The Owensboro Metropolitan Board of Adjustment
met in regular session at 5:30 p.m. on Thursday, November 7, 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
Terra Knight, Attorney
Brian Howard, Director
Bill Glenn
Andrew Howard
Tori Morgan Thompson

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CHAIRMAN: We'll call the Owensboro Metropolitan Board of Adjustment November 7th, 2019, meeting to order. And at this time, Mr. Glenn is going to lead us in the prayer and pledge. Please stand.

(Invocation and Pledge of Allegiance.)

CHAIRMAN: Seeing that we have a large crowd tonight, I want to lay down some rules to start out with. When you speak, come to the microphone and introduce yourself by name, and you'll be sworn in by our attorney. If you have comments or questions, or a question, of either side, direct them to the Chair and we'll get the answer to you so that we're not going back and forth with each other.
All right. First item on the agenda is to consider the minutes of the October 3rd, 2019, meeting. All members should have received a copy and had time to look it over. So at this time, I'll entertain a motion.

MR. ANDREW HOWARD: I make a motion.
CHAIRMAN: Motion to approve by Drew.
MS. MASON: Second.
CHAIRMAN: Second by Ruth Ann. All in favor of the motion, raise your right hand.

(All board members present responded aye.)
CHAIRMAN: Chair votes aye. Motion carries unanimously.

First item on the agenda, Mr. Howard.

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CONDITIONAL USE PERMITS
ITEM 2

4351 Greenback Road, zoned R1-A Single Family Residential Consider a request for a Conditional Use Permit in order to install a Class 2 Manufactured Home in an R-A Single Family Residential zoning classification
References: Zoning Ordinance Article 8, Section 8.2A10B/7 Applicants: Irvin Stacy and Sherry Stacy

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

MR. PEDLEY: Trey Pedley.
(Mr. Pedley sworn by the attorney.)

MR. PEDLEY: Subject property is currently zoned...
R-1A Single Family Residential. Surrounding properties are zoned R-1A Single Family Residential and A-U Urban Agriculture and include a Class 2 manufactured home on a neighboring property, which is a permitted use in an A-U zone. The one-acre subject property has until recently been utilized residentially with the submitted Class 1 manufactured home. The applicant would now like to replace the pre-existing home with a 16-by-76 Class 2 manufactured home on the subject property in the same location as a previous residential structure.

Such a structure is conditionally permitted in an R-1A Single Family Residential zone so long as it complies with all zoning ordinance requirements, of which the applicant would like to request a waiver of the sidewalk requirement to remain consistent with the remainder of Greenback Road where sidewalks are not present.

The applicant also requests approval allowing the two 9-by-18 parking spaces and the driveway apron to be gravel surfaces since the subject property is not in the city limits and many neighboring properties utilize a gravel drive.

If approved, special conditions include:

1: Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of
occupancy and compliance.

We'd like to enter the staff report into the
record as Exhibit A.

CHAIRMAN: Thank you, Mr. Pedley.

Is the applicant here?

MR. STACY: Yes.

CHAIRMAN: Would you step up and be sworn in, and we'll see if has anybody has any questions.

MS. KNIGHT: Sir --

MR. STACY: Irvin Stay, 4351 Greenback Road,

Utica, Kentucky.

(Mr. Stacy sworn by the attorney.)

CHAIRMAN: Okay. Do you have anything to add to what's been introduced into the record?

MR. STACY: No, ma'am.

CHAIRMAN: Okay. Is there anyone in the audience that has questions of the applicant or comments about this item?

(No response.)

CHAIRMAN: Does anyone on the board have questions?

(No response.)

CHAIRMAN: If not, I will entertain a motion.

MS. MASON: Madam Chairman, I'll make a motion to approve the conditional use permit. There are already
existing manufactured homes in the area. It would be compatible. It would be in harmony with the area. And with the waivers, the waiver to eliminate the required sidewalk and the waiver to the two 9-by-18 parking spaces with the driveway apron be gravel surface.

CHAIRMAN: And subject to the special condition.

MS. MASON: And subject to the special condition, yes, ma'am.

CHAIRMAN: Okay. Do I have a second?

MR. REEVES: Second.

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

(No response.)

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

(All board members present responded aye.)

THE CHAIRMAN: Opposed, like sign.

Chair votes aye. Motion carries unanimously.

Thank you.

MR. STACY: Thank you.

ITEM 3

501 Office Lane, zoned MHP Planned Manufactured Housing Park
Consider a request for a conditional use permit in order to utilize a portion of the existing manufactured housing park as a short-term rental campground.
Reference: Zoning Ordinance Article 11, Section 11.321
Applicant: Owensboro MHC, LLC
MR. PEDLEY: The subject property is zoned MHP Planned Manufactured Housing Park and is the site of an existing manufactured housing complex that is approximately 67.26 acres in size, with over 200 designated sites for manufactured homes to be utilized.

The applicant proposes to utilize roughly four percent of the park as a short-term rental campground. Conditionally permitted use of the MHC zoned complexes so long as the site complies with all zoning ordinance requirements.

The designated area, as shown on the site plan, is proposing to replace 22 interior lots that are currently intended for manufactured homes to be utilized for residential living. Should the proposal be approved, this area will no longer be intended for the utilization of such manufactured homes. Rather, any manufactured homes that are currently located within the designated area will then be treated as legal non-conforming structures for as long as the current tenant resides on the lot and within the structure that they are currently utilizing.

Surrounding the MHC complex is a combination of residential uses that are zoned R-1A Single Family Residential or are additional MHP zoned. Other surrounding properties are zoned I-2 Heavy Industrial or
zoned MHP but appear to be vacant or utilized agriculturally. The applicant has illustrated that the designated area that will be utilized as a campground is located within the interior of the MHP complex. Consequentially, any required buffers, setbacks from property lines, or screening elements that are required to separate the MHP complex from differing zones and uses will not be affected by this proposal. If approved, special conditions include:

1: Obtain approval of an Amended Final Development Plan; and

2: Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit B. CHAIRMAN: Thank you, Mr. Pedley. Is there someone here representing the applicant?

