The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, May 7, 2015, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
Judy Dixon, Vice Chairman
Brian Howard, Director
Terra Knight, Attorney
Jerry Yeiser
Susan Free
Fred Reeves
Robynn Clark

* * * * * * * * * * * * * * * * * *

CHAIRMAN:  Call the Owensboro Metropolitan Board of Adjustment meeting May 7 meeting to order. We begin our meeting with a prayer and pledge of allegiance to the flag. Would you stand, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  First I would like to welcome everyone. Anyone wishing to speak we welcome your comments and questions. We ask you to come to one of the podiums and state your name and be sworn in.

The first item on the agenda is to consider the minutes of the March 12, 2015 meeting. We do not have a meeting in April.

Board members, you have a copy in your packet.

Ohio Valley Reporting
(270) 683-7383
Are there any addition or corrections?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: We have a motion for approval.

MR. YEISER: Second.

CHAIRMAN: And a second. All in favor of the motion.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous. The minutes are approved.

Next item.

----------------------------------------------

ADMINISTRATIVE APPEAL

ITEM 2

1320 West 3rd Street, zoned R-4DT
Consider a request for an Administrative Appeal regarding the relocation of the primary residence to the existing accessory dwelling unit on the subject property.
Reference: Zoning Ordinance, Article 4, Section 4.3
Applicant: Joseph Trodglen

MR. HOWARD: Jim Mischel from our office is here and he'll give you a brief overview, since he is the zoning administrator, of what our Staff found in our research. I know the applicant is here and he'll give you some additional information as well.
MS. KNIGHT: Please state your name for the record.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: Essentially the property here at 1320 West Third, there was a detached garage, according to the records, that was built in 1971 behind the existing single-family house that's been there for years. We didn't have a permit on that. It has been there for a long, long time.

In 2005 we issued a permit to add on to that rear structure. At the time we got a letter from the owner here that stated that he will not use it for a residence or apartment to live in or anything else.

I think he had a misunderstanding that, or that's what he's telling us, that the existing structure that was built in 1971 he was living in that or it's been used as a residence up until the present time. That the letter he wrote us in 2005 was for the new addition that he built. That we would not live in that. He would use that for a work shop or garage or what have you. I guess that's where the cross up was. We were saying that we didn't know about the other structure.

To have a grandfather clause, there is a
grandfather clause in the zoning ordinance.

Essentially that comes into being in 1979. Anything that existed prior to that was grandfathered in and could continue that use as long it didn't have an 18 month gap.

I started in 1984 and at that time it was kind of easy to tell, we had a history and we could tell if something was grandfathered in or not. As each year it goes on and on, it's getting harder and harder to verify if it holds the grandfather status or not.

That's what we found here.

Also in the past, OMU will give us records dating back to what, you know, the utility were a certain amount each month, but a few years back they quit that, saying that they couldn't give that information out any more. More or less it's hard for us to prove one way or the other. Sometimes we go into the city directories. We have a lot of those to see it was used, but it's getting harder and harder.

I think he's got some information, you know, stating that it was used as a residence in the rear.

He would like to, I think Brian had mentioned that he would like to take that front structure and demolish it, it's in bad shape, and get rid of it and just solely live in that structure in the back.
I think we have some picture there. I don't know if everybody has looked at those.

That picture up there is the one that will be torn down. Of course, that's the main house. Then in the back you have the detach structure. I think that picture there is showing the addition, structure that was permitted in 2005 as part of that garage.

Then back there in the very back, that's the detached structure, the second one. It faces an alley. There's an alley in the back of this structure.

I don't know if you all have any questions right now on the history of it.

CHAIRMAN: Any board members have any questions by Mr. Mischel before we bring the applicant up?

MR. YEISER: Jim, has he been living there longer than the grandfather clause took effect?

MR. MISCHEL: That's what I'm saying. It's hard for us to know one way or the other. We just don't have the information. We've checked all of our records. We've check the city directories. We've checked PVA. Really there's not enough information.

MR. YEISER: That's all I have.

CHAIRMAN: Are there any other questions?
(NO RESPONSE)

CHAIRMAN: Mr. Mischel, we might bring you back up. Thank you.

Is anyone representing the applicant?

Would you step to the podium please.

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

MR. TRODGLEN: Joseph Trodglen.

(JOSEPH TRODGLEN SWORN BY ATTORNEY.)

MR. TRODGLEN: I was able to find because the original building permit was somewhere in that house, for whatever reason, from '71. So I have that.

The house directly across the alley from it has -- Mr. Clark owned that house and built that garage and he also built one similar to it right across the alley. I have the permit for that. It was built in '74. The purpose of bringing that one into the picture, when them talked to them about building the garage, they said the other one was, the staircase and everything was already there for the apartment. So in '74 it appears that that was already an apartment at that time.

They built that apartment originally for Mr. Clark's sister who was in bad health and she lived there until 1979 when she died. Then three, I found
three other tenants that had lived there. I did the
same thing as you did. I've been down several times
to see if there was any kind of record with the city.
I went actually on a computer site and it lists
address who has lived in it. It just doesn't give
dates.

So basically it was Lela Smith was the woman
that lived in it until '97 when she died. Then there
were three other tenants which was John and Joni
Sutherland, Jay Kirkland and Ms. Hamilton during the
period until I purchased it in 2004. There was about
a seven year period there. I had three tenants. I
don't know what dates they lived there.

When I came to look at the house to purchase
it, the real estate company said they had had the
tenants move out so they could put it up for sale. So
someone lived in it until just shortly before I
purchased it. When I purchased it, I moved into it.
The house wasn't in the condition where you could live
in it. I've lived there ever since which is I guess
11 years now.

That's kind of the background of who lived
there, and that took a lot just to get that
information. I've been trying to find some documents.
The only documents I have are just the building
permits of when it was built and the receipt for the building permit.

They had had theft problems so they closed all the garage door openings in it and that's when I went ad asked about building an addition to the front of it so I could have a garage door because that one basically was a workshop. There was no doorway.

At that time it was discussed about moving the power then out to the other building, but that's been seven, eight years ago, I guess. I wasn't getting the electrical permits then because I wasn't ready for it yet. I finally got to the point where I could do the electrical in the new panel and that's when this came up, when I went through, because I was going to move the service to that and disconnect from the house so I could get the house ready to tear down because it's getting in worse shape as time goes on. It was built in 1906. It's over 100 years old.

I don't know what else you need. I tried to bring everything I could find. The woman I bought it from died about four years ago. The only person I could finds on that block that had lived there is across the alley, is the only person that's still alive that lived there during the time it was built.

CHAIRMAN: Mr. Trodglen, it says in 2005
permit includes a note by OMPC Staff that "The detached garage cannot be used for living space and the owner, Joseph Trodglen, at that time submitted a letter stating 'the intended use of this garage is a work shop, garage and storage area only. The structure will not be used as a residence by me or it will not be rented out.'"

At any time did you live in the main structure and rent out the shop area? Has there been anyone living in the main structure and the shop at the same time?

MR. TRODGLEN: No. Since I've owned it, no one has lived in the main structure.

CHAIRMAN: That's never occurred?

MR. TRODGLEN: It was never in good enough condition to. It's an old house that has, it had a shake roof and they just layered shingle on top of shingle. They never tore it down and sheeted it. I've had several people look at it and the only way to repair it was to completely tear the roof off and start all over again. It's an unusual shaped roof. It was quite expensive. No one has ever lived in it since I purchased it in 2004.

Concerning the letter, I actually wrote that letter. Part of that as, I guess, a misunderstanding
on my part because I've always called this building
the apartment and the piece I added on was the garage.
I guess from your standards once you attach to it all
becomes the same structure. At the time I was told,
and I think actually you were the one that I dealt
with back then, that in order to get a permit I could
not be adding onto the apartment. That's why I wrote
the letter. That I was not going to be using it for a
dwelling. It was only for a workshop.

