The Owensboro Metropolitan Board of Adjustment
met in regular session at 5:30 p.m. on Thursday, April 3, 2014, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
Judy Dixon, Vice Chairman
Terra Knight, Attorney
Brian Howard
Lewis Jean
Sean Dysinger
Fred Reeves

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CHAIRMAN:  Call the Owensboro Metropolitan Board of Adjustment meeting to order. We will begin our meeting with a prayer and pledge of allegiance to the flag. Mr. Howard will lead us. Will you stand, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  I would like to welcome everyone. Anyone that wishes to speak on any item may do so. We welcome your questions and comments. We ask that you come to one of the podiums and state your name and be sworn in.

We have a new board member tonight, Mr. Lewis Jean. Would like to welcome him.

Ohio Valley Reporting
(270) 683-7383
With that the first item on the agenda is to consider the minutes of the March 6, 2014 meeting. Board members, you were e-mailed a copy of the minutes in your packet. Are there any additions or corrections on the minutes?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MS. DIXON: Move to approve.

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

This next item I need to disqualify myself because I had some activities with the Copper Creek development. Also, I live on down the road. I also have many storages. I am going to disqualify myself and turn it over to Ms. Dixon. I will come back after this item is over with. Thank you.

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CONDITIONAL USE PERMIT

ITEM 2

3425 New Hartford Road, zoned B-4
Consider a request for a Conditional Use Permit in order to construct and operate an individual storage facility in a B-4 zone in Daviess County.
Reference: Zoning Ordinance, Article 8, Section 8.2L7/48
Applicant: John & Carla Gerow; Seth Stewart

MS. KNIGHT: State your name, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: A Conditional Use Permit to construct and operate an individual storage facility on the subject property was approved in September of 2012 by the OMBA, but the facility was never constructed and therefore the conditional use permit has expired.

A Variance was approved for the subject property in September of 2012 to increase the maximum building height of an individual storage unit in a B-4 zone in the County from 15 feet tall to 22 feet tall for the existing buildings on the property with the following conditions; an 8 foot solid fence or wall be added to all sides of the property extending to the right-of-way line at New Hartford Road unless the adjoining property owner to the north determines a shorter distance would be required and except for the road frontage; and the adjoining property owner to the north be notified prior to the submittal of the development plan and receipt of the notification be given to the Planning office.
The current applicant is proposing to construct and operate an individual storage facility on the subject property identical to the application that was approved in 2012. The applicant is proposing to use some of the existing building on the property, converting them to storage units and office space, and construct six new buildings while demolishing the garage type buildings to the rear of the property.

Individual storage is Conditionally Permitted in a B-4 zone in the County with following conditions, unless a Variance is granted:

A. Structure to be used as individual storage units shall not be located closer than 25 feet to any residential zone.

B. An 8 foot high solid wall or fence shall be installed and maintained on all sides that adjoin any other property, except for those properties of zoned B-1, B-2, B-3, B-4, B-5, I-1 or I-2. Tree plantings may also be required as per Article 17 of this Zoning Ordinance.

C. Building height shall not exceed 15 feet, measured from the finish grade at the loading doors, to the top of the roof ridge or edge; a Variance has been granted for this requirement for the subject property.
D. Outdoor storage shall be prohibited on the same property as the individual storage structures. This shall include vehicles, boats and personal items.

E. All uses other than individual storage shall be prohibited within structures while those structures are being used for individual storage, except for one office or caretaker's residence, which, if present, shall be directly related to the management of the individual storage units.

F. The Owner of the individual storage structures shall be responsible for policing and material and/or items being stored. The Owner shall notify the Zoning Administrator upon discovering any storage not meeting the requirements set forth herein, providing the name, address and phone number of the renter whose storage is in question.

LAND USES IN SURROUNDING AREA

The properties to the north are zoned B-4 General Business and A-U Urban Agriculture and both are vacant. The property to the west is zoned B-4 General Business. The properties to the south and east are zoned R-1A Single Family Residential and A-U Urban Agriculture and are Single Family residences.

