

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

Thursday, June 20, 2013

At 9:04 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
Ken Hodge
Robert Houchens
Ann Riley

Director Jim Urban, Assistant Director Brian Davis, Community Planner Amy Alvey and Administrative Assistant Ethel Foxx of Oldham County Planning and Development Services were present and sworn in. Board Attorney Travis Combs was present.

Board Member Riley called and read Docket OC-13-011.

Docket OC-13-011 – Application has been filed requesting a Conditional Use Permit for a second accessory structure on property located at 4484 Brittany Lane, Crestwood.

(1) Presentation by Staff:

Community Planner Amy Alvey:

- Summary of the application.
- Case History (see Staff Report (Exhibit A))
- 2012 GIS Aerial Photos of property off Brittany Lane (Exhibit B)
- Photos of property showing home, playhouse and existing concrete pad which was there when property was purchased (Exhibit C.)
- Photo of existing accessory structure used as a playhouse and garden area (Exhibit D)
- Property consists of 5.3 acres

Community Planner Alvey responded to questions from the Board:

- Property to the south is about a 20 acre tract.
- The concrete pad is not in front of the house but appears to be even with the house.
- It appears that the concrete pad does slope.

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

Carol Pettit, 4484 Brittany Lane, Crestwood, after being sworn, presented the following:

- The concrete pad existed when they purchased the property
- They have over five acres and a garden to maintain and wish to store the garden equipment in the proposed building.
- Presently they store the lawn equipment in the garage and this will free up the garage for their vehicles which will improve the aesthetics of the property.
- The proposed building will be aesthetically built and will not be visible from the road,
- They have talked with the neighbors that do not object to the second accessory building.

(3) Questioning of the Applicant by the Board:

- The existing concrete pad may be about 30 by 40 and the height of the proposed structure is 10 to 15 feet to the beam.
- The proposed accessory building will be 24 by 30.
- A blue print was presented showing the dimensions of the proposed building (Applicant Exhibit A)
- The proposed building will match the colors of the house
- There is a slight slope in the pad and the proposed building will set slightly a few feet behind the house and closer to the garden
- Because of the size of the building a portion of the concrete pad will be visible.

(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-13-011 – Conditional Use - Second Accessory Structure**

Motion was made by Board Member Houchens and seconded by Board Member Hodge to approve Docket OC-13-011, application requesting a Conditional Use Permit to construct a second Accessory Structure on property located at 4484 Brittany Lane, Crestwood, because:

- The proposed use is not in conflict with the elements, objectives and policies of the Comprehensive Plan.
- The proposed use is compatible with the surrounding land uses and the general character of the area, including such factors as height, scale, location, proximity to the home, a wooded area behind the property, and will not be visible from the street.
- The proposed use will not impair the integrity and character of the area.

Conditions of the Approval:

- There shall be no commercial activities operated out of the structure at any time.
- The conditional use permit shall only apply to the application considered at the June 20, 2013 Oldham County Board of Adjustments public hearing

Motion vote was as follows:

Yes: Board Members Otterback, Riley, Houchens and Hodge
 No: None.
 Abstain: None.
 Absent: Board Member Wampler

Motion carries on a vote of 4-0

Board Member Riley called and read Docket OC-13-012.

Docket OC-13-012 – Application has been filed requesting a Conditional Use Permit to construct an Accessory Structure on a parcel without a primary structure on property located at 9303 Reamers Road, Crestwood.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report (Exhibit A).
- Site is about a four acre tract zoned R-2.
- Presented aerial photos of the site (Exhibit B) on which there are no structures
- Photo of Site Map showing layout of property (Exhibit C).
- The proposed building will be 2400 square feet.
- Photo presented where the building will be located, and shows the adjoining houses in relation to the proposed building.
- Confirms that although two tracts are shown on the drawing, it is in fact one lot.
- Plans proposed that the building will be moved back 25 feet from the property line and not 12 feet as shown on the drawing.

