

DOCKET 1174

DATE OF HEARING	May 4, 2015
NAME	Mr. Zoran Kurtuma
DESCRIPTION OF PROPERTY	10268 Lylewood Drive
CAUSE FOR APPEAL	Relief from the decision of the Building Official for an addition which violates Section V, C, 1 (a) and V, C, 1 (b) of Zoning Ordinance 1175.
RULING OF THE BOARD	After discussion regarding alternate locations for the proposed improvements, the applicant's representative for 10268 Lylewood Drive requested that the matter be continued in order to consider and develop an alternate plan. The Board voted to continue the matter.

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

DOCKET 1174  
10268 Lylewood Drive

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 1174**

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 Zoran Kurtuma, 10268 Lylewood Drive, St. Louis, MO 63124, requesting relief from the ruling of the Building Official denying a building permit for an attached garage which violates Sections V, C, 1, (a) & 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 April 2, 2015;  
Exhibit D – List of Residents sent notice of meeting;  
Exhibit E – Letter from the resident requesting the variance dated April 13, 2015, and any letters of support;  
Exhibit F – Entire file relating to the application.

Board members asked Mr. Gartenberg for clarification regarding the setbacks on the property. Mr. Gartenberg stated that the required rear setback for 10268 Lylewood, which is zoned D residential district, is 30 feet.

Mr. Zoran Kurtuma and his attorney Mr. Michael Barrett were sworn in. They submitted a petition of support from adjoining neighbors which was added to the docket file.

Mr. Kurtuma noted that he desires to increase the property value, the size of the home, and has focused on expanding the home at the rear for aesthetic reasons. He did note there are drainage issues on the property which he stated would be addressed during construction.

The Board members made suggestions about alternate methods for expanding the home that either complied with the setbacks or encroached less significantly.

Ms. Toft asked Mr. Barrett if he was aware of similar cases in the D zoning district where variances of this magnitude were granted and Mr. Barrett stated that there were none to his knowledge.

The Board continued to discuss the fact that the project is proposing an encroachment and the degree of the encroachment

In response to the discussion, Mr. Kurtuma requested to withdraw the request for the garage portion of the project and agreed to construct a pergola that is free standing and not attached to the home. Mr. Gartenberg indicated that a free-standing pergola would become an accessory structure, subject to different setback requirements. Mr. Kurtuma asked the Board to focus on the proposed addition at the southwest corner of the structure.

Mr. Schlafly stated that the design is discretionary and therefore there is not a hardship present.

Ms. Forshaw applauded the applicant for the proposed investment and noted that size of the expansion was modest.

Ms. Toft stressed that the request is for a significant encroachment.

Mr. Barrett requested a continuance for this matter and Chairman Walch granted the continuance.

  
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Mr. Stanley Walch, Chairman

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ZONING BOARD OF ADJUSTMENT

CITY OF LADUE

LADUE, MISSOURI

IN THE MATTER OF: )  
)  
ZORAN KURTUMA ) Docket No. 1174  
10268 LYLEWOOD DRIVE )  
Ladue, Missouri 63124 )

Monday, May 4, 2015

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ORIGINAL

BOBBIE LUBER, LLC

*Certified Court Reporters*

P.O. Box 31201 ~ 1015 Grupp Road ~ St. Louis, MO 63131

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ZONING BOARD OF ADJUSTMENT  
CITY OF LADUE  
LADUE, MISSOURI

IN THE MATTER OF:            )  
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ZORAN KURTUMA                ) Docket No. 1174  
10268 LYLEWOOD DRIVE        )  
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.

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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. Zoran Kurtuma
- Mr. Michael Barrett

Court Reporter:  
Bobbie L. Luber  
Registered Professional Reporter #9209  
Missouri CCR #621  
Illinois CSR #084.004673  
Bobbie Luber, LLC  
P.O. Box 31201  
St. Louis, MO 63131  
(314) 993-0911  
bluber@lubercourtreporting.com

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: We are now moving to  
5 Docket Number 1174. And I will probably mispronounce  
6 this name. It's Zoran Kurtuma, 10268 Lylewood Drive.

