

BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

Municipal Building Commission Room
151 Martin Street, Birmingham, Michigan
September 17, 2019
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES

1) August 13, 2019

4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	995 HENLEY	DOKES	19-31	DIMENSIONAL
2)	1114 LAKESIDE	HUE PROJECTS	19-35	POSTPONED
3)	1917 COLE	RENOVATION BY DESIGN	19-36	DIMENSIONAL

5. CORRESPONDENCE

6. GENERAL BUSINESS

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

8. ADJOURNMENT

Title VI

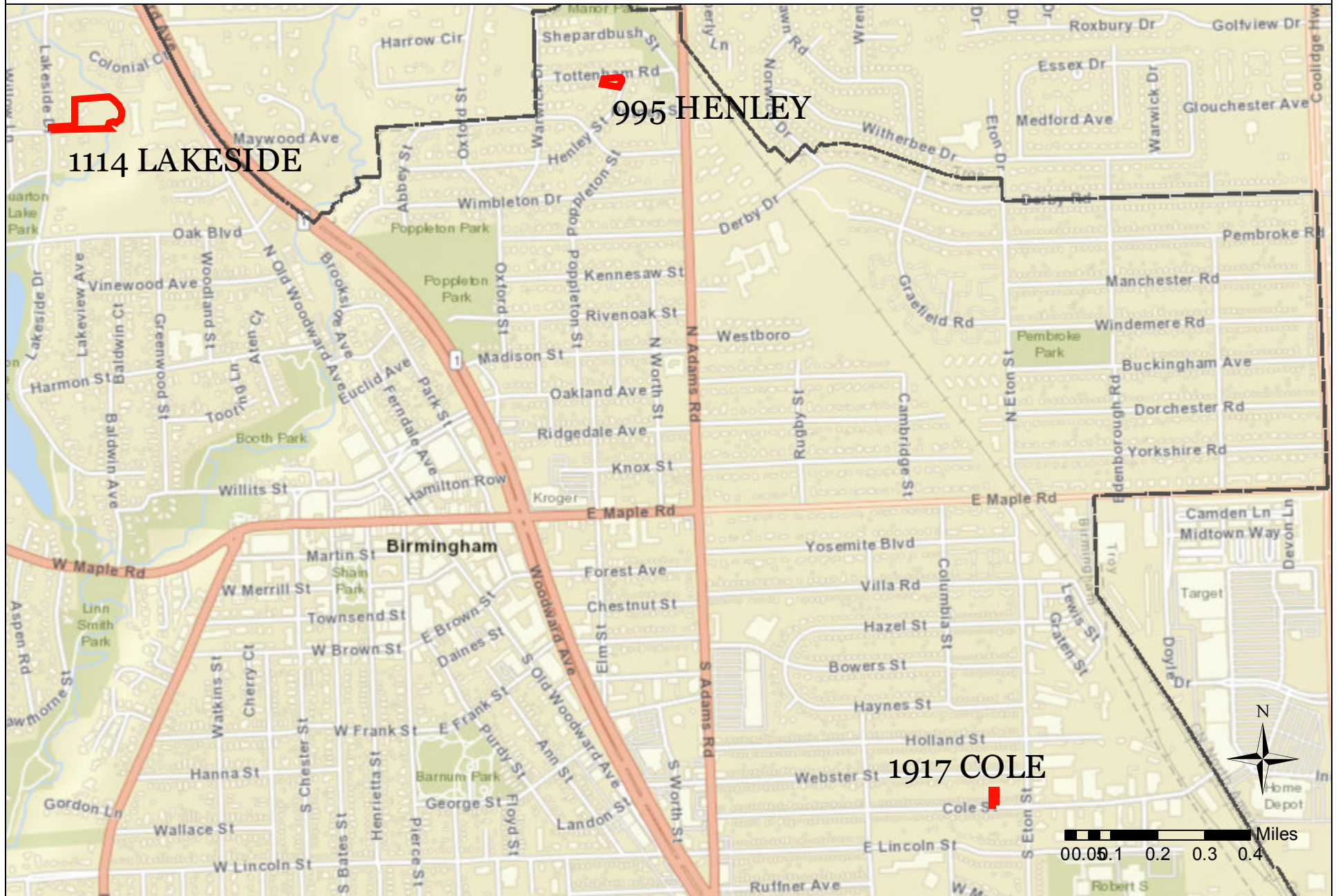
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing,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

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

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

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

SEPTEMBER BZA MAP



BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, AUGUST 13, 2019
City Commission Room
151 Martin Street, Birmingham, Michigan

1. CALL TO ORDER

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, August 13, 2019. Chairman Charles Lillie convened the meeting at 7:30 p.m.

2. ROLL CALL

Present: Chairman Charles Lillie; Board Members Jason Canvasser, Kevin Hart (arrived 7:47 p.m.), Richard Lilley, Erik Morganroth, Francis Rodriguez; Alternate Board Member Ron Reddy

Absent: Board Member John Miller

Administration:

Bruce Johnson, Building Official
Mike Morad, Asst. Building Official
Jeff Zielke, Asst. Building Official
Laura Eichenhorn, Transcriptionist

Chairman Lillie appointed Mr. Morganroth Chairman for the duration of the evening's meeting.

Chairman Morganroth welcomed everyone and explained BZA procedure to the audience. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Chairman Morganroth took rollcall of the petitioners, noting that petitioners from 159 Baldwin and 1392 Bird were absent. Chairman Morganroth stated those appeals would be heard at the Board's next regularly scheduled meeting if the petitioners did not arrive during the course of the present meeting.

Both sets of petitioners joined as the meeting was in progress, allowing their petitions to be heard as scheduled.

T# 08-61-19

3. APPROVAL OF THE MINUTES OF THE BZA MEETING OF JULY 9, 2019

Motion by Mr. Lilley

Seconded by Mr. Canvasser to accept the Minutes of the BZA meeting of July 9, 2019 as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

T# 08-62-19

4. APPEALS

**1) 528 Park
Appeal 19-26**

Assistant Building Official Zielke presented the item and explained the owner of the property known as 528 Park requested the following variances to construct a front addition, porch and exterior renovation to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 23.02 feet. The proposed is 16.12 feet. Therefore a 6.90 foot variance is being requested.

B. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 4.00 feet; Therefore a 1.00 foot is being requested.

C. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires the maximum eave height of a structure is 24.00 feet. The proposed eave height is 34.34 feet. Therefore, a 10.34 foot variance is being requested.

Assistant Building Official Zielke added the applicant proposed constructing a front addition and porch along with an exterior renovation to the existing non-conforming home. The existing home was granted a variance in 1976 for a side yard, which is being requested to maintain and an additional variance for the existing eave height. This property is zoned R2 – Single Family

Residential. Assistant Building Official Zielke confirmed that Variances B and C represent the home's existing non-conformities.

Zack Lennon, architect, spoke on behalf of Nick Shreli, applicant and owner of the home. Mr. Lennon noted there had been attempts at mitigating the need for Variance A but that none of them were satisfactory.

Mr. Reddy noted that a resident living near 528 Park submitted a letter to the Board outlining concerns about a possible and undesired increase in noise if 528 Park is moved closer to the street. Mr. Reddy asked Mr. Lennon what consideration the applicant had given to that potential issue.

Mr. Lennon stated that one of the design goals for the home was to make the backyard the main location for socializing out of doors. Since the Shrelis would not be using the front of their home for socializing, Mr. Lennon said that noise would not likely be a cause for concern.

Mr. Lillie noted there was enough room in the backyard for the home to move back and not require Variance A.

Mr. Lennon stated that the applicant intended to conserve as much of the backyard as possible during this process, so moving the home back was not preferable for the applicant.

Chairman Morganroth invited comments from the audience.

Benjamin Gill, neighbor to 528 Park, said he was in support of the Shrelis being granted their variance. Mr. Gill said the applicant's planned house would go well with the house to the north in terms of design, that the fronts of the houses on the whole street are staggered, and that the variance requests are minimal and reasonable.

Chairman Morganroth said that, while he liked the look of the home, the Board may not grant a variance based on whether a home is aesthetically pleasing. He explained the Board may only grant variances when adherence to the ordinances would result in practical difficulty for an applicant.

Mary Jay, neighbor to 528 Park, said she would not be in support of the variances being granted. She said setbacks are maintained for a reason, and that all the homes in the neighborhood have adhered to the required setbacks. She also said there have been three or four families with children in 528 Park over the years, which indicates that the home's design is likely adequate for children. Ms. Jay agreed with the neighbor Mr. Reddy had described earlier, saying that noise issues in the neighborhood would likely increase if the applicant's variances are granted.

Chairman Morganroth clarified that potential noise issues were not in front of the Board with this appeal while acknowledging the merit Ms. Jay's concern.

Motion by Mr. Rodriguez

Seconded by Mr. Lillie with regard to Appeal 19-26, A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 23.02 feet. The proposed is 16.12 feet. Therefore a 6.90 foot variance is being requested.

Mr. Rodriguez said he would move to deny Variance A because a practical difficulty had not been established. The need for this variance was self-created, as there were no unique aspects of the property that would have required a variance. He said he did not see much effort at mitigation, and that strict compliance with the ordinance would not prevent the use of the property for its intended purpose.

