

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
MARCH 3, 2020 - 4:00PM**

**DOCKET 1284
9147 Clayton Road**

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, March 3, 2020 at City Hall.

The following members of the Board were present:

Chairman Liza Forshaw
Ms. Laura Long
Ms. Elizabeth Panke
Mr. Lee Rottmann

Also present were David Streubel, acting City Attorney; Anne Lamitola, Director of Public Works; Roger Stewart, Building Commissioner; Councilman John Fox; Mayor Nancy Spewak; and Lori Wrobel, Administrative Assistant.

Chairman Forshaw called the meeting to order at 4:00 P.M.

Approval and Adoption of the Agenda

Ms. Forshaw requested a motion to adopt the agenda. Ms. Panke made the motion and Mr. Rottmann seconded the motion. All those present were in favor and the agenda was adopted.

Approval of the Minutes from the February 4, 2020 meeting

Ms. Long made a motion to approve the minutes as submitted. Mr. Rottmann seconded the motion. All those present were in favor; the minutes were approved.

Docket 1284 Petition is submitted by R. G. Apel Development for the property located at 9147 Clayton Road. Petitioner is requesting relief from the Building Commissioner denying a fence. The fence is taller and not as open as required; the proposed new fence between the front of the building and the street is in a "front yard" subject to Ordinance 1175 Section IV-C-(1)(a) as most restrictive.

Mr. Stewart stated the applicant requests a variance to the fence height and openness requirement for a front yard. The property is located in the "C" zoning district next to the Ladue Market building. The ordinance limits a fence in a front yard to 42 inches in height and it must be at least 40 percent open. The proposed fence would be solid and 42 inches tall for the front 10 feet running from Clayton Road, then 72 inches tall for the next 10 feet, then 92 inches tall to the line of the front of the residence (which is set back 50 feet from Clayton Road), connecting to a permitted 92-inch-tall fence in the side yard.

Subsection (8) of the fence ordinance gives the Zoning Board of Adjustment discretion to permit solid or open fences up to 6 feet in height in any required front yard where said yard abuts a major thoroughfare. In this case a segment of the proposed fence would be 6 feet tall in the required front yard, rising to 92 inches in the remaining front yard to match the height of the permitted side yard fence. The new residence is set back considerably farther than the required front yard setback, so the front yard is deeper than the required front yard.

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 January 24, 2020;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated January 29, 2020;

Exhibit F – Entire file relating to the application;

Exhibit G – Photos provided by the applicant

Dennis Auping took the oath and stated that the residence is east of Ladue Market and the fence would go between the residential and commercial properties. He handed out pictures of the commercial property exhibiting the need for the barrier to shield the view and noise of large commercial equipment. A somewhat similar variance was previously granted by the Board for a 6-foot-high solid fence to screen a new residence on South Price from the commercial building on the corner of Clayton & Price.

Discussion by the Board ensued. It was determined that a practical difficulty exists in that the new residence borders a commercial property. Subsection (8) of the fence ordinance explicitly gives the Board discretion to approve a 6-foot-high solid fence in a required front yard where the lot abuts a major thoroughfare, which Clayton Road certainly is. Moreover, the fact that the residence is set back considerably farther from Clayton Road than the adjacent commercial building (Ladue Market) – and considerably more than the front yard setback rules require -- creates a need for a higher fence in the portion of the front yard not in the required front yard, to screen the residence from the commercial property. It was noted that the owner of the Ladue Market property would be entitled to place a 92-inch-tall fence on its side of the property line where the applicant proposes to put its 92-inch-tall fence, as that location would be deemed to be in Ladue Market's side yard and not its front yard.

Ms. Long made the motion to overturn the decision of the Building Commissioner and grant the variance. Ms. Panke seconded the motion. All those present were in favor and the variance was granted. The vote was as follows:

Chairman Liza Forshaw	“approve”
Ms. Laura Long	“approve”
Ms. Elizabeth Panke	“approve”
Mr. Lee Rottmann	“approve”

With five (4) votes in favor and zero (0) against, the motion passed, the ruling of the Building Commissioner was overturned, and the variance was granted.

Adjournment

At 5:20 p.m. Ms. Long made a motion to Adjourn the meeting. Ms. Panke seconded the motion. A unanimous vote in favor was taken.

DOCKET 1284

DATE OF HEARING

March 3, 2020

NAME

R.G. Apel Development

DESCRIPTION OF PROPERTY

9147 Clayton Road

CAUSE FOR APPEAL

Petitioner is requesting relief from the Building Commissioner denying a fence. The fence is taller and not as open as required; the new fence between the front of the building and the street is in a "front yard" subject to Ordinance 1175 Section IV-C-(1)(a) as most restrictive.

RULING OF THE BOARD

After discussion, on the basis of the evidence presented, the Board finds that practical difficulties exist. The decision of the Building Commissioner is overturned, and the variance is granted.

Ms. Liza Forshaw, Chairman