Assistant Director Davis responded to questions from the Board:

- The building will set 25 feet from the side (western) property line and about 288 feet from the front property line
- It does meet all the other requirements

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

Rick Chapman, 3403 Sasse Way, Louisville, after being sworn, presented the following:

- Mr. Chapman stated he and his wife purchased the four acre property as he wishes a green space for his children and wants to plant a garden.
- He would like to construct a building on the lot to store his mowing equipment for maintaining the lot and also wishes to store a vehicle that he would like to restore.
- Will leave as many of the trees if the adjoining property owners wish.
- He needs to place the building on the left side, due to power lines on the other side.

David Elder, Jr., 800 Stoney Creek Parkway, Suite 5A, Louisville, after being sworn, presented the following:

- Mr. Elder is a friend and will help Mr. Chapman build the accessory structure.
- Eventually, Mr. Chapman may construct a home on that lot, being the reason for the location of the garage.

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

Mr. Chapman responded to the questions by the Board:

- Besides the garden and green space, the property will be used for recreational purposes for his children.
- On the application he stated he may take his daughter's small go-cart
- He would like to use the proposed structure as a work shop in which he can work on his old car.
- His wife would like a cedar closet to store Christmas decorations.
- He lives nearby and would be a good place to take the kids.
- Construction of the house is a long term idea.
- Wants to put a kitchenette (canteen) and bathroom (shower) in the building.
- He presented basic plans showing where he would put up shelves and where he could park his car to work on it.
- There will be an outdoor light and a water faucet.
- There are no plans for anyone to live in the building
- Will be a 16 x 40 metal steel building, about 14 feet high at the ridge.
- The property slopes from the front to the back.
- Wants to build a nice structure and if need to spend the whole day would have a place to clean up and even cook out with family (4) members and may invite friends from time to time.
- The property has a crest and falls to the front slightly.
- Only one light is proposed so that they can see to get in; no spot lights planned but may place lights on the front fence line so people do not accidentally run into the fence.
- Confirms that there will be no over-night stays except if the kids want to camp-out.
- Showed how the building will be oriented in relation to the houses.

(4) Testimony of the Opposition:

For the Record, all those giving testimony in opposition, have been sworn.

Leanne Burbank Embry, 6904 Village Green Blvd., Pewee Valley, stated her concerns:

- Pointed out where she and her daughter live in proximity to the proposed building.

- The property has been used by kids and has been a nuisance
- Presently the property is a wild green space that she and her daughter enjoy walking.
- Concerns that the property will not be used as residential and that people would be rowdy on that property.
- Originally that property was to be used for a few homes, but that fell through.
- Feels her home will be devalued with the proposed use.

Timothy Beamer, 6902 Village Green, Pewee Valley, stated the following concerns:

- Pointed out that he lives at the end on Lot 13.
- Noticed there are no long term plans for a principal residence.
- Not comfortable with the building being used for storage and a possible go-cart track.
- Have had problems in the past with people riding ATVs and motorcycles.
- He and the neighbors enjoy their back yards for getting together with their family; having to see go-carts and listen to the noise is not suitable for the property.
- Leaving a building unattended would be attracted to robbers and dangerous for the adjoining property owners.

Joe Crowder, 6916 Village Green Blvd., Pewee Valley, stated his concerns:

- Points out that his home sits on Lot 3 and has lived there for many years.
- Has witnessed go-carts and dirt bikes on the property and has been awakened late at night from the noise.
- The tracks shown on the plat is where the go-carts and mud bikes have traveled.
- He feels that the building can be considered a 16 x 40 barn which is not desirable for that lot.
- There is never any police presence to help
- Is not in favor of the proposed building.

Peggy Plummer, 6915 Village Green Blvd., Pewee Valley, stated her concerns.

- Has lived on her property for about 30 years.
- Her house faces that property and if that tall barn is constructed, it will be set above the single story homes and unsightly.
- The property has been used for go-carts and ATVs and the police never get there in time.
- Reamers Road has been a dangerous place; there is constant traffic; she wishes to come home to quiet when she gets home from work.
- Applicant does not indicate a house will be built; one go-cart will attract more go-carts which is not conducive to residential use.
- There are five-acre tracts nearby with homes; the area is a residential district and should remain as such.

Motion to Extend Time for More Testimony

Motion was made by Board Member Hodge and seconded by Board Member Riley to extend the time allowing others to give their testimony. Motion carried by unanimous vote.

