

Agenda

City of Birmingham
Board of Zoning Appeals

Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
June 9, 2015
7:30 PM

1. Roll Call
2. Approval of the May, 2015 Minutes
3. Appeals:

	Address	Petitioner	Appeal	Type/Reason
1.	687 SOUTHFIELD	ZAIDAN	15-12	DIMENSIONAL
2.	1950 HOLLAND	LRH HOMES	15-13	DIMENSIONAL
3.	1179 N GLENHURST	D'ALEO	15-14	DIMENSIONAL
4.	1307 WEBSTER	DJL3, LLC	15-15	DIMENSIONAL
5.	536 PARK	THIERY	15-16	DIMENSIONAL
6.	607 STANLEY	ASADOURIAN	15-17	DIMENSIONAL

4. Correspondence
5. General Business

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.

Application Date: 4-15-15



Hearing Date: 5-12-15

Received By: Bm

Appeal # 15-12

Board of Zoning Appeals Application

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

Property Information:

Street address: 687 Southfield Rd.		Sidwell Number:	
Owners name: Jonathan and Kimberly Zaidan		Phone #:	
Owners address: same		Email: jkmzc@sbcglobal.net	
City: State: Birmingham, MI		Zip code:	
Contact person: Jon		Phone #: 248.872.7786	

Petitioner Information:

Petitioner name: Designhaus		Phone #: 248.601.4422	
Petitioner address: 301 Walnut Blvd.		Email: mike@designhaus.com	
City: Rochester	State: MI	Zip Code: 48307	

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: Date: 4/15/15

Called to pickup sign.

CITY OF BIRMINGHAM
Date 04/15/2015 4:58:33 PM
Ref 077316
Receipt 2257671
Amount \$560.00

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
 6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
 7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 9. An appeal stays all proceedings in accordance with Act #202, Public Acts of 1969, Section 5(c), which amended Section 5 of Article #207 of the Public Acts of 1921.
- C. The order of hearings shall be:
1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
 2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
 5. The BZA may make a decision on the matter or request additional information.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

A. Appeals may be filed under the following conditions:

1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.

B. Procedures of the Board of Zoning Appeals (BZA) are as follows:

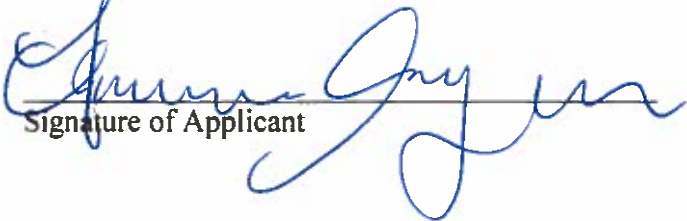
1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
2. All applications for appeal shall be submitted to the Community Development Department on or before the 15th day of the month preceding the next regular meeting. If the 15th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.

- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

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.


Signature of Applicant

JOB #: 015030

DATE: 4/15/2015

05/15/2016

PROJECT: Zaidan Residence**687 Southfield Rd., Birmingham MI****TO: City of Birmingham****151 Martin St., Birmingham MI****ATTN: Bruce Johnson****FROM: Designhaus Architecture**

301 Walnut Blvd.

Rochester, MI 48307

248-601-4422 (phone)

248-453-5854 (fax)

WE TRANSMIT:☒ ATTACHED☐ UNDER SEPARATE COVER**VIA:**☐ OVERNIGHT DELIVERY☐ MAIL☐ EMAIL☒ COURIER☐ FAX☐ OTHER**FOR:**☒ APPROVAL/ACTION☐ INFORMATION☐ USE AS REQUESTED☐ COMMENT☐ DISTRIBUTION☐ OTHER**THE FOLLOWING:**☒ DRAWINGS☐ SPECIFICATIONS☐ DIGITAL FILES☐ SUBMITTALS☐ OTHER

NO. OF COPIES	DESCRIPTION
10	Board of Zoning Appeals Application
10	11x17 Preliminary Design Investigation Package
10	Letter of Hardship
10 Sets	24x36 ZBA Drawing Set
1	Check # 10320

REMARKS:**DISTRIBUTION:****BY:**

**Jonathan and Kimberly Zaidan
687 Southfield Road
Birmingham, MI 48009**

Date: April 13, 2015

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

RE: Combination of Lot with 692 Frank Street Birmingham, MI 48009

I. Introduction and Background

As property owners of both 687 Southfield Road and 692 Frank Street we ask for a variance to the strict application of the provision of the Zoning Ordinance as it applies to the combination of these lots and structures secondary to practical difficulties and a hardship due to the location of current structures, the setback designation and configuration of those structures on each lot. Our family loves the Birmingham area and loves the proximity to town, the neighborhood and it's families. Since construction of our current home on 687 Southfield Road, we have had children and want to provide a safe area of play for them away from the busy Frank and Southfield roads as well as be able to enjoy the outdoors in the form of a backyard at our home. We purchased the home next door at 692 Frank Street to help provide a solution to have our children and their friends have space for free play inside and in the backyard space as well. Unfortunately, there is an unanticipated rear setback that we did not consider that currently will not allow the continuance of the current home structure with our purchase of the structures on the 692 Frank Street lot. The structure that is in existence is in good structural shape but is and has been in need of maintenance and upkeep for some time. It would be of great use to our family as a play area for our children, as well as those of our friends and neighbors. The current structure is ideal for reuse and would meet the needs of our family and have positive impact on our neighbors which support the project.

Our goal is to attach the current structure with our home making it a contiguous visually appealing structure, reusing the building that exists and improving the neighborhood without any impact to our neighbors or their property, since no new structure would be encroaching on any neighbor setback. We wish to provide the following information to help clarify our position in regards to the hardship:

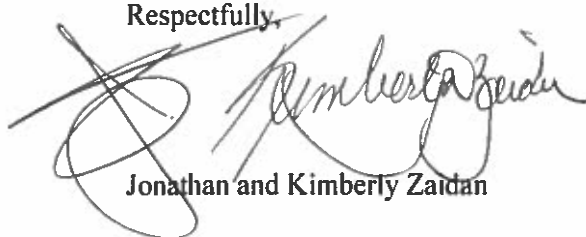
1. As a result of the front yard designation of our home on 687 Southfield Road, the proposed combination of the lots would designate the rear setback in a location that would require destruction of the current structure on 692 Frank Street which was built in the spirit of the zoning to have a side yard setback requirement. Our efforts expand our commitment to the neighborhood by adding additional garage space and comfort areas, consistent with that of the surrounding homes, and by creating a standard green backyard area which we do not have in our current home. We are compelled to reuse a currently functional and mechanically sound structure, especially since the reuse will not involve any change or additional setback

infringement other than what has been in existence for years and would continue if our proposed plan was not approved. Demolition of the current structure is not sensible and results in a financial hardship as the structure itself retains too much infrastructural value for wasteful destruction. Our plan would reuse this structure for a permitted single family residential application with contiguous flow between the structures through the garage and second floor. It would also add to the cosmetic appeal to the neighborhood and is desired by the neighbors adjacent, behind and across the street from the proposed project.

2. If the literal enforcement of the chapter were upheld, as property owners we would have an unnecessary hardship since the proposed new set back would not allow for much of an addition and despite complying to the lot coverage ratios we would be forced to provide destruction of a structure that has intrinsic value for reuse.
3. We have neighborhood support and the structure on the 692 Frank Street lot currently exists. The new rear setback variance proposal is consistent with what is now in existence. From a visual and usage sense, the side setback distance that is currently in place on the structure of 692 Frank street is similar to all other properties on Frank Street and in the neighborhood. Therefore, we believe that granting of the variance allowing reuse and lot combination is not contrary to the spirit and purpose of the zoning. Also, there would be no impact on public health, safety or welfare as a result of the proposed lot combination.
4. The granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public as it allows for cosmetic improvement and reuse of an existing currently functional and mechanically sound structure alleviating the need for destruction while maintaining curb appeal. It also combines and limits the curb cuts for automobile ingress and egress at a corner lot to one as opposed to two increasing the quaint neighborhood feel while improving public safety.

In summary, we appreciate the consideration for variance to the standard Zoning Ordinance to allow us to utilize the existing conditions of our adjacent lot while improving the use and curb appeal of the existing structure without any negative impact to our neighbors or the community which we enjoy and choose to maintain as our residence.

Respectfully,

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, cursive 'J' followed by 'Zaidan'. The signature on the right is a more flowing cursive script, also appearing to be 'Jonathan Zaidan'. Below the signatures, the names 'Jonathan and Kimberly Zaidan' are printed in a standard black font.

Jonathan and Kimberly Zaidan

1 This Property Presents a Unique Circumstance

This proposed project is encumbered by a unique condition that causes the assembled east parcel to become functionally obsolete when applying the literal setbacks as indicated by the building department.

This condition is unlikely to occur again within the city. The uniqueness of this situation stems from the fact that the structure that is being connected to 687 Southfield already complies with all zoning dimensional codes, yet upon connection, a violation occurs based on the literal interpretation of the zoning code. The setback violation is NOT caused by the design, layout, size, height, styling or use...it is caused solely from a redefinition of "side" to "rear" by the administration. This is a reasonable interpretation; however, we have found ourselves in a special situation that requires the common sense action of a zoning board. It is the change from "side" to "rear" that diminishes the applicant's rights by causing functional obsolescence of the acquired land, and simultaneously, the setback increase on the east is completely unnecessary to protect neighbor's rights, as no impacts or even changes occur regarding the location of the decades old compliant easterly structure.

2. Granting this Variance is Consistent with the Spirit and Intent of the Ordinance.

A literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. The variances requested are the minimum relief required to the fulfillment of the rights of the applicant. In fact, the variance request is driven solely by the existing compliant location of the structure on the easterly parcel. The applicant is proposing NO non-setback-compliant construction in any direction and would require no variances if the definition of "side" and rear" were left as they exist today. We understand the rationale of the administration's reorganization of the setbacks and are asking that the appeal board understand the applicant's point of view that these are the minimal variances that both allow the applicant fair use of the property, impose no harm to the adjacent parcels and uphold the purpose and intent of the law.

3. The Special Conditions and Circumstances Do Not Result from the Actions of the Applicant.

This request should not be construed as an applicant-caused action. In fact, as mentioned previously, the assemblage of the parcels along with a strict interpretation of code (redefinition of existing setbacks by the building department, not the applicant) creates functional obsolescence of the acquired parcel.

4. The Granting of Variance Will be in Harmony with the General Purpose and Intent of this Ordinance

The rhythm, spacing and massing of structures along Frank Street will be abruptly interrupted creating a 40' gap if this variance is not granted, which is not in the spirit of good urban planning nor the intent of the zoning code. A 40' gap is not required for the adjacent neighbor's enjoyment, safety or maintenance of their own property. Granting these variances, on the other hand, secures the general purpose of the code and maintains harmony with the spatial aesthetics of the immediate neighborhood.

