

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

Thursday, March 21, 2013

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 present:

Larry Otterback
Ken Hodge
Ann Riley
Roger Wampler
Rob Houchens

Director Jim Urban, Assistant Director Brian Davis and Administrative Services Coordinator Amy Alvey of Oldham County Planning and Development Services were present and sworn in. Board Attorney Travis Combs was present.

Board Member Riley called and read Docket OC-13-004.

Docket OC-13-004 – An application has been filed requesting a Conditional Use Permit for an Accessory Structure on unaddressed property located on the southeast corner of KY 393 and Elder Park Road, LaGrange.

Motion made by Board Member Hodge and seconded by Board Member Wampler to remove Docket OC-13-004 from the table.

Motion carried by unanimous voice vote.

Chairman Otterback stated that the hearing had been closed last month and tabled to allow the applicant time to provide proof of ownership.

Rusty Combs, 3902 Red Oak Court, LaGrange, after being sworn answered questions by the Board:

- Closing did occur February 22, 2013 and is now the legal owner of the property.
- There will be no one occupying the building and will be used only for storage.
- Structure will not have any signage and will have outdoor security lighting.
- Structure will be a metal pole barn, 100 feet x 30 feet, 4:12 pitch roof with overhead garage doors.
- Garage doors will face Elder Park Road.

Board Discussion and Final Decision

**Findings and Decisions
Docket OC-13-004– Conditional Use Permit-- Accessory Structure**

Motion made by Board Member Hodge and seconded by Board Member Riley to approve Docket OC-13-004, an application for a Conditional Use Permit for an Accessory Residential Structure on an

unaddressed property located at on the Southeast Corner of KY 393 & Elder Park Road, LaGrange, because:

- The proposed use is essential or desirable to the community.
- The proposed use is not in conflict with the elements, objectives and policies of the Comprehensive plan based on the following factor:
 - The proposed use is compatible with surrounding land uses and the general character of the area because there are other buildings of that type in the area.

Conditions of Approval:

1. The conditional use permit shall only apply to the application considered at the March 21, 2013 Oldham County Board of Adjustments public hearing.
2. No commercial activity shall be conducted out of the proposed structure.
3. No outside storage of equipment.
4. Not to be used as a residence.
5. Lighting shall be kept minimal and shall not be intrusive to the surrounding areas.

The vote was as follows:

Yes: Board Members Hodge, Houchens, Otterback, Riley and Wampler.

No: None.

Abstain: None.

Absent: None.

Motion carries on a vote of 5 to 0.

Board Member Riley called and read Docket OC-13-002.

Docket OC-13-002 – An application has been filed requesting Variances for an existing building addition on property located at 4803 Morgan Place Boulevard, LaGrange (tabled from February 21, 2013 meeting).

Motion made by Board Member Houchens and seconded by Board Member Riley to remove Docket OC-13-002 from the table.

(3) Questioning of the Applicant by the Board:

JoAnne Crouch, 4803 Morgan Place Boulevard, LaGrange, after being sworn, responded to questions from the Board:

- Was not asked by the contractor to get any permits.

Steve Mingus, Salesman, Atlas Siding, Windows and More, 7290 Manslick Road, Louisville, after being sworn, responded to questions from the Board:

- This project is the first sunroom completed in Oldham County.
- Did not instruct the applicant to apply for a building permit.
- Trying to rectify the issues of not having a permit and has assured the property owner that they will assist in every way possible to make things right.

Chuck Story, Owner, Atlas Siding, Windows and More, 14000 Winding Creek Court, Louisville, after being sworn, responded to questions from the Board:

- Normally does not apply for a building permit when enclosing an existing structure and was unaware that one was required for this job.
- If a permit is required the contractor or property owner should obtain it.
- Only does a few rooms per year.

Mr. Urban responded to Board questions:

- Provided clarification of variance request.

- (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-13-002– Variance—Minimum Rear Yard Setback

Motion made by Board Member Riley and seconded by Board Member Hodge to approve Docket OC-13-002, an application requesting a Variance for an existing building addition on property located at 4803 Morgan Place Boulevard, LaGrange 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 and unreasonable circumvention of the requirements of the zoning regulation because:
 - The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 - The strict application of application of the provision of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant.

Conditions of Approval:

- This shall only apply to the application considered at the March 21, 2013 Oldham County Board of Adjustments public hearing.
- Must apply for a building permit.

The vote was as follows:

Yes: Board Members Hodge, Otterback and Riley.

No: Board Members Houchens and Wampler.