MR. SMITH: Yes. Nathan -- oh.

MS. KNIGHT: Go ahead, state your name.

MR. SMITH: Yes. Nathan Smith.

(Mr. Smith sworn by the attorney.)

CHAIRMAN: Do you have anything to add to what's
been read into the --

MR. SMITH: I do. We want to thank you guys for helping. We went to the fiscal court to ask that this be allowed in a manufactured housing community. While it says campground, these are really for RVs and normally are used for situations where you've got temporary workers coming in that would bring their RV into the community, would set up with sewer and water and electric, and would be there temporarily while they work on a project in the neighborhood or in the community.

CHAIRMAN: Thank you.

Is there anyone in the audience that has questions of the applicant or concerns to voice?

(No response.)

CHAIRMAN: Hearing none -- oh, anybody on the board have a question?

(No response.)

Okay. I'll entertain a motion.

MR. GLENN: I will make a motion to approve this request based on the information that's been presented here tonight and also that they -- there are two special conditions which need to be met before they do that.

CHAIRMAN: Thank you.

Do I have a second?

MR. ANDREW HOWARD: Second.
CHAIRMAN: Second by Mr. Howard. All in favor of the motion, raise your right hand.

(All board members present responded aye.)

CHAIRMAN: All opposed, like sign.

Motion carries unanimously.

MR. REEVES: Madam Chairman?

CHAIRMAN: Yes.

MR. REEVES: I need to recuse myself on Items 5 and 6. I'm currently talking to Mr. Martin about purchase of property.

MR. BRIAN HOWARD: We're only on four, though.

CHAIRMAN: We're only on four.

MR. REEVES: Okay. I'll stay. Nobody said I could count.

CHAIRMAN: Please note that Mr. Howard is recusing himself from the next item.

ITEM 4

9511 Old Highway 54, zoned A-U Urban Agricultural Consider request for a Conditional Use Permit in order to operate a campground on the subject property. Reference: Zoning Ordinance, Article 8, Section 8.2K742

Applicant: Daniel W. Kinney

MR. PEDLEY: The subject property is currently zoned A-U Urban Agriculture. All adjoining properties that are located on the north side of Highway 54 are zoned A-U Urban Agriculture or A-R Rural Agriculture and appear to be large agricultural tracts with single family
residential uses. Across Highway 54, to the south of the subject property, all adjoining properties are smaller lots that are zoned R-1A Single Family Residential and appear to be residential in nature.

The applicant proposes to utilize the eight-acre subject property to operate a ten-lot campground, a conditionally permitted use in the A-U zoning class. Based upon the site plan, it appears as though the intent is to locate all ten lots along the eastern perimeter of the access drive. The drive is an existing 20-foot wide access easement which does encroach onto the adjoining property to the west and provides access for utilities at the rear of the subject property. The access drive will remain open for the utilities. And while the site plan illustrates that the ten lots will adjoin the perimeter of the drive, all camping activity shall take place exclusively on the subject property, with all camping areas located at least ten feet from the side property line.

The applicant will be required to submit a Final Development Plan to determine compliance with all zoning ordinance regulations.

The zoning ordinance requires one parking space per three participants for each campsite within the development and vehicular use area screening consisting of
a three-foot-tall continuous element and one tree per 40 linear feet to be located where the vehicular use area adjoins public rights-of-way. Such regulations will be reviewed with the required Final Development Plan should the proposal be approved.

If approved, special conditions include:

1. Obtain approval of a Final Development Plan;

and

2. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit C.

CHAIRMAN: Thank you.

Is there anyone here representing the applicant?

(No response.)

CHAIRMAN: Mr. Kinney is not here.

Is there anyone here wishing to ask questions or voice concerns about this item? One at a time.

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

MS. HOWARD: Lisa Howard.

(Ms. Howard sworn by the attorney.)

MS. HOWARD: And I actually have presentations for you all. Would you like to see them?
CHAIRMAN: Sure.

MS. KNIGHT: That's fine.

MR. BRIAN HOWARD: Could you give one to the court reporter?

MS. HOWARD: I own property at 9625 Highway 54, and my sister owns the property that's located at 9635 Highway 54. Our properties butt up to this property where the proposed campground is going to be, and we have significant concerns as to having a campground that close to our property.

I have laid out for you the concerns in this memo. Some of the concerns include potential property value decrease; the fact that the property that we own is currently being utilized for hunting, so there is an issue there over concerns of people from the campground coming over and it being a liability of them being on our property during hunting season.

Our area has a clearly wooded trail. There's beautiful woods with trails, and it's very inviting to campers. I would be extremely concerned that there would be the chance of trespassing.

In addition to those concerns, I have the greatest concern being that you have a campground with campfires and somebody is not watching over it. If the woods were to catch on fire, the closest paid fire
department is in Philpot, Kentucky. We have a volunteer
fire department in Whitesville, Kentucky. Our acreage
that abuts up to it is mainly woods, and then there's
houses at the end. The chance of that fire getting put
out, where it sits down in the woods and the houses, is
almost nonexistent considering the circumstances and
surroundings.

In addition to that, my sister recently, at
9635, built a beautiful home; has two young children that
are three years old. We like to know who our neighbors
are. We live in a small community, bought these lots so
we would know who we live next to. So it causes us great
distress to think that there's a potential of a campground
going in, with people that come in and out at all times,
maybe even year round, and us not know who our neighbors
are anymore.

I think I've covered the main concerns that I
have in the memo. There are several others that want to
speak. We did go around and try to get names and
signatures of a lot of other people that are opposed to
this as well, that have the same concerns that we do,
coming from a small community. And we know who our
neighbors are. And this could drastically change that.
It could change the entire impact of the area that we live
in on those properties. Thank you.
CHAIRMAN: Someone else wishing to speak?

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

MS. KELLEY: I go by Debbie Kelley. It's Deborah Kelley.