Mr. Lillie seconded the motion, agreeing with Mr. Rodriguez's points and adding that to deny the variance would do justice to the neighbors.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Rodriguez, Lillie, Lilley, Canvasser, Morganroth, Reddy
Nays: None

Chairman Morganroth then asked the applicant whether he would like the Board to rule on Variances B and C presently, or whether the applicant would like to return to the Board with another design that would incorporate Variances B and C.

Mr. Shreli elected to return to the Board with a design that would incorporate Variances B and C at a later date.

The Board accepted and tabled the vote regarding Variances B and C.

**2) 683 Mohegan
Appeal 19-28**

Assistant Building Official Zielke presented the item explained the owner of the property known as 683 Mohegan requested the following variances to construct a front second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 18.75 feet. The existing and proposed is 17.10 feet;

Therefore a 1.65 foot is being requested.

B. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 18.75 feet. The existing and proposed is 18.10 feet. Therefore, a 0.65 foot variance is being requested.

C. Chapter 126, Article 4, Section 4.75 (A)(1) of the Zoning Ordinance requires attached garages that face the street must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The existing and proposed is 4.90 feet. Therefore a 0.10 foot variance is being requested.

Assistant Building Official Zielke added that the property is zoned R1 – Single Family Residential.

Michael Willoughby, architect, was available on behalf of Mikki Gardner, applicant and owner.

Motion by Mr. Reddy

Seconded by Mr. Canvasser with regard to Appeal 19-28, A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 18.75 feet. The existing and proposed is 17.10 feet; Therefore a 1.65 foot is being requested. B. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 18.75 feet. The existing and proposed is 18.10 feet. Therefore, a 0.65 foot variance is being requested. C. Chapter 126, Article 4, Section 4.75 (A)(1) of the Zoning Ordinance requires attached garages that face the street must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The existing and proposed is 4.90 feet. Therefore a 0.10 foot variance is being requested.

Mr. Reddy moved to approve the variance requests and to tie them to the plans as submitted. He said the fact that the applicant cannot install a regular overhead garage door proves the practical difficulty present.

Mr. Rodriguez agreed the variances should be approved, adding that the applicant was not seeking to expand any of the already existing non-conformities. He said the property's existing location is a unique circumstance and so the need for the variance is not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Reddy, Canvasser, Rodriguez, Lillie, Lilley, Hart, Morganroth
Nays: None

**3) 1060 Chesterfield
Appeal 19-29**

Assistant Building Official Morad presented the item and explained the owner of the property known as 1060 Chesterfield requested the following variance to replace the existing non-conforming driveway:

A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% (2414.36 SF) of the front open space in single family districts shall be free of paved surfaces. The proposed amount is 62.51% (2322.00 SF), therefore a variance of 2.48% (92.36 SF) is requested.

Assistant Building Official Morad added the applicant proposed removing and replacing the existing driveway to eliminate water issues and reduced the existing hard surface area by 1.32%. This property is zoned R1 – Single Family Residential.

John Sullivan, applicant and owner, was available. He emphasized that granting this variance would allow him to reduce the amount of hardscape present in his front yard.

Motion by Mr. Lillie

Seconded by Mr. Rodriguez with regard to Appeal 19-29, A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% (2414.36 SF) of the front open space in single family districts shall be free of paved surfaces. The proposed amount is 62.51% (2322.00 SF), therefore a variance of 2.48% (92.36 SF) is requested.

Mr. Lillie moved to grant the variance as advertised. Mr. Lillie noted that Mr. Sullivan would be reducing the existing non-conformity, that requiring him to strictly comply with the ordinance would be unduly burdensome, that it was not self-created and that it would do justice to the neighbors.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Rodriguez, Reddy, Canvasser, Lilley, Hart, Morganroth
Nays: None

**4) 720-726 N Old Woodward
Appeal 19-30**

City Planner Cowan presented the item and explained the owner of the property known as 720-726 N Old Woodward, requested the following variance to construct a third floor residential space on top of a two story mixed use building.

A. Chapter 126, Article 3, Section 3.04(A)(1)(f) of the Zoning Ordinance requires that a third story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building façade. The applicant has proposed a third story residential space with bedrooms and terraces that occupy area within 10 feet of the eave line. Therefore a dimensional variance of 10 feet for the third floor residential space is being requested.

City Planner Cowan added that a third story is permitted in the D2 Overlay Zone if it is only used for residential space. This property is zoned O2 and D2 in the Overlay.

