

DOCKET 1170

DATE OF HEARING	December 1, 2014
NAME	Bruce Tuffli
DESCRIPTION OF PROPERTY	9946 Holliston Court
CAUSE FOR APPEAL	Relief from the decision of the Building Official for a retaining wall and driveway extension which violates Section IV, A, 4 (b) and IV, F, 3 of Zoning Ordinance 1175.
RULING OF THE BOARD	After a discussion of the facts presented, the Board reversed the decision of the Building Official and granted a variance based on the undated site plan submitted by the applicant for the hearing..

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, December 1, 2014

DOCKET 1170
9946 Holliston Court

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, December 1, 2014, at City Hall.

The following members of the board were present:

Mr. Stanley Walch, Chairman
Mr. David Schlafly
Ms. Liza Forshaw
Mr. John Shillington
Ms. Robbye Toft

Also present were: Mr. Michael W. Wooldridge, Asst. to the Mayor / City Clerk; Mr. James Schmieder, Director of Building and Planning; Mr. Michael Gartenberg, Building Official.

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 1170**

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 Bruce Tuffli, 36 Algonquin Wood, St. Louis, MO 63122, requesting relief from the ruling of the Building Official denying a permit for a retaining wall and driveway extension at 9946 Holliston Court which violates Sections IV, A, 4, (b) and IV, F, 3, of Zoning Ordinance 1175.

The hearing will be held at 4:00 p.m. on Monday, December 1, 2014, 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.

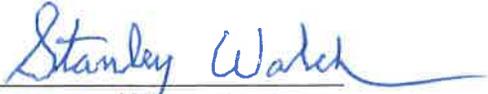
Stanley Walch, Chairman
Zoning Board of Adjustment

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 November 11, 2014;
Exhibit D – List of Residents sent notice of meeting;
Exhibit E – Letter from the resident requesting the variance (undated), and any letters of support;

Exhibit F – Entire file relating to the application.

(Transcript attached as part of the minutes)


Mr. Stanley Walch, Chairman

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ZONING BOARD OF ADJUSTMENT
CITY OF LADUE
LADUE, MISSOURI

IN THE MATTER OF:)
)
BRUCE TUFFLI) Docket No. 1170
9946 HOLLISTON COURT)
LADUE, MISSOURI 63124)

Monday, December 1, 2014

ORIGINAL

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*Certified Court Reporters*  
P.O. Box 31201 ~ 1015 Grupp Road ~ St. Louis, MO 63131  
314.993.0911



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

Mr. Stanley Walch

Also Present:

Mr. Michael Wooldridge

Mr. Michael W. Gartenberg

Court Reporter:

Bobbie L. Luber

Registered Professional Reporter #9209

Missouri CCR #621

Illinois CSR #084.004673

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St. Louis, MO 63131

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1 (The Meeting of the Zoning Board of  
2 Adjustment of the City of Ladue continued, having been  
3 previously called to order at 4:00 p.m.)

4 CHAIRMAN WALCH: We still have another case  
5 to hear today. This is Docket Number 1170. It's the  
6 application of Bruce Tuffli -- I may not be  
7 pronouncing that correctly -- requesting relief from  
8 the ruling of the building official who declined to  
9 issue a permit for retaining wall and driveway  
10 extension which violates Section IV, A, 4, (b) and  
11 Section IV, F, 3 of Zoning Ordinance 1175.

12 Will you explain, Mr. Gartenberg, the  
13 reason or reasons the plan was disapproved so the  
14 audience and members of the board have a clear  
15 understanding?

16 MR. GARTENBERG: I will, Mr. Chairman. And  
17 as I do that, actually I want to bring and show you  
18 the permit drawings for this property, which I think  
19 will help you guys have a feel for the amendment that  
20 has been requested.

21 What I'm laying before you are the permit  
22 drawings for the new house that's being constructed.  
23 Here is Holliston Court. And here is the right side  
24 or south side side yard. And what has been proposed  
25 and approved is for the construction of the main

1 house, a two-car garage, an open way, a breezeway, and  
2 then an additional two-car garage as you work your way  
3 to further east.

4 The original application received by the  
5 city calls for paving along that south yard to gain  
6 access to all four bays of the garage. And this  
7 condition that we are looking at today is something  
8 that was noted and cited as part of the review  
9 process.

