

BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

Municipal Building Commission Room
151 Martin Street, Birmingham, Michigan
April 9, 2019
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES

- 1) March 12, 2019

4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	211 VALLEY VIEW	AKEY	19-01	DIMENSIONAL
2)	1330 NORTHLAWN	MAMATAS	19-12	DIMENSIONAL
3)	1583 RUFFNER	MILLER	19-13	DIMENSIONAL
4)	1711 BANBURY	SILVER	19-14	DIMENSIONAL
5)	33866 WOODWARD	SILK	19-15	POSTPONED
6)	453 BALDWIN	LACHWALLA	19-16	DIMENSIONAL

5. CORRESPONDENCE

6. GENERAL BUSINESS

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

8. ADJOURNMENT

Title VI

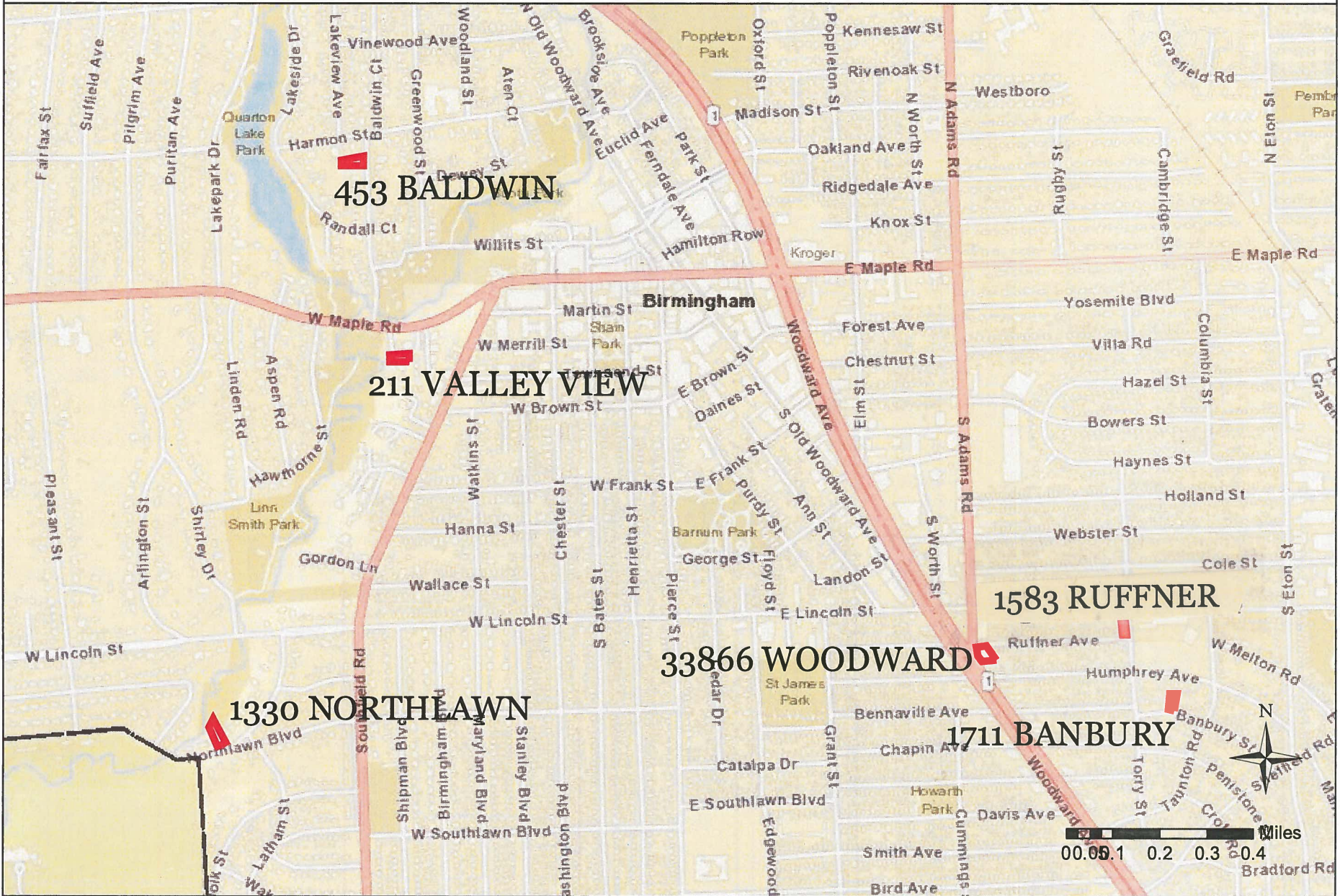
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Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad 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).

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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.

APRIL BZA MAP



**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, MARCH 12, 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, March 12, 2019. Chairman Charles Lillie convened the meeting at 7:30 p.m.

2. ROLLCALL

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

Absent: Alternate Board Member Ron Reddy

Administration:

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

The Chairman 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 Lillie then took rollcall of the petitioners; all were in attendance.

T# 03-16-19

3. APPROVAL OF THE MINUTES OF THE BZA MEETING OF FEBRUARY 12, 2019

Motion by Mr. Morganroth

Seconded by Mr. Rodriguez to accept the Minutes of the BZA meeting of February 12, 2019 as presented.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

T# 03-17-19

4. APPEALS

Chairman Lillie noted one letter to the Board regarding 1708 S. Bates. Building Official Johnson confirmed the letter was provided to the petitioner.

1) 1423 BENNAVILLE Appeal 19-05

Assistant Building Official Zielke explained that the owner(s) of the property known as 1423 Bennaville requested the following variances to construct a second floor and rear addition to an existing nonconforming home:

A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum front yard setback to be the average of the homes within 200 feet in each direction. The required front yard setback for this property is 20.10 feet. The existing and proposed is 19.60 feet; therefore, a variance of 0.50 feet is requested.

B. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires that no side yard setback shall be less than 5.00 feet. The existing and proposed setback is 4.30 feet; therefore, a variance of 0.70 feet is requested.

Assistant Building Official Zielke also noted the applicant is proposing to construct a second floor addition over the existing footprint of the home which is non-conforming, along with a rear addition to the home which conforms to the zoning ordinance. This property is zoned R3.

In answer to Boardmembers' questions, Assistant Building Official Zielke confirmed:

- The home was likely built before the existing zoning ordinances were in place.
- The box-out in bedroom one will not increase the non-conformance. It is set back so it is still able to go the 24 inches and still meets the allowable projection.

Anatola Sesi spoke as the owner and one of the residential redevelopers of 1423 Bennaville. She stated that the original intent for the home was to bring the second story inward in order to comply with the zoning. As the process moved forward it became clear that there were structural issues that would prevent her from doing that. The other option was to knock down a

wall on the east side of the home, but the structural engineer consulted said it would likely impact the structural integrity of the house.

Motion by Mr. Miller

Seconded by Mr. Morganroth with regard to Appeal 19-05, A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum front yard setback to be the average of the homes within 200 feet in each direction. The required front yard setback for this property is 20.10 feet. The existing and proposed is 19.60 feet; therefore, a variance of 0.50 feet is requested.; and for B. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires that no side yard setback shall be less than 5.00 feet. The existing and proposed setback is 4.30 feet; therefore, a variance of 0.70 feet is requested.

Mr. Miller said it was a straightforward situation because the discrepancy with the zoning ordinance was not caused by the petitioner, but through the existing non-conforming house. The request for the addition is reasonable and would do substantial justice to the neighboring homes. Even with the requested variance on the east side there will still be a difference of 15.6 feet between the houses, and the variance at the front of the house will be minimally different from the rest of the neighborhood.

For those reasons Mr. Miller moved to approve the petition and to tie it to the plans as submitted.

Mr. Rodriguez said he would support the motion as well since the variance requested is the minimum necessary and the records show the petitioner sought to mitigate the issue.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

T# 03-18-19

**2) 1708 S. BATES
Appeal 19-06**

Assistant Building Official Zielke explained he owner(s) of the property known as 1708 S. Bates requested the following variance to construct a new single family home with an attached garage:

A. 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 feet or 25% of the total lot width, whichever is greater. The required distance between is 14.00 feet. The

proposed distance between on the south side is 12.04 feet; therefore, a variance of 1.96 feet is requested.

Assistant Building Official Zielke also noted the proposed new home meets the zoning ordinance on the property, with the exception of the distance between structures to the south of the property. This property is zoned R2.

Chairman Lillie noted that the current distance between the petitioner's house and the neighboring home on the south side is 15 feet.

Assistant Building Official Zielke confirmed for Chairman Lillie that the petitioner could likely move their home closer to Southlawn by .83 feet, thus requiring less of a variance. Assistant Building Official Zielke said he would have to double check that the bump-outs are under the 20 inches allowable in the side yard, which he believes they are.

Vice-Chairman Judd said this appeal was disconcerting because variances on such small lots tend to magnify the problems.

Asking why the house is not more oriented to the north, Assistant Building Official Zielke replied to Vice-Chairman Judd that a lot of mitigation was done throughout the process, and the possibility of moving the home towards Southlawn by .83 may have been overlooked by Assistant Building Official Zielke when he reviewed the plans.

In addition, Assistant Building Official Zielke explained one reason why the house is not fully conforming is because the home reached the maximum amount of lot coverage allowed at 29.8% of the lot.

Vice-Chairman Judd said that the full weight of the requested variance will impact the petitioner's neighbors to the south, which means that if that house is demolished and rebuilt in the future it will be incumbent upon the neighbor to the south to also request a variance. Given this, Vice-Chairman Judd wondered why the City would not require strict observance of the required setback.

Assistant Building Official Zielke confirmed that the home to the south of the petitioner's house is in conformance with the zoning ordinances.

Ghassan Abdelnour, architect from GAV Associates, Inc., spoke on behalf of the petitioner. He explained that they are trying to maximize the design of the house while meeting the zoning requirements. Mr. Abdelnour said they would likely be willing to move the home the aforementioned .83 feet if the BZA deems it necessary. Because of the size of the lot, Mr. Abdelnour explained they were trying to gain a bit of width at the entrance since the home will already be long and narrow.

Chairman Lillie asked if the petitioner could remove one foot from the north side of the home.

Mr. Abdelnour said it would make the design of the home more difficult because the north side is where they have many important features such as the entrance, the living room, the fireplace, and the stairs.

