

**MINUTES FOR REGULAR MEETING
OF THE LAGRANGE
BOARD OF ADJUSTMENTS AND APPEALS
Monday, June 17, 2024**

At 8:30 a.m. local time, on the above date, this meeting of the LaGrange 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 Chairman Keith Smith.

The following members were present:

Joe Pierce
Wayne Morgan
Al Earley

Others present and sworn in were Planning and Development Services Director Jim Urban, Assistant Director Brian Fogle, and Senior Planner Ryan Fischer. LaGrange City Attorney Beach Craigmyle was present for the meeting. Christy Edgar was the Secretary for the meeting.

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PUBLIC HEARING

Secretary Christy Edgar called and read Docket:

DOCKET LG-24-001 - An application has been filed requesting a Side Yard Setback Variance for a proposed detached Accessory Structure (garage) on property located at 305 Maple Avenue, La Grange. A Variance is being requested to construct the detached garage two (2) feet from the side property line requiring a Variance of three (3) feet (Zoning Ordinance Section 250-030). The property is zoned R-2A Residential District.

1. Introduction of the application by staff and questions by the board:

Senior Planner Ryan Fischer presented the following:

- Summary of the application.
- Case History (see Exhibit A, Staff Report dated, June 17, 2024).
- Site history.
- Aerial Photos of the site.

2. Presentation by the applicant or representative and others in support of the application:

Bob Gastright, 305 Maple Court, LaGrange, was present and sworn in prior to presenting.

- This variance would allow the garage to line up with the existing driveway.
- The two sheds will be removed from the property.

3. Questioning of the applicant and those in support of the application by the board:

Board Member Morgan asked, would the footer of the garage be placed two feet from the property line, or would the overhang of the garage be two feet from the property line?

Mr. Gastright replied, it will probably be the overhang, but I may not need the full three feet because I am not sure how far it will hang over.

Director Urban replied, typically it is done from the foundation or the wall.

Board Member Morgan asked, will there be gutters on the neighbor's side with downspouts to keep the runoff water on your property.

Mr. Gastright replied, yes.

4. Testimony and questions by those opposed to the application by the board:

None

5. Questioning of the applicant and those opposed to the application by the board: None

6. Rebuttal evidence and Cross Examination by the Applicant: None

7. Rebuttal evidence and Cross Examination by the Opposition: None

8. Final statement of the Applicant: None

9. Board Discussion: None

**Findings and Decision
Docket Number LG-24-001
Variance - Side Yard Setback
305 Maple Court**

Required Side Yard Setback: 5 feet

Requested Side Yard Setback: 2 feet

Requested Variance: 3 feet

Motion was made by Board Member Morgan and seconded by Board Member Pierce to approve the side yard setback variance at 305 Maple Court, LaGrange, 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 zoning regulations. This motion includes the following Conditions of Approval.

Conditions of Approval:

1. The variance shall only apply to the plan reviewed at the June 17, 2024, LaGrange Board of Adjustments public hearing.
2. There shall be no living space and no commercial use in the detached accessory structure.

The vote was as follows:

Yes: Board Members Earley, Morgan, and Pierce.

No: None

Abstain: None

Motion passed on a vote of 3-0.

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Secretary Christy Edgar called and read Docket:

Docket LG-24-002 – An application has been filed requesting Variances for a proposed convenience store and fuel station on property located at 800 West Jefferson Street, La Grange. Variances are being requested to construct the convenience store 16 feet from the Jefferson Street property line requiring a Variance of 14 feet, seven (7) feet from the rear property line requiring a Variance of 18 feet, and an impervious surface area of 84% requiring a Variance of 19% (Zoning Ordinance Section 170-020). A Variance is being requested to construct a fuel station 9.64 feet from the Franklin Avenue property line requiring a Variance of 5.36 feet (Zoning Ordinance Section 250-100). Variances are being requested to construct a Refuse Disposal Container (dumpster) seven (7) feet from the rear property line requiring a Variance of 18 feet and four (4) feet from the side property line requiring a Variance of three (3) feet (Zoning Ordinance Section 250-160). The property is zoned C-3 General Business District.

1. Introduction of the application by staff and questions by the board:

Assistant Director Fogle presented the following:

- Summary of the application.
- Case History (see Exhibit A, Staff Report dated, June 17, 2024).
- Site history.
- Aerial Photos of the site.

2. Presentation by the applicant or representative and others in support of the application:

Brooken Smith, Swansburg & Smith, PLLC, 117 W. Main St., LaGrange, was present and represented the applicant.

- Zoned C-3, General Business District.
- Permitted uses include vehicle repair including service stations.
- Tear down vacant 8,522 SF repair shop and build a new 3,197 SF convenience store building with fuel station.
- Will improve and enhance landscaping and barriers with residential properties.
- Reduce impervious surface.
- New privacy fence with greenery between building and Anchor Ave Condos.

3. Questioning of the applicant and those in support of the application by the board:

Board Member Earley asked, have you talked to the neighbors and what type of feedback have you received?

Attorney Smith replied, I am not aware of any discussions with the residents.

4. Testimony and questions by those opposed to the application by the board:

Wayne Theiss, 5103 Glen Cove Road, LaGrange, was present and sworn in prior to presenting.

- Own the property at 103 Anchor Ave.
- Submitted a petition (see Exhibit A, Opposition).
- This property is mostly a residential area.
- Excessive lighting, excessive traffic in and out, and excessive noise late hours and early hours will affect the neighbors.
- The dumpster's location is too close to the resident.
- This will alter the living area.

5. Questioning of the applicant and those opposed to the application by the board:

Board Member Earley asked, is there water problems now?

Mr. Theiss replied, no.

Board Member Earley asked, if this project could be done with no variances would you still object to it?

Mr. Theiss replied, probably, this type of establishment should be in an area that would not affect any residents.

Director Urban asked, will there be cooking on the property? Would they have anything that will be vented?

Josh Cecil, 214 Fairway West, Nicholasville, was present and sworn in prior to replying, yes there are plans to have counter service cooking, at this time not sure about the venting, that would depend on the size of the kitchen which has not been completed yet.

Director Urban asked, will there be an entrance into the building from the Anchor Ave side?

Mr. Cecil replied, no egress doors, and the HVAC would be either on the roof or between the building and the dumpster.

Director Urban asked, could you bring the dumpster closer to the property line to reduce the request for the variance?

Mr. Cecil replied, you start getting into the island that would be there for the other landscaping requirements inside, could potentially bring it a little bit further south but then the angle of the garbage truck backing into it is not as favorable for that turn movement.

6. Rebuttal evidence and Cross Examination by the Applicant:

Attorney Smith's rebuttal statement, the general uses for the property is not why we are here today, it's whether or not the variances are allowable under the standards, while there are concerns or fears however I did not hear any evidence that the requested variances would affect the public safety or welfare and variances we're seeking are doing a better job putting the property into a use that is in greater conformity with the regulations than it exists today.

7. Rebuttal evidence and Cross Examination by the Opposition: None

8. Final statement of the Opposition:

Mr. Theiss's final statement, the variances will affect the public safety and welfare, this business is fast-paced and comes in and out of Hwy 146 which is a high traffic road and I believe this could be a safety issue, and this will cause a nuisance to the surrounding property owners and their property values.

9. Final statement of the Applicant:

Attorney Smith's final statement, the objections that we've heard generally go to the nature of the intended use and does not go to the variances that we are requesting. The proposed variances will not affect the traffic or the neighboring properties.

10. Board Discussion:

Director Urban summarized the docket.

Motion was made by Board Member Pierce and seconded by Board Member Earley to take a 15-minute recess. Motion carried by unanimous voice vote at 10:00a.m.

Chairman Smith called the board members back to order at 10:15a.m.

Attorney Beach Craigmyle joined the meeting at 10:15a.m.

**Findings and Decision
Docket Number LG-24-001
Variance
Street Side Yard Setback (Jefferson Street)
800 West Jefferson Street**

Required Minimum Street Side Yard Setback:	30 Feet
Proposed Side Yard Setback:	16 Feet
Variance Requested:	14 Feet

Motion was made by Board Member Morgan and seconded by Board Member Pierce to deny the variance for a side yard setback variance (Jefferson Street) at 800 West Jefferson Street, LaGrange, because it will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, will cause a hazard or nuisance to the public, and will allow an unreasonable circumvention of the requirements of the zoning regulations because the increased traffic and the type of traffic that will be coming and going from this proposed establishment this property will need to maintain the required setbacks.

