

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

Thursday, March 20, 2014

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:

Ken Hodge
Robert Houchens
Larry Otterback
Ann Riley

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

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

Docket OC-14-004 – An application has been filed requesting a Conditional Use Permit to have an Accessory Dwelling Unit on property located at 4501 North Highway 393, Buckner.

(1) Presentation by Staff and questions by the Board to Staff:

Community Planner Amy Alvey presented the following:

- Summary of the application (see Staff Report dated March 20, 2014 (Exhibit A).
- Site History.
- Notes and Issues.
- Photos of building from different angles.

Ms. Alvey responded to questions from the Board:

- Mr. Oldham did submit building plans but have not been reviewed by the Chief Building Inspector as they were not detailed.
- Mr. Oldham may have detailed drawings to present to this Board.

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

Lonnie Oldham, 10110 Dorsey Hill Road, Louisville, was present and sworn prior to speaking on behalf of this application.

- Purchased the property in 2006 but did not begin construction until 2009.
- He began construction himself by building the garage but because he did not have living quarters, LG&E would not allow him to have electricity.
- He received approval to build living quarters above the garage and but because of funds, was unable to proceed with construction of the house until 2011.
- He wishes to build the home of his dreams and connect it to the existing structure with a breezeway.

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

Mr. Oldham responded to questions by the Board:

- Has no current or future plans to rent the existing building and no one will be living in the existing building.
- Presented building plans of the proposed structure (Exhibit B).
- The existing 30 x 32 structure is an open room considered an outdoor living area with a screened porch.
- Presented photos similar to the house he wishes to build (Exhibit C).
- Confirmed that he would not have a problem removing the stove from the existing living unit.

Administrator Urban explained that the Goals and Objectives of the Comprehensive Plan have been adopted by the Legislative Bodies. There has been no change in the Oldham County Zoning Ordinance regarding Accessory Dwelling Units.

(4) Testimony from anyone speaking in favor of the Applicant: NONE

(5) Testimony from anyone Opposing the Applicant:

Doreen Carlson, 2824 Barrickman Lane, Goshen was present and sworn prior to speaking in opposition to this application.

- Presented details and reasons why this application should not be approved, mainly because there is not enough documentation (Exhibit D).

(6) Questioning of the Opposition by the Board:

Mrs. Carlson responded to questions by the Board:

- The building code defines a duplex.
- Her concerns would be relieved if the second kitchen was removed.

(7) Rebuttal and final statement by the Applicant:

Mr. Oldham stated the following:

- Followed all the regulations as this is his dream house.

(8) Questioning of the Applicant by the Board:

Mr. Oldham responded that he agrees to remove what is currently considered a kitchen.

(9) Rebuttal and Final Statement by the Opposition:

Mrs. Carlson made the following statement in rebuttal:

- Opposed to the permitting of the technical accessory dwelling unit at this time.
- Removing the stove may be a way to allow Mr. Oldham to move forward as a single family permit and not supporting multiple dwellings.

(10) Board Discussion and Final Decision:

There was much discussion concerning accessory dwelling units.

Motion to take a recess was made at 10:03 a.m. by Member Hodge and seconded by Member Riley. Motion carried.

Motion to return from recess was made at 10:11 by Member Hodge and seconded by Board Member Riley.

**Findings and Decisions
Conditional Use Permit – Accessory Dwelling Unit
Docket OC-14-004**

Motion was made by Board Member Houchens and seconded by Board Member Riley, to approve Docket OC-14-004, Conditional Use for an Accessory Dwelling Unit because:

1. The intent of the land owner is to save money.
2. Will build a single family unit and not create a duplex.
3. Would not be in conflict with the elements, objectives and policies of the Comprehensive Plan.
4. The character and objectives of the proposed use and the potential impacts on the Community and its surroundings are appropriate.

Conditions of Approval:

- Upon completion of the inspection for the Certificate of Occupancy, the inspector will confirm that the range/stove in the existing building is removed and the power source to the range/stove is cut off.
- The Conditional Use Permit is to be revoked upon issuance of the Certificate of Occupancy as it will no longer be necessary.

The vote was as follows:

Yes: Board Members Houchens, Otterback and Riley
No: Board Member Hodge

Abstain: None
Absent: Board Member Wampler.

Motion carried on a vote of 3-1.

Board Member Riley called and read Docket OC-14-005 and Docket OC-14-006.

Docket OC-14-005 – An application has been filed requesting a Conditional Use Permit to have a Community Residence on property located at 4804 Sycamore Ridge Lane, LaGrange.

Docket OC-14-006– An application has been filed requesting a Conditional Use Permit to have a Community Residence on property located at 4906 Sycamore Ridge Lane, LaGrange.

(1) Presentation by Staff and questions by the Board:

Community Planner Amy Alvey presented the following:

- Summary of the application (see Staff Report dated March 20, 2014 Exhibit A).
- Case History
- Notes and Issues.
- Photos of properties and surrounding area.

There were no questions for Ms. Alvey by the Board.

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

Attorney Berry Baxter, 117 West Main Street, LaGrange, was present to speak on behalf of Dockets OC-14-005 and OC-14-006.