Mr. Morganroth cited the Board's exploration of whether a non-conforming neighboring house was causing the problem for the petitioner, and found that not to be the case. Given that, the Board cannot grant a variance that will cause a problem for the neighbors in the future. He continued that there is a repositioning of the home that will mitigate some of the variance request, and the variance request is only located in one part of the home.

Mr. Abdelnour said they are asking for the variance, and if the Board wishes to decline the request then the petitioner will continue attempting additional conformation to the zoning ordinance.

Chairman Lillie explained that the petitioner can either request that the Board table the matter to allow the petitioner time to come into conformance, or that the Board could vote on the matter, which would result in the need for a re-application should the current petition be turned down.

Upon consultation with the owner, Mr. Abdelnour requested that the Board table the matter.

**Motion by Mr. Morganroth
Seconded by Vice-Chairman Judd to adjourn this matter until the Board's next
regularly scheduled meeting.**

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

T# 03-19-19

**3) 280 N. OLD WOODWARD
Appeal 19-07**

City Planner Cowan explained that the owner(s) of the property known as 280 N. Old Woodward requested the following variance to allow an office use within the first 20.00 feet of the first floor tenant space where retail is required:

A. Chapter 126, Article 3, Section 3.04(C)(6) of the Zoning Ordinance requires buildings that have frontage along the required retail frontages, as specified on the Regulating Plan, to consist of retail with a minimum depth of 20.00 feet from the

frontage line within the first story. Therefore, a use variance to allow a non-retail use, as defined by Article 9, Section 9.02, is requested.

City Planner Cowan explained that the subject property is located along Birmingham's Retail Frontage Line. The building is located on N. Old Woodward and Oakland, and buildings on Oakland are not part of Birmingham's Retail Frontage Line. Buildings with frontage along this boundary are required to have retail use as defined by the City's Zoning Ordinance within the first 20 feet of building depth along the boundary. The proposed use for suite 100 of 280 N Old Woodward is a new business incubator open to the general public that provides space to conduct business and host meetings for short term rental without a lease. The 20 foot retail zone required by the Zoning Ordinance is proposed to be used as accessory common space which includes a kitchen, tables, and chairs. This property is zoned B4, D4 Overlay.

Vice-Chairman Judd summarized that the petitioner is advocating for their services to be understood as a product in order to be conforming to the retail requirement of the location, and this Board as well as City staff have advised the petitioner that the services being offered do not fall under the definition of retail.

City Planner Cowan confirmed Vice-Chairman Judd's summary.

Mr. Miller clarified that the petitioner has already been told by the City that their proposed use is non-conforming, which means the petitioner is seeking a use variance which requires the demonstration of a practical difficulty.

Robert Davis represented the petitioner. In making the petitioner's case, he explained:

- There have been some revisions to how the use was presented in the narrative which he will present tonight.
- Tom Kosik, Manager And Director of Leasing for JFK Investment Company, which owns the building at 280 N. Old Woodward and Emil Jakupovic, Managing Member for WorkCo, which is the proposed tenant for the space, were also in attendance.
- JFK Investment has owned the building since 1991. Fidelity was a long-term tenant in the corner space at 280 N. Old Woodward and the property owner was given notice of Fidelity's intention to vacate the space in December 2017. Since December 2016, the property owner has been attempting to market that space to a retail tenant. Fidelity had wall-to-wall offices in the space. The time period to be grandfathered in as an exception to the retail requirement with a new tenant has lapsed.
- Because there is no access and the sidewalk is below the grade of the first floor, the property owner has not been able to fill the first twenty feet of the vacancy with a retail tenant as required. The slope of the sidewalk increases as one heads towards Oakland and creating an entrance door there would be almost virtually impossible.
- WorkCo was the only continuingly active interested party. As a result, the property owner is requesting a use variance.
- The proposed use would be as close to retail as a use can be, and likely much closer to actual retail than many other nominally retail uses that have been allowed in the City.

- Under the statute a variance may be granted if “the spirit of the ordinance is observed”, and the property owner believes the proposed use observes the spirit of the ordinance. In addition, the property owner asserts public safety would be secured and substantial justice would be done via the granting of the ordinance.
- Three-quarters of the vacant space’s frontage is on Oakland. This means that only the frontage on N. Old Woodward would be designated for retail, and it has been too small a space to attract an interested retail tenant.
- The proposed tenant would create a space where there is a reception, coffee, and people mingling. No offices or rooms for rent would be located within the first twenty feet of the window, and that would be a condition of the lease. An individual or group looking to rent temporary office space for meetings or conferences would be able to rent the use of a room through the reception, which would be the point of purchase. The individual or the group in question could rent the rooms on a one-time or reoccurring basis. Through this, the first twenty feet is only being used to sell the room rental options.
- The re-draft of the design has removed any cubicles from the first twenty feet of the space. Resultantly, the first twenty feet would be very attractive to young adults starting off in the business world. There are similar-concept businesses in Ypsilanti, redeveloped areas of Detroit, and in Royal Oak. The space serves as an incubator for businesses, and the property owner asserts that this encourage young entrepreneurs to locate their new businesses in Birmingham.
- This is as retail-oriented as engineering firms, IT support companies, medical services, marketing firms, and real estate companies. There would also be signage to support the sale of these office and conference room rentals.
- The ordinance bars the property owner’s reasonable use of the property with respect to that twenty feet of required retail. The plight is unique to the property since only one quarter of the frontage is subject to the retail requirements. The proposed tenant is ready to invest \$750,000 in renovations alone to encourage people to come in off the street and rent space, which will substantially enhance the character of the neighborhood. The difficulty is not self-created because the property owner tried to rent the space in earnest.
- The property owner requests that conditions be placed on the variance, including tying the variance to this specific tenancy, that the property owner would maintain the first twenty feet of the frontage throughout the existence of the variance, and that no company or entity can control more than 20% of the first twenty feet of the space whether by lease or otherwise. The hours would be 8 a.m. to 7 p.m. Monday through Friday.

Chairman Lillie stated that the Board does not grant variances when the reason given is that the property owner has not yet been able to find a suitable retail tenant. Several property owners have sought variances under those terms and have not been granted one. There is nothing particularly onerous in the City’s requiring that this space be rented to a retail tenant.

Mr. Davis confirmed for Mr. Morganroth that the property owner could rent all but the first twenty feet of required retail frontage to the proposed tenant, with no variance required, and

the business could proceed as proposed. The property owner would then be free to continue searching for a tenant for the retail space.

In order to demonstrate a hardship, Mr. Canvasser explained the property must not be able to be used for the permitted purpose. Building Official Johnson confirmed for Mr. Canvasser that the small entrance to the property could sufficiently serve as a retail entrance. Mr. Canvasser then asked Mr. Davis if there was any reason that a coffee shop or apparel shop could not occupy that first twenty feet.

Mr. Davis told Mr. Canvasser that there is no reason that one of those types of businesses could not be in that space. Mr. Davis asked, however, how his proposal is substantially different from a coffee shop or a clothing store. He acknowledged that the proposal is not strictly adhering to the ordinance, but that it may sufficiently preserve the spirit of the ordinance.

Mr. Canvasser clarified that the Board is not tasked with interpreting the ordinance's application this evening, since this has already been done. Rather, the question is whether a use variance will be granted for a use the City has already determined is non-compliant with the ordinance.

Mr. Davis asserted that the ordinance questions whether reasonable use is prevented, not all use. Accordingly, Mr. Davis opined that the standard is whether retail in the space would be unreasonably difficult, not whether retail in the space would be impossible. He added that the Board does have the authority to apply conditions to a variance that could avoid setting a negative precedent, and to bring the use into as close harmony with the requirements of the ordinance as possible.

Mr. Hart asked for confirmation that other retail office services would be available in the space, including copying, faxing, and receipt of mail. Mr. Davis confirmed that would be so. Mr. Hart suggested that if the plan could emphasize these features further, it could prove valuable to people within the City. He said it would remain to be seen if the City would deem that use closer to retail.

Chairman Lillie replied to Mr. Hart saying that in his opinion these changes would still not bring the proposed use into compliance.

Vice-Chairman Judd drew Mr. Davis' attention to the fact that the last time the petitioner was before the Board numerous suggestions were made as to how to make this proposal conforming. Instead of implementing those proposals, the petitioner returned with largely the same proposal. Vice-Chairman Judd said there is a way to make this proposal conforming.

Chairman Lillie noted that the Commission has been trying to reduce the number of non-conforming businesses in the retail district, and that the Board granting a use variance for this would be going explicitly against the Commission's goals.

Mr. Davis indicated that he would be interested in tabling the matter in order to try to come more into compliance.

Mr. Miller asked Mr. Davis to consider including weekend hours and the fact that a retail tenant could take up more space than the minimum required twenty feet during the adjournment.

Motion by Mr. Morganroth

Seconded by Vice-Chairman Judd to adjourn this matter until the Board's next available meeting, per the applicant's request.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

T# 03-20-19

**4) 1684 W. LINCOLN
Appeal 19-08**

Building Official Johnson explained that 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 14.50 feet; therefore, a variance of 12.00 feet is requested.

The applicant was granted a variance back in October of 2018 for this work. However, it has been noted that the actual variance amount is 0.79-feet more than initially granted. The same variance is being requested to construct the addition with the corrected variance amount necessary. This property is zoned R1.

Building Official Johnson confirmed that the issue is about the position of the existing house, not the new constructed.

Kelly Genzlinger was present as one of the petitioners and the Board had no questions for Ms. Genzlinger.

Motion by Mr. Rodriguez

Seconded by Mr. Canvasser with regard to Appeal 19-08, 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 14.50 feet; therefore, a variance of 12.00 feet is requested.

Mr. Rodriguez said a practical difficulty was previously established and was not self-created by the petitioner, so he moved to approve the variance. He added there are unique circumstances to the property including the location of the non-conforming existing home, granting the variance will not adversely affect the adjacent properties, and the variance as proposed is the minimum necessary.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

T# 03-21-19

**5) 1592 E. LINCOLN
Appeal 19-09**

Assistant Building Official Morad explained the owner(s) of the property known as 1592 E. Lincoln request the following variances to construct a second floor and rear addition to an existing non-conforming home:

A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The required distance on the side street is 10.00 feet. The existing and proposed distance is 9.65 feet; therefore, a variance of 0.35 feet is requested.

B. 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 feet or 25% of the total lot width, whichever is greater. The required distance between is 14.00 feet. The proposed distance between on the west side is 10.04 feet; therefore, a variance of 3.60 feet is requested.

The applicant is proposing to construct a second floor addition on the existing nonconforming foot print and add a small rear addition to the home. The existing home is located in the required street facing side yard setback, along with not meeting the required distance between structures on the opposing side. The neighboring home to the south was granted variances for similar issues. The property is zoned R3.

Dennis Cowan, attorney with Plunkett Cooney, represented the petitioner. He thanked Staff for their work on the application. Mr. Cowan explained that the plans originally called for three variances, but the petitioner worked to mitigate the issues and bring the request down to the two variances.

Gregory Kolb of 1576 E. Lincoln spoke as a neighbor of the petitioner, saying that Mr. Shroeder is a great neighbor and that he supports the variance being granted.

Motion by Mr. Miller

Seconded by Mr. Canvasser with regard to Appeal 19-09, A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The required distance on the side street is 10.00 feet. The existing and proposed distance is 9.65 feet; therefore, a variance of 0.35 feet is requested.; and for B. 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 feet or 25% of the total lot width, whichever is greater. The required distance between is 14.00 feet. The proposed distance between on the west side is 10.04 feet; therefore, a variance of 3.60 feet is requested.

Mr. Miller said the difficulty is due to the slightly skewed lot and the existing setting of the existing house. These circumstances cause absolute conformity to be burdensome, and would not cause any adverse impact on the neighbors. Resultantly, Mr. Miller moved to approve and tie the approval to the plans as submitted.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

T# 03-22-19

**6) 1810 HUMPHREY
Appeal 19-10**

Assistant Building Official Morad explained the owner(s) of the property known as 1810 Humphrey request the following variances to construct a second floor and rear addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum front yard setback is the average of the homes within 200 feet in each direction. The required front yard setback for this property is 27.58 feet. The existing and proposed is 25.00 feet; therefore, a variance of 2.58 feet is requested.

B. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The required distance on the side street is 10.00 feet. The existing and proposed distance is 9.55 feet; therefore, a variance of 0.45 feet is requested.

The applicant proposes to construct a second floor addition on an existing nonconforming footprint, along with a rear addition to the home. The existing home is partially located in the required front yard setback and the street facing side yard. This property is zoned R2.

Assistant Building Official Morad confirmed the porch and the attached garage conform.

Peter Frauenheim of PAFCO Building represented the petitioner. The Board had no questions for the petitioner.

Motion by Mr. Morganroth

Seconded by Mr. Canvasser with regard to Appeal 19-10, A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum front yard setback is the average of the homes within 200 feet in each direction. The required front yard setback for this property is 27.58 feet. The existing and proposed is 25.00 feet; therefore, a variance of 2.58 feet is requested.; and for B. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The required distance on the side street is 10.00 feet. The existing and proposed distance is 9.55 feet; therefore, a variance of 0.45 feet is requested.

Mr. Morganroth explained the applicant is staying within the existing non-conformity of the house. There is no structural way to mitigate the issue by pulling the second floor in. The issue is not self-created and will do justice to the neighboring properties due to the improvements.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

T# 03-23-19

5. CORRESPONDENCE (discussed earlier in the meeting)

T# 03-24-19

6. GENERAL BUSINESS

Chairman Lillie said he intended to call for elections at the May 2019 meeting.

T# 03-25-19

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

8. ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 9:07 p.m.

Bruce R. Johnson, Building Official

CASE DESCRIPTION

211 VALLEY VIEW LANE (19-01)

Hearing date: April 9, 2019

The owner(s) of the property known as 211 Valley View Lane request the following variance to construct a new single family home with an attached garage:

- A. Chapter 126, Article 2, Section 2.06** of the Zoning Ordinance requires a maximum building height of 24.00 feet for a flat roof. The proposed building height is 27.00 feet, therefore a variance of 3.00 feet is requested.

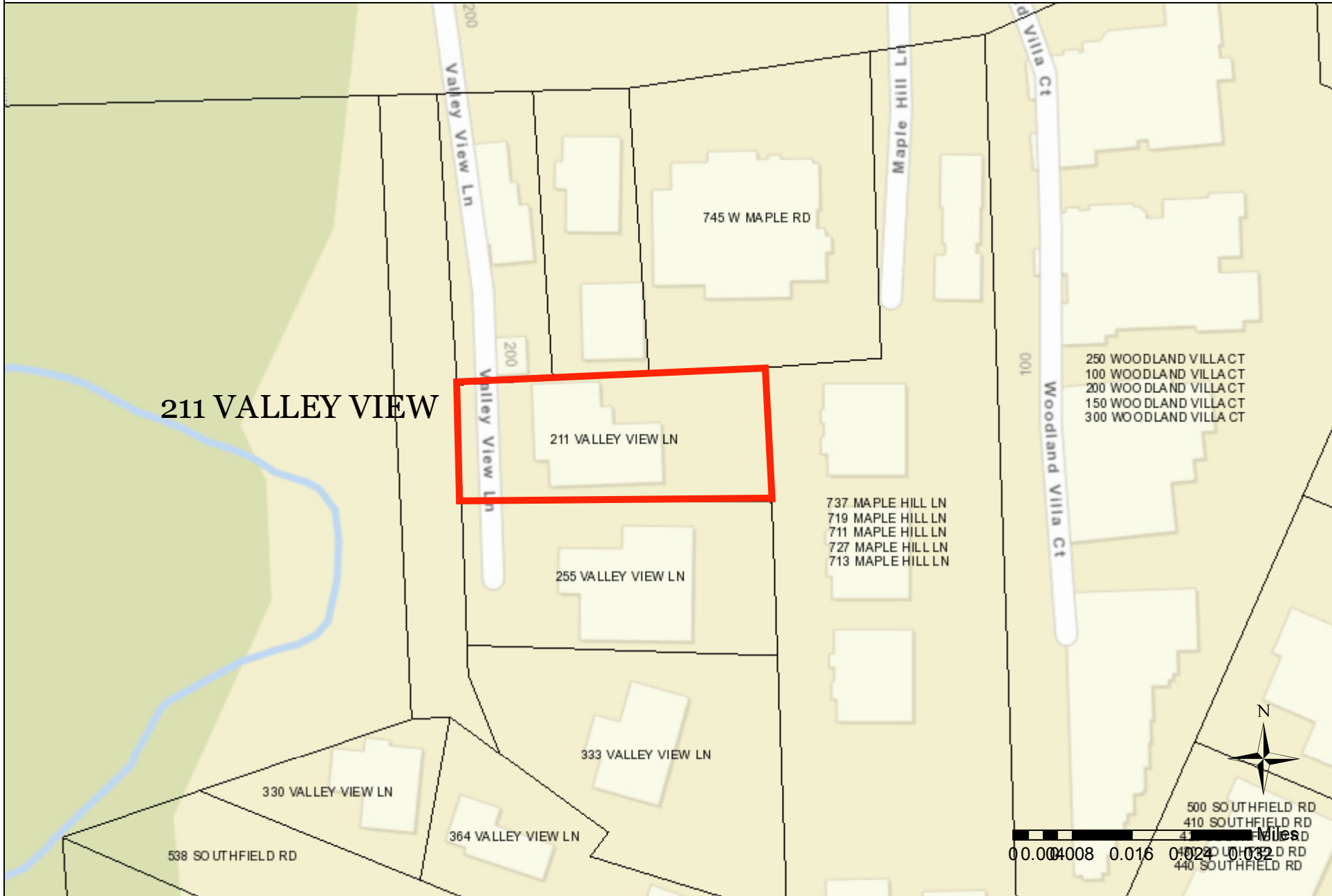
Staff Notes:

The applicant proposes to construct a new flat roof two story home with an attached garage. The existing grade on this lot slopes from the rear of the property to the front.

This property is zoned R1 – Single Family Residential.

Jeff Zielke
Plan Examiner

211 VALLEY VIEW



211 VALLEY VIEW

211 VALLEY VIEW LN

745 W MAPLE RD

255 VALLEY VIEW LN

333 VALLEY VIEW LN

330 VALLEY VIEW LN

364 VALLEY VIEW LN

538 SOUTHFIELD RD

737 MAPLE HILL LN
719 MAPLE HILL LN
711 MAPLE HILL LN
727 MAPLE HILL LN
713 MAPLE HILL LN

250 WOODLAND VILLA CT
100 WOODLAND VILLA CT
200 WOODLAND VILLA CT
150 WOODLAND VILLA CT
300 WOODLAND VILLA CT

500 SOUTHFIELD RD
410 SOUTHFIELD RD
400 SOUTHFIELD RD
440 SOUTHFIELD RD

0 0.004 0.008 0.016 0.024 0.032 Miles

Application Date: 11-30-18



Hearing Date: JANUARY 8, 2018

Received By: BW

Appeal # 1901

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>211 VALLEY VIEW LANE</u>	Sidwell Number: <u>08-19-36-103-005</u>
Owners name: <u>JEFF ROGERS</u>	Phone #:
Owners address: <u>630 CHESTER ST</u>	Email: <u>Jrogers@universallogistics.com</u>
City: State: <u>BIRMINGHAM, MI</u>	Zip code: <u>48009</u>
Contact person:	Phone #:

Petitioner Information:

Petitioner name: <u>KEVIN ARCY</u>	Phone #: <u>248-540-6009</u>
Petitioner address: <u>665 HULET DR.</u>	Email: <u>KEVIN@AZDARCH.COM</u>
City: <u>BLOOMFIELD HILLS</u> State: <u>MI</u>	Zip Code: <u>48302</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:

Date: Nov. 30. 2018

AZD

associates, inc.

665 hulet drive suite 100 bloomfield hills, mi 48302

architects



Apr 1, 2019

Zoning Board of Appeals
City of Birmingham
151 Martin St
Birmingham, MI

RE: 211 Valley View Lane

Building Height:

The property slopes from the rear down to the road (11'-12' from rear to front property line). Because of the required cutaway for the drive way and the existing slope, the house can not be located in a way to satisfy the cities engineering departments requirements for grading and drainage, and the zoning regulated building height, which creates an unfair hardship.

Best Regards,

Bradley Balkwill
AZD Associates Inc.



ph. (248) 540 . 6009
www.azdarch.com

AZD

associates, inc.

665 hulet drive suite 100 bloomfield hills, mi 48302

architects



ph. (248) 540 . 6009
www.azdarch.com

CASE DESCRIPTION

1330 Northlawn (19-12)

Hearing date: April 9, 2019

Appeal No. 19-12: The owner of the property, known as 1330 Northlawn request the following variance to construct a new home with attached garage:

- A. Chapter 126, Article 2, Section 2.06** of the Zoning Ordinance requires that the maximum height for a flat roof is 24.00 feet. The proposed height is 25.55 feet; therefore, a variance of 1.55 feet is requested.

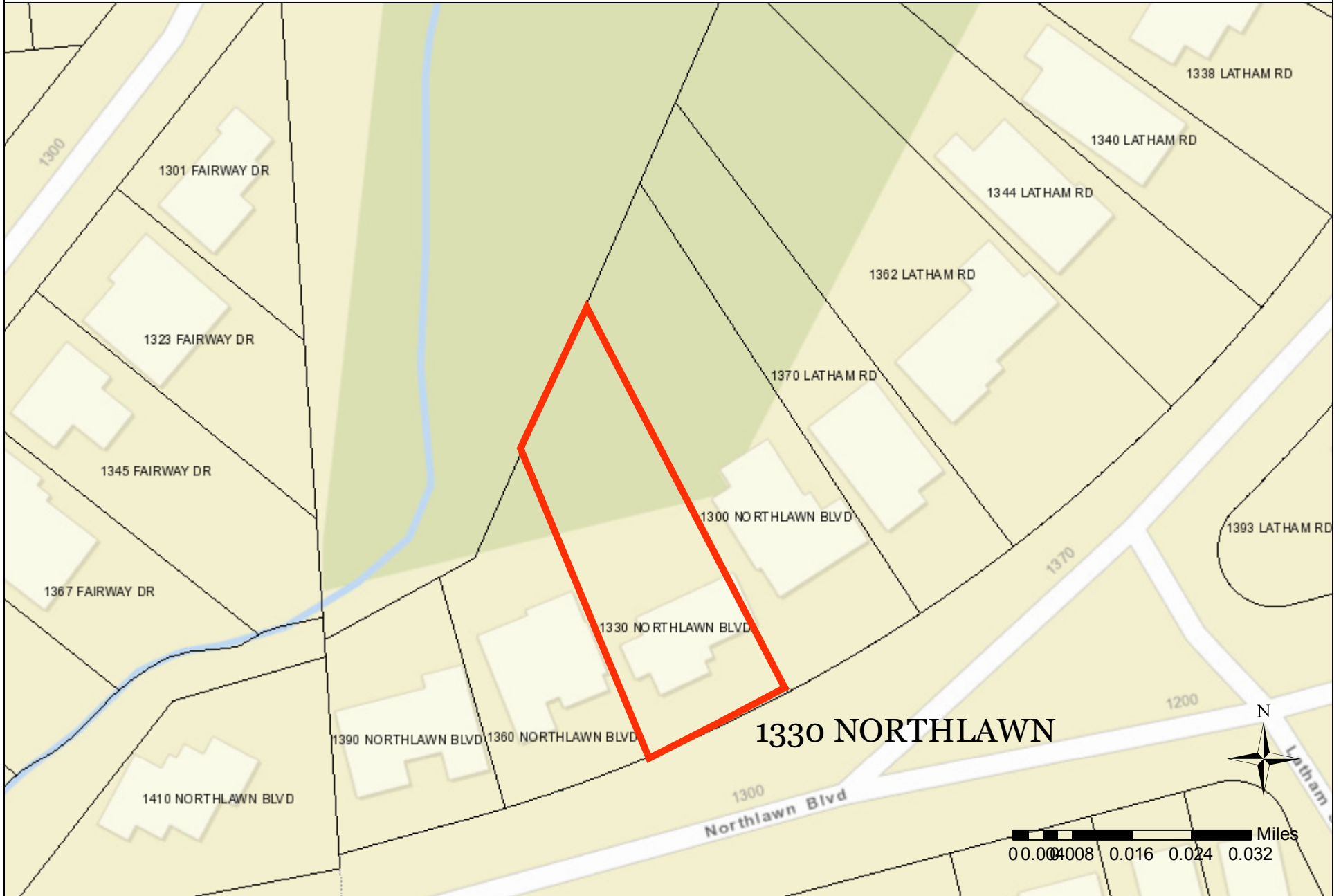
Staff Notes:

The applicant proposes to construct a new two story flat roof home with an attached garage. The existing grade on this lot slopes from the front to the Rouge River at the rear of property.

This property is zoned R1 – Single Family Residential.

Jeff Zielke
Plan Examiner

1330 NORTHLAWN



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: 3-7-19
 Received By: BM

Hearing Date: 4-9-19
 Appeal #: 19-12

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>1330 NORTHLAWN BLVD</u>	Lot Number: <u>188</u>	Sidwell Number: <u>19-35 426-017</u>
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II. OWNER INFORMATION:

Name: <u>NIKOLAOS MAMATAS</u>			
Address: <u>954 BIRD AVE</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>MAMATASNIK@GMAIL.COM</u>	Phone: <u>248 761 0259</u>		

III. PETITIONER INFORMATION:

Name: <u>CHRIS LEWIS</u>	Firm/Company Name: <u>FINISH WORKS CARPENTRY</u>		
Address: <u>412 GOLFSIDE DR.</u>	City: <u>LAPEER</u>	State: <u>MI</u>	Zip code: <u>48446</u>
Email: <u>Finishworkscarpentry@gmail.com</u>	Phone: <u>810-614-2517</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: <u>[Signature]</u>	Date: <u>3-5-19</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>3-5-19</u>

CITY OF BIRMINGHAM
 Date 03/08/2019 9:08:26 AM
 Ref 00157053
 Receipt 472652
 Amount \$50.00

no sign. bus

To: City of Birmingham

From: Nick Mamatras

Date: March 6th 2019

Subject: Letter of practical difficulty/hardship (1330 Northlawn blvd)

Due to the topography of my lot and the definition in the zoning ordinance results in the definition of 'existing grade' to be forced drastically lower as an average taken all around the perimeter of the house. In this case the 'Existing Grade' becomes an 'Average Grade'. It artificially lowers the starting point by at least a 3'-4'. Also the average grade line is taken all around the house so even the one story building masses on the rear that are far lower than the required building height will be deemed as too tall using the highest building height as the justifying overall building height. The ground floor height is 6" higher than the entry porch elevation and the porch is positioned only 12" above grade, so we've been very conservative with the amount we've positioned the house out of the ground.

Overall the height of the finished building with a flat roof aesthetic is far shorter than a building with a sloped roof would be and the flat roof is also only marginally taller than what the eaves on a sloped roof would be. The tallest part of the house is an upstand parapet (curb) wall with the actual 2% low sloped or flat roof contained mostly behind it. The architectural massing is designed with a 10' clear ground floor to ceiling height and a 9' clear second floor to ceiling height, in keeping with today's standards - again conservative and not excessive or extravagant (see attached lot illustration with new home).

To avoid construction from extending into or much beyond the next winter season, and expedited approval is of utmost importance.

Your help and understanding of this mostly "unique lot" situation for our city is greatly appreciated.

Sincerely



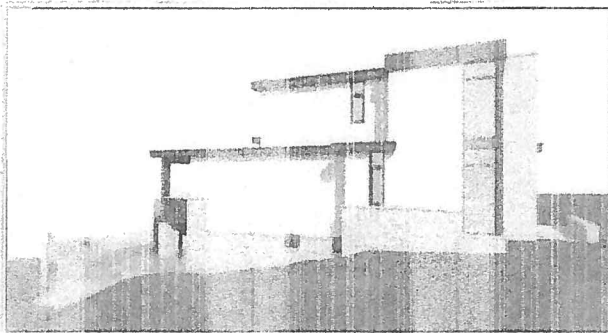
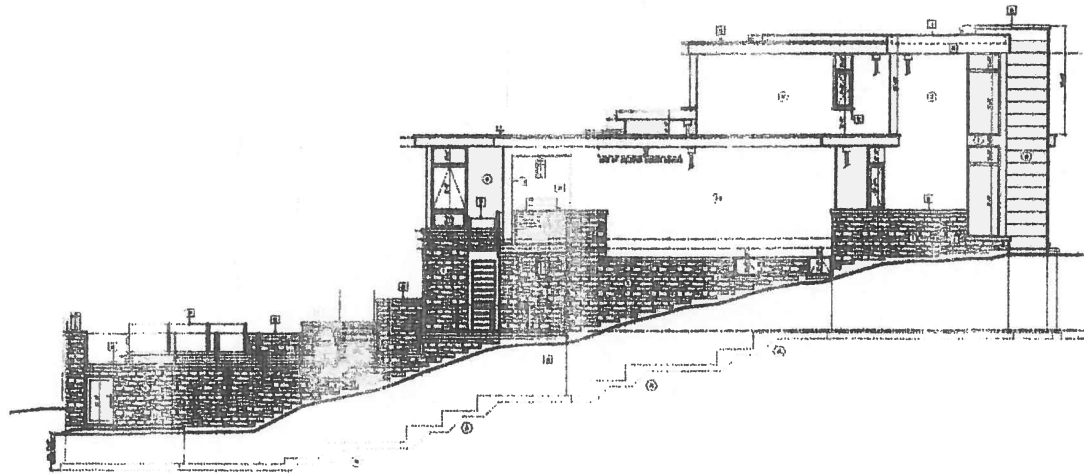
Nick Mamatras

Material Notes

1. All masonry shall be constructed in accordance with the provisions of the International Building Code, 2003 Edition, and the International Residential Code, 2003 Edition.
2. All masonry shall be constructed with a minimum compressive strength of 1500 psi.
3. All masonry shall be constructed with a minimum modulus of rupture of 1500 psi.
4. All masonry shall be constructed with a minimum modulus of rupture of 1500 psi.
5. All masonry shall be constructed with a minimum modulus of rupture of 1500 psi.

Structural Notes

1. All structural steel shall be constructed in accordance with the provisions of the American Institute of Steel Construction, Inc., 13th Edition, 2005.
2. All structural steel shall be constructed with a minimum yield strength of 50 ksi.
3. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
4. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
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15. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
16. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
17. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
18. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
19. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.
20. All structural steel shall be constructed with a minimum modulus of rupture of 1500 psi.



Revision Legend

1. Revision
2. Revision
3. Revision
4. Revision
5. Revision
6. Revision
7. Revision
8. Revision
9. Revision
10. Revision
11. Revision
12. Revision
13. Revision
14. Revision
15. Revision
16. Revision
17. Revision
18. Revision
19. Revision
20. Revision

No.	Date	Description
1	10/10/05	Initial set of City Building Department
2	10/10/05	Initial set of City Building Department
3	10/10/05	Initial set of City Building Department

Project: **The Mountain Home**
 1000 North Main
 Part of the Boulevard 104 of Boulder Co.,
 Town of North, Planning 10 East
 10/10/05

Drawn: **JL**
 Date: **10/10/05**

Scale: **1/8" = 1'-0"**

Proj. No.: **10-1000**



CASE DESCRIPTION

1583 Ruffner (19-13)

Hearing date: April 9, 2019

Appeal No. 19-13: The owner(s) of the property known as 1583 Ruffner request the following variances to construct a second floor and rear addition to an existing non-conforming home:

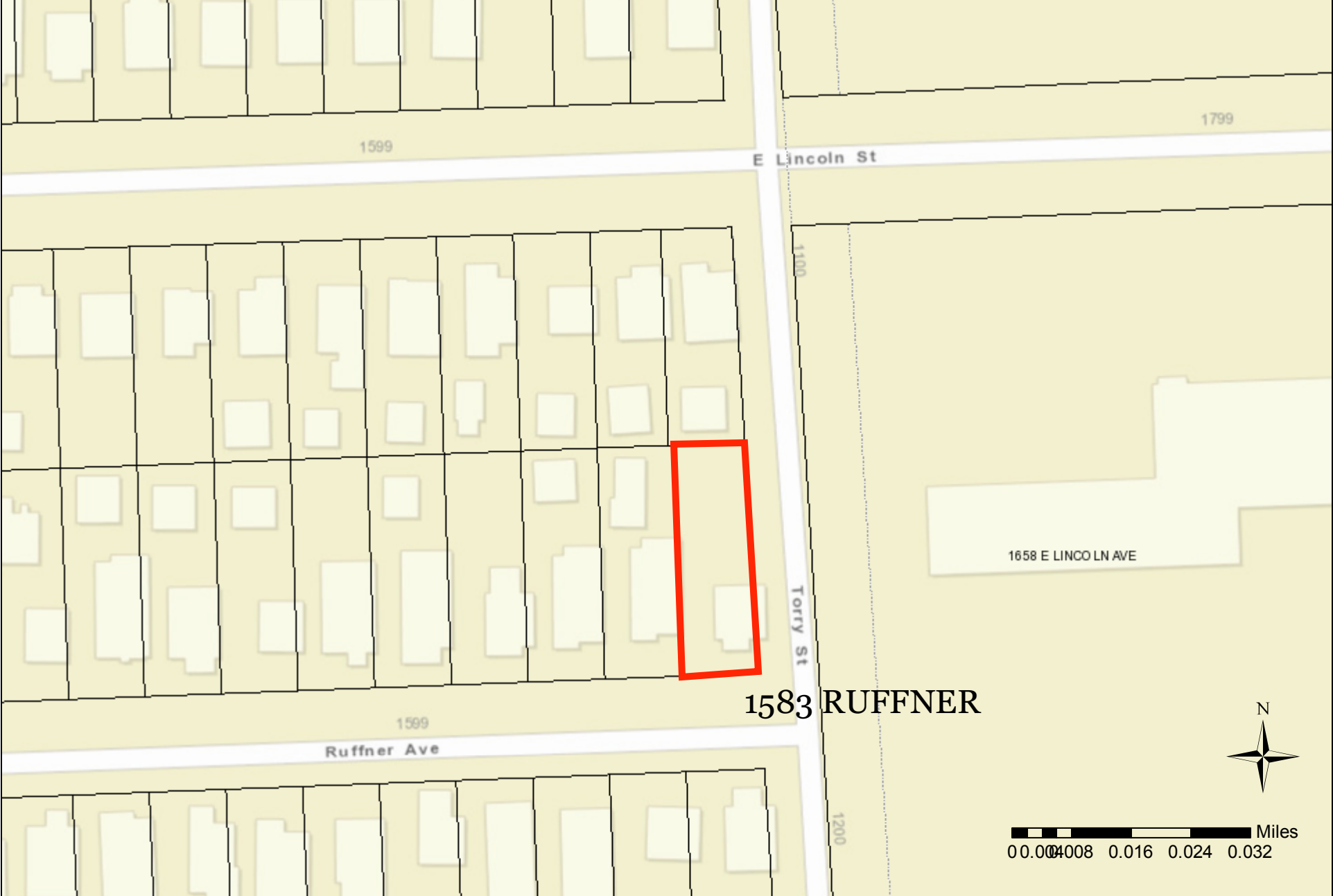
- A. Chapter 126, Article 2, Section 2.10** of the Zoning Ordinance requires both side yard setbacks for this property total 14.00 feet. The total side yard setbacks proposed is 8.46 feet; therefore, a 5.54 variance is requested.
- B. Chapter 126, Article 4, Section 4.61 (2)** of the Zoning Ordinance requires a minimum street side yard setback to be 10.00 feet. The proposed setback is 3.46 feet; therefore, a variance of 6.54 feet is requested.
- C. Chapter 126, Article 4, Section 4.61 (2)** of the Zoning Ordinance requires the attached garage to be setback 15.00 feet from the street side property line. The proposed setback is 13.10 feet; therefore, a variance of 1.90 feet is requested.
- D. 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 10.14 feet; therefore a variance of 3.86 is requested.
- E. Chapter 126, Article 4, Section 4.61 (2)** of the Zoning Ordinance requires a minimum street side yard setback to be 10.00 feet. A proposed covered porch is setback 3.46 feet with a 0.83 foot overhang; therefore, variances of 6.54 feet for the porch and 5.71 feet for the overhang are requested

Staff Notes:

The applicant was granted the above variances in September 2017 (minutes included) to construct an addition to a nonconforming home. The owner stated that after the work was started existing deterioration was discovered causing changes to be made to the approved plans that were not in conformance with the height standards. The plans have been revised to be in compliance with the ordinance. However, the elevations have changes from the plans approved by the BZA in 2017. All original variances are the same except for "E" that is less than previously granted.

This property is zoned R3 – Single Family Residential.

1583 RUFFNER



1583 RUFFNER



0.008 0.016 0.024 0.032 Miles

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: 3-11-19
 Received By: EM

Hearing Date: 4-9-19
 Appeal #: 19-13

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>1583 ruffner Ave</u>	Lot Number: <u>20-31-301-057</u>	Sidwell Number: <u>20-31-301-057</u>
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II. OWNER INFORMATION:

Name: <u>Victoria Miller</u>			
Address: <u>1583 ruffner</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>Victoria@citysteeldeck.com</u>	Phone: <u>248-464-2754</u>		

III. PETITIONER INFORMATION:

Name: <u>Victoria Miller</u>	Firm/Company Name:		
Address: <u>1583 ruffner</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>Victoria@citysteeldeck.com</u>	Phone: <u>248-464-2754</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:

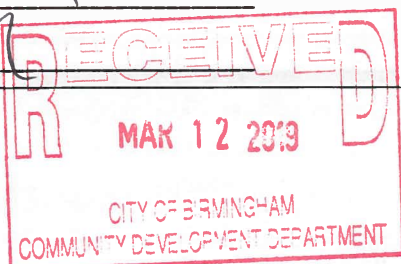
- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and 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: [Signature] Date: 3-12-19

Signature of Petitioner: [Signature] Date: 3-12-19



CITY OF BIRMINGHAM
 Date 03/12/2019 10:39:45 AM
 Ref: 00157136
 Receipt # 473239
 Amount \$360.00

March 11, 2019

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

REGARDING: Board of Zoning Appeals

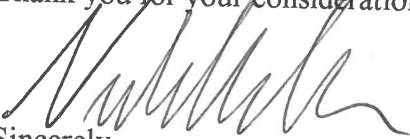
Variance Requests for: None

Dear Members of the Board of Zoning Appeals,

We are proposing a change in the previously approved roof plan in order to repair the original roof and to make the home look more consistent with the other newer homes in the neighborhood. The original architect and ourselves did not take into consideration the age, style and condition of the original house roof and so it was not updated when designing the new addition. During the construction process we found the original roof and wood framing was rotted and was going to need to be completely removed and replaced. Because of this we decided to go ahead and have the roof redesigned to be more functional by creating easier access to the attic storage, make the 2nd story bedroom walls a normal height and finally to have the exterior be consistent with the other newer homes in our neighborhood. The proposed roof redesign is designed to code within the parameters that are required by the city of Birmingham building code.

We love this neighborhood, and are anxious to move forward and raise our family here. Neighborhood character is very important to us, and we plan to update the existing exterior of the home to match the new addition from vinyl siding to fiber cement board, as well as install all new windows.

Thank you for your consideration.



Sincerely,
Craig and Victoria Miller
1583 Ruffner
Birmingham, MI 48009

August 11, 2017

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

REGARDING: Board of Zoning Appeals

Variance Requests for:

- A. 5.54' Combined Side Yard Setback Variance Request
- B. 1.7' Street Setback Variance Request
- C. 1.9' Garage Door Setback Variance Request
- D. 3.86' Adjacent Residence Setback Variance Request
- E. 6.54' Street Setback Porch Variance Request

Dear Members of the Board of Zoning Appeals,

We are proposing a 830 s.f. footprint (2) Story Addition to an Existing 557 s.f. footprint Residence. We are requesting the above stated dimensional setbacks. We withdrew our application from last month after consulting the Building Department, to reduce the number and size of our variance requests. By reducing the square footage of the garage, and moving the garage stair into the house itself, we were able to eliminate (2) of the variances that were on the previous proposal. Please consider our circumstances as stated below for our Practical Difficulty:

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

1. LOT WIDTH

The Lot is 120' deep by 40' wide in the front. Yet it is only 37.03' wide in the rear, which reduces the buildable area toward the rear of the property more than a true 120'x40' lot.

2. CORNER LOT

Being a corner lot the property is subject to a 5' minimum setback on one side, and 10' minimum setback on the street side. If there is a garage door present, the street side setback increases to 15'.

3. NEIGHBOR CLOSE TO PROPERTY LINE

With the neighbor to the East 5.14' away from the property line near the rear of the house (and 4.86' from the property line near the front), our side yard setback off the property line increases from 5' to 8.86' where the garage is proposed.

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

A normal 40' wide corner lot with a 5' side yard setback on one side and 15' garage door setback on the street side would create a 20' deep building envelope for a garage. Our lot which is narrower in

the rear (only 37.03' wide), and has the neighbor's house 5.14' away, creates a buildable depth for our garage from exterior of garage wall to exterior of garage wall of 14.4 ft., which is not usable for a car.

We have tailored our design so we are only requesting the approximate 20' deep garage that a normal lot would be allowed to have (our proposed garage is actually 19'-10" deep).

The rear of the garage does maintain the required 5' minimum setback required in normal circumstances.

We have also stepped the main living area back so as to not infringe on the 14' setback to the adjacent residence.

The main living space and garage is designed at a minimal width to function.

The Proposed New Porch on Torry Street is in line with the existing house and promotes the ideals of Birmingham Neighborhoods.

The new additions facing Torry Street step back purposely to reduce the depth of variance requested.

The garage door is only infringing on the 15' street setback 1.9', just enough to create the approximate 20' deep exterior garage footprint that other typical 40' wide lots are allowed.

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

The existing structure was built by the previous owners. The lot size and shape was in existence during the previous ownership.

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

Most of the requested variances have to do with the proposed garage, which other typical 40' lots are allowed to build.

The proposed new porch on Torry Street promotes that neighborhood feeling.

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

The structure steps back from the street in stages, increasing the open area until it reaches the rear yard, and creates a porch on Torry Street, promoting the neighborhood aesthetic.

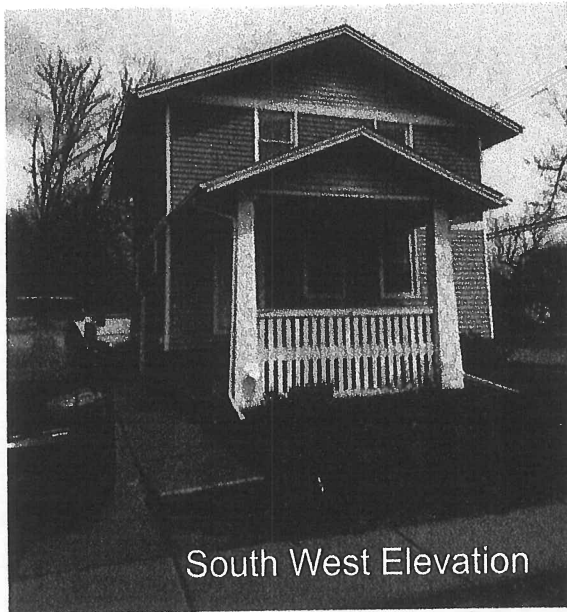
6) *The spirit of this ordinance shall be observed, public safety secured and substantial justice done.*

The spirit of the ordinance promotes green space, and allows for families to live in an adequate sized living space, and have a functioning garage. The proposed design does all this, while also staying within the normal 5' side yard setback for the garage, 14' adjacent residence setback for the living space, and only requiring a minimal garage door setback variance, so that a minimally sized garage can be built.

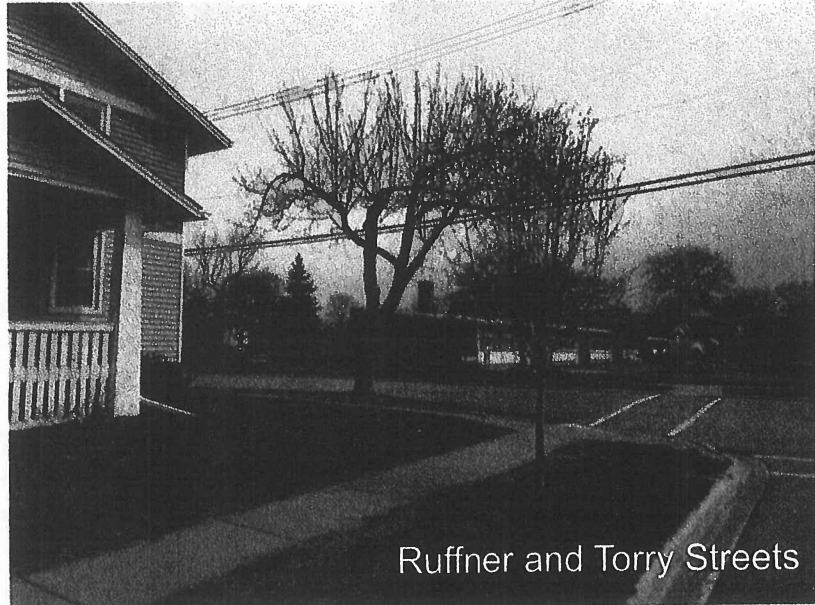
We love this neighborhood, and are anxious to move forward and raise our family here. Neighborhood character is very important to us, and we plan to update the existing exterior of the home to match the new addition from vinyl siding to fiber cement board, as well as install all new windows.

Thank you for your consideration.

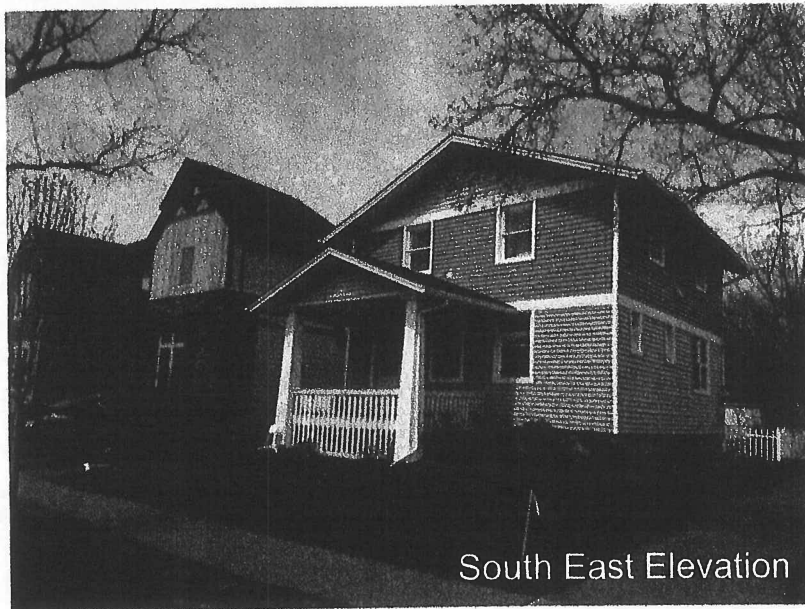
Sincerely,
Victoria and Craig Miller
1583 Ruffner
Birmingham, MI 48009



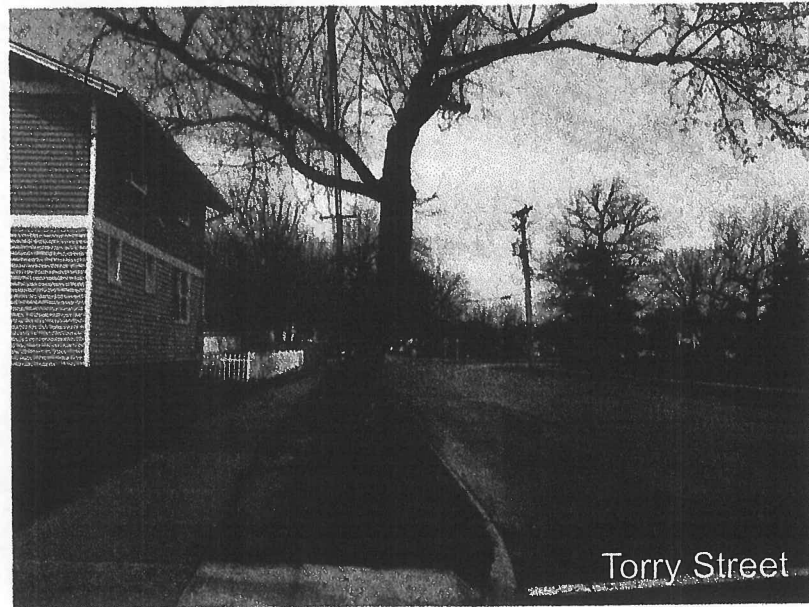
South West Elevation



Ruffner and Torry Streets

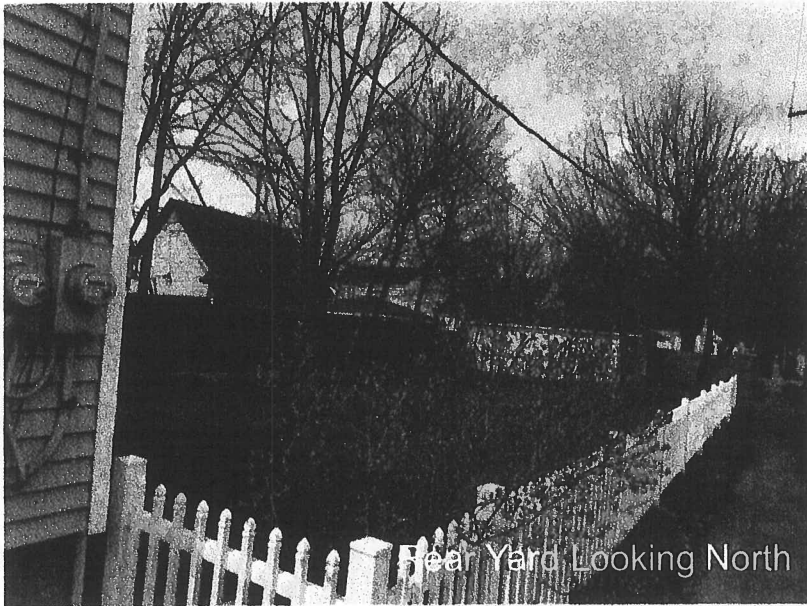


South East Elevation

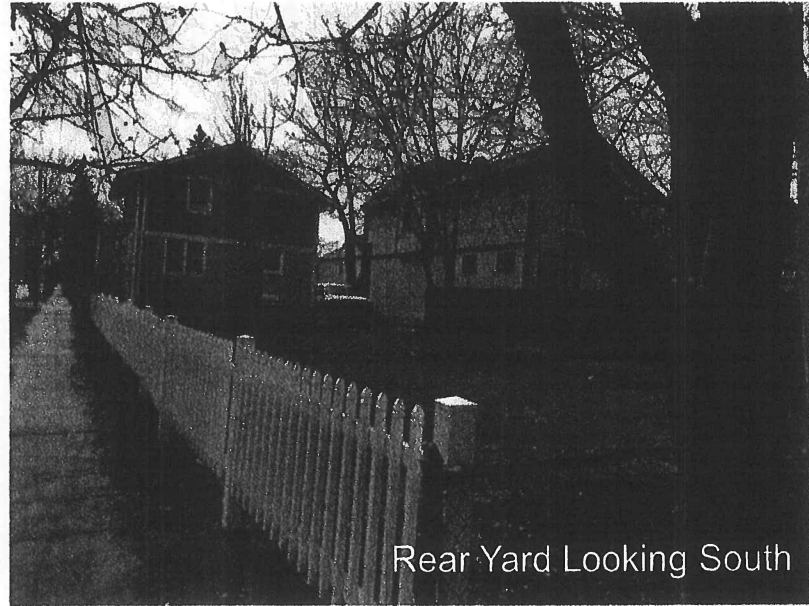


Torry Street

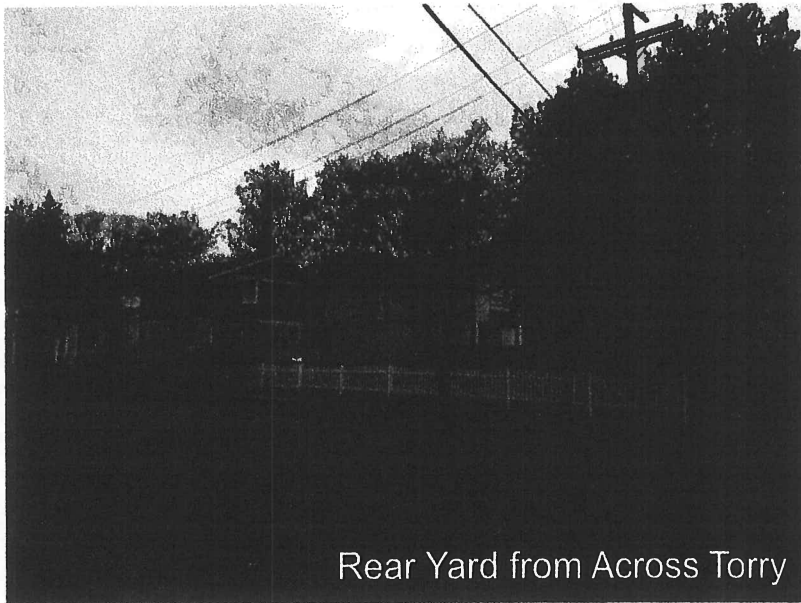
Miller Residence: 1583 Ruffner, Birmingham, Michigan 48009
(page 1 of 2)



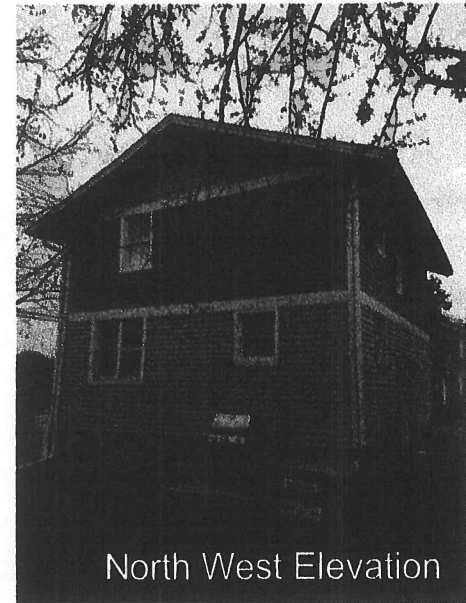
Rear Yard Looking North



Rear Yard Looking South



Rear Yard from Across Torry



North West Elevation

Miller Residence: 1583 Ruffner, Birmingham, Michigan 48009

(page 2 of 2)

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, SEPTEMBER 12, 2017
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 12, 2017. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie;; Board Members Kevin Hart, Jeffery Jones, Randolph Judd, Vice-Chairman Peter Lyon John Miller, Erik Morganroth

Absent: Alternate Board Members Kristen Baiardi, Jason Canvasser

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

The Chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers 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. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

T# 09-60-17

APPROVAL OF THE MINUTES OF THE BZA MEETING OF AUGUST 8, 2017

Motion by Mr. Judd

Seconded by Mr. Morganroth to approve the Minutes of the BZA meeting of August 8, 2017 as presented.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: None

T# 09-61-17

1583 RUFFNER

Appeal 17-21

The owners of the property known as 1583 Ruffner request the following variances to construct a two-story addition to the rear of the existing home.

A. Chapter 126, Article 2, section 2.10 of the Zoning Ordinance requires both side yard setbacks for this property total 14.00 ft. The total side yard setbacks proposed is 8.46 ft.; therefore, a 5.54 ft. variance is requested.

B. Chapter 126, Article 4, section 4.61 (2) of the Zoning Ordinance requires a minimum street side yard setback to be 10.00 ft. The proposed setback is 3.46 ft; therefore, a variance of 6.54 ft. is requested.

C. Chapter 126, Article 4, section 4.61 (2) of the Zoning Ordinance requires the attached garage to be setback 15.00 ft. from the street side property line. The proposed setback is 13.10 ft.; therefore, a variance of 1.90 ft. is requested.

D. 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 ft. The proposed distance is 10.14 ft., therefore a variance of 3.86 ft. is requested.

E. Chapter 126, Article 4, section 4.61 (2) of the Zoning Ordinance requires a minimum street side yard setback to be 10.00 ft. A proposed covered porch is set back 3.46 ft. with a 1.00 ft. overhang; therefore, variances of 6.54 ft. for the porch and 5.87 ft. for the overhang are requested.

This property is zoned R-3 Single-Family Residential.

Mr. Johnson advised that the existing two-story colonial home was constructed in 1926 and is located on the NW corner of Ruffner and Torry St.. The existing lot dimensions are as originally platted. The applicant is proposing a two-story addition to the rear of the home with an attached garage accessed from the side street. The lot tapers as it goes back. It is 40 ft. wide in the front and 37.03 ft. in the rear which is driving some of the need for request (C). The neighboring home on the abutting lot to the west was constructed in 2012-2013.

Chairman Lillie pointed out a problem with variance (E). One survey shows the NE corner of the porch to be 3.46 ft. off the lot line. However the property line tapers back

and the variance request should be larger. If the lot line was parallel the petitioner would have had 2.5 more ft. to build in. He received clarification from Mr. Johnson that the house to the west did not need variances when it was constructed. Also Mr. Johnson noted that if the petitioner built a detached garage instead of attaching it a variance would still be needed.

Mr. Johnson went on to explain regarding variance (C) that the 15 ft. setback requirement for attached garages is a fairly new ordinance provision. Prior to that, attached garages only needed to maintain the same setback as the house. However, the City was receiving complaints about cars parked over the sidewalk, because 10 ft. was not enough room to park a vehicle without blocking the sidewalk.

Mr. Jones asked what the petitioner has done to mitigate the amount of variances requested. Mr. Johnson verified that after the petitioner spoke with Mr. Worthington the variances were reduced from what was initially proposed.

Mr. Hart noted that if the garage was detached the petitioner would still need a variance for lot coverage. The current proposal to attach the garage seems to be a much lesser evil.

Ms. Janine Sova spoke for her daughter, Victoria Miller, who is the owner of the property. Ms. Sova said the house was purchased before the new 15 ft. setback requirement was in place. She explained the reasons for the variances. They worked on the plans over four months trying to conform to the Ordinance. The inside depth of the garage is only 19 ft. which is quite narrow for a car.

Chairman Lillie explained to her that with variance (E) the problem is that a setback of 3.46 ft. has been advertised to the public and probably a larger variance is needed. Because of that the City will have to re-advertise on that one item. Mr. Johnson noted that when the designer drew the plans he did them in accordance with the Certified Survey, but put the dimension in the wrong location. If the requested variance is granted the porch would have to be moved in about 4 in. The petitioners agreed to that and Mr. Johnson said he would need new drawings that conform to the Survey.

At 8:05 p.m. Mr. Larry Alessi, the designer, commented that part of the width of the living room is the stairway down to the garage. They moved the stairway from inside the garage into the house to decrease the size of the garage. Also the whole structure was pulled back to reduce two variances. They looked at a design that would only require a variance for lot coverage and potentially side yard setback, but that was discouraged because lot coverage would be over by about 80 sq. ft.

Motion by Mr. Miller

Seconded by Mr. Jones to approve variances A, B, C, D, and E for Appeal 17-21 at 1538 Ruffner. He believes this situation was created by three things:

- **One is the diminishing size of the lot;**
- **The second is the fact that it is a corner lot and the BZA has encountered that before;**
- **Thirdly, the position of the existing residence on the lot, which is very close to Torry St., makes connecting up difficult there.**

So, Mr. Miller sees those three difficulties preventing the petitioner from meeting the exact Zoning Ordinance as written and conformity does become burdensome because of that.

He also feels that this addition will do substantial justice to the neighborhood. It is a great improvement on the house. They have tried to mitigate the situation. It is a very narrow garage. Also, the house as it proceeds north does step back and increases the distance from Torry St. and diminishes the mass of the house as it goes north.

For those reasons the problem certainly wasn't self-created and he would move to approve tied to the dimensions as advertised and contingent upon revised drawings depicting the porch being set back approximately 4 in.

Mr. Lyon was concerned about the ordinance for attached garages on 40 ft. lots. Mr. Johnson observed if the lot didn't taper back the way it does he thought they could fit it in. Mr. Lyon indicated his support for the motion because of the unique characteristics of the tapered lot and the existing non-conforming residence. He also noted the petitioner took quite a few steps to mitigate the variances and the impact to the neighbor.

Motion carried, 7-0.

ROLLCALL

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

Nays: None

Absent: None

T# 09-62-17

**767 HARMON
Appeal 17-24**

The owners of the property known as 767 Harmon request a variance from the maximum height of a fence in the front open space:

A. Chapter 126, Article 4, Section 4.11 (2) requires fences located in the front open space not exceed 3.00 ft. in height. The fence panel height is 4.17 ft. and the post

To: Building Department, City of Birmingham

Date: April 2, 2019

Re: 1583 Ruffner Variance Request



Dear Sir,

These pictures show why we need **BUILDING CODES.**

SKY IS NO LIMIT – we can all build UP and go BIG, if request granted.

Please **STOP** building monster home and Keep R3 neighborhood in harmony.

Sincerely,

Concerned resident

Tell us what you think

Email Usage (10GB)



CASE DESCRIPTION

1711 Banbury (19-14)

Hearing date: April 9, 2019

Appeal No. 19-14: The owner of the property known as 1711 Banbury is requesting the following variance to construct a second floor and rear addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum front yard setback is the average of the homes within 200 feet in each direction. The required front yard setback for this property is 30.70 feet. The existing and proposed is 29.60 feet; therefore, a variance of 1.10 feet is requested.

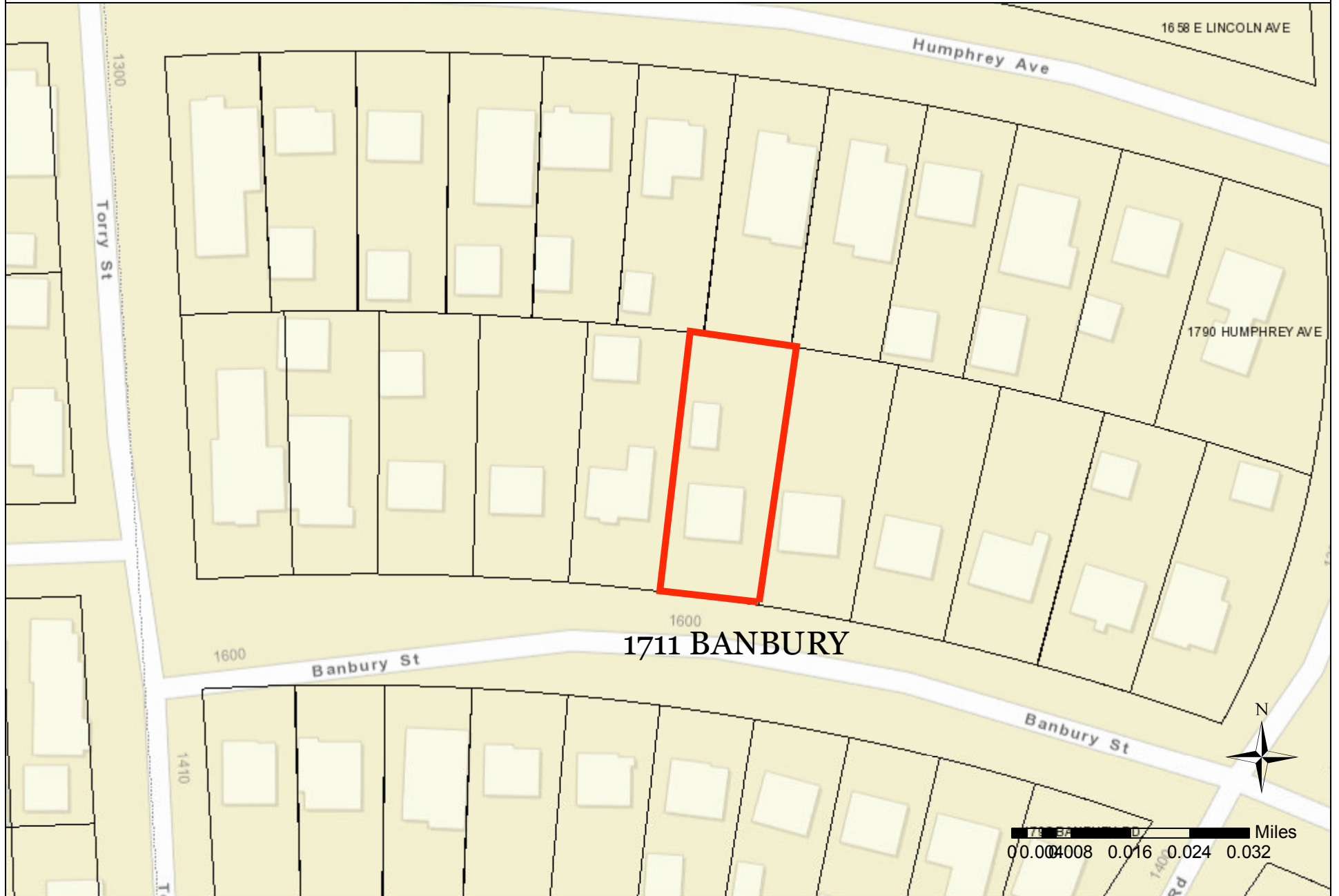
Staff Notes:

The existing home was constructed in 1949 and is nonconforming to the current front yard setback requirements.

This property is zoned R2 – Single Family Residential.

Jeff Zielke
Plan Examiner

1711 BANBURY MAP



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: 3-12-19
 Received By: BM

Hearing Date: 4-9-19
 Appeal #: 09-14

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>1711 Banbury</u>	Lot Number:	Sidwell Number: <u>20-31-330-018</u>
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II. OWNER INFORMATION:

Name: <u>Paul Siver</u>			
Address: <u>1770 Banbury</u>	City: <u>Birmingham</u>	State: <u>mi</u>	Zip code: <u>48009</u>
Email: <u>psiver@comcast.net</u>		Phone: <u>248-302-3304</u>	

III. PETITIONER INFORMATION:

Name: <u>Same</u>		Firm/Company Name:	
Address:		City:	State: Zip code:
Email:		Phone:	

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

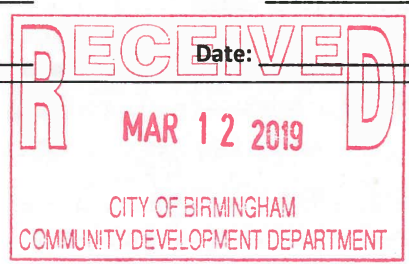
V. REQUIRED INFORMATION CHECKLIST:

- 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: <u>[Signature]</u>	Date: <u>3-1-19</u>
Signature of Petitioner: <u>[Signature]</u>	Date: _____



CITY OF BIRMINGHAM
 Date 03/12/2019 2:46:53 PM
 Ref: 00157151
 Receipt # 473349
 Amount \$150.00

March 10, 2019

To: Board of Zoning Appeals and whom it may concern

RE: Variance request on property located at 1711 Banbury, Birmingham Mi 48009

Hello- my name is Paul Siver. My wife Kristin and I currently live across the street from the house in question with our three sons and have been there for the past 19 years. We purchased 1711 Banbury years ago and have rented the house with the intention of building on and moving into in order to accommodate our expanding family. We love the neighborhood and wish to stay here.

We are required to get a variance in order to build upwards on the existing front wall and foundation. The Variance (Variance A, Front setback) we are requesting is because our house sits 1.1 feet closer than the average of our 2 neighbors to the east and west. I have had the foundation inspected by a structural engineer and was told that the foundation is in great shape. We have never had an issue with any water in the basement. It would be a tremendous amount of work to demolish a perfectly good foundation and house in order to move it back 1.1 feet. If the distance we were encroaching into the setback were greater (5-10 feet or more) I could understand the issue of the house looking out of place.

Additionally, we are proposing the removal of the current cantilever/bump-out on the front of the house that extends an additional 20 inches past the front wall of the house. By doing this, we will be mitigating the first floor from encroaching even further into the required setback and get the front façade closer to our neighbors.

REQUESTED VARIANCES	REQUIRED	EXISTING	PROPOSED	VARIANCE AMT.
Variance A, Front setback	30.7'	29.6'	29.6'	1.1'



CASE DESCRIPTION

453 Baldwin (19-16)

Hearing date: April 9, 2019

Appeal No. 19-16: The owner of the property known as 453 Baldwin request the following variance to construct a covered porch to the rear of an existing nonconforming home:

- A. Chapter 126, Article 4, Section 4.74(C)** of the Zoning Ordinance requires the minimum side yard setback shall be not less than 5.00 feet. The proposed covered porch setback is 3.90 feet with a 0.83 foot overhang; therefore, variances of 1.10 feet for the porch and 1.28 feet for the overhang are requested.

Staff Notes:

The applicant is proposing to construct a covered porch to the rear of the existing nonconforming home. The lot is irregular in shape reducing in width from the front to the back.

This property is zoned R2 – Single Family Residential.

Jeff Zielke
Plan Examiner

453 BALDWIN MAP



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: 3-12-19
 Received By: BM

Hearing Date: 4-9-19
 Appeal #: 19-16

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>453 Baldwin Rd.</u>	Lot Number:	Sidwell Number: <u>08-19-25-351-004</u>
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II. OWNER INFORMATION:

Name: <u>William Lohrke</u>	Address: <u>453 Baldwin Rd.</u>		City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>bill.lohrke@planknolan.com</u>	Phone: <u>244 931 1450</u>				

III. PETITIONER INFORMATION:

Name: <u>William Lohrke</u>	Firm/Company Name:			
Address: <u>453 Baldwin Rd.</u>	City:	State:	Zip code:	
Email:	Phone:			

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.

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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				
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Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

V. REQUIRED INFORMATION CHECKLIST:

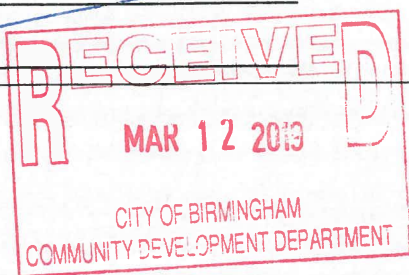
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- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

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: 3/12/19

Signature of Petitioner: _____ Date: 3/12/19



March 12, 2019

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

Dear Members of the Board of Zoning Appeals,

We respectfully request your consideration for a side-yard setback variance to allow our family to extend our rear covered porch at our home on 453 Baldwin Road. We offer the following key factors in your review:

- 1) Our home has been expanded at least twice since its original construction in the 1950s.
- 2) The current northern façade of our home resides two (2) feet from the property line and is a pre-existing however a not-conforming condition to current side-yard setback requirements. The encroachment we are requesting (3.9 feet for the structure and 2.2 feet for the chimney) is less than the current side-yard setback encroachment (2 feet) from the current location of our home to the property line.
- 3) Our property is irregular in shape. The Baldwin frontage of our property is 80' feet and narrows to 55' feet in the rear. The further deep the site, the narrower the width. In combination with the placement of our home on our property and our irregular lot shape creates a hardship in complying with the side-yard setback.

We have unsuccessfully evaluated other options to design the addition to meet the current set back.

Thank you for your consideration,

Sincerely,



Bill Lichwalla