OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

OCTOBER 3, 2013

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY,
OCTOBER 3, 2013, 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
                    CLAUD PORTER, ATTORNEY
                    JERRY YEISER
                    SEAN DYSINGER
                    FRED REEVES

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CHAIRMAN:  CALL THE OWENSBORO METROPOLITAN
BOARD OF ADJUSTMENT MEETING TO ORDER.  I WELCOME YOU
AND WE START OUR PROGRAM EACH EVENING WITH A PRAYER
AND PLEDGE TO ALLEGIANCE.  WE ASK YOU TO JOIN WITH US.
FRED IS GOING TO DO THE PRAYER THIS EVENING.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  AGAIN, I WANT TO WELCOME YOU TO THE
MEETING TONIGHT.  IF YOU HAVE ANY COMMENTS ON ANY OF
THE REPORTS WE HAVE OR APPLICATIONS, PLEASE COME TO
ONE OF THE PODIUMS AND STATE YOUR NAME SO WE'LL HAVE
RECORD OF IT.

WITH THAT THE FIRST ITEM ARE THE MINUTES OF

OHIO VALLEY REPORTING
(270) 683-7383
SEPTEMBER 5, 2013 MEETING. ARE THERE ANY PROBLEMS? I DON'T THINK THERE'S ANY IN THE OFFICE.

MR. NOFFSINGER: THEY'RE FINE.

MR. DYSINGER: MOVE TO APPROVE.

MS. MASON: SECOND.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

NEXT ITEM PLEASE, SIR.

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CONDITIONAL USE PERMIT

ITEM 2

2810 OLD MASONVILLE LOOP, ZONED R-1A

CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN ORDER TO OPERATE AN EXISTING CHURCH AND CONSTRUCT AN ATTACHED PICNIC SHELTER.

REFERENCE: ZONING ORDINANCE, ARTICLE 8, SECTION 8.2B4

APPLICANT: MASONVILLE UNITED METHODIST CHURCH

MR. PORTER: STATE YOUR NAME FOR THE RECORD.

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: FIRST OF ALL, I WOULD LIKE TO STATE THAT APPROVAL OF ITEMS TONIGHT DOES NOT ALLOW THE APPLICANT OR OWNER TO CONSTRUCT, ALTER, MODIFY OR OCCUPANCY A BUILDING ON THE SUBJECT PROPERTY. IT IS THE APPLICANT OR OWNER'S RESPONSIBILITY TO OBTAIN ALL
APPROVALS AND INSPECTIONS AS NECESSARY BEFORE OCCUPANCY OF THE BUILDING WOULD BE ALLOWED. PLEASE CONTACT THE BUILDING AND ELECTRICAL DIVISION OF THE OMPC PRIOR TO BEGINNING ANY WORK ON THE SUBJECT PROPERTY FOR APPLICABLE REQUIREMENTS.

ZONING HISTORY

THE SUBJECT PROPERTY IS CURRENTLY ZONED R-1A SINGLE FAMILY RESIDENTIAL. OMPC RECORDS INDICATE THERE HAVE BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT PROPERTY.

THIS CHURCH HAS BEEN IN OPERATION FOR OVER 50 YEARS, BEFORE THE CURRENT ZONING ORDINANCE REGULATIONS WERE ESTABLISHED. THE APPLICANT IS BRINING THE PROPERTY INTO COMPLIANCE BY SEEKING THIS CONDITIONAL USE PERMIT TO OPERATE A CHURCH IN AN R-1A ZONE. IN ADDITION, THEY ARE REQUESTING TO BUILD A SMALL, 26 FOOT BY 30 FOOT, ATTACHED PICNIC SHELTER.

