

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

Thursday, September 19, 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:

Ken Hodge
Robert Houchens
Larry Otterback
Ann Riley
Roger Wampler

Director Jim Urban, Assistant Director Brian Davis, Community Planner Amy Alvey and Administrative Assistant Ethel Foxx 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-13-013.

Docket OC-13-013 – A request to amend the Conditions of Approval for a Conditional Use Permit which was granted at the July 18, 2013 meeting to allow multiple accessory structures on the property located at 3500 Arrowwood Court, LaGrange.

(1) Introduction of the application by Staff and questions by the Board:

Assistant Director Brian Davis presented the following:

- Summary of the July 18, 2013 hearing requesting a conditional use to allow multiple buildings to remain on the property.
- The Board granted the approval with several conditions (read all the conditions of approval), one being to remove the red barn within 60 days.
- The Applicant recently visited the Planning Office requesting amendment of the conditions of approval by allowing the red barn to remain, connect the 10-foot 16 structure to the red barn, therefore, creating one structure.
- Case History and notes (see Staff Report Exhibit A, September 19, 2013).
- A site plan was presented showing how the two lots had been consolidated. (Exhibit B).
- Presented Aerial Photos of the site showing all the buildings on the property (Exhibit C).
- Photos presented on overhead showing accessory structures located on the property, including the accessory building (10-foot x 16-foot) next to the red barn.
- Construction plan presented showing how the 10-foot x 16-foot structure will be attached to the red barn.

Mr. Davis responded to questions from the Board:

- The red barn that was to have been removed within 60 days is still on the property.
- The filing deadline had passed to present an amendment to the conditions of approval at the August hearing.

- Mr. Davis informed Mr. Lee to hold off removing the red barn and present an amendment request at today's meeting.
- The buildings presently on the property are the screened in 20-foot x 20-foot structure by the pool, the 25-foot x 25-foot red barn, the 12-foot x 32-foot structure and the 10-foot x 16-foot structure.

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

Joseph Lee, 3500 Arrowwood Court, LaGrange, was present and sworn prior to speaking in behalf of this application.

- Mr. Lee stated that he learned it would be very costly to remove the red barn (an estimate of \$3,800.00) and an additional fee for the land fill charge.
- For as little as \$100 he can attach the two buildings (the red barn and the 10-foot x 16-foot building).

(3) Questioning of the Applicant by the Board:

- Mr. Lee responded that the breezeway between the buildings would be approximately seven feet.
- The larger of the two buildings shown is the red barn.
- Although he stated at the last meeting that it would be costly to repair the red barn, he realizes now that it will be less costly to repair the building than to tear it down.
- The height of the red barn is considerably higher than the storage shed; he showed how he will tie the roof system and place a splash guard to run across the building.
- The red barn is on a foundation but the smaller building is not; he has not taken into consideration should there be movement of the ground.
- He will paint both buildings the same color.
- He has no plans to move the buildings but simply connect them; he does not wish to move any of the smaller buildings.
- His friends are no longer available to help him tear down the red barn.
- The pool house is simply a covered screened-in deck.
- The size of the buildings on the property are a 20-foot x 20-foot pool house which does not have a block foundation but closed in with paneling; a 10-foot x 6-foot storage shed, a 12-foot x 32-foot building located on the other side of the fence line and the 20x25 red barn.
- The 10-foot x 16-foot shed was brought in prior to the July 18 meeting.
- Mr. Lee only got three estimates to remove the red barn; the best was \$3,800.00 and the highest \$7,000.00 plus the land fill fee.
- He wishes to accommodate the neighbors as some would rather he leave the red barn.
- He feels that the pool house is not actually a building but a screened in deck.

(4) Testimony of those in Opposition:

Dewey Wotring, 3520 Rock Rose Lane, Greenbriar Subdivision, LaGrange, was present and sworn prior to speaking in opposition of this application.

- Mr. Wotring has lived on Greenbriar for 36 years.
- Although the regulations do not mention square feet, it does address the number of buildings allowed on a lot.
- Allowing the request would set a precedent.

