The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, August 1, 2019, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Judy Dixon, Chairman
Fred Reeves, Vice-Chairman
Ruth Ann Mason, Secretary
Brian Howard, Director
Terra Knight, Attorney
Bill Glenn
Lewis Jean
Tori Morgan

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CHAIRMAN: We will call the Owensboro Metropolitan Board of Adjustment August 1 meeting to order. Mr. Howard is going to lead in the prayer and pledge.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item on the agenda is to consider the minutes of the July 11, 2019 meeting. All members have received a copy and should have had time to peruse them. So at this time I will entertain a motion.

MR. GLENN: Motion to approve the minutes.

CHAIRMAN: Motion by Mr. Glenn.
MS. MASON: Second.

CHAIRMAN: Second by Ms. Mason. Any 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 unanimously.

Mr. Howard.

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VARIANCES

ITEM 2

1911 Lexington Avenue, zoned R-1A Single-Family Residential

Consider a request for a Variance in order to reduce the required side yard building setback in an R-1A zone from 10-feet from the side property line to 5-feet from the side property line and to reduce the required rear yard building setback from 20-feet from the rear property line to 10-feet from the rear property line.

References: Zoning Ordinance, Article 8, Section 8.5.5(d) and 8.5.5(e)

Applicant: CR Contracting; Gregory & Kimberly Mullican

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

MR. PEDLEY: Trey Pedley.

(TREY PEDLEY SWORN BY ATTORNEY.)

MR. PEDLEY: The subject property is located on Lexington Avenue between Griffith Avenue and Ford
Avenue in an area established before the current zoning ordinance requirements were in place. The owner would like to construct an addition to the home that would encroach into both the required side yard building setback and the required rear yard building setback.

Such encroachments can commonly be found elsewhere in the general vicinity; some of which were constructed prior to the establishment of the zoning regulations, and others, including on adjoining properties, were allowed following approval of their own Variance request.

An identical variance request was submitted by the previous owner of the property and was heard at the July 11, 2019 Owensboro Metropolitan Board of Adjustment meeting. The OMPC Staff report made a recommendation for approval because similar encroachments can be found elsewhere throughout the area. The previous Staff Report also noted that the neighboring home at 1901 Lexington Avenue appears to be at least 5-feet from the shared property line, and so both requested encroachments will maintain the 10-foot separation distance between residences as required by the Kentucky Residential Building Code.

At the aforementioned Owensboro Metropolitan
Board of Adjustment meeting, the Board denied the variance request based on the belief that the request may not be compatible with the area due to the applicant's absence and inability to address concerns brought forth by the neighbors that were present at the meeting. Based on the history of the area, existing encroachments, and the maintenance of applicable building codes, the OMPC Staff believes that statements within the original staff report remain true; however, acknowledge the previously voiced concerns of the neighbors and at this request has been denied in the past. Consequently, the Staff will not make a recommendation for this request as is typically done.

However, if approved, the Staff recommends that the applicant shall be required to obtain all necessary building, electrical and HVAC permits, inspections and certificates of occupancy and compliance.

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

CHAIRMAN: Thank you, Mr. Pedley.

Is there someone here wishing to speak on behalf of the applicant?

MS. KNIGHT: Please state your name.
MR. SULLIVAN: Mike Sullivan.

MS. KNIGHT: Mr. Sullivan, you're sworn as an attorney.

MR. SULLIVAN: My name is Mike Sullivan. I'm an attorney here in Owensboro, Kentucky.

The first thing I want to do is apologize on behalf of my client, CR Contracting and its owner Gary Cecil. We're sorry to you, we're sorry to the neighbors that we were late to last month's meeting. It was one of those meetings that was moved from 5:30 to 5, I believe, and we missed it. We are very sorry about that. We're sorry about the inconvenience to everybody because of that.

I read the transcript of the meeting. Of course, the neighbors had questions as they always do, and they're always entitled to ask those. We are here tonight to -- we've submitted the plans for the proposed addition to this house at 1911 Lexington Avenue. We're here to -- I'll have Gary Cecil come up here in a second and talk to you about those plans so that everybody knows what they are. We'll answer any and all questions that anybody has about those plans. I think that at the end of presenting that information you'll see that this proposed addition to this house is something that's consistent with the character of
the neighborhood and will cause absolutely no harm whatsoever to the neighborhood or the neighbors in the neighborhood.

