

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 SEPTEMBER 3, 2020

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 September 3, 2020, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

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

16 * * * * *

17 CHAIRMAN: We're going to call the Owensboro
18 Board of Adjustment September 3, 2020 meeting to
19 order. We'll start out our meeting with an invocation
20 and pledge to the flag by Mr. Howard.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: First item on the agenda is to
23 consider the minutes of the August 6, 2020 meeting.
24 Members have been mailed a copy of the minutes. It's
25 ready for approval.

MR. GLENN: Motion to approve.

CHAIRMAN: Motion to approve by Mr. Glenn.

MS. MASON: Second.

1 CHAIRMAN: Second by Ms. Mason. Any
2 questions?

3 (NO RESPONSE)

4 CHAIRMAN: All in favor raise your right hand.
5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.
7 Number 2, Mr. Howard.

8 MR. HOWARD: Just as a bit of housekeeping, we
9 would ask that anyone that comes and speaks at one of
10 the public mikes tonight that you keep your mask on,
11 since others will be using that. The board members
12 are stationary and they are allowed to take their
13 masks off, if they choose. We'll be glad to listen to
14 testimony from anybody. If you're at one of the
15 public mikes, please keep your mask on.

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17 CONDITIONAL USE PERMITS

18 ITEM 2

19 9635 Highway 60 E, zoned A-R Rural Agriculture & A-U
20 Urban Agriculture
21 Consider a request for a Conditional Use Permit in
22 order to operate an RV Campground on the subject
23 property.
24 References: Zoning Ordinance Article 8, Section 8.2K7
25 Applicant: Snowflake Holdings, LLC; Billy Bowlds

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

MS. EVANS: Melissa Evans.

1 (MELISSA EVANS SWORN BY ATTORNEY.)

2 MS. EVANS: The subject property is a 42.125
3 acre parcel that is zoned A-R Rural Agriculture. The
4 subject property is located within an area that
5 contains a variety of agricultural activity,
6 especially equine uses. Under Kentucky law,
7 agricultural and silvicultural operations enjoy
8 certain protection from non-agriculture land uses.

9 The applicants wish to utilize the property in
10 order to establish a campground that consist of 120
11 recreational vehicle campsites, primitive tent camping
12 areas located on the central island, an office, and
13 several accessory recreational uses such as a
14 volleyball court, playgrounds and shuffleboard courts.

15 They anticipate they will employ six full-time
16 employees and that the office will operate during
17 daylight hours.

18 Parking for the customers is provided on each
19 respective campsite and overflow parking areas
20 throughout the campground. Employee parking is
21 provided in a gravel parking area near the office.

22 Within the interior of the property, the RV
23 campsite are accessed via a 20 foot wide gravel drive
24 that circles the perimeter of the lake. The proposed
25 20 foot drive meets the ordinance requirements for

1 one-way traffic; it is not wide enough to support
2 two-way traffic however. If the applicant intends to
3 allow two directional traffic on this drive, expansion
4 of the drive width to at least 24 feet would be
5 required.

6 All the vehicular use areas shown on the site
7 are gravel at this time, and although gravel is a
8 permitted service for vehicular use areas in an A-R
9 zone, the Board may require vehicular use areas to be
10 paved to ensure that the nearby single-family
11 residences along 2830 and US 60 East are not impacted
12 by any dust generated from the use.

13 The property is accessed through an existing
14 15-foot wide gravel drive that connects to Highway 60
15 East. The current size of the proposed commercial
16 access drive is not in complies with the required
17 24-foot wide minimum commercial drive standard for
18 two-way traffic.

19 If the application is recommended for
20 approval, the Staff recommends including a condition
21 requiring the applicant to expand the width of the
22 gravel commercial entrance to 24 feet along with the
23 installation of a 50-foot long paved drive apron where
24 the access drive connects to US Highway 60 East.

25 Landscaping is present around the perimeter of

1 the lake; however, no landscaping has been proposed to
2 screen the vehicular use areas from the right-of-way
3 of Highway 60 East. If the application is recommended
4 for approval, Staff recommends including a condition
5 requiring the applicant to incorporate vehicular use
6 area landscaping.

7 As the entire property is located within the
8 "AE" flood zone, the Kentucky Division of Water should
9 be contacted prior to development of the site
10 concerning any necessary permits.

11 LAND USES IN SURROUNDING AREA

12 Adjoining properties on all sides of the
13 subject property are zoned A-R Rural Agriculture, and
14 consist of farmland.

15 ZONING ORDINANCE REQUIREMENTS

16 1. Parking - one for each employee on a
17 maximum shift plus one per every three participants.
18 The required parking is shown or demonstrated on the
19 submitted site plan.

20 2. Landscaping - Vehicular use area screening
21 consisting of a continuous 3 foot tall element with
22 one tree every 40 linear feet is required between the
23 site's gravel drive, and the public right-of-way along
24 US 60 East.

25 SUGGESTED CONDITIONS

1 1. Submission and approval of a final
2 development plan.

3 2. The site must comply with all applicable
4 site development and zoning regulations, including but
5 not limited to, site access and landscaping.

6 3. Obtain all necessary building, electrical
7 and HVAC permits, inspections and certificates of
8 occupancy and compliance, including any required by
9 the Kentucky Division of Water.

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

12 CHAIRMAN: Thank you.

13 Is there anyone here wishing to speak on
14 behalf of the applicant?

15 Yes, sir, step to the microphone.

16 MS. KNIGHT: Sir, could you state your name
17 for the record, please.

18 MR. PETERSON: Yes. David Peterson.

19 (DAVID PETERSON SWORN BY ATTORNEY.)

20 MR. PETERSON: On behalf of the owner, present
21 owner, Bill Bowlds, he ask that I just say a few words
22 about what our anticipated plans are.

23 I stumbled across literally by accident, if
24 there any such thing in this world, about three months
25 ago I guess we first talked. I was on my way back to

1 our mountain top in Tennessee.

2 By the way, I hope you'll give me just a
3 little bit of not right, but I can't understand
4 because I did marry one of your native sisters many,
5 many years ago. We got Kentucky and we won't talk
6 about the other half right now.

7 The project is obvious recreational only
8 because it is in a flood zone. You apparently
9 approved eight years ago, Billy, for your house; the
10 stilt house, which I think is a very, very good use
11 and probably highest and best use, but that would
12 probably make it pretty unaffordable for most people.
13 That said, we certainly are looking at this time still
14 as to what would make the most sense for that piece of
15 property being that it is essentially under water
16 several times a year from the historical data I have
17 been able to ascertain. It would need to be something
18 that what you came in could easily be driven away.
19 RV would be.

20 As far as the comments from staff concerning
21 the width of the roads and landscaping, no problem.
22 We're fine with that. In fact, Billy was good enough
23 to talk to the state. We had asked that there would
24 be a possibility that we could take and replace the
25 existing hot-wire fence out front with a 3-rail horse

1 fence, and then in-between those 8 foot sections put
2 some colorful trees, etcetera, to really soften
3 everything. So the view would be quite nice, and
4 extend that around the whole property line inbound
5 enough so tractors and such, farm use would certainly
6 be available.

