

MINUTES OF MEETING
ZONING AND PLANNING COMMISSION
CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI
WEDNESDAY, MAY 25, 2016, 4:00 P.M.

Chairman Moore called the meeting of the Zoning and Planning Commission to Order at 4:08 P.M. The following members were present:

Chairman McPherson Moore
Vice-Chair Thomas Kahn
Commissioner Tim Crowley
Commissioner Robbye Toft
Commissioner Margaret Holtman
Commissioner John Lochhead

Also present were Mayor Nancy Spewak, Public Works Director Anne Lamitola, City Attorney Erin Seele, Councilman John Fox, Building Official Will Penney, and City Planning Consultant Andrea Sukanek.

Chairman Moore introduced himself and announced some basic procedures for the meeting.

APPROVAL OF MINUTES

Chairman Moore stated there was one set of minutes to approve; from the April 27, 2016 meeting of the commission. Commissioners listed corrections for the minutes; Commissioner Holtman stated that the attorney's name referenced on page 4 is Joshua Schindler, Commissioner Crowley corrected a typo on page 2 with regard to the spelling of the word lot, and Commissioner Kahn corrected references to the maximum permitted number of sides of lots as being five, not four as stated in the minutes.

Commissioner Crowley moved to approve the minutes as amended from the April 27, 2016 meeting and the motion was seconded by Commissioner Holtman. All those present were in favor and the minutes were approved.

PUBLIC FORUM

Chairman Moore asked if anyone had other business in addition to the agenda subjects and no one came forward.

ZPC 16-04: Request for Special Use Permit to install telecommunications small cell antennas on top of utility poles along with radio and power equipment mounted on poles in five locations:

- **Warson Road, north of Ladue Road**
- **Ladue Road, between Upper Ladue and Ladue Lane**
- **Ladue Road adjacent to 40 Glen Eagles**
- **Ladue Road, west of Price Road**
- **Dielman Road, north of Sunny Meade**

Chairman Moore called on Ms. Andrea Sukanek, City planning consultant, to update the Commission on items requested of staff at the April Zoning and Planning meeting with regard to this petition. Ms. Sukanek explained that the City was not able to identify a third party independent consultant to analyze recommendations with regard to the optimum type and location of telecommunication facilities. Ms. Sukanek was able to provide a list of telecommunication facilities by location and type which was distributed in the packet for the Commissioner's reference.

Mr. Joseph Markus, Black and Veech, agent for Extenet, came forward and stated that he would be able to answer questions on behalf of Extenet.

Mr. Martin Lammert, 209 Graybridge Road, inquired about the specific locations of the proposed antennas as well as their appearance. Ms. Sukanek provided a map of the proposed antennas to Mr. Lammert.

Chairman Moore asked Ms. Sukanek to explain the proposed conditions for the antennas. Ms. Sukanek read the proposed conditions which consist of the following:

1. Communication antennas shall be constructed, operated, and maintained based on the plans for such antennas dated September and October of 2015 (in the SUP file).
2. Each site shall consist of one wood utility pole with not more than one Omni directional antenna.
3. No buildings or other equipment will be required for the operation of each communication antenna. All necessary equipment will be mounted on the utility pole.
4. All equipment necessary for the operation of the communication antennas will be the same color as the alternative support structure and the color will be maintained.
5. Equipment shall be mounted at least 10 feet from the ground.
6. Equipment boxes shall be placed on the opposite side of the utility pole, away from the roadway.
7. A condition of this SUP will be execution of a city ROW Use Agreement, to document the City's consent for use of the ROW and the obligation of the parties related to such landlord consent, before any facilities may be installed within the City ROW.
8. Changes to the installation of antennas and associated equipment shall comply with the required building department and safety code requirements.
9. Poles, equipment, and antennas should be kept in good condition and maintained properly.
10. If any of these antennas are deemed no longer necessary and removed, poles should be modified to the original height.

Chairman Moore asked Mr. Markus if Extenet would find those conditions to be acceptable and Mr. Markus agreed to the terms.

City Attorney Erin Seele stated that in addition to zoning approval in the form of a Special Use Permit that a right-of-way agreement will also be required as a separate agreement to be approved by City Council.

Commissioner Crowley made a motion recommending approval to City Council for the issuance of a Special Use Permit for Extenet to install telecommunications small cell antennas on top of utility poles along with radio and power equipment mounted on poles in five locations in accordance with plans submitted on February 4, 2016 as part of the Special Use Permit application and contingent upon the conditions proposed by Ms. Sukanek. Commissioner Lochhead seconded the motion. The vote was as follows:

Chairman McPherson Moore-"aye"
Vice-Chair Thomas Kahn-"aye"
Commissioner Margaret Holtman-"aye"
Commissioner Timothy Crowley-"aye"
Commissioner Robbye Toft-"aye"

Commissioner John Lochhead-“aye”

There were six (6) “ayes” and zero (0) “nays”. The recommendation for a Special Use Permit for Extenet to install telecommunications small cell antennas on top of utility poles along with radio and power equipment mounted on poles in five locations in accordance with plans submitted on February 4, 2016 and contingent on the conditions as read by Ms. Sukanek was approved.

ZPC 16-05

**Briarcliff Re-subdivision of Adjusted Lot 10 of the
Boundary Adjustment Plat of Lots 9 & Lot 10 of
Briarcliff**

Mr. Steven Kling, attorney for petitioner Mr. Peter Perkins, came forward to explain the requests for approval of the re-subdivision plat and two variances to the subdivision regulations that are needed for the proposed plat. Mr. Kling stated that the first variance request seeks to include the acreage dedicated for the roadway easement when calculating the lot size and the second variance request seeks to obtain approval for the lots to have more than five sides which is the maximum allowed per Chapter 94 – Subdivision regulations. Mr. Kling explained that the applicant purchased the property in 2008 and that the lot had originally been platted as two separate lots when the subdivision was originally developed, but later consolidated into one lot. Mr. Kling stated that the square footage for the roadway has always been part of the lots. Mr. Kling explained that his client and team have been working with staff to develop alternate lot configurations to accommodate setbacks and other zoning and subdivision requirements. Mr. Kling explained that there are other lots with more than five sides within the subdivision and that the number of sides of the proposed lots is a benefit to this petition to enhance landscape buffering. He stated that in the first iteration of the proposed subdivision, the proposed lots had a greater number of sides than the number of sides currently being requested. He further explained that he has an original plat available as a reference point that showed that there were two lots as originally platted.

Commission Kahn inquired as to whether or not the lot consolidation was necessary to install the swimming pool.

Commissioner Toft asked if there is precedent as to whether right-of-way or easements for roadways have been included in the minimum lot size in other subdivision and resubdivision requests. Mr. Kling stated that he had not performed the research to address that question.

Commissioner Moore sought clarification with regard to the development of the easement and Mr. Kling stated there is a roadway that has been developed in this location that serves as a subdivision roadway.

Ms. Sukanek stated that the subdivision was platted in 1931 prior to incorporation of Ladue and that the subdivision regulations were developed at some point after the 1936 incorporation of the City.

Mr. Kling stated that the 2001 lot consolidation showed the acreage of the roadway easement counting toward the minimum lot size and Mr. Kahn stated that the consolidated lot complied with the minimum lot size, even with excluding acreage for the roadway, and therefore that was a moot point.

Commissioner Toft asked why the lots were previously combined. Ms. Sukanek stated that there was not a reason provided. Mr. Perkins stated that the pool was installed in 2002 under a previous owner and the consolidation of the lots occurred in 2001. A discussion ensued with regard to required setbacks for accessory structures and whether a pool is permitted in a side yard. Ms. Lamitola explained that accessory structures such as a pool can be located in a side or rear yard, but must meet the required setbacks as well as other applicable zoning requirements.

Mr. Peter Perkins, 10 Briarcliff, came forward and stated that he would like to downsize, but remain in the subdivision and would like to construct a home on the new Lot B. He explained that there are numerous lots within the subdivision that do not meet the minimum lot size due to the inclusion of the acreage for the roadway within the lot size. He explained that the topography in the subdivision is such that most lots have constraints on the properties that serve to decrease the buildable portion of the lots, but that both proposed Lot A and Lot B are level buildable lots and have adequate acreage for comparable homes to the character of the subdivision.

Commissioner Kahn asked for the circumstances with regard to the lot consolidation. Mr. Perkins stated that the pool extended over the previous lot line between the two lots and therefore to revert back to the original lot configuration would be extremely difficult because improvements including the pool and a historic retaining wall would have to be removed. Tree removal would be required to remove these improvements. Commissioner Kahn asked if there were other lot configurations that could have avoided the jog in the lot which has resulted in more than the required five sides of a lot. Mr. Perkins stated that numerous lot configurations

were evaluated. Mr. Perkins stated that alternate lot configurations were not as favorable compared to the submitted plan before the commission.

Ms. Sukanek verified that several lot configurations were evaluated.

The Commissioners discussed the fact that the trustees of the subdivision are opposed to the re-subdivision plat as proposed. Mr. Perkins stated that his adjacent neighbors are supportive of the lot split.

Commissioner Kahn stated that he has some reservations about the lot split due to his belief that the need for the variance is self-imposed. Commissioner Kahn stated that when the lot was purchased, it was a known condition that the lots had been consolidated from two previous platted lots.

Chairman Moore read the code language from Chapter 94-3 of the subdivision regulations that explains the variance procedures that the Zoning & Planning Commission and the City Council must follow.