At this time, before I talk about the findings you have to consider and the facts that are related to findings you have to consider to approve the Variance, I would like to have Gary Cecil come and talk to everyone here about the plans and answer any questions that anybody has about this proposed addition.

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

MR. CECIL: Gary Cecil.

(GARY CECIL SWORN BY ATTORNEY.)

MR. CECIL: I did send the elevations and I think the floor plans made out by the owners. We are just looking to do basically a master suite on the main level. The family that's buying it obviously would like to stay here for an extended period of time.

You know, the lot doesn't really blend itself to both an attached garage and this master suite to do it behind the house. I think what we've designed I think you can see it on the screen fits the neighborhood. You know, we plan on saving the brick and reusing the existing brick so that it matches
exactly. We've agreed to some changes with the neighbors to satisfy their concerns, as far as distance that we would agree to build to the rear setback.

Otherwise, I think it's pretty, what you would expect for the neighborhood. I live in that neighborhood so I don't want to see anything but the best for it. Other than that, I don't have a whole lot to add.

The floor plan is a single-story structure with a story and a half over the garage area, the attached garage. So at no point could you stand on the second floor of this addition and look into a neighbor's backyard. So privacy really shouldn't be a concern. Otherwise, it is right on the same level. So there's no steps up, there's no steps down from the existing floor heights and, you know, the roof lines match and I think they're correct.

CHAIRMAN: Anyone on the Board have questions of Mr. Cecil?

MR. REEVES: Your rendering from the front was very helpful. You don't happen to have a rendering of the back, do you?

MR. CECIL: I did not do a rear elevation.

I brought some copies of the floor plan where
you can see them. The site plan I guess is the only thing you can see. What's on the screen now, the bottom portion of the screen is the proposed addition. Really, as you'll see, it's 9 foot walls, which is in the existing house. The roof line above that is a hip-structure so there are not windows looking over into the neighbor at Littlewood. To the north the only window shown is to allow light into a closet, and it is below what is the existing brick fence that is between the neighboring properties.

CHAIRMAN: Anybody else here have a question of Mr. Cecil?

(NO RESPONSE)

CHAIRMAN: Stay right there because I'm sure there will be.

Is there someone here wishing to speak in opposition or voice concern over this item?

MS. KNIGHT: Madam Chairman, before we get into that there was a letter brought to the Planning Office today. I think we'll pass that around to the other board members. It's from a Tom and May Gipe. It's just a very short letter and we'll just let everybody look at that. I don't believe Mr. and Mrs. Gipe are here tonight.

AUDIENCE MEMBER: No. They live in
MS. KNIGHT: It's not a notarized statement or anything. The board members can obviously give it whatever weight they deem necessary, but we'll just pass that around for the record.

CHAIRMAN: Thank you.

Someone wish to speak?

MR. SULLIVAN: Ma'am.

CHAIRMAN: Yes, Mr. Sullivan.

MR. SULLIVAN: I don't get over here too much. I don't know what the protocol is, but if they want to ask him questions first, I'm not judging.

CHAIRMAN: How about both of you stay there.

MR. SULLIVAN: We're done with our presentation, but if they want to ask him questions about the plan, maybe this is the right time to do it.

MS. KNIGHT: I think as far as protocol, everything should be directed to the chair and then she'll get it to the appropriate person.

CHAIRMAN: Does anyone have any questions of Mr. Sullivan or Mr. Cecil at this point?

(NO RESPONSE)

CHAIRMAN: You want to go ahead and finish your presentation. Sorry.

MR. SULLIVAN: No problem.
Mr. Dexter is here. Of course, I've know Bill
and Shirley forever. We practiced law together.

My understanding from Gary is that he talked
to Mr. Dexter. They can talk about a possible
agreement or concerns, to address his concerns with
the rear of the building. My understanding is that
there was a discussion where my client is voluntarily
agreeing to not request a setback, to reduce the
setback line to 10 feet on the rear, but to 11 feet 6
inches, which is about the minimum he thinks is
adequate so he can add that addition to the rear and
not be out there with a ruler making sure he wasn't
right up against whatever variance to be requested.
And that there would be no windows that could see into
the rear of the property. As you can see, the only
window suggested on the rear is on the ground level.