7 Done this before so there's nothing to fight
8 about honestly. This is our story. Sticking to it.
9 If you all have any questions, we'll be glad to answer
10 them.

11 CHAIRMAN: Is there anyone else wishing to
12 speak on behalf of the applicant?

13 Yes, sir.

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

16 MR. BOWLDS: My name is Billy Bowlds.

17 (BILLY BOWLDS SWORN BY ATTORNEY.)

18 MR. BOWLDS: I purchased this property about
19 nine years ago. When I purchased it, it was all
20 growed up in nothing but high weeds and briars. You
21 couldn't even hardly see the lake from the road. All
22 my good neighbors here can testify that everything
23 that I'm going to say is the truth. They have been
24 very good neighbors. I have tried to be a very good
25 neighbor to them. I went in there and we cleaned it

1 up. I did not have intentionally in mind to do this
2 when I bought the property. I was hoping to keep it
3 in our family for a long time. I have come up with
4 two different diseases. I've had prostate cancer and
5 I've got sugar diabetes. It's got to where that I
6 cannot take care of the property like I want to. They
7 can tell you, I go over there every two weeks and I
8 mow the property, we weed eat around the island, we
9 weed eat around every tree. We keep it as nice as we
10 can. I have had I don't know how many compliments
11 from people that just drive by and stop and ask if
12 this is going to be a new park, or is this going to be
13 a new pay lake, or is this going to be something else.
14 Like I said, we had no intention of doing that. Since
15 my health condition has gotten to where they're at, I
16 thought I would put it up for sale. I put it up for
17 sale a pretty good while ago, and he can testify to
18 this. That I wanted to give every neighbor around me
19 a chance to purchase the property. I did not want to
20 go out there and do something and them come back and
21 later and say, you know, well, he went around us. We
22 would like to purchase the property, but we did not
23 have no chance. I had it up for sale for quite a
24 while. There was a few of them that called about it.
25 We could not reach to a term and agreement on the

1 price.

2 Mr. Craig and them over here was a very good
3 neighbor. Let us take a 2-inch water line from the
4 old school over there across his property. We had to
5 drill underneath the highway. We got a 2-inch water
6 line right there at the pole which would give ample
7 water supply for anything that they would want to do.
8 We firmly appreciate that.

9 We also was having trouble getting electricity
10 down there, but we finally reached an agreement with
11 REA over there, and we got electricity down there.
12 It's set up really good.

13 It's the cleanest lake you'll find anywhere.
14 It does not have no cattails in it. It does not have
15 no moss in it. I have been there, like I said, almost
16 nine years. I have seen one little snake and that was
17 when we built the house. It was a little garter snake
18 is the only snake that we've seen on the property. We
19 have swam in the lack. We fish in the lake. We've
20 had several people, several, several people ask about
21 coming in there and go camping. We said, no, strictly
22 because of the insurance liability. I could not be
23 responsible with that. We had a company come in there
24 to -- we went through the Division of Water and they
25 went in there and stabilized all the banks. They've

1 been doing that for the last seven years, almost eight
2 years. Stabilizing the bank with concrete and dirt.
3 They have always done a really, really, really nice
4 job doing. It's Owensboro Regional Water Works. They
5 have kept everything nice and neat. They have kept
6 everything graded down. It's all been seeded. It's
7 all been mulched. I was just trying to make the
8 property more or less a good piece of property so that
9 it would not hinder them from their property, but to
10 make their property a better piece of property and
11 more valuable.

12 Like I said, these people, they've done
13 several of these. I think it would be a really good
14 thing for the City of Owensboro. Wet set out there
15 and we have campers that go by and toots their horns
16 and wave at us. Semi trucks toots their horn and wave
17 at us. We have people call us and stop and want to
18 know if they can take pictures of the sunset and stuff
19 like that. It's a beautiful piece of property. I
20 just do not want to see it grow back up and get in the
21 condition that it was before. I would like to see it
22 put to good use.

23 Mrs. Potts and them over here know we are in
24 for young people. We do rabbit shows for 4-H and
25 stuff. We try to help our community as much as we

1 can.

2 I would very much appreciate it if this could
3 go through really nice and easy. I think it would be
4 a really good thing for them and for us. As far as I
5 know, I have never had a cross word with any of my
6 neighbors that I can think of. I would raise my hand
7 and swear to that. I just hope to keep it that way.
8 Again, hope that this will go through and be a good
9 thing for everybody. Thank you so much.

10 CHAIRMAN: Thank you.

11 Is there anyone in the audience wishing to
12 speak in opposition to this or ask questions?

13 MR. KAMUF: Charles Kamuf.

14 MS. KNIGHT: You're sworn as an attorney.

15 MR. KAMUF: I represent the neighbors and
16 they're also the objectors. They strongly object.
17 They don't object to what he's been doing with the
18 property. They're objecting to what he's getting
19 ready to do to the property. All these neighbors that
20 you see here, they're the objectors and they live near
21 the property or own near the property.

22 It's the Potts family, the Craig family and
23 the Boswell family.

24 I would like to enter a couple of exhibits, if
25 I can.

1 This exhibit that I show you, it shows the 42
2 acre tract that you see located in the red. All of
3 the property that you see the Potts family owns. They
4 own approximately 200 acres there. You also see the
5 Potts own along this area. Now, all of the green area
6 that you see is farming. This red area is the area
7 that's in question. The property along that you see
8 in blue is all residential. All along the old, I'll
9 call it the old 60 is the Potts, the old school, and
10 the Craig property.

11 This is up in the Maceo area. Many of you, if
12 you go to Louisville, you'll see the house with the
13 stilts on the left, and then on the right is the old
14 school. So that will give you an idea of where you
15 are as far as the location of the property.

16 Darryl and his brother Sam, they own
17 approximately 200 acre that lays up on the north side.
18 Sam's son lives in this area here. All these people
19 will be here to testify. They've lived on this farm
20 or farmed it for over 75 years.

21 The Craigs own down in this particular area
22 that you see. They have a daughter, Freddy has two
23 daughters that live right in this particular area.
24 The exhibit that I showed you, if you look, there's
25 one that has the front and the back, and that is the

1 house that is owned by Freddy's daughters. That
2 property is right on the west side of the school.
3 That's the type of house that's there.

4 If you look at the other exhibit it shows --
5 this is the property owned by -- this next one that
6 you see is the one owned by Jason. He'll be here to
7 testify.

8 If you see on each one of these photos that I
9 show you, it shows where you can see the house that's
10 on stilts. So this is very close to it. As a matter
11 of fact, all the property by the Potts and also the
12 Craigs it adjoins the 40 acres that we have in
13 question.

14 There is another gentleman by the name of
15 Gerald Boswell. He has farmed the Potts farm for
16 approximately 30 years. The Craigs used to farm about
17 6,000 acres. They're big farmer. Also, Mr. Boswell
18 farms about 3,000 acres in the area.

19 Let me say this, in line with Mr. Bowlds said.
20 All of the Potts, all the Craigs, all the Boswells
21 will be here to testify and they're strongly opposed
22 to construction of a 42 acre tract.

23 Who is the applicant that I saw? I had it
24 checked as far as the Secretary of State. The
25 Secretary of State says that they began operation on

1 May 13, 2020 at their address in Santa Claus, Indiana.

2 Mr. Bowlds talked to you about being a good
3 neighbor, but when they filed this they never
4 contacted the Craigs, the Potts, the Boswells. They
5 never contacted anybody. The first idea or the first
6 notice we ever had of this was in the Owensboro
7 newspaper.

8 Let's talk just a second. What does the
9 application say? It says very little for a complex
10 this big. Here's what it doesn't address; trash
11 disposal, sewage disposal, disposal from the RVs. Any
12 of the infrastructure, and it doesn't show but one
13 access point.

14 What does the preliminary plat show? Let's
15 talk about that for a second. The preliminary plat
16 shows a construction of 120 campground lots on a 42
17 acre tract of ground. It shows an office. It shows
18 this house on stilts. You can see this house on
19 stilts from the homes that I introduced earlier, the
20 photographs on the Craigs and also Jason.

21 There is a -- other than this, they show that
22 as an office, a boat dock, volleyball courts, swimming
23 pool, temporary tents on the island, horseshoe pits,
24 two gazebo structures, miniature 9-hole golf course,
25 shelter house and fire pit, and a bathhouse on the

1 island. Certainly they'll have to have some type of
2 this sanitation for that. All of those items were
3 taken off of the conceptual drawing on the preliminary
4 development plan that they filed. These activities
5 mentioned above are commercial type and are not
6 compatible with the residential and farming operations
7 in the area.

8 This property is a 42 acre tract. The lake
9 was built from excavating dirt to build a new Highway
10 60. At the present time, as indicated by Mr. Bowlds,
11 the Regional Water Resource Agency has an agreement
12 with the owner of a 42 acre lake to dump access
13 material from the Regional Water Resource Agency into
14 the water.

15 According to the Staff Report, the entire
16 property is located within the flood hazard area of
17 the Ohio River. I just showed you the stilt.
18 Certainly the development of 42 acre tract of ground,
19 27 feet below the highway, is a major problem for
20 development. There is no way that construction of
21 these type of campsites can overcome the fact that
22 flood waters get 15 feet over the subject property
23 three or four times a year. We have some pictures
24 that were just taken this morning. It shows a lot of
25 the area quickly flooding.

1 What are our objections? We have ten at
2 least. The placing of 120 camp sites in an area where
3 the Ohio River overflows several times a year is not a
4 good idea, especially in residential and farming area.

5 Number two, construction of a campsite of 120
6 campsites and other amenities would change the whole
7 appearance of the area from farming to commercial.

8 Density, the density of placing 120 campsites
9 surrounding outside the 42 acre lake is just too high
10 density in an area where the river overflows.

11 There will be several farmers that will
12 testify. One of the big conditions and one of the big
13 problems that they have is spray, the application of
14 chemicals on farm crops would increase the complaints
15 of the people there in the campsites. When you get
16 complaints what happens? You lose a lot of your good
17 tenants.

18 As I said earlier, Mr. Boswell has been
19 farming this farm for 30 years. Prior to that the
20 Craigs I think this is their first year not to farm.
21 They farmed approximately 6,000 acres up there.
22 They're been there. Here's the issue. We were there
23 first. What right do they have to interfere with our
24 operation that we've been using these farms for for
25 the last 75 years?

1 Another objection is turkey litter. Many of
2 the farms use turkey litter. Of course, there will be
3 some smell from that. You get complaints. We have
4 problems with EPA. The project to construction 120
5 campsites directly across residential property, those
6 two that I showed you, the Craigs and Potts would be
7 detrimental to the value of their property. Because
8 of the flooding of the Ohio River it's been over 40
9 years since anybody built a house in those bottoms.
10 Freddy built a house 40 years ago. At the present
11 time there's only six homes there in the bottoms.
12 There will be sanitation issues. The construction of
13 sanitation facility is not shown on the development
14 plan, but it's certainly an issue.

15 Trespassers with four-wheelers. Now, a lot of
16 you don't own farms, but people of us that do own
17 farms it is a major issue. Any RV campgrounds that I
18 have been to and many of the campers have golf carts,
19 ATV and that type of thing. We don't need any more in
20 those bottoms.

21 Noise from the camp site would be an issue.
22 Drainage. They show a 20 foot area around where
23 they're going to build up. I think it's in the area
24 where RWRA places that debris.

25 Another one would be dust. It's mentioned in

1 the Staff Report that dust could be a problem. It's
2 going to be gravel. They're not going to necessarily
3 require asphalt.

4 Another major one would be trash. After the
5 backwater goes down, it takes farmers weeks and weeks
6 to get rid of all the logs and other items that come
7 down the river. This would just be another problem.

8 I submit to you this: That the writer of this
9 ordinance, when they allowed a campsite or recreation
10 ideas in an agricultural zone never had any idea that
11 there would be application for 122 lots in the bottom
12 of the, river bottoms of the Ohio River where the
13 water gets over two or three time a year 15 feet.

14 Let me say this: We don't have any problem
15 with the way that the property has been used. I'm not
16 here in any way to bad mouth Mr. Bowlds. I just
17 don't like the project whatsoever.

18 I'd like to say this: In the last 50 years,
19 I've handled probably 100 zoning cases with the
20 Hancock County Planning and Zoning, and when I
21 represented this board. This is the second time in my
22 life that I've ever been down here representing
23 objectors. I've represented this Potts family for
24 over 40 years. I don't think this is something that
25 they should have to live with. I'll point two things

1 out.

2 We were here before they came with the
3 campsite. We've been here 75 years operating. In
4 addition, along Highway 3830 we shouldn't be allowed
5 to live in those residence peacefully without
6 interference or environmental problems.

7 Now, the first witness that I have will be
8 Jason Potts. Jason has prepared a very comprehensive
9 four or five page document which shows pictures. It
10 shows pictures of the Ohio River. It shows picture of
11 his property. It also shows one picture that I took
12 this morning of what the property looks like this
13 morning. Of course, we had a big flood last night.
14 Let me pass this out. Jason would like to talk to you
15 for a few minutes.

16 MS. KNIGHT: Mr. Potts, can you state your
17 name for the record, please?

18 MR. POTTS: Jason Potts.

19 (JASON POTTS SWORN BY ATTORNEY.)

20 MR. POTTS: I'll wait until counsel has passed
21 the exhibits out so you can follow along.

22 MR. PETERSON: Can counsel provide this
23 counsel with every exhibit that I'm seeing because
24 they're talking about office buildings and things that
25 I have no idea what he's talking about.

1 CHAIRMAN: Yes.

2 MS. KNIGHT: Mr. Peterson, you're an attorney
3 and I apologize for not recognizing you and swearing
4 you in.

5 MR. PETERSON: No problem.

6 MR. REEVES: Mr. Kamuf, on this particular
7 picture right here, is that the lake?

8 MR. KAMUF: The pole, the house where the lake
9 is on the right. Right there.

10 MR. REEVES: Isn't this going to Maceo?

11 MR. KAMUF: That goes to Maceo. If you look
12 on the upper right-hand side, that's where, you can
13 actually see the house. Let me say you can see the
14 middle of the area that we're talking about.