LAND USES IN SURROUNDING AREA

THE PROPERTIES TO THE NORTH ARE ZONED A-U URBAN AGRICULTURE AND R-1A SINGLE FAMILY RESIDENTIAL. THE PROPERTIES TO THE WEST AND SOUTH ARE ZONED A-U URBAN AGRICULTURE. THE PROPERTIES TO THE EAST ARE ZONED R-1A SINGLE FAMILY RESIDENTIAL. ALL SURROUNDING PROPERTIES APPEAR TO BE RURAL FARM AND RESIDENTIAL USES.
ZONING ORDINANCE REQUIREMENTS

1. PARKING - EXISTING PARKING IS PROVIDED ON THE PROPERTY TO MEET THE ORDINANCE REQUIREMENTS.

2. LANDSCAPING - A 3 FOOT CONTINUOUS ELEMENT WITH ONE TREE EVERY 40 LINEAR FEET OF THE NORTH BOUNDARY OF THE VEHICULAR USE AREA WILL BE REQUIRED.

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

CHAIRMAN: THANK YOU.

IS THERE ANY CALLS OR COMPLAINTS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND WISH TO MAKE ANY COMMENTS ON IT?

APPLICANT REP: YES.

CHAIRMAN: DO YOU HAVE ANYTHING YOU WANT TO SAY, SIR?

APPLICANT REP: NO, SIR.

CHAIRMAN: ANY BOARD MEMBERS HAVE ANY QUESTIONS OF THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: HEARING NONE I'LL ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.
MS. MASON: MR. CHAIRMAN, I MOVE FOR APPROVAL SINCE THE CHURCH HAS BEEN IN OPERATION FOR OVER 50 YEARS. IT'S COMPATIBLE AND IT'S IN HARMONY WITH THE AREA. AS FAR AS ADDING THE ATTACHED PICNIC SHELTER, IT'S A LOGICAL EXPANSION OF THE EXISTING USE OF THE PROPERTY ADDING THE SHELTER TO IT.

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 ANY OTHER COMMENTS?

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, SIR.

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VARIANCE

ITEM 3

4010 AIRPARK DRIVE, ZONED I-2 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO ELIMINATE THE REQUIRED 6 FOOT TALL SOLID WALL OR FENCE ALONG THE EAST BOUNDARY OF THE OUTDOOR STORAGE AREA. REFERENCE: ZONING ORDINANCE, ARTICLES 17, TABLE 17.311(5A)

APPLICANT: METALSA; LEXINGTON REALTY TRUST

THE EAST BOUNDARY OF THE OUTDOOR STORAGE AREA IS LOCATED DIRECTLY BEHIND THE EXISTING BUILDING, NOT VISIBLE FROM THE PUBLIC RIGHT-OF-WAY.


STAFF WOULD RECOMMEND APPROVAL WITH THE FOLLOWING CONDITION: INSTALLATION OF THE REQUIRED 6 FOOT SOLID WALL OR FENCE ALONG THE NORTH, SOUTH AND WEST BOUNDARIES OF THE OUTDOOR STORAGE AREA.

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

CHAIRMAN: THANK YOU.

HAVE WE HAVE ANY COMMENTS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND WISH TO

COMMENT ANYTHING ON IT? COME FORWARD IF YOU DO.

(NO RESPONSE)

CHAIRMAN: ANY BOARD MEMBERS HAVE ANY COMMENTS

OR QUESTIONS OF THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE YOU WANT

TO ADD TO IT?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: HEARING NONE ENTERTAIN A MOTION TO

DISPOSE OF THE ITEM.

MR. DYSINGER: MR. CHAIRMAN, GIVEN THE

FINDINGS IN THE STAFF REPORT THAT IT WILL NOT

ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE

BECAUSE THIS IS AN EXISTING ONGOING USE SEPARATED FOR

PUBLIC RIGHT-OF-WAY BY EXISTING BUILDING, AND WITH THE

CONDITION OF AN INSTALLATION OF THE REQUIRED 6 FOOT

TALL SOLID WALL OR FENCE ALONG THE NORTH, SOUTH AND

WEST BOUNDARIES OF THE OUTDOOR STORAGE AREA, I MOVE

THAT WE APPROVE THE VARIANCE REQUEST.

