

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

Thursday, June 19, 2014

At 9:05 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 and Assistant Director Brian Davis were present and sworn in. Administrative Assistant Ethel Foxx and Attorney Travis Combs were also present.

Board Member Riley called and read Docket OC-14-013.

Docket OC-14-013 – An application has been filed requesting a Conditional Use Permit for a Private Club to be located at 3800 Old Westport Road, LaGrange.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial Photos of the site.
- Photo of Site Map showing layout of property.
- Photos presented of the barn and surrounding area.

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

Attorney Anug Rastogi, 462 S. Fourth St., Louisville, was present to speak on behalf of Ashbourne Farms.

Emily Fisher, Architect, 135 Blackburn Avenue, Louisville, was present and sworn prior to speaking on behalf of this application.

- Working with Ashbourne Farms to help convert a show barn into an event facility for private events like weddings and concerts.
- There will also be events tied into the equestrian facility.
- Gave history of Ashbourne farms, a working farm that provides grass-fed beef and pasteurized and organic produce for local restaurants and markets.
- The barn is no longer being used for agricultural purposes and sits empty and wish to use it as an economic opportunity to help support the farm.
- Presented the following on the overhead:

1. Photos of the property showing the barn's location on the property which sits approximately 1,650 feet to the nearest neighboring property (Exhibit B).
2. Site plan of the 1,600 acre property showing the show barn, equestrian facility area, the new entry turnaround that can be accessed from both entries from Old Westport Road, the main parking area that will fit about 60 cars and additional parking on a grassy area if needed (Exhibit C).
3. Interior photos of the show barn; the second floor will be used as an event space (Exhibit D).

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

Ms. Fisher responded to the Board as follows:

- Horse trailers will be parked for equestrian events, however, that falls under agricultural use and today's subject is concerning events in the show barn to be used independently.
- The second floor of the barn is not expected to host more than 200 people, but is designed to accommodate 400 people.
- They have no idea how frequently there will be events.
- There are two entrances from Old Westport Road which were taken into consideration when the equestrian facility was built.
- Concerts will most likely be local Bluegrass music on the second floor stage; not planning to have outdoor concerts or outdoor speakers; may have both daytime and evening concerts which could last until midnight.
- Have no plans to pave the gravel lot as they wish to maintain a rural feel. Most events will have valet parking. The gravel road entry located at the rear of the property may eventually be paved.
- Showed the area that will be paved for handicap accessibility and may consider an elevator to the second level.

(4) Others present to speak in support of the application:

Brian Davis responded that the driveway is not required to be paved.

Thomas Bachman, 1664 Barebone Road, Bedford, having been present and sworn on behalf of this application, responded to questions by the Board.

- His property adjoins the subject property and not that close to the barn.
- Stated that the farm is a good neighbor.
- Feels that this is a good idea and does not object to the show barn proposal.

(5) Testimony of the Opposition: NONE

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

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

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

(9) Final questions of the Applicant by the Board:

Motion was made by Board Member Hodge and seconded by Board Member Houchens to recall Ms. Fisher to respond to more questions. Motion carried by unanimous voice vote.

Ms. Fisher responded to questions by the Board:

- Requested that the conditions include the adjacent area to the show barn for outdoor weddings.
- Requested that the amplified outdoor music be allowed during the day.

(10) Board Discussion and Final Decision:

- Administrator Jim Urban informed the Board that there are three potential conditions that can be placed such as, no outdoor speakers during concerts, the time of operation, and that they are not required to pave parking areas which will be in keeping with Agricultural setting.
- Cannot limit equestrian events.
- Occupancy is based on the building code and not zoning.

The following potential conditions issues were discussed by the Board:

- This application is specific to the barn and limited to the barn itself, holding a private club on the second floor of the barn.
- All other events such as equestrian events are a permitted use with the zoning.
- Outdoor music limited during the day until dark and no amplified speakers at night.
- Indoor show barn times of operation and amplified music limited to no later than midnight.
- Whether or not to require paving on the parking areas.
- Traffic should not be a concern because of the two entrances to the property and immediate access to US Hwy 42 and KY 53.
- Lighting should not be a problem.