Mike Rutherford, architect for the project, explained that the exterior wall is a load-bearing point in the building, with the load of the roof being the main concern. He stated that there were no other load-bearing elements within the building. As a result, having the exterior wall of the third floor stepped back ten feet would be very difficult. Because of the balcony, the interior wall of the residence itself is actually stepped back from the front.

In reply to Chairman Morganroth, Mr. Rutherford stated that stepping back the third floor would be unfeasible because the existing soil of the site requires deep foundations, meaning that to add more load-bearing elements would entail destruction to much of the entire building in order to provide the foundations necessary.

Chairman Morganroth noted that it is more financially beneficial than necessary for the applicant to build a residential third floor, and wondered if the additional level could not be built in accordance with ordinance whether it was appropriate to build.

Mr. Rutherford opined that adding the residential level is in line with the City's goal of adding more residences in the downtown area.

Motion by Mr. Canvasser

Seconded by Mr. Hart with regard to Appeal 19-30, A. Chapter 126, Article 3, Section 3.04(A)(1)(f) of the Zoning Ordinance requires that a third story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building façade. The applicant has proposed a third story residential space with bedrooms and terraces that occupy area within 10 feet of the eave line. Therefore a dimensional variance of 10 feet for the third floor residential space is being requested.

Mr. Canvasser moved to approve the requested variance and tie it to the plans. He said strict compliance with the ordinance would unreasonably present the petitioner from using the property for the proposed third story residential space, which is an allowed purpose. Mr. Canvasser said granting the variance would do substantial justice to the petitioner and surrounding property owners, that the problem is due to

the unique load-bearing configuration of the property, and that the problem was not self-created. He said that pushing the windows back demonstrated an attempt to mitigate the non-conformity and to give the appearance of a structure that complies with the ordinance on the petitioner's part.

Mr. Lillie said he would be voting to against the motion since it seemed like more of an economic matter than a practical difficulty.

Chairman Morganroth said he would also be voting against the motion because there are other buildings close by respecting the ten feet setback and he was not sure he had enough evidence that adhering to the ordinance was unfeasible.

Motion failed, 3-4.

ROLL CALL VOTE

Yeas: Canvasser, Hart, Reddy

Nays: Lilley, Lillie, Morganroth, Rodriguez

**5) 159 Baldwin
Appeal 19-32**

Assistant Building Official Zielke presented the item and explained the owner of the property known as 159 Baldwin requested the following variances to construct a new single family home with an attached garage:

A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 44.30 feet. The proposed is 11.00 feet. Therefore a 33.30 foot variance is being requested.

B. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires the maximum eave height of a structure is 24.00 feet. The proposed eave height is 25.10 feet. Therefore, a 1.10 foot variance is being requested.

C. Chapter 126, Article 4, Section 4.30(C)(5) of the Zoning Ordinance limits porches and decks to one story in height in the rear open space. The proposed deck is to be constructed over one story in height and to project 1.50 feet into the rear open space. Therefore, a 1.5 foot variance is being requested.

Assistant Building Official Zielke added the applicant proposed constructing a new single family home with an attached garage on this plotted, irregular shaped lot with sloping grades and flood plain challenges. This property is zoned R2 – Single Family Residential.

Brian Halperin, architect, was available on behalf of the applicant. Mr. Halperin told Chairman Morganroth that five of the home's current non-conformities would be entirely mitigated by the plans.

Chairman Morganroth invited comment from the audience.

Gail Whitty, neighbor, stated she has lived next door to 159 Baldwin since 1977. She explained that she had woken up that morning to see flooding in the backyard of 159 Baldwin, and said she has seen flooding in that backyard many times before. Ms. Whitty expressed gratitude that Mr. Halperin has endeavored to ensure that her home will maintain its view of the river as the new property at 159 Baldwin is built. She said she was in support of 159 Baldwin being granted its requested variances.

Motion by Mr. Rodriguez

Seconded by Mr. Canvasser with regard to Appeal 19-32, A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 44.30 feet. The proposed is 11.00 feet. Therefore a 33.30 foot variance is being requested. B. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires the maximum eave height of a structure is 24.00 feet. The proposed eave height is 25.10 feet. Therefore, a 1.10 foot variance is being requested. C. Chapter 126, Article 4, Section 4.30(C)(5) of the Zoning Ordinance limits porches and decks to one story in height in the rear open space. The proposed deck is to be constructed over one story in height and to project 1.50 feet into the rear open space. Therefore, a 1.5 foot variance is being requested.

Mr. Rodriguez moved to approve Variances A, B & C as submitted in the plans. He said practical difficulties were established including an irregularly shaped lot, sloping grades and flood plain issues. In addition, Mr. Rodriguez stated that the need for the variance was not self-created and that there were clear efforts at mitigation of non-conformities on the part of the applicant.

