

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, May 10, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, May 10, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth; Vice-Chair Jason Canvasser; Board Members Kevin Hart, John Miller, Ron Reddy; Alternate Board Member Carl Kona

Absent: Board Members Charles Lillie, Pierre Yaldo

Administration:

Bruce Johnson, Building Official
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Mike Morad, Assistant Building Official
Jeff Zielke, Assistant Building Official

Chair Morganroth welcomed those present and reviewed the meeting's procedures.

Chair Morganroth described BZA procedure to the audience. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Chair Morganroth took rollcall of the petitioners. All petitioners were present.

3. Announcements

Michigan and Oakland County are at a substantial rate of COVID-19 community transmission. Per Occupational Safety and Health Administration (OSHA) mask guidance for areas of high or

substantial community transmission levels, and to continue to protect essential government operations and functions, the city requires masks in City Hall for all employees, and for board and commission members. Masks are recommended for members of the public who attend city meetings. The city continues to provide KN-95 respirators for all in-person meeting attendees.

T# 05-21-22

4. Approval Of The Minutes Of The BZA Meetings Of April 12, 2022

Vice-Chair Canvasser said that on page five, the third full paragraph, 'orginance' should be changed to 'ordinance', and 'building' should be changed to 'buildable' in the same line.

Motion by Mr. Reddy

Seconded by Vice-Chair Canvasser to accept the Minutes of the BZA meeting of April 12, 2022 as amended.

Motion carried, 6-0.

VOICE VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Miller, Kona

Nays: None

5. Appeals

T# 05-22-22

**1) 525 W. Merrill
Appeal 22-14**

SP Cowan presented the item, explaining that the owner of the property known as 525 W Merrill was requesting the following variance to install a sign for a legal nonconforming commercial use in an R8 Attached Single Family residential zone:

A. Article 1, Table B of the Sign Ordinance permits permanent business signs in commercial zones only. The applicant is applying to have a permanent business sign in an R8 Attached Single-Family zone, therefore a dimensional variance of 2.58 square feet is being requested.

In reply to Vice-Chair Canvasser, BO Johnson stated that tying an approval to the present plans as submitted would prevent the variance from transferring to any potential future owner of 525 W. Merrill.

Kevin Biddison, architect, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Chair Morganroth, Mr. Biddison said the aim was to make the business a little bit easier to find since it is residential in appearance.

In reply to Mr. Kona, Mr. Biddison said clients are both walk-in and by-appointment. He noted that there are also new clients to the business and the sign helps those clients locate the business.

Motion by Mr. Miller

Seconded by Vice-Chair Canvasser with regard to Appeal 22-14, A. Article 1, Table B of the Sign Ordinance permits permanent business signs in commercial zones only. The applicant is applying to have a permanent business sign in an R8 Attached Single-Family zone, therefore a dimensional variance of 2.58 square feet is being requested.

Mr. Miller moved to approve the variance and tied the approval to the plans as submitted. He said he saw no negative impacts in allowing the signage given its subtlety and said it would be helpful in locating the business. He said the need for the variance was not self-created and is due to the unique circumstances of the business being legally non-conforming in the R8 zone.

Mr. Hart said he was supportive of the motion. He said allowing the sign would prevent this business' clients from accidentally knocking on residential neighbors' doors when trying to find the business. He said it was a reasonable request, not really a change in use, and fitting in the context.

Mr. Kona said he would not support the motion because the area was predominantly residential, with the commercial building across the street having no signage. He said that residents of the Baldwin House would be able to see 525 W. Merrill's illuminated sign at night.

Mr. Reddy said he would also not support the motion, stating that strict compliance with the ordinance would not prevent the petitioner from using the property as it was designed to be used.

Chair Morganroth said he would support the motion. He said that if the City aimed to phase out legally non-conforming parcels, then the City would not allow a six-month gap in occupancy during which the legally non-conforming status can transfer to a new occupant. Since the City does allow this, he said the City is encouraging this legally non-conforming use, and thus this use deserves the right to a regular sign.

Vice-Chair Canvasser reiterated BO Johnson's statement that this variance would be limited to the present occupant and any future occupant would have to seek a new variance if they desired a sign. He said the variance did not enlarge an existing non-conformity, that there was a practical difficulty, and that granting the variance would help reduce potential disruptions to the residential surroundings. He said there was a benefit to both the neighborhood and owners of 525 W. Merrill. For these reasons, Vice-Chair Canvasser said he would support the motion.

