

Agenda

City of Birmingham
Board of Zoning Appeals

Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
September 8, 2015
7:30 PM

1. Roll Call
2. Approval Of The Minutes Of July 14, 2015
3. Appeals:

	Address	Petitioner	Appeal	Type/Reason
1.	407 GREENWOOD	FURNARI	15-21	DIMENSIONAL
2.	381 PLEASANT	CELLARS	15-22	DIMENSIONAL
3.	779 W SOUTHLAWN	ILITCH	15-23	DIMENSIONAL
4.	119 S ADAMS	BACIGAL	15-24	DIMENSIONAL
5.	355 HANNA	DELVECHIO	15-25	POSTPONED
6.	656 RUFFNER	TRAFICANTE	15-27	DIMENSIONAL
7.	1951 COLE	HOME RENEWAL SYSTEMS, LLC	15-28	DIMENSIONAL

4. Correspondence
5. General Business
6. 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).

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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.

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, JULY 14, 2015**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, July 14, 2015. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members Kevin Hart, Thomas Hughes, Jeffrey Jones, Randolph Judd, Peter Lyon, John Miller

Absent: Alternate Board Members Cynthia Grove, Rachel Loughrin

Administration: Matthew Baka, Sr. Planner
Bruce Johnson, Building Official
Scott Lenhart, Asst. Building Official
Carole Salutes, Recording Secretary

The chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They 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. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

T# 07-44-15

APPROVAL OF THE MINUTES OF THE BZA MEETING OF JUNE 9, 2015

Motion by Mr. Judd

Seconded by Mr. Lyon to approve the Minutes of the BZA meeting of June 9, 2015.

Motion carried, 7-0.

VOICE VOTE

Yeas: Judd, Lyon, Hart, Hughes, Jones, Lillie, Miller

Nays: None

Absent: None

T# 07-45-15

**1193 FLOYD
(Appeal 15-18)**

Withdrawn.

T# 07-46-15

**1124 BIRD
(Appeal 15-19)**

The owners of the property known as 1124 Bird request the following variance to allow for the construction of a new house less than the minimum required distance between principal buildings standard:

A. Chapter 126, Article 4, Section 4.69 (C) of the Zoning Ordinance requires a minimum distance between principal buildings of 14 ft. for this lot. The applicant is proposing 11.10 ft. to the house to the east. Therefore, a variance of 2.90 ft. is requested.

Mr. Lenhart explained this is a 40 ft. wide corner lot. The lot does not have the usual layout, with every house and driveway in uniform sequence down the street. The adjacent property to the east is 5 ft. 1 in. off the property line and the proposed home sits 6 ft. from the line with a minimum of 5 ft. required. Typically a 26 ft. wide house could be constructed on a 40 ft. wide lot. The applicant has downsized the house to 24 ft. in order to have the 6 ft. setback to the east. However they still need a 2.9 ft. variance.

Mr. Jim Vervisch, Builder, said he was commissioned by Mr. Nick Gerasimidis and his wife Autumn, the property owners, to apply for the building permit. The driveways along the street are on the left side of every house. In order to cut down on impervious surface they won't put in a driveway beside the house next door and it will stay green space. He thinks the home fits very nicely into the neighborhood.

No one in the audience wanted to comment on this appeal at 7:40 p.m.

**Motion by Mr. Lyon
Seconded by Mr. Jones in regard to 1124 Bird, Appeal 15-19, to grant the variance as advertised. The petitioner seeks a variance under Chapter 126, Article 4, Section 4.69 (C) for the minimum distance between principal buildings. This is a**

variation of our 9-5, 9-5, 5-9, but 10 in this case being a corner lot, in that the driveways got out of sync and this seems to be the one house.

He notes that strict compliance with the Ordinance would be unduly burdensome and somewhat prevent the property from being used for residential purposes in that the minimum width of a house is about 24 ft. which the appellant has moved it down to. He notes also that he has mitigated the variance somewhat by reducing the house width to 24 ft. from the normally allowed 26 ft. on a 40 ft. wide lot.

Mr. Lyon thinks it does substantial justice to both the property owner and the surrounding neighborhood and he would tie it to the plans as presented.

Mr. Miller added that the alignment of all the driveways along Bird to the east absolutely dictates that there is going to be a diminished setback restriction for this corner lot. So, the problem certainly was not self-created; it was just a matter of the geometry of the lots as they march down the street. Because of that restriction this lot would not be allowed to be completed the same as any other lot on that street.

Motion carried, 7-0.

ROLLCALL VOTE:

Yeas: Lyon, Jones, Hart, Hughes, Judd, Lillie, Miller

Nays: None

Absent: None

07-47-15

**375 S. ETON
(Appeal 15-20)**

The owners of the property known as 375 S. Eton request four dimensional variances to construct a 60 ft. 4 in. high mixed-use building in the MX District:

A. Chapter 126, Article 4, Section 4.19 (A) (1) of the Zoning Ordinance requires that buildings constructed with flat roofs shall be no more than 45 ft. in height. The applicant is proposing to construct an elevator shaft, two stairwells and enclosed room with a flat roof that would extend above the fourth story 15.33 ft. for an overall height of 60.33 ft. Therefore the applicant is requesting a dimensional variance of 15.33 ft. to allow the flat roof to exceed 45 ft.

B. Chapter 126, Article 04 section 4.19 (A) (4) of the Zoning Ordinance requires that the maximum overall height of a building, including mechanical and other equipment shall be no more that 50 ft. The applicant is proposing to construct an elevator shaft,

two stairwells and enclosed room that would extend above the maximum allowable height 10.33 ft. for an overall height of 60.33 ft. Therefore, the applicant is requesting a dimensional variance of 10.33 ft. to allow them to exceed the maximum allowable height.