ZONING ORDINANCE REQUIREMENTS

1. Parking - no parking required.
2. Landscaping - a 8 foot solid wall or fence with 1 tree every 40 feet along any property line adjoining residential property with a 10 foot landscaping easement and a 3 foot continuous element between the vehicular use area and the road right-of-way.

There are a couple of special conditions that we would like the Board to consider.

SPECIAL CONDITIONS

1. Structures to be used as individual storage units shall not be located closer than 25 feet to any residential zone.

2. Outdoor storage shall be prohibited on the same property as the individual storage structures. This shall include vehicles, boats, personal items.

3. All uses other than individual storage shall be prohibited within structures while those structures are being used for individual storage, except for one office or caretaker's residence, which, if present, shall be directly related to the management of the individual storage units.

4. The Owner of the individual storage structures shall be responsible for policing the material and/or items being stored. The Owner shall notify the Zoning Administrator upon discovering any
storage not meeting the requirements set forth herein, providing the name, address and phone number of the renter whose storage is in question.

5. Submission and approval of a Final Development Plan.

6. An 8 foot solid fence or wall be added to all sides of the property extending to the right-of-way line at New Hartford Road unless the adjoining property owner to the north determines a shorter distance would be required and except for road frontage.

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

MS. DIXON: Do we have anyone here wishing to speak in opposition to this item?

MS. KNIGHT: State your name for the record, please.

MR. RODNEY: Dean Rodney.

(DEAN RODNEY SWORN BY ATTORNEY.)

MS. DIXON: You are opposed to this item or you have concerns about it?

MR. RODNEY: I am opposed to this, yes.

MS. DIXON: Could you give us a little more information on your opposition?

MR. RODNEY: Sure.
The proposal that has come before the board tonight calls for the addition of six buildings as was just read to be constructed on this site that would house approximately 250 storage units.

As was common, there are five residential homes that adjoin this property on the east and on the south side, as well as the property on the northwest side which is owned by the YMCA where they hope to put in a kids park. Of course, then also property on the north by Matt Hayden.

The buildings would be constructed about 25 feet from our property lines; however, the traffic flow as proposed would be within that 25 feet. So in effect that would mean that the renters of these storage units would have traffic rights and opportunities to be right on our backyards. I think therefore there are multiple reasons not to approve this Conditional Use Permit.

Construction, as we all know, alters the drainage of any site. Our concern is that the drainage gutters and pipes will not direct the flow of water away from our property lines and into the storage sewage areas where it belongs. There's also concern on our part that the drainage will do erosion and undermine the residential lots.
With any storage units potentially renters would have the right to access their units 24 hours a day, 7 days a week, 365 days a year. This obviously presents a privacy issue for families of the adjoining adjacent properties. Given there's going to be some noise levels, that will increase on our behalf as homeowners during the daytime and obviously potentially in the evenings, and perhaps on weekends as well.

It's a known fact that it's impossible to police or patrol what's stored in storage units. Hopefully all of it would be legitimate and legal; however, on a national basis, illegal activity has been stored in these units and therefore that has not been the case. Drugs, for example, meth labs, firearms, explosives and all other types of hazardous materials have been found nationwide in storage units. This is the type that we possibly could have next to our homes, our families and kid parks are located.

The quality of life has always been a notable importance to Owensboro/Daviess Countians. The type of conditional use requested tonight for this project would, I believe, negatively impact the quality of life for the people living in their homes and for the kids in the kids park.
There are certainly a number of commercial proper uses that would be compatible with adjacent residential lots; however, I would submit that 250 approximately storage units with the potential of 24/7 access with a traffic flow that is right in our backyards within that 25 foot span, as well as the possibility of hazardous materials being stored within some of these units, would not be one of those compatible uses.

Therefore, for these and other reasons I would ask this board to consider denying this Conditional Use Permit.

MS. DIXON: Thank you, Mr. Rodney.

MS. KNIGHT: Would you state your name, please?

MR. HAYDEN: Mathew Hayden.

MR. HAYDEN: I just want to clarify to make sure that what was read prior. That the two conditions that were approved last time about the screening, the wall and/or solid fence and then notification, that those two are conditions. I know you were running through that. I just wanted to make
MS. EVANS: Yes. Those were conditions that were on the Variance that was approved. The Variance runs with the land and is still valid and those conditions still do apply to that variance.

