

**MINUTES OF MEETING
ZONING AND PLANNING COMMISSION
CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI
WEDNESDAY, SEPTEMBER 28, 2022 4:00 P.M.**

Chairman Moore introduced himself, covered the basic procedures and called the meeting of the Zoning and Planning Commission to order at 4:05 P.M. The following members were present:

Chairman McPherson Moore
Commissioner Susan Gausnell
Commissioner Timothy Crowley
Commissioner Robbye Toft *virtually*

Also present were Andrea Sukanek, City Planner; Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Lori Mullins, Deputy City Clerk and Mayor Nancy Spewak.

Approval of the Minutes from the August 24, 2022 meeting

The minutes were approved upon motion by Commissioner Gausnell and second by Commissioner Crowley.

Items for Consideration

ZPC 22-14 Proposed text amendment to Sections IV and XVI of the Ladue Zoning Ordinance (#1175) regarding Home Occupations in Ladue. (Amendment is required to bring zoning code into compliance with Missouri state law.)

Ms. Sukanek reported on H.B. 1662, recently passed by the State of Missouri necessitating modification to the Zoning Ordinance. The law went into effect in late August and limits local authority over home occupations. It is necessary to modify our zoning requirements to follow the provisions of the new state law.

HB 1662 relates to Home Based Businesses and Home-Based Work. The City is permitted to regulate home businesses to protect public health and safety, and ensure applicable taxes are being paid. The City can restrict businesses that create a significant increase in traffic. The City is not permitted to restrict hours of operation, certain types of occupation, or require home businesses to obtain a business license, among other restrictions.

The current definition's restrictions on home occupations contradict the new state law. This text amendment proposal removes and replaces existing language in the Zoning Code referring to home occupations to bring our regulations into compliance with the new state law.

Proposed Zoning Ordinance Amendment:

Modify Section IV. Additional Use Regulations, as follows:

A.(2) Accessory Uses in the Residential Districts

- (d) Home Occupations, including either a No-Impact Home Based Business or other Home-Based Work, as defined in Section XVI are allowed if they are in compliance with items i-vi below and meet the requirements in Chapter 50 of the Ladue Code of Ordinances.

1. Use shall be clearly incidental and secondary to the primary residential use of the dwelling unit and shall not occupy more than forty-nine percent (49%) of the floor area of the dwelling
2. Use shall not change the residential character of the residential building by altering or modifying the exterior of the dwelling so as to indicate the presence of a Home Occupation
3. The Home Occupation shall not create other visible evidence of conduct of the Home Occupation or clear indication of a commercial operation (including outdoor storage) visible from the street or that does not occur inside the residential dwelling or in the yard of the residential dwelling
4. Use is operated such that the total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling
5. Home occupation pays all applicable taxes and otherwise operates in compliance with applicable city, state, and federal law
6. Home occupation is operated by a resident or residents of the dwelling unit. The conduct of a Home Occupation is personal to and limited to the resident of the lot on which the Home Occupation is being conducted. Upon sale or conveyance of such lot, the Home Occupation shall not continue to be operated by the previous owner from that location and such use for a Home Occupation shall terminate. This requirement shall not be construed as prohibiting the new owner of the property from pursuing any legally permissible Home Occupation in his/her own right.
7. Home occupation does not adversely affect the character of the surrounding neighborhood by allowing or causing, for example: commercial or delivery vehicles used in connection with the home occupation to be parked at or stored on the dwelling or visit the premises with a frequency of more than two (2) visits per day; a steady or concentrated visitation of clients to the dwelling; a substantial increase in traffic or on-street parking through the residential area; storage or the use of equipment that produces negative effects outside the home or accessory structure; or similar adverse impacts.
8. Nothing in this Subsection pertaining to Home Occupations shall be deemed to:
 - Prohibit mail or telephone sales;
 - Prohibit service by appointment;
 - Prohibit or require structural modifications;
 - Restrict the hours of operation;
 - Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure; or
 - Restrict or prohibit legal occupations.

Repeal and replace the current definition of Home Occupation adding the following definitions to Section XVI:

- Goods or Services Any work, labor, merchandise, equipment, products, supplies, or materials, of any tangible or intangible nature, except real property or any interests therein.
- Home-Based Business Any business operated in a residential dwelling, by a person residing in that residential dwelling, that manufactures, provides, or sells goods or services and that such business is owned and operated by the owner or tenant of the residential dwelling.
- Home-Based Work Any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.
- Home Occupation Either a No Impact Home-Based Business or resident or residents of the home doing Home-Based Work.
- No-Impact Home-Based Business Any Home-Based Business where the total number of employees and clients on site at one time does not exceed the occupancy limit for the residential dwelling, and where the activities of the business:
- (1) Are limited to the sale of lawful goods and services;
 - (2) Do not cause a substantial increase in traffic through the residential area;
 - (3) Do not violate the Residential Parking Requirements set forth in Section VI. H;
 - (4) Occur inside the residential dwelling or in the yard of the residential dwelling; and
 - (5) Are not visible from the street
 - (6) Do not violate the narrowly tailored regulations set forth in Section IV.A(2)(d).