(4) Continued Testimony in Opposition to Docket OC-13-012

Valerie Kinsey, 3807 Woodmont Park Lane, Louisville, stated her concerns:

- Points out where her house is located in the Woodmont Subdivision.
- A conditional use permit for the proposed structure is not desirable or essential as there are no plans for a primary structure for residential use.
- This is a non-conforming structure in a residential area,
- The approval may invite similar requests that will change the character of the neighborhood.
- The proposed use will invite noise and fumes.
- Go-cart noise will affect those working at night, including the elderly and children.
- Operators of go-carts and ATVs may become a liability.
- If application is approved, requests that conditions be placed that there be no gas powered motorized vehicles except for grounds maintenance.

Emily Liu, 5810 Weatherford Court, Prospect, stated her concerns:

- Does not live in the area but owns adjoining property.
- Pointed out the lot which she owns, approximately five acres to the north.
- This is a very open and quiet neighborhood.
- She and her father are serious gardeners and they visit up to four times a week and on week-ends to do their gardening.
- A 2400 square foot building, the materials and the height are not compatible for that residential lot.
- The average size of the homes in the adjoining subdivision are 1200 square feet and most of the homes in the area are made of brick.
- The nearby homes in Woodmont are very nice and there will be no noise boundary.
- Homes, churches, libraries, and schools are permitted uses in R-2 and not go-carts.
- To approve, need to evaluate that the proposal will meet the required regulations.
- The noise, height, and character of the building, and objective will cause a negative impact to the community.
- There is not enough information to approve this today
- The proposal is not essential or desirable to the community and is in conflict with the elements of the Comprehensive Plan.
- The proposal violates the objectives and policies of the Comprehensive Plan.
- The go-cart vehicle is not a permitted use in R-2
- Requests the Board deny this proposal to protect the safety and welfare of the community

James Dunaway, 6906 Village Green Blvd, Pewee Valley, stated his concerns:

- Pointed out on the plot plan where his home is located on Lot 15.
- Feels this proposal will be a magnet for teens with go-carts and ATVs.
- Because there will be no residential structure he is concerned that there will be no supervision of the young people.

Chris Berry, 6908 Village Green Blvd., Pewee Valley, stated his concerns:

- Pointed where his home is located on Lot 16.
- He works at nights and needs to rest during the day.
- If go-carts are going on all day, would never be able to sleep because of the noise.
- Would not want anything on that lot except a residential home.

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

(6) Rebuttal and Final Statement by the Applicant and Others in Favor of the Application:

- Rick Chapman stated he did not buy the property to use for go-carts and would be willing to agree to limit the use of the property on week-ends and holidays.
- He showed where he could move the building inward and could create a berm and can change the size and looks of the building.
- The person that owned this property originally planned to put eight houses, being the reason for the lines shown on the drawing.
- It is clear that the property he purchased has been abused as there has been trash, beer bottles and derelict activity on the property.
- Not want to do anything demonstrative for the neighbors as strictly for his family and to allow his daughter to ride her go-cart.
- The building will strictly be used for gardening, to work on his car and there are no plans to house large equipment.
- He works full time and the kids are in school, and aesthetically can make the building look better and similar to the buildings close by.
- Shows where he would like to place a four board fence to keep people from dumping on the property.
- Confirms that they could put a fence and a gate at the front of the property to keep people from coming into the property.

- David Elder stated that because Rick works full time and his children are in school all day, there would be not that much use of the property to create all those problems.
- They have spent much money to clean up and for dumpsters to remove tires and debris.
- They can re-locate the building and there will be no motorized activity at night. They felt the location of the building to the rear of the first parcel is the best.

(7) Rebuttal and Final Statement by the Opposition:

Leanne Burbank Embry presented more concerns:

- Even with the applicant's agreement to make adjustments, the building would not be used for residential purposes.
- Could build a home on that property and use in that manner.
- Asks that the character of the property not be changed.

Valerie Kinsey presented more concerns:

- Her husband is a UPS pilot and needs to sleep during the day.

- This is a residential area and there should not be anything disruptive on that property any time of day.

Timothy Beamer presented more concerns:

- The average square foot of homes in Village Green is 1000 square feet.
- The building will be double the size and would not fit in the residential area.