In reply to the Chair, SP Cowan confirmed that the illuminance of the sign is regulated by the sign ordinance and would be reviewed as part of the final application.

Motion carried, 4-2.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart

Nays: Reddy, Kona

T# 05-23-22

**2) 500 Arlington
Appeal 22-15**

ABO Zielke presented the item, explaining that the owner of the property known as 500 Arlington was requesting the following variance to construct a new home with attached garage:

A. Chapter 126, Article 4.75 (A)1 of the Zoning Ordinance requires that a private attached, single family residential garage be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The proposed garage is 36.96 feet in front of the portion of the front façade. Therefore, a variance of 41.96 feet is being requested.

Greg Sweeney, architect, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to the Chair, Mr. Sweeney said:

- If he had to comply with the ordinance the home would not be able to have an attached garage without going 40 feet further into the backyard;
- It would be an odd location for the garage and would cause it to be facing the neighboring home;
- It would also be possible that they would have to eliminate the garage entirely;
- He could move the house forward a bit under 20 feet and remain within the setbacks;
- Locating the house further from the street made the variance request larger;
- The variance could be half the requested amount if the house were moved closer to the street;
- The intention was to avoid having the angle of the street dictate the design of the house; and,
- He created the volume where the house could be built, and he did not feel that the house was required to be parallel to the property line or to the street at the front of the house.

In reply to Mr. Miller, Mr. Sweeney stated:

- He only became aware that he was not meeting the ordinance in March 2022;
- When the home was being designed he thought he was meeting the ordinance;
- A facade is a plane, not a point, and so the plane of the glass on the front of the home was being treated as the front facade when he met with the City two years ago;
- The garage was placed about 6.5 feet behind that plane of glass;
- Whether the garage had to be moved another foot or had to be shrunken a bit remained up for debate because the definition of 'facade' in this case was still being discussed. The

ordinance is not clear on what length of a building qualifies as a 'facade', and he has no vertical surface parallel to the setback line;

- He believed the interpretation took this long because he and the City agree on what would be allowed on a rectilinear lot, but diverge on what is allowed on an angular lot; and,
- The City's interpretation created a line, parallel to the front property line, that passes through the building and behind which the garage must be located.

Mr. Miller said:

- The project began as a large lot and new construction, and that one of the more simple aspects of the ordinance is that the garage must be located five feet back from the face of the house. In those circumstances it is usually not difficult to meet that aspect of the ordinance;
- The BZA would need to see a hardship or uniqueness in this case to grant the variance;
- If the two axes of the home had been angled to the front of the lot, the applicant likely could have met the zoning ordinance;
- He was sure that the applicant could still locate a two-vehicle garage on the lot; and,
- The applicant's contention seemed to be that the design was very far along, and the City's interpretation of the ordinance is what is causing the hardship.

Mr. Sweeney said he did not know of many houses that have an approximately 2400 sq. ft. area in front of the garage, where the garage is still considered not far enough back. He said the matter arose because measuring the front facade was not clear in the ordinance or in this case, and was not communicated to the applicant until March 2022. He said the issue was not simple since the applicant met with the City two years prior and was not informed of the present expectation. He said a case similar to this one has probably not arisen before, which likely complicated the interpretation.

Mr. Miller asked if Mr. Sweeney's description of the chronology of events aligned with the City's.

ABO Zielke said once the item was submitted, there was some back-and-forth regarding where the facade would be located on the plans. He said that because of the uniqueness of the angles, it took the City some time to conclude how it should be measured.

Vice-Chair Canvasser noted that the variance request before the BZA was a dimensional variance, and not an appeal of an interpretation. He said the BZA should be focused on the present request. He asked BO Johnson if he concurred.

BO Johnson said in response to Mr. Miller's inquiry, he believes the chronology as presented by Mr. Sweeney is accurate. BO Johnson said he was not involved early on or with the concluding decision about where the facade should be located on the drawings.

Mr. Hart said he believed the City interpreted the ordinance correctly, and provided an example where the BZA has required a garage to be located five feet behind a front door that was inset three feet from a front facade. He said this case was similar, in that part of the house is approximately 51 feet in front of the front door. He said the BZA exists because of situations like

this, however, to also consider the spirit of the law, and that it was clear in this case that the front door is far behind the front of the house.

