

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS  
TUESDAY, MAY 9, 2017  
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, May 9, 2017. Chairman Charles Lillie convened the meeting at 7:30 p.m.

**Present:** Chairman Charles Lillie; Board Members Jeffery Jones, Vice Chairman Randolph Judd, John Miller, Erik Morganroth; Alternate Board Members Kristen Baiardi, Jason Canvasser

**Absent:** Board Members Kevin Hart, Peter Lyon

**Administration:** Matthew Baka, Senior Planner  
Bruce Johnson, Building Official  
Mike Morad, Building Inspector  
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# 05-31-17**

**APPROVAL OF THE MINUTES OF THE BZA MEETING OF APRIL 18, 2017**

Ms. Baiardi noted that her last name is spelled incorrectly.

**Motion by Mr. Morganroth**

**Seconded by Mr. Canvasser to approve the Minutes of the BZA meeting of April 18, 2017 as amended.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Morganroth, Canvasser, Baiardi, Jones, Judd, Lillie, Miller

Nays: None

Absent: Hart, Lyon

**T# 05-32-17**

**420 E. FRANK**

**Appeal 17-13**

The owners of the property known as 420 E. Frank request the following variance to allow for the construction of a three-story multiple-family building in the TZ-1 zone, with reducing sidewalk widths.

A. **Chapter 126, Article 4, Section 4.73 (B)** requires a minimum of 6 ft. wide sidewalks. The applicant is proposing 5 ft. 4 in. wide sidewalks along E. Frank and 4 in. wide sidewalks along Ann St.; therefore variances of 8 in. and 2 ft. are requested respectively.

This property is zoned TZ-1.

Mr. Baka noted that the applicant is proposing to match the existing sidewalk width of the abutting properties. This is the first site plan review that has come up in the new TZ-1 Zone. In response to the Chairman, Mr. Baka thought the rationale for having the sidewalks 6 ft. in width was that it was anticipated a lot of the TZ Zones would be in more urban areas. The new TZ-1 Zone contains only three or four properties. The additional sidewalk width would be on all the frontage lines of the parcel in question. Because this is the first time a TZ-1 parcel has gone through the site plan review process, this might be one of those unintended consequences. The Planning Board was surprised they did not have a mechanism in the Ordinance to allow them to match the existing sidewalks. They gave their full support to matching existing conditions and will definitely look at amending the TZ-1 Ordinance.

Mr. Johnson noted Mr. O'Meara told him that typically the Engineering Dept.'s sidewalk replacement program consists of an inspector going out and marking flags that are damaged and need to be replaced on an existing sidewalk. They then replace the marked flags, matching the existing width of the sidewalk. The only time they would consider increasing the width is if everything was being installed new as part of a special assessment.

Mr. John Shekerjian, agent for the applicant, said the Planning Board Minutes of their Preliminary Site Plan Approval state that the board concluded the width of the sidewalks should be determined by how they relate to the other sidewalks. If the Frank St.

sidewalk were to increase by 8 in. to meet the Ordinance it would go into their property. Their sidewalk abuts metered parking along that stretch, so it is all pavement now.

At 7:47 p.m. there was no one in the audience who wish to comment on this petition.

**Motion by Mr. Miller**

**Seconded by Mr. Judd. In regard to 420 E. Frank St., Appeal 17-13, he would submit to approve the petitioner's request. It seems that aligning the sidewalks with the existing sidewalks is pretty reasonable, especially if you walk up and down the sidewalks on that corner. Certainly continuing Ann St. is an obvious thing to do and it is very similar to the condition down Frank St.**

**So Mr. Miller thinks one of the overriding concerns would be about doing justice to the surrounding properties in the neighborhood, and by granting this variance he believes it would do substantial justice in that regard.**

**It is a unique circumstance here due to the adjacent properties and the existing sidewalks, so that certainly was not self-created.**

**He thinks that strict compliance, especially along Ann St., would certainly create a problematic situation with misaligned sidewalks. So again, he would submit to approve as submitted on the drawings.**

Mr. Jones indicated his support for the motion. However, it is still unclear as to what the Ordinance may have meant. There is no reason why the sidewalk can't be put in, if that is what the Ordinance requires.

