

DOCKET 1191

DATE OF HEARING	February 1, 2016
NAME	Village Lutheran Church
DESCRIPTION OF PROPERTY	9233 Clayton Road
CAUSE FOR APPEAL	<p>Relief from the ruling of the Planning Consultant denying a building permit for a stealth cellular tower which is not in compliance with Zoning Ordinance #1175 for the following reasons:</p> <ol style="list-style-type: none">i. The proposed tower is 85 feet in height with additional proposed foliage reaching an elevation of 88 feet. Section VII, F, (5), (a) of Zoning Ordinance 1175 states "A stealth communication tower shall not exceed 80 feet in height above the ground."ii. The tower has a proposed side yard of 15 feet on the East side and a proposed setback of 43 feet from the rear property line. Section VII, F, (5), (b) states a stealth tower "shall be set back from all property lines a minimum of one (1) foot for every foot of tower height."iii. The tower has a proposed equipment building and cabinets that are located less than 5 feet from the east side property line and less than 30 feet from the rear property line. This tower is proposed on a parcel that is zoned "B" which requires 50 setbacks from all property lines for accessory structures. Section VII, F, (5), (e) states "All accessory uses shall be subject to setback requirements generally applicable to principal uses in the district."iv. The trees nearest to the proposed tower have been surveyed to be approximately 65 feet in height, which is about twenty feet lower than the top of the tower. Section VII, F, (5), (i) states "A stealth communication tower shall not exceed the height of any surrounding trees by more than 5 feet."
RULING OF THE BOARD	<p>After a discussion of the facts presented, the Board approved the four variances for the stealth communication tower and the decision of the Planning Consultant was overturned.</p>

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, February 1, 2016

DOCKET 1191
9233 Clayton Road

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

The following members of the board were present:

Ms. Liza Forshaw, Acting Chairman
Mr. David Schlafly
Ms. Laura Long
Ms. Elizabeth Panke
Mr. Daniel Welsh

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

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 1191**

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 the Village Lutheran Church, 9233 Clayton Rd, requesting relief from the ruling of the Building Official denying a building permit for a stealth cellular tower which is not in compliance with Zoning Ordinance #1175 for the following reasons:

- 1) The proposed tower is 85 feet in height with additional proposed foliage reaching an elevation of 88 feet. Section VII, F, (5), (a) of Zoning Ordinance 1175 states "A stealth communication tower shall not exceed 80 feet in height above the ground."
- 2) The tower has a proposed side yard of 15 feet on the East side and a proposed setback of 43 feet from the rear property line. Section VII, F, (5), (b) states a stealth tower "shall be set back from all property lines a minimum of one (1) foot for every foot of tower height."
- 3) The tower has a proposed equipment building and cabinets that are located less than 5 feet from the east side property line and less than 30 feet from the rear property line. This tower is proposed on a parcel that is zoned "B" which requires 50 setbacks from all property lines for accessory structures. Section VII, F, (5), (e) states "All accessory uses shall be subject to setback requirements generally applicable to principal uses in the district."
- 4) The trees nearest to the proposed tower have been surveyed to be approximately 65 feet in height, which is about twenty feet lower than the top of the tower. Section VII, F, (5), (i) states "A stealth communication tower shall not exceed the height of any surrounding trees by more than 5 feet."

The hearing will be held at 4:00 p.m. on Monday, February 1, 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 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 undated;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated December 28, 2015
- Exhibit F - Entire file relating to the application

(Transcript attached as part of the minutes)

The court reported administered the oath to Mr. John King, attorney representing Village Lutheran Church and Mr. Doug Dolan, petitioner and proposed owner of the cellular monopole. Mr. King provided an overview of the project and explained that the Zoning and Planning Commission had unanimously recommended approval of the proposed cellular monopole. He states that a similar disguised evergreen type cellular pole is located in Frontenac. He stated that AT&T and Sprint will relocate from the cupola of Fire House #1, which is being demolished in the summer of 2016, to the Monopine which is a disguised structure with all antennas inside the pole.

Mr. Dolan, of Dolan Realty (DRA), provided an overview of the project including the site plan and schedule. Mr. Dolan outlined the variances that will be required for the project. He stated that there were no alternate locations on the Village Lutheran property that were acceptable to the congregation. He stated there were no practical alternate locations in the vicinity of Fire House #1.

Mr. King discussed the four variances that are needed, the height increase from a maximum of 80 feet permitted to 85 feet, the setback reduction from 85 feet for the monopole to 15 feet from the eastern property line and 43 feet from the northern property line, the setback reduction from 50 feet for the equipment buildings to five feet from the eastern property line and less than 30 feet from the northern property line, and the requirement that a cellular pole cannot exceed the height of existing surrounding trees by more than five feet and the proposed pole is 20 feet higher than the surrounding trees.

Ms. Forshaw asked if a variance is required for the fence and Ms. Sukanek responded that no variance is required.

Mr. David Wells, 901 S. Price Road, who lives adjacent to the Village Lutheran property, explained that screening is necessary to further disguise the pole and that he has come to a fiscal agreement with DRA with regard to the landscaping. Ms. Forshaw stated that the Zoning

& Planning Commission's positive recommendation to City Council was contingent upon additional landscaping being installed as part of the project.

Ms. Panke asked if the tower will ever get taller. Mr. Dolan stated that the tower height could be increased only in the event a fifth carrier applied to install antennas in the tower, which would require zoning approval.

Councilman John Fox, Chairman of the Fire House replacement committee, stated that the new fire house building was unable to accommodate two cell antenna carriers due to the cost that it would add to the project and the 24-hour access that would be required to those antennas which could disrupt the fire department operation. Councilman Fox stated that essentially, the City created the need for these variances.

Ms. Panke stated that the proposed tower is amongst commercial properties and that the location for the tower is appropriate.

Ms. Forshaw stressed that cellular phone service is very important to the residents of Ladue and that service is generally poor at this time.

Mr. Welch stated that the need for adequate cellular service is a community hardship.

Mr. Schlafly moved that based on the evidence presented, a practical difficulty exists and the decision of the Planning Consultant will be reversed, and a variance should be granted to construct the improvements consisting of the addition of the outdoor room in accordance site plan dated December 16, 2015, which includes an eight foot vinyl fence. 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"
Ms. Laura Long	"Approve"
Ms. Elizabeth Panke	"Approve"
Mr. Daniel Welsh	"Approve"

The request for the four variances required to permit an evergreen monopole as described on the plans dated December 16, 2015 was approved.



Ms. Liza Forshaw, Acting Chairman