

DOCKET 1173

DATE OF HEARING	May 4, 2015
NAME	Mr. David Dempsey
DESCRIPTION OF PROPERTY	1257 Log Cabin Lane
CAUSE FOR APPEAL	Relief from the decision of the Building Official for an addition which violates Section IV, A, 4 (c) and V, C, 1 (b) of Zoning Ordinance 1175.
RULING OF THE BOARD	After discussion regarding alternate locations for the proposed improvements, the applicant, property owner of 1257 Log Cabin Lane, requested that the matter be continued in order to consider and develop an alternate plan. The Board voted 5 – 0 to continue the matter.

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, May 4, 2015

DOCKET 1173
1257 Log Cabin Lane

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, May 4, 2015, at City Hall.

The following members of the board were present:

Mr. Stanley Walch, Chairman
Ms. Robbye Toft, Vice-Chairman
Mr. David Schlafly
Ms. Liza Forshaw
Mr. John Shillington

Also present were: Mr. Michael Gartenberg, Building Official; Ms. Anne Lamitola, Director of Public Works; Mayor Nancy Spewak

Mr. Walch called the meeting to order at 4:00 PM.

Notice of Public Hearing, as follows:

**NOTICE OF PUBLIC HEARING
ZONING BOARD OF ADJUSTMENT
CITY OF LADUE, MISSOURI
DOCKET NUMBER 1173**

Notice is hereby given that the Zoning Board of Adjustment of the City of Ladue, St. Louis County, Missouri, will hold a public hearing on a petition submitted by David Dempsey, 1257 Log Cabin Lane, St. Louis, MO 63124, requesting relief from the ruling of the Building Official denying a building permit for a pool and pool house which violates Sections IV, A, 4, (c) & V, C, 1, (b) of Zoning Ordinance 1175.

The hearing will be held at 4:00 p.m. on Monday, May 4, 2015, at the City Hall, 9345 Clayton Road.

The hearing will be public and anyone interested in the proceedings will be given the opportunity to be heard.

Pursuant to Section 610.022 RSMo., the Zoning Board of Adjustment could vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under section 610.021 (1) RSMo.

Stanley Walch, Chairman
Zoning Board of Adjustment

Mr. Walch introduced the following exhibits to be entered into the record:

Exhibit A – Zoning Ordinance 1175, as amended;
Exhibit B – Public Notice of the Hearing;
Exhibit C – Permit denial dated March 5, 2015;
Exhibit D – List of Residents sent notice of meeting;
Exhibit E – Letter from the resident requesting the variance dated April 8, 2015,
and all letters from neighbors submitted to file;
Exhibit F – Entire file relating to the application.

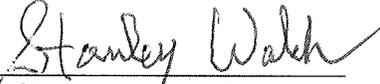
Board members asked Mr. Gartenberg to provide a synopsis of the request.

Mr. David Dempsey, property owner of 1257 Log Cabin Lane, was sworn in. He stated that the unusual lot configuration and two frontages produce a hardship on his property. The commission discussed the variations that are possible on the property. Mr. Dempsey stated that he is in the process of considering a pared down project with a smaller pool house with no bedroom. He stated that cabin portion of the project will be reduced to a two-room structure. Ms. Forshaw asked if revised plans are available and Mr. Dempsey indicated that they will need to be prepared.

Mr. Todd Baur, 6 Log Cabin Drive, read his letter of opposition into the record. He has concerns with regard to the site drainage.

Ms. Elizabeth Parker, 2 Log Cabin Drive, who had previously submitted a letter of opposition, expressed her concerns about the size of the pool house and cabin.

Mr. Walch asked if Mr. Dempsey wanted Board members to continue the matter so that a revised plan can be prepared. Mr. Dempsey agreed and stated he will make the revisions and resubmit plans to the Building Department. The Board agreed to continue the matter.


Mr. Stanley Walch, Chairman

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ZONING BOARD OF ADJUSTMENT

CITY OF LADUE

LADUE, MISSOURI

IN THE MATTER OF:)
)
DAVID DEMPSEY) Docket No. 1173
1257 LOG CABIN LANE)
LADUE, MISSOURI 63124)

Monday, May 4, 2015

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ZONING BOARD OF ADJUSTMENT
CITY OF LADUE
LADUE, MISSOURI

IN THE MATTER OF:)
)
DAVID DEMPSEY) Docket No. 1173
1257 LOG CABIN LANE)
LADUE, MISSOURI 63124)

BE IT REMEMBERED that on the 4th day of
May, 2015, hearing was held before the Zoning Board of
Adjustment of the City of Ladue, Missouri, at Ladue
City Hall, 9345 Clayton Road, in the City of Ladue,
State of Missouri 63124, regarding the above-entitled
matter before Bobbie L. Luber, Certified Court
Reporter, Registered Professional Reporter, Certified
Shorthand Reporter, a Notary Public within and for the
State of Missouri, and the following proceedings were
had.

A P P E A R A N C E S :

BOARD MEMBERS:

Mr. Stanley Walch, Chairman

Ms. Liza Forshaw

Ms. Robbye Toft

Mr. David Schlafly

Mr. John Shillington

Also Present:

Ms. Anne Lamitola

Mr. Michael W. Gartenberg

Mayor Nancy Spewak

Mr. David Dempsey

Mr. Todd Baur

Ms. Liz Parker

Court Reporter:

Bobbie L. Luber

Registered Professional Reporter #9209

Missouri CCR #621

Illinois CSR #084.004673

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St. Louis, MO 63131

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1 (The Meeting of the Zoning Board of
2 Adjustment of the City of Ladue having been previously
3 called to order at 4:00 p.m.)