MR. HAYDEN: I just want to make sure of that. I think more of a clarification point.

I guess with this being a large, I guess, development on a tract, a four or five acre tract here, I guess three and a half acres, what assurances are there going to be to make sure the utilities are upgraded that serve this site? For example, the water that comes to this area right now is I think a two inch water line. There's not a fire hydrant. If this is going to be developed into more building square footage, etcetera, how will the assurances be that it will have the proper things that are required? If something were to happen to deal with a situation like a fire or explosion because of something that was stored in it. I guess my concern is that if you're going to come in and start rehabbing buildings and then just increasing the capacity, at what point will the checks and measures be there to make sure that the area gets developed and brought up to standards; whether it's from water, from the electric, sewer,
drainage, etcetera. I don't know what that process is. Is that going to be addressed when the development plan comes back and that's when they'll come and make sure that that's taken care of.

Then my last point is the joint access that we have with the property that adjoins the entrance of this. How will that work? What width will that be? Who will make the improvements to that entrance? Since that will technically to be ours as well, I just want to make sure that these specifics aren't left out and things just start developing and then the end product and realize that things were overlooked.

MR. HOWARD: Do you want me to answer?

MS. DIXON: Yes, please, Mr. Howard.

MR. HOWARD: Sure. Be glad to.

Mr. Hayden, in regards to your questions, let's answer the first. The conditions on the variance still hold truly certainly.

As far as the utility goes, there will be requirement for a final development plan. There will be multiple principle structures on the property that will require a final development plan, at which time all the utilities will have to review and sign off. This property is located in Daviess County, unincorporated area. So the county engineer would
have to review and sign off on drainage prior to any type of approval. So at that time the utility should review and should not sign off unless there are adequate services to the site. If not, they will work with the developer to make sure they are there.

Then the third, as far as the joint access goes. One of the conditions was that you as the adjoining property owner be notified. My hope would be that the applicant will be working with you as far as how that access point would look and who would be responsible for putting it in. It would be a joint access between two private property owners. It's not necessarily a public improvement as a street would be within a new development. It would be some negotiation between you all as adjoining property owners. We would hope that all of that would be addressed that way and you would know about it before it was signed off on a final development plan.

MR. HAYDEN: Well, I guess I appreciate the fact that the development plan hopefully catching the utilities and the upgrades that need to be made. That seems like a check and measure when it happens. I guess the concern with the joint access being that this is on a state highway that is not going to allow additional access points would probably
be a fair statement to make. Is that there is no assurance that the improvement, the width, I can't keep him or whoever the new applicant is from breaking ground and doing what they want and then I'm left with a nonfunctioning access point because, back to your point, it is private, but you're the one that is giving jurisdiction for this to move forward and I can't back go back to the state and say, hey, how about another curb cut five foot down.

MR. HOWARD: Sure.

MR. HAYDEN: I understand the negotiation process with a property owner, but this is set in motion and there's not a check and balance to maybe an additional signature can be required of the development plan process making sure that that's worked out. I'm not here to be unreasonable about it, but I don't want a piece of property that basically becomes landlocked or not able to function because a development plan has been signed off and they're moving forward. My ability to negotiate will become irrelevant.

MR. HOWARD: Sure. That's a valid point. I may defer to legal counsel here.

If there is a property that has a shared access point, it would be of my opinion or at least I
think would be reasonable to have that person that
also shares that access point be required to the sign
the development plan because that access point not
only impacts this site, but then the adjoining
property as well.

Is that a valid point?

MS. KNIGHT: I'm not sure as I look at this.
It's a joint, but am I understanding this correctly,
that everything on this permit site plan, everything
on the final plan is encompassing actually joint
entrance. Is that the way I'm understanding it?

MR. HOWARD: There are basically two lots that
have frontage on New Hartford Road that share a single
access point. So it would serve not only this site
that is under consideration tonight, but Mr. Hayden's
property as well. I think his point is valid. That
he wouldn't want an access point to go in that would
render his site to be useless. I would think from a
perspective of it impacts his property, I think we
could look at having him sign the plan.

