

MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
Monday, January 9, 2017

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, January 9, 2017 at Ladue City Hall.

The following members of the board were present:

Mr. Stanley Walch  
Ms. Liza Forshaw  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. David Schlafly

Also present were: Mr. William Penney, Building Official; Ms. Anne Lamitola, Director of Public Works; Andrea Sukanek, City Planner and Ms. Margaret Eveker, acting City Attorney. Mayor Nancy Spewak was also in attendance.

Mr. Walch called the meeting to order at 4:00 p.m.

Notice of Public Hearing, as follows:

**NOTICE OF PUBLIC HEARING  
ZONING BOARD OF ADJUSTMENT  
CITY OF LADUE, MISSOURI  
DOCKET NUMBER 1217**

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 Ladue Corner for the property at 10045 Litzsinger Road, requesting relief from the ruling of the Building Official denying a permit for an electrical equipment building due to a side setback encroachment in the A Zoning District, per the Ladue Zoning Ordinance #1175, Section V-C(1)(a), Section V-C(1)(b), and Section V-B(1).

The hearing will be held at 4:00 p.m. on Monday, January 9th, 2016, 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 asked Building Official Will Penney for an explanation with regard to the denial of the application. Mr. Penney stated that application was denied for a permit for an electrical equipment building due to a side setback encroachment. It is a 16'x15' electrical building and the required setback is 50 feet. The request is for placement of the building six feet from the side property line.

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 October 26, 2016
- Exhibit D – List of residents sent notice of the meeting
- Exhibit E – Letter from the resident requesting the variance dated November 8, 2016
- Exhibit F – Entire file related to the application

The court reporter administered the oath to Mr. Eric Tremayne, attorney for the property owner, Ladue Corner LLC located at 10045 Litzsinger Road. Mr. Tremayne introduced himself and stated that the property owner mistakenly was under the impression that all three buildings he owns are all on one property, but the property owner now understands that they are not. That is why the boundary line between 10045 and 10057 Litzsinger Road was not thought be in an issue when the plans were submitted and also, there is an existing electrical pad where the proposed equipment building would be placed. The equipment building is proposed to be 13 feet by 16 feet with a height of 11 feet. The generator will be placed next to the building. The electrical building is proposed to be approximately 6 feet from the property line. The location of the equipment building is 210 feet from the residence on the neighboring lot. The position of the building inside the setback is necessitated by the position of the residence, the driveways, and existence of a sink hole on the western portion of the property. In addition, the existing current transformer box and meter is located at the planned location of the electrical equipment building and they would like to incorporate these existing conditions into the project.

Ms. Forshaw asked if Ameren can still provide service to the proposed building and Mr. Tremayne answered in the affirmative. She also asked if the building and existing transformer box needed to be kept in the proposed location. Mr. Tremayne said it is best as there is the existing junction box in this location. He distributed a map showing the property (Entered as Exhibit "G") and why the proposed location is ideal due to the position of the driveway and house. He stated the property owner is willing to mitigate any issues to make the proposal acceptable to the City, specifically additional

landscaping. He also stated that the property owner would be willing to remove the electrical building should 10045 or 10057 be sold to a non-familial third party and said party requests removal of the building.

Ms. Long asked which residence the proposed building is 210 feet from, and Mr. Tremayne said 10057 Litzsinger Road, which is also owned by Ladue Corner LLC.

Mr. Walch asked if any effort had been made to move the electrical building. Mr. Tremayne said to do so would require a change in the boundaries. Mr. Walch asked for an explanation of Exhibit "G". The contractor stated that it is an Ameren map and show the existing buildings, structures and gas service lines. He explained the proposed easement to allow for gas lines.

Ms. Forshaw asked why the building cannot be moved to behind 10045 Litzsinger. Mr. Tremayne stated that the electrical service is located where they have proposed the equipment building and that they would have to cut through the driveway and house to be able to build behind the primary home on 10045 Litzsinger.