5. The Variance will not be Injurious to the Neighborhood or Otherwise Detrimental to the General Welfare

No condition brought about by these two variances impedes or encroaches physically towards any of the adjacent properties. A single family residence of this size is not uncommon in the neighborhood and the design pays strict attention to maintaining the scalar qualities of the neighborhood. Not granting the variance actually impacts the neighborhood negatively by requiring a 40' "void" between homes that are,

in this very large cohesive part of town, 15' apart. This 15' spacing is a major ingredient in the character and sense of place of that neighborhood in Birmingham.

6. The Spirit of this Ordinance Shall be Observed, Public Safety Secured and Substantial Justice Done.

About 15 years ago, the applicant constructed an addition to 687 Southfield Rd (as it stands today) maintaining the entire foundation, many of the exterior walls and the floor structure and did so precisely within the original home's styling and detailing. Today, as the family grows, the strategy of assembling parcels and joining structures to create an addition is the most logical solution for the applicant. This strategy has no detriment on public safety, conserves resources through reuse, protects the rights of the neighbors regarding distance between structures and returns the rights of the applicant to utilize the coverage granted by law. Without the variances, the allowable coverage would be impossible to utilize and an addition in the literal building envelope would be bizarre and of a useless proportion. It is in fairness to the applicant and the very spirit of the code, that in our opinion, these variances allow this project to comply.

Combination of lots 687 Southfield and 692 Frank Street Birmingham Michigan

As neighbors, we have been made aware of the proposed project to combine the adjacent lots commonly known as 687 Southfield and 692 Frank Street. We understand that a variance is required and support the project as it will not provide any negative impact to us as adjacent residents. It will also benefit us by improving the current structure and provide less traffic near the corner of the street with *only one residence and curb cut as opposed to two*. Many homes on our street have combined lots and the visualization of this combination will look similar even though the variance is required due to the corner lot designation of the 687 Southfield address. We find the project to be an aesthetically appealing addition to our neighborhood based on our review of the architectural renderings. Our signature signifies our support to the project.

Steve Templeton

Printed Name



Signature

682 Frank St

Combination of lots 687 Southfield and 692 Frank Street Birmingham Michigan

As neighbors, we have been made aware of the proposed project to combine the adjacent lots commonly known as 687 Southfield and 692 Frank Street. We understand that a variance is required and support the project as it will not provide any negative impact to us as adjacent residents. It will also benefit us by improving the current structure and provide less traffic near the corner of the street with only one residence and curb cut as opposed to two. Many homes on our street have combined lots and the visualization of this combination will look similar even though the variance is required due to the corner lot designation of the 687 Southfield address. We find the project to be an aesthetically appealing addition to our neighborhood based on our review of the architectural renderings. Our signature signifies our support to the project.

Leigh Beith Lyl Buck

Printed Name

Signature

743 Frank St

Combination of lots 687 Southfield and 692 Frank Street Birmingham Michigan

As neighbors, we have been made aware of the proposed project to combine the adjacent lots commonly known as 687 Southfield and 692 Frank Street. We understand that a variance is required and support the project as it will not provide any negative impact to us as adjacent residents. It will also benefit us by improving the current structure and provide less traffic near the corner of the street with only one residence and curb cut as opposed to two. Many homes on our street have combined lots and the visualization of this combination will look similar even though the variance is required due to the corner lot designation of the 687 Southfield address. We find the project to be an aesthetically appealing addition to our neighborhood based on our review of the architectural renderings. Our signature signifies our support to the project.

DOUG CHEESMAN

Printed Name

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke at the end.

Signature

685 Southfield

Combination of lots 687 Southfield and 692 Frank Street Birmingham Michigan

As neighbors, we have been made aware of the proposed project to combine the adjacent lots commonly known as 687 Southfield and 692 Frank Street. We understand that a variance is required and support the project as it will not provide any negative impact to us as adjacent residents. It will also benefit us by improving the current structure and provide less traffic near the corner of the street with only one residence and curb cut as opposed to two. Many homes on our street have combined lots and the visualization of this combination will look similar even though the variance is required due to the corner lot designation of the 687 Southfield address. We find the project to be an aesthetically appealing addition to our neighborhood based on our review of the architectural renderings. Our signature signifies our support to the project.

Alicia Kieninger

Printed Name



Signature

691 Frank St

Application Date: 5-14-15

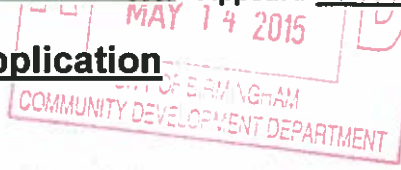


Hearing Date: 6-9-15

Received By: BM

Appeal # 15-13

Board of Zoning Appeals Application



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

Property Information:

Street address: <u>1950 Holland</u>	Sidwell Number:
Owners name: <u>LRH Homes</u>	Phone #: <u>586-557-5286</u>
Owners address: <u>13636 Chippineway</u>	Email: <u>Piccarillo@gmail.com</u>
City: State: <u>Shelby Twp MI</u>	Zip code: <u>48315</u>
Contact person: <u>Lou Piccarillo</u>	Phone #: <u>586-557-5286</u>

Petitioner Information:

Petitioner name: <u>Louis Piccarillo</u>	Phone #: <u>586-557-5286</u>
Petitioner address: <u>13636 Chippineway</u>	Email: <u>Piccarillo@gmail.com</u>
City: <u>Shelby</u> State: <u>MI</u>	Zip Code: <u>48315</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'

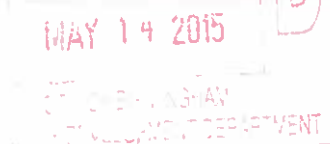
By signing this application I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: [Signature]

Date: 5/10/15

CITY OF BIRMINGHAM
Date: 05/14/2015 2:54:54
Ref: 5868174
Received: 261760
Amount: 360.00

PAVE ST. TO LOU.
Brd.



118/74

Letter of Hardship
(1950 Holland St)

Please let the following letter stand as a request for a dimensional variance at 1950 Holland street. We feel that the unique conditions of this project would lend itself to approving a dimensional variance. The variance we are asking for is because the house to the west of us is not in compliance with the minimum side yard set back of 5' they are at 4.05ft. We can maintain a distance of 13.05ft between structures. As a result we are asking for a .95ft dimensional variance only on west side of home.

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 land, structures or buildings in the same district.

The proposed home will conform to all set back and dimensional requirements set by the city of Birmingham, but because the existing home on the west side of 1950 Holland does not conform it makes it difficult for us to maintain proper side yard set backs (see submitted documents).

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 minimum necessary.

On a typical 40' wide lot a 26' wide home could be constructed as has been done thru out the city . In an effort to make it easier on the adjacent homes to conform if they were to be demolished and rebuilt. We have down sized this home to 24'-4in.

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

These special conditions are not the result of anything that we have created. It is a result of the adjacent home being constructed prior to the current regulations and ordinances. The home constructed to the west (1936 Holland) of us is build only 4.05ft to side property line.

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

Granting this variance would be consistent with the purpose of the present requirements and standards adopted by the city of Birmingham and its legislative body. We will be in compliance with all property line set back requirements. The west side would maintain the 9ft side yard set back and the east side would have a 6.20 side yard set back and the 14ft set back to structure.

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

By granting this variance it would not have any negative or detrimental effect to any of the adjacent properties. If the adjacent properties were to be reconstructed they could easily maintain all set back requirements. In fact it will only increase the value of the surrounding properties.

In conclusion because of condition beyond our control this has created a hardship for us that we are asking the board members to relieve us of.

Sincerely Louis Piccariello
(LRH Homes)

Application Date: 5-14-15Hearing Date: 6-09-15Received By: BM.Appeal # 15-14

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>1179 N GLENHURST</u>	Sidwell Number:
Owners name: <u>TIMOTHY COOPER</u>	Phone #: <u>248-854-9235</u>
Owners address: <u>1179 N GLENHURST</u>	Email:
City: State: <u>BIRMINGHAM MI</u>	Zip code: <u>48009</u>
Contact person: <u>PIETRO D'ALEO</u>	Phone #: <u>248-852-7702</u>

Petitioner Information:

Petitioner name: <u>PIETRO D'ALEO</u>	Phone #: <u>248-852-7702</u>
Petitioner address: <u>1055 SOUTH BLVD EAST</u>	Email: <u>PETER@DAUNAA330C.COM</u>
City: <u>ROCHESTER HILLS</u> State: <u>MI</u>	Zip Code: <u>48307</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'
-------------------------	-----------------	-----------------	-----------------	--------------------------

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: 5/14/15

CITY OF BIRMINGHAM
 Date: 5/14/2015 4:31:27
 Ref: 018191
 Rece: 0261781
 Amount: \$360.00

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
 6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
 7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
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 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
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- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.



May 11, 2015

Zoning Board of Appeal
City of Birmingham

RE: 1179 Glenhurst,
Birmingham, MI

Sir/Miss,

The following points correlate to the application for dimensional variance, for the renovation of the structure at the foregoing address, and serve as a basis for consideration and applicability thereof as it relates to compliance with the side setback limitation of thirty (30) feet. We hereby assert that:

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.

Firstly, the imposition of the setback attained as a function of the average lot widths - specifically twenty five percent (25%) thereof, in accord with the ordinance, deems the existing structure, as it exists, in violation with the ordinance which was conceived and enforced *after* its erection and, as a result, it encroaches on the building separation distance limit by 4.09'. As a result of the proximate lot line oriented at an angle which diminishes frontage with projections toward the street, an extension of the garage façade into the *front* yard will yield an encroachment of 4.29'. A .20' difference between the existing and the future encroachments is proposed.

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:

Second, the decrease in dimension between the subject and adjacent structures will have a negligible effect of appearance and the apparent intent of the ordinance as it applies to side setbacks would not be further violated but, conversely, its enforcement in this case, would deny the applicant the ability to renovate and expand his home in the same manner some of his neighbors in the community would.

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

Third, the encroachment of his existing home was not the result of the applicant's actions.

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

Fourth, analogous with the second point, the granting of a variance will be in harmony with the general purpose and intent of the ordinance as it is a projection forth, at the first level, which is being undertaken in the renovation and will thus remain within the front setback limit.



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

- and -

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

Fifth, because of the negligible effect on the side setback as a result of the renovation, the variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare. Contrarily, the renovation seeks to beautify the structure and, resultantly, the neighborhood which is in the ultimate spirit of the ordinance. Public safety will remain secured, and substantial justice done.

This letter serves as points in consideration for the approval of a variance as described. A site plan depicting the subject encroachment accompanies this correspondence for your reference. If there are any questions or concerns that you may have, feel free to contact us.

