

DOCKET 1180

DATE OF HEARING	August 3, 2015
NAME	Jennifer Kaiser
DESCRIPTION OF PROPERTY	8574 Colonial Lane
CAUSE FOR APPEAL	Relief from the decision of the Building Official for an addition being located in a required side yard of the property which violates Section V, C, 1, (a) & (b) of Ordinance 1175
RULING OF THE BOARD	After a discussion of the facts presented, the Board continued the matter in order for the applicant to revise the proposed plan.

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, August 3, 2015

DOCKET 1180
8574 Colonial Lane

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, August 3, 2015, at City Hall.

The following members of the board were present:

Mr. Stanley Walch, Chairman
Ms. Robbye Toft, Vice-Chairman
Ms. Liza Forshaw
Mr. David Schlafly
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 1180**

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 Jennifer Kasier, 8574 Colonial Lane, St. Louis, MO 63124, requesting relief from the ruling of the Building Official denying a building permit for an addition being located in a required side yard of the property which violates Section V, C, 1, (a) & (b) of Ordinance 1175

The hearing will be held at 4:00 p.m. on Monday, August 3, 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 July 9, 2015;
Exhibit D – List of Residents sent notice of meeting;
Exhibit E – Letter from the resident requesting the variance date June 15, 2015

Exhibit F – Entire file relating to the application

(Transcript attached as part of the minutes)

The court reported administered the oath to Jennifer Kaiser of 8574 Colonial Lane and two neighbors from the subdivision; Sarah Turley and Linda Rose. Ms. Kaiser explained the proposed project to the Board and also stated that additional green space would be incorporated into the plan. Ms. Kaiser noted many other examples of additions in the subdivision that were able to obtain a variance.

Ms. Turley voiced her support for the project.

Ms. Rose inquired about whether permits have been obtained for the project and noted that a dumpster was present at the property and construction workers have been seen on the property.

The Public Hearing was then closed.

Ms. Toft stated that this subdivision should be evaluated by the Zoning and Planning Commission and that piecemeal variances are not ideal. She suggested that a masterplan for the subdivision is needed and she volunteered to be on a committee to develop these new requirements.

Ms. Kaiser asked for the committee to commence after these two variances were decided on.

Ms. Toft stated that the subdivision issues should be dealt with now and that the proposed project doubles the existing home and is excessive.

Ms. Kaiser offered to reduce the size of the addition and asked the Board for direction. She also inquired about the potential for the Board to make a determination on the north side yard setback and continue the south side yard setback so that the plan could be re-evaluated. The Commission responded that new plans are needed.

After further discussion, the Board continued the matter.



Mr. Stanley Walch, Chairman

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ZONING BOARD OF ADJUSTMENT
CITY OF LADUE
LADUE, MISSOURI

IN THE MATTER OF:)
)
JENNIFER KAISER) Docket Number 1180
8574 COLONIAL LANE)
LADUE, MISSOURI 63124)

Monday, August 3, 2015

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ORIGINAL

BOBBIE LUBER, LLC  
P.O. Box 31201 ~ 1015 Grupp Road ~ St. Louis, MO 63131  
314.541.3179

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ZONING BOARD OF ADJUSTMENT

CITY OF LADUE

LADUE, MISSOURI

IN THE MATTER OF:            )  
                                          )  
JENNIFER KAISER                ) Docket Number 1180  
8574 COLONIAL LANE            )  
LADUE, MISSOURI 63124        )

BE IT REMEMBERED that on the 3rd day of August, 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
- Mr. David Schlafly
- Mr. John Shillington
- Ms. Robbye Toft

Also Present:

- Mr. Michael W. Gartenberg
- Ms. Anne Lamitola
- Ms. Jennifer Kaiser
- Ms. Sarah Turley
- Ms. Linda Rose

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 previously been  
3 called to order at 4:00 p.m. continues as follows:)

4 CHAIRMAN WALCH: All right. The next case  
5 is 8574 Colonial Lane. The applicant is Jennifer  
6 Kaiser.

7 Can you explain, Mr. Gartenberg, the reason  
8 or reasons the plans were disapproved so the members  
9 of the board and the audience have a clear  
10 understanding of the issues in this case?

11 MR. GARTENBERG: Yes, sir. The proposed --  
12 the proposed project is located on the property that  
13 is subject to 10-foot required side yards. What is  
14 being proposed to the city reduces the side yard on  
15 the right side to about 6 feet, 6.08 feet. And on the  
16 left side it's reduced down to 5.92 feet. The zoning  
17 variances to both required side yard setbacks would be  
18 necessary for the project to go forward.

19 CHAIRMAN WALCH: Does this encroach  
20 anymore -- the new construction, is it consistent with  
21 the original -- the size of the original house?

22 MR. GARTENBERG: On the right side the  
23 first it refers to, the answer is no, it would not be  
24 more. But on the left side, yes, it would be,  
25 approximately 2 feet more. The encroachment would be

1 about 2 feet greater. There is currently an  
2 encroachment on the left side of about 2 feet.

3 CHAIRMAN WALCH: So on the south side, I  
4 think it is, the new encroachment will stick out 2  
5 feet beyond the existing house?