(Ms. Kelley sworn by the attorney.)

MS KELLEY: The property that my children received the notification on used to be ours, and we've divided it off between our girls and ourselves. So we are not attached to them directly. However, the woods that's there directly covers everybody in that area. I don't know, have any of you physically been there where he's proposing this? Has anybody seen it?

MR. GLENN: I have not, no.

MS. KELLEY: Okay. Before you would ever even begin to approve this, I'd really appreciate it if you would go there and look. The property he's talking about is a very dense wooded area. Yes, we do have trails through there. We do go through there. But there's a lot of woods, brush, and stuff. Because the person before him had it logged out. They left a lot of stuff. That is one of my major concerns, is really due to fire.

It did not dawn on me -- I do have two pages of signatures here. Because when we got the notification -- my daughters brought it up -- I thinking this is our
problem. This is -- everybody who attaches to him, it's our problem. It dawned on me last night, it's not just our problem. The whole City of Whitesville, the whole surrounding area is going to be affected by whoever ends up coming in there.

A campground sounds beautiful. This is not Diamond Lake. Right now what is up there is a hill. And that's what it is. It's a hill. Most of the ground there is sandstone underneath. As far as having any type of septic system, sewer, it would cost a lot, if he gets hooked up to it. It's not favorable. There is no attraction like a lake or like a scenic view. There is nothing there that would attract a camper. But would it attract someone else that needed a place to kind of hide out? It would, definitely.

I don't want to call people out or anything else. But I'm just saying, this is not a campground where a retired person is going to go to enjoy. That is not what this is. And if you actually look at the property and you can see, you will understand the great concern that we have of what is being an opportunity for people to come into our community and to our homes, and the safety-ness that we felt will not be there.

I appreciate your time. Would you all like to have the signature pages? And I will let you know, the
only reason why there are so few -- I've got two pages.

It didn't dawn on me until last night, and it wasn't until
about five o'clock that I decided I'm going to put this on
Facebook. And immediately people started sharing it and
we started getting people's voices. And then the next
thing --

I don't even know this gentleman. I've never
met him face-to-face that I even know of. But I have not
heard anything favorable towards him. The last project
that he tried doing, he built some type of garage that he
never did finish. It ended up falling down. It stayed
there for an enormous amount of time, and it was not
cleared up.

So I'll give you these signatures.

CHAIRMAN: You want to start them down there and
then --

MS. HOWARD: It's just the two pages. All I
have is one copy.

CHAIRMAN: And you want them entered into the
record?

MS. HOWARD: Yes.

CHAIRMAN: Okay. Thank you.

MS. HOWARD: And if I'd had the time, I would
have had a whole lot more.

CHAIRMAN: Yes, sir?
MR. KELLEY: I'm Richard Kelly.

MS. KNIGHT: Mr. Kelley --

MR. KELLEY: Same residence. I'm sorry.

MS. KNIGHT: That's fine.

(Mr. Kelley sworn by the attorney.)

MR. KELLEY: I think the concern of most of the people here tonight, or a lot of people, are that the term campground is given loosely. They're afraid it's going to be a trailer park. My communication with the Planning Commission was that no time limit these people have to get in and out of these spots, so someone could actually make this a residence.

Another concern is the septic system. The individual living at this location, I had the pleasure of returning a dog to his location, his residence last year. And I smelled a strong odor of septic. I observed drain tiles coming out of the side of the house. I can only imagine his waste was going down the hill.

I was told by somebody that tried to buy the property, attempted to buy the property years ago, it was all sandstone and rock; it was not suitable for houses; it was also not suitable for a septic system.

You know, if he is going to maintain his property that way, what's his campground going to look like? And you're talking about 10 times the waste. And I
don't see where this is a good thing for anybody involved.

Like my wife said, the safety issue. You've got people coming and going. You know, what kind of people are going to be staying there? There's nothing to see, absolutely nothing there. The only thing you see is one or two hundred yards you go to the ATV trails we have now. It's nice there.

His side has been logged out. It's thick. It's undergrowth. And if the campground, so-called campground, terminology, is maintained anything like his residence was that I saw a year ago, you've got a mess. And from what I hear, there's already a trailer sitting on the side of the road, a mobile home kind of trailer.

And who am I directing my questions to if the applicant is not here? Is that a good question? That's all I've got.

CHAIRMAN: Thank you.

Is there someone else that wishes to speak?

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

MS. MAYFIELD: I'm Patsy Mayfield, the mayor of Whitesville.

(Ms. Mayfield sworn by the attorney.)

MS. MAYFIELD: My first concern is -- someone's already said the sewage system. Our sewer line does not
go as far as where he's wanting to build all these
campsites at.

And my other concern is that the city has the
right-of-way that goes up in there where he's wanting to
put these campers at. And we have our -- we have Kenergy
up there, Verizon. And our water tank, I'm concerned
about that. And our weather alarm is also up there. And
it's all fenced in. But my concern is, to get all these
people up there, I'm afraid something will happen with all
this wireless and Verizon and Kenergy, all that. I just
--

And I've had several phone calls today. People
in Whitesville is not for it at all. And that is my
concern. And I thank you for your time.

CHAIRMAN: Thank you.

Is there someone else wishing to speak? Yes,
sir.

MR. MAYFIELD: Ronnie Mayfield.

(Mr. Mayfield sworn by the attorney.)

MR. MAYFIELD: Sitting here tonight, I heard
talking about the fire department. I'm with the fire
department. That property, we've made three runs of it
when that property -- structure fire. And also, there was
illegal burning in that area. We've only got one truck,
one pumper that could probably even make that run. It is
a very, very steep hill. Only one vehicle can go up at a
time. You cannot go up the road and come down the road at
the same time. Only one way up and one way down. So we
have some concerns about firefighting in that area. Life
safety also. The hills is so steep that we do not have
any piece of equipment that can go up and down the sides
of the hill. If the woods fire, one of the concerns is,
we're either going to have to wait till the fire comes up
the hill and stop at the top of the hill, or the fire
comes down the hill, stop it there. There's no way to
fight the fire on either side of it. It's that steep.
And that's my concern. Thank you.