Thank you,
Pietro D'Aleo, RA



Application Date: 5-15-15



Hearing Date: 6-9-15

Received By: BM

Appeal # 15-15

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>1307 WEBSTER</u>	Sidwell Number: _____
Owners name: <u>DJL 3, LLC (Dan Lynch)</u>	Phone #: <u>248-361-8226</u>
Owners address: <u>23849 Forest Park</u>	Email: <u>dan@lynchcustomhomes.com</u>
City: State: <u>NOVI MI</u>	Zip code: <u>48374</u>
Contact person: <u>Dan Lynch</u>	Phone #: <u>248-361-8226</u>

Petitioner Information:

Petitioner name: <u>Dan Lynch</u>	Phone #: <u>248 361 8226</u>
Petitioner address: <u>23849 Forest Park</u>	Email: <u>dan@lynchcustomhomes.com</u>
City: <u>NOVI</u> State: <u>MI</u>	Zip Code: <u>48374</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] for DJL 3, LLC Date: 5/6/15

Copy signed to Dan.
BM.

110238

CITY OF BIRMINGHAM
Date: 05/15/2015 11:45:44 AM
Ref: 0018238
Received: 05/15/2015
Amount: \$360.00

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
 6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
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- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.

5/14/15

To the Zoning Board of Appeals and whom it may concern,

This letter's purpose is to explain a request for a dimensional variance. My name is Dan Lynch; a company I own is the owner of 1307 Webster. 1307 Webster is a 115'x40' lot with a small crawl space ranch we intend to demolish and build a new home with 2 car detached garage. While placing our 26' wide home design on the 40' wide lot our surveyor, Dekeyser Surveying, notified us of an issue regarding the size of the allowable building envelope.

Findings:

1307 Webster is currently set as a Right Hand Driveway
1301 Webster (Neighbor to the West) is a Left Hand Driveway
Structure is 4.61' off property line
1333 Webster (Neighbor to the East) is a Right Hand Driveway
Structure is 5.12' off property line

Calculations:

Building Envelope width reduced to 21.61' in order to meet ordinances
Our original home design, which can be built on the vast majority of lots in this district, was 4.39' too wide.

This variance request is to ask permission to build our home by reducing the width to 24'6". This would require a dimensional variance of 2.73' on the Eastern side of the building envelope reducing the distance between structures from 14' to 11.27'. There will be 14' between our new home and the neighbor to the West whom is currently non-conforming with a distance from structure to property line of 4.61'.

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.
 - a. 1307's unique situation is it's location between two homes with opposite driveway orientations, one on the right and one on the left. Other situations similar to this may exist elsewhere in this area of Birmingham but is unusual and rare.
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.
 - a. 40' wide lots normally have a 26' building envelope. The lots in this district, under normal circumstances, including every other lot located on Webster do have the ability to build 26' wide or wider. The unique situation of 1307 deprives us the same right.
3. Special conditions and circumstances do not result from the actions of the applicant.

LYNCH | CUSTOM HOMES

- a. The unique orientation of the neighboring driveways causing this circumstance was decided at the time the neighborhood was originally developed.
4. The granting of the variance will be in harmony with the general purpose and intent of this ordinance.
 - a. Several options were considered a few key points were considered.
 - i. Switch the driveway on 1307 from the right to the left.
 1. Will require only one (1) variance
 2. The Eastern Neighbor has recently been re-built, the Western neighbor is still the original home. Switching 1307's drive to the West will allow the Western neighbor the ability to have a full size building envelope when it comes time to rebuild.
 - ii. Shrink the home to 24'6" from 26' to maintain as much space between the structure and Eastern property line.
 - iii. Maintain compliance with all other Dimensional Ordinances.
5. The Variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
 - a. In an effort to maintain the harmony of area and to minimize the effect of the variance on the surrounding area we have proposed to only ask for a reasonable width building envelope to build a home, 24'6". By switching the driveway to the (West side), which is the side of the older home, and complying with the ordinance on this side we are impeding only on the side of one neighboring lot.
6. The spirit of this ordinance shall be observed, public safety secured and substantial justice done.
 - a. If approved, this variance will have no effect on Public Safety.
 - b. Because of the unusual situation, our compromise to reduce the home's width as much as possible to 24'6", and to make accommodations to plan as well as possible for the future should uphold the ZBA's reputation as one not to be one of easy approvals.

Thanks for your time. Again, please never hesitate to contact me with questions or concerns. Thanks a ton!

Dan Lynch



dan@lynchcustomhomes.com

248-361-8226

Custom Homes and Residential Transformations

248-361-8226 • Dan@LynchCustomHomes.com • 23849 Forest Park Novi, MI 48374 • LynchCustomHomes.com

Application Date: 5-15-15



Hearing Date: 6-9-15

Received By: BM

Appeal # 15-16

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>536 Park Street</u>	Sidwell Number:
Owners name: <u>Peter Thierry</u>	Phone #: <u>248 565 7023</u>
Owners address: <u>3219 Camden Drive</u>	Email: <u>peter.thierry@thierry-corp.com</u>
City: State: <u>Troy Michigan</u>	Zip code: <u>48084</u>
Contact person:	Phone #:

Petitioner Information:

Petitioner name: <u>Gregory N. Mason - Architect</u>	Phone #: <u>810 241 6917</u>
Petitioner address: <u>5345 Genesee Rd.</u>	Email: <u>mason.gregory@sbccglobal.net</u>
City: <u>Grand Blanc</u> State: <u>Michigan</u>	Zip Code: <u>48439</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
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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: Peter Thierry Date: 05/14/15

CITY OF BIRMINGHAM
Date: 5/15/2015 2:15:28 PM
Ref: 15-16
Received: 5/15/2015
Amount: \$360.00

NEEDS SIGN
Called 5-15-15 4:35 PM
BM

118244

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
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Gregory N. Mason A.I.A.

Gregory N. Mason A.I.A.
5345 Genesee Road
Grand Blanc, MI 48439

Telephone (810) 695 - 8048
Email masongregory@sbcglobal.net

May 14, 2015

City of Birmingham
Zoning Board of Appeals
536 Park Street

This letter will serve as a formal request for the following variances for 536 Park Street located in the R2 Zoning District:

- A. *Variance One* (1.27% Lot Coverage Variance): Reduce current non-conformity of 35.0% lot coverage down to 31.27% with replacement of an existing garage and carport with a new 2 car garage. This would require a 1.27% variance from the 30% maximum lot coverage permitted.
 - B. *Variance Two* (1.2 ft. side yard setback variance): Permit new first floor construction 3.8 ft. from side lot line. This is a 1.2 ft. variance from the required 5.0 ft. setback requirement and would match the existing 2nd floor construction above.
 - C. *Variance Three* (5.0 ft. foot front yard setback variance): Permit new first floor construction at 16.8 ft. from front lot line. This is a 5.0 ft. variance from the 21.8 ft. setback and would match the existing 2nd floor construction above.
 - D. *Variance Four* (2.35 ft. foot front yard setback variance): Permit reconstruction of existing porch in its current position with new steps to 9.45 ft. from front lot line. This is a 2.35 ft. variance from the 21.8 ft. setback.
- 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 existing home was originally built in 1926 and presumably was constructed in compliance with the building requirements of its day. The existing site is also below the minimum size lot of 6,000 s.f. required under the current zoning. The smaller lot contributes to the hardship since our coverage would be in compliance if our lot was the minimum size. Variance One is required to replace an existing 382 s.f. single car garage and 337 s.f. carport with a new 616 s.f. two car garage (includes 75 s.f. stair bonus). This proposal brings down the current lot coverage nonconformity from 35.0% to 31.27% and eliminates a nonconforming 2.4 ft. side yard setback. It should also be noted that our improvements brings the site back in compliance with the 40% open space requirement. Without this variance the Owner would not be permitted to construct a two car garage with adequate width for the Owners two vehicles and yard maintenance equipment. This would deny the Owner a typical accessory structure found with many of the existing homes in the neighborhood.

Variance Two and Three would allow the Owner to expand it current foyer by 8.6 s.f. The foyer expansion is an infill below the second floor cantilevered construction and would match the existing front and side yard setbacks currently constructed with the second level.

Variance Four is required to reconstruct the existing porch in its present position with the addition of new steps. The variance would permit the Owner to reconstruct the existing porch to a higher elevation matching the existing homes first finish floor elevation and is proposed to be reconstructed in its current position with reuse of the existing foundations. The variance is necessary to construct the new steps.

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 existing home originally built in 1926 does not comply with current zoning regulations. Our proposal under this variance request would reduce current lot coverage nonconformity, correct garage setback nonconformity, and correct open space nonconformity. The front and side yard variance request are necessary due to current nonconformity as originally constructed and the proposed improvements will not exceed current 2nd floor setbacks as constructed. The maximum lot coverage requirement would prohibit the Owner from constructing a two car garage found prevalent in the local community among homes of equivalent size.

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

The existing home built in 1926 is nonconforming with the maximum lot coverage permitted and both front and side yard building setbacks. The proposed improvement will lower the lot coverage nonconformity and will respect current front and side yard setbacks.

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

The proposed new garage would replace the existing carport providing a safer environment and more aesthetically pleasing appearance for storage of the Owners vehicles and lawn tools/equipment. The proposed improvements to the front of the home are intended to improve the front entrance appearance with new exterior finishes and new landscaping.

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

The proposed two car garage will provide a safer more secure facility for storage of the Owners vehicles and lawn tools as opposed to the existing carport structure and single car garage. The existing front and side building setbacks as constructed will be maintained.

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

Our proposal will reduce existing non-conforming lot coverage and correct a non-conforming side yard setback. Existing front and side yard setbacks will be maintained. The Owner will be permitted to construct a two car garage consistent with most of the homes in the neighborhood.

Given the restrictions and nonconformity inherent with the existing 1926 home we are confident that this variance board will see our good faith effort to upgrade and improve the home in the spirit of the ordinance. Our improvements will correct and improve some of the existing nonconforming construction while providing the Owner with the improvement's desired. In a spirit of good faith the Owner has dropped other desired improvement found through consultation with the City's staff to be in conflict with the ordinance leaving the higher priority items to be considered.

Thank you for your consideration of our request.

Sincerely,

Gregory N. Mason

Gregory N. Mason AIA
Architect

CERTIFICATE OF SURVEY

RESIDENTIAL PLOT PLAN

Prepared For: Peter Thierry
c/o Thierry Corp
4319 Normandy Ct.
Royal Oak, Mi 48073

LEGAL DESCRIPTION OF PROPERTY:

Lot 85, EXCEPT that part taken for highway, OAKGROVE ADDITION, a Subdivision of part of the S½ of Section 25, T2N-R10E, CITY OF BIRMINGHAM, Oakland County, Michigan. Plat recorded LIBER 7, PAGE 4, O.C.R. SUBJECT to EASEMENTS and RESTRICTIONS of record, if any.