4 CHAIRMAN WALCH: All right. The next --
5 the last hearing today is Docket Number 1173, which is
6 the application of David Dempsey at 1257 Log Cabin
7 Lane. And he is requesting relief from the ruling of
8 the building official denying a building permit for a
9 pool and pool house which violates various sections of
10 the Zoning Ordinance 1175.

11 First, Mr. Gartenberg, will you explain the
12 reason or reasons these plans were disapproved so the
13 audience and the members of the board have a clear
14 understanding of the issues in this case?

15 MR. GARTENBERG: Yes, sir, I would. The
16 subject property is located in the B residential
17 district. And in that district all setbacks of the
18 primary structure and accessory structures are 50
19 feet. That said, the property actually fronts two
20 streets. It fronts Log Cabin Lane and Log Cabin
21 Drive. And in addition to both of those frontages
22 being considered front yard, and the primary -- pardon
23 me, the required 50-foot front yard setback is
24 applicable.

25 We also have a code section that states

1 there may be no accessory structures placed between
2 the primary structure and that street. And what is
3 proposed by way of the cabin and pool house and the
4 swimming pool are accessory structures that are
5 subject to that limitation, and they are proposed to
6 be between the primary structure on the property and
7 Log Cabin Drive to the north.

8 That being said, to the north, I believe
9 it's to the west.

10 MR. DEMPSEY: Log Cabin Drive to the west.

11 CHAIRMAN WALCH: Does anybody have any
12 questions for Mr. Gartenberg?

13 MS. TOFT: What is the minimum lot size in
14 the B district?

15 MR. GARTENBERG: I believe it's 1.8 acres.
16 1.8 acres.

17 MS. TOFT: So this lot is a little under
18 the minimum?

19 MR. DEMPSEY: No. It's a little over. I
20 think it's 2.25 or 2-and-a-half, something like that.

21 MR. GARTENBERG: I don't know.

22 MS. TOFT: 2.2 acres according to the
23 architectural drawing.

24 MR. GARTENBERG: It says 2.2 acres up in
25 the top left-hand corner.

1 MS. TOFT: Thank you. Thank you,
2 Mr. Chairman.

3 CHAIRMAN WALCH: All right. Any other
4 questions? If not, I'm going to identify the exhibits
5 that are going to be part of the record of this
6 particular case.

7 The first is the public notice of this
8 hearing, and that will be marked as Exhibit B.

9 The denial letter from the building
10 official dated March 5, 2015 will be marked as Exhibit
11 C.

12 The list of residents to whom the notice of
13 public hearing was mailed will be marked as Exhibit D.

14 The appellant's letter requesting a
15 variance dated April 8th, 2015 and any other letters
16 in support and opposition of the letters will be
17 marked as Exhibit E. And I do understand,
18 Ms. Lamitola, that there was an email that was
19 received just today.

20 MS. LAMITOLA: Yes. That's correct. And
21 there was actually another letter that was in the file
22 that I copied to distribute that's dated April 30th.

23 CHAIRMAN WALCH: That letter was in our
24 file.

25 MS. LAMITOLA: I believe this is an

1 additional letter.

2 CHAIRMAN WALCH: This is an additional
3 letter?

4 MS. LAMITOLA: Yes.

5 CHAIRMAN WALCH: This is not in our file?

6 MS. LAMITOLA: No.

7 CHAIRMAN WALCH: Do we have an email here
8 someplace.

9 MR. SCHLAFLY: Here it is. I have it.

10 CHAIRMAN WALCH: I would propose that we
11 mark both the email and the additional letter as
12 Exhibit F, and we will give that to the court reporter
13 so they are in the files. They are both in opposition
14 to this particular development. And if the appellant
15 needs a copy of it, they will be over at the court
16 reporter's table waiting to be marked.

17 Finally, the entire file pertaining to the
18 application, including any memorandums from staff and
19 consultants of the Zoning Board of Adjustment of the
20 City of Ladue will be marked as Exhibit F.

21 So at this point I'm going to ask the
22 appellant, and anyone who wants to speak on behalf of
23 the appellant, to come forward, and give your name to
24 the court reporter and she will swear you in.

25 (At this time David Dempsey was sworn in by

1 the court reporter.)

2 MR. DEMPSEY: Well, Mr. Gartenberg
3 explained the predicament we are in, where we have
4 frontage on two streets. My address is on Log Cabin
5 Lane. Most of my frontage is on Log Cabin Lane. I
6 even questioned my ability to have access to Log Cabin
7 Drive since I'm not part of that association. I have
8 approximately, I think, 160 feet that fronts Log Cabin
9 Drive.

10 The proposed structure I think you viewed
11 is probably about 300 feet minimum from Log Cabin
12 Drive. The configuration of my L-shaped lot leaves me
13 with a hardship. The proposed pool and pool house are
14 both within the setbacks, and so they are all in a
15 buildable area of my lot. If I wanted to have an
16 existing home in any part of that setback, it would be
17 allowed. But because this is an accessory structure
18 and because of the shape of the lot and having the
19 frontage on the two streets, I have a hardship.