Chair Morganroth concurred, saying that the City seeks to avoid a form where a garage is the leading facade instead of the front door. He said in this case there is a lot of massing in front of the garage, and so the question becomes whether this unique design adequately meets the spirit of the ordinance or not.

The Chair reminded the BZA that they had received three letters of support for the variance request.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 22-15, A. Chapter 126, Article 4.75 (A)1 of the Zoning Ordinance requires that a private attached, single family residential garage be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The proposed garage is 36.96 feet in front of the portion of the front façade. Therefore, a variance of 41.96 feet is being requested.

Mr. Miller said because of the unique circumstances of this request he would move to approve the variance and to tie it to the plans as submitted. He noted that there is a 24-foot wide portion of the building that is approximately 40 feet in front of the garage door. He said the ten foot area on the far north side of the door could be considered the facade and that the applicant could be seen as attempting to meet the spirit of the ordinance.

Mr. Miller said much of the issue stems from the front angle of the street line of the lot. He said it was a unique lot with a unique condition. He said approval in this case should establish no precedent and that keeping the garage five feet behind the front facade is important on typical residential streets. He said the garage in this case is far behind the east wing of the house, and so given that he supported the motion.

Vice-Chair Canvasser said he would not support the motion, stating that supporting the motion would be a reinterpretation of the City's interpretation. He said that while there is an avenue to challenge the City's interpretation, such a request was not presently before the BZA. He echoed Mr. Miller's prior observation that this would be new construction with no particular topographical issues or other issues that would establish a practical difficulty. He stated that a substantially similar house could be built on this lot. The Vice-Chair concluded that the appeal did not surmount the self-creation issue.

Mr. Hart said he would support the motion. He said it was an extremely unique circumstance, and said supporting the motion reflects not on the City's interpretation but on the spirit and intent of the ordinance. He noted that the BZA exists specifically for cases like this, and that this project meets the intent of the ordinance. He said the

unique design of the home should be encouraged and that the garage was well behind the front facade.

The Chair said he would be supporting the motion. He said the unique angles of the lot and the architecture require a more unique analysis. He concurred with Mr. Hart that there is a large massing in front of the garage, and that if not for the unique angles that make this structure notable the home could likely comply with the ordinance but would also eliminate the uniqueness of the design. The home is set back far from the street so any concern about the garage facing the street and being visually unattractive does not apply to this particular home. He would like to encourage unique structures like this to beautify the community.

Motion carried, 5-1.

ROLL CALL VOTE

Yeas: Morganroth, Hart, Reddy, Miller, Kona

Nays: Canvasser

T# 05-24-22

**3) 2225 E. Fourteen Mile Rd
Appeal 22-16**

SP Cowan presented the item, explaining that the owner of the property known as 2225 E. Fourteen Mile Rd was requesting the following variances to update the site's parking lot and landscaping:

A. Chapter 126, Article 4, Section 4.54(C)(1) requires a screen wall along the side or rear line of any parking facility which immediately adjoins the side line of property zoned to a residential district. The subject property adjoins a school and a cemetery that are zoned R2 Single Family Residential for a total of 997 feet, therefore, a dimensional variance of 997 feet is being requested.

B. Chapter 126, Article 4, Section 4.54(C)(3)(a) requires a screen wall along the front or side of any parking facility that abuts a street. The subject property has 441 feet of parking lot facing a street; therefore, a dimensional variance of 441 feet is being requested.

C. Chapter 126, Article 4, Section 4.21(F)(1) requires maximum height for pole mounted luminaires to be 13' for parking lots adjacent to residential properties. The subject site is proposing 16' pole mounted luminaires; therefore, a dimensional variance of 3 feet is being requested.

D. Chapter 1, Article 1, Table D of the Sign Ordinance permits religious institutions to have one sign at 20 square feet or less if less than 500 feet from occupied residential dwellings, or 40 square feet of signage if it is more than 500 feet from occupied residential

dwelling units. The applicant is proposing three signs for a total of 104 square feet of signage, therefore a dimensional variance of 64 square feet is being proposed.

It was noted by Staff that the 64 feet requested in variance D was incorrect, and should have been noticed as 84 feet.

Since variance D was noticed improperly, the BZA proceeded with variances A, B, and C and postponed hearing variance D until it could be appropriately noticed.

Xander Bogaerts, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Bogaerts, SP Cowan said the intent of Chapter 126, Article 4, Section 4.54(C)(3)(a) was likely to ensure that a vehicle would be impeded from accidentally entering a street or sidewalk from the parking lot, and to screen vehicle headlights and taillights.