BENCH MARK: Elevation 769.14 City of Birmingham Datum
Rim on Manhole for 8in. Sanitary Sewer located in Park Ave. in front of Lot 72. Information taken from as built sewer plans on file at City Hall

TREES

- 1 5in Locust
- 2 5in Locust
- 3 5in Locust
- 4 6in Magnolia
- 5 20in Maple
- 6 20in Maple

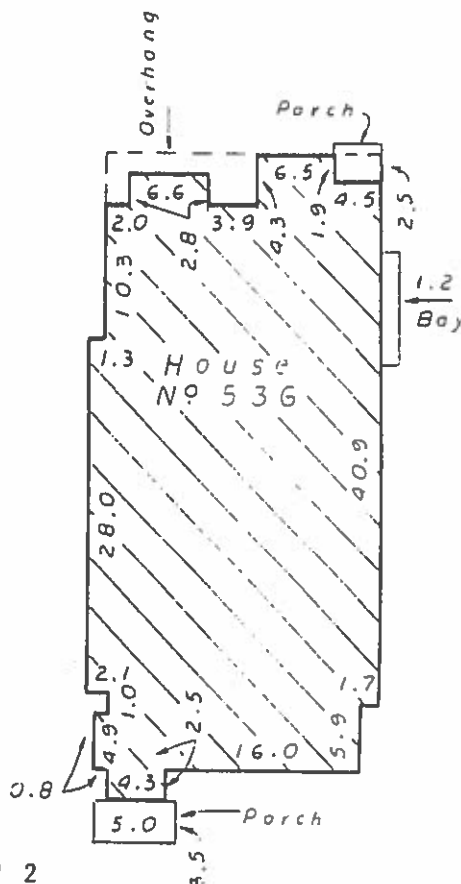
SET-BACKS TO PARK ST.

House No. 490 Park	32.0 ft.
500	24.5
510	27.5
520	25.5
528	18.5 (to 2nd Story Overhang)
Subject Property	
544	18.9 (to 2nd Story Overhang)
552	15.2
556	13.8 (to 2nd Story Overhang)
576	20.5 (to 2nd Story Bay)
TOTAL	196.4
AVERAGE SET-BACK	21.8 ft.

Lot Area 5432.6 Sq.Ft. ±
House 1158 Sq.Ft. ±
Garage 381.5
Car-port 337.4
Existing Coverage 34.55 %

HOUSE DETAIL →

No Scale



SEE DETAIL OF PROPERTY ON SHEET 2

SHEET 1 of 2

I HEREBY CERTIFY that I have surveyed and mapped the property herein described; and that said survey was performed with a relative error of closure of no greater than 1 in 5000 and that all the requirements of P.A. 132, 1970 have been complied with.

Revised 4/3/15

Revised 6/18/14

Feb. 14, 2013

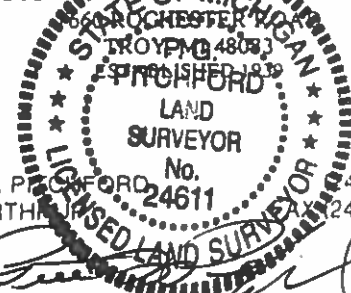
ORDER No 190411 DATE

BY:

GUARANTY SURVEY CO.

REGISTERED LAND SURVEYORS

PETER G. PITCHFORD No. 24611 (48) 528-1211
TOM NORTH No. 24612 (48) 528-1211



Application Date: 5-15-15



Hearing Date: 6-9-15

Received By: BM

Appeal # 15-17

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>607 Stanley Blvd.</u>	Sidwell Number: <u>19-36-176-009</u>
Owners name: <u>Karen Asadourian</u>	Phone #: <u>765 271-0138</u>
Owners address: <u>607 Stanley Blvd.</u>	Email: <u>karenasadourian@gmail.com</u>
City: State: <u>Birmingham, MI</u>	Zip code: <u>48009</u>
Contact person: <u>Karen Asadourian</u>	Phone #: <u>765 271-0138</u>

Petitioner Information:

Petitioner name: <u>Karen Asadourian</u>	Phone #: <u>765 271-0138</u>
Petitioner address: <u>607 Stanley Blvd.</u>	Email: <u>karenasadourian@gmail.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
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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: 5/15/2015

CITY OF BIRMINGHAM
Date: 5/15/2015 2:41:49 PM
Ref: 018247
Received: 261980
Amount: 360.00

118247

City of Birmingham
Board of Zoning Appeals
Attention: Bruce Johnson, Building Official
151 Martin Street
Birmingham, MI 48009

RE: 607 Stanley Boulevard, Birmingham, MI; Parcel No. 19-36-176-009 (the "Property")

Dear City of Birmingham Board of Zoning Appeals Members,

As the owner of the Property, I am submitting a Board of Zoning Appeals application dated May 15, 2015. Please accept the following information as a supplement to the Zoning Board of Appeals Application for non-use or dimensional variances. I am requesting that the Board of Zoning Appeals grant relief from the strict application of the City of Birmingham Zoning Ordinances due to the practical difficulties that exist at the Property.

Introduction:

Application is made to the Board of Zoning Appeals in support of my request to renovate the Property. The Property is zoned R3. Chapter 126, Article 2, Section 2.10 requires:

- Minimum Side Yard Setback of 9 feet or 10% of total lot width whichever is larger for one side yard, 14 feet or 25% total lot width whichever is larger for both sides and that no side yard should be less than 5 feet. The north side yard is currently 1.44 feet with 1.44 feet proposed and the south side yard is currently 11.87 feet with 11.87 feet proposed; the combined side yard setback is therefore 13.31 feet currently with 13.31 feet proposed.
- Minimum Combined Front and Rear Setback of 55 feet with 45.40 feet existing and 45.40 feet proposed
- Maximum Lot Coverage of 30% with 36.73% existing and 37.04% proposed

Chapter 126, Article 4, Section 4.30, Subsection C2 (Projections into Required Open Space) requires:

- Roof overhangs, cornices, eaves, gutters, lintels, planter boxes, chimneys, bay windows and similar projections may extend or project into a required open space not more than 2 inches for each 1 foot of width of such required open space provided that such extensions may not project more than 2 feet into the front or rear open space, except as provided elsewhere in this Article. Thus, the ordinance allows the overhang to project 10 inches into the required setback. Currently the overhang encroaches over the property line. The proposal is an overhang of 16 inches.

Background:

Application is made to the Board of Zoning Appeals in support of my request to renovate the Property. This petition concerns the renovation of an existing home that has been located in Birmingham since 1923. This home is not designated as a historical structure in Birmingham. Based on the Oakland County records, the platting was done in 1925, 2 years after the original house was constructed. The lot size and dimensions have not changed since the original platting. The lot size is 4,185 square feet and unique in shape. The lot is recorded as spanning 40 feet across the front of the house (west side) and recorded as 48.5 feet across the back of the lot (east side) – in other words it is shaped like an "L." The property extends from 40 to 48.5 feet on the north side of the property at 56

feet when measured from the northwest corner to the point at which the lot size increases to 48.5 feet. The lot is recorded as 96.00 feet deep (i.e. from east to west). The lot was originally platted as 4,185 and is therefore substandard by today's 4,500 square foot minimum requirement.

As previously indicated, the original home was built in 1923 and remains in the same location on the lot. This structure received a variance in 1985 for a renovation (an addition to the existing first floor) and approval was given for this renovation by the Board of Zoning Appeals on January 22, 1985. In 1985, the only variances requested for the renovation were related to the side yard setback and overhang; the other zoning ordinances mentioned above do not appear to have existed in the 1985 zoning ordinance. Also in 1985, an official survey was not required. The submitted lot plan indicated that the existing structure was 2.6 feet from the property line on the north side.

607 Stanley Blvd. was listed for sale on 1/27/2014. The existing property is a ranch home with one bedroom. The existing house only has two total closets in the entire house – a coat closet that measures 5 feet x 2 feet and one closet in the bedroom that measures 4.5 feet x 2 feet. The front door is currently unusable because the front porch does not have stairs to the ground level. Therefore, my original plan for this property from my initial review of the listing was to renovate the existing structure to add a full 2nd story. The planned renovation was based on keeping the basement, foundation and existing 1st floor footprint and I was very interested in maintaining the character and charm of the 1920's home. I had two builders review the property on-site before an offer was even submitted to make sure that we could use the existing basement, foundation and 1st floor. The property was also reviewed based on the details supplied by the seller's agent and the seller (per her disclosure). I also reviewed the house on-site several times before submitting an offer. The seller's agent indicated that the lot was 43 feet wide in the front and the seller's disclosure indicated that there were NO zoning violations (the choices on the disclosure are yes, no or unknown). Furthermore, the listing photos showed landscaping across the front of the house with a white picket fence and a white arbor that was attached to the picket fence. This landscaping stretches the width of the lot up to the Property's driveway. The brick pavers that are used on the driveway for 607 Stanley are used throughout the front of the house and extend up to the driveway for 587 Stanley Blvd (the home to the north of the Property). The brick paver variety is unique to 607 Stanley and not used elsewhere at 587 Stanley Blvd. Please refer to the Appendix, Exhibits 1-3 for photographs of this landscaping. Based on the seller's disclosure, information from the seller and a review of the property there did not appear to be any zoning issues so I submitted an offer and signed a purchase agreement with the seller. The mortgage company did not require a survey of the property prior to closing. Following closing, an official survey of the property was performed to support the permit application to the City of Birmingham. It was at this point 5/31/2014 that I discovered the zoning violations with the existing Property.

The house to the north of the Property (587 Stanley Blvd.) is designated as a historical structure in Birmingham. The Property and 587 Stanley Blvd. are separated by 21.9 feet. Due to the shape of the lot (another "L" shape) for 587 Stanley Blvd. and the location of the house and garage, the area between the properties that is just north of the property line is landscaping. Since 587 Stanley Blvd. is designated historic, limited changes will be allowed so it is reasonable to assume that the house and garage will not be approved for significant changes. Thus, we expect these two homes to continue to be separated by 21.9 feet.

The Property is zoned R3, is located in a fully developed and established single family residential subdivision and cannot be used for any other purpose than a single family residence. Without the benefit of this dimensional variance relief, the property simply cannot be used as a single family residence based on today's standards. This is based on the current level of standard in our

neighborhood and based on what other homeowners in our neighborhood are enjoying – from the size of the home to the amenities.