CHAIRMAN: Any board member haves any
questions?

MR. REEVES: I've got a couple of questions.

Mr. Trodglen, this is a tough one for us
because there's so many unknowns. I truly respect all
the research you've done.

When you purchased the property, did you ever
intend to live in the main house that's on the street?

MR. TRODGLEN: Actually I'm from here, but I
was living in Savannah, Georgia, and I came up one
week and looked at it. I had plans for the first
maybe month or two until I started pricing what it was
going to cost. It basically was out of my range. A
house in that neighborhood I think the taxable value
on my property is about 50 or 54,000, and it would
cost 50,000 to get this house even up to standards. I
just couldn't afford it. It's kind of been a plan since early, you know, right after I bought it to tear it down as soon I could get the money to do it.

MR. REEVES: When I drove by and looked at it -- I actually spent several nights there as a young man. One of my very best friends lived in that house when I was in junior high school so I was familiar with the property.

This question is for Staff. Mr. Mischel or Mr. Hill either one.

If we should deny this application, would that mean that Mr. Trodglen would have to vacate his property?

MR. MISCHEL: Yes. If you denied it, you would be saying that it's not a grandfathered use. His main purpose is to put the electrical service on this structure in the rear so the front can be torn down.

When we got that letter in 2005, that's not unusual. Any time that somebody wants to add onto a garage that's of pretty good size and there's a house on the lot, we always get that letter. It's just standard. We get that so they won't use it as a residence.

MR. REEVES: Has the city never looked at that
house and see the disrepair and tear it down or
whatever? I'm surprised the building inspectors
haven't looked at that house before.

MR. MISCHEL: As far as the building or
electrical, we've never had any calls or complaints on
the structure. We do not do property maintenance.

MR. REEVES: I know that.

MR. MISCHEL: But looking and checking with
the City, I don't think there's been any major
complaint. Joe Sutherland is the property
maintenance.

MR. REEVES: Yes, I know Joe.

CHAIRMAN: Before we go any further, I'm going
to see if we have any opposition. Just a second, sir.

Board members, do you have any more questions
of Mr. Troglen?

MR. YEISER: I would like to ask.

Have you gotten anything in the world that you
could substantiate that there has been people living
in it before '79? Do you have anything that shows
that somebody has lived in that structure before '79?

MR. TRODGLEN: Well, they didn't run separate
electric or water so there's no separate meter. It
was a relative that lived in it. I have no document,
other than I found just the permit when it was built,
and that was just something I found in the house. I thought that may come in handy some day so I through it in with the deed or I wouldn't even have that.

MR. YEISER: I guess what I'm getting at, I'm trying to determine in my mind was somebody using it for a dwelling so-to-speak before this grandfather clause came in. That would make a difference in my opinion.

MR. TRODGLEN: I have tried very hard and I think Mr. Warren has helped me. I was back down there Monday, as a matter of fact, to see if there was any kind of a document that established when it was converted to an apartment, but they don't have anything.

MR. HOWARD: Real quick too.

On the Back of your all's packet of information, there is a letter from a neighbor, from a JoAnn Rich. She basically says they got their permit in '74 and "before ours was built Mr. Clark had built the apartment in his garage." So that's a neighbor that's saying it was there, but it's not necessarily conclusive evidence certainly.

MR. YEISER: Better than nothing.

CHAIRMAN: Sir, let's see if we have any opposition.
Sir, are you here to speak in opposition? You have no comment?

AUDIENCE: No.

MS. FREE: I have a question.

CHAIRMAN: Okay.

MS. FREE: I just wanted to ask you about timeline for demolition.

MR. TRODGLEN: I've had a couple of different companies come by to give me a price on it, but I never could settle on anything because I couldn't tear it down until -- I've been saving money for a couple of years for this. I'm hoping within this year to do away with it. It needs to go away. It's bad. I had a price a long time ago of $7,000 which I've saved up. Then when they came back to look at it, then they wanted $10,000. So I've got to save another 3,000. I think within this calendar year I can. Because first we've got to disconnect the water, and the electric, and the sewer, and the gas, because now they run into the house and back out to the apartment.

MS. FREE: Thank you.

MR. TRODGLEN: I have to do that before they can tear it down.

MR. REEVES: Mr. Chairman, I would like to make a comment to see what the other members of the
board think.

I went by that house and, like I said, I'm really struggling with this, Mr. Trodglen, because I think you made some good faith efforts to do a lot of things, but when I drove by there, and I remember that neighborhood very well as a young man. When I looked from Goose Egg Park from the west toward the Munday Center, that neighborhood is reviving. When I drove by, I saw three different homes around Goose Egg Park where actually people were out working on their homes. They were updating them and fixing them. From Goose Egg Park to the east, that's a whole other story. There's a lot of deterioration down there.

This house is deteriorated, Mr. Trodglen, which is not your fault.

My concern is for a neighborhood that's trying to revitalize itself, that detached structure is not attractive. When that house comes down, those neighbors are going to have a very - for lack of a better term I think - an ugly view to look at. I don't know what you can do to protect the neighbors who are investing and working. I saw young couples there. I saw some moms out with kids doing things. I don't know what you can do to protect the investments that they're making when you take that house down, and
at the same time that house surely needs to come down, unless somebody wants to put a bunch of money in it to revitalize it. That's what I'm struggling with more than anything else. That neighborhood is trying to revitalize itself and come back. If you do what your intentions are, I understand why you want to do what your intentions are, but it's certainly not going to be an attractive site for those neighbors there. It's not going to enhance the value of their homes.

MR. TRODGLEN: Well, most of those house are rentals. They're up and down. In other words, they have a tenant one. The one right next-door the tenant has moved out. I don't know if you looked at it. They've got the exterior walls tore off of it and all because they've black mold over there.

The two on the other side of me, on the west side, are actually peace mission buildings that they built.

The one right next-door to me I think will hold up to 18 boys from I think 11 to 18. It's a shelter. At some point in time, you know, hopefully I can live there until I can't live there. They want the property later on to add on to theirs, but that's the only property that I own right now. It's the only place I've got to live.
MR. REEVES: I understand. Thank you.

MR. TRODGLEN: I had the thought too, and I will make the offer, of putting up a front on that garage to make it look like a house. Because I left 12 inch overhangs and all, which you really don't get on the garage. I tried to make it look as much like a house that I could. That end wall is blank, but adding a ten foot face on to that with doors and windows, I would be glad to do that to make it look like a house.

CHAIRMAN: Does any other board member has any comments or questions?

(NO RESPONSE)

CHAIRMAN: Staff, any further comments?

(NO RESPONSE)

CHAIRMAN: Mr. Howard?

MR. HOWARD: No.

CHAIRMAN: If no further comments or questions, the chairman is ready for a motion.

MR. REEVES: I'm going to make a motion, and I'm struggling but I'm going to make a motion anyway. I think it's the right thing to do, but I'm not happy to make the motion. I'm going to move that the application be denied because the nature of the structure that Mr. Trodgen is in would, I think when
the house is torn down in the front would certainly
alter the character of the neighborhood and would not
be in the best interest of its neighbors. However, I
would like to stipulate in my motion that we give Mr.
Trodglen a year to make arrangements for how he would
deal with that residence back there.

I don't want to see him, I would like to see
him have a year to make arrangements to move elsewhere
before he's ejected from that property. I don't think
it's fair. I think he's made some good faith efforts.

CHAIRMAN: We have a motion by Mr. Reeves.
MR. DIXON: Second.

CHAIRMAN: We've got a second by Ms. Dixon.

