

**MINUTES FOR REGULAR MEETING
OLDHAM COUNTY
BOARD OF ADJUSTMENTS AND APPEALS**

Thursday, October 15, 2015

At 9:07 a.m., local time, on the above date, this meeting of the Oldham County Board of Adjustments and Appeals, hereinafter, called the Board, was called to order in the Courtroom of the Oldham County Fiscal Court, LaGrange, Kentucky, by Chairperson Larry Otterback.

The following members were present:

Mike Allen
Stephen Davis
Larry Otterback
Mike Riley

Director Jim Urban and Planner Brooke Radcliffe of Oldham County Planning and Development Services were present and sworn in. Senior Planner Amy Alvey, Planner Belinda Dimas and Attorney Travis Combs were also present.

Board Member Riley called and read Docket.

Docket OC-15-020 – An application has been filed requesting a Conditional Use Permit for a second accessory structure located at 1801 Ballard School Road, LaGrange.

(1) Presentation by Staff:

Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 15, 2015 Exhibit A).
- Aerial Photos of the site
- Photos of property
- Notes

Ms. Alvey responded to questions from the Board:

- The size of the proposed structure is 30' by 50' for a total of 1500 square feet.
- Section 260-030 states all accessory structures must meet a 5' minimum setback, but agricultural properties must meet setbacks of the zoning district for the property.

(2) Presentation by the Applicant in support of the application:

Vincent McIntosh, 1801 Ballard School Road, LaGrange, the applicant, was present and sworn in prior to speaking.

- Current property owner
- Is requesting a Conditional Use Permit to construct a barn for storage.
- Due to steep topography, he would like to be excused from requirement to have breezeway attaching the barn to his residence.

(3) Questioning of the Applicant or representative and others in support of the application by the Board:

Mr. McIntosh responded to questions from the Board:

- He needs the size of structure he is proposing to meet his storage needs.
- He will store cars, lawn tractor and mower, bobcat, and like items to get them out of the weather and into storage.
- Items are currently stored outside at the back of the property.
- His closest neighbor is approximately two tenths of a mile away.
- The new building will be behind existing building at a lower elevation.
- It will be a tan and green metal building to match colors of existing structures.
- It will be similar to buildings on properties of his neighbors.
- He is surrounded by fields and open lots and does not believe the building will be very visible due to topography.
- The building will be about 10 feet tall.
- There is an 11 foot fall between existing building and proposed building.
- He will still have a large front yard and side yard to compensate for the combined size of the two accessory structures being greater than the primary structure.
- A breezeway is not feasible due to topography and septic field.

(4) Testimony of the Opposition:

Don Williams, Attorney for adjacent property owners, William and Pamela Conniff, was present and sworn in prior to speaking.

- Mr. and Mrs. Conniff are concerned with unsightliness and disruption of their scenic view.
- They are concerned about the proposed structure being constructed with materials differing from the primary structure and existing accessory structure.

(5) Questioning of the Opposition by the Board:

Mr. Urban responded to a question from the Board:

- This property is not within the L'Esprit development or subject to HOA restrictions.

Mr. Williams responded to questions from the Board:

- His clients' property is higher than the subject property.
- His clients' view will not be blocked by the proposed structure but it will affect their overall view.
- They are concerned that the construction materials do not match the existing structures and will be unsightly.

(6) Rebuttal and Final Statement by the Applicant:

Mr. McIntosh responded to the questions from the Board:

- The proposed structure will be just like at least three others already existing in the neighborhood.
- The colors of the proposed building will match as closely as possible to his existing structures.
- There will be a gravel driveway to the new structure matching the existing driveway.

- The Conniffs' property has a metal horse barn.
- The structure will be pole barn with a large door at each end and a service door.

(7) Rebuttal and Final Statement by the Opposition: None

(8) Board Discussion and Final Decision:

Ms. Alvey responded to questions from the Board:

- There are multiple structures on the property across the street from Mr. McIntosh.
- The Conniffs' property is believed to be AG-1.
- Surrounding properties are R2-A and AG-1.
- A proposed update to the zoning ordinance will allow two detached accessory structures with a cap on the combined total square footage of the buildings, but it has not yet been accepted.

