

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, MARCH 11, 2014**

Dept. of Public Services Meeting Room
851 S. Eton, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, March 11, 2014. Chairman Charles Lillie convened the meeting at 7:30 p.m.

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

Absent: Board Members Randolph Judd, Peter Lyon; 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 on this evening's agenda. Four affirmative votes are required to reverse an interpretation or ruling.

T# 03-13-14

APPROVAL OF THE MINUTES OF THE BZA MEETING OF FEBRUARY 11, 2014

Motion by Mr. Jones

Seconded by Mr. Miller to approve the Minutes of the BZA meeting of February 11, 2014 with a spelling correction.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Judd, Lyon

T# 03-14-14

**1220 SMITH
(Appeal 14-09)**

The owners of the property known as 1220 Smith request the following variance to construct a new house and detached accessory structure:

Article 4, Section 4.03 (B) requires the accessory structure be a minimum of the sum of the required side setbacks as determined in Section 4.67 (C) from a principal structure on an adjoining lot. The required setback for the proposed accessory structure on this lot is 14.0 ft. from a principal structure on the adjoining lot. The applicant is proposing 10.0 ft. Therefore, a variance of 4.0 ft. is requested.

The property is zoned R-3.

Mr. Cooper said if the applicant were to comply with the Ordinance he would have to be 8.06 ft. from the property line and that would make it difficult to get into the garage. Mr. Hart observed that the proposal actually improves the condition of the existing garage.

Mr. Conlin clarified that the proposed setback from the lot line for the new garage is 3.66 ft. In order to comply with the Ordinance the applicant would have to be 8.06 ft. from the property line. The petitioner maintains that he would not have adequate access/egress to his garage with the driveway coming in at that angle with the proposed house. The garage is 18.5 ft. in width which is pretty minimal. If there weren't the problem with the house at 1236 Smith the applicant could build 3 ft. off the lot line as opposed to 3.66 ft.

Mr. Miller noted the preferred condition in Birmingham currently is to have a front porch with the garage in the back. This petitioner is conforming. Mr. Cooper added that theme is very popular in that neighborhood. Mr. Hart said the 10 ft. dimension between accessory and primary structures came from a fire separation issue. Anything less than 10 ft. must have a one-hour fire rating.

Mr. Keith Camps, Marque Properties West, LLC, the petitioner, said if the 4 ft. variance to the required 14 ft. minimum is granted, the distance between the home at 1236 Smith and the proposed 1220 Smith garage will be 10 ft., thereby improving the current situation by approximately 7%. Literal enforcement of the 14 ft. minimum would result in unnecessary hardship for owners trying to back out of the garage.

No one in the audience wished to comment on this appeal at 7:45 p.m.

Motion by Mr. Miller

Seconded by Mr. Hughes with regard to 1220 Smith, Appeal 14-09, to support the requested variance. He believes that the problem is not self-created; it is due to an existing house on the adjacent property. It is a unique circumstance. He believes that allowing this variance would do substantial justice to the neighborhood and that it would allow this residence to be built in accordance with the current zoning code and current intent of allowing or providing a garage in the back yard as opposed to a garage in the front yard, which was done on the adjacent property. Also, he believes that conformity would be unnecessarily burdensome to that situation. Therefore, he supports this appeal and would tie the motion to its submitted plans.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Judd, Lyon

T# 03-15-14

**639 BLOOMFIELD CT.
(Appeal 14-10)**

The owners of the property known as 639 Bloomfield Ct. request the following variance to allow the construction of a new detached garage:

Article 2, Section 2.08 of the Zoning Ordinance requires the maximum lot coverage to be 30 percent for this lot. The applicant is proposing 31.37 percent. Therefore, a variance of 1.37 percent is requested.

This property is zoned R-2 Single-Family Residential.

Mr. Cooper advised this is an existing house and no garage currently exists on the lot. The proposal is to locate a 20 ft. x 20 ft. garage in the rear yard. The proposed new garage will meet all setbacks and height requirements. It will have a low pitched roof with a dormer in front.

Chairman Lillie noticed the house encroaches on the neighbor's property. Therefore, it is existing non-conforming.

The homeowner, Mr. Bob Masone, spoke. His home was built in the 1920s and he is completely renovating it. He would like to have a 20 ft. x 20 ft. garage. His hardship is that at 4,729 sq. ft. this is an undersized lot and if it were 6,000 sq. ft. he would be well within the 30% coverage limit. The previous owner built her fence on the neighbor's lot.

Mr. Miller observed that at a 20 ft. x 20 ft. outside dimension the garage is a challenge to get in two cars and a motorcycle.

There were no comments from the public at 7:52 p.m.

Motion by Mr. Miller

Seconded by Mr. Jones to support the appeal at 639 Bloomfield Ct., Appeal 14-10. He believes that a variance in this case is due to the unique circumstance of the property. The size of the property is very unusual in relation to the entire surrounding neighborhood area. He believes that it would do substantial justice to the neighborhood to allow this garage to be built. It is a reasonable amenity in that area. The problem, he believes, is not self-created. It is due to platting that was done long ago and it would unreasonably prevent the petitioner from building this garage if this appeal is not granted. So again, Mr. Miller would support this appeal and tie it to the submitted plans.

