

# BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

**UPDATED: VIRTUAL MEETING DUE TO COVID-19 PANDEMIC**

**Go To: <https://zoom.us/j/96343198370>**

**Or Dial: 877 853 5247 US Toll-Free**

**Meeting Code: 963 4319 8370**

June 8, 2021

7:30 PM

## 1. CALL TO ORDER

## 2. ROLL CALL

## 3. APPROVAL OF THE MINUTES

a) May 11, 2021

## 4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1016 PIERCE	EILANDER	21-21	DIMENSIONAL
2)	815 WOODLAND	TARVER	21-23	DIMENSIONAL
3)	856 N OLD WOODWARD	FRUITION	21-25	DIMENSIONAL
4)	555 S OLD WOODWARD STE 100	BIRMINGHAM PUB	21-26	SIGN
5)	1220 BIRD	RENAISSANCE RESTOR.	21-27	DIMENSIONAL
6)	2351 BUCKINGHAM	CHOATE	21-28	DIMENSIONAL

## 5. CORRESPONDENCE

## 6. GENERAL BUSINESS

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

## 8. ADJOURNMENT

### Title VI

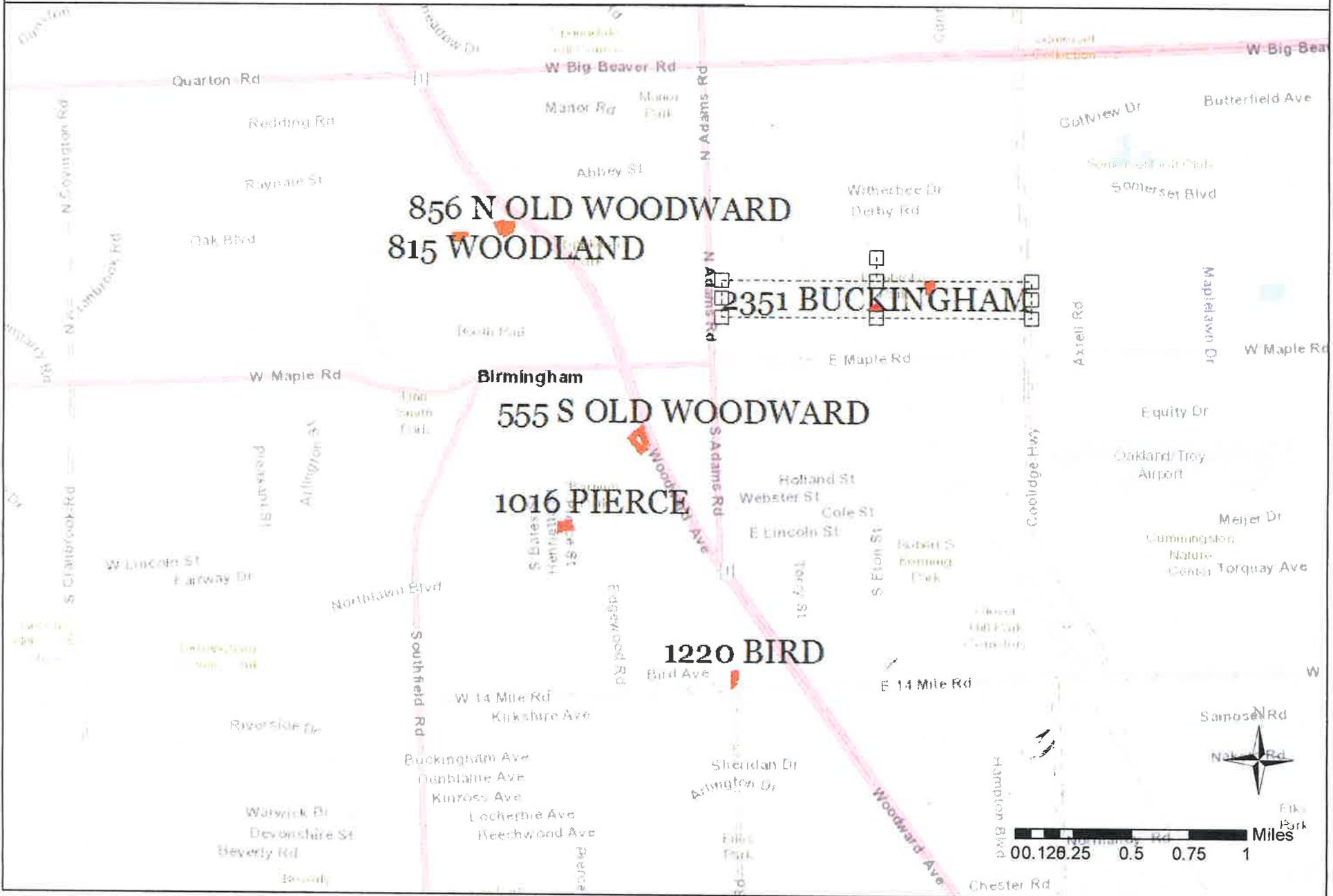
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing,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

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

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

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

# JUNE BZA MAP



**Birmingham Board Of Zoning Appeals Proceedings**  
**Tuesday, May 11, 2021**  
**Held Remotely Via Zoom And Telephone Access**

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**1. Call To Order**

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, May 11, 2021. Chair Charles Lillie convened the meeting at 7:30 p.m.

**2. Rollcall**

**Present:** Chair Charles Lillie; Board Members Jason Canvasser, Richard Lilley, John Miller, Erik Morganroth, Francis Rodriguez; Alternate Board Member Ron Reddy (all located in Birmingham, MI.)

**Absent:** Board Member Kevin Hart; Alternate Board Member Erin Rodenhouse

**Administration:**

Bruce Johnson, Building Official  
Laura Eichenhorn, City Transcriptionist  
Mike Morad, Assistant Building Official  
Jeff Zielke, Assistant Building Official

Chair Lillie explained the meeting was being held virtually due to the Covid-19 pandemic. He explained the procedures to be followed for the virtual meeting. He then assigned duties for running the evening's meeting to Vice-Chair Canvasser.

Vice-Chair Canvasser described 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.

Vice-Chair Canvasser took rollcall of the petitioners. All petitioners were present.

**T# 05-25-21**

**3. Approval Of The Minutes Of The BZA Meeting Of April 13, 2021**

**Motion by Mr. Lilley**

**Seconded by Mr. Lillie to accept the Minutes of the BZA meeting of April 13, 2021 as submitted.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**T# 05-26-21**

**4. Appeals**

**1) 900 Puritan  
Appeal 21-18**

ABO Zielke presented the item, explaining that the owner of the property known as 900 Puritan was requesting the following variances to construct new single-family home with an attached garage:

**A. Chapter 126, Article 4, Section 4.30(C)(1)** of the Zoning Ordinance states that covered or uncovered porches shall not project into the required side open space. The proposed 10.00 foot covered porch is to project 16.18 feet; therefore, a variance of 16.18 feet is being requested.

**B. Chapter 126, Article 4, Section 4.61(A)(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 side yard setback for this property is 38.03 feet. The proposed setback is 31.85 feet; therefore, a variance of 6.18 feet is requested.

ABO Zielke continued that the applicant proposed to construct a new home in place of the existing non-conforming home.

Timothy Martin, appellant, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Lillie, Mr. Martin stated there has been multiple attempts to design a home that would fit within the building envelope. While he acknowledged that an ordinance-compliant home could be constructed within the building envelope, he opined that every ordinance-compliant option ended up less desirable than the proposed plans.

Mr. Lillie stated that if these variances were granted they could be used as precedent for the neighbors to request variances to move forward towards Oak.

In reply to Mr. Lillie, Mr. Martin said that might actually benefit the aesthetics of Oak.

Mr. Morganroth stated that there were a number of different options for building in the building envelope.

Mr. Martin said that granting the variances maintained the spirit of the ordinance, and that not granting the variances would cause his family to lose the rights available to others in the same area. He stated that the available building width would be substantially reduced due to the special circumstances of his lot.

Tom Sowden, neighbor, spoke in favor of granting the variances in order to maintain the trees between the two homes.

**Motion by Mr. Lillie**

**Seconded by Mr. Morganroth with regard to Appeal 21-18, A. Chapter 126, Article 4, Section 4.30(C)(1) of the Zoning Ordinance states that covered or uncovered porches shall not project into the required side open space. The proposed 10.00 foot covered porch is to project 16.18 feet; therefore, a variance of 16.18 feet is being requested; and, B. Chapter 126, Article 4, Section 4.61(A)(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 side yard setback for this property is 38.03 feet. The proposed setback is 31.85 feet; therefore, a variance of 6.18 feet is requested.**

**Mr. Lillie moved to deny the variances, stating that the petitioner had not demonstrated a practical difficulty. He said permitting the variance would do no justice to the neighbors, that the property had no unique characteristics necessitating the variances and that the petitioner failed to show why the home could not be built within the building envelope. He said the need for the variances was self-created since the plan is to tear down the existing home and begin with a blank slate.**

**Mr. Miller said that while he understood his colleague's reasoning he would not support the motion. He said the two homes to the east of 900 Puritan are anomalous in terms of their sideyard setbacks. He said the sideyard setback for Puritan would be more appropriate if it were more similar to the rest of the homes on Puritan and to the west. Granting the variances, then, would cause 900 Puritan to fall into alignment with the majority of the other homes on the street and would do justice to the overall neighborhood. He said the proposed plans also somewhat mitigate the existing non-conformities. He stated that moving the driveway to Puritan was both safer and more aesthetically pleasing.**

**Vice-Chair Canvasser said he would support the motion. He noted the appellant would be working with a blank slate once the home is torn down and that the appellant acknowledged an ordinance-compliant home could be built in the building envelope. Both of these facts indicated to Vice-Chair Canvasser that the desire for these two variances was self-created.**

**Mr. Rodriguez said he was somewhat torn on this petition, noting that the proposal did seek to decrease the extant non-conformity. He said the deciding factor was the appellant's acknowledgement that the property could be used for the permitted purpose without the variances and that an ordinance-compliant home could be built within the building envelope. He concurred with Mr. Lillie and Vice-Chair Canvasser that these factors demonstrated self-creation, so he said he would vote to support the motion.**

**Motion carried, 6-1.**

ROLL CALL VOTE

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

Nays: Miller

**2) 1394 Westwood  
Appeal 21-19**

ABO Zielke presented the item, explaining that the owner of the property known as 1394 Westwood was requesting the following variances to construct an addition to the existing home with an attached garage:

**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 proposed is 7.69 feet. Therefore, a 2.31 foot variance is being 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 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 11.17 feet. Therefore, a 3.83 foot variance is being requested.

ABO Zielke stated the existing home was constructed in 1961 on a corner lot.

Robert Clarke, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Mr. Clarke explained that he was attempting to maintain the south and north edge of the garage and foundation areas.

Mr. Morganroth said a 21- or 22-foot garage should be able to adequately accommodate the kind of vehicles the appellants would be driving, which would mitigate the need for the variance. Mr. Morganroth also suggested that the garage doors be moved to the outside facade rather than the inside to create a bit more room.

In reply to Mr. Miller, Mr. Clarke said there was a grade drop of three-and-a-half to four feet on the east side of the garage.

In reply to Mr. Reddy, Mr. Clarke stated that he was trying to avoid a runaway building line in the front of the home in order to resemble the other homes in the area. He said he could not expand on the north face of the laundry room to create space because of the second floor window.

