

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

**Thursday, November 19, 2015**

At 9:04 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  
Robert Houchens

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

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Board Member Riley called and read the Docket.

**Docket OC-15-022** – An application has been filed requesting a Conditional Use Permit for a Riding Academy and Stable located at 6801 Old Zaring Road, Crestwood.

**(1) Presentation by Staff:**

Planner Brooke Radcliffe presented the following:

- Summary of the application
- Case History (see Staff Report dated November 19, 2015 Exhibit A)
- Ariel Photos of the site
- Photos of property
- Notes

Ms. Radcliffe responded to questions from the Board:

- The property is primarily zoned R-2 and there is a small section of CO-1 in the north section of the larger parcel.
- The conditional use permit is for the smaller parcel.
- They have the same parcel number, 22-00-00 21C & 21G, as it has not yet been changed by the PVA.
- A variance is not needed for the farm sign.

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

Emily and Steve Ragan, 2905 Windward Court, Prospect, the applicants, were present and sworn in prior to speaking.

- For the past seven years has operated a riding academy and boarded horses on property located at Covered Bridge Road and would like to move the business to the subject property.
- The barn will have 16 stalls but will board 12 horses and operate a riding program with one a co-worker.

**(3) Questioning of the Applicant or representative and others in support of the application by the Board:** None

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

Mark Gibbs, 6705 Old Zaring Road was present and sworn in prior to speaking in opposition:

- Lives next door and is not necessarily opposed or in favor of the proposal.
- The plan has changed since he was initially contacted and he is concerned about the new location of the facility.
- Concerned about the quality of his spring water supply being affected by the project.
- The Russells have used the land for cattle.
- The water supply is good and he has never had any problems with it.
- Also concerned that Old Zaring Road is too narrow to accommodate the business.

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

Mr. Gibbs responded to questions from the Board:

- Concerned that the number of horses could contaminate his water.
- Periodically tests his water and runs an ultraviolet filter, but has not tested in the past two years or so.
- Has an underground concrete cavity that stores the water which is then pumped to a cistern.
- The well is about seven feet deep.
- Does not know how many cattle were previously on the subject property.
- Believes the proposed site of the arena and barn are on a slight slope above his water supply but he has never walked to property to know for sure.

Andrew Russell, current property owner, 6801 Old Zaring Road, Crestwood, was sworn in prior to speaking.

- Had an average herd of 25 to 30 head of cattle in the proposed area for approximately 30 years.
- There is a slope from the site of the proposed facility to the water source. His cows never caused any problems to the water source.
- Does not know the depth of the aquifer.
- The herd was sold and has not been there for two years.
- Mr. Gibbs' water supply is located on Mr. Gibbs' property.

Mr. Combs and Mr. Urban responded to questions from the Board:

- As long as surrounding property owners were notified of the request neither believes that further notification was needed due to the change of location of the proposed facility.

Mrs. Ragan responded to questions from the Board:

- Changed the proposed location of the facility due to a request from an adjoining property owner at 6901 Old Zaring Road who was not present at the hearing. The neighbor thought it would be more aesthetically pleasing to relocate the facility.
- The property currently has Louisville city water and it will be used to furnish water to the barn.

Mr. Urban responded to a question from the Board:

- Does not believe that all of the surrounding properties have access to city water, but even if they do have access, they are not required to connect if they have an independent source of water.

Barry Baxter, attorney for Mr. and Mrs. Russell, responded to a question from the Board:

- The Russells ran water to their property from Glenarm Road.

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

Mrs. Ragan made a statement and responded to the questions from the Board:

- Generally speaking you should have one acre per horse. The horses will typically be turned out on the larger area of property on the other side of the driveway from the facility.
- There will be fewer horses than there were cattle.
- Will use a dumpster service to remove the manure. It will not be spread in the pasture.
- Plans to have 20 horses in total.
- It will be a 16 stall barn.

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

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

**Findings and Decisions  
Docket OC-15-022**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve Docket OC-15-022 tax parcels C and G, a request for a conditional use permit for a Riding Academy and Stable 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:

- 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 November 19, 2015 Oldham County Board of Adjustments and Appeals meeting.

The vote was as follows:

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

No: None

Abstain: None.

Absent: None

Motion carried on a vote of 5 – 0

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Board Member Riley called and read Docket.

**Docket OC-15-023** – An application has been filed requesting a Variance from the required fire flow of the Oldham County Hydrant Ordinance KOC 96-300-15 for a structure to be located at 6115 Hitt Lane, Louisville.

**(1) Presentation by Staff:**

Ms. Radcliffe presented the following:

- Summary of the application.
- Case History (see Staff Report dated November 19, 2015 Exhibit B).
- Ariel Photos of the site
- Floor plan and site plan
- Photos of property

Ms. Radcliffe and Mr. Urban responded to questions from the Board:

- The building to the left of the operation building is the waste water treatment plant.
- The operations building is on the west side.
- The operations building is currently under construction.

