The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, March 1, 2018, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Judy Dixon, Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Jerry Yeiser
Fred Reeves
Bill Glenn
Lewis Jean

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CHAIRMAN:  I call the Owensboro Metropolitan Board of Adjustment March 1, 2018 meeting to order.

The first thing on the agenda will be the prayer and pledge.  Would you stand, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  The first item on the agenda is the minutes of the February 1, 2018 meeting.  All members have received a copy and have had time to check them over.  So at this time I'll entertain a motion to dispose of the item.

MS. MASON:  Move to approve.

CHAIRMAN:  Motion to approve by Ms. Mason.

MR. GLENN:  Second.

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CHAIRMAN: Second by Mr. Glenn. Any question on the motion?
(NO RESPONSE)
CHAIRMAN: All in favor of the motion raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Mr. Howard.

VARIANCE

ITEM 2
3500 Ashlawn Drive, zoned R-1A Single-Family Residential
Consider a request for a Variance in order to construct a detached accessory structure that exceeds the square footage of the ground floor of the principal structure on a lot less than half an acre in size
References: Zoning Ordinance, Article 3, Section 3-6(c)
Applicant: Robert F. Higdon

MR. REEVES: Madam Chair, I need to recuse myself.
CHAIRMAN: So noted. Thank you.
MS. KNIGHT: Please state your name for the record.

MR. PEDLEY: Trey Pedley.
(TREY PEDLEY SWORN BY ATTORNEY.)
MR. PEDLEY: The subject property is a 0.475 acre lot zoned R-1A Single-Family Residential and is
located at the southwest corner at the intersection
Ashlawn Drive and Standish Place.

As the site plan illustrates, the property has
a unique shape as it extends behind the neighboring
home at 3510 Ashlawn Drive.

The applicant proposes to construct a detached
garage, 5,145 square feet in size, exceeding the
square footage of the ground floor of the ground floor
of the principal structure on a lot less than half an
acre in size.

The site plan indicates that if approved the
proposed structure will be behind the two residential
homes that front Ashlawn Drive.

Granting this Variance request will not alter
the essential character of the general area as the
property will not exceed the maximum amount of lot
coverage. It will not cause a nuisance to the public
or adversely affect the public safety as all required
building setbacks from property lines and enclosed
structures will be maintained and because the proposed
structure will be to the rear of the residential
homes, lessening the visibility of the structure from
Ashlawn Drive; and will not cause an unreasonable
circumvention of the requirements of the zoning
regulations as the subject property lacks only 0.025

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acres from being allowed to construct the proposed
structure without the necessity of this variance
approval.

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

CHAIRMAN: Thank you.

Is there anyone here representing the
applicant.

MR. HIGDON: Yes.

CHAIRMAN: Would you step up, please.

MS. KNIGHT: Please state your name for the
record.

MR. HIGDON: My name a Robert Higdon. I live
at 3500 Ashlawn Drive.

(ROBERT HIGDON SWORN BY ATTORNEY.)

MR. HIGDON: I'd like to build a building. I
started out at 146 or 147, but I'd like to cut it down
to 135 by 35, 12 foot ease with a 112 pitch, brick,
black tin roof to match the neighborhood. All I want
it for is to store my cars.

CHAIRMAN: Thank you, Mr. Higdon. You might
want to stay close in case we have questions.

Is there anyone that wishes to speak to this
item, either for or against?

MS. KNIGHT: State your name for the record,

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please.

MR. COTTRELL: My name is Roy Cottrell. I
live at 1220 Standish, right behind Bobby.

(ROY COTTRELL SWORN BY ATTORNEY.)

MR. COTTRELL: I'm kind of for it. I
understand what he's saying. He wants to keep
everything right. He's got with me and said he's
going to brick the place. So he's trying to take care
of it. He's not going to make a dump out of it. He's
going all out. So I approve it.

CHAIRMAN: Thank you.

MR. COTTRELL: I'm okay with it.

CHAIRMAN: Is there someone else?

MS. KNIGHT: Please state your name for the
record.

MR. HAYDEN: Donald Hayden.

(DONALD HAYDEN SWORN BY ATTORNEY.)

MR. HAYDEN: I live at 3441 Ashlawn Drive.

I'm adjacent to the property that Robert is speaking
of here.

