

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 NOVEMBER 7, 2019

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday, November
5 7, 2019, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Judy Dixon, Chairman
8 Fred Reeves, Vice Chairman
9 Ruth Ann Mason, Secretary
10 Terra Knight, Attorney
11 Brian Howard, Director
12 Bill Glenn
13 Andrew Howard
14 Tori Morgan Thompson

15 * * * * *

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

20 (Invocation and Pledge of Allegiance.)

21 CHAIRMAN: Seeing that we have a large crowd
22 tonight, I want to lay down some rules to start out with.
23 When you speak, come to the microphone and introduce
24 yourself by name, and you'll be sworn in by our attorney.
25 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.

1 All right. First item on the agenda is to
2 consider the minutes of the October 3rd, 2019, meeting.
3 All members should have received a copy and had time to
4 look it over. So at this time, I'll entertain a motion.

5 MR. ANDREW HOWARD: I make a motion.

6 CHAIRMAN: Motion to approve by Drew.

7 MS. MASON: Second.

8 CHAIRMAN: Second by Ruth Ann. All in favor of
9 the motion, raise your right hand.

10 (All board members present responded aye.)

11 CHAIRMAN: Chair votes aye. Motion carries
12 unanimously.

13 First item on the agenda, Mr. Howard.

14 -----

15 CONDITIONAL USE PERMITS

16 ITEM 2

17 4351 Greenback Road, zoned R1-A Single Family Residential
18 Consider a request for a Conditional Use Permit in order
19 to install a Class 2 Manufactured Home in an R-A Single
20 Family Residential zoning classification
References: Zoning Ordinance Article 8, Section 8.2A10B/7
Applicants: Irvin Stacy and Sherry Stacy

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

23 MR. PEDLEY: Trey Pedley.

24 (Mr. Pedley sworn by the attorney.)

25 MR. PEDLEY: Subject property is currently zoned

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

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

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

23 If approved, special conditions include:

24 1: Obtain all necessary building, electrical,
25 and HVAC permits, inspections, and certificates of

1 occupancy and compliance.

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

4 CHAIRMAN: Thank you, Mr. Pedley.

5 Is the applicant here?

6 MR. STACY: Yes.

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

9 MS. KNIGHT: Sir --

10 MR. STACY: Irvin Stay, 4351 Greenback Road,
11 Utica, Kentucky.

12 (Mr. Stacy sworn by the attorney.)

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

15 MR. STACY: No, ma'am.

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

19 (No response.)

20 CHAIRMAN: Does anyone on the board have
21 questions?

22 (No response.)

23 CHAIRMAN: If not, I will entertain a motion.

24 MS. MASON: Madam Chairman, I'll make a motion
25 to approve the conditional use permit. There are already

1 existing manufactured homes in the area. It would be
2 compatible. It would be in harmony with the area. And
3 with the waivers, the waiver to eliminate the required
4 sidewalk and the waiver to the two 9-by-18 parking spaces
5 with the driveway apron be gravel surface.

6 CHAIRMAN: And subject to the special condition.

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

9 CHAIRMAN: Okay. Do I have a second?

10 MR. REEVES: Second.

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

13 (No response.)

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

16 (All board members present responded aye.)

17 THE CHAIRMAN: Opposed, like sign.

18 Chair votes aye. Motion carries unanimously.

19 Thank you.

20 MR. STACY: Thank you.

21 ITEM 3

22 501 Office Lane, zoned MHP Planned Manufactured Housing
23 Park

24 Consider a request for a conditional use permit in order
25 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

1 MR. PEDLEY: The subject property is zoned MHP
2 Planned Manufactured Housing Park and is the site of an
3 existing manufactured housing complex that is
4 approximately 67.26 acres in size, with over 200
5 designated sites for manufactured homes to be utilized.

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

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

22 Surrounding the MHC complex is a combination of
23 residential uses that are zoned R-1A Single Family
24 Residential or are additional MHP zoned. Other
25 surrounding properties are zoned I-2 Heavy Industrial or

1 zoned MHP but appear to be vacant or utilized
2 agriculturally.

