

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

DOCKET 1368  
4 GLENVIEW DRIVE

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, October 4, 2022.

The following members of the Board were present:

Chairman Liza Forshaw  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. Lee Rottmann  
Mr. Dan Welsh

Also present were Mayor Nancy Spewak; Anne Lamitola, Director of Public Works; Erin Seele, City Attorney; Roger Stewart, Building Commissioner; Andrea Sukanek, City Planner; and Lori Mullins, Deputy City Clerk.

Chairman Forshaw called the meeting to order at 4:00 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 September 6, 2022 meeting were approved unanimously upon motion by Ms. Panke and second by Ms. Long.

Docket 1368                      Petition is submitted by Yazan Abdalla and Deena Saeed for the property located at 4 Glenview Drive. The petitioner is requesting relief from the Building Commissioner denying a retaining wall taller than 3 feet in the front yard and two retaining walls closer than 20 feet separation between them. This is prohibited by Ordinance #1175, Section IV-F-2 and IV-F-4.

Mr. Stewart stated that the applicant is requesting a variance to build a retaining wall in the "C" zoning district that exceeds the maximum permitted height of 3 feet, in violation of sections 1V-F-2. The proposed wall splits into two retaining walls that are divided by less than the required 20 feet of separation in violation of section IV-F-4 of Ordinance #1175. Mr. Stewart provided an additional letter received after the packets were distributed. Chairman Forshaw entered the letter into the record as Exhibit G.

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 August 29, 2022;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated August 30, 2022;

Exhibit F – Entire file relating to the application

Exhibit G – Additional letter of opposition

Ms. Deena Saeed took the oath and addressed the Board, stating that the primary reason for the proposal is to preserve a mature tree. The proposal is for a single limestone wall up to 6'4" tall that splits into two tiers to protect the root system of the tree. There are 8' between the tree and the driveway. The construction workers are using a driveway that is on a neighboring property.

Contractor George Muehleman took the oath and addressed the Board. The original plan was for a single wall to keep construction away from the shag bark hickory tree. A permit was granted for a double wall design; this application is for an addendum. The plan review was denied by Mr. Stewart.

Thus, the applicant has a permit for a different wall but proposes to change the plan. The proposal requires a variance.

Discussion ensued. Mr. Stewart has denied what he termed an addendum to the permitted project. The applicant has a denial letter and has a permit. The applicant cannot have 2 permits for the same property. Ms. Seele informed the board that a condition to a granted variance could be to void the existing permit.

The applicant has a permit and can proceed with the permitted double wall design. If a variance is granted, the permit for the double wall plan will be void. The applicant elected to proceed with the request for a variance.

Discussion ensued regarding wall height, dropoff, slope, and tree preservation in the heavily wooded area. The applicant has one trustee signature.

Greg Stevens, trustee and resident of 1 Glenview Road, reported that he signed the plan, but did not intentionally approve the retaining walls. He offered no opinion on the project.

Another subdivision trustee, David Oetting, 8 Glenview Road, signed the letter of opposition entered into the record as Exhibit G.

Matt Mikula, 8 Fordyce (at the back side of the subject property), took the oath and said he had not seen the plans. Upon inquiry about additional variances for the property, Mr. Stewart informed him that none were issued.

Board discussion included tree preservation, the magnitude of proposed variance, and available compliant options.

After discussion, Mr. Welsh moved to overturn the decision of the Building Commissioner and grant the variance with the condition that upon approval, any other plans for retaining walls for this project be deemed null and void. Ms. Long seconded the motion. The vote was as follows:

Chairman Liza Forshaw      "deny"

Ms. Laura Long	"deny"
Ms. Elizabeth Panke	"deny"
Mr. Lee Rottmann	"approve"
Mr. Dan Welsh	"approve"

With two (2) votes in favor and three (3) against, the motion failed, the ruling of the Building Commissioner stands.

### **Adjournment**

The meeting was adjourned unanimously upon motion by Ms. Panke and second by Ms. Long at 6:25p.m.

DOCKET 1368

DATE OF HEARING

OCTOBER 4, 2022

NAME

Yazan Abdalla and Deena Saeed

DESCRIPTION OF PROPERTY

4 Glenview Drive

CAUSE FOR APPEAL

The petitioner is requesting relief from the Building Commissioner denying a retaining wall taller than 3 feet in the front yard and two retaining walls closer than 20 feet separation between them. This is prohibited by Ordinance #1175, Section IV-F-2 and IV-F-4.

RULING OF THE BOARD

After discussion, on the basis of the evidence presented, the Board does not find practical difficulties, and the decision of the Building Commissioner is upheld.



Ms. Liza Forshaw, Chairman