CHAIRMAN: Thank you.
Is there anyone else wishing to speak?

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

MR. WOODRUFF: Jacob Woodruff.
(Mr. Woodruff sworn by the attorney.)
MR. WOODRUFF: I live at 9635. We just built a
very nice home. My sister-in-law talked about it. My
mother-in-law; father-in-law; my wife, Casey. We have
twins, you know.

That woods, our kids travel up that hill with us
as of now. When they get older, I can see it being a
severe problem if there's somebody on that property that,
for a better lack of words, drug use, alcohol, or any kind of violence. I just don't want that around my children.
That's my major concern.

A fire, yeah, that could happen. Great. It could be awful. But drugs and stuff like that, when it comes to that kind of stuff there, I can't see it being positive for the community at all.

And really, that's my only concern now. That's all I want to say.

CHAIRMAN: Thank you.

MR. WOODRUFF: Thank you.

CHAIRMAN: Yes, sir.

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

MR. COOMES: Roger Coomes.

(Mr. Coomes sworn by the attorney.)

MR. COOMES: I reside at 9504 Highway 54. My property's right across the road from the property we're talking about. Mr. Kinney, a few years ago, attempted to make some kind of a building over there, and Ms. Kelley alluded to it.

I'm up on a big hill. I'm up on top of my hill. So I can very easily see.

He attempted to put trusses on it. The building failed. At that time, he didn't permit or go to the
zoning or anything. He just went up and done it. He
pushed dirt around and stopped up the state drainage ditch
and backed water up to my road.

And the only reason I'm bringing this up --
that's in the past. But in my opinion, his past record
doesn't speak too well for me. My big concern is, when
you use the word campsite, -- talking to the zoning people
-- that's really not a good definition as to what really
is going to happen at a campsite. In other words, how
long can somebody bring in whatever and camp there? And
could they be there forever and still call it a camp? I'm
camping here.

The type of people -- if he's really after a
trailer court, that's what he ought to apply for. But
it's right across from my house. And like it's already
been said, most of the homes up and down that highway
within reasonable seeing distance are pretty nice homes.

Thank you for your time.

CHAIRMAN: Thank you.

Is there anyone else? Yes, sir.

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

MR. BASHAM: Fred Basham.

(Mr. Basham sworn by the attorney.)

MR. BASHAM: I've lived in that neighborhood --
I'm going to tell my age here in a little bit -- for probably 54 years. I run those hills and those woods when I was a kid. That is not a campground site. I'm going to tell you. It's not.

Like Mr. Coomes up there -- and I've known Danny for 20 years. And he's tried several ventures there. One was the building. It fell in, collapsed, laid there. He decided he was going to try to build a strip mall along 54. He took a dozer, just like Mr. Coomes said, filled the ditches in. Didn't check with the state or anything.

On top of that, when he dozed, it had a heavy rain. I live probably a quarter of a mile from that site. Mud washed off of that hillside, down Ward Road, across an elderly lady's yard, across my yard, and on the way down Ward Road. He had to have shovels digging the mud out.

Like I said, I've know Danny for 20 years. I'm not here to be negative. I'm just saying I know his business. This is not a campsite. It's not fit for a campsite. That's all I've got to say.

CHAIRMAN: Thank you.

Is there anyone else?

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

MR. MCKINLEY: My name's Ed McKinley.

(Mr. McKinley sworn by the attorney.)
MR. MCKINLEY: I adjoin the property where Mr. Kinney's property -- well, I'm right there at the next farm over. And our main concern down there is that we've got a good neighborhood, and there's people that come down them woods and hunt there. Most of them are pretty good people. But if we get people in there just traveling through or living in a bad situation, we're going to have them down there fishing in our lakes, going in our barns, stealing our tools. Things are kind of left wide open. And that's what I'm concerned about.

Now, there's a good possibility of fire, like we talked about. A couple of fires been cut over, that gets to going, it's going to burn up a lot of stuff in there. But my main concern is the people that's going to be there. We've got a good neighborhood. I'm neighbors with all these people here, and it's a good place to live. And I don't think we need to have a campsite, per se, or a trailer park right there.

I'm not against trailers. I've lived in one myself. But I think we need to look it over, what's going on there. Thank you all.

CHAIRMAN: Thank you.

Is there anyone else that has -- You want -- yes, ma'am.

MS. KNIGHT: You were previously sworn, so
you're still under oath.

MS. HOWARD: Okay. I do want to make one clarification. We are the property owners at 9625. I currently reside at 8464 764. Our hopes are, in the future, to be able to build there and build a home. That's another concern that I have, since currently I have a two-year-old and six-year-old.

And we have a few people here tonight have mentioned how steep it is. I believe at one time, it is said that where the water tower is, that it's the highest point in Daviess County. That's why you have all those satellite towers up there. So I just wanted to kind of emphasize that, how steep a grade you are talking. Thank you.

CHAIRMAN: Thank you.

Is there anyone that has something to add that has not already been spoken about?

Yes, sir.

MS. KNIGHT: Sir, you were previously sworn as well. You're still under oath.

MR. KELLEY: Yes. Who do we direct our questions to? I mean, this applicant is supposed to obviously be here to answer our questions. Is there anyone here that can answer any questions?

CHAIRMAN: We'll address that in just a second.
MR. KELLEY: Can I just ask the process? When do you determine your results, and how will that be made knowledgeable to us?

CHAIRMAN: We will have some sort of a vote one way or another tonight.

MR. KELLEY: Tonight? Is there any -- I don't know what information you have on the applicant, any background or anything. I'm retired law enforcement for the last 26 years. I took a lot of these signatures. It was thrown at me constantly this person's criminal history. I don't know what background checks you do, anything of that nature.

CHAIRMAN: We don't usually do background checks.

MR. KELLEY: You don't do background checks?

CHAIRMAN: No.