I started working with the City of Birmingham Building Department in early June 2014 when we submitted the permit request. My builder and I have met with the Birmingham Building Department several times over the past year to diligently work on the plans, identify ways to mitigate the situation and determine the best potential solution to the existing problems. The only way to truly resolve the existing non-conformities is to increase the size of the lot and at the same time eliminate the side setback issue on the north. Therefore, I approached the property owner of 587 Stanley Blvd. and offered to purchase a portion of his lot – basically 3.6 feet wide and 56.1 feet deep. The property that I offered to buy is currently landscaping rocks, mulch and shrubs. Please refer to the Appendix, Exhibit 4. There is limited use for portion of 587 Stanley Blvd. that I offered to purchase because of the shape of the lot, existing location of the garage/driveway and house and the fact that this property is historical. However, the property owner was planning on listing his house in December 2014 and was concerned about the impact on the value. Therefore, he decided that he would have his realtor negotiate with me directly. After several attempts to contact the realtor and several requests to meet with her to share the survey and construction drawings I finally spoke with her on the phone. She would not accept my request to meet and she was not interested in reviewing neither the survey nor the drawings. She told me that she was acting on behalf of the home owner and would not be interested in selling a portion of the lot. I then asked her if she would at least consider an easement to allow for me to maintain my home properly and she again indicated that she would not even consider an easement. She felt that this would negatively impact the value of the home. I explained that several other realtors felt that this easement would not impact the value and in fact these renovations would only increase the value of her client's home but she declined to even entertain the possibility of an easement. Unfortunately, this has left me with limited options to eliminate issues with the existing structure.

Dimensional Variance:

I am requesting that the Board of Zoning Appeals grant a dimensional variance from the lot coverage, front and rear combined setback and side setback based on a demonstrable "practical difficulty" imposed by the zoning ordinances. I am specifically asking for the following dimensional variances that are all required by Article 2, Section 2.10:

- Minimum Side Yard Setback of 9 feet for one side yard, 14 feet for both sides and that no side yard should be less than 5 feet. The north side yard is currently 1.44 feet with 1.44 feet proposed. Therefore a variance of 3.56 feet is requested. The combined side yard setback is currently 13.31 feet with 13.31 feet proposed; therefore, a variance of 0.69 feet is requested.
- Minimum Combined Front and Rear Setback of 55 feet with 45.40 feet existing and 45.40 feet proposed. A variance of 9.60 feet is requested.
- Maximum Lot Coverage of 30% with 36.73% existing and 37.04% proposed. A variance of 7.04% is requested.

I am also requesting the following dimension variance that is required by Article 4, Section 4.30, Subsection C2 (Projections into Required Open Space):

- Roof overhangs, cornices, eaves, gutters, lintels, planter boxes, chimneys, bay windows and similar projections may extend or project into a required open space not more than 2 inches for each 1 foot of width of such required open space provided that such extensions may not project more than 2 feet into the front or rear open space, except as provided elsewhere in this Article.

Thus, the ordinance allows the overhang to project 10 inches into the required setback. Currently the overhang encroaches over the property line. The proposal is an overhang of 16 inches. A variance of 4.06 feet is requested.

1. There are special or unique conditions and circumstances to the Property which are peculiar to the land and building involved.

The practical difficulty is the existing non-conforming nature of the footprint. The existing structure is non-conforming as noted above. The dimensional variances requested will not change the existing setbacks of the Property. The house will remain where it has been for nearly 100 years. The 1985 dimensional variance (granted on January 22, 1985) accomplished essentially the same goals as I am seeking now, that is, simply to allow this nearly 92 year old home to remain in its current location, avoid significant changes to the existing historic character but at the same time allow this home to be renovated to modernize it to the standards typical for today's day and age.

Furthermore, the size of the lot is very unusual in relation to the entire surrounding neighborhood area. Per Oakland County, there are a total of 433 houses in my neighborhood and there are only 11 lots in this neighborhood that are smaller than the Property. The fact that this lot is undersized results in several zoning non-conformities. The zoning ordinance is designed for lots that are 4,500 – 6,000 square feet. On the east side of Stanley Blvd., the lots are only 96 feet deep. The lots to the north of the Property are wider ~ 60 feet across the front. Unfortunately, the Property's lot and the two lots to the south are exceptionally smaller with only 40-42 feet wide across the front. On the west side of Stanley Blvd all of the lots are significantly larger – 60-62 feet wide and 121-130 feet deep. The houses to the east of the Property are on larger lots as well – the one directly behind the Property is 60x141 feet.

The lot is also peculiar in that it is shaped uniquely. There are not very many examples of lots in Birmingham that are "L" shaped. This unique shape actually results in a portion of the back of the home meeting the zoning ordinances. With the 8.5 feet increase in the back of the lot the side setback issue no longer exists. In summary, the lot is exceptionally smaller than the other lots in the neighborhood, it is unique in shape and the existing house is non-conforming.

2. Granting this variance is consistent with the spirit and intent of the ordinance.

A literal interpretation of this ordinance would deprive me of the rights commonly enjoyed by other properties in my neighborhood. All of the other houses on my block are two story homes with two car garages. Several houses actually have two story garages. The existing house is far inferior to other homes in the area. At 1,254 square feet, is significantly smaller than the other homes on the block. The other houses on the east side of Stanley Blvd (on my block, between Brown Street and Frank Street) average 2,373 square feet. The houses on the west side of Stanley Blvd (on my block, between Brown Street and Frank Street) average 2,996. The average of all homes on Stanley Blvd (excluding the Property) is 2,661. Please refer to the Appendix, Exhibits 5-6 that show photographs of the houses to the north and south of the Property. The current home is only one story whereas all other homes are two stories. In addition, the house only has one bedroom and two closets total. Due to the lot size, the only option to expand the home is to add a second story. Even though the basement is in excellent condition, it is not a viable option for additional living space due to the low ceilings and no ability to add egress windows. The proposed renovation is not requesting the maximum benefits that others in the area commonly enjoy. I am proposing to stay within the existing footprint and keep the existing one car garage. I believe a two car garage is also a reasonable amenity that all others on the block are enjoying

and several realtors have indicated that this is a necessity and expected in the neighborhood. However, I understand that the Property already does not conform to lot coverage so I have not requested a two car garage as part of my proposal. Moreover, I have worked with the City of Birmingham Building Department to find ways to mitigate where possible. I am proposing to remove a significant amount of brick landscaping pavers from the backyard which will be replaced by grass – this significantly improves the open space from 26.50% to 35.10%. We also carefully reviewed the plans for the second story. Unfortunately on this narrow lot we have already minimized the width as much as possible; the existing home is 24.2 feet. We are proposing to stack the second story on the first story for aesthetic purposes as well as to allow for a livable, modern home. We have narrowed the back corner (southeast) so that it does not stack exactly on the first floor. We did this to match the width of the majority of the home to mitigate the combined side setback issue that exists with the current Property. In other words, the combined side setback is 13.31 feet for the first story but is 15.34 feet for the second story and therefore the second story does meet the combined side setback ordinance.

3. This practical difficulty is not self-created.

The subject Property was platted and recorded well before the current zoning ordinance was established. The Property was constructed in 1923 which was 2 years before the platting was done in 1925. The original house was obviously constructed and located on the property in a time period that did not require minimum side yard setbacks of 5 feet on one side based on the fact that the city allowed the property line to be drawn 1.44 feet from the existing house. The renovation in 1985 was also completed before the current zoning ordinance was in effect. In 1985, a variance for the side yard setback was granted however, at this time there were no variances required for the combined front and rear setbacks nor lot coverage. I had no involvement in the zoning violations that happened 92 years ago for the side yard setback and 30 years ago for the combined front and rear setback and lot coverage. I have done nothing to create this situation or the resulting practical difficulty. Moreover, the zoning issues were not disclosed during the time that I purchased the home.

4. Granting this variance does substantial justice to the neighborhood and promotes fairness rather than insisting upon strict compliance with the ordinance.

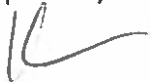
Although the Property is not designated historic, I am very passionate about preserving the historical character of the Property. The front portion of the home (west part of the home) is the original house from the 1920's. Our plans carefully considered this and we are keeping the nearly all of the existing walls in this portion of the house. Once the front door entrance is restored, you will be able to enter the home just as the original homeowners did in the 20's! In addition, the architect studied the neighborhood to ensure that we selected an exterior style that was not only consistent with the 1920's era but also would be in harmony with the neighborhood. We feel that a craftsman style home is the most appropriate selection based on these factors. We also believe it is critical to keep the front porch since there are a significant number of homes with front porches and this helps create a sense of community. We have proposed extending the porch to span the entire front of the home so that we can add recessed steps off the driveway. Adding the steps is necessary so that the front door can finally be accessible but the steps will reduce a significant portion of the space on the existing porch. We have reduced the depth of the porch from 7 feet (existing) to 6 feet (proposed) to help mitigate the increased width of the porch. The renovated home will be much more in harmony with the surrounding area and will do substantial justice to our neighborhood.

5. Health, safety and welfare

Granting of the requested variance in no way negatively impacts the health, safety or welfare of the neighborhood. The proposed variance will not result in changes to the existing footprint that would be harmful to the adjacent property owners. The proposed second story addition will only result in a home that is of similar height all of the other properties. In the current state, the Property is the only home on the block that has a restricted view and limited light due to the fact that the surrounding homes are all so much larger and higher. In fact, the home that is currently under construction to the west of the Property is a 3 story home with a fireplace that towers above the other homes. Please refer to the Appendix, Exhibits 7-8 that show photographs of the home directly to the east of the Property. The proposed renovation will not create an unsafe condition and will not adversely impact the welfare or health of the community. Moreover, the proposal improves and mitigates three critical issues with the existing structure. In the current state, the Property's roofline actually encroaches on the property line to the north. The proposed structure will reduce the overhang and will remove the current encroachment. In addition, there is an arbor in the front of the home that is attached to a picket fence. This arbor was believed to be part of the Property that was purchased (if you remember it was included in the listing photos). Several neighbors have indicated that this arbor was constructed by the previous owner of the Property. However, the survey shows that this arbor is on the property line and extends into the property to the north. There is no way to access the front yard or north side of the property without using the property to the north (587 Stanley Blvd.) at this point. The renovations will remove this issue such that the Property can be accessed. The current Property is also not able to be easily maintained on the north side due to the limited side setback. We are evaluating three different maintenance systems that would allow contractors to access the north side of the home without the use of traditional ladders.

In summary, I am respectfully requesting that the Board of Zoning Appeals grant the requested dimensional variances in order for me to renovate and improve the existing Property. This is a unique lot and the practical difficulty is the existing non-conforming nature of the footprint. This practical difficulty is not self-created and granting the variance will allow this Property to be improved such that the house and amenities are similar to other houses in the neighborhood. Consequently, the proposal will do substantial justice to the neighborhood.