3 The applicant has illustrated that the
4 designated area that will be utilized as a campground is
5 located within the interior of the MHP complex.
6 Consequentially, any required buffers, setbacks from
7 property lines, or screening elements that are required to
8 separate the MHP complex from differing zones and uses
9 will not be affected by this proposal.

10 If approved, special conditions include:

11 1: Obtain approval of an Amended Final
12 Development Plan; and

13 2: Obtain all necessary building, electrical,
14 and HVAC permits, inspections, and certificates of
15 occupancy and compliance.

16 We'd like to enter the staff report into the
17 record as Exhibit B.

18 CHAIRMAN: Thank you, Mr. Pedley.

19 Is there someone here representing the
20 applicant?

21 MR. SMITH: Yes. Nathan -- oh.

22 MS. KNIGHT: Go ahead, state your name.

23 MR. SMITH: Yes. Nathan Smith.

24 (Mr. Smith sworn by the attorney.)

25 CHAIRMAN: Do you have anything to add to what's

1 been read into the --

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

11 CHAIRMAN: Thank you.

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

14 (No response.)

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

17 (No response.)

18 Okay. I'll entertain a motion.

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

23 CHAIRMAN: Thank you.

24 Do I have a second?

25 MR. ANDREW HOWARD: Second.

1 CHAIRMAN: Second by Mr. Howard. All in favor
2 of the motion, raise your right hand.

3 (All board members present responded aye.)

4 CHAIRMAN: All opposed, like sign.

5 Motion carries unanimously.

6 MR. REEVES: Madam Chairman?

7 CHAIRMAN: Yes.

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

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

12 CHAIRMAN: We're only on four.

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

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

17 ITEM 4

18 9511 Old Highway 54, zoned A-U Urban Agricultural
19 Consider request for a Conditional Use Permit in order to
20 operate a campground on the subject property.
Reference: Zoning Ordinance, Article 8, Section 8.2K742
Applicant: Daniel W. Kinney

21 MR. PEDLEY: The subject property is currently
22 zoned A-U Urban Agriculture. All adjoining properties
23 that are located on the north side of Highway 54 are zoned
24 A-U Urban Agriculture or A-R Rural Agriculture and appear
25 to be large agricultural tracts with single family

1 residential uses. Across Highway 54, to the south of the
2 subject property, all adjoining properties are smaller
3 lots that are zoned R-1A Single Family Residential and
4 appear to be residential in nature.

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

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

23 The zoning ordinance requires one parking space
24 per three participants for each campsite within the
25 development and vehicular use area screening consisting of

1 a three-foot-tall continuous element and one tree per 40
2 linear feet to be located where the vehicular use area
3 adjoins public rights-of-way. Such regulations will be
4 reviewed with the required Final Development Plan should
5 the proposal be approved.

6 If approved, special conditions include:

7 1. Obtain approval of a Final Development Plan;

8 and

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

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

14 CHAIRMAN: Thank you.

15 Is there anyone here representing the applicant?

16 (No response.)

17 CHAIRMAN: Mr. Kinney is not here.

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

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

22 MS. HOWARD: Lisa Howard.

23 (Ms. Howard sworn by the attorney.)

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

1 CHAIRMAN: Sure.

2 MS. KNIGHT: That's fine.

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

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

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

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

22 In addition to those concerns, I have the
23 greatest concern being that you have a campground with
24 campfires and somebody is not watching over it. If the
25 woods were to catch on fire, the closest paid fire

1 department is in Philpot, Kentucky. We have a volunteer
2 fire department in Whitesville, Kentucky. Our acreage
3 that abuts up to it is mainly woods, and then there's
4 houses at the end. The chance of that fire getting put
5 out, where it sits down in the woods and the houses, is
6 almost nonexistent considering the circumstances and
7 surroundings.

8 In addition to that, my sister recently, at
9 9635, built a beautiful home; has two young children that
10 are three years old. We like to know who our neighbors
11 are. We live in a small community, bought these lots so
12 we would know who we live next to. So it causes us great
13 distress to think that there's a potential of a campground
14 going in, with people that come in and out at all times,
15 maybe even year round, and us not know who our neighbors
16 are anymore.