I really don't know the ordinance and that's
what I'm looking to this board to protect us as
citizens and residents of this subdivision. When I
moved out there, we had an ordinance we went by. I
don't know whether anything has been changed or not.

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If it is, I would like for you to present that to us so I would be aware of this.

A building 140 feet long, 35 feet wide in our quiet residential neighborhood, that doesn't sound like that's an improvement that should be made. I don't know what the restrictions are, but restrictions in our neighborhood, he could not even get that on one lot. I understand he has bought another lot so he could place this building on two lots. 140 feet, he says he wants to go back 135. Can you tell me, is there a restriction on the length of a building, outbuilding for residential property? I think of a garage or an outbuilding would be not in this category that he's describing.

I talked to Bobby last week. I went over to talk him. I said, Bob, what are you going to do? He said, I have vintage cars and I want them here at my place. I said, Bob, is there any automotive work that has to be done on these? Are these operational? To me I don't know how many cars he's got, but if these cars are all there in this one building, do you consider that a business? 140 feet long, 35 feet wide. I had a survey of my property done back when I bought it in 1990 and I've got a setback in the front of my property of 30 feet and it also shows on that
map that I've got a 30 foot setback in the back. Now, I don't know the ordinances and the laws of these subdivisions because I look to you as the board to protect us to make sure that no one comes in and violates our rights and tries to create a right for himself.

I'm sure Bobby means good, but I would know this, if he went to sell that property and that building is behind two houses, I think there would be a problem, a real big problem. I'm not looking down the road that far. Really, I'm up in years anyway. I won't be around. But I've lived in this neighborhood and I like the neighborhood. It's in the central part of our city and well kept. I just don't want to see anything here put on any of these lots that would take away the rights of these citizens in that subdivision.

Now, if you could provide us with the laws on this, I mean I would like to see it so I can review them or is this going to be out of my hands and we might have to take a step forward. I don't know. I would like for you to address this, if you would, to let us know what rights we have here with the prevailing ordinances that has been attached to our subdivision for many, many years. I'll relinquish at this time until some other questions come up, and I

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might have some other questions.

CHAIRMAN: Thank you. Thank you. We'll see if we can get you some answers.

Mr. Howard, would you like to address his concerns?

MR. HOWARD: My assumption is when you refer to ordinance you're talking about ones that would be attached to the homes in that neighborhood, you're talking about private deed restrictions, I believe.

MR. HAYDEN: Yes.

MR. HOWARD: Part of what the application for a variance includes is a letter from an attorney. Marty Jacobs was the attorney that provided a letter of no deed restrictions. We require that for any conditional use permit, any variance, any rezoning, because this board cannot take action that would violate a private restriction if those were in place. We do not enforce those private deed restrictions, but we need to make sure that they don't exist. So Mr. Jacobs prepared a letter and submitted that as part of Mr. Higdon's application. Says that there are no private deed restrictions that this would violate.

As far as the setbacks and all of that, Mr. Higdon and Mr. Simmons, his surveyor, prepared a plat that was submitted to our office which details
the setback requirements. There's a public utility
easement in the rear and things like that. So all of
that has been documented on a site plan and plat that
has been prepared by a licensed surveyor.

So that information has been submitted to our
office and that's what we go by, is what a surveyor
prepares and what an attorney provides.

MR. HAYDEN: Can I ask another question?

CHAIRMAN: You want to come back to the
microphone so it will be on the record, please.

MR. HAYDEN: Do you have that survey available
that he has prepared? The reason I'm asking, is there
a setback in the back of this residence for building
structures to be built?

MR. HOWARD: So the residence at, and Trey
Pedley from our office is pulling something there for
you.

MR. HAYDEN: I'm going to be slow because I've
AMD and I can't read real fine print. I might have a
little problem here.

MR. HOWARD: Trey, do you have a copy of that
drawing that has the highlight. It just kind of
illustrates the two lots.

MR. PEDLEY: I think it's in the folder.

MR. HAYDEN: What's the length of the lot from
MR. PEDLEY: This is easier to read. It has property lines highlighted.

MR. HOWARD: Trey, as I'm explaining, if you don't mind to kind of point out.

So there are two lots right now; there have always been two.

MR. HAYDEN: What is the distance here?

MR. PEDLEY: This is 150 feet. It's right on Standish Place.

