

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

Thursday, July 16, 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:

Stephen Davis
Mike Allen
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.

Board Member Riley called and read Docket OC-15-012.

Docket OC-15-012 – An application has been filed requesting a Variance for a proposed accessory structure located at 6720 Bohannon Lane, LaGrange.

(1) Presentation by Staff:

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated July 16, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Alvey responded to questions by the Board:

- 16 of the applicants 18 acres are woods and behind the home, the topography drops off significantly. The contours are very severe.
- If the applicant placed the garage in the back left side of the home, the applicant would have to drive over the septic tank and lateral lines to reach the garage.
- The barn at the property across the street from the applicant at 6761 Bohannon Lane has an addition that does not show up on the 2012 aerial; which extends the structure much closer to the road. The barn is in front of the primary structure on this property.
- The accessory structure (barn) across the street from the applicant was permitted to be in front of the primary structure because it was either used for agricultural uses or it was built before the regulations were in place, making it a non-conforming use.
- There must be at least five feet between the home and the accessory structure. If the applicant placed the structure on the right side of the home he would have to cut down trees in order for it to fit.

- The existing shed does not meet the 120 square foot threshold, which does not make it an accessory structure and it can remain on the property if the application is approved.

Mr. Urban responded to questions by the Board:

- The map shows that the area behind the applicant's house has contours that are further apart than at the proposed building site but the applicant would have to relocate the driveway and drive over lateral lines to reach the structure if it was placed there.

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

Kyle Bonte, 6720 Bohannon Lane, LaGrange, was present and sworn in prior to speaking on behalf of the application:

- Current property owner.
- Is requesting a variance to allow the proposed detached accessory structure to be located in front of the primary structure
- The garage cannot be put on the side of the house because that is where the lateral lines are located.
- The proposed structure will not be located in the place where the shed stands. The shed is temporarily used for storage of parts.
- The two stakes next to the tree shown on the photo (Exhibit B) mark the outside edge of the structure. The two stakes further back, about 37 feet, mark the other outside edge of the building. The inside edge of the structure is aligned with the house.
- A representative from the Health Department came to the property and advised to move the garage forward toward the road so that it wouldn't sit on the lateral lines. The structure must be a minimum of five feet away from the lateral lines so that the septic system can be accessed.

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

Mr. Bonte responded to questions by the Board:

- The proposed garage is going to be behind where the shed is located.
- The proposed garage is 36 feet in front of the primary structure, which would make the structure about 30 feet from the street.
- Looked into placing the garage on the opposite side of the lateral lines but that would put the structure very close to the property line and the neighbor would not appreciate that.
- The right side of the house has a dense tree line close to the home and the structure would only be about five feet from the property line and five feet from the home.
- The structure cannot be located behind the home on the left side because there is an existing drainage ditch and culvert.
- The applicant has 18 acres but the best place to put the garage is in the location that he has proposed because there are steep drop offs behind the home.
- The only other clearing on the property has been deeded to the applicant's sister.
- The structure across the street from the applicant's property is a large barn and the small figure in front of it is hay bales.
- The footprint of the garage is about 24 feet wide and 37 feet long, 888 square feet. The house is 1150 square feet.
- The applicant does not have a garage on the property.
- A deck that stretches 12 feet from his home is located behind his home.

- The area behind the home is not large enough for an 888 square foot garage.
- There is not enough room on the right side of the property between the tree line and the home to place a structure. Even if trees were cut down to make room for it, there is a creek in the tree line and the topography is not gentle.
- The property has had multiple issues with flooding.
- The excavation of the garage in the proposed location will help with his drainage issues.
- If the applicant receives approval for the garage, the shed will most likely be removed because the tools will go in the garage.

(4) Testimony of the Opposition: None.

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

(6) Rebuttal and Final Statement by the Applicant:

- The garage is going to store his hardware, parts for work, lawnmower and vehicles.

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

(8) Board Discussion and Final Decision:

Discussion:

Chairperson Larry Otterback stated that while the Board tries to accommodate the citizenry, the Board's job is to also uphold the rules and regulations. The applicant doesn't have much of a choice of where to put the structure due to the topography of the area.

Board Member Davis stated that when a structure is placed in front of a house next to the road, it alters the character of a residential area. This strip of Bohannon Lane is more of a residential area than an agricultural area. While it may increase the expense of the project, there are other options that will allow the applicant to follow the rules and regulations.

Board Member Riley stated that when he visited the site he did not see any other property in the area that had an accessory structure in front of the primary structure.

Mr. Urban informed the Board Members that the topography of the area is very severe and that the Board should take this into consideration before making a decision. A structure cannot be built on a steep hill.

Motion was made by Board Member Riley and seconded by Board Member Davis to take a recess at 9:30 a.m. so that Board Member Allen could return to the meeting. The vote carried.

Motion was made by Board Member Riley and seconded by Board Member Davis to come back into session at 9:40 a.m. The vote carried.

Motion was made by Board Member Riley and seconded by Board Member Davis to re-open the floor for staff to present new evidence (Exhibit C – Topography Maps). The vote carried.

Board Member Davis conceded that while the proposed building site shows steeper contours than the area behind the house, a structure should not be located between two ravines due to drainage concerns.

**Findings and Decisions
Docket OC-15-012
Variance for an Accessory Structure**

Motion was made by Board Member Allen and seconded by Board Member Riley to table Docket OC-15-012 to make a site visit in order to review the topography and make a better, informed decision.

Discussion: Mr. Urban and County Attorney Mr. Combs confirm that the board members can go to site visit together after they hear the other cases before them today and recess the meeting. Once they are on the site, they cannot discuss the case. After the site visit, the members can call the meeting back into session and make a decision regarding Docket OC-15-012.

Previous motion made by Board Member Allen was withdrawn. Board Member Allen and seconded by Board Member Riley made a new motion that upon the completion of the second item on the agenda, the Board take a recess and visit the property as a group to look at the conditions individually. After the recess, the Board will return to the hearing to make a decision on Docket OC-15-012. The motion carried with all members voting yes.

Board Member Riley called and read Docket OC-15-013 & OC-15-014.

Docket OC-15-013 – An application has been filed requesting a Conditional Use Permit for a proposed concrete plant at 1951 Button Lane, LaGrange.

Docket OC-15-014– An application has been filed requesting a Height Variance for a proposed concrete plant at 1951 Button Lane, LaGrange.

(1) Presentation by Staff:

Senior Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated July 16, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Alvey responded to questions by the Board:

- The Board will review both Docket OC-15-013 and Docket-OC-15-014 at the same time because they are the same applicant and the same project.
- If the applicant was replacing the current plant, the applicant would still have to apply for the height variance.
- The applicant has a Conditional Use permit for the current plant but since there will be a new plant in addition to the old one, staff felt that the request needed an additional Conditional Use Permit.
- The height restrictions are included in a zoning district to maintain continuity between uses.

Mr. Urban responded to the questions by the Board:

- Nearly every zoning ordinance has height restrictions in their zoning classifications and they are all for various reasons.
- The electricity generation plant in the same vicinity received a height variance for their structures. They are under 100 feet but they most likely exceed 82 feet.

- The plant is expanding, which requires a new conditional use permit, especially since they need a variance. The Board can put new conditions on this application that were not on the previous conditional use permit.
- The tower on the new plant is not considered an exclusion under Section 330-010 Height Requirements.

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

Josh Clubb, Attorney, Brammell & Clubb, 206 W. Jefferson Street, LaGrange, was present to represent Allstate Ready Mix, LLC on behalf of the application:

- Presented a PowerPoint (Exhibit B, dated July 18, 2015)
- Is requesting a new Conditional Use Permit for the second concrete plant and the Height Variance for the new plant.
- Included a sample motion for the Board Members as part of the application.