Emily Liu presented more concerns

- The proposed use is not essential or desirable to the community and not in compliance with the Comprehensive Plan.
- Property is residential and could build a secondary home.
- The 2400 square foot metal building is not appropriate and not in keeping with the area.
- If they consider approving this application, the following things should be considered and in place, to secure those adjoining property owners will not have a negative impact.
 - What type fencing and where
 - What type buffer
 - Where is access
 - How many parking spaces
 - Will driveway be graveled, paved or dirt.

Final Statement by the Applicant: None

The Floor was closed for Public Hearing at 10:23 a.m.

(8) Board Discussion and Final Decision:

- Property adjoins a residential district having 3.63 dwellings per acre.
- If a house were being built, and an accessory building proposed, there would be discussion as to the scope and size of that building.
- Applicant stated he could reduce the size of the building and put up fencing.
- The property is a four acre tract and cannot deny his rights on the property.
- Can contain commercial use or excessive use and could place many conditions
- There are existing overgrown trails that can be used for walking or riding go-carts and that cannot be prevented.
- Testimony that he is willing to adhere to conditions to prevent negative use of the property.
- The scale of the structure, adding a bath and kitchen, and the proximity of the structure to the adjoining neighborhood does not fit the scale of neighborhood no matter what conditions are placed.
- Could postpone and give the applicant opportunity to consider size and scope.
- Applicant needs to be very specific as to the size of the building, the scope, fencing and where the building will be placed, the gate, the driveway, and limitations regarding week-ends and holidays and hours.

Administrator Jim Urban informs the Board that they could table to the end of today's docket and give the Applicant time to talk to the neighbors; or the Board could table this hearing for the July 18, 2013 meeting.

Motion was made by Board Member Houchens and seconded by Board Member Riley to open the floor at 10:34 a.m. for questions and clarification. Motion carried by unanimous voice vote.

Applicant’s Response to the Board:

Applicant Rick Chapman responded that he feels he has a good plan but requested that they be allowed to return on July 18, 2013, with more information.

Motion to Lay Docket OC-13-012 on the Table

Motion was made by Board Member Houchens and seconded by Board Member Riley, to lay on Docket OC-13-012 on the Table for the July 18, 2013 meeting. Motion carried by unanimous vote.

Motion was made by Board Member Houchens and seconded by Board Member Riley to recess the meeting for five minutes before continuing with Other Business. Motion carried by unanimous vote

Motion made by Board Member Houchens and seconded by Board member Hodge to reconvene the meeting at 10:34 a.m. Motion carried by unanimous vote.

OTHER BUSINESS

Board Member Riley called and read Revocation of Home Occupation Permit for property located at 4203 Evergreen Road, Crestwood.

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- On August 15, 2002, the Oldham County Board of Adjustments granted approval of a conditional use permit to allow a home occupation (bath and body products) Docket Number 3487.
- The property is zoned R-1 and is a three acre lot in Borowick Farms.
- Case History (See Staff Report dated June 20, 2013 Exhibit A)
- Photo was shown of the property (Exhibit B) showing a single family structure, accessory buildings, the driveway and parking.
- Part of the conditions placed is that the operation would take place in one room of the home and may not employ more than one person residing outside of the house.
- Victor Peak, Oldham County Construction Site Inspector visited the site after a phone call regarding concerns that there was much clearing on the property.

- It appears that the home occupation has been expanded than what approved by the Oldham County Board of Adjustments.
- Have talked with the applicant and they have provided much information.
- They request that if the conditional use permit is revoked, to give them time to relocate the business.
- Photo presented (Exhibit B) of the property from the road showing the accessory building and a number of cars parked in front.
- The home occupation for home-made soap has been very successful and they moved it out of the home and into the accessory building.
- It appears that they have more than one employee.

Staff Responded to Board

Brian Davis responded as follows:

- A building permit was issued for the red accessory building.
- No one questioned the construction of the buildings and neighbors did not realize they had approval for a home occupation.
- A building permit to construct an addition at the rear of the accessory building was obtained.
- The building permit was approved through the Planning office but did not necessary to go before this Board.

Administrator Urban stated that this is a case where the home occupation has done very well. It is necessary to review a home occupation permit if conditions have been exceeded or changed.

- Brian Davis stated that there was a wooded lot that was cleared by the owners but that has nothing to do with the conditional use.
- Aerial photo presented showing the clearing on the other side of the property.
- The County Engineer oversees that type clearing activity.

(2) Presentation by the Applicant

Tamara Tivis, 4203 Evergreen Road, Crestwood, after being sworn, stated as follows:

- Their business has been in existence since 2002, but it did not grow until 2008.
- They decided to build a \$100,000 detached garage on the three acres.
- They applied for a building permit and inspectors did visit the building while it was being constructed.
- An inspector came after a call from a neighbor and she presented to him the conditional use permit; he seemed satisfied and stated she would not hear from him again.
- In 2011, they added to the detached garage along with a breezeway in between the buildings; inspectors were there to make sure all regulations were met while constructing the building.
- They clearly saw that they were running a business out of the home and had no reason to believe that they were in violation.
- She did not think about the original conditions and that she should have come back to the Board.

- This is an internet only business, no signage and no customers come to the house.
- They do not generate additional traffic and have not had any complaints in the last five years.
- They live between Elder Park Road and Centerfield and UPS and DHL are on that road every day for neighbor deliveries.
- Traffic to Centerfield is phenomenal; people drive 40 mph on that road; everyone uses that road as a cut-through.
- They have offered flex employment to four mom's working Monday through Thursday.
- Have invested over \$150,000 in construction of the buildings.
- Are asking to be allowed to operate evenings and week-ends until they can relocate the business.
- Plan to build in Oldham County and are searching for land; however, a move now would be a significant financial burden.

Michael Tivis, 4203 Evergreen Road, Crestwood, after being sworn, stated as follows:

- It is beneficial for them to stay in Oldham County, including their employees that are Oldham County residents.
- Have been talking to the bank to obtain a loan and working with an agent for a building.
- Looking at a four to six month time frame time to buy and move.
- Mrs. Tivis stated that the photo presented looks like there are many cars but two are hers (they have a total of 3) and they can park in the back.
- They cleared on the opposite side of the buildings due to the ticks and poison ivy.
- Their property backs up to the Beagle Farm.

(3) Questioning of the Applicants by the Board:

- Applicant confirms that the banks say it could take 30 days to get approval for a commercial loan; could take eight weeks to get metal to the lot, a 3-4 week build time, including adding sewers, phone, electric, etc.
- They are still operational working out of their home, and employees are usually there Monday through Thursday until 3:30.
- They make their own products in the garage; soap, lotion, lip balm and they use pots and pans; no vats.
- There is no manufacturing but they do bring in pre-made products; they use a 55 gallon drum and break down the products to blocks of soap and then repackage
- The only deliveries are UPS or USPS that delivers to neighbors anyway; no customers come to their home.
- Mrs. Tivis stated they do have to relocate the business but wish to continue working from home part time until they can move.
- There will be no need for the employees to come to her home.
- In 2008 they did not have the finances but now they can build elsewhere
- The Tivis's have no plans for their existing accessory buildings except to use as empty space.
- Preparing to move will be aggressive as they wish to get everything done before bad weather sets in and hope to move in as soon as the concrete is set.

(4) Testimony of the Opposition:

For the Record, all those present to speak in opposition have been sworn.

Steve McCarty, 4505 Evergreen Road, Crestwood, stated his concerns:

- Has seen his residential road become an industrial park.
- He is satisfied with and is not opposed to a timely move.
- Is opposed to the accessory building being used and the continued shipping which is causing much traffic on the road.

Mr. McCarty responded to the Board at this time (prior to having to leave the meeting) as follows:

- Confirms that he has seen box trucks, and UPS trucks are constantly on the road which has caused additional traffic.

Rebuttal by the Applicant: None

Steve McCarty was allowed to leave the meeting.