10 So in response, the applicant decided he  
11 would pave only up to the east end of the initial  
12 two-car garage portion of the structure, and leave  
13 this other -- this other area unpaved.

14 So what you are being asked at this point  
15 to do is to evaluate and grant a variance to pave this  
16 area, and to construct a retaining wall into this side  
17 yard, required side yard to help support that  
18 pavement.

19 CHAIRMAN WALCH: And it's been approved?

20 Half of this, the garage has been approved?

21 MR. GARTENBERG: The garage has been  
22 approved.

23 CHAIRMAN WALCH: But the paving has been  
24 approved to get in the first bay?

25 MR. GARTENBERG: Correct. And this was to

1 be a lawn area and graded out.

2 CHAIRMAN WALCH: And both the retaining  
3 wall and the paving coverage as approved will not  
4 require a variance?

5 MR. GARTENBERG: Correct.

6 MS. TOFT: Mr. Gartenberg, do we have a  
7 calculation as to how much side yard coverage there is  
8 in the approved plan versus how much side yard  
9 coverage there would be requested?

10 MR. GARTENBERG: We do. In the information  
11 I think you have before you is a copy of the amendment  
12 application. It's a one-page document. And the  
13 project architect provided us with that calculation.  
14 If you don't have it, I have it.

15 MR. SCHLAFLY: I saw it somewhere in here.

16 MS. TOFT: I have not seen a copy.

17 MR. GARTENBERG: Let me get it. Currently  
18 as approved it's 25 percent.

19 MS. TOFT: And the maximum allowed by  
20 ordinance is 25 percent side yard coverage?

21 MR. GARTENBERG: That's correct.

22 CHAIRMAN WALCH: While you are looking for  
23 that document, Mr. Gartenberg, I'm going to proceed  
24 with the procedural matters.

25 Exhibit B in this case will be the public

1 notice of this hearing.

2 Exhibit C will be the denial letter from  
3 the building official dated November 11th, 2014.

4 Exhibit D will be the list of residents to  
5 whom the notice of public hearing was mailed.

6 And Exhibit E is a variance letter which is  
7 undated, and another letter which was just received a  
8 day or two ago dated November 24th from the appellant  
9 requesting this variance. That will be Exhibit E.

10 Are there any other letters in the file,  
11 Mr. Wooldridge?

12 MR. WOOLDRIDGE: Mr. Chairman, I gave to  
13 you a letter received today dated November 25th.

14 CHAIRMAN WALCH: Right. That's the letter  
15 I was referring to.

16 MR. WOOLDRIDGE: Right. From Brian Krebel,  
17 9954 Holliston.

18 MR. GARTENBERG: Mr. Chairman, the increase  
19 is from 25 to 43.5 percent. And it was not in the  
20 information distributed to you, but as planned.

21 CHAIRMAN WALCH: That brings us to Exhibit  
22 F, which will be everything that's in the building  
23 department's file from the staff -- from the  
24 consultants to the Zoning Board of Adjustment to the  
25 City of Ladue, that will be part of Exhibit F.

1           And I think we already made the November  
2 24th letter as part of Exhibit E.

3           So with procedural matters out of the way,  
4 will the appellant and anybody else who wants to speak  
5 on the appellant's behalf come forward and give your  
6 name to the court reporter and get sworn in. If there  
7 is any member of the public who wishes to speak,  
8 please come forward to get that detail out of the way.

9           (At this time Mr. Bruce Tuffli and Mr. Jay  
10 Sparks were sworn in by the court reporter.)

11           MR. TUFFLI: Do you want me to give a  
12 summary of our case? Is that what you --

13           CHAIRMAN WALCH: Yes. You are welcome to  
14 present anything you want to, Mr. Tuffli.

15           MR. TUFFLI: Did you get this site plan?  
16 That should have been sent with the original letter.  
17 That's a different one. This is the one that was -- I  
18 have a couple of copies of that.

19           CHAIRMAN WALCH: I think we have that.

20           MR. TUFFLI: That's a more accurate  
21 representation. It's gone down from 43 percent to 35  
22 percent of the side yard coverage. We reconfigured it  
23 and reconfigured it. Here is another one.

24           CHAIRMAN WALCH: Exhibit G, yes.

25           MR. TUFFLI: Yes, you have got that one.

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MR. SCHLAFLY: I don't think so.