MS. KNIGHT: I think if it's on the final
development plan itself as being something that's
impacted that, I don't disagree.

I wonder, is the applicant here? I wonder if
we could hear from him.
MS. DIXON: Yes, we will hear from him.

MR. HAYDEN: That is my concerns. Once it moves forward, I just want to make sure the check and balances, if it happens.

MS. DIXON: Anyone else wishing to speak in opposition?

(NO RESPONSE)

CHAIRMAN: Is there someone here representing the applicant?

MS. KNIGHT: Would you state your name for the record, please?

MS. GEROW: Carla Gerow.

MR. GEROW: John Gerow.

(CARLA AND JOHN GEROW SWORN BY ATTORNEY.)

MS. KNIGHT: Whichever would like to speak first.

MR. GEROW: We basically want to develop several storage units. We want to pick up where Seth stopped, and we would like to use the same plan that was approved in October of 2012.

As far as the problems with the access, I'll be glad to work with Mr. Hayden in any way I can.

MS. KNIGHT: Would you be agreeable to having him sign off on the final development plan, if that was required?
MS. GEROW: As far as the driveway and entrance? Absolutely.

MS. KNIGHT: Yes, ma'am.

MR. GEROW: Within reason.

MS. KNIGHT: That would be the only interest that he would have would be the joint entrance. He would have no say so in the electrical issues and that type of thing. It would only be --

MS. GEROW: If it's the access, yes.

MR. GEROW: Yes, I would be willing to do that.

MS. DIXON: Do you have any other comments to address to Mr. Rodney's concerns?

MR. GEROW: The only thing I can come up with, as far as the building and the people driving right next to residences, there will be a fence, an 8 foot fence between the driveway and the property line. So there won't be any vehicles right up next to the fence.

MS. GEROW: Also the elevation is quite significant. In other words, if the buildings were here, it's going to be quite substantially far away where the actual property home is. I don't know how many feet. Hundred?

MR. STEWART: It's probably --
MS. DIXON: Excuse me, if you're going to speak you'll have to be sworn.

MS. KNIGHT: Would you state your name, please?

MR. STEWART: Seth Stewart.

(SETH STEWART SWORN BY ATTORNEY.)

MR. STEWART: The property in question, the residential property, the bottom level of a house is sit above the buildings in question. You're talking 25 feet elevation change.

Drainage I know was an issue. Right now the complete three and a half acres is paved. Adding buildings with roof tops does not change the runoff at all. The elevation stays the same. Right now the runoff goes into a creek that runs underneath 231 between Dairy Queen and Subway. I believe the YMCA owns that property.

With traffic in the backyard, I mean this isn't a significant traffic flow. These are storage units. Not a 24-hour McDonald's that could be on this property.

Also, there's a lot of different things that would create a lot more traffic that would not have to have a conditional use permit.

Hazardous materials in Owensboro. I have not
known of any or ever heard of any, as far as in storage units. I know it was a question a year and a half ago when we had this meeting. Once a person rents it, it's their property. That would be a question for another owner if they ever had trouble with hazardous materials or meth labs or anything like that.

I have been in contact with a large facility in Bowling Green. I know he has not had any troubles. I believe that addresses most of what Mr. Rodney had to say, and I believe they addressed Mr. Hayden.

MS. DIXON: Mr. Rodney, do you have any other questions of the applicant?

MS. KNIGHT: Ma'am, please state your name.

MS. RODNEY: Sandra Rodney.

(SANDRA RODNEY SWORN BY ATTORNEY.)

MS. RODNEY: I have some comments and then I also have a question.

In terms of a 25 foot elevation, I believe that's incorrect. Have you done an elevation --

CHAIRMAN: Ms. Rodney, if you'll direct your question to us, and we'll get the answer.

MS. RODNEY: I would like to know has there been an elevation by a county engineer or a reputable
professional who has established that fact?

There are two properties, two residential homes that are on the same level that are New Hartford Road backyard and the south backyard of two homes that actually are in the same elevation. There are three properties that are somewhat elevated, but I question 25 feet.