Any comments or questions on the motion?

(NO RESPONSE)

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

MR. REEVES: Mr. Yeiser, do you have a
question?

MR. YEISER: Are we just going to give him a
year? Obviously he's tied up almost everything he's
got in that property and getting rid of that in a year
and being able to find something else, it may not be
that easy. I would like to see him have a little
longer than that to get his ducks in a row to decide
what he wants to do with it. I don't know what it
would be, 18 months or whatever. Obviously it's not
hurting anybody. Nobody has complained about it with
him living in it. So I think we ought to give him
some time, if we could, to either improve the house or
do whatever he can, and then come back to us if he
wants to try us again after he's made improvements or
whatever he can do.

MR. REEVES: I would not object to that, Mr.
Yeiser. In fact, Ms. Dixon has a suggestion she may
want to mention. If she does, I'll be happy to
withdraw my motion.

MS. DIXON: If he comes back within a year and
let us know what progress he has made. Is that a
possibility?

MS. KNIGHT: I just want to point out that
this is an Administrative Appeal of a decision from
our zoning administrator. So really we're just here
to decide if the zoning administrator's decision is
correct and can be upheld or if it should be reversed.
Typically we have conditional use permits and
variances and things in front of us where we're making
findings of fact and putting conditions and things on
your decision. Really because this is an appeal the
decision that needs to be made is whether the zoning
The administrator's decision should be upheld, which would require Mr. Trodglen to vacate the residence, no longer use his residence, or whether the decision of the zoning administrator should be reversed and allowing Mr. Trodglen to remain there and use that as a residence. Does that make sense?

CHAIRMAN: We already have a motion on the floor by Mr. Reeves. He has to either amend that motion or withdraw.

MR. REEVES: I guess I want clarification from counsel. You're saying that you don't think it's appropriate to put a condition on the motion?

MS. KNIGHT: I believe the authority of the board tonight in hearing this appeal.

MR. REEVES: Then do I need to remake my motion? I will withdraw the motion.

MS. KNIGHT: I believe there's already been a second to the motion so we may have to --

CHAIRMAN: You withdraw your motion?

MR. YEISER: What if he went back --

MR. REEVES: Let me withdraw my motion first, Mr. Yeiser. That way we're kosher.

I withdraw my motion.

MS. DIXON: And I'll withdraw my second.
MR. REEVES: Thank you. I appreciate it.

CHAIRMAN: So now we're ready for a new motion.

MR. REEVES: Well, I think Mr. Yeiser had a comment.

MR. YEISER: What if we sent this back to Planning and Zoning and let them work with this gentleman and come back later and decide?

MS. KNIGHT: I guess it could be postponed for another month for further discussions, but I just don't know. I mean we may leave that up to the applicant to see if there is any further discussions to be held. I'm not sure. There may not be anything else.

MR. YEISER: I don't know if that's proper or not.

MR. HOWARD: As Terra talked about, the issue is whether or not Jim was correct. When he reviewed the potential for a building permit, was Jim correct in looking at it. The information we have is Jim wasn't able to say that this was a grandfathered use. So Mr. Trodglen is here trying to make a case that it is and provide that documentation that he was able to come up with. I think we've turned over every stone we know to turn over, and I think he has too. I think
you could postpone it. You could have more time to
think. I just don't know what else we're going to be
able to find. I don't know what else he's going to be
able to find. I think everybody has looked everywhere
they can and it's just one of those situations trying
to get information back to 1979, 35 years ago, it's
hard to come up with documentation that is conclusive.

MS. KNIGHT: I would just point out to the
board, that the decision of the zoning administrator
was based, and referenced in the agenda and
everything, on Zoning Ordinance, Section 4.3.
So if you believe that the applicant has met
his burden of proof to show that there's been no --

MR. HOWARD: Which 4.3 is the nonconforming
use. So basically this is nonconforming. The
applicant is trying to make the case that this is a
nonconforming site and that it has a principal
residence on it and an accessory structure that had an
apartment, had two residential units on the property.
So yes, you all are making a determination or trying
to figure out if there's been enough credible evidence
entered to say that prior to 1979 when the zoning
ordinance went into affect, there has been two
residences on this property.

