

BOARD OF ZONING APPEALS AGENDA

City of Birmingham
Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
August 9, 2016
7:30 PM

1. ROLL CALL
2. APPROVAL OF THE MINUTES OF JULY
3. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1.	410 E SOUTHLAWN	LIVE WELL	16-19	DIMENSIONAL
2.	1327 COLE	DZIEWIT	16-20	DIMENSIONAL
3.	550 S BATES	BARDHA	16-21	DIMENSIONAL
4.	111 BALDWIN	SHAFFOU	16-22	DIMENSIONAL
5.	723 OAKLAND	ABLESON	16-23	DIMENSIONAL
6.	505 TOWNSEND	CIESZKOWSKI	16-24	DIMENSIONAL
7.	607, 619, 635 W FRANK	ALHERMIZI	16-25	DIMENSIONAL

4. CORRESPONDENCE
5. GENERAL BUSINESS
6. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA
7. ADJOURNMENT

Title VI

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

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

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

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

BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS

TUESDAY, JULY 12, 2016

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, July 12, 2016. Vice-Chairman Randolph Judd convened the meeting at 7:30 p.m.

Present: Vice Chairman Randolph Judd; Board Members Jeffery Jones, Kevin Hart (arrived at 7:53 p.m.), Peter Lyon, John Miller, Erik Morganroth; Alternate Board Member Jason Canvasser

Absent: Chairman Charles Lillie; Alternate Board Member Cynthia Grove

Administration: Bruce Johnson, Building Official
Carole Salutes, Recording Secretary
Scott Worthington, Assistant Building Official

The chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

T# 07-47-16

APPROVAL OF THE MINUTES OF THE BZA MEETING OF JUNE 14, 2016

Motion by Mr. Jones

Seconded by Mr. Morganroth to approve the Minutes of the BZA meeting of June 14, 2016 as presented.

Motion carried, 6-0.

VOICE VOTE

Yeas: Jones, Morganroth, Canvasser, Judd, Lyon, Miller

Nays: None

Absent: Hart, Lillie

T# 07-48-16

**1391 HUMPHREY
(Appeal 16-14)**

The owners of the property known as 1391 Humphrey request the following variances to allow for the construction of an addition.

A. **Chapter 126, Article 2 section 2.10** of the Zoning Ordinance requires a minimum front setback of 18.12 ft. The applicant has an existing and proposed front setback of 11.27 ft. which would result in a 6.85 ft. variance.

This property is zoned R-3.

Mr. Hart was recused because his firm prepared the architectural drawings.

Mr. Worthington advised that the home was built in 1929. The applicant is adding a two-story addition to the rear of the home. The rear addition complies with all of the setback requirements as does the detached garage. They are proposing a second-floor addition over the existing first floor at the front of the home which is in the required front setback. The addition at the front is not projecting closer to the front property line than the existing first story.

Mr. Worthington went on to explain that the existing heated front porch is considered part of the house and should be behind the front setback.

Ms. Patraicia Keller from Kevin Hart Associates represented Ms. Karen Crabill, the homeowner. Their proposal is to add a one-story covered porch on the east side of the existing enclosed heated porch and then build straight up above the heated porch. Their proposal provides better flow and circulation and maintains the existing rooflines and footprint of the home. They plan a kitchen and mud room addition in the back and going up from that while maintaining the existing roofline. When completed the house will be about 2,000 sq. ft. while right now it is half of that.

Their practical difficulty is that with a 40 ft. wide lot and restriction on lot coverage, it is difficult to get a three bedroom plan into such a small space. They are at maximum lot coverage and the only way to get extra space is to go up. Their proposal will have minimal effect on the neighbors; and in fact the addition enhances their property values.

No one from the public wished to address this matter at 7:47 p.m.

Motion by Mr. Miller

Seconded by Mr. Jones to support the variance with regard to 1391 Humphrey. He believes the problem was not self-created and it is due to the unique circumstances of the property. The house was built in 1929 and not built within the current zoning envelope, as it was somewhat forward of it. However, Mr. Miller does not believe that should prevent the owner from expanding the house and improving it. If you look at the house to the east or even possibly to the west, the whole neighborhood is being improved and this house hasn't been. So it is really doing substantial justice to the rest of the neighborhood to the rest of the neighborhood to allow this house to be approved in kind, even though back in 1929 it was built slightly outside the envelope.

As mentioned before, the concern is that we are talking about the front yard setback, but again that is not being expanded in terms of the footprint over where it is now. Mr. Miller thinks it would cause the petitioner to have an unreasonable problem with expanding this house. Again, that would not have happened had the house built in 1929 been built within the current envelope instead of slightly forward of it.

For those reasons he would move to approve and tie the motion to the plans as submitted.

Mr. Jones observed the applicant is not going any closer to the property line than exists at this point. He feels the development of the area does substantial justice to the community and complies with the spirit of the Ordinance, and that justifies his support of the requested variance.

Mr. Lyon said he will support the motion for the sole reason that it is no further forward than the existing house. Further it seeks to use existing structure. The porch that is being added is set back a little and does not go all the way across. That helps to mitigate the encroachment into the front yard setback.

Motion carried, 6-0.

ROLLCALL VOTE

Yeas: Miller, Jones, Canvasser, Judd, Lyon, Morganroth

Nays: None

Recused: Hart

Absent: Lillie

**1510 W. LINCOLN
(Appeal 16-14)**

The owners of the property known as 1510 W. Lincoln request the following variance to allow for the construction of a new home.

A. **Chapter 126, Article 2, section 2.04** of the Zoning Ordinance requires a minimum front setback of 54.7 ft. The applicant is proposing a 49.2 ft. front setback, which would result in a 5.5 ft. variance.

B. **Chapter 126, Article 4, Section 4.30** of the Zoning Ordinance allows the front porch to project into the front setback a maximum of 10 ft.. The applicant is proposing a porch that projects into the required setback 13.3 ft., which would result in a 3.3 ft. variance.

This property is zoned R-1A.

Mr. Worthington noted the lot at this location is currently vacant. The two homes to the East are substantially deeper lots and set back further from the front property lines than the homes to the West. The applicant is meeting the average of the front setbacks of the homes to the West, but that does not include the two homes to the east. With respect to the second variance request (B), if the applicant does get a variance for the front setback they would need a variance of 3.3 ft. into the required front setback.

Vice-Chairman Judd summed up by saying the need for a variance is skewed by the two houses to the East. It was discussed that the Ordinance hasn't changed since the petitioner bought the lot. In response to Mr. Morganroth, Mr. Worthington noted if the house was pushed back it would be difficult to get into the garage.

Mr. Steve Powers spoke to represent the owners of the property, Harold and Natalie Bond. They plan to build a modest 2,300 sq. ft. two-story home with a two-car detached garage that will compliment the surrounding homes.

Unfortunately for the Bonds, their lot is the shallowest of all lots in the area and due to the fact the two properties to the East are significantly larger, the front yard setback requirement is skewed unfairly for them. Their practical difficulty is in trying to meet the required front yard setback, due to the fact they are at the junction of two different areas of Birmingham. The Bonds are asking for a front yard setback variance of 49.2 ft., which is the average of the properties to the West that are more similar in size to theirs. They feel they are keeping with the spirit and intent of the Ordinance by not overbuilding or creating a negative impact on the neighbors. In response to the vice-chairman, Mr. Powers said it would be unreasonably burdensome for them to meet the Ordinance requirements.

Mr. Miller observed the site plan doesn't show the houses to the West that they are trying to emulate in terms of setback and how they align with the proposed house. He asked about the difficulty they would face without getting a variance. Mr. Powers responded it would be difficult to get into the garage. That is why they came up with the average of what the homes are on the similar size lots to the West.

It was discussed this lot is on the borderline of a subdivision plat. The applicant's issue with strict compliance is the unique nature of their lot being shallower than the lots immediately to the East. Mr. Powers said the garage has been shoehorned into the corner and he doesn't believe it can be fit in any other way.

The vice-chairman recalled that a former board member would have observed this is a vacant lot and the applicant has a blank piece of paper so why are we here. He took comments from the audience at 8:08 p.m.

Mr. Tom Lynch, resident owner of the property four lots to the West, said he and his wife consider the granting of this variance as advantageous to the neighborhood. They don't view the request as self-created.

Motion by Mr. Lyon

Seconded by Mr. Hart in regards to Appeal 16-14, 1610 W. Lincoln, the appellant seeks a variance under Chapter 126, Article 2, section 2.04 for a front yard setback which would result in a 5.5 ft. variance; and Chapter 126 Article 4, section 4.30 to allow the front porch to project into the required front yard setback for a 3.3 ft. variance.

Mr. Lyon moved to approve the variances advertised. There are several points to prove. First of all is whether strict compliance would be unduly burdensome and is it due to the unique circumstances of this particular parcel and not the general surroundings. He believes the unique circumstances are driving the variance request in this case. That is, the fact there are four or five shallow lots in one subdivision plat. Immediately to the East there are several very large deep lots with very large front setbacks which skew the average front setback larger than would seem appropriate for the lot in question.

He thinks the appellant has done much to mitigate this. They have the shallowest lot and are asking for the average of the setbacks of slightly deeper lots. Proportionally you would think they could ask for even less front yard setback.

Mr. Lyon does not believe this is self-created. This plat and these houses all exist. They are driving the average. He would tie the motion to the plans as presented tonight.

Mr. Miller said the most important point that jumped out at him was that this is doing substantial justice to the neighborhood by allowing this house to align with the other houses on the West, given the abrupt change in lot size from that row to the West to the houses to the East. Therefore, he supports the petition.

Mr. Jones indicated he will support the motion because of substantial justice to the community, compliance with the spirit of the Ordinance, and the applicant's mitigation to find an average and comply with that which is there.

Vice-Chairman Judd said happily this board has a concept of equity and it may play out in this circumstance.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Lyon, Hart, Canvasser, Jones, Judd, Miller, Morganroth

Nays: None

Absent: Lillie

T# 07-48-16

**570 ASPEN
(Appeal 16-16)**

The owners of the property known as 570 Aspen request the following variances to allow for the construction of a detached garage.

A. **Chapter 126, Article 4, Section 4.03 C** of the Zoning Ordinance requires an accessory to be a minimum of 5 ft. off the rear property line. The applicant is proposing to construct the new accessory structure 3 ft. off the rear property line, which would result in a 2 ft. variance.

