

BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

Municipal Building Commission Room
151 Martin Street, Birmingham, Michigan
November 12, 2019
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES

1) October 15, 2019

4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1124 SMITH	VERVISCH	19-39	DIMENSIONAL
2)	33680 WOODWARD	WOODBEN	19-40	INTERPRETATION

5. CORRESPONDENCE

6. GENERAL BUSINESS

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

8. ADJOURNMENT

Title VI

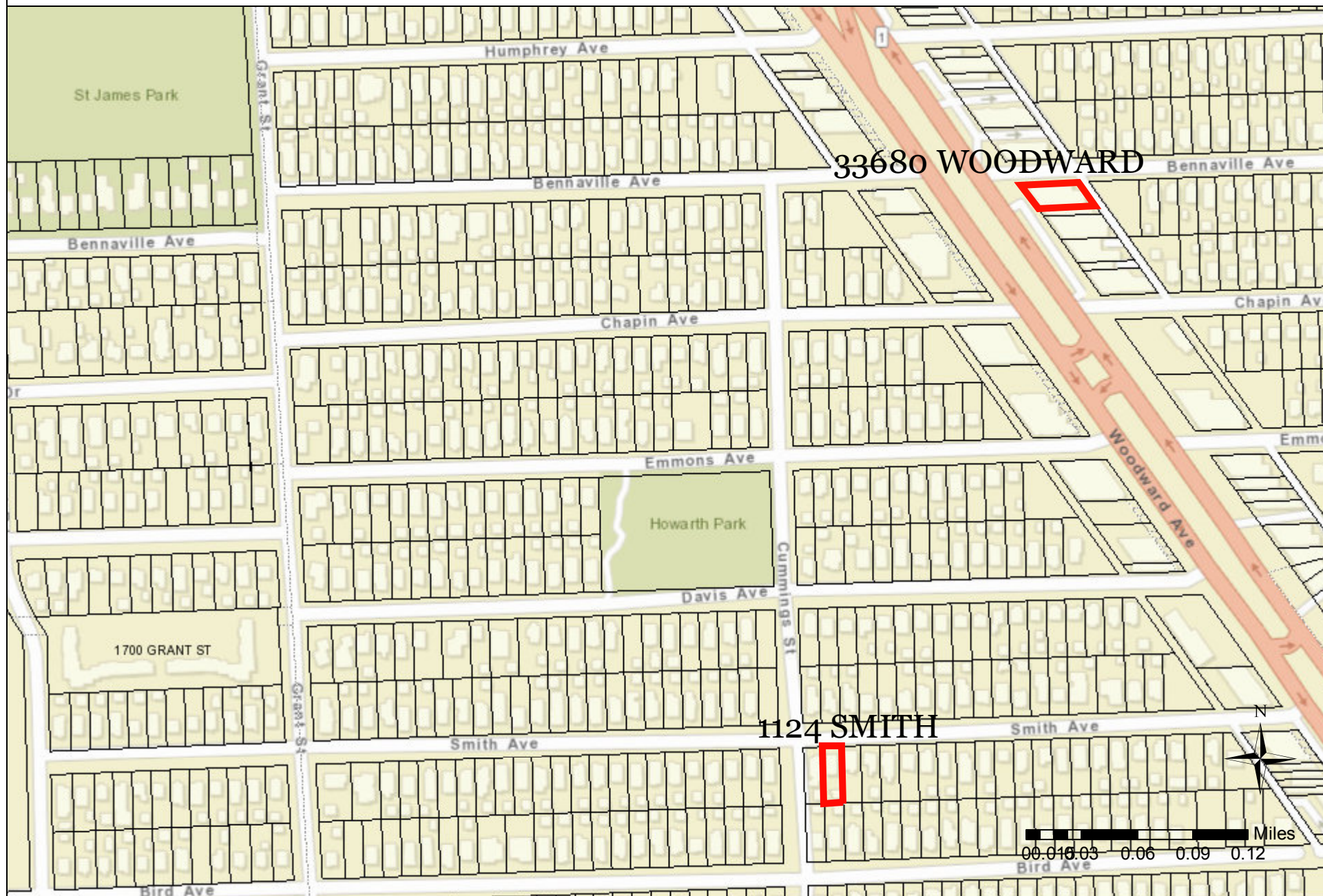
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing,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

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

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

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

NOVEMBER BZA MAP



**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, OCTOBER 15, 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, October 15, 2019. Chairman Charles Lillie convened the meeting at 7:30 p.m.

2. ROLLCALL

Present: Board Members Jason Canvasser, Kevin Hart, Richard Lilley, John Miller, Erik Morganroth, Francis Rodriguez; Alternate Board Member Ron Reddy

Absent: Chairman Charles Lillie

Administration:

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

Jason Canvasser acted as Chairman for the duration of the evening's meeting.

Chairman Canvasser 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 Canvasser took rollcall of the petitioners. All expected petitioners were present.

T# 10-73-19

3. APPROVAL OF THE MINUTES OF THE BZA MEETING OF SEPTEMBER 17, 2019

Motion by Mr. Lilley

Seconded by Mr. Morganroth to accept the Minutes of the BZA meeting of September 17, 2019 as submitted.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

T# 10-74-19

4. APPEALS

**1) 1114 Lakeside
Appeal 19-35**

Assistant Building Official Morad presented the item, explaining the owner of the property known as 1114 Lakeside requested the following variance to construct a new home with an attached garage:

A. Chapter 126, Article 4, Section 4.61 (A)(1) of the Zoning Ordinance requires attached garages that face the street must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed garage is 51.16 feet in front of the furthest front facade. Therefore a variance of 56.16 feet is being requested.