MR. KELLEY: So you don't have any knowledge of a track record or criminal history?

MS. KNIGHT: No. Typically it's not relevant in these types of proceedings.

CHAIRMAN: Yeah, it's not relevant to this, to our items.

MR. KELLEY: From what I heard today, there's nothing good. And from what I know, there's nothing good. So we'll just leave it at that.
CHAIRMAN: All right. Thank you.

MR. KELLEY: Thank you for your time.

CHAIRMAN: Is there anyone else?

(No response.)

CHAIRMAN: Okay. Board members, sound off.

(No response.)

CHAIRMAN: No questions?

MR. REEVES: No questions.

MR. GLENN: No questions.

CHAIRMAN: Are you ready for a motion?

MR. REEVES: Yeah.

CHAIRMAN: Mr. Reeves?

MR. REEVES: I make a motion to deny this application based upon that it is not compatible with anything in the surrounding area nor is it a logical expansion of any current activity in that area. And based on tonight's testimony, it would most likely create a public nuisance.

CHAIRMAN: Thank you.

MR. GLENN: Second.

CHAIRMAN: Second. 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: Opposed, like sign.

Motion carries. The application is denied.

(Audience applause.)

MR. BRIAN HOWARD: Fred, you're going to recuse yourself?

MR. REEVES: Yeah.

CHAIRMAN: Now you can leave.

MR. REEVES: Now I can leave.

MR. BRIAN HOWARD: That's the conditional use permits. We'll go ahead and move on with variances.

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VARIANCES

ITEM 5

1611 Cary Court, zoned R-1A Single Family Residential
Consider a request for a variance in order to reduce the required side yard building setback on both sides of the property from 10 feet from the side property lines to 5 feet from the side property lines and to reduce the required street yard building setback along Parrish Court from 25 feet from the property line to 13 feet from the property line.
Reference: Zoning Ordinance, Article 8, Section 8.5.5(c) and Section 8.5.5(d)
Applicant: Paul Martin Builders, Inc.

CHAIRMAN: Mr. Pedley?

MR. PEDLEY: The subject property is a vacant lot that has road footage on Parrish Court and Cary Court and is located in an area established before the current zoning ordinance requirements were in place. All properties spanning from 1404 Parrish Court to 1624
Parrish Court are 50 feet in width despite a current zoning regulation requirement for a minimum of 75 feet of road frontage for lots that are zoned R-1A Single Family Residential.

The applicant proposes to construct a single-family residence on the subject property that will face Cary Court, with driveway access stemming from Parrish Court. Because of the lot's insufficient width and the building setbacks, any residence constructed on the property has a maximum width of 30 feet unless a variance is obtained. This has been an issue within this area in the past and such encroachments can be found elsewhere on Parrish Court. Next door to the subject property, at 1608 Parrish Court, a variance was obtained to reduce the side yard building setbacks from 10 feet to 5 feet in order to construct a new residence very similar to the variance request at this subject property. It should be noted that allowing five-foot side yard setbacks on the subject property will still leave room for at least a 10-foot separation distance between the proposed home and the residences on the neighboring lots, as required by the Kentucky Residential Building Code.

Additionally, the subject property has a 25-foot street yard setback along both Parrish Court and Cary Court, eliminating 50 feet of the lot's total 122 feet in.
length for any type of building, principal or accessory. Consequently, the applicant has requested a variance to reduce the street yard building setback along Parrish Court from 25 feet to 13 feet from the property line in order to fit an attached garage on the subject property. Such a street yard encroachment can be commonly found in the area. From 1410 to 1624 Parrish Court, there are currently nine homes on the west side of Parrish Court. Of those nine, eight of which encroach into the required street yard setback along Parrish Court.

Granting the variance to reduce the setbacks as requested will not alter the essential character of the general vicinity, will not cause a public nuisance to the public, and will not adversely affect the public safety because similar encroachments can commonly be found along Parrish Court. Meanwhile, the proposed residence will still maintain the required 10-foot separation distance from neighboring homes. Additionally, granting this variance will not be an unreasonable circumvention of the requirements of the zoning regulations because the narrowness of the lots within this area does not comply with the current regulations, which has created the need for this variance.

Staff recommends approval with the condition that the applicant obtain all necessary building,
electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit D.

CHAIRMAN: Thank you, Mr. Pedley.

Is there someone here representing the applicant?

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

MR. MARTIN: Paul Martin.

(Mr. Martin was sworn by the attorney.)

CHAIRMAN: Do you have anything to add to what's been presented tonight?

MR. MARTIN: No.

CHAIRMAN: Is there anyone in the audience who has a question for Mr. Martin or the board or a comment on this item?

(No response.)

CHAIRMAN: Hearing none, I'll entertain a motion to dispose of this item.

Mr. Glenn?

MR. GLENN: I want to make a motion to approve this application based on the facts presented, that there are already five-yard setbacks already in this area and it will not change the way that that area looks or the
character of it. And that still leaves 10 foot between each -- between each building, and that's what's required. Also, it's not going to cause any essential character differences, which I just said that awhile ago.

CHAIRMAN: Thank you.

MR. GLENN: And that they can do the one special condition.

CHAIRMAN: Thank you.

Second?

MS. THOMPSON: Second.

CHAIRMAN: Tori.

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: Opposed, like sign.

Chair votes aye. Motion carries.

Next item, Mr. Howard.

ITEM 6

1617 Cary Court, zoned R-1A Single Family Residential Consider a request for a variance in order to reduce the required side yard building setback on both sides of the property from 10 feet from the side property lines to 5 feet from the side property lines.
Reference: Zoning Ordinance, Article 8, Section 8.5.5(d)
Applicant: Paul Martin Builders, Inc.

MR. PEDLEY: The subject property is a vacant
lot that has road frontage along Parrish Court and Cary Court while also bordering a 15-foot-wide alley to the south. It is located next door to the previous agenda item. Just like before, this lot is only 50-feet wide, creating the need for a five-foot side yard variance on both sides. Because of the neighboring lot, it is currently vacant.