Also, I would like to know if the gas pipes have been secured on this property? At one time there were above ground gas pipes on this property that did not need to be exposed to this traffic.

Also, I think if you have, I believe I heard 250 units. Once the person has rented that unit, what are the security measures that the owner of the property has in place? How about lighting, what's that plan? Are we planning 24-hour access? Is that in the proposal, that these 250 renters would be allowed to enter the property 24/7, 365 days a year? I heard in the proposal a comment about 25 foot requirement, that the actual building be 25 feet from the property line. Then I heard another comment on a 10 foot easement. I wonder if that could be explained to me, the 10 foot easement, what that arrangement was.

MS. DIXON: Ms. Evans, you want to explain the
easement?

MS. EVANS: The 10 foot easement is a landscaping easement from the property line where there couldn't be buildings built. It would have to be a grass area.

MS. RODNEY: Are you talking about a 10 foot easement, and from the 10 foot boundary an additional 25 foot to the next building or is the 10 foot inclusive in that 25?

MS. EVANS: The 10 foot is included in that. The buildings have to be 25 feet from the property line, but there is a 10 foot landscaping easement that runs inside that 25 feet.

MS. RODNEY: So my understanding then the traffic flow would also be within that 25 feet for access to the openings for these units.

My final comment is: I don't think any of us are anti-business. I don't think any of us want to be negative citizens, but certainly one of the attributes of Owensboro and Daviess County is quality of life. Any judgments that we make that enhance quality of life and maintain quality of life and the well-being of our families and our children, that enhances business.

So thank you for your service and please keep
this in mind.

MS. DIXON: Thank you.

Let's see if we can get some answers to these.

Repeat your name for the record.

MR. STEWART: Seth Stewart.

Question of the height. I know the building in question on this property is 22 feet. The fence that separates the residential property sit taller than that building. The lower level of the homes in question are higher than that fence.

MS. DIXON: She asked if there has been an elevation study.

MR. STEWART: I have had a phase 1 done. I do not believe that includes the elevation. I don't think that would be hard to find though.

Exposed gas pipes. Atmos, this used to be the old Atmos property. That was their doing. Once I took over in October '12, they came and unhooked anything that was in question, including and removing a meter that was not needed.

Lighting we went over in October of 2012 at this meeting. It was not to be directed at the residential areas, but there would be adequate lighting for security. 24-hour access is part of this project. It's a better sell. People get off work
don't want to be in hurry to get something in their storage unit. There is cameras. There are also computer programs that when a person comes into the 24-hour access they have a four digits pin as you need to them. When they punch that in, it tells the computer that John Doe has entered the property. When he leaves, he punches in the same four digits. The computer logs how long he was there. You have security cameras watching everything else. So significant amount of time would suggest maybe inappropriate activities. You can go back and look on the film and know exactly who was there.

This property has been vacant for five years, six years, I believe, without any development. It's on 231. It's a little bit of an eyesore. We're trying to develop this into a nice, you know, uniform painted, new blacktop, new fence and landscaping. It's the first thing you see when you get off the bypass headed north. It's a good piece of property for this business. I believe it will succeed and be a whole lot better than what it is right now.

MS. DIXON: Ms. Rodney, did those answer your questions?

MS. RODNEY: Mostly.

MS. DIXON: Any board member have questions of
MR. DYSINGER: I have question of Staff.
Are there any conditions, not conditions. Is there anything in this application which materially changes from when it was approved in the first case? Are there new conditions that the Staff is putting in? Is there any of the other information that changes this application materially from the original?

MR. HOWARD: Ms. Evans is prepared to answer that.

MS. EVANS: The only new conditions are the conditions from the variance that run with the land. Those are the only new conditions that were added to this Staff Report.

MR. DYSINGER: Thank you.

MS. DIXON: Mr. Reeves.

MR. REEVES: My question too is probably for Mr. Howard, and he may not be able to answer this.

Do you know if we have any other conditionally permitted storage units that are adjacent to residences in the county?