20 I would like to point out that four of my
21 neighbors that are right across the street, I don't
22 know the neighbor to the north, have the same
23 predicament, and they have a pool and a pool house.
24 One to the south of me has a pool and a pool house.
25 The one catty-corner to me that has Log Cabin Lane and

1 Rauscher; actually, two at Log Cabin Lane and
2 Rauscher.

3 By the reading of the ordinance, the way
4 Ladue has interpreted the ordinance, they both have
5 pools. And because they are on a corner lot they have
6 a pool that is exposed to another street, if you will.

7 I counted in my own neighborhood, I believe
8 there is at least eight, if not nine, because of the
9 shape of the lots or because of how many streets you
10 have going through the neighborhood and such.

11 I don't think this is something you all
12 directly consider, but the benefit to my neighbors is
13 there is an existing tennis court that encroaches in
14 the setback that is going to be removed. And there is
15 also the hut for the tennis court or pagoda that is
16 also already built into the setback that is
17 grandfathered that is going to be removed.

18 I can't think of anything else. Do you
19 guys have any questions for me?

20 MS. FORSHAW: I have a question, either for
21 you or for Mr. Gartenberg. Could you explain why the
22 pool itself violates the setback? When I look at the
23 drawing it seems to be in between.

24 MR. GARTENBERG: Liza, it doesn't violate
25 the setback but it's --

1 MR. DEMPSEY: Here is the setback.

2 MS. FORSHAW: Right. And the pool is here.

3 MR. DEMPSEY: It's inside the setbacks.

4 MR. GARTENBERG: It doesn't violate a

5 setback, but it is located between the primary

6 structure and that Log Cabin Drive frontage. So it's

7 an accessory structure, as is the clubhouse and the

8 pool house located between the primary structure and

9 the street, Log Cabin Drive.

10 All three of them, the clubhouse, the pool

11 house, and the pool are required to be in the building

12 envelope outside of the building setback line, and

13 they are proposed in that building envelope.

14 MS. TOFT: Mr. Gartenberg, if we were to

15 follow that this pool house could be moved forward of

16 the house, although the house is an existing

17 nonconforming, isn't it?

18 MR. GARTENBERG: Yes, it is.

19 MS. TOFT: You would have to move it into

20 the front yard of Log Cabin Lane to move it forward of

21 that existing house. There is no way effectively --

22 MR. SCHLAFLY: Is there anywhere you can

23 build this pool house without a variance?

24 MR. DEMPSEY: I'm confused as to whether --

25 does the pool house itself need a variance too, or

1 just the pool?

2 MR. GARTENBERG: The pool, pool house, and
3 what is identified as the cabin, all of them. They
4 are all considered to be accessory structures.

5 MS. FORSHAW: And the real reason is that
6 they lie between the main house and Log Cabin Drive?

7 MR. GARTENBERG: Log Cabin Drive, yes.

8 MR. SCHLAFLY: Because it's a front yard.

9 MR. DEMPSEY: That is considered a front
10 yard.

11 MR. SCHLAFLY: That is the sole reason that
12 you have to get a variance?

13 MR. DEMPSEY: I believe so.

14 MR. GARTENBERG: It's defined as being a
15 front yard because it's between the frontage of the
16 street and the primary structure.

17 MS. TOFT: So the cabin, pool house
18 structure, if it were moved to the west so it was
19 closer to the existing residence --

20 MR. DEMPSEY: That would be moving to it
21 the south.

22 MR. GARTENBERG: Correct.

23 MS. TOFT: Okay. So if we were to move it
24 closer to the existing residence, and to get it off
25 what I'm going to call it that L part, technically

1 that would not require a variance if it were moved
2 within --

3 MR. SCHLAFLY: In this.

4 MR. DEMPSEY: You can only see my building
5 setback line is right here.

6 MR. SCHLAFLY: You have to sandwich between
7 those two.

8 MR. DEMPSEY: I can put the pool here.

9 MR. GARTENBERG: I don't agree with that.
10 I believe even if you do that, it is still closer to
11 Log Cabin Drive than the house is.

12 MS. TOFT: Even though there is another
13 structure back there?

14 MR. GARTENBERG: Log Cabin Drive comes
15 through there in an angle.

16 MS. TOFT: Okay. So he has a 2.2 acre lot
17 with essentially no ability to have a swimming pool.

18 MR. GARTENBERG: It's pretty limited to be
19 able to build an accessory structure on that property.

20 MR. SHILLINGTON: Because of the shape of
21 the lot?

22 MR. GARTENBERG: Because of the shape of
23 the lot. Because of the shape of that property, and
24 it has that second frontage.

25 MS. FORSHAW: The proposed fence for the

1 pool, are there going to be variance issues? I see
2 the fence encloses a very large area around the pool
3 and patio.

4 MR. GARTENBERG: It does not.

5 CHAIRMAN WALCH: It does not?

6 MR. GARTENBERG: Correct.

7 MR. SCHLAFLY: There aren't any retaining
8 wall questions.

9 CHAIRMAN WALCH: Mr. Gartenberg, what if
10 the Ladue Drive (sic) were regarded as the rear of the
11 house as opposed to the second front yard?

12 MR. GARTENBERG: I'm sorry, Mr. Chairman?

13 CHAIRMAN WALCH: What would be the
14 situation if Log Cabin Drive was regarded as the rear
15 of the house as opposed to one of the front yards of
16 the house?

17 MR. GARTENBERG: You wouldn't be hearing
18 this issue.

19 MR. SCHLAFLY: Because it's a private
20 street we are hearing about it.

21 MR. GARTENBERG: And if Mr. Dempsey didn't
22 have access to that street, we would consider it to be
23 a rear yard.

24 MR. SCHLAFLY: Isn't that solvable?

25 MR. DEMPSEY: The attorney for Ladue said

1 no. We proposed a deed restriction that would not
2 allow me to access it. And he said that wouldn't be
3 enforceable.

