

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS**  
**TUESDAY, JANUARY 13, 2014**  
City Commission Room  
151 Martin Street, Birmingham, Michigan

---

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, January 13, 2015. Chairman Charles Lillie convened the meeting at 7:30 p.m.

**Present:** Chairman Charles Lillie; Board Members Kevin Hart, Jeffery Jones, Randolph Judd, Thomas Hughes, Peter Lyon; Alternate Board Member Rachel Loughrin

**Absent:** Board Member John Miller; Alternate Board Member Cynthia Grove

**Administration:** Matthew Baka, Sr. Planner  
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. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

**T# 01-01-15**

**APPROVAL OF THE MINUTES OF THE BZA MEETING OF DECEMBER 9, 2014**

**Motion by Mr. Jones**

**Seconded by Mr. Lyon to approve the Minutes of the BZA meeting of December 9, 2014 as presented.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Jones, Lyon, Hart, Hughes, Judd, Lillie, Loughrin

Nays: None  
Absent: Miller

**T# 01-02-15**

**2200 HOLLAND  
(Appeal 14-25)**

The owners of the property known as 2200 Holland request the following variances to allow for the construction of a single-story warehouse structure:

A. **Article 4, Section 4.52 PK-08 A (1)** of the Zoning Ordinance prohibits parking between the building façade and the frontage line in the MX (Mixed Use) zone. The applicant is requesting a variance to permit parking between the building façade and the frontage line.

B. **Article 4, Section 4.83 WN-01 A (1)** of the Zoning Ordinance requires the front façade and any façade facing a street, plaza, park, or parking area provide no less than 70% of the storefront/ground floor façade as clear glass panels and doorways. The applicant is required to meet this standard on the east, west and south facing facades.

- On the west façade the applicant is proposing to provide 13% glass. Therefore a variance of 57% is requested.
- On the east façade the applicant is proposing to provide 0% glass. Therefore a variance of 70% is requested.
- On the south façade the applicant is proposing to provide 0% glass. Therefore a variance of 70% is requested.

This property is zoned MX Mixed Use.

Mr. Baka described that the parcel in question is located at the end of Holland, east of Eton. It neighbors the school bus yard and the City DPS. The applicant proposes to redevelop the site into a warehouse for Mercedes-Benz of Bloomfield Hills. The Planning Board has asked the applicant to make changes to his proposal, based on the Eton Road Corridor Plan ("ERCPC") that governs this area. To introduce mixed use, the applicant will now leave a small office building on the site with parking at the front. Requiring a certain percentage of glazing on the first floor allows more interaction with pedestrians. However, because of the type of use that is proposed, the applicant feels the glazing requirement would be detrimental to their proposal. The applicant has received Preliminary Site Plan Approval, and based on the results of this meeting they will return to the Planning Board for Final Approval.

In response to Mr. Jones, Mr. Baka verified that leading off of Eton there are no sidewalks on either side of Holland and it dead ends. Chairman Lillie noted there will not be pedestrian traffic so there would be no need for the glazing in this case. Mr. Baka added that Mr. Ghesquiere's whole purpose is to have security for the storage of

valuable cars. He has been working with the Planning Board to try and help them meet the intent of the ERCP.

Mr. Charles Ghesquiere, Dealer Principal of Mercedes-Benz of Bloomfield, described how adding glazing to the building would be a problem for them because of security. People could see what is inside and that would be an attraction to break in. In response to Mr. Jones he said they have no intention of turning the facility into anything besides a storage area. He went on to say the tenants of the office building will conduct highly technical business and have maybe two visitors a day.

At 7:45 p.m. there were no comments on this petition from the audience.