15 MR. REEVES: I just wanted to get oriented.

16 MR. KAMUF: Jason you might answer that
17 question.

18 MR. POTTS: Thank you again for letting us
19 speak tonight. I want to expand on some of the
20 flooding issues that Mr. Kamuf brought up.

21 Many of you on the Board are familiar with a
22 lot of flooding that we have in Daviess County.
23 Again, this morning we got to see it all over the
24 county.

25 I work out on Tamarack Road and one thing I

1 see when it rains like this this morning is flooding
2 on a lot of streets between Tamarack and Scherm. That
3 water comes in there and lays 12 inches or so. The
4 storm sewers eventually catch up and the water goes
5 out.

6 I want to stress that the flooding we're
7 talking about in Maceo river bottoms is an entirely
8 different type of flooding than what we see in the
9 rest of the county.

10 Like just about everything related to the
11 weather, these floods are impossible to predict and
12 impossible to plan around. Those of us that have been
13 up there a long time, we've see these floods occur
14 couple of times a year and every season. It seems to
15 be getting worse the past few years. Several times
16 each year, heavy rains here, down river from here, and
17 upriver from here will cause the Ohio River to come
18 out of its bank. That water has to go somewhere. Out
19 here in eastern Daviess County that somewhere is the
20 Maceo river bottoms. There's thousands of acres out
21 there, low-lying land. It's excellent cropland, but
22 because of this flooding that we're all talking about,
23 it's not useful for most anything else. There's a
24 reason there's only about six houses out there and no
25 nonfarm businesses out there. There's also a reason

1 there is no commercial residential facilities, like
2 the campground that we're talking about, there in the
3 many thousands of low-lying acres.

4 I have been watching these floodwaters all of
5 my life. For whatever it's worth, that's 46 years.
6 The people who have been out there longer than me, the
7 farms and landowners in that area, like my dad, my
8 uncle, the Craigs, the Boswells, they've been watching
9 it longer than I have. They can tell you stories from
10 when they were younger about riding horses in water
11 that was so deep that the horse had to swim in order
12 to retrieve their cattle from the floodwater or have
13 to go to school in a boat. More recently they can
14 tell you about having to replant crops that got
15 flooded out and about having to haul away trash and
16 driftwood after a flooding. Even though Mr. Bowlds
17 has only owned this property since 2011, he hasn't
18 been watching it for decades like we have. He saw
19 enough of the floodwaters to know that he had to build
20 his house on stilts. I'm not sure how tall those
21 stilts are, but you can see the picture on Page 2.
22 You can see they appear to be at least 12-feet tall.

23 Those stilts were a good idea. These waters
24 run deep. I wouldn't want to have a house down in
25 that. In my backyard, on the subject property and on

1 any surrounding properties, it's not uncommon for this
2 floodwater to be 15 feet deep. The state highway
3 department knew this when they built the new Highway
4 60 and Highway 231. They built them up high enough to
5 be out of the floodway. According to my measurement,
6 that's about 25, 30 feet higher than the surrounding
7 land.

8 To give you some idea of the magnitude of
9 these flood and the water they bring in, this picture
10 on Page 3 is from a flood in February 2018. I
11 couldn't find any others. If I knew I was going to be
12 down here tonight, I would have been taking pictures
13 for years, but I found this one from a friend of mine
14 who is a professional photographer and he gave me
15 permission to use it.

16 This is the intersection of Highway 60 and
17 231. You can see the stoplight out in the river
18 bottoms. It's less than a mile from this property
19 we're talking about.

20 In fact, Mr. Reeves to your question, if all
21 this land wasn't covered with all this muddy water,
22 you would be able to see the northwest corner of the
23 lake we're talking about.

24 The only thing not covered by water in this
25 picture, and other floods like the one picture here,

1 are the roads. That's only because of how high they
2 were built.

3 On Page 4, these two pictures shows the
4 relative height of the road to the subject property.
5 Mr. Bowlds' house was built on a relatively high part
6 of the property, and again, up on stilts. You can
7 clearly see that a lot of this is below the level of
8 Highway 60.

9 The second picture on the bottom of Page 4,
10 you can see a semi behind the house and the wheels of
11 that semi are about level with the windows of the
12 house.

13 Couple of more things about the flood. When
14 these floods occur, they don't just bring in water.
15 Anything that's in the river or in the floodplain
16 upriver from us is fair game to end up in the Maceo
17 river bottoms. Anything that's in our field, our
18 property, is fair game to end up anywhere else in the
19 river bottoms or anywhere down river from us. The
20 Ohio River is unbelievable powerful. It doesn't care
21 how large, how heavy or how tied down something is.

22 My wife and I saw right before I left, we had
23 a really nice bench out on our patio that showed up in
24 one of these floods in our backyard.

25 These folks that have been farming back there

1 and have been around longer than I have, can tell you
2 all kind of stories about trash they have found in
3 their fields over the years. Every spring before
4 planting, and in unlucky years, also after planting,
5 they burn off massive piles of corn stalks and
6 driftwood and haul away all kinds of junk that have
7 flowed in from the flood. Some years the state does a
8 pretty good job of cleaning up the debris left along
9 the bank of the highways. Other years they look like
10 they do right now.

11 The picture on the bottom of Page 5 is a huge
12 tree trunk that was left on the side of Highway 60
13 after one of the floods earlier this year. You can
14 see it's about the same level of Mr. Bowlds' house.

15 With all of that as a background, we have a
16 lot of concerns about you approving this RV campground
17 in the Ohio River floodplain. One thing I want to
18 point out, and Mr. Bowlds mentioned that he's been a
19 good neighbor. As Mr. Kamuf mentioned, the first
20 thing we knew about it was seeing a notice in the
21 classified in the Messenger-Inquire on August 21st.
22 These were the same kind of concerns we would have
23 mentioned to him had he come and talked to us about it
24 and had we had any idea there was a campground being
25 proposed. We've been up there a long time. We can

1 certainly share a lot of things about the flooding and
2 about the farming operations with Mr. Bowlds, but
3 we're here instead.

4 First concern, we're concerned for the
5 customers, the potential customers of this campground.
6 We hope the developer shares these same concerns.
7 There's a couple of docks you can see in the site
8 plan. If campers fish in the lake from these docks,
9 they're not going to be eating, they're not going to
10 be catching and eating fish that, you know, were
11 stocked. They're going to be eating whatever fish
12 came in there from the Ohio River flooding. Those
13 fish will be eating whatever the Ohio River dumped
14 there. If they jump off that dock and go swimming,
15 they're going to be swimming in whatever, again,
16 whatever the Ohio River dumped there in the last
17 flood. The EPA reports on the high level of
18 pollutants in the Ohio River. Some people choose to
19 swim and eat fish from this river, but many do not.
20 If the developer's potential campers think they are
21 eating fish from and swimming in a pristine, clean
22 lake, they obviously will be mistaken.

