

**MINUTES FOR REGULAR MEETING
OLDHAM COUNTY
BOARD OF ADJUSTMENTS AND APPEALS
Thursday, February 16, 2023**

At 9:20 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 Chairman Larry Otterback.

The following members were present:

Gretchen Chitwood
Bill Ferko
Charles Turner
Charlie Ward

Others present and sworn in were Planning and Development Services Director Jim Urban, Assistant Director Brian Fogle and Senior Planner Ryan Fischer. County Attorney Travis Combs was present for the meeting. Christy Edgar was the Secretary for the meeting.

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Board Member Chitwood called and read Docket OC-23-002:

An application has been filed requesting a Conditional Use Permit for a non-owner occupied short-term rental property located at 1124 Riverside Drive, Prospect. (Tabled from January 19, 2023, Oldham County Board of Adjustments meeting.)

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, February 16, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.
- Two letter in support of the application.

Chairman Otterback asked, how many permitted short-term rentals are currently in Harmony Village?

Senior Planner Fischer replied, there are four renewed short-term rentals.

Chairman Otterback explained, the board does not interpret or enforce the HOA Deed Restrictions, this board has no authority over the HOA Deed Restrictions. This case is to be heard and read as a Conditional Use Permit.

2. Presentation by the Applicant in support of the application:

Austin and Sally Hays, 265 Persimmon Ridge Drive, Louisville, was present and sworn in prior to presenting.

- Use the property for short-term rentals.
- There are currently four homeowners hosting short-term rentals on Riverside Drive.
- The current Harmony Village HOA was administratively dissolved by the Kentucky Secretary of State in 2011.
- The only deed restrictions that appeared in our title report are recorded with the Oldham County Clerk from 1947 and they have not been renewed and are unconstitutional in the Commonwealth of Kentucky.
- The property will be closely monitored with cameras.
- There is sufficient parking for guests with a driveway long enough for three cars.
- No outdoor signage advertising the short-term rental.
- Will obtain and maintain all permits required for hosting short-term rental.

Mike Fogle, 10004 Hydrangea Way Louisville, was present and sworn in prior to presenting.

- Hosts three different rentals.
- Very easy to vet people before accepting the rental.
- Believes this is great for the area.

Director Urban asked, do you own property in Oldham County?

Mr. Fogle replied, no, however, I have worked in the area for many years.

Lon Edwards, 1724 Riverside Drive, Prospect, was present and sworn in prior to presenting.

- Most homes are vacation homes and sit empty, at least if they are short-term rentals then they will be occupied.
- Rental home will generate revenue for homeowner so they can improve and maintain the property.

Daniel Guillory, 122 S. Sherrin Drive, Louisville, was present and sworn in prior to presenting.

- Owns 1312 Riverside Drive and was granted a Conditional Use Permit for Short-term Rental in April 2022.
- Renting the property has generated revenue to make improvements to the property.
- There are multiple properties on the street that need a significant amount of work and these are old flood-prone houses from the 40's and 50's.

3. Questioning of the Applicant or representative and others in support of the application by the Board: None

4. Testimony of the Opposition:

William Schmitt, 1110 Riverside Drive, Prospect, was present and sworn in prior to presenting.

- Vice-President of Harmony Village Homeowners Association.
- Submitted a letter dated November 7, 2022 to Oldham County Planning and Development Services, stating that all lots in Harmony Village are for residents purposes only. No commercial use allowed. (see Exhibit B)
- The status of the Harmony Village HOA is in good standing with the Kentucky Secretary of State.

Bob Coomes, 1122 Riverside Drive, Prospect, was present and sworn in prior to presenting.

- Estimated guess that 50-60% full-time residents.
- Rentals will change the neighborhood as in knowing your neighbor.
- Worried that renters will party and not take care of the neighborhood.

5. Questioning of the Opposition by the Board:

Board Member Ferko asked, if there are already four short-term rentals in Harmony Village, why is the HOA opposing this one?

Mr. Coomes replied, we did come and speak against the other applicants that applied for Conditional Use Permits but the board approved them.

Board Member Ferko explained that it is the HOA's job to force or change the deed restrictions and that is not what this board will do.

Mr. Schmitt replied that he has appeared in front of this board three times before to oppose this situation. Would like to see this board to publish guidelines for all of Oldham County regarding short-term rentals.

6. Rebuttal and Final Statement by the Applicant:

Mr. Hayes explained, February 10, 2023, is the date of the document regarding the HOA not in good standing with the Kentucky Secretary of State. The deed restrictions are unconstitutional.

Mr. Guillory explained that deed restrictions are a private contract between the homeowners. This is a private issue and private contract and not for this board to rule on.

7. Rebuttal and Final Statement by the Opposition:

Mr. Schmitt replied, we do not agree with some of the wording in the deed restrictions and we are welcoming of all people. However, the part of the deed restrictions that state residence only does not support short-term rental.

8. Board Discussion and Final Decision:

Director Urban explained, I did receive the letter submitted by Harmony Village HOA dated November 7, 2022. I did discuss this letter with the President of Harmony Village HOA Bill Hildebrand and the issue with this letter is they are self-determining regulations. This letter would require an interpretation or enforce of the deed restrictions. The language in the deed restrictions does not restrict commercial use, it says for residents only. I do not support Harmony Village Deed Restrictions.

Attorney Combs explained, the 1947 deed restrictions are unconstitutional. However, you can speak here today as a homeowner, but you cannot speak on behalf of and organization that does not exist per the Kentucky Secretary of State. This board does not have the right to interpret the restrictions, however, you as a homeowner have the right to go to court and have the courts to enforce the restrictions.

Director Urban explained, that if these restrictions clearly stated that no commercial use is allowed then the short-term rental permit application would be denied.

Board Member Chitwood commented that these short-term rentals coming up are providing the opportunity for funds and motivations for the renewal and revival of properties.

Board Member Turner commented that he believes in the law and we are dealing with the rules today.

Findings and Decisions Docket OC-23-002 Conditional Use Permit Non-Owner Occupied Short-Term Rental Property 1124 Riverside Drive, Prospect

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to approve the Conditional Use Permit for non-owner occupied short-term rental at 1124 Riverside Drive, Prospect, 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 proposed use will not impair the integrity and character of the zone if there are specific restrictions on location, size, extent and character of performance.

Conditions of Approval

1. The Conditional Use Permit shall only apply to the application considered at the January 19, 2023, and February 16, 2023, Oldham County Board of Adjustments public hearings.
2. The applicant shall comply with all regulations concerning Short Term Rental Properties outlined in Oldham County Zoning Regulations Section 250-050.
3. The applicant shall apply for and be issued a Short-Term Rental Property Permit before renting the property.

The vote was as follows:

Yes: Board Members Chitwood, Ferko, Turner, Ward and Chairman Otterback.

No: None

Abstain: None

Absent: None

Motion passed on a vote of 5-0

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Motion was made by Board Member Ward and seconded by Board Member Turner to take a 10-minute recess. Motion passed by voice vote at 10:50 a.m.

Motion was made by Board Member Ward and seconded by Board Member Chitwood to call the meeting back in session at 11:00 a.m. Motion passed by voice vote.

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Board Member Chitwood called and read Docket OC-23-007:

An application has been filed requesting a Conditional Use Permit to allow the construction of an accessory structure without a primary structure on the property located at 6109 Third Street, Westport.

1. Presentation by Staff:

Assistant Director Brian Fogle presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, February 16, 2023)
- Case History.
- Aerial photos of the site.
- No correspondence received on this application.

Chairman Otterback asked, how can this lot have two road frontages?

Assistant Director Fogle replied, the property runs from one street to the other street, so it is a double frontage lot. The zoning ordinance states that you have two front yard frontages in terms of setbacks.

Board Member Ward asked, so when they build a home it does not matter how the home is placed on the lot?

Assistant Director Fogle replied that is correct.

Board Member Ferko asked, will this structure have to comply with the setbacks?

Assistant Director Fogle replied, yes it will.

2. Presentation by the Applicant in support of the application:

Kevin O’Laughlin, 6109 Third Street, Westport, was present and sworn in prior to representing the applicant.

- Building the structure on the Third Street part of property because that portion is out of floodplain.
- Building structure for extra storage.

Chairman Otterback asked, what is your intent for the building?

Kevin O’Laughlin replied it is a place to keep lawn equipment, boat and other items.

Chairman Otterback asked, do you intend to have electricity in this building?

Kevin O’Laughlin replied yes, I also intend to build a home on the property in the future.

Board Member Ward asked, will you have a restroom in the building?

Kevin O’Laughlin replied, yes.

3. **Questioning of the Applicant or representative and others in support of the application by the Board: None**
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: None**

Findings and Decisions
Docket OC-23-007
Conditional Use Permit
Accessory Structure without a Primary Structure
6109 Third Street, Westport

Motion was made by Board Member Chitwood and seconded by Board Member Turner to approve the Conditional Use Permit for an accessory structure without a primary structure on the property at 6109 Third Street, Westport, 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 character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate and the proposed use will not impair the integrity and character of the zone if there are specific restrictions on location, size, extent and character of performance.

Conditions of Approval

1. The conditional use permit shall only apply to the plan considered at the February 16, 2023, Oldham County Board of Adjustments public hearing.
2. There shall be no commercial activity conducted out of the accessory structure.
3. The accessory structure shall not be occupied as a living space.

The vote was as follows:

Yes: Board Members Chitwood, Ferko, Turner, Ward and Chairman Otterback.

No: None

Abstain: None

Absent: None

Motion passed on a vote of 5-0

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Board Member Chitwood called and read Docket OC-23-009:

An application has been filed requesting a Location Variance for a proposed detached accessory structure on a property located at 3600 Constantine Drive, Prospect.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, February 16, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.

Chairman Otterback asked, was there a complaint filed on this property because the foundation is already done for the accessory structure?

Senior Planner Fischer replied, no, not to my knowledge.

Board Member Ferko asked, is this issue because the applicant wants to place the structure between the residence and the road?

Senior Planner Fischer replied, the potential placement of the accessory structure is on the side, however, it's in the front of the side corner of the residence.

2. Presentation by the Applicant in support of the application:

Chris Ledford, 3600 Constantine Drive, Prospect, was present and sworn in prior to presenting:

- 20 x 20 Structure.
- Storage only.

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

Chairman Otterback asked, why are you asking for relief from our regulations?

Mr. Ledford replied, required a hearing because of the location is in front of the house on the right side. Most of the neighbors will not see this structure.

Chairman Otterback asked, why can't the structure be built to comply with our regulations?

Mr. Ledford replied, because of the woods and I really do not want to cut down any trees. Also, being close to the garage would make the contents being stored in the structure more accessible.

Chairman Otterback asked, why is the foundation poured and then you applied for this location permit?

Mr. Ledford replied, we found out that we had to come to this board for a location variance for the shed when we turned in the building permit application.

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:

Board Member Ward explained, due to the topography of the property the applicant doesn't really have any other choice on the location of the structure.

Findings and Decisions
Docket OC-23-009
Location Variance
Detached Accessory
3600 Constantine Drive, Prospect

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to approve the location variance on a detached accessory structure at 3600 Constantine Drive, Prospect, because it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations because it is a reasonable size distance from the road and has an obstructive view so it will not impact the character or cause a hazard or nuisance.

Conditions of Approval:

1. The variance shall only apply to the application considered at the February 16, 2023, Oldham County Board of Adjustments public hearing.
2. There shall be no living space in the accessory structure.

The vote was as follows:

Yes: Board Members Chitwood, Ferko, Turner, and Chairman Otterback.

No: None

Abstain: None

Absent: None

Motion passed on a vote of 5-0

Approval of Minutes

Motion was made by Board Member Chitwood and seconded by Chairman Otterback to approve the minutes of Thursday, January 19, 2023, as submitted.

Motion carried by unanimous voice vote.

Election of Officers:

Board Member Ward nominated Larry Otterback as Chairman. Motion was made by Board Member Ward and seconded by Board Member Chitwood to appoint Larry

Otterback as Chairman for the Oldham County Board of Adjustments. Motion carried by unanimous voice vote.

Board Member Turner nominated Charlie Ward as Vice-Chairman. Motion was made by Board Member Turner and seconded by Chairman Otterback to appoint Charlie Ward as Vice-Chairman for the Oldham County Board of Adjustments. Motion carried by unanimous voice vote.

Chairman Otterback nominated Gretchen Chitwood as Secretary. Motion was made by Chairman Otterback to appoint Gretchen Chitwood as Secretary for Oldham County Board of Adjustments. Motion carried by unanimous voice vote.

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Motion was made by Board Member Chitwood and seconded by Board Member Ward to adjourn the meeting at 11:10 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, March 16, 2023, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Approved by:

Respectfully Submitted by:

Larry Otterback, Chairman

Christy Edgar, Secretary