6 MR. GARTENBERG: Exactly. So that  
7 encroachment would be 4 feet, just as it is proposed  
8 on the north side.

9 CHAIRMAN WALCH: All right. Any other  
10 questions for Mr. Gartenberg?

11 MS. TOFT: If I may, Mr. Chairman. Is  
12 there a side-yard coverage issue on this lot?

13 MR. GARTENBERG: I believe that there is.  
14 I don't know that there is any more pavement that  
15 could be put in place there, actually, on the side  
16 yard coverage beyond what it is now.

17 MS. TOFT: And the side yard coverage  
18 ordinance is 25 percent?

19 MR. GARTENBERG: 25 percent, yes.

20 MS. TOFT: And from what I see, it appears  
21 right now the current concrete driveway is about 75  
22 percent. Am I estimating correctly?

23 MR. GARTENBERG: Well, it would be measured  
24 from the front yard setback line, from the front  
25 property line.

1 MS. TOFT: Thank you. So at about 50  
2 percent?

3 MR. GARTENBERG: About 50 percent.

4 MS. TOFT: Thank you.

5 CHAIRMAN WALCH: All right. I will now  
6 incorporate in the record of this particular appeal  
7 several exhibits. The first is Exhibit B, which is  
8 the public notice of this hearing.

9 The second is the denial letter dated July  
10 9th, 2015 from the building official. That's 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 June 15, 2015, and any other letters in  
16 favor or in opposition to this request will be marked  
17 as Exhibit E. Are there any other letters to this  
18 appeal? I know there is for the next appeal, but any  
19 for this appeal, Ms. Lamitola?

20 MS. LAMITOLA: There were not.

21 CHAIRMAN WALCH: Okay. Thank you. Exhibit  
22 F will be the last exhibit. That's the file  
23 pertaining to this application, including any  
24 memoranda from the staff and consultants to the Zoning  
25 Board of Adjustment and the City of Ladue.

1                   And at this point I will ask the appellant  
2 and those who want to speak on the appellant's behalf  
3 to come forward and give your name to the court  
4 reporter and she will swear you in.

5                   (At this time Ms. Kaiser and Ms. Turley  
6 were sworn in by the court reporter.)

7                   CHAIRMAN WALCH: All right. The floor is  
8 yours.

9                   MS. KAISER: I will go over the house  
10 briefly, as you have seen the site.

11                   As you are looking at the home on the right  
12 side I propose to go straight back and keep in line  
13 with the existing building. So that is approximately  
14 what Mr. Gartenberg said, 6 feet. My neighbor, Sarah,  
15 who has also agreed to testify, next to my house, I  
16 don't think she opposes the additional building that  
17 I'm going to put straight back. I'm not going, you  
18 know, any further over the existing line. I'm just  
19 going straight back.

20                   On the other side, we tried to keep it kind  
21 of equal was how we went about it initially. So I  
22 believe we are at 6.08 on Ms. Turley's side, and on  
23 the other side I think we are at 5.9 something to try  
24 to keep it roughly both at 6 feet just to be equal.

25                   If it pleases you guys, I can move in the

1 left side some more.

2 I also heard you bring up the side  
3 allowance. I'm probably not going to say the right  
4 word.

5 CHAIRMAN WALCH: Coverage.

6 MS. KAISER: Coverage. I will have some  
7 planting area within that, that may not be indicated.  
8 Some of this right here, this will be -- you see how  
9 they have that line. That's all going to be green  
10 space. We are trying to green it up more.

11 In addition, this along here, because we  
12 kind of need a pad to pull in straight. This along  
13 here will also be green space, trying to make an  
14 attempt to, you know, make more use of the green space  
15 where we can.

16 So, really, you know, we are just trying to  
17 keep it equal on both sides. If the Fernandes'  
18 (phonetic) side needs to come in a little bit to be in  
19 line with the existing house, that's fine. We are  
20 willing to make it work.

21 I brought pictures, too, and I know you are  
22 all aware of this. There are so many houses on  
23 Colonial Lane that have done what I'm asking for as  
24 far as going straight back from the existing building,  
25 two of which has happened within the last year. They

1 torn down this entire side of the house and rebuilt  
2 it. If not at 5 feet, darn close to the side setback,  
3 and that was this past year. Kim Korney's (phonetic)  
4 residence. And then this one also did the same thing.  
5 And I don't know the name of the new owners, but they  
6 tore down the entire side and rebuilt it on the  
7 setback also. So there is some precedence there.

8 MS. FORSHAW: Excuse me. Probably both of  
9 those were in line with the existing house?

10 MS. KAISER: They were. I think Kim's  
11 actually went over it. I don't think her building of  
12 the garage and the new addition above it was over, was  
13 wider than the existing house.

14 CHAIRMAN WALCH: That's this one?

15 MS. KAISER: Yes.

16 CHAIRMAN WALCH: Does anybody remember any  
17 cases?

18 MS. TOFT: As I remember, did she not even  
19 have a garage?

20 MS. KAISER: She did. It was a little bit  
21 smaller than it is now. It's still one car. She is  
22 the one that got the pool in the back. She had  
23 setbacks all over the place.

