

# BOARD OF ZONING APPEALS AGENDA

City of Birmingham  
Commission Room of the Municipal Building  
151 Martin Street, Birmingham, Michigan  
Tuesday, June 13, 2017  
7:30 PM

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

	Address	Petitioner	Appeal	Type/Reason
1.	345 HAWTHORNE	HART	17-15	DIMENSIONAL
2.	1407 STANLEY	LIVE WELL CUSTOM HOMES	17-16	DIMENSIONAL
3.	612 DAVIS	PISANO	17-17	DIMENSIONAL

4. CORRESPONDENCE
5. GENERAL BUSINESS

ELECTION – CHAIRMAN  
ELECTION – VICE-CHAIRMAN

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, MAY 9, 2017  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, May 9, 2017. Chairman Charles Lillie convened the meeting at 7:30 p.m.

**Present:** Chairman Charles Lillie; Board Members Jeffery Jones, Vice Chairman Randolph Judd, John Miller, Erik Morganroth; Alternate Board Members Kristen Baiardi, Jason Canvasser

**Absent:** Board Members Kevin Hart, Peter Lyon

**Administration:** Matthew Baka, Senior Planner  
Bruce Johnson, Building Official  
Mike Morad, Building Inspector  
Carole Salutes, Recording Secretary

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

**T# 05-31-17**

**APPROVAL OF THE MINUTES OF THE BZA MEETING OF APRIL 18, 2017**

Ms. Baiardi noted that her last name is spelled incorrectly.

**Motion by Mr. Morganroth**

**Seconded by Mr. Canvasser to approve the Minutes of the BZA meeting of April 18, 2017 as amended.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Morganroth, Canvasser, Baiardi, Jones, Judd, Lillie, Miller

Nays: None

Absent: Hart, Lyon

**T# 05-32-17**

**420 E. FRANK**

**Appeal 17-13**

The owners of the property known as 420 E. Frank request the following variance to allow for the construction of a three-story multiple-family building in the TZ-1 zone, with reducing sidewalk widths.

**A. Chapter 126, Article 4, Section 4.73 (B)** requires a minimum of 6 ft. wide sidewalks. The applicant is proposing 5 ft. 4 in. wide sidewalks along E. Frank and 4 in. wide sidewalks along Ann St.; therefore variances of 8 in. and 2 ft. are requested respectively.

This property is zoned TZ-1.

Mr. Baka noted that the applicant is proposing to match the existing sidewalk width of the abutting properties. This is the first site plan review that has come up in the new TZ-1 Zone. In response to the Chairman, Mr. Baka thought the rationale for having the sidewalks 6 ft. in width was that it was anticipated a lot of the TZ Zones would be in more urban areas. The new TZ-1 Zone contains only three or four properties. The additional sidewalk width would be on all the frontage lines of the parcel in question. Because this is the first time a TZ-1 parcel has gone through the site plan review process, this might be one of those unintended consequences. The Planning Board was surprised they did not have a mechanism in the Ordinance to allow them to match the existing sidewalks. They gave their full support to matching existing conditions and will definitely look at amending the TZ-1 Ordinance.

Mr. Johnson noted Mr. O'Meara told him that typically the Engineering Dept.'s sidewalk replacement program consists of an inspector going out and marking flags that are damaged and need to be replaced on an existing sidewalk. They then replace the marked flags, matching the existing width of the sidewalk. The only time they would consider increasing the width is if everything was being installed new as part of a special assessment.

Mr. John Shekerjian, agent for the applicant, said the Planning Board Minutes of their Preliminary Site Plan Approval state that the board concluded the width of the sidewalks should be determined by how they relate to the other sidewalks. If the Frank St.

sidewalk were to increase by 8 in. to meet the Ordinance it would go into their property. Their sidewalk abuts metered parking along that stretch, so it is all pavement now.

At 7:47 p.m. there was no one in the audience who wish to comment on this petition.

**Motion by Mr. Miller**

**Seconded by Mr. Judd. In regard to 420 E. Frank St., Appeal 17-13, he would submit to approve the petitioner's request. It seems that aligning the sidewalks with the existing sidewalks is pretty reasonable, especially if you walk up and down the sidewalks on that corner. Certainly continuing Ann St. is an obvious thing to do and it is very similar to the condition down Frank St.**

**So Mr. Miller thinks one of the overriding concerns would be about doing justice to the surrounding properties in the neighborhood, and by granting this variance he believes it would do substantial justice in that regard.**

**It is a unique circumstance here due to the adjacent properties and the existing sidewalks, so that certainly was not self-created.**

**He thinks that strict compliance, especially along Ann St., would certainly create a problematic situation with misaligned sidewalks. So again, he would submit to approve as submitted on the drawings.**

Mr. Jones indicated his support for the motion. However, it is still unclear as to what the Ordinance may have meant. There is no reason why the sidewalk can't be put in, if that is what the Ordinance requires.

Mr. Morganroth said he would also support. However, along with that same concept he feels there is nothing burdensome about the requirement of the Ordinance. In general he does think that when there is an application for a rezoning, the expectation should be to follow the required ordinances within that rezoning. However, he recognizes the danger of having the sidewalk suddenly jut over and change width.

Mr. Judd said he understands the reality of having a sidewalk comprised of several widths would be absurd. Therefore he definitely supports the motion.

Chairman Lillie said this situation is unique and he would support the motion. It isn't a case where the petitioner can't put in a 6 ft. sidewalk along Ann St., however he doesn't particularly want to. On Frank St. it is close enough that the difference won't be noticed.

**Motion carried, 7-0.**

**ROLLCALL VOTE**

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

Nays: None  
Absent: Hart, Lyon

**T# 05-33-17**

**2200 AVON LN.  
Appeal 17-14**

The owners of the property known as 2200 Avon Ln. request the following variance to allow for the construction of a house addition less than the required minimum distance between principal residential buildings.

**A. Chapter 126, Article 4, Section 4.74 (C)** of the Zoning Ordinance requires a minimum of 20.00 ft. between principal buildings for this lot. The applicant is proposing 18.55 ft.; therefore, a variance of 1.45 ft. is requested.

This property is zoned R-1.

Correspondence in favor of the proposed renovation has been received from four neighbors along Avon Ln.

Mr. Johnson advised the applicant is proposing to construct a second-story addition over the garage and a rear two-story addition to an existing non-conforming structure. All other setbacks and distance requirements are conforming. The identical variance was approved in March of 2016 but a Building Permit was not obtained within one year of the approval. The applicants are here tonight seeking a re-approval of that variance. The need for a variance is caused by the house to the east because the applicant's home meets its totals. The drawings show that some of the materials may have changed since March 2016.

Mr. Jeff Klatt, Krieger Klatt Architects, was present with the homeowner, Ms. Kim Hursley. He passed out neighbor approval letters, including from the neighbor to the east who is most affected by this renovation. The homeowners decided to make a few changes to the home to keep the project within budget. Therefore they decided to scale the master bedroom addition back a bit. The footprint is not changing at all but the materials are different.

The practical difficulty exists due to the existing non-conforming condition of the house. They feel it would be burdensome to push the new addition 1.45 ft. in because they couldn't take advantage of the existing bearing walls. They also feel the addition will compliment the neighborhood.

Mr. Morganroth received confirmation that the change in materials did not change the requested variance.

No one from the audience wished to comment at 8 p.m.

**Motion by Mr. Judd**

**Seconded by Mr. Jones in regard to Appeal 17-14, 2200 Avon Ln., the petitioner is back before us again after a one year absence during which they did not take advantage of a variance that was granted. The facts remain the same. The petitioner is seeking a variance of 1.45 ft. We have a pre-existing non-conformity. The request by the petitioner will increase that non-conformity but stay within the same plane.**

**In reviewing this, Mr. Judd feels that strict compliance would be unreasonably burdensome in this case. He feels that to grant this variance would do substantial justice to the applicant and other property owners. Further, he feels their plight is due to a unique circumstance, namely the proximity of a building on the east side and he does not feel that the problem is self-created.**

**For those reasons he would tie the motion to the plans and grant the variance.**

Mr. Jones commented there are not only no complaints from the neighbors, but letters of support as well.

**Motion carried, 7-0.**

**ROLLCALL VOTE**

Yeas: Judd, Jones, Baiardi, Canvasser, Lillie, Miller, Morganroth

Nays: None

Absent: Hart, Lyon

**T# 05-34-17**

**345 HAWTHORNE**

**Appeal 17-15**

This appeal is off tonight's docket because it will be necessary to re-advertise.

**CORRESPONDENCE** (none)

**T# 05-35-17**

**GENERAL BUSINESS**

**T# 05-36-17**

**OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

A member of the audience said she plans to rebuild the garage of her historic home. Mr. Johnson suggested that she come in to the Building Dept. and speak with him or with Scott Worthington in order to go over the requirements. She complimented the board for the work they do.