B. **Chapter 126, Article 4, Section 4.03 D** of the Zoning Ordinance requires the accessory to be a minimum of 10' from the principal building. The applicant is proposing the accessory structure to be 7.3 ft. from the principal building, which would result in a 2.7 ft. variance.

This property is zoned R-1.

Mr. Worthington noted the home was built in 1940 with the detached garage appearing to be constructed around the same time. The applicant proposes to demolish the existing non-conforming detached garage which is 1 ft. off the property line and build a new detached garage in close proximity to the principal building. Most communities have the 10 ft. requirement between the garage and house. Mr. Johnson added there has been talk that could be because of Fire Code reasons. Also, it could be for setback reasons. Some communities require a detached garage to have 42 in. footings if it is closer than 10 ft. from the principal structure because it may become attached. As far

as the Fire Code, the Residential Code addresses that now by stating that once you are closer than 3 ft. from the house then fire ratings must be put up.

Mr. Jones summarized the requests by saying the situation would be improved by 2 ft. in one instance which requires a variance in the other instance. The existing garage is 1 ft. off the property line. The proposal brings it in 3 ft. off the property line and places it closer to the house for a variance of 2.7 ft.

Mr. Jones announced that when he drove by the site he had a tough time seeing the garage because of a large pine tree. Therefore in terms of substantial justice he doesn't know how this would even affect the community.

Mr. Brian Neeper, Architecture P.C., spoke for the homeowners, John and Alisa Locker. His clients want to replace their old, small garage with a new two-car functioning garage that would be more attractive with the existing house. Theirs is one of the smaller lots in the entire neighborhood. The house is original from the 1940's and his clients have owned the property for almost three years.

At 8:26 p.m. there were no comments from the audience.

Motion by Mr. Jones

Seconded by Mr. Morganroth with regard to Appeal 16-16, 570 Aspen, the petitioner seeks to build a new garage, and as a result requests a variance from Chapter 126, Article 4, section 4.03 C and from Chapter 126, Article 4, section 4.03 D.

For subsection C the petitioner requests a 2 ft. variance as a result of constructing the new garage which now requires a 5 ft. distance from the rear property line. The existing garage sits 1 ft. off the rear property line. The petitioner proposes to place the new garage 3 ft. off the property line, thereby improving the distance between the lot line and the garage by 2 ft., which still then would require a 2 ft. variance.

For subsection D, the second requested variance, as a result of moving the garage in the same area 2 ft. further away, the Ordinance then requires the distance between the house and the garage to be 10 ft. The distance would then be 7.3 ft. and require a variance of 2.7 ft.

Mr. Jones moves to grant both variances because he feels that the petitioner with strict compliance to the Ordinance would have practical difficulty because this is not self-created, does substantial justice to the community, and is within the spirit of the Ordinance. Therefore, he moves to not only approve, but tie the motion to the plans.

Mr. Lyon expressed his support of the motion because he thinks it meets the four required criteria. The lot is unique and shallow. It appears the rear part of the lot was somehow deeded over to the lot to the North. The garage is certainly not overbuilt at 21 ft. in width.

Mr. Hart thought it is a stretch to call this a two-car garage. The design is attractive and it is seamless with the house and in scale with the property. Therefore he was in support.

Mr. Miller observed the roof slopes away on both sides and that minimizes the bulk of the house on the two sides that require the variance. He also supported the motion.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Jones, Morganroth, Canvasser, Hart, Judd, Lyon, Miller

Nays: None

Absent: Lillie

T# 07-49-16

**280 ARGYLE
(Appeal 16-17)**

The owners of the property known as 280 Argyle request the following variance to allow for the construction of a rear addition.

A. **Chapter 126, Article 4, section 4.74 C** of the Zoning Ordinance requires 21.9 ft. between principal buildings on adjacent lots. The applicant is proposing 17.8 ft. between principal residential buildings, which requires a 4.1 ft. variance.

This property is zoned R-1.

Mr. Worthington advised the existing home was constructed in 1948. The applicant is proposing an addition to the rear of the home 2.4 ft. from the existing building line. The lot next door is 70 ft. wide and they have met the distance between the adjacent house and the new addition so it doesn't impact the neighbors to the north. However they still need a variance of 4.1 ft. to construct because they don't meet their setback distance. The Ordinance says they need 25% which is 21.9 ft. and they propose 17.8 ft.

Mr. Dan Lynch, Lynch Custom Homes, represented his clients, Scott and Linda Stone. They found the lot to the North is a 70 ft. lot and the original 280 Argyle was also designed to be a 70 ft. lot. That dictated the placement of the original house in the

1940's After it was built it acquired 15 ft. of the lot to the South and split it so the neighbor further to the South gained additional footage as well. So now there was an 85 ft. wide lot which changes the side yard setback to be 25% of the structure and requires 21.9 ft. in lieu of the 25% of a 75 ft. lot which was 14.7 ft. So they redesigned the house, compromising 2.5 ft. off the side to make sure they didn't impede on the neighbor to the north. They also designed it in a way that wouldn't sacrifice any of the things that a normal 75 ft. wide lot would have.

Their special conditions and circumstances are not a result in actions by the applicant. The granting of the variance will be in harmony with the general intent and purpose of the Ordinance. It doesn't impact any of the neighbors. **The rear addition is only one and one-half story and will not shade the neighboring property.**

Mr. Lynch described for Mr. Miller why they moved further in than the Zoning Ordinance dictates. Mr. Worthington added the requested variance would not cause a hardship to the neighbor if they build straight up or straight back.

There were no comments from the audience at 8:45 p.m.

Motion by Mr. Lyon

Seconded by Mr. Jones in regard to Appeal 16-17, 280 Argyle, the appellant seeks a variance under Chapter 126, Article 4, section 4.74 C. The minimum distance between principal structures on adjacent lots requires 21.9 ft. and 17.8 ft. are proposed, for a 4.1 ft. variance.

Mr. Lyon moved to approve the variance as advertised. He believes that strict compliance would be unduly burdensome due to the fact that the lot is wider than the one next door which increases the burden on the homeowner here.

The other thing is they want to go back with a rear addition and up and they have mitigated it somewhat by bringing it in 2.5 ft. and pushing most of the addition over the garage. They have thoughtfully brought it in to the point where the neighbor next door would not have to ask for a variance should they want to do the same thing in the future.

Mr. Lyon believes this does substantial justice to the homeowner and the surrounding neighborhood and is in accordance with the spirit of the Zoning Ordinance. The motion is tied to the plans as presented.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Lyon, Jones, Canvasser, Hart, Judd, Miller, Morganroth

Nays: None

Absent: Lillie

T# 07-50-16

CORRESPONDENCE (none)

T# 07-51-16

GENERAL BUSINESS (none)

T# 07-52-16

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA (no one spoke)

T# 07-53-16

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:47 p.m.

Bruce R. Johnson, Building Official

CASE DESCRIPTION

410 E. SOUTHLAWN 16-19

Hearing date: August 9, 2016

The owner of the property known as 410 E. Southlawn is requesting the following variances to build a new house.

- A. **Article 4, Section 4.74 C.** of the Zoning Ordinance requires a minimum of 14' between principal structures. The proposed house will be 10.83' from the adjacent principal structure, which will cause a variance of 3.17'.
- B. **Article 4, Section 4.61 2.** Requires the accessory structure to be a minimum of 15' off the side street setback. The proposed accessory structure is 9.92' from the side street setback which will cause a variance of 5.08'.

Staff Notes: The power lines and irregular shaped lot is causing difficulty with setbacks for the proposed new house.

This property is zoned R-3.

Scott Worthington

Scott Worthington
Assistant Building Official

RECEIVED
JUN 28 2016

Application Date: 6-28-16

Hearing Date: 8-9-16

Received By: BW



Appeal # 16-19

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>416 E. SOUTHLAWN</u>	Sidwell Number:
Owners name: <u>JODI PUOLO</u>	Phone #: <u>586-292-4865</u>
Owners address: <u>433 N. WASHINGTON</u>	Email: <u>JODI @ LIVE WELL CUSTOM HOMES CO.</u>
City: State: <u>ROYAL OAK MI</u>	Zip code: <u>48067</u>
Contact person:	Phone #:

Petitioner Information:

Petitioner name: <u>LIVE WELL CUSTOM HOMES</u>	Phone #: <u>586-201-2500</u>
Petitioner address: <u>433 N. WASHINGTON</u>	Email: <u>RICK @ LIVE WELL CUSTOM HOMES CO.</u>
City: <u>ROYAL OAK</u> State: <u>MI</u>	Zip Code: <u>48067</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 25'	Existing 24'	Proposed 24'	Amount of Variance 1'
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By signing this application I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: [Signature] Date: 6/28/16

**Hard Ship Letter
For Variance Request
410 E Southlawn, Birmingham
6/29/16**

Dear Board.

I am requesting 2 dimensional a variance.

The first is a 3.17' variance on the easterly side yarded for the house.

The second is a 5.08 variance for the garage.

Hardship: The following are the hardship that am experiencing and why I believe that strict compliance to the ordinances is unfair.

1. Since this lot is a corner lot, I do not have a driveway that I side to. So requiring me to maintain 10' on each of my two side yards unfair limits my ability to develop a marketable product on this site.
2. On the westerly property line are DTE power lines. DTE requires me to be at least 7' from all overhead power lines. As drawn, the home is only 5' from those lines. I have been working with DTE to have them move the lines to the west. But, because of the mature trees in the road right away, and because of the angle of the lines, DTE cannot move the lines completely in the right away. I have been and will continue to work with DTE at my own expense to move the lines to the west so that I can comply with their requirements.
3. The third hardship is how the lot reduces in width, down to 31.80 in the rear. This reduction in width, restricts me from building a 2 car detached garage and maintaining 15' in front of the garage and its side yard. It also limits the rear yard space. So through design, we have created a side yard patio area so to best utilize the limited rear yard shape and space.

We have created a new plan just for this lot in an attempt to minimize the variances request. In this area, most of the lots are 45' x 120' which in normal condition would allow be a building envelope of 30 wide by 45 square. As you can notice, we remove a corner of that envelope to help minimize the variance request.