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

1 CHAIRMAN: Someone else wishing to speak?

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

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

6 (Ms. Kelley sworn by the attorney.)

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

14 MR. GLENN: I have not, no.

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

23 It did not dawn on me -- I do have two pages of
24 signatures here. Because when we got the notification --
25 my daughters brought it up -- I thinking this is our

1 problem. This is -- everybody who attaches to him, it's
2 our problem. It dawned on me last night, it's not just
3 our problem. The whole City of Whitesville, the whole
4 surrounding area is going to be affected by whoever ends
5 up coming in there.

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

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

24 I appreciate your time. Would you all like to
25 have the signature pages? And I will let you know, the

1 only reason why there are so few -- I've got two pages.
2 It didn't dawn on me until last night, and it wasn't until
3 about five o'clock that I decided I'm going to put this on
4 Facebook. And immediately people started sharing it and
5 we started getting people's voices. And then the next
6 thing --

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

14 So I'll give you these signatures.

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

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

19 CHAIRMAN: And you want them entered into the
20 record?

21 MS. HOWARD: Yes.

22 CHAIRMAN: Okay. Thank you.

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

25 CHAIRMAN: Yes, sir?

1 MR. KELLEY: I'm Richard Kelly.

2 MS. KNIGHT: Mr. Kelley --

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

4 MS. KNIGHT: That's fine.

5 (Mr. Kelley sworn by the attorney.)

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

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

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

23 You know, if he is going to maintain his
24 property that way, what's his campground going to look
25 like? And you're talking about 10 times the waste. And I

1 don't see where this is a good thing for anybody involved.

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

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

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

17 CHAIRMAN: Thank you.

18 Is there someone else that wishes to speak?

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

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

23 (Ms. Mayfield sworn by the attorney.)

24 MS. MAYFIELD: My first concern is -- someone's
25 already said the sewage system. Our sewer line does not

1 go as far as where he's wanting to build all these
2 campsites at.

3 And my other concern is that the city has the
4 right-of-way that goes up in there where he's wanting to
5 put these campers at. And we have our -- we have Kenergy
6 up there, Verizon. And our water tank, I'm concerned
7 about that. And our weather alarm is also up there. And
8 it's all fenced in. But my concern is, to get all these
9 people up there, I'm afraid something will happen with all
10 this wireless and Verizon and Kenergy, all that. I just
11 --

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

15 CHAIRMAN: Thank you.

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

18 MR. MAYFIELD: Ronnie Mayfield.

19 (Mr. Mayfield sworn by the attorney.)

20 MR. MAYFIELD: Sitting here tonight, I heard
21 talking about the fire department. I'm with the fire
22 department. That property, we've made three runs of it
23 when that property -- structure fire. And also, there was
24 illegal burning in that area. We've only got one truck,
25 one pumper that could probably even make that run. It is

1 a very, very steep hill. Only one vehicle can go up at a
2 time. You cannot go up the road and come down the road at
3 the same time. Only one way up and one way down. So we
4 have some concerns about firefighting in that area. Life
5 safety also. The hills is so steep that we do not have
6 any piece of equipment that can go up and down the sides
7 of the hill. If the woods fire, one of the concerns is,
8 we're either going to have to wait till the fire comes up
9 the hill and stop at the top of the hill, or the fire
10 comes down the hill, stop it there. There's no way to
11 fight the fire on either side of it. It's that steep.
12 And that's my concern. Thank you.

13 CHAIRMAN: Thank you.

14 Is there anyone else wishing to speak?

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

17 MR. WOODRUFF: Jacob Woodruff.

18 (Mr. Woodruff sworn by the attorney.)

19 MR. WOODRUFF: I live at 9635. We just built a
20 very nice home. My sister-in-law talked about it. My
21 mother-in-law; father-in-law; my wife, Casey. We have
22 twins, you know.

23 That woods, our kids travel up that hill with us
24 as of now. When they get older, I can see it being a
25 severe problem if there's somebody on that property that,

1 for a better lack of words, drug use, alcohol, or any kind
2 of violence. I just don't want that around my children.
3 That's my major concern.

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

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

10 CHAIRMAN: Thank you.

11 MR. WOODRUFF: Thank you.

12 CHAIRMAN: Yes, sir.

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

15 MR. COOMES: Roger Coomes.

16 (Mr. Coomes sworn by the attorney.)

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

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

24 He attempted to put trusses on it. The building
25 failed. At that time, he didn't permit or go to the

1 zoning or anything. He just went up and done it. He
2 pushed dirt around and stopped up the state drainage ditch
3 and backed water up to my road.

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

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

18 Thank you for your time.

19 CHAIRMAN: Thank you.

20 Is there anyone else? Yes, sir.

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

23 MR. BASHAM: Fred Basham.

24 (Mr. Basham sworn by the attorney.)

25 MR. BASHAM: I've lived in that neighborhood --

1 I'm going to tell my age here in a little bit -- for
2 probably 54 years. I run those hills and those woods when
3 I was a kid. That is not a campground site. I'm going to
4 tell you. It's not.

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

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

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

20 CHAIRMAN: Thank you.

21 Is there anyone else?

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

24 MR. MCKINLEY: My name's Ed McKinley.

25 (Mr. McKinley sworn by the attorney.)

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

11 Now, there's a good possibility of fire, like we
12 talked about. A couple of fires been cut over, that gets
13 to going, it's going to burn up a lot of stuff in there.

14 But my main concern is the people that's going
15 to be there. We've got a good neighborhood. I'm
16 neighbors with all these people here, and it's a good
17 place to live. And I don't think we need to have a
18 campsite, per se, or a trailer park right there.

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

22 CHAIRMAN: Thank you.

23 Is there anyone else that has --

24 You want -- yes, ma'am.

25 MS. KNIGHT: You were previously sworn, so

1 you're still under oath.

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

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

15 CHAIRMAN: Thank you.

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

18 Yes, sir.

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

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

25 CHAIRMAN: We'll address that in just a second.

1 MR. KELLEY: Can I just ask the process? When
2 do you determine your results, and how will that be made
3 knowledgeable to us?

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

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

13 CHAIRMAN: We don't usually do background
14 checks.

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

16 CHAIRMAN: No.

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

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

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

23 MR. KELLEY: From what I heard today, there's
24 nothing good. And from what I know, there's nothing good.
25 So we'll just leave it at that.

1 CHAIRMAN: All right. Thank you.

2 MR. KELLEY: Thank you for your time.

3 CHAIRMAN: Is there anyone else?

4 (No response.)

5 CHAIRMAN: Okay. Board members, sound off.

6 (No response.)

7 CHAIRMAN: No questions?

8 MR. REEVES: No questions.

9 MR. GLENN: No questions.

10 CHAIRMAN: Are you ready for a motion?

11 MR. REEVES: Yeah.

12 CHAIRMAN: Mr. Reeves?

13 MR. REEVES: I make a motion to deny this

14 application based upon that it is not compatible with

15 anything in the surrounding area nor is it a logical

16 expansion of any current activity in that area. And based

17 on tonight's testimony, it would most likely create a

18 public nuisance.

19 CHAIRMAN: Thank you.

20 MR. GLENN: Second.

21 CHAIRMAN: Second. Any question on the motion?

22 (No response.)

23 CHAIRMAN: All in favor of the motion, raise

24 your right hand.

25 (All board members present responded aye.)

1 CHAIRMAN: Opposed, like sign.
2 Motion carries. The application is denied.
3 (Audience applause.)
4 MR. BRIAN HOWARD: Fred, you're going to recuse
5 yourself?
6 MR. REEVES: Yeah.
7 CHAIRMAN: Now you can leave.
8 MR. REEVES: Now I can leave.
9 MR. BRIAN HOWARD: That's the conditional use
10 permits. We'll go ahead and move on with variances.

11 -----

12 VARIANCES

13 ITEM 5

14 1611 Cary Court, zoned R-1A Single Family Residential
15 Consider a request for a variance in order to reduce the
16 required side yard building setback on both sides of the
17 property from 10 feet from the side property lines to 5
18 feet from the side property lines and to reduce the
19 required street yard building setback along Parrish Court
20 from 25 feet from the property line to 13 feet from the
21 property line.
22 Reference: Zoning Ordinance, Article 8, Section 8.5.5(c)
23 and Section 8.5.5(d)
24 Applicant: Paul Martin Builders, Inc.

20 CHAIRMAN: Mr. Pedley?
21 MR. PEDLEY: The subject property is a vacant
22 lot that has road footage on Parrish Court and Cary Court
23 and is located in an area established before the current
24 zoning ordinance requirements were in place. All
25 properties spanning from 1404 Parrish Court to 1624

1 Parrish Court are 50 feet in width despite a current
2 zoning regulation requirement for a minimum of 75 feet of
3 road frontage for lots that are zoned R-1A Single Family
4 Residential.

5 The applicant proposes to construct a
6 single-family residence on the subject property that will
7 face Cary Court, with driveway access stemming from
8 Parrish Court. Because of the lot's insufficient width
9 and the building setbacks, any residence constructed on
10 the property has a maximum width of 30 feet unless a
11 variance is obtained. This has been an issue within this
12 area in the past and such encroachments can be found
13 elsewhere on Parrish Court. Next door to the subject
14 property, at 1608 Parrish Court, a variance was obtained
15 to reduce the side yard building setbacks from 10 feet to
16 5 feet in order to construct a new residence very similar
17 to the variance request at this subject property. It
18 should be noted that allowing five-foot side yard setbacks
19 on the subject property will still leave room for at least
20 a 10-foot separation distance between the proposed home
21 and the residences on the neighboring lots, as required by
22 the Kentucky Residential Building Code.

23 Additionally, the subject property has a 25-foot
24 street yard setback along both Parrish Court and Cary
25 Court, eliminating 50 feet of the lot's total 122 feet in

1 length for any type of building, principal or accessory.
2 Consequently, the applicant has requested a variance to
3 reduce the street yard building setback along Parrish
4 Court from 25 feet to 13 feet from the property line in
5 order to fit an attached garage on the subject property.
6 Such a street yard encroachment can be commonly found in
7 the area. From 1410 to 1624 Parrish Court, there are
8 currently nine homes on the west side of Parrish Court.
9 Of those nine, eight of which encroach into the required
10 street yard setback along Parrish Court.

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

24 Staff recommends approval with the condition
25 that the applicant obtain all necessary building,

1 electrical, and HVAC permits, inspections, and
2 certificates of occupancy and compliance.

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

5 CHAIRMAN: Thank you, Mr. Pedley.

6 Is there someone here representing the
7 applicant?

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

10 MR. MARTIN: Paul Martin.

11 (Mr. Martin was sworn by the attorney.)

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

14 MR. MARTIN: No.

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

18 (No response.)

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

21 Mr. Glenn?

22 MR. GLENN: I want to make a motion to approve
23 this application based on the facts presented, that there
24 are already five-yard setbacks already in this area and it
25 will not change the way that that area looks or the

1 character of it. And that still leaves 10 foot between
2 each -- between each building, and that's what's required.
3 Also, it's not going to cause any essential character
4 differences, which I just said that awhile ago.

5 CHAIRMAN: Thank you.

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

8 CHAIRMAN: Thank you.

9 Second?

10 MS. THOMPSON: Second.

11 CHAIRMAN: Tori.

12 Any question on the motion?

13 (No response.)

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

16 (All board members present responded aye.)

17 CHAIRMAN: Opposed, like sign.

18 Chair votes aye. Motion carries.

19 Next item, Mr. Howard.

20 ITEM 6

21 1617 Cary Court, zoned R-1A Single Family Residential
22 Consider a request for a variance in order to reduce the
23 required side yard building setback on both sides of the
24 property from 10 feet from the side property lines to 5
25 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

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

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

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

24 Additionally, granting this request will not be
25 an unreasonable circumvention of the requirements of the

1 zoning regulations because the narrowness of the lots
2 within this area does not comply with the current
3 regulations, which has created the need for this variance.

4 Staff recommends approval with the condition
5 that the applicant:

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

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

11 CHAIRMAN: Thank you.

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

13 MR. MARTIN: No, I do not.

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

16 (No response.)