MS. KNIGHT: It's been a nonconforming use and
continues to be a nonconforming use, and therefore
grandfathered in as Jim point out earlier.

MR. YEISER: Without some kind of evidence
showing that, something, a document, signatures or
something, we're pretty well locked in to what they
found.

MS. KNIGHT: I think it's based on your
testimony that you heard tonight and what Staff has
been able to find out. So that's going to be your
evidence to base your decision.

MR. YEISER: Kind of puts us in a spot though.
We have no documents that we can really prove.

MS. KNIGHT: So it's up to the board to
determine, you know, weigh all the credibility of the
evidence to see if it's sufficient, etcetera.

MR. YEISER: I don't doubt that Mr. Trodgen
has done everything he can, but the thing of it is we
have nothing that nobody is willing to sign and say,
yes, there was people living there. We lived here
before and they lived there, we can verify that, and
this sort of thing. We have no names to prove that.
So we've kind of got our hands tied it looks like.

MR. REEVES: One other question, counsel.

So what you're saying, I think I understand,
is the consequences of our decision should not enter
into our decision. The consequences for the property should not enter into our decision?

MS. KNIGHT: It's not the same findings of fact as you would make.

MR. REEVES: I wanted to make sure it was clear.

MS. KNIGHT: When you consider issuing a permit in a variance, those are questions that are in the statute for consideration and you base your findings on that, but in this situation you're right.

MR. REEVES: I understand that and I appreciate your clarifying that.

MS. KNIGHT: Absolutely.

MR. REEVES: I make a motion that the application be denied.

MR. YEISER: Second.

CHAIRMAN: We have a motion and a second.

Comments or questions on the motion?

(NO RESPONSE)

MS. KNIGHT: To clarify. That would mean that the appeal is denied.

MR. REEVES: Is denied. The appeal is denied. That's my motion, that the appeal be denied.

CHAIRMAN: We have a second by Mr. Yeiser?

MR. YEISER: Yes.
CHAIRMAN: If no comments or questions, all in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Next item would be motion to adjourn.

MR. REEVES: I have a question before we leave, if you don't mind. I'm probably going to have to refer to counsel.

When I looked at this, because we were looking at a non-conforming use, if we approve the appeal, it seems to me like, when I went down there to look in the neighborhood, there were no notices posted in there that this board was going to act on anything. This to me is almost like a conditional use permit. The neighbors had no idea that we were going to consider this tonight and what consequences it might have. Is this something we shouldn't just treat like a conditional use and maybe advertise it so people in the neighborhood know? If Mr. Mischel had been able to approve this in advance, the neighbors have no say so. If there's an appeal on an issue that might impact their property, would it be out of order for the neighbors to at least know something to be considered in that neighborhood or not?

MS. KNIGHT: Sure. Under the statute the
public notice requires an appeal hearing, public
notice given in accordance with Chapter 424, which is
the newspaper notice, and written notice to the
appellant, and the administrative official, which is
Mr. Mischel. There is no public posting like there
would be at a zoning amendment application.

MR. REEVES: Can we go beyond the requirement
because it's only fair to the neighbors?

MS. KNIGHT: Yes.

MR. REEVES: That's just my -- I don't know if
it's wise or not.

MS DIXON: A lot of people don't get the
paper.

MR. REEVES: I want to know what the staff
thinks and what other board members think. It just
occurred to me something may happen here that would
impact my property, and I don't know what's going to
happen or not.