Respectfully submitted,



Karen Asadourian



Bruce Johnson <bjohnson@bhamgov.org>

Variance: 607 Stanley Blvd, BIRMINGHAM, MI 48009

1 message

Marsha Suszan <marshtron@aol.com>

Tue, May 26, 2015 at 3:15 PM

To: "bjohnson@bhamgov.org" <bjohnson@bhamgov.org>

Hello Bruce,

We have no objections to the neighbor behind us at 607 Stanley Blvd. adding a second story to their home. More power to them and we are sure it will look great.

Regards,

Mark and Marsha Suszan
610 Chester St
B'ham, MI. 48009

Sent from my iPad

May 15, 2015

...

Margo Apple
630 Stanley Blvd.
Birmingham, MI 48009

City of Birmingham
Board of Zoning Appeals

Dear Birmingham Board of Zoning Appeals,

I am writing in support of the planned renovations for 607 Stanley Blvd. I live across the street and have reviewed the proposed renovations. I believe that these renovations will be a wonderful improvement to the existing house. Right now, 607 Stanley is really substandard compared to the other houses on the block. All of the homes on our block are two stories except for 607 Stanley Blvd. The second story addition will certainly result in a home that is much more consistent with the other houses on the block. I also think it is great that Karen is trying to maintain the character of the home and has selected a front elevation that will be in harmony with other houses in the neighborhood. Furthermore, many of the houses on our block were renovated before the current rules and likely do not comply with today's code. I'm supportive of the proposed renovations and believe this will be a significant improvement to our neighborhood.

Kind Regards.

A handwritten signature in black ink that reads "Margo Apple". The signature is written in a cursive, flowing style.

Margo Apple

Martin & Helen French
887 Stanley Blvd.

Birmingham, MI 48009
May 15, 2015
Board of Zoning Appeals
Birmingham, Michigan

Dear Board of Zoning Appeals:

We would like to take this opportunity to share our support for the renovations to 607 Stanley Blvd. We have reviewed the plans and think this will be a tremendous improvement to our neighborhood. We walk down Stanley Blvd. everyday and the current house is considerably smaller than the other houses on the street. The second story addition will improve the continuity of the neighborhood because all of the other homes are two stories. We are supportive of Karen's proposal and think it will improve our neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martin', followed by a long horizontal flourish.

Martin & Helen French

Tony and Amy Youn
890 Stanley Blvd.
Birmingham, MI 48009

May 16, 2015

City of Birmingham, Michigan
Board of Zoning Appeals

Dear Board of Zoning Appeals,

We are pleased to share our support for the renovations planned at 607 Stanley Blvd. We live down the street and believe that the proposed improvements will definitely enhance our neighborhood. While there is some level of variation in our neighborhood the current house at 607 Stanley is much smaller than the other houses in the neighborhood. The renovations will certainly be a positive improvement and will help bring this house up to the standard of living expected in this neighborhood. We look forward to seeing the transformation of this house and therefore wanted to make sure we shared our support for the improvements.

Sincerely,

Tony + Amy Youn

(signed electronically 5/17/2015)

Tony and Amy Youn

APPLICATION FOR A HEARING
BEFORE THE BOARD OF ZONING APPEALS

BIRMINGHAM, MICHIGAN

DATED Dec. 20, 1984

APPEAL NO

385

HEARING DATE

1-22-85

Pursuant to Section _____ Chapter 39 (Zoning), Birmingham City Code,
the undersigned hereby makes application to the Board of Zoning Appeals for:
INTERPRETATION _____ VARIANCE X SPECIAL USE _____ ADMINISTRATIVE REVIEW _____

Request is made for permission to: ERECT UPON - ALTER - CONVERT - USE

premises known as 607 Stanley, Lot 11, Assessor's Replat of Part of Torrey's Addition,
(Lot #, Subdivision, and/or Address)

Hood's Addition & Smith Addition Birmingham, Michigan, a

one story building of frame for the establishment of a
(type of construction)

Residential

(proposed use)

Has a building permit been refused for this use of building? No

Has there been any previous appeal involving these premises? No

Statements and reasons for appeal, or other data having direct bearing
on the appeal shall be attached on a separate sheet.

Sooren H. Gozmanian

Signature of property owner

Address

28239 Brandywine Road

Farmington Hills, MI 48018

Telephone

553-4789

(Residence)

540-1563

(Business)

A letter of authority, or power of attorney shall be attached in case the
appeal is made by a person other than the actual owner of the property.

Signature

(other than property owner)

Address

City

Telephone

FEES:

Single Family and Attached Single Family

\$ 5.00

Two Family and Multiple Family

25.00

Commercial, Industrial, Parking, Other

50.00

DECISION - This appeal was granted/denied.

By:

Date:

City of Birmingham

Board of Zoning Appeals

NOTICE OF MEETING
CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
APPEAL 3-85

Notice is hereby given that the Board of Zoning Appeals will meet on Tuesday, January 22, 1985, at 8:00 P.M. in the Commission Room of the Birmingham Municipal Building to hear the following appeal.

Mr. Sooren H. Gozmanian, owner of the property located at 607 Stanley, Birmingham, is requesting side yard variances in order to construct an addition to the rear of his home.

Section 5.163, Chapter 39, Birmingham City Code, requires a 5' side yard setback with 2.6' proposed, or a variance of 2.4' required.

Section 5.223(2), Chapter 39, Birmingham City Code, allows an overhang to be 10" with 18" proposed, or a variance of 8" required.

This notice is being sent to all property owners and occupants within 300' of the subject property. Any written comments may be directed to the Board of Zoning Appeals, 151 Martin, Birmingham, Michigan 48012, before 4:00 P.M. on January 22, 1985; you may bring your letter to the Building Department; or you may appear at the meeting and be heard.

P. M. Murphy dl
P. M. Murphy
Building Official

PMM/dl

VARIANCE REQUEST

Re: 607 Stanley
Side Setback Requirement (North Side)

This Applicant respectfully requests a variance from the 5 foot side setback requirements on the north side of the home.

A recent survey indicates that the northeast corner of the home is 2.6 ft. from the north property line.

A review of the plot plan reveals that the house is very modest in size and is located on a narrow 40 ft. lot at the front. It is the intention of the Applicant to make an addition to the rear of the present building which will be harmonious to the neighborhood.

It is planned for the proposed addition to carry on the present side setback of 2.6 ft. The addition will not project beyond the plane of the existing structure on the north side.

The home on the adjacent property to the north is more than 21 ft. away. Seventeen feet back from the northeast corner of 607 Stanley the property widens from 40 ft. to 48.5 ft.; therefore, a portion of the addition will in fact comply with the 5 ft. setback requirements.

The house is only 24.2 ft. in width and in order to make a viable addition it is necessary to continue the expansion with that width (24.2 ft.). To do otherwise would present a distinct hardship when one considers the driveway and side setback requirements on the south side. The project will comply with all other site stipulations.

On the north, the detached garage of the neighbor is less than 1 foot from the property line. That structure will be the closest building to the addition (11.1 ft.).

Granting of the requested variance will eliminate an unsightly and visually disruptive jog along the north elevation. In its stead will be a smooth, continuous and pleasing elevation which would conceal the fact that an addition had taken place.

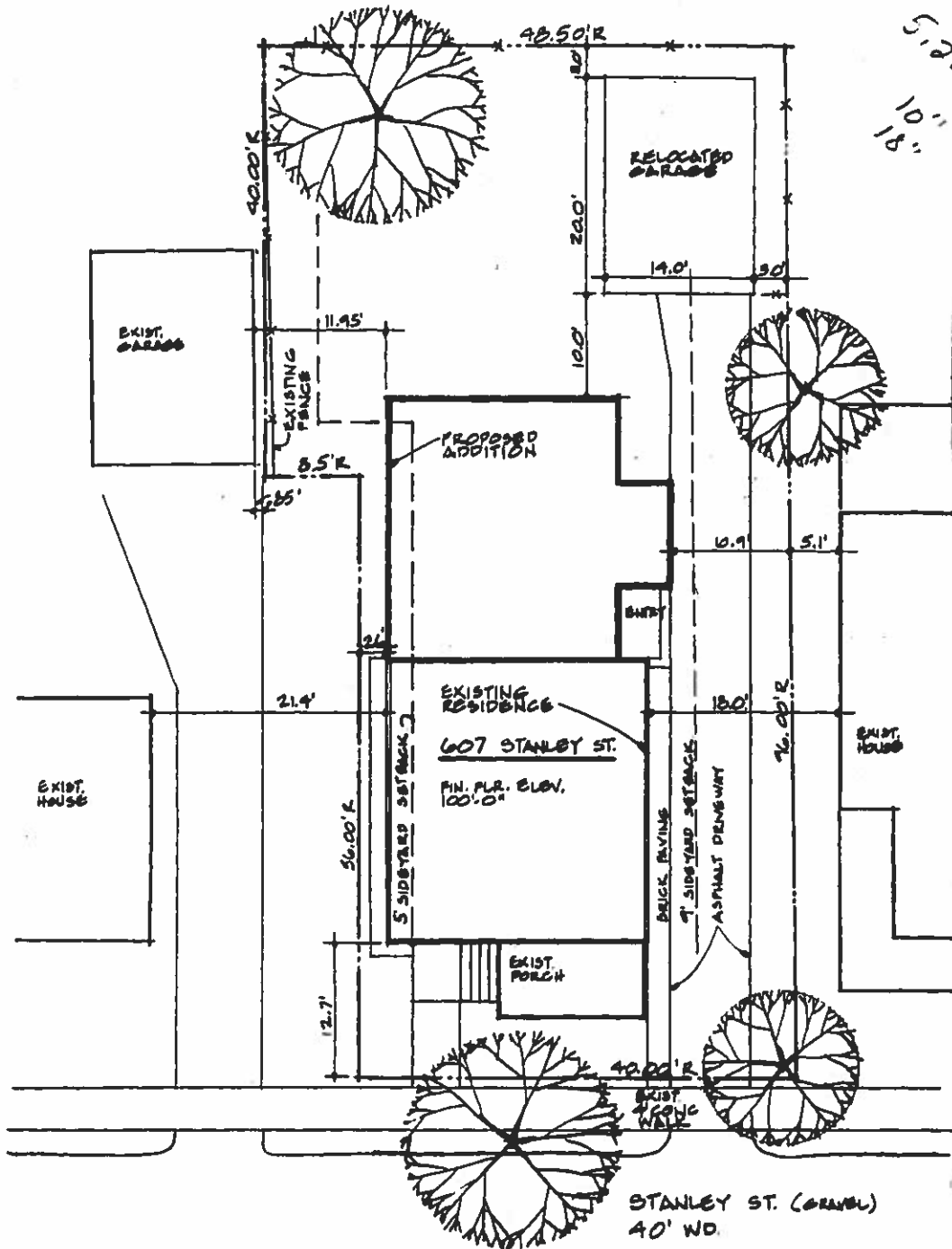
I am presently employed by Oakland Community College as the Director of Physical Facilities.