23 Additionally, the potential campers in this
24 campground would have to vacate the campground during
25 these floodings, unless they wanted floodwater in, and

1 in some cases over the top of their RVs and tents.
2 The picture that Mr. Kamuf gave from the flood this
3 morning, that's a minor floods. That's not water
4 coming in from the river. That's just rainwater
5 having a hard time being evacuated from the property.
6 That's nothing like the floods that we've seen and
7 like the picture I showed you from February 2018.

8 Before the campers could return, employees of
9 the campground's employees would face a massive task
10 of cleaning up driftwood, trash and sediment from the
11 campground. From our experience, this cleanup is a
12 nasty difficult job involving handling Ohio River
13 pollutants. We're concerned for the potential
14 employees of the campground and we hope that the
15 developers share in those concerns too.

16 Finally, we have concerns about the inevitable
17 impacts that the RV campground of any size on this
18 property will have on the properties that we own, that
19 we live on, and that we farm near it. If you change
20 the elevation of the subject property or any part of
21 it, you have the potential to trap floodwater on
22 surrounding properties and cause further flood damage
23 to crops that are planted there. But I can't
24 emphasize this part enough: The Ohio River and its
25 floodwaters, they don't care about property lines.

1 Every RV campground I've seen has a trash can on a
2 pole at each site. There's about 120 sites proposed
3 in this campground. That means 120 trash cans. I'm
4 sure there would have to be a dumpster. Mr. Kamuf
5 mentioned some of the amenities on the preliminary
6 site plan. Tent camping on the island, volleyball
7 courts, shuffleboard court, playground, a bathhouse
8 out on the island, some gazebos, an office or some
9 kind of building and a couple of docks. The final
10 site plan could include any number more facilities
11 than just these. We're unclear if each site will have
12 a separate sewer hook up or if there will just be a
13 common dumping station to empty out your RV thing on
14 their way out. A bathhouse on the island, you
15 certainly have to have some sort of sewage facilities.
16 So one or more underground tanks containing human
17 waste.

18 Those of you that haven't watched the power of
19 these floods for decades like we have might not
20 understand this, but it's important that you do. When
21 these 5, 10, 15 foot deep flood waters that have been
22 showing every year for thousands of years on this land
23 show up in the proposed campground, anything that's in
24 that campground, trash can, contents of the dumpster,
25 tents out on the island, the boat used to get to the

1 island, volleyball net, the docks, the bathhouse, the
2 gazebo, anything people leave laying on the ground or
3 thrown in the lake, the contents of any building, part
4 of those buildings, and the most concern the human
5 waste in those tanks, it's not going to stay on the
6 campground inside the property lines. All this stuff
7 has to go somewhere else. Will it be on our farms?
8 Will it be in my backyard where my daughter walks
9 around? Or will it be in Paducah or Mississippi or
10 the Atlantic Ocean? Only God and the Ohio River knows
11 the answer to that question.

12 If the developers ever get to the point of
13 having this property reviewed by the Division of
14 Water, I suspect the Division of Water will want their
15 answer to that question. Whatever the answer is, for
16 the reasons I've stated, we know that having a
17 commercial RV campground in the Ohio River floodplain
18 on property that floods regularly and severely is a
19 bad idea. As such, we respectfully request that you
20 not approve this conditional use permit that is before
21 you tonight. Thank you.

22 If you have any questions for me, I'll stay up
23 here for a second.

24 CHAIRMAN: Thank you, Mr. Potts.

25 Does someone have a question of Mr. Potts?

1 Mr. Bowlds, I see you --

2 MR. BOWLDS: Can I come to the microphone,
3 please?

4 CHAIRMAN: Yes, and if you'll direct the
5 questions to us, we'll get the answers.

6 MR. BOWLDS: That's what I wanted to do.

7 MR. KAMUF: I have some other witness, but it
8 makes no difference.

9 MR. BOWLDS: I wanted to address these before
10 I forgot.

11 CHAIRMAN: Okay.

12 MR. BOWLDS: If they said that the water had
13 gotten over there in the last few years 15 foot deep,
14 what they don't know is I had to go down to the
15 rezoning board to get this house built on a stilt. My
16 top of my floor joist had to be 14 foot and 2 inches.
17 The eight or nine years that I have been there, and I
18 will raise my hand to the good Lord and swear that the
19 water has never been underneath my house on that
20 property no more than 7 foot to 7 1/2 foot. I will
21 swear to that in the last nine years that I have been
22 there.

23 As far as the debris that they're talking
24 about coming in and cleaning up, I guess it's just the
25 way that the good Lord designed the land. I have been

1 there nine years. They got crop all around it. I
2 have maybe have lifted maybe one or two little small
3 trees from this 42 acres that floated in from the
4 river that got on that. There's a few corn stocks and
5 bean stocks that might gather down on the west end
6 corner that is only about the half size of this room
7 or it crosses a fence and when it drains out goes down
8 to the bottom culvert down there. There is some
9 there.

10 They are making it sound awful, and it is not.
11 I want to be fair to them, but I want them to be fair
12 to me. If the water in the last few years got up to
13 15 feet, it would have been in my house, and it's
14 never even got close to that. In the nine years I
15 have lost probably five or six cross-ties that I had
16 laying in my driveway to make a driveway that floated
17 away. I have lost one picnic table that I did not tie
18 down and I lost it. All of my electric and everything
19 underneath my house that I have can go over there flip
20 a switch today right now and it all works. The flood
21 has never bothered it. So what they're trying to
22 do -- okay, they're talking about -- he's going to
23 explain to you after while what kind of sewage and
24 stuff that we're going to have. They just through
25 laying chicken manure. They put chicken manure on

1 their property. Lord, what can be any worse than
2 chicken manure that's going to float off of their land
3 and go on their property? Is that not bad? Are they
4 going to stop that or are they going to quit doing
5 that? No. You know, we're here to get along and
6 that's what we want to do. I just want to mention
7 those two or three things while it was on my mind.
8 That the water has never, never, never been that high
9 or I had to go out there and remove a lot of stuff
10 from that property. I swear to it. Thank you.

11 CHAIRMAN: Let's get some more people from Mr.
12 Kamuf and then we'll --

13 MR. PETERSON: I would like to make a comment
14 please, if I could.

15 CHAIRMAN: Let's wait until he gets a few more
16 and then we'll --

17 MR. PETERSON: I'm going to try to stop all
18 this because I would like to table this for a moment
19 because there's been evidence presented that is
20 absolutely wrong that needs to be put on the record
21 properly by engineers. Not farmers. I defer to the
22 6,000 acre --

23 CHAIRMAN: Go ahead and come up to the mike.

24 MR. PETERSON: I ranch 4,000 acres so I have a
25 little bit of knowledge about how this stuff works.

1 CHAIRMAN: We need you to come to the
2 microphone and have this on record.

3 MR. PETERSON: So at this point, on behalf of
4 the developer, we're going to withdraw this
5 application right here and now because I can see right
6 this minute, I can see right this minute where this is
7 going. This is not what we were told by your Staff.
8 They said that this was allowed. An RV park was
9 allowed on this zone land; otherwise, we would have
10 never been here. We're not here to fight about
11 anything. But here's what I would like to suggest to
12 these folks here, these folks here that have lived
13 here for sounds 75 years, older than I am, do the
14 right thing. We're not going to do a thing.