4 MR. GARTENBERG: Well, the city's position
5 is the city can't be a part of that determination, the
6 deed restriction for, or the determination from the --
7 from the trustees or whoever has jurisdiction over
8 that road is not a city road. Whoever has
9 jurisdiction would have to make that determination.

10 MR. DEMPSEY: That makes the question, do I
11 even have access to Log Cabin Drive. I'm not part of
12 Log Cabin Drive. I did look for some indentures that
13 were in effect, and I couldn't locate any. I'm not
14 aware of any that were in effect. That would maybe
15 address that the neighborhood was limited to just
16 people with Log Cabin Drive addresses or whatever.

17 I questioned -- I mean, I would think there
18 would be opposition from neighbors if I wanted to put
19 a driveway back there. But according to Ladue I guess
20 I have the ability.

21 MR. GARTENBERG: Well, we don't know that
22 you don't have. Until it's demonstrated that you
23 don't have that access, we believe that you do have
24 that frontage, and the city can't determine that you
25 don't have that access, it's not a city street.

1 MS. TOFT: Mr. Gartenberg, if Mr. Dempsey
2 were to run a covered walkway between his residence
3 and the cabin and the pool house, would be it be
4 considered an accessory structure?

5 MR. GARTENBERG: Of about 250 feet or so.

6 MS. TOFT: I ask this because I think it's
7 important that neighbors who may object need to
8 understand the avenues available to the property owner
9 get what the property owner wants, and the neighbors
10 may end up regretting voicing objections to what is
11 before them because there are lots of way to skin a
12 cat, many of which may be far less desirable than what
13 is before the Zoning Board of Adjustment.

14 I'm just asking these questions, not saying
15 that it would be architecturally desirable, but I'm
16 just asking.

17 MR. GARTENBERG: From an architectural
18 perspective there certainly could be some issues with
19 that. From a zoning perspective it causes the pool
20 house and the cabin to be part of the primary
21 structure because they would be attached. But we
22 still have the issue of the pool. Unless the pool
23 would be put on the other side of the pool house and
24 the cabin.

25 MS. TOFT: And could the property owner

1 tear down the existing residence and build entirely on
2 the longer parcel of land?

3 MR. GARTENBERG: As long as it's not within
4 those 50 foot setbacks that exist. There is a
5 building envelope that runs along Log Cabin parallel
6 to it. And it also turns in the direction exhibited
7 west. But the building envelope and a primary
8 structure could be built within that.

9 MS. TOFT: And build a whole house?

10 MR. DEMPSEY: 20,000, 15,000 foot house.

11 MS. FORSHAW: Mr. Dempsey, we didn't get to
12 see -- at least I didn't get to see this property from
13 all possible angles. Would your proposed improvements
14 be visible from Log Cabin Drive?

15 MR. DEMPSEY: Yes. I mean, this is planted
16 with vegetation back here, and I plan on planting a
17 little bit more back here. But you can see the pool
18 at some point and the structures. It's, you know,
19 there is a fence that runs from here all the way
20 around from this yard, it wouldn't be visible, but
21 driving down the street I think somebody could glance
22 and see that there is something there.

23 MR. GARTENBERG: Let me point this out. If
24 you are looking at different scenarios of what could
25 happen, not that Mr. Dempsey would ever want to, but

1 if the house were proposed, the pool house, pool, and
2 cabin are even slightly to the west of that, that
3 could happen. In which case as long as that pool, the
4 house comes to the setback line from Log Cabin Lane,
5 the pool could then be built to the south of that,
6 basically switching places of the pool house and pool
7 and the house from what is being proposed at this
8 point.

9 MR. DEMPSEY: As I said, I questioned -- I
10 got into this with Mr. Gartenberg. I sent you a list,
11 I think there was like eight homes in my neighborhood.
12 I questioned why I was requested to get a variance
13 when there was eight homes, four of them that I can
14 see out my own window that have this two frontage
15 issue, and they have pools in their front yard.

16 MR. GARTENBERG: I want to make sure the
17 record is clear with regard to that, because there
18 were eight, or maybe even more that I did look at, and
19 some of them went back to 1950. So those that we were
20 able to get information on.

21 MR. DEMPSEY: The one neighbor had a pool
22 house built in 2002.

23 MR. GARTENBERG: I agree with that. But
24 many of the others are compliant situations where the
25 pool is to the road and the houses. I do agree there

1 are one or two of them. If they had them done a long
2 time ago I don't know.

3 MR. DEMPSEY: There was definitely a newer
4 home built, too, that has the pool the front yard. I
5 don't know if they had to get a variance.

6 MR. SCHLAFLY: That is an accessory, this
7 is a pretty large 3200 square foot, two-story.

8 MR. DEMPSEY: If the variance is granted,
9 and I don't know there really should be any specific
10 as to when it's built, but I got a little excited.
11 Actually, there is not going to be a guest room. I
12 don't, just that I had a bid come in, and I was like I
13 don't need all of this space. So there is not going
14 to be any -- there will be a basement underneath the
15 cabin. The pool house, it's going to shrink.

16 Again, this is more of an aesthetic type of
17 thing. But I don't have an overly large house. It's
18 about 3300 square feet. It was originally built in
19 1893. I don't want to overwhelm my existing house,
20 and frankly have it look like there is a whole second
21 house on my property. And that may be some of the
22 concern of the neighbors too, is the size. I don't
23 know. But it is going to be small.