The proposed addition will be functional, pleasing, and an enhancement to the neighborhood.

Thank you for your considerations.

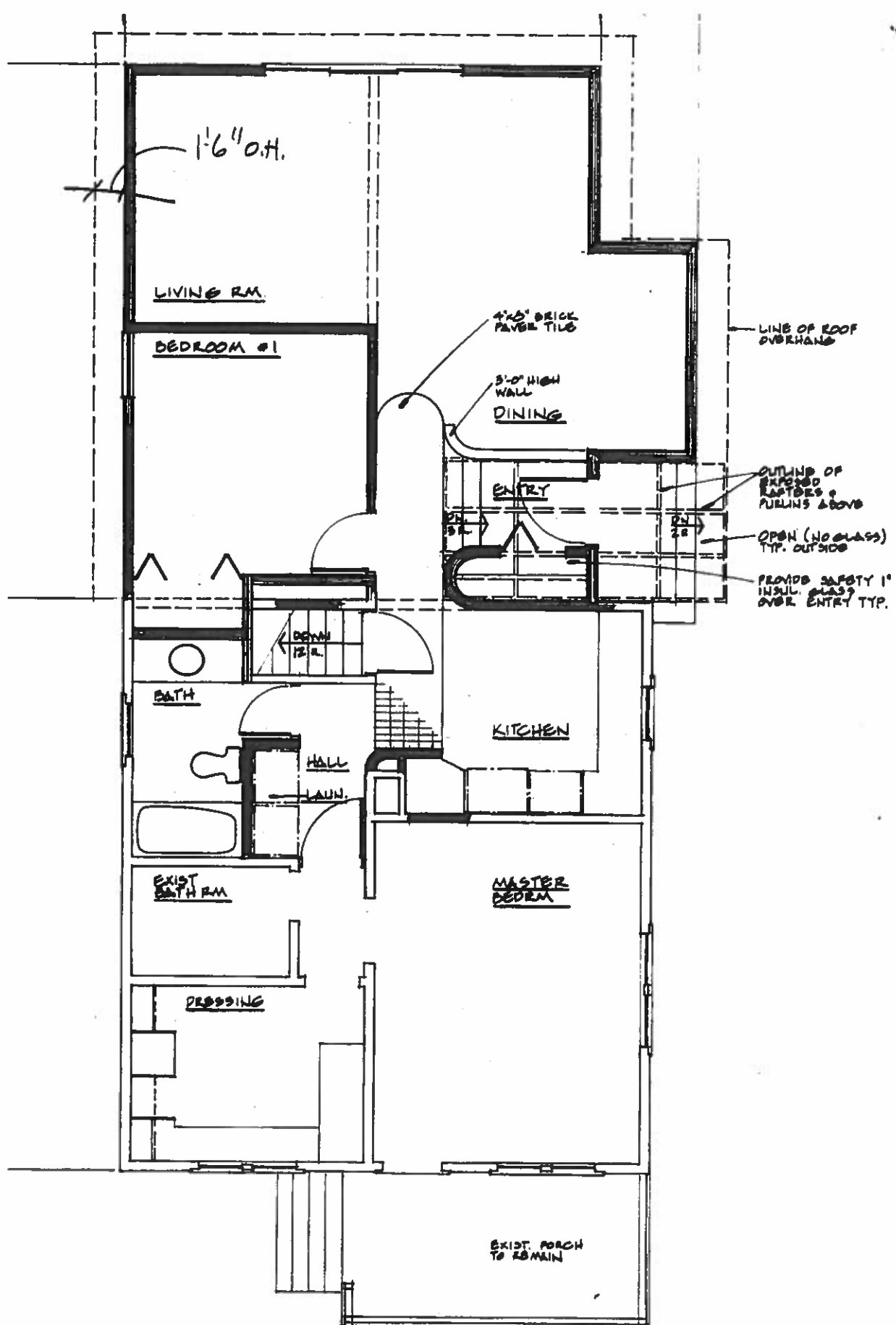
5.163.23

5.223(2)
10'
18'

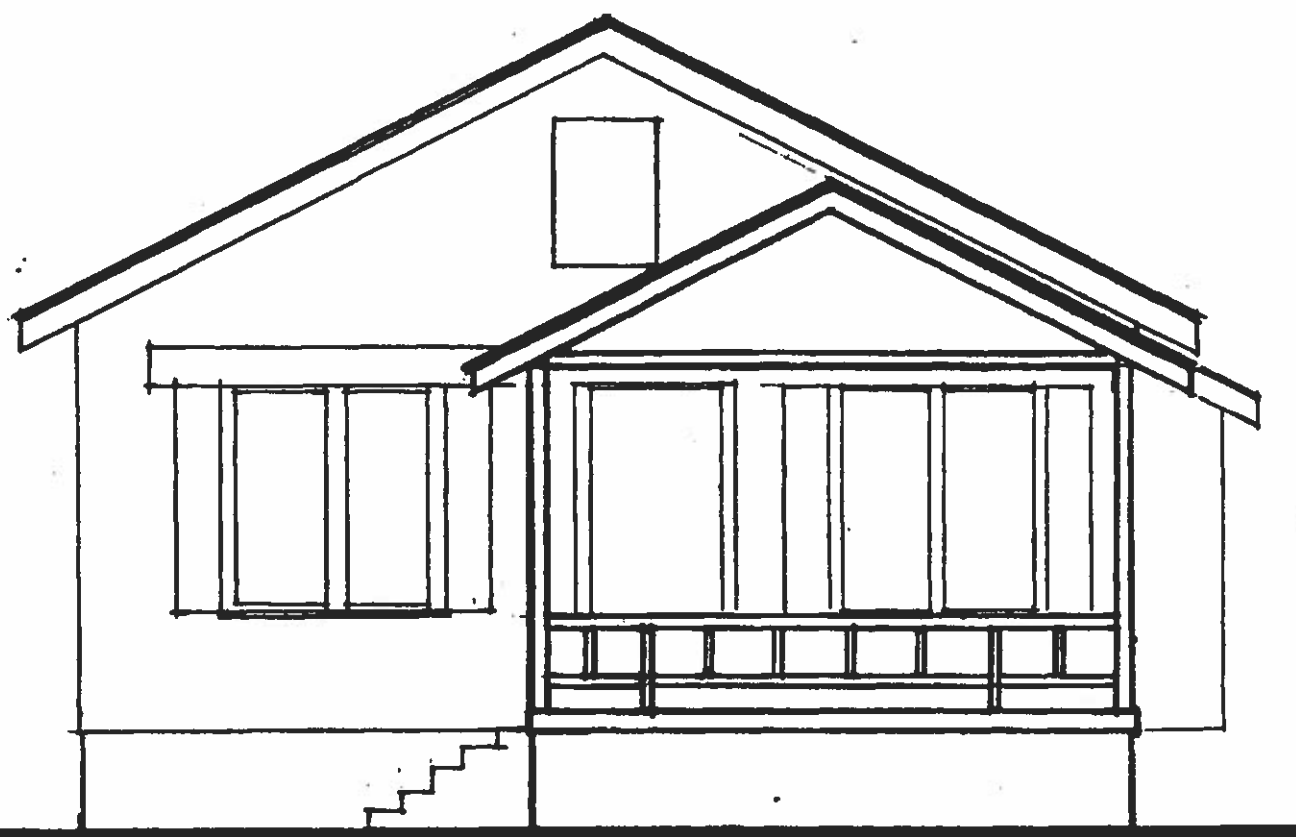


SITE PLAN
1"=10'

