

**MINUTES FOR REGULAR MEETING
OLDHAM COUNTY
BOARD OF ADJUSTMENTS AND APPEALS
Thursday, September 21, 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
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 Berry Baxter 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-23-034:

An application has been filed requesting a Front Yard Setback Variance for a proposed single-family residence at a property located at 6285 Clore Lane, Crestwood.

1. Presentation by Staff:

Assistant Director Fogle presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, September 21, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.
- No letters were received on the application.

Board Member Ward asked, what zoning is the garage's location?

Assistant Director Fogle replied, R2.

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

Cliff Ashburner, Dinsmore & Shohl LLP, 101 S 5th Street, Louisville, was present and representing the applicant.

- A portion of the lot is zoned R-2, and the corner of the garage is zoned CO.
- The 35-foot setback would align this home with the homes on both sides.
- This would make the home more consistent with the neighborhood.

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. Questioning of the staff by the Board: None
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-23-034
Variance--Front Yard Setback
6285 Clore Lane, Crestwood

Required Front Yard Setback 50.0 Feet
Proposed Front Yard Setback 35.0 Feet
Requested Front Yard Setback 15.0 Feet

Motion was made by Board Member Chitwood and seconded by Board Member Ferko to approve the front yard setback variance at 6285 Clore Lane, Crestwood, 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 deemed reasonable on this road and it is a small portion of this property being affected by the CO zoning. Conditions of Approval are included in this motion.

Conditions of Approval

1. The variance shall only apply to the application considered at the September 21, 2023, Oldham County Board of Adjustments public hearing.

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-23-032:

An application has been filed requesting a Conditional Use Permit to allow a detached Accessory Dwelling Unit on a property located at 4615 Saddlers Mill Road, LaGrange.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, September 21, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.

Board Member Ward asked, does the neighbor have a detached ADU?

Senior Planner Fischer replied, yes.

Board Member Turner asked, is this a hobby area?

Senior Planner Fischer replied, the applicant will answer that question.

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

Daniel Lassiter, 4615 Saddlers Mill Road, LaGrange, was present and sworn in prior to presenting.

- Will be used for a man cave, office and for extra family members to stay in while they are visiting during the holidays.

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

Board Member Turner asked, would you rent this ADU?

Mr. Lassiter replied, no.

Chairman Otterback asked, what type of business do you have?

Mr. Lassiter replied, audio visual installation and integration company, this ADU would give a place to set equipment up for testing.

Chairman Otterback asked, is the primary reason for this ADU for your business?

Mr. Lassiter replied, yes, one of the main reasons.

Chairman Otterback asked, do you have a permit for your business?

Mr. Lassiter replied, yes, I am permitted with the county and pay all taxes on the business.

Director Urban asked, do you have a Home Occupation Permit from the planning and zoning office?

Mr. Lassiter replied, I honestly do not know, and I thought I was in compliance with everything, I have paid for business licenses but if this is an issue, I will be happy to square this up.

Director Urban asked, do you have any employees?

Mr. Lassiter replied, no, just myself and my partner.

Director Urban explained, this would be an administrative home occupation permit and this home is not in a subdivision that has deed restrictions.

Board Member Turner asked, do you intend to rent this ADU?

Mr. Lassiter replied, no, I have no interest in renting this ADU.

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 Opposition: None.

9. Final Statement by the Applicant: None.

10. Board Discussion and Final Decision:

Board Member Ferko stated, sounds like the applicant would not be opposed to a condition of approval stating that he will not rent this ADU.

Board Member Ward stated, that would be required to come back for a short-term rental permit. But we could condition for him to have the proper home occupation license permit.

**Findings and Decisions
Docket OC-23-032
Conditional Use Permit
Detached ADU
4615 Saddlers Mill Road, LaGrange**

Motion was made by Board Member Chitwood and seconded by Board Member Ward to approve the Conditional Use Permit for a detached ADU at 4615 Saddlers Mill Road, LaGrange, 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 because the character and objectives of the proposed use and the potential impacts on the community and its surroundings are appropriate. Conditions of Approval are included in this motion.

Conditions of Approval:

1. The conditional use permit shall only apply to the plan considered at the September 21, 2023, Oldham County Board of Adjustments public hearing.
2. The accessory dwelling unit cannot be used as a rental property.
3. An administrative home occupation permit is required.

The vote was as follows:

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

No: None

Abstain: None

Absent: None

Motion was denied on a vote of 5-0.

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Board Member Chitwood called and read Docket OC-23-033:

An application has been filed requesting a Conditional Use Permit to allow construction of an Accessory Structure without a Primary Structure on a property located at 2584 N. Hwy. 393, LaGrange.

