

**CITY OF
LADUE**

City Hall

**NOTICE OF PUBLIC HEARING
ZONING BOARD OF ADJUSTMENT
CITY OF LADUE, MISSOURI
DOCKET NUMBER 1178**

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 Adam and Amanda Russo, 2 Midpark Lane, St. Louis, MO 63124, requesting relief from the ruling of the Building Official denying a building permit for a fence being located in a required front yard which violates Section IV, C, 1, (a)

The hearing will be held at 4:00 p.m. on Monday, July 6, 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

*posted by Anne Lanitole
6/16 at 3:30 pm*

DOCKET 1178

DATE OF HEARING	July 6, 2015
NAME	Mr. Adam Miller & Mrs. Amanda Russo
DESCRIPTION OF PROPERTY	2 Midpark Lane
CAUSE FOR APPEAL	Relief from the decision of the Building Official for a fence being located in a required front yard which violates Section IV, C, 1 (a) of Zoning Ordinance 1175.
RULING OF THE BOARD	After a discussion of the facts presented, the Board approved the variance for the fence due to the existence of a hardship and the decision of the Building Official is reversed.

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, July 6, 2015

DOCKET 1178
2 Midpark Lane

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, July 6, 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
Ms. Laura Gerdes Long

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:

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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 June 3, 2015;
Exhibit D – List of Residents sent notice of meeting;
Exhibit E – Letter from the resident requesting the variance date June 8, 2015
Exhibit F – Entire file relating to the application

(Transcript attached as part of the minutes)

The court reported administered the oath to Adam Miller, property owner.

Mr. Miller explained that a fence is needed between the home and the garage for privacy. A gate will also be included. A fence to the east of the garage extending to the property line is also needed. It was noted that the alley is being considered roadway frontage.

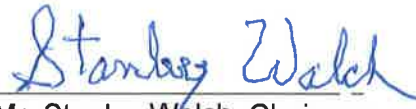
Ms. Toft asked what the height of the fence is on the adjacent property and Mr. Miller responded that it is six feet in height.

The Public Hearing was closed.

Ms. Forshaw noted that other six feet fences exist in the area and that a hardship exists at this property and Ms. Toft stated that she agrees.

Ms. Long moved that based on the evidence presented, a hardship exists and the decision of the Building Official be reversed, and a variance granted based on the fence permit application dated April 15, 2015. Ms. Toft seconded the motion and the vote thereupon was as follows:

Mr. Stanley Walch	"Aye"
Ms. Robbye Toft	"Aye"
Ms. Liza Forshaw	"Aye"
Mr. David Schlafly	"Aye"
Ms. Laura Gerdes Long	"Aye"


Mr. Stanley Walch, Chairman

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ZONING BOARD OF ADJUSTMENT
CITY OF LADUE
LADUE, MISSOURI

IN THE MATTER OF:)
)
ADAM MILLER AND AMANDA RUSSO) DOCKET NUMBER 1178
3 MIDPARK LANE)
LADUE, MISSOURI 63124)

Monday, July 6, 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: )  
 )  
ADAM MILLER AND AMANDA RUSSO ) DOCKET NUMBER 1178  
2 MIDPARK LANE )  
LADUE, MISSOURI 63124 )

BE IT REMEMBERED that on the 6th day of  
July, 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
- Ms. Laura Long
- Mr. David Schlafly
- Ms. Robbye Toft

Also Present:

- Ms. Nancy Spewak, Mayor
- Ms. Anne Lamitola
- Mr. Michael W. Gartenberg
- Mr. Adam E. Miller, Appellant
- Ms. Amanda Russo, Appellant

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

4 CHAIRMAN WALCH: The next matter is Docket  
5 Number 1178, which is the variance sought by Adam and  
6 Amanda Russo at 2 Midpark Lane, requesting relief from  
7 the building official who declined to issue a permit  
8 for a fence being located in a required front yard  
9 which violates Section IV,C,1,(a).

10 Mr. Gartenberg, will you please explain the  
11 reason or reasons why the plans were disapproved so  
12 the audience and members will have a clear  
13 understanding of the issues in this case?