Chairman Lillie indicated he would support the appeal because he thinks this is a classic case of a unique circumstance with the lot being the only lot in the subdivision that does not meet the minimum buildable site standards.

Mr. Jones thought that having off-street parking for this house would do substantial justice to the adjoining property owners.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Judd, Lyon

T# 03-16-14

**971 SMITH
(Appeal 14-11)**

The owners of the property known as 971 Smith request the following variance to allow the construction of a new house and detached garage:

Article 4, Section 4.69, C of the Zoning Ordinance requires the distance between principal residential buildings to be 14.0 ft. for this lot; with 13.5 ft. proposed. Therefore, a variance of 0.5 ft. is requested.

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

Mr. Cooper advised the neighboring house is 3 ft. from the property line. Normally the applicant would be 9 ft. away but they are proposing to be 10.5 ft. to reduce the variance request. The house was renovated in 2003 and the new construction was held back 5 ft. from the property line to meet the setback requirements in 2003. The original part of the house on the first floor is 3 ft. from the property line, creating an issue with distance between structures.

Mr. Conlin summarized by saying the existing non-conformity was the original construction and all of the new construction conforms. The difficulty that is being presented to the proposed new structure is the non-conformity of the existing non-conforming structure.

Mr. Patrick Carolan represented Babi Construction, Inc. The existing foundation of the neighboring home is very old and 3 ft. off the property line. They are asking for a .5 ft. (or 6 in.) variance. They pushed the proposed house so that it would conform to the other side yard setback. In response to Mr. Conlin, Mr. Carolan said they looked at the possibility of building the house at 24 ft. width. However, it renders the footprint and the room dimensions almost useless. He concluded this house would be a huge asset to the street.

There was no one in the audience who wished to speak to this appeal at 8:05 p.m.

Motion by Mr. Miller

Seconded by Mr. Hughes to support the appeal at 971 Smith, Appeal 14-11. He believes that the condition of the house being placed on this lot is due to the closeness of the adjacent house built in the '20s or '30s to the proposed property line. He thinks that is causing a unique circumstance which was not self-created and he believes that the proposed location and size of this house would do substantial justice to the rest of the neighborhood. Conformity would certainly be a burden to the owner to build this house. So, he supports the motion and would tie it to the plans as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Judd, Lyon

T# 03-17-14

**1421 STANLEY ST.
(Appeal 14-12)**

The owners of the property known as 1421 Stanley St. request the following variance to allow for the expansion of the existing first and second levels of the existing residential structure:

Chapter 26, Article 2, Section 2.08 requires a front yard setback of 31.86 ft. for this lot; with 31.30 ft. existing and 31.30 ft. proposed. Therefore, a variance of 0.56 ft. is requested.

This property is zoned R-2 Single-Family Residential.

Mr. Cooper advised this appeal was advertised for a variance of .56 ft. Then the owner made a design change which replaced brick with Hardi Plank siding. Now they are only asking for a variance of .35 ft. Therefore the revised description should read:

Chapter 26, Article 2, Section 2.08 requires a front yard setback of 31.86 ft. for this lot; with 31.30 ft. existing and 31.51 ft. proposed. Therefore, a variance of 0.35 ft. is requested.

Mr. Miller received verification that the existing house as it sits is encroaching and that is what established the .35 ft. variance request.

Mr. Jeff Klatt, Kriger Klatt Architects, was present with the homeowners, Sarah and Justin Evoe. The practical difficulty exists due to the non-conforming condition which existed before the owners purchased the house. Also, if they are forced to push the second floor back, it compromises the structure and mechanicals. That is the reason they want to stack the second floor right on top of the first. Removing the brick and replacing it with siding reduces their request by about 3 in. because they are further back behind the setback line.

The chairman asked for comments from the public at 8:15 p.m.

Mr. Heinz Wolfsbecker, 1472 Stanley, indicated he has no objections to the small variance request.

Mr. Bob Koenigsknecht, 1429 Stanley, said the construction needs to be monitored so they don't have any negative impact from water drainage. Presently they get ponding at the back of their property. Mr. Johnson responded that now the Engineering Dept. does a thorough review of the drainage prior to the issuance of a Building Permit. Mr. Koenigsknecht added that the new addition will certainly add to the community and to the street.

Motion by Mr. Miller

Seconded by Mr. Jones with respect to 1421 Stanley, Appeal 14-12. He would support the requested variance. He believes the problem here is certainly not self-created. It is due to the fact that there was an existing house in the '40s and

they are building right along the front face of that house. It is a very minor encroachment. This is a very reasonable request, he believes, and he believes that improvement to this house would do very substantial justice to the neighborhood. Certainly, conforming to the zoning would be quite burdensome to the owner. He would tie that to the plans as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Absent: Judd, Lyon

T# 03-18-14

CORRESPONDENCE (none)

T# 03-19-14

GENERAL BUSINESS (none)

T# 03-20-14

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:23 p.m.

Bruce R. Johnson, Building Official