**Motion by Mr. Miller**

**Seconded by Mr. Lillie with regard to Appeal 21-19, 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 proposed is 7.69 feet. Therefore, a 2.31 foot variance is being requested; and, 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 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 11.17 feet. Therefore, a 3.83 foot variance is being requested.**

**Mr. Miller made a motion to deny Appeal 21-19. He said the need for variances was self-created and that there were no particularly unique aspects of the property. He said the soft angle of the road and the slight fall-off of the grade did not amount to hardships. Mr. Miller found that strict compliance with the ordinance was not unreasonable in this case.**

**Mr. Morganroth said he would support the motion. While he acknowledged that the angle of the lot creates some challenges, he said the proposed changes to the home could likely be achieved in an ordinance-compliant way. He remained unconvinced that the appellant required the requested variances to meet their goals.**

**Vice-Chair Canvasser said he had concerns about self-creation and the expansion of a pre-existing non-conformity.**

**Mr. Reddy concurred with Vice-Chair Canvasser.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**3) 689 Westwood  
Appeal 21-20**

ABO Zielke presented the item, explaining that the owner of the property known as 689 Westwood was requesting the following variances to construct an addition to an existing non-conforming home:

**A. Chapter 126, Article 2.06.2** of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 17.78 feet. Therefore; a variance of 4.49 feet is being requested.

**B. Chapter 126, Article 4.74(C)** of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 22.47 feet. The proposed is 21.40 feet. Therefore; a variance of 1.07 feet is being requested.

ABO Zielke stated the existing home was constructed in 1945 along with a small kitchen addition in 2014 in the rear of the home.

Glenda Meads, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

**Motion by Mr. Morganroth**

**Seconded by Mr. Rodriguez with regard to Appeal 21-20, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 17.78 feet. Therefore; a variance of 4.49 feet is being requested; and, B. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 22.47 feet. The proposed is 21.40 feet. Therefore; a variance of 1.07 feet is being requested.**

**Mr. Morganroth moved to deny Appeal 21-20. He said several issues formed the basis for his denial, noting that his most significant concern was substantial justice to the neighbor. He said expanding the non-conformity on the side could compromise the neighbor's maximum width home if they chose to tear down and build again at some point in the future. He said he understood the challenge of the garage but said Ms. Meads did not establish the side relative to the side-entry porch was a factor. He said the use was a factor.**

**Mr. Miller said this was a difficult case because he said wanting the garage to be a usable width was reasonable. Noting that, he still concurred with Mr. Morganroth that the Board could not compromise justice for the neighbor by granting the variances, and so he supported the motion to deny.**

**Vice-Chair Canvasser said he would support the motion since it would expand a pre-existing non-conformity and would impact the neighbor.**

**Mr. Lillie said he would support the motion for the previously stated reasons.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**4) 1016 Pierce  
Appeal 21-21**

ABO Zielke presented the item, explaining that the owner of the property known as 1016 Pierce was requesting the following variance to construct a new single-family home with an attached garage:

**A. Chapter 126, Article 4.74(C)** of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 12.95 feet on the South side. Therefore; a variance of 4.30 foot is being requested.

ABO Zielke stated the proposed home met the ordinance for the lot with the exception of meeting the distance between principal structures.

Ann and Brett Eilander, owners, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet. They stated Ben Templeton, builder, and Glenda Meads, architect, were also on the call.

Vice-Chair Canvasser said the lack of dimensions on the drawings made it difficult for him to evaluate the appellants' claims.

Mr. Miller concurred with Vice-Chair Canvasser, adding that the lack of information about vertical elevations in the drawings did the same.

Mr. Morganroth concurred with Vice-Chair Canvasser.

Mr. Templeton stated that plans with full elevations were not submitted because the Eilanders were waiting for the results of this BZA meeting to get a design set of drawings from Ms. Meads.

Mr. Morganroth suggested that if the elevator could come down to the garage floor and then the first floor that the ramp would not be needed. If that were the case, then minimizing the garage could possibly also minimize, if not completely mitigate, the need for the variance.

Mr. Eilander said the three feet also allows the appellants enough room to navigate the garage without having to move the cars.

Mr. Lillie suggested that the 12.95 feet could be split between the southern and northern neighbors.

The Eilanders said they would be happy to either keep the 12.95 feet as proposed or to follow Mr. Lillie's suggestion, whichever the Board ended up preferring.

In response to Board discussion, the Eilanders said they could return with plans that showed dimensions and elevations.

Vice-Chair Canvasser clarified for the Eilanders that a review of updated plans would not necessarily result in an approval. He said it would just provide more information to the Board members.

**Motion by Mr. Lillie**

**Seconded by Vice-Chair Canvasser with regard to Appeal 21-21, A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 12.95 feet on the South side. Therefore a variance of 4.30 foot is being requested.**

**Mr. Lillie moved to adjourn Appeal 21-21 to the June 2021 BZA meeting with a request that the appellants submit the dimensions and elevations for the plans.**

**Mr. Miller cautioned the appellants that the proposed office bump-out would difficult to vote to approve.**

**Mr. Reddy concurred with the Mr. Miller. He said the bump-out could be mitigated. He said that slightly reducing the width of the garage and doing a bit of redesign might help the appellants achieve their goals.**

**Motion carried, 7-0.**

**ROLL CALL VOTE**

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

Nays: None

**5) 1301 Fairway  
Appeal 21-22**

ABO Zielke presented the item, explaining that the owner of the property known as 1301 Fairway was requesting the following variances to construct an addition to an existing non-conforming home:

**A. Chapter 126, Article 2, Section 2.06.2** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 32.24 feet. The proposed is 25.34 feet. Therefore; a 6.90 foot variance is being requested.

**B. Chapter 126, Article 2.06.2** of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 28.12 feet. The existing is 16.14 feet and the proposed is 15.94 feet. Therefore; a variance of 9.18 feet is being requested.

**C. Chapter 126, Article 4.74(C)** of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 28.12 feet. The proposed is 21.90 feet on the South side Therefore; a variance of 6.22 foot is being requested.

**D. Chapter 126, Article 4.75(A)(1)** of the Zoning Ordinance requires that single family attached garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The existing is 6.00 feet in front of the furthest setback portion. Therefore; a variance of 11.00 feet is being requested.

**E. Chapter 126, Article 4.75(A)(2)** of the Zoning Ordinance requires that garage doors on attached garages which facing a street may not exceed 9.00 feet in width. The existing is 16.00 feet. Therefore; a variance of 7.00 feet is being requested.

ABO Zielke stated the existing home, constructed in 1960, was a non-conforming home and sat on an irregularly-shaped lot.

Dana Warg, owner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

**Motion by Mr. Reddy**

**Seconded by Mr. Lilley with regard to Appeal 21-22, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 32.24 feet. The proposed is 25.34 feet. Therefore; a 6.90 foot variance is being requested; B. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 28.12 feet. The existing is 16.14 feet and the proposed is 15.94 feet. Therefore; a variance of 9.18 feet is being requested; C. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 28.12 feet. The proposed is 21.90 feet on the South side Therefore; a variance of 6.22 foot is being requested; D. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that single family attached garages must be setback a minimum of 5.00 feet from the portion of the**

front façade on the first floor of the principal residential building that is furthest setback from the front property line. The existing is 6.00 feet in front of the furthest setback portion. Therefore; a variance of 11.00 feet is being requested; and, E. Chapter 126, Article 4.75(A)(2) of the Zoning Ordinance requires that garage doors on attached garages which facing a street may not exceed 9.00 feet in width. The existing is 16.00 feet. Therefore; a variance of 7.00 feet is being requested.

Mr. Reddy moved to approve Variances A, B, C, D and E for Appeal 21-22 and tied it to the plans as submitted. He said denial of the appeal would prevent the appellant from gaining full use of the home because of its unusually-shaped lot. He said it was not self-created because the owner was seeking to improve the appearance of the home.

Mr. Miller said the unusual triangular-shaped lot was a reason to support the variance request.

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**6) 815 Woodland  
Appeal 21-23**

ABO Zielke presented the item, explaining that the owner of the property known as 815 Woodland was requesting the following variances to construct an addition to an existing non-conforming garage:

**A. Chapter 126, Article 4.03(G)** of the Zoning Ordinance limits the maximum eave height on accessory structures shall not exceed 12.00 feet. The proposed is 20.33 feet. Therefore; a variance of 8.33 feet is being requested.

**B. Chapter 126, Article 4.03(H)** of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested.

**C. Chapter 126, Article 4.03(J)** of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or 10.00 foot interior dimension, whichever is greater. The proposed is 100% of the roof width. Therefore; a variance of 50% is being requested.

ABO Zielke stated the existing detached structure footprint exceeded the allowable square footage. The proposed renovation to the existing structure would exceed the eave height and the dormer width permitted.

David Tarver, owner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Discussion between Mr. Morganroth, ABO Zielke and Mr. Tarver clarified that if the side walls of the dormer aligned with the wall of the storage room and the interior staircase wall that most, if not all, of the need for Variance C could be mitigated.

Mr. Tarver confirmed that modification would be possible.

Discussion between the Board, Building Official Johnson, and Mr. Tarver concluded that the Board would give the Tarvers the opportunity to return with plans that included Variances A and B but mitigated Variance C.

**Motion by Mr. Morganroth**

**Seconded by Mr. Lillie with regard to Appeal 21-23, A. Chapter 126, Article 4.03(G) of the Zoning Ordinance limits the maximum eave height on accessory structures shall not exceed 12.00 feet. The proposed is 20.33 feet. Therefore; a variance of 8.33 feet is being requested; B. Chapter 126, Article 4.03(H) of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested; and, C. Chapter 126, Article 4.03(J) of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or 10.00 foot interior dimension, whichever is greater. The proposed is 100% of the roof width. Therefore; a variance of 50% is being requested.**

**Mr. Morganroth moved to adjourn Appeal 21-23 to the June 2021 BZA meeting in order to give the appellants an opportunity to revise their plans.**

**In reply to Mr. Reddy, Building Official Johnson said the Zoning Ordinance's definition of a dormer could be included in the next BZA agenda packet.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

**T# 05-27-21**

**5. Correspondence**

Included in the agenda packet.

**T# 05-28-21**

**6. General Business**

There was brief discussion regarding when in-person meetings might resume. Building Official Johnson said he would inform the Board of any changes to the current policy.

**T# 05-29-21**

**7. Open To The Public For Matters Not On The Agenda**

None.

**T# 05-30-21**

**8. Adjournment**

**Motion by Mr. Morganroth**

**Seconded by Mr. Lilley to adjourn the May 11, 2021 BZA meeting at 10:12 p.m.**

**Motion carried, 7-0.**

ROLL CALL VOTE

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

Nays: None

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Bruce R. Johnson, Building Official

# **CASE DESCRIPTION**

**1016 Pierce (21-21)**

**Hearing date: June 8, 2021**

**Appeal No. 21-21:** The owner of the property known 1016 Pierce, requests the following variance to construct a new single-family home with an attached garage:

**A. Chapter 126, Article 4.74(C)** of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 14.00 feet on the North side Therefore; a variance of 3.25 foot is being requested.