MR. HAYDEN: Here in the front. What's the distance in front of these lots?

MR. PEDLEY: Combined would be 207.93.

MR. HAYDEN: 207. Okay. This is the back. You have an easement. What is the easement; 10 feet?

MR. HOWARD: There's a 10 foot public utility easement in the rear.

MR. HAYDEN: Is there a line for build back off of that? What is your build back line for a structure to be built?

MR. HOWARD: For an accessory structure to the rear of residence?

MR. HAYDEN: Yes, to the rear of the residence.

MR. HOWARD: It's 3 feet off the property
MR. HAYDEN: Oh, is it 3 feet? I've got marked 30.

MR. HOWARD: Now, on your property, I can't speak to your property. I don't have a plat of it in front us certainly. Every property may be different. You may have a 30 feet easement in the back.

In this instance he has a 10 foot public utility easement in the back and he has to stay 10 feet off that rear property line, but the side property lines he can be 3 feet off based on the ordinance.

MR. HAYDEN: I don't know how much ground he's going to have between the house and the building, but it can't be too much.

MR. HOWARD: Be about 23 feet.

MR. HAYDEN: 23 feet. That's a very small amount.

MR. HOWARD: Between 3510 and --

MR. HAYDEN: For a subdivision that is well known as the one we're talking about here. To put a structure up in 23 feet from a residence that he's going to build that lot, that building on. That to me is a big problem. Not as much for me, but -- let me ask it this way: Is there any restrictions or
limitations on buildings to be built in this subdivision?

MR. HOWARD: Again, if I'm understanding your question correctly, that would be a private deed restriction that an attorney has stated that there are none and we would not enforce anyway. That that would be a private issue.

MR. HAYDEN: You're saying in that neighborhood I could even build it on my lot, 150 foot building and there would be no restrictions?

MR. HOWARD: We're here tonight for a variance in order to receive approval to build this structure on his property. You could go through a similar process on yours. I'm just saying we're not aware -- we've been certified there aren't any private restrictions that would prohibit this.

MR. HAYDEN: I'm not worried about my property. I'm not going to build. I'm telling you my understanding when I moved in the subdivision there's limitations on the outbuildings you could build. You could have a two-car garage with an addition, a little bit to it. I don't know what those measurements would be. That's just what I'm saying.

If this goes through or passes, you're saying one attorney has already approved in this subdivision

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there's no restrictions on any outbuilding can be
built by any property owner in that subdivision; is
that what I'm hearing?

     MR. HOWARD: I'm saying that the attorney on
this application stated that there are no private deed
restrictions that would prohibit the board from
approving this variance. I can't speak to the
situation for every lot out there in the neighborhood.
I don't know. I'm not an attorney. I didn't certify
it.

     The kind of things you're mentioning, whether
it was a two-car garage and some neighborhoods have
requirements that everything must be 100 percent brick
or it can only be 80 percent brick and 20 percent
vinyl and limiting some; those are all private
restrictions that are beyond the scope of what the
Planning Commission or this board could approve or
enforce.

     MR. HAYDEN: Let me say that if you approve
this variance, and this building was built and he has
his vintage cars in there, is he limited to the
number? Is he limited to what that building can be
used for? Is it strictly for storage or how much
storage, etcetera? Will there be a limitation on the
use of that building? Where I'm coming from, can that
be converted to a business, commercial type business
building over a residential type building?

MR. HOWARD: It could not. This is an
accessory storage structure that's been proposed. If
someone were to -- 20 years from now someone were to
try to convert that to a commercial use of some sort,
it would be a zoning violation today. It would be a
zoning violation in the future as well. So, no, it
could not used for a business.

MR. HAYDEN: Okay. I'll yield to someone else
and then maybe I'll have some more later on.

CHAIRMAN: Thank you.

Is there someone else?

MS. KNIGHT: Please state your name for the

record.

MR. ATHERTON: Randy Atherton. I live at 3521
Ashlawn Drive.

(RANDY ATHERTON SWORN BY ATTORNEY.)

MR. RANDY ATHERTON: I live in the residence
right across the street from the proposed change here.
I mean first off, everybody I've talked to,
I'm going to say up front that I haven't talked to
anybody that's in favor of this. A building of this
size and this structure in a residential neighborhood
there's no place for it for various reasons.
Number one, like this gentleman here says, it's I guess what you would call an executive type neighborhood. There's a lot of older people that live in the neighborhood. Lot of retired people, getting ready to retire. We've got a lot of money invested in our properties in that area and there's no doubt in my mind that something like this, and the people I've talked to, I mean it will affect the property values, the houses in that neighborhood.

In light of that, people we've talked to, I guess, in light of the alternatives, if it's not approved, the only thing I would ask, and we would all ask, is it be put in the approval in the minutes or however you do it, that as he proposed, that it will be a brick structure to match everything else in the neighborhood, that it will look good. It will not exceed the height of the house in front of it, which we call the the Curtsinger house, which is 3510. It would not exceed the height of that house to where it's going to stand out in the neighborhood.

There again, we've been told the options of what's going to happen if it's not approved. Just in light of that, our proposal is that it be included in the proposal, in the change or whatever it is that you do with it, put those restrictions in that it has to
be that way.

CHAIRMAN: Thank you.

Anybody have questions of Mr. Atherton?

(NO RESPONSE)

MS. KNIGHT: Please state your name for the record.

MR. CARL ATHERTON: Carl Atherton.

(CARL ATHERTON SWORN BY ATTORNEY.)

MR. CARL ATHERTON: I'm at 3511 which is directly across from 3510.

Now, I'm not sure about the parliamentary law you all have to follow, but I want to point out there is a mistake on this map that's up on the screen and I have a copy of.

It talks down at the bottom there it's 3501. And 3501 is not on that side of the street. I'm not sure if you need to make that change before you can vote on it.

MR. HOWARD: I'm sure the surveyor transposed those numbers. It was advertised correctly, but we'll make note of that certainly.

MR. CARL ATHERTON: Again, I'm concerned about my property value. As Mr. Hayden stated, this is bound to affect the type of people that's going to come in there and they're going to want a nice
building. This subdivision was started back in the
1960s as an executive community to the Texas Gas
employees. You know, very nice neighborhood back
then, and it still is. Houses sell very quickly. Lot
of people wanting to be there.

   I don't have a problem if we can put in the
stipulations that it's going to be brick, as
Mr. Higdon said. It's going to have, you know, the
roof line is less than the existing two houses that
are on the property, and the restriction that it's a
storage building. You can't work on cars without
having dirt and noise and everything else. I know
about all of that. Again, if there's some way that
your board can put those restrictions on. Again, I'm
not against having that building there, but it will
affect the property value. I'm not sure how you're
going to go about assuring that it's a nice looking
building. Thank you.

   CHAIRMAN: Is there anyone else that wishes to
speak to this and then we'll see if we can get some
answers from Mr. Higdon.

   (NO RESPONSE)

   CHAIRMAN: Mr. Higdon, would you come back to
the microphone, please.

   MR. HIGDON: I can't hardly hear you.

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CHAIRMAN: You've heard the concerns of your neighbors.

MR. HIGDON: Right.

CHAIRMAN: Can you describe what you plan to build in view of their concerns?

MR. HIGDON: It started out at 146 or 147 by 35. I want to drop it back to 135 to give Fred Reeves 10 more feet close to his property line. It's 135 by 35 by 12 foot ease with 112 pitch. It's going to be brick and it's not going to look like no junk. You can ask anybody that knows me. That man right there knows me. That anything I've got is going to look at the tops. The only objection I've got, if you all don't pass it is, that I've got to tear down 3510 to make my garage work, and then it's my understanding that I can build, how tall did you say, Brian, 30 some odd feet?

MR. HOWARD: In a residential zone it could be 36 feet.

MR. HIGDON: 36 feet tall. That's the only objection I've got. If you all don't pass it, I'm going to tear down 3510 and then I'm going to put it the height that I want it, you know because I'll have over half acre, if I put 3510 in with 3500. That's the way the building will be. It will
be brick to match the other houses. It will have a
black tin roof on it. That's the way it will be.

CHAIRMAN: And it won't exceed the height of
your other properties?

MR. HIGDON: It will not be any higher than my
house or 3510.

CHAIRMAN: And you plan on just storing your
vintage vehicles there?

MR. HIGDON: That's the only thing I want to
do. My wife and I are 69 years old. We've got 13
vintage cars and we want to put them in that. We've
got a building on Ninth Street. That's where all of
them but two of them are now.

CHAIRMAN: If they need work, they go
somewhere else?

MR. HIGDON: Do what?

CHAIRMAN: And if they have to be repaired,
they're taken somewhere else?

MR. HIGDON: They're in the shape that they're
not going to have to be repaired.

CHAIRMAN: Thank you.

Any question or any more questions of
Mr. Higdon?

Mr. Hayden.

MR. HAYDEN: Bobby said that if this is not

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approved he will raise that property next to his home
he's presently living in and he build this building on
that property. Are you telling me or am I hearing
wrong that you would allow a building, an outbuilding
to be built on a residential lot in that subdivision?
Because that would be facing the street of Ashlawn
Drive. That's the only way he could put it. You
could not put the property from Standish back to the
other property, where the Curtsingers live. He would
have to bring the property out. So instead of having
a residential piece of property, you would be allowing
a building structure to be built facing Ashlawn Drive
in a subdivision, residential subdivision; is that
what I'm hearing? You said it would work that way? I
don't know.

MR. HOWARD: If he were to consolidate those
two lots, put them as one lot, tear down the structure
at 3510, he could put an accessory structure on that
one lot. It would be about three quarters of an acre.
The zoning ordinance would allow him to put a
structure on there. The combined footprint of both
not to exceed 50 percent of the total lot area and the
zoning ordinance would allow a structure to go up to
36 feet tall. So he would have to meet the 25 foot
setback along Ashlawn. He would have to meet a 10

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feet side setback and would have to stay out of that public utility easement in the rear, but otherwise, yes, he could put a large structure on that property.

MR. HAYDEN: What is the width of that property at 3510?

MR. HOWARD: 102.93.

MR. HAYDEN: Okay. I have to do some figuring here. Something is wrong here. Have a subdivision and have one lot in that subdivision without a house on it because another man buys a piece of property. Half of these buildings have been built. He raises one and then he wouldn't be required to put another house on it. Like I say, I don't know the ordinance laws. I don't know the laws of the property in the subdivision. You're taking away a right of people in that subdivision to deny a house or to remove a house and deny a residence to be rebuilt, but allow an accessory building to be built. That would be to me deterioration of a subdivision rather than protecting our rights as residents of that subdivision. At least something is wrong with me? Maybe I need to proceed and go get a little help with this. Do you have several hearing on this or what?

MR. HOWARD: Typically on a variance application, conditional use permit, rezoning, any of
those, the board hears testimony and then a decision
is made. State law requires one public hearing and
that's taking place tonight.

MR. HAYDEN: And how soon will you rule on
this?

CHAIRMAN: We could rule tonight.

MR. HAYDEN: Really you do us a disservice
because you didn't put this information to our letter
to tell us that we need legal counsel. It might not
do us any good, but I think we do need legal counsel,
but I think we should have been advised of that. I
would ask you to not rule on it tonight personally.
At least give us a few more days, at least a few more
days on this and let a contact be made to you. I hope
you honor that. I just request that. Thank you.

CHAIRMAN: Does anybody on the board have a
question or a comment for either Mr. Hayden, Mr.
Higdon or the Athertons?

MR. GLENN: I just want to clarify one thing
for Mr. Higdon or a couple of things.

I believe I heard you tell this before. The
building is strictly to store these vehicles, these
vintage vehicles; mechanical work and all of that type
of garage --

MR. HAYDEN: I hire all my mechanic work done.
I don't do none of it. I'm talking like zero. Don't even change my own oil.

MR. GLENN: Okay. And the building itself is going to be brick?

MR. HAYDEN: It will be brick veneered all the way around to the top of it in the gable ends. It will have a black tin roof to match the neighboring roofs on the houses. It's going to have black gutter down-spouts on it. I don't want anything to stick out like a sore thumb.

MR. GLENN: Thank you.

CHAIRMAN: Anyone else have any questions?

MS. MASON: I have a question. Maybe I'm missing it on the drawing. How are you going to access the garage?

MR. HIGDON: 3500.

MR. HOWARD: There's an existing driveway off of Standish Place.

MS. MASON: I see concrete drive. I see that. I'm sorry.

MR. HIGDON: Same driveway that I use.

MS. MASON: I was looking in the front trying to figure it out, but I see it there on Standish.

MR. HOWARD: It's on the side.

CHAIRMAN: Anyone else have a question of Ohio Valley Reporting

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Mr. Higdon, or Mr. Hayden, or the Athertons, the two Athertons?

Yes, sir.

MR. RANDY ATHERTON: Randy Atherton.

There again, I don't like it, but the bottom line is we don't want the house tore down either. That's what we've been told is going to happen if it's not approved. That's a way worse situation than if this thing passes. If there is no other alternative to that, and if that's the way it is, then I guess our standpoint is, you know, it's the best option of the two.

CHAIRMAN: Thank you.

Anyone else have a question?

(NO RESPONSE)

CHAIRMAN: Hearing none is the board ready to dispose of this item?

MR. GLENN: I'll make a motion.

CHAIRMAN: Mr. Glenn.

MR. GLENN: I'd like to make a motion, and I want to make sure I make this right.

I would make a motion that we approve this application based on the statements of Mr. Higdon and how he's going to build that building, based on these findings that we have here in our report, that it
won't adversely affect the public health or alter the essential character of the neighborhood in the vicinity; it's not going to cause a hazard or nuisance, and it's not going to allow a hazard or unreasonable circumvention of any requirements on the zoning regulations.

Also, that he meet the conditions of obtaining all building permits, electrical and HVAC permits, inspections and certificates of occupancy and compliance.

MS. KNIGHT: I would suggest, you referenced this, but just to be specific; adding a condition to the motion concerning the dimension of the building that Mr. Higdon stated, the pitch of the roof, the brick veneer and the black tin roof, if you could add those to the motion and then we'd have Mr. Higdon put on the record that he does agree.

MR. HIGDON: That's the way it's going to be built.

CHAIRMAN: If you'd like to step up here so that we can get that on record.

MR. HIGDON: It's going to be a black tin roof, black gutters and down spots, and the brick to match the house that we live in at 3510, and it's going to brick. There's going to be no vinyl.
CHAIRMAN: And the pitch of the roof.

MR. HIGDON: 112.

MS. KNIGHT: You agree to those conditions?

MR. HIGDON: I fully agree to them because that's what I want. I also want to back it up to 135 foot instead of 146 or 147.

MS. KNIGHT: And you agree to that as well?

MR. HIGDON: That's exactly right.

MR. GLENN: Then I would add that into my motion that the building size be 135 by 35 foot. It's going to have a 112 roof pitch. It is going to be brick veneer with a black metal roof.

MR. HIGDON: That's right.

CHAIRMAN: Thank you.

Do I have a second to the motion?

CHAIRMAN: Yes, sir. Question on the motion by Mr. Hayden.

MR. HAYDEN: I would like to request, again, that you defer this vote tonight because we were not advised that this vote was going to take place tonight. The letter stated that it was strictly a hearing for a variance. It didn't state any decision would be decided on, and I would like to request that you defer your voting until a later date so I can refer to counsel to assist me on some things here. I
told you, I'm not fully aware of all of the laws in
these subdivisions, etcetera, but I would like you to
honor me with that and delay this voting tonight so I
can check with some legal counsel. Thank you.

MR. HIGDON: I would like to say something
else.

Robert Higdon. I swear for it to be the
truth. I would like to ask Mr. Hayden, would he
rather have this garage behind the house hid or the
3510 be tore down and my garage put there? That's all
I would like to ask him. Because that is legal.

CHAIRMAN: Mr. Hayden.

MR. HAYDEN: To answer that question, neither.
I would rather the building not be built. I would
rather the house not be tore down. You remove a house
in a subdivision from a lot, you deteriorate that
subdivision. He can come up with a lot of different
answers, but when you leave an empty lot in a
subdivision, something has happened. When you come
back and tear it down and are allowed by our board to
rebuild an accessory building structure that doesn't
even resemble a home, you have a lot in a subdivision
that you have taken away the primary purpose of that
have subdivision to allow an accessory building to be
built, that relates to a house that purchased that

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property for that purpose. That does not fit with
the, I don't think would fit with any subdivision in
my thinking. If you've got one, I would like to see
it. Where a property has been torn down and an
accessory building has been built to face a street,
and that's what he would have to do. That's why I
would like for you to allow me a little time. You
might come out ahead anyway. I would like to have a
little time to meet with counsel. Thank you.

MS. KNIGHT: Mr. Hayden, just to address your
concern about the notice. State law does require that
we provide written notice, which those are the letters
there were sent out on February 14th to all the
adjoining landowners. Those notices were provided.
This board meets once a month and at our hearings
that's what they're for, to present evidence, make
decisions on application. This board does have the
authority to approve or deny. They can postpone.
There's been a motion made to go ahead and approve.
Also just for your information, there is an
appeal process. There is information about that
appeal process on the back table right behind you as
you walk out the door. So just for your information.

MR. HAYDEN: Thank you. I was not aware of
that as I mentioned earlier. I'm not aware of any of

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the laws relating to these subdivisions and that would 
be relating to any state laws that you abide by in 
making your decisions. Thank you.

CHAIRMAN: We have a motion on the floor. Do 
I have a second?

MR. YEISER: Second.

CHAIRMAN: Second by Mr. Yeiser. Are there 
any questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT - WITH FRED REEVES 
RECUSING HIMSELF - RESPONDED AYE.)

CHAIRMAN: Motion carries. Thank you.

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ADMINISTRATIVE APPEAL

ITEM 3

901 East Ninth Street, zoned R-4DT Inner City 
Residential

Consider a request for an Administrative Appeal to 
relocate a non-conforming use on the subject property 
by replacing the existing structure with a new 
structure in a different location.

References: Zoning Ordinance, Article 4, Section 4.3 
Applicant: Roy and Donna Gorman

MR. HOWARD: Fred is back with us at this 
point.

So this application, we had one of these last
month or the month before. This is a similar thing. This is an Administrative Appeal. So basically they have a structure on the property right now that predates the zoning ordinance. It's old. I believe it was built in the '50s or whatever. They would like to relocate it on the property. Put a new structure on there and relocate the location. It's zoned residential. It's a car lot right now. So based on the zoning ordinance this the most advantageous avenue for them to follow. I believe that they looked at the potential of rezoning and doing some other things, but just based on the size of the lot and the configuration and buffers and all of that, rezone wouldn't really work. Certainly a case could be made that commercial zoning is more appropriate because it's been used for that for so long, but based on the logistics zoning ordinance-wise it doesn't really work.

So they've requested to be able to relocate the structure on the property. You all as a board may take action on this tonight. If you believe that the proposed relocation is in accordance with good Planning and Zoning ordinance requirements, you can vote yes. If you believe that this is not a good idea, they shouldn't be allowed to relocate it, you
vote no. Findings of fact are not required as part of an Administrative Appeal. Of course, our Staff is here and I know the applicants are here. If anybody has any questions, we can answer those.

CHAIRMAN: And this is one of those items that you couldn't sign off on?

MR. HOWARD: Right. We can't because they're moving location of the structure. If they were replacing -- I think it was kind of an odd size. If they were taking the one that was there down and putting something the exact same size up and the exact same location, we could have permitted that through the building office, but since it's being relocated on the property and whatnot, we can't do it administratively. It takes the approval of this board to do so.

CHAIRMAN: Thank you.

Do either of you want to address this and then we'll move on?

MS. GORMAN: I'm Donna Gorman with Gorman Auto Sales.

(DONNA GORMAN SWORN BY ATTORNEY.)

MS. GORMAN: We had some water damage on the building that was there and the insurance company wouldn't insure it anymore so we had to remove the
building, and we got another building to replace it.

Trey has a drawing on it, don't you.

MR. PEDLEY: It's on the screen.

MS. GORMAN: We were just going to move it over just a little bit from where the other one was. Basically this is what created what we're doing now.

CHAIRMAN: Thank you. We'll see what we can do.

Any questions of Ms. Gorman?

(NO RESPONSE)

CHAIRMAN: I'll entertain a motion.

Mr. Jean.

MR. JEAN: Motion to approve based on the Staff Report and with the two special conditions.

CHAIRMAN: We have a motion.

MS. MASON: Second.

CHAIRMAN: Second by Mrs. Mason. Any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

One more.

MR. GLENN: Motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Glenn. Is
there a second?

MS. MASON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
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 33 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 30th day of March, 2018.

LYNETTE 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

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