

**MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
MARCH 1, 2022, 4:00 P.M.**

DOCKET 1354

10 DARYL LANE

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, March 1, 2022.  
The hybrid meeting was held in person and via ZOOM.

The following members of the Board were present:

Chairman Liza Forshaw  
Ms. Kristen Holton  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. Lee Rottmann

Also present were Erin Seele, City Attorney; Andrea Sukanek, City Planner; Roger Stewart, Building Commissioner; Councilman John Fox; and Lori Mullins, Deputy City Clerk. Present via ZOOM, Anne Lamitola, Director of Public Works.

Chairman Forshaw called the meeting to order at 4:03 P.M.

**Approval and Adoption of the Agenda and Minutes**

The agenda was adopted unanimously upon motion by Ms. Long and second by Ms. Panke.

The minutes of the January 4, 2022 Board meeting were approved unanimously upon motion by Ms. Panke and second by Mr. Rottmann.

**Docket 1354** Petition is submitted by Chris Pagano c/o Pagano Land Development for the property located at 10 Daryl Lane. The petitioner is requesting relief from a denial by the Architectural Review Board (ARB) of amended plans that would include the use of vinyl siding. The original approved plans cited cementitious board siding which is generally accepted as a material for construction on a new residence. The ARB determined that the request for a material change to vinyl siding was not consistent with the Architectural Guidelines created per Municipal Code Chapter 110, Article III, Section 110-72.

Ms. Sukanek reported that the Architectural Review Board (ARB) reviewed and approved plans in August of 2020 based on the information submitted. The permit was issued in October 2020. In September 2021 the project was found to be not consistent with submitted plans and thus failed inspection. The Building Inspector discovered the siding placed on the house was not the fiber cement as detailed in the plans but was vinyl.

Chairman 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 – Letter of Denial dated December 29, 2021;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated January 7, 2022;

Exhibit F – Entire file relating to the application

Chairman Forshaw noted that the role of the Zoning Board of Adjustment in this case is not to consider a traditional variance based on practical difficulty, but instead to act as a review board to consider whether the Architectural Review Board's denial of approval for the vinyl siding was appropriate based on the Architectural Guidelines enacted in the city code. The City Attorney concurred.

Dave Edmonds, attorney, Chris Pagano, S.J. Pagano, and Leah Davidson took the oath. Mr. Edmonds addressed the Board reporting that the change to "luxury vinyl" was made based on cancer concerns. There are currently lawsuits concerning airborne carcinogens created by cutting fiber cement. He said that luxury vinyl siding looks like wood and is not shiny like other types of vinyl. Another issue is that the house is finished and occupied, and the problem with the siding was not identified by the city until 6 to 8 weeks after the city issued a temporary occupancy permit, while the pool was being built by another contractor.

Mr. Chris Pagano, the builder, characterized seamless luxury vinyl as a new product that is not distinguishable from the fiber cement. It requires less maintenance. It had been up for three months before it was noticed. The siding was chosen by the homeowner due to the ease of upkeep. Mr. Pagano has experience with building homes in the City of Ladue. He built and occupied a home on Clermont with vinyl siding. He is familiar with a class action lawsuit concerning cementitious siding, which expands and contracts, resulting in cracks. In that case the siding had to be replaced. He stated that he did not know about the Architectural Guidelines prohibiting vinyl siding.

Mr. Fred Goebel, ARB member, took the oath, and shared information on vinyl siding and its grading by thickness. "Luxury vinyl" is still only 1/16" thick. He observed that lawsuits over all types of siding are common. The ARB does not require cementitious siding but does have a distaste for vinyl siding. Silica aggregate (the source of the alleged airborne carcinogens that are the subject of lawsuits over cementitious siding) is also found in cement, which is used everywhere and not being replaced. The industry is adjusting, and OSHA guidelines must be followed. The role of the ARB is to ensure that plans conform with the City's Architectural Guidelines. ARB approval was granted based on the use of cementitious fiber board siding.

Mr. Pagano acknowledged that the vinyl siding is thin but was installed onto a very hard half-inch zip board. The vertical vinyl is a new low-maintenance product that has been around since about 2017-18. Wood siding requires laborious upkeep. The cost to remove and replace the luxury vinyl siding on the house in this case will exceed \$40,000.

Board discussion included:

- The limited role of the Board in reviewing the denial
- The applicant's failure to submit the change in siding materials to the city
- The city's enacted Architectural Guidelines clearly identifying vinyl siding as unacceptable

After discussion, Ms. Long made the motion to affirm the decision of the Architectural Review Board in response to the application for appeal. Ms. Panke seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"approve"
Ms. Kristen Holton	"approve"
Ms. Laura Long	"approve"
Ms. Elizabeth Panke	"approve"
Mr. Lee Rottmann	"approve"

With five (5) votes in favor and zero (0) against, the motion passed, and the ruling of the Architectural Review Board is upheld.

### **Adjournment**

At 7:05 p.m. Ms. Panke made a motion to Adjourn the meeting. Mr. Rottmann seconded the motion. A unanimous vote in favor was taken.

DOCKET 1354

CAUSE FOR APPEAL

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RULING OF THE BOARD

After discussion, on the basis of the evidence presented, the Board upholds the decision of the ARB.

A handwritten signature in black ink, appearing to read "Liza Forshaw", is written over a horizontal line.

Ms. Liza Forshaw, Chairman