

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, OCTOBER 8, 2013**

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

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

Present: Chairman Charles Lillie; Board Members David Conlin, Kevin Hart, Thomas Hughes, Jeffery Jones, Peter Lyon, John Miller

Absent: Board Member Randolph Judd; Alternate Board Member Cynthia Grove,

Administration: Ken Cooper, Asst. Building Official
Bruce Johnson, Building Official
Carole Salutes, Recording Secretary

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. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. There are no interpretations called for this evening. Four affirmative votes are required to reverse an interpretation or ruling.

T# 10-59-13

APPROVAL OF THE MINUTES OF THE BZA MEETING OF SEPTEMBER 11, 2013

Chairman Lillie:

Page 6 - First paragraph, strike everything after “Exhibit B drawings” and add “to the Master deed which show the units, the common elements, and the limited common elements.”

Next paragraph, second sentence, in the case of “an LLC, . . .”

Motion by Mr. Jones

Seconded by Mr. Miller to approve the Minutes of the BZA meeting of September 11, 2013 as amended.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: Judd

Mr. Johnson introduced the City's newest building inspector, Mr. Mike Morad, who started full time on October 1.

T# 10-60-13

574 N. OLD WOODWARD AVE. (postponed from the meeting of (09-10-13)
(Appeal 13-27)

The owners of the property known as 574 N. Old Woodward Ave. have requested a further extension of their hearing.

Motion by Mr. Lyon

Seconded by Mr. Miller to adjourn this appeal indefinitely and ask that they get re-advertised when they are ready to come back.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Absent: Judd

T# 10-61-13

1845 HAZEL ST.
(Appeal 13-28)

The owners of the property known as 1845 Hazel St. request the following three variances to allow the construction of a second level addition:

- A. Chapter 26, Article 2, Section 2.10 requires a front yard setback of 26.20 ft. for this lot, with 25.68 ft. existing and 25.68 ft. proposed. Therefore, a variance of .52 ft. is requested.
- B. Chapter 26, Article 2, Section 2.06 requires a side yard setback of 5 ft. for this lot, with 3.59 ft. existing and 3.59 ft. proposed. Therefore, a variance of 1.41 ft. is requested.

- C. Chapter 26, Article 4, Section 4.30 requires a maximum overhead projection into the required easterly side yard setback for this be .83 ft., with none existing and 1.08 ft. proposed. Therefore, a variance of 1.08 ft. is requested.

Staff notes: A second floor living space consisting of a bedroom area currently exists within this home. The existing bedroom area is typical for this bungalow style home with knee walls on each side of the room and the bedroom is the entire width of the home. The applicant is proposing to remove the existing second floor space and reconfigure as proposed. Also, the first floor space will be reconfigured along with the construction of a new rear addition. The existing home does not currently have an overhang on the east elevation. A modest 6 in. overhang is proposed to help with rain water runoff for the gable end and venting. The proposed new rear addition construction meets all Zoning Ordinance requirements. The applicant would also like to inform the board that a future 400 sq. ft. detached garage is planned in a few years. The existing shed is going to be removed when the future garage is constructed. When this garage is constructed lot coverage would be 22.7% which is 7.3% less than Zoning Ordinance requirements. All setbacks will be met for the future garage.

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

Mr. Cooper explained the house is too close to the property line on the east side, less than 5 ft. Also the front setback is off a little bit to stack the walls. Additionally, a small overhang is proposed into the easterly side yard setback where currently no overhang exists. He noted that several other variances were originally proposed, but staff worked with the architect and the homeowner to reduce the number of variances to three.

Mr. Jeff Klatt, Krieger Klatt Architects, spoke for the homeowners, Alicia Birach and Alex Jerome, who were present. They seek approval for three dimensional variances to construct a second floor over the existing non-conforming first floor of the home. In doing so, they propose to open up the floor plan. Also, they propose a design that compliments the character of the existing streetscape and neighborhood.

Their practical difficulty is the existing non-conforming nature of the footprint. The owners did not create this condition, as the home was built before they purchased it. They feel their request is in harmony with the intent of the Ordinance. Denial would create an impractical situation for many structural and mechanical purposes because the second floor would have to be scooted in over the house.

Mr. Lyon noticed there are no windows on the second floor elevation to break it up and help mitigate the mass. Mr. Klatt responded that is due to the floor plan layout.

There was no one in the audience who wished to comment on this appeal at 8:20 p.m.

Mr. Klatt presented approval letters from neighbors.

Motion by Mr. Miller

Seconded by Mr. Jones with regard to Appeal 13-28, 1845 Hazel, to approve items A, B, and C. He believes the problem was not self-created, with the stance of the existing house on an existing lot that caused this unique circumstance.

Because of that, to strictly comply with the Ordinance would cause some unfavorable and unreasonable conditions to occur within the construction of filling out that second story. He also believes this would certainly to substantial justice to the neighborhood and the neighbors on the critical side to the west (???) of the existing home. The motion is tied to the plans as submitted.

Mr. Jones added that the petitioner has apparently worked a great deal to mitigate the circumstances in their request for variances.

Motion carried, 7-0.

ROLLCALL VOTE

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

Nays: None

Absent: Judd

T# 10-62-13

CORRESPONDENCE (none)

T# 10-63-13

GENERAL BUSINESS (none)

T# 10-64-13

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:25 p.m.

Bruce R. Johnson, Building Official