Joe McKinney, President of Allstate Ready Mix, 1951 Button Lane, LaGrange, was present and sworn in prior to speaking on behalf of the application:

- The business serves Oldham County and the surrounding counties.
- Has been in business at this location for 17 years.
- The primary business is selling ready mix concrete, including delivering it and pouring it.
- The original application for a Conditional Use Permit was in 1996 with the plant opening in April of 1998.
- The applicant does not have any intention of tearing down the old plant. The purpose of the second plant is to have a back-up system in case the new plant breaks down.
- The new plant will be a cleaner and more efficient system than the current plant. It is not the intention of the applicant to send more trucks but to load them quicker and send them out earlier.
- Both plants will not be used simultaneously. The old plant cannot be torn down because the office is built around it.
- The old silos will be torn down and the plant will sit in their place, next to the current building. The new tank will only require one silo.
- The plant employs 19 people and is open from Monday through Friday 5:30 a.m. to 6:00 p.m. and on Saturdays by appointment only. The number of employees and hours of operation will not change.
- The footprint of the proposed plant is 25 feet by 64 feet and would stand 82 feet, 2 inches from base to top.
- There are no residences near the plant.
- The plant will meet the setback requirements and the outdoor storage will be screened by an eight-foot privacy fence.
- The applicant tried wheel-washers when the plant opened, but they didn't work because mud doesn't wash immediately. The applicant has never had any complaints about anything tracking on the road.
- The property already has natural buffers to the north and the west. Has agreed to plant pine trees on eastern boundary between the concrete plant and Oldham County Water Company as a condition of approval. The south side already has a line of trees but the applicant will plant more trees in the corner that is bare, if necessary. The concrete batch plant is minimally visible from Button Lane.
- The applicant is investing nearly \$50,000 into the new plant for a new dust collection system which would eliminate the dust from leaving the property as a result of loading the trucks.

- The only noise associated with the plant will be from the trucks and the noise level will remain the same.
- The retaining wall will be around 32 feet tall when the concrete plant is finished. Only 50 of the plant feet will be visible from the north side.
- There will be no new lighting outside of the buildings or signage.

Greg Hith, 711 West Fourth Street, Tompkinsville, Kentucky, was present and sworn in prior to speaking on behalf of the application:

- Representative of Stevens Manufacturing, a manufacturer of concrete batch plants and was hired to manufacture the applicant's proposed plant.
- The layout is different than what is shown in the PowerPoint and in the board members' packets. The hoppers will be located on the left and the silos on the right so the central dust collector can be utilized for both plants. The piece of equipment and height will be the same, the only change is the side where it is located.
- Described the process of the dust collection system. The cartridge is 99% efficient to one micron size – no dust escape when the trucks are loading. This will be of great benefit to the applicant and to the adjoining properties.
- The new plant will be quieter than the existing plant because everything is new.
- When the plant is closed for the day, the dust collector is shut down and there is no noise.

Motion was made by Board Member Riley and seconded by Board Member Davis to add an additional two minutes to the applicant's presentation. The motion carried.

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

Mr. Hith responded to questions by the Board:

- The existing silo is about 50-55 feet tall.
- Instead of sitting atop the silo, the new central dust collector will sit on the ground between the two silos.
- With the current system a lot of dust is escaping. With the new system, almost no dust will escape.

Mr. McKinney responded to questions by the Board:

- There is currently no dust collection at the loading point. The new plant will mitigate this.
- The wheel-washer system is no longer on site. The driveway is maintained with fresh gravel so nothing is carried out onto the road.
- All of the conditions of approval in the 1996 case have been met including; road-widening, Oldham County Water improvement.
- Trees were planted on the west side of the property line but they have since been taken out. They will be put back and maintained as a condition of approval of this application.
- They tried the wheel-washer but it made a bigger mess.

