

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, July 12, 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, July 12, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth, Vice-Chair Jason Canvasser; Board Members Charles Lillie, John Miller, Ron Reddy, Pierre Yaldo; Alternate Board Member Carl Kona

Absent: Board Member Kevin Hart

Administration:

Bruce Johnson, Building Official
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.

BO Johnson explained that an issue in noticing led to six cases, which were originally scheduled for the present meeting, being postponed to an upcoming special BZA meeting on July 26, 2022.

T# 07-38-22

4. Approval Of The Minutes Of The BZA Meetings Of June 14, 2022

Motion by Vice-Chair Canvasser

Seconded by Mr. Yaldo to accept the Minutes of the BZA meeting of June 14, 2022 as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Abstain: Lillie

5. Appeals

T# 07-39-22

**1) 1663 Fairway
Appeal 22-31**

ABO Zielke presented the item, explaining that the owner of the property known 1663 Fairway was requesting the following variances to construct a rear and second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 20.00 feet. The existing/proposed 19.43 feet. Therefore, a variance of 0.57 feet is being requested.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the west side. The existing/proposed is 19.08 feet. Therefore, a variance of 0.92 feet is being requested.

C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the east side. The existing/proposed is 19.51 feet. Therefore, a variance of 0.49 feet is being requested.

D. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed existing garage is 1.04 feet in front of the furthest façade. Therefore, a variance of 6.04 feet is being requested.

E. Chapter 126, Article 4, Section 4.75(A)(2) of the Zoning Ordinance requires that garage doors on an attached garage which are facing a street may not exceed 9.00 feet in width. The existing and proposed is 16.00 feet. Therefore, a variance of 7.00 feet is being requested.

Brendan Potash, builder, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to the Chair, Mr. Potash said he thought it would be very difficult for a future homeowner to fit two vehicles in a garage with two eight foot doors. He contended that the creating a single garage door would make it easier to possibly fit two vehicles.

Motion by Mr. Miller

Seconded by Mr. Lillie with regard to Appeal 22-31, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 20.00 feet. The existing/proposed 19.43 feet. Therefore, a variance of 0.57 feet is being requested; B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the west side. The existing/proposed is 19.08 feet. Therefore, a variance of 0.92 feet is being requested; C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the east side. The existing/proposed is 19.51 feet. Therefore, a variance of 0.51 feet is being requested; D. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed existing garage is 1.04 feet in front of the furthest façade. Therefore, a variance of 6.04 feet is being requested; E. Chapter 126, Article 4, Section 4.75(A)(2) of the Zoning Ordinance requires that garage doors on an attached garage which are facing a street may not exceed 9.00 feet in width. The existing and proposed is 16.00 feet. Therefore, a variance of 7.00 feet is being requested.

Mr. Miller moved to approve the variance requests and tied them to the plans as submitted. He said that variances A, B, and C were related. He said the property had unique circumstances since it was existing non-conforming in terms of the current zoning envelope. He said the side-yard allowances being requested were very small and he estimated that most of the homes on the street, built around the same time,

would have similar issues. He said the improvements stemming from variances A, B, and C would result in significant benefit to the neighborhood.

Mr. Miller continued that for variances D and E, the garage was already very small and increasing the size of the garage would cause issues with the sideyard setback. He said a single garage door was reasonable here. He noted that the houses adjacent and across the street from 1663 Fairway also have front-facing garages positioned in the same way on the lot, and consequently granting variances D and E would allow 1663 Fairway to resemble the neighboring homes in that respect. He noted that the proposed porch will create some visual mitigation of variance D since it will appear as if the garage is further back on the lot.

Mr. Lillie conditioned his second on noting that variance C should be for .49 feet and not the .51 feet advertised. He said he would support the motion while also noting that the configuration of the neighboring homes and garages do not factor into whether variances D and E should be granted.

The Chair said he would support the motion because the garage would not likely accommodate the structure necessary to support two nine foot doors. He explained he was supportive of allowing one garage door in this case due to the particular circumstances. He noted that in general he does not support exceptions to the requirement that there be two garage doors.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Lillie, Reddy, Kona, Yaldo

Nays: None

6. Correspondence

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

T# 07-40-22

8. Adjournment

Motion by Mr. Lillie

Seconded by Mr. Yaldo to adjourn the July 12, 2022 BZA meeting at 7:52 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Miller, Morganroth, Canvasser, Lillie, Reddy, Kona, Yaldo

Nays: None



Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist