

**MINUTES FOR REGULAR MEETING
OLDHAM COUNTY
BOARD OF ADJUSTMENTS AND APPEALS
Thursday, April 20, 2023**

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 Chairman Larry Otterback.

The following members were present:

Gretchen Chitwood

Bill Ferko

Charlie Ward

Member absent: Charles Turner

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

.....

Board Member Chitwood called and read Docket OC-23-010:

An application has been filed for the removal of a previously issued Conditional Use Permit (OC-18-015) at a property located at 4610 N. Camden Lane, Crestwood.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, April 20, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.
- One support letter.
- One opposed letter.

Board Member Chitwood asked, will this applicant still build a residential home in the future?

Senior Planner Fischer replied, the applicant will address this question in their presentation.

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

Kelsey Edwards, 4610 N. Camden Lane, Crestwood, was present and sworn in prior to presenting.

- Wishes to change this ADU into primary dwelling.
- Will build a residential home in four to five years.

- Want to build a 1000 square foot home and with this ADU we would have to build a 3600 square foot home.
- Purpose of building a home is for an autistic son when he becomes of age.

Stacie Edwards, 4610 N. Camden Lane, Crestwood, was present and sworn in prior to presenting.

- Do not have the financial ability to build anything that large.

Cory Rusnak, 4100 Myers Ave, Crestwood, was present and sworn in prior to presenting.

- Previous owner of the property.
- Accessory dwelling units can stand on their own if the land was divided.

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

Chairman Otterback asked, when would you build a primary structure?

Stacie Edwards replied, do not have an exact time, still need to plan and be financially ready to build. The idea is to have a place for our 14-year-old autistic son to live close to us once he turns 18 years old. We will still need to provide guidance and care.

Board Member Ward asked, when did you purchase the property and were you aware of the conditions when you purchased this property?

Stacie Edwards replied, owned the property for seven months. Yes, we were aware of the conditional use permit but were not told about the 25% rule.

Board Member Ferko asked, are you going to convert the garage portion into living space?

Stacie Edwards replied, no intentions to convert the garage into living space. We intend to build in the open area where the previous owners were going to build a home.

Board Member Chitwood asked, are there any restrictions that we need to know about? And is this just the removal of the CUP?

Chairman Otterback answered, yes only removal of the CUP.

4. Testimony of the Opposition: None

5. Questioning of the Opposition by the Board: None

6. Rebuttal Statement by the Applicant: None

7. Rebuttal Statement by the Opposition: None

8. Final Statement by the Applicant:

Stacie Edwards final statement:

- Just trying to be compliant.
- We intend to build in the future.
- Based on all the information we have been given this seems to be the best for us at this time.

Kelsey Edwards final statement:

- We cannot financially afford to build a 3600-square-foot home.

Chairman Otterback asked, is this the only method to turn in a CUP?

Senior Planner Fischer replied, looking at several different options including dividing the 2.23 acres into two lots. Some of the problems are the septic system which would involve a shared septic field.

Board Member Ward asked, if this is approved would they still have to come back to this board to build another structure?

Director Urban replied, unless they divide the property, they will have to return to the board to build another structure on this parcel.

Chairman Otterback asked, is this the only method of reversing a CUP?

Director Urban replied, this is a unique situation. There was not a binding element that stated a main structure had to be built. So, the applicant just wants to start fresh and remove the CUP.

Board Member Chitwood asked, if this structure was being built today would it be completely in compliance?

Director Urban replied, yes it would have been permitted as a single-family structure.

Board Member Ferko asked, can the applicant subdivide this parcel?

Director Urban replied, yes, Senior Planner Fischer did explain that and yes the applicant can still divide this in the future.

9. Board Discussion and Final Decision:

Board Member Chitwood explained that the only concern that was brought up from the previous opposition was that they had an idea of what was going to happen with this piece of property. But since the property changed ownership there is no reasonable expectation nor obligation to build a 4000-square-foot home. However, if they want to build something else in the future, we will have to look at that but that is not the case today.

Board Member Ward explained, in order for anything else to happen they have the options to either come back to the board hearing or subdivide.

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to reopen the floor to allow the public to speak. Motion carried by unanimous voice vote.

10. Testimony of the Opposition:

Leann Lilly, 4601 N. Camden Lane, Crestwood, was present and sworn in prior to presenting.

- Lives across the street from the applicant's property.
- Concerned about the value of their home going down because a home is not built on the property.
- Need to follow the rules of the regulations and the minimum house size.
- We do expect a comparable home to offset the footprint of the garage.

11. Questioning of the Opposition by the Board:

Board Member Ferko asked, what is the minimum square footage coming from?

Leann Lilly replied, when I purchased my property we had restrictions however, I do not know if the applicant has restrictions for their property.

Board Member Ward explained, there are no restrictions because Board Member Chitwood asked and the answer was no. What is on the property at 4620?

Leann Lilly replied, that is a small house that has been there for decades, and it is grandfathered in.

Board Member Ferko asked, are those deed restrictions or are they county restrictions?

Director Urban answered, they are HOA. It's from a previous owner that placed restrictions on the Lilly property.

Chairman Otterback explained, regardless this board does not have authority over the HOA restrictions.

Director Urban explained, the subject property does not have any restrictions.

12. Rebuttal Statement by the Applicant:

Stacie Edwards explained, this is their home, it should not matter that it is only 900 square feet with an attached garage. This is a newer type of home and some people might not understand but this is our home.

Kelsey Edwards explained, our home is like the barndominium style home just on a smaller scale.

13. Board Discussion and Final Decision:

Board Member Chitwood explained, there are no deed restrictions that prohibit a 900-square-foot living space. We are not ruling on what can be built in the future.

Findings and Decisions Docket OC-23-010 Revision to existing Conditional Use Permit 4610 N. Camden Lane

Motion was made by Board Member Chitwood and seconded by Board Member Ward to approve the removal of a previously issued Conditional Use Permit at 4610 N. Camden Lane, Crestwood, because the character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate.

Conditions of Approval

1. The conditional use permit shall only apply to the plan considered at the April 20, 2023, Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

No: None

Abstain: None

Absent: None

Motion passed on a vote of 4-0

Attorney Baxter explained, when this came before this board on January 5, 2018, there were no conditions that would require Mr. Rusnak to build a primary structure. This board did not condition that approval and the finding was for the accessory dwelling unit. This can stand on its own and could have been approved without coming to the board. However, if they want to build a primary structure and that structure does not meet the square footage requirements then they must come in front of this board.

.....

Board Member Chitwood called and read Docket OC-23-015:

An application has been filed requesting a Conditional Use Permit for a Non-Owner-Occupied Short-Term Rental Property located at 1706 Riverside Drive, Prospect.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, April 20, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.
- One opposition letter was received.

Chairman Otterback asked, how many rentals are on Riverside Drive?

Senior Planner Fischer replied, maybe the fifth rental.

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

Travis Turner, Karl Truman Law Office, 420 Wall Street, Louisville was present and representing the applicant.

- The bylaws are over 30 years old and are unconstitutional.
- All the permits have been pulled.
- Several short-term rentals have been granted on this street.

Daniel Guillory, 1312 Riverside Drive, Prospect, was present and was sworn in prior to presenting.

- Owner of a short-term rental on the same street for over a year.
- The rental permit has allowed for the funds to maintain the property and bring the property to code.

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

Chairman Otterback asked, Mr. Guillory where is your short-term rental located to this one?

Mr. Guillory replied, approximately 30 houses upriver.

4. Testimony of the Opposition:

Senior Planner Fischer read the opposition letter that was emailed on April 17, 2023, from Barbara Barker at 1704 Riverside Drive.

Barbara Barker, 1704 Riverside Drive, Prospect, was present and sworn in prior to presenting.

- Concerned about safety.
- Do not want random people coming and going in the neighborhood.

5. Questioning of the Opposition by the Board: None

6. Rebuttal and Final Statement by the Applicant:

Attorney Turner explained, Ms. Barker is welcome to advocate with the legislative body regarding the distance between properties. The applicant will retain all permits that are required for remodeling including the septic tanks. Also, the renters that are coming and going are normally not violent people.

Board Member Chitwood asked, what is in the back of the property that has falling.

Mr. Guillory replied, there was a deck that was built on the top that was removed. However, there are no safety issues.

7. Rebuttal and Final Statement by the Opposition:

Ms. Baker explained, there is a hole when you walk out the back door of this property. I am sure the applicant will fix the property; however, I am still concerned.

8. Board Discussion and Final Decision:

Director Urban explained that normally this board ask questions about security cameras and would like to add to the Condition of Approval that any expansion of the existing structure must comply with the FEMA, NFIP, and the Oldham County Flood Hazard Ordinances.

Chairman Otterback asked the applicants to address the security cameras and how will you control the noise?

Attorney Turner replied, the applicant has placed security cameras around the property.

Mr. Guillory replied, I receive alerts and notifications to my cell phone on the noise and motions. Also, in the contract that the renter signs, states no loud noises and parties.

Chairman Otterback asked, what is the device that can monitor noise?

Director Urban explained, exterior cameras can also monitor noise. Board Member Chitwood explained, at event venues, there is a device that rates decibels. We did not make that a stipulation, but the applicant put this device in at the venue.

Board Member Ferko asked, does the county have short-term regulations or rules?

Director Urban replied, in the Conditions of Approval state that the applicant has to come in and apply for a short-term rental permit.

Board Member Chitwood explained this application is in line with others in the area. And this property was falling into disarray and with having short-term rental it allows the owner the funds to update the property.

Chairman Otterback asked, what are this board's thoughts on putting a condition of approval for the property to be regulated for noise and activity?

Board Member Ferko replied, I would support this. I believe it would be helpful for the neighbors.

Board Member Chitwood replied, it would have to be included in the contract that a renter would sign agreeing to quiet time.

Chairman Otterback replied, the applicant has testified that the property already has security cameras. I believe we need to say that the property is monitored and regulated.

Board Member Ferko replied, maybe we put in the conditions of approval, during any short-term rental this property is monitored for security and noise.

Findings and Decisions
Docket OC-23-015
Conditional Use Permit
Non-Owner-Occupied
Short-Term Rental
1706 Riverside Drive

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to approve the Conditional Use Permit for a non-owner occupied short-term rental at 1706 Riverside Drive, Prospect, because the character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate and the proposed use is compatible with surrounding land uses and the general character of the area.

Conditions of Approval

1. The Conditional Use Permit shall only apply to the application considered at the April 20, 2023, Oldham County Board of Adjustments public hearing.
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.
4. Any expansion of the existing property must comply with FEMA, NFIP and Oldham County Flood Hazard Ordinances.

5. The property shall be monitored for security and noise and regulated by the property owner during any short-term rentals.

The vote was as follows:

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

No: None

Abstain: None

Absent: Board Member Turner.

Motion passed on a vote of 4-0

Approval of Minutes

Motion was made by Board Member Ferko and seconded by Board Member Chitwood to approve the minutes of Thursday, March 16, 2023, as submitted.

Motion carried by unanimous voice vote.

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to adjourn the meeting at 10:25 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, May 18, 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