

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

**Thursday, August 20, 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  
Rob Houchens

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

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Board Member Riley called and read Docket OC-15-015.

**Docket OC-15-015** – An application has been filed requesting a Conditional Use Permit for a second accessory structure located at 3206 Wildwood Trail, LaGrange.

**(1) Presentation by Staff:**

Community Planner Brooke Radcliffe presented the following:

- Summary of the application.
- Case History (see Staff Report dated August 20, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Radcliffe responded to questions by the Board:

- The applicant has a pool house under construction and is considered the first detached accessory structure.
- A permit was issued for the pool house and met all permitting and zoning requirements.
- Setbacks are not shown on the plot plan but appears to in excess of the required minimum of 5 feet.

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

Gary Green, 3206 Wildwood Trail, LaGrange, was present and sworn in prior to speaking on behalf of the application:

- Woods and underbrush will be removed to place the building on the property.

- The building will be approximately 120 feet from the left side yard and 120 feet from the rear yard.
- Adjoining property owner homes are not visible from the property; the properties along the rear of the lot all have homes facing Old Sligo Road and their back yards about the property.

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

Mr. Green responded to questions by the Board:

- Property lines are still staked from original purchase of the land.
- Building will be used to store lawn equipment, recreational vehicles and storage of pool equipment and supplies during the winter.
- Building will be 40'x40' with a 10' overhang and two 10' overhead doors; sheet metal sides with wainscoting and colors to match the pool house and residence.
- There will be a bathroom in the building but will not have living space.
- No commercial activity will take place in the building.
- No one will live in the structure.
- Agrees to have a side and rear yard setback of 40 feet.

**(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-15-015  
Conditional Use-Second Accessory Structure**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve Docket OC-15-015, a request to have a second accessory structure because the proposed use is essential or desirable to the community and is not in conflict with the elements, objectives and policies of the Comprehensive Plan because:

- The property is zoned AG-1 Agricultural.
- The proposed use is compatible with surrounding land use and the general character of the area.

Conditions of Approval:

1. Building shall not be closer than 40 feet from any property line.
2. The conditional use permit shall only apply to the plan considered at the August 20, 2015 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Riley, Otterback, Allen, Houchens 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-15-016.

**Docket OC-15-016** – An application has been filed requesting a Front Yard Variance for an existing structure located at 1711 Jaxon Way, Goshen.

**(1) Presentation by Staff:**

Community Planner Brooke Radcliffe presented the following:

- Summary of the application.
- Case History (see Staff Report dated August 20, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Radcliffe responded to questions by the Board:

- At the time the of the permit application the plot plan showed the structure to be located behind the required front yard setback of 35 feet.
- The building permit was issued February 2015.

Mr. Urban responded to the questions by the Board:

- The builder is responsible for the survey of the lot.
- Normally a surveyor stakes the corners of the lot and then performs an “as-built” survey once construction is complete.
- There are a number of positions the Board could take on this type of variance request for a structure that has already been built but you would either approve, approve with conditions or deny.
- The board must determine if the variance request is from an action that was done to circumvent the regulations or was it a mistake.

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

Dennis Jones, Matt Jones Construction Co, Inc., 1200 N Highway 393, Goshen, was present and sworn in prior to speaking on behalf of the application:

- The setback issue was a mistake and was the person responsible for laying out the house on the lot.
- Has been a builder since 1973 and this is the second time to ever have a front setback variance request.
- This particular house was a modified plan which extended the garage and did not take into consideration that change when laying out the foundation.
- There was no reason to move the house forward into the front setback because there was adequate room for the house on the lot and was just a mistake.
- Asking for the variance so the issue doesn't affect future owners.

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

Mr. Jones responded to questions by the Board:

- Was the person responsible for laying out the house on the lot and modified garage layout was not taken into consideration.
- The house is within the front setback; the garage is the portion that extends into the front setback.
- The error is not noticeable to the common person.
- If the variance request was denied the impact would be reflected back to the title insurance company.
- The entire front portion of the garage is what is encroaching into the setback.
- Accepts responsibility for the mistake.
- Has built over 400 homes over the years in Oldham County and this is the second variance request.
- The process for staking a home is pretty solid and not sure of any changes in the practice to keep from having these types of issues in the future.
- The area to the left of the lot in question is part of the future development of the subdivision.

Mr. Urban stated that he attends the local Building Industry Association meetings and will bring up this issue at the meeting next Thursday to all the builders and suppliers in attendance.

- (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-15-016  
Front Yard Variance**

Motion was made by Board Member Davis and seconded by Board Member Riley to approve Docket OC-15-016, a front yard setback variance of 4.8 feet for an existing structure located at 1711 Jaxon Way 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:

- The error is actually slight in comparison to the tolerance.

**Conditions of Approval:**

1. The conditional use permit shall only apply to the application considered at the August 20, 2015 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Riley, Otterback, Houchens 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-15-017.

**Docket OC-15-017** – An application has been filed requesting a Front Yard Variance for an existing structure located at 13006 Pond Creek Drive, Goshen.

**(1) Presentation by Staff:**

Planner Brooke Radcliffe presented the following:

- Summary of the application.
- Case History (see Staff Report dated August 20, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Radcliffe responded to questions by the Board:

- The entire structure is located in front of the 35-foot building line; the closest point of the house to the front property line is 31.78 feet.

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

Joseph M. McCoy, 13006 Pond Creek Drive, was present and sworn in prior to speaking on behalf of the application:

- Recently relocated from Georgia to Kentucky and purchased the home from Matt Jones Construction.
- Confirmed he is making the application for the variance and not the builder.

Dennis Jones, Matt Jones Construction Co, Inc., 1200 N Highway 393, Goshen, was present and sworn in prior to speaking on behalf of the application:

- Unsure how this mistake happened; possibly the foundation crew shifted the house during excavation and the curvature of the road was not considered.
- Asking for the variance to ensure a clean title for future purchasers.

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

Mr. Jones responded to questions by the Board:

- Both offsets of the house encroach into the front yard setback.
- This was built as a spec house.
- The purpose of the 35-foot building line is to keep the fronts of all the homes in line and maintain the esthetics of the subdivision.
- If the homes were pushed back further than the 35-foot building line you would have an increase in driveway costs and installation of utilities.
- The fence is located behind the house.
- Most banks required a survey at the time of closing 5-10 years ago but today banks rarely as for them.
- Agrees that there will need to be more due diligence on his part in the future to keep from making mistakes that require variances.
- The entire house would have to be torn down to correct the error.

Mr. McCoy responded to questions by the Board:

- Was not aware of the encroachment at the time of purchase.

- (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-15-017  
Front Yard Variance**

Motion was made by Board Member Houchens and seconded by Board Member Davis to approve Docket OC-15-017, a front yard setback variance of 3.22 feet for an existing structure located at 13006 Pond Creek Drive, because it will not alter the essential character of the general vicinity because:

- The error of 3.22 feet will not be as noticeable because it is on a corner lot.

**Conditions of Approval:**

1. The conditional use permit shall only apply to the application considered at the August 20, 2015 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Riley, Otterback, Houchens, 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-15-018.

**Docket OC-15-018** – An application has been filed requesting a Front Yard Variance for a proposed addition on an existing structure located at 4900 Fox Run Road, Buckner.

**(1) Presentation by Staff:**

Community Planner Brooke Radcliffe presented the following:

- Summary of the application.
- Case History (see Staff Report dated August 20, 2015, Exhibit A).
- Notes.
- Aerial Photos of the site
- Photos of property.

Ms. Radcliffe responded to questions by the Board:

- The applicant originally applied for a front yard and side yard variance but has decided to consolidate the two parcels which negates the need for a side yard variance.
- The current buildings on the property do not meet the current front yard setback requirement of 100 feet but were built prior to the regulation and would be grandfathered and considered a legal, non-conforming structure.
- If the building was pushed back 12+ feet it would then be on top of an existing sewer easement and would not be allowed.

- Side yard setback requirements in industrial zonings is 35 feet.

Mr. Urban responded to questions by the Board:

- The applicant did not consolidate the lots prior to the request because they were asking for the variance first. If the variance was not granted there would be no need to consolidate.
- The Board may add as a condition of approval that a minor plat must be filed and approved prior to the issuance of a building permit.
- Provided clarification of rear yard and side yard setbacks.

Mr. Urban stated that there have been discussions with the Study Review Committee (SRC) regarding the trends in industrial zoned properties and the current setback of 100 feet isn't suitable for today's needs. SRC has agreed that a 50-foot front setback is more appropriate for industrial zoned properties and has recommended that change in the Zoning Ordinance. The next step is to get formal recommendation from the Planning Commission which will then go to the legislative bodies for review, approval and adoption.

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

William G. Howard, 5710 Old Zaring Road, Crestwood, was present and sworn in prior to speaking on behalf of the application:

- Current owner of the property.
- If the building was pushed back 13 feet to meet the 100-foot front yard setback the building would encroach into the sewer easement and would look out of place compared to the other two buildings on the property.
- Business continues to grow and needs additional space for staff and production.

Matt Gullo, Kovert Hawkins Architects, 630 Walnut Street, Jeffersonville, was present and sworn in prior to speaking on behalf of the application:

- Overview of the front yard variance request to allow the new addition.
- There will be a ped-way between the two buildings.
- Did not attached the two buildings because of the location of the electrical panel on the existing building and the cost to have it relocated.
- Review of side yard and rear yard setback requirements.

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

Mr. Howard responded to questions by the Board:

- If the variance was not approved it would restrict the growth of the company and they would not be able to expand the buildings in any other direction.

**(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-15-018**

**Front Yard Variance**

Motion was made by Board Member Houchens and seconded by Board Member Riley to approve Docket OC-15-018, a front yard setback variance of 12.7 feet for a proposed structure located at 4900 Fox Run Road, because it will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations because:

- The evidence presented and existing building being grandfathered, it would be a continuation of the buildings and character of the site.

**Conditions of Approval:**

1. The conditional use permit shall only apply to the application considered at the August 20, 2015 Oldham County Board of Adjustments public hearing.
2. Consolidation of parcels 31-00-00-4N and 31-00-00-4L is required as part of the approval.

The vote was as follows:

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

No: None.

Abstain: None.

Absent: None.

Motion carried on a vote of 5-0.

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**Approval of Minutes – June 18, 2015**

Motion was made by Board Member Davis and seconded by Board Member Riley to approve the minutes of July 16, 2015 as submitted.

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

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**Other Business:**

Amy Alvey stated filing deadline in next Wednesday, August 26<sup>th</sup> and will advise the Board if there will be a September meeting via email.

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Motion was made by Board Member Riley and seconded by Board Member Davis to adjourn the meeting at 11:05 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, September 17, 2015, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

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Amy Alvey  
Senior Planner

Approved:

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Larry Otterback, Chairperson