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

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

MR. NOFFSINGER: NO SIR.

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

MR. PEDLEY: MOTION FOR APPROVAL.

MR. DYSINGER: SECOND.

CHAIRMAN: A MOTION HAS BEEN MADE AND A SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

NEXT ITEM, PLEASE.

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CONDITIONAL USE PERMIT

ITEM 2

1316 ALSOP LANE, ZONED I-1

CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN ORDER TO OPERATE AN INDOOR RECREATIONAL FACILITY. REFERENCE: ZONING ORDINANCE, ARTICLE 8, SECTION 8.2B11

APPLICANT: TYLER STAUFFER

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

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

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

ZONING HISTORY

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

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

LAND USES IN SURROUNDING AREA

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

ZONING ORDINANCE REQUIREMENTS

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

OHIO VALLEY REPORTING
(270) 683-7383
2. LANDSCAPING - 1 TREE FOR EVERY 40 FEET OF THE VEHICULAR USE AREA BOUNDARY, PLUS A 3 FOOT HIGH CONTINUOUS ELEMENT, AS SHOWN ON THE SITE PLAN SUBMITTED.

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

CHAIRMAN: THANK YOU.

HAVE THERE BEEN ANY COMMENTS OR QUESTIONS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

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

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

MR. STAUFFER: TYLER STAUFFER.

(TYLER STAUFFER SWORN BY ATTORNEY.)

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

MR. STAUFFER: NO, SIR.

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

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

THE STAFF REPORT SAYS NO MORE THAN 26
PARTICIPANTS AT A TIME, AND THE ACTUAL APPLICATION SAYS CLASS SIZE SHOULD NOT EXCEED - IT DOESN'T SET A MAXIMUM - OF 25 KIDS PER HOUR. IT MAY NOT EVEN BE AN ISSUE FOR US. IT WOULD JUST BE A FIRE CODE THING. JUST GET SOME CLARIFICATION ON THAT.

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

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

CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

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

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

MR. STAUFFER: THAT IS CORRECT. THE ONLY -- TYPICALLY OUR HEAVY FLOW DAYS ARE SATURDAYS IN-BETWEEN CLASSES. WHEN ONE CLASS END AND ANOTHER CLASS BEGINS.

SUNDAY USAGE IS TYPICALLY HIGH SCHOOL KIDS AND THEY
DRIVE THEMSELVES. THOSE CLASSES ARE USUALLY AROUND 10 TO 12 KIDS. SO PARKING HAS NOT BEEN AN ISSUE. I HAVE CONTACTED THE NEIGHBORS IN THE EVENT THERE WAS ISSUE FOR OVERFLOW, BUT IT HAS NOT BEEN.

CHAIRMAN: ANY OTHER QUESTIONS?

(NO RESPONSE)

CHAIRMAN: ANYONE WISHING TO SPEAK IN OPPOSITION OF THIS?

(NO RESPONSE)

CHAIRMAN: THANK YOU.

ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

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

MR. DYSINGER: SECOND.

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

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: THE APPLICANT UNDERSTANDS THE REQUIREMENTS THAT'S STATED IN THE REPORT?
MR. STAUFFER: YES.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

NEXT ITEM, PLEASE.

ITEM 3

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

ZONING HISTORY

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

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

LAND USES IN SURROUNDING AREA

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

ZONING ORDINANCE REQUIREMENTS
1. PARKING - NO MINIMUM REQUIRED.

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

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

CHAIRMAN: THANK YOU.

HAS THERE BEEN ANY QUESTIONS OR COMMENTS IN THE OFFICE?

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

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

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

MR. MATTINGLY: BILL MATTINGLY.

(BILL MATTINGLY SWORN BY ATTORNEY.)

MR. MATTINGLY: I WAS UNDER THE IMPRESSION THE ATTORNEY HAD ALREADY SIGNED THE LETTER, BUT APPARENTLY NOT. I'LL GET THAT AND WILL TAKE CARE OF IT.
CHAIRMAN: IS THERE ANY OTHER QUESTIONS FROM THE BOARD AT THIS TIME?

