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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MARCH 1, 2012

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, MARCH
1, 2012, 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
SHANNON RAINES

* * * * *

CHAIRMAN: LET ME CALL THE OWENSBORO BOARD OF
ADJUSTMENT TO ORDER. I WANT TO WELCOME EACH ONE OF
YOU THIS EVENING. WE START OUR MEETING EACH EVENING
WITH A PRAYER AND PLEDGE TO ALLEGIANCE. ASK YOU TO
JOIN US.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: AGAIN, I WANT TO WELCOME YOU. IF
YOU HAVE ANY COMMENTS ON ANY ITEM, PLEASE COME TO THE
PODIUM. STATE YOUR NAME SO WE'LL HAVE RECORD IN OUR
AGENDA. WE'LL LISTEN TO WHATEVER YOU WANT TO SAY
ABOUT THAT PARTICULAR ITEM.

WITH THAT THE FIRST ITEM ON OUR MEETING THIS
EVENING IS THE MINUTES OF THE FEBRUARY 2ND MEETING. I

1 DON'T THINK THERE'S BEEN ANY PROBLEMS IN THE OFFICE.

2 MR. NOFFSINGER: NO SIR.

3 CHAIRMAN: IF NO ONE HAS ANY, WE'LL ENTERTAIN
4 A MOTION TO DISPOSE OF THE ITEM.

5 MR. PEDLEY: MOTION FOR APPROVAL.

6 MR. DYSINGER: 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 1316 ALSOP LANE, ZONED I-1
16 CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN
17 ORDER TO OPERATE AN INDOOR RECREATIONAL FACILITY.
18 REFERENCE: ZONING ORDINANCE, ARTICLE 8,
19 SECTION 8.2B11
20 APPLICANT: TYLER STAUFFER

21 MR. SILVERT: WOULD YOU STATE YOUR NAME,
22 PLEASE?

23 MS. EVANS: MELISSA EVANS.

24 (MELISSA EVANS SWORN BY ATTORNEY.)

25 MS. EVANS: FIRST OF ALL, I WOULD LIKE TO MAKE
EVERYONE AWARE THAT THE APPROVAL OF THE ITEMS HERE
TONIGHT DOES NOT ALLOW THE APPLICANT OR OWNER TO

1 CONSTRUCT OR ALTER OR MODIFY ANY OF THE BUILDINGS ON
2 THE SUBJECT PROPERTY. IT IS THE APPLICANT'S
3 RESPONSIBILITY TO OBTAIN THE APPROVAL OF AN INSPECTION
4 THAT IS REQUIRED BY THE OMPC BUILDING AND ELECTRICAL
5 DEPARTMENT AND IT IS YOUR RESPONSIBILITY TO CONTACT
6 THE OMPC BEFORE YOU BEGIN ANY WORK ON THE SUBJECT
7 PROPERTY.

8 ZONING HISTORY

9 THE SUBJECT PROPERTY IS CURRENTLY ZONED I-1
10 LIGHT INDUSTRIAL. OMPC RECORDS INDICATE THERE HAVE
11 BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT
12 PROPERTY.

13 THE APPLICANT IS REQUESTING TO OPERATE AN
14 INDOOR RECREATIONAL FACILITY FOR SKILL TRAINING OF
15 YOUNG ATHLETES IN A VARIETY OF SPORTS, WITH NO MORE
16 THAN 26 PARTICIPANTS AT A TIME.

17 LAND USES IN SURROUNDING AREA

18 THE PROPERTIES TO THE NORTH, SOUTH AND WEST
19 ARE ZONED I-1 LIGHT INDUSTRIAL. THE PROPERTIES TO THE
20 EAST ARE ZONED I-2 HEAVY INDUSTRIAL.

21 ZONING ORDINANCE REQUIREMENTS

22 1. PARKING - 1 FOR EACH EMPLOYEE ON THE
23 MAXIMUM SHIFT, PLUS 1 FOR EVERY 2 PARTICIPANTS, PLUS 1
24 FOR EVERY 3 SPECTATOR SEATS. TOTAL REQUIRED = 26
25 SPACES. 30 PARKING SPACES SHOWN ON THE SITE PLAN

1 SUBMITTED.

2 2. LANDSCAPING - 1 TREE FOR EVERY 40 FEET OF
3 THE VEHICULAR USE AREA BOUNDARY, PLUS A 3 FOOT HIGH
4 CONTINUOUS ELEMENT, AS SHOWN ON THE SITE PLAN
5 SUBMITTED.