Mr. Urban gave further information:

- The operations building is the only building that required a local building permit and it does have a permit.
- Commercial, industrial, and institutional buildings may have other/additional fire flow requirements subject to the approval of the Planning Director beyond those of a residential building.
- The site is under Louisville Water service area.
- The zoning ordinance refers commercial buildings to NFPA 1142 which states a minimum 250 gallons per minute (gpm) is required for municipal water systems.
- 1996 Fire Hydrant Ordinance states that after considering information from fire chief, etc. the planning administrator is the decision maker.
- The International Building Code which is used by Planning & Development Services for code compliance does not give a minimum water supply.
- Water flow is also needed for hazmat protection but there are no hazmat or flammable materials to be stored in the operations building.
- Prepared a draft letter granting a variance to the ordinance but decided that he should refer this decision to the Board to participate in the decision making process.

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

David Seewer, 2700 Citizens Plaza, Louisville, attorney for the applicant, Oldham County Environmental Authority.

Mr. Seewer introduced Jim Hagarty of Hagarty Consulting.

Jim Hagarty, 7000 Penfield Place, Prospect, was sworn in prior to speaking.

Mr. Hagarty gave a brief presentation and responded to questions from the Board:

- The Oldham County Environmental Authority provided documentation that they understood there would be a reduction in fire flow from 1000 gpm to 750 gpm.
- The Worthington Fire District does not approve of any flow less than 1000 gpm.

**(3) Questioning of the Applicant or representative and others in support of the application by the Board:** None

**(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:**

Attorney Combs stated he believes that the Board does have the authority to make decisions if the Planning Administrator wishes to request their input.

Discussion:

- Board Member Houchens does not believe this variance would cause any danger for the community. Testimony indicates that there is nothing highly combustible in the building.
- Board Member Davis stated that the 1000 gpm stated in the ordinance is clear, and the Fire Protection District is opposed to this variance.

Mr. Urban responded to questions from the Board:

- Does not know why 1000 gpm minimum was established when the ordinance was adopted by Fiscal Court.

**Board Member Davis moved to reopen the floor for additional evidence. The motion was seconded by Board Member Riley. There was no discussion on the motion. Motion carried by unanimous voice vote.**

Mr. Urban responded to questions from the Board:

- Does not believe we can require the applicant to build infrastructure to improve water flow to other existing structures in the area.
- Without this variance, the building cannot receive a Certificate of Occupancy.

Mr. Hagarty responded to questions from the Board:

- The flow of 750 gpm was determined by use of a fire flow test to a hydrant approximately 150 feet from the site of the building and a hydraulic model into the plant.
- There is not a 1000 gpm available at the street from the Louisville Water Company as it is the end of their system.
- The Louisville Water Company system could be improved at a cost of approximately \$125,000 to \$200,000 but this would not guarantee the 1000 gpm flow.
- The Fire Marshal approved the building permit with no comment.
- There is a hydrant within 1000 feet of the site that has a flow 950 gpm.
- The only building that is governed by the local government requirements is the operations building.

- Any other business that comes into the area would most likely face the same position; however, they would not face the problem because they would most likely not be installing a fire hydrant which is what raised the issue.
- The applicant is installing a fire hydrant by choice not by requirement.
- The permit shows the hydrant so the applicant must install a hydrant to get a Certificate of Occupancy.
- If the applicant is denied and resubmits the permit application without a hydrant a Certificate of Occupancy could be granted and no hydrant would be required.

Mr. Urban replied to questions from the Board.

- The Fire District would notify Planning if a fire hydrant is needed. Planning does not make that determination.

**Board Member Davis moved to close the floor. The motion was seconded by Board Member Allen. There was no discussion on the motion. Motion carried by unanimous voice vote.**

Discussion:

- Board Member Davis believes that because there is a hydrant within 1000 feet that has 950 gpm flow is only a 5% reduction and the facility is clearly needed.
- Board Member Houchens agrees that it is a 5% reduction.
- Board Member Allen would like to include Mr. Urban's draft letter and the considerations for approval of the variance in the motion.
- Board Member Riley believes this is not a high risk situation because of the lack of flash point combustible materials.
- Mr. Urban will change the date of the letter and detail its contents as direction from the Board.

### **Findings and Decisions Docket OC-15-023**

Motion was made by Board Member Houchens and seconded by Board Member Riley to approve Docket OC-15-023, a request for a variance from the required fire flow of the Oldham County Fire Hydrant Ordinance KOC 96-300-15 because based on testimony it will not adversely affect the public's health, safety or welfare, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the zoning regulations because:

The general line does not meet the 1000 gpm requirement and the applicant is adding additional protection that may improve fire safety in the area.

#### **Conditions of Approval:**

1. The letter that was drafted by Mr. Urban shall be sent to the applicant as approval of the variance as affirmed at the Board of Adjustments meeting.
2. The approval shall only apply to the application considered at the November 19, 2015 Oldham County Board of Adjustments and Appeals meeting.

The vote was as follows:

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

No: None

Abstain: None.

Absent: None  
Motion carried on a vote of 5 - 0.

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**Approval of Minutes**

Motion was made by Board Member Allen and seconded by Board Member Riley to approve the minutes as amended for the October 15, 2015 Oldham County Board of Adjustments & Appeals meeting as submitted.

The vote was as follows:

Yes: Board Members Allen, Davis, Houchens, Riley and Otterback  
No: None.  
Abstain: None.  
Absent: Riley  
Motion carried on a vote of 5 – 0.

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Motion was made by Board Member Riley and seconded by Board Member Allen to adjourn the meeting at 11:02 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, December 17, 2015, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

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Belinda Dimas  
Planner

Approved:

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Larry Otterback, Chairperson