7                   First, I would ask Mr. Gartenberg to  
8 explain the reasons -- the reasons the plans were  
9 disapproved so the audience and the members of the  
10 board have a clear understanding of the issues.

11                   MR. GARTENBERG: Mr. Chairman, the property  
12 is located in the city's D zoning district and is  
13 subject to a 30-foot rear yard setback. The  
14 improvements that are proposed, there are three of  
15 them, one on either end of the house, and then a  
16 further in the middle of the back, all extends into  
17 that required rear yard.

18                   CHAIRMAN WALCH: Is this the only violation  
19 of the ordinance?

20                   MR. GARTENBERG: Pardon me?

21                   CHAIRMAN WALCH: Is that the only violation  
22 of the ordinance?

23                   MR. GARTENBERG: Yes, sir.

24                   CHAIRMAN WALCH: It doesn't have an  
25 encroachment?

1 MS. FORSHAW: Mr. Gartenberg, I couldn't  
2 find the location of the setback line on the drawings.

3 MR. GARTENBERG: It's not on the drawing.  
4 The front setback line is 40 feet, and it is shown on  
5 the drawing as 30. The rear setback is 30 feet. And  
6 there are dimensions on that drawing so you can get a  
7 feel for where that is. It's basically at the rear  
8 plane of the house.

9 MS. TOFT: Mr. Gartenberg, I think the  
10 smaller boundary survey does show a 40-foot building  
11 line, but the larger site plan shows a 30-foot front  
12 yard line. So one is correct and one is incorrect.

13 MS. FORSHAW: Are you saying,  
14 Mr. Gartenberg, that the entire addition would lie  
15 within the rear yard?

16 MR. GARTENBERG: Almost. The addition on  
17 the left rear corner, which would be the southeast  
18 corner, would extend roughly 32 feet. 32 feet from  
19 the -- from the property line. 32 feet from the back  
20 of the existing house to the rear property line. The  
21 rear setback is 30 feet.

22 MS. TOFT: 40-foot front yard setback, and  
23 30-foot rear?

24 MR. GARTENBERG: Yes. So if you take a  
25 look at the left side, it is basically a

1 7-foot-10-inch area that is proposed to be open. And  
2 then the addition, the garage is 24 feet in depth. So  
3 adding those together, 32 feet. And the rear yard  
4 setback is 30 feet from the rear property line. Does  
5 that make sense, Liza?

6 MS. FORSHAW: Are you saying all but two  
7 feet lies within the setback, encroaching on the  
8 setback?

9 MR. GARTENBERG: Exactly. Yes.

10 CHAIRMAN WALCH: You can't tell from this  
11 drawing, Mr. Gartenberg; is the entry for the cars on  
12 the side of the house?

13 MR. GARTENBERG: Yes, it is. It is on the  
14 east side of the house.

15 CHAIRMAN WALCH: It would look logical.

16 MR. SCHLAFLY: I think what you are saying,  
17 all of this is encroaching, virtually all but two  
18 feet.

19 MR. GARTENBERG: All but two feet.

20 MS. TOFT: What would the side yard  
21 setbacks be in this D district?

22 MR. GARTENBERG: I believe it's 10 feet.

23 MS. TOFT: It's showing it's 150 feet wide.

24 MR. GARTENBERG: Actually, it's 5 feet.

25 I'm sorry. No. Wait a minute. Excuse me. 15 feet.

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MS. TOFT: So it's 10 percent?

MR. GARTENBERG: Yes.

MS. TOFT: 10 feet or 10 percent, whichever is larger?

MR. GARTENBERG: Right. In this district a minimum of 10 feet, a maximum of 15. The other districts have a maximum of 20.

MS. TOFT: If I may ask one more question. Do we know, it looks as if on the master bedroom addition side there is almost 40 feet of lot, and on the driveway side I have 22 feet.

