

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 OCTOBER 1, 2020

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:00 p.m. on Thursday,
5 October 1, 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 Brian Howard, Director
11 Terra Knight, Attorney
12 Bill Glenn
13 Andrew Howard
14 Tori Morgan

15 * * * * *

16 CHAIRMAN: Call to order the October 1, 2020
17 Owensboro Metropolitan Board of Adjustment to order.
18 We begin our meetings with a prayer and pledge.
19 Please join us.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: First item on the agenda is to
22 consider the minutes of the September 3, 2020 meeting.
23 All members have received a copy and should have had
24 time to check them out. So at this time I'll
25 entertain a motion.

MS. THOMPSON: Motion for approval.

CHAIRMAN: Motion for approval by Tori.

MR. ANDREW HOWARD: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 First item, Mr. Howard.

6 -----

7 CONDITIONAL USE PERMITS

8 ITEM 2

9 3050 Calumet Trace, zoned P-1 Professional/Service
10 Consider a request for a Conditional Use Permit in
11 order to operate an Assisted Living Facility
12 Reference: Zoning Ordinance Article 8, Section 8.2C1
13 Applicant: DMK Development Group, LLC; Gateway Land,
14 LLC

15 MS. THOMPSON: Madam Chair, I need to recuse
16 myself from this item please.

17 CHAIRMAN: Let it be noted that Tori Thompson
18 is recusing herself from this item.

19 MS. KNIGHT: State your name for the record.

20 MR. CRUM: Daniel Crum.

21 (DANIEL CRUM SWORN BY ATTORNEY.)

22 MR. CRUM: The subject property is a 4.733
23 acre undeveloped tract this is recently rezoned P-1
24 Professional Service. The subject property is
25 adjacent to undeveloped land to the north that is
zoned R-3MF. The adjoining property to the south and
west are zoned B-4 General Business and also currently

1 undeveloped. Property to the east are zoned R-1C
2 Single-Family Residential and are single-family
3 residential uses within the Downs subdivision.

4 The applicant is requesting a Conditional Use
5 Permit in order to operate an Assisted Living Facility
6 on the subject property.

7 As shown on the site plan here, the applicant
8 proposes a 3-story 36,460 square foot facility
9 consisting of 115 beds with a maximum shift of 45
10 employees.

11 Off street parking for the use is provided at
12 the sides and rear of the structure and screened from
13 Calumet Trace an additional residential uses by a
14 landscaping buffer.

15 Parking requirements: Based on the number of
16 beds and number of employees working on a maximum
17 shift, 74 off-street parking spaces are required, 95
18 are provided.

19 As far as landscaping, 3-foot tall continuous
20 element with trees every 40 feet is required where the
21 vehicular use area adjoins public right-of-way or
22 adjacent residential zoning. All required landscaping
23 has been shown on the submitted site plan.

24 If the Board agrees to approve the request,
25 Staff suggest the following conditions:

1 1. Submission and approve of a Final
2 Development Plan for the subject property;

3 2. Access to Calumet Trace shall be limited
4 to the single access point shown on the site plan;

5 3. That they obtain all necessary building,
6 electrical and HVAC permits, inspections and
7 certificates of occupancy and compliance.

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

10 CHAIRMAN: Thank you.

11 Is there anyone here representing the
12 applicant?

13 Would you come to the microphone and be sworn
14 in?

15 MR. OBERHAUSEN: Yes. I'm Ross Oberhausen of
16 DMK Development Group.

17 CHAIRMAN: Are you an attorney, sir?

18 MR. OBERHAUSEN: No.

19 (ROSS OBERHAUSEN SWORN BY ATTORNEY.)

20 CHAIRMAN: Do you have anything to add to
21 what's been said?

22 MR. OBERHAUSEN: I am here to answer any
23 questions you may have.

24 CHAIRMAN: Just stay put in case anyone does.

25 Is there anyone else here wishing to speak in

1 reference to this item?