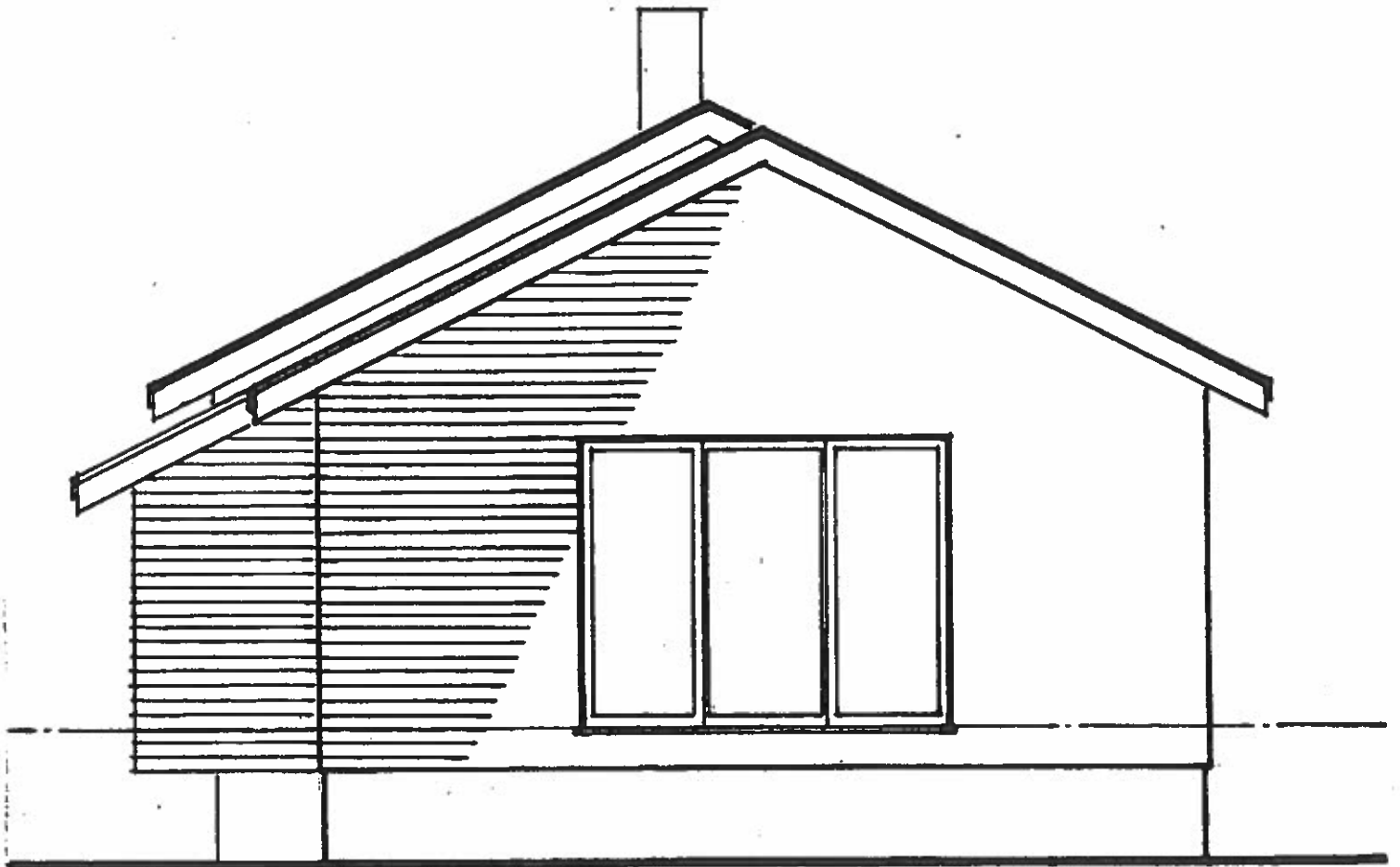




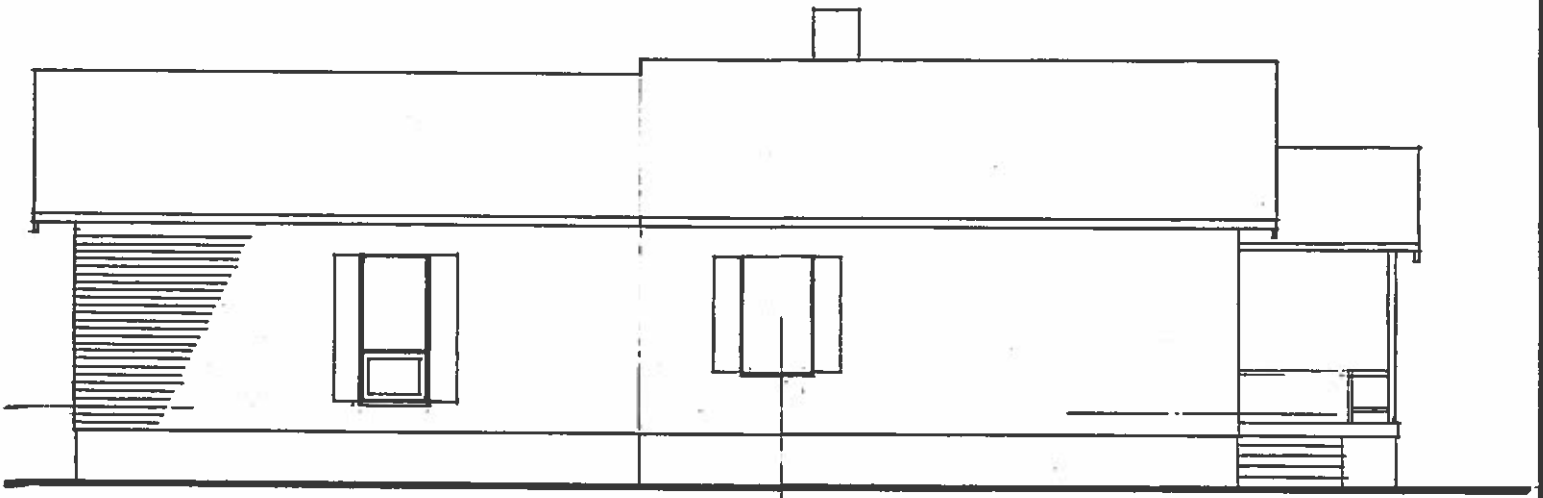
FLOOR PLAN $\frac{1}{4}" = 1'$



WEST ELEVATION

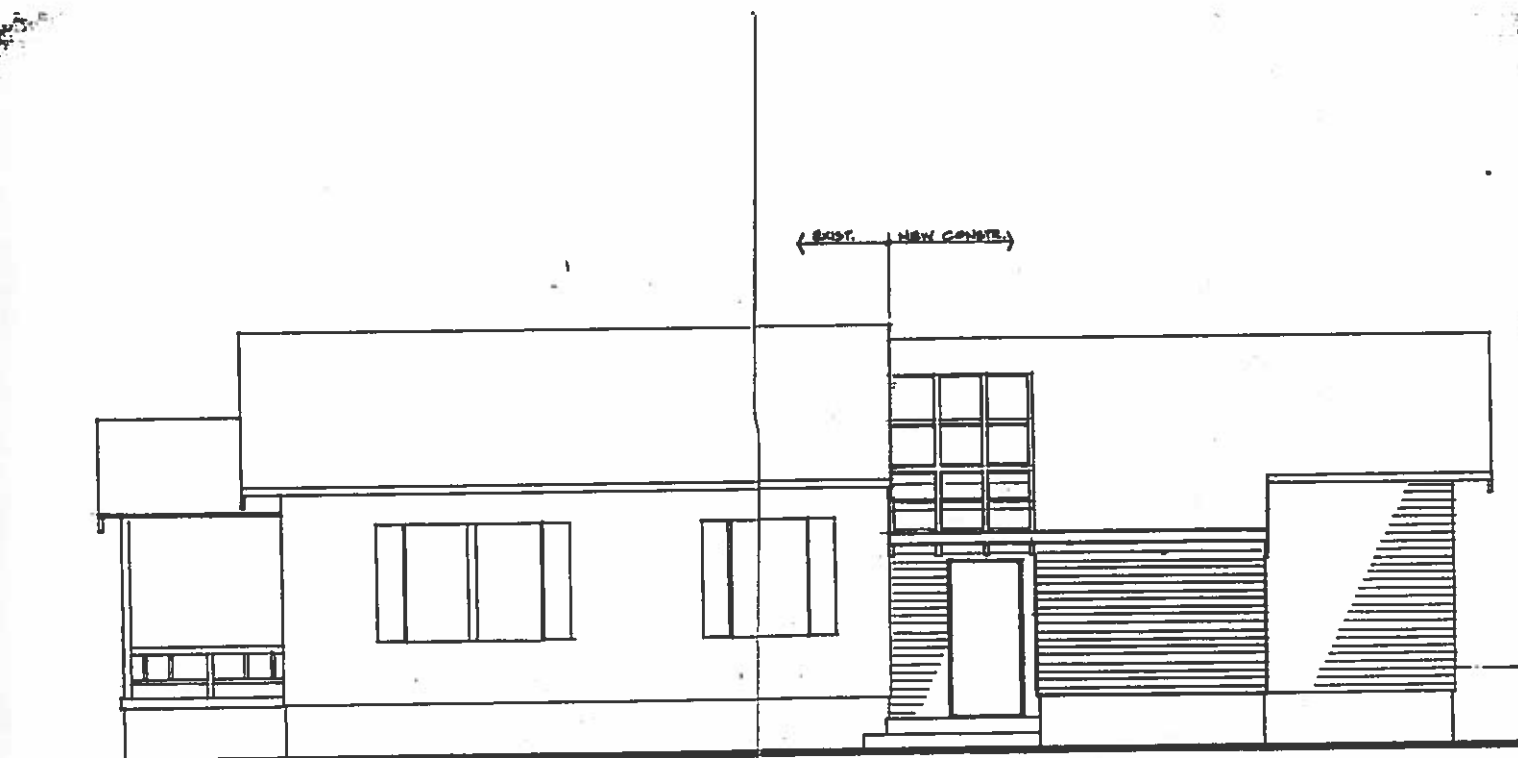


EAST ELEVATION



NORTH ELEVATION

← NEW CONST. | EXIST. →



SOUTH ELEVATION

MINUTES OF SPECIAL MEETING OF BOARD OF ZONING APPEALS,
JANUARY 22, 1985
Page three

The proposed entry will project 6' 4 1/2". To put the proposed vestibule inside the present structure would cut down considerably on the already limited living space.

Motion by Cotton

Seconded by Schafer that the petitioner's request for a variance of 6' 4 1/2" from the front setback requirement and 1' for the side setback requirements be granted. It appears from tonight's meeting and the last that there was support voiced by neighbors for the project. It appears from this and the last meeting there has been no objection voiced by anyone in the neighborhood. It appears that the addition would be harmonious with the neighborhood and would add to it and for that reason, I move that the variance be granted, tied to the plans submitted.

Yeas: Schafer, Mayer, Dixon, Cotton, Lillie

Nays: Tera, Mullen

Motion carries - variances granted.

Appeal 3-85: Mr. Sooren H. Gozmanian, owner of the property located at 607 Stanley Street, Birmingham, is requesting side yard variances in order to construct an addition to the rear of his home.

Section 5.163, Chapter 39, Birmingham City Code, requires a 5' side yard setback with 2.6' proposed, or a variance of 2.4' required.

Section 5.223(2), Chapter 39, Birmingham City Code, allows an overhang to be 10" with 18" proposed, or a variance of 8" required.

This property is zoned R-3.

The appellant stated that they wish to add living space to their present house and feel that to extend the present lines of the house would be preferable. He has consulted with several of the neighbors, and they are all in favor of the proposal. The addition will be approximately 600 square feet.

Mr. Murphy stated that the proposed overhang is average in that most are 12" to 2'.

Motion by Dixon

Seconded by Lillie that relative to Appeal 3-85, I would move that we grant a variance of 2.4' to the side yard setback and a variance of 8" to the proposed overhang. I make this motion based upon practical difficulty due to the irregular side lot line, the greater than average distance to adjacent residence and the desire to utilize the floor space in the addition in the most functional and reasonable manner and to continue the existing northern wall of the house, tied to the plans submitted.

MINUTES OF SPECIAL MEETING OF BOARD OF ZONING APPEALS,
JANUARY 22, 1985
Page four

Yeas: Tera, Mullen, Mayer, Dixon, Cotton, Lillie

Nays: Schafer

Motion carries - variances granted.

Appeal 4-85: Mr. John L. Ward, owner of the property located at 1166 Pierce, or Lot 4 of Place de la Michele Subdivision, is requesting a side yard setback variance in order to permit an existing basement to remain.

Section 5.162, Chapter 39, Birmingham City Code, requires the side yard setback to be 5' with 4.58' proposed, or a variance of 0.42' required.

Section 5.182, Chapter 39, Birmingham City Code, requires the minimum distance between buildings to be 14' with 13.57' proposed, or a variance of 0.43' required.

This property is zoned R-2.

Mr. Murphy stated that the error was discovered by one of the inspectors. Apparently, the basement wall was poured about four inches from where it should have been poured.

Mr. Ward stated that apparently due to the weather being muddy and dirt being piled around the basement excavation, the stake somehow got moved and this caused the error. He stated that the property was staked by a professional engineer and that the walls were poured by the same contractor who had done their other basements and that they had not had this problem before.

There were letters from surrounding neighbors in favor of granting of the variance.

Motion by Tera

Seconded by Dixon that regarding Appeal 4-85, I move we grant a variance to Section 5.162, Chapter 39, Birmingham City Code, as to the side yard setback of 0.42' and move we grant a variance to Section 5.182, Chapter 39, Birmingham City Code, of 0.43' as to the minimum distance between buildings. It is my judgment that the error was, in fact, an error and was not a malicious or deliberate situation. This varies from other similar situations in the sense that the owner became aware of the problem only after the set was accomplished, and I find it is a substantial inadvertent