MR. GARTENBERG: Yes. That's correct.

MS. TOFT: Thank you.

CHAIRMAN WALCH: Any other questions of Mr. Gartenberg?

MS. TOFT: None. Thank you, Mr. Chairman.

We now have to put on the record some documents that will become exhibits in this particular appeal.

The public notice of this hearing will be marked as Exhibit B.

The denial letter from the building official dated April 2, 2015 will be marked as Exhibit C.

The list of residents to whom the public --

1 the notice of public hearing has been sent will be  
2 marked as Exhibit D.

3 The appellant's letter requesting a  
4 variance dated April 13, 2005, and any other letters  
5 of support or opposition to request for a variance  
6 will be marked as Exhibit E. Are there any other  
7 letters, Ms. Lamitola?

8 MS. LAMITOLA: No, there are not.

9 CHAIRMAN WALCH: Finally, the entire file  
10 of the application, including all memoranda from staff  
11 and consultants to the Zoning Board of Adjustment and  
12 the City of Ladue will be marked as Exhibit F.

13 Will the appellant at this point, and  
14 anyone else who wants to speak on the appellant's  
15 behalf please come forward and give your name to the  
16 court reporter and she will swear you in.

17 (At this time Zoran Kurtuma and Michael  
18 Barrett were sworn in by the court reporter.)

19 CHAIRMAN WALCH: Who wishes to start?

20 MR. KURTUMA: Me. My name is Zoran  
21 Kurtuma. I'm the owner of 10268 Lylewood. I would  
22 like to thank all of you for your time. My attorney,  
23 Michael Barrett. I want to make sure I say correctly,  
24 and I don't have any misunderstanding.

25 I bought the property last year in October,

1 and trying to turn a three-bedroom, two-bath ranch  
2 house to five bedrooms, four and a half bathrooms. So  
3 the issue we have now, as the building sets now, it's  
4 22 feet, as the gentleman said. Either we  
5 expand--through my experience as a contractor, I  
6 always like to go on the back of the property--expand  
7 real estate on the side and front. So it would be  
8 really hard.

9 I have worked with the neighbors, talked to  
10 the association. Everybody supporting me. I collect  
11 many signatures, and nobody has any problems with  
12 that.

13 MR. BARRETT: Why don't you show them.

14 MR. KURTUMA: These are the signatures of  
15 the neighbors.

16 MR. BARRETT: These are the signatures of  
17 the neighboring property owners and approval of the  
18 proposed plan.

19 CHAIRMAN WALCH: Do you wish to introduce  
20 this as an exhibit?

21 MR. BARRETT: We would. Thank you.

22 MR. KURTUMA: I do have four neighbors.  
23 Two on the back, two on each side. West of me, and  
24 east of me, and all four people did sign.

25 CHAIRMAN WALCH: Excuse me a minute, but

1 would you give this to the court reporter? I think  
2 the next exhibit number in this case is -- I believe  
3 it's G. And we can mark that and put it in as part of  
4 the record. Here is your original. I will return  
5 your clipboard to you.

6 You may proceed now.

7 MR. KURTUMA: So it can be difficult back  
8 and forth though make it bigger, much square footage  
9 for a decent family, because I do plan to stay pretty  
10 much in the neighborhood. And I'm a little bit age  
11 issue talking to all neighbors, and coming in a few  
12 days to talk about the property, that I'm going to be  
13 here. There is a drainage issue. I do have two  
14 landscaping companies that are very popular that can  
15 take care of, which is going to be much easier if we  
16 build it as proposed, it's going to be easier to  
17 resolve the drainage issue. It's going to happen a  
18 lot in that case.

19 MR. SCHLAFLY: The drainage?

20 MR. KURTUMA: The drainage. It's going to  
21 be cheaper. My neighbor on the east side, he contact  
22 your officials, and that's the same program who can  
23 help us.

24 These two properties are, I'm sure you are  
25 informed and you have the knowledge on that side of

1 the street, which is going to be the south side, very  
2 much long history because of the water on the back  
3 lots, and it comes down.