14 MR. GARTENBERG: Yes, sir, I would. The  
15 subject property is located in the city's E-1  
16 residential district, and is subject to 25-foot  
17 requirement front yard, minimum required front yard.

18 The property is actually a corner property  
19 fronting on Midpark Lane and the alley to the north.  
20 So the fence height within that required front yard is  
21 limited to three feet in height as a solid fence, and  
22 three-and-a-half-feet if there is a certain amount of  
23 openness to it. What is being proposed by the  
24 applicant are solid fences in a couple of locations  
25 which do not meet that minimum 25 foot setback which



1 is why the permit was not issued and the plan was not  
2 approved.

3 CHAIRMAN WALCH: Any questions of  
4 Mr. Gartenberg? I have one.

5 Are you quite certain, Mr. Gartenberg, that  
6 it is a private street as opposed to an alley? It  
7 serves primarily commercial buildings.

8 MR. GARTENBERG: It is a thoroughfare.  
9 It's a pavement for public use. It is considered to  
10 be a roadway.

11 MS. LAMITOLA: It is a city-maintained  
12 alley.

13 CHAIRMAN WALCH: Is that true, Anne?

14 MS. LAMITOLA: Yes. The city maintains it.

15 MR. GARTENBERG: That's not relevant to the  
16 issue.

17 CHAIRMAN WALCH: I agree with that.

18 Nor is it really distinguished as an alley  
19 from a private road, or public road for that matter.

20 MS. TOFT: Mr. Gartenberg, is this the only  
21 alley in Ladue?

22 MS. LAMITOLA: There are allies between --  
23 in the city, other subdivisions, yes.

24 MS. TOFT: In our definition of a road, how  
25 do we define a road?

1 MR. GARTENBERG: Let me get you that  
2 definition. Actually, frontage is the issue because  
3 this property, according to our definition, has  
4 frontage, as compared to the front yard. The  
5 definition of frontage is the dimension of a lot  
6 measured along the right-of-way line to a street or  
7 accessible private road which crosses or traverses  
8 such lot. I believe this is applicable.

9 MR. SCHLAFLY: So the issue here is the  
10 height?

11 MR. GARTENBERG: Yes. The height and the  
12 location. One or the other. If it were moved back 25  
13 feet it certainly wouldn't serve the same function,  
14 but it would not be an issue with the zoning code.

15 MS. TOFT: Thank you, Mr. Gartenberg. You  
16 didn't give us that definition. Thank you,  
17 Mr. Chairman.

18 CHAIRMAN WALCH: All right. We will cover  
19 the other procedural matters.

20 The following documents will be marked as  
21 exhibits in this case and part of the evidence in the  
22 record.

23 The first is Exhibit B, which is the public  
24 notice of this hearing.

25 The second is the letter from

1 Mr. Gartenberg dated June 3, 2015, and that will be  
2 marked as Exhibit C.

3 The next exhibit is the list of residents  
4 to whom the notice of public hearing was mailed, and  
5 that will be marked as Exhibit D.

6 The appellant's letter requesting a  
7 variance dated June 8th, 2015, and any other letters  
8 in support of or opposition will be marked as Exhibit  
9 E. Are there any other letters, Ms. Lamitola?

10 MS. LAMITOLA: There are not.

11 CHAIRMAN WALCH: Thank you. Finally the  
12 entire file containing the application, including the  
13 memoranda from staff and consultants to the Zoning  
14 Board of Adjustment or the City of Ladue will be  
15 marked as Exhibit F.

16 At this point will the appellant, or anyone  
17 else who wants to speak on behalf of the appellant,  
18 come forward. Give your name to the court reporter  
19 and she will swear you in.

20 MR. MILLER: Thank you, Mr. Chairman. My  
21 name is Adam Miller.

22 (At this time Mr. Miller was sworn in by  
23 the court reporter.)

24 MR. MILLER: Good afternoon, Mr. Chairman  
25 and members of the board. This is a very modest

1 request for an 8-foot in length fence that is intended  
2 to provide security and privacy between our yard at 2  
3 Midpark and a very busy alleyway that is adjacent to  
4 it.

