

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

**Thursday, November 21, 2013**

At 9:03 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 and Community Planner Amy Alvey of Oldham County Planning and Development Services were present and sworn. Also present was Administrative Assistant Ethel Foxx and Attorney Travis Combs.

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Board Member Riley called and read Docket OC-13-019.

**Docket OC-13-019** – An application has been filed requesting a Conditional Use Permit for an Accessory Dwelling Unit on property located at 6180 Shrader Lane, LaGrange.

**(1) Presentation by Staff:**

Community Planner, Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated 2013 Exhibit A).
- Notes.
- Ariel Photos of the site (Exhibit B)
- Photo of Site Map showing layout of property (Exhibit C).
- Photos presented of existing buildings and surrounding area (Exhibit D).

Ms. Alvey responded to questions from the Board:

- Setback requirements for primary structures under AG-1 is 50 feet from the front property line and 15 feet from the side yard.
- Applicant will have information as to the setbacks for the existing garage.

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

Barry Baxter, Attorney at Law, 117 West Main Street, LaGrange was present to speak on behalf of Aaron and Leslie Becker and the Becker's Mother-in-Law, Viola Jean Bischoff.

- Confirmed that a building permit was issued for the garage in 2008 and the building was to have been constructed 40 feet from the side property line.
- The Beckers purchased the subject property in July of 2013 with intentions of converting the garage into a mother-in-law suite.
- Tom Stewart of Advanced Construction applied for a building permit and was informed it was necessary to obtain a Conditional Use Permit for the conversion of the garage into the mother-in-law suite.
- They had already received Health Department approval for improvements to the septic system.
- The purpose for the conversion of the garage is that the Becker's have a special-needs child that requires around the clock care, and they have another child that needs care (not a special needs child).
- Mrs. Bischoff will be paying for the improvements. This is why she is part of the application process.
- Photo of the front of the house was presented showing the remodeling that would take place (Exhibit D).
- They do not wish to connect the building to the house.
- A letter dated November 19, 2013 from adjoining property owner Jim Finley was presented stating he has no objections to this proposal (Exhibit E).
- Reminded the Board of a similar request which was approved in April 2012 on Clore Lane, Crestwood.
- Presented a draft which he prepared of recommended conditions of approval for review by the Board (Exhibit F).

Tom Stewart, Advanced Construction, 1910 Clearview Drive, Crestwood, was present and sworn prior to speaking on behalf of this application.

- Stated that the existing gas, water and electric meters will be used for the proposed construction.
- A drawing of the remodeling plan for the garage was presented (Exhibit G).
- He confirmed to Attorney Baxter that the first floor will consist of a kitchen, living room and half bath and will be a minor remodeling job; the garage is already drywalled
- The septic system has already been installed
- The second floor will be a master suite with a master bath, a closet and washer and dryer area.
- An interior wall will be installed to divide the family room from the garage.
- He feels there may be more similar requests like this in the future as there are families needing to move in together for various reasons including older members that do not wish to live in a nursing home, and for the type request presented today.

Aaron Becker of 6180 Shrader Lane, LaGrange, was present and sworn prior to speaking on behalf of this application.

- States that this request is very important to his family.
- They have a special needs child that needs special care.

- They would like to renovate the building for his mother-in-law.
- They will abide by any conditions placed on the approval.
- They have no intentions of ever renting out the proposed building.

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

Mr. Stewart responded to the Board as follows:

- The garage at the rear will be framed solid using the same type materials, and will be used as a storage area.
- One of the overhead garage doors will be converted into a triple window.
- A firewall will be built to code and the ceiling area will be addressed to meet fire code; all permits will be applied for according to procedures.
- He showed the remainder of renovations that will take place.

Mr. Becker responded as follows:

- His mother-in-law cares for the child in his home and is presently living in the basement.
- The garage is presently used for storage.
- He is in agreement with the proposed conditions that will be placed on the approval.
- Presently there is not enough room in the house to accommodate his mother-in-law.
- The house is approximately 1800 square feet.

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

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

- Has been very involved in meetings for several months concerning the ADA (Accessory Dwelling Unit) issues and regulations of the county.
- She is aware of this type need, however, this is clearly a second house being placed on a single lot.
- The Planning office is in the process of developing the regulations at the Fiscal Court level down to the zoning regulation of i.e., the AG-1 zoning.
- Referred to KRS100.237, KRS 100.247 and Accessory Dwelling Units (all under Exhibit H) regarding conditional use permits which are specifically named in the zoning regulations.
- Thinks this is considered spot rezoning; if this is approved it can be considered a multi-dwelling, single family lot.
- Presented her personal opinion (Exhibit I) which was written to the Editor of the Oldham Era.
- Feels this violates the due process of all the single family owners to grant something that is in violation of the zone.