Commissioner Crowley moved sections 4 and 16 of the Zoning Ordinance regarding home occupations in the City of Ladue be adopted as written. The motion passed unanimously upon second by Commissioner Gausnell.

ZPC 22-15 Proposed text amendment to modify certain setback requirements in Section V of the Ladue Zoning Ordinance (#1175).

Ms. Sukanek reported the proposed text amendment addresses three concerns regarding setbacks.

Some neighborhoods in Ladue have homes built right at the front setback line without front porches. The City has received at least 17 variance applications since 2000 from residents requesting to add front porches. The lack of a front porch does not always meet the criteria of a "practical difficulty" by the Zoning Board of Adjustment. A text amendment would address this issue.

Flexibility is proposed to allow front porches to encroach somewhat into the front setback. Front porches are expected to be covered, open and on the ground floor of the structure. Proposed amended text to be added to Section V of the Zoning Code reads as follows:

C. (1) In the C, D, E, zoning districts, a single, open, roofed front porch may encroach up to 8 feet into the front yard. In the E1 district, a single, open, roofed front porch may encroach up to 5 feet into the front yard. Porches allowed under this provision shall be no higher than the ground floor of the building and shall not be enclosed by any materials, including a mesh screen. Stairs shall be allowed to project an additional 3.5 feet into the front yard per Subsection (1)(c) of this Section.

The second item relates to minor encroachments for mechanical equipment. Homes sitting on the setback line are confronted with the challenge of placing mechanical equipment right outside of the home. This creates difficulties for smaller lots trying to maximize the building footprint.

To avoid requiring variances each time mechanical equipment needs to be placed slightly over the setback line, the Building Official determined the equipment be considered appurtenant to the structure and not need to meet the setbacks. To ensure consistency it would be appropriate to add this to the zoning code. This leeway for equipment has been allowed for both main structures and for accessory structures. Generators have been required to meet building setbacks, instead of being considered as appurtenances.

The following language is proposed to be added to Section V. C. (1)(h): Screened mechanical equipment, including air conditioners or other equipment appurtenant to a structure may encroach up to 36 inches into the side or rear setback, however, in no case may any equipment be located within 5 feet of a property line.

The third area in which some flexibility is being contemplated relates to the requirement in the Zoning Code stating a street that is at least 40 percent developed, "the required front yard shall be not less than the average of the nearest building on each side...".

This creates consistency in setbacks in neighborhoods where houses tend to be set back further than the setback requirement. This exemption would be for lots less than 10,000 square feet in size. Many homes that size are located in the Clayton Road Park and Colonial Lane subdivisions, where homes are often built at the front setback line, but some are built further back. This creates a challenge for building a new home on a property located between two such lots.

The intent is not to restrict building homes on small lots, it is proposed that the smallest lots be exempted from this requirement.

The proposed amended regulation reads as follows:

V. C. (2) Any lot less than 10,000 square feet in size shall be exempted from this requirement, and the regular required front setback for the zoning district shall apply.

Commissioner Gausnell moved the acceptance of the proposed amended text from Section V of the Zoning Code as follows regarding C.(1) front porch encroachment up 8 feet in the front yard and in E1 district increasing the permissible front porch encroachment from 5 to 6 feet. The motion passed unanimously upon second by Commissioner Crowley.

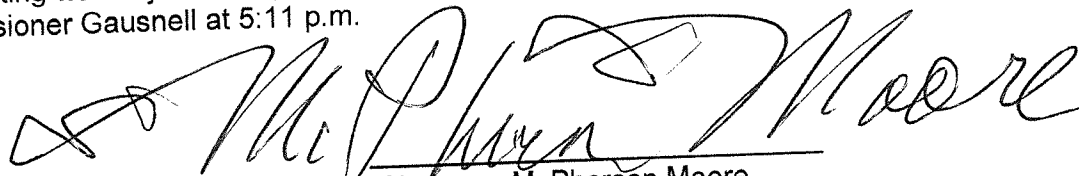
Commissioner Gausnell moved to continue proposed amendments Section V. C. (1)(h) regarding encroachments for mechanical equipment. The motion passed unanimously upon second by Commissioner Crowley.

Commissioner Gausnell moved the following language proposal be added to section V. C. (2) Any lot less than 10,000 square feet in size shall be exempted from this requirement, and the regular required front setback for the zoning district shall apply. The motion passed unanimously upon second by Commissioner Toft.

Commissioner Crowley moved language proposed for amending section C(1)(a) and (b) be accepted as submitted. The motion passed unanimously upon second by Commissioner Gausnell.

Adjournment

The meeting was adjourned upon motion by Commissioner Crowley and second by Commissioner Gausnell at 5:11 p.m.



Chairman McPherson Moore