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

19 (No response.)

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

22 Ms. Mason?

23 MS. MASON: I move for approval of granting this
24 variance. It will not -- to reduce the side yard setback
25 as requested will not alter the essential character of the

1 general vicinity and will not cause a nuisance and will
2 not adversely affect public safety because similar
3 encroachments are found along there. And proposed
4 residence will still maintain the 10-foot separation
5 distance from neighboring homes. And with the condition
6 to obtain all necessary building, electrical, and HVAC
7 permits, inspections, and certificates of occupancy and
8 compliance.

9 CHAIRMAN: Thank you.

10 Second to the motion?

11 MS. THOMPSON: Second.

12 CHAIRMAN: Tori.

13 Any question on the motion?

14 (No response.)

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

17 (All board members responded aye.)

18 CHAIRMAN: Motion carries unanimously. Chair
19 votes aye.

20 Next item, Mr. Howard.

21 ITEM 7

22 1405 Locust Street, zoned R-4DT Innter-City Residential
23 Consider a request for a variance in order to reduce the
24 required rear yard building setback from 20 feet from the
25 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

1 MR. PEDLEY: This is a recommendation for
2 denial, and so the entire staff report will be read into
3 the record.

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

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

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

25 The applicant intends to build a single-family

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

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

19 Additionally, when taking all aforementioned
20 required building setbacks into consideration, the subject
21 property has a building envelope of 3,910 square feet, of
22 which principal structures can be located within.
23 Consequently, despite the large front yard building
24 setback, the subject property can still adequately support
25 a 3,000-square-foot residential structure on the property

1 without the need for a variance. Such a statement is
2 especially true when considering that this is a lot
3 without existing structures hindering development; but
4 rather, this is a vacant lot with plenty of room to
5 generate a residential layout in compliance with all
6 required building setbacks.

7 The application has stated that such an
8 encroachment can be found elsewhere throughout the general
9 vicinity. However, staff site visits have indicated that
10 such encroachments within the area are all detached
11 structures. This is an important distinction because
12 while principal structures have a 20-foot rear yard
13 building setback, accessory structures are allowed to be
14 as close as three feet to the side and rear property lines
15 as long as they are outside of all easements. Of the
16 several detached structures in the area, there is one that
17 is attached to the principal structure by way of a
18 screened-in breezeway, which is considered to be an
19 unenclosed accessory building. The zoning ordinance
20 allows this connection by stating that unenclosed
21 accessory buildings may be attached to accessory
22 structures, may be attached to principal structures, or
23 may connect separate enclosed buildings to one another.
24 This is an option that the applicant can consider
25 performing on the subject property. However, it does not

1 qualify as an encroachment in the general area that is
2 comparable to the requested variance.

3 Granting this variance may not adversely affect
4 the public safety and may not cause a nuisance to the
5 public because the rear of the home is primarily an
6 attached garage and because there is a 10-foot-wide alley
7 behind the subject property. However, granting this
8 variance will alter the essential character of the general
9 vicinity and will be an unreasonable circumvention of
10 zoning regulations because there are not any similar
11 encroachments in the area and the vacant lot is of
12 adequate size to support a residence of the proposal's
13 square footage.

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

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

22 C. Applicants' actions? Are the circumstances
23 from which relief is sought a result of the applicants'
24 actions taken after adoption of the zoning regulation?
25 No.

1 If yes, willful actions? Did the applicant take
2 willful actions in violations of the zoning regulation?
3 If so, the board shall deny the variance.

4 Findings: Granting this variance:

5 1. May not adversely affect the public health,
6 safety, or welfare because there is a 10-foot-wide
7 alley to the rear of the home which further separates
8 the subject property from the neighbors to the rear;

9 2. Will alter the essential character of the
10 general vicinity because of all other principle
11 structures in the immediate area are in compliance
12 with the required rear yard building setback.