5 I heard Mr. Gartenberg's remarks regarding  
6 a street and its public purpose. We have no dispute  
7 about that. What we do have a concern about is its  
8 very active nature. There are garbage trucks.  
9 Visibly it's not that attractive. There is no way for  
10 us to create a partition between our yard and this  
11 roadway that would be practical to create either  
12 through any sort of landscaping or otherwise. We see  
13 no alternative.

14 We don't see that this variance really  
15 affects the visibility of the neighborhood to whatever  
16 attractive feature the neighborhood has to the  
17 activity that goes on this active alleyway.

18 CHAIRMAN WALCH: Are you the appellant?

19 MR. MILLER: I am.

20 CHAIRMAN WALCH: They have your name wrong.

21 MR. MILLER: My name is Adam Miller. My  
22 wife is Amanda Russo.

23 CHAIRMAN WALCH: I see. We have your  
24 wife's name.

25 MR. MILLER: Yes, you do. I treasure her

1 as much as her name. If you go by that, that's fine.

2 CHAIRMAN WALCH: I understand. My son's  
3 wife is the same way.

4 MR. MILLER: I think you and I practiced  
5 law together at Thompson Coburn.

6 CHAIRMAN WALCH: Yes, we did.

7 Can you tell us exactly where that fence is  
8 going to be?

9 MR. MILLER: I will be happy to. And I  
10 think the photos -- the artist renderings are not  
11 probably what you are used to.

12 This is a view from the alley that you can  
13 see here and the pavement looking towards the property  
14 towards the north. This views the property from the  
15 businesses that set adjacent to Clayton Road.

16 What we had planned to do is have the fence  
17 be contiguous with the northernmost part, which is a  
18 doorway to the garage which is adjacent to this road  
19 and move that along to the west so that it leaves the  
20 wall. So that we have this car park area here, the  
21 fence would come up to this level.

22 CHAIRMAN WALCH: And would there be a gate?

23 MR. MILLER: There would be a gate. So we  
24 could go to the car park to the backyard. The back  
25 yard would be an obscured view to the neighboring

1 alley and the dumpster and the store fronts.

2 CHAIRMAN WALCH: So this would not be on --  
3 this new fence would not be on the property line, it  
4 would be set back?

5 MR. MILLER: It would be set back  
6 approximately 18 to 22 feet. Between here and here,  
7 although its not -- it's not pictured well. This is  
8 about 22 or 28 feet here. It's about 22 there.

9 MS. TOFT: You are also asking for some  
10 fence to connect the garage?

11 MR. MILLER: I apologize. Yes. We are  
12 also asking for a four-foot expansive fence to go from  
13 the garage that sets on the property on the west --  
14 I'm sorry, on the east side. But there is about four  
15 feet between the edge of the garage and the adjacent  
16 property, and so we would like to enclose that as  
17 well.

18 MS. TOFT: Does your neighbor to the east  
19 have a fence?

20 MR. MILLER: It does.

21 MS. TOFT: Is your intention to be inline  
22 with that fence?

23 MR. MILLER: No. Actually, it would be set  
24 back further.

25 MS. TOFT: And so then your fence wouldn't

1 abut their fence?

2 MR. MILLER: It would. But it would run --  
3 this is a terrible drawing. The garage is here. The  
4 alleyway exists approximately this direction. So the  
5 fence here would go from the edge of the garage to the  
6 east.

7 MS. TOFT: The edge of the garage further  
8 east?

9 MR. MILLER: Yes.

10 MS. TOFT: And your neighbor's fence in  
11 terms of a north/south placement is further north of  
12 your proposed fence?

13 MR. MILLER: It is. The alleyway runs on a  
14 diagonal. It's a east/west. So if there are any  
15 questions, I would be happy to answer.

16 MS. TOFT: Your neighbor's fence is also 6  
17 feet tall and solid?

18 MR. MILLER: It is. Both of those. I  
19 should add that the entire distance of the alleyway  
20 from the street to the east and all the way to the  
21 street to the west, they have contiguous fences. Ours  
22 is the only property that's open. We are not looking  
23 of course to seal it all off. Thank you.

