

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS  
TUESDAY, MAY 14, 2013**

Commission Room of the Municipal Building  
151 Martin, Birmingham, Michigan

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Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals (“BZA”) held on Tuesday, May 14, 2013. Chairman Charles Lillie convened the meeting at 8 p.m.

**Present:** Chairman Charles Lillie; Board Members David Conlin, Thomas Hughes, Jeffery Jones, Randolph Judd, John Miller; Alternate Board Member Kevin Hart

**Absent:** Board Member Peter Lyon; Alternate Board Member Cynthia Grove

**Administration:** Bruce Johnson, Building Official  
Carole Salutes, Recording Secretary  
Scott Worthington, Building Inspector

The chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City’s Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. Also, appeals are heard by the board as far as interpretations or rulings. There are no interpretations and/or use variances called for this evening. Four affirmative votes are required to reverse an interpretation or ruling.

**05-21-13**

**APPROVAL OF THE MINUTES OF THE BZA MEETING OF APRIL 9, 2013**

Mr. Hughes:  
Page 2, variance B – Replace “8 ft.” with “.8 ft.”

**Motion by Mr. Jones**

**Seconded by Mr. Hughes to approve the Minutes of the BZA meeting of April 9, 2013 as corrected.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Jones, Hughes, Conlin, Hart, Judd, Lillie, Miller  
Nays: None  
Absent: Lyon

Board members indicated they will miss Mr. Worthington and they wished him well in his new endeavors.

**05-22-13**

**1050 HUMPHREY  
(Appeal 13-11)**

The owners of the property known as 1050 Humphrey request the following variance to divide the parcel back to the two original platted lots:

- A. Chapter 26, Article 2, Section 2.01 requires a total side yard setback of 14 ft., with 13.55 ft. proposed; therefore, a variance of .45 ft. is requested.

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

Mr. Worthington explained the petitioner has one parcel ID number for two lots. They want to split it and get two parcel ID numbers. Then they will build a house on lot 1247, tear down the existing house on lot 1246, leaving the garage, and consolidate the two parcels again under one parcel ID number. Right now they are looking for a variance to split the lot and construct a new house on the second lot 1247 which would meet all Ordinance requirements. When they want to tear down the existing house, they will come back for a temporary variance to leave the garage when they demo and then combine the two lots back under one parcel ID number.

It was noted that right now the applicant complies with the total side yard setback because the existing house is on two original platted lots with one parcel ID number.

Ms. Jeanette Maylen, the homeowner, explained their intent. It was noted the second variance will be needed because just a garage on lot 1246 would be in violation of the Ordinance; there has to be a principal residence.

Mr. Hart confirmed that what happens if the variance is granted is that a house can be built on the second lot and the other house could stay there forever. So what the board would be doing is allowing both lots to exist in a non-conforming but legal fashion.

No one from the audience wished to speak to this appeal at 8:30 p.m.

**Motion by Mr. Judd**

**Seconded by Mr. Conlin in regard to appeal 13-11 dealing with 1050 Humphrey, the petitioner seeks a dimensional variance under Chapter 26, Article 2, Section 2.10 for a variance of .45 ft. They claim a practical difficulty.**

**First is whether strict compliance would unreasonably prevent the owner from using the property. Clearly not, since they are already using it. Second being whether substantial justice to the applicant as well to other property owners applies (beats him.) Third, is the plight of the owners due to unique circumstances (clearly not). Last, is whether the problem is self-created (clearly).**

**The board is dealing with a parcel known as 1246 which is commonly known as 1050 Humphrey. Mr. Judd moved to grant the variance and tie the motion to the concept stated.**

Mr. Jones stated the petitioner has a legal right to ask that the current platted lots have individual parcel IDs. As a result of that legal right to ask, for the existing structure he is requesting a variance for the resultant one lot that is currently platted, being 1246. Therefore, Mr. Jones supports the motion.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Lyon

**05-23-13**

**1240 E. LINCOLN  
(Appeal 13-12)**

The owners of the property known as 1240 E. Lincoln request the following variance to construct a new principal building:

- A. Chapter 27, Article 4, Section 4.69 requires a minimum distance of 14 ft. between principal structures with 12.7 ft. proposed; therefore, a variance of 1.3 ft. is requested.

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

Mr. Worthington clarified that the new building will be no closer to the lot line than the existing house.

Mr. Fari Magarati, the architect, spoke for the property owner, Mr. Mansoor, who was present. Their problem is that the house to the east is non-conforming. His client's proposed house meets all Ordinance requirements and eliminates the non-conforming front setback of the existing structure.

Their lot is only 40 ft. so the house cannot be squeezed any more and still be comfortable. This new house will improve the property values in the area. All around, it is a good thing for the neighborhood and for the City. Because of the current trend, he feels the house to east will be torn down sooner or later and then brought into conformance with the Ordinance. He hoped the board would move to grant the variance for his client.

Mr. Judd observed that the house to the east looks to be in good shape and it could be there a long time. Mr. Magarati replied that even so, they are not moving any closer to it than they are today. Therefore, the proposed new house will not negatively affect the house to the east.

There was no audience present to comment at 8:45 p.m.

**Motion by Mr. Miller**

**Seconded by Mr. Conlin to support the variance for appeal 13-12, 1240 E. Lincoln. He believes that strict compliance with the Ordinance in this case would be burdensome in terms of abiding to the intent of the zoning overlay and the setbacks required within it. He thinks that the variance would do substantial justice to the petitioner and also the neighborhood, as was stated.**

**The problem is due, Mr. Miller believes, to the unique circumstances of the house to the east which is out of conformance. He doesn't believe this problem is self-created. Again, he believes it is due to the fact that the existing house to the east is a little too far over on the property line, and what this petitioner wants to do would set squarely with the intent of the Ordinance. He would tie this motion to the submitted plans.**

**Motion carried, 7-0.**

**VOICE VOTE**

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

Nays: None

Absent: Lyon

**05-24-13**

**CORRESPONDENCE (none)**

**05-25-13**

**GENERAL BUSINESS (none)**

**05-26-13**

**ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON**

**Motion by Mr. Jones**

**Seconded by Mr. Conlin to nominate Charles Lillie for Chairperson.**

There were no further nominations for Chairperson.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Lyon

**Motion by Mr. Hughes**

**Seconded by Mr. Jones to nominate Randolph Judd for Vice-Chairperson.**

There were no further nominations for Vice-Chairperson.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Lyon

**05-27-13**

**ADJOURNMENT**

No further business being evident, the board members passed a motion to adjourn at 8:52 p.m.

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Bruce R. Johnson, Building Official