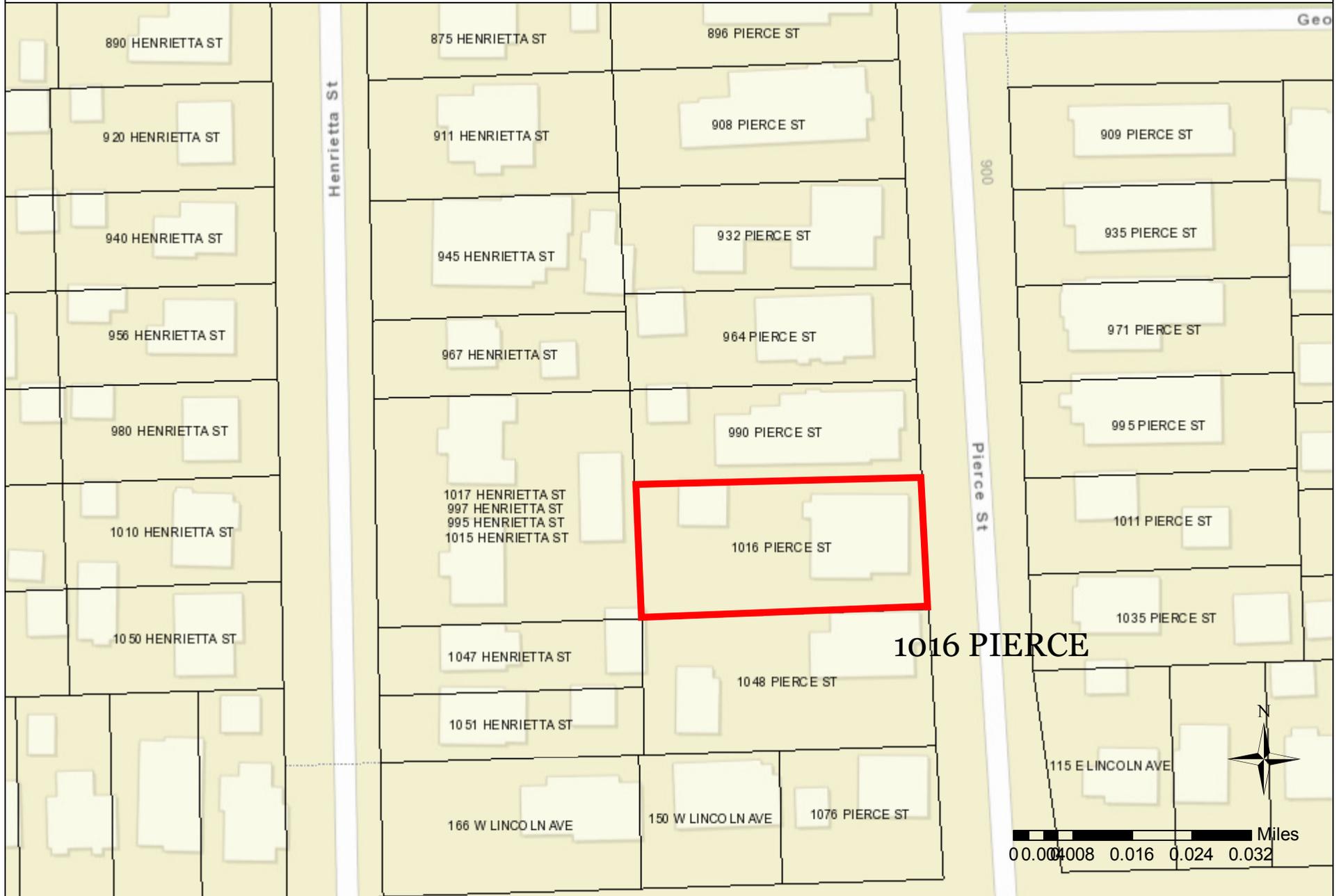
**Staff Notes:** This appeal with in front of the board in May (see draft minutes). The applicant reduced the variance request based on the comments from the May meeting.

This property is zoned R3 – Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

# 1016 PIERCE MAP



TABLED FROM MAY 11, Meeting

**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](http://www.bhamgov.org)  
**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: \_\_\_\_\_  
 Received By: \_\_\_\_\_

Hearing Date: \_\_\_\_\_  
 Appeal #: \_\_\_\_\_

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: 1016 PIERCE ST	Lot Number: LOT 119	Sidwell Number:
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**II. OWNER INFORMATION:**

Name: MR. + MRS. B. EILANDER			
Address: 1485 CEDAR ST	City: BIRMINGHAM	State: MI	Zip code: 48009
Email: eilander.brett@gmail.com	Phone: 248-508-8630		

**III. PETITIONER INFORMATION:**

Name: SAME	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 12<sup>th</sup> 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.

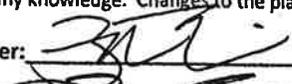
Variance Chart Example				
Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

**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: 4-7-21
Signature of Petitioner: 	Date: 4-7-21

May 14, 2021

Re: EILANDER RESIDENCE  
1016 Pierce Street, Birmingham, MI

Dear Zoning Board Members:

We have made some revisions to the single Dimensional Variance initially proposed last month as part of the construction of a new home.

The existing 69' wide lot should, by zoning ordinance, permit a 51'-9" house by all setback standards including total side setbacks of 25%.

In order to have a sufficient size garage to park 2 cars and have access walking space to small required ramp to Elevator along the side, we are requesting a variance to construct a 50'-4" wide house. We have moved the house Northerly on the lot so as to maintain the required distance to neighbor to the SOUTH, side setback to the south lot line to meet the required total sides setbacks, and minimum side setback to the north lot line, BUT proposed to place it 14.0' from existing neighbor house to the NORTH (in lieu of the 25% of 17.25') requiring the requested 3.25' variance.

Both houses on either side of us are constructed with their lesser yard abutting our house creating a hardship for us to take full advantage of our lot width. The neighbor house to the North has its minimum 5' setback abutting our lot, pushing our distance to neighbor of 17.25'. Because that Lot to the North is 50' Wide, their 'distance to neighbor' requirement is only 14' meaning that locating our house at this 14' distance would never impact development on their property while alleviating the practical difficulty that it poses to us.

Granting this request would not be a detriment to the neighborhood in that all 3 houses would be placed to provide the 'distance to neighbor' required relative to each adjoining Lot Width and permit us substantial justice in full use of our 69' wide lot and accommodating a functional garage space.

Our proposed new house meets all other Height & Bulk requirements of the Zoning Ordinance, is in fact more modest in size than many others in the neighborhood and we humbly request your approval.

Respectfully Submitted,



Mr. & Mrs. B. Eilander



Neighbor House to  
SOUTH



Eilander Residence  
1016 Pierce Street

HOUSE TO BE  
REPLACED



Neighbor House to  
NORTH

# 815 WOODLAND MAP



# **CASE DESCRIPTION**

**815 Woodland (21-23)**

**Hearing date: June 8, 2021**

**Appeal No. 21-23:** The owner of the property known 815 Woodland, requests the following variances to construct an addition to an existing non-conforming garage:

- A. Chapter 126, Article 4.03(G)** of the Zoning Ordinance limits the maximum eave height on accessory structures shall not exceed 12.00 feet. The proposed is 20.33 feet. Therefore; a variance of 8.33 feet is being requested.
- B. Chapter 126, Article 4.03(H)** of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested.
- C. Chapter 126, Article 4.03(J)** of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or 10.00 foot interior dimension, whichever is greater. The proposed is 100% of the roof width. Therefore; a variance of 50% is being requested.

**Staff Notes:** The applicant was in front of the board in May (see draft minutes), which the appeal was tabled at that time. The appeal is back in front of you as two of the previous requests have been removed. The existing detached structure footprint exceeds the allowable square footage permitted is the only request that is being requested, which is variance B.

This property is zoned R2 – Single Family Residential.

**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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 2021/04/12  
 Received By: BM

Hearing Date: 5-11-21  
 Appeal #: 21-23

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: <b>815 Woodland Street</b>	Lot Number:	Sidwell Number:
-------------------------------------	-------------	-----------------

**II. OWNER INFORMATION:**

Name: <b>William David and Kishna Sharif Tarver</b>			
Address: <b>815 Woodland Street</b>	City: <b>Birmingham</b>	State: <b>MI</b>	Zip code: <b>48009</b>
Email: <b>davidtarver@gmail.com</b>		Phone: <b>248-495-4888</b>	

**III. PETITIONER INFORMATION:**

Name: <b>William David Tarver</b>		Firm/Company Name:	
Address: <b>815 Woodland Street</b>	City: <b>Birmingham</b>	State: <b>MI</b>	Zip code: <b>48009</b>
Email: <b>davidtarver@gmail.com</b>		Phone:	

**IV. GENERAL INFORMATION:**

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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				
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><i>William David Tarver</i></u>	Date: <u>2021-04-12</u>
Signature of Petitioner: <u><i>William David Tarver</i></u>	Date: <u>2021-04-12</u>

CITY OF BIRMINGHAM  
 Date 04/14/2021 11:05:27 AM  
 Ref: 00178975  
 Receipt # 572276  
 Amount \$360.00



# W. David Tarver

June 2, 2021

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

Dear Board Members:

My wife and I are requesting a dimensional variance for a garage renovation we are planning for our property. We are undertaking the renovation for two primary reasons:

- 1) To provide additional usable heated and air-conditioned workspace and storage on the garage second floor.
- 2) To accommodate solar energy collection.

We presented a proposal at the May 13, 2021 meeting requesting accommodation in two specific areas.

- 1) The existing garage footprint exceeds code by 14 square feet. This was the existing condition of the structure when we purchased the home in 2017. Reducing the footprint would result in significant additional cost that would make the project untenable.
- 2) Our initial design employs a gable roof structure that adheres to existing height restrictions while maximizing the internal usable space on the 2<sup>nd</sup> floor. The width of the gable exceeds the 10-foot allowable dormer width specified in the ordinance, but the ordinance applies to a shed-style dormer. Such a dormer would not yield enough usable space to make the project worthwhile.

The board indicated that it was inclined to approve the variance for the existing footprint, but tabled the issue of the gable structure. We have since decided to forego the end-to-end roof gable structure in favor of a traditional dormer on the east and west roof elevations (one dormer on each elevation) that complies with the existing ordinance. We have attached sketches to show the proposed design changes. Note that we are still considering whether to construct shed roof dormers rather than the gable roof structures shown on the sketches. In either case, the dormer will comply with existing ordinance.

We are now requesting only one variance, as follows:

Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, square footage	625 sq ft	639 sq ft	639 sq ft	14 sq ft

Thanks again for your consideration of our variance request.

*William David Tarver*

W. David Tarver – resident  
Kishna S. Tarver – resident

# 856 N OLD WOODWARD MAP



# **CASE DESCRIPTION**

**856 N. Old Woodward  
(21-25)**

**Hearing date: June 8<sup>th</sup>, 2021**

**Appeal No. 21-25:** The owner of the business known as Fruition, located at 856 N. Old Woodward Suite 101 requests the following dimensional variance to operate a food & beverage use in the O2-Office zone.

**A. Chapter 126, Article 4, Section 4.46(A), Table A** of the Zoning Ordinance requires that an eating establishment for indoor or combined indoor-outdoor consumption requires 1 parking space for every 75 square feet of floor area plus such spaces as are required for assembly rooms and affiliated facilities, excluding all area utilized for outdoor dining. 856 N. Old Woodward “The Pearl” is a mixed-use building with three first floor tenant spaces, residential units on floors 2-4, and 70 parking spaces total. Fruition is a 1,227 square foot tenant space that requires 16 parking spaces as a food & beverage use with indoor dining, increasing the total parking requirement to 82 parking spaces for 856 N. Old Woodward, therefore a variance of 12 parking spaces is being requested.

## **Staff Notes:**

856 N. Old Woodward has 65 parking spaces on-site and an additional 5 on-street spaces to count towards their parking requirement totaling 70 spaces. The subject site is not located within the Parking Assessment District (PAD). The PAD ends at 800 N. Old Woodward which is just south of the building. The property owner applied to be within the PAD, however the Parking Advisory Committee recommended denial and then the City Commission took no action during the public hearing. It was recommended by the City Manager that the applicant pursue having City Commission approve the use of 5 on-street spaces in front of their building towards the total parking count, which was approved in January 2021.

