

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 NOVEMBER 4, 2021

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 November 4, 2021, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Judy Dixon, Chairman
9 Brian Howard, Director
10 Terra Knight, Attorney
11 Andrew Howard
12 Fred Reeves
13 Lewis Jean
14 Bill Glenn

15 * * * * *

16 CHAIRMAN: We'll will call the November 4th
17 meeting of the Owensboro Metropolitan Board of
18 Adjustment to order.

19 First item on the agenda is to open with a
20 prayer and the pledge. Mr. Reeves, will you help us
21 out here?

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: First item on the agenda is to
24 consider the minutes of the October 14, 2021 meeting.
25 All members have been mailed or received an electronic
copy of the minutes. So at this time we will
entertain a motion.

MR. GLENN: Motion to approve.

1 MR. ANDREW HOWARD: Second.

2 CHAIRMAN: Motion to approve by Mr. Glenn.

3 Seconded by Andrew. Any question on the motion?

4 (NO RESPONSE)

5 CHAIRMAN: All in favor in approval of the
6 minutes raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Number 2, Mr. Howard.

10 -----

11 CONDITIONAL USE PERMITS

12 ITEM 2

13 3100 & 3136 West Second Street, zoned B-4 General
14 Business

15 Consider a request a Conditional Use Permit in order
16 to order to operate an addiction rehabilitation
17 facility from the subject properties.

18 References: Zoning Ordinances Article 8,
19 Section 8.2C1

20 Applicant: BTR28, LLC; OH Hotels, LLC; OH Assets, LLC

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

23 MR. PEDLEY: Trey Pedley.

24 (TREY PEDLEY SWORN BY ATTORNEY.)

25 MR. PEDLEY: The subject property is zone B-4

General Business and located at the intersection of

Carter Road and West Fourth Street, as well as Carter

Road and West Second Street.

The adjoining properties to the south, east

1 and west are all zoned B-4 General Business. Those to
2 the south are undeveloped lots. The adjoining
3 properties to the north across West Second Street are
4 zoned R-3MF Multi-Family Residential, A-U Urban
5 Agriculture and B-4 General Business consisting of
6 multi-family apartments, single-family residence and
7 an animal shelter.

8 The site has historically been utilized as a
9 hotel, accessory uses and approximately 200 parking
10 spaces. At this time the applicant intends to
11 redevelop the site to operate an addiction
12 rehabilitation facility housing up to 300 clients, 40
13 staff members at the maximum shift.

14 The intended redevelopment includes
15 renovations of the existing building, changes to the
16 parking layout, including the closure of several
17 access points, and elimination of any parking spaces,
18 plus the installation of landscaping elements and
19 construction of accessories

20 For this use as described, the Zoning
21 Ordinance requires 115 parking spaces. The conceptual
22 plan illustrates only 61 parking spaces; however,
23 because there are approximately 200 parking spaces
24 currently on site, it's believed that this site can
25 accommodate the 115 required parking spaces with the

1 revised layout.

2 The Zoning Ordinance also requires landscaping
3 where the vehicular use area adjoins public
4 right-of-way, consisting of a 3-foot tall continuous
5 element and one tree per 40-linear feet. If the
6 vehicular use area is greater than 30,000 square feet,
7 interior landscaping shall also be required.

8 If approved Special Conditions includes:

9 1. Obtain approval of a Minor Subdivision
10 Plat consolidating the two subject properties;

11 2. Obtain approval of a Final Development
12 Plan, which shall illustrate compliance with zoning
13 ordinance requirements including (but not limited to)
14 the required number parking spaces; and,

15 3. Obtain all necessary building, electrical
16 and HVAC permits, inspections and certificates of
17 occupancy and compliance.

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

20 CHAIRMAN: Is there anyone here representing
21 the applicant?

22 MR. FORREST: Yes.

23 CHAIRMAN: Would you go to the podium, please?

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

1 MR. FORREST: Brian Forrest.

2 (BRIAN FORREST SWORN BY ATTORNEY.)

3 CHAIRMAN: Do you have anything to add to what
4 has been read into the record tonight or that's in
5 your application?

6 MR. FORREST: No, ma'am. The only thing that
7 Trey mentioned is that we are in the process of
8 changing around the parking, to add more parking;
9 basically the existing parking.

10 In particular, I can't really point, but the
11 top right corner where there's a small building, that
12 gives us enough parking. It's actually 117 spots once
13 that is changed. I have people out of town and I
14 can't get that revised today.

