

MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
July 10, 2017

DOCKET 1228- CONTINUED

9 Pillsbury

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

The following members of the board were present:

Mr. Stanley Walch
Ms. Liza Forshaw
Ms. Laura Long
Mr. Daniel Welsh
Mr. Lee Rottmann

Also present were: Mr. William Penney, Building Official, Ms. Andrea Sukanek, City Planner, Ms. Erin Seele, City Attorney and Ms. Ashley Quinn, Administrative Assistant. 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, July 10, 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
- Exhibit G – Entire packet submitted by Husch Blackwell

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 has street frontage on Pillsbury Place and Twin Oaks Lane. Per ordinance you cannot have a pool in a front yard. They also requested a retaining wall that may exceed the height maximum.

Ms. Seele presented items to be entered as exhibits, those items were as follows:

- Exhibit H – Subdivision Plat for Twin Oaks
- Exhibit I – Warranty deed for Twin Oaks Subdivision
- Exhibit J – Indentures for Twin Oaks Subdivision
- Exhibit K – Subdivision Plat for Pillsbury Place

A discussion ensued regarding legal access, exclusive and non-exclusive easements and property rights.

Ms. Seele stated that the Board of Adjustment had the authority to carry out what they felt was the intent of the ordinance put in place by Zoning and Planning and the City Council. They were not bound by her legal opinion.

The Court Reporter administered the Oath to Mr. Marc Jacob, Jacob Law Firm. He presented the following to be entered into the record:

- Exhibit L - legal opinion, 2 case law examples, photographs and information on the retaining wall

The Court Reporter issued the oath to Mr. Fadi Shamsham, homeowner of 9 Pillsbury.

A discussion followed about Mr. Shamsham's access and use, if any, of Twin Oaks Lane.

The Court Reporter administered the oath to Mr. Andre Audi, engineer for the project. He stated that the retaining wall in question would be no taller than 6 feet.

The Court Report administered the oath to Ms. Robbye Toft, 8 Twin Oaks.

Ms. Toft entered a letter from Mr. Shamsham into the record as:

Exhibit M – Letter from Mr. Fadi Shamsham date May 7, 2017

Ms. Toft spoke to the Board not in favor of the proposed project.

The public comment portion of the meeting was closed.

A discussion ensued regarding the proposed project.

With regard to the definition of legal access, Ms. Forshaw made a motion that based on the facts presented, the opinion of the Building Official that there is a second front yard shall be reversed.

The motion was seconded by Mr. Rottmann.

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

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|------------------------|-----------|
| Chairman Stanley Walch | “deny” |
| Ms. Liza Forshaw | “approve” |
| Ms. Laura Long | “deny” |
| Mr. Dan Welsh | “approve” |
| Mr. Lee Rottmann | “deny” |

There were two (2) votes to approve and three (3) votes to deny and therefore the motion failed.

With regard to the request for a variance, Chairman Walch made a motion to grant the variance as requested.

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

| | |
|------------------------|-----------|
| Chairman Stanley Walch | “approve” |
| Ms. Liza Forshaw | “deny” |
| Ms. Laura Long | “deny” |
| Mr. Dan Welsh | “deny” |
| Mr. Lee Rottmann | “deny” |

There was one (1) vote to approve and four (4) votes to deny and therefore the motion failed.

A discussion followed about the meeting minutes' style and format.

Meeting adjourned at 6:20pm

DOCKET 1228-CONTINUED

| | |
|-------------------------|---|
| DATE OF HEARING | July 10, 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 denied a variance for the proposed swimming pool and retaining walls. |


Mr. Stanley Walch, Chairman