Mr. Canvasser thanked the applicant for a thorough presentation.

Chairman Morganroth said he would also support the motion, agreed with Mr. Canvasser that the presentation was well thought out and well presented, and noted the removal of five non-conformities as important efforts at mitigation.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Rodriguez, Canvasser, Lillie, Reddy, Lilley, Hart, Morganroth
Nays: None

6) 1392 Bird

Appeal 19-33

Assistant Building Official Morad presented the item and explained the owner of the property known as 1392 Bird requested the following variance to construct a new single family home with a detached garage:

A. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires a minimum distance between principal residential buildings for this lot to be 14.00 feet. The proposed distance is 12.20 feet, therefore a 1.80 foot variance is being requested.

Assistant Building Official Morad added the applicant proposed constructing a new home with a detached garage. The proposed home meets all the zoning requirements on the site with the exemption of the distance between structures to the neighboring existing non-conforming home. This property is zoned R3 – Single Family Residential.

Mark O'Rourke, architect, was available on behalf of the applicant. He said the possibility of narrowing the house further to avoid the variance was explored, but was ultimately not deemed possible.

Motion by Mr. Lilley

Seconded by Mr. Lillie with regard to Appeal 19-33, A. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires a minimum distance between principal residential buildings for this lot to be 14.00 feet. The proposed distance is 12.20 feet, therefore a 1.80 foot variance is being requested.

Mr. Lilley moved to approve the application and tied it to the plans. He noted that the issue is not self-created since the neighbor's house is too close to the lot line and that the rest of the proposed home conforms to code.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

7) 1370 Latham Appeal 19-34

Assistant Building Official Morad presented the item and explained the owner of the property known as 1370 Latham requested the following variance to replace the existing non-conforming driveway:

A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% (1610.70 SF) of the front open space in single family districts shall be

free of paved surfaces. The proposed amount is 51.10% (1267.00 SF), therefore a variance of 13.90% (343.70 SF) is requested.

Assistant Building Official Morad added the applicant proposed removing and replacing the existing driveway and reducing the existing hard surface area by 6.62%. This property is zoned R1 – Single Family Residential.

Roger Young, architect, was available on behalf of the applicant. He explained that the plans represent a 10% reduction in the hardscape present in the front yard, and that the front yard will also be landscaped in such a way as to obscure much of the view of the driveway from the street. Mr. Young explained that from an aesthetic standpoint the plans represent mitigation of both the current non-conformity and a reduction in the appearance of non-conformity. He explained that the driveway is being replaced as an entire update to the front yard of the home.

Motion by Mr. Hart

Seconded by Mr. Rodriguez with regard to Appeal 19-34, A. Chapter 126, Article 4, Section 4.31(A)(1) of the Zoning Ordinance requires a minimum of 65% (1610.70 SF) of the front open space in single family districts shall be free of paved surfaces. The proposed amount is 51.10% (1267.00 SF), therefore a variance of 13.90% (343.70 SF) is requested.

Mr. Hart moved to approve the application and tied it to the plans. He cited the plan's reduction in front yard hardscape coverage, improved aesthetics, and the replacements of the current two curb cuts from this house onto Latham with a single curb cut as reasons for approval.

Mr. Canvasser said that while he liked the proposed design better than the current design, he would not be voting in favor of the motion due to a lack of mitigation of the need for the variance. Acknowledging Latham is one of Birmingham's busier residential streets, he stated that it was not so busy as to merit the proposed redesign in the name of public safety either.

Mr. Reddy said he would be voting in favor of the variance because of the substantial reduction in hardscape and the planned landscape that would further reduce the appearance of non-conformity.

Mr. Rodriguez stated that reducing the hardscape by 10% was evidence of mitigation on the part of the applicant.

Mr. Lillie said he would be supporting the motion as well, due to the planned mitigation of the non-conformity and because the house could not have been built further back on the lot because of the grade, which limited the open space in the front of the applicant's home.

Chairman Morganroth noted that Latham is a street with brisk vehicular traffic. He said that while he preferred not to have someone replace their driveway and still

retain non-conformities, he acknowledged that the plans do represent a reduction in non-conformities and for that reason he would support the motion.

Motion carried, 6-1.

ROLL CALL VOTE

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

T# 08-63-19

5. CORRESPONDENCE (None)

T# 08-64-19

6. GENERAL BUSINESS

Building Official Johnson reminded the Board members that the next meeting would fall on September 17, 2019 and the following meeting would fall on October 15, 2019. The November and December meetings will return to the Board's regularly scheduled second Tuesday of the month meetings.