Motion was made by Board Member Riley and seconded by Board Member Davis for a short recess to review the Board of Adjustment minutes from the 1996 case. Motion carried.

Motion was made by Board Member Riley and seconded by Board Member Davis to come back into session. Motion carried.

(4) Testimony of the Opposition: None.

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

(6) Rebuttal and Final Statement by the Applicant:

Attorney Clubb stated that he believes it was a close call whether or not the applicant needed to come forward to apply for an additional conditional use permit. Erring on the safe side, it makes sense especially because they needed to come to the board for a variance. The applicant has been at that location since 1997 and has not received any complaints and the applicant has agreed to the conditions of approval which include erecting a buffer on the east and south side of Oldham County Water District property. This is a tax-paying business in Oldham County that has continued to provide a service to the members of the county and there will be no more traffic generated because of this plant. This addition is needed to this plant in order for the applicant's business to remain viable.

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

(8) Board Discussion and Final Decision:

**Findings and Decisions
Docket OC-15-013
Conditional Use Permit**

Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-013 for a Conditional Use Permit for a proposed concrete plant at 1951 Button Lane, LaGrange:

1. The use is desirable to the community;
2. It is not in conflict with the goals and objectives of the Comprehensive Plan;
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 conditional use permit shall only apply to the application considered at the July 16, 2015 Oldham County Board of Adjustments public hearing.
2. A landscape buffer will be established and maintained between the applicant's property and the Oldham County Water District's property.

The vote was as follows:

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

No: None.

Abstain: None.

Absent: Houchens

Motion carried on a vote of 4-0.

**Findings and Decisions
Docket OC-15-014
Height Variance**

Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-014 for a Height Variance for a proposed structure at 1951 Button Lane, LaGrange:

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 July 16, 2015 Oldham County Board of Adjustments public hearing.

The vote was as follows:

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

No: None.

Abstain: None.

Absent: Houchens

Motion carried on a vote of 4-0.

Motion was made by Board Member Riley and seconded by Board Member Davis to recess the meeting at 11:15 a.m. to review the topography of 6720 Bohannon Lane, LaGrange in order to make a decision on Docket OC-15-012. The meeting will reconvene after visiting the property. The motion carried with a unanimous voice vote.

Motion was made by Board Member Davis and seconded by Board Member Riley to reconvene the meeting at 12:07 p.m. The motion carried with a unanimous voice vote.

**Findings and Decisions
Docket OC-15-012
Accessory Structure Variance**

Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-012 for a Variance to allow the accessory structure to be located in front of the primary structure because:

1. Will not allow an unreasonable circumvention of the requirements of the zoning regulations because the drainage due to topography of the lot in placement of the existing lateral lines precludes other building options.

Motion was made by Board Member Allen and seconded by Board Member Riley to amend the original motion of approval to add second condition of approval: The existing shed on the property must be removed after the garage is constructed.

The vote was as follows:

Yes: Board Member Otterback, Riley and Allen.

No: Board Member Davis

Abstain: None.

Absent: Houchens

Motion carried on a vote of 3-1.

Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-012 for a Variance for a proposed accessory structure because:

1. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because the drainage due to topography of the lot in placement of the existing lateral lines precludes other building options.

Conditions of Approval:

1. The variance shall only apply to the application considered at the July 16, 2015 Oldham County Board of Adjustments public hearing.
2. The existing shed on the property must be removed after the garage is constructed.

The vote was as follows:

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

No: None.

Abstain: None.

Absent: Houchens

Motion carried on a vote of 4-0.

Approval of Minutes – June 18, 2015

Motion was made by Board Member Riley and seconded by Board Member Davis to approve the minutes of June 18, 2015 as submitted.

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

Other Business: None

Motion was made by Board Member Allen and seconded by Board Member Riley to adjourn the meeting at 12:30 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, August 20, 2015, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

Brooke Radcliffe
Community Planner

Approved:

Larry Otterback, Chairperson