

BOARD OF ZONING APPEALS AGENDA

City of Birmingham
Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
October 9, 2018
7:30 PM

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

	Address	Petitioner	Appeal	Type/Reason
1.	1997 VILLA	PRUDENTIAL PROPERTIES	18-34	DIMENSIONAL
2.	1524 HAYNES	VALENTINE	18-35	DIMENSIONAL
3.	242 ASPEN	GROVE	18-36	DIMENSIONAL
4.	1684 W LINCOLN	GENZLINGER	18-37	DIMENSIONAL
5.	101 S OLD WOODWARD	LULULEMON	18-38	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.

OCTOBER BZA MAP



**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, SEPTEMBER 11, 2018
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, September 11, 2018. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members Jason Canvasser, Vice-Chairman Randolph Judd, John Miller, Erik Morganroth; Alternate Board Members Richard Lilley, Francis Rodriguez

Absent: Board Members Kevin Hart, Jeffery Jones

Administration: Bruce Johnson, Building Official
Mike Morad, Asst. Building Official
Carole Salutes, Recording Secretary
Jeff Zielke, Building Inspector

The Chairman welcomed everyone in the audience along with the new alternate board member, Richard Lilley. He 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 who serve staggered three-year terms. 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. 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. 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 two interpretations on this evening's agenda.

T# 09-72-18

APPROVAL OF THE MINUTES OF THE BZA MEETING OF AUGUST 14, 2018

Chairman Lillie made the following corrections:

Page 2 - VOICE VOTE Yeas should reflect Canvasser, Jones, Hart, Judd, Lillie, Miller.

Page 4 - ROLLCALL VOTE Yeas should be Miller, Jones, Canvasser, Hart, Judd, Lillie, Rodriguez. Motion carried, 7-0.

Page 6 - ROLLCALL VOTE Yeas should be Canvasser, Judd, Hart, Jones Lillie, Miller, Rodriguez.

Mr. Canvasser corrected the following:

Page 4 - Fourth paragraph, replace "Canvasser" with "Miller."

Motion by Mr. Morganroth to approve the Minutes of the BZA meeting of August 14, 2018 as amended.

Motion carried, 7-0.

VOICE VOTE

Yeas: Morganroth, Lillie, Canvasser, Judd, Miller, Lilley, Rodriguez

Nays: None

Absent: Hart, Jones

T# 09-73-18

**1345 COLE
Appeal 18-29**

Tabled from the meeting of August 14, 2018.

T# 09-74-18

**1807 HENRIETTA
Appeal 18-30**

The owner(s) of the property known as 1807 Henrietta request the following variance(s) to construct an addition on the kitchen to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires maximum lot coverage is 30.0%. The maximum allowable coverage for this property is 1630.00 sq. ft. The proposed coverage of 1761.76 sq. ft. (31.46%); therefore a variance of 81.76 sq. ft. (1.46%) is being requested.

B. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that no side yard setback be less than 5.00 ft. The required side yard setback for north side of this property is 5.00 ft. The existing/proposed setback is 2.70 ft; therefore, a variance of 2.30 ft. is requested.

C. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires that the total side yard setbacks be 14.00 ft. or 25% of the width of the lot, whichever is greater. The

required total side yard setback for this property is 14.00 ft. The existing/proposed setback is 11.30 ft.; therefore, a variance of 2.70 ft. is requested.

D. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between structures on adjacent lots to be 14.00 ft. or 25% of the total lot width, whichever is greater. The required distance between is 14.00 ft. The proposed (north side) is 12.70 ft.; therefore, a variance of 1.30 ft. is requested.

This property is zoned R-3.

Mr. Morad explained the applicant is proposing an addition to their existing non-conforming home which was constructed in 1926. The proposed addition will follow the existing exterior wall of the home, which does not meet the current setback per the Ordinance. The house is non-conforming because it is too close to the lot line on the north side, and there is not sufficient distance between structures. Chairman Lillie added that the existing house is already over the required lot coverage.

Mr. Morganroth noted the only exacerbated non-conformance is lot coverage. Mr. Miller stated the addition of sq. footage to the house and garage adds to the non-conformance.

Mr. John VanBrouck spoke to represent Kevin Hart Architects. The homeowners desire to improve their house and add a small 7 ft. x 9 ft. kitchen. The practical difficulty is that there is really no room to go with the kitchen other than filling in the corner.

Chairman Lillie said he has a real problem because the house is already non-conforming and the board is not supposed to be increasing non-conformities.

Mr. Miller inquired if they had considered reducing the square footage of the garage in order to build the proposed addition within the zoning requirement for lot coverage. Mr. VanBrouck did not think the homeowners would like to do that. The increase of lot coverage is very minor, 1.4 %. It would not harm the neighbors in any way.

No one in the audience wished to speak to this appeal at 7:48 p.m.

Motion by Mr. Canvasser

Seconded by Mr. Morganroth in regard to Appeal 18-30, 1807 Henrietta, the request is for four variances:

- A) Chapter 126, Article 2, Section 2.10;**
- B) Chapter 126, Article 2, Section 2.08;**
- C) Chapter 126, Article 2, Section 2.08;**
- D) Chapter 126, Article 4, Section 4.74 (C).**

Mr. Canvasser would move to deny the request for all four variances. The motion stems from the lot coverage. What the board is hearing is that this is a situation

of simply wanting a bigger kitchen and he hasn't heard any practical difficulty. It sounds like the applicants have used their existing kitchen for a substantial period of time.

So, looking at the criteria that the board has to meet, Mr. Canvasser thinks this problem is self-created. He doesn't believe there is a unique circumstance of the property. He does not believe the variances will do substantial justice to the property owners and he doesn't believe that compliance with the Ordinance is unnecessarily burdensome.

For those reasons, Mr. Canvasser would move to deny the request.

Mr. Miller indicated he supports the motion. He thinks what is really hurting the petitioner is the size of the garage. If they had a roughly 20 ft. x 20 ft. garage they could easily fit in the requested square footage for the kitchen within the required lot coverage.

Mr. Morganroth said he will support the motion. The lot coverage is a challenge. Increasing the non-conformance when there is a home that is already existing non-conforming is something this board tries to avoid.

Chairman Lillie added that he also will support the motion for the reasons already stated. The home is already non-conforming as far as lot coverage and to grant the variances would make it worse. Also he doesn't believe the petitioner has shown a practical difficulty.

Motion to deny carried, 7-0.

ROLLCALL VOTE

Yeas: Canvasser, Morganroth, Judd, Lilley, Lillie, Miller, Rodriguez

Nays: None

Absent: Hart, Jones

T# 09-75-18

129 W. ABBEY

Appeal 18-31

The owner(s) of the property known as 129 W. Abbey request the following variance(s) to construct a second-story addition on an existing non-conforming single-family home with an attached garage:

A. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum

setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required street side yard setback for this property is 35.40 ft. The proposed setback is 24.90 ft.; therefore, a variance of 10.50 ft. is requested.

This property is zoned R-1.

Mr. Morad noted the applicant is proposing a second-story addition to this existing non-conforming home that was constructed in 1969. This home was granted a variance in July 1999 for a similar one. This addition is proposed to be constructed over the existing footprint of the previously approved case. Chairman Lillie noted the non-conformity is because this is a corner lot. By building completely on top of what is there, they are not increasing the building envelope.

Mr. Judd was assured there is sufficient safety provided for escape in case of fire. Mr. Morad established there are egress windows in the bedroom and a door to get out onto a porch.

Mr. John VanBrouck spoke again to represent Kevin Hart Architects. He explained the homeowners desire to install a mother-in-law suite for their ageing mother. The practical difficulty is that they cannot add onto the home other than in this location without exceeding the lot coverage. They are adding an elevator as well.

Mr. Morganroth received confirmation that there was an attempt to bring the second-floor walls in to try and mitigate the increase of the non-conformity.

At 8 p.m. no one from the public wanted to comment on this appeal.

Motion by Mr. Miller

Seconded by Mr. Morganroth to support Appeal 18-31 for 129 W. Abbey. He thinks that compliance with the Zoning Ordinance as written is very difficult because this is a corner lot situation and on top of that the front of the house is really not on the address side of the house. So a very awkward spin is put on the intent of the Zoning Ordinance in terms of front yard versus side yard. Also, the existing house has a non-conformity. He would think that is preventing the petitioner from executing a reasonable design on this house of that spin on the side yard, front yard corner lot situation.

Mr. Miller thinks that the addition as proposed does substantial justice to the area. As you walk around the neighborhood he doesn't think there would be any negative impact at all.

It is a very unique circumstance here. He believes the problem was not created; it is due to the front yard, side yard and which side is actually the address side of

the house, and the existing non-conformity. He would tie the approval to the plans as submitted.

Mr. Rodriguez said he would support the motion for the reasons stated. In this case it is significant that the petitioner is not increasing the existing envelope.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Miller, Morganroth, Canvasser, Judd, Lilley, Lillie, Rodriguez

Nays: None

Absent: Hart, Jones

T# 09-76-18

**1684 W. LINCOLN
Appeal 18-32**

The owner(s) of the property known as 1684 W. Lincoln request the following variance(s) to construct an addition to an existing non-conforming home:

A. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required street side yard setback for this property is 26.50 ft. The proposed setback is 15.29 ft.; therefore, a variance of 11.21 ft. is requested.

B. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires a minimum rear yard setback of 30.00 ft. The proposed setback is 24.79 ft.; therefore, a variance of 5.21 ft. is requested.

This property is zoned R-1.

Mr. Zielke explained the applicant is proposing to add a second floor and construct a rear addition to the existing non-conforming home which was constructed in 1948. The rear addition is conforming with the side yard setback down the side street. This is a corner lot in the R-1 Zoning District.

Chairman Lillie received confirmation that the part that is going into the rear setback is new construction.

Ms. Kelly Genslinger was present with her husband, Dave, their family, and their architect, Mr. Mike Jarman. She explained they recently purchased this non-conforming

home and their plan is to bring it up to Birmingham standards. They are looking to construct an addition that will not make the existing non-conformity any worse. They are just adding a full second floor where there is a bungalow second floor. After a number of iterations, In the end they thought the best compromise was to encroach on the rear yard setback by 5.21 ft. for their addition.

They have the signatures of many of their neighbors indicating they are comfortable with the plans.

The lot is unique in that the R-1 Zone requires 9,000 sq. ft. and this lot only has about 8,600 sq. ft. That might be a unique circumstance in which it would be difficult to meet the other setback requirements because the lot is smaller than it should be in R-1.

The Chairman pointed out this is not a popularity contest. Even though all the neighbors are in favor the Board has had to turn down a request in the past if the Ordinance has not been met. He could not think of a case where the Board has granted a variance for rear setback. He asked if they considered going out and staying in the existing non-conforming plane on the west side of the house. Then they would only need one variance rather than two. Ms. Genslinger answered that may give them difficulty in arranging the space.

Mr. Mike Jarman explained they studied this in several different ways. The one way to get around the rear encroachment is to construct a detached garage 3 ft. from the property line. He can easily do this house without the need for a rear variance. However he feels that would be unfair to the neighbor. Additionally he stepped the design in and back so the roofline is smaller and doesn't impact the neighbors.

Mr. Morganroth said if the pantry and mud room were moved towards the side the garage could come in and mitigate the 5 ft. Mr. Jarman replied if he does that the roof section would be huge. Mr. Morganroth noted aesthetics are important but this Board's job is to keep within the zoning requirements and it seems the 5 ft. could be mitigated down to nothing either with the detached garage or in this case not requesting an unnecessary variance.

Mr. Jarman pointed out that the neighbors could either have 24 ft. of open space or they could have 6 ft. of open space (including easement). He could build a detached garage which is not as safe. It would be closer to the adjacent house and take up more yard.

No one in the audience wanted to comment on this appeal at 8:20 p.m.

Motion by Mr. Morganroth

Seconded by Mr. Canvasser regarding Appeal 18-32, 1684 W. Lincoln. The owners of the property are requesting two variances:

A) Chapter 126, Article 4, Section 4.61 (1) of the Zoning Ordinance with regard to the side yard setback. The petitioner is proposing a second-floor addition that would be equal to the current existing non-conformity on the side yard setback; and

B) Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance for the rear setback. The requirement is 30 ft. and the proposal is 24.79 ft., so a 5.71 ft. variance is requested.

As pointed out in the discussion it appears there is no practical difficulty. The petitioner could build something similar to what they are looking for without requesting that second variance. The biggest issue, at least for him, is the need to go within the required 30 ft. setback. Since there is the ability to build something similar without that, there is no practical difficulty.

There is nothing unique about the property that prevents the petitioner from building something that would suit their needs. For those reasons Mr. Morganroth would deny the requests.

Mr. Canvasser stated he will support the motion. He has no problem with the first request, but it is the 5 ft. encroachment into the rear setback that could be avoided and is not necessary.

Mr. Miller concurred. Building on top of the existing house seems reasonable. There is nothing that unreasonably prevents the petitioner from using the property for the purpose they want. They can build the same amount of square footage and still be within the Zoning Code which was declared by the petitioner. Therefore he supports the motion.

Chairman Lillie said he also will support the motion for the reasons previously stated. The applicant's representative has represented they could do something without the need for a variance.

Motion to deny carried, 7-0.

ROLLCALL VOTE

Yeas: Morganroth, Canvasser, Judd, Miller, Lilley, Lillie, Rodriguez

Nays: None

Absent: Hart, Jones

T# 09-86-18

**1701 WINTHROP
Appeal 18-33**

Chairman Lillie disclosed that this property is owned by Jeff Jones, current Board member.

The owner(s) of the property, known as 1701 Winthrop request the following variance(s) to construct a new single-family home with a detached garage:

A. **Chapter 126, Article 4, Section 4.61(1)** of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required street side yard setback for this property is 23.73 ft. The proposed setback is 13.38 ft.; therefore, a variance of 10.35 ft. is requested.

Mr. Zielke explained that the applicant is proposing to construct a new single-family home with a detached garage on this corner lot. This corner lot has the setback challenge of the street-facing side yard and that of ability to construct a new home to it potential.

Chairman Lillie noticed the lot is a trapezoid. The south lot line is shorter than the north line and they are not perpendicular. Mr. Morganroth received confirmation that If the applicant stayed within all the setback requirements the maximum width they could build at the shortest dimension of the property would be 25 ft.

Mr. Zielke noted the current existing structure sticks out further than what is being proposed.

Mr. Paul Muni PRM Custom Builders said they are trying to be considerate of the neighbor to the west and trying to minimize the number of variances required to make this project feasible and also being mindful of the current zoning requirements with respect to the Chesterfield setbacks. They tried to do their best to mitigate the sheer massing of the variance required. Hence the tapering of the footprint of the house. Given where the existing structure sits relative to what they are proposing they feel this is a reasonable request. One of the other unique things with this is that the neighbor to the west sits 3.4 ft. from the adjoining lot line.

So they feel that strict enforcement of the Ordinance given the unique nature of this property would result in unnecessary hardship.

At 8:35 p.m. there was no one in the audience who wanted to comment on this appeal.

Motion by Mr. Miller

Seconded by Mr. Rodriguez that with regard to Appeal 18-33, 1701 Winthrop, he would move to support the petitioner. This is our third corner lot situation tonight. However this is a corner lot that is also slightly irregular. Also there is

an existing house on the lot that is in a non-conforming situation. He thinks this would render non-conformity to be burdensome to the owner.

The new house is sited to lessen the irregularity that has been already built on the site. It is also respecting the neighbor to the west, pulling back further than they have to just to recognize some of the unique nature of the site and respecting that neighbor. So Mr. Miller thinks that would do substantial justice to certainly the other property owners in the area.

Again, the problem is due to the unique circumstances of this property and not self-created. Mr. Miller would tie approval to the plans as submitted.

Mr. Morganroth said he supports the motion. He noted the applicant pointed out how the house tapers in order to minimize the variance. That emphasizes the challenges of the lot.

Mr. Rodriguez commented that he supports the motion. The lot really is a trapezoid shape which is unique. The fact they are constructing a detached garage and reducing an existing non-conformity is important.