**Docket OC-14-013
Conditional Use Permit for a Private Club
Motion to Table**

Motion to table Docket OC-14-013 to the end of the meeting was made by Board Member Hodge and seconded by Board Member Houchens to give the attorney an opportunity to contact the applicant regarding potential conditions of approval. Motion carried unanimously.

Administrator Urban informed the Board that Attorney Rastogi stated that if they did not return by the end of this meeting, to table this for the July 17, 2014 meeting.

Board Member Riley called and read Docket OC-14-015.

Docket OC-14-015 – An application has been filed requesting a Front Yard Variance for a proposed structure located at 4501 N. Highway 393, LaGrange.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial photo, survey and photos of the property and existing house were presented.

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

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

- Has been here a few times and returns requesting assistance from the Board to allow him to construct his home closer to the front property line than required.
- In the past hearings he presented reasons why the Board should allow the variance.
- Presented photos on the overhead of the property, a portion that is in the flood plain (Exhibit B).
- There are special circumstances due to the lay of the land which would deprive him from building as required. Meets all setback requirements except for the front yard setback.
- Asking for a ten foot variance because it will allow more of the proposed structure to stay on the flat portion of the property and help keep it out of the floodplain.
- The variance will not affect surrounding properties.
- There are special circumstances which would deprive him of the use of the land and would be a hardship if he cannot build closer to the front property line.

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

Mr. Oldham responded to questions by the Board:

- Has removed some trees at the rear and needs the Board to tell him where he can begin building the house.
- Is considering adding a porch to the house.
- Explained that the surveyor showed exactly where the flood zone is located.

Brian Davis explained that the location of the previous floodplain had only been scaled based on GIS data. The most recent survey actually surveyed the location of the floodplain to identify its exact location on the property, thus producing a much more accurate drawing.

(4) Testimony of the Opposition:

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

- From the beginning of the variance requests, Mr. Oldham should have known the setbacks.
- Prepared a summary of permits issued in 2012 and 2013 (Exhibit C) and determined the number of variances granted in that period due to the unusual conditions of the property.
- Is not necessarily opposed to this request, but would like to see this conform as close as possible to County standards.

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

(6) Rebuttal and Final Statement by the Applicant:

Mr. Oldham stated he is asking for a variance that will not conflict or set precedence. The circumstances are unique and do not normally apply to other properties.

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

Motion to open the floor for more testimony

Motion was made by Board Member Hodge and seconded by Board Member Riley to open the floor for more testimony. Motion carried by unanimous voice vote.

- Administrator Urban presented a drawing of the property showing a front porch (Exhibit D).
- Presented a portion of the Ordinance 330.020, Item 10 stating an open unenclosed porch can encroach 10 feet into the front yard (Exhibit E).
- The proposed six foot porch with roof and columns will not have windows and will not be screened in. Need to determine whether the front porch can be beyond the proposed 10 foot setback.
- Typically the entire front porch is located behind the setback, but need to understand where the front porch can be located.

The floor is closed to the public.

(8) Board Discussion and Final Decision:

**Findings and Decisions
Docket OC-14-015
Front Yard Variance**

Motion is made by Board Member Houchens and seconded by Board Member Hodge to approve a 15 foot front yard variance which includes a front porch attached to the structure because:

1. Will not adversely affect the public health, safety or welfare.
2. Will not alter the essential character of the general vicinity.
3. Will not cause a hazard or nuisance to the public.
4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations because the existing structures fall within the variance.

Conditions of Approval:

The variance shall only apply to the plan considered at the June 19, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

Motion carried on a vote of 4-0.

Board Member Riley called and read Docket OC-14-017.

Docket OC-14-017 – An application has been filed requesting a Road Frontage Variance for a proposed tract located at 1114 Cedar Point Road, LaGrange.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial Photos of the site, drawing of property showing existing home.

Mr. Davis responded to questions from the Board:

- The total road frontage presently is 300 feet which is required for a four acre tract.
- The residual tract will have sufficient frontage.
- Confirmed the applicant is requesting a 75 foot variance for the proposed tract.

