

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 14, 2021 4:00 P.M.**

DOCKET 1344

9636 and 9640 CLAYTON ROAD

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, September 14, 2021.

The following members of the Board were present:

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

Also present were Erin Seele, City Attorney; Andrea Sukanek, City Planner; Anne Lamitola, Director of Public Works; Melissa Barklage, Administrative Assistant; and Mayor Nancy Spewak.

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

Approval and Adoption of the Agenda and Minutes

Ms. Long made a motion to adopt the Agenda. Mr. Rottmann seconded the motion. All those present were in favor.

Ms. Long made a motion to adopt the Minutes of the July 6, 2021 meeting. Mr. Rottmann seconded the motion. All those present were in favor.

Docket 1344 Petition is submitted by Mark Critchfield of Mainline Group Architecture on behalf of Hearth and Soul Holding Company, LLC for the properties located at 9636 and 9640 Clayton Road. The petitioner is requesting relief from the City Planner denying a redevelopment due to not meeting the following items in the Ladue Zoning Ordinance #1175:

- 1) Required front setback for this development is 60 feet (G1 Zoning). The proposed building is about 40 feet from the Clayton Rd. right-of-way and about 17 feet from the Magnolia right-of-way in violation of Section III-C-1(b).
- 2) Planting strip of 10 feet is required along the right-of-way for this development. The proposed planting strip is about 3 feet on Clayton Rd. and there is no planting strip along Magnolia in violation of Section VI-D-3.
- 3) A landscape butter of 20 feet is required between a commercial use and a residential use. The proposed buffer adjacent to residential is 10 feet, which does not comply with Section VI-D-4.

- 4) Loading areas are required to be 30 feet from residential property. The proposed loading area is about 20 feet from the property line and is in violation of Section VI-D-9.
- 5) Two driveway openings are proposed along Clayton Rd. and the distance between the driveways is less than 100 feet. This is in violation of Section VI-C-7.
- 6) The proposed site shows parking spaces on Magnolia that would require cars to back out onto the roadway. This is in violation of Section VI-C-8.
- 7) Parallel parking spots are proposed with a parking aisle that does not meet the required aisle width of 15 feet, which is in violation of Section VI-C-4.

Chairman Forshaw asked the City Planner to explain the reasons for denial. Ms. Sukanek explained that there are eight items in which the proposal does not meet zoning requirements. Ms. Sukanek read each of the non-compliant items for the Board (involving setbacks, greenspace, driveway openings and parking configurations) with the addition of number 8 which addresses a privacy fence that would be constructed along the southern property line to replace an old existing privacy fence. Because this replacement fence would be in the front yard of Magnolia (perpendicular to Magnolia), it would require a variance. This item was not included in the site plan so it was not addressed in the original denial letter but according to information submitted they would potentially be building a fence there. Ms. Sukanek also informed the Board that changes to some of the strict zoning regulations for this commercial district are being considered by city staff. Any changes to the ordinance would need to go through a lengthy city approval process.

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 July 30 ,2021;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated August 2, 2021;
- Exhibit F – Entire file relating to the application;
- Exhibit G – Letter of Support from neighbor at 4 Magnolia.

Susie Busch-Transou, of Hearth and Soul St. Louis, took the oath and was sworn in. Ms. Busch-Transou explained the business of Hearth and Soul as a blend of community engagement and retail. For their location they are in need of 4,200 square feet – approximately 3,000 square feet of retail space and the remainder for storage, office and employee space. The building will be designed with a home-style floor plan. The property with the strict zoning requirements allows buildable space of only about 1,000 square feet. In an attempt to reduce the footprint, a second floor was added with retail on the first level and additional required space on the second floor. Ms. Busch-Transou stated the design work has made a priority of public safety and consumer and pedestrian friendliness. Civil Design Inc has completed a traffic study including review of parking spaces and distance between entrances. A neighborhood lunch was held to invite neighbors to see the concept for the property. A plan is in place to work with the Pohrers at 4 Magnolia on the

landscape plan for the rear of the building to ensure that there is a level of screening they are comfortable with.

Mark Critchfield, architect, took the oath and was sworn in. He emphasized that the site design seeks to respect vehicular movement and pedestrian movement. The plan tries to conform to as many design criteria as possible in line with the City's Master Plan documents. Ms. Busch-Transou added that Architectural Review Board approved the plans. Mr. Critchfield stated that they are proposing 18% greenspace for the site development plan, compared with virtually no greenspace at present.

Board discussion ensued. Chairman Forshaw began discussion by stating that even though there are 8 variances being requested, the redevelopment plan, as a whole, does a lot to mitigate the current compliance issues of the property. The zoning ordinances applicable to the whole commercial strip along Clayton Road are very strict, and the existing commercial improvements (many of which are old and on small lots) are generally nonconforming. The biggest practical difficulty of the property in this case is that it is a corner lot on Clayton Road at Magnolia. The application of two 60-foot front yard setbacks on this small property would leave a hopelessly small buildable area (only 8.5% of the site). (The existing building is set back only 32 feet from Clayton Road and 35 feet from Magnolia.) Also, the lot appears to be too small to support, as a practical matter, some of the other zoning requirements including greenspace, loading and parking configurations. The existing development is noncompliant with most of the zoning rules necessitating variances in this case. Chairman Forshaw recalled that the Board has granted at least one variance in the past regarding zoning requirements for the commercial district along Clayton Road. She noted that an enthusiastic letter of support from the nearest residential property owner (Gary and Nancy Pohrer) is an important factor in the Board's consideration of the Hearth and Soul variance requests.

