

BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

UPDATED: VIRTUAL MEETING DUE TO COVID-19 PANDEMIC

Go To: <https://zoom.us/j/96343198370>

Or Dial: 877 853 5247 US Toll-Free

Meeting Code: 963 4319 8370

July 14, 2020
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES

a) June 9, 2020

4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1165 HILLSIDE	NEEPER	20-28	DIMENSIONAL
2)	280 MILLRACE	COAKLEY	20-31	DIMENSIONAL
3)	545 W BROWN	BRYCZ	20-32	DIMENSIONAL
4)	593 S GLENHURST	HUNTER ROBERTS HOMES	20-33	DIMENSIONAL
5)	691 OAK	GREER	20-34	DIMENSIONAL

5. CORRESPONDENCE

6. GENERAL BUSINESS

7. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

8. ADJOURNMENT

Title VI

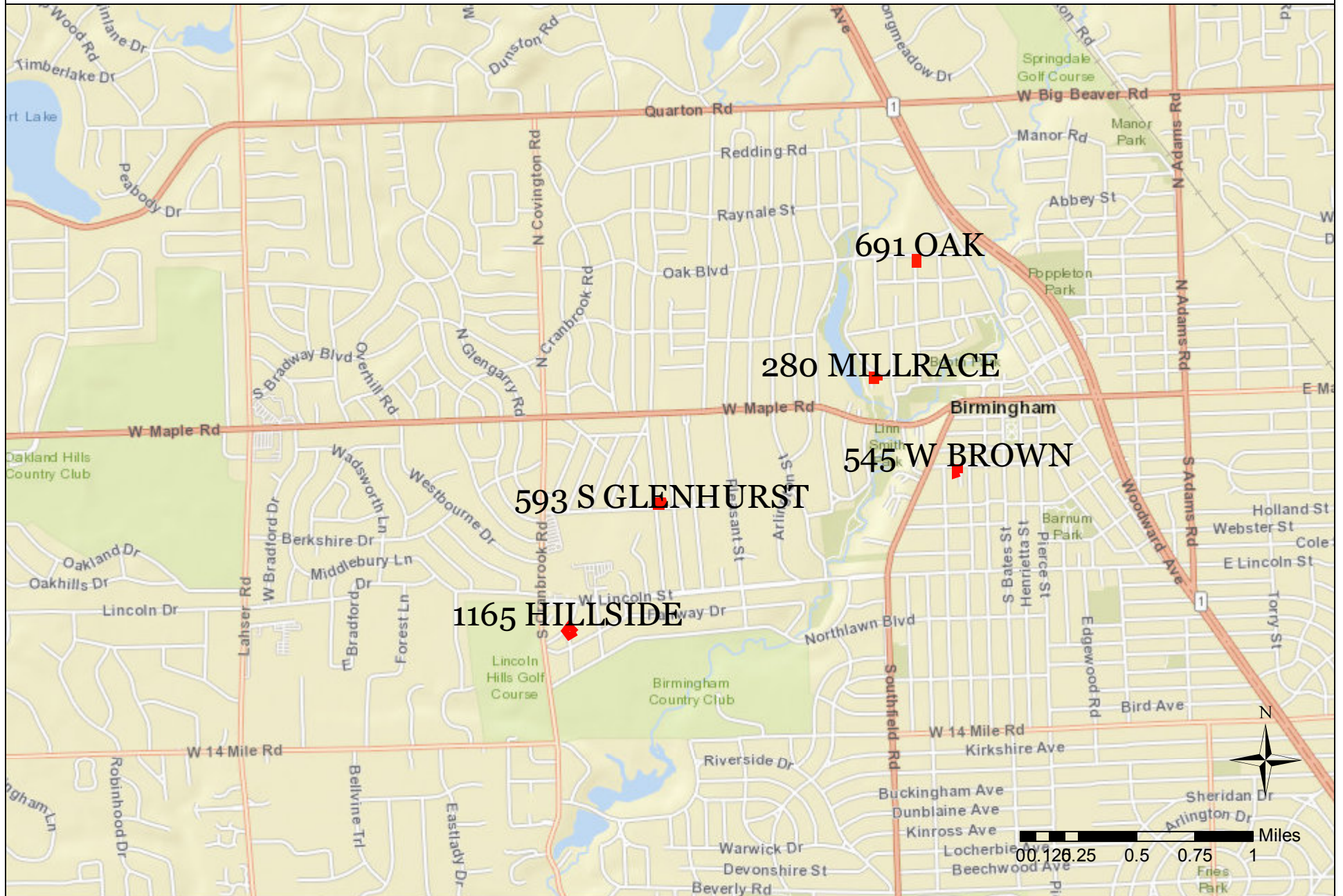
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing, or other assistance.

Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).

The public entrance during non-business hours is through the police department at the Pierce Street entrance only. Individuals requiring assistance entering the building should request aid via the intercom system at the parking lot entrance gate on Henrietta Street.

La entrada pública durante horas no hábiles es a través del Departamento de policía en la entrada de la calle Pierce solamente. Las personas que requieren asistencia entrando al edificio debe solicitar ayudan a través del sistema de intercomunicación en la puerta de entrada de estacionamiento en la calle de Henrietta.

JULY BZA MAP



BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, JUNE 9, 2020
Held Remotely Via Zoom And Telephone Access

1. CALL TO ORDER

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, June 9, 2020. Chairman Charles Lillie convened the meeting at 7:30 p.m.

2. ROLLCALL

Present: Chairman Charles Lillie; Board Members Jason Canvasser, Kevin Hart (arrival acknowledged by the Chair at 7:52 p.m.), Richard Lilley, John Miller, Erik Morganroth, Francis Rodriguez

Absent: Alternate Board Members Jerry Attia; Ron Reddy

Administration:

Bruce Johnson, Building Official
Eric Brunk, I.T. Manager
Brooks Cowan, City Planner
Laura Eichenhorn, Transcriptionist
Mike Morad, Asst. Building Official
Jeff Zielke, Asst. Building Official

Chairman Lillie explained 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.

Chairman Lillie took rollcall of the petitioners. All petitioners were present. Chairman Lillie explained the meeting was being held virtually due to the Covid-19 pandemic. He explained the procedures that would be followed for the virtual meeting.

T# 06-31-20

3. APPROVAL OF THE MINUTES OF THE BZA MEETING OF MAY 12, 2020

Motion by Mr. Morganroth

Seconded by Mr. Lilley to accept the Minutes of the BZA meeting of May 12, 2020 as submitted.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Morganroth, Lilley, Lillie, Canvasser, Rodriguez, Reddy

Nays: None

T# 06-32-20

4. APPEALS

**1) 501 S. Eton
Appeal 20-22**

City Planner Cowan presented the item, explaining that the owner of the property known as 501 S. Eton requests the following dimensional variance regarding parking requirements in the MX Zone:

A. Chapter 126, Article 4, Section 4.46(A) states that off-street parking spaces are required based on land use or land uses for the site, and that the number of spaces required per land use is detailed in Table A. Chapter 126, Article 4, Table A requires eating establishments with combined indoor-outdoor consumption to provide 1 parking space for each 75 square feet of floor area and 1 parking space per 300 square feet of commercial office or retail use.

The subject property currently has a total of 21 parking spaces. 13 parking spaces are located on site while an additional 8 parking spaces in the public right-of-way were approved by City Commission in 2007. The Whistle Stop restaurant is one of three tenant spaces in the subject building, the other two spaces are currently vacant. Whistle Stop occupies 1,494 square feet and therefore requires 20 parking spaces as an eating establishment. This requirement leaves one remaining parking space for the two vacant tenant spaces on the southern portion of the building.

The applicant is proposing to combine two tenant spaces and expand Whistle Stop into 2,554 square feet of restaurant use. Doing so would require 34 parking spaces for the eating establishment. The remaining 1,175 square foot tenant space is currently vacant, though if used for office/retail would require an additional 4 parking spaces. Assuming the aforementioned uses for the subject building, a total of 38 parking spaces would be required for the two tenant spaces. Therefore, the applicant has requested a dimensional variance of 17 parking spaces.

City Planner Cowan noted the subject property was built in 1968 and is zoned MX, Mixed Use. At the time of construction, the building was zoned (I) Industrial and had a parking requirement of 2 parking spaces + 1 square foot of parking space per 1 square foot of building space over 2,001 square feet. The building is 3,729 square feet and therefore was required to provide a total of 12 parking spaces when originally constructed. In 1974, the Zoning Ordinance was amended to require food services to provide 1 parking space per 75 square feet of floor area, therefore creating a legal conformity for the subject property.