24 MS. FORSHAW: Are you saying it will not
25 actually have a bedroom?

1 MR. DEMPSEY: No. The cabin is going to be
2 utilized better. The cabin is really going to become
3 part of the pool house more. It's going to be a
4 two-room structure is what is going to be built.

5 MS. FORSHAW: I mean, perhaps we need for
6 him to redo the plans.

7 CHAIRMAN WALCH: Are you contemplating
8 getting new plans?

9 MR. DEMPSEY: Well, there will have to be
10 some sort of drawings to remove the guest room. But I
11 didn't really think that I was going to have to get
12 completely new plans. We are just not going to build
13 the guest room and the basement underneath the pool
14 house.

15 MS. FORSHAW: When we grant a variance it
16 is typically tied to particular plans that we have in
17 front of us. Are you telling us the plans reduce the
18 scope of this project? I'm not sure if we can decide
19 on a variance without the plans that are more
20 reflective of what you are really going to do.

21 MR. DEMPSEY: I think they are pretty
22 reflective of what I'm doing. I mean, I'm putting in
23 a pool and I'm putting in a pool house. I don't think
24 it really has much to do with the size, I mean, don't
25 you think?

1 CHAIRMAN WALCH: To tell you the truth,
2 neighbors have complained about the size. I don't
3 know whether you bothered to read it.

4 MR. DEMPSEY: I wasn't aware of any of it.
5 Ladue didn't make me aware that anybody had complained
6 about anything. It would have been nice if I would
7 have been instructed. What's the procedure for giving
8 these to me? I mean, this is all a surprise to me.
9 This is all news to me today.

10 MS. LAMITOLA: The file is available for
11 reviewing at any time.

12 MR. DEMPSEY: Who told me that? Nobody
13 tells me that procedure.

14 MS. LAMITOLA: It's up to the applicant to
15 check in with the city to review the file prior to the
16 hearing.

17 MR. GARTENBERG: Have you had conversations
18 with your neighbors about this?

19 MR. DEMPSEY: I called you a couple of days
20 ago. There was no mention of any of this.

21 MS. LAMITOLA: They all came in at the last
22 minute.

23 CHAIRMAN WALCH: Two of the three letters
24 just came in today.

25 MR. GARTENBERG: Prior to that had you been

1 pursuing the private -- have you had conversations
2 with your neighbors about it at all, and said, hey,
3 this is what I'm doing?

4 MR. DEMPSEY: No. I didn't think I would
5 have to get a variance. When I talked with you we
6 were really talking about a restriction on the road.

7 MS. LAMITOLA: Within the last few weeks
8 you were aware that you would be going for a variance.

9 MR. DEMPSEY: Yes. And I knew you would
10 then be informing the neighbors.

11 MR. GARTENBERG: They couldn't be here
12 today I suppose, and so they chose to write in and
13 wanted their position stated in the record. I'm not
14 trying to make any problem.

15 MR. DEMPSEY: I just thought that there
16 would be better communication of like, hey, check the
17 file. I just didn't understand that there was going
18 to be any opposition to it.

19 CHAIRMAN WALCH: That's the whole purpose
20 of giving public notice.

21 MR. DEMPSEY: Sure. But I figured that if
22 there was opposition then you would inform me. But
23 you just told me it's up to me to check the file.

24 MS. LAMITOLA: It's our standard procedure.

25 CHAIRMAN WALCH: It wouldn't have done you

1 any good in this case -- you would have seen one
2 letter. Two of the letters came in today. We
3 couldn't have given you those.

4 MR. GARTENBERG: If somebody chose to come
5 and speak today we wouldn't know that.

6 CHAIRMAN WALCH: We don't know that until
7 the hearing.

8 MR. DEMPSEY: Certainly.

9 CHAIRMAN WALCH: Well, I will ask you the
10 same question as I asked the applicant in the last
11 case. Would you request a continuance and submit
12 revised plans that you are planning to change these
13 plans anyway rather than forcing us into a vote on
14 this particular plan?

15 MS. FORSHAW: At this point we haven't
16 heard from the public.

17 CHAIRMAN WALCH: No. And I would like to
18 hear from them.

19 MR. DEMPSEY: Why don't you go ahead and do
20 that.

21 CHAIRMAN WALCH: Think about the question.
22 You can read those, and I will ask you that same
23 question again.

24 MR. DEMPSEY: All right.

25 CHAIRMAN WALCH: Anyone else for the

1 appellant? Now would all the people who want to speak
2 to this particular case please come forward and give
3 your name to the court reporter. And then it looks
4 like there are several people in the audience that may
5 want to speak. All of you come forward now and give
6 your name and then I'll determine which one has to
7 speak.

8 (At this time Todd Baur and Liz Parker were
9 sworn in by the court reporter.)

10 CHAIRMAN WALCH: Mr. Baur.

11 MR. BAUR: I wrote a letter, and I'm not
12 sure if it was among --

13 MS. LAMITOLA: What was your name?

14 MR. BAUR: It's Todd Baur. But I can read
15 the letter.

16 MR. SCHLAFLY: I don't think we have it.

17 MR. BAUR: Dear ladies and gentlemen of the
18 Board of Adjustment.

19 We own and reside at the property
20 immediately adjacent (south and west) to the Dempseys'
21 property which is the subject of the public hearing on
22 May 4th, 2015. It is our understanding that
23 Mr. Dempsey has requested a variance from two or more
24 sections of the Ladue Zoning Code so that he may
25 construct an accessory building and pool on the front

1 yard of his flag lot that abuts Log Cabin Drive.