The Board discussed each variance request and made a motion on each variance individually as described below.

When discussing item #7 Ms. Busch-Transou stated that the parallel parking spaces in the rear would be for employees. The Board expressed concern about the small amount of space in that area for vehicular movement. Ms. Busch-Transou offered to reduce the number of parallel parking spaces from 3 to 2 spaces in order to allow more room to maneuver safely.

Ms. Long asked if the proposed fence variance request information was submitted with any of the materials for this hearing. Ms. Sukanek verified that the proposed fence was in the letter for the request for variance; however, it was not in the denial letter or the public hearing notice. Ms. Busch-Transou raised the possibility of leaving the fence as is and only continuing with the buffer. Mr. Critchfield suggested that they will work with the City Planning Department if the fence becomes a problem with the agreement with the neighbors. The applicant can apply for a variance for a replacement fence at a later date if necessary.

In regard to Variance Request #1 for encroachments into the required front yard setbacks on Clayton Road and on Magnolia, after discussion of the facts presented, Ms. Panke made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Ms. Long seconded the motion. The vote was as follows:

Ms. Elizabeth Panke	"approve"
Ms. Laura Long	"approve"
Chairman Liza Forshaw	"approve"

Mr. Lee Rottmann	"approve"
Ms. Kristen Holton	"approve"

With five (5) votes in favor and zero (0) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a 40-foot setback from Clayton Road and a 17-foot setback from Magnolia.

In regard to Variance Request #2 concerning the required 10-foot planting strip along both streets, after discussion of the facts presented, Ms. Panke made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Ms. Long seconded the motion. The vote was as follows:

Ms. Elizabeth Panke	"approve"
Ms. Laura Long	"approve"
Chairman Liza Forshaw	"approve"
Mr. Lee Rottmann	"approve"
Ms. Kristen Holton	"approve"

With five (5) votes in favor and zero (0) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a 3-foot planting strip along Clayton Road and no planting strip along Magnolia.

In regard to Variance Request #3 concerning the required landscape buffer between residential and commercial uses, after discussion of the facts presented, Ms. Panke made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Mr. Rottmann seconded the motion. The vote was as follows:

Ms. Elizabeth Panke	"approve"
Ms. Laura Long	"deny"
Chairman Liza Forshaw	"approve"
Mr. Lee Rottmann	"approve"
Ms. Kristen Holton	"approve"

With five (4) votes in favor and one (1) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a 10-foot-wide landscape buffer.

In regard to Variance Request #4 concerning the setback of the loading area from residential property, after discussion of the facts presented, Ms. Long made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Ms. Holton seconded the motion. The vote was as follows:

Ms. Elizabeth Panke	"approve"
Ms. Laura Long	"approve"
Chairman Liza Forshaw	"approve"
Mr. Lee Rottmann	"approve"
Ms. Kristen Holton	"approve"

With five (5) votes in favor and zero (0) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a small loading area 20 feet from the nearest residential property.

In regard to Variance Request #5 concerning driveway opening placements, after discussion of the facts presented, Ms. Long made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Mr. Rottmann seconded the motion. The vote was as follows:

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

With five (5) votes in favor and zero (0) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a distance of 94 feet (versus 100 feet required by the ordinance) between the entrance and the exit, with one-way traffic between them.

In regard to Variance Request #6 concerning parking spaces on Magnolia, after discussion of the facts presented, Ms. Panke made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty. Mr. Rottmann seconded the motion. The vote was as follows:

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

With five (4) votes in favor and one (1) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow parking spaces that require cars to back out onto Magnolia.

In regard to Variance Request #7 concerning parking aisle width for the rear employee parallel parking spaces, after discussion of the facts presented, Ms. Panke made the motion to overturn the decision of the City Planner and grant the variance based on practical difficulty, with the qualification that the parallel parking spaces be reduced from 3 spaces to 2 spaces. Ms. Holton seconded the motion. The vote was as follows:

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

With five (5) votes in favor and zero (0) against, the motion passed, the ruling of the City Planner was overturned, and the variance was granted to allow a 10-foot width of the aisle instead of the required 15 feet, conditioned on a limit to 2 parallel parking spaces.

Adjournment

At 5:57 p.m. Ms. Long made a motion to Adjourn the meeting. Ms. Panke seconded the motion. A unanimous vote in favor was taken.

DOCKET 1344

DATE OF HEARING September 14, 2021

NAME Mark Critchfield

DESCRIPTION OF PROPERTY 9636 and 9640 Clayton Road

CAUSE FOR APPEAL The petitioner is requesting relief from the City Planner denying a redevelopment due to not meeting the following items in the Ladue Zoning Ordinance #1175 (see meeting notice for details).

RULING OF THE BOARD After discussion, on the basis of the evidence presented, the Board finds that practical difficulties exist. The decision of the City Planner is overturned, and seven variances are granted.



Ms. Liza Forshaw, Chairman