C. Chapter 126, Article 04 section 4.19 (A) (6) of the Zoning Ordinance states that any other use or occupancy above 40 ft. shall be prohibited. The applicant is proposing to construct an elevator shaft, two stairwells and enclosed room as well as an outdoor terrace that would have an occupied floor height of 45 ft. Therefore, the applicant is requesting a dimensional variance of 5 ft. to allow use and occupancy above 40 ft.

D. Chapter 126, Article 04 section 4.19 (A) (7) of the Zoning Ordinance states that buildings in the MX Zone are permitted a maximum of four stories. The applicant is proposing to construct an elevator shaft and enclosed room as well as an outdoor terrace that would be constructed above the fourth story. Per the definition of story contained in Article 09 of the Zoning Ordinance, the proposed enclosed room and elevator shaft constitute an additional story. Therefore, the applicant is requesting a dimensional variance to permit five stories.

Mr. Baka explained the applicant is proposing to construct this building as Phase 2 of the District Lofts. Phase 1 was previously completed in 2009 and constructed without the stair/elevator access to the roof and they are requesting this variance to provide easier and safer access to the roof.

Mr. Lyon received clarification there is no code requirement for this stairway and elevator in order to have necessary egress from the roof. Mr. Baka explained for Mr. Jones the existing first phase went in without the additional height and it functions under code. In response to Mr. Miller, he noted the Planning Board found the maximum overall height allowance of 50 ft. a little odd. In the rest of the City an additional 10 ft. in height is allowed for mechanical equipment, whereas in the MX District it is only 5 ft. They didn't necessarily show support for the additional uses.

Mr. Judd noted that back in 1999, and before, there were public meetings, committees, and input prior to enactment of the MX District Ordinance. Mr. Jones noticed that one of the Planning Board members had suggested that the idea of the deck could be achieved by taking half of an end unit and turning it into a terrace.

Mr. Baka verified for Mr. Hart there are 30 mechanical units on the roof that will have to be maintained and in the current building access to them is through a hatch.

Mr. Victor Saroki, Architect, said along with him this evening are Norman and Bonnie LePage, the project owners; Rick Rattner, Attorney; John Kelly, General Contractor and Builder; and J.C. Cataldo, Manager of the Phase 1 Building. Mr. Saroki indicated now

that the economy has recovered they plan to build Phase 2. There is a total of 20 residential units in this building and two retail spaces. They believe there is a practical difficulty and hardship caused by strict compliance with the Ordinance that only allows 5 ft. additional height for mechanical screening on the roof. They are asking for 15 ft. to permit the elevator to protrude.

This started because they have learned some lessons from constructing the first building. Servicing a building through a ladder and a roof hatch with this many mechanical units on the roof has become problematic. He pointed out that the core is the furthest point back from the two faces of the building, so the perception from the street is still a four-story building. They believe the central issue is really the health, safety, and welfare of people servicing the equipment. They feel this is a reasonable request for adequate access to the roof and that their request does substantial justice. This project is within the spirit of the Ordinance and the granting of the variances is not at all contrary to that. They feel that literal enforcement of this chapter is an unnecessary hardship. Further, the granting of the variances does substantial justice to the property owners, to all or the residents who would reside in this building, and to the general public.

Mr. Saroki went on to note that in buildings like this it is a very nice amenity to have some open air space and some vegetation on the roof.

Chairman Lillie pointed out the BZA is a quasi-judicial board. The applicants are asking the board to re-write the statute and that is not the board's function. It is up to the City Commission to make changes to Ordinances. He asked Mr. Saroki to explain why his building is unique and different than any other building in the MX District at four stories and a flat roof. He is having a hard time seeing how this building would meet the uniqueness test. Also, the fact they don't have stairs going to the roof doesn't prevent them from using the property as zoned, as evidenced by their first building.

Mr. Saroki pointed out their first building has been successful but they have an opportunity to make this a better and safer building at a very minimal increase in height in one small area. As to the unique characteristics of the property, their feeling is that every building in the MX District is not going to be built like this one.

Mr. Judd noted this is something that could have been addressed during the period from 1999 until construction of this building,. Large compressors can be hoisted to the roof with cranes. He asked Mr. Saroki how they get around the self-created problem. Mr. Saroki said the sun terrace is self-created but he doesn't believe it is a self-created issue to ask for access to the roof in a more reasonable and safe way than through a roof hatch. Because there are more commercial spaces in this building than in their first building, larger and heavier commercial equipment is required. The ideal location is on the roof.

Mr. Lyon asked how this issue is not self-created in that they could go three stories and have all the room they need for the mechanicals. Mr. Saroki replied that is really not reasonable here and not in the spirit of the Ordinance that allows four-story buildings.

Mr. Jones inquired if there is anything in between the elevator and the ladder they could design that would address the safety concerns. Show how they could ameliorate the requested variances. Mr. Saroki said a solution could be to create a stairway within the third floor that gets up to the roof.

Responding to Mr. Miller, Mr. Saroki explained they started with one stairway as a way to get up, then they thought it would be reasonable to get an elevator to go up. After that they decided it just makes sense to extend the whole core up. However, they couldn't have elevator doors just open to the roof so there had to be an enclosure or a vestibule. So then they thought a reasonable amenity for the building would be to allow the residents to enjoy the roof deck.