Building Official Johnson additionally stated that the Commission would be filling the Board's open alternate position at the Commission's September 16, 2019 meeting.

T# 08-65-19

7. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA (no one from the public wished to comment)

T# 08-66-19

8. ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 9:11 p.m.

Bruce R. Johnson, Building Official

CASE DESCRIPTION

995 Henley (19-31)

Hearing date: September 17, 2019

Appeal No. 19-31: The owner of the property known as 995 Henley, request the following variance to construct an attached garage to an existing non-conforming home:

A. Chapter 126, Article 4, Section 4.61 (A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback of the average of the homes within 200.00 feet in each direction. The required front yard setback is 39.94 feet. The proposed is 10.55 feet. Therefore a variance of 24.94 feet is being requested.

B. Chapter 126, Article 4, Section 4.75 (A)(1) of the Zoning Ordinance requires that a private attached, single-family residential garage shall not occupy more than 50% of a linear building width of a principal residential building that faces a street. The proposed is 52.60% (38.00 feet). Therefore a variance of 2.60% (3.78 feet) is being requested.

Staff Notes: The existing non-conforming home was constructed in 1952 on this irregular shaped corner lot.

This property is zoned R1 – Single Family Residential.

995 HENLEY



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 7.12.19
Received By: HT

Hearing Date: 8.13.19
Appeal #: 19.31

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

Address: <u>995 Henley St. Birmingham</u>	Lot Number: <u>1925276012</u>	Sidwell Number: <u>081925276012</u>
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II. OWNER INFORMATION:

Name: <u>Taft Parsons III and Sherida DuBose Parsons</u>			
Address: <u>995 Henley Street</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>sddpmd@hotmail.com</u>		Phone: <u>313-212-6216</u>	

III. PETITIONER INFORMATION:

Name: <u>KIMBERLY DOKES</u>	Firm/Company Name: <u>DOKES DESIGN ARCHITECTURE LLC</u>		
Address: <u>512 N MAIN ST</u>	City: <u>ROYAL OAK</u>	State: <u>MI</u>	Zip code: <u>48067</u>
Email: <u>Kim@DOKESDESIGN.COM</u>		Phone: <u>248-763-3678</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: _____

Date: 7/11/19

Signature of Petitioner: Kimberly Dokes

Date: 7-11-19

August 5, 2019

Jeff Zielke, LEED AP
Assistant Building Official
City of Birmingham
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012

RE: Residence :995 Henley Birmingham – Garage Addition and Side Yard Setback Variance

Dear Mr. Zielke:

On behalf of Taft Parsons III and Sherida DuBose Parsons, I'm writing to request a side yard setback variance for a proposed 2.5 car garage addition to their residence. To clearly state the hardship: the home as existing sits on an oddly shaped corner lot where nothing is perpendicular; and the home is non-conforming to current set back rules. In addition, it has an existing detached garage that currently encroaches the rear setback. The proposed project intends to demolish the existing detached garage clearing rear yard space, which should improve existing sight lines for adjacent neighbor. The project also intends to build a 2.5 car garage addition to the existing home for convenience of the homeowners. Further, it is understood the intent of the ordinance is to meet a 15-foot side yard requirement; in this case a street facing side yard. In meeting the 15-foot: As existing the house sits on an angle, and our perpendicular dimension from new garage to property line is greater than 15 feet. Per the proposed site plan our project will not increase the non-conformance but seeks a variance of 24.95 feet to set the garage addition back 10.55 feet from the property line.

Sincerely,

Dokes Design Architecture, LLC.



Kimberly N. Dokes RA NCARB
Principal

CASE DESCRIPTION

1114 Lakeside (19-35)

Hearing date: September 17, 2019

Appeal No. 19-35: The owner of the property known as 1114 Lakeside, request the following variances to construct a new home with an attached garage:

A. Chapter 126, Article 4, Section 4.61 (A)(1) of the Zoning Ordinance requires attached garages that face the street must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed garage is 31.91 feet in front of the furthest front facade. Therefore a variance of 36.91 feet is being requested.

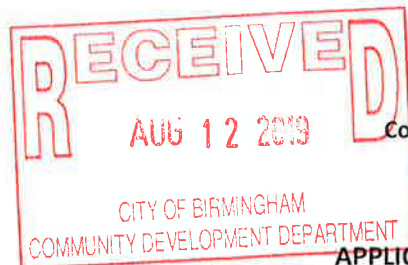
B. Chapter 126, Article 4, Section 4.75 (A)(1) of the Zoning Ordinance requires attached garages that face the street may not have garage doors exceed 9.00 feet in width. The proposed is to have a 16.00 foot and a 10.00 foot door. Therefore a variance is being requested.

Staff Notes: The current home was constructed in 1952 on this flag lot.

This property is zoned R1 – Single Family Residential.

1114 LAKESIDE





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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

Type of Variance:	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
I. PROPERTY INFORMATION:					
Address: 1114 LAKESIDE DR.		Lot Number: _____		Sidwell Number: 19-25-151-069	
II. OWNER INFORMATION:					
Name: SANDRA COLLINS					
Address: 1114 LAKESIDE DR.		City: BIRMINGHAM		State: MI	Zip code: 48009
Email: SCOLLINS2824@GMAIL.COM				Phone: 248.840.1261	
III. PETITIONER INFORMATION:					
Name: JONATHAN DISBROW, AIA		Firm/Company Name: HUE PROJECTS			
Address: 30 CAMBRIDGE BLVD.		City: PLEASANT RIDGE		State: MI	Zip code: 48069
Email: JON@HUEPROJECTS.COM				Phone: 248.514.5334	
IV. GENERAL INFORMATION:					
<p>The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.</p> <p>To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.</p> <p>The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.</p>					
Variance Chart Example					
Requested Variances	Required	Existing	Proposed	Variance Amount	
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet	
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet	
V. REQUIRED INFORMATION CHECKLIST:					
<p><input type="checkbox"/> One original and nine copies of the signed application</p> <p><input type="checkbox"/> One original and nine copies of the signed letter of practical difficulty and/or hardship</p> <p><input type="checkbox"/> One original and nine copies of the certified survey</p> <p><input type="checkbox"/> 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations</p> <p><input type="checkbox"/> If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting</p>					
VI. APPLICANT SIGNATURE					
<p>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.</p>					
Signature of Owner: <u><i>Sandra F. Collins</i></u>				Date: <u>08.10.2019</u>	
Signature of Petitioner: <u><i>[Signature]</i></u>				Date: <u>8.5.2019</u>	

HUEPROJECTS

ARCHITECTURE+ATELIER

August 10, 2019

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

Dear Board of Zoning Appeals,

In April we submitted a building permit application on behalf of Sandra Collins for a new home at 1114 Lakeside Drive. On July 26th we heard back from the building department about the orientation of the garage.

1114 Lakeside Drive is a "flag-shaped" lot with a narrow peninsula of property connecting the lot to the street for the driveway. Ms. Collins has lived at that address since the early 1980's. Incidentally, she also owns the neighboring property at 1100 Lakeside, another flag-shaped lot that mirrors the configuration of 1114 Lakeside. The front of her home at 1114 Lakeside faces South currently and always has. We are asking the City to continue considering the South elevation the front of the home, rather than the West façade closest to Lakeside. The zoning ordinance anticipates more regular (rectangular) lots that face the street, not unusually shaped lots like Ms. Collins'. The buildable portion on 1114 Lakeside is tucked behind the rear yards of the other homes North of her on Lakeside and her home is not visible from the street. The new home will be on the site of the existing structure and will also be concealed from view.

We thank you for considering this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Disbrow', with a stylized, flowing script.

Jonathan Disbrow, AIA, NCARB

CASE DESCRIPTION

1917 Cole (19-36)

Hearing date: September 17, 2019

Appeal No. 19-36: The owner of the property known as 1917 Cole, request the following variances to construct a porch and a second floor addition to the existing non-conforming home:

- A. Chapter 126, Article 2, Section 2.10** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 26.75 feet. The proposed is 24.82 feet. Therefore a 1.93 foot variance is being requested.
- B. Chapter 126, Article 2, Section 2.10** of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 14.00 feet. The existing and proposed is 11.63 feet; Therefore a 2.37 foot variance is being requested.
- C. Chapter 126, Article 2, Section 2.10** of the Zoning Ordinance requires that the minimum side yard of 9.0 feet or 10% of the total lot width whichever is larger for one side. The required is 9.00 feet. The existing and proposed is 8.72 feet; Therefore a 0.28 foot variance is being requested on the East.
- D. Chapter 126, Article 2, Section 2.10** of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 2.91 feet; Therefore a 2.09 foot variance is being requested on the West.
- E. Chapter 126, Article 4, Section 4.74 (C)** of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 14.00 feet. The existing and proposed is 13.82 feet. Therefore, a 0.18 foot variance is being requested on the East.

F. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 14.00 feet. The existing and proposed is 11.52 feet. Therefore, a 2.48 foot variance is being requested on the West.

Staff Notes: The existing non-conforming single story home was constructed in 1949.

This property is zoned R3 – Single Family Residential.

Jeff Zielke, LEED AP
Assistant Building Official

1917 COLE



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 8/12/19
Received By: HT

Hearing Date: 9-17-19
Appeal #: 19-386

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

Address: <u>1917 COLE</u>	Lot Number: <u>486</u>	Sidwell Number:
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II. OWNER INFORMATION:

Name: <u>TERRI SULIK</u>			
Address: <u>1917 COLE</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>TERRI.SULIK@US.MAHLE.COM</u>	Phone: <u>248-686-4678</u>		

III. PETITIONER INFORMATION:

Name: <u>TOM INGER</u>	Firm/Company Name: <u>RENOVATION by DESIGN LLC.</u>		
Address: <u>2516 S. ADAMS RD</u>	City: <u>ROCHESTER HILLS</u>	State: <u>MI</u>	Zip code: <u>48309</u>
Email: <u>TOM@RENOVATIONBYDESIGN.ORG</u>	Phone: <u>248-260-7639</u>		

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: TERRI SULIK Date: 8/12/19
Signature of Petitioner: Tom Inger Date: 8/12/19



August 8, 2019

To Zoning Board for the city of Birmingham,

This letter is in regards, to the request for a dimensional variance, by the family of Terri Sulik and Kathleen Kogelschatz, living at the property located at 1917 Cole Street, Birmingham MI 48009.

I have been working with Terri and Kathleen to design a more functional home for their growing family of five. The current structure does not have enough bedrooms or a large enough living area to accommodate family activities. Our goal is to give them four bedrooms, a second bathroom and a living space where they can spend time together while keeping the project within their financial parameters. They love their neighborhood and the Birmingham community so they would prefer not to relocate.

The existing structure is not in compliance with multiple zoning ordinances including the side yard setback requirements and proximity to adjacent properties making a variance request a required part of the project. After reviewing the zoning requirements, we reevaluated the project to see if it would be possible to meet the family's needs without cantilevering the front of the house and having to apply for an additional dimensional variance. Unfortunately, we need the 2'-0" cantilever on the front and rear of the home in order to allow for a small second bathroom and four modest sized bedrooms. We are offering a compromise by cantilevering only one of the front bedrooms due to the location of the existing chimney. Budgetary constraints require us to work around the existing stairway and chimney and will not allow a two-story addition to the rear of the home. The proposed second story addition plan maintains the current footprint on the lot, meets the family's needs, is aesthetically pleasing on the exterior and blends with the other homes on the street.

Thank you in advance for your consideration. It is our hope that the Board can approve this variance request to allow this project to be completed.

Sincerely,



Ronda Ballard
Kitchen & Bath Designer
Renovation By Design
2516 S Adams
Rochester Hills, MI 48309
248-515-2737

Letter of Intent
In Support of Request for Zoning Variance
1917 Cole Street, Birmingham, MI 48009

This letter of Intent is in support of my request for a variance to the side setback requirements, to each neighboring side, as well as a 2' cantilever to the small front bedroom. I purchased my home in October of 2013 and have not made any remodeling improvements since the purchase. The existing house is non-conforming to the current zoning requirements. I am now respectfully requesting a dimensional variance to allow my family adequate living space by turning our current bungalow into a colonial.

I originally moved to the City of Birmingham with one intention - giving my children a great education. Little did I know that along the way we would establish wonderful friendships, become part of the Torrey Community/Rail District and that my children would find security in their "forever home". At the time of purchase, I was a single mother of 2 and 930 sq. feet seemed quite adequate. I have since become engaged to be married in September, am expecting another child in September and have grown to a family of 5 with the expectation of another child in 2020. As you can imagine, our current 930 sq. foot layout is very tight for the 5 of us and the high traffic areas become very overwhelming to navigate especially during our morning routine. With teen-age girls and a baby on the way, a four-bedroom home is now a necessity. Financially it is not an option to re-build the house or to add a two-story addition to the rear of the home.

Our neighbors at 1907 Cole St. are willing to submit a letter allowing the variance. We will need to speak to the neighbors at 1935 Cole St., however, this should not be a problem as their home is a new construction home that is much larger than ours and would still pale in comparison. In our neighborhood there are other homes with similar improvements and the requested variances would keep our home in line with the look and feel of the neighborhood. We feel the scope of this remodel would increase the value of our home and those around it.

My family and I kindly request your consideration and approval of these variances allowing us to remain in our home and be active members of the community for generations to come. Not allowing this request for variance will greatly reduce the bedroom sizes for our growing family and not allow us to make the main floor work for our changing needs perhaps even forcing us to consider relocating.

Thank you in advance for your consideration.

Respectfully submitted,



Terri A. Sulik

8/12/19

Date