

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

**Thursday, May 21, 2015**

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 Chairperson Larry Otterback.

The following members were present:

Mike Allen  
Stephen Davis  
Robert Houchens  
Larry Otterback  
Mike Riley

Director Jim Urban and Senior Planner Amy Alvey of Oldham County Planning and Development Services were present and sworn in. Community Planner Brooke Radcliffe and Attorney Travis Combs were also present.

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Board Member Riley called and read Docket OC-15-007.

**Docket OC-15-007** – An application has been filed requesting a Front Yard Variance for a proposed structure located at 3511 Arrowwood Court, LaGrange.

**(1) Presentation by Staff:**

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated May 21, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Alvey responded to questions by the Board:

- Upon excavation of the basement, the applicant found underground drainage channels and underground springs which made the soil stability unsuitable for footers in the approved location.

Director Jim Urban responded to questions by the Board:

- The Health Department doesn't just consider location for the septic field, they also consider the repair area.
- The Health Department should be the entity that determines where the lateral/septic field should be.
- When a subdivision comes before the Planning Commission, the Health Department makes comments regarding the potential for each lot to have a septic field on it. There are many different approvable Health Department septic systems. Each individual lot is

only evaluated when a building permit is applied for. A condition for the approval of a building permit is a letter submitted by the Health Department that they have done an evaluation.

- The Health Department determines the best location for the septic field according to the building setbacks of the lot, area for lateral lines and the proposed location of the structure. They do not come to a site and determine multiple locations for a septic field.

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

Kyle Onan, Creek Alley Contracting, LLC, 2004 Montfort Circle, Crestwood, was present and sworn in prior to speaking on behalf of this application:

- Current property owner and contractor.
- Seeking a variance to move the proposed house in front of the 50-foot building line.
- During basement excavation, at depth of approximately six feet, they reached an active spring coming up through the rock shelf.
- At approximately 15 feet in from the east side of the house, the rock shelf goes away and the subgrade is nonexistent. The high-lift began sinking in that area at three feet, with no substantial subgrade to pour footers.

Beach Craigmyle, Attorney, was present to speak on behalf of this application:

- The applicant is a multi-member LLC and therefore need an attorney present.
- The property in question is owned by Creek Alley Contracting, LLC.

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

Mr. Onan responded to questions by the Board:

- The property does not have a contract, it is a spec home.
- The only place that the laterals were approved were at the back of the property.
- The house will have three bedrooms.
- Doesn't know the size of the lateral fields.
- The question about whether the lateral fields could be placed up front has been asked to the septic installer and the installer said that based on where they took samples, the only place for the lateral fields are in the back of the property.
- Charlie Ward from Oldham County Health Department was on site and recommended that based on the soil samples, the lateral fields should be in the rear of the property.
- Excavated test holes at the front at the same elevation to check the grade and the soil seemed stable.
- Did not dig test holes at the back of the property because the health department recommended that the lateral field be placed there.

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

Carolyn Lee, 3500 Arrowwood Court, LaGrange, was present and sworn in prior to speaking in opposition of this application:

- Owns property to 3510 Arrowwood Court, which has a pond on it.
- Concerned that since they have underground springs as well, the applicant will hit underground springs no matter where they build.

- Concerned that there will be two homes with the same street address because there is already is a home with the address of 3511 Arrowwood Court.

Melissa Maza, 3510 Arrowwood Court, LaGrange, was present and sworn in prior to speaking in opposition of this application:

- In keeping with the neighborhood, it would be beneficial if they could explore pushing the home back rather than bringing it forward.
- Believes her property value would drop if the home encroached into the front yard setback.

Sally Dunn, 3510 Rock Rose Lane, LaGrange, was present and sworn in prior to speaking in opposition of this application:

- Her back yard is directly behind the property in question.
- Is against the approval of the variance because the neighbors on either side of the home will looking at the back of the house.
- Asked if the applicant will be required to return the mounds of dirt to the holes if they are not permitted the variance. (Note: This question was referred to staff after the hearing).

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

Ms. Lee responded to questions by the Board:

- Clarified location of her property which is lots 63 and 64 which is across the street from the applicant's property.
- Owns approximately 3.74 acres on Arrowwood Court.
- Home was constructed in in 1974 and has a sump pump in the basement that drains constantly due to the underground spring.
- Behind the pond there is a low area that is constantly wet because of the spring.
- Believes the setback of her home is between 50 and 75 feet.