CHAIRMAN: I agree with that. We have things
before the Board of Adjustments that adjoining
property owners should be notified by certified mail,
and they're not and it severely effects them. I agree
with what Mr. Reeves said. I think this thing needs
to be looked into. I don't know the process you would
have to require that. I know it's not a requirement
now, but I'm seeing things over the last 20 years
where the neighbors should have been notified. Same
way what Mr. Reeves has said. The neighbors, it will
affect them. Any time you have something that affects
the adjoining property owner, they should be notified.
This is a public hearing. They should be able to come
down here and be heard.

MR. YEISER: What if it's a lot of rental
property, like he was stating, quite a bit of it
around there is and you sent out registered letters,
it's going to go to that address, but the rental
people are probably not going to be interested and
it's going to cause Planning & Zoning a lot of extra
work.

MR. REEVES: If the notice is posted on the
property, at least a notice posted out there. That's
what I was looking for. I was concerned more with was
there any kind of posting, kind of colored paper out
there that said something about this property.

MR. YEISER: I see what you're saying.

MR. HOWARD: The letter would go to the
property owner based on PVA information. So it
wouldn't go to the renter. It would go to, you know,
Bob Jones wherever he lives.

MR. YEISER: That's what I was getting at.
MR. REEVES: I raised that as an issue. Staff, you all may want to think about that. I'm not one to say -- I raised that as an issue so you can take a look at it.

MS. DIXON: Better to have an understanding at the beginning than a lot of questions afterwards.

CHAIRMAN: It's required on the conditional use permits. It's required on the variances. It should be required on anything of this magnitude where it affects the adjoining property owners.

MR. HOWARD: We do on a conditional use permits and variances because the state statutes require it. As Terra mentioned, this type of thing doesn't. We'll look at it. We'll look at the positives and negatives that may eventually result from doing that. We'll discuss it.

MR. REEVES: Thank you. I appreciate that very much.

CHAIRMAN: Are there any other comments?

(NO RESPONSE)

CHAIRMAN: If not, we need a motion to adjourn.

MR. TRODGLEN: May I say something? Where does leave me now?

CHAIRMAN: Mr. Mischel or Brian.
MR. TRODGLEN: I mean I'm living there and you're telling me I can't live there. Where does that leave -- where do we go from here?

MR. HOWARD: What kind of procedure will we look at for something like that?

MR. MISCHEL: I guess the best thing at this point would be for him to come into our office and he can discuss it with us. Let us take a look at it, as far as time-wise and stuff, and we can report back.

MR. YEISER: What if he come up with names of people that can verify that has been, people living there before 1979? Has he got a way to come back and reopen this?

MR. MISCHEL: I guess he could file a new application to come back before the board.

MR. TRODGLEN: Can I say something?

You're telling me to do this there has to be documentation, but the city has no documentation. I have more than you all have because you had nothing that shows a permit on the building. I dug all of that up. So I'm basically being told after spending $30,000 plus the cost of the property I can't live in it because the City of Owensboro doesn't have any records back then. I don't know. That just seems quite unfair to me.
The house and the garage in the back, you know, I've got pictures of how it looked when I bought it compared to where I'm at now. I mean everything I've done has improved it. I thought there was a record for that house and it told everything that happened since it was built, but there's no such thing.

MR. YEISER: Well, I feel like the board went out of their way tonight to try to help you on this and the Planning & Zoning I know have, but without some burden of proof we're kind of hand-tied. I mean we've got stuff we've got to abide by.

MR. TRODGLEN: But you're telling me I have to prove, but you don't have to prove anything is what you're telling me. The city hasn't kept any documents. I don't know where this goes.

MR. MISCHEL: In most of these cases the city doesn't know. It's up to the property owner. If they either stated through PVA, here is what I have, I have two residences on this property starting back in '74, but that's usually not done. If whoever owned it previous to you had made it known to everyone in public record, we would have that information, but most of the time people don't do that. It just occurred and happens and nobody knows about it, unless
we get a complaint or somebody says something.