2 We were surprised to receive the formal
3 notice of the May 4 hearing mailed to us by the City
4 of Ladue and have some concerns with this application.

5 Like most people, our home is very special
6 to us. We reside in Ladue, in part, because of its
7 high standards and strict property codes. It is part
8 of what makes Ladue such a wonderfully unique place to
9 live. We bought our property with the understanding
10 and expectation that it (and we) would be subject to
11 the Zoning Code. In this case, this includes the
12 prohibition against building accessory buildings and
13 structures such as this proposed two-story,
14 three-level house. We also expect that because of the
15 lot at 1257 Log Cabin fronts on Log Cabin Drive,
16 structures on that front yard (particularly one of
17 this size and scale) are expressly prohibited under
18 the Ladue Zoning Code.

19 We assume that when people buy property in
20 this area, they also do their due diligence and
21 understand that the property is subject to the Zoning
22 Code. We assume the code will be enforced and expect
23 all residents of the City of Ladue should comply with
24 the Zoning Code. While I recognize that the shape of
25 the Dempseys' property creates certain limitations

1 with respect to additional building, neither the lot
2 nor the relevant part of the ordinance has changed
3 since the Dempseys purchased the property. In other
4 words, the restrictions with regard to further
5 development were known at the time of the purchase and
6 have not changed. This is not a hardship, but rather
7 a known and unchanged reality of this property.

8 One other concern outside of the specific
9 Zoning Ordinance violations cited in the notice
10 pertains to water runoff. Several years ago, the
11 Dempseys constructed a water feature in their front
12 yard which feeds into a runoff creek bed that runs
13 through my front yard. Prior to the installation of
14 the water feature we had no flooding issues in our
15 front yard. I objected to the City of Ladue at the
16 time of construction, to no avail, over concerns about
17 the drainage and changes to the amount and velocity of
18 the water flow following rain with the introduction of
19 what is effectively a new funnel. While to the
20 Dempseys' credit, the finished product looks very nice
21 aesthetically, my concerns have unfortunately been
22 validated as we have experienced numerous incidents of
23 flooding in our front yard whenever heavy rainfall
24 occurs. Additionally, rocks and other materials from
25 this water feature have ended up on our property and

1 we fear caused more problems further downstream in
2 Log Cabin Drive with blockages, et cetera. I simply
3 raise the concern that this prospective project could
4 impact existing water flow and exacerbate these
5 problems on my property and other neighbors'
6 properties on Log Cabin Drive. I defer to the City of
7 Ladue and to actual experts to determine whether this
8 concern has merit or not.

9 We have invested substantially into
10 improvements into our home and property since we
11 bought it, feeling emboldened in part that the
12 enforcement of the Zoning Code protected this
13 investment. We are very concerned that if a variance
14 is granted, the construction of the second home of
15 approximately 3,000 square feet (approximately 90
16 percent of the size of the main residence) that
17 Mr. Dempsey wishes to build will materially diminish
18 the value of our property.

19 For these reasons, please let the record
20 reflect that this letter serves as our formal
21 opposition to the Dempseys' request for a variance to
22 build the pool, patio, and two-story house in his
23 front yard.

24 Thank you for your time and consideration.

25 CHAIRMAN WALCH: You were the author of

1 that letter?

2 MR. BAUR: Yes.

3 CHAIRMAN WALCH: Would you like to mark
4 that as an exhibit?

5 MR. BAUR: Yes, please.

6 CHAIRMAN WALCH: Would you please mark it
7 Ms. Court Reporter. I think it would be Exhibit H.

8 Do you have anything further to add to the
9 letter?

10 MR. BAUR: No. I think the letter kind of
11 sums up our thoughts. I don't take pleasure in being
12 an obstructionist or objecting, but just in the
13 protection of the value of our property I felt it was
14 necessary.

15 MS. FORSHAW: Mr. Baur, would you repeat --
16 which street do you live on?

17 MR. BAUR: I live at 6 Log Cabin Drive. I
18 am the property that the Dempseys' property is
19 basically a flag, surrounds me.

20 CHAIRMAN WALCH: The L.

21 MR. BAUR: The L, correct.

22 MS. TOFT: Mr. Baur, are you familiar with
23 any of the other swimming pools and pool houses that
24 have been added in your neighborhood, the history of
25 that?

1 MR. BAUR: No. I think the only one -- I
2 guess, I can't even tell you when it was built. It is
3 my next-door neighbor on the other side, the Benzes.
4 And they, I guess, have Log Cabin Drive and Lane and
5 they have a pool to the west.

6 MS. TOFT: So they would have a similar
7 situation to what Mr. Dempsey is proposing in that
8 their pool faces Log Cabin Lane, and that would be
9 their pool house that backs up to Log Cabin Lane.

10 MR. BAUR: I guess that is right, yeah.

11 MS. TOFT: Their house faces Log Cabin
12 Drive.

13 MR. BAUR: Their house faces Log Cabin
14 Drive.

15 MS. TOFT: Do you know when that pool and
16 pool house went in?

17 MR. BAUR: I don't.

18 MR. DEMPSEY: The pool house was built in
19 2000.

20 MR. SCHLAFLY: What water runoff, I don't
21 know if we have a technical issue on this so much as a
22 zoning issue with two-front yards, the runoff, this is
23 a lot of land. A pool in there, I mean, you don't
24 envision that as a disturbance for a runoff issue?