Mr. Judd said that he supports this well crafted motion.

Chairman Lillie announced he also will support the motion for the reasons stated. He also noted that the house next door is non-conforming which adds to the uniqueness.

Motion carried, 7-0.

ROLLCALL VOTE

Yeas: Miller, Rodriguez, Canvasser, Judd, Lilley, Lillie, Morganroth

Nays: None

Absent: Hart, Jones

T# 09-87-18

CORRESPONDENCE (none)

T# 09-88-18

GENERAL BUSINESS

T# 09-89-18

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA (none)

T# 09-90-18

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:40 p.m.

Bruce R. Johnson, Building Official

DRAFT

CASE DESCRIPTION

1997 Villa (18-34)

Hearing date: October 9, 2018

The owner(s) of the property known as 1997 Villa request the following variance to construct 6.00 foot privacy fencing in the front open space:

- A. Chapter 126, Article 4, Section 4.11** of the Zoning Ordinance limits the height of fences in the front open space to 3.00 feet. The existing/proposed privacy fencing is 6.00 foot; therefore, a variance of 3.00 foot is requested

Staff Notes: Due to the configuration of the buildings in this multi-family development the front (main) entrance is accessible from the parking area behind the building. The façade facing villa has sliding door walls that access a patio space for each tenant. There are currently existing 6' wooden divider fence sections between each unit. The applicant is proposing to demolish the existing dividers and install new PVC fencing in their place. Since they are replacing the fencing rather than repairing it they are required to meet the current ordinance or obtain a variance.

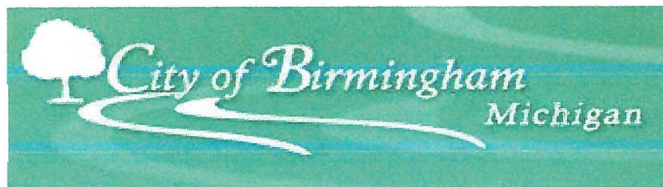
This property is zoned R6.

Matt Baka
Senior Planner

1997 VILLA



Application Date: 8-24-18



Hearing Date: 10-9-18

Received By: B.M.

Appeal # 18-34

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>1997 VILLA</u>	Sidwell Number:
Owners name: <u>Prudential Properties</u>	Phone #: <u>248 644-1300</u>
Owners address: <u>30100 Telegraph Rd # 366</u>	Email: <u>ETOWSQUARE@COMPARTMENTS.NET</u>
City: State: <u>Birmingham MI 48025</u>	Zip code:
Contact person: <u>Rhonda</u>	Phone #: <u>248-644-1300</u>

Petitioner Information:

Petitioner name: <u>ACTION FENCE</u>	Phone #: <u>248-542-3900</u>
Petitioner address: <u>4248 DELEMERE CT</u>	Email: <u>ACTIONFENCE24@SBCGLOBAL.NET</u>
City: <u>ROYAL OAK</u> State: <u>MI</u>	Zip Code: <u>48073</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: Rhonda Fazio

Date: 8/8/18



August 8, 2018

City of Birmingham
151 Martin
Birmingham, MI 48009

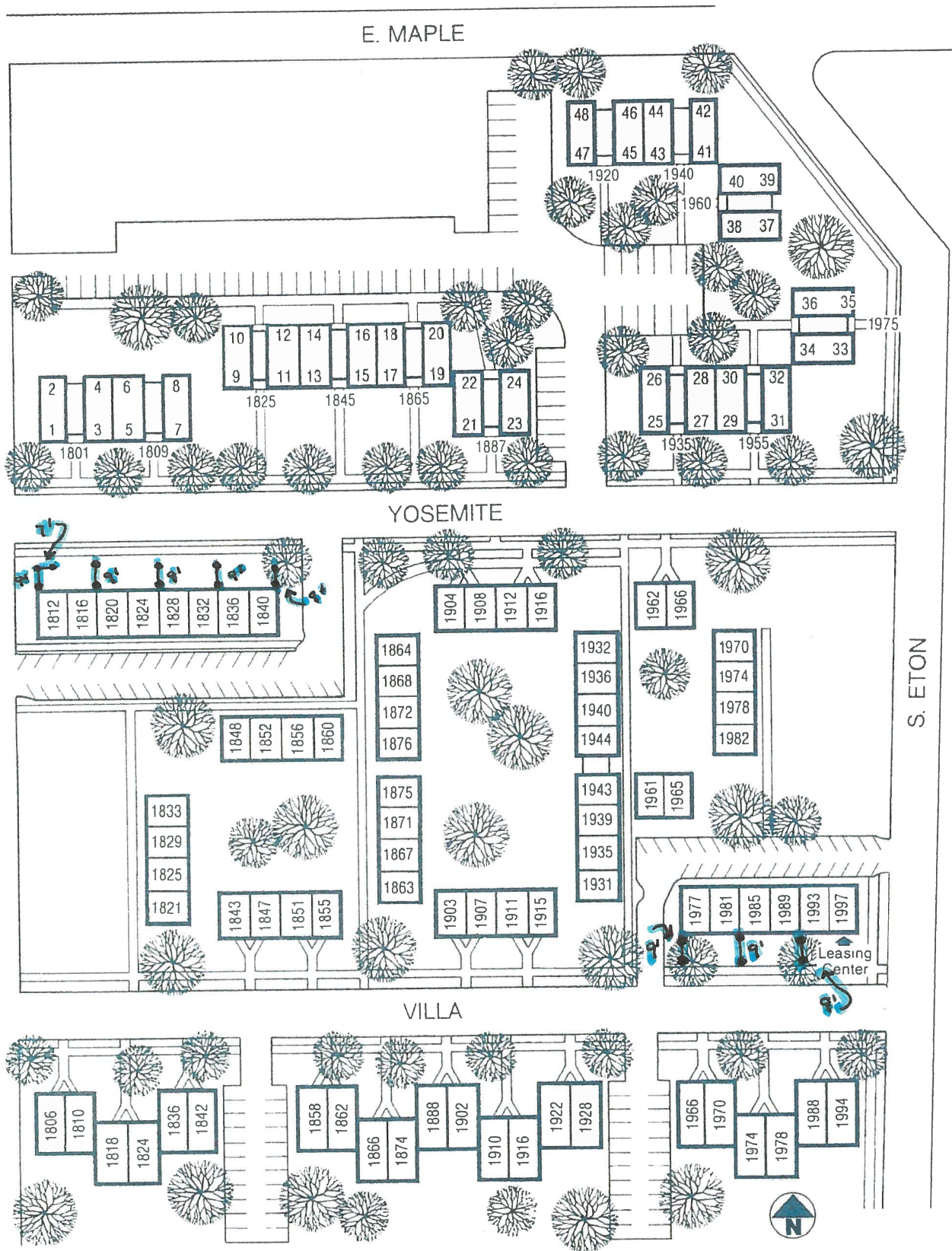
Eton Square Apartments & Townhomes would like to replace the existing 6 foot tall wood privacy dividers fences facing Villa and Yosemite with beige PVC fencing. These fences have been on our property for nearly 65 years.

The divider fences offer our residents privacy and security to their homes. The existing wood dividers are falling apart and are an eye sore to the street. The new divider fences are PVC (plastic) and will add to the visual appearance to the neighborhood.

We have been permitted to replace the wood divider fences on the interior court yards of our community and would like to request the same approval for the fences facing the exterior streets.