MS. TOFT: We just received it today.

MR. SCHLAFLY: I apologize.

CHAIRMAN WALCH: Yeah, we have this.

MR. SPARKS: Okay. My comment is there was a design change that was made from the earlier first submittal that's going to have an entirely different situation at the back on the east side of the garage that changed. And the more current one was sent to you with the letter, which is the final design.

MS. TOFT: Mr. Sparks, have you reduced the distance that -- for a vehicle pulling out of the garage, you have moved that in?

MR. SPARKS: I'm sorry, have I moved it in?

MS. TOFT: How have you gone from a 43 percent side yard coverage to 35 percent?

MR. SPARKS: This is the earlier one. This has been reduced here. The driveway, this part has been reduced. And here it was much larger. Here it has been reduced in this direction as well.

MS. TOFT: Mr. Chairman, may I ask the architect a question?

CHAIRMAN WALCH: Certainly.

MS. TOFT: I'm just concerned. Were we to allow you to pave, as requested, the additional

1 pavement, I don't see how a vehicle parked in the bay  
2 that's the -- further to the -- I don't have a  
3 direction on this -- toward the creek.

4 MR. SPARKS: This is to the east.

5 MS. TOFT: Okay. How can a vehicle pull  
6 out of that garage bay on the pavement with the  
7 retaining wall as you placed it and go head out nose  
8 first?

9 MR. SPARKS: I think we are going to  
10 explain a little bit what the second garage is for.

11 MR. TUFFLI: I love cars. I'm a car guy.  
12 And I have been living in a house for 44 years that  
13 had the smallest garage that you can imagine. And  
14 this is my dream garage. These cars I'm working on  
15 are small foreign cars.

16 Here is my current garage and the situation  
17 that I'm dealing with. These cars are 15 feet in  
18 length, and so they really can make that turn easily  
19 which is an 18 foot. Which is what this is.

20 MS. TOFT: If it's in fact going to be used  
21 so seldom is it necessary that you have hard pavement  
22 as opposed to, say, a grid or something like that that  
23 is put into the ground and grass could grow up?

24 MR. TUFFLI: I thought that -- didn't we  
25 look into that and didn't they tell you that --

1 MR. SPARKS: What we are proposing is  
2 actually a paver that lets moisture through, and  
3 it's -- we basically were told that it either had to  
4 be grass or paving. There wasn't anything in between.  
5 And so what we proposed was to go with the same  
6 material that you actually see in front of this  
7 garage, which is a stone paver.

8 MR. TUFFLI: Stone.

9 MS. TOFT: Interlocking pavers.

10 MR. SPARKS: Interlocking pavers. Moisture  
11 can go through. We have actually reduced the size  
12 that's needed just to get the car in and out.

13 These are not cars that are driven daily.  
14 In fact, you know, very infrequently. The cars that  
15 they use daily would use the first two lots, the first  
16 garage.

17 MR. TUFFLI: Which there is more room up  
18 there to get those cars out.

19 MS. TOFT: I'm going to put Mr. Gartenberg  
20 on the spot.

21 MR. GARTENBERG: I know the question asked,  
22 and I'm looking for the answer.

23 MS. TOFT: Should I ask the question for  
24 the record?

25 MR. GARTENBERG: Totally for the record,

1 please.

2 MS. TOFT: Is it -- it's my recollection  
3 that this grid system, and I know sometimes it's done  
4 in a concrete block type thing where grass can grow  
5 through it, or you can use like a plastic egg crate  
6 type thing that attaches to the soil and grass can  
7 grow up through it. Can that not be done without the  
8 need for a variance?

9 MR. GARTENBERG: I guessed correctly.

10 CHAIRMAN WALCH: What did he say?

11 MS. TOFT: He hasn't answered yet.

12 MR. GARTENBERG: That's the question I  
13 thought she was going to ask.

14 CHAIRMAN WALCH: Are you going to answer  
15 it?

16 MR. GARTENBERG: I'm going to answer the  
17 question.

18 MR. SPARKS: My comment, if this were a  
19 normal lot we wouldn't have this. This lot is pie  
20 shaped, and it narrows to 61 feet, which is below  
21 standard requirements. And so if this had been your  
22 typical lot we wouldn't have this issue at all.