15 CHAIRMAN: Thank you.

16 Is there anyone in the audience that has
17 questions of the applicant or concerns to address?

18 MR. SHELTON: How many people are going to
19 be --

20 CHAIRMAN: Come to the podium.

21 MS. KNIGHT: Sir, if you could state your name
22 for the record, please.

23 MR. SHELTON: Ed Shelton.

24 (ED SHELTON SWORN BY ATTORNEY.)

25 MR. SHELTON: Is this going to be a residence

1 for people? I mean are people going to be spending
2 the night in this building?

3 MR. FORREST: Yes, sir, it is.

4 MR. SHELTON: Is it long-term?

5 CHAIRMAN: Address your questions to us.

6 MR. FORREST: It's up to 90 days on this.

7 It's more like an upscale assisted living.

8 MR. SHELTON: Is it like Harbor House?

9 MR. FORREST: It's not like Harbor House, no.

10 I mean there are similarities.

11 MR. SHELTON: How many residents are going to
12 be there?

13 MR. FORREST: There's up to 300 residents.

14 MR. SHELTON: Is that a good location for that
15 place? There's a lot of youth in that area. Across
16 the street from it is a grocery store. I have some
17 concerns about that type of facility being there close
18 to a church, and that neighborhood across the street
19 from it, on the north side of West Second. There's a
20 lot of opportunity there for some mischievous
21 activity. You have rehabilitating addicts and you
22 have an enclosed space, you know, and people want to
23 sell some drugs they know a good place to look. I
24 just have some questions about if that is good use for
25 that property.

1 CHAIRMAN: Do you have answers for him?

2 MR. FORREST: Yes, I understand your concerns.
3 I look at -- I've been here numerous times and people
4 driving out of here at night. I consider that quite
5 worse than what's going in here.

6 All the patients that will be there are
7 actively wanting to get treatment. This group has not
8 had any issues at other sites. That's why I want to
9 put landscaping around the buffer. It's more of an
10 upscale nursing home. There's going to be roughly 40
11 people at each time or each shift working there. So
12 in terms of traffic, I think it could actually help
13 your grocery store more than anything.

14 MR. SHELTON: I'm not concerned about the
15 actual traffic itself. Who owns that property? Is
16 that the people that ran the hotel there?

17 MR. FORREST: Yes.

18 MR. SHELTON: So it's no longer going to be
19 used as a hotel?

20 MR. FORREST: No, sir.

21 MR. SHELTON: What about security for that
22 property?

23 MR. FORREST: They will have ample security on
24 site; much like all the other locations. Have you
25 ever been to a drug rehab center?

1 MR. SHELTON: No.

2 MR. FORREST: I've been to a lot of those.
3 The people aren't coming in with needles hanging out
4 of their arms. They're looking to get better. It's
5 more like a nursing home type facility is the way I
6 look at it.

7 CHAIRMAN: Are the people that are going to be
8 there, are they coming of their own volition or are
9 they referred?

10 MR. FORREST: It's a little bit of both.

11 MR. SHELTON: Is there any kind of -- is there
12 any kind of a security agreement for other people? Do
13 they have to post a bond or anything that goes on on
14 this property? Do you have insurance to cover all the
15 activity there? I guess they do.

16 MR. FORREST: Sure. There's no prisoners
17 coming from -- it's not like it's a halfway house
18 where they get out of prison and they're coming to
19 this facility.

20 MR. SHELTON: All right.

21 CHAIRMAN: Mr. Reeves.

22 MR. REEVES: I have a couple of questions.
23 Do you operate the facilities in other
24 communities?

25 MR. FORREST: Me personally I do not.

1 MR. REEVES: Does your company operate
2 facilities in other communities?

3 MR. FORREST: The company that is taking this,
4 yes, sir. They have about 15 to 20 locations.

5 MR. REEVES: In other states?

6 MR. FORREST: All in Kentucky at the present
7 moment.

8 MR. REEVES: Will any of the residents be
9 there because of court order?

10 MR. FORREST: No. As far as I know, I don't
11 think there are.

12 MR. REEVES: Would you receive residents from
13 court order?

14 MR. FORREST: I can't answer that question.

15 MR. REEVES: Give the best answer you've got.

16 MR. FORREST: I don't think so, no.

17 MR. REEVES: You don't think so.

18 MR. FORREST: No. The group, I don't want to
19 divulge their name, but it's a treatment facility
20 where say if my son is an addict I'm going to take him
21 actively there; that's where the patients are coming
22 from.

23 CHAIRMAN: Mr. Glenn.

24 MR. GLENN: How many people that are
25 supervising all of this, all the recovery, these

1 people that are in recovery, are there people that are
2 supervising this?

3 MR. FORREST: Yes; 24-hours a day.

4 MR. GLENN: Are there rules and regulations
5 that the people living there at that time have to
6 follow?

7 MR. FORREST: Yes.

8 MR. GLENN: No alcohol, no drugs?

9 MR. FORREST: No.

10 MR. GLENN: Do they have to be in at a certain
11 time? Is there like a roll call, bed call, whatever?

12 MR. FORREST: They're not roaming the streets.
13 Just pretend like there's a fence around this that
14 they can't get out.

15 MR. GLENN: I'm just trying to clarify that
16 it's under control.

17 MR. FORREST: Sure.

18 MR. GLENN: And there are rules and
19 regulations to follow or they get booted?

20 MR. FORREST: It's zero tolerance. I
21 personally have a brother-in-law who is an addict and
22 he was in a couple of centers. If someone screws up,
23 they're out or there may be some people that walk
24 away. I mean the majority of these, probably 100
25 percent of, or 99 percent of them they don't have

1 fences around them. You're there actively from your
2 family or you're wanting to recuperate. The great
3 about this tenant that's going to be here is they have
4 an a lot of ex-addicts who are now working that work
5 for them now where they go out and be productive in
6 society.

7 MR. GLENN: They're getting jobs, holding
8 jobs, going out during the day trying to get back into
9 society on a regular basis?

10 MR. FORREST: Yes. They have two stages here.
11 One is kind of the intake area where you're coming in
12 day one, and then as they graduate the program they're
13 still staying there. They get acclimated and they may
14 have them working within the facility in some capacity
15 while they're still living there.

16 I want to be clear. If there is 300 people
17 there living, there may be 200 of those that are just
18 like us. They have to have a start again.

19 MR. GLENN: Okay.

20 CHAIRMAN: Mr. Reeves.

21 MR. REEVES: Did I ask you, do you have these
22 facilities in other communities?

23 MR. FORREST: Me personally, no. I have other
24 properties.

25 MR. REEVES: Why Owensboro?

1 MR. FORREST: Because there's a major need.

2 MR. REEVES: And that need is documented how?

3 MR. FORREST: That's not for me to answer.

4 MR. REEVES: I know that's not for you to
5 answer, but as we're making the decision --

6 CHAIRMAN: Give us your best shot.

7 MR. FORREST: I think there's a major need in
8 Western Kentucky for more efficient addiction centers.

9 MR. REEVES: And Owensboro would be your first
10 choice for Western Kentucky?

11 MR. FORREST: And Paducah, yes.

12 CHAIRMAN: Do you have any idea what kind of
13 success rate the other facilities that this company
14 owns has?

15 MR. FORREST: In terms of patients being clean
16 after the fact?

17 CHAIRMAN: Success.

18 MR. FORREST: I don't have exact numbers. I
19 know that it's a high rate of success. Read about
20 addiction. There's going to be relapse, but I don't
21 know the exact status on that.

22 CHAIRMAN: Andrew.

23 MR. ANDREW HOWARD: Sir, to your knowledge in
24 your other communities at your other sites, I know you
25 mentioned this house could hold up to 300 individuals.

1 Your other sites, other communities, are they like
2 similar size; if so, do they house as many, can hold
3 up to that? What is your general capacity, if you
4 will, at once?

5 MR. FORREST: Just to be clear, I'm commercial
6 real estate landlord. They've chosen me to be their
7 preferred developer. In terms of the business, I
8 don't know the ins and outs. I know financial. I've
9 visited most of their sites. They have one site that
10 has up to 700. They have a few. Kentucky evidently
11 changed the law a few years ago where, and I'm just
12 making up numbers, but it was around 30 people in
13 these rehab centers. Now you can do more. They have
14 a few facilities that are 150, 200, and they have one
15 that is like 700. Are they 100 percent occupied right
16 now? I don't think, but they're close.

17 CHAIRMAN: Mr. Reeves.

18 MR. REEVES: Just to comment because I'm
19 inclined right now to vote no. I'm inclined to vote
20 no because you don't have the information I need to
21 make a good decision. I think the company should have
22 sent a representative rather than a real estate agent.

23 MR. FORREST: I mean I'm going to own the
24 property. BTR28 is my company. I'm going to be the
25 owner of the property just to be clear.

1 MR. REEVES: Are you going to be the operator
2 of the property?

3 MR. FORREST: I'm not the overall operator of
4 the property.

5 MR. REEVES: What dog do you have in the fight
6 other than just you own it?

7 MR. FORREST: Well, I don't want to spend \$5
8 million if it doesn't, not doing the right thing, and
9 that's from visiting them and numerous other
10 facilities and knowing financially their well withal
11 and what they're doing in communities that they're in
12 helping others, it's been fascinating to me.

13 MR. REEVES: Thank you.

14 CHAIRMAN: Mr. Shelton.

15 MR. SHELTON: I think the public needs to know
16 about this. The only reason I know about it is
17 because I got a letter about this meeting. I think
18 the public ought to be aware of this. I would like to
19 know what other cities they're in. I think you all
20 should hear from other cities that they're in what
21 kind of response that they've had, what kind of record
22 this company has. He says he's a real estate fellow.
23 Is this company going to buy this property?

24 MR. FORREST: I'm buying this property.

25 MR. SHELTON: You're buying this property.

1 MR. FORREST: They're a tenant on the
2 property.

3 MR. SHELTON: I think the operator of this
4 organization needs to be before this board. I would
5 be against this totally.

6 CHAIRMAN: Anybody else have questions on the
7 board?

8 (NO RESPONSE)

9 MR. FORREST: Should we postpone this meeting?
10 I don't know how this works, if it's a majority or how
11 this works on voting. If there's one no. This
12 gentleman basically said no. I just would like to --

13 CHAIRMAN: Would you like us to postpone this?

14 MR. FORREST: I really don't want to, but I
15 don't know what the rules are if it's a majority or
16 how this works.

17 CHAIRMAN: My sense is that we've got some
18 unanswered questions.

19 MR. REEVES: I do. That's the only reason,
20 where I am right now is I have unanswered questions.

21 CHAIRMAN: Right. The success rate.

22 MR. REEVES: Where they're coming from.

23 CHAIRMAN: Where they're coming from. Things
24 that would make --

25 MR. REEVES: I would like to talk to the real

1 operator.

2 CHAIRMAN: Yes.

3 MR. FORREST: I will say the operator is the
4 largest rehab group in the state.

5 MR. REEVES: It doesn't make any difference.

6 MR. FORREST: I understand. I'm just saying
7 it's not a startup. They know what they're doing.
8 They're very well established in Eastern Kentucky.
9 They're seeing such a need in Western Kentucky and
10 that's why they want to be located in Western
11 Kentucky.

12 CHAIRMAN: I am incline to agree that there is
13 a need in Western Kentucky by reading the paper every
14 day, but I personally would like to see some of these
15 questions answered to make it more palatable to the
16 community.

17 Is that what you're wanting, Mr. Reeves?

18 MR. REEVES: That's where I am personally, as
19 a representative of the community.

20 CHAIRMAN: Mr. Glenn.

21 MR. GLENN: Is this their first venture into
22 Owensboro? There are numerous, more than a dozen of
23 these facilities in town, small. Is this their first
24 venture into Owensboro or do they have any part in any
25 of the smaller recoveries?

1 MR. FORREST: Yes, sir. This is their first
2 venture.

3 CHAIRMAN: I'm ready for some kind of motion.

4 MR. JEAN: I would like to make a motion that
5 we postpone this until we get to talk to a
6 representative of the facility.

7 CHAIRMAN: Do we need a time frame for
8 postponement?

9 MR. HOWARD: It would go to the next regularly
10 scheduled meeting.

11 CHAIRMAN: Until our December meeting.

12 MR. HOWARD: That would be December 2nd.

13 MR. REEVES: I'll second that.

14 CHAIRMAN: Is that your motion?

15 MR. JEAN: Yes.

16 CHAIRMAN: Mr. Reeves is going to second it.

17 Any question on the motion?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor -- and you were okay
20 with the postponement, if need be?

21 MR. FORREST: Not really, but I guess I have
22 to.

23 CHAIRMAN: Consider your options.

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

1 (BOARD MEMBERS JUDY DIXON, FRED REEVES AND
2 LEWIS JEAN RESPONDED AYE.)

3 CHAIRMAN: Any opposed?

4 (BOARD MEMBERS ANDREW HOWARD AND BILL GLENN
5 RESPONDED NAY.)

6 CHAIRMAN: Three to two. Motion is to
7 postpone until the December 2nd meeting.

8 Maybe you can come up with some of the answers
9 that has been aired here.

10 MR. FORREST: Okay. Just so I'm clear, the
11 two, I don't understand, is that saying no? I'm just
12 curious.

13 CHAIRMAN: Two people voted against
14 postponement. Three voted in favor of postponement.

15 MS. KNIGHT: So it's not on merit of the
16 application. Just whether to decide tonight or move
17 it to the next time.

18 CHAIRMAN: That's right.

19 MR. FORREST: Thank you.

20 -----

21 VARIANCES

22 ITEM 3

23 2024 Highway 81, zoned I-1 Light Industrial (Postponed
24 at the October 14, 2021 OMBA Meeting)
25 Consider a request for a Variance in order to
eliminate the required 10-foot wide landscaping
easement and one required tree per 40-linear feet
where the subject property adjoins lots less than 10

1 acres in size that contain an existing residence in an
2 agricultural zone along the north and west property
boundaries.
References: Zoning Ordinance Article 17,
3 Section 17.3111(f) & 17.3113
Applicant: Mr. Fence; KAS Enterprises, Inc.
4

5 MR. PEDLEY: This is a recommendation for
6 denial so as is contract the entire staff will be read
7 into the record.

8 SPECIAL CIRCUMSTANCES? Are there special
9 circumstances that do not generally apply to land in
10 the general vicinity or in the same zone? No.

11 The subject property is 0.67 acre parcel that
12 was recently rezoned I-1 Light Industrial and is
13 located near the intersection of Highway 81, Old
14 Lyddane Bridge Road and Old Calhoun Road.

15 The applicant proposes to develop the subject
16 property into a shop into special trade use for their
17 fencing company. The site plan submitted with the
18 request details construction of a 3,075 square-foot
19 building, accompanying parking areas, and a rear
20 gravel storage yard enclosed with 6-foot tall solid
21 fencing.

22 The subject property adjoins two existing
23 residential uses, 2012 Highway 81 and 4530 Old Lyddane
24 Bridge Road, that are agriculturally zoned and are
25 less than 10 acres in size. As a result, the Zoning

1 Ordinance requires the subject property to provide a
2 10-foot wide landscaping easement consisting of a
3 6-foot tall continuous element with one tree per
4 40-linear feet along the shared northern and western
5 property boundaries. While the applicant has
6 indicated that they will provide 6-foot tall solid
7 fencing to satisfy the 6-foot tall continuous element
8 requirement, they are seeking a variance to waive the
9 required 10-foot wide landscaping easement and the
10 required trees. The applicant contends that based on
11 the proposed site design the required 10-foot wide
12 easement and required trees along the northern and
13 western property lines would interfere with the
14 ability for large delivery trucks to maneuver in the
15 rear gravel lot.

16 The ordinance has several provisions that
17 allows developers flexibility when installing required
18 landscaping, the width of the required landscape
19 easement may be averaged in order to accommodate areas
20 where the site specific-constraints prevent the full
21 width from being installed. In a similar vein, the
22 required trees may be clustered rather than being
23 equally spaced to avoid impacting the operations of
24 the site. In addition to utilizing the provided
25 landscapes flexibilities, the applicant could also

1 reduce the size of the proposed structure to provide
2 more space for the trucks to maneuver or reconfigure
3 the site layout to allow for an alternative truck
4 path. As a result, the applicant has several avenues
5 to potentially accommodate the desired truck access
6 without requiring a variance.

7 Waiving the required 10-foot wide easement and
8 required trees entirely could result in a hazard or
9 nuisance to the adjacent residential uses. Previous
10 site plans indicate that waiving the required 10-foot
11 easement would allow the large trucks accessing the
12 site to come as close as 7-feet to the existing
13 detached accessory garage at 2012 Highway 81.
14 Furthermore, as both of the adjacent residence sit at
15 a higher elevation than the subject property, the
16 required trees are necessary to provide a taller
17 screening element that would effectively screen the
18 view of the use than a 6-foot tall fence alone.

19 The requested variance will adversely affect
20 the public health, safety or welfare because without
21 the required 10-foot landscape easement, trucks
22 accessing the site could come as close as 7-feet to
23 the neighboring detached residential accessory garage
24 at 2012 Highway 81. Granting this variance will alter
25 the essential character of the general vicinity

1 because waiving these requirements would change the
2 pattern of development for the area and could affect
3 the way other properties in the area redevelop in the
4 future. It will cause a hazard or a nuisance to the
5 public because the 10-foot easement and required trees
6 are necessary to provide the adjacent residences with
7 buffering and visual screening from the light
8 industrial use that is being proposed at the subject
9 property. It will allow an unreasonable circumvention
10 of the requirements of the zoning regulations because
11 this is an undeveloped site that has sufficient space
12 to redevelop while accommodating all landscaping
13 requirements.