24 MS. TOFT: We rejected the pool. She had  
25 to scale the pool down. My memory was that the garage

1 was either so small she couldn't get into it, or  
2 something like that.

3 MS. KAISER: Mine is too.

4 MR. SCHLAFLY: The one that worked for the  
5 high school.

6 CHAIRMAN WALCH: I do remember that.

7 MS. KAISER: The pictures I have here are  
8 just multiple other homes that have added on straight  
9 back on Colonial Lane. Part of me thinks it would  
10 look kind of goofy too if you indented from the  
11 existing house. I mean, it is kind of going to look a  
12 little different from everything else that has been  
13 added on. I have multiple pictures, if you wish to  
14 see that; there are six more. And that's just a quick  
15 drive-through snapping shots from the street.

16 CHAIRMAN WALCH: I know there has been a  
17 lot of activity on Colonial Lane.

18 Any other questions of the appellant? I  
19 guess not. Does the other lady want to speak to this?

20 MS. TURLEY: Sure. I'm the one who lives  
21 on the right side of her house. My name is Sarah  
22 Turley.

23 She is going to be keeping even with what  
24 is already there. I believe the original house that  
25 set back didn't meet whatever it was. And I agree

1 with her. On the other side, the Fernandes that live  
2 on the other side could not be here today, but with  
3 the amount of space already that is given, it's hard  
4 enough for her to drive through to the back of her  
5 house anyway because her driveway goes back.

6           You know, she had to -- that is the current  
7 house. But if you had it set back more it would look  
8 really awkward. Most of the garages on Colonial Lane,  
9 I was born in the neighborhood, and so they are made  
10 for the smaller version of a car, not like what  
11 everyone is driving now, the SUV. So I would think  
12 she is going to need that space just to have a garage,  
13 period, to get into it, to be able to pull a car into  
14 it.

15           MS. KAISER: I can't pull into my garage  
16 now that's back there.

17           MS. TURLEY: My house doesn't even have a  
18 garage. The owners before me turned it into a family  
19 room. But I know I don't -- I approve of everything  
20 she is doing.

21           I think one of the things in our  
22 neighborhood, why you are finding so much of it is  
23 they love the feel of Colonial Lane, and people  
24 realize that the homes are smaller than other homes,  
25 but they want to stay in the wonderful neighborhood

1 and they love all of their neighbors. And in order to  
2 accomplish that, Jen, being a single mom, she has one  
3 bathroom. She needs to add on with her three  
4 children. I think that's why you are finding so much  
5 in Colonial Lane.

6 Being born there, and looking back at the  
7 changes, and even when my parents were still alive, I  
8 am so impressed with what everyone has done, all the  
9 additions and changes to the house to keep the  
10 neighborhood as beautiful as it is and our own little  
11 community there, even though we are part of this  
12 larger community.

13 That's all I have to say. I approve.

14 CHAIRMAN WALCH: Thank you very much.

15 MS. TURLEY: You are welcome.

16 CHAIRMAN WALCH: Does anybody have any  
17 questions?

18 MS. TOFT: You are currently living in the  
19 house?

20 MS. KAISER: No.

21 MS. TOFT: Okay. Have you lived in the  
22 house at all?

23 MS. KAISER: Yes.

24 MS. TOFT: And you have moved out to make  
25 the improvements?

1 MS. KAISER: Yes.

2 MS. TURLEY: And I miss her.

3 MS. KAISER: Should I sit down? I don't  
4 know what I'm doing.

5 MS. ROSE: I have a question.

6 CHAIRMAN WALCH: You are welcome to come  
7 forward and speak to this case, but you do need to be  
8 sworn in.

9 MS. ROSE: It's a general question, but  
10 that's fine.

11 CHAIRMAN WALCH: Okay. Come forward,  
12 please, and give your name to the court reporter.)

13 (At this time Ms. Rose was sworn in by the  
14 court reporter.)

15 MS. ROSE: I have a question for the board.  
16 And that is, I think there is work already being done  
17 on Jen's house. I wanted to know if there were any  
18 permits that have been issued for the work that's  
19 being done there now?

20 CHAIRMAN WALCH: This board doesn't issue  
21 the permits, but Mr. Gartenberg does.

22 MS. ROSE: Maybe I should address  
23 Mr. Gartenberg.

24 MR. GARTENBERG: I wouldn't know offhand  
25 without going and looking.

1 MS. ROSE: I just know there is work being  
2 done there, and I didn't know if permits should  
3 already have been issued for the work that was being  
4 done, and what work requires permits and what doesn't.  
5 I haven't seen any signs posted in the window.

6 MS. KAISER: I guess I can address that. I  
7 have asked about the dumpsters. I don't have to have  
8 a permit to do that.

9 MS. ROSE: I'm not talking about the  
10 dumpster. I'm talking about the house itself. I'm  
11 just not real clear.

12 MS. TOFT: I was going to suggest maybe  
13 perhaps you have a discussion after this, or the  
14 building department can tell you if permits have been  
15 issued.

16 MS. ROSE: I was just curious with all of  
17 this work that was going on.

18 CHAIRMAN WALCH: We really don't know. We  
19 have nothing to do with the issuance of permits.  
20 That's handled by employees of the city.

21 MS. ROSE: I was just curious, and there  
22 might be exterior work and so forth.

23 MS. LAMITOLA: You can grab it off our  
24 database and determine whether permits are going to be  
25 issued.

1                   CHAIRMAN WALCH: Does any other member of  
2 the public wish to speak to this matter? Hearing  
3 none, I'm going to declare the public portion -- the  
4 public comment portion of this meeting closed, unless  
5 some member of the board objects. Hearing none, it's  
6 closed.

7                   Who wants to start our discussion?

8                   MS. FORSHAW: Mr. Chairman, should this  
9 letter be -- dated August 3rd from Donna Pietrucha be  
10 read into the record? It doesn't really specify.

11                  MR. SHIPLEY: It's a different matter.

12                  CHAIRMAN WALCH: A different case.

13                  MS. TOFT: I think the letter --  
14 Ms. Pietrucha's letter raises some points that could  
15 very well read with regards to the Kaiser residence.  
16 I previously expressed that, you know, I worry that  
17 Colonial Lane, if people are not allowed to make  
18 additions to homes, will become antiquated and lose  
19 value.

20                  However, my concern is that we are here for  
21 purposes of granting variances for hardships.

22                  MS. KAISER: And I put one in my letter. I  
23 should have addressed it. I assumed you read it. I'm  
24 sorry.

25                  MS. TOFT: A desire to have more space

1 doesn't necessarily constitute a hardship. And I  
2 believe that this district needs to be looked at by  
3 Planning and Zoning, and a plan needs to be developed  
4 specifically for this district. I think it is not  
5 appropriate for us to piecemeal, grant variances that  
6 will create or exacerbate existing problems  
7 unwittingly, cause water run-off problems for  
8 neighbors. This is not the right way to address this  
9 neighborhood. This neighborhood deserves careful  
10 consideration.

11 We clearly know that flood water and  
12 drainage is an issue. We already have both houses  
13 before us in this district have more side yard  
14 coverage than our zoning allows. And if we don't have  
15 a master plan for this district, the people who  
16 improve now will do so to the detriment of the  
17 neighbors. We know that from experience. We saw what  
18 happened with the Magnolia development before that  
19 redistricting and those guidelines were developed, it  
20 was a slugfest once the neighbors learned about who  
21 can make improvements first. Too bad, I got a  
22 variance, I'm going to cover my whole side yard. And  
23 it was not the way I think we should proceed as a  
24 municipality.

25 I say that cognizant of the fact that

1 Ms. Kaiser has moved out of her house. I recognize  
2 that this is not going to be the swiftest of  
3 resolutions to ask that this be sent to Planning and  
4 Zoning. And I will volunteer to serve on a committee  
5 to try to expedite this so that we can make meaningful  
6 well-reasoned zoning rules for this district that will  
7 bring value to everybody and not allow improvements to  
8 one house to the detriment of a neighbor.

9 MR. SHILLINGTON: Certainly well-spoken.

10 CHAIRMAN WALCH: She has a question.

11 MS. TURLEY: I see where you are going on  
12 this, but I guess you have got two cases pending for  
13 you. I mean, that people, you know, have already  
14 uprooted their lives to make these changes. Isn't  
15 there a way to say, okay, we are not accepting any  
16 more applications? I mean, how do you --

17 MS. TOFT: Quite honestly, and I will speak  
18 to this because I'm the old member of this board.  
19 This is by far the largest addition, these two,  
20 greatly exceed any request that we have previously  
21 seen.

22 And to allow a variance for doubling of  
23 home sizes without doing a master plan without  
24 respecting the neighborhood, and I don't speak for  
25 everybody, but I would personally be opposed to this

1 because this isn't the way to address the problem, to  
2 allow people to start doubling the size of their homes  
3 and say we will look at that later on down the line  
4 and maybe Planning and Zoning will get around to it in  
5 two or three years. And in the meantime the next door  
6 neighbor will find that they have water in their  
7 basement, and, you know, somebody's playground  
8 equipment has been under water behind them.

9 This is the biggest percentage addition  
10 that we have seen in the neighborhood.

11 MS. KAISER: But you have to look at Kim  
12 Korney. She has no backyard left. None. And she  
13 extended a pergola to do a percentage of yard variance  
14 so that she could get around the variance, and filled  
15 her pool in. So I can't see how she has literally no  
16 backyard, and I'm going to be denied for going  
17 straight back from my existing house. And I'm not in  
18 my back setback. So I'm within the building envelope  
19 that is permitted within the district.

20 I mean, if anything, can't I just indent  
21 more? I mean, it's a side variance. Like I said when  
22 I came up there, I'm willing to work with you all.  
23 I'm not standing here saying I must have it my way.  
24 Can I move the garage in a couple more feet? Can I do  
25 some more planting?

1           You know, there are so many homes in there  
2 that have already done -- and you may be right, I  
3 haven't counted like square footage. But, I mean,  
4 Schneider's house, doubled the size of their house in  
5 the neighborhood. You know, there are other ones that  
6 have quite large additions, and I'm willing to make  
7 mine smaller. I'm not digging my heels in.