6 MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF
7 REPORT INTO THE RECORD AS EXHIBIT A.

8 CHAIRMAN: THANK YOU.

9 HAVE THERE BEEN ANY COMMENTS OR QUESTIONS IN
10 THE OFFICE?

11 MR. NOFFSINGER: NO, SIR.

12 CHAIRMAN: IS THE APPLICANT HERE AND DO YOU
13 HAVE ANY COMMENTS AT THIS TIME OR STATEMENT?

14 MR. SILVERT: COULD YOU STATE YOUR NAME,
15 PLEASE?

16 MR. STAUFFER: TYLER STAUFFER.

17 (TYLER STAUFFER SWORN BY ATTORNEY.)

18 CHAIRMAN: DO YOU HAVE ANYTHING ELSE YOU WOULD
19 LIKE TO ADD ON THE ITEM?

20 MR. STAUFFER: NO, SIR.

21 CHAIRMAN: ANY BOARD MEMBERS HAVE ANY
22 QUESTIONS OF THE APPLICANT AT THIS TIME?

23 MR. DYSINGER: MR. CHAIRMAN, I HAVE JUST A
24 GENERAL QUESTION MAYBE FOR THE APPLICANT.

25 THE STAFF REPORT SAYS NO MORE THAN 26

1 PARTICIPANTS AT A TIME, AND THE ACTUAL APPLICATION
2 SAYS CLASS SIZE SHOULD NOT EXCEED - IT DOESN'T SET A
3 MAXIMUM - OF 25 KIDS PER HOUR. IT MAY NOT EVEN BE AN
4 ISSUE FOR US. IT WOULD JUST BE A FIRE CODE THING.
5 JUST GET SOME CLARIFICATION ON THAT.

6 MS. EVANS: THE STAFF REPORT IS WRITTEN WITH
7 26 PARTICIPANTS BECAUSE IN THE DESCRIPTION OF HIS
8 CONDITIONAL USE PERMIT HE SAID 25 PARTICIPANTS, BUT ON
9 THE SITE PLAN HE WROTE OUT 26, BUT HE WAS PROVIDING
10 PARKING SPACES FOR 26 SO I WENT AHEAD AND CITED THE 26
11 WHICH WOULD BE THE MAXIMUM NUMBER IN CASE HE WENT THAT
12 HIGH.

13 MR. DYSINGER: VERY GOOD. THAT'S ALL I HAVE.

14 CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

15 MR. NOFFSINGER: I DO HAVE ONE QUESTION OF THE
16 APPLICANT.

17 IT'S MY UNDERSTANDING THAT MOST OF THE TRAFFIC
18 YOU WILL HAVE AT THIS FACILITY WOULD BE PARENTS
19 DROPPING OFF THEIR CHILDREN. TYPICALLY EITHER WITH
20 PARKING YOU HAVE YOU CURRENTLY HAVE EXCESS OF PARKING
21 BECAUSE THOSE PARENTS DO LEAVE THE FACILITY?

22 MR. STAUFFER: THAT IS CORRECT. THE ONLY --
23 TYPICALLY OUR HEAVY FLOW DAYS ARE SATURDAYS IN-BETWEEN
24 CLASSES. WHEN ONE CLASS END AND ANOTHER CLASS BEGINS.
25 SUNDAY USAGE IS TYPICALLY HIGH SCHOOL KIDS AND THEY

1 DRIVE THEMSELVES. THOSE CLASSES ARE USUALLY AROUND 10
2 TO 12 KIDS. SO PARKING HAS NOT BEEN AN ISSUE. I HAVE
3 CONTACTED THE NEIGHBORS IN THE EVENT THERE WAS ISSUE
4 FOR OVERFLOW, BUT IT HAS NOT BEEN.

5 CHAIRMAN: ANY OTHER QUESTIONS?

6 (NO RESPONSE)

7 CHAIRMAN: ANYONE WISHING TO SPEAK IN
8 OPPOSITION OF THIS?

9 (NO RESPONSE)

10 CHAIRMAN: THANK YOU.

11 ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

12 MS. MASON: MR. CHAIRMAN, I MOVE FOR APPROVAL
13 WITH THE FINDINGS OF FACT THAT IT IS COMPATIBLE WITH
14 THE LAND USE IN THE AREA, IT WILL NOT ADVERSELY AFFECT
15 FUTURE DEVELOPMENT, AND THERE IS NO ONE AGAINST IT
16 THIS EVENING.