In reply to Chair Morganroth, Mr. Bogaerts said variance B was being requested because the parking is at least 60 feet back from the property line and is parallel parking. He noted that meant there is no risk of a vehicle accidentally entering a street or sidewalk from the parking area, and noted that vehicle headlights or taillights would not be effectively obscured by the screening wall in this case.

Regarding variance C, Mr. Reddy said he would be concerned about the impact of the requested taller light poles on the single family residences north of Bradford on the west side of Melton.

Mr. Bogaerts estimated that the impact on those residences would be similar between a 13-foot light pole and a 16-foot light pole. He noted that there would be at least 200 feet of green space and two layers of trees between the parking area near Melton and Melton Road itself, which he said would prevent the residences from being impacted. He noted that the lights are shielded to point downward. Mr. Bogaerts added that none of the residents on Melton had voiced concern either during the Planning Board's review of the item or during the present BZA review of the item.

Motion by Mr. Miller

Seconded by Vice-Chair Canvasser with regard to Appeal 22-16, A. Chapter 126, Article 4, Section 4.54(C)(1) requires a screen wall along the side or rear line of any parking facility which immediately adjoins the side line of property zoned to a residential district. The subject property adjoins a school and a cemetery that are zoned R2 Single Family Residential for a total of 997 feet, therefore, a dimensional variance of 997 feet is being requested; and, C. Chapter 126, Article 4, Section 4.21(F)(1) requires maximum height for pole mounted luminaries to be 13' for parking lots adjacent to residential properties. The subject site is proposing 16' pole mounted luminaires; therefore, a dimensional variance of 3 feet is being requested.

Mr. Miller moved to approve variances A and C and tied them to the plans as submitted. He said those two variances were unique in that they are triggered by the

residential zoning designation of Eton Academy to the north and the cemetery to the east, neither of which are actually residential. The need for variances A and C, then, was not self-created and was due to the unique circumstances of the property.

Chair Morganroth asked it be noted that Mr. Bogaerts said that if either Eton Academy or the cemetery did become residential in the future that Our Shepherd Lutheran would be open to meeting the ordinance.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Kona, Miller

Nays: None

T# 05-25-22

Motion by Mr. Hart

Seconded by Vice-Chair Canvasser with regard to Appeal 22-16, B. Chapter 126, Article 4, Section 4.54(C)(3)(a) requires a screen wall along the front or side of any parking facility that abuts a street. The subject property has 441 feet of parking lot facing a street; therefore, a dimensional variance of 441 feet is being requested.

Mr. Hart moved to approve variance B and tied it to the plans as submitted. He said the appellant submitted a responsible design of the property, with particular attention to the perviousness of the site through the inclusion of the bioswale and landscape islands. He said the variance would have little to no impact on the neighboring properties. He said granting the variance would do substantial justice both to the owner and to the neighbors.

Mr. Miller said he would not support the motion because of the importance of screening parking.

Chair Morganroth said he also would not support the motion because the appellant did not establish why they could not include the screening walls required by the ordinance. He said the assumption of the intent of the ordinance as occurred during the item's discussion is not established fact. He said that this variance is not related to the residential zoning of the parcels adjacent to the property and no hardship was established. He said the screening walls in this case would have both benefit and purpose.

Mr. Kona said he also would not support the motion. He noted the appellant has the option to use greenery to replace the screening wall, and said screening parking is as much an aesthetic issue as it is an issue of safety or an issue of obscuring headlights or taillights. He stated that 60 feet is only about three car lengths away and a lack of a screening wall in this case would result in a lot of additional illumination of 14 Mile.

Motion failed, 3-3.

ROLL CALL VOTE

Yeas: Canvasser, Hart, Reddy

Nays: Morganroth, Miller, Kona

BO Johnson asked the Board to retain their materials for this appeal.

T# 05-26-22

**4) 1061 Forest
Appeal 22-18**

ABO Zielke presented the item, explaining that the owner of the property known as 1061 Forest was requesting to construct a porch/patio in the required side yard of an existing home:

A. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios do not project into a required side open space. A patio and stairs is being proposed to project 8.00 feet into the south side open space; therefore, a variance of 8.00 feet is being requested.

Nicholas Green, representative for the petitioner, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to the Chair, Mr. Green stated that the distance from the last step to the front door would be further than it presently is. The porch and steps will be Trex composite decking.