Assistant Building Official Morad explained the current home was constructed in 1952 on this flag lot. This property is zoned R1 – Single Family Residential.

John Disbrow, architect, spoke on behalf of the appellant.

Motion by Mr. Miller

Seconded by Mr. Morganroth with regard to Appeal 19-35, A. Chapter 126, Article 4, Section 4.61 (A)(1) of the Zoning Ordinance requires attached garages that face the street must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed garage is 51.16 feet in front of the furthest front facade. Therefore a variance of 56.16 feet is being requested.

Mr. Miller said the unusual layout of the lot means that the zoning ordinance does not properly pertain to the normal considerations for a front yard. He said because of this conformity with the ordinance cannot reasonably be established. He said the problem was not self-created. For this reason he said he would move to approve and to tie them to the plans distributed to the Board Members before the evening's meeting commenced.

Motion carried, 7-0.

ROLL CALL VOTE

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

**2) 361 Wellesley
Appeal 19-37**

Assistant Building Official Zielke presented the item, explaining the owner of the property known as 361 Wellesley requested the following variance to construct a porch and a garage addition to the existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 17.50 feet. The existing and proposed is 13.15 feet; Therefore a 4.35 foot variance is being requested.

B. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 4.40 feet; Therefore a 0.60 foot variance is being requested.

Assistant Building Official Zielke explained the current home was constructed in 1937. This property is zoned R1 – Single Family Residential.

Robin Ballew, architect, spoke on behalf of the appellant. He said the proposed plans reduce an existing non-conformity of the front porch that would have otherwise required a larger variance had that part been maintained. The plans attempt to mitigate that non-conformity as best they can to achieve the setback required by ordinance. He noted the addition in front of the garage would be within the required setbacks.

Motion by Mr. Rodriguez

Seconded by Mr. Reddy with regard to Appeal 19-37, A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 17.50 feet. The existing and proposed is 13.15 feet; Therefore a 4.35 foot variance is being requested. B. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 4.40 feet; Therefore a 0.60 foot variance is being requested.

Mr. Rodriguez said a practical difficulty was established due to the unique circumstances of the existing non-conforming home. He said it was significant that the applicant would not be expanding the footprint of the non-conforming home with the proposed renovations. Noting that the issue was not self-created, that granting

these variances would not adversely affect the adjacent properties, and that there was evidence of attempted mitigation, Mr. Rodriguez moved to approve the variances and to tie them to the plans as submitted.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**3) 798 Tottenham
Appeal 19-38**

Assistant Building Official Zielke presented the item, explaining the owner of the property known as 798 Tottenham requested the following variances to construct a rear second floor addition to the existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 16.25 feet. The existing and proposed is 12.60 feet; Therefore a 3.65 foot variance is being requested.

B. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 16.25 feet. The existing and proposed is 12.50 feet. Therefore, a 3.75 foot variance is being requested.

Assistant Building Official Zielke noted the current single family home was constructed in 1955. The home sits on the lot in such a position that requires the variances being requested for the addition. This property is zoned R1 – Single Family Residential.

Ron Stern, architect, spoke on behalf of the appellant. In reply to Mr. Morganroth, Mr. Stern stated they did not propose to step in the walls of the second story because it was felt it would be more aesthetically appealing to have the first floor exterior walls flush with the second floor exterior walls.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 19-38, A. Chapter 126, Article 2, Section 2.06 of the Zoning Ordinance requires that the total side yard setback is 14.0 feet or 25% of the lot width whichever is greater. The required total side yard setback is 16.25 feet. The existing and proposed is 12.60 feet; Therefore a 3.65 foot variance is being requested. B. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required

distance is 16.25 feet. The existing and proposed is 12.50 feet. Therefore, a 3.75 foot variance is being requested.

Mr. Reddy said the need for the variances was not self-created because the existing building is already non-conforming. Because of this, Mr. Reddy moved to approve the requested variances and to tie it to the plans as submitted.

Motion carried, 7-0.

ROLL CALL VOTE

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

T# 10-75-19

5. CORRESPONDENCE (included in agenda)

T# 10-76-19

6. GENERAL BUSINESS (none)

T# 10-77-19

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

T# 10-78-19

8. ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 7:57 p.m.

Bruce R. Johnson, Building Official

CASE DESCRIPTION

1124 Smith (19-39)

Hearing date: November 12, 2019

Appeal No. 19-39: The owner of the property known as 1124 Smith, request the following variance to construct a new home with a detached garage:

A. Chapter 126, Article 4, Section 4.74 (C) of the Zoning Ordinance requires the minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is greater. The required distance is 14.00 feet. The proposed is 10.00 feet. Therefore, a 4.00 foot variance is being requested.

Staff Notes: This property is adjacent to a corner lot with an existing non-conforming structure located on it.

This property is zoned R3 – Single Family Residential.

Jeff Zielke, LEED AP
Assistant Building Official

1124 SMITH

Cummings St

1099

Smith Ave

1124 SMITH

1828



00.00 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: 10/14/19
Received By: BM

Hearing Date: 11/12/19
Appeal #: 19-39

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

Address: <u>1124 SMITH</u>	Lot Number:	Sidwell Number:
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II. OWNER INFORMATION:

Name: <u>ERNEST CARLSON SCHILLING & JACKSON SCHILLING</u>			
Address: <u>1144 SMITH</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>SCHILLINGEC@GMAIL.COM</u>		Phone: <u>317 490 9334</u>	

III. PETITIONER INFORMATION:

Name: <u>JAMES VERVISCH</u>	Firm/Company Name: <u>VERVISCH HOMES</u>		
Address: <u>503 MADISON</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>JIM@VERVISCHHOMES.COM</u>		Phone: <u>(248) 515 6730</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>10-11-19</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>10/11/19</u>



10/09/19

Applicant:

Ernest Cameron & Jaclyn Schilling
1144 Smith
Birmingham, MI 48009
(317)490-9334

Subject:

Board of Zoning Appeals Application

Property:

1124 Smith

Hardship:

Distance between homes to West

Explanation:

Board members,

We plan on building our new single family home on the existing property. Raising the current home which currently stands on the property. The new home has been designed to meet all the cities size and height criteria.

The property is only 40' wide and both adjacent homes are 4.7' to the East and 4.8' from the West property line. The street layout does not have the homes and driveways laid in uniform along the street. My property is where neither neighbor's driveway is adjacent to my property creating a difficulty to build.

The current home on the property is placed 5.0' from the West property line and 10.0' from the southern property line.

I propose the new homes driveway remain in its current location along the Eastern property line and the West property distance be increased to 5.2' to the line. The East placement will meet the 14' requirement between homes through out the property length.

Variance	Required	Existing	Proposed	Amount of Variance
	14'	9.8'	10'	4.0'

I appreciate your time in the review of this matter.


Ernest Cameron Schilling

CASE DESCRIPTION

33680 Woodward (19-40)

Hearing date: November 12, 2019

Appeal No. 19-40: The owner of the property known as 33680 Woodward, request that the BZA reverse a decision of the building official.

A. Chapter 126, Article 8, Section 8.01(D) of the Zoning Ordinance, which states the Board of Zoning Appeals may hear and decide appeals from any decision made by an administrative official as it relates to the Zoning Ordinance. The BZA may reverse or affirm, wholly or partly, or may modify such decisions.

The applicant is aggrieved by the decision of the Building Official with the interpretation of Chapter 126, Article 9, Definition of health club/studio and Chapter 126, Article 2, Section 2.31, Permitted Uses in the B2-B Zone.

The applicant has applied to open Roots Jiu Jitsu Academy at the subject property of 33680 Woodward. The Building Official has determined that this type of use is categorized as a Health Club/Studio, which is defined in Chapter 126, Article 9, Definitions as “A place designated for and equipped for the conduct of sports, exercise and physical fitness activities.” A Health Club/Studio use is not permitted within the B2-B zone.

The applicant has requested that the BZA reverse the interpretation of Roots Jiu Jitsu as a Health Club/ Studio by the Building Official, in favor of classifying the use as a School, which is defined in Chapter 126, Article 9, Definitions as “An institution, either public or private, offering instruction in primary, secondary or collegiate courses of study.” School use is permitted within the B2-B zone.

Staff Notes:

This property is zoned B2-B.

In regards to relevant history of the site, a pilates studio applied to occupy the subject space in 2003. The Building Official determined a pilates use was classified as a Health Club/Studio and therefore was not permitted in the B2-B zone. The applicant appealed this interpretation to the BZA on August 12, 2003 (Appeal 03-37), requesting that the Board reverse the

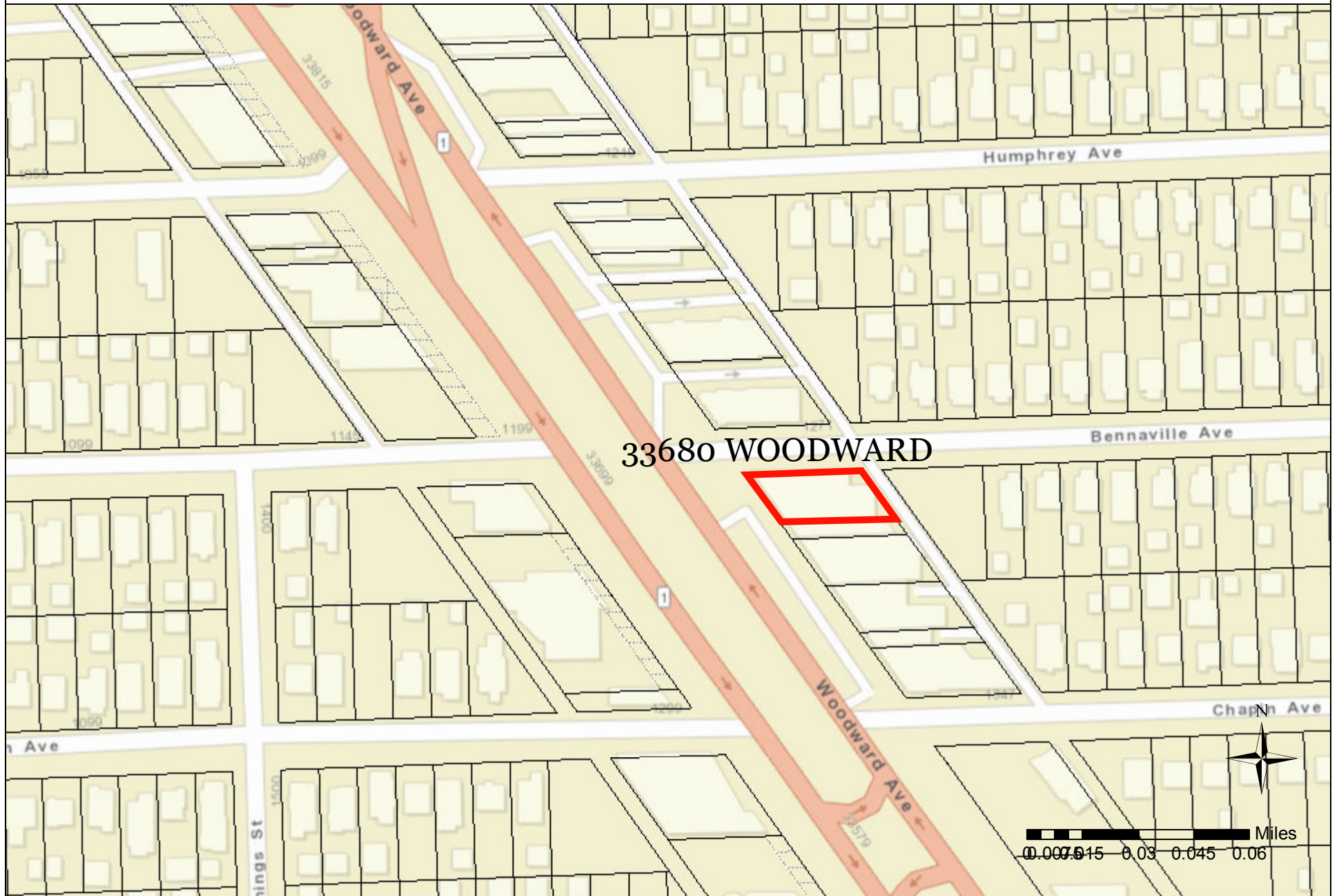
Building Official's decision in favor of determining that a pilates studio satisfied the definition and classification of a School, which is permitted in the B2-B zone.

After considering the applicant's case, the BZA motioned to overturn the ruling of the Building Official, determining that the applicant satisfied the Zoning Ordinance's definition of School. Relevant meeting minutes for Appeal 03-37 are attached. It is of note that this hearing in 2003 included a discussion by the Board of a prior case on April 9th, 2002 (Appeal 02-54) where the Building Official's interpretation of a martial arts studio Kuk Sool Won as a Health Club/Studio was also overturned by the BZA in favor of the Zoning Ordinance's definition of School for the property at 33488 Woodward. Relevant meeting minutes for Appeal 02-54 are attached as well.

In 2012, after the pilates studio Body Pure moved out, the dance studio Ballroom moved into the subject site as a permitted use classified as a school. The subject tenant space has been vacant since 2017.

Brooks Cowan
City Planner

33680 WOODWARD





MEMORANDUM

Building Department

DATE: October 16, 2019

TO: Board of Zoning Appeals

FROM: Bruce R. Johnson, Building Official

SUBJECT: 33680 Woodward, Appeal No. 19-40

The appellant in this case is seeking a review of a determination of the Building Official regarding a proposed use at the subject location. The property is located in a B-2B Zoning District. The proposed tenant is Roots Jiu Jitsu School, which the appellant believes should fit into the Zoning Ordinance definition of a school. The Zoning Ordinance defines a school as "An institution, either public or private, offering instruction in primary, secondary or collegiate courses of study". The Building Official has historically determined that karate studios/schools do not fit into the ordinance definition of school. Rather, they belong in the ordinance definition of Health Club/Studio, which is "A place designated and equipped for the conduct of sports, exercise and physical fitness activities". While a school is a permitted user in a B-2B zoning district, a health club/studio is not.

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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

Type of Variance:	<input checked="" type="checkbox"/> Interpretation	<input 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>33680 Woodward Ave.</u>	Lot Number: _____	Sidwell Number: _____
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II. OWNER INFORMATION:

Name: <u>Woodbenn Properties LLC</u>			
Address: <u>700 N. Old Woodward Suite 300</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>kdenha@visioninpartners.com</u>		Phone: <u>248-865-1515</u>	

III. PETITIONER INFORMATION:

Name: <u>Kevin Denha</u>	Firm/Company Name: <u>Vision Investment Partners c/o Woodbenn Properties</u>		
Address: <u>700 N. Old Woodward Suite 300</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>kdenha@visioninpartners.com</u>		Phone: <u>248-224-1300</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: _____

Date: 10-14-19

Signature of Petitioner: _____

Date: 10-14-19



October 12, 2019

City of Birmingham
ATTN: BZA Board
151 Martin St.
Birmingham, MI. 48009

RE:33680 Woodward Ave/Roots Jiu Jitsu School

Dear Board Members.

I am one of the owners and managing member of the above referenced property. We purchased this Property & adjacent parking lot in July-2017. We have remodeled the entire property including but not limited too the new façade, new roof and entire new adjacent parking lot with new walls and landscaping.

The potential new tenant referenced above is looking to move into the current vacant space of approx 3300 Sq. feet. This Jiu Jitsu school is owned by Two (2) owner operators I know well. The plan as submitted is very simple. Open area for the mats where the teachers teach the students and the back of space where there are showers and lockers. This school will teach all age groups, races and genders. All of the students, especially the children are taught to respect one another , help others, body and mind wellness and team bonding. Moreover, the word Jiu-Jitsu means "Gentle Skill"

Please also note, the exclusive parking for this property I own as has 20-parking spots dedicated only for my property. This does not include street parking on Bennaville and the NON-Exclusive parking all up front on Woodward.

I feel the interpretation of the building department should classify this use as a school and not a health club.

Thank you for your consideration on this matter

Sincerely,

A handwritten signature in blue ink, appearing to be 'K Denha', written over a light blue circular stamp.

Kevin Denha



APPROVED

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, APRIL 9, 2002**

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on April 9, 2002. Vice-Chairman Charles Lillie convened the meeting at 8 p.m.

Present: Vice-Chairman Charles Lillie, Board Members David Conlin, George Dilgard, Randolph Judd, Bert Koseck, Ken Stamps

Absent: Chairman Kingsley Cotton, Thomas Hughes

Administration: Jill Bahm, City Planner
Mario Mendoza, Secretary
Scott Worthington, Building Inspector

Vice-Chairman Lillie welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and a land use variance requires five affirmative votes. There are no land use variances before the board this evening. Also, appeals are heard by the board as far as interpretations or rulings on the City's Zoning Code. There is one interpretation by the Building Official called for this evening. Four affirmative votes are required to reverse an interpretation.

04-27-02

Approval of the Minutes of March 12, 2002

Motion by Mr. Judd

Seconded by Mr. Stamps that the Minutes of March 12 be approved as presented.

Motion carried, 6-0.

Yeas: Judd, Stamps, Conlin, Dilgard, Koseck, Lillie

Nays: None

Absent: Cotton, Hughes

04-28-02

33488 WOODWARD

(Appeal 02-54)

The applicant requests that the Board of Zoning Appeals reverse a decision of the building official, pursuant to Section 126-675 (1) of the Zoning Ordinance, which states that the Board of Zoning Appeals may hear and decide appeals from any decision made by an administrative

DRAFT

order to be trained at his school one must first be a member of the Kuk Sool Won World Association of martial arts. Students learn to keep their joints, muscles and tendons loose and healthy. This is done in a very specific way which encompasses the mind as well as the body and not in the fashion of a typical exercise studio. He noted this is the only form of martial arts that is taught at several institutions of higher education as well as at the United States Military Academy in West Point.

Ms. Bahm explained that under the building official's interpretation of this facility as an exercise studio, it would fit into the B-3 District, which allows exercise studios and schools.

Motion by Mr. Judd

Seconded by Mr. Dilgard in regard to Appeal 02-54, the appellant appeals the decision by the building official which limited or excluded the presence of a martial arts academy in the B-2B District. The building official apparently relied upon definitional language contained in the B-3 Zone District. The petitioner in his presentation advises us that the type of education that he intends to teach at this particular facility is an 800 year old form of martial arts which is a world-wide organization and is also taught in various academic facilities including the United States Military Academy at West Point. This really boils down to a definitional differentiation and interpretation of these particular points. In reading the ordinances, he notes that the B-1, B-2, and B-3 Districts all have references to schools and yet they seem to also differentiate between them. Unfortunately, in reading them he is not satisfied by a list of distinctive elements which justifies this differentiation. As such, he is afraid that the Ordinance is silent as to what exactly a school is in all of these districts. We can look at the definitional language contained in Section 126-26, School, but he feels that this language is probably rather archaic when you consider the breadth of the scholastic organizations and also institutions that call themselves schools. He is going to take a stretch on this one, and move to approve or grant the appellant's motion to override the decision by the building official because he feels under the circumstances this institution does comply with the rather indistinct, he is afraid, definitions of schools and should be provided in the B-2B District.

Motion carried, 6-0.

Yeas: Judd, Dilgard, Conlin, Koseck, Lillie, Stamps

Nays: None

Absent: Cotton, Hughes

04-29-02

883 EMMONS

DRAFT

Mr. Conlin was concerned there is no dimension on the overhang to show what is being done if a motion is made that is tied to the plans. Mr. Lyon added that there may be a larger variance required for the projection than was noticed. Therefore, it could present a problem. Ms. Ferrario explained the petitioner would need to provide the depth of the overhang and the distance from the overhang to the property line. Consensus was that the matter should be re-noticed.

Motion by Mr. Judd

Seconded by Mr. Lyon that this appeal be re-noticed for the September meeting with the dimensions specified as to distance from the overhang to the lot line and projections into the required setback.

Mr. Koseck commented this is further complicated because the property line is angled. This is a fairly substantial overhang which is quite a visual encroachment. He will have to be convinced as to why that further encroachment is required based on the petitioner's argument for practical difficulty.

Mr. Pastor maintained the property was purchased with the existing condition of not meeting the 30 ft. setback. All they are asking is to have a functional two-car garage.

Ms. Livingston suggested that the variance for the garage and the variance for the overhang be separated.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Judd, Lyon, Conlin, Hughes, Koseck, Livingston, Stamps

Nays: None

Absent: Cotton, Lillie

08-77-03

33668 WOODWARD
(Appeal 03-37)

Applicant requests that the BZA reverse a decision of the building official, pursuant to Section 126-675 (1) of the Zoning Ordinance, which states that the Board of Zoning Appeals may hear and decide appeals from any decision made by an administrative official as it relates to the Zoning Ordinance. The BZA may reverse or affirm, wholly or partly, or may modify such decisions.

The applicant is aggrieved by the decision of the building official with the interpretation of Article II, Section 126-26 Definitions, of health club/studio and Section 126-371 Permitted Principal Uses in B-3 Zone District.

Seconded by Mr. Lyon in regard to Appeal 03-3, 33668 Woodward, to overturn the ruling of the Building Official in ruling that this is an exercise studio. In doing so, he notes that the petitioner is a Pilates studio which is engaged in the instruction of proper anatomy, mental conditioning, calmness of mind, and engages in education including the sale and provision of texts to its students and practitioners. As he noted in the former Appeal 02-54, that in reading the ordinances dealing with B-1, B-2, and B-3 Districts all reference schools and yet they seem to also differentiate between them. However in reviewing the ordinances dealing with the B-1, B-2, and B-3 Districts he is not satisfied that there is a proper definition and differentiation to justify what he would term the anomaly in those definitions. We could look to the definitional language contained in Section 126-26 for schools but he also feels that the language contained therein is rather archaic when you consider the breadth of scholastic organizations and other institutions that call themselves schools. As he did in the prior motion dealing with the Martial Arts Academy, he probably could stretch definitions a bit in this case but he feels under the circumstances this particular institution, a Pilates studio, would come under the definition provided under the B-2B District. For those reasons he would move to overrule the prior decision made by the building official.

Motion to overrule the building official's interpretation carried, 5-2.

ROLL CALL VOTE

Yeas: Judd, Lyon, Conlin, Koseck, Stamps

Nays: Hughes, Livingston

Absent: Cotton, Lillie

08-78-03

Correspondence (none)

08-79-03

General Business (none)

08-80-03

Adjournment

No further business being evident, meeting adjourned at 11:29 p.m.

Respectfully submitted,

To: Board of Zoning Appeals

City of Birmingham

151 Martin Street

P.O. Box 151

Birmingham, MI 48009

Date: November 6, 2019

Re: 33680 Woodward Ave., An appeal of the building official's interpretation of a permitted use.

Please be advised that the adjacent businesses listed on page 2 agree with the building official's decision to not allow a Jiu-Jitsu exercise studio in a B-2-B zone. Several businesses have used the excuse that they are really a "school" and that the classes are small in order to sell the idea to the Zoning Board of Appeals as an accepted use.

Quoting from the article "The 5 Best Martial Arts for Fitness" (attached) ***"Brazilian Jiu-Jitsu is physically demanding to say the least. It blends aerobic and anaerobic exercise in such a way that seems impossible or at least incredibly difficult to replicate, making it one of the best martial arts for fitness"***

One could argue that any place that has an ***"instructor"*** could be classified as a ***"school"***, including L.A. Fitness, YMCA, Planet Fitness, Power House Gym, but as an exercise studio these places cannot operate in the B-2-B zone.

Previously a Pilates Studio was located at this same location and it created a parking nightmare. The previous board ignored Ms. Ferrario's (former building official) decision to not allow the exercise studio to open as a "school".

The patrons ignored the rear parking lot and parked in front of all the adjacent businesses. After changing the majority of the parking area to a 15 minute restriction, hundreds of parking citations were issued to try to force the patrons to not choke out all of the parking in front of the adjacent businesses.

If the Building Official's ruling of not allowing this type of business in the B-2-B zone were overturned by appeal it would create the same parking nightmare and put the burden on Parking Enforcement and the surrounding businesses people will park wherever it is convenient first.

Please keep in mind that the ***Fire Marshall has cleared this building to hold 64 people.***

The B-2-B zone was designated for retail and service orientated businesses that cater to the needs of the general public. The 33600 block has a current mix of a Bicycle Shop, Insurance Office, Wine and Spirits

Store, Power Tool Store, and a Sunless Tanning Salon, all co-existing in short term customer interactions and services. We are asking the Zoning Board to deny the applicant's appeal to operate as an exercise studio under the guise of a school.

Michelle Major, Sol Potion Salon, 33688 Woodward Ave. (917)-727-9781

Jeff Wilmot, Glenn Wing Power Tools, Inc. 33656 Woodward Ave. (248) 644-0444

Laith (Joe) Hajjar, ML Spirits & Wine, 33644 Woodward Ave. (248) 245-5450

10/28/2018

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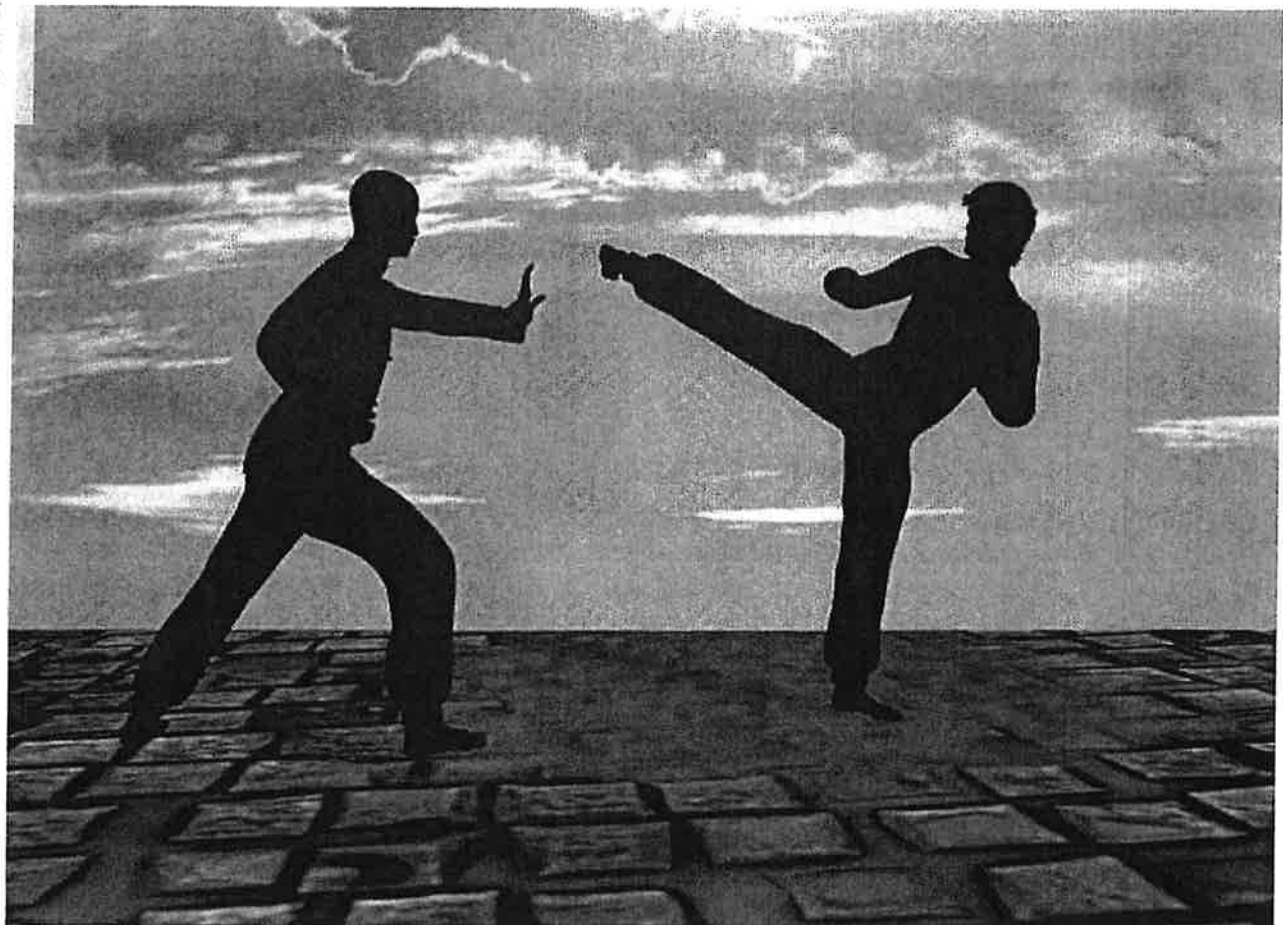
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HOME / FITNESS / THE 5 BEST MARTIAL ARTS FOR FITNESS: PRACTICE MARTIAL ARTS FOR A GREAT WORKOUT

The 5 Best Martial Arts for Fitness: Practice Martial Arts for a Great Workout

Posted on Jan 17, 2018



There are several reasons that people seek out training in the martial arts. Some seek greater mental discipline, others pursue mastery of skills that would keep them protected in a life-threatening situation. Self-defensive combat and even competitive prowess are both well ingrained into our nature as evolved life-forms, but another reason that one might choose to begin training in the martial arts is the health and fitness benefits. In terms of practical application, studying a martial art is about as effective as any exercise could be.

Indeed, even without the added benefit of real-life defense training, martial arts are as suited for weight loss and physical fitness as any other form of workout. In fact, they may prove better if a regiment is followed diligently. The reason is simple. Martial Arts combine nearly all effective types of work out, including strength training, cardiovascular endurance, agility and flexibility, into one umbrella philosophy.

If you're looking to get your best martial arts workout, look no further than our list of the 5 best martial arts for fitness and stock up on our Flight pre-workout, In Focus high energy supplements and great tasting whey protein powders to make the most of your training.

1. Muay Thai

Muay Thai, also known as Thai Boxing, is a combat system developed in Thailand most notable for its heavy emphasis on stand-up strikes as well as clinching. Muay Thai is known as the "art of eight limbs," due to its use of strikes involving the fists, elbows, knees, and shins. The training in the art involves the conditioning of these parts to make a contact fighter incredibly efficient. Muay Thai first rose to international prominence in the twentieth century, when practitioners began to best very notable champions of other martial arts.

★ REVIEWS

★ Muay Thai is known for its brutal, unforgiving, and straightforward attacks. Unlike other martial arts, not much here will be based on flashy or performance-based techniques. Training for Muay Thai centers largely around effective and economical movement of several joint, most notably the knees. Workouts prove to be very rigorous with sparring being even more trying. Although incredibly uncommon, some gyms may permit you to study without sparring. Though less effective for self defense than other martial arts due to its lack of emphasis on ground techniques, Muay Thai is a killer workout, making it one of the best martial arts for fitness.

2. Brazilian Jiu-Jitsu

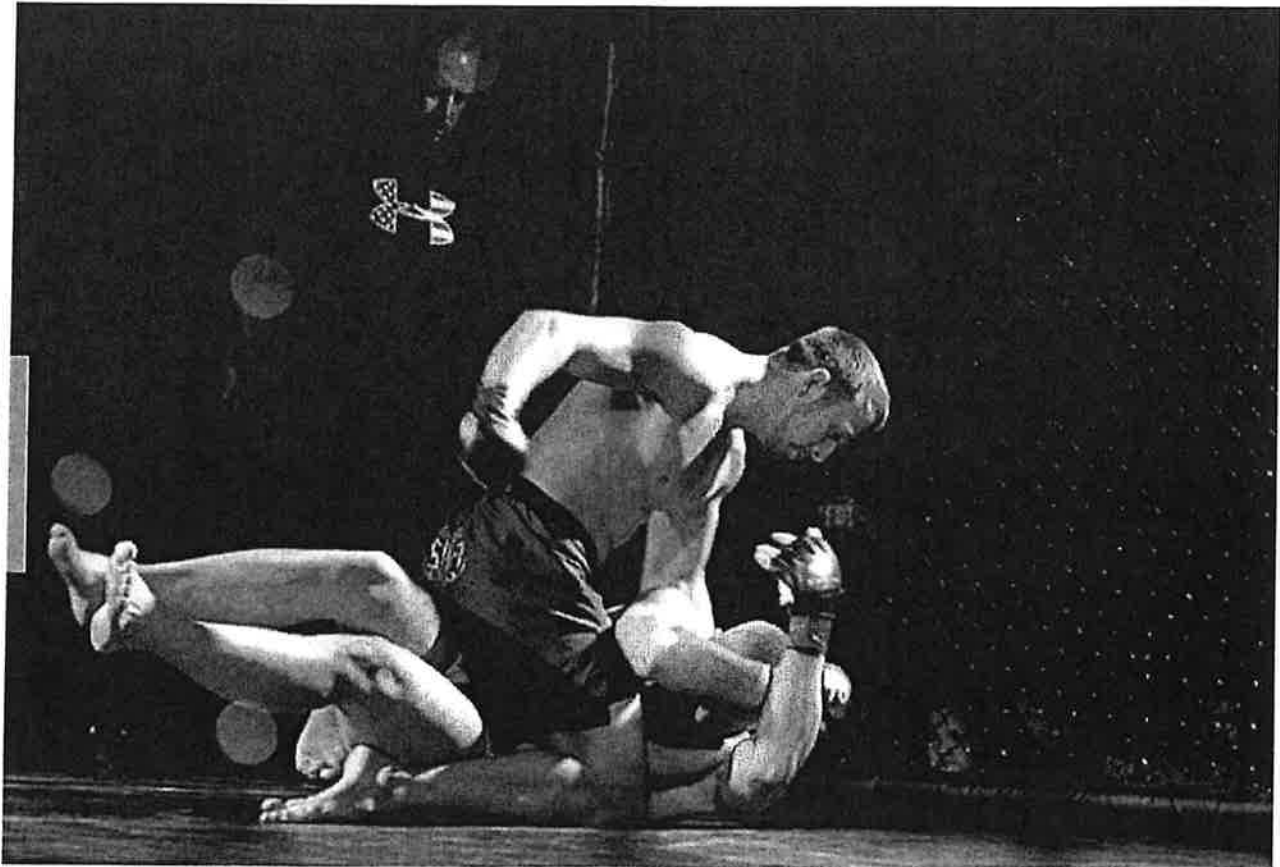
Brazilian Jiu-Jitsu, or more simply referred to as BJJ, is a combat style that places an enormous significance on grappling and ground fighting. Originally based on the fundamentals of Kodokan Judo ground fighting, Brazilian Jiu-Jitsu eventually came into its own as a combat sport through good old-fashioned trial and error, and the results are immediately apparent. Designed under the premise that a smaller person should be able to effectively neutralize a larger, bulkier threat, Brazilian Jiu-Jitsu is almost unsurpassed in terms of dealing with a single assailant. With such a claim, it's not hard to imagine that the physical strain from practicing would make it one of the best martial arts workouts.

Brazilian Jiu-Jitsu is physically demanding to say the least. It blends aerobic and anaerobic exercise in such a way that seems impossible or at least incredibly difficult to replicate, making it one of the best martial arts for fitness. It is often emphasized that the only real way to train for BJJ is to practice BJJ. It should not be taken lightly, however. As this martial art focuses mostly on ground combat, particularly by putting an

opponent in a compromising position through holds and joint manipulation, even accidental injury is common.

3. Mixed Martial Arts

Mixed Martial Arts, called MMA by more familiar fans and practitioners, is exactly what it sounds like: an effective mix of techniques sourced from various martial arts. The exact foundation of this style is subject to debate, as the first documented use of the term was found in a review of UFC 1 published in 1993. Though originally conceived as a contest to determine the single most effective martial art by pitting various practitioners against one another in a contest with relatively few rules, MMA evolved into a cohesive style of its own as combatants began to incorporate several martial arts into their style.



Because of its ideal to combine the most effective techniques from all styles, it should be obvious why MMA would be one of the best martial arts for fitness. Training is very demanding, as it requires commitment to an incredible amount of positions with emphasis on strength and agility. Besides being one of the best martial arts workouts, MMA can't be beat in terms of real life application.

4. Wrestling

Like BJJ, wrestling takes place primarily on the ground. It features powerful takedowns as well as a strict emphasis on upper body control. Also like BJJ, you won't find any strikes here. This martial art focuses entirely upon control of the opponent. However, if this seems worrisome in a self defense scenario, it shouldn't. Once your opponent is on the ground, strikes become a moot point.

Wrestling outdoes Brazilian Jiu-Jitsu only slightly in terms of pure weight loss, due to its emphatic focus on rather than grace.

5. Tai Chi

If you're not looking for a demanding physical strain, or if you're just looking for an extended warm up before you do, Tai Chi is the way to go. It's focus on balance and gentle strengthening of the muscles is a great way for newcomers to dip their toes in the water.

If you're ready to take your workout to the next level by adopting a martial art, be sure to do all the research you can, as well as stock up on the [performance supplements](#) that you might need to tackle any of the best martial arts for fitness.

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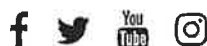
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