17 MR. DYSINGER: SECOND.

18 CHAIRMAN: A MOTION HAS BEEN MADE AND A
19 SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE
20 BOARD?

21 (NO RESPONSE)

22 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

23 MR. NOFFSINGER: NO, SIR.

24 CHAIRMAN: THE APPLICANT UNDERSTANDS THE
25 REQUIREMENTS THAT'S STATED IN THE REPORT?

1 MR. STAUFFER: YES.

2 CHAIRMAN: WITH THAT ALL IN FAVOR RAISE YOUR
3 RIGHT HAND.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: MOTION CARRIES.

6 NEXT ITEM, PLEASE.

7 ITEM 3

8 2501 TRIAD DRIVE, ZONED I-2
9 CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN
10 ORDER TO OPERATE AN OUTDOOR STORAGE FACILITY.
11 REFERENCE: ZONING ORDINANCE, ARTICLE 8,
12 SECTION 8.2L8
13 APPLICANT: OWENSBORO GRAIN COMPANY, LLC

14 ZONING HISTORY

15 THE SUBJECT PROPERTY IS CURRENTLY ZONED I-2
16 HEAVY INDUSTRIAL. OMPC RECORDS INDICATE THERE HAVE
17 BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT
18 PROPERTY.

19 THE APPLICANT IS REQUESTING TO OPERATE AN
20 OUTDOOR STORAGE FACILITY FOR USE BY OWENSBORO GRAIN
21 COMPANY, LLC.

22 LAND USES IN SURROUNDING AREA

23 THE PROPERTIES TO THE NORTH, SOUTH AND EAST
24 ARE ZONED I-2 HEAVY INDUSTRIAL. THE PROPERTIES TO THE
25 WEST, ACROSS EWING ROAD, ARE ZONED I-1 LIGHT
INDUSTRIAL AND R-1C SINGLE FAMILY RESIDENTIAL.

ZONING ORDINANCE REQUIREMENTS

1 1. PARKING - NO MINIMUM REQUIRED.

2 2. LANDSCAPING - 6 FOOT HIGH SOLID WALL OR
3 FENCE AROUND THE PERIMETER OF THE OUTDOOR STORAGE
4 FACILITY, AS SHOWN ON THE SITE PLAN SUBMITTED.

5 MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF
6 REPORT INTO THE RECORD AS EXHIBIT B.

7 CHAIRMAN: THANK YOU.

8 HAS THERE BEEN ANY QUESTIONS OR COMMENTS IN
9 THE OFFICE?

10 MR. NOFFSINGER: NO, SIR, BUT MR. CHAIRMAN,
11 LEGAL COUNSEL HAS JUST ADVISED THAT THE LETTER
12 ADDRESSING WHETHER OR NOT THERE ARE ANY RESTRICTIONS
13 ON THE PROPERTY HAS NOT BEEN SIGNED BY THE APPLICANT'S
14 ATTORNEY. SHOULD THIS ITEM BE APPROVED, IT SHOULD BE
15 APPROVED SUBJECT TO THE APPLICANT'S ATTORNEY SIGNING
16 OFF ON THIS LETTER.

17 CHAIRMAN: ANYONE HERE HAVE ANY COMMENTS OR
18 ANYTHING YOU WANT TO ADD AT THIS TIME?

19 MR. SILVERT: COULD YOU STATE YOUR NAME,
20 PLEASE?

21 MR. MATTINGLY: BILL MATTINGLY.

22 (BILL MATTINGLY SWORN BY ATTORNEY.)

23 MR. MATTINGLY: I WAS UNDER THE IMPRESSION THE
24 ATTORNEY HAD ALREADY SIGNED THE LETTER, BUT APPARENTLY
25 NOT. I'LL GET THAT AND WILL TAKE CARE OF IT.

1 CHAIRMAN: IS THERE ANY OTHER QUESTIONS FROM
2 THE BOARD AT THIS TIME?

3 (NO RESPONSE)

4 CHAIRMAN: DO YOU HAVE ANY OTHER COMMENTS YOU
5 WOULD LIKE TO MAKE?

6 MR. MATTINGLY: I DO NOT, SIR.

7 CHAIRMAN: STAFF HAVE ANY OTHER COMMENTS?

8 MR. NOFFSINGER: NO, SIR.

9 CHAIRMAN: ANYONE WISHING TO SPEAK IN
10 OPPOSITION OF THIS?

11 (NO RESPONSE)

12 CHAIRMAN: HEARING NONE I'D ENTERTAIN A MOTION
13 TO DISPOSE OF THE ITEM.

14 MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION FOR
15 APPROVAL BASED ON FINDINGS OF FACT THAT IT IS
16 COMPATIBLE IN THE I-2 INDUSTRIAL ZONE. IT WILL NOT
17 HAVE AN ADVERSE INFLUENCE ON FUTURE DEVELOPMENT AND
18 REQUIREMENTS OF THE ZONING ORDINANCE WITH THE
19 CONDITION THAT THE ATTORNEY SIGN OFF ON HIS FINDINGS.

20 MR. WARREN: SECOND.

21 CHAIRMAN: A MOTION HAS BEEN MADE AND A
22 SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE
23 BOARD?

24 (NO RESPONSE)

25 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

1 MR. NOFFSINGER: NO, SIR.

2 CHAIRMAN: HEARING NONE ALL IN FAVOR RAISE
3 YOUR RIGHT HAND.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: MOTION CARRIES.

6 NEXT ITEM, PLEASE.

7 ITEM 4

8 2536 WEST THIRD STREET, ZONED B-4
9 CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN
10 ORDER TO OPERATE A CHILD CARE FACILITY.
11 REFERENCE: ZONING ORDINANCE, ARTICLE 8,
12 SECTION 8.2B3
13 APPLICANT: CHRISTINA BOLTON; DARYL GRIFFITH & JOY
14 GRIFFITH

15 ZONING HISTORY

16 THE SUBJECT PROPERTY IS CURRENTLY ZONED B-4
17 GENERAL BUSINESS. OMPC RECORDS INDICATE THERE HAVE
18 BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT
19 PROPERTY.

20 THE APPLICANT IS REQUESTING TO OPERATE A CHILD
21 CARE FACILITY FOR NOT MORE THAN 23 CHILDREN AGES 6
22 WEEKS TO 3 YEARS OLD FROM 7 A.M. TO 5:30 P.M. MONDAY
23 THRU FRIDAY WITH 4 EMPLOYEES.

24 LAND USES IN SURROUNDING AREA

25 ALL SURROUNDING PROPERTIES ARE ZONED B-4
GENERAL BUSINESS.

ZONING ORDINANCE REQUIREMENTS

1. PARKING - 1 FOR EACH EMPLOYEE ON THE

1 MAXIMUM SHIFT, PLUS FOR 1 FOR EVERY 10 CHILDREN.
2 TOTAL REQUIRED = 7, AS SHOWN ON THE SITE PLAN
3 SUBMITTED.

4 2. LANDSCAPING - NONE.

5 MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF
6 REPORT INTO THE RECORD AS EXHIBIT C.

7 CHAIRMAN: THANK YOU.

8 HAVE WE HAD ANY COMMENTS OR QUESTIONS IN THE
9 OFFICE?

10 MR. NOFFSINGER: NO, SIR.

11 CHAIRMAN: IS THE APPLICANT HERE AND DO HAVE
12 YOU ANY COMMENTS AT THIS TIME?

13 (NO RESPONSE)

14 CHAIRMAN: NOT HERE AND NOT HEARING ANYONE
15 REPRESENTING THE APPLICANT.

16 ANY QUESTIONS OR COMMENTS FROM THE BOARD AT
17 THIS TIME?

18 (NO RESPONSE)

19 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

20 MR. NOFFSINGER: NO, SIR.

21 CHAIRMAN: ENTERTAIN A MOTION TO DISPOSE OF
22 THE ITEM, PLEASE.

23 MR. DYSINGER: MR. CHAIRMAN, GIVEN THE FACT
24 THAT THE PROPOSED USAGE IS COMPATIBLE WITH THE
25 SURROUNDING PROPERTY, FURTHER THAT THE USAGE WILL

1 PROVIDE A BENEFIT TO THE COMMUNITY, I MOVE TO APPROVE
2 THE APPLICATION.

3 MR. WARREN: SECOND.

4 CHAIRMAN: A MOTION HAS BEEN MADE AND A
5 SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE
6 BOARD?

7 (NO RESPONSE)

8 CHAIRMAN: ANYTHING ELSE FROM THE STAFF?

9 MR. NOFFSINGER: NO, SIR.

10 CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: MOTION CARRIES.

13 NEXT ITEM, PLEASE.

14 -----

15 VARIANCES

16 ITEM 5

17 7306 STEVENS SCHOOL ROAD, ZONED A-R
18 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
19 THE FRONT BUILDING SETBACK LINE FROM 60 FEET FROM THE
20 STREET CENTER LINE TO 45 FEET FROM THE STREET CENTER
21 LINE.

22 REFERENCE: ZONING ORDINANCE, ARTICLE 8,
23 SECTION 8.5.1(C)

24 APPLICANT: MICHAEL L. BICKETT & MARILYN L. BICKETT

25 SPECIAL CIRCUMSTANCES?

ARE THERE SPECIAL CIRCUMSTANCES THAT DO NOT
GENERALLY APPLY TO THE LAND IN THE GENERAL VICINITY OR
IN THE SAME ZONE?