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

Mr. Craigmyle, spoke on behalf of the applicant:

- Pointed out the multiple proposed locations of the building in the aerial view of Arrowwood Court presented in the staff report (Exhibit A).
- The building location has been moved multiple times to get away from the spring.
- The applicants have explored many options so that the land would not become unbuildable.
- The applicant can ask the Health Department to look at the site again to determine if there is a different place for a septic field.

Mr. Onan spoke on behalf of the application:

- Based on the original Health Department inspection, it was determined that the rear of the property is the best location for a septic field based on square footage for the existing system plus future repair area.
- In moving the house back, the lateral field would have to be moved in front of the home and uncertain if there is adequate area for both the lateral field and repair area that is required.
- There is currently a hole excavated for the basement with a live spring in it, which complicates the issue of finding a place for the lateral field in the front of the lot.
- Have not explored the other septic system types that could be approved by the Health Department.

- They are willing to explore other options so that they can build on the lot and request the docket to be tabled.

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

**Findings and Decisions  
Docket OC-15-007  
Front Yard Variance**

Motion was made by Board Member Riley and seconded by Board Member Houchens to table Docket OC-15-007, front yard variance of 35.7 feet because:

1. The applicant requested that the application be tabled.
2. Applicant must explore additional options to prove to the board based upon evidence that the variance must be approved because there are no other options available.
3. The hearing will be re-opened once additional evidence is submitted to the board.

The vote was as follows:

Yes: Board Members Houchens, Riley, Otterback, Allen and Davis.  
 No: None  
 Abstain: None.  
 Absent: None  
 Motion carried on a vote of 5-0.

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Board Member Riley called and read Docket OC-15-008.

**Docket OC-15-008** – An application has been filed requesting a Front Yard Setback Variance for a proposed structure located at 1827 Zachary Drive, LaGrange.

**(1) Presentation by Staff:**

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated May 21, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Alvey responded to questions by the Board:

- The house sits 51 feet back from both frontages.

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

Matthew Abbott, 1827 Zachary Drive, LaGrange, was present and sworn in prior to speaking on behalf of the application:

- Current property owner.
- Seeks to build a detached garage to house his boat and marked work vehicle.

- The detached garage will allow him to clear out his driveway.
- Has chosen this location due to the location of the septic system and the lateral fields.
- Health Department regulations do not allow any structure to be closer than 10 feet septic tank and the proposed structure as far back as possible without encroaching into that 10-foot no build area.

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

Mr. Abbott responded to questions by the Board:

- There is a wooded area at the rear of the property.
- The septic field is between the back of the house and the wooded area.
- The proposed structure cannot be located to the left side of the home because it would violate side yard setbacks and the grade is very steep.
- There is a 16 x 10 storage shed on the property that houses a tractor and a four-wheeler.
- Once the new garage is built, the larger storage shed will be removed and replaced with one under 120 square feet.
- There are about 60 homes in the neighborhood with three other properties that have detached structures.
- There are no deed restrictions and no homeowners association.
- The structure will have a brick front and a brick skirt all the way around the structure.
- Would like to do all brick but that depends on the cost.
- Garage will be a stick-built structure with hip roof to match the house.

**(4) Testimony of the Opposition:** None.

**(5) Questioning of the Opposition by the Board:** None.

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

Mr. Abbott stated the structure will not have any plumbing.

**(7) Rebuttal and Final Statement by the Opposition:** None.

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

**Findings and Decisions  
Docket OC-15-008  
Front Yard Variance**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve Docket OC-15-008 for a Front Yard Variance of 24.0 feet because:

1. It 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 and
4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

**Conditions of Approval:**

1. The variance shall only apply to the application considered at the May 21, 2015 Oldham County Board of Adjustments public hearing.

2. The 16 x 10 shed must be removed within 90 days of completion of the new structure.
3. The structure must be built in a style similar to the primary structure with at least a brick front face facing Maple Street and a hip-style roof.
4. The detached garage shall not have plumbing.

The vote was as follows:

Yes: Board Members Houchens, Otterback, Riley and Davis.