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

Kenneth Chandler, 1114 Cedar Point Road, LaGrange, was present and sworn prior to speaking on behalf of this application.

- He and his wife purchased the property about 23 years ago.
- Wishes to give a portion of the property to his son so he may construct a home.
- The reason for the configuration of the property is that he would like to keep the existing garage on his property.
- By dividing the property in this manner, the lot will be more aesthetically pleasing to the neighbors by providing more area between the lots and not have to build the proposed house so close to the property line.
- Has spoken to three of the neighbors and they are not opposed to this proposal.

Al Marcum, 1116 Cedar Point Road, LaGrange, was present and sworn prior to speaking on behalf of this application.

- His property surrounds Mr. Chandler's property and he feels the proposal meets all the required conditions.
- He can understand Mr. Chandler's request to give the portion of the property to his son as he may someday need to do the same for his son.

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

Mr. Chandler responded to questions by the Board:

- Splitting the property in this manner will allow the existing garage and an existing propane tank to remain on his portion of the property.
- The speed limit on Cedar Point Road is 35 miles per hour.
- Has an existing circular drive which will be extended to the proposed house; therefore an additional access point off Cedar Point Road will not be needed.
- The property to the rear is an open field which is owned by Al Marcum.
- Confirmed the property is located directly across from Mocking Bird Valley Subdivision.

(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-14-017
Road Frontage Variance**

Motion is made by Board Member Houchens and seconded by Board Member Riley to approve Docket OC-14-017 because:

1. Will not adversely affect the public health, safety or welfare.
2. There will no additional entries made from the road which has a 35 mph requirement.

Conditions of Approval:

1. The variance shall only apply to the plan considered at the June 19, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

Motion carried on a vote of 4-0.

Board Member Riley called and read Docket OC-14-019.

Docket OC-14-019 – An application has been filed requesting a Road Frontage Variance for a proposed tract located at 3615 Smith Lane, LaGrange.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial Photos of the site showing the house and the barn.
- Photo of Site Map showing layout of property.
- Photos presented showing existing driveway into property.

Mr. Davis responded to questions from the Board:

- Reviewed the required variance request and showed where a previous road frontage variance had been approved to create this tract, which has about 135 feet of road frontage.
- Showed location of access to the 4.3 acre tract to the rear which had been consolidated with an abutting property.

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

Daniel Kennedy, 3615 Smith Lane, LaGrange, was present and sworn prior to speaking on behalf of this application.

- His daughter and her husband wish to build a house to the rear of his property.
- Confirmed he is the property owner, would split the lot, and would retain Lot #1.
- The back half of the property would be a five acre tract and the front would be about 2-1/4 acres.

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

Mr. Kennedy responded to questions by the Board:

- Presently the road is graveled but intends to pave it; he would maintain the front portion and his daughter and son-in-law would maintain the back portion.
- Agrees that he would draw up a maintenance agreement.

Jeffrey Snider, 3615 Smith Lane, LaGrange, was present and sworn on behalf of this application and responded to questions by the Board.

- The black line would be moved forward so they could retain the existing barn located at the rear of the property.
- The access would be from the existing driveway straight back to the proposed tract.

(4) Testimony of those in Opposition:

Barry Baxter, Attorney, 117 West Main Street, LaGrange, was present to speak in opposition to this application.

- Represents adjoining property owners, Wes and Danielle Smith, 5320 Red Oak Drive, LaGrange.
- Showed location of the Smith's property, Parcel 2, and presented a copy of the application that was submitted to Planning and Zoning (Exhibit B) which was not accurately completed.
- Referred to the prior variance case filed in 1989 along with the plot plan showing the proposed division of the property.
- Applicant is now proposing to create an approximate two acre tract that would not have sufficient road frontage of 150 feet or the minimum lot width which is a concern to his client.
- Presented a map of the neighborhood having large tracts that have the appropriate road frontage (Exhibit C).
- The application did not show the width of the easement or proposed maintenance agreement and the justification page does not show the reasons for granting the variance.
- The applicant does not show how he would be deprived of the use of the property and not enough information provided.
- If the Board should approve the variance, there should be a no disturb area to the rear of the property.
- His clients request that the variance be denied.