2 (NO RESPONSE)

3 CHAIRMAN: Any board members have questions?

4 (NO RESPONSE)

5 CHAIRMAN: Hearing none I'll entertain a
6 motion.

7 MR. GLENN: I will make a motion to approve
8 this application or request based on the information
9 and the facts that were presented here to us tonight
10 and also that they would meet the three suggested
11 conditions listed.

12 CHAIRMAN: We have a motion by Mr. Glenn.

13 MR. REEVES: Second.

14 CHAIRMAN: Second by Mr. Reeves. Any question
15 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 WITH TORI THOMPSON RECUSING HERSELF FROM VOTING.)

21 CHAIRMAN: Motion carries unanimously.

22 MR. OBERHAUSEN: Thank you very much.

23 CHAIRMAN: Next item.

24 ITEM 2

25 9551 Morgantown Road, zoned A-R Rural Agriculture
Consider a request for a Conditional Use Permit in

1 order to expand an existing Cemetery.
2 Reference: Zoning Ordinance Article 8, Section 8.2J1
3 Applicant: St. Mary of the Woods Parrish, Inc.

4 MR. CRUM: The subject property is a 14.38
5 acre lot that is zoned A-R Rural Agriculture and is
6 location of St. Mary of the Woods Cemetery.

7 The adjoining properties on all sides of the
8 subject property are zoned A-R Rural Agriculture and
9 consist of rural residential and agricultural uses.

10 The existing cemetery was established prior to
11 the adoption of the current zoning ordinance, and
12 according to OMPC records there are no zoning map
13 amendments for the subject property.

14 The existing cemetery use occupies the front
15 portion of the subject property. It's the applicant's
16 intent to expand this into the rear half of the
17 property, as well as construct a new 2,400-square-foot
18 pavilion near the center of the property. The
19 applicant is proposing to extend the existing asphalt
20 drive to the rear portion of the property in order to
21 provide access to the rear of the site.

22 As far as requirements for the use: Parking -
23 there is no parking required for cemetery uses.

24 As far as landscaping, as the property is
25 surrounded by agricultural zoning and the vehicular
use areas do not adjoin any public right-of-way, no

1 landscaping is required by ordinance. However, the
2 Board may impose landscaping requirements deemed
3 necessary to screen the use from neighboring
4 properties.

5 Should the Board approve the request, Staff
6 suggest the following Condition:

- 7 1. Submission and approval of a site plan for
8 the subject property; and,
9 2. Obtain all necessary building, electrical,
10 and HVAC permits, inspections and certificates of
11 occupancy and compliance.

12 Staff would like to enter the Staff Report
13 into the record as Exhibit B.

14 CHAIRMAN: Thank you. Is there anyone here
15 representing the applicant?

16 MR. DANT: Yes.

17 CHAIRMAN: Do you want to go to the microphone
18 and be sworn in and stay there in case anybody has any
19 question?

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

22 MR. DANT: Seth Dant.

23 (SETH DANT SWORN BY ATTORNEY.)

24 CHAIRMAN: Hold up in case anybody has a
25 question.

1 Is there anyone else wishing to speak in
2 reference to or in opposition to this item?

3 (NO RESPONSE)

4 CHAIRMAN: Hearing none I will entertain a
5 motion.

6 MR. ANDREW HOWARD: I'll make a motion based
7 on information provided here tonight and with
8 Conditions 1 and 2.

9 CHAIRMAN: Do we have a second on the motion?

10 MS. THOMPSON: Second.

11 CHAIRMAN: Tori has the second. Any question
12 on the motion?

13 (NO RESPONSE)

14 CHAIRMAN: All in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, Mr. Howard.

18 ITEM 4

19 1864 Old Calhoun Road, zoned B-4 General Business
20 Consider a request for a Conditional Use Permit in
21 order to operate a Child Day-Care Facility.
22 References: Zoning Ordinances Article 8,
Section 8.2B3
Applicant: Lois M. Edwards; Marcia Carpenter

23 MR. CRUM: The subject property is a large
24 36.83 acre parcel zoned B-4 General Business and was
25 the former site of Golfland USA outdoor recreational

1 park.