25 MR. BAUR: I think from my perspective,

1 and, again, I am decidedly not an expert on the
2 subject. It's something I'm kind of throwing out as a
3 consideration.

4 I think the way the property flows from
5 Log Cabin Lane down to Log Cabin Drive, it goes
6 downhill. And then also to the side sort of into my
7 yard. And so my concern would be if you have another
8 structure there that blocks the natural water flow and
9 drainage right now that's going across the yard, and
10 you kind of create guttering, you know, adding
11 additional water with greater velocity. But, again,
12 I'm not an expert on the subject.

13 MR. DEMPSEY: Right now I have a tennis
14 court that's not permeable that's 6,000 square feet of
15 nonpermeable space that is going to be removed. I
16 think there would be more ground for water to absorb
17 after the structure, because that's a bigger area
18 that's having water runoff towards your property.

19 MR. BAUR: Yeah. But I guess it would be
20 more concentrated coming from either side of the
21 house.

22 MS. FORSHAW: Mr. Baur, the other pool and
23 pool house that you mentioned that I guess faces
24 Log Cabin Drive, is that pool house larger or smaller
25 than the proposed pool house in this case?

1 MR. BAUR: It's substantially smaller.

2 MS. TOFT: And perhaps not as attractive.

3 CHAIRMAN WALCH: Do you have anything
4 further? We are really not into water management.

5 MR. BAUR: No. Again, I just raised the
6 issue.

7 CHAIRMAN WALCH: Thank you very much.

8 MS. PARKER: I'm Liz Parker. I reside at
9 Number 2 Log Cabin Drive. My property is the north
10 property right above Mr. Dempsey's property line, and
11 so I would be butting up to -- my yard would be 50
12 feet away from his creation.

13 He has got good taste and he has done
14 several things for this property so far. There is one
15 thing that concerns me, and that is the size. He has
16 done good things for this property so far. A couple
17 of things that concern me. And I did send a letter to
18 you all if you have a letter.

19 CHAIRMAN WALCH: That's the letter that's
20 in the file.

21 MS. PARKER: Yes, in the file.

22 But the two-story is so large that he is
23 considering making it a smaller pool house type
24 situation then maybe that's something that would be
25 more attractive, but at the moment it's quite

1 concerning because it is an accessory structure that
2 would be very close to my property. And if it's not
3 following the rules, as we really appreciate the rules
4 of Ladue, we would like to see that it does follow the
5 rules. That would be nice.

6 The other thing is, we were not notified
7 about this. There were times -- I do walk in the
8 neighborhood, and there were times when I saw painting
9 and things around the yard, some stakes and things of
10 this sort. Never did I have any idea of what was
11 happening. Never were we given any information.

12 I know that we have to get permission from
13 our neighborhood, or our neighborhood now, of what we
14 are doing on Log Cabin Drive. We always want to work
15 within the rules. We were not notified and he didn't
16 notify Log Cabin Lane as well.

17 I have a property that is in a V, and I am
18 on Log Cabin Drive and I pay Log Cabin Drive dues, so
19 to speak, any maintenance whatever. But I also end up
20 paying -- he fronts on two neighborhoods, I end up
21 paying on Log Cabin Lane as well, some of the street
22 repairs and things of the sort.

23 So I'm used to following rules, within the
24 rules. We appreciate that about our neighborhood and
25 really appreciate that you all are keeping your eyes

1 on things, and we would like to see that he is held to
2 it. And if he wants to cut back to -- the property --
3 the size and everything with the way that he is doing,
4 maybe that would be okay.

5 The other thing that has happened to us,
6 several times when the Baur's and we have had the issue
7 of him saying he is doing one thing and then it
8 becomes a different deal than what he has said. So
9 the concern is that -- or my concern is that this is
10 just a back-handed way of creating his own home, or
11 something like that. Having a master bedroom, a
12 walk-in closet, a full kitchen. A cedar closet,
13 et cetera, and the pool house seems a little large,
14 and so it's quite concerning.

15 That's about all I have to say. But it's
16 definitely, I'm concerned and I would love to see him
17 work within the rules, and it's all great.

18 MS. TOFT: Before you sit down.
19 Mr. Gartenberg, the size of this structure is not in
20 violation of any ordinance?

21 MR. GARTENBERG: No.

22 MS. TOFT: The square footage of it, or
23 what is included in it is not -- does not require a
24 variance. And the reason I was asking the provocative
25 questions that I was asking, is that it's entirely

1 possible that either Mr. Dempsey or a subsequent owner
2 could decide to tear down his house and put a 10-,
3 12-, 14,000 square foot "McMansion" on that parcel.
4 That's why I say to neighbors, be careful of what you
5 object to, because if people want an improvement and
6 they can't get it, then they may decide that the
7 house -- they want to move somewhere else, and a
8 developer comes in and tears down the existing house
9 and you end up with something far more offensive than
10 what the neighbor had proposed.

11 I think there are a lot of different things
12 that could take place, because this is a 2.2 acre lot.
13 And really the issue that's before us is the fact that
14 it has technically two front yards.

15 MR. SHILLINGTON: It's not a zoning to
16 scale or anything.

17 MS. FORSHAW: I disagree slightly. It's
18 true the size of the pool house does not require a
19 variance, but we can consider the size of the pool
20 house in determining if it is a burden of these
21 improvements on the neighbors when you decide to grant
22 a variance.