1 THE APPLICANT IS SEEKING TO PLACE AN OPEN
2 CARPORT 45 FEET FROM THE CENTERLINE OF THE ROAD
3 INSTEAD OF THE REQUIRED 60 FEET FROM THE CENTERLINE OF
4 THE ROAD. THE APPLICANT STATES THERE IS A POWER LINE
5 RUNNING BETWEEN THE HOUSE AND THE PRESCRIBED BUILDING
6 SETBACK LINE THAT LIMITS WHERE ANY STRUCTURE COULD GO
7 FORWARD OF THE CURRENT HOUSE. ALSO, THE APPLICANT HAS
8 BEEN INSTRUCTED BY THE UTILITY COMPANY THAT ANY
9 STRUCTURE MUST BE TEN FEET FROM THE POWER LINES. IN
10 ADDITION TO THE POWER LINES, THE TOPOGRAPHY OF THE
11 SUBJECT PROPERTY LIMITS WHERE STRUCTURES COULD BE
12 PLACED. THE CURRENT HOUSE IS A BERM TYPE HOUSE, BUILT
13 INTO THE SLOPE OF THE LAND. THE SLOPE OF THE LAND
14 STARTS TO INCLINE DIRECTLY BEHIND THE POWER LINES AND
15 IS WOODED.

16 UPON INSPECTION OF THE SUBJECT PROPERTY WE
17 FOUND THE ISSUES WITH THE POWER LINES AND THE
18 TOPOGRAPHY THAT THE APPLICANT STATES TO BE TRUE.
19 HOWEVER, PLACING ANY STRUCTURE 45 FEET FROM THE
20 CENTERLINE OF A ROAD POSES A DANGER TO VEHICLES
21 TRAVELING ALONG STEVENS SCHOOL ROAD. THE SUBJECT
22 PROPERTY IS LOCATED IN THE MIDDLE OF A BEND IN STEVENS
23 SCHOOL ROAD AND IF THIS CARPORT WERE PLACED ONLY 45
24 FEET FROM THE CENTERLINE OF THE ROAD, THERE WOULD BE A
25 GREATER POTENTIAL FOR VEHICLES, IF THEY TRAVELED OFF

1 THE ROAD, TO HIT THE CARPORT AND CAUSE DAMAGE TO THE
2 VEHICLE AND THE CARPORT. A STRUCTURE THIS CLOSE TO
3 THE ROAD COULD ALSO INHIBIT SIGHT VISIBILITY OF
4 VEHICLES TRAVELING ALONG STEVENS SCHOOL ROAD.

5 GRANTING THIS VARIANCE WILL CAUSE A HAZARD OR
6 A NUISANCE TO THE PUBLIC BECAUSE IT MAY LIMIT SIGHT
7 VISIBILITY CAUSING RISK TO VEHICLES TRAVELING ALONG
8 STEVENS SCHOOL ROAD. IT WILL ADVERSELY AFFECT THE
9 PUBLIC HEALTH, SAFETY AND WELFARE BECAUSE THE CARPORT
10 WOULD ONLY BE 45 FEET FROM THE CENTERLINE OF THE ROAD
11 POSING A GREATER DANGER TO VEHICLES THAT COULD EASILY
12 TRAVEL OFF THE ROAD ESPECIALLY IN THIS AREA WHERE
13 STEVENS SCHOOL ROAD CURVES SLIGHTLY. IT WILL ALLOW AN
14 UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE
15 ZONING REGULATIONS BECAUSE THE CARPORT COULD BE PLACED
16 SOMEWHERE ELSE ON THE PROPERTY WITH EXCAVATION AND/OR
17 TREE REMOVAL.

18 HARDSHIP?

19 WOULD STRICT APPLICATION OF THE REGULATIONS
20 DEPRIVE THE APPLICANT OF THE REASONABLE USE OF THE
21 LAND, OR CREATE AN UNNECESSARY HARDSHIP ON THE
22 APPLICANT?

