

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

**Thursday, October 20, 2016**

At 9:00 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 also present:

Mike Allen  
Stephen Davis  
Robert Houchens

Board Member Pate was absent.

Director Jim Urban, Senior Planner Amy Alvey and Community Planner Brooke Viehmann of Oldham County Planning and Development Services were present and sworn in. Attorney Travis Combs and Administrative Assistant Ethel Foxx were also present.

\*\*\*\*\*

Board Member Davis called and read Docket OC-16-023.

**Docket OC-16-023** – An application has been filed requesting a Conditional Use Permit for an Accessory Structure without a primary structure located at 8398 Hawley Gibson Road, Crestwood.

**(1) Presentation by Staff:**

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 20, 2016 Exhibit A).
- Notes.
- Minor Plat from 2013 showing property having been divided into three separate tracts.
- Site plat showing proposed location of accessory structure and adjoining lot showing location of Mr. Blair's daughter's home.
- Photos of property and adjoining properties.
- Rendering of proposed building.

Ms. Alvey responded to questions as follows:

- The deed (presented on the screen) had been transferred from the LLC to the individual owner (applicant) after the application had been filed.
- The property consists of a 4.769 acre tract.
- The applicant can provide information regarding the proposed primary structure.

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

Phillip Blair, 8398 Hawley Gibson Road, Crestwood, was present and sworn prior to speaking in behalf of this application.

- Purchased the property three years ago and has been clearing the land to prepare construction of the accessory building and home.
- Referred to the minor plat showing the location of the proposed barn.
- Plans to build a home in about a year directly in line with his daughter's home.

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

Mr. Blair responded to question from the Board:

- Wishes to store equipment in the proposed accessory building while preparing to construct his home.
- There are no plans to run a business out of the accessory building.
- The building shown on the 2012 site plan was a greenhouse which is no longer on the property.
- Has no plans for water at this time but would like to have electricity to the building.
- Because the proposed barn will sit to the rear of the property there should be no issues regarding the location of the septic system and lateral lines for the home.
- Presently stores the tractor on his daughter's property as he cuts the grass on the weekends.

Planner Alvey responded to the Board that the regulation in regards to the accessory structure being subordinate to the primary structure was removed as part of the Zoning Ordinance Update. The new regulations would allow a 2,700 square foot accessory structure to be placed on the property regardless of the size of the primary structure. A conditional use permit runs with the property no matter who the owner is.

**(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-16-023**

**Conditional Use Permit for Accessory Structure without a Primary Structure**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve Docket OC-16-023, Conditional Use for Accessory Structure without a primary structure because:

1. The proposed use is essential or desirable to the community.
2. The proposed use is not in conflict with the elements, objectives and policies of the Comprehensive Plan.
3. The proposed use is compatible with surrounding area land uses and the general character of the area and is to be constructed to the rear of the proposed primary structure.

**Conditions of Approval:**

1. The conditional use permit shall only apply to the plan considered at the October 20, 2016 Oldham County Board of Adjustments public hearing.
2. There shall be no commercial activity conducted out of the accessory structure.
3. The accessory structure shall not be occupied as living space.

The vote was as follows:

Yes: Board Members Houchens, Otterback, Allen and Stephen.

No: None

Abstain: None.

Absent: Board Member Pate

**Motion carried on a vote of 4-0.**

\*\*\*\*\*

Board Member Davis called and read Docket OC-16-024.

**Docket OC-16-024** – An application has been filed requesting Front and Side Yard Setback Variance for an existing residence on property located at 1015 Club Drive, Goshen.

**(1) Presentation by Staff:**

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 20, 2016 Exhibit A).

- Presented a record plat from 1960 showing location of the corner lot having a 30 foot setback.
- Plot plan from the 2001 building permit application showing the setbacks.
- Photos of the property and adjoining properties presented.

Planner Alvey informed the Board as follows:

- Applicant has a contract to sell the property; the proposed buyers had a survey prepared (Staff Report Exhibit A) showing the need for the variance request.
- Applicant will be unable to sell the home if the variance is not approved.
- Applicant is the third owner of the property and did not have a survey performed at the time of he purchased the property.