23 MS. TOFT: To be even more argumentative,
24 the point to say because the structure proposed looks
25 more like a main house, that it diminishes in the

1 minds of some people the fact that it's an accessory
2 structure. There are all kinds of arguments to be
3 made about it. It's far more attractive than probably
4 90 percent of the pool houses in Ladue.

5 He could build a ugly pool house, you know,
6 there are a lot of different ways it could go. And I
7 just think that neighbors need to be aware of what all
8 of those options are.

9 MS. LAMITOLA: Can I ask one question? I
10 want to make sure you did receive the notice from the
11 city.

12 MS. PARKER: Yes.

13 MS. LAMITOLA: So you received it. I
14 wanted to verify that.

15 MS. PARKER: Yes.

16 MS. TOFT: We understand your concern.

17 MS. PARKER: I appreciate your working. I
18 appreciate this meeting. Thank you.

19 CHAIRMAN WALCH: Any other member of the
20 public care to speak? Hearing none, then proceed.

21 MR. DEMPSEY: Well, I would like to point
22 out, Liz, you do have the same issue, she had the pool
23 house and a pool in her front yard as well. And, I
24 mean, you are asking if all the codes have been --

25 MS. PARKER: I didn't build it. I moved in

1 11 years -- 13 years ago, I think, and it was already
2 built. It was built 60-some-odd-years ago.

3 CHAIRMAN WALCH: This version of the zoning
4 ordinance wasn't in effect that long.

5 MS. PARKER: Right. Exactly.

6 CHAIRMAN WALCH: So it's a preexisting
7 condition. I will ask you the same question again.
8 Would you prefer a continuance? I will tell you, I
9 will preface that question and explain that we do have
10 to consider concrete plans. If we grant approval or
11 if we deny a variance it would be based on the plans
12 here today.

13 MR. DEMPSEY: I would be willing to come in
14 with the revised plans. To speak to probably some of
15 the concerns of the neighbors, and I have read a
16 couple of other letters. There was concern about the
17 size. You certainly made the point, if I wanted to
18 build, I don't know, there is a limitation. What's
19 the limitation, 15,000 square foot house, or if it's
20 there.

21 MS. TOFT: Special use permit.

22 MR. DEMPSEY: That was the other option. I
23 actually initially bought the property with the idea
24 of building a bigger home where the tennis court is.
25 We ended up even more and more just getting -- we love

1 the charm of the property. The original home was
2 built in 1893. It's beautiful. It would be like a
3 sin to tear it down as far as I'm concerned.

4 As you can see, part of what I was going to
5 build here is a historical structure. It's a 1840s
6 log cabin that I purchased. It's sitting in storage
7 right now.

8 Part of my little schtick is I can't wait
9 for a log cabin on Log Cabin Lane. I don't know where
10 that is. Maybe we will know. Even if I get a pool
11 built. Even if I get a pool put in, I just wanted to
12 build a little old log cabin, and so I still have to
13 get a variance; right?

14 MR. GARTENBERG: Exactly.

15 MR. DEMPSEY: Like I said, I got a little
16 excited over the size of it. I think because of the
17 limited -- my existing home doesn't have a basement.
18 It's like that's part of my schtick too. If I just
19 had a basement I could tell the kids go to the
20 basement. We don't have that much room.

21 I think I got excited about building, you
22 know, more space. But I don't want to go the
23 "McMansion" route.

24 I will ask you to put off any sort of
25 additional time to continue --

1 CHAIRMAN WALCH: Continuance.

2 MR. DEMPSEY: Continuance, yes. So I can
3 bring in --and I have had a scaled-down version done,
4 and come in with something a little bit smaller.
5 Maybe I can have that in the next couple of weeks and
6 we can revisit this in a month and make everybody feel
7 a little bit better about the whole project.

8 CHAIRMAN WALCH: Unless some member of the
9 board objects. Does anybody object to the
10 continuance?

11 MS. TOFT: No objection.

12 CHAIRMAN WALCH: We will grant you a
13 continuance to the next available hearing day, and
14 that largely depends on -- what is your rule, Anne?
15 How soon do you need to get this before the meeting?

16 MS. LAMITOLA: I think Monday is the
17 deadline to make the June meeting.

18 CHAIRMAN WALCH: You have only got a week
19 to make the June meeting.

20 MR. GARTENBERG: Mr. Chairman, we will have
21 the architectural review board that will be looking at
22 that as well, by the time that it's received at the
23 city and get it put on the agenda.

24 CHAIRMAN WALCH: So it's likely to be July.

25 MR. DEMPSEY: Yes. I will talk with Mike

1 about it.

2 MS. TOFT: Are you sure you want a swimming
3 pool this summer?

4 MR. DEMPSEY: Hennessy's quick site plan
5 for those. Are those good enough for you to review
6 it? Because Hennessy's is going to build it. And he
7 has this little drawing.

8 MR. GARTENBERG: The floor plan and
9 schematic, they need to come in before the
10 Architectural Review Board. If you submit the same
11 types of information that you have in the past, just
12 with a revised design, that will be great.

13 MR. DEMPSEY: Okay. Thank you.

14 CHAIRMAN WALCH: Thank you, Mr. Dempsey.
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CERTIFICATE OF REPORTER

I, Bobbie L. Lubber, Registered Professional Reporter, Certified Court Reporter, and Notary Public within and for the State of Missouri, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.



Bobbie L. Lubber, RPR, CCR #621

BOBBIE L. LUBER
Notary Public - Notary Seal
State of Missouri
St. Louis County
My Commission Expires: July 19, 2016
Commission #12478045