I'll let Mr. Dexter speak to that, to confirm
that.

As Gary mentioned, in regard to the side
boundary line issue, we're putting up a quality
addition. It will have brick. They've torn off part
of the back of the house. They're going to save brick
so they can use it in construction of the addition.
There's only one window, and the window as is going to
be located is adjacent to where there's a brick wall
running between the two properties.

We did want to make sure everybody had information with what the proposed addition was. I would like to address the four factual findings that you would have to make to approve the variance.

I think OMP Staff in its report filed in July had all the information you needed to make those findings. It's echoed for the most part in the Staff Report for this meeting.

The first is, well, does this proposed variance affect the public health, safety or welfare? There's no evidence of that. There's an addition coming onto the house, as noted by Mr. Pedley. That addition will be at least 10 feet from the structure at 1901 Lexington, which is compliant with Kentucky Building Code. So there's no evidence of any issue with public health, safety or welfare.

The second consideration, and that is a finding that it will not alter the essential character of the general vicinity, and reason it won't is because as everybody knows -- I always think of Littlewood and Lexington as "The Neighborhood." My sister lives on Littlewood. My sister got a Variance, side yard Variance a while back from the Board of Adjustment for 1811 Littlewood. I always think of
these two streets the same; because the trees and the houses have been sought out for years. Everybody loves these two streets off Griffith Avenue.

These houses were built in the 1930s, 1940s, thereabouts. The problem with these houses, in many instances, is our lifestyle nowadays is different than it was back then. Back then people had a kitchen that was the size of a closet. Now everybody wants a kitchen that's the size of the entire first floor.

Same thing with TV rooms and master bedrooms and things like that.

What's happened over the years in this neighborhood is that people have added on. Whether it's a garage, or an attached garage, or a bedroom, or a kitchen, or a TV room, or whatever, and there are variance applications where people have done that.

Those include and are listed in the Staff Report.

They include 1914 Lexington Avenue, which is one of the adjacent properties that was notified of this request. They had a rear setback line adjustment.

1924 Littlewood, another adjacent property, which had a rear setback line adjustment.

As noted by the Staff, 22 of 38 homes, that being the homes on Lexington and the homes on the west
side of Littlewood Drive, 22 of 38 of them have rear and/or side setback line encroachment. So you've got 58 percent of the neighborhood that has rear side setback line encroachment. Again, some of that it because it was already there. People had a garage in the rear corner of their house, of their property.

I think 1901 Lexington has a two-story structure that's almost right on the rear and side boundary line. May not be near the side, but right near, within a foot or so of the rear boundary line because that's how structures were built back then. They would go all the way back to the rear property line.

I remember when Prince Berese owned that house and had somebody living in that apartment above the garage. There are numerous structures, including those right next to this property, that have encroachments. Whether that's because they were built before the Zoning Ordinance or they've been Variance applications.

I will also note that our research found that you have only denied variance applications in this area twice; is what our research found. One of them was Prince -- I call her Prince. I think her legal name was Ruth Berese, at 1901 Lexington who sought a
variance at one time. It was denied because it was
multi-family at that point. She had somebody living
in the apartments. So she had a multi-family use and
she was expanding a multi-family use in an area zoned
R-1 Single-Family Residential and it was denied.

The other denial was on 2001 Winston Drive,
and that was because the gentleman built his addition
that encroached before he came to you and asked for a
variance. One of the checkmarks is, has this person
violated a zoning ordinance before he came to you, and
the answer was, yes; so it was denied.

The history that we have been able to find
shows that in this neighborhood no variance
application of this nature involving this set of
circumstances or similar circumstances has ever been
denied.

I think that the evidence about the nature of
the neighborhood, the fact that most of the structures
and houses, if not all of them, were built before the
Zoning Ordinance was enacted. The fact that because
of that there's been numerous encroachments on rear
and side setback lines. Because of all the variances
that have been granted for rear and side setback line
variances, establishes that this variance will not
alter the essential character of the general vicinity.
Again, that was noted in the Staff Report filed last month. Because no similar variance request have been approved in the past and there are numerous structures violating the setback lines that were constructed before and after the Zoning Ordinance.

Third, this will not cause a hazard or nuisance to the public. Again, you've got the Kentucky Building Code 10-foot of separation. There's just simply no evidence of a hazard or nuisance to the public because of this addition being made.