The subject property is Zoned O2-Office and D2 Overlay. Food & beverage uses in the O2-Office zone require a Special Land Use Permit. Fruition currently operates as a specialty foods store that is carryout only and requires 4 parking spaces at this time which are available on-site. The applicant appeared before the Planning Board in March of 2021 to complete the initial SLUP review prior to the City Commission public hearing. The Planning Board discussed how Fruition is a desirable use for this location and wanted that noted in the minutes, but expressed concerns about the shortage of on-site parking. The applicant proposed conditions of approval where they would be limited to 3 tables, 6 chairs, and use approximately 300 square feet of their 1200 square foot tenant space for employees and indoor dining. The Planning Board was amenable to this

proposal, and recommended approval of Fruition with the condition that the applicant maintain the proposed floor plan with 6 chairs, and that they obtain a variance for 12 parking spaces. The applicant has yet to appear before the City Commission for their final SLUP hearing, they must first gain approval from the Board of Zoning Appeals before they can proceed.

Below is the parking requirement table for the current uses at 856 N. Old Woodward “The Pearl” with the proposed change in bold. The residential units for “The Pearl” require 42 parking spaces. The first commercial tenant approved for “The Pearl” was Lash Lounge salon which has 7 service chairs and requires 14 parking spaces. Fruition was then approved as a specialty foods store requiring 4 parking spaces and was aware that they could be carryout only while pursuing their SLUP to operate as a food & beverage use in the O2-Office zone. The third tenant approved was Aurora Medi-Spa which has 5 service chairs and requires 10 parking spaces. Aurora Med-Spa was approved after City Commission permitted the 5 on-street parking spaces to be counted towards the parking requirement. “The Pearl” is currently using all 70 of its allocated parking spaces for the residential uses and three commercial uses. **For Fruition to convert from a carry-out use to an indoor dining food and beverage use, their parking requirement increases from 4 to 16, a difference of 12 spaces, therefore the required variance of 12 parking spaces.**

Tenant	Use	Units / Square Feet / Service Chairs	Parking Requirement	Total Required Parking
Residents	Residential	20 x 2 beds 6 x 3 beds	2 bed = 1.5 3 bed = 2	42 space
Lash Lounge	Salon / Spa	1,361 SF 7 Chairs	2 per Chair	14 spaces
<b>Fruition</b>	<b>Specialty Foods Store OR Food &amp; Beverage (SLUP)</b>	<b>1,227 SF</b>	<b>1 per 300 SF OR 1 per 75 SF (SLUP)</b>	<b>4 spaces OR 16 spaces (SLUP)</b>
Aurora Medi-Spa	Salon / Spa	1,450 SF 10 chairs	2 per Chair OR 1 per 300	10 spaces
				= 70 spaces <b>OR</b> <b>82 spaces (SLUP)</b>

Should the Board of Zoning Appeals find reason to grant a variance for 12 parking spaces, the variance would have to be attached to a condition that the applicant receives approval from City Commission for their SLUP application.

**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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 5/3/21

Hearing Date: 21-25

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: 856 N. Old Woodward Ave. St. 100 Lot Number: 3 and 4 Sidwell Number: 1925328001

**II. OWNER INFORMATION:**

Name: FLS Properties #5, LLC / Frank Simon  
 Address: 2950 Walnut Lake Rd. City: W. Bloomfield State: MI Zip code: 48323  
 Email: \* fsimon@simonattys.com Phone: 248-790-9500

**III. PETITIONER INFORMATION:**

Name: Leah Cason Firm/Company Name: Fruition Acai & Juice Bar  
 Address: 856 N Old Woodward City: Birmingham State: MI Zip code: 48009  
 Email: Lcason07@gmail.com Phone: (810) 937-6841

**IV. GENERAL INFORMATION:**

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Variance Chart Example				
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By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.  
 \*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature] Date: 5/6/2021  
 Signature of Petitioner: [Signature] Date: 5/3/2021



CITY OF BIRMINGHAM  
 Date: 05/11/2021 9:03:18 AM  
 Ref: 00179799  
 Receipt # 575187  
 Amount: \$540.00

To whom this may concern....

Hi there!

My name is Leah Cason and I own Fruition Acai & Coffee Cafe in Birmingham, MI. My sister and I are requesting a parking variance so our business can be considered for indoor seating like we originally had intended. We have done what was requested and were able to downsize our original plans of 25+ seats to now only offering a total of 3 tables to go with our bench seating. As you can see in our plans, we have an abundance of wasted space so we are really hoping to work this out. Had we known we were going to be considered take out only at this location, we would have done things MUCH differently. The average day can get a bit hectic with the way the design currently is. Please feel free to reach out to me if you want to discuss anything further...

Thank you for your consideration,  
Leah Cason  
(810)931-6841





100 W. WASHINGTON ST.  
BLOOMINGTON, IN 47403  
TEL: 317.344.1111  
WWW.MARUSICHARCHITECTURE.COM

Client: FLD Properties III LLC  
2900 Walnut Lake Road,  
West Bloomfield, MI 48322

Project:  
The Spa - Core & Shell  
855 Old North Woodward

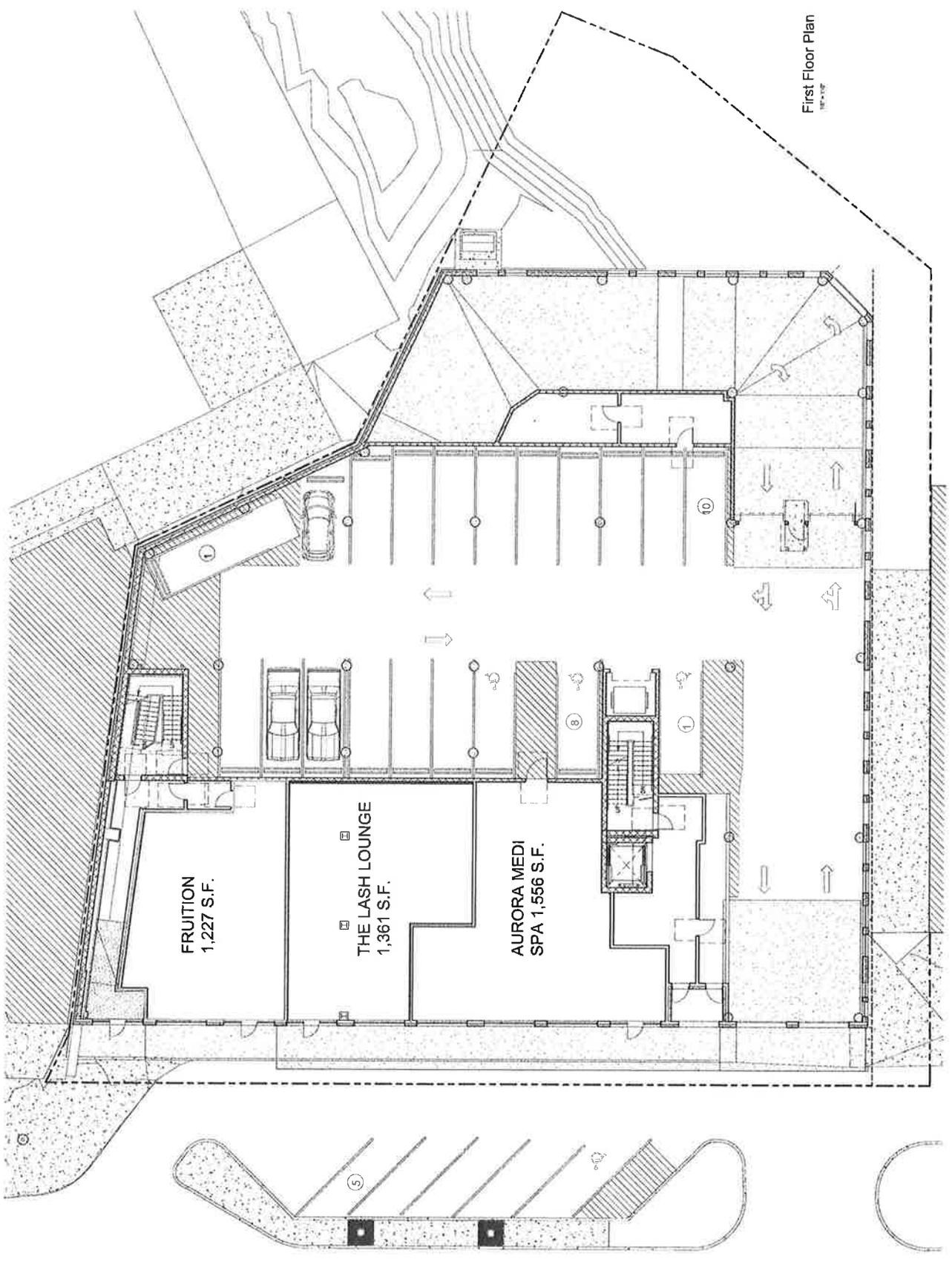
NO.	DESCRIPTION	DATE
01	Issue for RFP	08/20/13
02	Issue for RFP	09/10/13
03	Issue for RFP	10/01/13
04	Issue for RFP	10/15/13
05	Issue for RFP	10/28/13
06	Issue for RFP	11/11/13
07	Issue for RFP	11/24/13
08	Issue for RFP	12/07/13
09	Issue for RFP	12/20/13
10	Issue for RFP	01/03/14
11	Issue for RFP	01/16/14
12	Issue for RFP	01/29/14
13	Issue for RFP	02/12/14
14	Issue for RFP	02/26/14
15	Issue for RFP	03/12/14
16	Issue for RFP	03/26/14
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21	Issue for RFP	06/04/14
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23	Issue for RFP	07/02/14
24	Issue for RFP	07/16/14
25	Issue for RFP	07/30/14
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27	Issue for RFP	08/27/14
28	Issue for RFP	09/10/14
29	Issue for RFP	09/24/14
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31	Issue for RFP	10/22/14
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33	Issue for RFP	11/19/14
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35	Issue for RFP	12/17/14
36	Issue for RFP	12/31/14
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86	Issue for RFP	11/30/16
87	Issue for RFP	12/14/16
88	Issue for RFP	12/28/16
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91	Issue for RFP	02/08/17
92	Issue for RFP	02/22/17
93	Issue for RFP	03/08/17
94	Issue for RFP	03/22/17
95	Issue for RFP	04/05/17
96	Issue for RFP	04/19/17
97	Issue for RFP	05/03/17
98	Issue for RFP	05/17/17
99	Issue for RFP	05/31/17
100	Issue for RFP	06/14/17



Architect:  
MARUSICH ARCHITECTURE  
100 W. WASHINGTON ST.  
BLOOMINGTON, IN 47403  
TEL: 317.344.1111  
WWW.MARUSICHARCHITECTURE.COM



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



First Floor Plan  
18-0102

First Floor Plan



# MEMORANDUM

Planning Division

**DATE:** March 24<sup>th</sup>, 2021

**TO:** Jana Ecker, Planning Director

**FROM:** Brooks Cowan, City Planner

**SUBJECT:** 856 N. Old Woodward – Fruition – Special Land Use Permit & Final Site Plan Review ([Changes in Blue](#))

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## Introduction

The applicant has applied to operate a food and drink establishment in the O2 (Office-Commercial) zoning district at the north end of Downtown Birmingham. Food and drink establishments in the O2 Zone require a Special Land Use Permit. There will be no liquor sales for on-premise or off-premise consumption at this location. Fruition is currently approved as a specialty foods store for carryout ONLY and does not have indoor seating at this time.