Mr. Lyon advised the applicant that in order to improve the Ordinance and make their building better the City Commission is the place to go.

There was no one in the audience who wanted to speak to this appeal at 8:35 p.m.

Motion by Mr. Judd

Seconded by Mr. Lyon on Appeal 15-20, 375 S. Eton, the appellant is asking for four variances. Mr. Baka, he felt, did a very complete job in describing the four. They all arise from Chapter 126, Article 04, section 4-19 (A) and four of the subsections of section (A). Variance A deals with a dimensional variance of 15.33 ft. to allow a flat roof to exceed 45 ft. Variance B is requesting a dimensional variance of 10.33 ft. to allow them to exceed the maximum allowable height. Variance C is a dimensional variance of 5 ft. to allow use and occupancy above 40 ft. Variance D is a dimensional variance to permit five stories.

This particular appeal arises from the MX District which is a fairly new creation. He doesn't recall too many or any appeals dealing with this section. In its creation it has been noted that there were hearings called by the City Commission; there were committees appointed; testimony was taken during those periods; drafts were made; and eventually the MX Ordinance was produced and approved.

In this case the appellant is asking for these variances based on the health, safety, and welfare of workers who may be servicing the building. It has been noted in discussions by the members of this board that the prior building (the sister building if you will), really of the same construction and many of the same dimensions, was built without the request for two stairways and an elevator with mechanics on top of the building. It was also noted that the building is extremely

popular. It is well designed pursuant to the description of both the attorney representing the appellant and the architect.

Mr. Judd moved to deny all four variances requested by the appellant. He doesn't feel that a practical difficulty has been effectively argued in this case. He doesn't feel that strict compliance with the height requirements in the MX District would unreasonably prevent the owner from using the property for a permitted purpose and would be unnecessarily burdensome. In support of that he points to Building 1 that was built in 2009 which has been extremely effective.

He feels that pretty well mutes the argument of the petitioner dealing with the second building. He also notes that Building 1 and this particular building at 375 S. Eton meet all the Code requirements dealing with safety, and he feels that pretty well takes care of that point. Secondly, he doesn't feel that granting the variance would do substantial justice to the other property owners in the District in that conducting a spot zoning in this case, and perhaps that is not the proper term, we would certainly be creating a specialized district, which is spot zoning with an individualized height different from all the others. We would be doing this in contravention of all of the hearings and ordinances that were enacted by the City Commission and he thinks we would be placing ourselves in jeopardy if we did such an action.

Mr. Judd does not feel the plight of the owner is due to the unique circumstances of the property, as already amply discussed by other members of this board. He does feel the problem is self-created, in that the elevator to the decks is really the engine that is driving this appeal. He discounts the importance in this case of the indications of health, safety and welfare. For those reasons he would move to deny.

Mr. Miller felt that as urban density increases the use of roof areas is becoming more and more desirable. Access to these areas needs to be made by stairs, elevators; exactly what is being asked here. In this regard he thinks the Zoning Ordinance is kind of behind the curve. However, it is beyond our charge here on the board to redefine the ordinance in such a sweeping manner by carrying occupied space up to another floor.

Mr. Lyon agreed with Mr. Miller and believes that urban density will drive everything up. However, he thinks it is way beyond this board's purview to grant these variances. This is not unique and it is self-created. He doesn't feel the applicant meets the four points to grant the variances.

Mr. Jones concurred. He finds that this appeal is self created. Functionality is borne out by the adjoining building still being very popular both economically and functionally. He concurs as the board always does that their job is not to create the ordinance but to

enforce within the parameters that they have for a variance. For those reasons he will support the motion.

Chairman Lillie indicated he will also support the motion. He doesn't think there is anything unique about this property. Denying the requested variances will not prevent the petitioner from using the property for the permitted purpose. From what has been presented it is pretty obvious there is no problem with Building 1. A further reason for him to support the motion is the petitioner has said there may be an issue with the Ordinance. If that is the case the way to change the Ordinance is through the City Commission.

Mr. Hughes thought that Messrs. Saroki and Rattner have made a rather persuasive case. It is very compelling and would be fine if it were permitted under the restrictions under which this board operates. However, granting the variances is too much of a reach over what the board's authority is. The proper way to have something like this approved would be to modify the Ordinance and this board is not in a position to do that.

Motion to deny carried, 6-1.

ROLLCALL VOTE

Yeas: Judd, Lyon, Hughes, Jones, Lillie, Miller

Nays: Hart

Absent: None

T# 07-47-15

CORRESPONDENCE (none)

T# 07-48-15

GENERAL BUSINESS

The chairman indicated he will not be present for the August meeting.

Motion by Mr. Jones

Seconded by Mr. Hart to elect Mr. Lyon to chair the August meeting.

Motion carried, 7-0.

VOICE VOTE

Yeas: Jones, Hart, Judd, Lyon, Hughes, Lillie, Miller

Nays: None

Mr. Johnson passed out some Ordinance revisions to the board members.

T# 07-49-15

No further business being evident, the board members passed a motion to adjourn at 8:50 p.m.

Bruce R. Johnson, Building Official



Brigette Moran <bmoran@bhamgov.org>

Fwd: 407 Greenwood

1 message

Bruce Johnson <bjohnson@bhamgov.org>
To: Brigette Moran <Bmoran@bhamgov.org>

Thu, Aug 27, 2015 at 3:57 PM

FYI

Sabrina

—— Forwarded message ——

From: **Clinton Baller** <cmballer@avidpays.com>

Date: Tue, Aug 25, 2015 at 10:02 AM

Subject: 407 Greenwood

To: bjohnson@bhamgov.org, slenart@bhamgov.org, **Judy Baller** <judy.baller@gmail.com>

Bruce, Scott:

We will be unable to attend the BZA meeting on Sept. 8 for the hearing regarding 407 Greenwood. Nonetheless, we would like to express our opinion on the matter and hope it will be passed along to members of the board.

