

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

Thursday, June 21, 2012

At 9:03 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:

Larry Otterback
Robert Houchens
Ken Hodge
Roger Wampler
Ann Riley

Director Jim Urban, Assistant Director Brian Davis, and Planner Tara Dickerson of Oldham County Planning and Development Services were present and sworn in. Board Attorney Beach Craigmyle was present.

Member Wampler called and read Docket OC-12-010.

Docket OC-12-010 – An application has been filed requesting a Conditional Use Permit (Similar Use to Veterinary Hospital/Kennel) for the property located at 10518 Buckeye Trace, Goshen.

(1) Presentation by Staff:

Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated 06/21/2012).
- Notes.
- Photos of the site.

(2) Presentation by the Applicant:

Brigette Williams, 10518 Buckeye Trace, Goshen, after being sworn, presented the following:

- Overview of Second Chances Wildlife Rehabilitation Center.
- Summary of Conditional Use Permit application (**Applicant Exhibit “A”**).
- Agricultural Exemption letter from the Oldham County PVA.
- Federal and State Permits and licenses.
- Property is zoned AG-1 and CO-1.
- Rehab center houses on average approximately 35 to 40 animals and the busy season is usually 6 to 7 months long.
- Benefits to the county from the rehab center.
- Awards.
- Petition signed by supporters.

The following were present and sworn in to speak in support of the applicant:

Marcel Genalonie, 1405 Rosewood Ave., Louisville
Tavia Cathcart, Creasey-Mahan Nature Preserve, 12501 Harmony Landing Rd., Goshen
Eileen Wicker, 1024 Southern Ave., Louisville
Dr. Theresa Gregory, Crestwood Veterinary Clinic, 6321 W. Highway 146, Crestwood
Doreen Carlson, 2824 Barrickman Ln., Goshen
Dr. Lauralee Rubsch, 4507 Goshawk Ct., Louisville
Ann Brown, 1416 Thornberry Ave., Louisville

(3) Questioning of the Applicant by the Board:

Ms. Williams responded to questions from the Board:

- Description of types of medical treatment given to rescued animals.
- Description of the animal enclosure structures.
- All permits and licenses are obtained on an annual basis.
- Range of animals accepted by the rehab center.
- Rehabilitation time period can be no more than 180 days without an extension request.
- Animals kept for educational purposes have different guidelines than rehabbed animals.
- There are no plans to expand rehab center.
- Description of the buffer between property and adjoining properties.
- Location of enclosures.
- Summary of day camps and traffic generated.
- A maximum of 15 people for day camps/events would be accommodated on site.
- Disease control and waste removal procedures.
- Seven volunteers help, usually one onsite at a time.
- Animals are not released on the property.
- Seven educational animals on site now and rehabbed animals are currently fostered out.
- Three ways a rehab center is similar to veterinary clinics.
- Operation complies with Zoning Ordinance Section 260-440.
- Explanation of educational animals.

(4) Testimony of the Opposition:

The following were sworn in and voiced concerns regarding location of rehab center, traffic, accessory structures on the property, enforcement of deed restrictions, civil suits, wild animals in residential neighborhood, visual impact, disease, waste disposal, property values, health and safety issues, sight obscuring buffer/fencing, possible expansion of rehab center, traffic, subdivision zoning, and property taxes.

- Rick Laughlin, 11020 Buckeye Tr., Goshen (**Opposition Exhibit “A” and “B”**)
- Berry Baxter, attorney for Buckeye Trace Homeowners Association, 117 W. Main St., LaGrange (**Opposition Exhibit “C” and “D”**)
- Ellen Carrithers, 10519 Buckeye Tr., Goshen.
- David Bryan, 11015 Buckeye Tr., Goshen
- Sue Camp, 11016 Buckeye Tr., Goshen
- Andrew Baird, 11027 Buckeye Tr., Goshen
- Art Mengel, 12145 S. Buckeye Ln., Goshen
- Nancy Hublar, 10511 Buckeye Tr., Goshen

(5) Questioning of the Opposition by the Board:

Mr. Laughlin responded to questions from the Board:

- Description of the visual impact and impact on property values due to the rehab center in the neighborhood.

Mr. Baxter responded to questions from the Board:

- The burden is on the applicant to prove that they are not in conflict with the Comprehensive Plan.
- Difference in state statute and county ordinance.

Ms. Carrithers responded to questions from the Board:

- Description of the visual impact and impact on property values due to the rehab center in the neighborhood. Also, believes that other wild animals are drawn to the area due to the rehab center.

Mr. Bryant responded to questions from the Board:

- Property in neighborhood that is for sale at lower list price and has not sold shows that the property values are being affected by this rehab center.

Ms. Camp responded to questions from the Board:

- Description of the visual impact and impact on property values due to the rehab center in the neighborhood.
- Summary of lawsuits in the neighborhood.

Mr. Baird responded to questions from the Board:

- Traffic evidence cannot be documented due to potential lawsuits.

John Black, Deputy Judge-Executive, stated that representatives from Oldham County have been in contact with all parties involved and have tried to help reach a resolution. He also stated that he took photos during an onsite visit of the Williams' property.

Chairman Otterback called for a five minute recess.

Motion made by Board Member Houchens and seconded by Board Member Hodge to open the floor back up for public testimony. Motion carries by unanimous voice vote.

Mr. Craigmyle stated that Deputy Judge-Executive Black's photos can be taken into evidence under seal. Mr. Baxter stated that the photos should be placed into the public record. Chairman Otterback stated that the photos will not be allowed at this time. Mr. Urban stated that all evidence staff feels is important was presented today, and that the photos in question are in the Planning and Development office as public record.