Abstain: None.

Absent: None.

Motion carries on a vote of 3 to 2.

Board Member Riley called and read Docket OC-13-005.

Docket OC-13-005 – An application has been filed requesting a Conditional Use Permit for a second Accessory Structure. The applicant is also requesting a variance to allow the proposed accessory structure to be located in front of the primary structure. The property is located at 13215 Covered Bridge Road, Prospect.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated 03/21/2013 Exhibit A).
- Notes.
- Photos of the site.

Mr. Davis responded to questions from the Board:

- Current side yard setback is 13.3 feet.

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

Lisa Garber, 13215 Covered Bridge Road, Prospect, was sworn in and presented the following:

- Current property owner and requested that Jim Griffin speak on her behalf regarding the variance request.

James L. Griffin, Evans Griffin Inc. 4010 Dupont Circle, Suite 478, Louisville, was sworn in and presented the following:

- Engineer for the property owners.
- Presented pictures of partial car collection (Exhibit B thru F).
- Property has exiting horse barn and would require a Conditional Use Permit to have a second accessory structure.
- Proposed building would be 60 feet x 125feet and used to store owner’s classic car collection.
- Presented contours of the property (Exhibit G & H).
- Majority of the terrain of the property is at a slope of 25 percent or greater and would be excessively expensive to construct the building behind the primary structure.
- Proposed site location was chosen because it would have the least environmental impact on the land.
- Possible site location closer to home with better terrain was not feasible because of the location for the home’s septic lateral field.
- The front of the proposed structure sits further back on the property than surrounding homes.
- Presented drawing of proposed structure (Exhibit I)
- Structure would be 28 feet in height with stone along the bottom and have down lighting on the exterior.
- There will be no signage on the structure.

Rebecca Miller, 13011 Covered Bridge Road, Prospect, was sworn in and presented the following:

- Adjoining property owner.

- Agrees with the engineer that the property does have steep slopes, excessive rock and a natural drain at the rear of the property prohibiting the owner from placing the building behind the home.
- Has no objection to the location or design of the proposed structure as long as it is not obtrusive and property owner complies with all regulations.

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

Mr. Griffin responded to questions from the Board:

- The structure would be 102 feet from the front property line and nearest neighbor is 130 feet.
- Other neighborhood homes are in excess of 600 feet from the proposed structure.
- Terrain constraints such as steep slopes, natural drainage area and excessive rock prohibit the garage from being placed behind the home.
- Clarified septic system location on the map.

Ms. Miller responded to questions from the Board:

- Her residence is approximately 2,700 square feet.

(4) Testimony of the Opposition:

Judy Ponder, 5930 Centerwood Drive, Crestwood, was sworn in and presented the following:

- Provided the definition of “Conditional use” under KRS 100.111 (Exhibit J).
- Provided information from KRS 100.237 (Exhibit K) regarding Board powers for granting a conditional use permit.
- Conditional use must promote the public health, safety or welfare and not just the needs of the applicant.
- No testimony or evidence that this proposed conditional use is specifically named in the zoning for this property.
- Provided R-1 Residential District Permitted Uses and Conditional Uses as an example (Exhibit L).
- The applicant must justify how their request fits into one of the categories as a conditional use under the appropriate zoning classification.

(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

Motion made by Houchens and seconded by Wampler to open the floor for questions and clarification. Motion carried by unanimous voice vote.

A. Testimony and questioning of the Applicant or representative and others in support of the application by the Board:

Mr. Griffin stated that the applicant currently owns 25 vehicles and would like to increase their collection to 35. Designing the structure to resemble a horse barn maintains the rural character of the area.

Ms. Garber stated they would like to house as many of their vehicles on the property as possible. The portion facing the road would be 60 feet wide. The length of the building would be screened by the current trees along the property line and the other side would have new planting to provide additional screening. Agrees to decrease the depth of building but the purpose of the building size was to have the ability to store all the vehicles in one location rather than renting multiple locations as done currently. The building would be used only for storage and no commercial activity or restoration of vehicles would occur in the structure.

Shawn Garber, 13215 Covered Bridge Road, Prospect, after being sworn stated the following:

- Understands the concerns from the Board but the design and layout of the structure is keeping the rural nature and character of the area and would only increase the surrounding property values. Would agree to shorten the building by 25 feet and it would lower the square footage by 1,500 square feet.

Ms. Miller stated that the design and esthetics of the building will be in character of the area and agrees with the environmental constraints of the property but is opposed to the proposed size of 7,500 square feet.