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

Ms. Carlson responded to questions from the Board:

The letter she presented for the Board's review is what she wrote to the Editor of the Oldham Era regarding the ADU's. The Comprehensive Plan was not adopted because the majority of the magistrates felt most single family owners would not want this. They have worked with revising the wording of the Comprehensive Plan and that plan has yet to be reviewed by the Legislative Bodies.

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

Attorney Baxter stated this application is consistent with other applications presented to this body. He has looked at what has been done in the past. The proposed use is similar to a case he cited. He does have an obligation to his client and has to look at precedent and what has been done in the past. He requests the Board approve this application.

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

Ms. Carlson stated this is a one case basis and one isolated case does not mean that we don't have it in the zoning regulation. She suggested that if the building were connected, i.e. by a breezeway to the main house that would change it to from two separate units to one.

**PUBLIC HEARING IS CLOSED**

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

- The neighbors will not be affected by how the garage will be remodeled.
- The applicant having submitted conditions of approval is a good thing.
- Discussion regarding detached buildings in AG-1 zoning.
- Staff clarified statement related to manufactured homes, dwellings, and single family detached structures.
- Administrator Urban stated that Fiscal Court has not placed a moratorium on this type application and therefore, the Board is able to hear this application; it would take a change of the zoning regulations to prevent the Board to hear this application.
- There was discussion regarding future monitoring of the conditions of approval.
- Administrator Urban reminded the Board that a Certificate of Land Use is filed with the Deed Room upon approval of an application which makes it available to the public.
- Board Member Hodge read from the Federal Office of Personal Management describing and defining "immediate family".

**Motion to Reopen the Floor** for questioning of the Applicant is made by Board Member Hodge and seconded by Board Member Wampler.

Motion passed by unanimous voice vote.

Applicants responded to Chairman Otterback that they have heard the proposed conditions of approval and have no objections to the proposed conditions.

**The floor is closed for public hearing.**

**Findings and Decisions**  
**Docket OC-13-019**  
**Conditional Use Permit for an Accessory Dwelling Unit**

Motion is made by Board Member Hodge and seconded by Board Member Houchens to approve Docket OC-13-019 because:

- The proposed use is not in conflict with the neighborhood.
- Will allow for proper integration into the community specifically named purpose.
- Is compatible with the surrounding land uses because it already exists.
- Will not impair the integrity and character of the zoning because it will not increase traffic or any other activity associated with the use and there are adequate public facilities available for what the applicant has proposed.

**Conditions of Approval:**

1. The existing structure shall not be expanded in any way and the proposed improvements shall be to the free-standing garage that was constructed in 2008.
2. The structure will not be rented and will not serve as an income producing property.
3. The occupancy will be limited to two (2) immediate family members defined as follows:
  - Spouse, and parents thereof;
  - Sons and daughters, and spouses thereof;
  - Parents, and spouses thereof;
  - Brothers and sisters, and spouses thereof;
  - Grandparents and grandchildren, and spouses thereof;
  - Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
  - Any individual related by blood whose close association is the equivalent of a family relationship.
4. The exterior materials of the doors and windows to be closed in shall match the primary residential structure.
5. The Conditional Use Permit shall only apply to the application considered at the November 21, 2013 Oldham County Board of Adjustments public hearing.
6. There shall be no commercial activities in the proposed accessory dwelling.
7. The structure shall be tied into the existing utility meters and not have individual meters.

**The vote was as follows:**

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

Board Members No: None

Abstain: None.

Absent: None

**Motion carried on a vote of 5-0.**

Motion to take a five minute break was made by Member Houchens and seconded by Member Riley. Motion carried by voice vote.

Motion to return to session was made by Member Hodge and seconded by Member Houchens. Motion carried by voice vote.

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Board Member Riley called and read Docket OC-13-020.

**Docket OC-13-020** – An application has been filed requesting a Conditional Use Permit for an Accessory Dwelling Unit on property located at 6004 Moser Farm Road, Prospect.

**(2) Presentation by Staff:**

Community Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated November 21, 2013 Exhibit A).
- Notes.
- Ariel Photos of the site (Exhibit B)
- Photo of Glen Oaks and Moser Farm Subdivision (Exhibit C).
- Photos of subject property and lake, and the back side of the property (Exhibit D).
- Survey of property is presented (Exhibit E)

Ms. Alvey responded to questions from the Board:

- There are two separate legal tracts, but are only addressing the rear tract where the proposed building will be constructed.
- Confirmed that the total square footage of the proposed home is 3719.
- The property they are concerned with consists of 1.57 acres and is served by sewers being the reason the minimum lot size requirement is only 12,000 square feet.