4 And I guess the owners before us, they did  
5 not take care of it. And it's not -- my yard is not  
6 liveable now. There are pictures, and something that  
7 needs to be done. As much as I would like to already  
8 have the property. That's going to happen a lot if I  
9 expand the garage.

10 The existing garage has been converted to  
11 the audience (phonetic) room. The owner before me,  
12 they never say garage, and so the property value  
13 without a garage, as you know, it goes down, and so I  
14 cannot exist the house without a garage. Right now  
15 the house has no garage.

16 MS. TOFT: May I ask, because you do have  
17 25, almost 25 feet of building envelope to the west,  
18 did you consider adding any structure to the west as  
19 opposed to encroaching on the rear yard?

20 MR. KURTUMA: Because the property, it  
21 looks narrow. And when we are facing the property, if  
22 you are going west or east it's not going to look  
23 right. Architectural and for me, it's already too  
24 long, what I'm trying to say, too wide. I was trying  
25 the get the turn across the garage on the driveway

1 side and it turns out not good looking. I mean, the  
2 property is going to be too long and too little.

3 So on the right side, as you understand, if  
4 you go on the right side, it's two bedroom side now.  
5 It's going to increase construction cost and it's not  
6 going to look right.

7 MR. BARRETT: I think first of all, I guess  
8 the most important issue would be the garage since it  
9 encroaches further than any of the other proposed  
10 developments. And that being said, the driveway is on  
11 the east side of the property already, and in order to  
12 put the garage on the west side of the property we  
13 would then have to put in another driveway accessing  
14 that side of the house, and the garage would then face  
15 the street as opposed to being hidden behind the main  
16 structure of the house.

17 The other two proposed developments or  
18 improvements encroach less than the proposed garage,  
19 and really the garage is the more important of the  
20 structures because of the degree of encroachment, but  
21 also because without a garage it severely diminishes  
22 the value of the property, and it puts him at a  
23 disadvantage as a property owner in this neighborhood  
24 because all the other property owners have garages  
25 attached to their houses. And so if he has no garage

1 and he is unable to sell his property in keeping with  
2 the values of the other houses in the neighborhood;  
3 and then that establishes a comparable, which brings  
4 the property values of all the houses in the immediate  
5 neighborhood down because his house would sell for  
6 less without a garage.

7 MS. TOFT: May we assume, Counselor, he was  
8 able to purchase it at a discount because there was no  
9 garage?

10 MR. BARRETT: I believe you are probably  
11 correct, yes. And then --

12 MR. SCHLAFLY: May I ask a question on  
13 that. If you -- we don't want to design this for you.  
14 What we are concerned about as a group is the extent  
15 of encroachment into the backyard. The scale of the  
16 encroachment, this is a large encroachment.

17 Could this area be considered a garage here  
18 on this end? And could this area be considered as an  
19 expansion area within -- where you can improve your  
20 home? We are not trying to get you to redesign before  
21 us, but I know Robbye just asked this question, but  
22 it's worth just asking.

23 MR. BARRETT: I think your question about,  
24 could that be a garage--it has been a garage  
25 previously on that part of the structure.

1           MR. KURTUMA: Because only two bedrooms on  
2 that end, and be able to exit on the other side.

3           MR. SCHLAFLY: You are saying the interior  
4 layout prohibits you from using this?

5           MR. KURTUMA: Yes. Because my two bedrooms  
6 are on the west. The master bedroom here, and that  
7 little room is in the west corner, the west end of the  
8 house. If you add more on the west, I won't go for  
9 the design.

10          MS. TOFT: Do you have any cases, in  
11 particular D district cases where people have been  
12 allowed to encroach so significantly in the rear yard  
13 setback?

14          MR. BARRETT: Not so significantly, no.  
15 There are other cases where encroachments were  
16 allowed, but not to that degree.

17          MS. FORSHAW: Do the signatures from  
18 neighbors who support this project include the  
19 neighbors closest to the proposed garage?