B. Testimony and questioning of the Opposition by the Board:

Ms. Ponder stated she doesn't understand how a local zoning regulation supersedes a state statute. There has been no request given to allow the accessory structure to be larger in scale to the primary structure.

C. Rebuttal of the Applicant:

Mr. Griffin stated that scale is not an issue and the proposed structure meets the height and front setback requirements. The process of a Conditional Use Permit allows a person to build a structure when all regulations can't be met and that is what the applicant has chosen to do.

D. Rebuttal of the Opposition:

Ms. Ponder stated Mr. Griffin should be speaking only from the technical area of his engineering background and not the zoning ordinances.

E. Final Statement of the Opposition: None.

F. Final Statement of the Applicant: None.

G. Final Questioning by the Board to either Party: None.

**Findings and Decisions
Docket OC-13-005– Conditional Use Permit—Second Accessory Structure**

Motion made by Board Member Houchens and seconded by Board Member Otterback to approve Docket OC-13-005, an application for a Conditional Use Permit for a Second Accessory Structure on property located at 13215 Covered Bridge Road, Prospect because the proposed use is desirable to community based on the following factors:

- The character and objectives of the proposed use and potential impacts on the community and its surroundings are appropriate.

Conditions of Approval:

- The structure shall have an additional setback of 25 feet from the plan submitted.
- Building shall not be larger than 6,000 square feet.
- This shall only apply to the application considered at the March 21, 2013 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Houchens and Otterback.

No: Hodge, Riley and Wampler.

Abstain: None.

Absent: None.

Motion failed on a vote of 2 to 3.

Motion made by Board Member Riley and seconded by Board Member Hodge to table Docket OC-13-005 to the April 2013 meeting to allow the applicant time to present a new building plan.

The vote was as follows:

Yes: Board Members Hodge, Riley, Otterback and Wampler.

No: Houchens

Abstain: None.

Absent: None.

Motion carries on a vote of 4 to 1.

Board Member Riley called and read Docket OC-13-006.

Docket OC-13-006 – An application has been filed requesting a Conditional Use Permit for a Bed & Breakfast on property located at 10500 W Hwy 42, Goshen.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated 03/21/2013 Exhibit A).
- Notes.
- Photos of the site.

Mr. Davis responded to questions from the Board:

- Uncertain how many Bed & Breakfasts are in Oldham County.

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

Phillip Allen, Attorney for 21C, 49 Harwood Road, Louisville presented the following:

- History of the property.
- Home is currently empty and minor interior renovations would occur.
- Home would only be rented out to one person and/or family at a time.

William Landis, 2320 Liberty Lane, Goshen, after being sworn, presented the following:

- History of Hermitage Farm and horse industry over the past 35 years.
- Has been employed by the three different owners of Hermitage Farm for the past 35 years.
- Bed and Breakfast would be a great addition to Oldham County.

(3) Questioning of the Applicant by the Board:

Mr. Allen responded to questions from the Board:

- Home sits in the middle of 640 acres and is not close to any other neighbors.
- The historic home of 6,000 square feet and smokehouse building will be rented to the same family and not separated have two different sets of guests.
- Provided clarification of other buildings owned by Hermitage Farm on the map.
- Does not see parking or traffic as an issue.

(4) Testimony of the Opposition: None.

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

(6) Rebuttal and Final Statement by the Applicant:

Mr. Allen stated by having a Bed and Breakfast it opens up the farm to the community to enjoy the beauty of Hermitage Farm and observe an operating horse farm.

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

(8) Board Discussion and Final Decision

**Findings and Decisions
Docket OC-13-006– Conditional Use Permit—Bed & Breakfast**

Motion made by Board Member Houchens and seconded by Board Member Hodge to approve Docket OC-13-006, an application requesting a Conditional Use Permit for a Bed & Breakfast on property located at 10500 W Hwy 42, Goshen because the proposed use is desirable to the community and not in conflict with the elements, objectives and policies of the Comprehensive Plan based on the following:

- The character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate.

Conditions of Approval:

- This shall only apply to the application considered at the March 21, 2013 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Hodge, Houchens, Otterback, Riley and Wampler.

No: None.

Abstain: None.

Absent: None.

Motion carries on a vote of 5 to 0.

Board Member Riley called and read Docket OC-13-007.

Docket OC-13-007 – An application has been filed requesting a revision to a Conditional Use Permit (granted in Docket 2260) to permit expansion of a farm store and café on property located at 8905 Highway 329, Crestwood.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated 03/21/2013 Exhibit A).
- Notes.
- Photos of the site.