MR. HOWARD: I'm trying to go back through my memory. We've had several done here in the last few years. The majority I would say have been in commercial and industrial type zones.
Are you aware in your research for the application, Ms. Evans or Mr. Ball?

MR. BALL: I agree with you, Brian.

MR. HOWARD: I can't think of any within the last six, eight years that have been.

MR. DYSINGER: What's over by Bolivar? You remember the adjacency there? I mean there's a couple of houses. My house around the corner, but it turns out it's zoned industrial.

MR. HOWARD: That's in an area that's zoned industrial.

MR. DYSINGER: But there's quite a bit of residences around there so I don't know what the zoning is.

MR. HOWARD: If I remember correctly, I don't think they were residentially zoned properties.

MR. DYSINGER: Regardless of the zoning, you would be hard pressed to find a less residential looking. I mean the area is very residential and the storage units there are dead, right in the middle of them.

MS. KNIGHT: Would you state your name, please?

MR. BALL: Manuel Ball.

(MANUEL BALL SWORN BY ATTORNEY.)
MR. BALL: I would agree, Brian. I believe almost all the other ones are industrial zones; however, almost all of the other ones that we've done in the past have had residential adjacent to them. I think you have Sumo Storage, as well as the one there on Old Henderson Road.

MR. HOWARD: There was residential across the street. We had one out in the county that did a conditional use permit, but that was surrounded by agriculturally zone property primarily.

MR. REEVES: I had one other question for Mr. Hayden.

Mr. Hayden, were you satisfied with the resolution to the access point? If this is approved do you feel like that the access point issue has been resolved to your satisfaction?

MR. HAYDEN: As long as there's a signature to where we will be aware and involved in the process because otherwise we have no negotiations. They can proceed as they see fit.

MS. KNIGHT: May I just clarify something on your signature on the final development plan. They have agreed to it. That's the main reason it would be on there. I understand their concern about it not being unreasonably withheld. Do you understand?
You're not probably going to be able dictate that they improve if there's asphalt? Do you understand what I'm saying?

MR. HAYDEN: I understand that.

MS. KNIGHT: You can't withhold your signature on the final development plan just because you want something better.

MR. REEVES: Is the bottom line that you just want to make sure that you have access?

MR. HAYDEN: I want to make sure that I don't end up being landlocked.

MR. REEVES: That your access be assured.

MR. HAYDEN: For instance, if the gate, the security to access this -- I mean there is really no real plans approved. There's no civil engineer work. It's very preliminary. So for all I know the gate could be right when you pull into the access point. Therefore the access point really is unable for us to operate that adjacent property. The voice of unreason, I mean it takes two willing parties. I need to be able to access my property and to have chance to be able to function.

MS. KNIGHT: Correct.

MR. HAYDEN: I don't know enough right now to know the pros and cons of what's trying to be
permitted is the best way to say it because there's not enough information here tonight to know what's going on.

MS. KNIGHT: My concern is just like Mr. Reeves said. That your approval would be that, yes, you are insured that you have access and continued access and that would be it. It's not the Board of Adjustment's job to get in a private dispute between private landowners, as far as joint use of their property is concerned. Do you understand what I'm saying the differences there?

MR. HAYDEN: Actually to a degree, but you're making the change tonight so in essence --

MS. KNIGHT: Again, as far as the material used for the joint access and how that's maintained and those type of things, those issues for the private landowners. That's my concern. I just want to make sure that you understand why your signature would be on there and what you would be signing off on.

MR. HAYDEN: I'm appreciative that it's going to be required, but I'm very concerned how it proceeds. Because there's no information here tonight. No different than the elevation question. He said he had a phase 1. That's a soil investigation. There's not even topo. There's
nothing meaningful to answer any of these questions.

MS. KNIGHT: Again, your concern is that you
main joint access.

MR. HAYDEN: Yes. Joint access to where my
property continues to function.

MR. REEVES: This concerns me for both
parties. I'm concerned for this party, as well as
this party.

Once we make a decision on this, if we approve
it, then they're approved to go forward with their
project, unless Mr. Hayden wants something that
doesn't agree with him. Then who resolves that
dispute? That's my question. Is that then one that
this property has to sue Mr. Hayden or Mr. Hayden has
to sue this party to resolve it?