Four, this is not an unreasonable circumvention of the zoning regulations. Again, this goes back to what I just discussed with you. Because most of the construction in this area predates the Zoning Ordinance and in numerous instances violates the setback line and since enactment of the zoning Ordinance, numerous variances have been requested.

We believe the facts in evidence before you to support the findings you need to make to grant this variance.

Again, we are sorry that we were not here last month, but we are here today on a new application to present all the evidence, the additional evidence that you need to hear from us to address any issues and to grant the request. We're here to answer any questions.
anybody may have. Thank you.

CHAIRMAN: Thank you.

MR. GLENN: I have a question now. Maybe I misunderstood you towards the beginning of your explanation. You were talking about the rear of the house setback and you said that is now 11 feet.

MR. SULLIVAN: Of course it's 20 foot. We're seeking a reduction to 10 feet. My understanding from my client was we had talked to Mr. Dexter who lives on Littlewood who would be one of the people concerned about the rear setback.

My understanding from my client was that they had talked about agreeing to only seek a rear setback line. That we would go 11 1/2 feet, I think; 11 feet 6 inches. Instead of seeking a reduction to 10 feet, we would only seek a reduction to 11 feet 6 inches.

MR. GLENN: Okay.

MR. SULLIVAN: Again, Mr. Dexter is here and he can speak to what he recalls.

CHAIRMAN: Anyone else on the board have a question of Mr. Sullivan?

(NO RESPONSE)

CHAIRMAN: Stay put.

Is there anyone here wishing to express concerns or have questions?
MS. KNIGHT: State your name for the record.

MR. POTTS: Greg Potts and Rita Potts, 1901 Lexington Avenue.

(GREG AND RITA POTTS SWORN BY ATTORNEY.)

CHAIRMAN: Go ahead.

MR. POTTS: If you look at the site plan, it doesn't show our property here, but the addition goes the full length from our house all the way to the back of the property with a roof 5 foot from our backyard there. That's all we'll be able to see is the roof. We have to stand in our backyard and look straight up to see the sky.

It looks to me like there's plenty of room on this lot here to build without having to get a variance.

These variances were never meant to be given out like Halloween candy. They're supposed to be given by reason of exceptional narrowness, shallowness or unusual shape of the site or for topographical conditions like if there's a cliff in the back or whatever. We just think that there's plenty of room there without encroaching on the offset or setback.

MRS. POTTS: I also wanted to say that I've done a lot of research on Zoning and Planning at a federal level, state level and local level. The
intent of variances were for safety and to protect property lines. Those easements, they were never intent -- nowhere in any of the standards did I read that it was intended to increase the size of homes.

Now, I've lived in this neighborhood and in this house for 33 years. The view that the Burkes built, they were the original owners of the home, was beautiful, beautiful. Like my husband said, with this new addition all we're going to see is brick wall and roof.

I have a rental, it's zoned for four rentals and I do not think that having a roof and brick walls is going to increase the value of my house. It's going to lessen it. I don't know if I'll get the clients or if I want to rent it be able to rent to the people that want to look at a brick wall or roof.

MR. POTTs: We won't have any view from our yard at all except for out front.

CHAIRMAN: Do you want to address anything, Mr. Sullivan?

MR. SULLIVAN: Well, I would say this, a couple of things. In regard to room on the lot, I think that it was pointed out by the Staff that the house itself, I think, what, it's got 25 foot front. Is that the setback on the front, 25 feet?
MR. HOWARD: Yes.

MR. SULLIVAN: Okay. Its setback 45 or 50 feet already. So the house itself, the front of the house is so far back it restricts the amount where you can add things onto the house. So as far as being able to put it somewhere else, it is restricted. The thing about blocking the view, you know, I understand that concern. I don't know that this structure was built four or five feet over from where we're proposing it in exactly the same height; how much additional view they would been granted. Of course, you can put -- I know that the zoning ordinance, I was just checking with Mr. Pedley, would allow a detached structure to be able to be put within 3 feet of the boundary line; so long as it's 6 feet behind the house. So where their apartment is, there could be an detached structure that goes all the way up. There's no restriction on height, as long we meet the setback lines, I think. You guys can speak to that. If somebody wanted, if you wanted to put three stories up, that was 5 feet over. That could happen.

MR. HOWARD: There's a maximum height requirement. So you couldn't go unlimited, but I believe in an R-1A zone it's 36 feet.

MR. SULLIVAN: Right. So you can go 36 feet
high, 5 feet over and still block somebody's view. I understand the concerns. I've tried to address the best I can as to why we have to build it where it is and what can happen sometimes with planning issues.

CHAIRMAN: Thank you.

Do you have other comments you would like to make?

MRS. POTTS: His structure, if they do not get this permit and they build, because I was told by Mr. Cecil that if the variance wasn't given he could build a detached structure anywhere on the property 3 foot from the property line. I want to ask if that's true; and two, if there is an associated structure already there, would that have to be removed or tore down to build this detached structure? The other question is --

MR. POTTS: We've already discussed, it can't be built anywhere on the property. It's got to be 6 foot behind the house.

MRS. POTTS: We would be willing to compromise with that, if they built it behind the house and have the structure detached for nonhuman occupancy. We would compromise.

MR. POTTS: The reason they want this over here is to get a two-car garage on the front of the
house. There's other means of doing this without
blocking the whole side of our yard.

MR. POTTS: My husband is a builder.

CHAIRMAN: Let's see if anyone else has a
question.

MR. REEVES: I have a question.

Ma'am, I have a question. It's my
understanding that you have rental property that is
adjacent to this, right?

MRS. POTTS: Yes.

MR. REEVES: I guess, Mr. Howard, my question
is: I did not realize rental property was allowed in
this neighborhood.

MR. HOWARD: It's zoned single-family
residential. My assumption would be that it predates
zoning.

MRS. POTTS: It does. It's grandfathered in.

MR. REEVES: You live on the property and in
addition you have renters who live on the property?

MRS. POTTS: I don't have any renters
currently.

MR. REEVES: But you have rental property that
you would like to rent; is that correct?

MRS. POTTS: Yes.

CHAIRMAN: Thank you. Let's see if we've got
anyone else that would like to add anything.

Is there anyone else that wishes to add something to this discussion?

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

MR. DEXTER: William Dexter.

MS. KNIGHT: Mr. Dexter, you're sworn as an attorney.

MR. DEXTER: Thank you.

Shirley and I are between a rock and a hard place here. I'm reminded of the old joke about one of my neighbors is for this and one of my neighbors is against it and we're for our neighbors.

Since last month, we've talked to the contractor and we've learned, which we didn't know at the time, that our concern -- we live directly behind the property on Littlewood as been described. We were concerned about the loss of privacy. We respected the setback on our side. But we've learned from the contractor, that the proposed footprint that's been shown tonight, at the back will be a one-story addition and that the rear wall will not have any windows. So that went a long way to satisfy our concerns about the loss of privacy.

So we have agreed, as has been represented by
Mike, but just so there's no misunderstanding. What we've agreed to, if you were to approve the ordinance, was they could not encroach any more than 8 1/2 feet. The 11 1/2 would be on our side.

MR. SULLIVAN: Yes.

MR. DEXTER: There's no misunderstanding about that.

Now, Rita and Craig feel very strongly about this and I respect their opinions and they're effected differently than we are. This is a tough situation. That's where we are on this. Thank you.

CHAIRMAN: Thank you.

Is there anyone else wishing to speak to voice concerns or opposition to this item?

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

MR. BROWN: Aaron Brown.

(AARON BROWN SWORN BY ATTORNEY.)

MR. BROWN: I guess my comment is that obviously anything that Mr. Sullivan has said is correct. We've not lived there about ten years. We have done one of those additions that did not require any encroachments or variances. But I think it's sort of a fallacy to -- and if it isn't, then I've got another beef with you all. I think it's a fallacy to
say, well, just because 100 years ago or 80 years ago
or 60 years ago that we did this prior to the
existence of the Board, I don't think that really
counts. You likely see it differently.

As far as rental property, Mr. Reeves, you
said you didn't realize, there's a lot of rental
property on that street; at the Ford end especially.
When that came up, I made actually a trip over and
spoke to this young lady over here about that. Since
it was grandfathered in, well, it's okay. Well, maybe
it is and maybe it isn't. That's obviously a matter
of opinion. I don't know that it's necessarily an
awful thing for the neighborhood for this to happen,
but I have a feeling what will happen is builders, and
Mr. Cecil does good work. I saw what he did across
the street from the house he's working on now. It's
excellent work. That's not an issue either. As other
opportunities become available, other people are going
to come to you. You're going to give other people
variances and before I know it I'm going to live in a
neighborhood that 1) has zero lot lines; 2) has
property taxes that I can't even pass this house down
to my children because they couldn't afford; and 3)
yes, I enjoy my 45 minute yard, but I'd really rather
not have it turned into a 10 minute yard, to not have
any green space at all. That's my concern. Thank you.