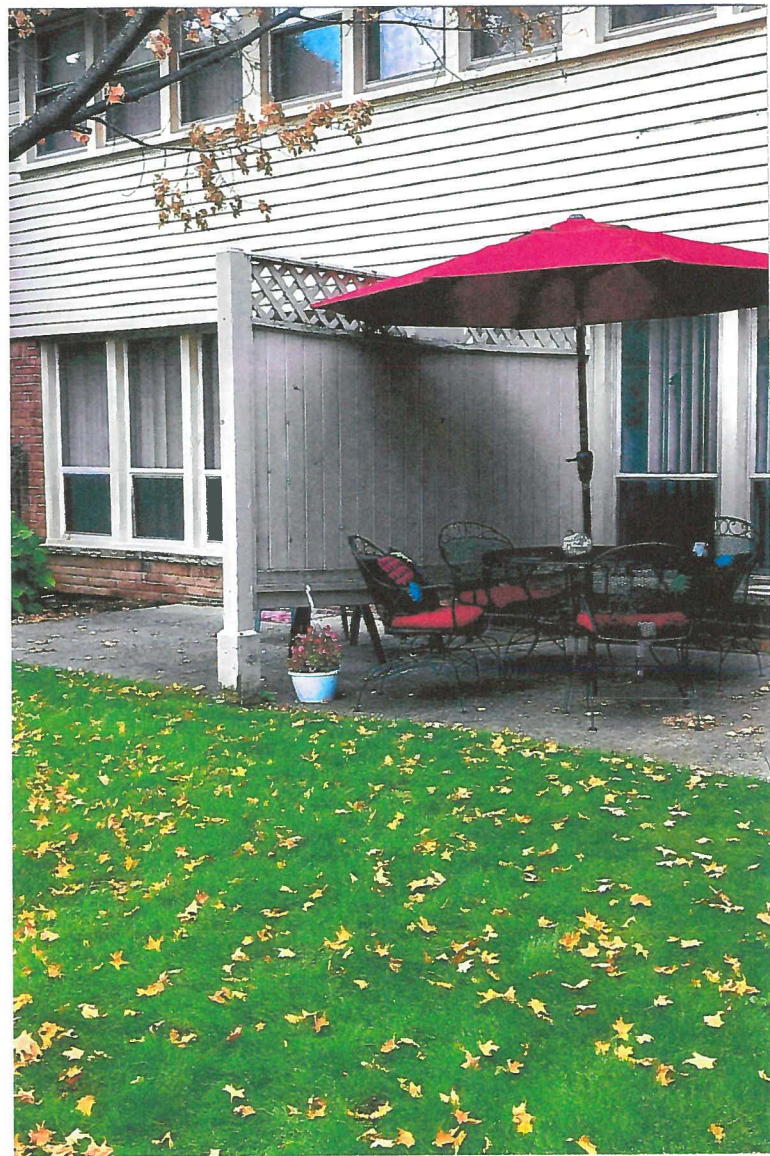
Thank you for your consideration.

Rhonda Fazio 
Community Manager







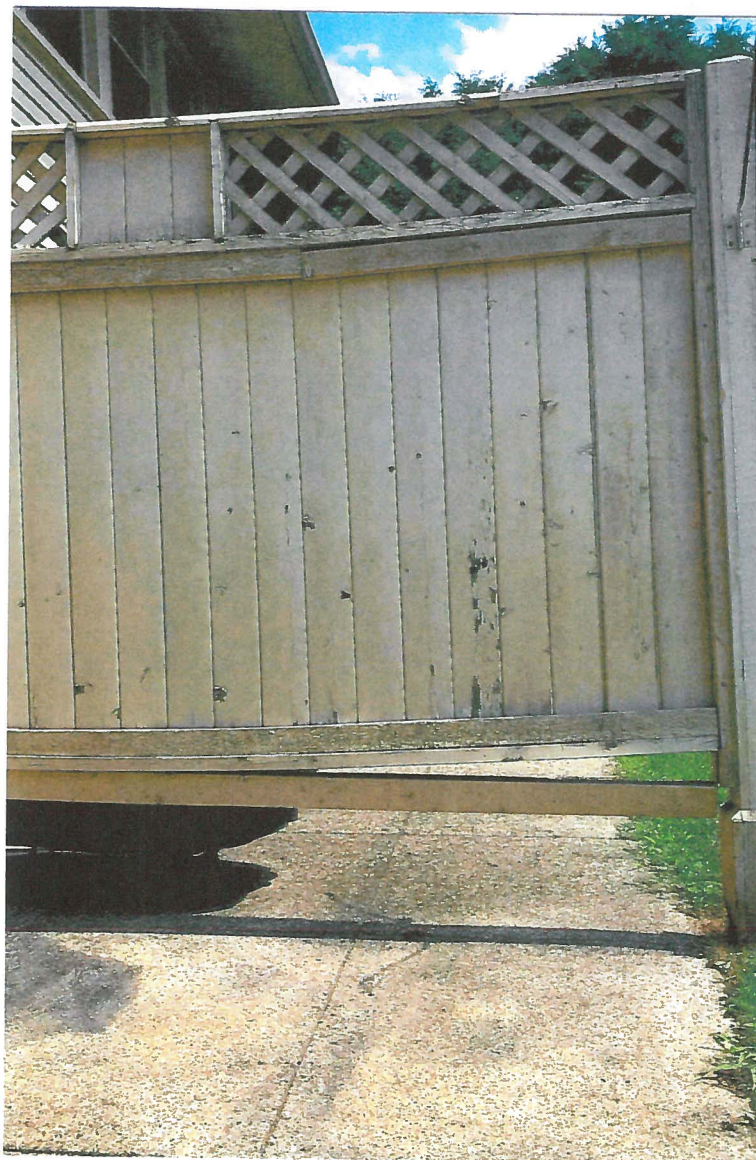




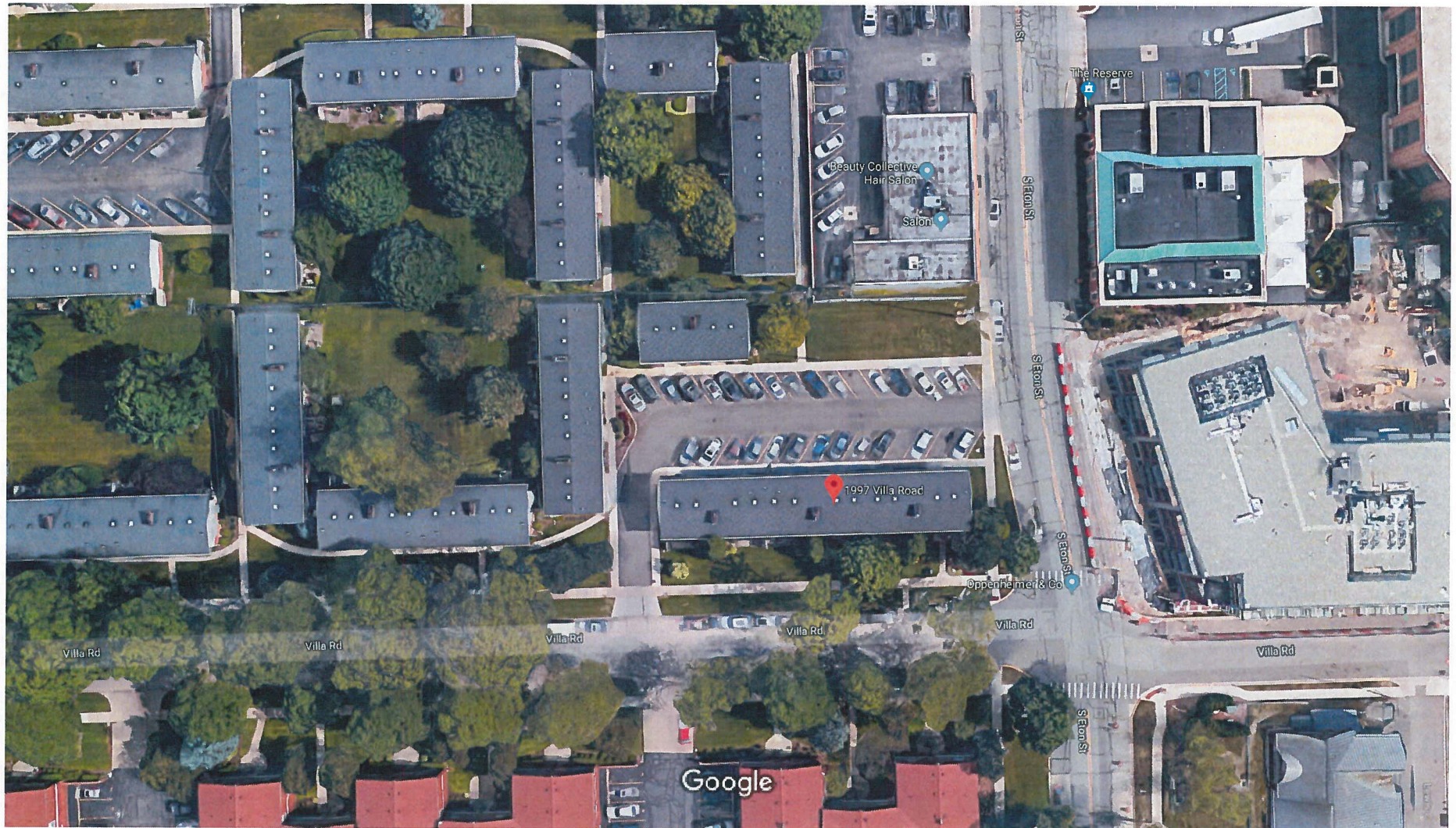












CASE DESCRIPTION

1524 HAYNES (18-35)

Hearing date: October 9, 2018

The owner(s) of the property known as 1524 Haynes request the following variance to construct a second story addition on an existing non-conforming single-family home:

- A. 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 4.60 feet, therefore a variance of 0.40 feet is being requested.