23 The fact that it drops from over 25 feet  
24 from the finished floor of the area where the house is  
25 to the creek is also an issue. It just -- everything

1 was working against us. The shape of the lot, the  
2 fact that it narrows so much, and the drop. This is  
3 just the only way we could solve this problem to have  
4 the garage the way we wanted it.

5 MR. TUFFLI: Here is what I call "what if"  
6 scenario. Here is the current lot with the pie shape.  
7 If it were a normal C lot we would have a minimum  
8 backyard of 75 feet. Even that little addition would  
9 increase the side yard coverage a lot. And if it were  
10 a full normal B size lot with minimum dimension it  
11 would be, you know, way more than we need for a side  
12 yard, for it to be paved.

13 We are kind of -- if this were a cookie  
14 lot, this setback would not be 50 feet, but 40 feet,  
15 which would call to move the house up and over. We  
16 are fighting the way it was classified and the lay of  
17 the land, how steep it is and how narrow it is in the  
18 back.

19 Here is also -- these are all C lots. The  
20 yellow ones are all C lots, which this one is also a C  
21 lot. The rest of these are all C lots. It is  
22 classified as a C lot unfortunately. The X's call out  
23 the houses of that retaining walls currently, and this  
24 is a St. Louis County -- the white line is a creek  
25 which is the reason all of these houses have the

1 retaining wall because of steep -- the way the grade  
2 decreases so quickly in the back of the lot which  
3 makes it virtually unusable.

4 I have another couple of photographs  
5 showing -- this shot was made from the creek itself up  
6 into the house. You can see how far down the creek  
7 goes. This was taken from the property line back.  
8 Here is the shot taken from the side the neighbor is  
9 looking, how the grade decreases. This is the actual  
10 garage door that you see.

11 MS. TOFT: Mr. Tuffli, do you have any  
12 photos that show -- it appeared to me that the  
13 neighbor as you are facing your house to the right had  
14 a considerable retaining wall. We were trying not to  
15 trespass and fall in mud. But it seemed clear to me  
16 that they have a retaining wall.

17 MR. SPARKS: They do.

18 MS. TOFT: Do you know the approximate  
19 height of that retaining wall?

20 MR. SPARKS: If you stand at the foot of  
21 the retaining wall to the top of it is six feet.

22 MS. TOFT: And what would the height be on  
23 your retaining wall?

24 MR. SPARKS: The same thing, six feet. It  
25 would taper off.

1 MR. TUFFLI: Because you don't need as much  
2 on the side. The drop is back here, not that way.

3 MR. GARTENBERG: I think it actually drops  
4 to about two feet.

5 MR. SPARKS: I'm sorry?

6 MR. GARTENBERG: It gets down to about two  
7 feet.

8 MR. SPARKS: This retaining wall is just  
9 added. They really had no backyard until they did  
10 this. It just dropped off. There was a ravine that  
11 came up quite far in here. There were a couple of  
12 trees that had been left from the earlier house that  
13 was here.

14 The idea was in discussions with the  
15 neighbors to the south is that this would be improved,  
16 a swale could be maintained to take water off of it  
17 and the two walls, ours would end up being a little  
18 bit -- a little bit higher in terms of elevation. And  
19 this one, simply because this one is back so much  
20 further, it will be lower than the finished floor of  
21 the house itself. There is a wonderful large oak  
22 that's right here.

23 MR. TUFFLI: Right here.

24 MR. SPARKS: That we are preserving and  
25 trying not to do any damage to it. In fact, part of

1 the reason the way the house sits the way it is is  
2 there are a number of mature trees along the north  
3 side of the property that we went to extraordinary  
4 measures to save those trees, changing the foundation  
5 and what have you.

6 MS. TOFT: Our ordinance limits a retaining  
7 wall height.

8 MR. GARTENBERG: The portion that's in the  
9 building envelope, it's not in a required side yard,  
10 may be up to six feet in height. The portion of the  
11 wall that's in -- 50 percent of that side yard closest  
12 to the building envelope may be up to three feet in  
13 height. And from that 50 percent mark to the property  
14 line no retaining walls are permitted. That's the  
15 answer to your second question.

16 The answer to your first question is, yes,  
17 that grid system that you are speaking of, the soil  
18 filled cells are considered to be an accessory  
19 structure, are considered to be a driveway and would  
20 require a variance.

