

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS**  
**TUESDAY, JUNE 9, 2015**  
City Commission Room  
151 Martin Street, Birmingham, Michigan

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Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, June 9, 2015. Chairman Charles Lillie convened the meeting at 7:30 p.m.

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

**Absent:** Board Member Jeffrey Jones; Alternate Board Member Cynthia Grove

**Administration:** Bruce Johnson, Building Official  
Scott Lenhart, Building Dept.  
Mario Mendoza, 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# 06-34-15**

**APPROVAL OF THE MINUTES OF THE BZA MEETING OF MAY 12, 2015**

**Motion by Mr. Judd**

**Seconded by Mr. Miller to approve the Minutes of the BZA meeting of May 12, 2015 as corrected.**

Chairman Lillie:

Page 7 - Under *General Business*, strike fourth and fifth sentences and replace with: "A use variance involves a much tougher criteria than a dimensional variance."

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Jones

**T# 06-35-15**

**687 SOUTHFIELD RD.  
(Appeal 15-12)**

The owners of the property known as 687 Southfield Rd. and 692 Frank request the following variances to allow for the construction of an addition between two existing houses connecting them into one.

A. Article 2, Section 2.08 of the Zoning Ordinance requires a minimum rear setback of 30 ft. With 5.17 ft. proposed a variance of 24.83 ft. is requested.

B. Article 2, Section 2.08 of the Zoning Ordinance requires a minimum combined front and rear setback of 55 ft. With 32.75 ft. proposed, a variance of 22.25 ft. is requested.

C. Article 4, Section 4.30 (C) (3) of the Zoning Ordinance does not permit porches or decks to project into the side open spaces. With 7.23 ft. proposed, a variance of 7.23 ft. is required.

Five letters have been received in support of the project.

Mr. Johnson advised the current home at 687 Southfield Rd. was renovated and added onto by the current owners in 2001. The existing house at 692 Frank was built in 1925 and pretty much exists as it was constructed. Both houses comply with requirements of the current Zoning Ordinance individually. However, the rear property line for 687 Southfield will change if the properties are combined, which is the reason for variance requests A and B. Variance C pertains to the proposed front porch added to the existing home on Frank.

Chairman Lillie received clarification that the applicants will leave all existing walls on the house at 692 Frank other than connecting the two houses and extending the porch.

Mr. Johnson noted the two existing platted lots will never go away; they just become one parcel. In response to Mr. Lyon, he advised if the address was on Frank, more of a variance would be required. Also, it would violate the Ordinance to turn this into a multi-family dwelling.

Mr. Peter Stulmeyer of Designhaus Architecture spoke to represent Dr. Jonathan and Kimberly Zaidan, the owners of both properties. They have the opportunity to get the recreational space of a finished basement into the Frank property and increase the upstairs living space relatively seamlessly. They propose to connect the house with additional garage space in a Cape Cod dormer format so that it will look like a cohesive home. There will be 5,800 sq. ft. of living space when everything is complete. No non-conformities are increased between the two parcels because as was mentioned, there are no non-conformities until the homes are connected. All of the adjacent neighbors are in support.

Mr. Judd received clarification that the Zaidan children are age 11 and 3. Mr. Miller asked about the need for the porch and Mr. Stulmeyer answered it is a counter balance and is less of a porch than the one that is there in terms of its proximity to the street. In answer to further questions from board members, Mr. Stulmeyer said the dimension from the porch on Frank to the north property line is 22 ft. If they had not connected the two houses the porch could exist in that format.

The chairman called for comments on this appeal.

Mr. Carson Blake, 743 W. Frank, thought the proposal is a wonderful project and a great addition to the neighborhood.

Mr. Steve Templeton, 682 Frank, said he is very happy with what his neighbors are going to do.

Ms. Ann Halla, 633 Southfield Rd. said she is delighted that the Zaidans want to undergo the project.

Mr. Mark Small, 656 Frank, was very happy with the plans and asked the board to support the requested variances.

