

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, May 1, 2017

DOCKET 1226

28 Magnolia

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, May 1, 2017, at City Hall.

The following members of the board were present:

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

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.

Chairman Walch 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 1226**

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 Scott Dunavant of Dunavant Enterprises LLC for the property at 28 Magnolia, requesting relief from the ruling of the Building Official denying a permit for a new single family residence that would result in the floor area ratio exceeding maximum percentage (.42) of allowable area which is prohibited per the Ladue Zoning Ordinance #1175, Section V-F-(1).

The hearing will be held at 4:00 p.m. on Monday, May 1, 2017, at the Ladue 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

Chairman Walch stated that Ms. Long would be recusing herself from Docket 1226 because her law firm represents the developer. Mr. Dan Welsh took her place to vote on this item.

Chairman Walch asked Building Official Will Penney for an explanation of the denial for a permit to construct a single-family residence at 28 Magnolia.

Mr. Penney stated that the square footage for the house exceeded our floor area ratio (FAR) maximums under Ladue zoning ordinance.

Chairman 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 March 13, 2017;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated March 30, 2017
- Exhibit F – Entire file relating to the application
- Exhibit G – Letter of support, signed by six (6) neighboring residents dated April 20, 2017

The court reporter administered the oath to Mr. Jeffrey Schmitt, attorney for the homeowners of 28 Magnolia.

Mr. Schmitt stated that his client, Dr. Freedland and his wife had lived at the home at 28 Magnolia for 25 years. They desired a larger home on their property so that they could upgrade but stay in the same location. The applicant is asking the Board to reconsider the interpretation of the code. There were nineteen (19) other homes in the E-1 district identified as being “non-conforming” with respect to this issue.

Ms. Panke asked if the square footage of the nineteen homes listed included the basement.

The court reporter administered the oath to Mr. Scott Dunavant.

Mr. Dunavant stated that the square footage listed did not include basements. The homes represented ranged from 2,500 to 3,000 sq. ft. that were recently built in that area.

A letter of support signed by six (6) neighboring residents was presented and entered as Exhibit G.

A discussion ensued about the age of homes in the E-1 district, older homes being predominantly built smaller when the area was developed.

The court reporter administered the oath to Mr. Raynsford. He is a neighbor and supported the request for a variance as it will allow homes in the area to continue with improvements.

The court reporter administered the oath to Mr. Claude Buchheit. He addressed the Board to ask if there were minimum green space requirements with new homes.

Mr. Penney stated that there were and this proposed home met the requirements relevant to the date of application. There were changes to green space requirements with new storm water ordinances that were adopted at the end of April but this permit was received prior to that.

The court reporter administered the oath to Ms. Mara Butler, resident at 33 Magnolia. She asked how the storm water runoff would be any different if this home had a basement or did not have a basement.

Mr. Penney stated there would not be much of a difference if the basement was excluded, however his interpretation of why the City has a definition of floor area ratio is to keep those houses smaller to maintain more green space to handle more storm water.

Ms. Butler felt that the new interpretation would be very prohibitive for improvements in the future to homes in the area and sets an unfair precedent.

The public comment portion of the meeting was closed.

Chairman Walch stated that he would be in favor of granting this variance with the caveat that the Board would not be approving any more of these applications until the City Council reviews the ordinance. He felt this was a matter for City Council to address.

Mr. Welsh felt that using the straight interpretation there was no hardship and questioned whether the Board had authority to grant the variance.

A discussion ensued about the process for review and the Board's role in that process.

Mr. Schlafly made a motion to overturn the ruling of the Building Official and grant a variance.

Chairman Walch seconded the motion, adding that the ruling be overturned with the condition that ZBA Commission makes no determination to whether basements should or should not be counted.

Ms. Forshaw felt the better course of action was to seek an amendment to the zoning ordinance, not a variance.

Chairman Walch called for a vote on the proposed motion made by Mr. Schlafly.

Mr. Stanley Walch	"Approve"
Ms. Liza Forshaw	"Deny"
Mr. David Schlafly	"Approve"
Mr. Dan Welsh	"Deny"
Ms. Elizabeth Panke	"Approve"

There were three (3) votes to approve and two (2) votes to deny and therefore the variance was denied.

Chairman Walch stated that seeking a legislative text amendment would be an option for the applicant.

Meeting was adjourned at 5:13pm.

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DATE OF HEARING May 1, 2017

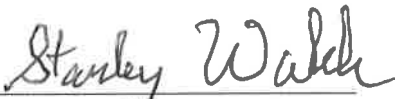
NAME Scott Dunavant of Dunavant Enterprises LLC

DESCRIPTION OF PROPERTY 28 Magnolia

CAUSE FOR APPEAL Relief from the ruling of the Building Official denying a permit for a new single family residence that would result in the floor area ratio exceeding maximum percentage (.42) of allowable area which is prohibited per the Ladue Zoning Ordinance #1175, Section V-F-(1).

RULING OF THE BOARD

After a discussion of the facts presented, the Board denied the variance for the new single family residence and the ruling of the Building Official was upheld.


Mr. Stanley Walch, Chairman