Ms. Long revisited the discussion about removing the building should one of the two properties be sold to a third party, and asked for clarification of "third party." Mr. Tremayne stated that the family owns three adjoining properties and that if one is sold to a non-familial third party, they would have the right to ask for the building to be taken down.

Ms. Panke asked if architectural review board (ARB) had reviewed the project. Mr. Penney explained that it had been presented to the ARB, but that no decision had been made.

Ms. Lamitola reminded the board that both the building and the generator would need a variance as they are both considered accessory structures that must comply with the side yard setback.

Ms. Panke asked how loud the generator would be and Mr. Tremayne stated that it is 71 decibels at a distance of 23 feet and for reference noted that a lawn mower is 90 decibels at the same distance. The generator would only be running when there is a power outage and for routine testing.

The public comment period ended.

Mr. Walch stated that this is a very difficult situation due to the large size of the property. He appreciates the proposal to remove the building upon title change and asked that it be verified that such a restriction can be created.

Ms. Panke asked whether other electrical equipment buildings have come before the Zoning Board of Adjustment and no member could recall electrical buildings, but noted that there are numerous generators in Ladue.

Ms. Long stated she believes there are several hardships; the sink hole on the property, the location of existing structures, and the fact that there is already a current electrical pad in place. She is impressed by the offer to remove the building if a future owner requests the removal as well as the offer to provide extensive landscaping around the building.

Ms. Forshaw noted that there have not been any objections by neighbors.

Mr. Walch noted that the agreement for removal of the building upon sale of the property must be remembered by someone with the City and Mr. Schafly questioned the authority of the board to allow for this agreement.

Ms. Forshaw said that an adequate way to handle the requirement is to add it as a condition to the variance and attach a covenant to the property so that it would be discovered at the running of the title of the property.

Attorney Ms. Margaret Eveker stated that she did believe the City could require the removal of the building at the time of the sale of the property as a condition to the variance. Mr. Penney stated that such an agreement would be difficult to flag by the building department. Mr. Tremayne stated that the future buyer would note this condition if a deed restriction or covenant was recorded as it would be noted on a property title search.

Ms. Long motioned that based on the evidence presented, a practical difficulty exists and the decision of the Building Official be reversed and a variance granted to construct the proposed electrical equipment building on the site plan dated October 26, 2016 be approved, contingent on the following: the property owner install landscaping to obstruct the view of the building and the property owner will agree, upon the sale of either 10045 Litzsinger or 10057 Litzsinger to a non-familial third party, that if said third party property owner requests removal of the electrical equipment building, the property owner(seller) will do so at no cost to third-party purchaser. Further, applicant will work with the city of Ladue staff to record the variance and condition with St. Louis County recorder of deeds. Ms. Long seconded the motion. Mr. Walch called for a vote with regard to this variance request and the vote thereupon was as follows:

Mr. Stanley Walch	"Approve"
Ms. Liza Forshaw	"Approve"
Ms. Laura Long	"Approve"
Ms. Elizabeth Panke	"Approve"
Mr. David Schafly	"Approve"

There were five (5) votes to approve and zero (0) votes to deny and therefore the variance was granted.

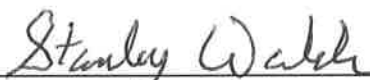
DOCKET 1217

DATE OF HEARING January 9, 2017

DESCRIPTION OF PROPERTY 10045 Litzsinger Road

CAUSE FOR APPEAL Relief from the ruling of the Building Official denying a permit for an electrical equipment building due to a side setback encroachment in the A Zoning District, per the Ladue Zoning Ordinance #1175, Section V-C(1)(a), Section V-C(1)(b), and Section V-B(1).

RULING OF THE BOARD After a discussion of the facts presented, the board approved the variance for an electrical equipment building that encroaches into the side setback in the A Zoning District, per the Ladue Zoning Ordinance #1175, Section V-C(1)(a), Section V-C(1)(b), and Section V-B(1) and the decision of the Building Official was overturned.



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Stanley Walch, Chairman