The Chairman suggested that election of officers be held next month.

**T# 05-37-17**

**ADJOURNMENT**

No further business being evident, the board members passed a motion to adjourn at 8:10 p.m.

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Bruce R. Johnson, Building Official

# **CASE DESCRIPTION**

## **345 Hawthorne (17-15)**

**Hearing date: June 13, 2017**

The owners of the property known as 345 Hawthorne request the following variance to allow for the construction of a one story addition.

- A. **Chapter 126, Article 4, Section 4.74 (C)** requires a minimum of 27.56' between principal structures. The existing and proposed distance between principal structures (North side) is 17.39'; therefore a variance of 10.17' is requested.
- B. **Chapter 126, Article 2, Section 2.06** requires the total side yard setback to be a minimum of 27.56'. The existing and proposed total side yard setback is 25.87'; therefore a variance of 1.69' is requested.

**Staff Notes:** The one story addition is in line with the existing non-conforming home that was built in 1950. A variance was granted on 9/13/2016 for the installation of pool on the south side of the home to project into the required side open space.

This property is zoned R-1.

*Scott Worthington*

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Scott Worthington  
Plan Reviewer





**Bruce Johnson** <bjohnson@bhamgov.org>

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## Fwd: 345 Hawthorne

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**J. Claibourne Kelly** <jckelly@ameritech.net>

Sun, May 7, 2017 at 8:02 PM

To: bjohnson@bhamgov.org

Cc: sworthington@bhamgov.org, Elaine Kelly <elainemorankelly@gmail.com>, Marianne Schwartz <mssart416@gmail.com>, Jeffrey Brown <jeffbrownlv@mac.com>

Bruce,

Please forward this to the Board.

Thank you,

**J. Claibourne Kelly**  
jckelly@ameritech.net  
248-613-6451

On May 7, 2017, at 7:24 PM, Jeffrey Brown <jeffbrownlv@mac.com> wrote:

Dear Scott,

My wife, Pam, and I live at 348 Hawthorne St. directly across from 345 Hawthorne St.

We strongly support the comments of our neighbors, J. Claiborne Kelly and Marianne and Alan E. Schwartz regarding this matter.

Our primary interest is that the owner of 345 Hawthorne St. address the items listed in Mr. Kelly's message of May 5th to you.

Since we will be out of town on May 9th, we ask that you forward this message for consideration by the Board.

Best regards,

**Jeffrey H. Brown**  
jeffbrownlv@me.com  
Cell: 248-979-7119

On May 5, 2017, at 9:42 PM, Marianne Schwartz  
<[mssart416@gmail.com](mailto:mssart416@gmail.com)> wrote:

Dear Scott,

This is from Marianne and Alan E Schwartz. We reside at 416 Hawthorne St, almost across from 345 Hawthorne St. We strongly support the words sent to you by our neighbor, J. Claiborne Kelly. It has been an ongoing nightmare to be residing on Hawthorne any where near this home requesting a variance for MORE construction!

Thank you for considering our thoughts.

The Schwartzes

On Fri, May 5, 2017 at 10:43 AM, J. Claibourne Kelly  
<[jckelly@ameritech.net](mailto:jckelly@ameritech.net)> wrote:

Scott,

My wife and I live at 390 Hawthorne.

Following up on our phone conversation, we are opposed to any more variances being granted to 345 Hawthorne. Our complaint isn't so much that a small addition be added to the back of the premises. Rather, we are very tired of 345 being a construction site for what, about two years now? The granting of another variance would yet again delay the completion of the project. I haven't seen any construction activity in months. The project itself is a mess and has been for too long: There is a dumpster in the driveway; there is a fallen tree (at least nine months now); the driveway is torn up; the gardens are overgrown. Frankly, the place is an eyesore and it shouldn't be. It is almost like having an abandoned home on our street.

I hope this is not considered unneighborly. However, I feel that we and our neighbors have not been treated in a neighborly way. We look forward to welcoming our new neighbor and construction being completed. I believe I have the support of the Browns to our North and the Schwartz's to our South (They are copied

above).

Unfortunately I will be out of town for the meeting. Please have this added to the materials for the Board.

Please call if you wish to discuss further.

Thank you.