(4) Continued Testimony of the Opposition:

James Skees, 4201 Evergreen Road, Crestwood, stated his concerns:

- His property is adjacent to the north of property.
- Has lived there ten years and never had problems with neighbors.
- The property has been cleared and he can no longer enjoy the woods.
- Mr. Skees was not aware that there was an industrial process until he was informed by the internet company that the "factory" next door would be the closest internet hook up.
- The Tivis's are good neighbors and he is happy they are doing well.
- There are about 40 houses on Evergreen Road and all the neighbors have to live with the cut-through from Centerfield through Elder Park.
- Feels there is an increase in traffic from UPS and FedEx.
- Not many UPS deliveries on Evergreen Road, but UPS delivers on a daily basis.
- Because road is only 13 feet wide, hilly and curvy it has become very dangerous.
- Mr. Skees requests that the Tivis business be moved out of the neighborhood.

Roy Clifford, 4401 Evergreen Road, Crestwood, stated his concerns:

- Reiterates what Mr. Skees said and also happy for the Tivis business is doing well.
- Has lived on Evergreen for 28 years which is a residential neighborhood.
- Did not realize a business was there till two years ago and many trucks utilizing the business.
- The street is narrow and often one vehicle needs to get off the black top to allow the other to get by; some places in the black top is six inches high and can't get off without damaging their vehicles.
- He has to watch his two year old grandson very carefully because of the truck traffic which consists of semi box trucks, UPS and Fed Ex.

- They live across the street and last year he had to replace the barrels in his circle drive because the trucks tearing them down.

Joann Webster, 4202 Evergreen, Crestwood, stated her concerns:

- Has to look at the large building every day which looks like a warehouse, a type building that one would find in an industrial park.
- There are always three to seven cars parked, but she never sees their cars out.
- Is happy that they are doing well but it is now time to move their business.
- They are nice neighbors and no arguments, but the truck traffic is terrible.

Motion to Extend Time for More Testimony

Because of time constraint, Motion was made by Board Member Hodge and seconded by Board Member Riley to extend the time allowing others to give their testimony. Motion carried by unanimous vote.

(4)Continued Testimony of the Opposition

Patti Dodson, 4400 Evergreen Road, Crestwood, stated her concerns:

- She lives next door to the Webster's.
- Can no longer allow her son to ride his bike because of the truck traffic.
- The building is a warehouse and they knew they were in violation when they were not keeping the one room agreement.
- They should not be allowed an extension to work out of the home as UPS will still have to pick up and they have violated all the rules.

Shirley O'Bryan, 4601 Evergreen Road, Crestwood, stated her concerns:

- She has lived there 40 years and concerned with a business in a residential district.
- Even if the Tivis's business is relocated, the ugly warehouses will still be there.
- What are the plans for those buildings, and asks if should they be taken down

Kim Skees, 4201 Evergreen Road, Crestwood, stated her concerns:

- She is very glad they are doing well but concerned with the existing buildings.
- Traffic is an issue and semi's are on the road.
- The Tivis's buildings are metal warehouses with a breezeway in between; there are no other buildings like that in the neighborhood.
- Now that the property has been cleared they are able to see the large doors that face her house.
- When the property was cleared, it appeared that a driveway was proposed as the clearing is toward the overhead doors.
- She asks the Board Members to drive that road and see the lay-out so that they may understand what the neighbors are experiencing.
- She has no faith that the conditional use permit would be used in an appropriate way.

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

(6) Rebuttal and Final Statement by the Applicant:

- They obtained building permits from the county and spent over \$100,000 to construct.
- She did not purposely violate the conditions of the approval.
- When the inspectors visited the site, she felt she could continue.
- They would not want their \$100,000 buildings taken down or moved.
- The other structure is used for the tractor as the two car garage was not big enough.
- UPS has always been there and will continue to deliver on the road.
- She does not let her child out front because of the many drivers that use the cut-through.
- Tractor trailers cannot come on that road; there are deliveries a couple times a month and not every day.
- One of her neighbors has a very large steel building and does not see that it is any different than hers.
- They tried to build a nice building and they cleared the area as they wanted to plant trees of their choice.
- This is their home and they do not want the building to look like a warehouse.
- She hopes to work from home until they can move.
- They did have a 36 foot truck deliver to their home, but not a semi-truck.

(7) Rebuttal and Final Statement of Opposition:

Ed Webster returned with more concerns.

- There have been trucks on the roads and there is a big hole in his yard where they tried to get in their driveway.
- They have three buildings that are attached; one which is a commercial building in a residential area.
- Responded to the Board that there has been a semi at that site since 2002.