The owner of 856 N. Old Woodward received Final Site Plan approval in 2016 for a four story mixed-use building known as The Pearl. The approved plans indicated retail and parking on the first floor, residential uses on floors 2-4, and one level of underground parking. The first floor retail has been demised into three separate tenant spaces. The building is not within the Parking Assessment District and must provide all commercial and residential parking on site.

The proposed new restaurant, Fruition, plans to serve fast healthy foods including acai bowls, avocado toast and an assortment of drinks. [The initial proposal included the kitchen in the rear, a service counter, and a total of 16 seats; 8 located at two tables and 8 located at four high tops with a bench. No outdoor seats were proposed.](#)

[On January 27<sup>th</sup>, 2021, the Planning Board discussed the application and motioned to postpone the hearing for Fruition due to a shortage of 12 parking spaces. It was recommended that the applicant attempt to work with the building owner and neighboring tenants to have the required parking variance reduced or eliminated. Postponement was recommended by staff because representatives of 856 N. Old Woodward "The Pearl" had previously requested that the Planning Division approve amended floor plans for the neighboring building tenants Aurora Medi-Spa with 2 service chairs \(reduced from 5\), and Lash Lounge with 4 chairs \(reduced from 7\). City staff did not approve the amended plans submitted because the applications were incomplete. It was recommended that Fruition's hearing be postponed in order to allow the building owner and representatives an opportunity to coordinate with the three tenants and possibly finalize the updated plans for Aurora Medi-Spa and Lash Lounge by providing the City with all necessary requirements. Doing so could reduce or eliminate the parking variance required for Fruition and assist in their approval process.](#)

At this time, the City has not received finalized plans for Aurora Medi-Spa or Lash Lounge that indicate a reduction of service chairs and thereby reducing the total parking requirement for the building. Representatives of Fruition have indicated that they were unable to work out an agreement with the building owner to have neighboring tenants reduce the number of service chairs. Therefore, the parking variance required for the applicant remains at 12.

The applicant has since submitted an updated floor plan with 6 seats and wishes to have a discussion where a condition of their SLUP approval is that the applicant be restricted to 6 seats. The intent of this is to demonstrate to the Board of Zoning Appeals a willingness to try to meet the ordinance to the best extent possible.

**1.0 Land Use and Zoning**

- 1.1 Existing Land Use – The subject site is a 4-story mixed-use building with first floor retail and residential use above.
- 1.2 Zoning – The subject site exists within the O2 (Office-Commercial) and D2 (Downtown Overlay) zoning districts.
- 1.3 Summary of Adjacent Land Use and Zoning –

	<b>North</b>	<b>South</b>	<b>East</b>	<b>West</b>
<b>Existing Land Use</b>	Commercial	Commercial	Public Property	Multiple Family Residential
<b>Existing Zoning District</b>	B2-B General Business	O2 – Office Commercial	PP – Public Property	R6 – Multiple Family Residential
<b>Overlay Zoning District</b>	D2	D2	P	N/A

**2.0 Setback, Height and Use Requirements**

Please see the attached zoning compliance summary sheet for details on setback and height requirements. There are no bulk, height or placement issues associated with the proposed project as no changes are proposed to the mass or footprint of the building.

The applicant is along the retail frontage line where specialty foods stores and food and drink establishments satisfy the retail requirement. As previously mentioned, the applicant is currently approved as a specialty foods store which is permitted in the O2 zone. Specialty foods stores are required to be carry-out only, meanwhile food and drink establishments within the O2 zone are required to obtain a SLUP. The owner of the business has acknowledged that they may only have chairs and tables in the front lobby for seating if they obtain a Special Land Use Permit and are approved by City Commission as a food and drink establishment.

The menu includes items such as Acai bowls with ingredients such as granola, fruits, coconut shavings and chocolate chips. Fruition also offers bagels and toast with an assortment of toppings such as avocado spread with blueberries, feta, and pumpkin seeds. Drink options also include various type of lattes and fruit smoothies. The applicant has stated that their hours of operation will be 7:30am to 8:00pm Monday through Friday, 9:00am to 6:00pm Saturday, and 10:00am to 4:00pm Sunday. The owners have a similar operation located in Grand Rapids, Michigan where they have indicated that about 80% of their business is carry-out.

### **3.0 Screening and Landscaping**

- 3.1 Dumpster Screening – All trash receptacles are located within the building with access from the ground level parking area. The trash room is fully enclosed behind the first floor retail spaces.
- 3.2 Parking Lot Screening – There are 65 parking spaces within the building and all 65 parking spaces are screened within the building. The first floor parking is setback 49 feet from the front façade with retail space in between.
- 3.3 Mechanical Equipment Screening – There are no changes proposed to the existing mechanical units or screening.
- 3.4 Landscaping – No changes proposed.
- 3.5 Streetscape – The building has a 7' sidewalk with one City standard bench at the northwest corner of the site. Four City standard bike racks are adjacent to the bench. Two City standard light poles exist in the median between the street parking and N. Old Woodward. **The approved site plans for The Pearl indicated a bench and four City standard bike racks on the southwest corner of the building, however these have not been installed. The City is currently working with the property owner on these items.**

### **4.0 Parking, Loading and Circulation**

- 4.1 Parking – The subject site is not located within the Parking Assessment District, therefore 856 N. Old Woodward must provide all parking on-site. The property exists outside the northern edge of the Parking Assessment District and shares access with the Lot 6 northbound access drive. When the owner of 856 N. Old Woodward received Final Site Plan approval in July of 2016, the site plans indicated 4,500 square feet of retail for the first floor space and the retail calculation of 1 per 300 square feet was used to determine parking requirements. At the moment, the owner of the subject property has applied to occupy the three first floor tenant spaces with a salon, a spa, and a food and drink establishment which have different parking requirements than the retail 1 per 300 square feet requirement.

Fruition is located within a 1,224 SF space and currently operates as a specialty foods store as carry-out only, therefore requiring 4 parking spaces as-is (1 per 300 SF). However, food and drink establishments with indoor seating require 1 parking space per 75 square feet, therefore a total of 16 parking spaces is required as a condition of SLUP approval for the applicant to be considered a food and drink establishment and have indoor dining.

Parking Requirement Table of Current Tenants for The Pearl

Tennant	Use	Units / Square Feet / Service Chairs	Parking Requirement	Total Required Parking
Residents	Residential	20 x 2 beds 6 x 3 beds	2 bed = 1.5 3 bed = 2	42 space
Lash Lounge	Salon / Spa	1,361 SF 7 Chairs	2 per Chair	14 spaces
<b>Fruition</b>	<b>Specialty Foods Store – Carryout</b>	<b>1,227 SF</b>	<b>1 per 300 SF</b>	<b>4 spaces (w/o SLUP approval)</b>
Aurora Medi-Spa	Salon / Spa	1,450 SF (10 chairs)	(2 per Chair) OR 1 per 300	10 spaces
				= 70 spaces required

For background related to parking issues with the subject property, on November 9<sup>th</sup>, 2020, the building owner applied to have the 5 metered parking spaces in front of the building counted towards their parking requirement which section 4.54(G)(4) permits with City Commission approval. The City Commission determined that they would prefer that the applicant apply to be within the Parking Assessment District, and motioned to deny the applicant’s request for the 5 metered parking spaces to be included in their parking requirements.

On December 2<sup>nd</sup>, 2020, the Advisory Parking Committee held a hearing considering the applicant’s request to be included within the Parking Assessment District. The APC discussed how 856 N. Old Woodward was required to provide all parking on site from the beginning of the planning phase and should have to continue to do so. **The Advisory Parking Committee then passed a motion to recommend that City Commission deny the applicant’s request to be included within the Parking Assessment District.**

On January 11<sup>th</sup>, 2021, the City Commission considered the application of 856 N. Old Woodward to be included within the Parking Assessment District and decided to take no action. There was concern that by allowing the building into the district, the applicant could occupy its three tenant spaces with high intensity parking uses, and the Commission felt that there is already a shortage of parking at this end of town. During discussion, City Manager Markus mentioned that perhaps it would be a fair compromise to bring back the consideration to allow

the property to count the on-street spaces at the following meeting. This way the City still knows the cap on parking spaces this property may use.

On January 25, 2021, City Commission approved 856 N. Old Woodward's request to count the 5 on-street parking spaces in front of the Pearl towards the property's parking requirement – increasing their total parking count to 70 spaces.

Of the 70 parking spaces total - 65 parking spaces are on site while another 5 are on-street. There are 25 ground level parking spaces available to the public, 20 are on-site behind the commercial tenants while another 5 are on-street metered parking spaces accessible to all of the public. Meanwhile there are 45 parking spaces located in the basement level. The residential units require 42 spaces which are served by the basement level and the applicant has indicated retail managers will have access to the basement level for parking.

For Fruition to obtain SLUP approval as a food and drink establishment, they must satisfy their parking requirement of 16 spaces. Given the uses and submitted floor plans for the three tenant spaces at 856 N. Old Woodward, the total number of parking spaces required is 82, an excess of 12 from the 70 spaces that 856 N. Old Woodward may count towards their requirement.

Residential	42 spaces
Lash Lounge	14 spaces
Aurora Medi-Spa	10 spaces
<u>Fruition (F&amp;D)</u>	<u>16 spaces</u>
Total	82 spaces

**Fruition must obtain a variance of 12 parking spaces from the Board of Zoning Appeals in order to operate as a food and drink establishment.**

There are a number of variables affecting Fruition's ability to satisfy the parking requirements of the Zoning Ordinance. The subject's application is currently impacted by the uses and current floor plans of the other two salon/spa tenants in the building's commercial space.

Hypothetically, if the two neighboring tenant spaces were vacated and re-occupied as retail uses, they would require 10 of the 28 available commercial parking spaces and Fruition could then satisfy the parking requirement because more than 16 spaces remain. Fruition's current inability to meet the parking requirement is impacted by the current uses and floor plans of the other two tenants, however this could change at some point in the future and provide the ability for Fruition to satisfy their parking requirements.

It is also of note that the applicant has exhausted all possibilities of trying to meet the parking requirement. 856 N. Old Woodward applied to be within the Parking Assessment District. Their application was recommended for denial by the Advisory Parking Committee, and then City Commission took no action on

the application. The applicant was then encouraged to attempt to work with the building owner and neighbors to possibly have the neighboring salon/spa uses reduce their number of service chairs. Their effort to do so was unsuccessful and their required variance for parking still remains at 12 spaces.

The applicant has submitted an updated floor plan for Fruition indicating seating for 6 patrons and a waiting bench – this is a reduction of 10 seats from their original plan for 16. The applicant is requesting that consideration be taken into account that the occupied seating area is much less than 300 SF, which is the total amount of space a restaurant with 4 parking spaces would be permitted (requirement is 1 per 75 SF). The applicant intends to make the same case with the BZA if/when they go for a variance.

The applicant has submitted a second floor plan for discussion that includes a waiting bench kiosk. There are no tables involved in the floor plan, it only suggests expanding the “waiting bench” area. **Given the gray area between the Ordinance’s definition of a Specialty Foods Store vs. a Food or Drink Establishment, staff recommends the Planning Board discuss if expanding the waiting bench area continues to meet the definition and intent of a Specialty Foods Store.**

- 4.2 Loading – The retail space is less than 5,000 square feet and therefore is not required to provide a loading space, however the building has one 12’ by 40’ loading space on the ground level adjacent to the trash room.
- 4.3 Vehicular Circulation and Access – Vehicles may access the site from N. Old Woodward. There are two curb cuts from N. Old Woodward, one for entering and another for exiting the site. The access drive in front of the building is one-way northbound and has 5 metered public parking spaces on the western side. (There previously was 6 spaces but 1 was removed to provide adequate handicapped loading space).