By granting me this variance, I do not believe that I will hurt property values in the neighborhood by in fact increase them.

I believe that I have exhibit a hardship and I have made an effort through design to minimize the request

Thank you for your consideration

Rick Merlini

CASE DESCRIPTION

1327 COLE 16-20

Hearing date: August 9, 2016

The owner of the property known as 1327 Cole is requesting the following variance to construct a new house.

- A. **Article 4, Section 4.74 C.** of the Zoning Ordinance requires a minimum of 14' between principal structures. The proposed house is 11.8' from the adjacent principal structure, which will cause a variance request of 2.2'.

Staff Notes: The adjacent homes are both less than the minimum 5' and the applicant has reduced the width of the proposed house to 23'.

This property is zoned R-3.

Scott Worthington

Scott Worthington
Assistant Building Official

Application Date: 6-28-16



Hearing Date: 8-9-16

Received By: Bm

Appeal # 16-20

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>1327 Cole Street</u>	Sidwell Number: _____
Owners name: <u>Hansen Dzielwit Development LLC</u>	Phone #: <u>248-241-11671</u>
Owners address: <u>9675 Northwest Court</u>	Email: <u>martyd@DZConstruction.com</u>
City: State: <u>Clarkston, MI</u>	Zip code: <u>48346</u>
Contact person: <u>Martin Dzielwit</u>	Phone #: <u>248-240-9772</u>

Petitioner Information:

Petitioner name: <u>Martin Dzielwit</u>	Phone #: <u>248-240-9772</u>
Petitioner address: <u>9675 Northwest Court</u>	Email: <u>martyd@DZConstruction.com</u>
City: <u>Clarkston</u> State: <u>MI</u>	Zip Code: <u>48346</u>

Required Attachments:

- Original Certified Survey ☒ Original BZA application ☒ Letter of hardship or practical difficulty
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 - ☐ 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.

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

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

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

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

Signature of Owner: [Signature]

Date: 6/27/16

Hand sign 6 boards

129820

CITY OF BIRMINGHAM
Date 06/29/2016 3:55 PM
Re 06129820
Receipt 320241
Amount \$360.00



June 28, 2016

City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

Dear Board of Zoning Appeals,

The owners of the land situated in the City of Birmingham described as: T2N, R11E, SEC31 Leinback-Humphrey's Woodward Ave Sub Lot 224 - 1327 Cole Street requests the following variance to allow for the building of a residential structure.

Article 2, Section 2.10 of the Zoning Ordinance requires the minimum side yard setback for an R-3 Single-Family Residential property to be:

- 9 feet or 10% of total lot width whichever is larger for one side yard
- 14 feet or 25% of total lot width whichever is larger for both side yards
- no side yard shall be less than 5 feet

The proposed sum of the side yard setback is 11.8 feet for this lot; Therefore, a variance of 2.2 feet is requested.

Variance Chart

Required	Existing	Proposed	Amount of Variance
14 feet	X	11.8 feet	2.2 feet

In order to construct a reasonable house on this particular piece of property and meet the minimum 14-foot distance between buildings, it would require reducing the width of the house to be 20.8 feet. The current plans for the house is to be 23 feet wide, which is already narrow and allows just enough room for the stairs and a small bedroom. With the house at a width of 23 feet, we are able to have reasonably sized living spaces and a logical design for the house.

Additionally, Lot 225 - addressed 1315 Cole Street, to the west of our lot is the non-conforming property. Currently it is for sale as a new-build home proposed for the non-conforming home to be demolished and have a new house built; this home, I assume, will be built per current setback requirements which will mitigate the current nonconformance.

Please consider our hardship in asking for relief to use our lot in an efficient way.

Respectfully,

A handwritten signature in blue ink, appearing to read "Martin Dziewit", is written over a horizontal line.

Martin Dziewit

CASE DESCRIPTION

550 S. BATES 16-21

Hearing date: August 9, 2016

The owner of the property known as 550 S. Bates is requesting the following variance to replace the driveway.

- A. **Article 4, Section 4.31 1.** of the Zoning Ordinance limits a maximum of 35% of front open space with paved or parking surfaces. The existing driveway covers 76.1%, the homeowner want to replace exactly as it is, which will cause a variance of 41.1% (671.7 sqft).

Staff Notes: The homeowner wants to replace the driveway in the existing location that was approved when the house was built in 1988.

This property is zoned R-3.

Scott Worthington

Scott Worthington
Assistant Building Official

Application Date: 7-6-16



Hearing Date: 8-9-16

Received By: BM

Appeal # 16-21

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>550 S. Bates</u>	Sidwell Number:
Owners name: <u>AGIM Bhatia</u>	Phone #: <u>(408) 644-4438</u>
Owners address: <u>550 S. Bates</u>	Email:
City: State: <u>Birmingham</u>	Zip code: <u>35203</u>
Contact person: <u>Shantanu Bhatia</u>	Phone #: <u>(202) 225 8017</u>

Petitioner Information:

Petitioner name: <u>AGIM Bhatia</u>	Phone #: <u>(408) 644-4438</u>
Petitioner address: <u>550 S. Bates</u>	Email:
City: <u>Birmingham</u> State: <u>Mich</u>	Zip Code: <u>35203</u>

Required Attachments:

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

General Information:

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

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

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

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

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

Signature of Owner: [Signature]

Date: 6/29/16

CITY OF BIRMINGHAM
Date 07/05/2016 2:37 PM
Ref ID: A129916
Receipt 320995
Amount \$360.00

City of Birmingham,

We have been living in the Birmingham area for over 50 years.

We had a business for 50 years (Bardha Salon) we sold it to Fred Lavery 2 years ago.

We have always respected the rules and codes from the City of Birmingham.

In 1990, we built the house on 550 Bates.

Since the lot was too small, we told the designer we wanted the front entrance of the house to be in the middle and not on the side or back of the house.

So we ended up having 2 small car garages, one on each side of the front door.

After 26 years, our concrete is starting to crack and come up, so we have decided to repair it.

We are not asking to change the structure of the area or to make it bigger or smaller. All we are asking is to replace the existing concrete with new concrete.

We are very proud to be residents of Birmingham and proud of what the city does for its community.

We would appreciate it if you can allow us to go with the repair so we can maintain the same level of quality that is surrounding us.

Sheriban Bardha

CASE DESCRIPTION

111 BALDWIN 16-22

Hearing date: August 9, 2016

The owner of the property known as 111 Baldwin is requesting the following variance to construct a new pool.

- A. **Article 4, Section 4.03 D.** of the Zoning Ordinance requires a minimum distance of 10' clearance from a pool to a principal structure. The proposed pool is 1' away from the house which will cause a 9' variance request.

Staff Notes: The pool placement is limited in space because of the floodplain.

This property is zoned R-2.

Scott Worthington

Scott Worthington
Assistant Building Official

Application Date: 7-12-16



Hearing Date: 8-9-14

Received By: BM

Appeal # 16-22

Board of Zoning Appeals Application

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

Property Information:

Street address: 111 Baldwin		Sidwell Number:	
Owners name: Joseph Shaffon		Phone #: 248-757-1981	
Owners address: 7031 Orchard Lake Rd. Ste 105		Email: info@orchardbuilding.com	
City: State: West Bloomfield, MI		Zip code: 48322	
Contact person: Thomas Shaffon		Phone #: 248-249-4563	

Petitioner Information:

Petitioner name: Joseph Shaffow	Phone #: 248-757-1981
Petitioner address: 7031 Orchard Lake Rd. Ste 105	Email: info@orchardbuilding.com
City: West Bloomfield State: Michigan	Zip Code: 48322

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 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 and that the information submitted on this application is accurate to the best of my knowledge. Changes to the plans or specifications are not allowed without approval from the Building Official or City Planner.

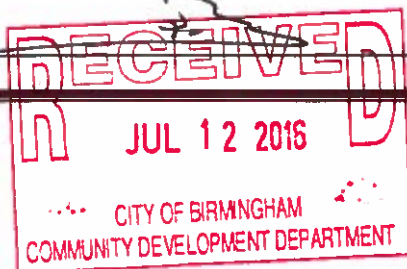
Signature of Owner:

Date: 7-11-16

Revised 12/9/2013

Page

CITY OF BIRMINGHAM
 Date 07/13/2016 8:08:20 AM
 Ref 00130111
 Redept 322131
 Amount \$310.00
 Page 20



145 Sign. *BM*

130111

1. 9' Rear yard dimensional SPA variance

Request Description:

The variance requested is to allow the placement of a SPA to be built into the patio on the rear of the house. The 10' required pool setback ordinance would not be possible due to the limited buildable envelope on the property. The design of the house has left a small area between the garage and the house for a patio. The house design wraps around the patio on three sides that completely hides the proposed SPA location from adjacent properties. This location is the only area left within the allowable buildable envelope that would allow for a SPA. This is due to the restrictive floodway lines that forced the home design to be pushed to the back yard setback line. The proposed request will continue to preserve the character of the neighborhood and maintain the high standards consistent with the zoning ordinances due to the limited visibility of the proposed SPA.

1. The lot that we are currently building our project on is a very unique property in the city of Birmingham. The lot is the only lot in the city that has a bridge between the street and the buildable envelope. This is because the property is bisected by the River Rouge which wraps along three sides of the buildable area of the property. This has greatly reduced the buildable foot print due to the rivers flood way lines that run along the river.
2. The floodway restrictions to the lot restrict the full use of the property which deny the lot from having room for a SPA 10' away from the house per the city ordinance. The variance requested is the minimum required for the proposed SPA.
3. The special conditions of this property are not self-created but determined by the State and Local Department of Environment Quality in order to protect and preserve the wetlands in the state.
4. The granting of this variance request will not negatively affect the intent of the zoning ordinances. The requested variance allows the SPA to be placed closer to the house within the buildable footprint and out of site from adjacent property owners.
5. The requested variance will not be injurious to the neighborhood or detrimental to the general welfare of the adjacent properties. The variance brings the SPA closer to the home and out of site from adjacent properties.
6. The granting of the variance will not jeopardize the intent of the ordinance but reinforce the true purpose of the ZBA approval process for unique circumstances due to property restraints.