2 In the surrounding area, the adjoining
3 properties to the north and west across Highway 81 and
4 West Parrish Avenue, are zoned B-4 General Business
5 and are currently undeveloped farmland. The adjoining
6 properties to the south, across Old Calhoun Road, are
7 zoned P-1 Professional/Service and R-1A Single-Family
8 Residential, and consist of a church and single-family
9 dwelling. Properties to the east, across Old Calhoun
10 Road, are zoned I-1 Light Industrial, I-2 Heavy
11 Industrial, and B-4 General Business and appear to
12 contain warehousing, agricultural, and industrial
13 uses.

14 The applicant is requesting conditional use
15 approval in order to utilize an existing
16 3,200-square-foot structure on the property for a
17 child daycare center. The applicant intends to retain
18 the existing access point on Old Calhoun Road, as well
19 as the existing parking area in front of the
20 structure. These areas will be screened according to
21 zoning ordinance requirements.

22 The application indicates that the proposed
23 daycare will host a maximum of 69 children and operate
24 Monday through Friday 7 a.m. to 5:30 p.m.

25 As far as requirements for the use, parking

1 requirements are based on the number of children under
2 the care. The site will be required to provide 9
3 parking space based on the site plan submitted. It
4 appears that this area can accommodate those spaces.

5 As far as landscaping, a 3-foot tall
6 continuous element with a tree every 40 feet is
7 required where these vehicular use areas adjoins
8 public rights-of-way. The submitted site plan shows
9 landscape buffers that meet this requirement.

10 Should the Board move to approve this request,
11 Staff suggests including the following conditions:

- 12 1. Submission and approval of a site plan;
13 2. Obtain all necessary building, electrical
14 and HVAC permits, inspections and certificates of
15 occupancy and compliance.

16 Staff would like to enter the Staff Report
17 into the record as Exhibit C.

18 CHAIRMAN: Thank you.

19 Is there anyone here representing the
20 applicant?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Why don't you just stay put and
23 we'll see if anybody has got a question.

24 Does anybody have any questions on this item?
25 Anything needed to be added?

1 (NO RESPONSE)

2 CHAIRMAN: Hearing none I will entertain a
3 motion.

4 Mr. Reeves.

5 MR. REEVES: Motion to approve this
6 Conditional Use Permit based on information presented
7 at the meeting this evening, as well as the site
8 visit, and this area is pretty much isolated from
9 other uses and this will be I think an excellent use
10 for the property.

11 CHAIRMAN: We have a motion by Mr. Reeves. Do
12 I hear a second?

13 MS. KNIGHT: Mr. Reeves, would you like to add
14 the conditions?

15 MR. REEVES: And Conditions 1 and 2.

16 CHAIRMAN: Do we have a second?

17 MR. GLENN: Second.

18 CHAIRMAN: Second by Mr. Glenn. Any questions
19 on the motion?

20 (NO RESPONSE)

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 ITEM 5

1 2226 W. 7th Street, zoned R-4DT Inner-City Residential
2 Consider a request for a Conditional Use Permit in
3 order to install a Class 2 Manufactured Home in an
4 R-4DT zone.
5 Reference: Zoning Ordinance Article 8,
6 Section 8.2A10B/7
7 Applicant: Joel S. White

8 MR. CRUM: The 0.112 acre subject property is
9 currently vacant and is zoned R4-DT Inner-City
10 Residential. OMPC records indicates there has been no
11 zoning map amendments on the subject property.

12 Adjoining properties on all sides of the
13 subject property are zoned R-4DT and appear to be
14 utilized residentially with single-family residential
15 dwellings.

16 For this request the applicant would like to
17 place a 14-foot by 70-foot Class 2 Manufactured Home
18 on the subject property. The nearest Class 2
19 Manufactured Homes on West 7th Street are at 2521,
20 2522 and 2523 West 7th Street, which is over 1,000
21 feet away from the subject property. As shown on the
22 site plan, the applicant intends to utilize a gravel
23 drive and parking area and does not propose to install
24 sidewalks.