Mr. Kling came forward and stated that the Zoning & Planning Commission cannot utilize the same standards as the Zoning Board of Adjustment with regard to hardships.

Mrs. Perkins, 9 Briarcliff, came forward and stated that they do not want to remove the pool on the property. Mr. Perkins stated that the retaining wall on the parcel would also have to be eliminated and it is historic and part of the character of the neighborhood.

Ms. Sukanek explained that the petitioner must come before the Zoning Board of Adjustment with regard to the minimum lot size requirements as that is outlined in zoning ordinance #1175.

Ms. Toft asked about what limitations the Commission will have in the future for similar requests if this variance is granted. Chairman Moore agreed that a precedent would likely be set. Commissioner Toft stated that the subjectivity of evaluating petitions on a case by case basis is difficult once precedent is set that further guides decisions.

Commissioner Lochhead stated that the property owner is paying taxes on the entire property, including the area dedicated to the roadway easement. Commissioner Toft stated that based on her observations serving on the Zoning Board of Adjustment that numerous platted properties throughout Ladue are similarly platted and likely non-compliant regarding the lot size. Ms. Sukanek stated that the grandfathering status is lost at the time of re-platting and that compliance is desirable.

Commissioner Toft moved to enter into closed session and Commissioner Holtman seconded the motion. A roll call vote took place. The vote was as follows:

Chairman McPherson Moore-“aye”
Vice-Chair Thomas Kahn-“aye”
Commissioner Margaret Holtman-“aye”
Commissioner Timothy Crowley-“aye”
Commissioner Robbye Toft-“aye”
Commissioner John Lochhead-“aye”

There being six (6) ayes and zero (0) nays, the motion passed for the Commissioners to enter into closed session at 4:48 pm.

The Commissioners returned from closed session at 5:22 pm.

Commissioner Holtman made a motion that a variance be granted to exceed the maximum required number of sides of a lot for both lots in the re-subdivision plat.

Commissioner Lochhead seconded the motion. The vote was as follows:

Chairman McPherson Moore-“aye”
Vice-Chair Thomas Kahn-“aye”
Commissioner Margaret Holtman-“aye”
Commissioner Timothy Crowley-“aye”
Commissioner Robbye Toft-“aye”
Commissioner John Lochhead-“aye”

There being six (6) ayes and zero (0) nays, the motion passed to approve a variance to allow the lots to exceed the maximum number of sides of a lot to exceed five sides.

Commissioner Crowley made a motion that the square footage allocated for the roadway easement is counted toward achieving the minimum lot size for Lot B of the proposed resubdivision plat of Lots 9 & 10 of Briarcliff be approved. Commissioner Toft seconded the motion. The vote was as follows:

Chairman McPherson Moore-“nay”
Vice-Chair Thomas Kahn-“nay”
Commissioner Margaret Holtman-“nay”
Commissioner Timothy Crowley-“nay”
Commissioner Robbye Toft-“nay”
Commissioner John Lochhead-“nay”

There were zero (0) "ayes" and six (6) "nays". The recommendation for the variance for the acreage of the roadway easement being allowed to be applied toward the total square footage of Lot B on the re-subdivision plat of Lots 9 & Lot 10 of Briarcliff subdivision was denied.

Commissioner Crowley made a motion to approve the preliminary approval of the resubdivision plat subject to the variance being granted by Zoning Board of Adjustment for the lot size being reduced from the required 30,000 square feet for Lot B of the resubdivision plat of lots 9 & 10 of Briarcliff. Commissioner Toft seconded the motion. It was clarified that the recommendation for approval would be voided if the variance is not granted by the Zoning Board of Adjustment. The vote was as follows:

Chairman McPherson Moore-"aye"
Vice-Chair Thomas Kahn-"aye"
Commissioner Margaret Holtman-"aye"
Commissioner Timothy Crowley-"aye"
Commissioner Robbye Toft-"aye"
Commissioner John Lochhead-"aye"

There were six (6) "ayes" and zero (0) "nays". The recommendation for preliminary approval of the resubdivision plat subject to the variance being granted by Zoning Board of Adjustment for the lot size being reduced from the required 30,000 square feet for Lot B of the resubdivision plat of lots 9 & 10 of Briarcliff was approved. It was announced that the Zoning Board of Adjustment hearing for this matter will be held on June 6, 2016.

Mr. Garth Fort, 31 Briarcliff Street, stated his support of the subdivision.

Chairman Moore announced that the next meeting is scheduled for June 22, 2016 at 4:00pm.

Commissioner Kahn made a motion to adjourn the meeting and Commissioner Toft seconded the motion. All present were in favor and the meeting adjourned at 5:24 pm.

A handwritten signature in cursive script that reads "McPherson Moore". The signature is written in dark ink and is positioned at the bottom right of the page.