Dalis Embry, 5340 Red Oak Drive, LaGrange, was present and sworn prior to speaking in opposition to this application.

- Showed on the aerial that his property is located to the rear of the subject property.
- Is concerned of chemicals that may run down to his property and other adjoining properties.

- Mainly concerned that if a house is constructed in that area that it will be too close to his property and he will no longer be able to enjoy the privacy he now has.

Ann Cannon, 5330 Red Oak Drive, LaGrange, was present and sworn prior to speaking in opposition to this application.

- Property adjoins the subject property.
- Pointed out the location of her property on the overhead.
- Purchased their 7 acre wooded tract to enjoy privacy, hunting, wildlife and nature.
- Requested the Board deny this application.

J.D. Sparks, 6516 Ashbrook Drive, Pewee Valley, was present and sworn prior to speaking in opposition to this application.

- The Board knows that he is not in favor of ADU's, however, this would be a good opportunity for a family member to consider one and not have to further subdivide the property.
- Requests that the Board deny this application and not cut up this large tract area.

(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-14-019
Road Frontage Variance**

Motion is made by Board Member Houchens and seconded by Board Member Riley to deny Docket OC-14-019 because;

1. It will alter the character of the general vicinity.
2. The property has already been granted a variance for road frontage and would create two lots, neither lot having adequate frontage.

The vote to deny was as follows:

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

Motion carried on a vote of 4-0.

At 11:22 a.m., Motion for a recess was made by Board Member Riley and seconded by Board Member Hodge. Motion carried by unanimous voice vote.

At 11:35 a.m., Motion to return to session was made by Board Member Hodge and seconded by Board Member Riley. Motion carried by unanimous voice vote.

Board Member Riley called and read Docket OC-14-014.

Docket OC-14-014 – An application has been filed requesting a Conditional Use Permit for a Home Occupation located at 3614 Echo Valley Circle, LaGrange.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial Photos of the site showing the house, a garage and truck in question.
- Site Map showing layout of property.

Mr. Davis responded to questions from the Board:

- The driveway shown is a wide driveway and is not striped.
- It is a three car gar garage that is shown in the photo.
- There are a couple of garage doors on the house.
- The truck in question is most likely the large truck parked in front of the garage shown in the photo.

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

Rick Burdette, 3614 Echo Valley Circle, LaGrange, was present and sworn prior to speaking on behalf of this application.

- Runs a mobile tool business.
- It is his truck that is shown in the photo.
- There is expensive inventory in his truck and feels safe parking the truck at his house as he has security cameras.
- The truck is a diesel which needs to be plugged in for it to start during cold weather.
- The truck goes out in the morning and returns at night. It does not come in and out throughout the day.

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

Mr. Burdette responded to questions by the Board:

- Confirmed that the truck in question is the one shown in the photo in front of the detached garage.
- The other vehicles belong to his son and daughter who now live at home.
- There are three garage doors on the house.
- The Matco vehicle is the only vehicle related to the business activity.
- No one comes to the house to purchase tools; all business is done off site.
- Stores some inventory in the garage.

- Cannot park the Matco truck in the garage because it is too tall.
- UPS comes to the house two or three times a week.
- Has parked the truck on the property for about seven years.
- Has lived on the property for 25 years and has never had any break-in problems.
- There is a Matco Tool sign on the truck along with the phone number; the box is 18 feet long with an eight foot long cab.
- Tire pressure has to be monitored and the compressor equipment is stored on site and does not make noise that would bother the neighbors.
- Unable to find a secure place for the truck that has air and electricity.
- It is about 60 to 70 feet to the closest property line.
- The neighbors were concerned because he extended his drive and his children moved in which placed more vehicles on his property.
- He has no intentions of expanding his business.

At this time, Brian Davis responded to the Board as follows:

- Presented the eight requirements for a home occupation. The applicant meets all the conditions required except Number 8, which is in regards to vehicle size.
- Not aware of any advertisement except what is on the truck.
- There is no evidence that there is a home occupation conducted on the property.
- It is the parking of the vehicle that requires the conditional use permit.
- Does not feel that parking the vehicle outside is in violation of the regulations and there are no tools or materials stored outside.

Continued questions of the Applicant by the Board:

Mr. Burdette continued to respond to questions from the Board:

- Confirmed that he understands the conditions required under a home occupation and plans to meet all the regulations for the administrative home occupation
- Is only seeking relief for the vehicle.

At this time, Board Attorney Travis Combs informed the Board that although they may approve the home occupation, there may be issues regarding the commercial vehicle in the Subdivision Deed Restrictions that the Board cannot enforce.

(4) Others present to speak in favor of this application:

Scott Black, 3616 Echo Valley Circle, LaGrange, was present and sworn prior to speaking in support of this application.

- Pointed out where his property is located and where his driveway adjoins Mr. Burdette's driveway.
- Has lived there 15 years
- Most of the homes are on a one acre tract and he is not aware of any Subdivision Restrictions.
- His property would be the one most affected since he lives directly next door.
- Mr. Burdette keeps his truck clean, has no customers that come to the house, does not sell anything from the truck, there is no noise, no odors and the UPS and FedEx truck deliveries are no more than in a normal neighborhood.
- The only issue may be that the truck is longer and taller than a normal truck but not much different than RV's that are allowed in the neighborhood.

(5) Testimony of those in Opposition:

Susan McIntosh, 3609 Echo Valley Circle, LaGrange, was present and sworn prior to speaking in opposition to this application.

- Stated there are deed restrictions that were established when Echo Valley was recorded.
- In the beginning, Mr. Burdette informed the neighbors about his box truck and the neighbors were not opposed because he always parked in front of the detached garage.
- The weight of his truck destroyed the original driveway, which has been expanded and now looks like a parking lot.
- Has six garage doors, several vehicles parked out front along with two enclosed trailers (sometimes), two open bed trailers, and believes it makes their subdivision look like a commercial area.
- Reiterates it is not the truck that is the issue as it has been there for a number of years but what has happened on the property recently.
- Feel that if this is approved that it would set a precedence which shows no respect for the neighbors that have worked hard to keep up their properties.

James McGehee, 3709 Mohawk Drive, LaGrange, was present and sworn prior to speaking in opposition to this application.

- There have been wagons and trailers lodged on the property and referred to Item 21 of the Deed Restrictions specifying there shall be no uncovered trailers or commercial vehicles and should be out of sight.
- The residents take good care of their property and do not wish this to set precedence.

(6) Questioning of the Opposition by the Board:

Mrs. McIntosh responded to questions by the Board:

- Presented the Deed Restrictions and referred to Number 8 that states “no obnoxious conditions, an annoyance or a nuisance ...” (Exhibit B).
- Number 21 states that no trailers or motor homes are allowed; there was one but it has been put in storage.

Mr. McGehee responded to questions by the Board:

- Did not have trouble so much with the work truck, but when he tore up the driveway and expanded it, he brought in trailers and several vehicles which created a commercial atmosphere.
- Is not aware of any RV's stored in the subdivision.

(7) Rebuttal and Final Statement by the Applicant:

Mr. Burdette stated that he does have a 16 foot long trailer with Matco stickers on it. Feels secure having the Matco stickers to on the trailer to deter anyone from stealing it. States that there are RV's throughout the subdivision. Stated that Mrs. McIntosh has old cars parked on her property.

(8) Rebuttal and Final Statement by the Opposition:

Mrs. McIntosh stated that she has seen a trailer with the Marco name and therefore, the truck is not the only vehicle in the driveway that refers to his business. She does not know of any RV's in the subdivision but there is a small camper trailer that is enclosed. Whenever the trailers are going in and

out of the property, the noise is very disturbing to the neighborhood. They have ignored the issues in the past but it seems there has been an expansion of the business.

(9) Final Questioning to the Applicant by the Board:

Mr. Burdette responded that although he has stickers on the trailers they are never used for the business, pulled behind the truck, or used to deliver tools.

(10) Board Discussion and Final Decision

**Findings and Decisions
Docket OC-14-014
Conditional Use – Home Occupation**

Motion is made by Board Member Riley and seconded by Board Member Houchens to approve Docket OC-14-014, because:

1. The proposed use is essential or desirable to the community and not in conflict with the elements objectives and policies of the Comprehensive Plan.
2. The character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate.

Potential Conditions of Approval:

1. No person other than a resident of the dwelling unit shall be engaged or employed in the home occupation, and the number of residents employed in the home occupation shall not exceed two.
2. No business signs shall be permitted on the house or property.
3. No advertisement shall be placed in any media (newspaper, magazine, telephone directory, radio television) containing the address to the property.
4. There shall be no exterior evidence of the conduct of a home occupation.
5. There shall be no significant increase in use of utilities such as water, sewer, gas, electricity beyond that normal to the use of the property for residential purposes.
6. No customers/students/clients will be allowed on site.
7. There shall be no storage of equipment or materials used in connection with the home occupation outside a dwelling unit or accessory structure.
8. The conditional use approval is only for the Matco business.
9. There shall be no other employees.
10. The conditional use permit applies only to the Matco vehicle and no other vehicles shall be allowed.
11. The conditional use permit shall only apply to the plan considered at the June 19, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

Motion carried on a vote of 4-0.

Board Member Riley called and read Docket OC-14-016.

Docket OC-14-016 – An application has been filed requesting a Conditional Use Permit for an accessory structure without a primary structure located at 9051 W. Highway 42, Goshen.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated June 19, 2014 Exhibit A).
- Notes.
- Aerial Photos of the site showing layout of property.
- Photos presented of property and accessory building.

Mr. Davis responded to questions from the Board:

- The building which was ordered by this Board to be demolished by May 31, 2014 still stands.
- Applicant has been sent a citation to appear before the Code Board on July 2, 2014.
- He is not aware of any improvements having been made to the accessory building.

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

Stephen Porter, Attorney, 2406 Tucker Station Road, Louisville, was present to speak on behalf of this application.

- Wishes to clarify any misunderstandings and/or lack of information.
- Presented passports of the father and son, both names Antonio Zeppa and birth certificate of the son (Exhibit B and C).
- The father, Antonio Zeppa does not operate the lawn service business.
- The lawn service business is family owned and operated by the two sons of Antonio Zeppa, Antonio and Andre Zeppa.
- At one time the registered office was at the home where the parents and two sons lived but Zeppa's Lawn Service is now registered at 6240 Old LaGrange Road.

At this time, Chairperson Otterback reminded Attorney Porter that he does not want to hear evidence regarding the previous conditional use that was revoked.

Attorney Porter continued his testimony:

- Confirmed that what he is presenting today is the request for the conditional use for the accessory building.
- There was a change of the address for Zeppa's Lawn Service on May 5, 2014 through the Kentucky Secretary of State.
- Presented the lease for the new address of the business, along with documents stating that the parents have no financial interest in Zeppa's Lawn Service (Exhibit D)
- Presented a deed (Exhibit E) for the four acre tract and construction plans for a \$425,000.00 house (Exhibit F) which the Zeppas propose to construct on the same property where the accessory building is located.
- It is his opinion that the accessory building will become legal once a house is constructed on the property, therefore negating a need for a conditional use permit.

- All utilities have been run onto the property for the proposed house and have plans to begin construction upon approval of the building permit.
- Would like an interpretation that once construction of the house begins, that the need for the conditional use permit goes away.
- The two sons did not use this property for the business operation but did work on the property for their father.
- Because they did not have room elsewhere, they stored some of their lawnmowers in the building and that was a mistake; there is no longer anything in that building related to Zeppa's lawn service and they will never come back.

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

Mr. Porter responded to questions by the Board:

- The square footage of the proposed house is about 2,800 square feet.
- The square footage of the existing accessory building is about 2,300 square feet.

(4) Testimony of those in Opposition:

J.D. Sparks, 6516 Ashbrook Drive, Pewee Valley, was present and sworn prior to speaking in opposition to this application:

- Agrees with the Board Members that they cannot circumvent a previous order.
- Cannot grant a conditional use permit that has been violated.
- It is their fault that they were out of compliance.