Motion by Vice-Chair Canvasser

Seconded by Mr. Kona with regard to Appeal 22-18, A. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios do not project into a required side open space. A patio and stairs is being proposed to project 8.00 feet into the south side open space; therefore, a variance of 8.00 feet is being requested.

Vice-Chair Canvasser moved to approve the variance and tied it to the plans as submitted. He said it was not a self-created issue and that the property had very unique circumstances including how the house is angled, where the front of the home is, and how those do not align. He said the steps are a safety issue and that the applicant would not be going substantially larger than the current steps. He said he saw effort at mitigating the request. The Vice-Chair stated the variance would do substantial justice to the petitioner as well as other property owners, and strict compliance with the ordinance would render conformity unnecessarily burdensome.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Miller, Kona

Nays: None

T# 05-27-22

**5) 36877 Woodward
Appeal 22-19**

SP Cowan presented the item, explaining that the owner of the property known as 36877 Woodward was requesting the following variances to construct a new veterinary clinic in the TZ-3 Transition Zone:

A. Chapter 126, Article 4, Section 2.46.2 of the Zoning Ordinance requires the minimum front yard setback for the building façade to be built within 5 feet of the front lot line for a minimum of 75% of the street frontage length. The applicant is proposing a building façade within 5 feet of the front lot line for 55% of the street frontage length, therefore a dimensional variance of 35 feet is being requested.

B. Chapter 126, Article 4, Section 4.53(A)(1) of the Zoning Ordinance requires that no more than 25% of a property's frontage, or 60 feet, whichever is less, shall be occupied by parking lot. The applicant is proposed 32% of their frontage line to be occupied by parking a parking lot; therefore, a dimensional variance of 12 feet is being requested.

C. Chapter 126, Article 4, Section 4.83(B)(3) of the Zoning Ordinance requires that buildings longer than 100 feet to have one (1) usable entrance for every full 50 feet of frontage along the front public sidewalk. The applicant is proposing a building width of 100'8" with one door facing the frontage, therefore a dimensional variance of 1 door is being requested.

Mike Matthys, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Chair Morganroth, Mr. Matthys said variance A was being sought because complying with the ordinance would make the building less architecturally pleasant, especially when viewed from Woodward heading north. He added that meeting the ordinance and maintaining the extant access points would also be problematic. He said he was unsure if he could move the parking to the building's rear if he lengthened the building to the north while making the building shallower.

Chair Morganroth noted that the petitioner was not restrained by the existing footprint since the proposal was for a complete demolition and rebuild.

Mr. Matthys acknowledged that to be the case, but said the plans were constrained by efforts to maintain the same access points, efforts to maximize parking on-site, and the utility on the southern boundary of the site. He said the petitioner has pushed to meet the intent of the ordinance while accommodating the restraints of the site.

In reply to the Chair, Mr. Matthys said variance A could be lessened by approximately 15 feet if the southern trapezoidal corner were eliminated.

BO Johnson confirmed for Mr. Reddy that the locations of the site's curb cuts are determined by MDOT.

Motion by Vice-Chair Canvasser

Seconded by Mr. Hart with regard to Appeal 22-19, A. Chapter 126, Article 4, Section 2.46.2 of the Zoning Ordinance requires the minimum front yard setback for the building façade to be built within 5 feet of the front lot line for a minimum of 75% of the street frontage length. The applicant is proposing a building façade within 5 feet of the front lot line for 55% of the street frontage length, therefore a dimensional variance of 35 feet is being requested; B. Chapter 126, Article 4, Section 4.53(A)(1) of the Zoning Ordinance requires that no more than 25% of a property's frontage, or 60 feet, whichever is less, shall be occupied by parking lot. The applicant is proposed 32% of their frontage line to be occupied by parking a parking lot; therefore, a dimensional variance of 12 feet is being requested; and, C. Chapter 126, Article 4, Section 4.83(B)(3) of the Zoning Ordinance requires that buildings longer than 100 feet to have one (1) usable entrance for every full 50 feet of frontage along the front public sidewalk. The applicant is proposing a building width of 100'8" with one door facing the frontage, therefore a dimensional variance of 1 door is being requested.

Vice-Chair Canvasser moved to approve all three variances and tied the approvals to the plans as submitted. He stated that the property had unique circumstances that would render compliance with the ordinance unnecessarily burdensome. He said the plans would do substantial justice to other property owners and to the City as a whole, especially given the site's gateway location.

