

DATE OF HEARING

April 4, 2016

NAME

Mrs. Cathryn Mollman

DESCRIPTION OF PROPERTY

4 Lindworth Lane

CAUSE FOR APPEAL

Relief from the ruling of the Building Official denying a building permit for a retaining wall which would not meet the required setbacks. These requirements are outlined in Sections IV-F-(3) of Zoning Ordinance #1175 that states that retaining walls in required side and rear yards may be erected up to 36 inches provided they are set back at least one-half the distance required for the principal building. Retaining walls located in side and rear yards and meeting or exceeding the setback required for the building may be erected to heights up to six feet.

RULING OF THE BOARD

After a discussion of the facts presented, the Board approved the variance for the retaining wall to be located within the required setbacks and the decision of the Building Official was overturned.

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, April 4, 2016

DOCKET 1197

4 Lindworth Lane

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, April 4, 2016, at City Hall.

The following members of the board were present:

Ms. Liza Forshaw, Acting Chairman
Mr. David Schlafly
Mr. Daniel Welsh
Mr. Lee Rottmann

Also present were: Mr. William Penney, Building Official; Ms. Anne Lamitola, Director of Public Works; and Ms. Erin Seele, City Attorney.

Ms. Forshaw 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 1197**

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 Mrs. Cathryn Mollman, 4 Lindworth Lane, requesting relief from the ruling of the Building Official denying a building permit for a retaining wall which would not meet the required setbacks. These requirements are outlined in Sections IV-F-(3) of Zoning Ordinance #1175 that states that retaining walls in required side and rear yards may be erected up to 36 inches provided they are setback at least one-half the distance required for the principal building. Retaining walls located in side and rear yards and meeting or exceeding the setback required for the building may be erected to heights up to six feet.

The hearing will be held at 4:00 p.m. on Monday, April 4, 2016, 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

Ms. Forshaw asked Building Official William Penney for an explanation with regard to the denial of the permit for the retaining wall. Mr. Penney explained that the applicant wanted to install a retaining wall in the required rear and side yards. Such a retaining wall is required to be set back at least one-half the distance of the setback required for the principal building. In this case the ordinance would require the retaining wall to be at least 15 feet from the rear yard.

Ms. Forshaw 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 October 21, 2015;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated February 17, 2016
- Exhibit F - Entire file relating to the application

- Exhibit G – photos of standing water supplied by Mr. Smith
- Exhibit H – photos of the sediment buildup supplied by Mrs. Mollman

The court reporter administered the oath to Ms. Melanie Mollman, daughter of the petitioner, who spoke on behalf of her mother, Mrs. Cathryn Mollman. She stated that since the ivy ground cover died, there has been erosion of the downward-sloping rear yard and Mrs. Mollman desired to construct a retaining wall to prevent sediment from washing off the property to the east. Her intention is to plant bushes and flowers in the terraced area if the variance is granted.

Mr. Howard Smith, 1712 Deer Creek Lane, was sworn in. He stated that he lives adjacent to 4 Lindworth Lane and he supplied a photo of his rear yard which showed standing water after a rain event. He expressed concerns about the drainage issues that he believes the retaining wall project could present.

Mr. Welsh asked some questions about the drainage. Mr. Smith expressed additional concerns about the wall being constructed without a permit.

Mrs. Donna Smith, 1712 Deer Creek Lane, was sworn in. She explained that she and her husband had approached the Mollmans with regard to their concerns about the wall project and they want to ensure that the project is properly permitted. Mrs. Smith requested that the City require an engineering professional analyze the situation.

Mr. Schlafly noted that there is a hillside at 4 Lindworth Lane and sought to clarify the direction that the storm water drains. He expressed doubt that retaining wall project could negatively impact the Smith property, which is directly to the south of the subject property.

Ms. Forshaw asked if a civil engineering study is required by the City for retaining wall projects and Mr. Penney stated that it is not a requirement of the code of ordinances.

Ms. Mollman supplied additional photos showing sediment buildup against the fence on the Smiths' side, south of 4 Lindworth Lane. Ms. Mollman stated that water drains into a dry creek bed to the east of their property and that it has always done so. She told the commission that her family has owned the property for many years.

The public comment portion of the meeting was closed.

Mr. Welsh stated that he understands it would be practically difficult to control the erosion within the required building envelope. Ms. Forshaw stated that she agrees with Mr. Welsh. She referred to the photos and questioned how the drainage from the retaining wall area could be draining what appears to be uphill onto the property to the south.

Mr. Rottman observed that the retaining walls help control erosion and that the plants will provide additional relief from erosion.

Ms. Forshaw stated that topography and erosion of the parcel constitute a hardship.

Mr. Schlafly moved that based on the evidence presented, a practical difficulty exists and the decision of the Building Official be reversed, and a variance should be granted to construct the retaining wall as shown on the survey dated 10-18-15, submitted on 2-17-16, which does not meet the requirements that are outlined in Sections IV-F-(3) of Zoning Ordinance #1175 that states that retaining walls in required side and rear yards may be erected up to 36 inches provided they are setback at least one-half the distance required for the principal building. Retaining walls located in side and rear yards and meeting or exceeding the setback required for the building may be erected to heights up to six feet. Mr. Welsh seconded the motion. Ms. Forshaw called for a vote with regard to this variance request and the vote thereupon was as follows:

Ms. Liza Forshaw	"Approve"
Mr. David Schlafly	"Approve"
Mr. Daniel Welsh	"Approve"
Mr. Lee Rottmann	"Approve"



Ms. Liza Forshaw, Acting Chairman