**Motion by Mr. Miller**

**Seconded by Mr. Lyon with respect to the petition for 687 Southfield Rd., Appeal 15-12, variances A, B, and C. He moved to approve based on the situation that they are in a dynamic, gentrifying community. As part of gentrification this combining of lots has been done before, although he is not sure with a corner lot and another lot that formed an L. That forms a very unique situation.**

**With that, it renders conformity burdensome just because of the geometry of the lots. Also, this is the classic situation that the board has seen before where there is a front address on a busy street. The front of the existing house that faces Southfield Rd. really faces the residential street, Frank, to the side and the house the way it sits already has non-conformities in terms of its current setbacks so**

**that the combining of these two lots is a situation that he doesn't think could be directly covered by our Zoning Ordinance in a literal sense.**

**He believes that by granting this variance it would do substantial justice to the petitioner as well as to the surrounding property owners. Again, in terms of our gentrifying community it is certainly a very unique problem to this property.**

**In terms of the problem being self-created, certainly the two lots are being purchased and the houses combined, but Mr. Miller thinks the problem is really caused by the geometry of the lots and the Southfield address, or even if it goes to the Frank address. So, he would move to approve and tie the motion to the plans as submitted.**

**Motion carried, 7-0.**

ROLLCALL VOTE

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

Nays: None

Absent: Jones

**T# 06-36-15**

**1950 HOLLAND  
(Appeal 15-13)**

The owners of the property known as 1950 Holland request the following variance to allow for the construction of a new house less than the minimum required distance between principal buildings standard:

A. Chapter 126, Article 4, Section 4.69 (C) of the Zoning Ordinance requires a minimum distance between principal buildings of 14 ft. for this lot. The applicant is proposing 13.05 ft. to the house to the west. Therefore, a variance of 0.95 ft. is requested.

Mr. Lenhart advised the applicant is proposing to demolish an existing home and construct a new home on a 40 ft. wide interior lot. The existing non-conforming house to the west was constructed in 1948 and only has a side yard setback of 4.05 ft. All other setbacks and distance requirements are conforming. If the house to the west was torn down and built to a conforming setback of 5 ft. it would not need a variance. In response to Mr. Lyon, Mr. Lenhart confirmed the house that is going up will be 24 ft. wide.

Mr. Rick Rowe, LRH Homes, said they are asking for a 0.95 ft. dimensional variance which was created because the house to the west, 1936 Holland, is in non-compliance

with the side yard setback, which causes a hardship to them. They have compromised by downsizing the width of their home to 24.4 ft. when a 26 ft. wide home is allowed on a 40 ft. lot. They have tried to minimize any hardship that would be caused if there is future development on the property to the west. The granting of the variance would not have an adverse effect on the adjoining properties to the west or east. Additionally, their proposed house would be very compatible to what is being done in the neighborhood.

Mr. Lyon noted that to make the driveway wider, they could ask for a variance on the east side rather than the west side. However, Ms. Loughrin observed this variance request decreases the amount of non-conformity and brings the home more into conformity.

The chairman called for comments from members of the audience.

Ms. Terry Elliott said she owns the property at 1936 Holland which is next door to the subject property. She wondered why the applicant has to come over to her side and not just split the difference. Chairman Lillie told her that her house is what is causing the problem. Right now it is existing non-conforming. Therefore, if she tears the house down she could not rebuild where it is currently. She would have to move it in .95 ft. so it would comply with the Ordinance. Then there would be 14 ft. between the two houses.

Mr. Jim Eatman, 1910 Holland, asked if the driveway has been narrowed so that the house could be wider. The chairman said the house is probably as narrow as it could be. The driveway is 9 ft. which is pretty much the standard size for a 40 ft. lot.