21 MS. TOFT: Really?

22 MR. TUFFLI: That's what we thought.

23 MR. GARTENBERG: The way our code is  
24 written, it requires permanent placement and it spells  
25 it out.

1                   MR. TUFFLI: We thought of that, but that  
2 was not the answer.

3                   MR. SPARKS: Are there any other questions?  
4 I mean, we looked at a separate garage. We looked at  
5 flipping the house around. In the early design stages  
6 trying to get -- this was the most efficient way  
7 without putting in more paving, taking out more trees,  
8 and more retaining wall, and so this was the only way.

9                   Bruce has been living on this property  
10 since he was 90 years old, so it's important for him  
11 to finish. It was his parents house.

12                   MR. TUFFLI: It was my parents house. I  
13 haven't been living there that long. The house has  
14 been in the family. I just bought it from my  
15 brother's estate, with the intention of building my  
16 dream home -- our dream home.

17                   MR. SPARKS: Any other questions?

18                   MR. TUFFLI: Was this letter from the  
19 neighbor read in?

20                   MS. TOFT: Thank you.

21                   MR. TUFFLI: They are the one mostly  
22 affected by this variance. I mean, they are looking  
23 at it all the time, and they are very supportive of  
24 it.

25                   CHAIRMAN WALCH: They support your project?

1 MR. TUFFLI: The retaining wall and the  
2 driveway paving. I mean, they know -- in fact, they  
3 called me a couple of times, how far is it going,  
4 where is it going from the property line. I made them  
5 a fairly detailed drawing, and then they wrote the  
6 letter. They didn't write the letter until they got  
7 their questions answered.

8 CHAIRMAN WALCH: This is your next-door  
9 neighbor?

10 MR. TUFFLI: Correct.

11 CHAIRMAN WALCH: The one we were  
12 trespassing in the backyard. It's muddy shoes.

13 MR. TUFFLI: Yes. It's a quagmire over  
14 there. In the last couple of weeks the rain -- I go  
15 home and change my shoes.

16 CHAIRMAN WALCH: All right. If you have  
17 nothing further to present. I assume no one else in  
18 the audience, there is just one, wishes to speak to  
19 this matter.

20 MR. TUFFLI: She is in favor of it,  
21 actually.

22 CHAIRMAN WALCH: So I'm going to close the  
23 public comment portion of this meeting.

24 MR. TUFFLI: Should I take these with me?

25 CHAIRMAN WALCH: Sure. I close the public

1 comment portion of this meeting. Did anybody want to  
2 venture a motion on this matter?

3 MS. TOFT: A motion or discussion?

4 CHAIRMAN WALCH: Discussion. Let's have  
5 discussion first.

6 MS. TOFT: I don't have a problem with the  
7 retaining wall. The neighbor has a retaining wall. I  
8 think that may be the most precipitous falloff of any  
9 lot that I have seen before asking for a variance. I  
10 don't see why we would deny the retaining wall here  
11 since the neighbor already has one, although I can't  
12 remember that coming before us for a variance.

13 MR. GARTENBERG: That was prior to the code  
14 provisions.

15 MS. TOFT: Yeah. It looked pretty used.  
16 The retaining wall doesn't trouble me. So I have a  
17 question for Mr. Gartenberg. The interlocking pavers  
18 with gravel or sand beneath it, they do allow water to  
19 percolate through, I take it, more so than solid  
20 pavement in the form of asphalt or concrete?

21 MR. GARTENBERG: Yes.

22 MS. FORSHAW: I think the proposed pavement  
23 is sort of permeable; right? Didn't one of you say  
24 that?

25 MR. TUFFLI: Yes. As she described it, it

1 has sand between them.

2 MS. TOFT: The interlocking paver as  
3 opposed to asphalt or concrete, which would not be  
4 permeable.

5 MR. GARTENBERG: There is permeable asphalt  
6 or concrete.

7 MS. TOFT: And if you could remind me, is  
8 our side yard coverage ordinance intended to address  
9 the problem of too much hard surface where water can  
10 not percolate through, or is it a visual?

11 MR. GARTENBERG: It's a visual thing. I  
12 have been here 20 years, and it predates me, long  
13 before these water quality issues were so pronounced.  
14 It's an aesthetic, I believe.

15 MS. TOFT: So one would question then why  
16 systems that would allow grass to grow there is  
17 aesthetic, and to the eye no one would know that there  
18 is a grid or reenforcement there, why would that be  
19 treated the same as pavement or paver? That seems  
20 illogical.