MR. REEVES: SECOND.
CHAIRMAN: A MOTION HAS BEEN MADE AND SECOND.

ARE THERE ANY OTHER QUESTIONS OR COMMENTS FROM THE BOARD?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

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, SIR.

ITEM 4

2070 SOUTHTOWN BOULEVARD, ZONED B-1

CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE THE DISTANCE OF A NON-RESIDENTIAL POINT OF ACCESS FROM 50 FEET FROM THE RIGHT-OF-WAY LINE OF AN INTERSECTING STREET TO 21.4 FEET FROM THE RIGHT-OF-WAY LINE OF AN INTERSECTING STREET.

REFERENCE: ZONING ORDINANCE, ARTICLE 13, SECTION 13.22

APPLICANT: MARTIN & BAYLEY, INC.

MS. EVANS: THE SUBJECT PROPERTY IS A COMMERCIAL PROPERTY LOCATED AT THE INTERSECTION OF SOUTHTOWN BOULEVARD AND DISCOVERY LANE, IN THE DISCOVERY CORNER DEVELOPMENT. THE SUBJECT PROPERTY IS TO THE EAST OF THE PROPERTY WHERE A NEW HUCK'S CONVENIENCE STORE IS PROPOSED AT 2080 SOUTHTOWN BOULEVARD. THE ACCESS ON THE SUBJECT PROPERTY WILL PROVIDE ACCESS TO HUCK'S AND FUTURE DEVELOPMENT OF THE...
SUBJECT PROPERTY. A 20 FOOT INGRESS/EGRESS EASEMENT WAS APPROVED ON A FINAL PLAT DATED NOVEMBER 22, 2011 PROVIDING ACCESS FOR SHARED PARKING BETWEEN 2070 AND 2080 SOUTHTOWN BOULEVARD, BUT DID NOT EXTEND TO DISCOVERY LANE.

A WIDENING PROJECT BY THE STATE HAS RECENTLY TAKEN PLACE ON SOUTHTOWN BOULEVARD CREATING APPROXIMATELY A 90 FOOT RIGHT-OF-WAY ALONG SOUTHTOWN BOULEVARD CONSISTING OF A FIVE LANE CROSS-SECTION AND A 10 FOOT SHARED USE GREENBELT PATH RUNNING ALONG THE SOUTH SIDE OF THE STREET. ALTHOUGH THE RIGHT-OF-WAY AT 2070 SOUTHTOWN BOULEVARD IS WIDER THAN THAT OF A SIMILAR STREETS THROUGHOUT THE CITY, IT IS CONSISTENT FOR THIS SECTION OF SOUTHTOWN BOULEVARD FROM CARTER ROAD TO Frederica STREET. THIS RIGHT-OF-WAY IS WIDE ENOUGH TO ACCOMMODATE THE 5 LANE ROAD, A SHARED USE PATH AND A ROADSIDE DITCH THAT CARRIES WATER FROM THE BACK SQUARE DRIVE AND BERTHA GOETZ ESTATE AREA TO THE GOETZ DITCH.

THE KENTUCKY TRANSPORTATION CABINET AND THE CITY ENGINEER HAVE BOTH REVIEWED THIS APPLICATION SINCE SOUTHTOWN BOULEVARD IS A CITY STREET AND THE WIDENING OF THE ROAD WAS A STATE PROJECT. THE KYTC WOULD RECOMMEND ACCESS FROM LOT 2, 2070 SOUTHTOWN BOULEVARD, BE FROM ENDEAVOUR DRIVE; AND ANY ACCESS TO
DISCOVERY LANE BE A MINIMUM OF 150 FEET FROM THE EDGE
OF THE PAVEMENT TO SOUTHTOWN BOULEVARD. THE KYTC
CITED THE STACKING OR QUEUING OF TRAFFIC AS THEIR
CONCERN. TRAFFIC EXITING DISCOVERY LANE ONTO
SOUTHTOWN BOULEVARD WILL QUEUE BACK DISCOVERY LANE
BLOCKING THIS PROPOSED ACCESS POINT RESTRICTING THE
FLOW OF TRAFFIC OUT OF THIS DEVELOPMENT. THE CITY
ENGINEER'S OFFICE IS ALSO NOT IN FAVOR OF THE VARIANCE
REQUEST AND WILL REQUIRE THE MINIMUM 50 FOOT SPACING
FROM THE RIGHT-OF-WAY BE MAINTAINED.