15 CHAIRMAN: Wait a minute. You need to address
16 your comments.

17 MR. PETERSON: Ask that they do the right
18 thing and go to this man and write him a check in the
19 amount that we're writing him a check and give him
20 some peace. Thank you.

21 MS. KNIGHT: Mr. Peterson, is it Mr. Peterson?

22 MR. PETERSON: Yes. Again, we're withdrawing
23 our application at this time. No reason to run the
24 man's legal bills up. Let's just all go home and have
25 a nice drink.

1 MS. KNIGHT: I do want to clarify that with
2 you. Do you want a motion to withdrawn or do you
3 prefer it to be postponed?

4 MR. PETERSON: No. If you would like to
5 continue with it. We are not. I would like it to be
6 abated. It never exist. I apologize for these people
7 having to come out.

8 CHAIRMAN: So you want to withdraw the
9 application?

10 MR. PETERSON: Yes, that's correct.

11 MS. KNIGHT: Who is the applicant on this; is
12 it both of them?

13 MR. HOWARD: Mr. Bowlds.

14 CHAIRMAN: Mr. Bowlds.

15 MR. KAMUF: Madam Chairman, the time for him
16 to have raised those issues was for him to give us
17 some input before we got all these people down here.

18 CHAIRMAN: We're going to have to get whoever
19 the applicant to see if he wants to withdraw the
20 application before we go on.

21 MR. HOWARD: I think they've withdrawn it.

22 CHAIRMAN: They have withdrawn it. If he's
23 the attorney representing the applicant, I don't know
24 what else can be done.

25 MS. EVANS: Mr. Bowlds is the owner of the

1 property. He is the applicant.

2 CHAIRMAN: They have withdrawn the
3 application.

4 MR. REEVES: Are they have Snowflake Holdings?

5 MR. HOWARD: Yes. So it's done.

6 CHAIRMAN: This discussion is over.

7 MR. KAMUF: My only objection with that is,
8 may I say, I'm going to say --

9 MR. HOWARD: It's done. I don't know what
10 else to do or what else is left to be said.

11 CHAIRMAN: The application has been withdrawn.
12 This part, this discussion is over, Mr. Kamuf.

13 MR. BOWLDS: Can I say one thing, please?

14 CHAIRMAN: Go ahead.

15 MR. KAMUF: It's been withdrawn.

16 CHAIRMAN: It's been withdrawn, Mr. Bowlds.

17 MR. BOWLDS: I just want to say one thing.

18 The question has been asked, why didn't I come to them
19 and talk to them. I've had this sign up, for I don't
20 know how many months, to give them the opportunity to
21 come and talk to me. They knew the property was going
22 to be for sale. They had about three to four months
23 that this sign has been up. They could have come to
24 me and ask me why are you selling it or what is your
25 plan. None of them, none of them.

1 CHAIRMAN: Mr. Bowlds, that is not something
2 that this board is equipped to handle.

3 MR. BOWLDS: I don't think they're treating me
4 fairly and I swear that I know I have treated every
5 one of them with dignity, respect and everything else
6 and there is no way that this is going to hurt their
7 business and it's only going to make their property
8 more valuable than what it is right now. They just
9 don't want it because it's not them doing it. Thank
10 you all.

11 CHAIRMAN: Let's take a few minutes for
12 everybody to clear out and then we'll go to the next
13 item.

14 - - - - (OFF THE RECORD) - - - -

15 CHAIRMAN: We're back on the record.

16 ITEM 3

17 10264 Highway 764, zoned A-R Rural Agriculture
18 Consider a request for a Conditional Use Permit in
19 order to operate a hair salon within an A-R Rural
20 Agriculture zone.
21 References: Zoning Ordinance Article 8, Section 8.2D3
22 Applicant: Justin and Amy Jenkins

23 MS. EVANS: The subject property is a 15.87
24 acre parcel that contains a single-family residence
25 and is zoned A-R Rural Agriculture.

 The applicant wishes to utilize approximately
360 square feet of an existing detached structure for

1 a single chair hair salon owned and operated by the
2 applicant, working by appointment only. The use will
3 utilize the existing gravel residential drive for site
4 access, as well as the garage's existing gravel
5 parking area.

6 LAND USE IN SURROUNDING AREA

7 Adjoining properties to the north, south and
8 east of the subject property are zoned A-R Rural
9 Agriculture and appear to be single-family residential
10 uses. The property immediately west of the subject
11 property is zoned A-U Urban Agriculture and consists
12 of undeveloped rural land.

13 ZONING ORDINANCE REQUIREMENTS

14 1. Parking - one space per 200 square feet.
15 The use will utilize the garage's existing gravel
16 surface parking area. Based on the submitted site
17 plan, the existing gravel area can accommodate the two
18 required parking spaces.

19 2. Landscaping - None is required since the
20 use is surrounded by large agricultural properties and
21 the existing parking area is not adjacent to any
22 public rights-of-way.

23 SUGGESTED CONDITIONS

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

1 occupancy and compliance.

2 We would like to enter the Staff Report into
3 the record as Exhibit B.

4 CHAIRMAN: Thank you.

5 Is there anyone here wishing to speak on
6 behalf of the applicant?

7 MS. JENKINS: I'm here.

8 CHAIRMAN: Do you have anything you want to
9 add?

10 MS. JENKINS: No.

11 CHAIRMAN: Does anybody on the board have any
12 questions of the applicant, if I need to bring her up?

13 MR. GLENN: Is the applicant here?

14 MS. JENKINS: Yes, we're here.

15 I don't know what to say other than what she
16 said. I mean we talked to all the neighbors and the
17 neighbors, they're fine.

18 MS. KNIGHT: Amy, would you state your name
19 for the record?

20 MS. JENKINS: Amy Jenkins.

21 (AMY JENKINS SWORN BY ATTORNEY.)

22 MS. JENKINS: We've talked to the neighbors
23 and everything seems fine.

24 MR. GLENN: The only questions I have then, I
25 was wondering about what days are you operating and

1 what hours are you operating during those days?

2 MS. JENKINS: Potentially what I'm
3 anticipating is like Monday, Tuesday -- Tuesday,
4 Wednesday, Thursday schedule, but you know, it's a
5 hair salon. There's people that have deaths in
6 family. There's weddings. I mean I can potentially
7 be working any day, you know. I have several clients
8 who have church functions, you know, first communions
9 and things like that. There wouldn't be exactly a set
10 hour, if that's what you're asking, but I don't plan
11 on working at midnight.

12 MR. GLENN: So you don't think you'll have any
13 more than two customers there at a time?

14 MS. JENKINS: No, not typically.

15 MR. HOWARD: If I could interject. I believe,
16 maybe I'm incorrect, but it's a single chair, correct?

17 MS. JENKINS: Yes.

18 MR. HOWARD: And you operate by appointment
19 only?

20 MS. JENKINS: Yes.

21 MR. HOWARD: You would not, this wouldn't be a
22 scenario where --

23 MS. JENKINS: This is not a huge salon.

24 MR. HOWARD: -- you have one person doing one
25 thing and you're working on somebody else doing

1 something else?

2 MS. JENKINS: No. I'm not going to have four
3 or five chairs in there with a bunch of people or
4 anything like that.

5 MR. HOWARD: You're willing to say it's by
6 appointment only. You'll have one person at a time in
7 there?

8 MS. JENKINS: As of right now, I'm required by
9 State Board to do that because of COVID-19. Once
10 everything is lifted, which may be five years from
11 now, if I have a color going on I can potentially have
12 a haircut come in while that color is processing.
13 Then that person would leave and I would finish up on
14 the first client. I can't work on more than person at
15 one time; I'm one person.

16 CHAIRMAN: Thank you.

17 Is there anyone here wishing to speak in
18 opposition to this?

19 (NO RESPONSE)

20 CHAIRMAN: Hearing none I'm ready for a
21 motion.

22 MR. ANDREW HOWARD: I'll make a motion based
23 on the information presented this evening, as well as
24 condition number 1) to obtain all necessary building,
25 electrical and HVAC permits, inspections and

1 certificates of occupancy and compliance.

2 CHAIRMAN: Thank you, Andrew. Is there a
3 second?

4 MR. REEVES: Second.

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

7 (NO RESPONSE)

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item.

13 MS. JENKINS: I do have one question. I have
14 a paper from the Kentucky State Board that needs to be
15 signed and signed off by someone on the Board. I
16 don't know where to go to do that.

17 MR. HOWARD: Do you have it with you?

18 MS. JENKINS: I do.

19 MR. HOWARD: I'll sign it real quick.

20 ITEM 4

21 528 Camden Circle, zoned R-1B Single-Family
22 Residential Postponed from the August 6, 2020 meeting
23 Consider revocation of a Conditional Use Permit to
24 operate a retail sales business as a Home Occupation
25 from the subject property approved at the March 5, 2020
OMBA Meeting

24 References: Zoning Ordinance Article 8,
Section 8.2D5a

25 Applicant: Jessica Oglesby & Matthew Oglesby

1 MR. HOWARD: This were a revocation of a
2 conditional use permit for a retail business.

3 The Board heard testimony last month, and
4 after hearing testimony decided to postpone it. In
5 the meantime, we have signed a business license for
6 them to operate from a retail store front. So they
7 have acquired a retail premises indicating to us that
8 the conditional use permit really is no longer needed
9 there for the residential property.

10 CHAIRMAN: So what kind of action do we need
11 to take?

12 MS. KNIGHT: Well, what was on last month was
13 for revocation of the conditional use permit due to
14 noncompliance.

15 Mr. Howard, is it that she's no longer
16 operating then out of her home?

17 MR. HOWARD: I don't know that we have
18 spoken -- did you speak to her?

19 MS. EVANS: No.

20 MR. HOWARD: We haven't spoken to them. We
21 did sign a new business license for retail space. I
22 mean it would seem that they're operating out of a
23 retail space. The conditional use permit is likely
24 not needed any longer.

25 MS. KNIGHT: I guess the Board would decide if

1 it's prudent to revoke, based on her previous
2 incidence of noncompliance or leave as is. If it's
3 not used for a year, it's going to go away anyway.

4 MR. HOWARD: Those would be the two options.

5 CHAIRMAN: Which option would this Board
6 prefer?

7 MR. HOWARD: Essentially you can revoke it
8 based on testimony that was heard last month or you
9 could not revoke it and they could still potentially
10 do limited retail out of their home along with the
11 retail space in compliance with what was established
12 by the Board of Adjustment in the original conditional
13 use permit. If that use were to ever goes dormant for
14 a period of 12 months, then it would automatically be
15 eliminated essentially based on the zoning ordinance
16 and KRS.

17 MR. ANDREW HOWARD: Has this been approved?
18 Did we approve this previously or is this the first
19 time --

20 MS. KNIGHT: Yes. This was approved earlier
21 this year. The conditional use was approved with
22 certain conditions. It was brought to the Board's
23 attention that those condition had been violated.

24 CHAIRMAN: So it was revoked.

25 MS. KNIGHT: Well, it was brought back to be

1 considered whether it should be revoked or not. Last
2 month we heard from the applicant. She gave her
3 explanations and things like that. The Board voted to
4 postpone it to give her a month to see if she would
5 comply with the conditional use permit.

6 CHAIRMAN: In the meantime she --

7 MR. GLENN: She has complied.

8 MS. KNIGHT: Well, we don't know.

9 MR. REEVES: I would like to vote on it
10 because she may not pay the rent next month where she
11 is and if she doesn't, she's right back where she was
12 trying to operate. I prefer we go and revoke.

13 CHAIRMAN: You want to make that motion?

14 MR. REEVES: Will you help me, Madam Attorney?

15 MS. KNIGHT: Yes. I think you can probably
16 make a motion to revoke based on the testimony and
17 evidence presented last month, and we've got no
18 evidence here tonight to show that compliance has been
19 met.

20 MR. HOWARD: And we have evidence that they
21 have a new retail premises as well.

22 MS. KNIGHT: Which would indicate that the
23 conditional use permit is no longer needed anyway.

24 MS. MASON: You can say that there's evidence
25 that it's not needed.

1 MR. REEVES: I make a motion to revoke the
2 conditional use permit based on the fact that it's our
3 understanding they have vacated the address that we
4 were concerned about. To our knowledge they have
5 rented a new retail space where it is permitted, but
6 should they go back to the original address, that the
7 conditional use permit for operating the business from
8 that address has been revoked.

9 MS. KNIGHT: And that they would have to come
10 back before the board.

11 MS. MORGAN: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item.

17 -----

18 VARIANCES

19 ITEM 5

20 4830 Towne Square Court, zoned B-4 General Business
21 Consider a request for a Variance to eliminate the
22 required vehicular use area screening consisting of a
23 3-foot tall continuous element and 1 tree per 40-foot
24 along Southtown Boulevard
Reference: Article 27, Section 17.312
Applicant: Septimous Taylor

25 MS. EVANS: In early 2000 a site plan was

1 approved for the subject property for the construction
2 of an additional parking area as well as widening the
3 driveway shared with the adjacent RWRA maintained pump
4 station.

5 On the approved site plan, the site was
6 required to provide any vehicular use area landscaping
7 consisting of a 3-foot tall continuous landscape
8 element with one tree every 40 feet between the
9 southern driveway and Southtown Boulevard. However,
10 as the site has redeveloped, it has become obvious
11 that that landscaping element doesn't serve much of a
12 purpose as it sits much lower than the right-of-way of
13 Southtown Boulevard along with the construction from
14 RWRA on installing or replacing, I guess, the drainage
15 and the ditch that was there. The landscaping just
16 wouldn't really serve much of a purpose at this point.
17 So the applicant has applied for a variance to
18 eliminate that required landscaping.