13 3. May not cause a hazard or nuisance to the
14 public because the majority of the rear of the
15 principal structure that will be encroaching into the
16 required rear yard building setback consists
17 primarily of an attached garage as opposed to living
18 space, and so such an encroachment may not infringe
19 upon neighbors' feelings of privacy within their own
20 rear yards; and

21 4. Will allow an unreasonable circumvention of
22 the requirements of the zoning regulations because
23 the subject property is a large, vacant lot with a
24 large enough building envelope and a large enough
25 allowed structural footprint to permit the

1 construction of a single-family residence comparable
2 to the size of the desired home.

3 Staff recommendation: Denial.

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

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

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

19 CHAIRMAN: Thank you.

20 Is there anyone here representing the applicant?

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

23 JUDGE MCKINLEY: Joseph McKinley.

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

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

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

5 CHAIRMAN: Yes.

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

11 So, it's true that we can build our desired plan
12 within the applicable setbacks. So, you know, I called
13 today. Well, should we just go home? Should we let you
14 all go home early? Why show up and advance this cause?
15 And I thought, well, they're not going to give me my money
16 back. So I thought, I want you to consider the character
17 of the neighborhood. And -- and think about whether or
18 not it makes more sense for us to be able to get a
19 variance to move our house back, more in line with
20 everybody else on the street, rather than encroach on the
21 building, the rear setback line for a couple of feet.

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

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

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

16 CHAIRMAN: Thank you, Judge.

17 JUDGE MCKINLEY: Okay.

18 CHAIRMAN: Anyone else wishing to speak to this
19 item?

20 (No response.)

21 CHAIRMAN: Anyone wishing to speak in
22 opposition?

23 MR. REEVES: I've got a question.

24 Judge, can I ask you a question, please?

25 JUDGE MCKINLEY: Yes, sir.

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

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

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

20 CHAIRMAN: Locust.

21 MR. REEVES: Do they have front porches?

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

25 MR. REEVES: Okay. Thank you.

1 JUDGE MCKINLEY: The Marshes have a side porch
2 that fronts 14th.

3 MR. REEVES: I see that. Okay.

4 CHAIRMAN: Thank you.

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

6 MR. BRIAN HOWARD: No. I think the point he
7 made, if you're inclined to grant the variance, I think a
8 two-foot variance, leaving 18 on the back side, would be
9 our suggestion in that. Typically, if you have a
10 front-loading garage, the zoning ordinance requires an
11 18-foot setback from the property line so that you have
12 enough room to park a vehicle there without encroaching
13 into the right-of-way. So if you're inclined to approve a
14 variance, since they have a little wiggle room on the
15 front, that will give them a little wiggle room on the
16 back, but then that will also allow 18 feet of driveway
17 that they could park cars in the driveway and hopefully
18 wouldn't impede in the public alley on the back side. But
19 that's the only thing I would add.

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

24 CHAIRMAN: Thank you.

25 Any board members have any questions of Mr.

1 McKinley, Judge McKinley?

2 (No response.)

3 CHAIRMAN: Everybody ready for some kind of
4 motion?

5 (No response.)

6 CHAIRMAN: Don't everybody jump at once here.

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

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

14 MR. BRIAN HOWARD: Huh-uh.

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

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

21 JUDGE MCKINLEY: It's for five feet.

22 MR. BRIAN HOWARD: The request is for five.

23 MR. REEVES: Okay.

24 MR. BRIAN HOWARD: But now there's discussion
25 on, could it be less than that.

1 MR. REEVES: Then I would make a motion to
2 approve the variance but that the distance be moved from
3 five feet to three feet.

4 MR. BRIAN HOWARD: Okay.

5 MS. KNIGHT: Based on?

6 CHAIRMAN: Based on?

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

10 UNIDENTIFIED SPEAKER: He's not the builder.

11 UNIDENTIFIED SPEAKER: I'm the surveyor.

12 MR. REEVES: Well, I thought he was the builder.
13 He's the surveyor.

14 (Crosstalk)

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

17 CHAIRMAN: Do I have a second on the motion?

18 MR. ANDREW HOWARD: Yeah.

19 CHAIRMAN: From Mr. Howard.

20 Any question on the motion?

21 (No response.)

22 Any comments from anybody else?

23 (No response.)

24 All in favor of the motion, raise your right
25 hand.

1 (All board members present responded aye.)