HUBBELL, ROTH & CLARK, INC.
CONSULTING ENGINEERS SINCE 1915

PRINCIPALS

George E. Hubbell
Thomas E. Biehl
Keith D. McCormack
Nancy M. D. Faught
Daniel W. Mitchell
Jesse B. VanDeCreek
Roland N. Alix
Michael C. MacDonald
James F. Burton

SENIOR ASSOCIATES

Gary J. Tressel
Randal L. Ford
William R. Davis
Dennis J. Benoit
Robert F. DeFrain
Thomas D. LaCross
Albert P. Mickalich
Timothy H. Sullivan

ASSOCIATES

Jonathan E. Booth
Marvin A. Olane
Marshall J. Grazioli
Donna M. Martin
Charles E. Hart
Colleen L. Hill-Stramsak
Bradley W. Shepler
Karyn M. Stickel
Jane M. Graham
Thomas G. Maxwell
Todd J. Sneathen
Aaron A. Uranga

HUBBELL, ROTH & CLARK, INC.

OFFICE: 555 Hulet Drive
Bloomfield Hills, MI 48302-0360
MAILING: PO Box 824
Bloomfield Hills, MI 48303-0824
PHONE: 248.454.6300
FAX: 248.454.6312
WEBSITE: www.hrc-engr.com
EMAIL: info@hrc-engr.com

July 11, 2016

City of Birmingham
Zoning Board of Appeals
151 Martin Street
P.O. Box 3001
Birmingham, Michigan 48012

Re: 111 Baldwin
Variance request

HRC No.20150552.07

Dear Board Members:

The above referenced property is currently under construction as a single family residence which is replacing a previous residence. The property is under the influence of the 100-year floodplain and the proposed improvements have been approved and permitted by the Michigan Department of Environmental Quality.

To minimize the site impact to the floodplain with the placement of a spa ten (10) feet from the home per ordinance, the property owner is asking for a variance to place the spa one (1) foot from the home. Your consideration and understanding is greatly appreciated.

Should you have any questions, please do not hesitate to call.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.

Albert P. Mickalich, P.E.
Senior Associate

APM/mvu

pc: HRC; File

CASE DESCRIPTION

723 OAKLAND 16-23

Hearing date: August 9, 2016

The owner of the property known as 723 Oakland is requesting the following variance to construct a rear addition.

- A. **Article 4, Section 4.74 C.** requires a minimum distance between principal structures of 14'. The proposed addition will have 8.7' between houses which will cause a variance of 5.3'.

Staff Notes: The house was built in 1922 and the existing distance between principal structures is 8.3'.

This property is zoned R-2.

Scott Worthington

Scott Worthington
Assistant Building Official

Application Date: July 14, 2016



Hearing Date: 8-9-16

Received By: BM

Appeal # 16-23

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>723 OAKLAND AVE</u>	Sidwell Number: <u>10-25-476-008</u>
Owners name: <u>KATHY & MICHAEL ABLESON</u>	Phone #: <u>248.646-3116</u>
Owners address: <u>723 OAKLAND AVE</u>	Email: <u>mableson@sbcglobal.net</u>
City: State: <u>BIRMINGHAM</u>	Zip code: <u>35209</u>
Contact person: <u>MICHAEL ABLESON</u>	Phone #: <u>248.646-3116</u>

Petitioner Information:

Petitioner name: <u>KATHY & MICHAEL ABLESON</u>	Phone #: <u>248.646.3116</u>
Petitioner address: <u>723 OAKLAND AVE.</u>	Email: <u>mableson@sbcglobal.net</u>
City: <u>BIRMINGHAM</u> State: <u>MI</u>	Zip Code: <u>35209</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: Matthew Ableson Date: July 14, 2016



lang

arthur r. lang - architect ■ 312 s. adams rd. birmingham, mi 48009 ■ p: 248.540.6333 f: 248.540.7038 ■ arthurlang@sbcglobal.net

July 14, 2016
Board Of Zoning Appeals
Birmingham, Michigan

Subject Property:

723 Oakland Avenue
Birmingham, Michigan
48009

Zoning District:
R2 Single Family Residential

Owner:
Kathy and Michael Ableson

Dear members of the City Of Birmingham, Board of Zoning Appeals:

We are requesting a dimensional variance for a proposed mud room addition to the above referenced property.

A dimensional variance of 5.3' is requested into the required 14' minimum required distance between principal residential structures, per Article 4.67 SS-01 C., of the zoning ordinance.

The west neighboring property (723 Oakland Ave) currently has an existing nonconforming side yard set back of 2.3' or an encroachment into the side yard of 1.76' into the required 5' side yard minimum. This puts the existing neighboring structure at an 8.3' distance from our existing subject home. The uniqueness in this existing dimensional nonconformance of the neighboring structure creates a practical difficulty in meeting zoning restrictions if strictly applied.

Since the neighboring home was built prior to current zoning restrictions, the existing encroachment was not self-created.

The improvement proposed is the addition of 68 square foot mud room to the northwest, rear corner of the house.

The improvement proposed meets the intent of the zoning restrictions in that it meets and exceeds the required 5' minimum side yard setback, and meets the minimum total combined side yard setback requirement of 14'.

The decision to locate our improvement as proposed, is the result of studying multiple opportunities in placement. The existing floor plan functions best by keeping the rear morning room/breakfast area and rear entry in it's current location. By placing our improvements as proposed, we can maintain the function of those spaces, while providing enough space for the

most used home entry to function properly, thus avoiding any practical difficulties. Care has been taken in harmoniously blending the improvements in a way that it is a positive improvement to the property and neighborhood.

In conclusion, literal zoning enforcement would create an unnecessary hardship in addressing the unique challenges of our site.

The granting of the variances requested will meet the spirit of the sideyard zoning restriction's intent, and will not be contrary to the public health, safety and welfare.

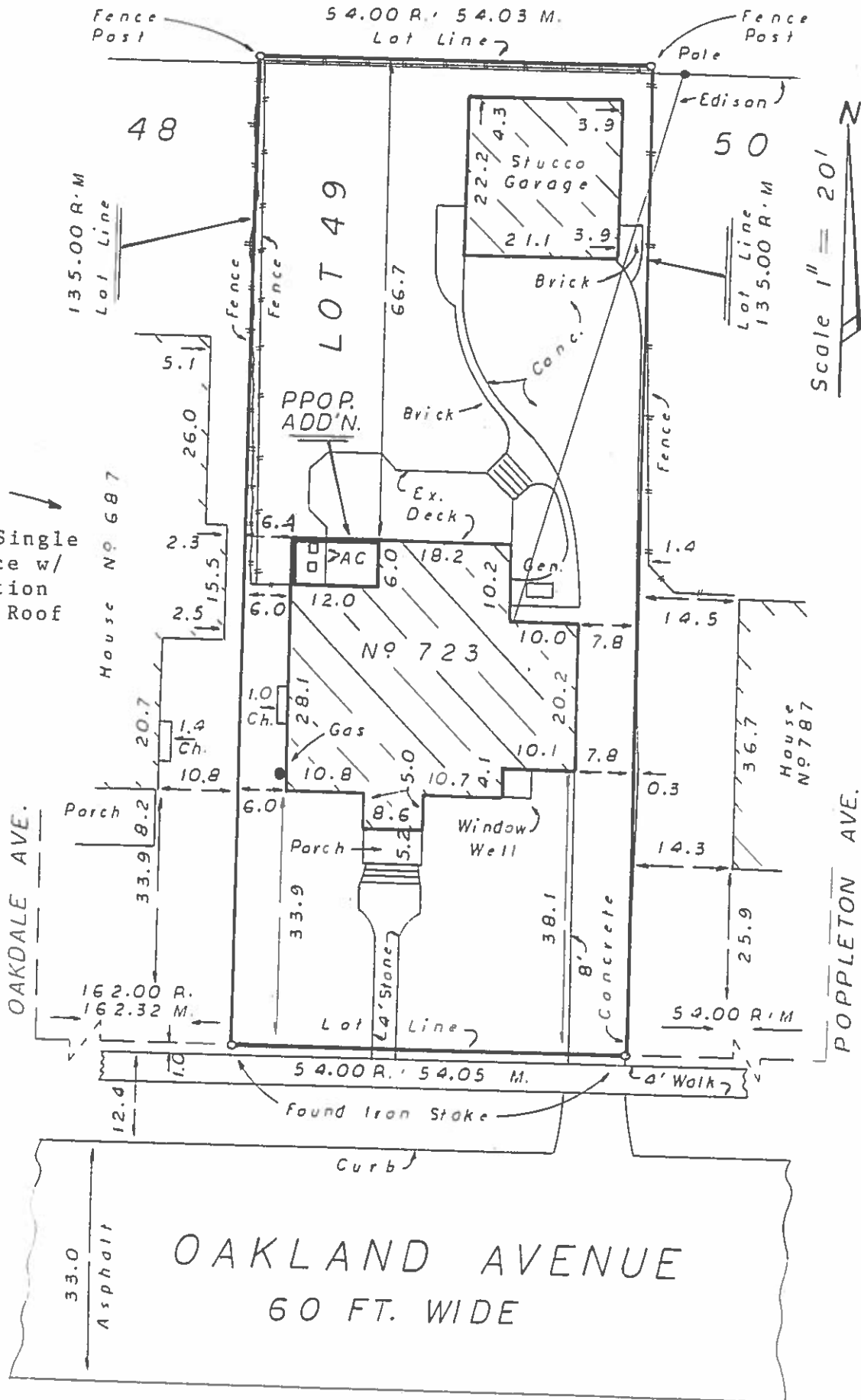
The granting of the variance will result in substantial justice to the property owner, the owners of the neighboring properties and the general public.

Sincerely:


Kathy Ableson -Property Owner


Arthur Lang Jr.-Architect

No. 723
2 Story
Stucco Single
Residence w/
Composition
Shingle Roof



Lot Area 7295.59 SF
House 1208.67 SF



CASE DESCRIPTION

505 TOWNSEND 16-24

Hearing date: August 9, 2016

The owner of the property known as 505 Townsend is requesting the following variance to construct a front addition.

- A. **Article 2, Section 2.18** requires a minimum front setback of 25' when an average cannot be established. The proposed front setback is 10.5' which will cause a variance of 14.5'.

Staff Notes: The house was built in 1872 and the addition is behind the existing front plane of the house which is at 8.3'.

This property is zoned R-7.