Planner Alvey responded to the Board:

- Explained that no matter where the house sits, a variance would be needed.
- If a survey had not been prepared, one would not realize that a variance would be needed.

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

Robert Smith, 1015 Club Drive, Goshen, was present and sworn prior to speaking in behalf of this application.

- Confirmed that it was the surveyor that placed the stake on the property shown in the photo.
- He has a potential buyer who is reluctant to close due to the setback discrepancy.

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

**(4) Testimony of the Opposition:**

**(5) Questioning of the Opposition by the Board:**

**(6) Rebuttal and Final Statement by the Applicant:**

**(7) Rebuttal and Final Statement by the Opposition:**

**(8) Board Discussion and Final Decision:**

Board Member Houchens stated he is in favor of approving the front and side yard variances. However, recommends that if there is a motion to approve, that the variance numbers be revised and shown as “7.5” (instead of 7.01) and “13.0” (instead of 12.98). Board members agreed to this suggestion.

**Findings and Decisions**  
**Docket OC-16-024**  
**Front and Side Yard Variances**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve a variance of 7.5 feet for the front yard and a variance of 13.0 feet for the side yard because:

1. It will not adversely affect the public health, safety or welfare.
2. It will not alter the essential character of the general vicinity.
3. It will not cause a hazard or nuisance to the public,
4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations.

**Conditions of Approval:**

The variance shall only apply to the application considered at the October 20, 2016 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Houchens, Otterback, Allen and Davis.

No: None

Abstain: None.

Absent: Board Member Pate

**Motion carried on a vote of 4-0.**

\*\*\*\*\*

Board Member Davis called and read Docket OC-16-025.

**Docket OC-16-025** – An application has been filed requesting a Variance for the location of a proposed accessory structure to be located at 2709 West Highway 42, LaGrange.

**(1) Presentation by Staff:**

Community Planner Brooke Viehmann presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 20, 2016 Exhibit A).
- Notes.
- Aerial view of property showing location of proposed structure, location of septic system and lateral lines, existing structures on property and also view of adjoining properties.

- Presented portion of the Zoning Ordinance 250.030(b), recently adopted by Fiscal Court on September 9, 2016, stating that two accessory buildings (up to 1800 square feet) are permitted on a 1.0 to 299 acre tract.
- Presented a copy of original building permit showing location of proposed carport and how many feet it will sit from the property lines.
- Photos of property showing location for proposed carport.
- Presented requirements for accessory buildings.

Ms. Viehmann responded to questions by the Board:

- Accessory structures may be placed five feet from the side property line; application request meets that requirement.
- Confirmed the maximum square footage allowed for accessory structures 1800 square feet.

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

John Finlay, 2709 West Highway 42, LaGrange, was present and sworn prior to speaking in behalf of this application.

- Proposes to construct a nice wood carport that will blend in with the property.
- He needs to house his pick-up, a car and future fishing boat as he has no room in his attached garage.

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

Mr. Finlay responded to questions by the Board:

- The proposed placement of the shed is best due to the lay of the land.

**(4) Testimony of others in favor of application: None**

**(5) Testimony of the Opposition: None**

**(6) Questioning of the Opposition by the Board: None**

**MOTION FOR SITE VISIT:**

Due to many questions and concerns it was suggested that the Board Members plan a site visit for more clarification of Docket OC-16-025.

Motion was made by Board Member Davis and seconded by Board Member Houchens to table Docket OC-16-025 for a recess in order to plan a site visit at the end of today's hearing and reconvene to Fiscal Court for a final decision.

Motion carried by unanimous voice vote 4-0.

\*\*\*\*\*

Board Member Davis called and read Docket OC-16-026.

At this time, Board Member Davis recused himself from participating in Docket OC-16-026 as an adjoining property owner is a close family member and feels he cannot be unbiased.

**Docket OC-16-026** – An application has been filed requesting a Road Frontage Variance for a proposed tract located at 5010 South Highway 53, Crestwood.

**(1) Presentation by Staff:**

Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated October 20, 2016 Exhibit A).
- Notes and issues.
- Aerial Photos of the site.
- Photos of property and adjoining properties.
- Presented copy of the mortgage plat.

Planner Alvey responded to questions as follows:

- Showed the approximate location of the 15 acre tract; if the property owner were to sell-off anything within that plat he would have to release the mortgage.