20          MR. KURTUMA: Both neighbors on the back,  
21 yes.

22          MR. BARRETT: I think one of the reasons  
23 why the neighbors may be onboard on this is this  
24 drainage issue that Mr. Kurtuma spoke of. And I  
25 understand that that's not within the province of this

1 board, but it kind of goes part and parcel with the  
2 whole development that Mr. Kurtuma is proposing, in  
3 that the construction of the garage and the pergola  
4 and the master bathroom on the back of the house would  
5 also include with it landscaping and regrading of the  
6 ground so that the drainage issue would no longer  
7 exist. And that is quite a problem. The backyard is  
8 either mud or a pool of water frequently. And this  
9 project would remedy that problem. So I think his  
10 neighbors are onboard with that because obviously  
11 nobody wants to have standing water in their property.

12 MS. FORSHAW: We noticed quite an odor when  
13 we were there. Is that because of the drainage  
14 problem?

15 MR. KURTUMA: Yes. What is composed --  
16 right now is composed the water. It's two weeks  
17 without a rain, it's still. Two weeks without a rain.  
18 But that would affect, two companies, and if you build  
19 the garage they can drain that to the street or to the  
20 other storm drainage one house east of me. So either  
21 way it going to go. But that's up to them.

22 MR. SCHLAFLY: I'm just going to address  
23 it. But with as much area left for building envelope  
24 in the setback available, I still struggle to see this  
25 with the encroachment as deep into the backyard

1 setback, have you employed an architect?

2 MR. BARRETT: Uh-huh. May we ask the  
3 board, and I'm asking only for my own information and  
4 for Mr. Kurtuma as well. Is an encroachment a matter  
5 of degree, or is it simply whether or not there is an  
6 encroachment existing, because the encroachment as  
7 it's proposed doesn't cause any problems because of  
8 the degree of the encroachment. So if it was 5 feet  
9 or 10 feet or 24 feet, it would still be an  
10 encroachment, but as it's proposed has no detrimental  
11 effects on any of the property owners adjacent to this  
12 property. It simply constitutes an encroachment.

13 CHAIRMAN WALCH: I think it's both. The  
14 ordinance instructs us, if we are going to grant a  
15 variance, to try to limit the degree of the  
16 encroachment. And so I think the answer to your  
17 question is both.

18 MR. BARRETT: Thank you.

19 MS. TOFT: I'm the old person on the board  
20 in terms of length of time, and I can say that I can't  
21 even remember an application that has asked for that  
22 much encroachment. You are talking over 70 percent of  
23 the mandatory rear yard would be taken up by the  
24 garage. I can remember nothing that even approaches  
25 that. And there was a time when this board would have

1 granted no variance. You would have been tossed out  
2 on your ear even asking for this. And the response  
3 would be, you know, not every lot can handle a 5  
4 bedroom house and a multi car garage, and that's just  
5 the way it is.

6 I think in more recent times we have tried  
7 to work more with people, because certainly we want to  
8 see existing houses improved. And I speak only for  
9 myself. We cannot consider, sadly, the cost to you of  
10 doing it. That's not a hardship. Just because it's  
11 more expensive to put in a new driveway, we are not  
12 supposed to consider that.

13 And so given that you have 25 feet of  
14 building envelope to the west, even if that were to  
15 cost more, and perhaps if an architect came and showed  
16 us interior drawings and said it's not possible to do  
17 this or that, we still have the issue of trying to  
18 turn a two bedroom house into a five bedroom house  
19 with a building envelope that may simply not support  
20 that much improvement.

21 And I would have to say, you can see the D  
22 district up there in the kind of turquoise color, they  
23 are tucked in and they are surrounded by other  
24 districts. But if we were to allow people in the D  
25 district to start building within 5 to 7 feet of the

1 rear yard setback, it wouldn't be a D district  
2 anymore. It would be a district that doesn't  
3 currently exist in the City of Ladue. And that's a  
4 serious encroachment.

