

**MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
MAY 3, 2022 4:00 P.M.**

DOCKET 1360

49 TRENT DRIVE

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, May 3, 2022.

The following members of the Board were present:

Chairman Liza Forshaw  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. Dan Welsh

Also present were Erin Seele, City Attorney; Roger Stewart, Building Commissioner; Councilmembers John Fox and Hal Burroughs; Mayor Nancy Spewak; Lori Mullins, Deputy City Clerk; and via ZOOM Andrea Sukanek, City Planner.

Chairman Forshaw called the meeting to order at 4:03 P.M.

**Approval and Adoption of the Agenda and Minutes**

The agenda was adopted unanimously upon motion by Ms. Long and second by Ms. Panke.

The minutes of the April 4, 2022 Board meeting were approved unanimously upon motion by Ms. Long and second by Ms. Panke.

Ms. Forshaw noted that four of the five members must vote in the affirmative to approve a variance; the fifth member had not yet arrived. The applicant was given the option of deferring or presenting the case to the four members. The applicant opted to proceed with the presentation.

**Docket 1360**

Petition is submitted by Brian Boettler for the property located at 49 Trent Drive. The petitioner is requesting relief from the Building Commissioner denying an addition which would result in the structure being three stories tall on the rear elevation. This is in violation of Ladue Zoning Ordinance #1175, Section V-A-8. The proposed structure located in the front yard setback is in violation of Ladue Zoning Ordinance #1175, Section V-C-2(d). The proposed fence is being denied by the Building Commissioner due to exceeding maximum fence height and not 40% open, fences in a front yard cannot exceed 42". This is in violation of Ladue Zoning Ordinance #1175, Section IV-C-1(a) and IV-C-1(b). The proposed fence and retaining wall height combined exceeds the maximum allowable per the Ladue Zoning Ordinance #1175, Section IV-F-5.

Mr. Stewart stated that the applicant, Brian Boettler, is requesting a variance to build an addition with over 40 percent of the third level displayed, i.e., a three-story rear elevation. One of the proposed twin garages encroaches in the front yard setback by about 4'5" on one corner, and a fence to be built over a retaining wall exceeds maximum height and openness requirements. However, the applicant is withdrawing the application for a fence variance. The property is 1.9 acres in the "B" residential district. The house was built in 1955. The lower level is 100 percent exposed in the rear. The existing house is nonconforming as to the number of stories (3), and a variance is required because the rear elevation would be modified. The plans comply with the generally applicable front yard setback for the "B" district, but an additional setback rule (Section V,C,2(d)) applies in this case. In brief, that rule requires consideration of the average of the front yards of the nearest house on each side of the subject property.

Chairman 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 – Letter of Denial dated April 6, 2022;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated February 15, 2022;

Exhibit F – Entire file relating to the application

Mr. Brian Ivy, architect, took the oath and addressed the Board. He stated that the fence plan can be modified to meet the code by re-grading the side yard, and therefore a fence variance is no longer being requested.

He explained that the rear elevation of the existing house is already three stories. The proposal includes raising the roof line and adding a 3'x5' rear window and a little associated wall surface. The height of the rear windows would not change. The existing house has a master bedroom on the main floor and 3 bedrooms on the top floor. Because of the extremely low (5') ceiling in a rear section of the top floor, that section is not usable as a bedroom but only for storage, like an attic. It has an odd window the bottom of which sits 6" below the floor. The proposal is to convert that storage area to a usable 5<sup>th</sup> bedroom by raising its ceiling. There would be about 92 square feet added to the rear façade.

Several options were considered regarding the garage placement. Ultimately the slope of the narrow side yard dictated the placement. Access to the existing garage on the rear of the lower level is difficult and dangerous to navigate because of the narrow driveway and steep slope of the lot. In addition, a lower-level garage is generally considered inconvenient to use. The access to the proposed new garage is on safe straight line for pulling in and out. The proposed twin garages on the main level include a small two-car garage on the left side of the residence (which is compliant) and a small two-car garage that leads into the kitchen on the right side, encroaching a minimal 4' on the corner into the front yard setback due to the curvature of Trent Drive at that point. The right garage addition can't be moved back as the applicant is keeping the original load-bearing walls and not tearing them down. The left garage addition would not really be used as a garage but for storage. It is included in the design for the sake of architectural symmetry and balance. It does not encroach into the front yard setback.

Mr. Ivy said that the subdivision trustees and the Ladue Architectural Review Board have approved the plans.