No: Board Member Allen.

Abstain: None.

Absent: None

Motion carried on a vote of 4-1.

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Board Member Riley called and read Docket OC-15-009.

**Docket OC-15-009** – An application has been filed requesting a Road Frontage Variance for a proposed tract located at 6400 Shrader Lane, LaGrange.

**(1) Presentation by Staff:**

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated May 21, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Alvey responded to questions by the Board:

- The yellow lines on the aerial map (Exhibit A) are parcel lines, they are not survey quality.
- The original tract is outlined in the survey.
- The original tract was more than five acres.
- The 40-foot access easement services the tract behind the proposed tract at 6370 Shrader Lane and would also serve the proposed tract.

Director Jim Urban responded to the questions by the Board:

- The minimum lot size for land zoned Agricultural (AG-1) is one acre. The applicant is not asking for a variance from that requirement.
- There are subdivisions in Oldham County built on land zoned AG-1 because the lots meet the one acre minimum.

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

Bob Vinsand, Vinsand Engineering and Land Surveying, 306 West Jefferson Street, LaGrange, was present and sworn in prior to speaking on behalf of this application:

- Surveyor of the property.
- Unable to divide the property to meet the road frontage requirement because the new division line would be in the middle of the existing home on the parent tract.
- The existing house on the parent tract is an underground house and it sits on a ridge.

- In 2002, a variance was approved to create the rear tract behind the parent tract and is served by the 40 foot access easement on the west side of the property.
- The rear tract was owned by the applicant but was sold due to a divorce.
- The 40 foot access easement has a maintenance agreement and will be used to serve the proposed tract.
- There are other properties along Shrader Lane that were granted a zero road frontage variances with an access easement.
- The existing driveway on the west side of the property will be utilized by the proposed tract for ingress and egress and for the location of the utilities, so the disturbance will be minimal.
- The applicant has spoken personally with all of the neighbors and has letters and emails showing approval if the Board would like to read them.

Sydney Funk, 6400 Shrader Lane, LaGrange, was present and sworn in prior to speaking on behalf of this application:

- Needs a place for himself and his children to live.
- He had to sell the original property after a divorce and losing one income.
- It was his mother's dying wish that he owned a piece of the property at Shrader Lane.
- Has spoken with the neighbor at 6370 Shrader Lane, the Brednichs, and they have agreed to share maintenance of the driveway.

Carrie Stucker, 6501 Shelton Circle, Crestwood, was present and sworn in prior to speaking on behalf of this application:

- The tract was left to her in her mother's will.
- Her mother's letter stated that she wanted her to leave him some of the property.

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

Mr. Funk responded to questions by the Board:

- There is only one home between the parent tract and the proposed tract. The home is on tract one.
- His great-grandfather owned all of the property on Shrader Lane and was handed down through the years.
- 6400 Shrader Lane has a separate gravel driveway off of Shrader Lane.
- The existing easement would only serve two properties, 6370 Shrader Lane and the proposed tract.
- The applicant will use the same 40 foot access easement and will have the agreement re-written to share the maintenance responsibilities.
- The neighbor at 6370 Shrader Lane is not a family member.

**(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-15-009**

**Front Yard Variance**

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Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-009 for a Road Frontage Variance of 150.0 feet because:

- 1. It 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 and
- 4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

**Conditions of Approval:**

- 1. The variance shall only apply to the application considered at the May 21, 2015 Oldham County Board of Adjustments public hearing.
- 2. A maintenance agreement must be written so that responsibilities are shared between both of the properties it serves; 6370 Shrader Lane and the proposed tract.

The vote was as follows:

Yes: Board Members Houchens, Otterback, Allen, Riley and Davis.

No: None.

Abstain: None.

Absent: None

Motion carried on a vote of 5-0.

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**Approval of Minutes – April 23, 2015**

Motion was made by Board Member Allen and seconded by Board Member Houchens to approve the minutes of April 23, 2015 as submitted.

The vote was stated and motion carried by unanimous voice vote.

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**Other Business:** None.

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Motion was made by Board Member Allen and seconded by Board Member Riley to adjourn the meeting at 10:35 a.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, June 18 2015, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

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 Brooke Radcliffe  
 Community Planner

Approved:

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 Larry Otterback, Chairperson