Staff Notes:

The existing home at this location was constructed in 1955. The proposed second story addition will not project closer to the property line than the existing first story below.

This property is zoned R2.

Jeff Zielke
Plan Examiner

1524 HAYNES



Application Date: 9-07-18



Hearing Date: 10-9-18

Received By: BM

Appeal # 18-35

Board of Zoning Appeals Application

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

☐ **Property Information:**

Street address: <u>1524 HAYNES</u>		Sidwell Number:	
Owners name: <u>JOE + SARAH VALENTINE</u>		Phone #: <u>248</u>	
Owners address: <u>1524 Haynes</u>		Email:	
City: State: <u>Birmingham MI</u>		Zip code: <u>48009</u>	
Contact person: <u>DAN LYNCH</u>		Phone #: <u>248 361 8226</u>	

Petitioner Information:

Petitioner name: <u>DAN LYNCH</u>		Phone #: <u>248 361 8226</u>	
Petitioner address: <u>23849 Forest Park</u>		Email: <u>dan@lynchcustomhomes.com</u>	
City: <u>NOVI</u>	State: <u>MI</u>	Zip Code: <u>48374</u>	

Required Attachments:

- Original Certified Survey ☐ Original BZA application ☐ Letter of hardship or practical difficulty
- ☐ 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
 - ☐ Set of plans and survey mounted on foam board
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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: Joseph A. Valente

Date: 9-4-18

Revised 12/9/2013



CITY OF BIRMINGHAM
Date 09/10/2018 9:58:10 AM
Ref: 052152
Rec'd: 446274
Amount: \$360.00

September 14, 2018

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

Re: 1524 Haynes Avenue
Birmingham, MI 48009

Dear City of Birmingham Board of Zoning Appeals:

I represent Joe and Sarah Valentine, the owners of the property referenced above. I have been contracted by the Valentines to design and construct an addition to their existing home. Please accept this letter in support of an application to the Board of Zoning Appeals dated September 14, 2018.

I. Introduction and Background

Application is made to the Board of Zoning Appeals (BZA) in support of the owner's intent to construct a second story addition to their existing single story home. The existing home is located in the Adams Village Subdivision and was constructed in 1955 along with many of the homes in the surrounding area. The property is zoned R2 and the home is existing nonconforming with regard to its west side yard setback. The current regulations for this property require the west setback to be a minimum of 5.0 feet. However, the existing home was constructed 4.6-feet from the side lot line. The property is in conformance with all other provisions of the Zoning Ordinance for the R2 District.

As a final stage of planned improvements to the property, the Valentines intend to add a second story addition to their existing home. The addition is the final phase of a series of renovation projects that owners have made preparing the existing home and property for their family. Discussions have been underway with the Building Department regarding the proposed addition. As part of these discussions, it was noted that a 0.4 – foot (4.8 – inches) variance would be necessary in order to properly support the addition on top of the west wall of the existing home.

The proposed addition would not project any closer to the property line that the current home already exists and is designed with a minimum overhang of 4 inches on the west side.

II. Dimensional Variance

The homeowners request the BZA grant a dimensional variance from the minimum side yard setback provisions of the Zoning Ordinance to allow the second story addition to continue the same line as the existing first story of the home based on a demonstrable practical difficulty

imposed by the existing nonconformity. Specifically, moving the existing home 4.8 inches to the east would not be practical, and stepping the second story in that distance would create unusual structural difficulties as the second story wall would not be stacked on the exterior wall below. Setting the second story wall in would also create an unusual visual appearance as the home would not appear balanced. The dimensional variance requested is the minimum amount necessary for the proposed second story addition.

1. Granting this Variance is consistent with the spirit and intent of the Zoning Ordinance.

The property was developed in 1955 along with the existing neighborhood. All of the existing homes on the street were constructed to the design of the neighborhood at that time. The existing 4.8-inch nonconformity to the current 5-foot side yard setback requirement is minimal and would not change the side yard setback pattern established when the homes on the street were constructed. The proposed second story addition would not alter the uniformity of the setbacks established when the neighborhood was developed.

2. This practical difficulty is not self-created.

The existing home was built in 1955 along with the neighborhood. Current zoning requirements for the R2 district make this property nonconforming to the west side yard setback requirement. These conditions existed long before the current owners purchased the home.

3. This property presents a Unique Circumstance.

The current homeowners purchased the property in 2005 with the intention of creating a home where they would eventually raise a family. The owners have completed several renovation projects over the years to their home including installing an emergency egress window well and finishing the basement, renovated the kitchen and bathroom and installed an in ground swimming pool. The design of all of those improvements were made with the intention of eventually adding a second story to the home. All of the improvements the owners have made to their home and property present a unique circumstance. Granting the requested variance would preserve an existing well maintained home with many recent updates and improvements.

4. Granting these variances would promote substantial justice and fairness rather than insisting upon strict compliance with the Ordinance.

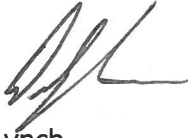
The owners propose to construct a second story addition in the typical fashion by stacking the outside walls so they are flush with each other and structurally sound. Adding a second story addition is consistent with the rights all neighbors and property owners have in the area. Stepping the second story in to comply with the current Ordinance would require substantial structural modifications to the existing home and would be unduly burdensome. Granting this minimal variance allows the owners to complete the last phase in a series of improvements they strategically planned.

The proposed addition is designed with an effort to minimize the existing nonconformity. The roof height proposed is two feet lower than the maximum allowable and the overhang on the west side was reduced to four inches.

LYNCH | CUSTOM HOMES

We, therefore, respectfully request the BZA grant the requested dimensional variance in order to allow the second story addition to be constructed on the existing nonconforming home. Should you have any further questions or would like to visit the property, please feel free to contact me.

Respectfully submitted,



Dan Lynch
Lynch Custom Homes

dan@lynchcustomhomes.com 248-361-8226

Motion by Mr. Miller

Seconded by Mr. Lyon regarding Appeal 13-22 at 1240 E. Lincoln St. He would move to approve the appeal. He believes this is certainly a unique circumstance due to the easement in the back. With respect to the location of the existing garage, the new garage improves that. So Mr. Miller thinks they are doing substantial justice obviously to the property owner and to the neighbor.

Strict compliance would make locating the garage in the back quite difficult, so Mr. Miller believes that it would become burdensome to the owner to have to meet strict compliance with the Ordinance. So, for those reasons, again he would move to approve the appeal, tied to the submitted plans.

Mr. Jones noted that the applicant has attempted to mitigate the need for the variance by proposing a garage that is not 20 ft. x 20 ft.; but is, in fact, 19 ft. x 19 ft.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

T# 08-48-13

**1524 HAYNES ST.
(Appeal 13-19)**

The owners of the property known as 1525 Haynes St. request the following variance to construct an emergency egress window well:

- A. Chapter 26, Article 4, Section 4.30 (C. 4.) allows window wells to project into the required side yard setback a maximum of 3.0 ft. measured to the inside of the well opening. The lot's westerly side yard setback is required to be 5.0 ft., with 4.5 ft. existing; therefore, a variance of 0.5 ft. is requested.

The measurement in both the Ordinance and Code is to the interior dimension of the window well.