- The two subject properties are Lots 3 and 13 of Sycamore Run Subdivision, both zoned AG-1 Agricultural/Residential District.
- Presented Ordinance Section 020-030, Conditional Uses and read the definition for Community Residence under AG/Residential District (Exhibit B).
- Applicant meets all the requirements under the definition of family, Section 420, Page 203(Exhibit C).
- Board has the authority to approve this plan as it is similar to the definition of Community Residence.

Chris Stevenson, President of Cedar Lake Lodge, 7215 Williamsgate Blvd., Crestwood, was present and sworn prior to speaking on behalf of these applications.

- Gave history of Cedar Lake and how it all began and that Oldham County has been very supportive of this organization.
- Stated the importance of providing a more segregated living setting available to people with intellectual disabilities in the community.

Jason Squires, Cedar Lake Lodge, 604 Plainview Terrace Drive, Louisville, was present and sworn prior to speaking on behalf of this application.

- Presented photos of the proposed homes to be constructed in the subdivision (Exhibits D).
- Presented their mission statement to provide compassionate care for those with intellectual disabilities.
- Cedar Lake has eight homes (Exhibit E) in Oldham County and do not require a CUP; the homes addressed today are licensed homes.

David Garber, Garber-Chilton Engineers and Land Surveyors, 205 Parker Drive, LaGrange, was present and sworn prior to speaking on behalf of this application.

- Explained the lot conditions, contour lines and layout of the houses.
- Will have the traditional drive-way and a circular drive at the front.
- Will have a rear loading garage and parking in the rear.
- Presented traffic information including peak hour trips.

Edward Eiche, Architect for Cedar Lake Lodge, 10011 Tuppence Trace, Louisville, was present and sworn prior to speaking on behalf of this application.

- Gave details of the residences and will be constructed much like the other homes in the neighborhood.
- The door entrances and the hallways will be wider with an open floor plan to accommodate the special needs residents.
- Will be fully sprinkled, have more than one basic heating and air system and also have an emergency generator.

Jason Squires continued testimony.

- Gave the daily routines for the residents who can attend activities outside of the home.
- A nurse will be in the house 24 hours.
- Presented photos of two residents that live on the main campus that will be moving into the new home.

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

Mr. Squires responded to questions by the Board:

- Have been approved for certificate of needs situation for this type of beds and requires 24 hour medical staff.
- The kitchen is a standard kitchen except that the stove hood is required to be equipped with a fire suppression system.

Mr. Garber responded to questions by the Board:

- There should be no traffic concerns in the subdivision and very similar to a single family home.

Mr. Eiche responded to questions by the Board:

- In terms of the design, does meet criteria and characteristics of the deed restrictions.

Attorney Baxter confirmed that this facility meets the requirements of the Ordinance for a Community Residence.

Motion to take a recess was made at 11:10 a.m. by Member Hodge and seconded by Member Houchens. Motion carried.

Motion to return from recess was made at 11:29 by Member Hodge and seconded by Board Member Houchens.

(4) Testimony from Others in support of the application having been sworn stated as follows:

Lynn Wilkerson, 5802 Orion Road, Louisville.

- Mother of Christi shown in the power point who is intellectually and physically disabled and needs two people to transfer her but not medically fragile.
- Christi enjoys her life much as any other individual, recently moved to Cedar Lake and has a very full life there; this facility is a needed one.

Kevin Kimes, 3002 Shaded Creek Court, LaGrange, Reserves of L'Esprit Subdivision.

- There are three homes in his subdivision and not different than the other homes.
- Has befriended a few of the residents, have enjoyed their friendship and could not ask for better neighbors.

Martha Gee, 3100 Smith Lane, LaGrange.

- Stated that her grandchild has Down 's syndrome and is just a baby now but would be good for him to reside in this type home when he becomes an adult.

Kristine Burton, 2505 Garret Point Road, Sycamore Run Subdivision, LaGrange.

- Has a 12 year old with intellectual disabilities and is very excited about this being in her subdivision and being available for her child some day.
- This is not a business but a home that is very much needed.

Meghan Davis 3503 Hazelwood Road, LaGrange.

- Presented her Downs Syndrome baby and wants the Board to put a face to the type child that will be helped some day.
- by welcoming the two homes into the neighborhood it will show a receptiveness to diversity and differences of others.

Clay Jones, 7506 Jones Trace, Crestwood.

- Is the developer of Sycamore Run and very much in favor of this proposal.
- Homes proposed are valued at \$500,000.00 and an asset to this community being single family residences that meet the Planning and Zoning criteria.

(5) Testimony of those in Opposition:

The following were present and sworn prior to speaking in opposition to this application:

Carl Bricken, 4803 Sycamore Run Circle, LaGrange.

- Presented a petition signed by neighbors who feel this is not considered a single family residence (Exhibit F).
- It is more of a boarding house in a single family subdivision.

Tod Nierodzik, 4912 Sycamore Ridge Lane, LaGrange.

- Is not against Cedar Lake Lodge, but there should not be a commercial residence in the subdivision.