25 Although it is not typically encouraged within
the city limits, the applicant is requesting the Board
waive the sidewalk requirement to remain consistent
with this portion of West 7th Street where sidewalks

1 are not present and request a waiver to allow the use
2 of a gravel drive and parking area since several
3 neighboring properties utilize gravel drives.

4 The Zoning Ordinance has standard specific
5 Class 2 Manufactured Homes which include provide a
6 paved parking area, a 10 by 10 patio, concrete
7 sidewalks, limits on driveway apron width, required
8 trees, permanent a permanent foundation, removal of
9 the hitch assembly and connection to water and sewer
10 when available.

11 The site plan submitted with the application
12 indicates that each of the zoning ordinance
13 requirements with the exception of the paved driveways
14 and sidewalk requirements, for which the applicant has
15 requesting waivers.

16 If the Board moves to approve the request,
17 Staff requests the following conditions:

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

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

23 CHAIRMAN: Thank you.

24 Is there someone here representing the
25 applicant?

1 (NO RESPONSE)

2 CHAIRMAN: Does anyone have a comment or
3 question about this application?

4 (NO RESPONSE)

5 CHAIRMAN: Hearing none I will entertain a
6 motion.

7 MR. GLENN: I will make a motion to approve
8 this application based on the site visit and looking
9 at what housing is already there. I know they are not
10 wanting to not put a paved driveway in and a lot of
11 the houses didn't have driveways to begin with. Also,
12 there are no sidewalks that I could see anywhere near
13 it, so I can't see where that would be a detraction
14 from the area. I would make a motion to approve based
15 on that information and the facts presented here and
16 also they meet the suggested condition, having all
17 permits.

18 CHAIRMAN: Thank you, Mr. Glenn.

19 Is there a second to the motion?

20 MR. ANDREW HOWARD: I'll second.

21 CHAIRMAN: Second by Andrew. Any question on
22 the motion?

23 (NO RESPONSE)

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 -----

4 VARIANCES

5 ITEM 6

6 2804 Frederica Street, zoned B-4 General Business
7 Consider a request for a Variance in order to reduce
8 the required roadway buffer along Frederica Street
9 from 60 foot from the street centerline to 34 foot
10 from the street centerline
11 Reference: Zoning Ordinance Article 13,
12 Section 13.6221
13 Applicant: 4 Cats, LLC

10

11 MR. CRUM: As Staff is recommending denial of
12 the application, we will be reading the entire Staff
13 Report.

14 A. SPECIAL CIRCUMSTANCES? Are there special
15 circumstances that do not generally apply to land in
16 the general vicinity, or in the same zone?

17 The Staff finds "No."

18 The subject property is a vacant corner lot
19 located at the intersection of Frederica Street and
20 Emory Drive and is zoned B-4 General Business. The
21 property is 0.541 acres in size and does not have a
22 history of previous Zoning Map Amendments. The
23 applicant proposes to utilize the subject property in
24 order to construct a 5,000 square foot mixed use
25 commercial building. While the building is proposed

1 to face Frederica Street, access to the site shall be
2 limited to Emory Drive with no direct access to
3 Frederica Street permitted.

4 Frederica Street in this vicinity is
5 classified as principal arterial roadway with a
6 60-foot roadway buffer and 75-foot building setback
7 line. Required parking and landscaping areas are
8 prohibited within the roadway buffer. The applicant
9 is requesting to reduce the roadway buffer to 34 feet
10 from the centerline of the road in order to
11 accommodate the proposed front parking area and
12 required landscaping. Based on the building size and
13 composition of proposed uses, 23 parking spaces are
14 required by ordinance, with 27 spaces provided per the
15 proposed site plan. However, 10 of the parking spaces
16 and the required landscaping are located within
17 60-foot roadway buffer that runs along Frederica
18 Street.