**Motion by Mr. Miller**

**Seconded by Mr. Hart to approve the requested variance for 1950 Holland, Appeal 15-13. He believes that the burden here is caused by the house to the west which is close to the lot line. It is a house that was built in the '20s and it certainly is causing a hardship on the house in question. It renders conformity certainly burdensome because of the position of that house.**

**The variance will do substantial justice to the petitioner as well as to the surrounding properties, and in particular to the adjacent property. It won't cause a hardship on the house to the west. It is a unique circumstance because of the position of that existing house. Also, the problem was certainly not self-created. Again, the house to the west was built in the '20s and that is what causes the difficulty here. He would tie the motion to the plans as submitted.**

**Motion carried, 7-0.**

ROLLCALL VOTE

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

**T# 06-37-15**

**1179 N. GLENHURST  
(Appeal 15-14)**

The owners of the property known as 1179 N. Glenhurst request the following variance to allow for an addition to be constructed less than the minimum required distance between principal buildings standard:

A. Article 4, Section 4.69 (C) of the Zoning Ordinance requires a minimum distance between buildings of 30.52 ft. for this lot. The applicant is proposing 26.23 ft. to the house to the north. Therefore, a variance of 4.29 ft. is requested.

Mr. Lenhart explained that what is driving the variance is that this is an existing non-conforming house that was built in 1950. The applicant is proposing to add an addition to the attached garage and a second level addition to the home. The problem is that the house is centered on the lot. The addition on the second floor will stay within the existing plain of the house.

Mr. Pietro D'Aleo from D'Anna Associates Architects spoke on behalf of Mr. Timothy Cooper, the home owner. They are asking for the board's consideration of a variance based on the fact they are beautifying the exterior as well as undertaking an addition. In the 1950's when the house was built, the current Ordinance was not in effect. The encroachment as it stands is 4.09 ft.; the proposed encroachment will be 4.29 ft. In response to Chairman Lillie, he explained why it would not work according to the requirements of the owner to indent the second story so that the variance is not needed. Offsetting would create some structural concerns. It would be impractical to support the required structure.

Mr. Judd stated that Mr. D'Aleo is not saying why he needs the variance; he is telling the board why his client wants it. That is not what the Ordinance speaks to. Mr. Hart observed that the span of the length of the encroachment is about 30 ft. Structure to support 30 ft. above would be substantially large; likely a piece of metal. It would be easy to break up that span in any other room of the house, but not in the existing garage.

Mr. Tony Antimiglia with the development company spoke to explain the biggest issue is the existing garage. In order to set the addition back 4.29 ft. it would essentially be over the garage door, thus creating the issue of support. In order to carry the bearing wall at 30 ft. long, it would essentially be 2 ft. into the existing garage door which then would

eliminate a complete door. Mr. Lyon asked them to explain why the addition needs to come out and cannot stay in the existing plain of the garage door. Mr. D'Aleo answered that the addition has to accommodate the master bedroom. Mr. Lyon questioned their rationale as to why strict compliance with the Zoning Ordinance is not possible and would unreasonably prevent them from using the house for the permitted purpose. They need to establish that there is some practical difficulty why they have to move into the required setback. The master bedroom doesn't have to be so big. Part of their goal should be to minimize the variance that is needed. The massing of the gable roof on the north and then coming out to the front of the garage is not exactly minimizing it.

Mr. Antimiglia noted the south side of the house already has an existing gable. Architecturally it would not be pleasing to have a gable on one end and a hip roof on the other end. There has to be a balance.

Mr. Miller clarified the size of the desired bedroom suite is the driver for the increased size of the garage. The tall gable kind of exacerbates the situation. Mr. Antimiglia said the homeowner talked to the neighbors and showed them what he was going to do and there was no objection on their part.

At this time no one in the audience wanted to comment on the appeal.

**Motion by Mr. Lyon**

**Seconded by Mr. Hughes in regard to 1179 N. Glenhurst, Appeal 15-14, to approve the variance (a case can be made; although he doesn't think it was made tonight) for Article 4, Section 469 (C) of the Zoning Ordinance to require a minimum distance between buildings of 30.52 ft. for a variance of 4.29 ft. to get to 26.23 ft.**

**He believes that strict compliance with the Ordinance would be unduly burdensome in that the appellant wants to put on a second floor in the same plain as the existing first floor garage. To set it back, as was talked about, would require substantial support underneath and would present a practical difficulty.**