Mr. Morganroth said he would also support. However, along with that same concept he feels there is nothing burdensome about the requirement of the Ordinance. In general he does think that when there is an application for a rezoning, the expectation should be to follow the required ordinances within that rezoning. However, he recognizes the danger of having the sidewalk suddenly jut over and change width.

Mr. Judd said he understands the reality of having a sidewalk comprised of several widths would be absurd. Therefore he definitely supports the motion.

Chairman Lillie said this situation is unique and he would support the motion. It isn't a case where the petitioner can't put in a 6 ft. sidewalk along Ann St., however he doesn't particularly want to. On Frank St. it is close enough that the difference won't be noticed.

**Motion carried, 7-0.**

ROLLCALL VOTE

Yeas: Miller, Judd, Baiardi, Canvasser, Jones, Judd, Morganroth

Nays: None  
Absent: Hart, Lyon

**T# 05-33-17**

**2200 AVON LN.  
Appeal 17-14**

The owners of the property known as 2200 Avon Ln. 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 4.74 (C)** of the Zoning Ordinance requires a minimum of 20.00 ft. between principal buildings for this lot. The applicant is proposing 18.55 ft.; therefore, a variance of 1.45 ft. is requested.

This property is zoned R-1.

Correspondence in favor of the proposed renovation has been received from four neighbors along Avon Ln.

Mr. Johnson advised the applicant is proposing to construct a second-story addition over the garage and a rear two-story addition to an existing non-conforming structure. All other setbacks and distance requirements are conforming. The identical variance was approved in March of 2016 but a Building Permit was not obtained within one year of the approval. The applicants are here tonight seeking a re-approval of that variance. The need for a variance is caused by the house to the east because the applicant's home meets its totals. The drawings show that some of the materials may have changed since March 2016.

Mr. Jeff Klatt, Krieger Klatt Architects, was present with the homeowner, Ms. Kim Hursley. He passed out neighbor approval letters, including from the neighbor to the east who is most affected by this renovation. The homeowners decided to make a few changes to the home to keep the project within budget. Therefore they decided to scale the master bedroom addition back a bit. The footprint is not changing at all but the materials are different.

The practical difficulty exists due to the existing non-conforming condition of the house. They feel it would be burdensome to push the new addition 1.45 ft. in because they couldn't take advantage of the existing bearing walls. They also feel the addition will compliment the neighborhood.

Mr. Morganroth received confirmation that the change in materials did not change the requested variance.

No one from the audience wished to comment at 8 p.m.

**Motion by Mr. Judd**

**Seconded by Mr. Jones in regard to Appeal 17-14, 2200 Avon Ln., the petitioner is back before us again after a one year absence during which they did not take advantage of a variance that was granted. The facts remain the same. The petitioner is seeking a variance of 1.45 ft. We have a pre-existing non-conformity. The request by the petitioner will increase that non-conformity but stay within the same plane.**

**In reviewing this, Mr. Judd feels that strict compliance would be unreasonably burdensome in this case. He feels that to grant this variance would do substantial justice to the applicant and other property owners. Further, he feels their plight is due to a unique circumstance, namely the proximity of a building on the east side and he does not feel that the problem is self-created.**

**For those reasons he would tie the motion to the plans and grant the variance.**

Mr. Jones commented there are not only no complaints from the neighbors, but letters of support as well.

**Motion carried, 7-0.**

**ROLLCALL VOTE**

Yeas: Judd, Jones, Baiardi, Canvasser, Lillie, Miller, Morganroth

Nays: None

Absent: Hart, Lyon

**T# 05-34-17**

**345 HAWTHORNE**

**Appeal 17-15**

This appeal is off tonight's docket because it will be necessary to re-advertise.

**CORRESPONDENCE (none)**

**T# 05-35-17**

**GENERAL BUSINESS**

**T# 05-36-17**

**OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

A member of the audience said she plans to rebuild the garage of her historic home. Mr. Johnson suggested that she come in to the Building Dept. and speak with him or with Scott Worthington in order to go over the requirements. She complimented the board for the work they do.

The Chairman suggested that election of officers be held next month.

**T# 05-37-17**

**ADJOURNMENT**

No further business being evident, the board members passed a motion to adjourn at 8:10 p.m.

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Bruce R. Johnson, Building Official