Vice-Chair Canvasser said that while the petitioner could meet the ordinance instead of seeking variance C, he noted that asking the petitioner to do so would have cascading effects that would change the entire proposal. He said he found the proposed plans reasonable overall, that the door is almost on the frontage, and that the grade of the property also impacted this aspect of the plans.

Mr. Hart said the petitioner worked to make the plans as ordinance-compliant as possible. He noted that there are specific architectural challenges with veterinary medicine that the plans address.

Chair Morganroth said he would not support the motion. He said the requirements of TZ-3 zoning were designed intentionally, and that this proposal could do more to come closer to compliance. He noted that removing the trapezoidal design of the southern corner could lower the request for Variance A to about 20 feet.

Motion carried, 4-2.

ROLL CALL VOTE

Yeas: Canvasser, Hart, Reddy, Miller

Nays: Kona, Morganroth

T# 05-28-22

**6) 201 Southfield
Appeal 22-20**

SP Cowan presented the item, explaining that the owner of the property known as 201 Southfield was requesting the following variance to install additional bedrooms within the property's four multi-family units:

A. Chapter 126, Article 4, Section 4.46, Table A of the Zoning Ordinance requires 2 parking spaces per residential unit with 3 or more room units in an R7 Zone. The applicant is proposing four multi-family units with three room units each, therefore requiring eight parking spaces. The subject site has four parking spaces; therefore, a dimensional variance of four parking spaces is being requested.

Stephen Bonamy with Creative Brick reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

The Chair explained that there is a history of parking variance requests coming before the BZA. He noted that it is difficult for the BZA to consider approving a variance if the parking spaces needed are not provided elsewhere, possibly through on-street parking or leasing parking from another owner. He asked whether the applicant had pursued any such options.

John Ketty, owner of Creative Brick, stated he had not checked with the parking structure across the street about leasing four parking spaces to meet the ordinance.

Motion by Mr. Miller

Seconded by Mr. Reddy with regard to Appeal 22-20, A. Chapter 126, Article 4, Section 4.46, Table A of the Zoning Ordinance requires 2 parking spaces per residential unit with 3 or more room units in an R7 Zone. The applicant is proposing four multi-family units with three room units each, therefore requiring eight parking spaces. The subject site has four parking spaces; therefore, a dimensional variance of four parking spaces is being requested.

Mr. Miller moved to deny the variance request. He said that while there are challenges given the size of the site, in similar circumstances there have always been attempts to supply parking spaces in other ways, as the Chair previously stated. Mr. Miller said he had heard no attempts at mitigating the variance request on the part of the applicant. He said the situation was self-created since the applicant was undertaking the work that would require the increase in parking spaces.

Mr. Kona concurred with Mr. Miller. He said the applicant could also not control how the two-bedroom units would be used, and noted that he could not support increasing the demand on the available parking.

Mr. Reddy said the parking ordinances exist to maintain sufficient parking, and noted that there are already challenges in parking on residential streets in the area near 201 Southfield.

Vice-Chair Canvasser said he would not support the motion. He said two adults renting an apartment with one parking spot would determine for themselves how to navigate the lack of an additional parking space. He said that the pre-existing non-conformity and some self-creation made the decision a close one, but that he was ultimately all right with granting the variance.

Mr. Hart said he would not support the motion either. He said that putting two more parking spaces in place of the proposed pergola would reduce the value and aesthetic of the property. He stated that this is an urban setting and noted that the draft 2040 Plan has discussed increasing density. He said he did not believe that the additional bedrooms would increase the occupancy of the building and said that adding more parking spaces in this situation was not justified.

Motion carried, 4-2.

ROLL CALL VOTE

Yeas: Morganroth, Reddy, Miller, Kona

Nays: Canvasser, Hart

6. Correspondence

Three letters regarding Appeal 22-15 were provided to the BZA and to the petitioner.

BO Johnson also summarized a memorandum from the City Attorney regarding the Open Meetings Act.

7. Open To The Public For Matters Not On The Agenda

T# 05-29-22

8. Adjournment

Motion by Vice-Chair Canvasser

Seconded by Mr. Kona to adjourn the May 10, 2022 BZA meeting at 10:22 p.m.

Motion carried, 6-0.

VOICE VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Miller, Kona

Nays: None



Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist