should be granted on temporary basis with the
18 applicant accepting the full responsibility of
19 relocation, as he stated, in the future when that land
20 becomes necessary. Thank you.

21 CHAIRMAN: Board have any other questions of
22 the applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Staff have any other comments?

25 MR. NOFFSINGER: No, sir.

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: Entertain a motion.

2 MR. TAYLOR: Mr. Chairman, move to approve the
3 variance based on the fact that it will not adversely
4 affect the public health. In fact, it's a welcome
5 addition to that area that's been needing it for a
6 while. The reason why it's going to stick out is
7 because nothing has been developed there for a while
8 so it's going to look good.

9 In doing that, the special condition that I
10 place upon this is that if there is an announced
11 widening of Parrish Avenue that would protrude into
12 that buffer zone, that the applicant will at that
13 point move their parking that proceeds into that
14 buffer zone out of there and adhere to all landscaping
15 and requirements of the zoning ordinance after
16 removing that parking spot.

17 MR. NOFFSINGER: At their expense.

18 MR. TAYLOR: At their expense.

19 MR. WARREN: Second.

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

23 (NO RESPONSE)

24 CHAIRMAN: Staff have anything else?

25 MR. NOFFSINGER: No, sir.

Ohio Valley Reporting

(270) 683-7383

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries.

5 Next item, please.

6 -----

7 ADMINISTRATIVE APPEAL

8 ITEM 5

9 1925 Triplett Street, zoned B-4

Consider request for an Administrative Appeal
10 concerning the proposal to change from one
non-conforming use to another non-conforming use with
11 regards to parking and landscaping.

Reference: Zoning Ordinance, Article 4, 7,
12 Section 4.53, 7.34

Applicant: Billy D. Clark, Sr.; Chris Wilson & Mary
13 Wilson, Seth Stiff & Joe Howell

14 ZONING HISTORY

15 The subject property is currently zoned B-4
16 General Business. OMPC records indicate there have
17 been no zoning map amendments approved for the subject
18 property.

19 The applicant is requesting to change from one
20 nonconforming use of a pet shop to another
21 nonconforming use as a by appointment only catering
22 business. The applicant will be providing some
23 parking as shown on the site plan submitted.

24 LAND USES IN SURROUNDING AREA

25 The properties to the north, south and west

1 are zoned B-4 General Business. The property to the
2 east is zoned R-4DT Inner City Residential

3 A motion to approve would allow the operation
4 of a by appointment only catering business using the
5 existing parking as is.

6 A motion to deny would require the applicant
7 to install parking and landscaping as required by the
8 zoning ordinance.

9 We would like to enter the Staff Report into
10 the record as Exhibit E.

11 CHAIRMAN: Is anyone here wishing to speak on
12 the item?

13 Come forward and state your name, please, sir.

14 MR. SILVERT: State your name.

15 MR. FELDPAUSCH: My name is Charlie
16 Feldpausch. I'm here on Billy Clark's behalf. He was
17 ill.

18 (CHARLIE FELDPAUSCH SWORN BY ATTORNEY.)

19 MR. FELDPAUSCH: We have a catering business
20 we're wanting to relocate to a different area. We do
21 keep it to a total by appointment only type of
22 business. We do not have a retail business, which is
23 what has been in the property very much so in the
24 past. My speculation is that our traffic would be a
25 lot less than what was there previously, as well as

Ohio Valley Reporting

(270) 683-7383

1 improving the area and the look of the property from
2 it being vacant for the last two or three years.

3 MR. DYSINGER: Mr. Chair, what was the nature
4 of the previous nonconforming business?

5 MR. NOFFSINGER: It was a pet shop. Tropical
6 Breeze Pet Shop used to be there, and as a child I
7 remember frequenting that business very much.

8 Again, we welcome your business here. It
9 sounds like a good use of this particular piece of
10 property and wish the applicants much success.

11 MR. FELDPAUSCH: Thank you.

12 CHAIRMAN: Anybody have any questions of the
13 applicant or representative of him?

14 (NO RESPONSE)

15 CHAIRMAN: Staff have any other comments?

16 MR. NOFFSINGER: No, sir.

17 CHAIRMAN: Entertain a motion to dispose of
18 the item, please.

19 MR. DYSINGER: Mr. Chairman, move that we find
20 in favor of the applicant and grant the continuing
21 nonconforming use given the findings the change will
22 not increase nonconforming and scope or area of
23 operation and it will not have an adverse affect on
24 existing or future development of subject property or
25 adjoining area.

1 MR. WARREN: Second.

2 CHAIRMAN: A motion has been made and a
3 second.

4 Any other questions by the board or does the
5 Staff have any other questions?

6 MR. NOFFSINGER: No, sir.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries.

11 Next item.

12 -----

13 NEW BUSINESS

14 ITEM 6

15 609 Wing Avenue, zoned R-4DT

Review of Approved Conditional Use Permit

16 Applicant: Boulware - The Mission on the Hill, Inc.

17 MR. NOFFSINGER: Jim Mischel will provide the
18 review.

19 MR. SILVERT: State your name for the record,
20 please.

21 MR. MISCHEL: Jim Mischel.

22 (JIM MISCHEL SWORN BY ATTORNEY.)

23 MR. MISCHEL: A conditional use permit was
24 approved on November 6, 2008 with the following
25 conditions. There were four conditions.

Ohio Valley Reporting

(270) 683-7383

1 1. Review of the operation be conducted at
2 six month intervals after occupancy for a period of
3 two years.

4 2. The Benita Avenue access point must be
5 gated, locked, contain a knock box, and only
6 accessible by emergency vehicles.

7 3. At no time will there be more than 120
8 people at the facility.

9 4. The number of residents will not exceed
10 90.

11 I conducted an inspection on October 4, 2010
12 with Alan Engleheart, president of the Boulware
13 Mission and noted the following conditions at that
14 time:

15 1. The Benita Avenue access was gated. It
16 was locked and it had a knock box there.

17 2. All residents at this time reside in the
18 chapel. There was a total of 31 beds. There were 17
19 beds on one side of the chapel and 14 on the other
20 side.

21 3. During the day approximately 30 people are
22 transported from the Boulware Mission on Hall Street
23 for counseling and they are gone by 5 p.m. at night.

24 4. They have counseling at night for people
25 in the community that have day jobs. That number

Ohio Valley Reporting

(270) 683-7383

1 usually averages about 20 people at night.

2 Mr. Engleheart did inform me and they have
3 been into our office for discussions. In the near
4 future they plan to remodel some more of that campus
5 to increase the number of beds from 31 to 74. They
6 were also remodeling part of the office area. They
7 still be in compliance. They plan on taking up to 74
8 and they can have up to 90. That was the conditional
9 use permit. They are here if you need to ask
10 questions.

11 CHAIRMAN: Board members have any questions at
12 this time?

13 (NO RESPONSE)

14 CHAIRMAN: Anyone in the audience have any
15 questions or comments?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none do I need to take any
18 action on this?

19 MR. NOFFSINGER: No, sir.

20 CHAIRMAN: Entertain one more motion.

21 MR. WARREN: Motion to adjourn.

22 MS. MASON: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

Ohio Valley Reporting

(270) 683-7383

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN: We are adjourned.

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 48 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 25th day of November, 2010.

18
19 _____
20 LYNNETTE KOLLER FUCHS
21 OHIO VALLEY REPORTING SERVICES
22 202 WEST THIRD STREET, SUITE 12
23 OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES: DECEMBER 19, 2010

23 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

24

25

Ohio Valley Reporting

(270) 683-7383