The vote was as follows:

Yes: Board Members Morgan and Pierce.

No: Board Member Earley

Abstain: None

Motion passed on a vote of 2-1.

Findings and Decision

**Docket Number LG-24-001
Variance
Rear Yard Setback (Anchor Ave)
800 West Jefferson Street**

Required Minimum Rear Yard Setback:	25 Feet
Proposed Rear Yard Setback:	7 Feet
Variance Requested:	18 Feet

Motion was made by Board Member Morgan and seconded by Board Member Pierce to deny the variance for the rear yard setback (Anchor Ave) at 800 West Jefferson Street, LaGrange, because it will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, will cause a hazard or nuisance to the public, and will allow an unreasonable circumvention of the requirements of the zoning regulations.

The vote passed by voice votes:

Yes: Board Members Morgan and Pierce.

No: Board Member Earley.

Abstain: None.

Motion passed on a vote of 2-1.

**Findings and Decision
Docket Number LG-24-001
Variance
Lot Impervious Surface Percentage
800 West Jefferson Street**

Maximum Allowed Lot Impervious Surface:	65 Percent
Proposed Lot Impervious Surface:	84 Percent
Variance Requested:	19 Percent

Motion was made by Board Member Morgan and seconded by Board Member Pierce to approve the variance for the lot impervious surface at 800 West Jefferson Street, LaGrange, because it will not alter the essential character of the general vicinity and it will not cause a hazard or nuisance to the public.

The vote passed by voice votes:

Yes: Board Members Earley, Morgan, and Pierce.

No: None.

Abstain: None.

Motion passed on a vote of 3-0.

Findings and Decision
Docket Number LG-24-001
Variance
Fuel Canopy Setback (Franklin Ave)
800 West Jefferson Street

Required Minimum Setback: 15.00 Feet
Proposed Setback: 9.64 Feet
Variance Requested: 5.36 Feet

Motion was made by Board Member Pierce and seconded by Board Member Morgan to deny the variance for the fuel canopy setback at 800 West Jefferson Street, LaGrange, because it will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, will cause a hazard or nuisance to the public, and will allow an unreasonable circumvention of the requirements of the zoning regulations.

The vote passed by voice votes:

Yes: Board Members Morgan and Pierce.

No: Board Member Earley.

Abstain: None.

Motion passed on a vote of 2-1.

Findings and Decision
Docket Number LG-24-001
Variance
Garbage Dumpster Setback (Anchor Ave)
800 West Jefferson Street

Required Minimum Rear Yard Setback: 25 Feet
Proposed Rear Yard Setback: 7 Feet
Variance Requested: 18 Feet

Motion was made by Board Member Morgan and seconded by Board Member Pierce to deny the variance for the garbage dumpster setback (Anchor Ave) at 800 West Jefferson Street, LaGrange, because it will alter the essential character of the general vicinity and will cause a hazard and nuisance to the public.

The vote passed by voice votes:

Yes: Board Members Earley, Morgan, and Pierce.

No: None.

Abstain: None.

Motion passed on a vote of 3-0.

**Findings and Decision
Docket Number LG-24-001
Variance
Garbage Dumpster Setback (Franklin Ave)
800 West Jefferson Street**

Required Minimum Side Yard Setback: **7 Feet**
Proposed Side Yard Setback: **4 Feet**
Variance Requested: **3 Feet**

Motion was made by Board Member Pierce and seconded by Board Member Morgan to deny the variance for the garbage side yard setback (Franklin Ave) at 800 West Jefferson Street, LaGrange, because it will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, and it will cause a hazard or nuisance to the public.

The vote passed by voice votes:

Yes: Board Members Earley, Morgan and Pierce.

No: None.

Abstain: None.

Motion passed on a vote of 3-0.

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Approval of Minutes

Motion was made by Board Member Morgan and seconded by Board Member Earley to approve the minutes of August 21, 2023, as submitted. Motion carried by unanimous voice vote.

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Motion was made by Board Member Earley and seconded by Board Member Pierce to adjourn the meeting at 10:38 a.m. Motion carried by unanimous voice vote.

Approved by:



Keith Smith, Chairman

Respectfully Submitted by:



Christy Edgar, Secretary