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

Tim Mueller, 6004 Moser Farm Road, Prospect, was present and sworn prior to speaking on behalf of this application.

- Has been a resident of Moser Farm for 10 years and is presently selling his house.
- Purchased property located at 6004 Moser Farm Road, however, the existing farm house does not fit his physical needs.
- Mr. Miller is 6'10" tall and the doorways are too small and cannot fit in the bathroom.
- He wishes to construct a secondary structure having one bedroom and living area, until he can pay-off the property.
- At that point he will remove the existing farm house and build a new home which will be a walk-out ranch.
- The new home will sit at an angle due to the cemetery sitting at the front of the lot.
- Would like to place the building at the back of the property to help block the I-71 noise to his future house.

- The future house will be constructed from stone, wood, glass, metal and blend into the landscape of Oldham County.
- The people on Zurich Court that will be affected by this are in favor of this proposal.

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

**Mr. Mueller responded to questions from the Board:**

- The drive is a dedicated State Road which the State had to maintain.
- Before Moser Farms and Glen Oaks were developed, it was a State maintained road to the original homeowner's house.
- He is self-employed and is doing well right now and hopes to pay off the property in two to three years.
- There are no plans to use the building for commercial activity.
- It will be used strictly for storage of water craft and a family RV.
- The proposed house will sit at an angle to help block the view of the accessory structure.
- The proposed building will sit about 185 feet from the front property line.
- The existing farm house is 3000 square feet, four bedrooms and three baths, and is served by sewers.
- It could be two to three years before he can build the new primary residential structure.
- Once the residential structure is completed the accessory dwelling will be converted into a storage area; the laundry area will probably remain.
- The property slopes down about 12 feet and therefore the height of the residential structure will sit higher than the proposed accessory dwelling structure.
- There is a tenant in the farm house until December 15.
- Intends to tear down the farm house as soon as he can pay off the property.
- All setbacks will be met and if necessary will move the property line so that he can fit the house on one tract.
- The accessory dwelling and garage will be 6700 square feet.
- The roof and three sides of the accessory dwelling will be metal and the front will be of rock and cedar so as to look better.
- There are property owners in the area that have accessory buildings.

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

**Doreen Carlson, 2824 Brickman Lane, Goshen, having been sworn stated the following:**

- Stated the living quarters will be temporary if it would be used for family to visit.
- The farm house may stay vacant for years and may never be torn down.
- The money spent on the accessory dwelling could be retrofit as a four bedroom house.
- Does not hear stability and commitment that would make this application enforceable.

**(7) Questioning of the Opposition by the Board: NONE**

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

Mr. Mueller stated that if his parents came to visit, they would stay in the farm house and not the accessory dwelling.

**(9) Rebuttal and Final Statement by the Opposition: NONE**

**The Public Hearing is Closed**

**Board Discussion and Final Decision:**

Administrator Urban explained that today there will be an existing house plus the accessory dwelling. As to meeting the setback requirements of the “state” driveway, one cannot obtain a permit if the setbacks are not met. The survey does not list the driveway as a dedicated roadway. In regards to a footprint, height, scale and square footage wise, it is subordinate and in previous dockets they do not have a definition of subordinate and the Board has to interpret the regulations.

There was much discussion that this request is not subordinate to the primary residence.

**Findings and Decisions  
Docket OC-13-020  
Conditional Use Permit – Accessory Dwelling Unit**

Motion is made by Board Member Hodge and seconded by Board Member Wampler to **deny** Docket OC-13-020, because:

- The proposed structure is out of character with the neighborhood.
- It is not compatible with surrounding land uses.
- It would be out of scale in relation to the other buildings in the area.
- Would impair the integrity and character of the zone based on the actual determination and plans submitted, and the overall size of the structure in comparison to the surrounding properties.

The vote was as follows:

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

No: None

Abstain: None.

Absent: None

Motion to deny Docket OC-13-020 carried on a vote of 5-0.

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**Approval of Minutes October 17, 2013**

Motion was made by Board Member Riley and seconded by Board Member Hodge to approve the minutes of October 17, 2013 and request that Secretary Foxx review and clarify the last bullitt on Page 8.

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 5-0.

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**Other Business: NONE**

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Motion is made by Board Member Hodge and seconded by Board Member Wampler to adjourn the meeting at 11:20 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, December 19, 2013, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

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Ethel Foxx  
Administrative Assistant

Approved:

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Larry Otterback, Chairperson