23 THE STAFF BELIEVES, NO. THE APPLICANT COULD
24 PLACE THE CARPORT ON THE PROPERTY MEETING THE
25 PRESCRIBED SETBACKS AND STAYING 10 FEET FROM THE POWER

1 LINES WITH EXCAVATION AND/OR TREE REMOVAL.

2 FINDINGS OF FACT:

3 GRANTING THIS VARIANCE:

4 1. WILL ADVERSELY AFFECT THE PUBLIC HEALTH
5 SAFETY OR WELFARE BECAUSE THE CARPORT WOULD ONLY BE 45
6 FEET FROM THE CENTERLINE OF THE ROAD POSING A GREATER
7 DANGER TO VEHICLES THAT COULD EASILY TRAVEL OFF THE
8 ROAD;

9 2. WILL ALTER THE ESSENTIAL CHARACTER OF THE
10 GENERAL VICINITY BECAUSE NO OTHER VARIANCES HAVE BEEN
11 GRANTED IN THE AREA;

12 3. WILL CAUSE A HAZARD OR NUISANCE TO THE
13 PUBLIC BECAUSE IT MAY LIMIT SIGHT VISIBILITY POSING A
14 RISK TO VEHICLES TRAVELING ALONG STEVENS SCHOOL ROAD;

15 4. WILL ALLOW AN UNREASONABLE CIRCUMVENTION
16 OF THE ZONING REGULATIONS BECAUSE THE CARPORT COULD BE
17 PLACED SOMEWHERE ELSE ON THE PROPERTY.

18 MS. EVANS: STAFF RECOMMENDS DENIAL.

19 WE WOULD LIKE TO ENTER THE STAFF REPORT INTO
20 THE RECORD AS EXHIBIT D.

21 CHAIRMAN: WAS THERE ANY COMMENTS OR QUESTIONS
22 IN THE OFFICE?

23 MR. NOFFSINGER: NO, SIR.

24 CHAIRMAN: IS THE APPLICANT HERE AND DO YOU
25 HAVE ANY COMMENTS AT THIS TIME?

1 MR. BICKETT: NO.

2 CHAIRMAN: YOU DON'T HAVE ANYTHING YOU WANT TO
3 ADD?

4 MR. BICKETT: NO.

5 CHAIRMAN: DOES ANY BOARD MEMBER HAVE ANY
6 QUESTIONS OF THE APPLICANT?

7 MR. DYSINGER: I DON'T KNOW IF IT'S FOR THE
8 APPLICANT OR NOT. THE ISSUE OF TEN FEET AWAY FROM THE
9 --

10 CHAIRMAN: WOULD YOU COME FORWARD. STATE YOUR
11 NAME AND WE'LL GO FROM THERE, PLEASE.

12 MR. BICKETT: MICHAEL BICKETT.

13 (MICHAEL BICKETT SWORN BY ATTORNEY.)

14 MR. DYSINGER: MR. CHAIRMAN, MY QUESTION IS
15 ABOUT THIS UTILITY COMPANY ISSUE. IT SEEMS REGARDLESS
16 OF WHAT WE DO, THE APPLICANT WOULD NOT BE ABLE TO
17 BUILD A STRUCTURE WHERE IT'S PROPOSED. AM I
18 UNDERSTANDING THAT CORRECTLY?

19 CHAIRMAN: WILL YOU ANSWER THAT OR CAN YOU,
20 PLEASE?

21 MS. EVANS: YES. IF THE VARIANCE IS NOT
22 GRANTED, THEN THE APPLICANT WOULD NOT BE ABLE TO BUILD
23 THE CARPORT IN THIS AREA BECAUSE OF THE POWER LINES,
24 UNLESS THERE WAS EXCAVATION OR TREE REMOVAL BEHIND,
25 TEN FEET BEHIND WHERE THE POWER LINES ARE UP ON THE

1 BANK OF THAT HILL.

2 IF THE VARIANCE IS GRANTED, THERE IS ROOM FOR
3 THAT TEN FEET IN FRONT OF THE POWER LINES REDUCING
4 THAT BUILDING SETBACK.

5 CHAIRMAN: DO YOU HAVE ANY OTHER COMMENTS YOU
6 WOULD LIKE TO ADD AT THIS TIME, MR. BICKETT?

7 MR. BICKETT: NO, SIR.

8 CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

9 MR. DYSINGER: JUST TO THE CLEAR. IF THE
10 VARIANCE -- FORGIVE ME FOR BEING DENSE.

11 MS. MASON: I'M CONFUSED TOO.

12 MR. DYSINGER: IF WE GRANT THE VARIANCE, IF
13 I'M UNDERSTANDING WHAT I'M SEEING, IF WE GRANTED THE
14 VARIANCE, THE TEN FOOT FROM THE UTILITY LINE ISSUE
15 STILL SEEMS TO BE IN PLAY, WHICH WOULD PREVENT THEM
16 FROM BUILDING IT.

17 MS. EVANS: NO. HE WOULD HAVE TO BE 10 FEET
18 IN FRONT OF THE UTILITY LINES, BUT WITH THE VARIANCE
19 BEING GRANTED THERE WOULD BE ROOM TO PUT THAT THERE
20 THEN.