GIVEN THE RECOMMENDATIONS BY THE KENTUCKY
TRANSPORTATION CABINET AND THE CITY ENGINEER'S OFFICE,
GRANTING THIS VARIANCE TO REDUCE THE DISTANCE OF A
NON-RESIDENTIAL POINT OF ACCESS FROM 50 FEET FROM THE
RIGHT-OF-WAY LINE OF AN INTERSECTING STREET TO 21.4
FEET FROM THE RIGHT-OF-WAY LINE OF AN INTERSECTING
STREET WILL ALLOW AN UNREASONABLE CIRCUMVENTION OF THE
REQUIREMENTS OF THE ZONING REGULATIONS.

STAFF WOULD RECOMMEND DENIAL AND WE WOULD LIKE
TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT
C.

CHAIRMAN: THANK YOU.

HAVE WE HAD ANY COMMENTS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND DO YOU
WANT TO HAVE ANYTHING TO ADD AT THIS TIME? COME FORWARD AND STATE YOUR NAME, PLEASE.

MR. APPLEBY: DAVID WEAVER WITH BRYANT ENGINEERING.

(DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: SINCE THE OWNER DOESN'T GET A STAFF REPORT, WE'RE NOT PRIVILEGE TO THE WORDING THAT WAS JUST DELIVERED UNTIL NOW. WE WOULD ASK FOR CLARIFICATION FROM MELISSA.

I THINK YOU READ THAT THE STATE WANTED 150 FEET FROM THE EDGE OF PAVEMENT TO THE ACCESS POINT. THEN THE CITY ENGINEER ASKED FOR 50 FEET FROM THE RIGHT-OF-WAY LINE. IF WE COMPLY WITH THE STATE HIGHWAY DEPARTMENT'S RECOMMENDATION, THAT WOULD THROW THE ACCESS POINT WAY BACK BEYOND WHAT IS REQUIRED BY THE ORDINANCE AND THIS IS NOT A STATE ROUTE. DISCOVERY LANE IS NOT. WE WOULD LIKE TO KNOW WHAT THE PLANNING STAFF'S EXPECTATIONS ARE.

MS. EVANS: OUR EXPECTATIONS WOULD BE THAT THE VARIANCE WOULD BE DENIED AND IT WOULD BE WHAT'S REQUIRED IN THE ZONING ORDINANCE, WHICH WOULD BE THE 50 FEET FROM THE RIGHT-OF-WAY LINE OF AN INTERSECTING STREET.

MR. WEAVER: OKAY. THAT'S WHAT WE WANTED TO CLARIFY.
JUST FOR EXPLANATION. IN THE APPLICATION, WHAT THE CONTENTION WAS THAT WE PRESENTED IN OUR REPORT WAS THAT THE SPIRIT OF THE ORDINANCE WAS MET IN THAT WE'RE MORE THAN 50 FOOT FROM WHAT WOULD BE A STANDARD RIGHT-OF-WAY FROM SOUTHTOWN BOULEVARD. SO WE WOULD LIKE YOU TO TAKE THAT INTO CONSIDERATION. I DON'T KNOW IF YOU'VE GOT A COPY OF THE SITE PLAN OR NOT IN FRONT OF YOU. WE HAVE 67.1 FEET. TYPICALLY 50 WOULD BE REQUIRED.

CHAIRMAN: STAFF HAVE ANY OTHER COMMENTS TO CLARIFY, PLEASE?