J. Claibourne Kelly  
[jckelly@ameritech.net](mailto:jckelly@ameritech.net)  
248-613-6451



Scott Worthington &lt;sworthington@bhamgov.org&gt;

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**345 Hawthorne**

1 message

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**J. Claibourne Kelly** <jckelly@ameritech.net>

Fri, May 5, 2017 at 10:43 AM

To: sworthington@bhamgov.org

Cc: Marianne Schwartz &lt;mssart416@gmail.com&gt;, Jeffrey Brown &lt;jeffbrownlv@mac.com&gt;, Elaine Kelly &lt;elainemorankelly@gmail.com&gt;

Scott,

My wife and I live at 390 Hawthorne.

Following up on our phone conversation, we are opposed to any more variances being granted to 345 Hawthorne. Our complaint isn't so much that a small addition be added to the back of the premises. Rather, we are very tired of 345 being a construction site for what, about two years now? The granting of another variance would yet again delay the completion of the project. I haven't seen any construction activity in months. The project itself is a mess and has been for too long: There is a dumpster in the driveway; there is a fallen tree (at least nine months now); the driveway is torn up; the gardens are overgrown. Frankly, the place is an eyesore and it shouldn't be. It is almost like having an abandoned home on our street.

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Unfortunately I will be out of town for the meeting. Please have this added to the materials for the Board.

Please call if you wish to discuss further.

Thank you.

J. Claibourne Kelly  
jckelly@ameritech.net  
248-613-6451



Application Date: 4-13-17Hearing Date: 5-9-17Received By: BMAppeal # BZA 17-15**Board of Zoning Appeals Application**Type of Variance: Interpretation \_\_\_\_\_ Dimensional ☒ Land use \_\_\_\_\_ Sign \_\_\_\_\_ Admin review \_\_\_\_\_**Property Information:**

Street address: <u>345 HAWTHORNE</u>	Sidwell Number: _____
Owners name: <u>ANTHONY CUPISZ</u>	Phone #: <u>248.515.0111</u>
Owners address: <u>345 HAWTHORNE</u>	Email: <u>TONY.CUPISZ@ACMNC.COM</u>
City: State: <u>BIRMINGHAM, MI</u>	Zip code: <u>48009</u>
Contact person: <u>PATTY KELLER</u>	Phone #: <u>248.642.9427</u>

**Petitioner Information:**

Petitioner name: <u>PATRICIA KELLER</u>	Phone #: <u>248.642.9427</u>
Petitioner address: <u>700 EAST MAPLE, SUITE 101</u>	Email: <u>KDHARCHIE@AOL.COM</u>
City: <u>BIRMINGHAM</u> State: <u>MI</u>	Zip Code: <u>48009</u>

**Required Attachments:**

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

**General Information:**

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

The BZA review fee is **\$310.00** for single and attached single-family projects, or **\$510.00** for two-family, multi-family, commercial, industrial parking or other.

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'

CITY OF BIRMINGHAM  
Date 04/19/2017 10:33:26  
Ref 0633292  
Receipt # 199676  
Amount \$10.00

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: 4/12/17

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

May 24, 2017

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

Subject: 345 Hawthorne-Distance Between Structures and Total Side Yard Setback Dimensional Variances

Dear Members of the Board,

The Cupisz Residence on Hawthorne Road in Birmingham, Michigan is an existing non-conforming structure that protrudes into the Distance Between Structures Setback by 10.17 feet. It also encroaches into the Front Yard Setback by 1.3'. Mr. Cupisz proposes to build an austere 295 square foot addition onto the home that will build a new mudroom and laundry room directly adjacent to the existing garage.

The existing non-conforming Distance Between Structures is 17.39' and the proposed Distance Between Structures is to remain at 17.39'. The Distance Between Structures Dimensional requirement will need a variance of 10.17'. The Total Side Dimensional distance is 25.87' and the proposed Total Side Dimensional distance also remains at 25.87'. The Total Side Dimensional requirement will need a variance of 1.69'.

The proposed addition will not extend into the side yard beyond the existing line of the house. It will increase the non-conformity by a length of 21.16'. The encroachment issue was not self created with the home being built prior to the "Distance Between Structures" requirement in the ordinance. The existing house was not built squared up with the street like most of the homes on Hawthorne. Forcing the Cupisz Family to build onto their home within the new setbacks would create an undue hardship with an awkward dysfunctional layout of the home. The proposed addition is harmonious and within scale of the existing house and the neighborhood. The new construction will not be visible from the street.

The owners respectfully request relief from the 27.56' Distance Between Structures Setback requirement with a variance of 10.17'. The owners also respectfully request relief from the Total Side Dimensional with a variance of 1.69'. Please feel free to contact me at 248.642.9427 if you have any questions.

Thank you.

Sincerely,



Patricia Keller

**DISTANCE BETWEEN STRUCTURES VARIANCE:**

REQUIRED	EXISTING	PROPOSED	VARIANCE
27.56'	17.39'	17.39'	10.17'

**TOTAL SIDE DIMENSIONAL VARIANCE:**

REQUIRED	EXISTING	PROPOSED	VARIANCE
27.56'	25.87'	25.87'	1.69'

# **CASE DESCRIPTION**

## **1407 Stanley (17-16)**

**Hearing date: June 13, 2017**

The owners of the property known as 1407 Stanley is requesting the following variance to allow for the construction of a new house.

- A. **Chapter 126, Article 4, Section 4.74 (C)** requires a minimum of 14' between principal structures. The proposed distance between principal structures (south side) is 12.34'; therefore a variance of 1.66' is requested.

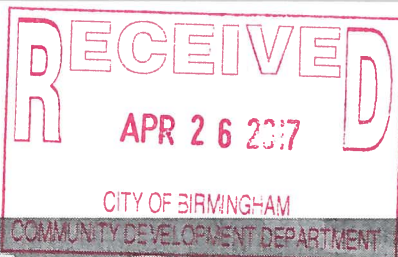
**Staff Notes:** The lot is a corner lot and the house to the south is 5.84' off the property line.

This property is zoned R-2.

*Scott Worthington*

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Scott Worthington  
Plan Reviewer

Application Date: 4-26-17Hearing Date: 6-13-17Received By: BMAppeal # 17-16**Board of Zoning Appeals Application**Type of Variance: Interpretation \_\_\_\_\_ Dimensional ☒ Land use \_\_\_\_\_ Sign \_\_\_\_\_ Admin review \_\_\_\_\_**Property Information:**

Street address: <u>1407 STANLEY</u>	Sidwell Number:
Owners name: <u>LIVE WELL CUSTOM HOMES</u>	Phone #: <u>248-677-8484</u>
Owners address: <u>433 W. WASHINGTON</u>	Email: <u>RICK @ LIVE WELL CUSTOM HOMES</u>
City: State: <u>ROYAL OAK MI</u>	Zip code: <u>48067</u>
Contact person: <u>RICK MERLINI</u>	Phone #: <u>586-201-2500</u>

**Petitioner Information:**

Petitioner name: <u>RICK MERLINI</u>	Phone #: <u>248-677-8484</u>
Petitioner address: <u>SAME AS ABOVE</u>	Email:
City: _____ State: _____	Zip Code: _____

**Required Attachments:**

- Original Certified Survey ☐ Original BZA application ☐ Letter of hardship or practical difficulty
- ☐ 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
  - ☐ 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: \_\_\_\_\_ Date: \_\_\_\_\_

Date 04/26/2017 12:00 PM  
Ref: 00157477  
Receipt: 370576  
Amount: \$310.00



ZBA Request for 1407 Stanley Birmingham

I am request a dimensional variances of 1.67 on the southern side yard set back

My hardship is that the current zoning ordinance works well on all interior lots. But when you get to a corner lot that does not have a neighboring driveway on its side, it cause unfair hardship as an owner.

Most new home constructed in this area, with this lot size, would be able to construct a home that is 35' in width. Strictly compliance would only allow me to construct a home of 31'3" which is 3'9" less than most other homes in the area.

Instead of requesting for a lager variance to keep me completeive to other homes in the area, I have reduced the width of the home to 33' in width to minimize the variance request.

I would like to thank the board for their consideration of this matter.

# **CASE DESCRIPTION**

## **612 Davis (17-17)**

**Hearing date: June 13, 2017**

The owners of the property known as 612 Davis is requesting the following variance to allow for the construction of a porch.

- A. **Chapter 126, Article 4, Section 4.30 (C. 1.)** requires a porch to be a minimum of 10' from the property line. The proposed porch will be 7.7' from the property line; therefore a variance of 2.3' is requested.

**Staff Notes:** The house was built in 1975 and was constructed on an angle that is not parallel with the side yard property line. The applicant is proposing a one story addition that complies with the zoning requirements and a porch which requires the above variance.

This property is zoned R-3.

*Scott Worthington*

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Scott Worthington  
Plan Reviewer

Application Date: 5-15-17



Hearing Date: 6-13-17

Received By: Bm

Appeal # 17-17

### Board of Zoning Appeals Application

Type of Variance: Interpretation Dimensional Land use \_\_\_\_\_ Sign \_\_\_\_\_ Admin review \_\_\_\_\_

#### Property Information:

Street address: <u>612 DAVIS</u>	Sidwell Number: <u>19-36-478-046</u>
Owners name: <u>AMY + FRANK PISANO</u>	Phone #: <u>248-321-3207</u>
Owners address: <u>612 DAVIS</u>	Email: <u>jlwboyce@gmail.com</u>
City: State: <u>BIRMINGHAM MI</u>	Zip code: <u>48009</u>
Contact person: <u>JANELLE BOYCE</u>	Phone #: <u>248-321-3207</u>

#### Petitioner Information:

Petitioner name: <u>JANELLE BOYCE</u>	Phone #: <u>248-321-3207</u>
Petitioner address: <u>179 CATALPA DRIVE</u>	Email: <u>jlwboyce@gmail.com</u>
City: <u>BIRMINGHAM</u> State: <u>MI</u>	Zip Code: <u>48009</u>

#### Required Attachments:

- Original Certified Survey ☒ Original BZA application ☒ Letter of hardship or practical difficulty
- ☒ 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
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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 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: Frank J. Pisano

Date: 5-8-17



DATE 05/15/2017 12:54 PM  
RECEIVED 373170  
AMOUNT \$360.00

May 8, 2017

Letter of Practical Difficulty

Applicant/Address of Variance Request: Amy and Frank Pisano

612 Davis

Birmingham, MI 48009

Petitioner: Janelle Boyce

Relationship: Designer/Builder

The following is an explanation of the practical difficulty leading to our request for a dimensional variance at the property address 612 Davis:

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

The placement of the existing home, on the lot, is unusual in the sense that the home (built in 1975, and not contracted by the present owners) was positioned at a 20-degree angle to the rectilinear lot.

Additionally, the home has an address on Davis Avenue but a second front is on Grant Street. We are requesting a small 8.85 square foot porch corner be permitted as a means for us to create a path from the logical parking location on Davis to the front door of the home on Grant. The largest encroachment of the northwest corner of the porch is at 7.7' from the lot line where the permitted setback is 10'.

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

The ordinance requires we setback the porch 10' from the property line, for most of the entirety of the porch we are able to accomplish this. In order to maintain a comfortable walking path on the porch we are unable to clip the corner of the porch, and therefore keep the entire porch within the 10' setback. Because of the angled placement of the home on the lot the northwest corner of the proposed porch falls outside the permitted setback. The Pisano's would like for themselves and guests to be able to park in their driveway (on Davis) and follow a walk from the driveway to the porch leading to the front door. Currently, guests walk across the grass and/or back down the driveway to the city sidewalk and around the

corner to access the front door. We considered a flat walkway to the front porch to stay within compliance and avoid needing this variance. However, the proposed change with the slightly elevated covered porch gives comfort to the applicant in inclement weather and provided much needed curb appeal that this "garage front house" is sorely missing. The new wrap around porch, new siding, gutters, windows, roof and landscaping will be a tremendous improvement in the overall appearance of this home. It will also act to help alleviate its current non-compliance as a "garage front house".

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

The home was originally constructed at a 20-degree angle on a rectilinear lot (the Pisano's are not the original owners). The home has a front door on Grant Street (a Davis address) with the garage front of the home on Davis Avenue. There is not a reasonable access path from the front (Davis) of the home to the entrance (Grant) of the home.

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

Complying with the ordinance is impractical because the intent of the addition of the porch is to provide the owner with the ability to access their front door safely when parking in their driveway. Since this home was built new ordinances have been adopted to accomplish the desire of the City to accentuate the importance of a front entry in relationship to the pedestrian and to improve the aesthetics of the neighborhoods. We believe we are accomplishing this and therefore helping to bring the home into a closer overall compliance.

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

In fact, it is quite the opposite. Allowing the variance will create a safer way to access the home from the driveway. As it is now when guests arrive to the home they haven't a comfortable means to access the front door of the home. The addition will be an overall improvement of the entire appearance of the home, resulting in an increased value of the home and the surrounding properties.

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

Granting the variance will create a publically safer condition for the property owners and the guests of the property.

Allowing the variance will not adversely impact adjacent property owners as it is a corner house and the variance request is for the side without a neighbor. Additionally, the request is for only 8.85 total square feet of the corner of the porch.

