

MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
June 5, 2017

DOCKET 1228

9 Pillsbury

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, June 5, 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

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 1228**

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 Fadi and Carla Shamsham for the property at 9 Pillsbury Place. Requesting relief from the ruling of the Building Official denying a permit for a Pool and Retaining Wall that would result in the proposed pool being located in a front yard which is prohibited per the Ladue Zoning Ordinance #1175, Section V-C-(1)(b) and V-C-(2)(a). The Retaining Wall has been denied because it exceeds the three-foot maximum in a front yard as stated in Ordinance 1175, Section IV-F-(2).

The hearing will be held at 4:00 p.m. on Monday, June 5, 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 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 April 19, 2017;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated April 25, 2017
- Exhibit F – Entire file relating to the application

Chairman Walch asked Mr. Penney why the application was denied for a permit.

Mr. Penney stated that the lot has two (2) front yards. It had street frontage on Pillsbury Place and Twin Oaks Lane.

The Oath was administered to Gary Feder, Attorney from Husch Blackwell, representation for the applicant. Mr. Feder distributed a packet of materials that were entered into the record as exhibit 'G', these items were renamed to the following:

- A1 – Property Boundary Survey dated 6/30/17
- B2 – Cross Easement Agreement 11/01/96
- C3 – Landscape and Hardscape plan
- D4 – Letters from neighbors in support of variance
- E5 – Aerial View
- F6 – Correspondence with City of Ladue Building Department

Mr. Feder presented the new exhibits and gave some history regarding neighboring properties with a pool and the easement granted to Twin Oaks Lane.

A discussion ensued regarding Ord. 1175, Section V-C (2)c which states: *“On double frontage lots, a front yard must be provided on both streets, unless the lot has legal access from only one frontage or unless such lot has three or more street frontages. If the lot has legal access to only one frontage, that frontage shall be considered the front yard and the yard abutting the non-accessible street shall be considered a rear yard. A lot with three or more frontages shall be considered a corner lot, shall provide two front yards, and the remaining yards shall be a rear or side yards.”*

The Oath was administered to Fadi Shamsham, owner of 9 Pillsbury Place. He gave a brief history of the home and their desire for the pool and backyard improvements.

The Oath was administered to Stephen and Victoria LeResche, 4 Twin Oaks. Mr. LeResche stated that because of the layout of the street and properties they were not in support of the project.

The Oath was administered to Tom Smith, 6 Twin Oaks. Mr. Smith said that he was a 30-year resident and had been a trustee for many years. Due to the nature of the two subdivisions and concerns with water runoff, he was not in support of the project.

The Oath was administered to Robbye Toft and Robert Ketterer, 8 Twin Oaks. Ms. Toft voiced her concerns over the location of the project and the layout of the property at 9 Pillsbury Place. Ms Toft and her husband felt that not being allowed to have a pool did not constitute a hardship. Ms. Toft and her husband were not in support of this project.

A discussion ensued regarding retaining walls in front yards and rear yards and their allowable heights.

Mr. Ketterer, 8 Twin Oaks, addressed the Board about the engineering of the retaining walls. He did not feel this project was right for this location.

Mr. Shamsham presented the Board with a slide show of the proposed project and surrounding area. The presentation of photos was shown to give a visual of the visibility of his yard from Twin Oaks Lane.

The Oath was administered to Pat Ruger from Blue Haven Pools. He explained the placement and height of the proposed retaining wall.

A discussion ensued regarding legal access and the access Mr. Shamsham had to the property of Twin Oaks.

The public comment portion of the meeting was closed.

The Board discussion began regarding the legal access and how to proceed with the review of this case. Ms. Seele stated that without a definition it can be up to the Board to decide what "legal access" means. City Council can review it and adjust the definition if they see fit.

Chairman Walch made a motion to table the item until the July meeting to obtain the opinion of legal counsel on the definition of "legal access" and the ability for the Board to define that. If it is determined that there is no legal access with the applicant, then the regular standards would be employed for granting a variance.

Mr. Welsh seconded the motion.

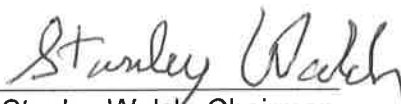
Chairman Walch called for a vote on the proposed motion made. The vote was as follows.

Ms. Liza Forshaw	"Approve"
Ms. Elizabeth Panke	"Approve"
Mr. Stanley Walch	"Approve"
Ms. Laura Long	"Approve"
Mr. Dan Welsh	"Approve"

There were five (5) votes to approve, therefore the motion passes and the item was tabled until the July meeting.

## DOCKET 1228

DATE OF HEARING	June 5, 2017
NAME	Fadi and Carla Shamsham
DESCRIPTION OF PROPERTY	9 Pillsbury Place
CAUSE FOR APPEAL	Requesting relief from the ruling of the Building Official denying a permit for a Pool and Retaining Wall that would result in the proposed pool being located in a front yard which is prohibited per the Ladue Zoning Ordinance #1175, Section V-C (1)(b) and V-C-(2)(a). The Retaining Wall has been denied because it exceeds the three- foot maximum in a front yard as stated in Ordinance 1175, Section IV-F-(2).
RULING OF THE BOARD	After a discussion of the facts presented, the Commission tabled this application for further review and input from legal counsel on the definition of legal access. The item was tabled until the July, 2017 meeting.

  
Mr. Stanley Walch, Chairman