21 MR. GARTENBERG: According to our  
22 definition of structure, I believe when it speaks to  
23 driveways and permanent improvements and so forth,  
24 that even though the soil stabilization for purposes  
25 of driving over doesn't get visual impact that a hard

1 surface would, that they still need that definition of  
2 structure. And they are still designed as a structure  
3 to withstand the loads of an automobile.

4 MS. TOFT: So by not having visually more  
5 than 25 percent coverage, but we would have to grant a  
6 variance to allow in order for these cells to be  
7 planted in the ground to provide a stable driving  
8 surface so we could accomplish the goal of the  
9 homeowner and the ordinance if we granted a variance  
10 not putting in locking pavers, but rather for some  
11 kind of a grid system that would allow grass to grow  
12 through so we don't have a huge paved surface on the  
13 side of the house.

14 MR. GARTENBERG: You would have improved  
15 drainage and more permeable surface there, and  
16 aesthetically it would be less impacted.

17 MR. SHILLINGTON: So you are saying there  
18 is not a whole lot of difference between a grass lawn  
19 and interlocking pavers?

20 MS. TOFT: Not the interlocking pavers.  
21 The cells that are implanted in the ground so that  
22 green live material --

23 MR. SCHLAFLY: It's not there.

24 MS. TOFT: It's not what they are  
25 requesting. Exactly. I understand. What they are

1 requesting, it seems to me, is violating the  
2 ordinance, because they are saying that it's treated  
3 the same way so therefore why not go ahead and have  
4 interlocking pavers. What I'm saying is that we could  
5 craft a variance that would allow them to have the  
6 additional 10 percent of the side yard coverage but  
7 not the interlocking pavers, this system implanted in  
8 the ground that would allow live plant materials to  
9 grow through it, so they could then drive vehicles on  
10 and off of it on an occasional basis. Their plant  
11 materials would survive that and the intent of the  
12 ordinance would be accomplished.

13 MR. SHILLINGTON: What are those that you  
14 can do that?

15 MR. GARTENBERG: There are different  
16 options that I am familiar with. One is masonry  
17 components that have openings in them; that are like a  
18 shell, if you will.

19 MR. SHILLINGTON: Opening within --

20 MR. GARTENBERG: Looking down on them, you  
21 would see square cells maybe with a pattern in the  
22 middle, but also open in the middle for soil and  
23 grass. I think maybe the system that Ms. Toft was  
24 referring to -- there are actually dense plastic cells  
25 that you put, you know, with strong axis up, you

1 basically fill these with soil and grass so that they  
2 are less visible than these masonry units. Actually  
3 they stabilize the soil so you can drive on it for low  
4 volume pads or drives, if you will.

5 MR. SHILLINGTON: That's interesting.

6 MR. SCHLAFLY: I would support this plan as  
7 it is.

8 I don't mind, Robbye, what you are bringing  
9 up but we are proposing a design. I don't know that  
10 they know what we are proposing.

11 MS. TOFT: I think they know. I think they  
12 considered it but because it's considered a permanent  
13 structure and would require a variance, they thought  
14 why not go ahead and ask for the interlocking pavers,  
15 if I understood what Mr. Sparks and the applicant  
16 said.

17 CHAIRMAN WALCH: That's what I said that he  
18 said, too, but you are welcome to speak up,  
19 Mr. Sparks.

20 MR. SPARKS: I'm sorry, I'm totally deaf.

21 MS. TOFT: You said you had considered the  
22 cells and planted in grass, plant material.

23 MR. SPARKS: We discussed it, yes.

24 MS. TOFT: But you were told that that  
25 would constitute a permanent structure.

1 MR. SPARKS: Correct.

2 MS. TOFT: And you would have to have a  
3 variance for that.

4 MR. SPARKS: Yes.

5 MS. TOFT: And so your preference would be  
6 go ahead and have interlocking pavers.

7 MR. SPARKS: We would much prefer that. We  
8 are not depending on something growing there to look  
9 good. And it's a quality, it's a very superior  
10 product over most driveways in most homes. Not many  
11 people go to that expense. I'm not talking about just  
12 that area, we are talking about the entire drive.

13 MR. SCHLAFLY: What Robbye is asking you,  
14 would you consider using the other material as opposed  
15 to this plan that you have?