One letter has been received to the effect that any improvement is fine.

Mr. Johnson explained the property owner, Mr. Joe Valentine, recently got married and wants to improve the basement area of his house and add a bathroom. Next year he plans an addition off the rear of the house. Egress window wells are not permitted in the front open space so there wouldn't be room in the front for the window well. On the east side is the driveway right next to the house. Therefore, the only spot to put the window well is on the west side of the house.

Mr. Johnson and Mr. Valentine explored different types of egress window wells. They found a pre-manufactured unit that has an outside wall that is only a couple of inches wide. With this type of window well Mr. Valentine will not be closer to his neighbor's property line than if the house was conforming and he built a typical window well out of either masonry or concrete poured walls. In that case the total projection could be up to 48 to 50 in. The projection of this pre-manufactured unit ends up to be about 42 in.

Mr. Conlin received confirmation that the pre-fabricated unit that is being considered meets the minimum requirement of 36 in. for inside dimension. The egress well will be about 1.5 ft. from the neighbor's driveway and sticks up about 3 to 4 in.

Mr. Miller noticed a 9 ft. stretch in the back that is adjacent to the driveway. Mr. Johnson explained that currently there is a lot of mechanical equipment in that area that would require quite a bit of inside work if a window well was placed there.

Motion by Mr. Lyon

Seconded by Mr. Jones regarding Appeal 13-23, 1524 Haynes St. to grant the variance as advertised. The appellant seeks a variance under Chapter 26, Article 4, Section 4.30 (C. 4.) to construct an egress window in the basement that will project 6 in. further into the required side yard setback.

Mr. Lyon believes that strict compliance in this case would be unduly burdensome given that there is really no other place to put this required egress window.

He also finds that it does substantial justice to the homeowner. It allows him to use the basement in a much safer, modern way. It does substantial justice to the surrounding neighbors, in that this is a very low, just off the ground, and hard to see item. He believes this is not self-created in that the requirements for egress windows are relatively new and not even thought of back when this house was built. He would tie the motion to the plans as indicated tonight.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

T# 08-49-13

CORRESPONDENCE (none)

T# 08-50-13

GENERAL BUSINESS (none)

T# 08-51-13

ADJOURNMENT

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

Bruce R. Johnson, Building Official

August 12, 2018

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

RE: 1524 Haynes Street

Dear Board,

I reside at 1540 Haynes Street adjoining the above property to the East. I have been made aware of the proposed renovations to the adjoining property and the need for a dimensional variance. I am in full support of the requested variance.

Please feel free to contact me directly with any questions.

Thank you,



Diane M. Shires
1540 Haynes Street
(248) 321-4480

August 12, 2018


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

RE: Variance for 1524 Haynes Street

Dear Birmingham Board of Zoning Appeals,

We live at 1523 Haynes Street, which is directly across the street from 1524 Haynes. The plans for the 2nd story addition have been shared with us and we are supportive of their request for the dimensional variance.

Sincerely,

A handwritten signature in black ink, appearing to be "BJ" followed by a stylized flourish.

Ben Johnson

A handwritten signature in black ink, appearing to be "Bincy" followed by a long horizontal line.

Bincy Johnson

August 12, 2018

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

RE: Requested Variance for 1524 Haynes Street

Dear Birmingham Board of Zoning Appeals,

I am the property owner of 1525 Holland Street, which adjoins 1524 Haynes to the South. I wish to express my support for the dimensional variance required for the 2nd story addition to the above property to the North.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steve Girtz', written in a cursive style.

Steve Girtz

August 12, 2018

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

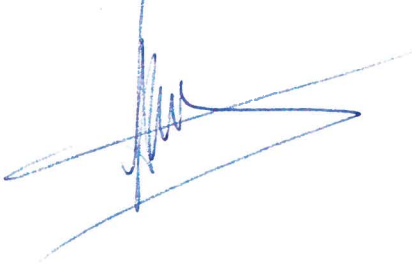
RE: Requested Variance for 1524 Haynes Street

Dear Birmingham Board of Zoning Appeals,

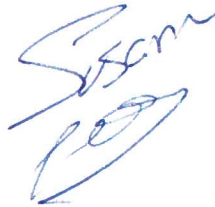
I am the property owner of 1505 Holland Street, which adjoins 1524 Haynes to the South. I wish to express my support for the dimensional variance required for the 2nd story addition to the above property to the North.

Sincerely,

Jose Ivorra

A handwritten signature in blue ink, appearing to be 'Jose Ivorra', with a stylized, sweeping flourish extending to the right.

Susana Perales

A handwritten signature in blue ink, appearing to be 'Susana Perales', with a stylized, looping flourish.



Jeff Zielke <jzielke@bhamgov.org>

Board of zoning appeals: 1524 Haynes Street

1 message

Gavin Pearson <gavinjrpearson@gmail.com>
To: jzielke@bhamgov.org

Wed, Oct 3, 2018 at 8:53 PM

Jeff,

My name is Gavin Pearson. I reside at [1591 Haynes St, Birmingham, MI 48009](#). I would like to state that I am totally supportive of Joe Valentine's request to add a second story to his home. Please can you note this support at the hearing. Thank you.

Sincerely,
Gavin Pearson.

CASE DESCRIPTION

242 ASPEN (18-36)

Hearing date: October 9, 2018

The owner(s) of the property known as 242 Aspen request the following variance to modify the existing front façade of an existing non-conforming home:

- A. Chapter 126, Article 2, Section 2.06** of the Zoning Ordinance requires a minimum front yard setback to be the average of the homes within 200.00 feet each direction. The required front yard setback for this property is 31.52 feet. The proposed setback is 29.85 feet, therefore a variance of 1.67 feet is requested.

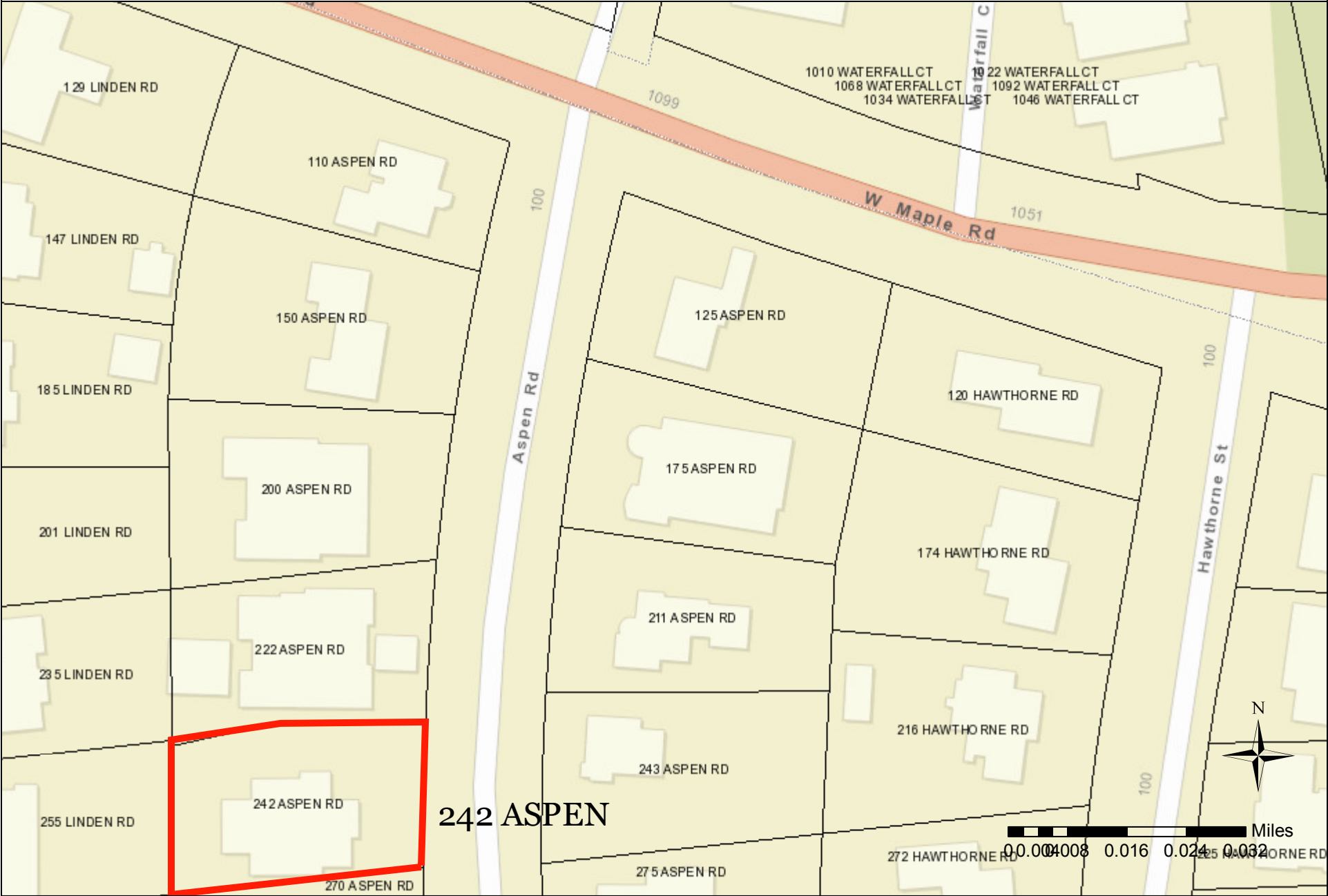
Staff Notes:

The applicant is proposing a renovation of the front façade of this existing non-conforming home that was constructed in 1997. The proposed renovation consists of a parallel extension of the façade to the left and reduction in the non-conformity on the right.

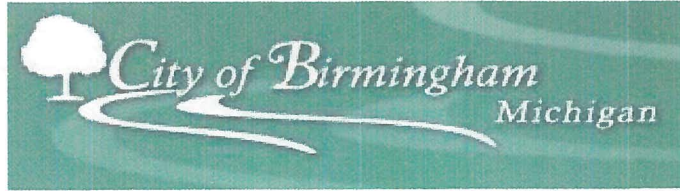
This property is zoned R1.

Jeff Zielke
Plan Examiner

242 ASPEN



Application Date: 9-14-18



Hearing Date: 10-9-18

Received By: BM

Appeal # 18-36

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>242 ASPEN</u>	Sidwell Number: <u>19-35-229-020</u>
Owners name: <u>ANDREW (JAKE) & REBECCA GROVE</u>	Phone #: <u>(248) 566-8438</u>
Owners address: <u>242 ASPEN</u>	Email: <u>RGrove@honigman.com</u>
City: State: <u>BIRMINGHAM MI</u>	Zip code: <u>48009</u>
Contact person: <u>REBECCA GROVE</u>	Phone #: _____

Petitioner Information:

Petitioner name: <u>REBECCA GROVE</u>	Phone #: <u>(248) 566-8438</u>
Petitioner address: <u>242 ASPEN</u>	Email: <u>RGrove@honigman.com</u>
City: <u>BIRMINGHAM</u> State: <u>MI</u>	Zip Code: <u>48009</u>

Required Attachments:

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

General Information:

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

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

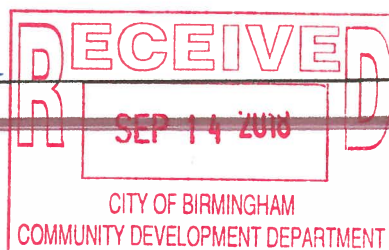
Location of all requested variances must be highlighted on plans and survey. All dimensions to be taken in feet to the first decimal point.

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

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

Signature of Owner: [Signature]

Date: Sept 14 2018





CBI DESIGN PROFESSIONALS

September 14, 2018

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

RE: 242 Aspen

Dear Members of the Board,

On Behalf of our clients (Mr. & Mrs. Grove) at the above address, we are respectfully asking for a variance to the zoning ordinance requirements to construct a small wing wall with a 1.33 SF footprint. The existing home has a prominent front gable wall and arched wing wall to the north, all of which is currently non-conforming with the average front setback. The homeowners are removing the existing arched wing wall due to the relocation of their front door. The centerline of the existing front gable is not currently centered between the existing exterior walls, which will now be emphasized with the removal of the north wing wall. By adding a small wing wall to the south side of the existing front wall, we can accurately center the gable with the existing exterior walls which was not correctly done on the original house.

The addition of a 1.0 ft. x 1.33 ft. wing wall makes it possible for us to remove the larger (7 ft 10 in) non-conforming wall to the north. Granting of this variance improves an existing non-conformity without creating adverse effects for the neighboring properties. Not granting the variance would maintain the existing conditions making it a practical difficulty for the homeowner to proceed with an otherwise allowable renovation to their residence.

Thank-you for your consideration of this variance request.

Sincerely,



Robert G. Clarke, AIA
President



CBI DESIGN PROFESSIONALS

September 14, 2018

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

RE: 242 Aspen

		REQUIRED	EXISTING	PROPOSED	AMOUNT OF VARIANCE
Wing Wall					
	South Side	31.52'	29.87'	29.85'	1.65'

CASE DESCRIPTION

1684 W. Lincoln (18-37)

Hearing date: October 9, 2018

The owner(s) of the property, known as 1684 W. Lincoln request the following variance to construct an addition to an existing non-conforming home:

- A. **Chapter 126, Article 4, Section 4.61(1)** of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required street side yard setback for this property is 26.50 feet. The proposed setback is 15.29 feet; therefore, a variance of 11.21 feet is requested.

Staff Notes:

The applicant is proposing to add a second floor and construct a rear addition to the existing non-conforming home which was constructed in 1948. This lot is a corner lot in the R1 Zoning district.

This property is zoned R1.

Jeff Zielke
Plan Examiner

1684 W. LINCOLN



Application Date: 9/17/18
~~9/13/18~~

Hearing Date: 10/9/18
~~10/9/18~~

Received By: BM



Appeal # 18-37

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>1684 W. Lincoln</u>	Sidwell Number:
Owners name: <u>Dave + Kelly Genzlinger</u>	Phone #: <u>586-921-6589</u>
Owners address: <u>2339 Manchester</u>	Email: <u>DGENZLINGER@yahoo.com</u>
City: State: <u>Birmingham, MI</u>	Zip code: <u>48009</u>
Contact person:	Phone #:

Petitioner Information:

Petitioner name:	Phone #:	
Petitioner address:	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	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: 9/15/18

October 9, 2018

Mr. and Mrs. David and Kelly Genzlinger
2339 Manchester, Birmingham, MI 48009
1684 W. Lincoln, Birmingham, MI 48009

Board of Zoning Appeals (BZA)
Birmingham, Michigan 48009

Dear BZA Chairman and Members,

We are submitting this appeal to the Board regarding 1684 W. Lincoln. Our family has lived in Birmingham's Pembroke Manor for nearly 20-years, and we have recently purchased 1684 W. Lincoln. Our plan is to renovate this home, and bring it up to Birmingham standards as well as to update it to serve as a wonderful family home for ourselves and three children.

The home is on the northeast corner of Lincoln and Donmar Ct. The house as it sits, is non-conforming to the street-facing side yard setback (Donmar Ct.) side.

The design we are proposing conforms to all setbacks as it relates to the new, additional structure's foundation (including garage) behind the house. We are requesting a variance 11.21' into the street facing side yard. This will enable us to build a true second floor (where a bungalow 2nd level exists today) over the existing footprint of the house. We will also add an addition on the back that will not exceed, but will sit inside, the line of the existing house and requested 11.21' variance.

For this small, corner lot, we iterated through many options, including a plan that required two variances that BZA denied, which required two variances. This design now only requires a *single variance*, and allows us to meet all other requirements:

- Rear setback (30' required and we are at 30')
- Front yard setback (required 35.13, we are inside that at 34.25)
- Height requirement (28' and we are at 27')
- 30% lot coverage (we are at 29.96%)
- 60% green space (we are at 80%)
- Combined front and back (must be 55' and we are at 64.25)

We thank you for your consideration, and appreciate the seriousness of this appeal. We are hopeful that our multiple attempts, and resulting complete conformance to all requirements, other than the street-facing side yard variance on this corn lot, will support granting this variance appeal.

Thank you,

Dave and Kelly Genzlinger

CASE DESCRIPTION

101 S. OLD WOODWARD (18-38)

Hearing date: October 9, 2018

The owner(s) of the property, known as 101 S. Old Woodward request the following variance to block a window along the front facade:

- A. Chapter 126, Article 4, Section 4.90 (A)(4)** of the Zoning Ordinance prohibits windows from being blocked with opaque materials or furniture, products, signs, blank walls or the backs of shelving. The eastern most window bay of the north facing façade along E. Maple is proposed to be blocked with a vinyl application; therefore; a variance to block the eastern most window along the E. Maple elevation is requested

Staff Notes: The area on the interior of the subject window is the location of fitting rooms and storage area of the store. In order to provide privacy for the customers using the fitting rooms and to screen the storage area from public view the applicant is proposing to cover the window with either vinyl graphics or drapes.

This property is zoned B4.

Matt Baka
Senior Planner

101 S. OLD WOODWARD



Application Date: 9-17-18



Hearing Date: October 9, 2018

Received By: Bm

Appeal # 18-38

Board of Zoning Appeals Application

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

Property Information:

Street address: 101 S. OLD WOODWARD AVE.	Sidwell Number: 1936206001
Owners name: FULLER CENTRAL PARK PROPERTIES, LLC	Phone #: 248-642-0024
Owners address: 112 PEABODY STREET	Email: Steve@fullercentralpark.com
City: State: BIRMINGHAM, MI	Zip code: 48009
Contact person: STEVE QUINTAL	Phone #: 248-642-0024

Petitioner Information:

Petitioner name: VANESSA GARCIA / BLAIR ROCHLIN	Phone #: 310-263-3585
Petitioner address: 20521 EARL STREET	Email: vgarcia@menemshasolutions.com
City: TORRANCE State: CA	Zip Code: 90503

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: 9-13-18



lululemon

Store Support Centre
1818 Cornwall Ave.
Vancouver BC Canada
V6J 1C7

P. 1 604 732 6124
F. 1 604 874 6124
lululemon.com

September 17, 2018

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

Re: 101 S. Old Woodward Ave. ("Property") – Lululemon ("Petitioner")

Dear Members of the Board of Zoning Appeals:

Please accept the following hardship letter on behalf of Petitioner in support of its request for a dimensional variance from the following section of the Birmingham Zoning Ordinance ("Zoning Ordinance").

Section 4.90 WN-01 (A), in relevant part, provides as follows:

A. Storefront/Ground Floor Windows: Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:

4. Windows shall not be blocked with opaque materials or furniture, products, signs, blank walls or the back of shelving units.

Background

Petitioner requests a dimensional variance to Section 4.90(A.4) of the Zoning Ordinance, as it will result in practical difficulty to the Petitioner. The difficulty is caused by the unique shape of the Property, along a corner with three total storefronts. Altogether, these three storefronts make up over 60% of the Property's perimeter length. As a result, it is a practical hardship for all and every window to be completely free of opaque materials or furniture.

Strict Application of the Zoning Ordinance Unreasonably Prevents Permitted Use



Petitioner's use of the Property for permitted purposes are those uses of the D4 district: mixed use retail, office and residential. To apply the Zoning Ordinance requirements of full window transparency to this particular Property in this unique situation will cause Petitioner an unnecessary hardship and unreasonably prevent the permitted use of retail business.

There are various functions intrinsic to retail business that necessitate less visual transparency into the Property. The two functions of this particular retail business (clothing store) that require privacy from street view are the dressing room and the storage areas.

For obvious reasons, the dressing room areas must be blocked from view through the use of partitions. In addition, the area immediately opening up to these partitions should also maintain certain privacy, as customers will be entering and exiting through these rooms to try on garments. In an effort to comply with the local code and high design standards, the Petitioner has proposed partially blocking views into the dressing room area as shown in Exhibit A. This design feature will activate the street and provide a curated feel for the guest walking by.

The retail storage areas of this Property should also be free from pedestrian view. The entirety of the back of house areas for this Property have been limited to the basement level. However, all stock deliveries must be made at the street level through the side entry at E. Maple Road. The storefront glazing adjacent to this entry, if left exposed, would provide undesirable views of recently received stock items to the general public. For this reason, strict application of the zoning ordinance that prevents the use of opaque materials, unnecessarily prevents the permitted use of retail stock delivery activity.

Literal Enforcement of the Ordinance will Result in Unnecessary Hardship

Furthermore, the unique characteristics of the interior of the space will only allow for deliveries to occur at the side entry on E. Maple Road. The main entry on the corner of E. Maple Road and S. Old Woodward Avenue is the main pedestrian entry and this street experience cannot be jeopardized. Additionally, the delivery company has logistic issues with delivering to this door.

The practical difficulty and hardship experienced by this Petitioner is not self-created but exists because of the special conditions of the Property. There is access to the Property through use of the basement level however, due to the following reasons, delivery access cannot be provided through this door.



1. The adjacent corridor is shared common property between various tenants. Deliveries cannot be dropped off in this area as the corridor is shared and merchandise could be compromised.
2. The pathway between the Property and the access point on the basement level is long and arduous. The delivery company will not deliver to this door. This poses health and safety concerns for the staff. The staff members would need to be sent in groups of two or more when travelling off of the premises in order to receive deliveries. There are also health and safety concerns with having staff loading and unloading heavy deliveries. This loading and unloading would typically be accommodated by the delivery staff, which in this case, will not deliver to this door.

Granting the Variance is Consistent with the Spirit and Purpose of the Zoning Ordinance

Granting of the Petitioner's requested variance is consistent with the spirit and purpose of the ordinance and will not be detrimental to the public health, safety and welfare. In fact, Petitioner maintains that the property in its entirety is in accordance with the Window Standards of the Zoning Ordinance:

- No less than 70% of the storefront/ground floor façade between 1 and 8 feet above grade shall be clear glass panels and doorway.
- Glass areas on storefronts shall be clear, or lightly tinted in neutral colors. Mirrored glass is prohibited.
- Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
- The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.
- Blank walls of longer than 20 feet shall not face a public street.

The purpose, spirit and intent of the Downtown Birmingham Overlay District is clearly set forth in Section 3.01. It encourages the development in the D4 zone in accordance with the Downtown Birmingham Overlay District (Section 3.01-A). Furthermore, the purpose of the Downtown Birmingham Overlay District is to encourage development that "will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Birmingham and to maintain the desired character of the City of Birmingham as stated in the Downtown Birmingham 2016 Plan..." (Section 3.01-B).



The purpose of the Downtown Birmingham Overlay District goes on further to state at Section 3.01-C that the intent of the ordinance is to “encourage the renovation of buildings” and ensure that all the uses are related to pedestrian-friendly streetscapes and to ensure that “retail be safeguarded along specific street frontages.” The spirit and purpose of D4 ordinance is clearly accomplished by the project proposed. The proposed project will encourage renovation in such a way that improves the economic vitality of the District through the use of physical qualities. The granting of the variance requested will achieve all of the objectives of the D4 zone and the City of Birmingham Zoning Ordinances.

The spirit, purpose and intent of the Ordinance would be served by granting a variance that would allow a limited amount of opaque materials along the Property's storefront. This preserves and improves the pedestrian and retail streetscape experiences in accord with the spirit, purpose and intent of the Ordinance.

Granting the Variance will result in Substantial Justice to the Property Owner, Owners in the Area and the General Public

Granting this variance will not hurt the pedestrian streetscape experience as the Petitioner is proposing a design feature of visual interest. Furthermore, the Petitioner is compliant with the rest of the provisions of the Zoning ordinance as they are providing views into all of their other seven storefronts. This will result in substantial justice, not only to the Property owner but also to the owners in the area and the general public because allowing this variance will block undesirable views into the space, while keeping open all other views into the main sales area of the retail space, which is the area meant to attract customers into the space. This custom design feature will tie in with other design features that are proposed throughout the interior of the Property. From the exterior of the Property, pedestrians will be able to view the exterior alongside the open views into the interior and see an integrated design throughout.

If you have any further questions or comments with regard to the above please do not hesitate to call.

Sincerely,

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