5 MR. BARRETT: I can't argue against that.  
6 The one thing that I would ask, and I don't know if  
7 this is something that the board typically does. Were  
8 Mr. Kurtuma to modify his plans so that he did  
9 construct the garage on the west side of the property  
10 where there is space for such a structure, would he  
11 then have difficulty obtaining the variance he needs  
12 for the proposed structures other than the garage, the  
13 pergola and the master bathroom?

14 And keep in mind, please, that what he is  
15 proposing here is not to turn a three bedroom house  
16 into a five bedroom house. Although that may be his  
17 ultimate goal, I don't think he is going to accomplish  
18 that goal. But just of what he has proposed, if he  
19 was to move the garage to the west side of the house  
20 and then keep the other structure that is proposed, is  
21 that something that the board would entertain granting  
22 a variance on?

23 CHAIRMAN WALCH: We don't give advisory.  
24 We are going to stick with that policy.

25 MR. BARRETT: So submit it as amended plans

1 and go from there?

2 CHAIRMAN WALCH: Yes. If you want a  
3 continuance, and you want to revise the plans, we will  
4 grant that. Otherwise, if there is a denial you have  
5 got to wait six months.

6 MR. BARRETT: I would very much appreciate  
7 it if the board would continue this matter so that  
8 Mr. Kurtuma can submit revised plans more in keeping  
9 with what the board has set forth today, and maybe we  
10 can reach some kind of a middle ground that the board  
11 is more comfortable with in the future.

12 CHAIRMAN WALCH: Does anybody object to a  
13 continuance in this matter?

14 MS. TOFT: No.

15 CHAIRMAN WALCH: Would you want a one-month  
16 or two-months continuance?

17 MR. KURTUMA: One week, sir.

18 CHAIRMAN WALCH: One month? We only meet  
19 once a month.

20 MR. BARRETT: One month would be fine, sir.

21 MR. GARTENBERG: Mr. Chairman, based on the  
22 design changes that I think would be proposed, we  
23 would submit to the city's Architectural Review Board  
24 for review as well. They meet every two weeks.  
25 Getting it on the agenda for the next month in your

1 packets may be a bit of a challenge.

2 MS. LAMITOLA: The deadline is a week  
3 before.

4 MR. KURTUMA: Since we are talking, I  
5 really appreciate it. You propose the garage to  
6 eliminate -- to convert existing garage to a garage,  
7 and that's my final plan, and so I don't have to come  
8 back to you guys?

9 MR. GARTENBERG: Would you repeat that?  
10 You would put the garage back where it was?

11 MR. KURTUMA: Yes.

12 MR. GARTENBERG: And what other changes?

13 MR. KURTUMA: The other changes. Not the  
14 bathroom. Put the garage on the west part of the  
15 house with the garage back in the existing part.

16 MR. BARRETT: They are saying that you are  
17 still requesting a variance for the other two  
18 structures, and you can ask for that today, whether or  
19 not they will grant that variance.

20 MR. KURTUMA: Then we go back to the  
21 architectural board and say here is so we don't have  
22 to waste their time.

23 MR. BARRETT: That's your responsibility as  
24 the property owner.

25 MS. FORSHAW: Would the patio and the

1 pergola both require a variance?

2 MR. GARTENBERG: Not the patio. The  
3 pergola would.

4 CHAIRMAN WALCH: And the bedroom would also  
5 require a variance.

6 MR. BARRETT: That's the master bathroom.

7 MR. GARTENBERG: Is the pergola attached to  
8 the house?

9 MR. KURTUMA: Yes.

10 MR. GARTENBERG: If it's not attached to  
11 the house it's an accessory structure, and it's okay.

12 MR. KURTUMA: I can make it.

13 MR. GARTENBERG: So we are down now at this  
14 point, can the master bath be turned around the corner  
15 so it's on the west side?

16 MR. KURTUMA: No, sir. It is going to  
17 look, the house, it's going to be chip-chop. We spoke  
18 to the neighbors about it. The house -- I had option  
19 the garage on the east side of the house look like a  
20 motel.