19 It appears that all of the properties directly
20 adjacent to the subject property meet the required
21 roadway buffer for Frederica Street. In the past
22 several variances have been granted to properties
23 several blocks farther north along Frederica Street to
24 reduce the 60-foot roadway buffer, including:

25 * 2400/2402 Frederica Street - Approved in
2005 to reduce the roadway buffer to 45-feet

- 1 * 2425 Frederica Street - Approved in 2002 to
reduce the roadway buffer to 34 feet
- 2 * 2524 Frederica Street - Approved in 2005 to
reduce the roadway buffer to 48 feet.
- 3 * 2645 Frederica Street - Approved in 2009 to
reduce the roadway buffer to 35 feet
- 4

5 The subject property is a well-proportioned
6 lot that is over half an acre in size. All but one of
7 the properties granted a variance are smaller than the
8 subject property, and they were all more constrained
9 than the subject property due to their odd shape and
10 location. In addition, establishing a landscaped
11 parking lot in the proposed area on the subject
12 property in such close proximity to Frederica Street
13 may present problems with visibility for vehicles
14 exiting at the intersection of Emory Drive and
15 Frederica Street.

16 Granting the variance to reduce the roadway
17 buffer may alter the essential character of the
18 general vicinity because while variances to reduce
19 roadway buffer along Frederica Street have been
20 approved in the past for four properties several
21 blocks north of the subject property, all properties
22 in the immediate vicinity of the subject property were
23 developed to meet roadway buffer requirements. In
24 addition, the variance may pose a hazard or a risk to
25 public health or safety due to reduced visibility at

1 the Emory Drive and Frederica Street intersection.
2 The requested variance would be an unreasonable
3 circumvention of the requirements of the zoning
4 ordinance because the subject property is large enough
5 to reasonably accommodate construction of a commercial
6 structure and parking lot without requiring a variance
7 to reduce the roadway buffer.

8 HARDSHIP? Would strict application of the
9 regulation deprive the applicant of the reasonable use
10 of the land, or create an unnecessary hardship on the
11 applicant?

12 Staff finds "No."

13 It is possible to reduce the size of the
14 development in order to configure the site without the
15 need for a variance.

16 APPLICANT'S ACTIONS? Are the circumstances
17 from which relief is sought a result of the applicant's
18 action taken after adoption of the zoning regulations.

19 IF YES: WILLFUL ACTIONS? Did the applicant
20 take WILLFUL actions in violation of the zoning
21 regulation? IF SO, the Board SHALL DENY the variance.

22 The Staff finds that they did not.

23 FINDINGS: Approving this Variance...

24 1. May adversely affect the public health,
25 safety or welfare because of reduced visibility at the

1 Emory Drive and Frederica Street intersection;

2 2. Will alter the essential character of the
3 general vicinity because all properties in the
4 immediate vicinity of the subject property were
5 developed to meet roadway buffer requirement;

6 3. May cause a hazard or nuisance to the
7 public because of reduced visibility at the Emory
8 Drive and Frederica Street intersection; and,

9 4. Will allow an unreasonable circumvention
10 of the requirements of the zoning regulations because
11 the subject property is large enough to reasonably
12 accommodate construction of a commercial structure and
13 parking without requiring a variance to reduce the
14 roadway buffer.

15 Staff's recommendation is Denial.

16 Staff would like to the enter the Staff Report
17 into the record as Exhibit E.

18 CHAIRMAN: Thank you.

19 Is there anyone here wishing to speak on
20 behalf of this application?

21 MR. KAMUF: Yes. Madam Chairman, Charlie
22 Kamuf.

23 MS. KNIGHT: Mr. Kamuf, you're sworn as an
24 attorney.

25 MR. KAMUF: I represent 4 Cats Real Estate

1 Company. It's a development company. As stated, it's
2 a very small strip center that we plan to develop at
3 2804 Frederica. The development company consist of
4 Sean Byrne, John McNulty, Phil Roberts and Mark Riney.
5 Three of those gentlemen are here to testify here
6 today.