24 CHAIRMAN WALCH: I have one more question.  
25 Would the existing small fence that's there now, would

1 that just stay?

2 MR. MILLER: Yes. That's simply a  
3 decorative fence.

4 MS. LONG: How long have you lived there?

5 MR. MILLER: 7 years.

6 MS. LONG: Did you build it?

7 MR. MILLER: No. We bought it from the  
8 prior owner, who was the builder.

9 CHAIRMAN WALCH: All right. Does any other  
10 member of the public wish to speak first on behalf of  
11 the appellant?

12 Secondly, does any other member of the  
13 public wish to speak at all on this case? All right.  
14 Hearing none I'm going to declare the public comment  
15 portion of this hearing closed and we will discuss  
16 this amongst the board, and may have some more  
17 questions.

18 Who would -- unless some member of the  
19 board has an objection, which I take it you don't, in  
20 that case who would like to start our discussion?

21 MS. FORSHAW: I think this case is a  
22 no-brainer. This property has a great need for  
23 screening from the alley and the shopping center  
24 across the alley, and there are other 6-foot fences up  
25 and down the alleyway. It's a hardship. I can



1 understand the desire for a fence, and I think it's  
2 important to make their property usable and enjoyable.

3 MS. TOFT: I agree. And I can't see how  
4 any other applicant could cite this case for their  
5 entitlement of a 6 foot fence, and I don't think there  
6 is a danger of setting a precedence here. I think  
7 it's totally unique, and given the other neighbors  
8 have equal fences, I think they are entitled to a  
9 6-foot fence.

10 CHAIRMAN WALCH: I still have some  
11 difficulty with the front yard definition here because  
12 that is not a front yard by any common sense. It's an  
13 alley with trash cans.

14 Do you have something, Laura?

15 MS. LONG: No. I'm going to make a motion.

16 CHAIRMAN WALCH: You are going to make a  
17 motion. There is always time for a motion. That  
18 moves it along.

19 MS. LONG: Mr. Chairman, I move the  
20 following: That on the basis of the evidence  
21 presented we find that practical difficulty exists and  
22 the decision of the building official is reversed and  
23 a variance is granted as requested on the site plan  
24 dated -- I have a little trouble.

25 CHAIRMAN WALCH: This is a drawing.

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MS. TOFT: It's Exhibit B.

MS. LONG: Based on Exhibit B attached to the application.

MS. TOFT: I will second that.

CHAIRMAN WALCH: All right. Is there any further discussion? It is Exhibit B. We probably ought to date that. Do you mind if I date that? I will date that July 6th.

Exhibit E which I have now marked as dated on July 6th, 2015. Is there a second to that motion?

MS. TOFT: I seconded.

CHAIRMAN WALCH: You seconded it. I'm sorry, Robbye. Is there any further discussion? Hearing none, how do you vote, Mr. Schlafly?

MR. SCHLAFLY: In favor.

MS. TOFT: In favor.

CHAIRMAN WALCH: In favor.

MS. FORSHAW: In favor.

MS. LONG: In favor.

CHAIRMAN WALCH: All right. Good luck to you, Mr. Miller.

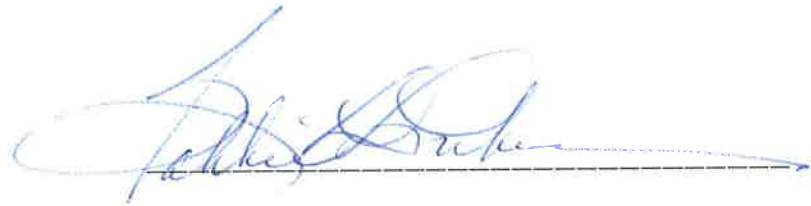
MR. MILLER: Thank you.

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CERTIFICATE OF REPORTER

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

|                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>BOBBIE L. LUBER</b><br/>Notary Public - Notary Seal<br/>State of Missouri<br/>St. Louis County<br/>My Commission Expires: July 19, 2016<br/>Commission #12478045</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|