**He believes that the variance does justice to the homeowner in allowing a second floor over an existing first floor. He also believes that it does substantial justice to the surrounding area in that they have tried to harmonize the addition and not make it look like they have added more onto the house. Therefore, he would move to approve and tie the motion to the plans as presented.**

**Motion carried, 6-1.**

**VOICE VOTE**

Yeas: Lyon, Hughes, Hart, Lillie, Loughrin, Miller

Nays: Judd

Absent: Jones

**T# 06-38-15**

**1307 WEBSTER  
Appeal 15-15**

The owners of the property known as 1307 Webster request the following variance to allow for the construction of a new house less than the minimum required distance between principal buildings standard:

A. Article 4, Section 4.69 (C) of the Zoning Ordinance requires a minimum distance between buildings of 14 ft. for this lot. The applicant is proposing 11.27 ft. to the house to the east. Therefore, a variance of 2.73 ft. is requested.

Mr. Lenhart pointed out the variance request has been amended to reflect a lesser variance. The applicant is proposing to demolish an existing home and construct a new home on a 40.04 ft. wide interior lot. What is driving this request is that all the houses east of this property have a right side driveway and all the existing homes to the west have a left side driveway, causing a dimension between principal buildings difficulty for this lot because it is the one right in the middle. On a 40 ft. wide lot a 26 ft. wide home can be built. The applicant has mitigated that down to 24.5 ft.

Mr. Dan Lynch, owner of DJL3, the company that owns 1307 Webster, spoke. He tried to minimize the amount of variance by working with Mr. Lenhart in an attempt to figure out which side to put the house on and how to design it less than 26 ft. wide. When they switched the driveway to the left they were able to just ask for a variance on the one side. Currently the house to the west is a little too close to the property line at 4.61 ft. They did keep the 14 ft. between the two existing structures. But if the house to the west were to get torn down in the future it would have to meet the 5 ft. setback, which would actually increase the distance between the house they would be building and the new structure. That is the most likely house to get torn down, because the one to the east has already been pretty significantly remodeled.

No one in the audience wished to discuss this appeal.

**Motion by Mr. Lyon**

**Seconded by Mr. Miller in regard to Appeal 15-15, 1307 Webster, he would move to approve the variance as amended. A variance of 2.73 ft. proposes an 11.27 ft. distance to the house to the east. He believes that strict compliance would be unduly burdensome and that this is an unique situation. This is the proverbial 9-5, 9-5, 5-9 problem that the minimum distance between buildings sets up on each block down these narrow lot streets.**



**He believes the appellant has done some action to mitigate, being that the house is 24.5 ft. wide. He would note that there seems to be some stealth creep on these and 24.5 ft. is getting up to the wider houses the board has seen on the 40 ft. lots. The board used to be talking around 22.5 to 23.5 ft.; now they are at 24.5 ft. There seems to be a little creep over the years. He still supports the variance.**

**Mr. Lyon believes it does substantial justice to the homeowner and the surrounding neighborhood and these minimized variances at least maximize the distance between buildings with the 11 ft. instead of going all the way down to 10 ft. He would tie the motion to the plans as presented.**

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Jones

**T# 06-39-15**

**536 PARK  
Appeal 15-16**

The owners of the property known as 536 Park request the following variances to allow for the construction of a new detached garage; and an addition to the existing home less than required minimum front and side yard setbacks:

- A. Article 2, Section 2.08 of the Zoning Ordinance allows for 30% maximum lot coverage. The applicant is proposing 31.27%. Therefore, a variance of 1.27% is requested.
- B. Article 2, Section 2.08 of the Zoning Ordinance requires a minimum 5 ft. side yard setback for the north side open space. The applicant is proposing 3.80 ft. Therefore, a variance of 1.20 ft. is requested.
- C. Article 2, Section 2.08 of the Zoning Ordinance requires the front building setback be the average of homes within 200 ft. With 21.80 ft. front setback required and 16.80 ft. proposed, a variance of 5 ft. is requested.
- D. Article 4, Section 4.30 (C) (1) of the Zoning Ordinance allows for a porch and steps to project into a front open space for a maximum distance of 10 ft. The applicant is proposing 12.35 ft. Therefore, a variance of 2.35 ft. is requested.