7 What the applicant is requesting: What was
8 stated in the report, there's a 60-foot roadway buffer
9 along Frederica Street in this area. It will be to
10 reduce 34 feet, a reduction of 26 feet. We'll show
11 you some plats in a second. Let me show you some
12 exhibits here.

13 This is Exhibit Number 1, as you'll see. The
14 purpose of this exhibit is to show the subject
15 property and what's located around it.

16 As you see to the rear is Emory Center, and
17 also Emory Center, Long John Silvers, BB&T, U.S. Bank
18 and then to the left is Plasma Biological Services,
19 which is the Crandall property, which we'll talk about
20 in just a few minutes.

21 This property for 30 years has been vacant.
22 It used to be the old Murphy standard oil service
23 station.

24 The next exhibit that you have -- the purpose
25 of this exhibit is to show you the location of the

1 property. There's some question, as you can see on
2 the front, as to whether we'll lose -- we say we'll
3 lose 12 parking spaces. I think they mentioned a few
4 minutes ago 10. You can see the roadway buffer.
5 There's a 60 foot roadway buffer, and you can see the
6 34 buffer requested, and you can see the area where we
7 will lose the parking.

8 It's our opinion that the strict application
9 of the provisions of the zoning ordinance would create
10 an unnecessary hardship on the applicant because it
11 would reduce the developable depth of the lot by 26
12 feet, making it impossible for the applicant to
13 construct a 5,000 square foot building above and
14 provide for the required parking. The applicant, as I
15 stated, our opinion we would lose 12 parking spaces.

16 Under the ordinance, when can variances be
17 granted? Variance can be granted by reason of the
18 narrowness, depth of the lot or the unusual shape of
19 the site. We are asking for that 26-foot reduction,
20 and the reason for this is because the depth of the
21 lot is only 160 feet and that would prevent the
22 reasonable development of the property. What is a
23 roadway buffer? A little background. All along
24 Frederica Street in the area there is a 60 foot
25 required buffer. The purpose of the roadway buffer is

1 to allow for the widening of Frederica Street. The
2 60-foot roadway buffer along Frederica Street is not
3 unusual. Many of the roads coming into Owensboro have
4 that.

5 Past action by the Board. This Board has
6 approved variance permits along Frederica Street for
7 commercial properties in the immediate area of the
8 property. That was mentioned in the Staff Report.

9 In the last 18 years, the Board has approved
10 at least five variances in the immediate vicinity.
11 Three various reducing the 60-foot right-of-away along
12 Frederica Street for as much as 26 feet and as little
13 as 15 feet. I have handled several of these cases
14 along there and I do not recall any variances
15 whatsoever that have been denied.

16 Our request is consistent with the previous
17 action of the Board. The similar variances were
18 approved and this is exhibit, this is our big exhibit.
19 You have a copy of it.

20 All of the locations that I talk about today
21 -- everything I talk about today will be listed in
22 this exhibit. This exhibit shows every precedence
23 that we will be talking about.

24 First of all, let me point you to this
25 exhibit. Up on the right-hand corner is Walgreens. I

1 personally handled the variance on that one.

2 The next one that you see is Independence
3 Bank, Starbucks, Shammy's Auto Wash and Gavin Roberts,
4 Farm Bureau building. Everything that you see in
5 green on the exhibit is a previous variance that has
6 been approved by this Board. As you see the subject
7 property down there, and next to the subject property
8 is Ken Crandall's property, and we'll talk about that
9 in a few minutes. You also see the roadway buffer
10 which is important. There's a roadway buffer on each
11 side of Frederica Street that we see there.

12 Let me review these, if you will. All of
13 these variances were requested because of parking
14 issues, which we'll talk about.

15 The first one that we'll talk about, the
16 exhibit that's being passed out is five different
17 exhibits. The first exhibit that you see is
18 Independence Bank.

19 Let's talk about the Independence Bank first.
20 As you can see, there was a 26-foot variance and the
21 purpose of this exhibit, the first one, Independence
22 Bank, as you can see all along that property, it's a
23 whole block, there was a variance. The main reason
24 for the variance was for the parking.