The applicant appeared before the Planning Board on January 22nd, 2020. The Planning Board expressed their support for the project and motioned to approve the Final Site Plan and Design Review with the condition that the applicant satisfy the parking requirements through either a shared parking agreement or by obtaining a variance from the Board of Zoning Appeals

The Xhomaqis, owners, Jerome Pesick, attorney, and Jawan Matti, architect, were present on behalf of the petition. Mr. Pesick spoke on behalf of the petition.

Mr. Pesick stated that while the Xhomaqis still have an informal parking agreement with Norman LePage, owner of Griffin Claw, the two parties had not been able to reach a formal parking agreement since the appellants' appearance at the May 2020 BZA meeting. Mr. Pesick said that Mr. LePage remains in favor of the Whistle Stop's proposed updates.

On behalf of the appeal Mr. Pesick also reached out to Dominic Mocer, owner of the Irongate Apartments, who expressed his resounding support for the proposed project and offered to share any of their available on street parking with the Whistle Stop. Mr. Pesick stated that the City's Building Department indicated that that kind of shared parking arrangement would not be permitted.

In reply to the Chair, Mr. Pesick said the Xhomaqis estimate that about 50% of their customers walk to the diner in the summer. Mr. Pesick also noted that Mr. Mocer said in an email that the Whistle Stop's proximity to the Irongate Apartments is a draw for potential tenants, which he said further proves that there is substantial appeal for nearby residents to walk to the diner.

Rick Rattner, attorney for Mr. LePage, stated that Mr. LePage would strongly urge the BZA to grant the requested variance to the appellants. Mr. Rattner said that the Xhomaqis have been great neighbors to the Griffin Claw and that can continue. According to Mr. Rattner, current circumstances prevent Mr. LePage from doing more than being a vocal supporter of the appeal and continuing the informal parking arrangement. Mr. Rattner stated that granting the variances would be in support of the health, safety and welfare of the rail district residents and Birmingham residents overall.

Motion by Mr. Rodriguez

Seconded by Mr. Canvasser with regard to Appeal 20-22, A. Chapter 126, Article 4, Section 4.46(A) states that off-street parking spaces are required based on land use or land uses for the site, and that the number of spaces required per land use is detailed in Table A. Chapter 126, Article 4, Table A requires eating establishments with combined indoor-outdoor consumption to provide 1 parking space for each 75

square feet of floor area and 1 parking space per 300 square feet of commercial office or retail use. The subject property currently has a total of 21 parking spaces. 13 parking spaces are located on site while an additional 8 parking spaces in the public right-of-way were approved by City Commission in 2007. The Whistle Stop restaurant is one of three tenant spaces in the subject building, the other two spaces are currently vacant. Whistle Stop occupies 1,494 square feet and therefore requires 20 parking spaces as an eating establishment. This requirement leaves one remaining parking space for the two vacant tenant spaces on the southern portion of the building. The applicant is proposing to combine two tenant spaces and expand Whistle Stop into 2,554 square feet of restaurant use. Doing so would require 34 parking spaces for the eating establishment. The remaining 1,175 square foot tenant space is currently vacant, though if used for office/retail would require an additional 4 parking spaces. Assuming the aforementioned uses for the subject building, a total of 38 parking spaces would be required for the two tenant spaces. Therefore, the applicant has requested a dimensional variance of 17 parking spaces.

Mr. Rodriguez moved to grant Appeal 20-22 and to tie it to the plans as submitted. He said that a practical difficulty was established and that the need for the variance is not self created. He said the variance was necessary due to the unique size, shape, and characteristics of the property, as well as its relation to the neighboring properties. Mr. Rodriguez said granting the variance would do substantial justice to the public.

Mr. Canvasser said he agreed with Mr. Rodriguez. He asked Mr. Pesick and Mr. Rattner to keep dialogue open regarding the possibility of a more formal shared parking agreement in the future.

Chairman Lillie said he would be voting against the motion due to concerns about insufficient parking.

Mr. Hart said he would be voting in favor of the motion. He said the appellant had amply demonstrated practical difficulty. Mr. Hart also noted that since the restaurant is frequented by pedestrians, he was less concerned about potential parking issues. He commended the Xhomaqis for wanting to update their space both for the comfort of their employees and to achieve ADA compliance.

Motion carried, 5-2.

ROLL CALL VOTE

Yeas: Rodriguez, Canvasser, Hart, Lilley, Miller

Nays: Lillie, Morganroth

**2) 1602 Cole
Appeal 20-16**

Assistant Building Official Zielke presented the item, explaining that the owner of the property known as 1602 Cole, was requesting the following variances to construct a detached garage:

A. Chapter 126, Article 4, Section 4.03(G) of the Zoning Ordinance requires that the maximum building height for accessory structures in R3 District is 14.50 feet to the mid-point. The proposed mid-point is 15.50 feet. Therefore a variance of 1.00 feet is being requested.

B. Chapter 126, Article 4, Section 4.03(J) of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or a 10.00 foot interior dimension, whichever is greater. The proposed dormer width on the east side is 100% of the width of the roof, therefore a variance of 50% of the width is being requested.

Assistant Building Official Zielke noted the applicant was in front of the board in March 2020 for variances for this proposed detached garage. This appeal was tabled at that time so the appellant could rework the design. This property is zoned R3 – Single Family Residential.

Craig Ludwig reviewed the letter to the BZA, as included in the evening's agenda packet, outlining his request for the variances.

Motion by Mr. Canvasser

Seconded by Mr. Rodriguez with regard to Appeal 20-16, A. Chapter 126, Article 4, Section 4.03(G) of the Zoning Ordinance requires that the maximum building height for accessory structures in R3 District is 14.50 feet to the mid-point. The proposed mid-point is 15.50 feet. Therefore a variance of 1.00 feet is being requested. B. Chapter 126, Article 4, Section 4.03(J) of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or a 10.00 foot interior dimension, whichever is greater. The proposed dormer width on the east side is 100% of the width of the roof, therefore a variance of 50% of the width is being requested.

Mr. Canvasser moved to deny the requested variances. He said the need for the variances was self-created and that strict compliance with the ordinance would not unreasonably limit the petitioner's use of the property.

Mr. Morganroth acknowledged MSG Ludwig's efforts to mitigate the extent of the variance requests. He also expressed admiration for the design of the proposed garage, saying he could understand why MSG Ludwig would pursue it. Mr. Morganroth stated that while he admired the design, the BZA must grant or deny variances according to whether the need for the variances is self-created. Mr. Morganroth said he agreed with Mr. Canvasser that the need for the variances was self-created in this case, and said for that reason he was obligated to support the motion.

Mr. Miller expressed agreement with the previous statements that the issue was self-created.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Miller, Lilley, Morganroth, Rodriguez, Canvasser, Lillie

Nays: Hart

**3) 1884 W Melton
Appeal 20-27**

Assistant Building Official Zielke presented the item, explaining that the owner of the property known as 1884 W Melton, requests the following variances to construct a new single family home with an attached garage:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is larger. The required distance is 20.00 feet. The proposed is 15.72 feet. Therefore, a variance of 4.28 feet is being requested on the West side.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is larger. The required distance is 20.00 feet. The proposed is 16.06 feet. Therefore, a variance of 3.94 feet is being requested on the East side.

Assistant Building Official Zielke noted the applicant was proposing to construct a new home with an attached garage. The site meets the zoning requirements with the exception of the requested variances mentioned above. This property is zoned R2 – Single Family Residential.

Patrick Raye, builder, and Alex Karchon, owner, were present on behalf of the appeal.

Mr. Karchon stated that the lot width of 1854 Melton is 107 feet.

Steve Gunderson, across-the-street neighbor of 1884 W Melton, stated that he was in full support of the proposal and said he thought it would benefit the neighborhood.

Motion by Mr. Rodriguez

Seconded by Mr. Morganroth with regard to Appeal 20-27, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is larger. The required distance is 20.00 feet. The proposed is 15.72 feet. Therefore, a variance of 4.28 feet is being requested on the West side. B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total

lot width, whichever is larger. The required distance is 20.00 feet. The proposed is 16.06 feet. Therefore, a variance of 3.94 feet is being requested on the East side.

Mr. Rodriguez moved to approve both variances and to tie them to the plans as submitted. He stated that the petitioner established practical difficulty and noted that the property has unique circumstances due to the non-conforming homes to both the east and the west. Mr. Rodriguez also noted the need for the variance is not self-created.

Mr. Miller observed that granting the appeal would actually increase conformity in the neighborhood. He said he would support the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Rodriguez, Morganroth, Miller, Hart, Lilley, Canvasser, Lillie

Nays: None

**4) 1165 Hillside
Appeal 20-28**

Assistant Building Official Zielke presented the item, explaining that the owner of the property known as 1165 Hillside, requests the following variances to construct a new single family home with a detached garage:

A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 53.20 feet. The proposed is 41.20 feet. Therefore a 12.00 foot variance is being requested.

B. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that a private, attached, single-family residential garages must be setback a minimum 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 is the garage is 2.33 feet in front of the furthest façade. Therefore a variance of 7.33 feet is being requested.

Assistant Building Official Zielke noted the applicant proposed to construct a new home with an attached and detached garage on this irregular shaped corner lot. This property is zoned R1 – Single Family Residential.

Chairman Lillie expressed his belief that the Board needed more information to discuss this appeal. He said that normally when there is a setback issue the Board receives a drawing of the distances of the homes from the street. He said that while often there is uniformity, occasionally there is one home with a vastly different front setback which could throw off the front setbacks for the street.

Mr. Miller agreed.

Mr. Morganroth agreed, and added that the Board should also receive a drawing of the building envelope to see what is available in terms of space on the lot.

Brain Neeper, architect, was present on behalf of the appeal.

Mr. Morganroth said it was conceivably possible to get the information he needed from the pending discussion.

Mr. Miller said that while it would not be impossible to proceed, he noted that there would likely be controversy regarding this house from other residents in the neighborhood. He said without a drawing that shows the house in relation to the other houses on the street the Board's determination would be more difficult to reach.

Mr. Hart said that without more detailed drawings it would be very difficult to support this appeal. He noted that there are unique circumstances to the lot and that it would benefit the appellant for those to be rendered more clearly.

Motion by Mr. Miller

Seconded by Mr. Morganroth with regard to Appeal 20-28, A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 53.20 feet. The proposed is 41.20 feet. Therefore a 12.00 foot variance is being requested. B. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that a private, attached, single-family residential garages must be setback a minimum 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 is the garage is 2.33 feet in front of the furthest façade. Therefore a variance of 7.33 feet is being requested.

Mr. Miller moved to table Appeal 20-28 until the July 2020 regular BZA meeting. He requested that the appellant submit an expanded site plan that shows the homes up to Lincoln and the homes across the street for the Board's review.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Hart, Lilley, Rodriguez, Canvasser, Lillie

Nays: None

**5) 515 Westwood
Appeal 20-29**

Assistant Building Official Zielke presented the item, explaining that the owner of the property known as 515 Westwood, requests the following variances to construct an addition the existing nonconforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires a minimum rear yard setback is 30.00 feet. The proposed is 23.13 feet. Therefore, a variance of 6.87 feet is being requested.

B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required side yard setback is 22.56 feet. The proposed is 17.06 feet, therefore a variance is 5.50 feet.

Assistant Building Official Zielke noted the applicant was requesting variances to construct an addition to the existing home that was granted variances in 2014 and 2005. The variance that was granted in 2005 was not constructed, which this proposed variance is similar in nature that requested. This property is zoned R1 – Single Family Residential.

Ron Stern, builder, and Michael Dresden, owner, were present on behalf of the petition.

Mr. Stern reviewed the letter to the BZA, as included in the evening's agenda packet, outlining his request for the variances.

Motion by Mr. Morganroth

Seconded by Mr. Canvasser with regard to Appeal 20-29, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires a minimum rear yard setback is 30.00 feet. The proposed is 23.13 feet. Therefore, a variance of 6.87 feet is being requested. B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required side yard setback is 22.56 feet. The proposed is 17.06 feet, therefore a variance is 5.50 feet.

Mr. Morganroth moved to deny the variance requests. He said that while he understood the desire for the variances the need for it was self-created. He said that the proposed spaces in the plans are generous, and that some of those spaces could be reduced to achieve additional mitigation.

Chairman Lillie said he would support the motion to deny. He noted that the BZA is traditionally very judicious about not giving variances for the rear setback. He acknowledged that there was a variance granted allowing building into the rear setback in 2005, but opined that said variance would not have been granted had all regular members of the BZA been present for the vote that night.

Mr. Miller said he looked for another justification for these variances beyond self-creation and said he was unable to find one. He said for that reason he would support the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Canvasser, Hart, Lilley, Lillie, Miller, Rodriguez

Nays: None

**6) 1055 Larchlea
Appeal 20-30**

Assistant Building Official Zielke presented the item, explaining that the owner of the property known as 1055 Larchlea was requesting the following variance to expand the impervious surface in the required front open space:

A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% of the front open space in all single-family districts shall be free of paved surfaces. The required is 65%(2120.00 sf) The proposed is 59%(1932.00 sf). Therefore, a variance of 6.00%(188.00sf) is being requested.

Assistant Building Official Zielke noted the applicant was requesting additional paving in the required front yard. The home was issued a permit in 2018 and is currently still under construction. This property is zoned R1 – Single Family Residential.

Matt Whetstone, landscape architect, reviewed the letter to the BZA, as included in the evening's agenda packet, outlining his request for the variance.

In reply to Mr. Morganroth, Mr. Whetstone confirmed that granting the variances would make the turn into the driveway a bit easier and would allow the resident the exit their vehicle onto hardscape instead of onto grass. He said he hoped the Board would be amenable to granting the variances since while the front yard would exceed the allowed amount of hardscape, the plans overall would provide for more open space than the ordinance requires. He conceded that while these would be improvements for the resident, they could not be described as hardships.

Nitin Paranjpe, resident to the south of 1055 Larchlea, said that gravel from Larchlea gets washed down the hill and ends up on Lincoln. He said it is making ruts on the streets where City property meets the road. Mr. Paranjpe said granting a variance to allow for an increase in hardscape only for resident preference would be unreasonable. He continued that the City should limit the resident of 1055 Larchlea to the ordinance-allowed amount of hardscape in order to prevent water from running into Mr. Paranjpe's yard. People turning from Larchlea onto Lincoln sometimes skid in their vehicles due to the accumulation of gravel at the bottom of the hill, which he said causes a safety issue as well.

Motion by Mr. Rodriguez

Seconded by Mr. Lilley with regard to Appeal 20-30, A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% of the front open space in all single-family districts shall be free of paved surfaces. The required is 65%(2120.00 sf) The proposed is 59% (1932.00 sf). Therefore, a variance of 6.00% (188.00sf) is being requested.

Mr. Rodriguez moved to deny the requested variance. He cited Mr. Whetstone's acknowledgment that there was no practical difficulty that would necessitate the variance. Mr. Rodriguez said the need was self-created.

Mr. Miller also cited Mr. Whetstone's statement that the variance request was a result of preference and not of hardship. He said that once that is stated the Board has no other choice than to deny the request.

Chairman Lillie said he agreed. He noted that even if Mr. Whetstone had not made the statement there was no proof that a practical difficulty was motivating this request.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Rodriguez, Lilley, Lillie, Miller, Morganroth, Canvasser, Hart

Nays: None

T# 06-33-20

5. CORRESPONDENCE (included in agenda)

T# 06-34-20

6. GENERAL BUSINESS

T# 06-35-20

7. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

T# 06-36-20

8. ADJOURNMENT

Motion by Mr. Canvasser

Seconded by Mr. Lilley to adjourn the June 9, 2020 BZA meeting at 9:44 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Canvasser, Lilley, Miller, Hart, Morganroth, Rodriguez, Lillie

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

1165 Hillside (20-28)

Hearing date: July 14, 2020

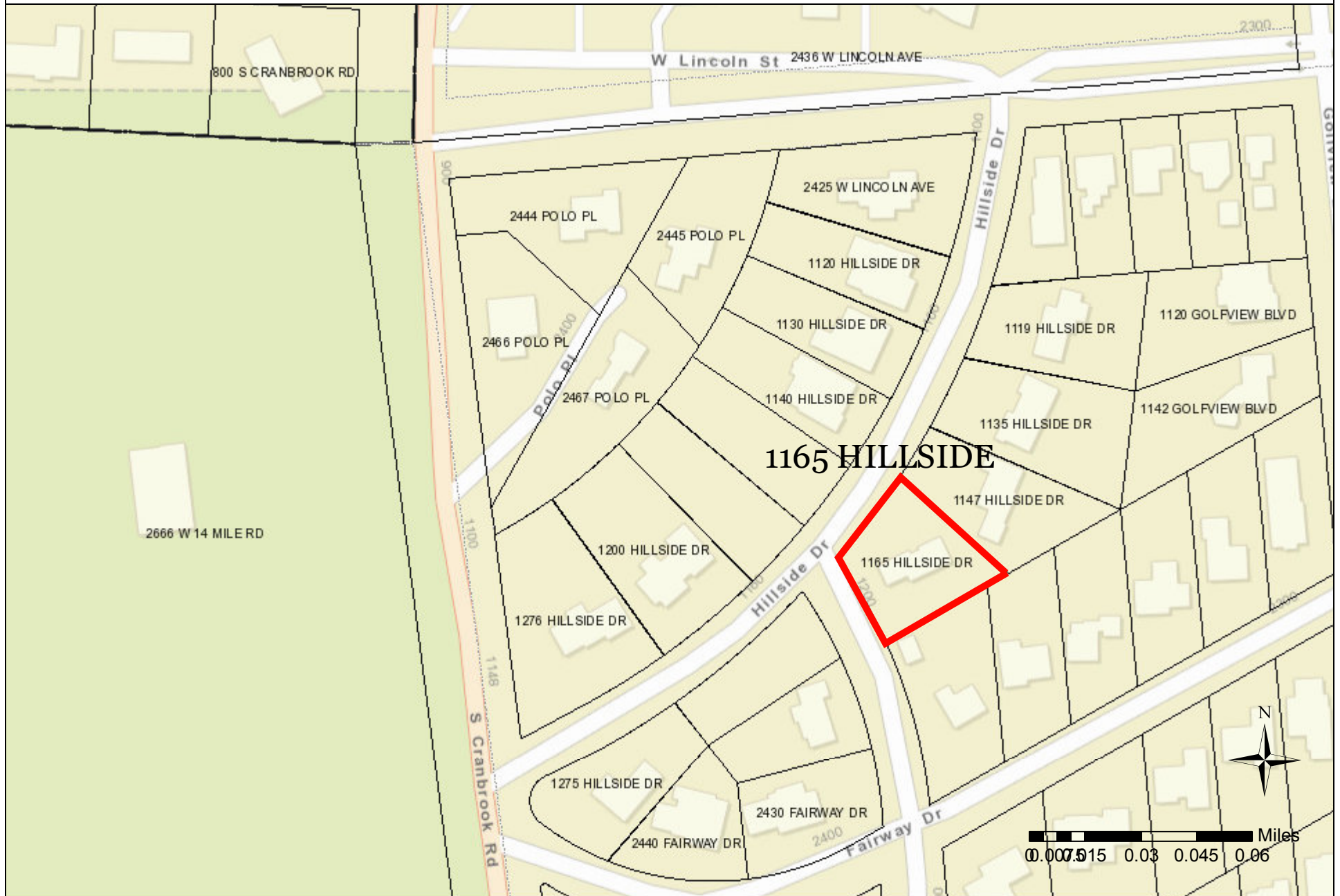
Appeal No. 20-28: The owner of the property known as 1165 Hillside, requests the following variances to construct a new single family home with a detached garage:

- A. Chapter 126, Article 2, Section 2.08** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 53.20 feet. The proposed is 41.20 feet. Therefore a 12.00 foot variance is being requested.
- B. Chapter 126, Article 4, Section 4.75(A)(1)** of the Zoning Ordinance requires that a private, attached, single-family residential garages must be setback a minimum 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 is the garage is 2.33 feet in front of the furthest façade. Therefore a variance of 7.33 feet is being requested.

Staff Notes: The applicant proposed to construct a new home with an attached and detached garage on this irregular shaped corner lot. This appeal was before you last month and was tabled until this month with additional clarifications provided with the site plan.

This property is zoned R1 – Single Family Residential.

1165 HILLSIDE MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: _____

Hearing Date: 6-9-20

Received By: _____

Appeal #: 20-28

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: <u>1165 HILLSIDE</u>	Lot Number: <u>64</u>	Sidwell Number: <u>19-75-303-009</u>
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II. OWNER INFORMATION:

Name: <u>James Danley</u>			
Address: <u>1859 Maryland Blvd</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>Jamesdanley@gmail.com</u>		Phone: <u>734-308-0109</u>	

III. PETITIONER INFORMATION:

Name: <u>BRIAN NEEFER</u>	Firm/Company Name: <u>BRIAN NEEFER ARCHITECTURE</u>		
Address: <u>630 N. OLD WOODWARD</u>	City: <u>BHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>BRIAN@BRIANNEEFER.COM</u>		Phone: <u>248-259-1794</u>	

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

V. REQUIRED INFORMATION CHECKLIST:

- ☐ One original and nine copies of the signed application
- ☐ One original and nine copies of the signed letter of practical difficulty and/or hardship
- ☐ One original and nine copies of the certified survey
- ☐ 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: _____	Date: <u>05/04/20</u>
Signature of Petitioner: _____	Date: <u>5/7/20</u>



Brian Neeper ARCHITECTURE P.C.
630 N. Old Woodward, Suite 203 Birmingham, MI 48009
248. 259. 1784 - brianneeper.com



City of Birmingham - Board of Zoning Appeals
151 Martin St.
Birmingham, MI 48009

Re: 1165 Hillside

May 7, 2020

Members of the Board,

On the behalf of my client, I respectfully request your consideration for the approval of the required dimensional variances to allow the construction of the proposed new residence. This corner site's extreme front setback average on Hillside, along with its trapezoid shape provide some unique challenges which make it substantially more difficult to meet all the zoning requirements of the current ordinance. We are requesting 2 variances to accomplish our proposed design.

Variance A- Front Yard Setback

The required front setback is 53.2'. The existing home on the site has a front setback of 41.1'. The proposed new setback is 41.2'. We are requesting a 12.0' variance.

Variance B- Garage Location

The required location of the garage is required to be 5' behind the front of the home. The proposed home has 2 small areas that require a 4.0' and 7.33' variance.

The existing site is on the South-East corner of Hillside and Greenlawn. We believe the unique shape and large front yard average setback are creating circumstances which restrict the footprint size of the site beyond the intent of the zoning ordinance. The existing older homes on Hillside were developed with large front setbacks (#1119= 57.5', #1135= 70.0', #72.1'). The existing home at #1147 Hillside is pushed so far back that it is in a non-conforming position with a rear yard of 25.6'. We have set the proposed home in line with the existing home's front yard setback.

The garage location is set on the rear yard setback. To mitigate the home's massing toward the front yard we have proposed a couple areas which are stepped back from the front. They are less than the required 5' in front of the garage. Given the wedge shape of the building area the garage cannot slide to the rear.

The design will be compliant with all other setbacks, lot coverage, open space and ordinance requirements.

We believe a strict enforcement of the ordinance in this location would result in an unnecessary hardship, creating a practical difficulty to develop a home size relative to the site size. The resulting footprint of the home would be a narrow wedge which is contrary to the ample size of the site.

We believe the approval of this variance request will allow for the construction of a new home without any adverse impact to the adjacent neighbors or the neighborhood as a whole. The shape and design of the home will meet the spirit of the ordinance by allowing the project to be built within a typically allowable footprint of development.

We believe you will be doing substantial justice to the developer and the neighbors with the approval of this variance by allowing a residence of similar proportion, balance and market value of the neighborhood to be built in this location.

Thank you for your consideration.

Sincerely, Brian Neeper AIA

CASE DESCRIPTION

280 Millrace (20-31)

Hearing date: July 14, 2020

Appeal No. 20-31: The owner of the property known as 280 Millrace, requests the following variance to renovate an existing non-conforming home:

A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot shall have a minimum setback from the side street of 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 8.20 feet, therefore a variance is 6.80 feet is being requested.

Staff Notes: The applicant proposed to renovate the existing non-conforming house on this irregular shaped corner lot.

This property is zoned R1 – Single Family Residential.

280 MILLRACE MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
 Community Development: 248-530-1850
 Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 6-10-20
 Received By: BM

Hearing Date: 7-14-20
 Appeal #: 20-31

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
I. PROPERTY INFORMATION:					
Address: <u>280 MILLACE</u>		Lot Number: <u>LOT 1</u>		Sidwell Number:	
II. OWNER INFORMATION:					
Name: <u>MP + MPS M. COAKLEY</u>					
Address: <u>749 LEINSTER</u>		City: <u>ROCHESTER HILLS</u>		State: <u>MI</u>	Zip code: <u>48309</u>
Email: <u>coakley@millercanfield.com</u>				Phone: <u>248-321-2001</u>	
III. PETITIONER INFORMATION:					
Name: <u>same</u>		Firm/Company Name:			
Address:		City:		State:	Zip code:
Email:		Phone:			
IV. GENERAL INFORMATION:					
<p>The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.</p> <p>To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.</p> <p>The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.</p>					
Variance Chart Example					
Requested Variances	Required	Existing	Proposed	Variance Amount	
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet	
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet	
V. REQUIRED INFORMATION CHECKLIST:					
<input checked="" type="checkbox"/> One original and nine copies of the signed application <input checked="" type="checkbox"/> One original and nine copies of the signed letter of practical difficulty and/or hardship <input checked="" type="checkbox"/> One original and nine copies of the certified survey <input checked="" type="checkbox"/> 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations <input checked="" type="checkbox"/> If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting					
VI. APPLICANT SIGNATURE					
By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.					
Signature of Owner: <u>Michael P. Coakley</u>		Date: <u>6/6/20</u>			
Signature of Petitioner: _____		Date: _____			

Revised 12/12/2018



CITY OF BIRMINGHAM
 Date: 06/10/2020 3:50:56 PM
 Ref: 00169677
 Receipt Amount: \$360.00

June 5, 2020

Re: COAKLEY RESIDENCE
280 Millrace Rd, Birmingham, MI 48009

Dear Zoning Board Members:

We are applying for a dimensional variance to relocate the entrance doors on our existing two-car attached garage located at 280 Millrace, Birmingham, Michigan 48309. The current two-car garage entrance door faces East and we are seeking a variance to relocate the garage entrance doors so they face North as part of an overall significant renovation and small addition to the home, which we will live in when construction is complete.

The existing garage is currently set back 12.75' from the home and is approximately 10.2' from the lot line at the narrower end of the property and we are not requesting any changes or variances to the existing structure of the two-car garage. Only a small portion of the existing garage structure (approximately 122 square feet of the 540 sf garage) falls within the newer Zoning Ordinance setback and only 12.2' of the total 16.6' street-facing Garage doors, which are required to be 15' back from the lot line (where a non-interior lot is adjacent per Chap. 126 Sec. 4.61 SB-02) are not in compliance. Given that the 'spirit' and purpose of this section of the Ordinance is to provide that garage doors are set back from the main home, we respectfully submit that they are setback from house face and that this request will only result in a small variance from strict compliance with the zoning Ordinance.

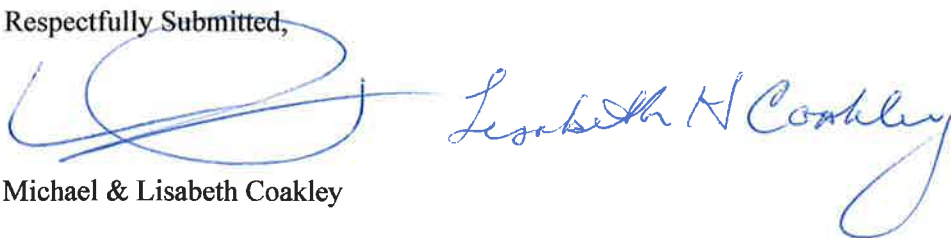
We seek this variance in order to increase our current backyard lawn space as the majority of the current backyard is paved with asphalt to accommodate the turning radius required to enter the East facing garage entrance doors. The property on the North side of the home has also historically had an aging and unsightly utility pole, but we contracted with DTE to relocate this utility pole and the related underground utilities thereby facilitating access to the proposed North-facing garage entrance doors. This variance will therefore enhance and improve not only the overall aesthetic appearance of the home, but also the surrounding neighborhood park area by facilitating increased green space with neatly landscaped lawn areas and eliminating a highly visible backyard that is currently composed mostly of asphalt and an equally visible side yard that in the past has been filled with the utility pole and guy wires.

Everything about this lot is unique, suggesting that a small variance of this nature is appropriate: it has two front yards, a utility easement at the rear, contiguous neighboring lots that do not have the double front yards and especially the angled North side lot line creating a pie-shaped lot converging to the East end, which cumulatively create multiple practical difficulties. In addition, prior to our ownership and prior to the newer ordinance requiring the 15' setback, the property was granted a variance for the total side yards because of its unique unusual shape. Given these pre-existing special conditions and the practical difficulties they impose, literal enforcement of the ordinance would result in unnecessary hardship unreasonably preventing us from using our property for a permitted purpose, a street facing garage.

Granting this variance will not result in any change to the footprint or the overall structure of the existing two-car garage (except for the location of the entrance doors). Importantly, granting this variance will neither change the ingress and egress into or out of our home nor alter the traffic flow or visibility on the adjacent street (Lakeside Drive). That is, granting a variance will not change the fact that we, and all our visitors, will still be required to turn South off of Lakeside Drive to access our driveway and garage as is currently required with our existing driveway and East facing garage door entrance. In other words, the requested variance will continue to respect and maintain the current status quo on traffic flow with regard to access to our home and ingress and egress onto Lakeside Drive.

All other elements of our additions and renovations meet all setback, lot coverage and open space required by the Ordinance on this unique lot. In this context, the small variance requested will not be contrary to the spirit and purpose of the Ordinance or be contrary to public health, safety and welfare, but instead will result in substantial justice to us, the other property owners in the area, and the general public by allowing us to substantially increase the open green space on our property in keeping the character of the surrounding area. In summary, we are not requesting any increase in garage size and only seek to be able to use the existing garage with street-facing doors to recapture lawn space and minimize driveway coverage. We humbly request your approval of this garage door request.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Lisabeth H Coakley". The signature is written in a cursive style with a large, looping initial "L".

Michael & Lisabeth Coakley

CASE DESCRIPTION

545 W. Brown (20-32)

Hearing date: July 14, 2020

Appeal No. 20-32: The owner of the property known as 545 W. Brown, requests the following variances to construct a second floor addition on the rear of an existing non-conforming home:

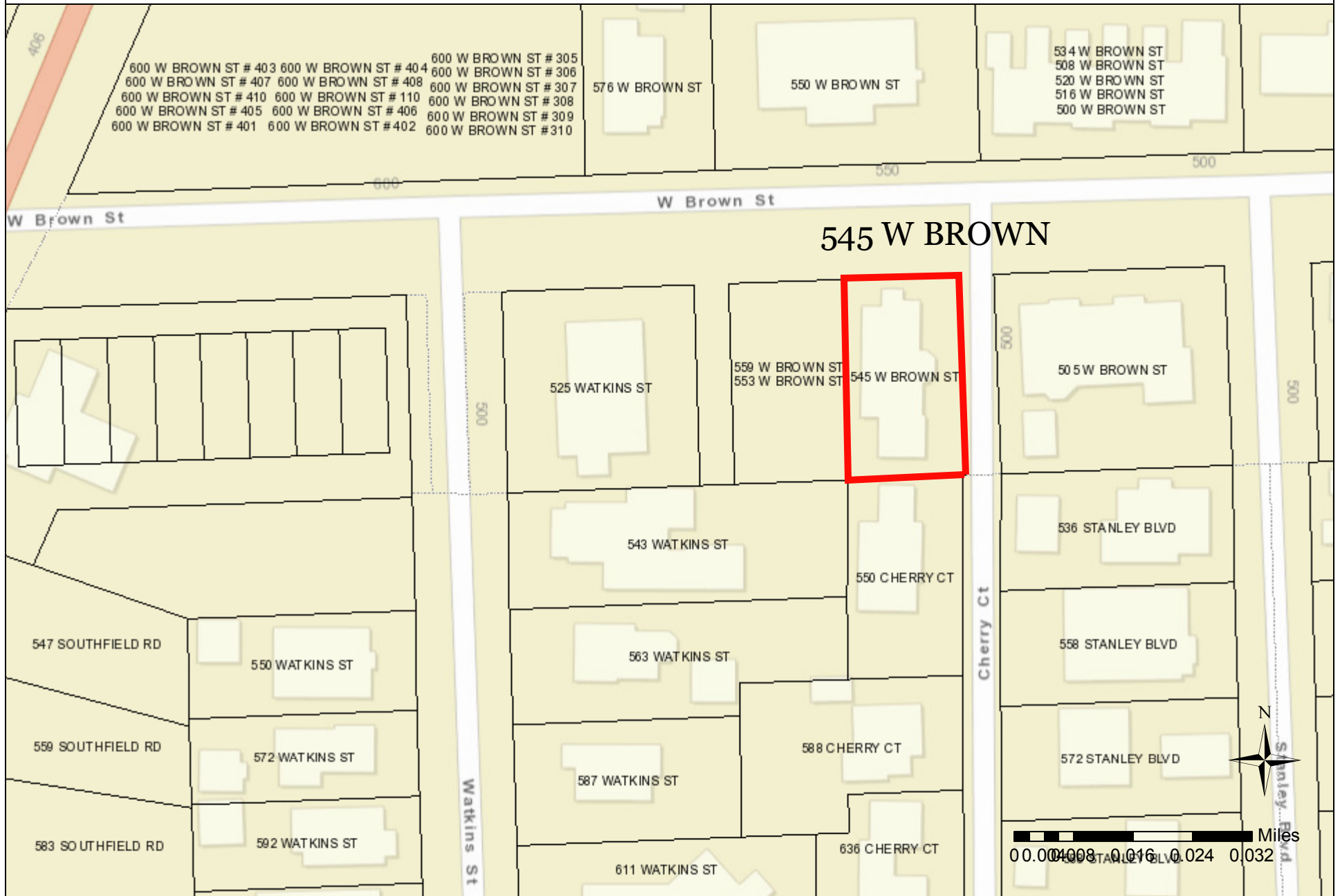
A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires that the minimum rear yard setback is to be 30.00 feet. The proposed is 13.56 feet. Therefore a variance of 16.44 feet is being requested.

B. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires that the minimum combined front and rear setback is to be 55.00 feet. The proposed is 30.35 feet. Therefore a variance of 24.65 feet is being requested.

Staff Notes: The appellants proposes to construct a second floor addition to the existing non-conforming home. This home is a single-family residence, which is allowed in the zone, by following the R3 zoning requirements. There was a variance was granted at this location in 1981 (see attached minutes). The appellants approval was granted at the planning board meeting that took place on July 8, 2020.

This property is zoned R8 – Attached Single-Family Residential.

545 W BROWN MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 6/10/20

Hearing Date: 7/14/20

Received By: BM

Appeal #: 80-0039

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: <u>545 W BROWN</u>	Lot Number: <u>T2N, R10E, SEC 36</u>	Sidwell Number: <u>BIRD & STANLEY ADD LOT 19</u>
-----------------------------	--------------------------------------	--

II. OWNER INFORMATION:

Name: <u>Lawrence Brycz</u>			
Address: <u>545 W BROWN</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>lbrycz@gmail.com</u>		Phone: <u>313 806 4919</u>	

III. PETITIONER INFORMATION:

Name: <u>Lawrence Brycz</u>		Firm/Company Name: <u>L & M Restoration - Genl Contractor</u>	
Address: <u>545 W. BROWN</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>lbrycz@gmail.com</u>		Phone: <u>313 806.4919</u>	

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example

Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

V. REQUIRED INFORMATION CHECKLIST:

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature]

Date: 6/10/20

Signature of Petitioner: [Signature]

Date: 6/10/20

CITY OF BIRMINGHAM
Date 06/16/2020 1:51:30 PM
Ref 00169818
Receipt 375206
Amount \$360.00

June 04, 2020

Board of Zoning Appeals
Birmingham Planning Division
151 Martin Street
Birmingham, MI 48009

REGARDING: Board of Zoning Appeals

Variance Requests for:

- A. 16.44' Rear Yard Setback Variance Request under R-3 Zoning
(6.44' Rear Yard Setback Variance Request under R-8 Zoning)

Dear Members of the Board of Zoning Appeals,

We are proposing a 325 s.f. Addition over an existing attached garage to the Existing 1,742 s.f. Second Floor of a Private Residence. We are requesting the above stated dimensional setback variance. Please consider our circumstances as stated below for our Practical Difficulty:

1) *Special or unique conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures or buildings in the same district.*

The lot is currently Zoned R-8 for Multi-Family which allows for a 20' rear yard setback. But because it is being used as a single family home, the City has explained that the 30' rear yard setback will apply per R-3 Single Family Zoning.

Our current Variance Request under R-3 Zoning is 16,44'. Under R-8 Zoning this request would have been reduced to 6.44'.

2) *A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimal necessary.*

The R-3 30' Side Yard Setback would required that any addition over the existing garage require a setback variance request.

We have tailored our design so we are stepping back from the edge of the existing garage more than is required by the power line easement.

We are also well inside both our side setbacks of the property.

3) *The special conditions and circumstances do not result from the actions of the applicant.*

The existing structure was built by the previous owners. The lot size and shape was in existence during the previous ownership. My job requires that I have a functioning office from home just as more and more people are experiencing this reality due the online applications of global communication. The necessity for Home Offices has been further brought into the light even more so due to the current Covid-19 Pandemic.

4) *The granting of the variance will be in harmony with the general purpose and intent of this ordinance.*

The Variance Request is setback from the edge of the existing garage below facing Cherry Court as well as the neighbor due South, purposely reducing the visual size of the addition. The bottom of these two addition walls are also nestled into the roof line of the existing garage which further reduces the amount of visible addition and blends the new addition into the existing structure.

5) *The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.*

The Proposed Second Floor Addition does not affect the amount of green space on the property, and actually sets back from two sides of the existing garage below.

6) *The spirit of this ordinance shall be observed, public safety secured and substantial justice done.*

The spirit of the ordinance both promotes green space and allows for families to have adequate spaces for living and conducting normal day to day activities. Not only does my normal job require a home office, but it is even more crucial In the midst of our current Covid-19 Pandemic, in which working from home is required in order to both provide for our family and maintain the mandate for public safety procedures. Our proposed solution is the Addition over the existing garage, which does not disturb any of the existing green space on the property, and actually steps back from the existing footprint.

As current residents of Birmingham, we are very excited about moving onto Brown Street and into our newly purchased home, and anxious to move forward with our Home Office Addition in order to function properly in these times.

Thank you for your consideration.

Sincerely,
Larry and Janine Brycz
545 West Brown
Birmingham, MI 48009



East Property Line Looking South on Cherry Court



East Elevation on Cherry Court



East Elevation on Cherry Court



South Property Line Looking West

Brycz Residence: 545 West Brown, Birmingham, Michigan 48009



East / South Property Lines Looking North East



East Property Line Looking North



North / East Elevation from Brown Street



West Property Line Looking South

Brycz Residence: 545 West Brown, Birmingham, Michigan 48009



Larry

From: Kyle Eick [eick.kyle@gmail.com]
Sent: Thursday, June 04, 2020 6:40 PM
To: larry@arch-i.com; janinebrycz@gmail.com; lbrycz@gmail.com
Subject: Support Letter for 545 West Brown Addition over the Garage

Larry and Janine,

I have reviewed your plans for your new addition over the garage and they are fine with me...no objections. Hope all goes well with the project!

Your good neighbor on the South Lot Line at 550 Cherry Court.

Good Luck!

Kyle Eick

550 Cherry Court
Birmingham, MI 48009

248.720.9382

MINUTES OF REGULAR MEETING OF BOARD OF ZONING APPEALS
November 24, 1981
Page 2

Appeal 32-81 (Adjourned from the October 13 and November 10, 1981 meetings)

Mr. J. Stone, 30100 Groveland, Madison Heights, Michigan is requesting a variance in order to construct a new front porch at 807 West Fourteen Mile Road.

Section 5.111B, Chapter 39, Birmingham City Code requires a front yard setback of not less than the average of all the houses on the same side of the street within 200 ft. in either direction. In this case the average is 31.4 ft. with 13 ft. 9 in. provided. A variance in order to construct a new front porch will be required of 17.583 ft.

This property is located within an R-3 zoned district.

Two weeks ago, the Board had requested that Mr. Stone bring in some information on the elevations of the wooden deck, which he distributed to Board members this evening. The plan was of an existing house, showing a deck in the southwest corner that he is adding.

Moved by Mr. Schafer

Seconded by Mr. Tera that the request for a variance to construct a new front porch per the elevation drawing submitted this evening be approved as requested. The deck does not come forward any further than the front line of the house and for that reason does not create a hardship on the neighborhood.

Yeas: Unanimous

Motion passes - Variance to construct a new front porch is granted.

Appeal 33-81 (Adjourned from the November 10, 1981 meeting)

Mr. and Mrs. Gottschling of 545 Brown Street, Birmingham, Michigan, are requesting variances in order to remodel and add an addition to their existing residence.

Section 5.23, Chapter 39, Birmingham City Code requires a corner lot side setback (east side) to be a minimum of 25 ft. with 22 ft. provided with the proposed attached garage or a variance required of 3 ft..

The main house addition is proposed to be 17 ft. from the property line or a variance required of 8 ft.

Section 5.110B, Chapter 39, Birmingham City Code requires the rear setback on the south side to be 30 ft. with 8 ft. proposed for the garage or a variance required of 22 ft.

MINUTES OF REGULAR MEETING OF BOARD OF ZONING APPEALS
November 24, 1981
Page 3

Section 5.110B, Chapter 39, Birmingham City Code requires the front setback to be 25 ft. with 8 ft. 6 in. proposed or a variance required of 16.5 ft.

This property is located within an R-2 zoned district.

Two pieces of correspondence have been received for this appeal and two pieces against.

Mr. Gottschling explained how his original request for variances had been scaled back both on the easterly side and the south side. It is his intent to convert this duplex to a single-family residence. He explained his hardships as being the fact that to take this existing piece of property and change it in any way interior-wise or to build in any direction would require a variance. Any type of attached garage would also require a variance. The second area that is a basic hardship is the uniqueness of Cherry Court itself. It has never been converted to a street, and has stayed on the plots as an alley. If he had what was considered a normal side lot he would only need a 9 ft. side setback, which he is well in excess of. Therefore, he is far from the requirements of a side setback of a normal lot but not in full conformity with the setbacks of a corner lot.

Part of the concerns of the neighbors was over the height of the house. He has therefore told his architect to try to come up with a way to downsize the turrets and the chimney so it would not exceed the roof line. He also eliminated some floor space that was previously above the garage to bring the garage size of the roof down. In all he is only increasing the living space in the house by 800 sq. ft.

The question of placement of the air conditioner was discussed because of the concerns of Mr. Danziger at 550 Cherry Court.

Moved by Mr. Cotton

Seconded by Mr. Schafer that the appeal for a variance of 2 ft. on the east side, 8 ft. on the east side, 22 ft. in the rear and 16.5 ft. in the front be allowed.

Amended by Mr. Mullen

Accepted by Messrs. Cotton and Schafer to include that the chimney be reduced in height in accordance with the statements of the petitioner to date and not exceed the roof line as it presently exists. The motion should also indicate that the petitioner will attempt to decrease the height of the turrets to something less than the 35 ft. height now shown. The location of the air conditioning unit shall be on the west side of the garage and the south side of the proposed addition in the corner and be screened to avoid noise to the neighbors to the south.

MINUTES OF REGULAR MEETING OF BOARD OF ZONING APPEALS
November 24, 1981
Page 4

Mr. Dixon made the comment that he thought one of the biggest hardships was the width of the property. Typically corner lots are wider; this one is not. The intent of the ordinance is that a side setback on a corner lot not be closer to the street than adjacent homes. In this case the proposed addition is far set back from those adjacent homes.

Yeas: Unanimous

Motion passes - variances are granted.

Appeal 36-81 Mr. Charles A. Salley, Jr., 2344 Fairway, Birmingham is requesting a variance in order to install an air conditioning unit in the required side open space.

Section 5.2(2), Chapter 39, Birmingham City Code requires the side open space to be unobstructed by any building or structure.

Section 5.109B, Chapter 39, Birmingham City Code requires the side yard to be 10 ft. with approximately 5 ft. to the structure proposed or a variance of approximately 5 ft.

Section 5.109B, Chapter 39, Birmingham City Code requires the total sideyards to be 20 ft. with 15 ft. proposed or a variance required of 5 ft.

This property is located within an R-1 zoned district.

Mr. Salley spoke to the Board and said his existing air conditioner is underneath the edge of a planned remodeling which is underway on the house. It therefore has to be moved. There is a proposed deck going off a doorwall in that area, as well. They therefore are proposing to move the unit into the sideyard area. The nearest neighbor to the west has written to the Board indicating his consent. This is the only letter the Board has received concerning this appeal.

Mr. Salley told the Board the air conditioner measures 3 ft. x 4 ft. by 3 ft. tall. He indicated he would be happy to place the unit in front or behind the chimney rather than adjacent to it as the plans show.

Mr. Schafer noted that the variance required could therefore be minimized.

A discussion on air conditioning units revealed that on residential air conditioning units there is a vertical fan which tends to throw the noise vertically. On the commercial units the fan is in a horizontal position and the magnitude of the equipment is much greater, therefore noise is thrown horizontally to the neighbors. A noise barrier around a residential unit would not accomplish the same results as it would around a commercial unit, as a result of these factors.

CASE DESCRIPTION

593 S. Glenhurst (20-33)

Hearing date: July 14, 2020

Appeal No. 20-33: The owner of the property known as 593 S. Glenhurst, requests the following variance for two basement window wells in the required side yard:

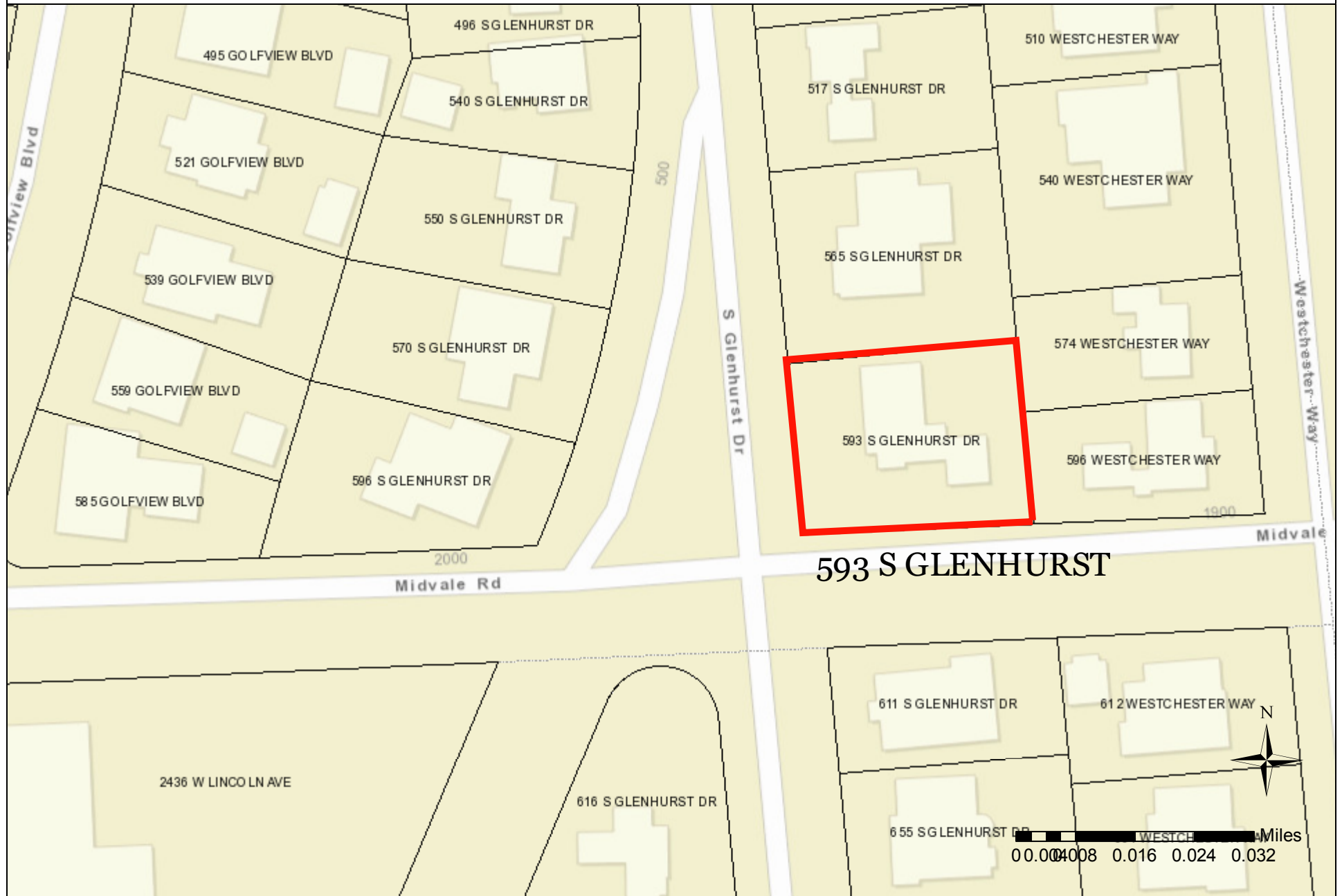
A. Chapter 126, Article 4, Section 4.30 C(4) of the Zoning Ordinance permits that window wells are allowed to project into the required side yard setback a maximum of 3.00 feet measured from the inside of the window opening and shall not exceed 6.00 feet in width. The constructed is 8.33 feet in width. Therefore a variance of 2.33 feet is being requested.

B. Chapter 126, Article 4, Section 4.30 C(4) of the Zoning Ordinance permits that window wells are allowed to project into the required side yard setback a maximum of 3.00 feet measured from the inside of the window opening and shall not exceed 6.00 feet in width. The constructed is 7.02 feet in width. Therefore a variance of 1.02 feet is being requested.

Staff Notes: The applicant has constructed two window wells on the side yard that exceed the width per the ordinance on a new home that was constructed in 2019.

This property is zoned R1 – Single Family Residential.

593 S GLENHURST MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 / www.bhamgov.org



APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 6-13-20

Received By: BW

Hearing Date: 7-14-20

Appeal #: 20-33

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
I. PROPERTY INFORMATION:					
Address: <u>593 South Glenhurst Dr</u>		Lot Number: <u>37</u>		Sidwell Number: <u>19-35-128-017</u>	
II. OWNER INFORMATION:					
Name: <u>Evan and Katie Leibhan</u>					
Address: <u>593 S. Glenhurst Dr.</u>		City: <u>Birmingham</u>		State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>katieb@qlinc.com</u>				Phone: <u>248-842-6780</u>	
III. PETITIONER INFORMATION:					
Name: <u>Rick Wiand</u>		Firm/Company Name: <u>Hunter Roberts Homes</u>			
Address: <u>36800 Woodward Suite 115</u>		City: <u>Bloomfield Hills</u>		State: <u>MI</u>	Zip code: <u>48302</u>
Email: <u>richardwiand@gmail.com</u>				Phone: <u>248-766-2275</u>	
IV. GENERAL INFORMATION:					
<p>The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.</p> <p>To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.</p> <p>The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.</p>					
Variance Chart Example					
Requested Variances	Required	Existing	Proposed	Variance Amount	
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet	
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet	
V. REQUIRED INFORMATION CHECKLIST:					
<input type="checkbox"/> One original and nine copies of the signed application <input type="checkbox"/> One original and nine copies of the signed letter of practical difficulty and/or hardship <input type="checkbox"/> One original and nine copies of the certified survey <input type="checkbox"/> 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations <input type="checkbox"/> If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting					
VI. APPLICANT SIGNATURE					
By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.					
Signature of Owner: 			Date: <u>5</u>		
Signature of Petitioner: 			Date: <u>6/11/20</u>		

CITY OF BIRMINGHAM
Date: 06/17/2020 8:25:25 AM
Ref: 00169822
Receipt: 315297
Amount: \$360.00

ARTICLE III - Rehearings

A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.

B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.

A handwritten signature in black ink, consisting of a stylized 'Z' followed by a horizontal line and a diagonal stroke.

Signature of Applicant

To: Jeff Zeilke - City of Birmingham
From: Richard Wiand – Hunter Roberts Homes
Date: June 10, 2020
RE: Board of Zoning Appeals

This letter is provided in connection with our application for 593 S. Glenhurst. We are requesting that the existing window wells for this home be allowed to be left in place as constructed in 2019. This is a request for a dimensional variance.

Situation – In 2018 and 2019 we constructed a new home at 593 S. Glenhurst. We poured two window wells as part of the original foundation. The window wells were built per the construction plans but wider than 6 ft for a portion of the area that projected into the side yard setback. This was the result of an inadvertent error relating to the amendment of the construction plans and site plans.

Egress window well – 10.33'

Daylight window wells – 9.02'

The Egress window well encroaches on the south side yard required setback because it is wider than 6 ft.. The Daylight window well encroaches on the south side yard required setback because it is wider than 6 ft. Please see the diagram immediately below.

We are respectfully requesting a dimensional variance for the egress window well because of the following reasons:

1. Not allowing the dimensional variance would be a practical difficulty which was not self-created by the owners of the property as it will make the view unsightly from the interior finished living space, it would reduce the ability egress ability by 50% because the capacity of the window will reduce from two currently operating windows to a single window. It would reduce incoming natural light by 1/3.

2. This dimensional variance request would provide substantial justice to the homeowner and neighbors. In fact the window well is surround by landscape screening and is essentially not visible to anyone outside the house, but would substantially impact the owners inside the house.
3. The problem was not self created as mentioned above.

Thank you,

Richard K. Wiand

Hunter Roberts Homes

CASE DESCRIPTION

691 Oak (20-34)

Hearing date: July 14, 2020

Appeal No. 20-34: The owner of the property known as 691 Oak, requests the following variance to install a retractable awning:

A. Chapter 126, Article 4, Section 4.30 C(5) of the Zoning Ordinance allows uncovered patios to project for a maximum distance of 15.00 feet into the rear open space. The proposed is to have a retractable awning with a 15.00 feet projection into the rear open space. Therefore a variance of 15.00 feet is being requested.

Staff Notes: The applicant proposes to install a retractable awning to the rear of the home that would provide shade over the patio. This home was constructed in 2019.

This property is zoned R2 – Single Family Residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

691 OAK MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
 Community Development: 248-530-1850
 Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 6-12-20
 Received By: Bm

Hearing Date: 7-14-20
 Appeal #: 20-34

Type of Variance:	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
I. PROPERTY INFORMATION:					
Address: <u>691 Oak Ave</u>		Lot Number: <u>59</u>		Sidwell Number:	
II. OWNER INFORMATION:					
Name: <u>Regina Greer</u>					
Address: <u>691 Oak Ave</u>		City: <u>Birmingham</u>		State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>ginggreer@comcast.net</u>				Phone: <u>248 703 6787</u>	
III. PETITIONER INFORMATION:					
Name: <u>Regina Greer</u>		Firm/Company Name:			
Address: <u>691 Oak Ave</u>		City: <u>Birmingham</u>		State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>ginggreer@comcast.net</u>				Phone: <u>248 703 6787</u>	
IV. GENERAL INFORMATION:					
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VI. APPLICANT SIGNATURE					
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Signature of Owner: <u>[Signature]</u>			Date: <u>6/8/2020</u>		
Signature of Petitioner: <u>[Signature]</u>			Date: <u>6/8/2020</u>		

CITY OF BIRMINGHAM
 Date 06/17/2020 10:52:10 AM
 Ref 00169854
 Receipt 535322
 Amount \$360.00

June 12, 2020

To: Board Members
City of Birmingham Zoning Appeals

Dear Committee Members,

We are applying for a variance to install shade on our back patio. We would like to install a mechanized retractable awning over our back porch. The awning would be black and white pinstripe made of a sunbrella type material.

Our lot is very small, at 6,889 ft.² we could not afford to give up any interior building space, as it is our building and garage footprint totals only 2002 ft.², which comes to 29% coverage.

Even with the small lot size, however, we stayed well within coverage allowances, and even have coverage to spare. Our green space coverage comes to 52%, well over the 40% minimum.

We are hoping that the 12% extra green space, and 1% underage in building coverage, will compensate for the minimal time that the awning will be fully extended.

Because of the flexible mechanism and material of the awning, by necessity it will need to stay retracted/closed most of the time. It cannot be exposed to strong winds, snow, wet leaves, and other harsh elements. For this reason, we reasonably expect to use the awning only 10% of the time. (Calculation: if we used the awning only during the months of June July August and September, at 8 hours per day, the amount of time the awning would be open would come to only 11% per year. This calculation is very lenient, as 8 hours per day assumes excellent sunny weather every day of the summer, and we know that is not realistic. Realistically we might have 50% of the days amenable to having the awning open, and that would come to only 5% of the year.)

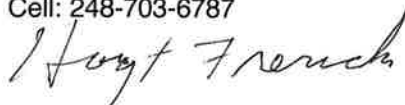
Separately, we hope the Board will consider that an awning is no different than floor-based umbrellas (which are allowed); with the exception that the awning is much safer as it is attached and won't tip over or fly away.

Finally, we are in an era where doctors recommend to all humans to shield themselves from harmful UV rays; I in particular have had 5 incidences where skin cancers had to be removed. My doctor prescribes that I stay out of the sun for 100% of the time as best I can.

We would like to enjoy and use our patio during summer daylight hours, and hope the Board will allow us to attach an awning because it provides much more shade coverage than a floor umbrella does, and it is much safer.

Thank you for your consideration,

Gina and Hoyt Frericks
691 Oak Avenue, Birmingham
Cell: 248-703-6787



June 11, 2020

Dear Neighbors,

We are required to send this letter to you as we will be applying for a variance on our property to install shade over our back patio, via a mechanized retractable awning. Our intention is to use the awning on sunny days to protect us from uv rays and the heat. We are looking at mechanical designs that retract easily into a sleek black casing mounted above our back sliding doors. When retracted, on hot sunny days, it will cover the width of the sliding door and extend outward to the edge of the patio. There are some beautiful patterns with scalloped edges that will complement the industrial design of the house.

This letter is a formality to keep you informed; no action is required on your part, and as always, we will minimize disruption on the street as best as possible.

Warmest regards,

Hoyt and Gina Frericks
691 Oak Avenue
Cell: 248-703-6787