Discussion:

Board Member Davis stated his concern that the additional structure is too large for the size of the lot, and his belief that the proposed updated ordinance is good guidance for a decision. He also stated that he would be willing to support a motion to approve with a smaller structure not to exceed 600 square feet. Board Member Riley disagreed.

Findings and Decisions Docket OC-15-020

Motion

A motion was made by Board Member Otterback and seconded by Board Member Riley to approve Docket OC-15-020, a request to have a second accessory structure because the proposed use is essential or desirable to the community and is not in conflict with the elements, objectives and policies of the Comprehensive Plan because:

- The building materials are compatible with those in the surrounding area.
- It is needed by the property owner to store items that have previously been outside.

Conditions of Approval:

1. The Conditional Use Permit shall only apply to the application considered at the October 15, 2015 Oldham County Board of Adjustments and Appeals meeting.
2. There shall be no commercial activities operated out of the accessory structure.

The vote was as follows:

Yes: Board Members Otterback and Riley

No: Board Members Allen and Davis

Abstain: None.

Absent: Houchens

Motion failed on a vote of 2-2.

Motion

A motion was made to reopen the floor by Board Member Davis. The motion was seconded by Board Member Riley.

The vote was as follows:

Yes: Board Members Otterback, Riley, Allen and Davis

No: None

Abstain: None.

Absent: Houchens

Motion passed on a vote of 4-0.

Board Member Otterback called the applicant forward to discuss potential alternative motions.

Mr. McIntosh responded to questions from the Board:

- He currently stores equipment outdoors and feels the equipment will deteriorate if left outdoors indefinitely.
- He believes 30' by 40' is the smallest space in which he could realistically store all of his equipment.

Mr. Urban responded to questions from the Board:

- The current ordinance says that an accessory structure has to be subordinate in size to the primary structure on the property. There is no current language regarding the combined size of more than one accessory structure on the same property.
- A new motion will be required to move forward.
- Board members can make the same motion again or make a motion with a building of different dimensions.
- The topography of the lot makes it not feasible to attach the new structure to the existing primary structure.

Motion

A motion was made by Board Member Davis to approve Docket OC-15-020, a request to have a second accessory structure because the proposed use is not in conflict with the elements, objectives and policies of the Comprehensive Plan, and granting the conditional use permit will allow the proper integration into the community of a use specifically named in the zoning regulation.

Conditions of Approval:

1. The Conditional Use Permit shall only apply to the application considered at the October 15, 2015 Oldham County Board of Adjustments and Appeals meeting.
2. There shall be no commercial activities operated out of the accessory structure.
3. The structure be no larger than 600 square feet.

Motion failed for lack of a second.

Motion

A motion was made by Board Member Otterback and seconded by Board Member Riley to approve Docket OC-15-020, a request to have a second accessory structure because the proposed use is essential or desirable to the community and is not in conflict with the elements, objectives and policies of the Comprehensive Plan because:

- The building materials are compatible with those in the surrounding area.
- It is needed by the property owner to store items that have previously been outside.

Conditions of Approval:

1. The Conditional Use Permit shall only apply to the application considered at the October 15, 2015 Oldham County Board of Adjustments and Appeals meeting.
2. There shall be no commercial activities operated out of the accessory structure.
3. The structure be no larger than 1200 square feet.
4. The structure will be built with the materials and in the colors described today.

The vote was as follows:

Yes: Board Members Otterback, Allen and Riley

No: Board Members Davis

Abstain: None.

Absent: Houchens

Motion passed on a vote of 3-1.

Board Member Riley called and read Docket.

Docket OC-15-021 – An application has been filed requesting a Road Frontage Variance for a proposed tract located at the 2100 block of East Mount Zion Road, Crestwood.

(1) Presentation by Staff:

Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 15, 2015 Exhibit A)
- Aerial Photos of the site
- Photos of property
- Notes

Ms. Alvey responded to questions from the Board:

- You can access up to three tracts from a private drive and this will be the third.
- No further subdivision will be allowed without additional action from the Board.
- There is no road frontage requirement for residential property.
- There is a maintenance agreement among the lot owners.

(2) Presentation by the Applicant in support of the application:

Marvin (Wayne) Neel, 1003 West Moody Lane, LaGrange, the applicant, was present and sworn in prior to speaking.

Mr. Marvin Neel responded to questions from the Board:

- He plans to build on lot adjacent to his parents at 2020 and his brother at 2104
- His father, Don Neel, owns the parent tract

(3) Questioning of the Applicant or representative and others in support of the application by the Board:

Don Neel, 2020 East Mount Zion Road, Crestwood, father of the applicant and property owner, was present and sworn in prior to speaking.

Mr. Don Neel responded to questions from the Board:

- Mr. Neel confirmed that he owns the 70 acre tract that contains the property in question.

Mr. Marvin Neel responded to questions from the Board:

- He will extend the private drive existing at 2104 to his lot.

(4) Testimony of the Opposition: None

(5) Questioning of the Opposition by the Board: None

(6) Rebuttal and Final Statement by the Applicant: None

(7) Rebuttal and Final Statement by the Opposition: None

(8) Board Discussion and Final Decision:

**Findings and Decisions
Docket OC-15-021**

Motion

A motion was made by Board Member Riley and seconded by Board Member Davis to approve Docket OC-15-021, because the variance will not adversely affect the public health, safety or welfare, and will not alter the essential character of the vicinity.

Conditions of Approval:

1. The variance shall only apply to the application considered at the October 15, 2015 Oldham County Board of Adjustments and Appeals meeting.

Amendment to the Motion

Board Member Davis moved to amend the original motion made by Board Member Riley to include language, "because it is consistent with the other homes in the area." The motion was seconded by Board Member Riley.

The vote was as follows:

Yes: Board Members Otterback, Riley, Allen, and Davis

No: None

Abstain: None

Absent: Houchens

Motion passed on a vote of 4-0.

Other Business

Jim Urban brought forward a Conditional Use Permit Annual Compliance Review for 1111 Dawkins Road, LaGrange (OC-13-017).

- Two years ago a conditional use permit was approved for an auto salvage and repair business at this address.
- One of the conditions of approval was an annual compliance review for a period of four years.
- Planning Staff overlooked the review last year.
- On-site activities are limited to auto salvage, repair, and wrecking.
- Operation of the business must be confined to the existing building on the parcel.
- No more than twelve vehicles may be on-site for repair at any one time.
- No more than 200 salvage vehicles are allowed on-site at any one time.
- Hours of operation are restricted.
- No parking or storage of vehicles outside of fenced area.
- No outdoor lighting except one security light.
- A fence will enclose the operation.
- A landscape plan was required but Mr. Urban cannot figure out where landscaping would go so he has not asked for a plan.
- Operation must comply with Division of Water, EPA, and the Army Corp. of Engineers regulations.
- All signs must be in compliance with local ordinances.
- No complaints have been filed against the property.
- Adjoining property owners were not notified because the review is under Other Business on the agenda.
- Terry Green is the Code Enforcement Officer.
- Conditional Use permits are tracked on a spreadsheet by staff.
- The salvage yard was out of business for multiple years before the current owners applied for the conditional use permit which was required because the salvage yard has ceased operations for a period of time.
- A neighbor was concerned about the operation growing and came to the original hearing which is why the requirement for follow up was put in place by the Board.

Staff observations and discussions with the owners have satisfied Mr. Urban that all conditions are currently being met. The only exception is that there is currently a gap in the fencing as the owner is working on putting in a gate and expects to have that work completed shortly.

No further action is needed at this time.

Approval of Minutes

A motion was made by Board Member Davis and seconded by Board Member Riley to approve the minutes of September 17, 2015 Oldham County Board of Adjustments & Appeals meeting as submitted.

The vote was as follows:

Yes: Board Members Allen, Davis, Otterback and Riley

No: None.

Abstain: None.

Absent: Houchens

Motion carried on a vote of 4 – 0.

Motion is made by Board Member Davis and seconded by Board Member Riley to adjourn the meeting at 10:45 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, November 19, 2015, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

Belinda Dimas
Planner

Approved:

Larry Otterback, Chairperson