Mr. Davis responded to questions from the Board:

- The dates of previous case history came from the parcel file and would defer to the applicant of any other dates listed on the application.
- The 1991 approval was granted for a 3 year period and the applicant came back in 1994 and the conditional use was approved without an expiration date.

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

Benton Keith, 8909 Hwy 329, Crestwood, after being sworn, presented the following:

- History of the property.
- Description and location of buildings on the property (Exhibit B).
- Currently operates a farm store where their grass fed beef and produce that is grown on the farm is sold as well as beef, poultry, eggs, milk and produce from other surrounding farms in Oldham County.
- Currently sells lunch and would like to continue to do so to support agritourism in Oldham County.

(3) Questioning of the Applicant by the Board:

Mr. Keith responded to questions from the Board:

- There will be no exterior additions made to the building, only adding a second restroom.
- Building is currently set up as a café and has served food to their employees in preparation of opening the café to the public.
- There have been two private dinners in the building.
- Farm store has been in operation for three years.
- Currently planning on serving lunch only Tuesday through Saturday and having farm to table dinners where a ticket would be purchased to attend.
- Seating capacity is 46 with 52 parking spaces.

Tandy Patrick, Attorney for the Applicant, Bingham Greenbaum Doll, 101 S. Fifth Street, Louisville responded to questions from the Board:

- Café’s current capacity is 46 and doesn’t anticipate that it will expand in the future.

Mr. Urban stated that it appears that the conditional use was approved for the entire 2.546 acres, which included all buildings. The applicant is asking today for an expansion of the farm store and to allow the café operation to be expanded. All the buildings are currently constructed and have always had the conference center, commercial kitchen and one other building. The applicant is requesting to have the existing conditional use permit revised to include the other building as a café.

(4) **Testimony of the Opposition:** None.

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

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

Ms. Patrick, Attorney for the Applicant, that the reason the request is structured for an amendment to the existing conditional use permit is because activity has changed and become a less intense use. The farm store and café promotes agritourism in Oldham County and is consistent with the goals and objectives of the comprehensive plan.

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

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

Findings and Decisions
Docket OC-13-007– Revision of Conditional Use Permit—Farm Store and Café

Motion made by Board Member Hodge and seconded by Board Member Wampler to approve Docket OC-13-007, an application requesting a revised Conditional Use Permit to permit expansion of a farm store and café on property located at 8905 Highway 329, Crestwood because the proposed use is essential or desirable to the community and not in conflict with the elements, objectives and policies of the Comprehensive Plan based on the following:

- The character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate.
- The community or neighborhood has a need for the proposed use and there are potential benefits to the community or neighborhood.
- The proposed use is compatible with surrounding land uses and the general character of the area.
- The proposed use will not impair the integrity and character of the zone.

Conditions of Approval:

- This shall only apply to the application considered at the March 21, 2013 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Hodge, Houchens, Otterback, Riley and Wampler.

No: None.

Abstain: None.

Absent: None.

Motion carries on a vote of 5 to 0.

Other Business

By-Laws Review

Brian Davis stated there had been a request for staff to research Article 9, Section 10 of the by-laws regarding when the board's rulings are made official. The current by-laws state the action becomes official upon the approval of the minutes during the following month's meeting. The current by-laws are in conflict with KRS 100.347(5) which states the final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending.

Discussion followed.

Motion made by Board Member Houchens and seconded by Board Member Riley to strike from Article 9, Section 10 of the by-laws, "Rulings made by the Board become official upon approval of the minutes during the following month's meeting. The Board may waive this waiting period on a case-by-case basis, at the risk of the applicant" and replace with KRS 100.347(5) language of "Final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body."

The vote was as follows:

- Yes: Board Members Hodge, Houchens, Otterback, Riley and Wampler.
- No: None.
- Abstain: None.
- Absent: None.

Motion carries on a vote of 5 to 0.

Approval of Minutes – February 21, 2013

Motion was made by Board Member Hodge and seconded by Board Member Wampler to approve the minutes as submitted.

The vote was as follows:

- Yes: Board Members Hodge, Houchens, Otterback, Riley and Wampler.
- No: None.
- Abstain: None.
- Absent: None.

Motion carries on a vote of 5 to 0.

Motion made by Board Member Hodge and seconded by Board Member Riley to adjourn the meeting at 12:32 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, April 18, 2013, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

 Amy Alvey
 Planner

Approved:

 Larry Otterback, Chairperson