MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE:

STATE OF MISSOURI EX REL. KATHLEEN M. VANDENBOOM, TRUSTEE OF THE KATHLEEN M. VANDENBOOM REVOCABLE TRUST U/T/I DATED MAY 5, 2009,

Appellant

v.

THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF KANSAS CITY, MISSOURI, ET AL., AND MATT STERLING AND LAUREN THOMPSON.

Respondents

DOCKET NUMBER WD84013

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: September 7, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Sandra Midkiff, Judge

Appellate Judges:

Division Two
Thomas N. Chapman, P.J., Karen King Mitchell, and Anthony Rex Gabbert, JJ.

Attorneys:

Daniel Bukovac, Kansas City, MO	Counsel for Appellant
Thomas Davis, Kansas City, MO	Co-Counsel for Appellant
Courtney Harrison, Kansas City, MO	Co-Counsel for Appellant

Attorneys:

Sarah Baxter, Kansas City, MO	Counsel for Respondents Board of Zoning
John Roe, Kansas City, MO	Counsel for Respondents, Sterling and Thompson

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MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI EX REL. KATHLEEN M. VANDENBOOM, TRUSTEE OF THE KATHLEEN M. VANDENBOOM REVOCABLE TRUST U/T/I DATED MAY 5, 2009, Appellant,

v.

THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF KANSAS CITY, MISSOURI, ET AL., AND MATT STERLING AND LAUREN THOMPSON, Respondents.

WD84013 **Jackson County**

Before Division Two Judges: Chapman, P.J., Mitchell, and Gabbert, JJ.

Kathleen Vandenboom, as trustee of the Kathleen M. Vandenboom Revocable Trust, (the "Trustee"), appeals a decision of the Board of Zoning Adjustment of the City of Kansas City (the "BZA"), which denied the Trustee approval to build a single-family house. The Trustee contends that the BZA's decision was unlawful because it relied on a misinterpretation of the applicable zoning ordinances. The BZA's decision is affirmed.

AFFIRMED.

Division Two holds:

(1) The BZA's decision did not misinterpret the lot consolidation provision contained in section 88-610-03-C of the city's zoning code, as the provision applied to and consequently deemed consolidated abutting, nonconforming lots in single ownership on the provision's effective date, which included the lots at issue in this appeal.

(2) The BZA did not misinterpret section 88-820-01-B of the city's code, as the exception contained therein was not applicable to the Trustee as the splitting off of the Trustee's lot from the lots with which it had previously been deemed consolidated was a violation of the code irrespective of the use exception contained in section 88-820-01-B.

(3) The BZA's decision was not illegal on the basis that the BZA failed to give controlling effect to section 88-820-01-B over section 88-610-03-C, in that the two provisions could be harmonized, and even if there was a conflict between the two provisions, section 88-10-08-B of the city's code provided that when two provisions are inconsistent with one another, the more restrictive provision will control.

(4) The BZA did not illegally fail to grant a presumption of correctness to the decision of the Permit Division.

(5) The BZA did not illegally base its decision on improper considerations.

Opinion by: Thomas N. Chapman, Presiding Judge September 7, 2021

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.