Entry to the ground level and underground parking is through an entrance facing N. Old Woodward on the south side of the frontage. There are 20 open and accessible spaces on the first floor behind the retail space, (one of the spaces being a lift). There are 45 spaces accessible through a gate on the underground parking level.

- 4.4 Pedestrian Circulation and Access – Pedestrian access to the store is located through a single door on the N. Old Woodward façade. No changes are proposed to the entrance.

## **5.0 Lighting**

There are no new exterior light fixtures proposed as a part of this project.

## **6.0 Departmental Reports**

- 6.1 Engineering Division – The Engineering Division has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.
- 6.2 Department of Public Services – The Department of Public Services has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.
- 6.3 Fire Department – The Fire Department has no concerns at this time.
- 6.4 Police Department – No concerns from the Police Department, however it is of note that the Advisory Parking Committee motioned to deny recommending that 856 N. Old Woodward be included in the Parking Assessment District.
- 6.5 Building Division – The Building Division has not provided any comments at this time. All comments received will be provided to the Planning Board during the Special Land Use Permit Review.

**7.0 Design Review**

There are no exterior material changes proposed for the building which was approved in 2016. The applicant was previously approved for a sign as a specialty foods store. The sign says "Fruition Acai & Coffee Cafe" in black stud mount formed plastic dimensional letters. The signage projects 1.5 inches from the wall and occupies a total of 20 square feet.

**8.0 Required Attachments**

	<b>Submitted</b>	<b>Not Submitted</b>	<b>Not Required</b>
Existing Conditions Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Detailed and Scaled Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Certified Land Survey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Interior Floor Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscape Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Photometric Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Colored Elevations	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Material Specification Sheets	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Material Samples	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site & Aerial Photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**9.0 Approval Criteria**

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

1. The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.
2. The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.
3. The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property nor diminish the value thereof.
4. The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.
5. The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.
6. The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

Additionally, Article 7, Section 7.36 states that the City Commission shall not approve of any requests for a special land use permit unless it determines that the following standards are met:

1. The use is consistent with and will promote the intent and purpose of this Zoning Ordinance.
2. The use will be compatible with adjacent uses of land, the natural environment, and the capabilities of public services and facilities affected by the land use.
3. The use is consistent with the public health, safety and welfare of the city.
4. The use is in compliance with all other requirements of this Zoning Ordinance.
5. The use will not be injurious to the surrounding neighborhood.
6. The use is in compliance with state and federal statutes.

**Given the shortage of parking spaces for the building, it does not appear that the applicant satisfies the approval criteria for Site Plan Review and Special Land Use Permit applications until a parking variance is obtained, the building is admitted into the Parking Assessment District, or the parking requirements of the neighboring tenants are reduced.**

## **10.0 Recommendation**

Based on a review of the site plan submitted, the Planning Division recommends that the Planning Board **APPROVE** a recommendation to the City Commission of the Special Land Use Permit and Final Site Plan for 856 N. Old Woodward – Fruition with the condition that the applicant obtain a variance for 12 parking spaces from the Board of Zoning Appeals.

The recommendation of approval is based upon the fact that the applicant has exhausted all possibilities in attempting to resolve their parking requirement issue. The use appears to align with the goals of the Downtown Overlay and could help activate

the northern edge of town. Recommending approval gives the applicant a chance to make their case to the Board of Zoning Appeals.

**11.0 Sample Motion Language**

Motion to recommend **APPROVAL** to the City Commission for the Special Land Use Permit and Final Site Plan for 856 N. Old Woodward – Fruition, with the following condition:

1. That the applicant maintain the proposed floor plan with three tables and six chairs; and
2. That the applicant obtains a variance of 12 parking spaces from the Board of Zoning Appeals.

**OR**

Motion to **POSTPONE** the Special Land Use Permit and Final Site Plan for 856 N. Old Woodward – Fruition – pending receipt of the following:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**OR**

Motion to recommend the **DENIAL** to the City Commission of the Special Land Use Permit and Final Site Plan for 856 N. Old Woodward – Fruition – for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_



Brooks Cowan &lt;bcowan@bhamgov.org&gt;

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**Fruition**

1 message

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**Leah Cason** <lcason07@gmail.com>

Thu, Oct 8, 2020 at 8:23 AM

To: bcowan@bhamgov.org

Cc: Lindsey Sayles &lt;lsayles.fruitiongr@gmail.com&gt;

Good Morning Brooks!

Just wanted to follow up my voicemail yesterday with an email, I imagine you are insanely busy. I had a few questions to ask you regarding what is acceptable and what is not during the time we do not have the land permit. I was talking with our architect and project manager yesterday and they thought it might be best for me to email you. As you know, we are planning to be an actual "sit down" cafe as soon as possible, back in August, I was under the impression from John (our architect) that we were on schedule to be presented in September so everything has kind of been a mess. That being said, I am hoping to change our seating until then so it basically only offers a "waiting bench" and we will serve our menu items only as "to-go" so in takeout & disposable containers. This bench most likely would only fit 4-5 people at a time. Our cafe in Grand Rapids is 80% carry out now, so I am hoping that will be the case here as well! Another thing, we have our exterior sign being proofed this week and as of now, it will read "Fruition Acai & Coffee Cafe", is that okay with you? The installation process for this, including positioning & pricing, really makes sense to have this all put up at one time. If you have ANY other recommendations on things we can do to our interior in the mean time to make it more permit free friendly, please let me know! I am all ears!

I hope this email finds you well, like I said on the voicemail I do NOT want to step on anyone's toes this just hasn't been the best situation from the start so I am hoping to get some clarification!

Thank you very much,  
Leah Cason



Brooks Cowan &lt;bcowan@bhamgov.org&gt;

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**Re: Fruition Juice Bar**

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**Emil Cherkasov** <emil@forwardcommercial.com>

Fri, Aug 14, 2020 at 1:08 PM

To: Brooks Cowan &lt;bcowan@bhamgov.org&gt;

Cc: Jeff Zielke &lt;jzielke@bhamgov.org&gt;, Nicholas Dupuis &lt;ndupuis@bhamgov.org&gt;, Nour Makkieh &lt;nourm@marusicharchitecture.com&gt;, John Marusich &lt;johnm.marusicharchitecture@gmail.com&gt;

Brooks,

I confirmed with tenant, it will be carryout only.

There is an understanding that if they decide to redesign their space later on and add seating, that they will need to apply for special land use permit.

Yours truly,

Emil Cherkasov

Principal

Forward Commercial Group

[6785 Telegraph Rd, Suite 250](#)[Bloomfield Hills MI 48301](#)

P. 248-662-5066

C. 248-894-3604

[www.forwardcommercial.com](http://www.forwardcommercial.com)

[Quoted text hidden]

Attention: City Board Birmingham

My name is Lindsey Sayles. My sister and I are the owners of Fruition Acai & Juice Bar. We opened Fruition's doors in Grand Rapids in 2018 with the hopes of expanding to other cities in the future. Little did we know, a worldwide pandemic would hit and force us to work much harder than we ever have to stay in business. We had to get creative with new ways for take-out options, ways to keep our staff employed in some of the scariest and trying times, running back and forth daily to Costco and Meijer because our food suppliers were shutting down unexpectedly overnight. We quickly realized how many doors to small businesses were closing, and fast. We didn't want to be a part of that statistic if there was any way possible for us to avoid it. We put our heads together as a team and managed to stay afloat. While many businesses were closing their doors, we decided to take a chance and open a second location and after many months of prospecting and researching different cities, we fell in love with the City of Birmingham.

I'm writing to you today because we were misled by our landlord in our ability to open our doors as a small café. We only became aware of the need for a Special Land Use Permit to operate as a café in this space (as initially submitted to him) 2.5 months after our lease agreement was signed and our buildout began. This is not to mention the heavy parking requirements required by the city for such a small space that we also were not aware of. After nearly emptying our savings account from our first store on the buildout of a second in Birmingham, we are hopeful that you will consider granting us the necessary permits to allow for 6-8 seats inside of our shop. Unfortunately, we do not see Fruition making a profit worthwhile in this location as a "Carry-out" only shop. We are a small, locally owned business, hopeful that we can operate as what we intended in this newly developed area of Birmingham.

We genuinely appreciate your consideration and time hearing us out.

Lindsey Sayles and Leah Cason

**City Of Birmingham**  
**Regular Meeting Of The Planning Board**  
**Wednesday, March 24, 2021**  
Held Remotely Via Zoom And Telephone Access

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 24, 2021. Chair Scott Clein convened the meeting at 7:30 p.m.

**A. Roll Call**

**Present:** Chair Scott Clein; Board Members Robin Boyle, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin; Student Representative Daniel Murphy (all located in Birmingham, MI)

**Absent:** Board Member Stuart Jeffares; Student Representative Jane Wineman

**Administration:** Jana Ecker, Planning Director ("PD")  
Brooks Cowan, City Planner ("CP")  
Laura Eichenhorn, City Transcriptionist

**Fleis and Vandenbrink:**  
Julie Kroll

**03-043-21**

**E. Special Land Use Permit and Final Site Plan and Design Review**

**1. 856 N. Old Woodward** – Fruition (New Building – The Pearl), Special Land Use Permit Review and Final Site Plan and Design Review to permit the operation of a new food and drink establishment (no alcohol) in an O2 zone district (Postponed from January 27, 2021).

CP Cowan reviewed the item.

In reply to Board inquiries, CP Cowan stated that Building Official Johnson informally indicated that the difference between a specialty food store and a food and beverage establishment is that the latter has the intent to have sit-down dining. CP Cowan stated that, as of yet, a formal opinion as to the difference has not been requested from Building Official Johnson.

Public Comment

Paul Reagan said that since this is an ordinance issue it should be before the Board of Zoning Appeals before it is reviewed by the Planning Board. He said it seemed the reviews were occurring in an incorrect order. He expressed concern that endorsement of an item requiring a variance at the Planning Board level could make the City indirectly liable since it could offer the applicant the impression that the City has approved their plans.

Mr. Williams, PD Ecker and Chair Clein all noted that the BZA has said it would not review items without the Planning Board reviewing the items first.

Mr. Williams noted that the Commission could likely direct a change to the order of Board reviews if they saw fit.

Mr. Boyle said there was a disjuncture between the types of small businesses the City wants to encourage and the effect the City's current parking ordinance has on those types of businesses. He said it was essential that the Planning Board and Commission address the issue.

Mr. Share said he was in favor of the Planning Board's recommendation. He said that limiting the seating to six seats would not put undue pressure on parking in the area. He said the difficulty Fruition was facing was also not primarily a self-created issue, noting that it resulted - from the first-come, first-serve nature of the retail uses in the building. He echoed Mr. Boyle's observation that this is the kind of retail use the City wants to encourage, and said it adds character to the downtown.