Dave Garner, 9201 West Highway 42, Goshen, was present and sworn prior to speaking in opposition to this application.

- He lives next door and there is no guarantee that they will not run a business out of the storage shed once the house is built.
- Just two weeks ago, tractors were being loaded onto a truck and trailer from the building.

Scott Reagan, 9301 West Highway 42, Goshen, was present and sworn prior to speaking in opposition to this application.

- What has been presented today is no different than what has been heard in the past.
- He questions why the building was needed to begin with before the house was built.

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

- This is a scenic corridor and the accessory building looks like an industrial building, which is different from the original request.
- Ironical that they have a landscaping business and not a single bush or amenity was installed in that scenic corridor.
- It is a commitment of the County to restore the scenic corridor if the allowance has been abused.
- Presented a document (Exhibit G) with dates that it was an ongoing landscape company and an obvious violation of the conditional use permit.

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

(6) Rebuttal and Final Statement by the Applicant:

Mr. Porter stated that it would be silly to tear down the accessory building and to rebuild it in three or four months after the house is constructed.

Board member Houchens disagrees with Mr. Porter that this is not a silly matter that the building be torn down and rebuilt later; it is the fact that this would override the January revocation.

Mr. Porter continued stating that the lawnmower that was removed from the accessory building was the personal tractor of Mr. Zeppa that was being repaired. The Zeppas assure the Board that there will be no lawnmower or commercial business in their house or the property. However, Zeppa's Lawn Service will be there to cut the grass and eventually plant trees. It would be reasonable to grant the conditional use permit for a short time period until they can build the house.

(7) Rebuttal and Final Statement by the Opposition:

Mr. Garner stated that the lawnmower that was being removed was a commercial lawnmower. Does not understand why the two sons that have commercial lawnmowers need to have their father's lawnmower repaired.

Mrs. Carlson stated this is not a new conditional use permit. She does not understand why they are able to request a new conditional use permit since the previous one was revoked.

Mr. Sparks stated this should not have even been on the docket as it has not changed since the last application.

(8) Board Discussion and Final Decision:

- The unanimous decision in January to tear down the building by May 31, 2014 was made based on facts.
- There is no new information today that gives any indication to approve today's request.
- The building was to have been torn down; there was a legal way to have that decision reversed and that time frame has run out.
- As to the size of an accessory structure compared to the primary structure, it must be subordinate to the principal structure which would be smaller in square footage and scale.
- A case should be filed with Circuit Court for an injunction.

Findings and Decisions

Docket OC-14-016

Conditional Use – Accessory Structure before a Primary Structure

Motion is made by Board Member Houchens and seconded by Board Member Riley, to deny Docket OC-14-016, because:

- The proposed use is not desirable to the community.

Roll Call vote was as follows:

Yes: Members Houchens, Riley, Otterback, Hodge
No: None
Abstain: None.
Absent: None

Motion carried on a vote of 4-0.

Board Member Riley called and read Docket OC-14-018.

Docket OC-14-018 – An application has been filed requesting a Conditional Use Permit for a proposed shooting range located at 1621 Cedar Circle Drive, Crestwood.

The applicant has withdrawn the application so there is no need to conduct a hearing.

Motion was made by Member Hodge and seconded by Member Houchens to take Docket OC-14-013 off the table. Motion carried unanimously.

Jim Urban stated the applicant’s attorney was unable to produce proposed conditions of approval and has requested the item be tabled until the July 17, 2014 meeting.

Motion was made by Member Houchens and seconded by Member Riley to table Docket OC-14-013 to the July 17, 2014 meeting. Motion carried unanimously.

Approval of Minutes

Motion was made by Board Member Houchens and seconded by Board Member Riley to approve the minutes from the May 22, 2014 meeting as submitted. Motion passed by unanimous voice vote.

Motion was made by Board Member Hodge and seconded by Board Member Houchens to approve the minutes of June 18, 2014 special meeting as submitted. Motion passed by unanimous voice vote.

Other Business

Motion was made by Board Member Riley and seconded by Board Member Houchens to adjourn the meeting at 1:10 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, July 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