25 The next photo is of Walgreens. I personally

1 handled that. You can see the variance along
2 Frederica Street where the trees. You'll notice each
3 one of those exhibits the area where the variance is
4 there's parking. Parking is the key question.

5 Let's look at Starbucks. You see the cars
6 that are parked there. Starbucks along Frederica,
7 there was a 15-foot reduction.

8 The next one that you have is Shammy. Shammy
9 was a variance which was requested by Sean Byrne and
10 Mr. Riney. They're here as part of this one here
11 today. You can see that particular area there.
12 That's all -- there's a truck parked out front. The
13 idea there is variance so they can get parking.

14 The last one is Gavin Roberts. Gavin Roberts
15 all along the front shows the variance.

16 Let me point out with the big exhibit. As you
17 see all along here, this is a huge development. It's
18 over half a block that you have where Walgreens is.
19 The variance is all along the front. This is not just
20 a small lot. This is two or three times larger than
21 the subject property. Look at Independence. Look how
22 large that is. You can see all along there. The next
23 one is Starbucks. That might be about the same size
24 as the subject property. The other two are smaller
25 where you have Shammy's, but you can see this line

1 coming in through here. That's called the buffer
2 area.

3 Let's talk about this one here. This is the
4 Crandall property. I go home every day and I kept
5 noticing this construction. The construction that you
6 could see on the Crandall property is out near the
7 street. So what did I do? I took a picture of it and
8 I checked it out. The Crandall property, as far as --
9 they have a parking lot. I talked to Mr. Crandall.
10 The whole idea on developing of this area that he's
11 doing now is because he had to have additional
12 parking. He paid \$25,000 for just a little strip so
13 he could increase the parking.

14 That one there is down from the property.

15 Now, that exhibit that you see it's under
16 construction at the present time. It's the parking
17 lot for Crandall's property.

18 The last exhibit that I just gave you, which
19 is Exhibit 10, it shows a 5-foot intrusion into the
20 roadway buffer.

21 So the whole idea today is for me to show you
22 the different areas out there and what has taken
23 place. As we speak, there is an intrusion into the
24 roadway buffer of this property.

25 Let me give you a little background. Why are

1 we here? The purchase of the lot. When the applicant
2 purchased the lot he paid \$500,000 for this lot.
3 That's a lot of money where you just have three units
4 to make it economically developed. They did not know
5 about the 60-foot roadway buffer. The roadway buffer
6 is not recorded at the courthouse. If he had the
7 title run, you don't see this. A lawyer running that
8 title didn't necessarily find about the roadway
9 buffer.

10 The purpose of the 60-foot roadway buffer was
11 for the widening of Frederica Street. The question
12 is, is it economically feasible for a developer to
13 develop this lot without the 26-foot reduction in the
14 roadway? The developer paid \$500,000 for the
15 property. The cost of the lot was about \$3,000 per
16 foot. You get this by dividing 500,000 by the depth
17 of the lot, which is 160 feet, which equals 3,000 per
18 foot. If each depth of the lot is worth 3,000 and the
19 developer loses 26 feet, he's lost \$77,000. In other
20 words, \$77,000 of land he cannot use.

21 Talk about the widening of Frederica Street
22 and the purpose of this roadway buffer. I can
23 remember in my lifetime Frederica Street has been
24 widen at least three times. In the area of this
25 property, there are five lanes. In the area of

1 Owensboro Senior High, there are five lanes plus two
2 parking lanes. Why am I telling you that? I'm
3 telling you that it's very, very unlikely that this
4 area of Frederica Street will ever be widened in the
5 future.

6 The reason for me to show you this exhibit,
7 which is of Chase Bank, if we're talking about setoffs
8 from Frederica Street, this is on the corner of Scherm
9 Road and Frederica. My position is that it would be
10 nearly impossible to ever widen Frederica Street any
11 more; therefore, the roadway buffer would not be
12 needed.

13 This area along Frederica Street, we're
14 talking about from where Walgreens is to this
15 particular area just south of the subject property is
16 probably the busiest commercial area in Western
17 Kentucky.