Board Member Chitwood recused herself from this docket.

1. Presentation by Staff:

Senior Planner Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, September 21, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.

Board Member Ward asked, what is the date of the primary resident to be built?
Senior Planner Fischer replied, 2024.

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

Shawn and Laura Tapp, 1003 Cassandra Lane., LaGrange, was present and sworn in prior to presenting.

- Bought property to build a house.
- Current home sold and are now we are residing in an apartments.
- Currently have items in the barn that is on the property and items are being stored at in-law's home.
- Want to build a garage for storage until the house is built.
- No water and no plumbing will be in the garage.
- Will have electricity once the house is built.

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

Board Member Otterback asked, when do you plan on tearing down the horse barn?
Mrs. Tapp replied, when the house is ready to be built. The house will go where the horse barn is located.

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-23-033
Conditional Use Permit
Accessory Structure
2584 N. Hwy 393, LaGrange**

Motion was made by Board Member Ward and seconded by Board Member Ferko to approve the Conditional Use Permit for an accessory building without a primary structure on the property at 2584 N. Hwy 393, LaGrange, 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 and because granting the conditional use permit will allow the proper integration into the community of a use specifically named in the zoning regulation.

Conditions of Approval

1. The conditional use permit shall only apply to the plan considered at the September 21, 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 living space.

The vote was as follows:

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

No: None

Abstain: None

Absent: Board Member Chitwood.

Motion passed on a vote of 4-0.

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Motion was made by Board Member Ward and seconded by Board Member Ferko to take a 5-minute recess at 9:50 am. Motion carried unanimously by voice vote.

Motion was made by Board Member Ferko and seconded by Board Member Turner to bring the meeting back in session at 9:55 am. Motion carried unanimously by voice vote.

Board Member Chitwood called and read Docket OC-23-035:

An application has been filed requesting a Conditional Use for a Non-Owner-Occupied Short-Term Rental Property located at 7501 W. Hwy. 22, Crestwood.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, September 21, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.

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

Cliff Ashburner, Dinsmore & Shohl LLP, 101 S 5th Street, Louisville, was present and representing the applicant.

- The owner of the property lives within five minutes of the property.
- The home has been renovated and has 1300 square feet, and three bedrooms.
- There are neighbors to the left and woods behind the home.

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

Chairman Otterback asked, what are the proposed regulations for STR and have they been approved?

Attorney Baxter replied, there has been a first reading of the ordinance relative to short-term rentals and the second reading will be on October 3. This is not the law as of today, so it does not affect this application.

Board Member Turner asked, is this a STR?

Attorney Ashburner replied, yes.

Board Member Ferko asked, is Ms. Frentz the owner and does she live in the county?

Attorney Ashburner replied, yes, she is a shareholder and lives within five minutes of this property.

Chairman Otterback asked, how is this property going to be advertised?

Attorney Ashburner replied, it would be advertised on Airbnb and VRBO.

Chairman Otterback asked, can you address what makes this one different from the other short-term rentals.

Attorney Ashburner replied, this one is not in a neighborhood and Ms. Frentz lives within five minutes of this rental.

Board Member Turner asked, are you renting this for six months or six years?

Attorney Ashburner replied, short-term rental allows the property to be rented for less than 30 days. However, if the right tenant comes in and wants to rent for a year then Ms. Frentz could consider it.

Board Member Turner asked, will this property be checked on a regular basis?

Attorney Ashburner replied, yes it will be.

Board Member Ward asked, will there be any sound monitoring equipment and/or any exterior cameras?

Kacie Frentz, 113 Rest Cottage Lane, Pewee Valley, was present and sworn in prior to replying, I have not had a reason to install a sound monitoring equipment however, I am open to installing the equipment if needed and for the exterior security cameras, I will be looking into installing them if it will help.

- 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 Opposition: None**
- 9. Final Statement by the Applicant: None**

10. Board Discussion and Final Decision:

Board Member Ferko stated, this one is different from the others that we have heard since it is not in a neighborhood and the road is not dangerous, however still concerned about the outcome of the short-term rental regulations, should this be tabled until the Fiscal Court makes a ruling on the short-term rental regulations?

Attorney Baxter stated, the Fiscal Court does not have to adopt the proposed regulations, so you need to look at this case as the amendments to the ordinance are not in play at all, so this board needs to make a decision on this case as the regulations are written today.

Board Member Chitwood stated, notices have been sent to the adjoining property owners and no one has written or came to this hearing to oppose this short-term rental.