**Motion by Mr. Lyon**

**Seconded by Mr. Jones in regard to appeal 14-25, 2200 Holland, to approve the variances as advertised. He believes that the appellant has demonstrated a practical difficulty with strict compliance in that the Ordinance requires pedestrian friendly, almost retail use in what is really an industrial area. He thinks the appellant has mitigated the variance by moving fences back and making it appear somewhat like retail.**

**Mr. Lyon believes that strict compliance would be unduly burdensome and would prevent reasonable use of the property, given this industrial area. He believes that granting these variances does substantial justice to both the appellant and the surrounding area. It improves a very industrial looking area. He thinks that based on the prints it will be a nice looking addition back there. Also, he believes it is the minimum variance required. He would tie the motion to the plans as submitted.**

**Motion carried, 7-0.**

**ROLLCALL VOTE**

Yeas: Lyon, Jones, Hart, Hughes, Judd, Lillie, Loughrin

Nays: None

Absent: Miller

Mr. Jones added that the property is unique and merits the variance because there is no likelihood of pedestrian traffic since there are no sidewalks.

**T# 01-03-15**

**685 KIMBERLY  
(Appeal 15-01)**

The owners of the property known as 685 Kimberly request the following variances to allow for the expansion of the first and second levels of the existing

residential structure:

A. **Article 2, Section 2.08** of the Zoning Ordinance requires a rear yard setback of 30.00 ft. for this lot; with 28.66 ft. existing and 11.93 ft. proposed. Therefore, a variance of 18.07 ft. is requested.

B. **Article 2, Section 2.08** of the Zoning Ordinance requires a combined front and rear yard setback of 55.00 ft. for this lot; with 48.34 ft. existing and 31.61 ft. proposed. Therefore, a variance of 23.39 ft. is requested.

This property is zoned R-2.

Mr. Cooper explained why this is a unique piece of property. Kimberly dead ends to the property. A 1938 survey shows that Kimberly will be extended to the north boundary of this site, abutting the Quarton School property. That never occurred and Kimberly ends at the south property lines of 685 and 690 Kimberly. Therefore, the 695 Kimberly south property line is considered the front property line for this lot.

The applicant is proposing to construct a second-story addition to the north and east of their home with an attached garage. The second floor has been held back in order to mitigate what the neighbor will see. The addition meets side yard setbacks, distance between buildings, lot coverages, attached garage, and height requirements. However, based on the south property line being considered the front property line, the proposal does not meet the rear yard setback requirement and sum of the front and rear yards combined requirement. An existing garage will be removed in order to create more green space.

Chairman Lillie received confirmation that if the applicant were to put the addition on the southern portion of the house they would still need a variance for the rear setback because the current house is non-conforming. This is a wide, shallow lot. Mr. Lyon observed there is no front lot line because there is no public street for the lot to abut.

Mr. Don Root, Architect for the project, spoke on behalf of the petitioner. They worked for a long time with the City to come up with the design being presented. The City has defined this as the front line of the property because the owner has been assessed for improvements on Kimberly based on the fact they are touching on it. He described how they looked at a lot of different options because they wanted to make their design nice for the neighbors, given their unique situation. The only property they are affecting with this design is the Quarton School playground.

No one from the audience wanted to comment on this appeal at 8:07 p.m.

**Motion by Mr. Judd**

**Seconded by Mr. Jones in regard to Appeal 15-01, 685 Kimberly, to grant the variance to this piece of property. He feels that the petitioner has established a**

**practical difficulty in that strict compliance with the Ordinance dealing with setbacks and frontage would unnecessarily prevent the owner from using the property for a permitted purpose and would be unnecessarily burdensome.**

**He also feels it would do substantial justice to the applicant as well as the other property owners. The third point for practical difficulty is whether the plight of the owner is due to unique circumstances of the property, and not the general conditions in this area. This really is a unique circumstance in that most of the problem seems to be an anomaly based upon an interpretation on where the front of the house is. Mr. Judd thinks it is well established by our Ordinance. He has absolutely no complaint about that point due to the fact he thinks this certainly does create a unique circumstance.**

**Lastly, he does not feel this problem is in any way self-created by the petitioner. He would tie the motion to the plans.**

**Motion carried, 7-0.**

ROLLCALL VOTE

Yeas: Judd, Jones, Hart, Hughes, Lillie, Loughrin, Lyon

Nays: None

Absent: Miller

**T# 01-04-15**

**2401 RADNOR  
(Appeal 15-02)**

The owners of the property known as 2401 Radnor request the following variance to allow the expansion of the first level of the existing residential structure:

A. **Article 4, Section 4.69 C** of the Zoning Ordinance requires the distance between principal residential buildings be 24.98 ft. for this lot; with 20.10 ft. existing and 20.10 ft. proposed. Therefore, a variance of 4.88 ft. is requested.