Mr. Lenhart explained the applicant is proposing to demolish an existing, non-conforming 718.9 sq. ft. detached garage and carport, and construct a new 616 sq. ft. detached garage (75 bonus sq. ft. for interior staircase). The existing lot coverage is 35%. They are proposing to drop that down to 31.27%, a decrease of 3.73%. The variance request on the front and side lower level addition will not affect lot coverage in that the upper level of the home already occupies the space above. The existing enclosed front entry is to be removed and a new open porch will be constructed. The proposed front variance is for the step area of the proposed porch.

Chairman Lillie summarized that the existing structure is already non-conforming as to lot coverage. If the applicant receives the variance they will decrease the amount of the non-conformity by 3.73% by reducing the size of the garage.

Mr. Gregory Mason, Architect, spoke to represent his clients. He pointed out that the site has seven items of non-conformance. Their proposal is to correct three of the non-conformances and reduce one of them. The hardship for lot coverage is that the house was built in 1926 and is large for the lot size. Demolition of the existing carport and garage will reduce the non-conformity, going from 35% down to 31.27%. They shrank the garage size down as far as they could. Any smaller would not fit two cars. Variances B and C are to fill in a little corner of the house and stop a drainage problem. The foyer expansion is an infill below the second floor cantilevered construction and would match the existing front and side yard setbacks currently constructed with the second level. The final variance D is to raise the height of the porch to match the existing home's first finish floor elevation. The porch is proposed to be reconstructed in its current position with re-use of the existing foundations. The variance is to provide enough space for two stairs to go up to the porch.

They are correcting the offset problem with the garage by setting it back the required 3 ft. The height will be approximately the same as the current garage. Both have a 10/12 roof pitch. He hopes the board will recognize they are taking a number of non-conforming items and reducing them down with their improvements. They want to fix the house up and make it aesthetically pleasing so that it looks nice for the community.

Mr. Miller noted with regard to Variance A the size of their proposed garage is 28 ft. x 22 ft. with the inclusion of a staircase to the second floor. The board always looks to 20 ft. x 20 ft. for a minimum size garage. If their garage was 20 ft. x 23 ft., Variance A would not be needed. Mr. Mason answered they looked at trying to shrink the garage, but in order to accommodate the owners' vehicles plus lawn equipment they determined the proposed dimensions would be about minimum. They are shrinking it by roughly 4% trying to get a garage that would accommodate the vehicles.

Secondly, Mr. Miller noted with respect to Variance D that the two steps could go off to the side. Mr. Mason said they talked about that but the surrounding homes have approaches from the front up. Having a side step entranceway would really diminish

the approach into the home and it would not be as nice as a direct approach. Additionally, none of the neighbors object to what they are proposing.

No one from the public wanted to comment on this appeal.

**Motion by Mr. Judd**

**Seconded by Mr. Hughes on Appeal 15-16, 536 Park, the petitioner's home is in an interesting area which is ripe with all kinds of non-conformities over the years and they seem to have piled up as he recalls. The petitioner seeks four variances. Three of them deal with Article 2, Section 2.08, a lot coverage issue, although he notes that the petitioner has decreased the amount of lot coverage by 3.73%. The second Variance B is the side yard setback in the north side open space. The third Variance C is a front building setback. Variance D deals with Article 4, Section 4.30 (C) (1) regarding porch and steps in the front open space.**

**In his presentation the architect for the petitioner notes that this particular house has seven non-conformities and this is an attempt to correct or ameliorate at least four of them. The one term that we always look for in dealing with a difficult piece of property is mitigation. In this case Mr. Judd thinks the architect has certainly shown yeoman's effort at mitigation.**

**He thinks that to require strict compliance with a house as quirky as this one would be unnecessarily burdensome under the circumstances. Further, he thinks that to grant the variances would represent substantial justice to both the property owner and the other adjoining property owners.**