Findings and Decisions
Docket OC-23-035
Conditional Use Permit
Non-Owner-Occupied Short-Term Rental
7501 W Hwy 22, Crestwood

Motion was made by Board Member Chitwood and seconded by Board Member Ward to approve the Conditional Use Permit for non-owner occupied short-term rental at 7501 West Hwy 22, Crestwood, because the proposed use is desirable to the community and not in conflict with the elements, objectives and policies of the Comprehensive Plan 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 application considered at the September 21, 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.

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-23-036:

An application has been filed requesting a Conditional Use for a Non-Owner-Occupied Short-Term Rental Property located at 10000 Judge Carden Boulevard, Crestwood.

1. Presentation by Staff:

Senior Planner Ryan Fischer presented the following:

- Summary of the application. (see Exhibit A, Staff Report dated, September 21, 2023)
- Case History.
- Aerial photos of the site.
- Photos of property.

Chairman Otterback asked, is there four units in this application?

Senior Planner Fischer replied, there is one ready with a potential of four units total.

Board Member Ferko asked, what is the distance for the responsible party?

Senior Planner Fischer replied, the responsible party must reside within 25 miles of the property.

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

Mike Swansburg, Swansburg & Smith, PLLC, 117 W. Main St., LaGrange, was present and representing the applicant.

- Crestwood Commons Apartments is zoned R-4 with 216 units.
- One unit is vacant and is a fully furnished and being used as model apartment.
- Want to use the model unit and up to three more units as a short-term rental property.
- In addition to Mrs. Boer who will manage the STRP there are two employees who live on the grounds.

Toni Boer, Property Management, 1074 Morning Glory Lane, Shelbyville, was present and sworn in prior to presenting.

- Tenants will be able to use all the amenities that the apartment complex has to offer.
- The model unit is two bedrooms and that would be four people.
- Airbnb does most of the vetting of the tenants.
- No one under the age of 25 years old will be allowed to rent the units.

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

Board Member Ward asked, is there a minimum number of days that the units will be rented?

Mrs. Boer replied, generally there is not a set minimum nights, because the tenant might only need it for one night due to having business meetings in the area.

Board Member Ward asked, what is the closest hotel to this property?

Mrs. Boer replied, LaGrange or Louisville.

Board Member Chitwood asked, who is the owner and what is the benefit to the owner?

Patrick Pollard, Owner, 3402 Shady Dell Blvd., LaGrange, was present and sworn in prior to replying, I am one of the owners of the property. For us, we have this unit that is fully furnished and sits vacant seven days a week so it gives us an opportunity to use it as a short-term rental but also in conjunction allowing people that may be prospectively looking to live there that could tour it as well. Mrs. Boer will be managing the short-term rentals, and we have a full-time leasing manager onsite for the long-term rentals. We currently only have one unit that is available but decided to go ahead and ask for a total of four units.

Board Member Chitwood asked, will the short-term tenant have access to the same amenities as a long-term tenant? And will the lease agreement be similar?

Mr. Pollard replied, yes the tenants will be able to use the amenities, but the lease agreement will be different.

Board Member Ferko asked, would the applicant consider approval for just the one unit to see how that goes and then come back for the other three units?

Mr. Pollard replied, I'd prefer to request the four units.

Board Member Ferko asked, if we only approve one would you withdraw the application?

Mr. Pollard replied, the request is for four.

Board Member Ferko asked, is there a plan for traffic signals at the intersection of Hwy 329 and I-71?

Senior Planner Fischer replied, KYTC does have plans to widen I-71 and to install a stop light at exit 14 eventually and other improvements in that area.

Chairman Otterback asked, so the other three units are unidentified at this point.

Mr. Pollard replied, that is correct.

Board Member Ferko asked, are there any zoning changes that would allow hotels in this area?

Senior Planner Fischer replied, a nearby proposed development does have a hotel in the plans.

Attorney Baxter stated, just remember that you are asking a question of what might happen in the future and really need to stay focused on this moment based upon the testimony you have heard here today.

Chairman Otterback asked, what separates a STR from a hotel? And do we have to identify the four units?

Senior Planner Fischer replied, the zoning is what separates a STR and a hotel. The units would be identified when the applicant applies for the STR permit.

Attorney Baxter explained, that if the applicant does not file for the STR permit for the other three units by the end of this year then they will expire.

Mrs. Boer asked, if Mr. Pollard files for all four of the STR permits and three out of the four continue to be rented as a long-term rental will the STR permit be a placeholder for the three units that are rented long term?

Attorney Baxter explained, if you don't exercise the conditional use permit within 12 months then the permit lapses.

Board Member Ferko asked, are the other three units constructed?