One letter of support has been received from a neighbor.

Mr. Cooper advised the petitioner is proposing to build a one-story addition on the rear-western portion of the existing structure. A portion of the existing house is non-conforming with the distance between structures requirement. The proposed addition also includes an area that does not meet the distance between buildings requirement. The front property line is on a slight angle and the front facade of the house follows that angle. Therefore the square house side facade is not parallel to the side property line. As they add on, the structure gets closer to the lot line and the distance between structures portion of the Ordinance comes into play.

Mr. Adam Rosensweig spoke to represent the petitioners, Yvonne and Daniel Kuchersky. There is nothing they can do with the existing structure as it is. They have looked at other opportunities to mitigate and add an addition to the house. Anything they would do will be somewhat impactful to the neighbor's property. They decided to keep the addition to one story instead of going up. This is the best scenario they came up with. A very small portion of the addition is in non-conformance.

At 8:20 p.m. there was no one from the audience who wanted to comment on this appeal.

**Motion by Mr. Jones**

**Seconded by Mr. Lyon as it relates to Appeal 15-2, 2401 Radnor to grant the variance as advertised. He believes the variance is merited; in fact, the property has shown that strict compliance with the restrictions would unreasonably prevent the owner from using the property for the permitted purpose. He believes that granting the variance would, in fact, do substantial justice to the applicant as well as the other property owners in the area. Also, he believes the plight is due to the obviously unique circumstances of the obvious trapezoidal calculations.**

**Because of the unique nature of the lot itself, Mr. Jones does not believe the problem is self-created. For those reasons he would tie the variance to the plans and move for its granting.**

Mr. Lyon indicated he wholeheartedly supports the motion. The plight of the petitioner is somewhat unique and not self-created, as the home has been there for quite a while.

**Motion carried, 7-0.**

**ROLLCALL VOTE**

Yeas: Jones, Lyon, Hart, Hughes, Judd, Lillie, Loughrin

Nays: None

Absent: Miller

**T# 01-05-15**

**1241 WESTWOOD  
(Appeal 15-03)**

The applicant was not present. Chairman Lillie stated the normal procedure for a no-show is that the appeal will be bumped over once to the next regularly scheduled meeting.

**CORRESPONDENCE (none)**

**T# 01-06-15**

**GENERAL BUSINESS**

Mr. Johnson raised a procedural question for discussion. Currently there is an existing non-conforming duplex in a Single-Family Zone District on Lots 78 and 79. The owner proposes to demolish the existing duplex, separate the lots, and revert them back to the two originally platted lots. A home which would not require a variance could be built on Lot 79, but on Lot 78 it would require two variances to construct - minimum distance between both houses on both sides. The question is which should happen first. Two variances, one on each lot, would cost the petitioner double the fees when all they need is two variances on the home when it is constructed on Lot 78.

Mr. Lyon said the way he looks at it is that once a permit is issued to build a house on Lot 79 the house is considered built. Then when they request a permit to construct on Lot 78 the two variances are needed. Work on the premise that the City can only issue one Building Permit at a time and the petitioner cannot get the second permit until the next BZA meeting.

Mr. Hart discussed the issue of self-creation. The first property is not considered. The question is only about the petitioner's ownership of Lot 78 and whether he did anything to that lot to make it non-conforming.

**T# 01-07-15**

**ADJOURNMENT**

No further business being evident, the board members passed a motion to adjourn at 8:36 p.m.

---

Bruce R. Johnson, Building Official