**The plight of the owner is due to unique circumstances on this piece of property, which is quite obvious, looking at the laundry list of other problems with it. Of course we always come down to the mettlesome problem of whether or not this problem is self-created. However, he is sure it is. But, that is where mitigation comes in and he feels that the petitioner has argued quite well the need for the variances requested. While the board doesn't regulate aesthetics, Mr. Judd thinks that even the steps pass muster in this particular case. For those reasons he would move to approve and to tie the motion to the plans.**

Mr. Miller commented on Variance D. The requirement of the steps is based on the nature of the property. There are unusual topography changes in this neighborhood. Therefore the need for steps is not just an aesthetic, but it is a requirement to deal with the topography.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None  
Absent: Jones

**T# 06-40-15**

**607 STANLEY  
Appeal 15-17**

The owner of the property known as 607 Stanley requests the following variances to allow for the construction of a second-story addition to the existing home and an expansion of an existing front porch into a required side open space:

- A. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires a minimum of 5 ft. side yard setback for the north side open space and the total of both side yard setbacks equals 14 ft. for this property:
- The existing setback along the north property line is 1.44 ft; with 1.44 ft. proposed, a variance of 3.56 ft. is requested.
  - The existing combined total side yard setbacks is 13.31 ft.; with 13.31 ft. proposed, a variance of 0.60 ft. is requested.
- B. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires the combined front and rear setbacks total 55 ft. The existing combined front and rear setbacks equal 45.40 ft. With 45.40 ft. proposed, a variance of 9.60 ft. is requested.
- C. Chapter 126, Article 2, Section 2.10 of the Zoning Ordinance requires the maximum lot coverage for this lot not to exceed 30%. The existing lot coverage is 36.73%. With 37.04% proposed, a variance of 0.31% is requested.
- D. Chapter 126, Article 04, Section 4.30, (C) (2) of the Zoning Ordinance allows overhangs to project 0.83 ft. into the north required side yard setback for this property. Due to the existing home's non-conforming setback, the existing overhang projects 5 ft. plus into the required open space. With 4.89 ft. proposed, a variance of 4.06 ft. is requested.

The property is zoned R-3.

Four letters have been received in support of the proposed variances.

Mr. Johnson advised the existing one-story home was constructed in 1923 prior to the current subdivision plat, which occurred in 1925. The existing home does not comply with the current Zoning Ordinance in regards to north side yard setback, total side yard setbacks, combined front and rear setbacks, lot coverage, and the overhang projection into the north side open space. These are all legal non-conforming conditions. They were existing prior to the current Zoning Ordinance. An addition was added to the

original home in 1985. At that time a side yard setback and overhang projection variance was granted. There is a discrepancy between the current survey and the 1985 site plan and the north side yard setback is actually closer than was shown in the 1985 appeal. The lot is irregular shaped as it is narrower in the front as compared to the rear. Initially the plan was to have a stairway coming off the front of the porch but in discussions with the applicant it was moved to the side rather than having it project closer to the property line than the current porch already does. The majority of the overhang request is in the front of the lot where it is the narrowest. The proposed addition meets all Ordinance requirements as far as the height. The applicant has removed a lot of brick pavers in the rear to increase the open space. In response to the chairman's question, Mr. Johnson confirmed this is a platted, therefore buildable lot.

Mr. Judd asked where they would put the ladder to do repairs on the north side of the house. Mr. Johnson replied that the applicant is researching different methods that would allow the property to be maintained without crossing the property line.

Ms. Karen Asadourian, the homeowner, said she fell in love with the 1920's character of this house. However, it has some serious issues. For instance, there is only one bedroom and there are only two small closets in the whole house. Furthermore, the front door is not usable because there are no stairs to the ground level. Therefore, she thought a renovation was necessary. Inspection of the property revealed no concerns with the foundation being able to support the basement, first floor, and second story. There are several factors in this case that are really unique. The lot is about 4,200 sq. ft. and the Zoning Ordinance for R-3 is designed for a lot that is at least 4,500 sq. ft. and up to 6,000 sq. ft. In her neighborhood there are 433 lots. Of those 433, there are only 11 lots that are smaller than her lot. There is a two-story home on each of them. In addition to the lot being undersized, the shape of the lot is unique. There are not very many examples of lots in Birmingham that are "L" shaped. The situation is incredibly unique based on the under-sized lot, the shape of the lot, and the non-conforming house.