MS. KNIGHT: That's what I'm trying to get it
clear because I don't want there to be -- if they're
wanting to put concrete on the joint easement and he
wants asphalt, that's not necessarily going to be a
requirement on the final plan, as far as what material
is used for this joint access or who maintains it,
that type of thing.

MR. HAYDEN: I would agree with you. But to
that point actually Mr. Reeves has a very good point.
What will become unreasonable is usually money.
Because of the lack of information, you know, it's hard to -- there is no reasoning at this point. Probably the logical thing to do would have more information before this moves forward so that there are less unknowns.

MS. KNIGHT: Again, my -- the reason that you've been asked to sign off on the final development plan to ensure that you do have access to your property. That's not landlocked and it's not shut off. That's, I believe, what the applicant has agreed to and to that extent only. Yes, then it would become a private dispute and civil dispute between the two parties.

MR. REEVES: I understand that.

MR. HAYDEN: My reason for delay would be if more things were set in stone, then the reason for signature prior could maybe accomplished. Does that mean sense? I don't necessarily want to be looked at as the holdup, but I don't want to be in a legal dispute 30 days from now or whatever because somebody thinks we're not being reasonable. I don't see -- I mean I want it to move forward in some fashion, if everybody sees fit. Also, I don't want to be stuck with something that's not functioning for our property.
MR. REEVES: Let me make one more comment before he speaks on that.

I'm reluctant to say postpone it. Okay? I'm equally reluctant to move forward before we have something that we know perhaps cannot be resolved. At the same time if we were to postpone it I'm not willing to hear any additional testimony. We've heard all the testimony that I care to hear on this as far as making decisions on conditional use permit. I'm not necessarily opposed to seeing if a month from now Mr. Hayden and the applicant can work out this particular piece. I don't want us to take action that simply leads to a legal suit somewhere, which inevitably, like it or not, we get drawn into because we made a decision.

MR. DYSINGER: Madam Chairman, I'm hesitant. We have a conditional use permit application in front of us that's supported with evidence and testimony and covers everything necessary for a conditional use permit. Further, maybe reenforcing that, this is just a redux of a conditional use permit that this body has already approved without any material changes to it. I am leery of going far field with regards to the access issue, as sensitive to it as I am. It's not a good position that Mr. Hayden is in. I'm very
sensitive to it. There's two issues here. This permit on its face has already been approved by this body without any significant changes in the situation before us. Secondly, and I can't support Mr. Reeves enough. To get this body anywhere close to deciding, you know, we can't go down that road in my opinion.

So to include a signature of an adjacent property owner and the qualifications I think gets this conditional use permit too far field from what it's designed to do with the complicating fact that we've already approved this one.

MR. HAYDEN: In past development that I've had to have signatures to protect the landowners to have work out access.

MR. REEVES: I'm not that uncomfortable with that particular point. I would like, my preference would be that that process has been resolved before it comes before this board for a final approval. The last conditional use permit was not unanimously approved.

MR. HOWARD: If I could ask a question of the applicant.

The site plan shows entry gate I guess 150 feet back from the property line. Will that be the point of ingress and egress to the site?
MR. STEWART: Yes.

MR. HOWARD: So there will be a straight shot from the access point on New Hartford Road back that distance until you reach the first entry gate?

MR. STEWART: Exactly as it sits right now.

MR. HOWARD: Would you be willing to commit to say a 40 foot wide access point, which is the maximum width in a commercial zone, and that that 40 foot paved access point would go straight back, be completely open to the property to the north, the entire distance back to where that entry gate is?

MR. STEWART: That's how it sits right now. We don't have any plans to change it except the gate, it's going to be different gate. It's going to be the same spots it is right now. We're not going to touch Mr. Hayden's property. There would be no way to get it landlocked. It's going to be the same entrance as it is now. Might have a fresh coat of paint on it.

MR. HOWARD: I guess another question I would have. It seems like in some of what I was reading. Is there an entrance point and an exit point or will it all go through that entry gate?

MR. STEWART: It will all go through that gate.