It’s also important to note the site plan submitted shows the proposed residence to be located 21.06 feet from the property line along Parrish Court. Ordinarily, along local streets such as Parrish Court, lots have a 25-foot street yard setback. However, the zoning ordinance does allow for an average setback to be utilized in situations like this. A street yard building setback variance is not required for the proposed home.

Granting the variance to reduce the side yard setbacks as requested will not alter the essential character of the general vicinity, will not cause a nuisance to the public, will not adversely affect the public safety because similar encroachments can commonly be found along Parrish Court. Meanwhile, the proposed residence will still maintain the required 10-foot separation distance from the neighboring homes.

Additionally, granting this request will not be an unreasonable circumvention of the requirements of the
zoning regulations because the narrowness of the lots within this area does not comply with the current regulations, which has created the need for this variance. Staff recommends approval with the condition that the applicant:

1. Obtain all necessary building, electrical, and HVAC permits, inspections, and certifications of occupancy and compliance.

We'd like to enter the staff report into the record as Exhibit E.

CHAIRMAN: Thank you.

Mr. Martin, do you have anything to add to this?

MR. MARTIN: No, I do not.

CHAIRMAN: Any board members have any questions of Mr. Martin?

(No response.)

CHAIRMAN: Anyone in the audience have opposition or concerns about this item?

(No response.)

CHAIRMAN: Hearing none, I'll entertain a motion.

Ms. Mason?

MS. MASON: I move for approval of granting this variance. It will not -- to reduce the side yard setback as requested will not alter the essential character of the
general vicinity and will not cause a nuisance and will not adversely affect public safety because similar encroachments are found along there. And proposed residence will still maintain the 10-foot separation distance from neighboring homes. And with the condition to obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance.

CHAIRMAN: Thank you.
Second to the motion?
MS. THOMPSON: Second.
CHAIRMAN: Tori.
Any question on the motion?
(No response.)
CHAIRMAN: All in favor of the motion, raise your right hand.
(All board members responded aye.)
CHAIRMAN: Motion carries unanimously. Chair votes aye.

ITEM 7
1405 Locust Street, zoned R-4DT Innter-City Residential Consider a request for a variance in order to reduce the required rear yard building setback from 20 feet from the rear property line to 15 feet from the rear property line.
Reference: Zoning Ordinance Article 8, Section 8.5.11(e)
Applicant: Joseph McKinley, Jr. & Teresa B. McKinley
MR. PEDLEY: This is a recommendation for
denial, and so the entire staff report will be read into
the record.

Special circumstances? Are there special
circumstances that do not generally apply to land in the
general vicinity or in the same zone? Yes.

The subject property, zoned R-4DT Inner-City
Residential, is a vacant lot that is located near the
southeast intersection of West 14th Street and Locust
Street with a 10-foot-wide alley running along the rear of
the property separating the subject property from
neighbors to the rear. At 135 by 56, the lot is 7,558
square feet in size, significantly larger than the 5,000
square feet minimum lot size for such uses in an R-4DT
zoning classification.

In addition to the minimum lot size
requirements, lots that are zoned R-4DT are typically
required to maintain building setbacks consisting of 25
feet in the front yard, 20 feet in the rear yard, and 5
feet on the sides. While this remains true for the rear
and side setbacks on the subject property, previous
subdivision plats have illustrated that the subject
property is required to maintain a 30-foot front yard
building setback rather than the typical 25 feet.

The applicant intends to build a single-family
residence on the subject property that is 88 feet in
length, including a rear-facing attached garage. However,
due to the 30-foot front yard building setback and 20-foot
rear yard building setback, the maximum length of a
principal structure on this lot is 85 feet. Consequently,
the applicant has requested a variance to reduce the rear
yard building setback in order to construct a
single-family residence with the desired floorplan on the
subject property.

While the atypical front yard building setback
is hindering the development of the proposed residence on
this property, it is important to note that the staff
measurements of the submitted floor plan have calculated
that the proposed house has a footprint of roughly 3,000
square feet in size. The zoning ordinance states that
residential properties can utilize up to 50 percent of the
lot's size with roofed structures, which, on this lot,
allows the structure to be as large as 3,779 square feet.

Additionally, when taking all aforementioned
required building setbacks into consideration, the subject
property has a building envelope of 3,910 square feet, of
which principal structures can be located within.

Consequently, despite the large front yard building
setback, the subject property can still adequately support
a 3,000-square-foot residential structure on the property
without the need for a variance. Such a statement is especially true when considering that this is a lot without existing structures hindering development; but rather, this is a vacant lot with plenty of room to generate a residential layout in compliance with all required building setbacks.

The application has stated that such an encroachment can be found elsewhere throughout the general vicinity. However, staff site visits have indicated that such encroachments within the area are all detached structures. This is an important distinction because while principal structures have a 20-foot rear yard building setback, accessory structures are allowed to be as close as three feet to the side and rear property lines as long as they are outside of all easements. Of the several detached structures in the area, there is one that is attached to the principal structure by way of a screened-in breezeway, which is considered to be an unenclosed accessory building. The zoning ordinance allows this connection by stating that unenclosed accessory buildings may be attached to accessory structures, may be attached to principal structures, or may connect separate enclosed buildings to one another. This is an option that the applicant can consider performing on the subject property. However, it does not
qualify as an encroachment in the general area that is comparable to the requested variance. Granting this variance may not adversely affect the public safety and may not cause a nuisance to the public because the rear of the home is primarily an attached garage and because there is a 10-foot-wide alley behind the subject property. However, granting this variance will alter the essential character of the general vicinity and will be an unreasonable circumvention of zoning regulations because there are not any similar encroachments in the area and the vacant lot is of adequate size to support a residence of the proposal's square footage.

B. Hardship? Would the strict application of the regulations deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant? No.

If the application is denied, the property owners could reconfigure the home's floorplan and construct a home that is in compliance with all building setbacks.