2 CHAIRMAN: Chair votes aye. Motion carries
3 unanimately.

4 JUDGE MCKINLEY: Thank you.

5 ITEM 8

6 4100 & 4128 Vincent Station Drive, zoned I-1 Light
7 Industrial

8 Consider a request for a variance in order to eliminate
9 the required outdoor storage screening element consisting
10 of a six-foot-tall solid wall or fence along the rear of
11 the outdoor storage yard where the subject properties
12 adjoin the CSX Railroad.

13 Reference: Zoning Ordinance, Article 8, Section 8.5.3(J)
14 Applicant: Vincent Station Rental Properties, LLC; MF
15 Properties, LLC

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

24 The zoning ordinance states that outdoor storage
25 areas shall be fully enclosed with a six-foot-tall solid
26 wall or fence. However, the subject properties back up to
27 the CSX Railroad, and so the applicant contends that such
28 a screening element is not necessary along the rear of the
29 property. It's important to note that on the other side

1 of the railroad tracks is a residential neighborhood.

2 Site visits from staff have noted that the
3 railroad tracks are approximately six feet higher than the
4 eastern portion of the storage yards, creating an
5 effective screening element. Meanwhile, the elevation of
6 the railroad track appears to decrease as the tracks
7 travel farther west. However, as shown on the submitted
8 site plan, the western portion of the outdoor storage yard
9 contains a detention basin that's approximately 130 feet
10 long and encroaching into the storage yard by
11 approximately 50 feet. No outdoor storage or gravel shall
12 be located within this basin, creating an effective buffer
13 between the outdoor storage areas and the residential
14 properties.

15 Granting this variance:

16 1. Will not adversely affect the public safety;

17 2. Will not be an unreasonable circumvention of
18 the zoning regulations;

19 3: Will not cause a nuisance to the public
20 because a portion of the storage yard that will not
21 be screened by a six-foot-tall solid wall or fence
22 will still have an effective screening element and
23 buffer.

24 4: Will not alter the essential character of
25 the general vicinity because the outdoor storage

1 areas will be screened appropriately where they
2 directly adjoin all other properties and public
3 roads.

4 Staff recommends approval with the condition
5 that the applicant:

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

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

12 CHAIRMAN: Thank you, Mr. Pedley.

13 Is there anyone here representing the applicant?

14 MR. BAKER: Here.

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

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

19 (Mr. Baker sworn by the attorney.)

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

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

24 CHAIRMAN: Anyone have any questions of Mr.
25 Baker?

1 (No response.)

2 CHAIRMAN: Anyone in the audience?

3 (No response.)

4 CHAIRMAN: I'll entertain a motion.

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

11 CHAIRMAN: Thank you.

12 We have a motion by Ms. --

13 MR. GLENN: Second.

14 CHAIRMAN: Second. All in favor --

15 Any question on the motion?

16 (No response.)

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

19 (All board members present responded aye.)

20 CHAIRMAN: Chair votes aye. Motion carries
21 unanimously.

22 Any other items before our board tonight?

23 MR. BRIAN HOWARD: No, ma'am.

24 CHAIRMAN: I'll entertain one more motion.

25 MR. GLENN: Motion to adjourn.

1 MS. THOMPSON: Second.

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

4 (The meeting adjourned at 6:30 p.m.)

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1 STATE OF KENTUCKY)
) SS. REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, Rhonda Simpson, Notary Public in and for the
4 State of Kentucky-at-Large, do hereby certify that the
5 foregoing Owensboro Metropolitan Board of Adjustment
6 meeting was held at the time and place as stated in the
7 caption to the proceedings; that each person commenting on
8 issues under discussion were duly sworn before testifying;
9 that the board members present were as stated in the
10 caption; that said proceedings were taken by me in
11 stenotype and electronically recorded and was thereafter,
12 by me, accurately and correctly transcribed into the
13 foregoing 52 typewritten pages; and that no signature was
14 requested to the transcript.

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

17

18

19

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

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COMMISSION EXPIRES:
23 AUGUST 14, 2023
COUNTY OF RESIDENCE:
24 DAVIESS COUNTY, KENTUCKY

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