8           MS. TOFT: I can't speak to everybody's  
9 addition. I can only speak to cases that have come  
10 before the Zoning Board of Adjustment.

11           MS. KAISER: Surely you have seen Kim  
12 Korney's that was within the last four months.

13           MS. TOFT: I can tell you we rejected her  
14 pool. And so she made modifications to it so she  
15 didn't have to come back in front of us.

16           MS. KAISER: And I'm happy to make  
17 modifications also.

18           MS. TOFT: I'm just saying what you are  
19 proposing is taking up side yard on both sides. And I  
20 have spoken for myself.

21           MS. TURLEY: A side yard, I guess, on my  
22 side, I'm curious what you are actually saying.

23           MS. TOFT: Again, we have really closed the  
24 public portion of the meeting, but there is a 10-foot  
25 mandatory side yard. Currently the house already

1 encroaches 4 feet into that side yard.

2 MS. TURLEY: Why was the house built like  
3 that in the first place?

4 MS. TOFT: These houses were built before  
5 Ladue was a municipality, before we had a zoning code.  
6 And so we are talking about -- if this neighborhood is  
7 just like the other D districts, these are what we  
8 call existing nonconforming houses. And so we try to  
9 weed it. Our predecessors tried to develop a zoning  
10 code and every neighborhood is forced into a district.  
11 Whether the existing homes complied with those zoning  
12 codes or not.

13 And so we try to -- we work with existing  
14 nonconforming houses all the time. We try to allow  
15 people to make improvements so that their home doesn't  
16 become antiquated and useless.

17 MS. KAISER: I thought about tearing the  
18 thing down, and that's something that I don't want to  
19 see happen to Colonial Lane. There is charm in the  
20 existing homes.

21 And, again, I hope that you are hearing me.  
22 I'm happy to make it smaller. If that pleases you all  
23 and if I could stay straight back on Sarah's side that  
24 she is saying doesn't bother her, and move the garage  
25 in, and plant more to make more of my green space.

1                   MR. SCHLAFLY: The last thing we want to  
2 do, and we all live in Ladue and we are volunteers  
3 here, is design your house. We are not trying to  
4 apply our taste or anything. We are trying to avoid a  
5 conflict and any hostility in the future that if we  
6 give something that exceeds anything that we have  
7 given before, that it doesn't open up the floodgate  
8 for anybody in the community to come in and say they  
9 did it, you need to do this for me. That's the issue  
10 we are looking at.

11                   MS. TURLEY: What is the size that you  
12 would allow, what percentage of a current house?

13                   MR. SCHLAFLY: What we talk about is  
14 allowing encroachment into side yards. And we have no  
15 set rule on that, but if somebody were to encroach in  
16 a small percentage into a side yard, it is easier for  
17 us to come to an agreement if the person is facing a  
18 hardship. If it's a very large encroachment, and one  
19 that we have never seen that large, or ever given a  
20 vote to do that, that is -

21                   MS. TURLEY: What constitutes a hardship?

22                   MR. SCHLAFLY: That's another thing.

23                   MS. TOFT: Before we can grant a variance  
24 we have to find a hardship. And traditionally we have  
25 found homes with no garages to be a hardship.

1 MS. KAISER: One that you can't get into  
2 that well.

3 MR. GARTENBERG: If I can interject. To  
4 the hardship or practical difficulty question, the  
5 question before that is the ability of the property to  
6 serve its intended purpose. This is residentially  
7 zoned property in Ladue. And there are certain  
8 expectation on what that property would provide as far  
9 as rooms and space and so forth.

10 And the first thing that this board has to  
11 do is come to believe and agree that the property, the  
12 building needs to be enlarged to accommodate certain  
13 needs. Once it comes to understand that and crosses  
14 that threshold it becomes a matter of practical  
15 difficulty and hardship situation.

16 This home measuring over 3500 square feet  
17 and breaking up room by room is a matter of this board  
18 being of the same mind that presumably Ms. Kaiser is,  
19 that this large of a house, or a house this size needs  
20 to be on this property and it needs to have these  
21 various rooms and these spaces and so forth. And if  
22 they come to agree with that, that's a matter of  
23 trying to work within the parameters of the zoning  
24 code. And presumably it's your position that the  
25 space is necessary, but it can't be provided for while

1 meeting the zoning code, and so as a result some form  
2 of hardship or practical difficulty exists and  
3 prevents you from providing that space. Does that  
4 make sense?

5 MS. TURLEY: It makes sense to me, I guess.  
6 I know your discussion is closed.

7 I hate to see good families wanting to  
8 leave our wonderful neighborhood because houses of her  
9 current structure are not liveable space. I mean, she  
10 has a breezeway that is not air conditioned and not  
11 heated, and a garage. Expanding all of that into  
12 making that liveable space for her three girls and  
13 herself.

14 MS. FORSHAW: I think we can probably be  
15 persuaded that this house does need some modifications  
16 to be in line with Ladue standards for houses. I  
17 mean, it probably needs more than one bathroom.

18 MS. KAISER: Windows, roofing. Maybe a  
19 garage that isn't 11 feet wide.

20 MS. FORSHAW: Maybe a garage that's usable.  
21 But the problem here is you are increasing the  
22 encroachment into the side yard by a full 2 feet along  
23 the whole length of one side of the house.

24 MS. KAISER: Let's give that up then. Tell  
25 me what to do.

1 MS. FORSHAW: There is an issue of the lot.  
2 It's called the coverage ratio, that I guess is not  
3 addressed in the plans at all; correct?

4 MR. GARTENBERG: No. And it should have  
5 been addressed in the review comments, because the  
6 side yard coverage ratio is increasing.

7 MS. KAISER: And I didn't get any type of  
8 notification on that or I would have come prepared  
9 with other thoughts on increasing the planting.

10 I'm trying; tell me what to do. Cut the  
11 two foot off the garage to make it in line with the  
12 existing house and increase the percentage of green  
13 space, fine. I don't have a rear setback issue, you  
14 know. Sarah is not opposed to me going straight back  
15 on her side. I will move it in two feet so I'm not  
16 close to the Fernandes.

17 MR. SCHLAFLY: I don't want to speak for  
18 the chairman, but you could propose a continuance and  
19 go back and meet with your architect; can you do that?

20 MS. KAISER: If we are going straight back  
21 and lopping two feet off --

22 CHAIRMAN WALCH: If you comply with the  
23 zoning ordinance, they will give you a permit.

24 MS. FORSHAW: That can't be done in this  
25 case because the house is nonconforming.

1 MR. GARTENBERG: Excuse me. It can be  
2 done. If the additional work complies, then it need  
3 not come to the Zoning Board of Adjustment.

4 MS. KAISER: Let me ask you this. Could  
5 you grant me the right side variance, and then I will  
6 go back to the architect and have him cut down the  
7 garage and come back? Tell me what I can do.

8 MS. FORSHAW: I think the minimum that  
9 would be required in this situation is for you to  
10 submit new plans. I think we cannot design a variance  
11 that lops things off here and there.

12 MS. KAISER: With all due respect, I have  
13 spent \$8,000 already on plans, and I feel like I'm  
14 bending over backwards trying to get your point,  
15 trying to work with you. Can you at least say cut off  
16 two feet of your garage and then come back? I don't  
17 want to go back and redesign plans and then come back  
18 and do this work, and then go back. You know what I'm  
19 saying, can you at least tell me?

20 MR. SCHLAFLY: You need some guidance on  
21 that, and that should be done by the city.

22 MS. TURLEY: I believe what he said was if  
23 she meets all the zoning requirements and goes  
24 straight back on my side, that she could proceed and  
25 get a permit.

1                   CHAIRMAN WALCH: No. That's not what he  
2 said.

3                   MS. KAISER: He said if I indent four more  
4 feet on your side.

5                   MS. FORSHAW: It's probably not practical  
6 to do it that way.

7                   MS. TOFT: Yes. And that's why -- that's  
8 why it has to be --

9                   CHAIRMAN WALCH: That's why we need  
10 compliance. It's your option. We can take a -- we  
11 can take a vote on it today, up or down. But if it  
12 goes down, you will have to wait six more months  
13 before submitting any new plans for a variance.

14                   MS. KAISER: I have already moved my dog  
15 and my three kids.

16                   MS. TURLEY: Moved her family out of Ladue.

17                   MR. SHILLINGTON: What is your problem with  
18 the right-hand side which is already encroached on the  
19 setback, or is it only on the left-hand side?

20                   MS. TOFT: It's both.

21                   CHAIRMAN WALCH: It's both.

22                   MR. SHILLINGTON: If it already exists on  
23 the right-hand side --

24                   MS. TOFT: Mike, do you want to address  
25 this? We are going to have pandemonium here. She

1 wants to build a significant addition on the back that  
2 would continue the nonconformance.

3 MR. SHILLINGTON: I see.

4 MS. TOFT: She wants to add straight back.

5 MS. KAISER: Yes.

6 MS. TOFT: I mean, I understand you have  
7 moved out and you started work. The problem that I  
8 see, Mr. Chairman, and I will speak to this board  
9 because we have closed the public portion. I think  
10 that's the problem. If we start piecemealing this,  
11 people are going to make less than optimum additions  
12 to their homes.

13 If we look at this and we come up with new  
14 zoning rules for consistency, people will know what  
15 their rules are. They can optimize the structure they  
16 want within those rules and come up with a more  
17 attractive, useful home, one that will hold its value  
18 and that will respect the neighbors.

19 CHAIRMAN WALCH: I understand what you are  
20 saying. The downside of that is time.

21 MS. TOFT: I know.

22 MS. KAISER: Once again, is there an option  
23 of getting the right side variance just straight back,  
24 and then I will do what you are saying and go back and  
25 get the architect to change the left side.