C. Applicants' actions? Are the circumstances from which relief is sought a result of the applicants' actions taken after adoption of the zoning regulation? No.
If yes, willful actions? Did the applicant take willful actions in violations of the zoning regulation?
If so, the board shall deny the variance.

Findings: Granting this variance:
1. May not adversely affect the public health, safety, or welfare because there is a 10-foot-wide alley to the rear of the home which further separates the subject property from the neighbors to the rear;
2. Will alter the essential character of the general vicinity because of all other principle structures in the immediate area are in compliance with the required rear yard building setback.
3. May not cause a hazard or nuisance to the public because the majority of the rear of the principal structure that will be encroaching into the required rear yard building setback consists primarily of an attached garage as opposed to living space, and so such an encroachment may not infringe upon neighbors' feelings of privacy within their own rear yards; and
4. Will allow an unreasonable circumvention of the requirements of the zoning regulations because the subject property is a large, vacant lot with a large enough building envelope and a large enough allowed structural footprint to permit the
construction of a single-family residence comparable
to the size of the desired home.

Staff recommendation: Denial.

We'd like to enter the staff report into the
record as Exhibit F.

I also want to clarify that while the staff
report that you just heard references a 30-foot front yard
building setback based off the previous plat, we in the
office did today receive a revised plat and a letter from
an attorney stating that that front yard setback can be
reduced to 25 feet. So with that 25-foot front setback as
opposed to what was a 30, as mentioned in the staff
report, the desired floorplan could actually still be
utilized if the owner shifted a few feet on the property.

Regardless, after conversations between staff
and the applicant, the applicant would like to move
forward with this request, still requesting the rear yard
setback as advertised.

CHAIRMAN: Thank you.

Is there anyone here representing the applicant?

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

JUDGE McKINLEY: Joseph McKinley.

MS. KNIGHT: Judge McKinley, you're sworn as a

Judge.
JUDGE McKINLEY: Thank you. I wish I had the mayor of Whitesville here with me.

You know, what he just said was that we do now -- and I gave you all some information, I believe.

CHAIRMAN: Yes.

JUDGE McKINLEY: I hope you read it. I foot-noted the fact that we were hoping to get this legal opinion that would convince Bryant Engineering to submit a plat showing a 25-foot setback, which is what I always thought it was in the first place.

So, it's true that we can build our desired plan within the applicable setbacks. So, you know, I called today. Well, should we just go home? Should we let you all go home early? Why show up and advance this cause?

And I thought, well, they're not going to give me my money back. So I thought, I want you to consider the character of the neighborhood. And -- and think about whether or not it makes more sense for us to be able to get a variance to move our house back, more in line with everybody else on the street, rather than encroach on the building, the rear setback line for a couple of feet.

I think you saw in the information that I sent you, the backyards, the back alley, it's a hodgepodge of garages and fences. There is no character to that neighborhood in that alley. The character to the

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neighborhood is in the front. And it's the front porches. It's the sidewalks. It's what you see from the street. So we can build our house, sure. But it's going to stick out from everybody else.

And my suggestion for you to consider is -- you know, we don't need five feet. We need two or three feet. Move it back. Make it look more in line with everybody else. We're still going to be 17, 18 feet from the alley. Like I said in the papers, it's going to look like a football field away from the alley compared to everybody else. So I don't see how granting the variance will alter the essential character of the neighborhood. I think it will maybe enhance it. So that's my approach to this issue. And it's up to you to do what you want to do about it. How about that?

CHAIRMAN: Thank you, Judge.

JUDGE McKinley: Okay.

CHAIRMAN: Anyone else wishing to speak to this item?

(No response.)

CHAIRMAN: Anyone wishing to speak in opposition?

MR. REEVES: I've got a question.

Judge, can I ask you a question, please?

JUDGE McKinley: Yes, sir.
MR. REEVES: Am I correct in what you're proposing is, if I were to draw a straight line in front of the houses, you're proposing that -- put the picture back, please. Yeah. You're proposing to build it so that we essentially have a straight line with all the houses in the front?

JUDGE McKINLEY: You could do that. I mean, my preference would be to have as much room in the back as possible. But to blend in and be straight in line, you'd have to go back to the 30-foot setback, which would mean that we would need at least three feet. The builder, you know, he wants wiggle room. He doesn't want to -- he wants to build that to five feet, but we don't really need five feet. And I think we could probably do it with a two-foot variance. Just to get it back a little bit more would help.

MR. REEVES: Just one other question, if you know this. Because we don't have a street view. The house is fronting what street?

CHAIRMAN: Locust.

MR. REEVES: Do they have front porches?

JUDGE McKINLEY: Carl Greenwell does not. The one next to him does. And the Marshes do not, but the ones across the street do.

MR. REEVES: Okay. Thank you.
JUDGE McKINLEY: The Marshes have a side porch that fronts 14th.

MR. REEVES: I see that. Okay.

CHAIRMAN: Thank you.

Mr. Howard, do you have anything to add to this?

MR. BRIAN HOWARD: No. I think the point he made, if you're inclined to grant the variance, I think a two-foot variance, leaving 18 on the back side, would be our suggestion in that. Typically, if you have a front-loading garage, the zoning ordinance requires an 18-foot setback from the property line so that you have enough room to park a vehicle there without encroaching into the right-of-way. So if you're inclined to approve a variance, since they have a little wiggle room on the front, that will give them a little wiggle room on the back, but then that will also allow 18 feet of driveway that they could park cars in the driveway and hopefully wouldn't impede in the public alley on the back side. But that's the only thing I would add.

JUDGE McKINLEY: We practiced that, and we can. We took sawhorses and all that kind of stuff. So, yeah, we could do that. It's just an effort to make it look better.

CHAIRMAN: Thank you.

Any board members have any questions of Mr.
McKinley, Judge McKinley?

(No response.)

CHAIRMAN: Everybody ready for some kind of motion?

(No response.)

CHAIRMAN: Don't everybody jump at once here.

