

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, April 10, 2017

DOCKET 1224

1339 Litzsinger Woods Lane

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, April 10, 2017, at City Hall.

The following members of the board were present:

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

Also present were: Mr. William Penney, Building Official; and Ms. Erin Seele, City Attorney. Councilman John Fox and Mayor Nancy Spewak were also in attendance.

Ms. Forshaw 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 1224**

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 David R. Huyette for the property 1339 Litzsinger Woods Lane, requesting a modification to the plans allowed by a previous variance (docket #1218). Previous variance was granted to allow a swimming pool in a front yard in the D Zoning District, which is not allowed per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c)

The hearing will be held at 4:00 p.m. on Monday, April 10th, 2017, 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

Ms. Forshaw asked Building Official Will Penney for an explanation of to the denial for the permit for the placement of a pool in a front yard. Mr. Penney explained that the applicant submitted a permit for a pool, retaining wall and a fence. Given the unusual nature of the lot, the pool would be in a front yard. This application required a variance and was approved for that variance in January, 2017. Unfortunately, the applicant ran into utility issues while digging and had to move the pool. The original variance approval was for encroachment into the front yard of Litzsinger Road frontage. However, they are now encroaching into the Litzsinger Woods frontage as well which is why this application is before the Board again.

Ms. 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 – Permit denial dated March 16, 2017;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated February 25, 2017
- Exhibit F - Entire file relating to the application

The court reporter administered the oath to Mr. Gregory Miele, contractor for 1339 Litzsinger Woods Lane and David Huyette, homeowner of 1339 Litzsinger Woods Lane. Mr. Miele stated that Dig Rite was contacted to mark for utilities. Based on the site survey used, Dig Rite marked utilities that were off by approximately ten (10) feet. When they started digging they hit a live gas line. The gas company was contacted and quickly came on site to repair the line. The gas line had been found approximately 10 feet closer to their proposed pool location. To not disturb that gas line, they decided to nudge the pool closer towards Litzsinger Woods Lane. They did not anticipate that it would infringe upon that front yard. Once the Ladue inspector was called to inspect the foundation walls, he informed them that the pool did not meet the approved plans or variance and work had to be stopped. A row of boulders previously depicted on the application was changed to a retaining wall because of a berm that caved in. This retaining wall will remain in the same location as the initial plan, but the pool was moved ten (10) feet past the building line from where it was initially permitted to be dug.

The court reporter administered the oath to Mr. Dan Devereux of 1328 Litzsinger Woods Lane. Mr. Devereux stated that he was one of the trustees for Litzsinger Woods Lane. He was notified of the work and no trustees or neighbors had any issue with the proposed plan. He felt that the Ladue Woods Lane frontage was not a front yard, but was a side yard. He is in favor of Mr. Huyette obtaining the variance to move forward with his improvements.

Mr. Welch asked if there was a reason they were not rerouting the gas line.

Mr. Miele stated that it would be an increased cost and a large project having to rerun it from the street. Rerunning it would be work in a small are that would disturb green space and an existing berm with 12-year-old shrubbery.

Mr. Rottmann asked if the gas line impacted other homes.

Mr. Miele stated that they did not believe it impacted other homes.

Mr. Welch asked for clarification of whether they were saying that it was impossible to move the gas line. Mr. Miele stated that they had not pursued it as a viable option. They do not want to pour concrete over the line in case it would ever need to be serviced. They were going to push the pool about 10 feet and relocate the fire pit.

The public comment portion of the meeting was closed.

Commission discussion began.

Ms. Forshaw stated that the original variance was somewhat controversial the first time it was presented to the Board, but it was ultimately approved. The new configuration was quite a bit more obtrusive than the original proposal. Ten (10) feet difference is a large distance for that small of a lot. This new request was now asking for a variance into two (2) front yards and violates one (1) of the building lines. The current site plan would not have gotten a variance if it had been initially presented.