1 MS. TOFT: Mr. Chairman, can she amend what  
2 she is asking for and ask for the strictly one side to  
3 continue?

4 CHAIRMAN WALCH: I will allow you to do  
5 that. If you want -- being this is an amendment of  
6 only requesting a variance on the --

7 MS. KAISER: Right-hand side.

8 CHAIRMAN WALCH: -- right-hand side.

9 MS. KAISER: Straight back. And then I  
10 will go back to my architect and move in the garage.

11 CHAIRMAN WALCH: Okay. You have heard the  
12 amendment --

13 MS. FORSHAW: Well, wait a minute. Would  
14 we still have a lot coverage ratio problem or not?

15 MR. GARTENBERG: We wouldn't have a side  
16 yard coverage ratio because she wouldn't be putting  
17 any additional structure or pavement on that left  
18 side. And I think the right side is okay as far as  
19 encroachment -- as far as coverage.

20 MS. TOFT: In terms of side yard coverage.  
21 She would still need a variance in order to continue  
22 the 4-foot encroachment, and she is -- is this the one  
23 that is wanting to put a second story on also?

24 MR. GARTENBERG: Yes.

25 MS. TOFT: So it's increasing the mass in

1 the side yard encroachment.

2 MS. TURLEY: And I'm fine with it.

3 MR. GARTENBERG: So to answer your  
4 question, Liza. If the variance requested was only  
5 for that right side, the coverage in the required yard  
6 would be a moot point. It would not require a  
7 variance, would not require an action on the board's  
8 part.

9 CHAIRMAN WALCH: Is there any more  
10 discussion from the board on this subject? I think we  
11 have heard the amended motion and know what is being  
12 proposed.

13 MS. FORSHAW: I don't think we really have  
14 a motion yet.

15 MS. TOFT: We don't have a motion.

16 CHAIRMAN WALCH: No, we don't have a  
17 motion, but I was asking for discussion before I call  
18 for a motion. Is there any more discussion?

19 MR. SHILLINGTON: As I understand, a  
20 variance on the right-hand side and come back with a  
21 plan that would decrease the amount she was expanding  
22 on the left-hand side; is that right?

23 CHAIRMAN WALCH: No. She would get no  
24 variance on the left side at all.

25 MS. KAISER: Until I come back.

1                   CHAIRMAN WALCH:  Until she comes in and  
2 shows the building official what she wants to get  
3 approved.

4                   MS. FORSHAW:  Honestly, I'm not comfortable  
5 creating a variance for just one side for this  
6 municipality of what is going to happen.

7                   CHAIRMAN WALCH:  I'm afraid that's what is  
8 going to happen.  If she wants a vote, she is entitled  
9 to a vote.

10                  MS. KAISER:  If you deny me as a vote do I  
11 have to wait six months?

12                  MS. FORSHAW:  Not if you request a  
13 continuance --

14                  CHAIRMAN WALCH:  Not if you request a  
15 continuance.

16                  MS. FORSHAW:  -- instead of a vote.

17                  MS. KAISER:  I'm going to be forced to go  
18 back and spend thousands of dollars without knowing  
19 this is going to go through?

20                  MS. TOFT:  That's true of every applicant.  
21 That's why -- that's why we need to revise the zoning  
22 code.

23                  MS. KAISER:  But why now?  Why did Kim get  
24 no backyard and to go over the existing property that  
25 she had just six months ago, and now all of a sudden

1 this is an issue with my house? And I'm sitting here.  
2 I'm a Ladue resident willing to do anything I can to  
3 work within the parameters. I have even said, can I  
4 just do the right side and I will move the left side  
5 in.

6 MS. TOFT: Mr. Gartenberg, the pool did fit  
7 within the building code, didn't it?

8 MR. GARTENBERG: It did. They revised the  
9 pool so it did not increase the rear yard coverage  
10 beyond the maximum. It was a significant addition. I  
11 don't recall it being of this scale. It was one of  
12 the larger ones to date, but I do believe in my 20  
13 years here this may be the largest addition I have  
14 seen in the neighborhood.

15 MS. LAMITOLA: I believe we need to have  
16 the addresses of all the pictures that were provided  
17 and do research.

18 MS. FORSHAW: That would be helpful.

19 MS. LAMITOLA: I'm new to this myself since  
20 February. I don't know the last names, addresses, or  
21 anything.

22 MS. FORSHAW: That could be handled before  
23 the next Zoning Board of Adjustment meeting which, is  
24 a month from now.

25 MR. GARTENBERG: Any of those which you

1 wanted to use for comparison sake, if you let us know.

2 MS. KAISER: I said over and over and over,  
3 fine, I won't do 3500 square feet. I will make it  
4 smaller. I didn't know what to do. You can't say  
5 here is 3,000, can I do a little more. You know, how  
6 I am supposed to know? And so now I come here, and  
7 I'm doing everything I can. Can't you say do the  
8 right side, move the garage in 10 feet, and we will be  
9 done? I don't get it.

10 CHAIRMAN WALCH: We will vote on that if  
11 that's your choice.

12 MS. KAISER: And I will have to have my  
13 family moved out for the next six months because of  
14 this.

15 MS. TOFT: It's your choice. You have  
16 heard what people have said. You have heard people  
17 say this is the largest addition that we have seen in  
18 this neighborhood.

19 MS. KAISER: And I'm willing to knock it  
20 down. How about if I take off the top?

21 MS. TOFT: Honestly, this is -- I think we  
22 need to close the public portion of the meeting. If  
23 she wants us to vote, we can vote. If you want to  
24 continue it; we don't want to get into an argument  
25 with you about it.