Fiona Woods, 2 Bridle Creek, stated that the property is visible from Bridle Creek and the proposed modifications would detract from the value of her lot. She commented that the existing third story of the house is more like a half-story, which the proposal would enlarge to 3 real stories in a way that the zoning code was designed to prevent. She believes it is unreasonable for the applicant to purchase the property, knowing the limitations, and expect variances. There was no attempt to repurpose the existing garage. Due to the topography, it is impossible to plant an adequate buffer to screen the lighting of Trent Drive homes from the view from below on Bridle Creek. Bridle Creek residents (80 percent of whom were represented at this meeting) are unhappy with the 3 stories of emitted light and exterior lighting coming from 45 Trent Drive, which was granted a variance last year allowing 3 stories. She does not see a practical difficulty for this applicant.

Ned Lemkemeier, 3 Bridle Creek, stated that the lighting of 45 Trent Drive is more visible than expected. He does not want to see more of the same problem with 49 Trent Drive. A three-story house would violate a principle of the zoning ordinance at the expense of the residents of Bridle Creek. He opposed the requested variance from the prohibition of a three-story house. He had no opinion about the requested variance for a small encroachment of a garage into the front yard setback.

Ray White, 5 Bridle Creek, spoke in opposition to the plan. He said he has always built in accordance with the zoning ordinances and expects Trent Drive to be held to the same standards. He concurred with the previous witnesses that the Trent Drive houses uphill from Bridle Creek were very visible before the leaves came out in April.

Samer Cabbabe, 1 Bridle Creek, spoke in opposition to the proposal. The foliage camouflages the problem, but six months of the year the house will be very visible from Bridle Creek. The lights emanating from 45 Trent Drive are the biggest issue. They are constantly on, visible from his home and disturbing his family. He fails to see a hardship.

Hal Burroughs, Ward III City Councilman, addressed the Board as a matter of constituent service because a number of neighbors have contacted him about this particular variance request and the impact on their properties. He drove on Bridle Creek in March and witnessed the visual impact that 45 Trent Drive has on Bridle Creek residents. The surrounding property owners who are most affected by this proposal are the ones who live on Bridle Creek, not on Trent Drive.

Chairman Forshaw mentioned that the site plan approved by the Board for 45 Trent Drive included plantings to create a visual barrier from the rear, and asked Mr. Stewart whether those plantings have been done. Mr. Stewart replied that 45 Trent Drive is still under construction, and plantings are normally done at the end of the construction.

Board discussion included the following points:

- The proposed placement of the new garage(s), which complies with subdivision and "B" district setbacks but the requirement to use an average of the front yard setbacks of adjoining houses would result in a minimal encroachment of one garage corner at a bend in the road

The challenges of the existing lower-level garage

- The strong opposition by Bridle Creek residents to the proposed changes to the rear facade
- The absence of practical difficulties with respect to the applicant's desire for an expanded rear elevation, a fifth bedroom not being at all essential to utilization of the house.

After discussion, Ms. Long made the motion to overturn the decision of the Building Commissioner and grant the variance regarding the rear elevation. Ms. Panke seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"deny"
Ms. Laura Long	"deny"
Ms. Elizabeth Panke	"deny"
Mr. Dan Welsh	"deny"

With zero (0) votes in favor and four (4) against, the motion failed, the ruling of the Building Commissioner stands.

Ms. Long made the motion to overturn the decision of the Building Commissioner and grant the variance regarding the garage encroachment in the front yard setback. Mr. Welsh seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"approve"
Ms. Laura Long	"approve"
Ms. Elizabeth Panke	"approve"
Mr. Dan Welsh	"approve"

With four (4) votes in favor and zero (0) against, the motion motion passed, and the variance for the garage encroachment in the front yard was granted.

### **Adjournment**

The meeting was adjourned unanimously upon motion by Ms. Long and second by Mr. Welsh at 5:30 p.m.

DOCKET 1360

DATE OF HEARING May 3, 2022

NAME Brian Boettler

DESCRIPTION OF PROPERTY 49 Trent Drive

CAUSE FOR APPEAL The petitioner is requesting relief from the Building Commissioner denying an addition which would result in the structure being three stories tall on the rear elevation. This is in violation of Ladue Zoning Ordinance #1175, Section V-A-8. The proposed structure located in the front yard setback is in violation of Ladue Zoning Ordinance #1175, Section V-C-2(d).

RULING OF THE BOARD After discussion, on the basis of the evidence presented, the Board does not find practical difficulties with regard to the modification to the three-story rear elevation. The decision of the Building Commissioner to deny that proposed modification is upheld. The Board does find practical difficulties with regard to the garage encroachment into the front yard setback. The decision of the Building Commissioner denying the proposed garage is overturned, and a variance for the garage is granted.

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Ms. Liza Forshaw, Chairman