A literal interpretation of the Ordinance would deprive her of the rights commonly enjoyed by other properties in her neighborhood. All of the other houses on her block are two-story homes with two car garages, and several of the garages have two stories. She is really just asking for a modest renovation that stays within the existing footprint. Because she recognizes that her current structure is non-conforming in lot coverage, she has not asked for a two-car garage which she would love to have. The renovated house will be more harmonious with the street in that it will be two stories, which is in line with all the other houses. Therefore, she feels that granting the variances is within the spirit and intent of the Ordinance and does substantial justice to the neighborhood.

She and her architect have agreed that a craftsman style house is most appropriate for the neighborhood. Every effort has been made to respect the character of the house

and its history. She feels the plans are the perfect balance between maintaining history and improving on the property.

They have pulled the overhang back so that it no longer encroaches on the north side. A picket fence will be removed so she can access that side of the house. She intends to install a maintenance system so the property can be safely maintained by contractors without the use of ladders. She has also mitigated by removing some of the pavers in the backyard to improve the open space. By granting the variances, it will allow her to enjoy what others in the neighborhood are enjoying.

Mr. Lyon inquired if she considered removing the house and constructing a new one rather than going through all of the renovations. Ms. Asadourian answered that she might have but the foundation and basement are in good condition and the property has been well maintained.

Chairman Lillie invited comments on this appeal from members of the audience.

Ms. Jan Nearswick from Caldwell Banker Professionals said she represents Roger Castle who owns 587 Stanley. She produced a Power of Attorney for the purpose of objecting to these variances. She clarified that 587 Stanley was built in 1885. There isn't a reasonable amount of distance between the two homes. The property at 587 Stanley has been modified because of the hardship imposed by 607 Stanley. Mr. Castle's concern is that he doesn't want construction people on his property. There is no alternative but to have the building trades on his property, the fence to be erected on his property, and the extending overhang will still be there. He doesn't feel that is in anybody's best interest and it could potentially affect the value of his home as it is presently on the market.

The chairman noted that the petitioner has already testified that with the variance the overhang will not encroach on her client's property. Assuming they can construct this home without going on her client's property, Chairman Lillie asked if her client has an objection. Ms. Nearswick replied the builder who did the renovation on 587 Stanley has stated it is impossible to build a second story without ever stepping 18 in. off the property. It would be impossible to execute the plans without going onto the adjacent property.

Mr. Miller observed that in urban environments building to zero lot line is done all the time. Therefore, he was skeptical of the claim of impossibility.

**Motion by Mr. Miller**

**Seconded by Mr. Judd to support the appeal at 607 Stanley, Appeal 15-17, that would include Variances A through D. Certainly this is a unique property and the problems here are created due to the unique circumstances of the property. He believes that strict compliance with the Ordinance is certainly burdensome to the**

execution of the proposed improvements to this residence. The shape of the lot and more than that, the closeness to the adjacent lot is again a very unique circumstance.

Mr. Miller believes that what is being asked here would do substantial justice certainly to the petitioner and to the general area. The improvements that are requested here are very common within Birmingham, especially in this neighborhood and particularly on this street. Therefore, again, he motions to support this petition and tie the motion to the plans as submitted.

Mr. Lyon stated that it seems they are propagating a rather severe existing non-conformity by allowing a substantial renovation to occur so close to the property line. However, what turned him around is that these things are not unheard of.

**Motion carried, 7-0.**

VOICE VOTE

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

Nays: None

Absent: Jones

**T# 06-41-15**

**CORRESPONDENCE** (none)

**T# 06-42-15**

**GENERAL BUSINESS**

**T# 06-43-15**

No further business being evident, the board members passed a motion to adjourn.

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Bruce R. Johnson, Building Official