18 In the '50s or '60s, there were service
19 stations all along this property. At the intersection
20 of 24th Street, you see there at 24th, you see Booth
21 on the other side, there were three service stations.
22 There was a Gulf Station, a DX Station by Russell
23 Oldham, and another station where Independence Bank is
24 today by Hank McCain. There were three at that lot.
25 The next lot, which is 25th and Frederica, there was

1 Kings, DX and another service station. As you get on
2 at the corner of Park Place, there were two and at
3 Washington Avenue there were two.

4 The subject property had a Standard Oil
5 Service Station on it. Now, why did I tell you that?
6 Nearly all of these service stations, the developer of
7 the service station would try to get it on there for
8 half an acre or quarter of an acre. These lots have a
9 history of being small. Now that all the service
10 stations except two out there have been demolished,
11 they're redeveloping the property and as a result of
12 redeveloping the property, all of these smaller lots
13 everybody needs a little more parking.

14 Variances have been approved, as I spoke to
15 you a second ago.

16 Right here at Independence Bank in 2002, and I
17 would tell you that Independence Bank would not be
18 built today if the variance wasn't approved.

19 Walgreens, I handled this myself. There were
20 a lot of questions about EPA there, but they bought
21 maybe five or six lots, which is just about the entire
22 block as you can see here. The alley runs along
23 there.

24 That property would not have been developed, I
25 can assure you, if we hadn't got the -- we had the

1 variance all along Frederica Street. As you can see,
2 this variance here along Independence Bank is huge.
3 Starbucks, they had theirs. I can say this, that
4 Shammy's would not have been developed, Shammy's was
5 in 2005, if it hadn't been, as you can see here --

6 MR. REEVES: Mr. Kamuf, you ever hear of
7 sometimes less is more? Having heard all of the
8 things you said, and I think you made a very
9 compelling case, I'm incline to make a motion to
10 approve this variance.

11 MR. KAMUF: You won't hear another word out of
12 me.

13 MR. REEVES: Madam Chairperson, I would make a
14 motion to approve this variance based on the testimony
15 given this evening and that it may adversely affect
16 the public health, safety to reduced visibility at
17 Emory Drive along Frederica Street, but we do not know
18 that for a fact. It will not alter the essential
19 character of the neighborhood, in the general vicinity
20 because all properties in the immediate vicinity of
21 the subject property were developed some period of
22 time ago, probably before the zoning ordinance, and
23 that was not an issue then. It will not cause a
24 hazard or a nuisance to the public because reduced
25 visibility at Emory Drive because we're exiting on

1 Emory Drive. It will not allow an unreasonable
2 circumvention of the requirements of the zoning
3 regulations because the subject property is large
4 enough to accommodate construction of a commercial
5 structure and parking without requiring a variance to
6 reduce the roadway buffer.

7 CHAIRMAN: We have a motion by Mr. Reeves. Do
8 we have a second on that motion?

9 MR. ANDREW HOWARD: Second.

10 CHAIRMAN: Second by Andrew. Any question on
11 this motion?

12 (NO RESPONSE)

13 CHAIRMAN: Any additional comments or
14 questions on this?

15 MR. KAMUF: I might point out, there is no
16 objection to this you understand. None of the
17 neighbors have objected.

18 CHAIRMAN: Thank you.

19 Hope I didn't say too much, Freddy?

20 MR. REEVES: Just the right amount.

21 CHAIRMAN: All those in favor of the approval
22 raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Is there any other business, Mr. Howard?

1 MR. HOWARD: No, ma'am.

2 CHAIRMAN: Hearing none I'll entertain one
3 more motion.

4 MR. GLENN: Motion to adjoin.

5 CHAIRMAN: Motion to adjourn by Mr. Glenn.

6 MS. THOMPSON: Second.

7 CHAIRMAN: Second by Tori. All those in favor
8 raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 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 10
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 1st day of November, 2020.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E PARRISH AVE, SUITE 205-C
OWENSBORO, KY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

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