(6) Rebuttal and Final Statement by the Applicant:

Ms. Williams stated that neighbors have used the services of the rehab center. She also stated that the pool house was already on the property when she purchased it and was used to house some cattle on the property. Creasey-Mahan Park did not offer land to the rehab center. Ms. Williams is

trained and licensed in disease prevention. The rehab center does not attract animals. She stated that she is countersuing some neighbors. Their property value has increased by \$60,000 since they have purchased it. Pictures of neighborhood properties (**Applicant Exhibit "B"**). Ms. Williams stated that the rehab center does not only help the wildlife but also the citizens of Oldham County.

(7) Rebuttal and Final Statement by the Opposition:

Mr. Laughlin stated that some of the photos presented in the applicant's rebuttal were on Buckeye Lane, which is Section I of the subdivision. He stated that he believes there are two options for locations for the rehab center: Creasey-Mahan Park or St. Francis School. There were never any cattle on the property.

Mr. Mengel explained the 3 sections of the Buckeye Trace subdivision on the record plat.

Mr. Baxter stated that the issue today is that this a residential subdivision where someone wants to put a wildlife rehab center. This center does not meet the definition of a veterinary hospital or a kennel, but if the Board believes it does, it must be approved as a conditional use and meet the regulations. Almost all of the people in support of the center do not live in Oldham County or in the subdivision. Mr. Baxter urged the Board to keep in mind the wishes and rights of the neighbors that will be affected.

(8) Board Discussion and Final Decision:

Mr. Urban presented a summary of the history of the case.

Mr. Craigmyle stated that the responsibilities of the Board are to make findings of fact and applying them to the conclusions of law.

Board member Hodge summarized the items that he thinks should be considered by the Board. He requested Deputy Judge Black's pictures that are in the public record be submitted into evidence now.

Motion made by Board Member Riley and seconded by Board Member Hodge to recess and visit the property. The motion fails on a voice vote of 2-3.

Mr. Urban stated that he could go through the parcel file and pull any relevant photos taken from the street to present to the Board as evidence.

Board member Wampler stated that if approved there should be binding elements to keep the center from expanding.

Photos from the public file that were agreed upon by Ms. Williams and Mr. Baxter were presented by Mr. Urban.

The board discussed potential conditions of approval.

Motion made by Board Member Wampler and seconded by Board Member Riley to recess for lunch at 1:17 p.m. The motion passes on a unanimous voice vote.

Motion made by Board Member Hodge and seconded by Board Member Wampler to reconvene at 2:09 p.m. The motion passes on a unanimous voice vote.

Discussion regarding potential conditions of approval continued.

**Findings and Decisions
Docket OC-12-010– Conditional Use Permit**

Motion made by Board Member Houchens and seconded by Board Member Hodge to approve the application requesting a Conditional Use Permit (Similar Use to Veterinary Hospital/Kennel) for the property located at 10518 Buckeye Trace, Goshen, because the proposed use is beneficial or desirable to the community and is not in conflict with elements, objectives and policies of the Comprehensive Plan based on the following factor:

- The proposed use is similar to a veterinary hospital but only serves wildlife that is indigenous to Oldham County and it lowers health risks to the community.

Conditions of Approval:

- No more than 12 educational day camps on site per year with no more than 25 participants per camp. All such camps will operate during daylight hours.
- No buses allowed to transport visitors to the site.
- No visible signage from the road.
- Maximum number of 60 animals on site.
- Cages will be located so they cannot be seen from the road with the naked eye.
- All operations occur with a minimum of 100 feet setback from any property lines.
- Only indigenous wildlife to Oldham County will be served.
- All state and federal permitting will be in compliance.
- All structures less than 120 square feet will be limited to 10 at any one time.
- Rehabilitated animals are not to be released on the property.
- No additional lighting will be added other than maintaining existing lighting.
- The conditional use permit shall only apply to the plan considered at the June 21, 2012 Oldham County Board of Adjustments public hearing.

Motion fails on a voice vote of 2-3.

Motion made by Board Member Wampler to deny the application requesting a Conditional Use Permit (Similar Use to Veterinary Hospital/Kennel) for the property located at 10518 Buckeye Trace because the proposed use is not desirable to the community. Motion withdrawn by Board Member Wampler.

Motion made by Chairman Otterback and seconded by Board Member Wampler to deny the application requesting a Conditional Use Permit (Similar Use to Veterinary Hospital/Kennel) for the property located at 10518 Buckeye Trace, Goshen, because the proposed use does not allow for the proper integration into the community of a use specifically named in the zoning regulations, it is not compatible with the surrounding land uses and the general character of the area.

Motion was amended by Chairman Otterback and amendment seconded by Board Member Wampler to include that the application does not comply with the Comprehensive Plan of the area.

Motion passes on a voice vote of 3 to 2.

Approval of Minutes – May 17, 2012

Motion was made by Board Member Hodge and seconded by Board Member Riley to approve the minutes as submitted and corrected. The motion carried on a unanimous voice vote.

Other Business

Mr. Davis presented a training packet consisting of a cd and a printed handout for the Board Members to review.

Motion was made by Board Member Hodge and seconded by Board Member Houchens to adjourn the meeting at 3:10 p.m. The motion carried on a unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, July 19, 2012, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

Tara Dickerson
Planner I

Approved:

Larry Otterback, Chairperson