Scott Worthington

Scott Worthington
Assistant Building Official

CASH

Application Date: 7-15-16Hearing Date: 8-9-16Received By: BMAppeal # 16-24-B

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>505 TOWNSEND</u>	Sidwell Number:
Owners name: <u>Richard Cieszkowski III</u>	Phone #: <u>(248) 480-1919</u>
Owners address: <u>330 Woodridge</u>	Email: <u>rciesz@yahoo.com</u>
City: State: <u>Bloomfield Hills, MI</u>	Zip code: <u>48304</u>
Contact person:	Phone #:

Petitioner Information:

Petitioner name: <u>Richard Cieszkowski III</u>	Phone #: <u>(248) 480-1919</u>
Petitioner address: <u>330 Woodridge</u>	Email: <u>rciesz@yahoo.com</u>
City: <u>Bloomfield Hills</u> State: <u>Michigan</u>	Zip Code: <u>48304</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 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: [Signature] Date: 7/14/2016

Has Sign
130184

15 July, 2016

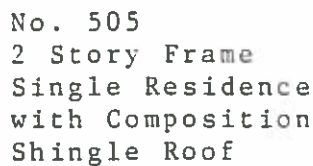
To whom it may concern,

I write this letter of hardship today to explain the reasoning behind the proposed addition to my house, 505 Townsend. To begin, the existing structure is currently non-conforming. My plan is to simply bring the front of the house further forward into a space where the front porch currently exists, this will allow for a much grander entrance and a significant facelift focused on utilizing natural light. I would also like to point out that the existing dining room and front porch parallel each other so bringing forward the front entrance would not protrude any further than the front porch already does. I believe that along with some interior updates this addition will add significant lasting value not only to my house but to the City of Birmingham as well.

Warm regards,
Richard Cieszkowski III

330 Woodridge Bloomfield Hills Mi, 48304
(248)480-1919
rciesz@yahoo.com

TOWNSEND STREET
60 FT. WIDE



Lot 43, including 1/2 vacated alley adjacent to same, CASTLE

CASE DESCRIPTION

607, 619, 635 W. FRANK 16-25

Hearing date: August 9, 2016

The owner of the property known as 607, 619, 635 w. Frank is requesting the following variances to construct a new house.

- A. **Article 2, Section 2.08** requires a total side yard of 37.5'. The proposed house will have a total side yard setback of 26' which will cause a variance of 11.5'.
- B. **Article 4, Section 4.74 C.** requires a minimum distance of 37.5' between principal structures. The proposed house is 25' from the adjacent house which will cause a variance of 12.5'.

Staff Notes: The lot is a combination of three lots. The adjacent home to the West is on a 50' lot and only is required to be 14' away from any adjacent house.

This property is zoned R-2.

Scott Worthington

Scott Worthington
Assistant Building Official

Application Date: 7/15/2016



Hearing Date: 8-9-16

Received By: Bay.

Appeal # 16-025

Board of Zoning Appeals Application

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

Property Information:

Street address: 607, 619 and 635 W. Frank St., Birmingham, MI		Sidwell Number: 19-36-153-009, 19-36-153-008 and 19-36-153-007	
Owners name: Mark and Mary Alhermizi		Phone #: (702) 502-2000	
Owners address: 556 W Frank St		Email: mark@iziventures.com	
City: State: Birmingham, MI		Zip code: 48009	
Contact person: Mark Alhermizi		Phone #: (702) 502-2000	

Petitioner Information:

Petitioner name: Mark and Mary Alhermizi		Phone #: (702) 502-2000	
Petitioner address: 556 W. Frank St.		Email: mark@iziventures.com	
City: Birmingham		State: MI Zip Code: 48009	

Required Attachments:

- Original Certified Survey X Original BZA application X 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.

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

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

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

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

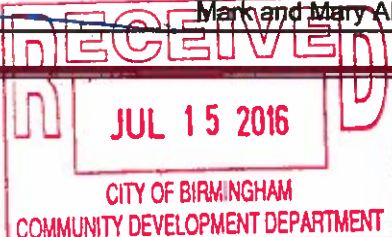
Signature of Owner: [Signature]

By Mark R. James, counsel for

Mark and Mary Alhermizi

Date: July 15, 2016

Revised 12/9/2013



CITY OF BIRMINGHAM
Date 07/15/2016 3:18:15 PM
Ref # 050201
Receipt # 322768
Amount \$310.00

Needs \$50 for Sign
Needs Hardship Letter
7-15-16 3:18 PM



Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors

380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009

Tel: (248) 642-0333
Fax: (248) 642-0856

Richard D. Rattner
rdr@wwrplaw.com

July 15, 2016

Board of Zoning Appeals
City of Birmingham
151 Martin Street
Birmingham, MI 48009

Re: 607, 619 and 635 W. Frank St., Birmingham, Michigan ("Property") – Mark and Mary Alhermizi (collectively, the "Property Owner")

Dear Members of the Board of Zoning Appeals:

Please accept the following as a hardship letter on behalf of the Property Owner to the Board of Zoning Appeals in support of its request for dimensional non-use variances from the following sections of the Birmingham Zoning Ordinance ("Zoning Ordinance"): (A) "Minimum Side Yard Setback" requirement of the R2 zoning district as set forth in Article 2, Section 2.08; and (B) "Minimum Distance Between Buildings" requirement as set forth in Article 4, Section 4.74(C).

VARIANCES REGARDING "MINIMUM SIDE YARD SETBACK" AS SET FORTH IN ARTICLE 2, SECTION 2.08 – VARIANCE "A" AND "MINIMUM DISTANCE BETWEEN BUILDINGS" AS SET FORTH IN ARTICLE 4, SECTION 4.74(C)

The Property Owner requests dimensional, non-use variances from the foregoing regulations to allow a design that accommodates a single family residence to be built under the requirements of the District Development Standards for the R2 zoning district and the Structure Standards applicable to the R2 zoning district. Section 2.08 provides that minimum side yard setbacks are required to be "14 feet or 25% of total lot width whichever is larger for both side yards." Specifically related to the setback requirement is Section 4.74(C), which provides, "Distance Between Buildings: Each residential lot shall provide a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is larger. This requirement is in addition to the setback provisions as specified in each two-page layout in Article 2."

The variances requested are not for the purpose of exceeding the City's lot coverage limits as the proposed design is well within the City's prescribed dimensional and size limitations. In fact, the proposed home design and layout will have a net positive impact on the overall neighborhood, as well as a direct benefit on all four of the direct neighbors of the Property as compared to the existing homes on Lots 26 and 25 and the home that was to be

constructed on Lot 24. In order to construct the proposed house, not only will the existing houses on Lots 26 and 25 be demolished, but also their respective garages, located in each case along the south property line. Though the proposed house will have a small garage unit located approximately where the existing garage on Lot 26 is located, the removal of the garages on Lots 25 and 24 and the layout and thin design of the proposed home will eliminate the structural impediments to air and light that existed previously to the direct benefit of the neighbors to the west and south.

The subject Property (see legal description attached as Exhibit A), which will be the property resulting from a recently filed Application for Lot Combination of Lots 26, 25 and 24 of the Argus Addition, is located in the R2 zoning district. Existing houses are located on Lots 26 and 25 (607 and 619 W. Frank St., respectively). The existing homes will be demolished in order to construct one home which is the subject of the variance requests herein. Lot 24 (635 W. Frank St.) contained only a construction site when purchased by the Property Owner, as the home that had previously occupied the lot had been demolished by a previous owner.

The home that was to be built on Lot 24 by the Property Owner's predecessor would have been much different than what is proposed by the Property Owner. See Exhibit B, attached hereto and incorporated by reference. The development of Lot 24, which had been approved by the City, included a house that that would have been approximately 12 feet from the property line and approximately 21 feet from the house located at 651 W. Frank St. The west side of that house would have been 43 feet long. There was also to have been a garage located in the southwest corner of the lot, located 3.6 feet from the property line. As is seen on the Site Plan, the Property Owner proposes to construct a home that will be 16 feet from the property line and 25 feet from the house at 651 W. Frank St. Further, the west side of the proposed house is only 34 feet long and there will be no garage on the west side of the Property. Accordingly, the proposed home will be further from the property line and there will be less building mass facing the neighbors at 651 W. Frank St. than the home had been previously approved and that was under construction when the Property Owner purchased Lot 24.

The Property Owner has discussed the proposed project with its neighbors to the west, located at 651 W Frank St. The Property Owner has discussed the placement of proposed house, the size, the distance from the neighbor's home as well as have provided the neighbors with an idea of what the proposed home will look like. The neighbors agree with the granting of the requested variances and have provided letter in support of the requests. See Exhibit C, attached hereto and incorporated by reference.

The Property Owner and it's professionals have met with and discussed the proposed project with various City staff regarding, among other things, placement of the newly proposed residence, variances and related items. Due to these meetings and efforts, the only variances required are the two minor variances requested herein.

Side Yard Setback Variance Requested

According to Section 2.08, the total side yard setback for both yards must be 14 feet or 25% of the total lot width, whichever is larger. The total lot width is 150', 25% percent of which is 37.5 feet. The Property Owner proposes a 10 foot setback on the east side of the Property and 16 feet along the east, for a total of 26 feet. See Exhibit B, attached hereto and incorporated by reference. *Accordingly, the dimensional variance requested by Property Owner from the "Minimum Side Yard Setback" requirement of Article 2, Section 2.08 is 11.5 feet.*

Distance Between Buildings Variance Requested

Section 4.74(C) provides that, in addition to the setback requirements of Section 2.08, that the minimum distance between principal residential buildings on adjacent lots shall be 14 feet or 25% of the total lot width, whichever is larger. As discussed above, 25% of the total lot width is 37.5 feet. As proposed, the home to be constructed on the subject Property would be 25 feet from the home located immediately to the west of and adjacent to the subject Property. See Exhibit C, attached hereto and incorporated by reference. *Accordingly, Property Owner requests a 12.5 foot variance in the minimum distance between buildings pursuant to Section 4.74(C).*

Identical Requests

Despite the two discrete requests contained herein, the Property Owner's requests here are effectively one in the same. The Property Owner seeks the ability to construct a home 16 feet from the west property line and 25 feet from their neighbor's home. Due to the manner in which the Zoning Ordinance has been organized, this request is required to be made to address two separate sections seeking two separate variances. However, the two requests contained herein are effectively one in the same.