21 MR. GARTENBERG: But it wouldn't be on the  
22 front end of the house.

23 MR. KURTUMA: I understand.

24 MR. SCHLAFLY: Landscaping, trees, bushes.

25 MR. KURTUMA: I understand. I understand.

1 I was not talking, because when we proposed a  
2 three-car garage on the east side how it look, it just  
3 doesn't.

4 CHAIRMAN WALCH: The issue for us at the  
5 moment is, do you or do you not want a continuance?

6 MR. BARRETT: It's your call.

7 CHAIRMAN WALCH: If you say no, then we  
8 will go ahead and proceed.

9 MR. BARRETT: If they deny your request  
10 today, then you have to wait a long time. Whereas, if  
11 we continue it for a month, and you are submitting  
12 revised plans to the board, then you may be able to  
13 get this heard in a more favorable light in a month.

14 CHAIRMAN WALCH: We will continue it, if  
15 you request it we will continue it for a month, but we  
16 can't assure you you will get on the first month's  
17 docket unless you get your plans in fairly quickly.

18 MR. KURTUMA: Right now we got a master  
19 bath to get a variance.

20 MS. TOFT: Do you want -- do you want us to  
21 go ahead and vote yes or no on that?

22 MR. KURTUMA: Yes.

23 MS. FORSHAW: He might not hear the sense  
24 of the board, you know, before he decides whether to  
25 request a continuance.

1 MR. GARTENBERG: Let me ask you this. With  
2 the six-month window that's being offered, if the  
3 chairman determines that the next application is  
4 significantly different than what has been received,  
5 at this point they can come back before the board.

6 MR. BARRETT: Sooner than the six month?

7 MR. GARTENBERG: Yes. If it's the same  
8 project and there is no significant difference in the  
9 design of it, then it's a six-month period.

10 MR. BARRETT: What constitutes significant?

11 MR. GARTENBERG: That's for the chairman to  
12 determine.

13 MS. FORSHAW: Maybe we should discuss the  
14 master bedroom among the board before you decide  
15 whether to request a continuance.

16 MS. TOFT: And you can request a  
17 continuance after you have heard us discuss this or  
18 not.

19 CHAIRMAN WALCH: Does any member of the  
20 public wish to speak to this matter? Hearing none,  
21 I'm going to close the public session of this hearing  
22 unless one of the members of the board objects.

23 Hearing no objection, who wants to start  
24 our discussion?

25 MR. SHILLINGTON: Is the garage, is the

1 proposed two-car garage--

2 MR. SCHLAFLY: It's off the table.

3 MS. TOFT: And the pergola will be detached  
4 from the house, and so it will not need a variance.  
5 We are looking at a roughly 13-foot encroachment in  
6 the rear yard for a master bathroom.

7 MS. FORSHAW: And the house is currently  
8 three bedrooms. Will you be adding bedrooms under the  
9 current proposal?

10 MR. KURTUMA: Now the new proposal will be  
11 four bedrooms, because existing garage --

12 MR. BARRETT: Not that you have before the  
13 board now.

14 MR. KURTUMA: Right now we have close to  
15 five bedroom. We are removing that garage. We are  
16 putting the existing garage, which is supposed to be  
17 one bedroom, one bathroom. Right now it is supposed  
18 to be four bedroom and a bath, which I'm okay.

19 MS. TOFT: But no garage, which is a  
20 bedroom now?

21 MR. KURTUMA: Which is a proposed bedroom.

22 MS. TOFT: Okay. But the existing garage  
23 looks like it's been enclosed.

24 MR. GARTENBERG: I think what was the  
25 garage will revert back to being a garage. And the

1 project will be decreased by a bathroom and bedroom.

2 MS. TOFT: Mr. Gartenberg, have we granted  
3 any variance to encroach this much in a D district?

4 MR. GARTENBERG: I don't know if it's been  
5 that much. I seem to think there may have been a  
6 sunroom back in that area some years ago, but I don't  
7 recall the specifics.