21 MR. WARREN: SO THE CARPORT IS NOT ATTACHED TO
22 THE HOME AT ALL?

23 MR. BICKETT: NO, SIR.

24 MR. NOFFSINGER: THE CARPORT IS SHOWN ON THE
25 SITE PLAN OUT NEAR THE ROADWAY. IN KIND OF UPPER

1 RIGHT-HAND CORNER OF THE LOT.

2 CHAIRMAN: ANY OTHER QUESTIONS OR COMMENTS
3 FROM THE STAFF OR BOARD?

4 FATHER HOSTETTER: JUST ONE QUICK QUESTION FOR
5 CLARIFICATION.

6 IF THE CARPORT IS PUT WHERE IT'S BEING
7 PROPOSED HERE, WOULDN'T THERE HAVE TO BE ANOTHER
8 DRIVEWAY BUILT? IS THAT UNDERSTOOD OR IS THERE
9 ALREADY A DRIVEWAY BUILT?

10 MR. BICKETT: THERE'S A DRIVEWAY THAT GOES
11 INTO THE HOUSE. ACTUALLY I GUESS I DIDN'T PLAN ON
12 PUTTING A DRIVEWAY. I WAS JUST GOING TO PARK MY
13 PICKUP TRUCK IN THE GRASS.

14 MR. DYSINGER: MR. BICKETT, THE STAFF REPORT
15 SEEMS TO INDICATE THAT THERE WOULD BE OTHER PLACES ON
16 THE PROPERTY WHERE YOU COULD HAVE YOUR CARPORT YET
17 STILL BE IN COMPLIANCE. HAVE YOU INVESTIGATED THAT AT
18 ALL, GIVEN THAT ANY THOUGHT?

19 MR. BICKETT: WELL, THIS SPOT IS A PERFECTLY
20 LEVEL PLACE. I WOULD SAY THE HILL BEHIND THE POWER
21 LINE IS PROBABLY AT LEAST A 45 DEGREE ANGLE PLUS IT'S
22 ALL WOODS AND ROLLING WOODS BEYOND THAT. I DON'T
23 THINK THAT'S MUCH OF A -- THE ROAD CURVES A LITTLE
24 BIT. I REALLY CAN'T SEE IT OBSTRUCTING ANYBODY'S
25 VIEW. I DIDN'T REALLY UNDERSTAND THAT PART. IT

1 SLIGHTLY CURVES.

2 MR. DYSINGER: MR. CHAIRMAN, THE STAFF ALSO
3 SEEMED TO BRING UP AN ISSUE OF HAVING STRUCTURES THAT
4 CLOSE TO THE ROAD PRESENTS A HAZARD FOR A VEHICLE TO
5 LEAVE THE ROAD. I WONDER IF MR. BICKETT WOULD LIKE TO
6 COMMENT ON THAT.

7 CHAIRMAN: ANY COMMENTS ON THAT?

8 MR. BICKETT: I REALLY CAN'T SEE SOMEONE
9 TRAVELING THAT FAST AND LEAVE THE ROAD WITHOUT
10 STOPPING IN THE DITCH. IT'S KIND OF A BANK, YOU KNOW,
11 BEFORE THEY WOULD HIT THAT BUILDING. THEY WOULD HAVE
12 TO BE RUNNING VERY FAST I THINK.

13 CHAIRMAN: YOU'RE SAYING THERE'S A PRETTY GOOD
14 DITCH ALONG THERE?

15 MR. BICKETT: IT'S A PRETTY GOOD LITTLE DITCH.
16 PLUS IT'S KIND OF A ROAD BANK THAT WOULD PROBABLY STOP
17 ANYBODY UNLESS THEY WERE RUNNING VERY FAST.

18 CHAIRMAN: ANY OTHER QUESTIONS OF THE
19 APPLICANT?

20 MS. RAINES: MR. CHAIRMAN, I JUST WANT TO
21 CLARIFY THE DRAWING HERE.

22 THERE ARE WOODS TO THE RIGHT OF THE HOME AND
23 THEN BY THE GARAGE IS THAT FLAT?

24 MR. BICKETT: THE ONLY FLAT SPOT IS WHERE THE
25 GARAGE IS AT NOW. LIKE I SAID, THE HOUSE IS BUILT

1 INTO THE BANK. IT'S AN UNDERGROUND HOME WITH THE
2 FRONT OPEN. THEN BEHIND THE HOUSE IS I'M GOING TO
3 GUESS PROBABLY A TEN FEET SLOPE BACK SO THE WATER WILL
4 RUN BOTH WAYS INSTEAD OF RUNNING TOWARD THE HOUSE, THE
5 BACK OF THE HOUSE. IT'S PROBABLY AT LEAST A 45 DEGREE
6 ANGLE BEYOND THAT AND WOODED.