**Motion by Mr. Share**

**Seconded by Mr. Koseck to approve the Final Site Plan for 856 N. Old Woodward – Fruition, with the following conditions:**

- 1. That the applicant maintain the proposed floor plan with three tables and six chairs; and**
- 2. That the applicant obtains a variance of 12 parking spaces from the Board of Zoning Appeals.**

**Motion carried, 6-1.**

**ROLL CALL VOTE**

Yeas: Share, Koseck, Boyle, Whipple-Boyce, Clein, Ramin

Nays: Williams



AA VAN ELSLANDER  
FOUNDATION

June 2, 2021

Via email: [clerksoffice@bhamgov.org](mailto:clerksoffice@bhamgov.org)

Ms. Alexandria Bingham  
City Clerk  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48009

Re: Zoning Board of Appeals Meeting – June 8, 2021  
Request for Parking Variance – 856 N. Old Woodward, Suite 101

Dear Ms. Bingham:

As owners of the building adjacent to the applicant's property, we regularly encounter unauthorized parking in our private lot, and this has included patrons of Fruition Juice Bar.

We understand there are plans by this establishment to offer on-site dining in addition to carry-out, and that this plan has resulted in an appeal to the Birmingham Board of Zoning Appeals for a variance request to reduce by 12 the number of required parking spaces, leaving the requirement at four spaces.

We are concerned granting such a variance will only exacerbate the challenges we have experienced in our private lot, and we respectfully request such a variance not be granted.

Sincerely,

AUGUST, LLC

A handwritten signature in blue ink, appearing to read 'Diane E. Wells', is written over the typed name.

Diane E. Wells  
Manager

C: Brooks Cowan [bcowan@bhamgov.org](mailto:bcowan@bhamgov.org)

# NOTICE OF VIRTUAL PUBLIC HEARING

## BIRMINGHAM BOARD OF ZONING APPEALS

**UPDATED: VIRTUAL MEETING DUE TO COVID-19 PANDEMIC**

Meeting Date, Time, Location:	Tuesday, June 8, 2021, 7:30 p.m. <b>Go To: <a href="https://zoom.us/j/96343198370">https://zoom.us/j/96343198370</a></b> <b>Or Dial: 877 853 5247 US Toll-Free</b> <b>Meeting Code: 96343198370</b>
Location of Request:	<b>856 N OLD WOODWARD STE. 101</b>
Nature of Hearing:	The applicant is requesting a variance for 12 parking spaces
City Staff Contact:	Brooks Cowan 248-530-1846 bcowan@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address and published in newspaper 15 days prior.
Persons wishing to express their views may do so at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009	
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request assistance. <b>You may participate at no cost in the virtual meeting using the link or call in number and password above.</b>	

# 555 S OLD WOODWARD MAP



# **CASE DESCRIPTION**

**555 S. Old Woodward  
(21-26)**

**Hearing date: June 8<sup>th</sup>, 2021**

**Appeal No. 21-26:** The owner of the business known as Birmingham Pub located at 555 S. Old Woodward, Suite 100 requests the following variance to have an illuminated building identification sign.

- A. Article 1, Section 1.05(K)(2) of the Sign Ordinance** states that non-illuminated signs identifying the entire structure by a building name may be permitted above the first floor in accordance with Section 2.02(C) Requirements. The applicant is proposing a 42 square foot illuminated building identification sign above the second floor, therefore a variance to allow the illumination of a 42 square foot sign is requested.

**Staff Notes:**

The applicant received Final Site Plan and SLUP approval to operate an establishment with an Economic Development Liquor License on March 22<sup>nd</sup>, 2021. Neither the Planning Board nor the City Commission voiced concern or opposition to the signage. The previous restaurant tenant Triple Nickel received a variance for an illuminated building identification sign in December of 2016.

---

Brooks Cowan  
City Planner

**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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 5-12-21

Hearing Date: 6-8-21

Received By: BH

Appeal #:

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

Address: 555 South Old Woodward Lot Number: Sidwell Number: 05-19-36-210-05

**II. OWNER INFORMATION:**

Name: MANORWOOD PROPERTIES LLC  
 Address: 555 S. Old Woodward Suite 705 City: Birmingham State: MT Zip code: 48009-6618  
 Email: JJRENHART@GMAIL.COM Phone: 313-919-3313

**III. PETITIONER INFORMATION:**

Name: Timothy Mower Firm/Company Name: CONS Appeal Concepts, Inc.  
 Address: 4040 MontComery Dr City: Shelby Twp State: MT Zip code: 48310  
 Email: Timothy E C@CUBO.COM Phone: 248-670-1538

**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 12<sup>th</sup> 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.  
 \*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature] Date: 5/11/21  
 Signature of Petitioner: [Signature] Date: 5-10-2021



CITY OF BIRMINGHAM  
 DATE 05/12/2021 9:56:44 AM  
 REF 00179888

May 11, 2021

City of Birmingham  
Board of Zoning Appeals

RE: Letter of Hardship  
Birmingham Pub – 555 S. Old Woodward  
Request to allow for sign facing Woodward to be illuminated

To whom it may concern,

During the week of May 17, 2021, we installed the approved channel letter set “BIRMINGHAM PUB” on the 2<sup>nd</sup> floor of the Birmingham Pub. It was installed per code and was not lit per the permit and ordinance. It did have the necessary inspections and did pass without issue.

I am requesting a variance be granted to allow the sign to be lit moving forward. The previous tenant had applied for and was granted a variance for the same type of sign in the same location.

The building has a unique orientation facing Woodward and is difficult to see the building when traveling south along Woodward due to the parking garage as well as when traveling north it is also difficult to see due to the trees especially when they fill out come summer being it is non-lit currently.

The proposed lighting is consistent with what was approved before with the sign being front lit as well as halo lit to make it more visible to all. It is consistent with other signs along the Woodward area. It would not be a distraction to any neighboring properties nor an eyesore and surely would not be a distraction or a safety or traffic hazard.

Please feel free to contact me directly should any further information be needed.

Regards,



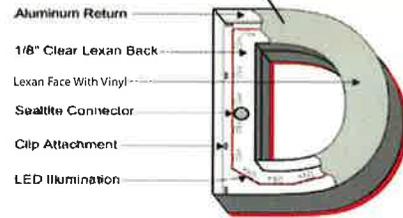
Timothy Muller

Owner

248-670-1538

Rear wall sign facing Woodward square footage:  $(18 \times 252) / 144 = 31.5$  square feet

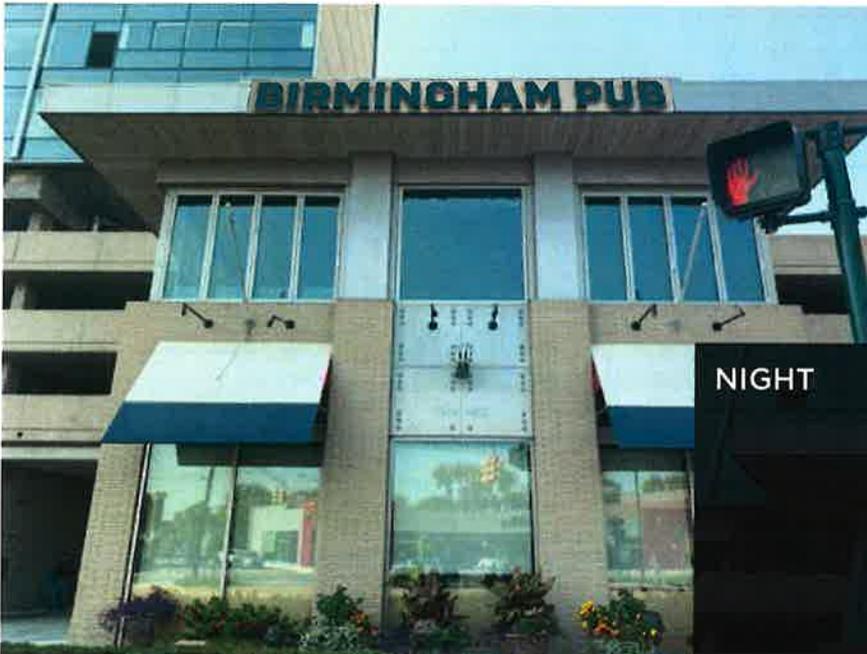
Internally led and halo lit channel letters



FRONT VIEW

Internally led and halo lit channel letters  
9 in max depth of sign

EAST ELEVATION SIGN AREA



NIGHT

BIRMINGHAM PUB

Previously installed sign



- Custom front-lit (blue) and halo-lit (white) channel letters installed onto backer cabinet raceway

ARTWORK Matt Schwartz  
DATE 10/18/2020  
VERSION 2

NOTE: Image is for mock up purpose only. Actual sign sizing and location may vary slightly due to angle of photo taken distance from wall

EXTERIOR ELECTRONIC MESSAGE CENTERS • INTERIOR LED DISPLAYS • DESIGN • MANUFACTURE • SERVICE & INSTALLATION • PROJECT MANAGEMENT • SIGN SOLUTIONS FOR ALL INDUSTRIES

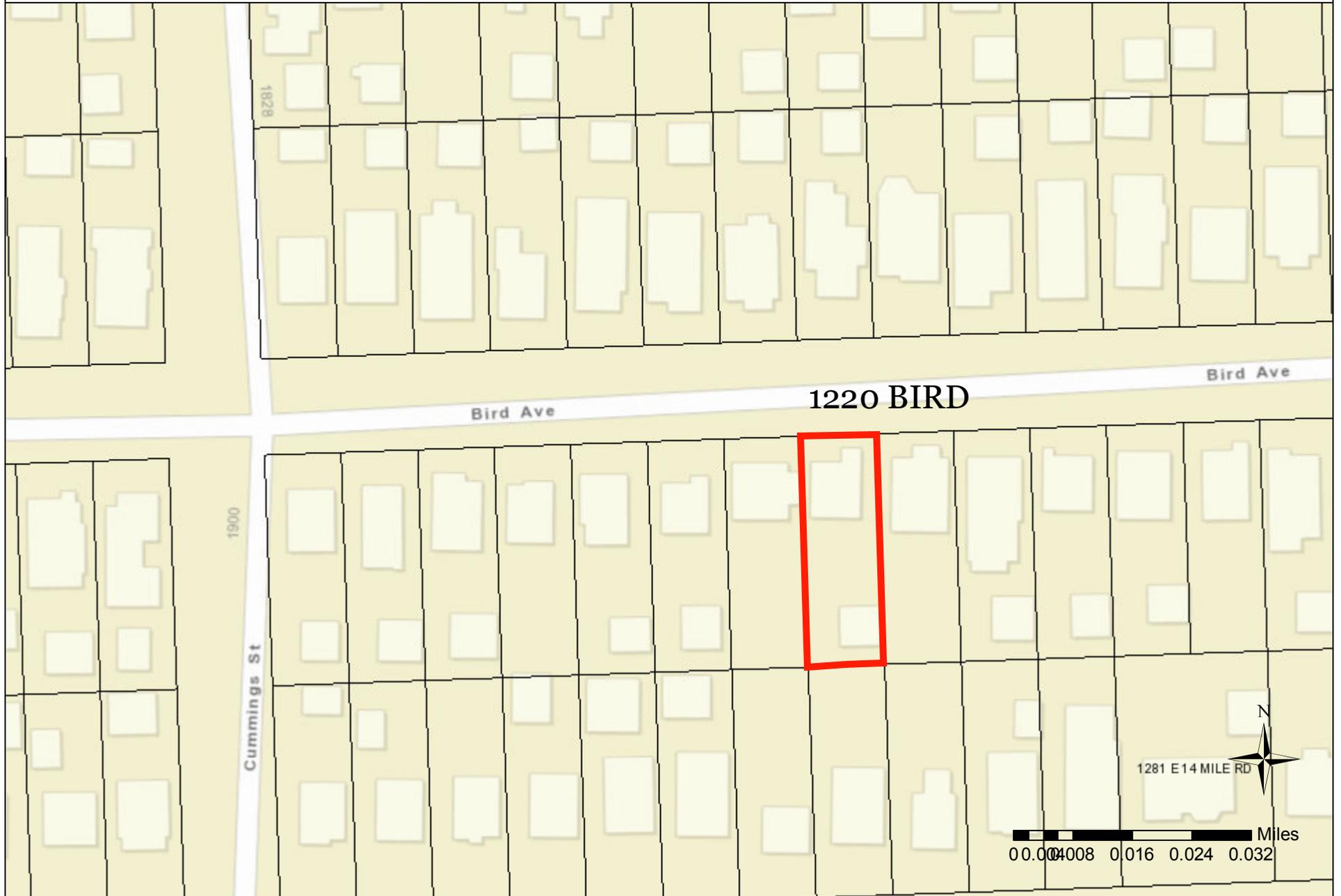
PREPARED FOR Birmingham Pub

CLIENT APPROVAL SIGNATURE

DATE

CLIENT APPROVAL: By signing this proof, I approve the size, color, materials, and overall design of my order. I understand that I am 100% responsible for all valid color changes made to my order after the date indicated on my approval.  
USE OF THIS PROOF: The design, data, and plans represented herein are the property of Curl Apple Concepts, Inc. and are to be used for your personal use only. No part of this project may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Curl Apple Concepts, Inc. All rights reserved. © 2020 Curl Apple Concepts, Inc.