16 MR. TUFFLI: That would not be our  
17 preference. To have a driveway of one material and a  
18 smaller courtyard of a vastly different looking  
19 material, not as nearly aesthetically pleasing. If  
20 you are worried about aesthetics, I think that would  
21 be -- especially if you are going to drop off at the  
22 retaining wall. You are going to have this little  
23 square of this material that has got some grass in it.  
24 And the rest of it is going to be regular interlocking  
25 pavers.

1 I think the look of that would not be what  
2 you are going for as far as aesthetics.

3 MR. SHILLINGTON: Sort of like a courtyard  
4 though.

5 MS. TOFT: The last two bays. Here is my  
6 concern. When have we ever said that having only a  
7 two car garage in Ladue is a hardship. I think that  
8 we have always drawn the line that it's a hardship to  
9 have less than a two-car garage, but to find that  
10 there is a hardship to not have a four-car garage with  
11 hard pavement in front of it, I think we are not  
12 creating any -- my concern would be everybody is going  
13 to come in and we get these requests quite regularly,  
14 I want a four-car garage, I want a six-car garage,  
15 twelve-car garage. I mean, we have heard every  
16 request there is.

17 My concern would be if we determine it's a  
18 hardship not to be able to have a four-car garage with  
19 pavement in front of bays three and four how are we  
20 going to defend the other pavement?

21 MR. TUFFLI: If I might address that. The  
22 hardship is not the paving. The hardship as I see it  
23 is the way the lot is configured. Whereas, if it were  
24 configured differently, we would have much more side  
25 yard area and therefore not be -- be able to have 25

1 percent of that side yard coverage, and that is the  
2 hardship. The fact that it slopes so quickly and it  
3 is so narrow in the back, which gives us a narrow side  
4 yard and therefore a narrow amount of paving that we  
5 are allowed to use.

6 MS. TOFT: I understand. It's just we hear  
7 so many people with side issues that make their four  
8 or six or eight-car garages difficult.

9 MS. FORSHAW: I guess I would say, Robbye,  
10 in this case, the four-car garage is already there and  
11 it is permitted by the code. We would not be granting  
12 a variance for a four-car garage. It really comes  
13 down to the aesthetics of the driveway.

14 MS. TOFT: And I'm not arguing against it.  
15 My concern is --

16 MR. SHILLINGTON: Precedence.

17 MS. TOFT: -- precedence. That's my  
18 concern.

19 MR. TUFFLI: I'm just asking here. Is  
20 precedence really something that's argued in this?

21 MR. SCHLAFLY: Absolutely. It's our  
22 biggest problem.

23 MR. TUFFLI: Because I thought every one of  
24 your cases was taken on its own merit.

25 CHAIRMAN WALCH: Well, they are.

1 MR. TUFFLI: But precedence comes in.

2 CHAIRMAN WALCH: We have long adopted the  
3 policy that not having a two-car garage is a hardship.  
4 But four-car is not a hardship. So that's kind of  
5 where you are stuck here, or we are stuck here.

6 MS. TOFT: You just heard Ladue Chapel  
7 argue that MICDS has signs from a decade ago, we  
8 should allow them the signs.

9 MR. TUFFLI: That's my point.

10 MR. SCHLAFLY: With the contest what MICDS  
11 is compared to a church.

12 MR. SPARKS: Keep in mind, if this were not  
13 a garage, it was an art studio, would there be this  
14 issue?

15 MS. TOFT: Side yard coverage.

16 MR. SPARKS: Side yard coverage, yes, but  
17 not four-car garage. That seems to be the issue  
18 that's coming up here.

19 MS. TOFT: No, I would just say you can't  
20 have pavement covering more than 25 percent of the  
21 side yard.

22 MR. SPARKS: If this were a normal D lot,  
23 which it's zoned D, and it was 30,000 square feet, we  
24 wouldn't have this issue. It's 23,000 square feet.  
25 So we have been, you know, stuck with the size of this

1 lot from day one, and we have done the best we can do.  
2 These are not even big garages by most standards.  
3 They are 22 by 22, or something like that. They are  
4 not giant.

5 MR. TUFFLI: Here are these garages. We  
6 went to a great deal of trouble to make this part of  
7 the garage look attractive and not just be a  
8 barn-looking thing.

