

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, NOVEMBER 10, 2015**

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, November 10, 2015. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members Kevin Hart, Jeffrey Jones, Randolph Judd, John Miller, Erik Morganroth

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

Administration: Bruce Johnson, Building Official
Scott Lenhart, Asst. 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# 11-68-15

APPROVAL OF THE MINUTES OF THE BZA MEETING OF OCTOBER 13, 2015

Mr. Miller:

Page 4 - Last paragraph above "Motion carried," strike "a grocery store that" and replace it with "zoning that allows a grocery store, however. . . ."

Mr. Jones:

Page 6 - State the motion as it was voted upon, replacing "determined" with "considered."

Motion by Mr. Jones

Seconded by Mr. Miller to approve the Minutes of the BZA meeting of October 13, 2015 as corrected and amended.

Motion carried, 6-0.

VOICE VOTE

Yeas: Jones, Miller, Hart, Judd, Lillie, Morganroth

Nays: None

Absent: Lyon

T# 11-69-15

**1240 LAKE PARK
(Appeal 15-30)**

The owners of the property known as 1240 Lake Park request the following variance to allow for the construction of a house addition less than the required minimum distance between principal residential buildings:

A. Chapter 126, Article 4, Section 4.69 (C) of the Zoning Ordinance requires a minimum distance between buildings of 26.25 ft. for this lot. The applicant is proposing 19.30 ft. Therefore, a variance of 6.95 ft. is requested.

Mr. Lenhart explained the applicant proposes to build an addition onto an existing, non-conforming house. The non-conformance is due to the distance between buildings being short. All other proposed setbacks and distance requirements for this lot are conforming.

Chairman Lillie received confirmation that 19.30 ft. is existing. Mr. Lenhart advised that the applicant wants to tear down part of the house and extend it out further, another 14.75 ft. beyond the current house; but the extension will stay in the existing plane of the house. The lot to the south is narrower so it doesn't need such a wide side yard setback. If they ever want to do some work, a 20.5 ft. setback would be needed. The applicant's lot is wider and therefore needs more distance between structures.

Further responding to Chairman Lillie, Mr. Lenhart explained that if the requested variance were granted and the house to the south wanted to extend to the rear, they would not need a variance because their house jogs over 5 ft.

Mr. Hart received clarification that the adjacent home to the south is also existing, non-conforming.

It was discussed that if the owner of the house to the south chooses to align an addition with the front portion of the home, a variance for the building separation of 1.22 ft. would

be required, regardless of the granting of the petitioner's variance for the addition, since the 19.30 ft. separation exists at the original home. Therefore, the granting of the requested variance would not be injurious to the neighbor.

Mr. Michael J. Gordon, Moiseev/Gordon Associates, Inc., spoke to represent the homeowner, Mr. Steve Glucksman; and Mr. Jim Charles, the builder, both of whom were present. Mr. Gordon indicated they are trying to be sensitive to the neighbors to the south so that the addition will have minimal impact. It makes sense to remove the previous addition from 20 years ago and upgrade it.

There were no comments from the audience on this appeal at 7:45 p.m.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to 1240 Lake Park, appeal 15-30, to approve. The problem, he believes, is not self-created. The location of the existing house and the adjacent house to the south is a pre-existing condition. Both homes are outside of the zoning envelope, which is certainly a very unique circumstance of the property.

Mr. Miller thinks that strict compliance would render expanding this house burdensome and he certainly believes a variance would do substantial justice to the petitioner and the adjacent property, and would cause no injury again to that adjacent property or any future property owners that might want to expand that house.

So again, Mr. Miller would motion to approve and tie that to the drawings as submitted.

Motion carried, 6-0.

ROLLCALL VOTE

Yeas: , Miller, Hart, Jones, Judd, Lillie, Morganroth

Nays: None

Absent: Lyon

T# 11-70-15

CORRESPONDENCE (none)

T# 11-71-15

GENERAL BUSINESS

A. Discussion on adding a section to the agenda for public comments

Mr. Jones expressed the desire to comply with the Charter and the wishes of the City Commission.

Mr. Johnson noted that other City boards seem to say at the end of their agenda "Open to the public for matters not on the agenda." All were in favor of that wording.

T# 11-72-15

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 7:53 p.m.

Bruce R. Johnson, Building Official