MR. REEVES: I'm going to need some help with the motion. But I want to make a motion to approve it but with the variance that Mr. McKinley talked about with the garage.

Did he need some -- did he need additional variance to do the garage, what he was talking about, Mr. Howard?

MR. BRIAN HOWARD: Huh-uh.

JUDGE McKINLEY: I think if you approved two and a half feet, I could get my builder to move it two feet and he could maybe live with six-inch wiggle room, maybe. But I think he'd probably want me to do three feet.

MR. REEVES: So is the variance application for three feet?

JUDGE McKINLEY: It's for five feet.

MR. BRIAN HOWARD: The request is for five.

MR. REEVES: Okay.

MR. BRIAN HOWARD: But now there's discussion on, could it be less than that.
MR. REEVES: Then I would make a motion to approve the variance but that the distance be moved from five feet to three feet.

MR. BRIAN HOWARD: Okay.

MS. KNIGHT: Based on?

CHAIRMAN: Based on?

MR. REEVES: Based upon the testimony we've heard tonight and the builder's nodding his head back there that this would work.

UNIDENTIFIED SPEAKER: He's not the builder.

UNIDENTIFIED SPEAKER: I'm the surveyor.

MR. REEVES: Well, I thought he was the builder.

He's the surveyor.

(Crosstalk)

MR. REEVES: Was Mr. Bryant involved here at all?

CHAIRMAN: Do I have a second on the motion?

MR. ANDREW HOWARD: Yeah.

CHAIRMAN: From Mr. Howard.

Any question on the motion?

(No response.)

Any comments from anybody else?

(No response.)

All in favor of the motion, raise your right hand.
(All board members present responded aye.)

CHAIRMAN: Chair votes aye. Motion carries unanimously.

JUDGE McKinley: Thank you.

ITEM 8

4100 & 4128 Vincent Station Drive, zoned I-1 Light Industrial
Consider a request for a variance in order to eliminate the required outdoor storage screening element consisting of a six-foot-tall solid wall or fence along the rear of the outdoor storage yard where the subject properties adjoin the CSX Railroad.
Reference: Zoning Ordinance, Article 8, Section 8.5.3(J)
Applicant: Vincent Station Rental Properties, LLC; MF Properties, LLC

MR. PEDLEY: The subject properties are located on Vincent Station Drive and is currently the home of Buildings by Wayne Baker and Disaster Team, Incorporated. Historically, the two have operated from 4100 Vincent Station Drive, which includes their offices, indoor shops, and a gravel outdoor storage yard. The operations are now planning to expand the gravel outdoor storage yard to 4128 Vincent Station Drive as well.

The zoning ordinance states that outdoor storage areas shall be fully enclosed with a six-foot-tall solid wall or fence. However, the subject properties back up to the CSX Railroad, and so the applicant contends that such a screening element is not necessary along the rear of the property. It's important to note that on the other side
of the railroad tracks is a residential neighborhood. Site visits from staff have noted that the railroad tracks are approximately six feet higher than the eastern portion of the storage yards, creating an effective screening element. Meanwhile, the elevation of the railroad track appears to decrease as the tracks travel farther west. However, as shown on the submitted site plan, the western portion of the outdoor storage yard contains a detention basin that's approximately 130 feet long and encroaching into the storage yard by approximately 50 feet. No outdoor storage or gravel shall be located within this basin, creating an effective buffer between the outdoor storage areas and the residential properties.

Granting this variance:

1. Will not adversely affect the public safety;
2. Will not be an unreasonable circumvention of the zoning regulations;
3. Will not cause a nuisance to the public because a portion of the storage yard that will not be screened by a six-foot-tall solid wall or fence will still have an effective screening element and buffer.
4. Will not alter the essential character of the general vicinity because the outdoor storage
areas will be screened appropriately where they
directly adjoin all other properties and public
roads.

Staff recommends approval with the condition
that the applicant:

1. Obtain an approved site plan of which the
detention basin on the subject properties shall be
shown without the encroachment of any outdoor storage
or gravel materials.

We'd like to enter the staff report into the
record as Exhibit G.

CHAIRMAN: Thank you, Mr. Pedley.

Is there anyone here representing the applicant?

MR. BAKER: Here.

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

MR. BAKER: I'm Wayne Baker, 4100 Vincent
Station Drive.

(Mr. Baker sworn by the attorney.)

CHAIRMAN: Do you have anything to add to what's
been read into the record tonight?

MR. BAKER: No. I'm just here to answer any
questions, maybe, if there is any.

CHAIRMAN: Anyone have any questions of Mr.
Baker?
(No response.)

CHAIRMAN: Anyone in the audience?

(No response.)

CHAIRMAN: I'll entertain a motion.

MS. THOMPSON: I'll make a motion to approve the variance. Granting it will not adversely affect the public safety, will not be an unreasonable circumvention of the zoning regulations. It will not cause a nuisance to the public. And as long as they honor the condition to obtain an approved site plan of a detention basin.

CHAIRMAN: Thank you.

We have a motion by Ms. --

MR. GLENN: Second.

CHAIRMAN: Second. All in favor --

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: Chair votes aye. Motion carries unanimously.

Any other items before our board tonight?

MR. BRIAN HOWARD: No, ma'am.

CHAIRMAN: I'll entertain one more motion.

MR. GLENN: Motion to adjourn.
MS. THOMPSON: Second.

CHAIRMAN: Meeting's adjourned. Gather your things and leave.

(The meeting adjourned at 6:30 p.m.)
STATE OF KENTUCKY 
COUNTY OF DAVIESS 

I, Rhonda Simpson, 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 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 52 typewritten pages; and that no signature was requested to the transcript.

WITNESS my hand and notary seal on this the 23rd day of December 2019.

RHONDA SIMPSON, NOTARY PUBLIC
STATE-AT-LARGE
OHIO VALLEY REPORTING SERVICE
2200 E. PARRISH AVENUE, SUITE 106-E
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
AUGUST 14, 2023
COUNTY OF RESIDENCE:
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