Mr. Pollard replied, yes the project is complete.

Attorney Baxter stated, this board could put a condition of approval on this that states once the unit is identified then it is identified as the unit for the STR and it cannot be changed to another unit.

Mr. Pollard replied, I would agree to that.

Board Member Ferko asked, has the staff looked over the proposed motion that the applicant's attorney gave this board?

Director Urban replied, no we just received it today and the board can call a recess to take the time to look it over. However, this board does not have to use this proposed motion by the applicant.

4. Testimony of the Opposition:

Karen Beltle, 4622 Echo Valley Dr., Crestwood, was present and sworn in prior to presenting.

- My property is 25 feet from these apartments.
- I was opposed to the apartments.
- Do not believe that an STR is a good fit for this area.
- Concerned with the traffic.
- There are three hotels that are planned for the other side of the interstate. And there are plenty of hotels in LaGrange and the next exit down.

5. Questioning of the Opposition by the Board:

Board Member Chitwood asked, was notices sent out to the adjoining residence?

Mrs. Beltle replied, yes, I received one.

Board Member Chitwood asked, you mentioned other residents was opposed is there anybody else that has written anything?

Mrs. Beltle replied, no I just talked to my neighbors, and I don't actually live 25 feet from this apartment, but it is 25 feet to the back of my farm and I live in the front of the farm.

6. Rebuttal Statement by the Applicant:

Attorney Swansburg rebuttal statement.

- Concerned about the hearsay of the people that Mrs. Beltle spoke about that is against this STR.
- Out of the 216 units that currently exist we are asking for only 4 units to be STR.

Board Member Ferko asked, where is the proposed hospital's location compared to this apartment complex?

Director Urban replied, the hospital is planned to go right in front of this apartment complex.

7. Rebuttal Statement by the Opposition: None

Motion was made by Board Member Ward and seconded by Board Member Turner to take a 10-minute recess at 11:20 am. Motion carried unanimously by voice vote.

Motion was made by Board Member Ferko and seconded by Board Member Chitwood to bring meeting back in session at 11:30 am. Motion carried unanimously by voice vote.

8. Final Statement by the Opposition:

Mrs. Beltle final statement.

- When does this stop, 4 units become 8 units, 8 units become 12 units.
- I was ok with the long-term rental of the apartments, but I am against the short-term rental.

9. Final Statement by the Applicant:

Mrs. Boer final statement.

- We believe this will give traveling nurses or people who have been displaced for their own property a place to stay.
- Short-term rental will bring in less traffic vs a long-term rental.

Mr. Swansburg final statement.

- Asking for the flexibility of up to four units.
- The applicant will have to identify the four units when he applies for the short-term rental permit.
- This is an R-4, high density rental unit.

Board Member Chitwood asked, did we agree upon once the four units are identified as STR the STR cannot be switched to another unit?

Attorney Swansburg replied, yes.

10. Board Discussion and Final Decision:

Board Member Ferko stated, it would be easier if it was just for the one that was identified however, it's for three other units to be identified later.

Board Member Ward stated, the conditional use permit goes with the property.

Chairman Otterback stated, it's going to fall on the applicant to keep up with his permit applications and which four units.

Board Member Chitwood stated, adding additional condition of approval to limiting the units to four and once the four are identified then those four will be the only ones that could have a short-term rental permit.

**Findings and Decisions
Docket OC-23-036
Conditional Use Permit
Non-Owner-Occupied
Short-Term Rental
10000 Judge Carden Blvd., Crestwood**

Motion was made by Board Member Chitwood and seconded by Board Member Ward to approve the Conditional Use Permit for a non-owner-occupied short-term rental at 10000 Judge Carden Blvd., Crestwood, 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 because 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 are included in this motion.

Conditions of Approval

1. The Conditional Use Permit shall only apply to the application considered at the September 21, 2023, Oldham County Board of Adjustments public hearing.
2. The applicant shall comply with all regulations concerning short-term rentals 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. There will be a limit of four units used for short-term rentals in the complex, once those units are identified those are the units that will be used for this purpose and perpetuity.

The vote was as follows:

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

No: None

Abstain: None

Absent: None

Motion was approved on a vote of 5-0.

Approval of Minutes

Motion was made by Board Member Ferko and seconded by Board Member Turner to approve the minutes of Thursday, August 17, 2023, as submitted with the following corrections. Motion carried by unanimous voice vote.

Corrections

- Page 1: Change Chitwood, to Ward called and read Docket.

Motion was made by Board Member Ward and seconded by Board Member Turner to adjourn the meeting at 11:50 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, October 19, 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