# 1220 BIRD MAP



# **CASE DESCRIPTION**

## **1220 Bird (21-27)**

**Hearing date: June 8, 2021**

**Appeal No. 21-27:** The owner of the property known 1220 Bird, requests the following variances to construct a rear and front addition to an existing single-family home:

- A. Chapter 126, Article 2.10.2** of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 20.90 feet. The proposed is 15.00 feet. Therefore; a variance of 5.90 feet is being requested.
- B. Chapter 126, Article 2.10.2** of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.80 feet. Therefore; a variance of 1.20 feet is being requested.

**Staff Notes:** The applicant is requesting variances to an existing non conforming home that was constructed in 1926. Variance A is for the front addition and variance B is for the rear addition.

This property is zoned R3– Single Family Residential.

**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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 4/12/21

Hearing Date: 6-8-21

Received By: BM

Appeal #: 21-27

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

Address: 1220 Bird AVE Lot Number: \_\_\_\_\_ Sidwell Number: \_\_\_\_\_

**II. OWNER INFORMATION:**

Name: CLASS ONE Commercial Realty & Investment  
 Address: 1220 BIRD City: Birmingham State: MI Zip code: 48009  
 Email: JAMIE D CRAIG @ GMAIL.COM Phone: 248-259-6147

**III. PETITIONER INFORMATION:**

Name: JAMIE CRAIG Firm/Company Name: RENAISSANCE RESTORATIONS  
 Address: 1502 W. 13 MILE City: ROYAL OAK State: MI Zip code: 48073  
 Email: JAMIE D CRAIG @ GMAIL.COM Phone: 248-259-6147

**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 12<sup>th</sup> 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.

\*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: *Charlie Jackson* Date: 4/21/21  
 Signature of Petitioner: *Jamie Craig* Date: 4/25/21

CITY OF BIRMINGHAM  
 DATE 05/12/2021 3:51:56 PM  
 Ref 00179905  
 Receipt 175455  
 Amount \$360.00

ZACK M. OSTROFF ASSOCIATES, P.L.L.C.

2640 WATER OAKS DRIVE  
WEST BLOOMFIELD, MI 48324  
248-425-4190

06/02/21

**RE: 1220 Bird**

To: Jeff Zielke, City of Birmingham

In regard to the proposed variances we are requesting:

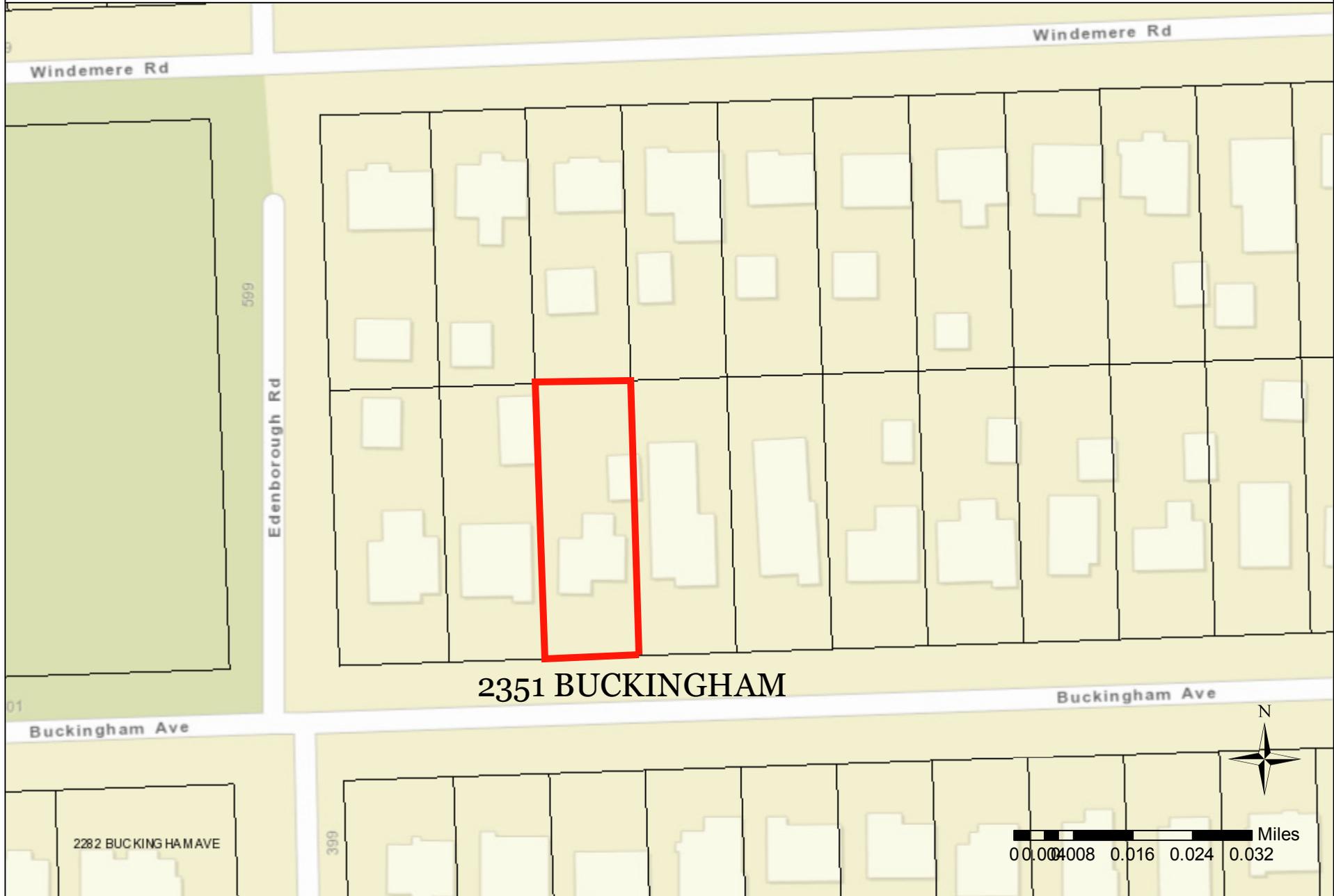
The owner's hardship is that the existing pre-existing, non-conforming enclosed porch has a complete foundation and is inline with other porches on the same street. The house desperately needs to be updated and allowing the variance would provide a foyer that does not making the non-conformity worse. We have designed a porch in front of the existing footprint that conforms to the ordinance.

Respectfully,



Zack M. Ostroff

# 2351 BUCKINGHAM MAP



# **CASE DESCRIPTION**

## **2351 Buckingham (21-28)**

**Hearing date: June 8, 2021**

**Appeal No. 21-28:** The owner of the property known 2351 Buckingham, requests the following variance to construct a rear second floor addition to an existing non-conforming single-family home:

**A. Chapter 126, Article 4.03(D)** of the Zoning Ordinance requires that an accessory building shall not be closer than 10.00 feet to the principal building located on the same lot. The existing and proposed is 9.00 feet. Therefore; a variance of 1.00 feet is being requested.

**Staff Notes:** The existing non-conforming home that was constructed in 1951.

This property is zoned R2– Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

**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](http://www.bhamgov.org)  
**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 5-12-21  
 Received By: BM

Hearing Date: June 8, 2021  
 Appeal #: 21-28

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>2351 BUCKINGHAM</u>	Lot Number: <u>150</u>	Sidwell Number:
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**II. OWNER INFORMATION:**

Name: <u>STEPHANIE CHOATE</u>				
Address: <u>2351 BUCKINGHAM</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>	
Email: <u>S.CHOATE99@GMAIL.COM</u>		Phone: <u>(248) 343-6740</u>		

**III. PETITIONER INFORMATION:**

Name: <u>JOHN CHOATE</u>	Firm/Company Name: <u>CHOATE CUSTOM HOMES</u>			
Address: <u>3002 TALL TIMBERS</u>	City: <u>MILFORD</u>	State: <u>MI</u>	Zip code: <u>48380</u>	
Email: <u>JOHNCHOATE@COMCAST.NET</u>		Phone: <u>(248) 752-2102</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 12<sup>th</sup> 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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- 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>5/10/21</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>6/5/21</u>

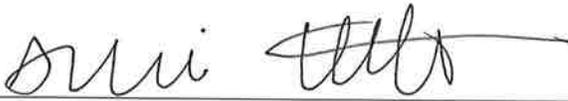


**ARTICLE III - Rehearings**

A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.

B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.

A handwritten signature in cursive script, appearing to read 'S. M. Smith', written over a horizontal line.

Signature of Applicant

## In Support of a Request for Variance

2351 Buckingham Ave., Birmingham, Michigan 48009

This letter is in support of my request for a variance for the 9'-0" dimension between the existing garage and existing house. I bought this house last September and inherited the site as it is with the relationship of the garage to the house as an existing condition that appears to have existed since the home and garage were originally built in the 1950's.

I purchased this home with the intention of renovating the house from the original 1950's decor, as well as increasing the second floor loft space by adding an additional 300 sqft. over the existing first floor living room. This renovation would provide for a much-needed update to the existing old home and allow for a master bedroom on the second floor. It goes without saying that the existing distance between the house and the garage did not result from any of my actions.

As the original structures were built, the garage is currently 9'-0" from the house which I would maintain in my renovation. According to the ordinance, a 10'-0" separation is required between the house and the garage, so granting me this 1'-0" variance would allow me to begin the renovations to my home. As part of the renovation plans, I will also be moving the rear doors' location out of the existing living room away from the front plane of the garage which will create a better means of ingress/egress in relationship to the garage in case of an emergency.

A literal interpretation of the provisions of this ordinance would deprive me of rights commonly enjoyed by my neighbors in Birmingham. I am therefore requesting a 1'-0" variance for the building separation between my existing home and my existing garage for my renovation permit - which would be in harmony with the general purpose and intent of this ordinance.

Granting this variance would maintain an existing condition that I would be upholding and not making worse. This variance will not create any detriment to any of my neighbors or the general welfare of the public in Birmingham.

I respectfully request that the board approve this variance for the existing condition that I inherited which would allow me to greatly improve the existing home and garage.

Thank you very much for your attention to this request and for your consideration!

Kind Regards,



Stephanie Choate