MR. TRODGLEN: At the time I got the permit to add the garage on to it, it was discussed at length at that point, which was I think seven years ago, that I lived in the apartment. It was never hidden. It was never questioned when I bought the property from the real estate company. It's a four bedroom house with a two bedroom apartment. At no time up until now has it ever been questioned that there was any problem with having that apartment there. I was told that I couldn't add on to that property, which I didn't do. Now, you know, after I spent all of this time and money, then basically you're out of luck. I don't know. If you want me to try to search more information, I can, but I mean it is very hard to find anything. It was hard to even find names because every one that lived in that neighborhood at that time is no longer alive, except for the one that I got the letter from. So I don't know. If there was never a building permit when it got converted to an apartment, then there's no information to find anyway I don't guess. I don't know. It seems quite unfair to invest money, upgrade it and get to this point and then I'm told, you know, you can't live there.

CHAIRMAN: Mr. Mischel, did you suggest he
come in and discuss this with you and see if there is another route he could take or discuss final action on it?

MR. MISCHEL: When he came in to move the electrical to the back structure, we spent quite a bit of time, we did, researching this trying to find something. We just couldn't find anything, other than what he had from that one letter, evidence he had. We searched the courthouse, PVA, our records, things of that nature.

MR. TRODGLEN: I even went to --

CHAIRMAN: Sir, would you step back up so the reporter can hear you.

MR. TRODGLEN: I went to the sheriff's office to see if they could trace it somehow by driver's license, who had lived there and when. I went to the post office. They said they didn't have any way of documenting that. I went down to -- the woman that lived there until '97 and died. I was trying to get a copy of a death certificate or something so I could establish that she was there all the way until '97. You can do it, but you have to go through the state and it takes time to get it. I mean I followed every lead there is. I don't think anybody questions that that building has been there since '71.
CHAIRMAN: Sir, at this point the board has already taken action. We had a motion and a second and we voted on it. Your appeal was denied. I don't really know what your next step would be.

MR. TRODGLEN: That's what I'm asking. If that is your ruling, then where do I go from there?

CHAIRMAN: I don't know. Maybe Mr. Howard could tell us, but I certainly don't know.

MR. HOWARD: Come back down and talk to us. We'll see if there's anything else we can think of as well. In the meantime, we'll work with you certainly on time frames and everything else. I've got a couple of things running around in my head right now that may be options potentially, but we'll discuss that face to face instead of in the public meeting.

MS. KNIGHT: I would just suggest, even though I'm not able to offer legal advice, that you watch your -- be mindful of your time because if there are further appeals you may want to watch your timelines. So if you're going to have further discussions, I would suggest that you do it quickly.

MR. TRODGLEN: Well, I don't know if there's any information I can come up with beyond what I have. I mean I may. I was looking, I was at the sheriff's department on Tuesday trying to see if I could trace
CHAIRMAN: Mr. Howard or Counsel, can he, after a certain period of time, can he reapply for this, if something looks like can be worked out?

MS. KNIGHT: I believe he's exhausted his administrative remedy as to this appeal on this specific issue. I think it's a matter of maybe trying to come up with a different way of doing things at this specific location.

MR. HOWARD: I'm no attorney. He could always appeal to circuit court, your all's decision to circuit court. There's always an outlet, there's always a remedy. In this instance, at Staff level we couldn't make a determination. You all are the outlet, the appeal board. If he doesn't agree with that decision, there's always further court action that can take place.

Like I said, if you come down, we'll see if there's something else that may be out there. I don't know.

MS. KNIGHT: That's why I made the statement about the timeline. Just be mindful of that.

MR. TRODGLEN: Okay. Thanks.

CHAIRMAN: Chair is ready for a motion to adjourn.
MS. DIXON: So move.
MS. FREE: 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: We are adjourned.

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

WITNESS my hand and notary seal on this the 30th day of May, 2015.

LYNNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE., SUITE 106-E
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:   DECEMBER 16, 2018
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KY

Ohio Valley Reporting
(270) 683-7383