19 Granting the variance to eliminate the
20 vehicular use area landscaping requirement will not
21 alter the essential character of the vicinity because
22 the subject property had no landscaping prior to the
23 parking area expansion. It will not adversely affect
24 the public health, safety or welfare or cause a hazard
25 or a nuisance to the public because the use is already

1 established and the required landscaping would only
2 have a minimal impact on screening due to the
3 topography of the area. It will not allow
4 unreasonable circumvention of the requirements of the
5 Zoning Regulation because the vehicular use area sits
6 well below the road right-of-way and the required
7 landscaping would not provide any screening.

8 Staff would recommend approval of this
9 variance request with one condition: Approval of an
10 amended site plan.

11 We would like to enter the Staff Report into
12 the record as Exhibit C.

13 CHAIRMAN: Thank you.

14 Is there anyone here wishing to speak on
15 behalf of this applicant?

16 MR. TAYLOR: I don't have any statement to
17 make. We just ask the Board to sustain our
18 application. Thank you.

19 CHAIRMAN: No one here to speak in opposition.
20 I'm ready for a motion.

21 MS. MORGAN: I'll make a motion to approve it
22 as long as they follow the condition for approval of
23 an amended site plan.

24 MR. HOWARD: With Findings of Fact 1 through
25 4.

1 MS. MORGAN: Yes.

2 CHAIRMAN: Is there a second?

3 MR. GLENN: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 ITEM 6

9 300, 306, 308 East Fifth Street, 515 JR Miller
10 Boulevard, zoned R-4DT Inner City Residential
11 Consider a request for a Variance to increase the
12 maximum permitted width of an accessory garage in the
13 Downtown Transition and Neighborhood Character Overlay
14 Districts from 14-foot to 30-foot and to increase the
15 maximum permitted height for a fence located in a
16 front yard from 3 feet to 6 feet.

17 Reference: Article 3, Section 3.7G3 and Article 21,
18 Section 21.93A

19 Applicant: Alex Conn

20 MS. EVANS: The subject property consist of
21 three residential lots zoned R-4DT Inner-City
22 Residential located near the corner JR Miller
23 Boulevard and East 5th Street. The properties at 300
24 and 306 East 5th Street contain single-family
25 residential dwellings, while the adjacent lot at 515
26 JR Miller is vacant.

27 It's the applicant's intent to demolish the
28 home at 306 East 5th Street, combine all of the
29 subject properties into a singular parcel and
30 construct a 30 foot wide garage facing East 5th

1 Street, and enclose the yards with new fencing.

2 Within the neighborhood character of Downtown
3 Overlay District, limitations are placed on the
4 maximum width of accessory garage structures that face
5 the road. The maximum width established by the
6 Downtown Overlay Districts for a front facing garage
7 is 14 feet wide. The applicant proposes to construct
8 a 30 foot wide garage, thus requiring the variance
9 request.

10 The applicant is also proposing to install a
11 section of wrought iron fencing on top of a masonry
12 retaining wall in the front yard. The ordinance
13 limits fences in front yards to a maximum of 3 feet in
14 height and 6 foot tall fence is proposed resulting in
15 the request of a 3 foot variance.

16 Since the property is located within the
17 Downtown Overlay District, the Historic Preservation
18 Board must review any variance requests prior to their
19 consideration by the Board of Adjustment. The
20 Historic Preservation Board met on August 5, 2020 and
21 reviewed both the site plan and architectural
22 renderings of the proposed garage and accompanying
23 fencing. They found them compatible with the
24 character of the respective overlay districts and
25 recommended the variance for approval.

1 Granting the variance will not adversely
2 affect the public safety because the location of the
3 garage and fence will not violate any sight triangles
4 along East 5th Street; it will not alter the essential
5 character of the general vicinity because the
6 redevelopment of the property is in keeping with the
7 general character of the area; it will not cause a
8 hazard or nuisance to the public or because the
9 redevelopment will result in the removal of a vacant,
10 hazardous structure; it will not be an unreasonable
11 circumvention of the zoning regulations because the
12 Historic Preservation Board has already recommended
13 approval of the variance for the garage and other
14 fences in the area exceed the maximum height.

15 Staff would recommend approval of this
16 variance application with the following conditions:

- 17 1. Submission and approval of a consolidation
18 plat for the subject properties; and,
- 19 2. Obtain all necessary building, electrical
20 and HVAC permits, inspections and certificates of
21 occupancy and compliance.

22 We would like to enter the Staff Report into
23 the record as Exhibit D.

24 CHAIRMAN: Thank you.

25 Is there anyone here wishing to speak on

1 behalf of the applicant?

2 MS. KNIGHT: State your name for record,
3 please.

4 MR. CONN: Alex Conn.

5 (ALEX CONN SWORN BY ATTORNEY.)

6 MR. CONN: I just want to give you a little
7 bit more background and then one point of
8 clarification to this.

9 This would be an accessory garage that would
10 be for the house that's being renovated, that I've
11 been renovating at 300 East 5th Street on the corner.
12 It would be for that house.

13 Little bit of clarification. In the review,
14 the Staff Review, so based on Article 3, the fence
15 height is measured based on the median. It's an
16 elevated yard. Is it because it's an elevated yard,
17 as far as I understand it, the fence size measured
18 based on the average height of the yard. When I
19 talked with the board, the Historical Board, they
20 recommended a maximum height of 6 feet from the
21 sidewalk. That's my note that I put in my application
22 of 5 feet. That's why the discrepancy between 5 feet
23 and 6 feet, because the yard with final site and
24 drainage will be approximately be 1-foot in elevation
25 at the sidewalk. Just want to clarify that since it's

1 a little bit of confusing. That's all.

2 CHAIRMAN: Thank you.

3 Anyone have any questions of the applicant?

4 MR. GLENN: So you're going to put a 3 foot
5 fence up or what?

6 MR. CONN: No. I'm wishing to put a 5 foot
7 fence on top of a 1-foot grade. The yard is elevated.
8 One-foot elevation, 5-foot fence.

9 MR. GLENN: To get you up to 6 feet.

10 MR. CONN: Total of 6 feet from the sidewalk.

11 MR. GLENN: Okay.

12 MR. CONN: Sorry for the confusion.

13 CHAIRMAN: Thank you.

14 Anybody else have a question?

15 (NO RESPONSE)

16 CHAIRMAN: Ready for a motion.

17 MR. GLENN: I would make a motion for approval
18 based on the information that we've received here
19 tonight. Also on the fact that the Downtown Overlay
20 District has already given their approval on it. Also
21 we need to take into account these four findings of
22 fact and that he meet the Staff Conditions 1 and 2.

23 CHAIRMAN: We have a motion on the floor. Is
24 there a second?

25 MS. MASON: Second.

1 CHAIRMAN: Any question on the motion?
2 (NO RESPONSE)
3 CHAIRMAN: All in favor of the motion raise
4 your right hand.
5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
6 CHAIRMAN: Motion carries unanimously.
7 We need one more motion.
8 MS. MASON: Motion to adjourn.
9 MR. GLENN: Second.
10 CHAIRMAN: All in favor raise your right hand.
11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
12 CHAIRMAN: We are adjourned.
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1 STATE OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Board of
6 Adjustment meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into foregoing 54
14 typewritten pages; and that no signature was requested
15 to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 28th day of September, 2020.

18

19

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

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23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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