Our understanding from a conversation with Scott is that there is no hardship being claimed by the petitioner. The existing home is to be razed and replaced by new construction. Neighboring structures apparently respect existing setbacks. Nothing prevents the petitioner from building a home that conforms with current zoning.

Several years back, Birmingham enacted zoning regulations that limited front-facing garages. This was done with sufficient deliberation and input by stakeholders. Even more recently, those regulations were amended in the direction of more, rather than less, regulation of front-facing garages. Clearly, the intent has been to limit front-facing garages for reasons that need not be enumerated here, but with we strongly agree.

Generally, the board and residents are sympathetic to petitioners who demonstrate hardship – conditions beyond their control that make conformity with zoning regulations difficult or impossible. Absent demonstration of such a hardship, we urge you to deny the variance.

Please let us know that you have received this email and that it will be passed along to members of the board.

Sincerely,

Clinton & Judy Baller
388 Greenwood

—

Bruce R. Johnson, B.C.O. | Building Official | 248.530.1842 (office) | 248.530.1292 (fax)

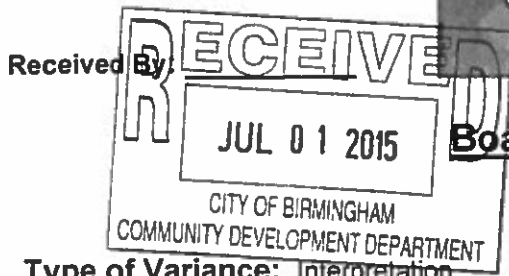
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Application Date: 7-1-15



Hearing Date: 8-11-15



Appeal # 15-21

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>407 GREENWOOD</u>	Sidwell Number: <u>19-25-353-023</u>
Owners name: <u>MICHAEL FURNARI</u>	Phone #: <u>248/770-3677</u>
Owners address: <u>407 GREENWOOD</u>	Email: <u>michael@fairviewco.com</u>
City: State: <u>BIRMINGHAM, MI</u>	Zip code: <u>48009</u>
Contact person: <u>JEFFREY M. LEIB, ATTORNEY</u>	Phone #: <u>248/851-7800</u>

Petitioner Information:

Petitioner name: <u>MICHAEL FURNARI</u>	Phone #: <u>248/770-3677</u>
Petitioner address: <u>407 GREENWOOD</u>	Email: <u>michael@fairviewco.com</u>
City: <u>BIRMINGHAM</u> State: <u>MI</u>	Zip Code: <u>48009</u>

Required Attachments:

- Original Certified Survey Original BZA application Letter of hardship or practical difficulty
- 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
- Set of plans and survey mounted on foam board
- If appealing a board decision, a written transcript from the meeting is required along with 10 copies of minutes from any previous Planning, HDC or DRB board.

General Information:

Prior to submitting for a Board of Zoning Appeals review, you must schedule an appointment with the Building Official or a City Planner for a preliminary discussion on your submittal. The deadline is the 15th of the previous month.

The BZA review fee is \$310.00 for single family residential; \$510.00 for all others; and \$50.00 for the public notice sign.

Location of all requested variances must be highlighted on plans and survey. All dimensions to be taken in feet to the first decimal point.

Variance chart example:	Required	Existing	Proposed	Amount of Variance
	25'	24'	24'	1'

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: [Signature] Date: 6-30-2015

LAW OFFICES OF JEFFREY M. LEIB

**Attorneys and Counselors at Law
30445 Northwestern Hwy., Ste 230
Farmington Hills, Michigan 48334
Phone (248) 851-7800
FAX (248) 851-7801**

Jeffrey M. Leib

jeffleib@mich.com

June 30, 2015

Board of Zoning Appeals
City of Birmingham, Michigan

Re: Letter in support of Furnari BZA Application for 407 Greenwood

Dear Members of the Birmingham Board of Zoning Appeals,

There are special or unique conditions and circumstances which are peculiar Applicants' property and which are not generally applicable to other lands, structures or buildings in the same zoning district.

The Furnari family purchased the above-referenced property more than two years ago (see copy of Warranty Deed attached) anticipating that they would demolish the existing home and construct a new house designed by Kevin Akey, of AZD Architects. The home being proposed has a footprint almost identical to the one two doors down and is consistent with footprints on narrow lots designed by AZD that have been approved in other areas of the City of Birmingham.

To date, the Furnari's have invested over \$50,000 in plans with AZD and the process included concept meetings with Birmingham officials and AZD representatives in February or March, 2015 where no mention of any proposed ordinance changes were made.

When the Furnari family purchased the property and engaged AZD to design their new home, and during the entire conceptual process mentioned above, Section 4.70 A, the Structure Standards Section of the Birmingham Zoning Ordinance, provided as follows:

"A private, attached, single-family residential garage shall not occupy more than 50% of the linear building frontage of the principal residential building, and must be setback a minimum of 5 feet from the front façade of a principal residential building."

The proposed building envelope fully complies with that Standard and was uniquely designed to provide the garage setback at 5 feet from the front façade of the residential living space that consists of a first floor internal stairwell/staircase leading up to the second floor living area above it and above the two-car garage.