CHAIRMAN: Thank you.

Anyone have a question of Mr. Brown?

(NO RESPONSE)

CHAIRMAN: Would you like to respond?

MR. SULLIVAN: I think the reason about things in this area being non-compliant or encroachments that were built 100 years ago or 70 years ago, the reason it's relevant is when you look at your findings that you have to make in Items 2 and 4 about whether it will alter the essential character of the neighborhood or is it an unreasonable circumvention of the Zoning Ordinance. The reason those things are relevant is because this isn't Lake Forest subdivision where nothing -- well, I could be wrong, Mr. Howard. You may correct me. But there's probably not a whole lot out in Lake Forest subdivision where there's setback lines, where they're encroaching on a setback line. Here there are numerous encroachments on setback line because that's how the houses were built back then. That's where the garages were put. So that's why it's relevant. Because it's relevant to findings 2 and 4 you'll make.

I understand Mr. Brown's concerns about
covering up the yard, but if you look at this house --
if you look at a lot of the houses, whether it's
driveways, people put in pools, whether it's
driveways, sidewalks, or whatever, there's some houses
that they don't have structures that are
encroachments, but there seems to be a lot of paving.
Once you get past the front yard, there's not that
much yard. Here you've got, we're still going to have
a very large front yard that will have a lot of curb
appeal. This house will still have a lot of curb
appeal and I think it will be, again, consistent with
the character of the neighborhood.

CHAIRMAN: Is there anyone else wishing to
speak to this item?

MRS. POTTS: I just wanted to say, and I have
pictures that I can send to the board. If you look at
the area of the neighborhood and the distances between
houses, even though there have been additions that
have been put on these homes, the views are absolutely
beautiful. There's no -- I can't see one neighbor
that has a view that is obstructed.

MR. POTTS: And there's no houses there that
have 10 feet between them either. They're all well
over 30 feet between the houses. There's not these
Brookhill or whatever type, the townhouse look that
we're trying to avoid in our neighborhood. The
townhouse affect that just destroys the character of
our neighborhood. That's just too close.

CHAIRMAN: Thank you.

MRS. POTTS: I did want to say we are the
Dogwood/Azalea Trail which is historical. It was put
in in the '70s by the city and many, many, many people
are in that neighborhood walking those neighbors and
look at the beauty and they walk it. Sometimes
they'll park at the high school, they live out of the
neighborhood, to walk in those neighbors.

I think, like my husband said, we start giving
variances out, and with Mr. Brown said, the value or
the look of our neighborhood will change. I think,
you know, that's one of the sites that the chamber of
commerce, you know, has listed on websites to visit.

CHAIRMAN: Thank you.

I think we've probably covered every aspect of
this one way or the other.

Does anyone else have anything to add.

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

MR. SANFORD: Jeff Sanford, 1914 Lexington
Avenue.

(JEFF SANFORD SWORN BY ATTORNEY.)
MR. SANFORD: I would just like to say with the variances, when you start -- there's a reason why you all are up here and why things were done the way they were done 100 years ago. That's why you're here. The character of the neighborhood if it's the way it is the way it is.

My question would be: Is there a way to compromise something between the builder and my neighbors here? Is there anything out here? Is there another idea, anything drawing? Is there anything that you could do to compromise in any kind of way so there's a win/win for everybody in the neighborhood? That would be my question. Is there something out there? I don't know if you've got another drawing or something or what you may have in store. If you were to vote no, what's Plan B. Is there a Plan B? I know a lot of times when I'm up there I've got a Plan B. I don't know if there is or there isn't. That's what I would like to know. If there's a way to compromise so everybody can get a win out of this.

CHAIRMAN: I think we had one concession made with the 11.6, didn't we?

MR. SULLIVAN: Yes.

CHAIRMAN: Between Mr. Dexter and --

MR. SULLIVAN: Let me say this: I'm not a
builder so I don't know the answer to that question.

I don't think Gary has thought that far through. Let me say about the side setback line. I think you're at about 6 feet like the proposed construction. I can't remember what it is. It might be like 6.13 feet or something like that, if I recall. There's no wiggle room to reduce it down to 5 feet. It's hard to say, okay, we'll come off 5 feet with the proposed addition. Again, you're going to be out there with a ruler and there's just not as much wiggle room there as there was on the rear boundary line.

I don't like -- next thing I don't like to say is reality, but I don't like having to say this, and I've already said it a little bit, but we can put -- we can move 5-feet back from where we are and go 36-feet high and still obstruct the view. You can plant a bunch of trees that grow 50-feet high on your property line and obstruct the view. I mean there's things that can be done that don't involve a variance that can result in people's views being obstructed. I don't like saying that, but there are things that can happen in compliance with the zoning plan that can even obstruct your view more. I don't know that moving this addition 4 feet further over the property line the same height is significant. Again, I don't
like making these arguments, but if it's on the 10-foot setback line and it goes up the same amount of height, how much less view is obstructed than if it's 3 foot, 4 foot over. I don't know.

CHAIRMAN: Thank you.

MR. SANFORD: I'd just like to say about the view. There's a difference in the view of a tree and a brick wall.

MR. SULLIVAN: Okay.

MR. SANFORD: If I'm going to look at a brick wall outside of my house or a tree.

MR. SULLIVAN: You're not going to look at a brick wall outside of your house. Well, there is a brick wall outside their house already.

MR. SANFORD: Yes, but there will be a bigger one.

Also, if we do this, can I do the same thing at my house across the street to the Reeds and build a garage next to my house so they can't -- if you open the door, you open the door to other things. Final point. Thanks.

MR. SULLIVAN: My answer, Mrs. Chair, we could build at the 10-foot line and you'll still be looking out your window at a brick wall.

CHAIRMAN: Thank you.
MR. SULLIVAN: You can't stop the brick wall.

CHAIRMAN: Anyone on the board have a question or suggestion at this point?

Mr. Reeves, you're always full of ideas.

MR. REEVES: This response is to Mr. Sanford.

I appreciate what he has to say.

This board doesn't make precedence. Every single solitary issue that comes before this board is a unique issue. Somebody in the audience might cite that. We may choose not to consider it. We've heard an awful lot of testimony tonight on both sides, which I think is excellent. I was the one that made the motion last month to not approve it. I'll not tell you if I'd make a motion what is at this point in time. That was based on the fact that we did not have anything in evidence by Mr. Cecil's side that we could consider other than the written documents that we had in front of us. It's been helpful for me to see you be here tonight.

By the way, he paid two fees to be here. He paid a fee for last months. He paid a fee again this month. That would be my only comments.

I think the discussions have been extremely helpful. As all of you know, when we leave every night half are happy and half are mad. That's part of
job up here.

CHAIRMAN: That's right.

MR. SULLIVAN: Ms. Chair, I do have one
question of Mr. Dexter and that is, he had mentioned
no windows on the rear of the structure, and I didn't
know whether it was acceptable or not if there was a
window on the structure, it's on the first floor and
it's height is no greater than the height of the
existing brick wall.

CHAIRMAN: Mr. Dexter.

MR. DEXTER: You're the one that represented
to me that there were no windows on the back. I
thought I heard earlier tonight someone say that there
was a window and a closet on the side. That doesn't
affect us.

MR. CECIL: That's correct, there is a window
on the side facing north. It would be toward 1901
Lexington.

MR. DEXTER: So there's no windows on the
south side?

MR. CECIL: The reason I actually called you
earlier was there is a window shown, but I was going
to strike it here tonight on this plan, you know,
based on our conversation. I'm good without the
window.
MR. DEXTER: Well, I would like the ordinance, whether they pass it, you represented that you talked with the Staff about it and if they were to approve it, either as a condition or as part of the variance itself, that these things be in there; both the 8 1/2 feet and the no windows on the east side.

MR. CECIL: Yes, east side.

We did look at trying to shrink this addition down and stay within that 10-foot setback. Unfortunately, there's not enough space to get a two car garage, which doesn't work for the owners of the property. They wanted to stick with enough space to get two vehicles in their garage.