9 CHAIRMAN WALCH: That's your elevation.

10 MR. TUFFLI: Yes. From the side.

11 MR. GARTENBERG: Jay, what is the size of  
12 the lot, 23,000 feet?

13 MR. SPARKS: 23,371 square feet.

14 MR. GARTENBERG: Just as a point of  
15 reference, for the record, the D district, the minimum  
16 lot area is 15,000 square feet.

17 MR. SPARKS: Minimum.

18 MR. GARTENBERG: Right. You made some  
19 reference.

20 MR. TUFFLI: It's a C lot.

21 MR. SPARKS: That's our issue. It's a C  
22 lot.

23 MR. WOOLDRIDGE: It's not a C lot.

24 MR. SPARKS: It is though. It's that way  
25 on the map.

1 MR. WOOLDRIDGE: Here it is right here.  
2 What's the address again?

3 MR. GARTENBERG: 9946.

4 MS. TOFT: 9946.

5 MR. SPARKS: It's the very last C.

6 MR. WOOLDRIDGE: I'm sorry. I looked at  
7 the wrong number.

8 MR. SPARKS: It is C. We abide by the  
9 zoning requirements, 50 foot front yard setback. If  
10 it had been a D lot it would have been 10 feet closer.  
11 If it would have been the minimum lot, which is  
12 supposed to be what, 75 feet wide as the minimum  
13 dimension, we are 61. Obviously this was probably all  
14 platted much before the current zoning codes were  
15 adopted, and so we are kind of stuck with these  
16 things.

17 MS. FORSHAW: I think the pie shape of the  
18 lot as well as the grade is a challenge. And I don't  
19 know, I think the solution is aesthetically pleasing  
20 here and has the support of the neighbors, and I don't  
21 have a problem with it. I don't think we can give him  
22 a variance for a four-car garage, and so I don't think  
23 the precedence is that significant.

24 CHAIRMAN WALCH: I concur with that. We  
25 are not being requested to approve a four-car garage

1 like we frequently are.

2 MS. FORSHAW: We have certainly given side  
3 yard coverage variances in the past on a number of  
4 occasions, often for lots that were quite narrow for  
5 the zoning, or that sort of thing.

6 MR. SCHLAFLY: Right out there.

7 MS. TOFT: Yes.

8 CHAIRMAN WALCH: There are a couple of  
9 streets down here by Schnarrs Hardware where  
10 practically every improvement they have to get a  
11 variance.

12 Just so we know. I concur with David. We  
13 shouldn't be spending all this time trying to redesign  
14 this. We should decide on what has been requested or  
15 not. So unless you gentlemen have something else to  
16 present.

17 MR. SPARKS: No. That's it.

18 MS. FORSHAW: I'm prepared to make a  
19 motion.

20 CHAIRMAN WALCH: You are prepared to make a  
21 motion?

22 MS. FORSHAW: Mr. Chairman, I move that on  
23 the basis of the evidence presented we find that  
24 practical difficulties exist and the decision of the  
25 building official is reversed and the variance granted

1 as requested on the --

2 MS. TOFT: Actually, there is a site plan  
3 attached to the November 24th, 2014, letter.

4 CHAIRMAN WALCH: Letter from the appellant.

5 MS. TOFT: These plans are dated --  
6 revisions dated May 12th, 2014, so I don't think we  
7 want to use that.

8 CHAIRMAN WALCH: Here it is, Liza. Here is  
9 the letter and the site plan.

10 MS. FORSHAW: As requested on the site plan  
11 attached to the memorandum to the Zoning Board of  
12 Adjustment from the applicant dated November 24, 2014.

13 CHAIRMAN WALCH: Is there a second?

14 MR. SHILLINGTON: Second.

15 CHAIRMAN WALCH: All right. Any further  
16 discussion? How do you vote, Ms. Toft?

17 MS. TOFT: In favor.

18 MR. SCHLAFLY: In favor.

19 CHAIRMAN WALCH: In favor.

20 MS. FORSHAW: In favor.

21 MR. SHILLINGTON: In favor.

22 CHAIRMAN WALCH: Good luck.

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CERTIFICATE OF REPORTER

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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

**BOBBIE L. LUBER**  
Notary Public - Notary Seal  
State of Missouri  
St. Louis County  
My Commission Expires: July 19, 2016  
Commission #12478045