Illness, surgery and recovery were the causes that delayed the finalization of house plans and the filing of this Application.

And, unknown to the Applicant, until it was too late, was the action by the Birmingham City Council to revise the Structure Standards Section of the zoning ordinance, the effect of which, if literally construed, would legislate Applicants' house plans into non-compliance.

The Structure Standards Section was recently amended to state:

"A private, attached, single-family residential garage shall not occupy more than 50% of a linear building width of a principal residential building, that faces a street, and must be setback a minimum of 5 feet from the portion of the front façade on the first floor of a principal residential building that is furthest setback from the front property line..."

Because of the highlighted added clause, the front façade of the Applicants' submitted plans begins at the western terminus of the driveway and at the "entry porch." Rather than encouraging and promoting family living and rear-yard recreation space on narrow, but deep, parcels such as the Applicants', there is no doubt that this amendment was tailor-made to address the Applicants' design and forever require century-old, detached, rear-yard garages.

The granting of dimensional variances from the onerous requirements of this new ordinance is needed to relieve a practical difficulty caused by the unique conditions present on the land in terms of its deep but narrow configuration and having the effect of relegating all parcels of this shape to limited rear-yard enjoyment.

A literal interpretation of the provisions of this ordinance will deprive the Applicant and his family of rights they anticipated when they purchased the property and with rights commonly enjoyed by other, newer properties in the same district.

The special conditions and circumstances associated with this request relate to the recent adoption of an ordinance change the effect of which legislates into non-conformity plans that were a) anticipated by Applicants when the property was purchased; and b) those same plans that were routinely approved benefitting other property owners in identical circumstances.

Accordingly, these special circumstances were not self-created; but have been imposed upon Applicants. Had Applicants been aware of this coming ambush to their expectations, their plans would have been submitted prior to the ordinance change.

The grant of a variance in this case will enable the Applicant and his family to enjoy the same rights enjoyed by other similarly situated citizens of the City of Birmingham.

The grant of a variance will not be injurious to the neighborhood or otherwise be detrimental to the general welfare of the City. To relegate the use of the Applicants' property to archaic enjoyment standards will have the effect of depriving Applicant and his family of rights they not only anticipated, but with rights enjoyed by his neighbors and

other similarly situated **citizens** of Birmingham.

The grant of a variance will not affect public safety nor will it be detrimental to the neighborhood and it will enable substantial justice to be done.

Very truly yours,

LAW OFFICES OF JEFFREY M. LEIB

A handwritten signature in black ink, appearing to read "Jeffrey M. Leib", written over the typed name below.

Jeffrey M. Leib

JML/bll

C: Mr. Michael Furnari (electronically)
Mr. Kevin Akey, AZD (electronically)

Application Date: 7-13-15



Hearing Date: 8-11-15

Received By: BM

Appeal # 15-22

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional X Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>381 Pleasant</u>	Sidwell Number: <u>19-35-202-005</u>
Owners name: <u>Brad and Leah Cellars</u>	Phone #: <u>248.921.9987</u>
Owners address: <u>1283 BIRD AVE.</u>	Email: _____
City: State: <u>Birmingham MI</u>	Zip code: <u>48009</u>
Contact person: <u>Brad Cellars</u>	Phone #: <u>248.921.9987</u>

Petitioner Information:

Petitioner name: <u>PATTY KELLER</u>	Phone #: <u>248.642.9427</u>
Petitioner address: <u>700 East Maple, Ste 101</u>	Email: <u>kevinhartassociate@sbc</u>
City: <u>Birmingham</u> State: <u>MI</u>	Zip Code: <u>48348</u> <u>global.net</u>

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Signature of Owner: _____

Date: 7/13/15

*Gave sign I went. 7.15.15
Ant*

CITY OF BIRMINGHAM
 DATE: 07/15/2015 3:45:09 PM
 Ref: 00119397
 Ref: 1269577
 Amount: \$240.00

700 East Maple, Suite 101
Birmingham, Michigan 48009
Phone: 248.642.9427

July 13, 2015

The Board of Zoning Appeals
City of Birmingham
151 Martin Street
Birmingham, Michigan 48009

Subject: 381 Pleasant Street-Front Yard and Porch Dimensional Variance

Dear Members of the Board,

The Cellars Residence on Pleasant Street in Birmingham, Michigan is an existing non-conforming structure that protrudes into the front yard setback by 12.9 feet. The existing house was brought out of conformance by the construction of new houses just south of the Cellars Residence at 415, 425 and 481 Pleasant Street. The owners propose to build an austere addition onto the home that will build a new bedroom over the existing Living Room and a usable Front Porch that extends 13.28 feet into the front setback. The actual dimension depth of the porch is 7.0 feet.

The proposed addition will conform to all other City of Birmingham ordinance requirements. All of the proposed additional living space does not go beyond the existing footprint of the house. The encroachment issues were not self created with the new construction of the houses to the South of 381 Pleasant. Forcing the Cellars to build onto their home within the new setbacks would create an undue hardship with an awkward dysfunctional layout of the home. The proposed addition is harmonious and within scale of the existing house.

The owners respectfully request relief from the 61.08' front yard setback requirement by 12.59' and the 51.08' front porch dimensional setback by 3.28'. Please feel free to contact me at 248.642.9427 if you have any questions.

Thank you.

Sincerely,


Patricia Keller

Application Date: 7-15-15

Hearing Date: 8-11-15



Received By: BM

Appeal # 15-23

Board of Zoning Appeals Application

Type of Variance: Interpretation Dimensional Land use Sign Admin review

Property Information:

Street address: <u>779 W. SOUTHLAWN</u>	Sidwell Number:
Owners name: <u>MICHAEL ILITCH III</u>	Phone #: <u>248 514 6040</u>
Owners address: <u>779 W. SOUTHLAWN</u>	Email: <u>M.ILITCH3@GMAIL.COM</u>
City: State: <u>MICHIGAN, BIRMINGHAM</u>	Zip code: <u>48009</u>
Contact person: <u>MICHAEL ILITCH III</u>	Phone #: <u>248 514 6040</u>

Petitioner Information:

Petitioner name: <u>MICHAEL ILITCH III</u>	Phone #: <u>248 514 6040</u>
Petitioner address: <u>779 W. SOUTHLAWN</u>	Email: <u>M.ILITCH3@GMAIL.COM</u>
City: <u>BIRMINGHAM</u> State: <u>MICH</u>	Zip Code: <u>48009</u>

Required Attachments:

- Original Certified Survey Original BZA application Letter of hardship or practical difficulty
- 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
- Set of plans and survey mounted on foam board
- If appealing a board decision, a written transcript from the meeting is required along with 10 copies of minutes from any previous Planning, HDC or DRB board.

General Information:

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The BZA review fee is \$310.00 for single family residential; \$510.00 for all others; and \$50.00 for the public notice sign.

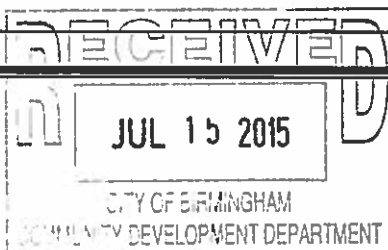
Location of all requested variances must be highlighted on plans and survey. All dimensions to be taken in feet to the first decimal point.

Variance chart example:	Required	Existing	Proposed	Amount of Variance
	25'	24'	24'	1'

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: [Signature]

Date: 6/11/15



CITY OF BIRMINGHAM
Date: 07/15/2015 1:50 PM
Re: 15-23
Request: 269984
Amount: \$360.00

Board of Zoning Appeals
City of Birmingham
151 Martin
Birmingham, Michigan 48012

July 14, 2015

Re: Variances for residence at 779 Southlawn Blvd.

- 1) Rear yard setback variance of 24.84'
- 2) Combined front and rear setback variance of 11.52'

Members of the BZA,

On behalf of my clients, Mr. Michael Ilitch III and Ms. Victoria Fisher, I am requesting your consideration of a variance from the existing 5.16' rear yard setback and the 55' required combined front and rear setbacks for the above referenced address.

1) This particular property is unique in that it is a corner lot and the only address on Southlawn Blvd. between Shipman Blvd. and Birmingham Blvd. and as such was constructed with the Southlawn Blvd. side yard acting as the front yard. This orientation has resulted in a long, narrow house with essentially two front yards with a small 5' side yard and a small 5' rear yard.

2) A literal interpretation of the provisions of the ordinance would not allow the homeowner's the ability to enlarge their garage to allow standard size vehicles to fit, allow direct access from the home to the garage, correct an incorrect drainage situation of the driveway sloping down to the garage, and further allow the ability to expand the second floor bedroom space. These improvements are similar to those in neighboring homes in the district.

3) The conditions and circumstances causing the need for a variance are existing and have been created over time as the original 1920's home has undergone upgrades over time within the framework of the existing original garage and residence.

4) The granting of the variances will be in harmony with the general purpose and intent of the ordinance in that it benefits the community by allowing the homeowner's to correct and improve their home in keeping with community standards. It will also reduce the amount of nonconformity of the rear of the garage that is projected 1.8' into the 5' side yard setback.

5) The granting of these variances will not affect the neighborhood or be detrimental to the general welfare. The proposed renovation and addition will be away from adjoining residences. It will be more in keeping with the features and aesthetics of the neighborhood and it will make the south side yard conform to the ordinance.

We are proposing a garage expansion and second floor addition that solves the difficulties associated with the layout of the home, while, respecting the architecture and site character of the original home and neighborhood. The total footprint of the home increases only 244 square feet and the rebuilding of the garage solves a flooding problem as well as creating a more harmonious use of materials. The proposed second floor expansion occurs over the existing footprint and at an area which is well away from the neighbors' houses to the east and south.

We would appreciate your favorable consideration of our request for this variance.

Sincerely,

David Lubin
Architect

Application Date: 7-13-15



Hearing Date: 8-11-15

Received By: BM

Appeal # 15-22

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>381 Pleasant</u>	Sidwell Number: <u>19-35-202-005</u>
Owners name: <u>Brad and Leah Cellars</u>	Phone #: <u>248.921.9987</u>
Owners address: <u>1283 BIRD AVE.</u>	Email:
City: State: <u>Birmingham MI</u>	Zip code: <u>48009</u>
Contact person: <u>Brad Cellars</u>	Phone #: <u>248.921.9987</u>

Petitioner Information:

Petitioner name: <u>PATTY KELLER</u>	Phone #: <u>248.642.9427</u>
Petitioner address: <u>700 East Maple, Ste 101</u>	Email: <u>Kevinhartassociate@sbc</u>
City: <u>Birmingham</u> State: <u>MI</u>	Zip Code: <u>48348</u> <u>global.net</u>

Required Attachments:

- Original Certified Survey Original BZA application Letter of hardship or practical difficulty
- 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
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Variance chart example:	Required	Existing	Proposed	Amount of Variance
	25'	24'	24'	1'

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Signature of Owner: _____

Date: 7/13/15

*Gave sign event. 7/13/15
Ant*

4411 OF 641111111111
 Date: 07/13/2015 3:45:09 PM
 Ref: 00119397
 Ref: 1269577
 Amount: \$240.00

700 East Maple, Suite 101
Birmingham, Michigan 48009
Phone: 248.642.9427

July 13, 2015

The Board of Zoning Appeals
City of Birmingham
151 Martin Street
Birmingham, Michigan 48009

Subject: 381 Pleasant Street-Front Yard and Porch Dimensional Variance

Dear Members of the Board,

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The proposed addition will conform to all other City of Birmingham ordinance requirements. All of the proposed additional living space does not go beyond the existing footprint of the house. The encroachment issues were not self created with the new construction of the houses to the South of 381 Pleasant. Forcing the Cellars to build onto their home within the new setbacks would create an undue hardship with an awkward dysfunctional layout of the home. The proposed addition is harmonious and within scale of the existing house.

The owners respectfully request relief from the 61.08' front yard setback requirement by 12.59' and the 51.08' front porch dimensional setback by 3.28'. Please feel free to contact me at 248.642.9427 if you have any questions.

Thank you.

Sincerely,


Patricia Keller

Application Date: 7/12/15



Hearing Date: _____

Received By: _____

Appeal # _____

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional _____ Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>119 S. ADAMS RD</u>	Sidwell Number: _____
Owners name: <u>ERIC BACIGAL BILL WERNIAK</u>	Phone #: <u>586 201-0874</u>
Owners address: <u>119 S. ADAMS RD</u>	Email: <u>EBACIGAL@YAHOO.COM</u>
City: State: <u>BIRMINGHAM</u>	Zip code: <u>48009</u>
Contact person: <u>ERIC BACIGAL</u>	Phone #: <u>586-201-0874</u>

Petitioner Information:

Petitioner name: <u>ERIC BACIGAL</u>	Phone #: <u>586-201-0874</u>
Petitioner address: <u>119 S. ADAMS RD</u>	Email: <u>EBACIGAL@YAHOO.COM</u>
City: <u>BIRMINGHAM</u> State: <u>MICHIGAN</u>	Zip Code: <u>48009</u>

Required Attachments:

- Original Certified Survey Original BZA application Letter of hardship or practical difficulty
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Variance chart example:	Required 25'	Existing 24'	Proposed 24'	Amount of Variance 1'
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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: Eric Bacigal Bill Werniak Date: July 12, 2015

Eric Bacigal and William Wozniak
119 South Adams Road
Birmingham, MI 48009

Date: July 12, 2015

City of Birmingham
Board of Zoning Appeals
Attention: Bruce Johnson, Building Official
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012

RE: New garage construction at 119 S. Adams,
On the corner of Maple and Adams

We are requesting a variance from the provision citing square footage in the accessory structure ordinance for zone R1. The ordinance calls for a maximum of 675 sq. feet. (including interior staircase). Our proposed plan shows a 644 square foot garage with an 80 square foot unenclosed covered porch, bringing the total square footage to 724. All set backs will be observed and met. This new structure will replace an existing accessory building which violates current ordinances and is structurally unsound and in need of removal.

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 current property at 119 S. Adams was erected in 1835 as an 80 acre farm with unique architectural details and history whereas the remaining portion of the lot being 2/3 of an acre which is unusually large as compared to other homes in the area. Current ordinances were conceived and enforced well after its erection and may not have taken into account the unique conditions of this property as it presently exists. Additionally, the new structure will conform to all set back and dimensional requirements set by the city of Birmingham which the current structure does not adhere to.

The existing outbuilding, which will be demolished, still has the original horse stalls in the back and had a covered porch across the entire back side (20 feet in length) until it had to be removed due to safety concerns. We would like the new carriage house to be in keeping with these details of the current outbuilding while bringing the new structure into compliance with existing building code.

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 minimum necessary.

The city ordinance calls for the garage structure to be 675 square feet (including stairway) or less. The current proposed carriage house plans are 644 square feet with the addition of a covered 8x10 (80 square feet) porch. A covered porch that is unenclosed and unheated is not typically included in calculating square footage of a structure. The city building department is stating that the porch must be counted as square footage, however, no code could be identified supporting this claim. Newer homes in the area appear to have garages larger than the 600 square feet and with similar covered porches.

3. The special conditions and circumstances do not result from the action of the applicant.

The new structure to be erected was designed to fit harmoniously with the current structure and in keeping with the integrity of the home as well as the era in which it was built. The requested variance would expand the first floor to accommodate a covered side porch exceeding the maximum of 675 square feet by 49 square feet respectively. This porch contributes to the overall appearance of a carriage house designed to give the appearance of being part of the current home as it was intended when built.

4. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.

- and -

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

Because of the large lot, and observance of all set backs, the variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare. Contrarily, the removal of the existing structure and replacement with a new structurally sound and attractive building seeks to beautify the current home and, consequently, the neighborhood which is the ultimate spirit of the ordinance.

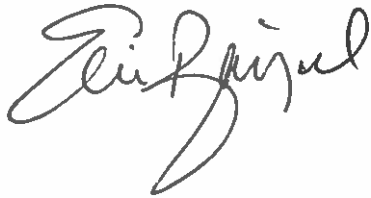
Given the restrictions and nonconformity inherent with the existing 1835 home, we ask that the variance board see our good faith effort to upgrade and improve the home in the spirit of the ordinance. Our improvements will correct and improve an existing nonconforming structure while providing an improved, safer, and aesthetically pleasing structure to the property while adding beauty to the neighborhood. Furthermore, the owners have decided not to pursue other desired improvements, in a spirit of good faith, based on the feedback from the consultation with the City's staff.

We would like to thank you for your consideration of our requests. Please do not hesitate to contact either of us with any questions that you may have.

Sincerely,

William J. Wozniak

Eric C. Bacigal

A handwritten signature in black ink, appearing to read "Eric Bacigal", written in a cursive style.

Application Date: 7-16-15



Hearing Date: 9-8-15

Received By: BM

Appeal # 15-27

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>656 RUFFNER AVE</u>	Sidwell Number: <u>1936428004</u>
Owners name: <u>TORINO Quality Homes, LLC</u>	Phone #: <u>248-877-5600</u>
Owners address: <u>31500 NORTHWESTERN HWY #125</u>	Email: <u>JATRAFRICANTE@gmail.com</u>
City: State: <u>FARMINGTON HILLS MI.</u>	Zip code: <u>48334</u>
Contact person: <u>JOE TRAFICANTE</u>	Phone #:

Petitioner Information:

Petitioner name: <u>JOE TRAFICANTE</u>	Phone #: <u>248-877-5600</u>
Petitioner address: <u>SAME AS ABOVE</u>	Email: <u>JATRAFRICANTE@gmail.com</u>
City: _____	State: _____
_____	Zip Code: _____

Required Attachments:

- Original Certified Survey
 - Original BZA application
 - Letter of hardship or practical difficulty
 - 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
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Variance chart example:	Required	Existing	Proposed	Amount of Variance
	25'	24'	24'	1'

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: Joe Traficante, member Date: 7/14/15
TORINO Quality Homes, LLC

CITY OF BIRMINGHAM
 Date: 07/17/2015 9:06:08 AM
 Ref: 015009
 Receipt #: 70224
 Amount: \$60.00

7/14/15

Torino Quality Homes, LLC
31500 Northwestern Hwy
Suite 175
Farmington Hills, MI. 48334

City of Birmingham
Board of Zoning Appeals

RE: 656 Ruffner

Dear Members of the Board:

We were granted a variance last year on July 8th, 2014 for the same request I am asking for now. Unfortunately I was unable to get the tenant out in time to get all the utilities disconnected with in the one year time frame.

We would like to construct a new home located at 656 Ruffner. Our lot is 40' x 120', which would under normal circumstance allow me to build a home 26' wide and still meet all the city side yard setback requirements.

The home to the East of us located at 692 Ruffner does not conform to the zoning ordinance. The home was constructed in 1947 and only sits 3.1' from their property line which causes us hardship with meeting the required 14' between structures.

If I were to maximize the allowable side yard setbacks I could build a home 26' wide but that would only leave 12.1' between the two structures.

We have shrunk down the home to 25' in an effort to make these plans work but would need a 10.8 inch variance from the board.

With the proposed plans we are improving the current non-conformity in three ways.

- 1) Currently our home is only 9.9' from the structure on the east, we will now be 13.1'.
- 2) Currently our home is only 6.8' from the property line and it will now be 10'.
- 3) Currently our home only sits 3.7' from the property line on the west side and would now be 5.0

Our proposed plans meet all the city requirements with the exception of the distance between structures on the east side.

We ask that you please grant us a variance of 10.8" on the east side setback.

Sincerely,
Joe Traficante, member



Application Date: _____



Hearing Date: _____

Received By: _____

Appeal # _____

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>1951 Cole</u>	Sidwell Number: <u>20-31-179-054</u>
Owners name: <u>Home Renewal Systems LLC.</u>	Phone #: <u>248 615 1313</u>
Owners address: <u>23370 Commerce Dr.</u>	Email: <u>ryana@hrsgreen.com</u>
City: State: <u>Farmington Hills MI</u>	Zip code: <u>48335</u>
Contact person: <u>Ryan Andrews</u>	Phone #: <u>810 772 3074</u>

Petitioner Information:

Petitioner name: <u>Home Renewal Systems LLC</u>	Phone #: <u>810 772 3074</u>
Petitioner address: <u>23370 Commerce Dr.</u>	Email: _____
City: <u>Farmington Hills</u> State: <u>MI</u>	Zip Code: <u>48335</u>

Required Attachments:

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Signature of Owner: Shannon Meyer Date: 7/23/15



23370 Commerce Drive
Farmington Hills, MI 48335
(248) 615-1313

July 22, 2015

City of Birmingham
Board of Zoning Appeals

RE: Request for Dimensional Variance for 1951 Cole Street - Lot 484 "Birmingham Gardens"
Letter of Hardship for Practical Difficulty

Please accept this request for a Dimensional Variance for the property listed above due to Practical Difficulty in achieving distance between structures.

The width of our current design is 24'. We have already adjusted the width of the design so that we are 1' less than the buildable envelope. However, we are unable to achieve a 14' separation from the adjacent property - Lot 483.

The existing home on the adjacent Lot 483 is 1.8' from the property line at rear and 2.6' from the property line at front. We can only achieve a 12.8' separation.

With our design and the current position of Lot 483, we cannot achieve a 14' separation between structures. We request approval to proceed with this design as submitted with this variance, allowing a 12.8' separation between structures, a 1.2' dimensional variance.

Should you have any technical questions regarding this request please contact Ryan Andrews at (810) 772-3074 or at ryana@hrsgreen.com.

Thank you for your consideration,

Shannon M. Morgan
Senior Vice President
Home Renewal Systems LLC