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

Property Owner, Douglas Emberton, 5010 South Highway 53, Crestwood, was present and sworn.

Applicant Shawn McMurtrey, 1819 West Highway 22, Crestwood, was present and sworn prior to speaking in behalf of this application.

Mr. McMurtrey stated the following:

- The Emberton family have been friends of his for years and he has been assisting Mr. Emberton in the upkeep of his property.
- Considering buying some of Mr. Emberton's land that is located at the rear of the property.
- There is driveway that runs all the way back to the proposed tract from Highway 53.
- Learned that it would be best to create a shared easement to the proposed property but would also require a road frontage variance.

The following were present and sworn to speak in favor of the application due to having only one driveway and not changing the appearance along Highway 53:

- Dennis Burmeister, 5013 South Highway 53, Crestwood
- William Spencer, 5009 South Highway 53, Crestwood

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

Mr. McMurtrey responded to questions from the Board:

- Confirmed that Mr. Emberton is the owner of the entire 94 acres.
- Intends to purchase the back half of the property.
- Would like to use the property for hunting purposes and eventually wishes to build a house on that property.
- Confirmed that the road frontage is approximately 700 feet.
- Without the shared access it would be impossible to split the property.
- There is a huge ravine and is heavily wooded area on the left side of the property being the reason for sharing a driveway.

Planner Alvey responded to questions by the Board:

- There is no need for an access easement now because Mr. Emberton owns all of the property.
- They would place the existing drive in a 30 foot easement (which is required) from Highway 53 to the property line of the proposed tract.

Mr. McMurtrey confirmed that he would agree to a maintenance agreement.

- (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-16-026  
Road Frontage Variance**

Motion was made by Board Member Houchens and seconded by Board Member Allen to approve the road frontage variance of 300 feet because:

- It will not adversely affect the public health, safety or welfare.
- Will not alter the essential character of the general vicinity.
- Will not cause a hazard or nuisance to the public.

- Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

**Conditions of Approval:**

The variance shall only apply to the application considered at the October 20, 2016 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Houchens, Otterback and Allen.  
 No: None  
 Abstain: None  
 Recused: Board Member Davis  
 Absent: Board Member Pate

**Motion carried on a vote of 3-0.**

\*\*\*\*\*

Member Davis returned to the meeting.

**Other Business**

**1. Conditional Use Permit Annual Compliance Review: 1111 Dawkins Road, LaGrange, (OC-13-017):**

Planner Alvey reported to the Board as follows:

- The Code Enforcement Officer did a site visit as required on the subject property.
- There were no site issues and there have been no complaints for the past year regarding the junk yard.
- There was a conditional use requiring that this case was to have been brought before this Board every year for four years to confirm that the property is in compliance with no issues.

County Attorney Combs responded to the Board that they do not need to do anything at this time. Ms. Alvey is simply reporting the status of the use of the property that it has not been in violation. If there had been an issue or deviation it would have been addressed to the Board. The reporting will continue until it expires in 2017.

\*\*\*\*\*

**2. Conditional Use Permit – 2622 Dawson Ridge Road, LaGrange (OC-15-019):**

Planner Alvey reported as follows:

- This was a conditional use permit for a second accessory structure.
- There was testimony at the original hearing that there would not be a driveway to the building and there would be no utilities, electric or water.
- The Code Enforcement Officer did a site visit and found that electricity had been run to provide lighting inside the building.
- Although it was in the motion concerning no utilities, it was not stated as a condition of approval.
- Planner Alvey is asking what the Board would like to do as it was not listed as a condition of approval but the motion stated “based off the testimony of no utilities”.

Board Member Houchens stated that he made the motion and feels that it was procedurally an error on his part. Based on the testimony he should have added that as a condition. He feels it is a violation and although he did not state it as part of a condition, it was part of the motion as the intention was that there be no utilities.

Attorney Combs stated that if it is part of the motion to approve because there will be no utilities it does not have to be listed as a condition of approval.

Discussion followed. Chairman Otterback advised the Board that he would discuss the issue with Attorney Combs and advised staff if the case needed to be brought back before the Board.