(NO RESPONSE)

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

MR. MATTINGLY: I DO NOT, SIR.

CHAIRMAN: STAFF HAVE ANY OTHER COMMENTS?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: ANYONE WISHING TO SPEAK IN OPPOSITION OF THIS?

(NO RESPONSE)

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

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

MR. WARREN: SECOND.

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

(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.

ITEM 4

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

ZONING HISTORY

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

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

LAND USES IN SURROUNDING AREA

ALL SURROUNDING PROPERTIES ARE ZONED B-4 GENERAL BUSINESS.

ZONING ORDINANCE REQUIREMENTS

1. PARKING - 1 FOR EACH EMPLOYEE ON THE

OHIO VALLEY REPORTING
(270) 683-7383
MAXIMUM SHIFT, PLUS FOR 1 FOR EVERY 10 CHILDREN.
TOTAL REQUIRED = 7, AS SHOWN ON THE SITE PLAN SUBMITTED.

2. LANDSCAPING - NONE.

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

CHAIRMAN: THANK YOU.

HAVE WE HAD ANY COMMENTS OR QUESTIONS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

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

(NO RESPONSE)

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

ANY QUESTIONS OR COMMENTS FROM THE BOARD AT THIS TIME?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE?

MR. NOFFSINGER: NO, SIR.

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

MR. DYSINGER: MR. CHAIRMAN, GIVEN THE FACT THAT THE PROPOSED USAGE IS COMPATIBLE WITH THE SURROUNDING PROPERTY, FURTHER THAT THE USAGE WILL
PROVIDE A BENEFIT TO THE COMMUNITY, I MOVE TO APPROVE
THE APPLICATION.

MR. WARREN: SECOND.

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

(NO RESPONSE)

CHAIRMAN: ANYTHING ELSE FROM THE STAFF?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

NEXT ITEM, PLEASE.

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VARIANCES

ITEM 5

7306 STEVENS SCHOOL ROAD, ZONED A-R

CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
THE FRONT BUILDING SETBACK LINE FROM 60 FEET FROM THE
STREET CENTER LINE TO 45 FEET FROM THE STREET CENTER
LINE.

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

APPLICANT: MICHAEL L. BICKETT & MARILYN L. BICKETT

SPECIAL CIRCUMSTANCES?

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

UPON INSPECTION OF THE SUBJECT PROPERTY WE FOUND THE ISSUES WITH THE POWER LINES AND THE TOPOGRAPHY THAT THE APPLICANT STATES TO BE TRUE. HOWEVER, PLACING ANY STRUCTURE 45 FEET FROM THE CENTERLINE OF A ROAD POSES A DANGER TO VEHICLES TRAVELING ALONG STEVENS SCHOOL ROAD. THE SUBJECT PROPERTY IS LOCATED IN THE MIDDLE OF A BEND IN STEVENS SCHOOL ROAD AND IF THIS CARPORT WERE PLACED ONLY 45 FEET FROM THE CENTERLINE OF THE ROAD, THERE WOULD BE A GREATER POTENTIAL FOR VEHICLES, IF THEY TRAVELED OFF
THE ROAD, TO HIT THE CARPORT AND CAUSE DAMAGE TO THE
VEHICLE AND THE CARPORT. A STRUCTURE THIS CLOSE TO
THE ROAD COULD ALSO INHIBIT SIGHT VISIBILITY OF
VEHICLES TRAVELING ALONG STEVENS SCHOOL ROAD.

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

HARDSHIP?

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

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

OHIO VALLEY REPORTING
(270) 683-7383
LINES WITH EXCAVATION AND/OR TREE REMOVAL.

FINDINGS OF FACT:

GRANTING THIS VARIANCE:

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

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

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

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

MS. EVANS: STAFF RECOMMENDS DENIAL.

WE WOULD LIKE TO ENTER THE STAFF REPORT INTO

THE RECORD AS EXHIBIT D.