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

18 If the application is denied, the applicant
19 could still develop the site while meeting the zoning
20 ordinance requirements.

21 Applicant's actions? Are the circumstances
22 from which relief is sought a result of the
23 applicant's actions taken after adoption of the zoning
24 regulations? No.

25 If Yes: Willful Actions? Did the applicant

1 take willful actions in violation of the zoning
2 regulations? If so, the board shall deny the
3 variance.

4 FINDINGS: Granting this Variance:

5 1. Will adversely affect the public health,
6 safety or welfare because without the required 10-foot
7 landscaping easement, trucks accessing the site could
8 come as close as 7-feet to the neighboring detached
9 residential accessory garage at 2012 Highway 81;

10 2. Will alter the essential character of the
11 general vicinity because waiving these requirements
12 would change the pattern of development for the area
13 and could affect the way other properties in the area
14 redevelop in the future;

15 3. Will cause a hazard or a nuisance to the
16 public because the 10-foot easement and required trees
17 are necessary to provide the adjacent residences with
18 buffering and visual screening from the light
19 industrial use that is being proposed at the subject
20 property; and,

21 4. Will allow an unreasonable circumvention
22 of the requirements of the zoning regulations because
23 this is an undeveloped site that has sufficient space
24 to redevelop while accommodating all landscaping
25 requirements.

1 STAFF RECOMMENDATION: Denial.

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

4 CHAIRMAN: Is there anyone here representing
5 the applicant?

6 APPLICANT REP: Yes.

7 CHAIRMAN: Board members have questions or
8 comments?

9 MR. JEAN: I have two questions for the
10 director.

11 If this variance was granted, does it stay
12 with this piece of property forever?

13 MR. HOWARD: The variance runs with the land,
14 yes.

15 MR. JEAN: What other kind of operations can
16 go in an I-1?

17 MR. HOWARD: Any type of light industrial
18 manufacturing. A simply type use could go in there;
19 auto mechanic shops. Anything that would, any type of
20 industrial use that would not be deemed high hazard,
21 that would generate excessive light, noise, have
22 hazardous materials, have vibrations. Any industrial
23 use other than that could potentially go in there
24 really.

25 MR. JEAN: Thank you.

1 CHAIRMAN: Any other questions?

2 (NO RESPONSE)

3 CHAIRMAN: We're ready for a motion.

4 MR. GLENN: Based on the information that I
5 have received here tonight and read, I would make a
6 motion to not grant this variance. The applicant did
7 not even chose to be here tonight to address anything,
8 and because of the Findings of Fact 1 through 4. It
9 will adversely affect the public health because of
10 what's listed. It would alter the essential character
11 of the general vicinity because of what's listed, and
12 it will cause as hazard or nuisance to the public
13 because of this easement, and it will allow an
14 unreasonable circumvention of the requirements of the
15 zoning regulations.

16 CHAIRMAN: We have a motion.

17 MS. KNIGHT: Hold on.

18 CHAIRMAN: I'm going to hold on for a second
19 because we do have some comments.

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

22 MR. WEAVER: David Weaver with Bryant
23 Engineering.

24 (DAVID WEAVER SWORN BY ATTORNEY.)

25 MR. WEAVER: I'm with Bryant Engineering. We

1 prepared the conceptual drawing. Unfortunately the
2 client hasn't been able to attend the meeting. I
3 tried to get him to attend this meeting. I believe he
4 is in Hawaii. I tried to send somebody on his behalf.
5 I was expecting to find his business partner here
6 tonight. Didn't show.

7 Just from an engineering standpoint, I just
8 want to point out the reason for the variance request
9 is the limited amount of space that the developer has
10 in order to bring tractor-trailers in. What we've
11 drawn up on that site plan is turning maneuvers for a
12 53-foot trailer, which is your typical 18-wheeler.
13 It's called a WB-67. He really needs every inch that
14 he can get to be able to swing around that property.
15 I'm just here to point out that engineering aspect of
16 why the variance is being requested. Of course, this
17 is a fence company so he has assured me that they will
18 put up a nice fence because this will be their
19 operation center in Owensboro.

20 With that said I can answer any questions the
21 board may have.

22 CHAIRMAN: Any questions?

23 MR. ANDREW HOWARD: Mr. Weaver, based on the
24 proposed square footage of the building, I know you're
25 not the applicant. Would a reduction in size benefit

1 them in relation to the variance request?