Patti Dodson returns with more concerns:

- She stated the applicant knew they were in violation and they knew what conditions were placed.
- The Conditions to operate the business stated only one employee, but they have violated that rule.
- The buildings are not at the back of the property but at the front and to the side of the house.
- Glad they did well with the business but that the business will not help the value of their home.
- This is definitely a business and does not want it in her neighborhood.

Kim Skees returned with more concerns:

- Wants the property to go back to the existing residential use; would like to see the accessory buildings removed.
- Wants assurance that a business will not be allowed to continue on their property.

(8) Board Discussion and Final Decision:

- Applicant requests to retain the original conditional use.
- There were four conditions; two of them being the business is to be operated inside one room in the house, and no more than one employee outside of the house
- The commitments issued have not been honored, however, applauds the business is doing well.
- They can be allowed to use the e-mail and phone, but using the building is questionable as the building was not part of what they approved.
- It would be troublesome to allow her to continue.
- A big concern is giving them the time to move and that it not affect their employees.
- It is not this Board's pervue to remove the buildings.
- Did not hear testimony in opposition to allow the Tivis's time to relocate their business, which needs to be done as quickly as possible.
- The conditional use permit should be revoked, however, allow the Tivis's six months to relocate.
- The fact is that the initial conditions were violated and they were not complicated.
- Consider revocation of the conditional use permit, but give them six months to relocate, and then cease all business related activities at the Evergreen residence.
- Change the language from "related activity" to "related inventory".
- Board Members appreciate the neighbor's allowing the Tivis's time to move their business.

Administrator Urban stated that since the Tivis's were given notice of this revocation, they have made much effort to remedy the situation by working with the bank and looking at existing and vacant properties. It is difficult to make that effort and curtail their business. If the Board Members extend the Conditional Use Permit for six months, it will allow the Tivis's to use their energy towards finding a new location rather than trying to figure out how to stop deliveries, or limit the number of employees. A six month period is reasonable.

MOTION TO REVOKE A HOME OCCUPATION PERMIT

Motion was made by Board Member Houchens and seconded by Board Member Hodge, to revoke the Conditional Use Permit to allow a home occupation that was approved August 15, 2002, under Docket 3487, located at 4203 Evergreen Road, Crestwood, KY. It will be effective December 20, 2013, which will allow a reasonable time for removal of all inventory and equipment associated with the business occupation. Further if the administrative officer determines that the conditional use occupation continues after December 20, 2013, the administrative officer shall take necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

The vote was as follows:

Yes: Board Members Otterback, Hodge, Houchens and Riley.
No: None
Abstain: None
Absent: Board Member Wampler

Motion carries on a vote of 4 to 0.

Approval of Minutes – May 16, 2013

Prior to approving the minutes of May 16, 2013, there was discussion by the Board concerning whether a Board Member is allowed to vote on the minutes if he or she was absent for that particular hearing.

Per Attorney Combs, if a Board Member was not present at a hearing, but received a copy of the minutes, is in agreement and trusts the secretary in preparation of those minutes, the Board Member may vote on the approval of those minutes.

Motion was made by Board Member Riley and seconded by Chairman Otterback, to approve the minutes of May 16, 2013 as submitted.

Yes: Board Members Otterback, Hodge, Houchens and Riley
No: None
Abstain: None
Absent: Member Wampler

OTHER BUSINESS MATTERS

Chairman Otterback stated he sent an e-mail regarding training for the Board Members. He has a friend that is actually a Chair in Indiana, who is knowledgeable and can give that training.

Administrator Urban stated that this is a good opportunity, but reminds the Board Members that it is a different state and those procedures may be different.

Board Member Houchens stated that he feels this is good thing to do.

Chairman Otterback stated they meet the fourth Thursday of the month and will be meeting in July (July 25, 2013) at 7 or 7:30 p.m.

Anyone that is interested may call him so that they can go together or meet there.

Motion is made by Board Member Hodge and seconded by Board Member Houchens to adjourn the meeting at 12:10 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, July 18, 2013, at 9:00 a.m. in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

Ethel Foxx
Administrative Assistant

Approved:

Larry Otterback, Chairperson