CHAIRMAN: Mrs. Potts.

MRS. POTTS: They can bring that drawing back up.

If you look at the principle structure, if that was built off of the principle structure, I think it would be a compromise for all of us and a win/win. There's plenty of room off of that back structure. They have a garage already that could be probably attached to that structure if you built it off of the principle part of the house, then it's not even near the wall. Keep it within the strength of the variance. Is there a reason for that?
MR. CECIL: I would ask Staff, we understand we couldn't attach to that existing garage. The fact it's already, I guess, encroaching on the property line. We couldn't attach to it and use it as an attached garage without getting this variance.

MR. HOWARD: Right. You would have to request a different variance for that because you would be creating -- if you attach without a variance, you would be creating a zoning violation because the principle structure would be located too close to the property line.

MRS. POTTS: Well, most of the houses in our neighborhood do have detached garages. I don't know what the hardship would be to not have it attached.

MR. POTTS: There's only one attached garage on our whole street.

MR. CECIL: I don't know that I have a good answer for that.

Even if we took the addition and split the master bedroom up, it's still going to be in violation of that setback. If we weren't having an attached garage question and it was this addition just slid forward without a garage, that master suite would still be in violation or still in need of a variance.

MR. POTTS: They could over behind the house
some. There's no -- like I said there's -- the lot is not narrow. It's not exceptionally shallow. It's not oddly shaped. Surely somebody could draw a plan where they could get an addition within the boundaries of the ordinance.

MR. CECIL: We could potentially come straight out the back of this house and do a deeper addition. To shed the water, we would have to do a two full-story I feel like, which would increase that roof line. We would be back into the situation where maybe we violate that 36-foot height by the time that roof line increased to shed water. I don't know that for sure. I'm not standing here with a set of plans where we've designed this house. I would expect that if you did that and you did a garage in the back that used the existing driveway, you wouldn't be able to turn around and pull out if it was attached to the house.

MR. POTT: We're still getting the townhouse effect if we get our houses built that close together.

MRS. POTT: And all driveways on that block, people back out of their driveways; so I don't understand. The people that lived there before used that driveway, backed out of it. Every tenant or owner of that home used that driveway to get in and out with no problem.
CHAIRMAN: Thank you.

Anyone else have something to add?

(NO RESPONSE)

CHAIRMAN: Any board member have a question or comment?

(NO RESPONSE)

CHAIRMAN: Are we ready for a motion?

MR. REEVES: I'm going to move for approval for this application of the Variance based on the extensive comments we've had from the audience tonight. It was appreciated. And the Staff's Findings of Fact 1 through 4 that relate to approving this motion.

CHAIRMAN: Is there a question on the motion?

MR. GLENN: Shouldn't we also add that there'd be no window on that backside? They said he wouldn't and he wanted to make sure.

MR. REEVES: Also with the condition that there be no window placed on the back side of the addition.

MR. HOWARD: The setback on the rear they agreed to reduce to 11.6.

MR. REEVES: The second condition, that they agreed on the setback with Mr. Dexter.

MS. KNIGHT: There's also a recommended Staff
condition on there; to obtain all necessary building, electrical and HVAC permits.

MR. REEVES: Yes, that condition.

MRS. POTTs: Could I also request that there is no window on our side of the property as well? They don't have a window; I don't think we should have one either.

CHAIRMAN: Mr. Sullivan.

MR. SULLIVAN: The window in the plan is adjacent to the brick wall that is on the side. If you want to restrict it to the window that's on the plan that's been submitted, that's not a problem, but it's got the brick wall as view on the first floor.

MRS. POTTs: Can you see the window above the brick wall?

MR. SULLIVAN: The window is for a closet that is across from a brick wall that, from my recollection, is at least about 5-feet tall.

CHAIRMAN: Thank you. Is there a second to the motion?

MR. GLENN: I'll second it.

CHAIRMAN: Second by Mr. Glenn. Any question on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Howard, anything else?

MR. HOWARD: No, ma'am.

CHAIRMAN: We have one more motion.

MR. GLENN: Motion to adjourn.

CHAIRMAN: We have a motion to adjourn. We need a second?

MS. MORGAN: 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 )
       ) 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 foregoing 38 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 30th day of August, 2019.

LYNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KY 42303

COMMISSION EXPIRES: DECEMBER 16, 2022
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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