8 MR. SCHLAFLY: I think the problem we are  
9 facing is we have faced variances repeatedly when  
10 there are no other options left, and the owner is  
11 facing true hardship because of the geometry of the  
12 property and circumstances under the zoning, but we  
13 are not looking at that at the moment. We are looking  
14 at a discretionary design with an option still  
15 available.

16 MS. FORSHAW: On the other hand, this  
17 property desperately needs an upgrade. I applaud the  
18 applicant's desire to invest in the property and make  
19 it more in tune with modern families' needs, and the  
20 drainage issue seems to be significant. There is  
21 great neighborhood support for doing something here.

22 The master bathroom doesn't seem like a  
23 large burden on the adjoining landowners. It's  
24 certainly much smaller than the proposed garage.

25 MR. SHILLINGTON: So what's going to change

1 the drainage situation? Houses on either side. You  
2 are still going to have that drainage property, I  
3 would think.

4 MS. FORSHAW: If you do not build the  
5 garage would you still be addressing the drainage  
6 problem?

7 MR. KURTUMA: Yes. Of course the drainage  
8 problem has to be done. Then we are going to have a  
9 little more flexibility of the people actually  
10 building closer to the property line so they can drain  
11 off and landscaping easier. This way we are going to  
12 be more expanding and obviously I have to have more  
13 work landscaping because the building is set back from  
14 the property line. So they have to go basically wider  
15 to solve that problem.

16 MS. TOFT: My concern is the next time we  
17 have a less charming applicant and who doesn't think  
18 as quickly on his feet, but I am concerned about a  
19 13-foot encroachment in the D district. That's with  
20 only a 30-foot setback. I mean, that's a 50 percent  
21 encroachment.

22 CHAIRMAN WALCH: I encourage you, Robbye --

23 MS. TOFT: We haven't seen applications  
24 like this because I think most people assume that they  
25 wouldn't be entertained.

1                   CHAIRMAN WALCH: They wouldn't be  
2 considered, no.

3                   MS. TOFT: But I do think there is a lot of  
4 housing stock in the D district where people would  
5 love to make significant upgrades and would encroach  
6 on the rear yard. In this case they back up to the C  
7 district, and so they have a more generous backyard to  
8 back up to. I would be concerned about the precedence  
9 that this would set. Particularly given there is 25  
10 feet of buildable space to the west.

11                  MR. BARRETT: In hearing the comments of  
12 the board, and they are greatly appreciated, I think  
13 at this time we would like to ask for a continuance of  
14 this matter to as soon as possible, a rehearing date,  
15 so that we can submit modified plans that would be  
16 more in keeping with what it is that the board has  
17 indicated would be a more acceptable use of the  
18 property.

19                  CHAIRMAN WALCH: Unless a member of the  
20 board objects, I will grant the continuance. Does  
21 anybody object?

22                  MS. TOFT: No objection.

23                  CHAIRMAN WALCH: The continuance will be  
24 granted to the next available hearing date. And  
25 that's largely in your control with how fast you come

1 up with the modified plans.

2 MR. BARRETT: Thank you very much for your  
3 time.

4 CHAIRMAN WALCH: Thank you.

5 MR. BARRETT: Will there be any kind of  
6 communication from the board?

7 CHAIRMAN WALCH: Not from the board. But  
8 you deal with the building department, as you have  
9 been doing.

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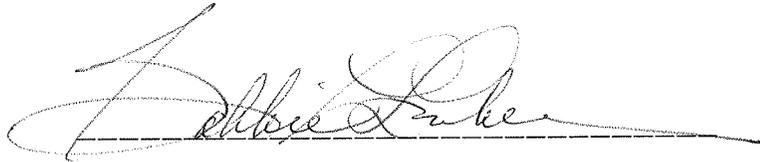
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CERTIFICATE OF REPORTER

I, Bobbie L. Luber, 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. Luber, RPR, CCR #621