CHAIRMAN: WAS THERE ANY COMMENTS OR QUESTIONS

IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND DO YOU

HAVE ANY COMMENTS AT THIS TIME?
MR. BICKETT: NO.

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

MR. BICKETT: NO.

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

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

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

MR. BICKETT: MICHAEL BICKETT.

(MICHAEL BICKETT SWORN BY ATTORNEY.)

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

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

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

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

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

MR. BICKETT: NO, SIR.

CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

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

MS. MASON: I'M CONFUSED TOO.

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

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

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

MR. BICKETT: NO, SIR.

MR. NOFFSINGER: THE CARPORT IS SHOWN ON THE
SITE PLAN OUT NEAR THE ROADWAY. IN KIND OF UPPER
RIGHT-HAND CORNER OF THE LOT.

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

FATHER HOSTETTER: JUST ONE QUICK QUESTION FOR CLARIFICATION.

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

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

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

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

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

CHAIRMAN: ANY COMMENTS ON THAT?

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

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

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

CHAIRMAN: ANY OTHER QUESTIONS OF THE
APPLICANT?

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

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

MR. BICKETT: THE ONLY FLAT SPOT IS WHERE THE
GARAGE IS AT NOW. LIKE I SAID, THE HOUSE IS BUILT
INTO THE BANK. IT'S AN UNDERGROUND HOME WITH THE
FRONT OPEN. THEN BEHIND THE HOUSE IS I'M GOING TO
GUESS PROBABLY A TEN FEET SLOPE BACK SO THE WATER WILL
RUN BOTH WAYS INSTEAD OF RUNNING TOWARD THE HOUSE, THE
BACK OF THE HOUSE. IT'S PROBABLY AT LEAST A 45 DEGREE
ANGLE BEYOND THAT AND WOODED.

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

MR. BICKETT: NO, MA'AM.

CHAIRMAN: ANY OTHER QUESTIONS FROM THE BOARD?

(NO RESPONSE)

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

MR. BICKETT: NO, SIR.

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

(NO RESPONSE)

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

MR. PEDLEY: MR. CHAIRMAN, I'M GOING TO MAKE A
MOTION TO DENY THE VARIANCE BASED ON FINDINGS OF FACT
1) IT COULD ADVERSELY AFFECT THE PUBLIC WELFARE
BECAUSE 45 FEET FROM THE CENTERLINE OF THIS ROAD IS
OUT OF CHARACTER IN RURAL AREAS. IT COULD ADVERSELY
AFFECT OTHER HOUSES THAT MAY BE BUILT IN THE FUTURE
ADJOINING lots that appear to be small tracts for
future homes to be built.

2) It will alter the essential character of
the vicinity because other variances have not been
granted and it appears there are no encroachments in
the vicinity.

3) It could cause a hazard or nuisance to the
public. It may limit sight distance since it is near
an intersection that curves in the road and there may
be homes built in the future that would require
driveway access points along that point.

4) It will allow an unreasonable circumvention
of the requirements of the zoning ordinance,
regulations because the carport could be built
somewhere else on the property and not deny the
property reasonable use of their property, and it
would set a precedence and encourage others to apply
and expect a variance in the future.

Chairman: Is there a second?

Mr. Dysinger: Second.

Chairman: A motion has been made and a
second. Any other comments or questions from the
board or the staff have anything else to comment?

Mr. Noffsinger: No, sir.

Chairman: The applicant have anything else
YOU WOULD LIKE TO ADD BEFORE THE VOTE?

MR. BICKETT: NO, SIR.

CHAIRMAN: THANK YOU.

ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION IS DENIED.

ONE FINAL MOTION.

MS. MASON: MOVE TO ADJOURN.

MR. WARREN: SECOND.

CHAIRMAN: A MOTION HAS BEEN MADE TO ADJOURN AND A SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: WE ARE ADJOURNED.

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

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

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

LYNNETTE KOLLER FUCHS
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COMMISSION EXPIRES: DECEMBER 16, 2014
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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