Ms. Long asked for clarification if the reason for the variance request was because it would be in a front yard.

Mr. Penney stated that no structure was allowed in a front yard setback and on the Litzsinger Road side it was past the face of the house, not in front of the forty (40) foot building line.

Ms. Panke stated that there was a practical difficulty with the configuration of the lot having almost no backyard. She questioned whether the gas line was a practical difficulty. Initially she felt that it was, until Mr. Welch raised the topic of relocating the gas line.

Mr. Welch felt that the unforeseen issues they ran into were surmountable through rerouting the gas line. He did not feel there was a practical difficulty or a hardship based on the facts presented.

Ms. Forshaw suggested the size of the pool be reduced.

Ms. Long felt that the lot size and unusual topography of the lot were a hardship for the project, but not necessarily the gas line issue.

Ms. Forshaw said that the problem was that they were attempting to place a pool that encroached on two (2) different front yards, which was highly unusual. She did vote to approve the variance for them to encroach into one (1) front yard, but taking it to two (2) front yards would set a bad precedent.

Mr. Welch said that if it was impossible to move the gas line it was incumbent upon the applicant to show that, but they had not presented that. They had stated that it was possible for a cost between \$3,000-\$5,000. There was not enough evidence to prove a practical difficulty or hardship.

Ms. Long struggled with the feasibility of moving the gas line. She asked Ms. Seele for any input on issues with the moving of natural resources.

Ms. Seele stated that the burden would fall to the applicant to provide evidence of that creating the practical difficulty.

Mr. Rottman did not feel there was a practical difficulty and would like to hear what Laclede Gas would say about moving the line, the cost, etc.

Mr. Welch explained that the applicant could request a continuance to give them time to prove a practical difficulty or hardship, or the applicant could choose to move forward with a vote on approval.

Mr. Huyette stated that making the pool smaller would result in them losing a deep end which could be problematic and unsafe if kids were to dive into it. They did consider that but they did

not think nudging the pool location 10 feet was that large of a distance to be considered a problem.

Ms. Long reiterated that it was not a matter of the distance it was moved it was the location of the pool past the face of the house in a front yard which is not allowed.

Ms. Forshaw asked if the applicant was requesting the variance or a continuance.

Mr. Huyette asked for clarification on what the next steps were if they requested a continuance and if it would then be forwarded to the next meeting.

Mr. Welch clarified that they could not guarantee that the application would make it on the next meeting's agenda. It would depend on when and if they received the requested information and what other docket items were already on the agenda.

Ms. Forshaw also stated that granting the continuance for further information in no way guaranteed the variance would be granted when it came before the committee again.

Mr. Huyette asked if they could keep the pool in the same size but move it behind the front line of the home, would they be allowed to move forward with the project if they could reconfigure the plan under the original variance.

Mr. Welch stated that their options were to request a continuance which would place them back on the docket for a future meeting, at which point they could present any new evidence they may have obtained, or they could request a ruling based on what was presented that evening.

Ms. Forshaw added that if they voted and the variance was denied, the application could not come back for another six (6) months. The prior variance was still good, if they chose to move forward with work using that site plan, they may do so.

Mr. Huyette requested a continuance and it was granted.

Docket 1224

DATE OF HEARING

April 10, 2017

DESCRIPTION OF PROPERTY

1339 Litzsinger Woods Lane

CAUSE FOR APPEAL

Relief from the ruling of the Building Official denying a modification to the plans allowed by a previous variance (docket #1218). Previous variance was granted to allow a swimming pool in a front yard in the D Zoning District, which is not allowed per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c)

RULING OF THE BOARD

After a discussion of the facts presented, the board continued the request for a variance for a pool in the front yard in the D Zoning District, which is not allowed per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c)

A handwritten signature in cursive script, appearing to read "Liza Forshaw", is written above a horizontal line.

Ms. Liza Forshaw, Vice-Chairman