The dimensional variances are requested as a result of the unique size, shape, physical characteristics and location of this Property as it relates to other neighboring and nearby properties, as well as the placement of the house on the property immediately west of and adjacent to the subject Property. Literal enforcement of the Zoning Ordinance, and the unintended consequences of such enforcement, will result in unnecessary hardship.

ARTICLE 8.01(F)(3)(a)(i) – BECAUSE OF SPECIAL CONDITIONS APPLICABLE TO THE PROPERTY IN QUESTION THE PROVISIONS OF THE ZONING ORDINANCE, IF STRICTLY APPLIED, UNREASONABLY PREVENT THE PROPERTY OWNER

FROM USING THE PROPERTY FOR A PERMITTED PURPOSE.

There are exceptional and extraordinary circumstances and conditions applicable to the subject Property because of its size and location and its zoning along W. Frank St. These unusual circumstances cause a practical difficulty and unnecessary hardship for the Property Owner and prevent the Property Owner from using the Property in the same manner as other property owners within the same zoning district, i.e., the R2 zoning district. Other owners in the R2 zoning district may freely build a new residential structure, or other structure permitted on property zoned R2, and all elements of the building, including setbacks, height, use, and all other requirements pursuant to the regulations applicable to the R2 zoning district and the Structure Standards applicable to the R2 zoning district contained in Section 4.74(C). However, if one combines lots in the R2 zoning district, the side yard setbacks are dependent upon the width of the resultant property. Larger parcels create a practical difficulty because of the difficulty of being able to use the lot for a permitted purpose simply because of the size of the lot. The unusual application of one element of the R2 zoning district and Section 4.74(C) to this Property effects both the size of the proposed building as well as its siting. Note, in referencing “the size of the proposed building”, the Property Owner is referencing the length or width of the building and not the square footage. Strict application of the Zoning Ordinance in this unique circumstance causes practical difficulty and unnecessary hardship in the construction of a home, which is a permitted as a primary use in the R2 zoning district.

The “minimum side yard setback” and “minimum distance between buildings” requirements are intended to control the size of the distance between houses in the R2 zoning district. In this case, however, with the unique location of the Property and its size, the “minimum side yard setback” and “minimum distance between buildings” serve to create unintended and negative consequences for the owner as well as the neighborhood. That is, a strict application of the “minimum side yard setback” and “minimum distance between buildings” requirements cause unreasonably large gaps between houses and clearly disturbs the pattern of distances for setbacks and distances between buildings in the neighborhood. Section 2.08 and 4.74(C) of the Zoning Ordinance are meant to apply to a single family residence built in the R2 zoning district with a minimum lot area of 6,000 square feet that is located next to similarly sized and zoned lots. When the size of a lot is varied by a multiple of more than 2, the minimum side yard setback and minimum distance between buildings grow to a point that they cause practical difficulty and unnecessary hardship in the construction of a home.

When a hypothetical total lot width is 150’, the total side yard setbacks and minimum distance between buildings are required to be 37.5’. If the principal building located on an adjacent is 9’ from the property line, as is the case here, the side yard setback for that part of the lot was the minimum 10’, the Property Owner would nonetheless be required to site their home 28.5’ from the property line, effectively increasing the side yard setback and additional 18.5’. The resulting distance between the proposed home and the property line would be an extreme

gap between structures and would quickly begin to look like an undeveloped lot. The 37.5' side yard setback and distance required between buildings is more than the maximum building height in the R1A, R1, R2, R3, R5, R8, O1, O2, B1, B2B, B2C, and TZ1 zoning districts. This result is not the intent of the Zoning Ordinance.

Sections 2.08 and 4.74(C) of the Zoning Ordinance contain an identical mathematical function, that is a comparison between 14' and the calculation of the total lot width multiplied by 25%. Application of this function results in 14' until the total lot width exceeds 56'. More plainly, so long as the total lot width is 56' or less, the total side yard setbacks and the minimum distance between buildings will be 14'. Combining two 50' lots results in minimum side yard setbacks and minimum distance between buildings of 25'. However, if additional lots are combined, the results are strange. When a third lot is combined (resulting in a 150' wide lot), the minimum side yard setback and minimum distance between buildings is 37.5'— a distance equal to approximately 60% of the third lot must be reserved for setback and minimum distance between buildings. A fourth combined lot (resulting in a 200' lot) the minimum side yard setback and minimum distance between buildings is 50'— a distance equal to the width of the entire fourth lot must be reserved for setback and minimum distance between buildings!

The unintended consequences of application of Sections 2.08 4.74(C) can be even more starkly illustrated by altering the hypothetical from a corner lot to a lot in the middle of a block. If the owner of a combined 3 lots with total lot width of 150' desires to build a home on those three lots, it will be required to maintain 37.5' spacing between each neighbor's house and side yard setbacks of 37.5'. If the neighboring houses were only 5' from the property line, the hypothetical property owner would absorb 65' of the distance between buildings, or a total of 27.5' more than the side yard setbacks. In that case, the hypothetical property owner would only be able to construct a house 85' wide, of 56.7% of the total lot width. For the owner of three or four 50' lots who combine same with the intention of building a home, such owner is precluded from using area that is approximately equal to an entire lot. Stated another way, an incremental increase in lot size due to the combination of lots results in a smaller incremental increase the buildable area of that lot. Strict application of the Zoning Ordinance results in an exponential growth in side yard setback and distance between building requirements that is neither intended nor desired under the Zoning Ordinance.

The Property is located on the corner of Watkins Street and Frank Street. Because it is on a corner and there is no house to the east, the presumed need of the massive side yard setback and minimum distance between buildings requirements is lessened. The scaling of the proposed home and its placement on the Property will further ameliorate the issues Section 2.08 and 4.74(C) are intended to address. The distance between the proposed house to be constructed by the Property Owner and the neighbor to the west will provide a natural rhythm similar to that found in the rest of the neighborhood. The Property Owner has also discussed the proposed home, the placement of same on the Property and the distance from the neighbor's home with the

neighbor. Not only does the neighbor not have any objections, the neighbor has provided a letter enthusiastically approving these requests. See Exhibit [].

The Property Owner contends it would be unreasonable therefore to, in this circumstance with this location of the Property in the R2 zoning district, strictly apply Sections 2.08 and 4.74(C) of the Zoning Ordinance. Given the size of this Property and its location in the City of Birmingham within the R2 zoning district, and further, given the fact that this Property is bordered on one side by a street, and the other side by another residential property with the owner of which enthusiastically approving the requests contained herein, it would appear that it is reasonable to grant the variances so that the Property Owner may use the Property in the same manner as other property owners in the R2 zoning district. If the requirements of the R2 zoning district and the Structure Standards were strictly applied, it would unreasonably prevent the Property Owner from using the Property in the same manner as other R2 zoning district owners.

ARTICLE 8.01(F)(3)(A)(ii) – LITERAL ENFORCEMENT OF THE CHAPTER WILL RESULT IN UNNECESSARY HARDSHIP.

The literal enforcement of the “minimum side yard setback” of the R2 zoning district and the “minimum distance between buildings” requirements of the Structure Standards as they apply to a R2 zoning district building will result in a practical difficulty and an unnecessary hardship to the Property Owner. The Property is zoned R2. Although the building is designed to be built in all respects as intended by the Zoning Ordinance, that is, with the standards of the R2 zoning district and the Structure Standards, it is clear that the application of the “minimum side yard setback” limitation found in the R2 zoning district and Section 4.74(C) of the Structure Standards, if applied to this particular property in this unique situation, will not only cause the Property Owner a practical difficulty and an unnecessary hardship, but also causes a conflict between the standards of the R2 zoning district and the Structure Standards.

The conflict is observed only after recognizing that Section 4.74(C) applies in addition to the side yard setback. If a proposed residential structure is sited in a manner so as to satisfy the side yard setback requirements, depending on the position of a neighbor’s home on an adjacent parcel, the proposed residential structure may violate the minimum distance between buildings. For example, assuming a home is proposed to be constructed on a lot 150’ wide and is sited with a 10’ side yard setback on one side and 27.5’ side yard setback on the other, and further assume the neighbor’s home is located only 5’ off the property line. The proposed residential structure would then violate the Zoning Ordinance despite its compliance with the sizable side yard setback.

The hardship caused here is that this R2 zoning district standard does not coordinate with either the unusual location or size of the Property, or the Structure Standards. The result is that application of the “minimum side yard setback” does not dictate or provide the distance a house

must be from the side property line, rather a home on a parcel of property adjacent thereto will determine its placement. In additional, literal enforcement of the “minimum side yard setback” and “minimum distance between buildings” requirements have no purpose in this circumstance. The unnecessary hardship is caused by the size of the Property.

The Property Owner is not proposing to build to a bigger footprint with the requested variances. The Property Owner is proposing to build a house appropriately scaled to the Property which also maintains the natural rhythm of houses and distances between houses in the neighborhood.

The owners of 651 W. Frank, St., located immediately west of the Property, have met with and discussed these matters as well as the proposed residence to be constructed on the Property. These neighbors are the only people directly affected by the requests contained herein and they enthusiastically approve the proposed project and the requests for these variances. Further, these neighbors have provided a letter indicting their approval.

The literal enforcement of the “minimum side yard setback” and “minimum distance between buildings” requirements, given the dimensions of this Property, its unusual shape and size, and importantly, the contiguity with 651 W. Frank Street, the only property owner directly impacted by the requests contained herein, causes the Property Owner a practical difficulty and an unnecessary hardship. Property Owner respectfully requests that it be granted dimensional variances of 11.5’ for the “minimum side yard setback and 12.5’ for the “minimum distance between buildings.” The literal enforcement of the Zoning Ordinance in the circumstance causes the Property Owner a practical difficulty and an unnecessary hardship.

ARTICLE 8.01(F)(3)(a)(iii) – THE GRANTING OF THE VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND PURPOSE OF THE ZONING ORDINANCE NOR CONTRARY TO PUBLIC HEALTH, SAFETY AND WELFARE.