\*\*\*\*\*

**Approval of Minutes**

Motion was made by Board Member Davis and seconded by Board Member Houchens to approve the minutes of September 15, 2016 as submitted and with a correction on Page 9, to add where Board Member Davis Recused himself, “at the request of Chairman Otterback”.

The vote was taken and motion carried by unanimous voice vote.

\*\*\*\*\*

**MOTION TO RECESS AT 10:55 A.M.**  
**SITE VISIT**  
**RECONVENE AT 2709 WEST HIGHWAY 42**

Motion was made by Board Member Houchens and seconded by Board Member Davis to recess and reconvene at 2709 Highway 42 for a site inspection.

Motion carried by unanimous voice vote.

\*\*\*\*\*

**BOARD MEMBERS RETURNED AT 11:30 A.M.**  
**MOTION TO RECONVENE**  
**AT THE FISCAL COURT BUILDING**

Oldham County Board of Adjustments reconvened at Fiscal Court after site visit at 2709 East Highway 42, LaGrange.

Motion was made by Board Member Davis and seconded by Board Member Houchens to take Docket OC-16-025 off the table.

Motion carried by unanimous voice vote.

\*\*\*

**CONTINUATION OF DOCKET OC-16-025**  
**AFTER SITE VISIT**  
**Location Variance for Accessory Structure**  
**2709 West Highway 42**

**Findings and Decision**  
**Motion to Deny**  
**Docket OC-16-025**

Motion was made by Board Member Houchens and seconded by Board Member Allen to deny Docket OC-16-025 because:

- The proposed building can fit in front of the main structure within the zoning regulations and there is no need for a variance.

The variance shall only apply to the application considered at the October 20, 2016 Oldham County Board of Adjustments public hearing and site visit.

The vote was as follows:

Yes: Board Members Houchens and Allen.  
No: Board Members Davis and Otterback  
Abstain: None.  
Absent: Board Member Pate

**Motion failed on a vote of 2 to 2.**

\*\*\*

**Findings and Decision**  
**Motion to Approve**  
**Docket OC-16-025**

Motion by Board Member Davis and seconded by Board Member Otterback to approve Docket OC-16-025 because:

- It will not adversely affect the public health, safety or welfare.
- It will not alter the essential character of the general vicinity.
- It will not cause a hazard or nuisance to the public.
- It will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance shall only apply to the application considered at the October 20, 2016 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Davis and Otterback  
No: Board Members Houchens and Allen  
Abstain: None.  
Absent: Board Member Pate

**Motion failed on a vote of 2 to 2.**

\*\*\*

**MOTION TO OPEN THE FLOOR**

Motion was made by Board Member Allen and seconded by Board Member Davis to open the floor to for more discussion and additional comments by the applicant. Motion carried by unanimous voice vote.

Mr. Finlay responded to concerns of the Board explaining where he feels would be the best location to place the building.

**MOTION TO CLOSE THE FLOOR**

Motion was made by Board Member Allen and seconded by Board Member to close the floor for more discussion. Motion carried by unanimous voice vote.

**Board Discussion and Final Decision:**

\*\*\*

**Findings and Decisions  
Docket OC-16-025  
Location Variance for Accessory Structure  
Motion to Approve**

Motion was made by Board Member Davis and seconded by Board Member Houchens to approve Docket OC-16-025, variance allowing the accessory structure to be placed five feet in front of the principal structure because:

- It will not adversely affect the public health, safety or welfare.
- It will not alter the essential character of the general vicinity.
- It will not cause a hazard or nuisance to the public.
- It will not allow an unreasonable circumvention of the requirements of the zoning regulations.

**Conditions of Approval:**

1. There shall be no commercial activity conducted out of the accessory structure.
2. The variance shall only apply to the application considered at the October 20, 2016 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Houchens, Otterback, Allen and Davis.

No: Board Member Allen

Abstain: None.

Absent: Board Member Pate

**Motion carried on a vote of 3-1.**

\*\*\*\*\*

Motion was made by Board Member Allen and seconded by Board Member Davis to adjourn the meeting at 12:02 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, November 17, 2016, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

\_\_\_\_\_  
Ethel Foxx, Administrative Assistant

Approved:

---

Larry Otterback, Chairperson