Debra Stringer, 3101 Smith Lane, LaGrange.

- The homes would not benefit the neighborhood and the value of their homes will be negatively affected.
- The number of trips with staff and family members will create more traffic.
- Main concern is that this will open the door for more conditional use applications.

Sheila Thompson Doyle, 5329 Smith Haven Lane, LaGrange.

- Has been a long time supporter of Cedar Lake Lodge.
- Concerned regarding the water run-off to her property.
- If the permit is granted requests that the natural buffer line not be destroyed.

Pat Doyle, 5329 Smith Haven Lane, LaGrange

- Reiterates his wife's concerns that they have a lake which may be a danger to the residents.

(6) Questioning of the Opposition by the Board: NONE

(7) Rebuttal by the Applicant:

Mr. Garber addressed the run-off that both properties will not have any more than other houses in the area. Showed the location of the parking area on plot plan; it will be approximately 130 feet from the rear property line.

Mr. Squires addressed the traffic issue stating that there will only be two vehicles. Typically the residents will go in groups of two or three and is compared to a home having a mom and dad and two teen drivers. The tree buffer will not be touched; the driveway is not a parking lot but much like a residential home.

Attorney Baxter addressed the concerns of opening the doors for more conditional use permits in the neighborhood. One must appear before the Board of Adjustments for approval of a conditional use permit.

(8) Rebuttal and Final Statement by the Opposition:

Tod Nierodzik stated that their properties will be devalued and that there will definitely be added traffic especially when the residents' families visit over the holidays.

Carl Bricken stated that the conditional use can become precedence once the permit has been approved.

(9) Final Statement by the Applicant:

Attorney Baxter stated that the Board is bound to follow the regulations. AG-1 District regulations provide for locating a Community Residence which is what Cedar Lake is requesting. The residents of the house are no different than when one becomes elderly and pays a caregiver to live in their house 24 hours a day. Asks for approval under the definitions.

(10) Final Questioning by the Board of any Party:

Administrator Urban explained that a building permit in this case would come under the residential code and not commercial. The request for the conditional use has nothing to do with the structure but rather the use.

Barry Baxter responded that community residences is defined in the Ordinance; the persons eligible to reside in a community are developmentally disabled; the residence will have one kitchen, one dining room, etc. Feels that Cedar Lake Lodge does not need a conditional use permit because the density is less and not more. The Planning Office felt it was best that the Board make the decision.

Mr. Garber addressed the surface area of the drive and that it is much like a regular residential driveway; the layout of the driveway will be 51 feet deep, allowing vehicles to park in the driveway and still allow a vehicle to back out of the garage.

Mr. Squires responded regarding the visitation rules and guidelines. Families can visit anytime they wish and may stay for dinner and leave allowing the residents to live their lives. They do not check on their children every day; they visit periodical, once a week and sometimes every other week. There are no plans to build any more homes in the Sycamore Run Subdivision.

The reason for the two homes is to take advantage of a possible emergency and can have staff from the other home to cover. There is a call in system should staff call in sick.

(11) Board Discussion and Final Decision:

There was much discussion by the Board Members.

Attorney Combs stated that the County has defined what is considered a Community Residence. The Board has the authority to make adjustments according to the regulations.

**Findings and Decisions
Docket OC-14-005
4804 Sycamore Ridge Lane, LaGrange
Conditional Use for a Community Residence**

Motion is made by Board Member Houchens and seconded by Board Member Riley to approve Docket **OC-14-005**, Conditional Use Permit because:

1. It is based on the Board's authority granted under Section 350-040 Item 4, defined the proposed use as in the same general character as Community Residence listed under Section 020-030 of the Zoning Ordinance .
2. The proposed use will not be out of character as with other uses in the zoning district listed under conditional uses in that district.
3. The character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate because it is only four people, less than the definition of more than five.
4. The conditional use permit shall only apply to the application considered at the March 20, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

Motion carried on a vote of 3-0 with one abstention.

**Findings and Decisions
Docket OC-14-006
4906 Sycamore Ridge Lane, LaGrange
Conditional Use for a Community Residence**

Motion is made by Board Member Houchens and seconded by Board Member Riley to approve Docket **OC-14-006**, Conditional Use Permit because:

1. It is based on the Board's authority granted under Section 350-040 Item 4, defined that the proposed use is in the same general character as Community Residence listed under Section 020-030 of the Zoning Ordinance.
2. The proposed use will not be out of character as with other uses in the zoning district listed under conditional uses in that district.
3. The character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate because it is only four people, less than the definition of more than five.
4. The conditional use permit shall only apply to the application considered at the March 20, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

Motion carried on a vote of 3-0 with one abstention.

Approval of Minutes – January 16, 2014

Motion was made by Board Member Hodge and seconded by Board Member Riley to approve the minutes of January 16, 2014 as submitted and corrected.

The vote was as follows:

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

Motion carried on a vote 4-0.

Other Business

None.

Motion is made by Board Member Hodge and seconded by Board Member Houchens to adjourn the meeting at 12:39 p.m.

Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, April 17, 2014, 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