WE CAN'T FIND ANY COMPELLING REASON TO RECOMMEND APPROVAL OF THE VARIANCE IN THAT THE CITY OF OWENSBORO WOULD BE THE ONE THAT WOULD ISSUE THE

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DRIVEWAY PERMIT ON THAT STREET. THEY STATED THAT THEY'RE NOT COMFORTABLE WITH THAT.

SO WITHOUT THE APPROVAL OF THE CITY ENGINEER, THEN CERTAINLY WE WOULD NOT RECOMMEND APPROVAL OF THE VARIANCE AND CERTAINLY WOULD RECOMMEND THAT YOU NOT APPROVE IT.

CHAIRMAN: ANY BOARD MEMBER HAVE ANY COMMENTS OR QUESTIONS?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

MR. NOFFSINGER: NO, SIR.

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


MELISSA, DID YOU READ INTO THE RECORD 1 THROUGH 4?

MS. EVANS: NO, SIR.

MR. PEDLEY: I WANT TO READ THAT INTO THE RECORD. STAFF'S FINDINGS 1 THROUGH 4.

1. IT WILL AdVERSELY AFFECT THE PUBLIC
HEALTH, SAFETY OR WELFARE BECAUSE, AS CITED BY THE
KYTC, STACKING OR QUEUING OF TRAFFIC ON DISCOVERY LANE
WILL CAUSE TRAFFIC PROBLEMS;

2. IT WILL ALTER THE ESSENTIAL CHARACTER OF
THE GENERAL VICINITY BECAUSE THIS IS THE FIRST LOT IN
THIS COMMERCIAL DEVELOPMENT TO DEVELOP; SETTING A
PRECEDENT LEADING THE PROPERTY ON THE OTHER SIDE OF
DISCOVERY LANE TO SEEK THE SAME VARIANCE REQUEST FOR
THEIR ACCESS POINT;

3. IT WILL CAUSE A HAZARD OR A NUISANCE TO
THE PUBLIC BECAUSE OF STACKING OR QUEUING ISSUES THAT
WILL BLOCK THE PROPOSED ACCESS POINT RESTRICTING THE
FLOW OF TRAFFIC OUT OF THIS DEVELOPMENT;

4. IT WILL ALLOW AN UNREASONABLE
CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING
REGULATIONS BASED ON THE RECOMMENDATIONS BY THE KYTC
AND THE CITY ENGINEER'S OFFICE.

CHAIRMAN: THANK YOU. IS THERE A SECOND?
MR. DYSINGER: SECOND.
CHAIRMAN: A MOTION HAS BEEN MADE AND A
SECOND. DOES THE BOARD HAVE ANY OTHER QUESTIONS?
(NO RESPONSE)
CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?
MR. NOFFSINGER: NO, SIR.
CHAIRMAN: THE APPLICANT HAVE ANYTHING ELSE

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YOU'D LIKE TO ADD?

MR. WEAVER: NO.

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

(BOARD MEMBERS SEAN DYSINGER, WARD PEDLEY, RUTH ANN MASON AND FRED REEVES RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

ONE FINAL MOTION.

MR. PEDLEY: MOTION TO ADJOURN.

MS. MASON: SECOND.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: WE ARE ADJOURNED.

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

I, LYNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND
FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY
THAT THE FOREGOING OWENSBORO METROPOLITAN BOARD OF
ADJUSTMENT MEETING WAS HELD AT THE TIME AND PLACE AS
STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;
THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION
WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD
MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT
SAID PROCEEDINGS WERE TAKEN BY ME IN STENOTYPE AND
ELECTRONICALLY recorded AND WAS THEREAFTER, BY ME,
ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
FOREGOING 15 TYPED PAGES; AND THAT NO SIGNATURE
WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

WITNESS MY HAND AND NOTARY SEAL ON THIS THE
24TH DAY OF OCTOBER, 2013.

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

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

OHIO VALLEY REPORTING
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