The granting of the variances requested by Property Owner will not be contrary to the spirit and purpose of the Zoning Ordinance nor will they be detrimental to the public health, safety and welfare. Property Owner maintains that the construction of the proposed residential structure, where requested and with the requested variances, is squarely within the purpose and intent of the Zoning Ordinance. The siting of the resulting structure will fit into the pattern in the neighborhood and will continue that unbroken pattern. The size and location of the proposed residential structure are in accordance with all other sections of the Zoning Ordinance, and, importantly, the owners of the property immediately to west are in support of the requests.

The proposed residential structure is a permitted use of the R2 zoning district. The spirit and purpose of Article 2 as it pertains to single family residential housing in the R2 zoning district is clearly accomplished by the project proposed. However, application of both Sections

2.08 and 4.74(C) of the Zoning Ordinance result in spacing between houses that is unintended and simply out of place. The granting of the variances requested will achieve all of the objectives of the R2 zoning district and the Zoning Ordinance.

As houses may be as close as 14' to each other under Section 4.74(C), it follows that a house 14' from its neighbor is not contrary to the public health, safety and welfare. There can be no doubt that a house 25' from its neighbor is also not contrary to the public health, safety and welfare.

The spirit and purpose of Sections 2.08 and 4.74(C) of the Zoning Ordinance prevent the elimination of open space between buildings and to otherwise regulate the spacing and placement of buildings in the R2 zoning district. The spirit, purpose and intent of these sections is not to cause buildings to be further and further away, depending on total lot width, to the point that unnatural aesthetically disturbing gaps are required between houses. The spirit, purpose and intent of the Zoning Ordinance would be served by granting variances that would allow the entire proposed residential structure to be constructed in a position that is naturally appealing and of a size and scale appropriate for the size of the Property. In addition, the granting of these variances will not be not contrary to the public health, safety and welfare.

ARTICLE 8.01(F)(3)(a)(iv) – THE GRANTING OF THE VARIANCE WILL RESULT IN SUBSTANTIAL JUSTICE TO THE PROPERTY OWNERS, THE OWNERS OF THE PROPERTY IN THE AREA AND THE GENERAL PUBLIC.

The granting of the variance will result in substantial justice to the owner of the Property and the neighboring owners of the Property and the general public. The purpose and planning goals of the R2 zoning district have been enforced for years, and have resulted in vibrant neighborhoods which have benefitted the community as a whole. It would be inconsistent if one property in the R2 zoning district were to be singled out and not be able to be developed to take advantage of its unique size and location and natural beauty. The unique size and location of this Property have caused the Property Owner to request that it be permitted to construct a home that requires two minor variances in the side yard setback and the distance between buildings. Each of these variances covers the same physical space, that is, the space between the west edge of the proposed house to the property line to the neighbor's house. These variances will continue the pattern of development of the neighborhood. Not granting these requested variances would thwart that pattern of development.

The general public will also benefit by the granting of the variances, including the neighbors immediately to the west and the only people to be affected by the requested variances.

As such, the granting of these variances will result in substantial justice to the Property Owner by allowing the owner to use the Property as required in the R2 zoning district. The

nearby property owners are all within the R2 zoning district and therefore to develop this building pursuant to the same rules as these nearby properties would be a benefit to those property owners. Lastly, the granting of the requested variances and the construction of the proposed house, will be of benefit to the general public and will result in substantial justice to all of the citizens of the City of Birmingham.

THE PRACTICAL DIFFICULTY AND UNNECESSARY HARDSHIP IS NOT SELF-CREATED.

The practical difficulty and hardship experienced by this Property Owner is not self-created but exists because of the size and location of the Property. This Property is located in the R2 zoning district, is surrounded by homes, but is an unusual size. The design of the proposed house under the R2 zoning district is made possible as a result of the requirements of the R2 zoning district – including the requested variances as to the side yard setback and the minimum distance between buildings. Further, the R2 zoning district, as a whole, is populated with a variety of differently sized houses and lots. These variations in size and shape lends to the appeal of the housing market in the City. The Property Owner proposes to build a house that suits a lot the size of the Property, the neighborhood, and that maintains the natural rhythm of the spacing between houses in the neighborhood. The reasons for these variances is to benefit the City of Birmingham with a home and development that is complimentary to and consistent with the Zoning Ordinance and development goals of the City of Birmingham.

Strict application of the Zoning Ordinance, as to a property with 150' of total lot width, results in a house and placement that is not consistent with the goals of the Zoning Ordinance. Such strict application in this case results in a gap between houses that resembles an undeveloped lot. The appearance of undeveloped lots is not intended by the application of the Zoning Ordinance. This result is also not caused by any action of the Property Owner.

The size of this Property is not the same as many properties located in the R2 zoning district but the Property Owner is entitled to benefit from the R2 ordinance in the same manner as other property owners of smaller lots. Property Owner respectfully requests that the Board of Zoning Appeals grants a variance from the R2 zoning district "minimum side yard setback" and Structure Standards "minimum distance between buildings" requirements.

The Property Owner has not simply purchased three properties with the intransigent desire the build the house that he wants. The Property Owner has not proposed to build a house that extends to the limits of the setbacks and which covers more than 30% of the lot. The Property owner has worked diligently with the staff of the Building Department, as well as the Building Official, to mitigate the size of the variances it seeks here. As a result of the Property Owner's work with staff, the amount of the requested variances has been reduced by

approximately 25%. The Property Owner has also shifted the location of the proposed house to the far east side of the Property in an attempt to maximize the open space on the west and increases the size of the side yard setback and minimum distance between building on the west side of the Property. This is not the case of an owner acquiring property with the blind intent of building the structure it wants without consideration to the Zoning Ordinance. The fact that the Property Owner is only seeking these two variances in the minimal amounts of 11.5' and 12.5' is testament to its desire to build a conforming structure without the need to seek variances or to seek only the most minimal variances. Each of the two variances requested by the Property Owner cover overlapping space on the west side of the Property from the west edge of the proposed house, to the property line to the neighbor's home.

There are many homes in the neighborhood as well as the R2 zoning district that have been built on combined lots or lots abnormally sized compared to neighboring properties. There is a property on the same block and across the street from the subject Property that contains a home that is approximately 200' long on a lot 217' long. The setback on this 200' home is only 5' and the distance between buildings is 17'. These are not brought to the attention of this Board seeking similar treatment based on the precedential effect of such homes or *stare decisis*, nor are they brought for the purpose of saying the property Owner should be able to build the house it wants because those other owners were permitted to do so. Rather, these other homes are mentioned because of the positive effect they have on the natural rhythms of house spacing and gaps between houses they have in their respective neighborhoods, even though they are on lots larger or longer than 150'.

The granting of the dimensional variances in this circumstance, given the unique size and special circumstances of this Property, is a result of the unique physical characteristics of the size of the Property and its location in the neighborhood. This creates a practical difficulty and hardship that prevent the Property Owner from the use of the Property in the same manner as enjoyed by other property owners in the area. The Zoning Ordinance provides for a minimum but not a maximum of size. The size of the Property is permitted and results in unique characteristics that were not created by the Property Owner, but are a result of physical characteristics of an unusually located property bordered by a public street on the east and an existing home on the west.

CONCLUSION FOR REQUESTED DIMENSIONAL VARIANCES

The Property Owner seeks to build a home and would like to build it 16 feet from the west property line and 25 feet from its neighbor's home, which is 4 feet further from the neighbor's home than was the home that was approved and under construction prior to the Property Owner's acquisition. This is one request that is only separated into two because of the manner in which the Zoning ordinance has been drafted. Due to the organization of the Zoning Ordinance, the Property Owner must request two separate variances. These two requests are

similar enough that a person without familiarity with the Zoning order would assume that they are one in the same.

The variances requested are necessary to preserve the enjoyment and substantial property rights possessed by other property owners in the same R2 zoning district. Further, the granting of these variances provides the following relief: (i) the Property Owner will not be unreasonably prevented from the use of the Property for a permitted purpose by a literal interpretation of the Zoning Ordinance that serves no purpose in this circumstance; (ii) the literal enforcement of the Zoning Ordinance will not result in unfair and unnecessary hardship to the Property Owner; (iii) the granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health safety and welfare; and (iv) the granting of the variance will result in substantial justice to the Property Owner, the owners of property and the general public. Finally, the practical difficulty and unnecessary hardships experienced by the Property Owner are not caused by the Property Owner. The granting of these variances will produce a situation where the development of this Property and building in the R2 zoning district will, in all ways, comply with the purpose and objective of the Zoning Ordinance and planning goals.

The Property Owner is not alleging any infirmity with the Zoning Ordinance. Although, if the Zoning Ordinance was perfect, there would be no need for variance from the Zoning Ordinance nor a Board of Zoning Appeals to grant such variances. In this case, the strict application of Section 2.08 and 4.74(C) produces results in the minimum side yard setback and distance between buildings that unreasonably deprives the Property Owner's use of the Property as well as create abnormally large gaps between buildings, neither of which was desired or intended by the City when enacting these two provisions of the Zoning Ordinance.

Accordingly, Property Owner requests that the Board of Zoning Appeals favorably consider this Application and grant the dimensional variance as submitted herein.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

A handwritten signature in blue ink, reading "Richard D. Rattner", followed by a small circular stamp containing the letters "RDR".

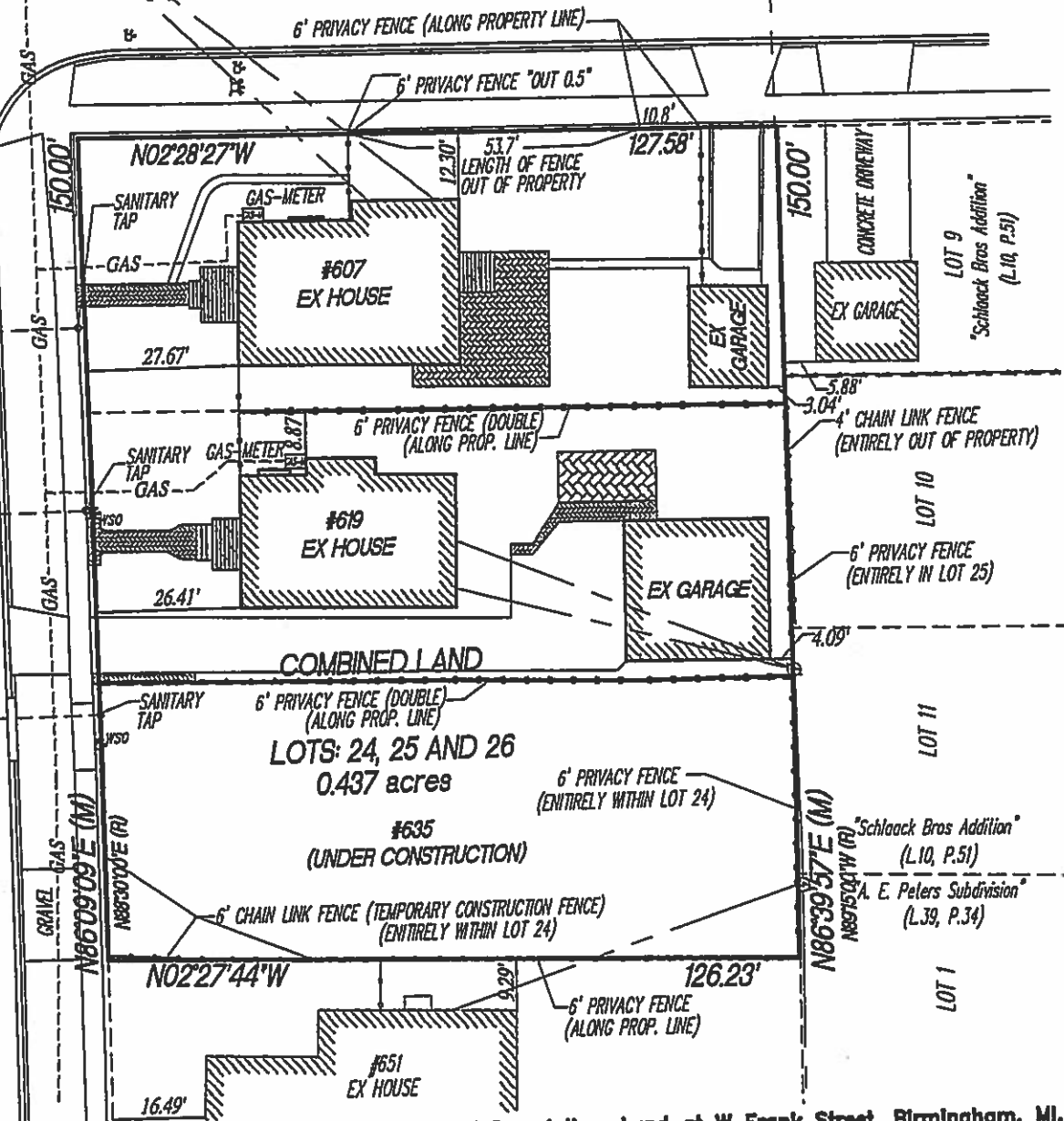
Richard D. Rattner

RDR/
(01065928)
Enclosures

LOT COMBINATION

Watkins Street (50' wide)

W Frank Street (60' wide)



LEGEND

- FI = FOUND IRON
- FCI = FOUND CAPPED IRON
- FP = FOUND PIPE
- FM = FOUND MONUMENT
- S-PR COR = SET PROPERTY CORNER
- N₁E₁S₁W = NORTH; EAST; SOUTH; WEST
- N=0.1' = CORNER IF 0.1' N. OF EXACT LOCATION
- PR COR LOC. = PROPERTY CORNER LOCATION
- P.I.D.# = PARCEL IDENTIFICATION NUMBER
- T./R. = TOWN/RANGE
- L./P. = LIBER/PAGE
- R./M. = RECORD/MEASURE
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- BRICK PAVERS
- UP = UTILITY POLE
- OVER HEAD WIRE
- PRIVACY FENCE
- CHAIN LINK FENCE
- HYDRANT
- WATER SHUT OFF

Legal Description: Land at W Frank Street, Birmingham, MI, 48009

Part of the NW 1/4 of Section 36, T.2N., R.10E., City of Birmingham, Oakland County, Michigan, being more particularly described as follows:
LOTS: 24, 25 and 26 of ARGUS ADDITION to the Village of (now City of) Birmingham, according to the plat thereof recorded in Liber 10, on Page 34, Oakland County Records. Containing: 19,032 Square Feet---0.437 Acres, more or less.

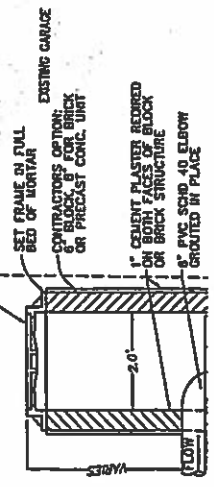
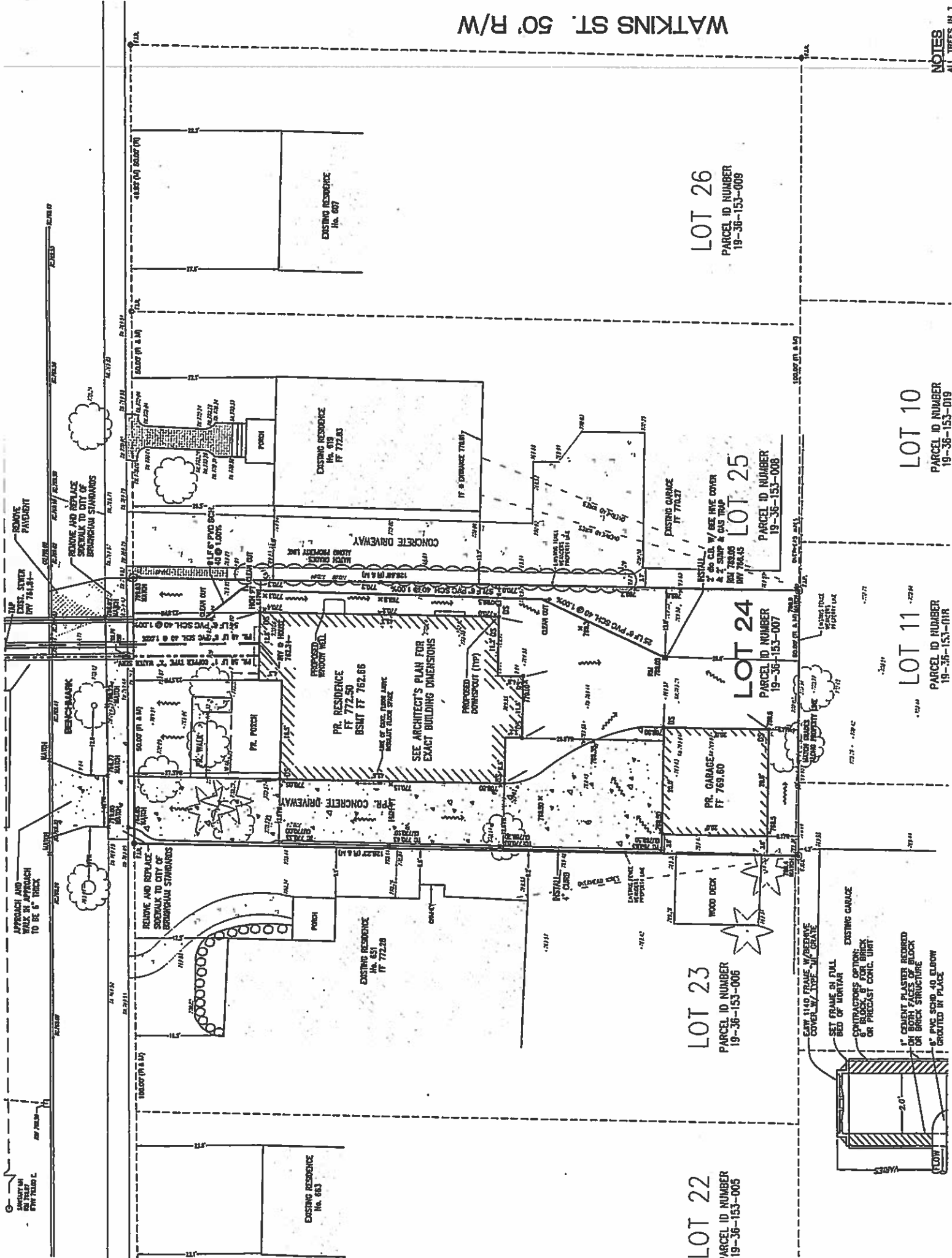
Subject to the rights of a public and any easements and/or restrictions of record or otherwise.

Surveyor's Certification:

I hereby certify that I have surveyed and mapped the land plotted/mapped and described as shown herein and that the ratio of closure of the unadjusted field observations of such survey are no greater than 1 in 10000 feet and that all the requirements of public P.A. 132 have been complied with.

Mende Bezanovski, P.S. 49430

0' 15' 30' 60'



RE: Alhermizi 607-635 W. Frank St. Side-Setback Zoning Appeal

Dear Birmingham Board of Zoning Appeals:

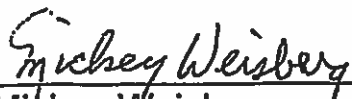
My name is Mickey Weisberg. My wife Shelli Weisberg and I have owned 651 W. Frank St., Birmingham MI for the last 35 years. The eastern side of our lot/home borders the western edge of 635 W. Frank St., where the Alhermizi's have applied for a 12.5 foot side-setback variance. The Alhermizi's proposed 12.5 foot variance would still yield 25 feet of side-setback between our two homes: 16 feet on their side of the property line, and 9' on my side. As the property owners most directly impacted by this request, we SUPPORT the granting of the 12.5 foot side-setback variance the Alhermizi's are requesting.

Even with the variance, the new home would still be 16 feet from our mutual lot line, and 25 feet from the edge of our home—which is 4 feet more than the currently approved house which is under construction on that lot if it were to be finished. We believe the proposed 25 foot side yard might be the most in the neighborhood, and would not impede the enjoyment of our home.

Furthermore, the granting of the variance does not in any way impact or limit our ability to add onto our existing home or build a new home on our lot as close as 5 foot—even closer than the current 9 feet our home sits from the property line (if we wished to do so).

Accordingly, we request that you grant the proposed 12.5 foot side-setback variance proposed by the Alhermizi's for their home at 607-635 W. Frank Street.

Sincerely,

 6/5/16
Mickey Weisberg

 6/5/16
Shelli Weisberg