1           Typically people work this out with their  
2 architects, and their architects come in and make a  
3 case about why they need this and why they need that.  
4 We rarely see homeowners coming in.

5           MS. KAISER: I wanted to save some money.

6           MS. TOFT: And we appreciate that, but you  
7 are talking about a basic gutting of the zoning for  
8 this area. And if we gave you this, and you say Kim  
9 Korney is the problem, and her addition that required  
10 a side yard encroachment was not this large, then the  
11 next person is going to come in, and they are going to  
12 want twice as much, and it will never end.

13           I will tell you as the oldest member, we  
14 have never granted anything with this much addition  
15 with that much side yard encroachment in any  
16 neighborhood of this size. It has not happened. And  
17 I am generally the most liberal person on this board.

18           CHAIRMAN WALCH: That's true.

19           MS. TOFT: And I'm telling you, I can't go  
20 with this. So, I mean, if you want to call for a  
21 vote, call for a vote.

22           MR. SHILLINGTON: Can we give some kind of  
23 advice as to what she needs to come back with if she  
24 does a continuance?

25           MS. FORSHAW: I guess I just want to point

1 out that you have to get four out of five votes, and  
2 we can't really bind the board that will be sitting  
3 next month because it may not be the same five people.  
4 So it's possible we can give general guidance, but  
5 it's not binding in any way on what happens next  
6 month.

7 MS. KAISER: If I indent on the right side  
8 four more feet, and I lop off the left, everything I  
9 want within my building code, I am allowed to do that?

10 MS. TOFT: You are not in front of us. You  
11 don't even come before us.

12 MS. KAISER: Then I will still have a 3500  
13 square foot house. It would just look goofy.

14 MS. TOFT: And that's a comment about  
15 how --

16 MS. KAISER: And that's sad. It's sad.

17 MS. TURLEY: It is really sad.

18 MS. KAISER: It's sad.

19 MS. TURLEY: Jen, don't even --

20 MS. KAISER: I will take a continuance or  
21 whatever.

22 CHAIRMAN WALCH: All right. The case will  
23 be continued. If you submit new plans that require a  
24 variance, we will hear it as soon as you can get on  
25 the docket. I can't assure you of anything about the

1 outcome. If you comply with the setback, then the  
2 building official has no choice but to issue the  
3 permit. So the architect should know how to comply  
4 with it.

5 MS. KAISER: Know how to comply with it.  
6 What kind of legal ramifications do I have in making a  
7 case? It doesn't make sense.

8 CHAIRMAN WALCH: You have the right of  
9 appeal to the Circuit Courts of the State of Missouri.  
10 It's an expensive and time-consuming operation, but  
11 you have that right.

12 MS. FORSHAW: It would also benefit all of  
13 us for the city to have time to research what has been  
14 done in the past, which can be done before the next  
15 meeting.

16 MS. KAISER: It's unfortunate, because it  
17 took me two months to get on the docket.

18 MS. TOFT: Actually, the applicant comes in  
19 and gives us that, because the burden is on you. The  
20 burden is not on the city to go out and investigate.  
21 And I appreciate you trying to save money, but it's  
22 really not for the city to go take measurements of  
23 your neighbors.

24 MS. KAISER: They sent me a sheet from the  
25 City of Ladue, and there was a specific line that said

1 if there was anything else needed we will let you  
2 know. I would have brought in addresses and  
3 calculations if I knew that I needed that.

4 MS. TURLEY: And it sounds like you all  
5 need to see the zoning anyway.

6 MS. TOFT: We are not the zoning board.

7 MS. TURLEY: That's the problem, the zoning  
8 board needs to do that.

9 MR. GARTENBERG: Mr. Chairman, any revised  
10 plans that come, whether they comply with the zoning  
11 code or not would be reviewed by the zoning  
12 department. And as part of that review, is the  
13 Architectural Review Board would look at that as well.  
14 Those plans, if they come in, if they do comply, it  
15 would be the normal process. If they don't comply  
16 there is still a setback issue. They will be reviewed  
17 by the Architectural Review Board and I will look at  
18 them from the zoning and land development perspective,  
19 and then they will be forwarded to the Zoning Board of  
20 Adjustment once they are approved, just as was done  
21 with this current application, this current design.

22 CHAIRMAN WALCH: All right. This case is  
23 continued.

24 MS. TURLEY: We have one more quick  
25 question. I know you are volunteers, but you have

1 said it won't be the same five people next time.

2 MS. FORSHAW: It may not be. It may not  
3 be. We have alternates. Not everybody is able --

4 CHAIRMAN WALCH: We have seven members.  
5 Frequently one of us can't make it.

6 MS. TURLEY: I understand.

7 CHAIRMAN WALCH: All right. That case is  
8 continued.

9 MS. LAMITOLA: Are the pictures part of the  
10 file then?

11 MS. TOFT: What's that?

12 MS. KAISER: I don't have addresses or  
13 square footage or anything, and so I don't know what  
14 the use of it would be.

15 CHAIRMAN WALCH: You can re-present them if  
16 you come back to the board again.

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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