MR. HOWARD: So you're willing to put in a 40
foot wide paved strip, whether that's concrete or asphalt, all the way back to that gate with no blockage to the north?

MR. STEWART: Yes.

MR. HOWARD: I guess, Mr. Hayden, if that were the case, if it went all the way back to where that existing gate is, 40 foot wide paved drive with no blockage on your side of the driveway, if that was presented on a plan, would you be willing to sign off on it?

MR. HAYDEN: Yes.

MR. REEVES: I think it needs to be put in as a condition of the motion.

MR. HOWARD: Sure. I agree.

MS. KNIGHT: I agree.

MS. DIXON: Any other comments on either side?

(NO RESPONSE)

MS. DIXON: Chair is ready for a motion.

MR. DYSINGER: Madam Chair, I move that we find that none of the findings from the previous approval changed in any material way, and given the special conditions suggested in the Staff review, and in addition to those conditions that a 40 foot wide paved, either concrete or pavement, access is provided, move for approval of the conditional use
permit.

MR. HOWARD: Could I --

MR. DYSINGER: Friendly amend away.

MR. HOWARD: From the Staff, would you clarify that 40 feet access to say that there would be no potential for blockage to the north for Mr. Hayden's property.

MR. DYSINGER: So amended.

MS. DIXON: I need a second.

MR. REEVES: I'll second it.

MS. DIXON: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MS. DIXON: We are approved.

With that I will turn the gavel back over to Mr. Pedley.

CHAIRMAN: Thank you, Ms. Dixon.

Next item I believe will be Item Number 3.

ITEM 3

3201 East 8th Street, zoned R-1A
Consider a request for a Conditional Use Permit in order to operate a parrish house/administrative office for an adjoining church.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Pleasant Valley Community Church;
Betty Alvey

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.

Pleasant Valley Community Church, located across Pleasant Valley Road from the subject property, is requesting to use the residential structure on the subject property for its pastoral offices. According to the applicant, on a typical week, the property will be inhabited by the pastors, student ministers and a communications coordinator. The offices will primarily be used for study, small meetings and administrative tasks. The parish house/administrative office will be located across the street from the church and will be required to provide parking and landscaping as indicated by the Zoning Ordinance.

LAND USES IN SURROUNDING AREA

The properties to the north, south and east are zoned R-1A Single-Family Residential and are either vacant or residential structures. The property to the west is zoned B-4 General Business and is the Pleasant Valley Community Church.

ZONING ORDINANCE REQUIREMENTS

1. Parking - Churches, Sunday Schools, Parish houses - One for every 5 seats with a minimum of 5 parking spaces provided as shown on the site plan.
2. Landscaping - 1 tree per 40 foot of the vehicular use area boundary.

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

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Any board member have any comments or questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you would like to state?

APPLICANT REP: No.

CHAIRMAN: If not the chair is ready for a motion.

MR. REEVES: I make a motion for approval in that it does not change the character of the neighborhood and offers no safety or health issues.

CHAIRMAN: We have a motion for approval by Mr. Reeves.

MS. DIXON: Second.

CHAIRMAN: Second by Ms. Dixon. Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Next item, please.

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VARIANCE

ITEM 4

315 Worthington Road, zoned I-1 Postponed from the March 6, 2014 meeting
Consider a request for a Variance in order to waive a portion of the required 6' solid element around the perimeter of an outdoor storage yard as shown on the site plan submitted with the variance application.

MR. HOWARD: Mr. Chairman, this item was read into the record at the meeting last month. The applicant and Staff recommended postponement until such time that the Daviess County Fiscal Court took final action on the rezoning change. They have not taken action on the zoning change at this point so we would recommend that it be postponed again.

CHAIRMAN: We need a motion for postponement.

MS. DIXON: Move to postpone.

MR. DYSINGER: Second.

CHAIRMAN: We have a motion and a second.

Comments or questions?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

We need a motion to adjourn.

MR. REEVES: So moved.

CHAIRMAN: We have a motion to adjourn.

MR. DYSINGER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

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

WITNESS my hand and notary seal on this the
28th day of April, 2014.

LYNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY  42303

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

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