7 MS. RAINES: SO EVEN BESIDE THE GARAGE THERE
8 WOULD BE NO ROOM TO HAVE A CARPORT THERE?

9 MR. BICKETT: NO, MA'AM.

10 CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

11 (NO RESPONSE)

12 CHAIRMAN: ANYTHING ELSE YOU WOULD LIKE TO ADD
13 AT THIS TIME, SIR?

14 MR. BICKETT: NO, SIR.

15 CHAIRMAN: IS THERE ANYONE IN HERE WANTING TO
16 MAKE OTHER COMMENTS ON IT FOR OR AGAINST?

17 (NO RESPONSE)

18 CHAIRMAN: I'LL ENTERTAIN A MOTION TO DISPOSE
19 OF THE ITEM.

20 MR. PEDLEY: MR. CHAIRMAN, I'M GOING TO MAKE A
21 MOTION TO DENY THE VARIANCE BASED ON FINDINGS OF FACT
22 1) IT COULD ADVERSELY AFFECT THE PUBLIC WELFARE
23 BECAUSE 45 FEET FROM THE CENTERLINE OF THIS ROAD IS
24 OUT OF CHARACTER IN RURAL AREAS. IT COULD ADVERSELY
25 AFFECT OTHER HOUSES THAT MAY BE BUILT IN THE FUTURE

1 ADJOINING LOTS THAT APPEAR TO BE SMALL TRACTS FOR
2 FUTURE HOMES TO BE BUILT.

3 2) IT WILL ALTER THE ESSENTIAL CHARACTER OF
4 THE VICINITY BECAUSE OTHER VARIANCES HAVE NOT BEEN
5 GRANTED AND IT APPEARS THERE ARE NO ENCROACHMENTS IN
6 THE VICINITY.

7 3) IT COULD CAUSE A HAZARD OR NUISANCE TO THE
8 PUBLIC. IT MAY LIMIT SIGHT DISTANCE SINCE IT IS NEAR
9 AN INTERSECTION THAT CURVES IN THE ROAD AND THERE MAY
10 BE HOMES BUILT IN THE FUTURE THAT WOULD REQUIRE
11 DRIVEWAY ACCESS POINTS ALONG THAT POINT.

12 4) IT WILL ALLOW AN UNREASONABLE CIRCUMVENTION
13 OF THE REQUIREMENTS OF THE ZONING ORDINANCE,
14 REGULATIONS BECAUSE THE CARPORT COULD BE BUILT
15 SOMEWHERE ELSE ON THE PROPERTY AND NOT DENY THE
16 PROPERTY REASONABLE USE OF THEIR PROPERTY, AND IT
17 WOULD SET A PRECEDENCE AND ENCOURAGE OTHERS TO APPLY
18 AND EXPECT A VARIANCE IN THE FUTURE.

19 CHAIRMAN: IS THERE A SECOND?

20 MR. DYSINGER: SECOND.

21 CHAIRMAN: A MOTION HAS BEEN MADE AND A
22 SECOND. ANY OTHER COMMENTS OR QUESTIONS FROM THE
23 BOARD OR THE STAFF HAVE ANYTHING ELSE TO COMMENT?

24 MR. NOFFSINGER: NO, SIR.

25 CHAIRMAN: THE APPLICANT HAVE ANYTHING ELSE

1 YOU WOULD LIKE TO ADD BEFORE THE VOTE?

2 MR. BICKETT: NO, SIR.

3 CHAIRMAN: THANK YOU.

4 ALL IN FAVOR RAISE YOUR RIGHT HAND.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: MOTION IS DENIED.

7 ONE FINAL MOTION.

8 MS. MASON: MOVE TO ADJOURN.

9 MR. WARREN: SECOND.

10 CHAIRMAN: A MOTION HAS BEEN MADE TO ADJOURN

11 AND A SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: WE ARE ADJOURNED.

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

3 I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND
4 FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY
5 THAT THE FOREGOING OWENSBORO METROPOLITAN BOARD OF
6 ADJUSTMENT MEETING WAS HELD AT THE TIME AND PLACE AS
7 STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;
8 THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION
9 WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD
10 MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT
11 SAID PROCEEDINGS WERE TAKEN BY ME IN STENOGRAPHY AND
12 ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,
13 ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
14 FOREGOING 22 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
15 WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

16 WITNESS MY HAND AND NOTARY SEAL ON THIS THE
17 30TH DAY OF MARCH, 2012.

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19

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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