- Mr. Wotring would also love to have a larger building and another garage but has survived all these years without additional buildings.
- Mr. Wotring watched the video from the July 18 meeting and feels this Board was more than generous in their decision.

James Key, 3803 Briar Ridge Road, LaGrange, was present and sworn prior to speaking in opposition of this application.

- Mr. Key states his property is the one with the big barn on a five acre lot.
- When he moved to the subdivision he read the restrictions that allow only one accessory building.
- The reason he built the big barn is to help block the noise from the I-71 interstate and for use as a work shop when he retires.
- Because Mr. Lee's red barn is located so close to the property line, attaching the smaller building may not meet the setbacks and would not be desirable to the subdivision.

Joe Scannel, 3501 Arrowwood Court, LaGrange, was present and sworn prior to speaking in opposition of this application.

- Mr. Scannel lives across the street from Mr. Lee and is a professional land surveyor.
- He usually does not speak against development but feels it would be best for Mr. Lee to get rid of the 10-foot x16-foot building.
- The barn has more square footage, is usable, and is in keeping with the surrounding property.

(5) Questioning of the Opposition by the Board:

- Mr. Wotring is not aware of any other homes in the subdivision that have three accessory buildings.
- He lives in Greenbriar Section 1 and Mr. Lee lives in Greenbriar Section 2.

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

(7) Rebuttal and Final Statement by the Opposition NONE

Board Discussion:

- According to the regulations only one accessory building is allowed.
- They accommodated Mr. Lee and allowed him to have three structures.
- Even if the buildings are connected it will still look like two buildings.
- In terms of character and structure, there was testimony at the first hearing and today that this request is unusual.
- The two lots of 3-1/2 acres having four buildings are still too many buildings.
- The conditions of approval from the July meeting have not yet been met.
- Board members are not in favor of combining the buildings with a breezeway.

At this time, Administrator Urban responded to the Board that they could give Mr. Lee more time to take down the structure. The conditions were not met because of the timing as he was still within the window of 60 days. Now that Mr. Lee has an estimate on the removal of the barn, he may wish to reconsider, keep the barn and remove one of the other buildings. At this time the Certificate of Land Use Restriction has not yet been filed, and the minutes have not yet been approved.

Attorney Combs stated that procedurally the Board can make a motion to reconsider, but a decision has to be made on this one first.

Findings and Decisions
Motion to Deny Docket OC-13-013
Request for Revised Conditions of Approval

Motion is made by Member Houchens and second by Member Riley to deny Docket OC-13-013, Request for Revised Conditions based on the fact that it is not essential or desirable to the community.

The vote was as follows:

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

No: None

Abstain: None.

Absent: None

Motion to deny carried on a vote of 5-0.

MOTION TO OPEN DISCUSSION

**RECONSIDERATION OF ORIGINAL APPROVAL OF CONDITIONS
DOCKET OC-13-013**

Motion is made by Member Hodge and second by Member Houchens to open discussion for Reconsideration of the Original Approval of the Conditions for Docket OC-13-013.

Motion to open discussion for Docket OC-13-013 carried on a vote of 5-0.

DISCUSSION FOR RECONSIDERATION

AMENDMENT OF THE CONDITIONS OF APPROVAL

Docket OC-13-013 – A request to amend the Conditions of Approval for a Conditional Use Permit which was granted at the July 18, 2013 meeting to allow multiple accessory structures on the property located at 3500 Arrowwood Court, LaGrange.

(1) Presentation by the Applicant and Questions by the Board:

Applicant Joseph Lee, having been sworn previously in this session was called to respond to questions from the Board.

- Mr. Lee responded that he would be interested in keeping the red barn and consider getting rid of the 10-foot x 16-foot building or one of the other smaller buildings.
- Presently he stores the riding lawnmower in the red barn but it will be costly to insulate the barn for the winter.
- He could make arrangements to heat one of the smaller buildings.

Administrator Urban and Attorney Combs respond to the Chair that because the parameters are being changed, the Board should refer to Robert's Rules and return to the regular procedure.

(2) Others In Support of the Application:

Joe Scannell, 3501 Arrowwood Court, LaGrange, was present and sworn prior to speaking in favor of this application.

- Mr. Scannell states that he feels Mr. Lee should get rid of the smaller building (10-foot 16-foot).
- He could keep the (12-foot x 32-foot) building which can be used as his wood shop and happens to be one of the nicer buildings on the street and not visible from the street.
- He could keep the red barn and use it for his lawn equipment and storage.
- Getting rid of the larger barn would be a burden to Mr. Lee whereas the smaller building (10-foot x16-foot) is movable and could most likely be sold.
- Suggests that they go back to the original agreement, allowing the same number of buildings from the first conditional use, but instead of getting rid of the larger red barn, consider getting rid of the smaller building.

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

(4) Rebuttal and Final Statement by the Applicant: NONE

(5) Rebuttal and Final Statement by the Opposition: NONE

Board Discussion and Final Decision:

- One reason behind the original approval was that the three structures are on what used to be two lots.
- The square footage is questionable but getting rid of the one smaller buildings would be a good thing.
- The pool house used as a screened in deck has a different use than the other two accessory buildings.
- There was testimony that the larger of the smaller buildings is insulated and non-intrusive and a nicer building.
- Moving the smaller building would not take long or it could be possibly be sold.

**Findings and Decision
Request to Amend Conditions of Approval
Docket OC-13-013**

Motion is made by Board Member Houchens and seconded by Board Member Wampler, to Amend the first item of the conditions of approval from the July 18, 2013 meeting for Docket OC-13-013 as follows:

- The existing 10-foot x16-foot building is to be removed within 30 days from today's date (September 19, 2013).

All other conditions are to remain the same from the July 18, 2013 meeting as follows:

- The three remaining accessory structures are to comply with the required setbacks.

- The conditional use permit shall only apply to the application considered at the July 18, 2013 and September 19, 2013 Oldham County Board of Adjustments public hearings.
- There shall be no commercial activity operated out of the accessory structures.
- Building permits shall be obtained for those accessory structures that are not permitted

The vote is as follows:

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

No: None

Abstain: None.

Absent: None

Motion carried on a vote of 5-0.

Board Member Riley called and read Docket OC-13-016.

Docket OC-13-016 – An application has been filed requesting a Conditional Use Permit to have an off premise sign on the property located at 3820 Greenhaven Lane, Goshen.

(1) Introduction of the application by Staff and questions by the Board:

Community Planner Amy Alvey presented the following:

- A summary of the application is given.
- Presented Case History and notes (Exhibit A - See Staff Report of September 19, 2013).
- Property is zoned AG-1 and CO-1 and consists of about 168 acres.
- Presented a site plan (Exhibit B) where the off-premise sign would be located at intersection of Highway 42 and Greenhaven Lane.
- Greenhaven Lane dead ends at applicant’s property abutting the Ohio River.
- Directional sign is needed for the Woodland Farm Store and help direct people as to location of the store.
- The sign will be hung from a 7 foot post and will be approximately 2.8-feet x 4-feet
- Sign meets the set back requirement.
- Photos presented on the overhead showing Highway 42 and Greenhaven Lane where the sign would be placed.

Ms. Alvey responded to Questions from the Board:

- Drawing (Exhibit C) of proposed sign shows it will be 7 feet tall and about 40 inches wide.
- The post is actually 7 feet tall and 40 inches showing items sold at the farm store.
- The store is about 1.1 mile back on Greenhaven Lane.
- Applicant is Steve Wilson of Woodlawn farms, but property owner (Robert Martin) signed the application confirming that he is in agreement with the proposal.
- Applicant does have to meet regulations for an off-premise sign.
- Board does not have to worry about the actual sign; that will take place at the time they apply for the sign permit.

Administrator Urban responds to Attorney Combs that the sign should be outside of the easement; because of the site triangle, all easements are along us 42. If utilities had to get into that area it would be the owner's responsibility to replace the sign. There is a photo of the sign and it complies with the sign regulations.

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

Christopher Kelly, 5100 Greenhaven Lane, Goshen was present and sworn prior to speaking on behalf of this application.

- Mr. Kelly states he is the nephew of the farm owner, Steve Wilson.
- He is the manager of the farm and makes all the decisions for the farm.
- They raise bison, chicken and pigs

Administrator responds at this time that there is no problem with the application as the property owner has signed off on the application.

Questioning of the Applicant by the Board:

- Mr. Kelly confirms that the land owner (Robert Martin) has signed off on the application.
- Mr. Kelly is not a member of the LLC but is a family member; the manager makes all the decisions on the farm.
- They raise bison, hogs and chickens and produce.
- They want people to be aware that fresh products are available to them.
- He is not aware of anyone objecting to the sign.
- The property across the street is owned by a different farm.

**Motion to Break for Review
of the Comprehensive Plan**

- Motion was made by Board Member Hodge and seconded by Board Member Wampler to take a short break at 10:13 a.m. in order to review the Sign Ordinance and Comprehensive Plan.

Motion to break passed with a vote of 5-0.

Board Returns to Session

Motion is made by Member Riley and second by Member Houchens to return to session at 10:20 a.m.

Motion to return to session passed with a vote of 5-0.

For the record, Ms. Alvey responded to the Board concerning multi-panel signs. She confirmed that the proposed sign is not considered a multi-tenant sign as it is advertising only one business.

(3) Testimony of the Opposition: NONE

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

(5) Rebuttal and Final Statement by the Applicant: NONE

(6) Rebuttal and Final Statement by the Opposition: NONE

(7) Board Discussion and Final Decision:

- The proposed sign sounds reasonable.
- There is no opposition, the owners agree and Board Members see no problem with the proposal.

**Findings and Decisions
Docket OC-13-016
Conditional Use for Off-Premise Sign**

Motion is made by Board Member Riley and second by Member Hodge to approve Docket OC-13-016, 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 factors:

- The community or neighborhood has a need for the proposed use and there are potential benefits to the community or neighborhood.
- The proposed use will not impair the integrity and character of the zone as are specific restrictions on location size, extent and character.

Conditions of Approval:

- The conditional use permit shall only apply to the application considered at the September 19, 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 carried on a vote of 5-0.

Approval of Minutes

Motion was made by Board Member Hodge and second by Board Member Riley, to approve the minutes of July 18, 2013 as submitted.

Vote was taken and motion carried 5-0.

Other Business

Education Training

Chairman Otterback requested a motion be made concerning recent training taken by Board Members Hodge, Houchens, Otterback, Riley and Wampler.

Training consisted of the following:

- One hour site tour to the Indiana Caverns.
- One and one-half hours at the Harrison County, Indiana Board of Adjustments hearing regarding two cases concerning restrictions of land use and zoning requirements.

Motion was made by Board Member Hodge and second by Board Member Wampler to accept a total of two and one half hours of Education Opportunity Training for Members Hodge, Houchens, Otterback and Wampler; and one and one-half hours for Member Riley, as part of the KRS 147.027 requirements.

Vote was taken and motion carried 5-0.

COMPREHENSIVE PLAN UPDATE

- Assistant Director Brian Davis informed the Board that Fiscal Court did not approve the Comprehensive Plan Update.
- There was discussion as to the language regarding accessory dwelling units.
- In light of not having been adopted in August, the Planning Commission had a meeting on September 11, 2013 to adopt the old plan and are back to operating under the current Comprehensive Plan.

On Thursday, September 26, at 5:00 pm. the Study Review Committee will have a meeting to discuss the goals and objectives of the Comprehensive Plan.

KRS states that the Goals and Objectives must be reviewed by all Legislative Bodies. Those are available on the Oldham County Web Site.

A survey is being developed having multiple subject matter, i.e. agricultural uses, signs, home occupations, etc. and a way of getting public comment before writing the regulations,

Motion to Adjourn

Motion is made by Board Member Hodge and seconded by Board Member Houchens to adjourn the meeting at 10:30 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, October 17, 2013, 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