2 MR. WEAVER: Well, if you look at the site
3 plan, the building's width east to west is only
4 35-foot. So really it wouldn't help you any because
5 we have already done that. We've already narrowed the
6 depth of the building in order to create a larger rear
7 yard for a turning maneuver. So shortening in the
8 north/south direction wouldn't help the applicant.

9 MR. HOWARD: I know the way you have it laid
10 out you show -- I guess I have two questions.

11 The way you have it laid out you show just
12 make a continuous loop through the site?

13 MR. WEAVER: Yes.

14 MR. HOWARD: Is there room on the site for it
15 to pull in say on the backside of the building and
16 then do a backing maneuver to get off the site? Did
17 you all look at that?

18 MR. WEAVER: Well, the way he operates his
19 business, he has a site over in Evansville. My
20 understanding is he wants that middle left open
21 because that's where he stores his materials. He
22 needs to be able to maneuver a truck in and around.
23 For whatever reason, that's how he wanted the site set
24 up. His main storage area is in the middle.

25 MR. HOWARD: The other thing, and Trey may

1 have talked to you about this, about the possibility.
2 You can average the width of that easement. Is there
3 potential around a portion of it? I know you don't
4 have the depth, and that's where you're running into
5 issues. You're real tight on that back end of the
6 fence. On both of the sides is there potential, you
7 know, maybe as a compromise that you could include
8 some buffer on the sides with system trees and maybe
9 that back line where you're so close that the variance
10 just be granted along that boundary? I'm just trying
11 to think, is there a compromise there that can be
12 made?

13 MR. WEAVER: I can't for the applicant. I can
14 only answer technical questions.

15 As far as the turning maneuver, it does help
16 them out a lot more to have the space on the north
17 side of the lot; I'm sorry, on the west side of the
18 lot to be able to swing around.

19 Just from a common sense standpoint, I don't
20 know if any of you board members have been out to the
21 site to look at it or notice what the property to the
22 north looks like. If you look at that on Google Earth
23 I mean you'd be amazed on screening that property from
24 the property to the north. It's in disarray. There's
25 a lot of basically scattered piles and stuff laying

1 around.

2 MR. REEVES: I have a question.

3 I want to make sure that I'm looking at the
4 right property. Is this the old tennis barn property
5 across from Joe Ford's old farm?

6 MR. WEAVER: Actually I'm not sure what was on
7 that property before. Can you see what's displayed on
8 the screen here?

9 MR. REEVES: Yes.

10 MR. WEAVER: That's the property outline.

11 MR. REEVES: It's not.

12 MR. WEAVER: If you were going to grant him a
13 portion of it, it would be most beneficial to have the
14 relief on the west side.

15 MR. HOWARD: And that was going to be maybe my
16 question to the Board. Would you, based on the truck
17 maneuvering through the site, if you all want to deny
18 it outright that's fine. As Mr. Glenn said, the
19 applicant didn't show up tonight. But might there be
20 some consideration that it's granted on the west
21 property line only, and then the variance on the west
22 property line only, and then on the north and south
23 property lines that the 10-foot buffer with the trees
24 would still be required there as a potential
25 compromise. Because it looks like -- it's the depth

1 of the lot that is the issue. Not the size of the lot
2 per se.

3 MR. WEAVER: Can I clarify something you said,
4 Brian?

5 MR. HOWARD: Sure.

6 MR. WEAVER: It wouldn't be required on the
7 south side because it's a B-4 zone property.

8 MR. HOWARD: Okay. Correct.

9 MR. WEAVER: While you've got that aerial up
10 though I would encourage you to look at what the lot
11 to the north looks like. It's kinds of a mess.

12 MR. HOWARD: True. But it's still zoned
13 residential.

14 MR. WEAVER: They could clean it up and be
15 residential.

16 MR. HOWARD: It's still zoned ag. It's still
17 under 10 acres. It's still a residential parcel.
18 Somebody could go build a mansion on it and you would
19 like that to be screened. It's more of the use and
20 the proximity. Not the actual situation at present.

21 MR. WEAVER: And it would be a nice compromise
22 to get the requested variance on the west side, and
23 then have the applicant be required to put it on the
24 north side.

25 MR. HOWARD: Again, that's up to you all.

1 That's an option.

2 MR. WEAVER: And I apologize.

3 MR. GLENN: I'll withdrawal my motion if
4 someone else wants to make a different motion to
5 approve it under certain circumstances.

6 MR. ANDREW HOWARD: I have one more question.
7 Is there going to be -- you mentioned a fence. Is
8 that fence going to go all the way around south, east
9 and west? I mean are they going to put a fence up as
10 well?

11 MR. WEAVER: It's my understanding he'll fence
12 the entire lot. He wants a nice fence around the lot
13 because that's what he does. He's not required to put
14 it on the south side.

15 MR. HOWARD: But they're showing it as a
16 gravel outdoor storage yard. They're required to have
17 a 6-foot fence around the entire perimeter, along the
18 north and west property lines based on zoning
19 ordinance requirements because both of those parcels
20 are zoned agricultural. They have a house and they're
21 under 10-acres, there should be a 10-foot easement
22 with that fence and trees every 40 feet. So they're
23 requesting that those, the 10-foot width and the trees
24 be eliminated. I guess my compromise was eliminate
25 the trees and the 10-foot on the west side, keep it on

1 the north. They'll still have a 6-foot tall solid
2 fence around the entire perimeter, including a fence
3 across the driveway and a solid gate where basically
4 in line with the front edge of their structure.

5 MR. WEAVER: And I would concur from an
6 engineering standpoint.

7 MR. REEVES: The question for Mr. Howard and
8 maybe counsel too.

9 Given all the conversation we've had tonight,
10 and most of that centers on how this could work and be
11 approved, would we be wise to postpone this item also
12 for the next regular meeting and let Bryant
13 Engineering --

14 CHAIRMAN: And hope your client comes.

15 MR. REEVES: They may have good reasons. I'm
16 not going to badmouth them about not being here.
17 Rather than them have to go through another
18 application and have an application fee, would it be,
19 would it make sense to just postpone it for a month?

20 MR. HOWARD: It's totally up to you all. Do
21 we run into -- this is the third month that it's been
22 on the agenda. Is there any --

23 CHAIRMAN: Is there a limit?

24 MR. REEVES: I forgot about that. Forget what
25 I said.

1 MR. HOWARD: No. It's a valid question. I
2 guess I just want to make sure. The last two times
3 the applicant requested postponement, so I don't feel
4 that anything kicks in there that we have to hear an
5 application within the next 90 days or whatever to
6 make a decision because they requested it. Where
7 we'll pass 90 days now and then if the Board postpones
8 it again, do we run afoul of anything by not taking
9 action and not postponing at the applicant's request
10 because they're not here to make that request and they
11 didn't ahead of time?

12 MS. KNIGHT: I agree with you. They were the
13 ones that requested the first two, right? We didn't
14 act, the Board is not the one that chose to postpone.
15 I don't think there's an issue.

16 CHAIRMAN: We are within our right to
17 postpone?

18 MS. KNIGHT: Yes, if that's what the Board
19 chooses to do.

20 MR. REEVES: Given what the applicant has
21 done, should we postpone it again for their benefit
22 when they've chosen not to --

23 MR. HOWARD: That's up to you all.

24 MR. REEVES: I'm busy as you all are too.
25 Damn, if I can't one find one day out of three months

1 to come to a meeting. If that's motion is made, I'm
2 going to vote no.

3 MR. ANDREW HOWARD: I have a question related
4 maybe to the Board, us up here. We don't have anybody
5 in house to my knowledge that neighbors properties.
6 Have we had anybody previously show up?

7 MR. HOWARD: No, not that I'm aware.

8 CHAIRMAN: Have we had any calls?

9 MR. HOWARD: Not that I'm aware of.

10 CHAIRMAN: We have a motion on the floor. Do
11 we have a second to the motion to deny?

12 MS. KNIGHT: I think he withdrew.

13 MR. GLENN: I withdrew my motion.

14 CHAIRMAN: Do we have a new motion?

15 MR. ANDREW HOWARD: I'll make a motion to
16 postpone.

17 CHAIRMAN: We have a motion to postpone by
18 Andrew.

19 MR. GLENN: I'll second it.

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

22 (NO RESPONSE)

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

25 (BOARD MEMBERS ANDREW HOWARD, JUDY DIXON,

1 LEWIS JEAN AND BILL GLENN RESPONDED AYE.)

2 CHAIRMAN: Opposed?

3 (BOARD MEMBER FRED REEVES RESPONDED NAY.)

4 CHAIRMAN: Motion to postpone carries four to

5 one.

6 Any other business?

7 MR. HOWARD: That's all I've got.

8 CHAIRMAN: We have one more motion.

9 MR. GLENN: Motion to adjourn.

10 CHAIRMAN: Move to adjourn by Mr. Glenn.

11 MR. ANDREW HOWARD: Second.

12 CHAIRMAN: Second by Andrew. All in favor of

13 the motion raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: We are adjourned.

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