

BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, JUNE 12, 2018
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, June 12, 2018. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members Kevin Hart, Jeffery Jones, John Miller, Erik Morganroth; Alternate Board Members Jason Canvasser, Francis Rodriguez

Absent: Board Member Vice Chairman Randolph Judd

Administration: Bruce Johnson, Building Official
Mike Morad, Asst. Building Official
Carole Salutes, Recording Secretary
Jeff Zielke, Building Inspector

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 who serve staggered three-year terms. 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 two interpretations on this evening's agenda.

T# 06-47-18

APPROVAL OF THE MINUTES OF THE BZA MEETING OF MAY 8, 2018

Chairman Lillie:

Page 9 - Delete the fifth paragraph and replace with: "Chairman Lillie said that on a given street if all the driveways are either on the left side of the house or on the right side of the house, one of the corner lots will wind up having a problem with the distance between buildings."

Page 11 - Globally Replace "Mr. Vote" with "Mr. Vogt."

**Motion by Mr. Jones
Seconded by Mr. Morganroth to approve the Minutes of the BZA meeting of May 8, 2018 with the changes.**

Motion carried, 6-0.

VOICE VOTE

Yeas: Jones, Morganroth, Canvasser, Hart, Lillie, Miller, Rodriguez

Nays: None

Absent: Judd

T# 06-48-18

**1097 CHESTERFIELD
Appeal 18-21**

The owner(s) of the property known as 1097 Chesterfield request the following variance(s) to install an emergency egress window into the required front open space:

A. Chapter 126, Article 4, section 4.30 C (4) of the Zoning Ordinance allows basement window wells to project into a required side or rear open space a maximum of 3.00 ft. measured to the inside of the well opening. A proposed basement window well is to project 2.53 ft. into required front open space; therefore, a variance of 2.53 ft. is requested.

This property is zoned R-1.

Mr. Morad explained the existing home is located on a corner lot which has had an addition constructed on the rear. The rear addition was constructed on a crawl space. The proposed finished basement is to have a bedroom which requires an egress window to be located in it. The applicant is proposing an egress window well to project into the required front open space.

The applicant offered two alternate locations for the window well. One location is blocked by the AC units and the power coming into the home. The second location has a gas meter and a water faucet in the area. The two alternate locations are not in the proposed bedroom, but they are required to be; so they are not alternates.

Mr. Warwick Stirling, the homeowner, said they want some kind of safety window in the basement. The window well would be invisible from the street because of the landscaping surrounding it. The proposal is that it would be at grade, built out of brick, and have a metal grate over the top. He verified for Mr. Miller that the window well

would have existing landscaping surrounding it as shown in the photos that were submitted with the appeal.

Mr. Morad advised that by Ordinance the window well would be restricted to no more than 8 in. above grade.

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

Motion by Mr. Morganroth

Seconded by Mr. Jones in regard to Appeal 18-21, 1097 Chesterfield, Chapter 126, Article 4, section 4.30 C (4) the applicant is requesting a variance for 2.53 ft. into the required open space for an egress window well as well as the installation of a window well into the front yard setback.

Mr. Morganroth moves to approve, based on that for him the applicant has shown a practical difficulty. The location of the bedroom makes sense based on the challenges of the existing mechanicals. The egress window has to be installed. So, for the homeowner to have a finished basement bedroom he needs an egress window and this is the most practical location.

He ties his motion to the statement from the applicant that he intends to veneer the interior and any exposed exterior in either brick or stone with, as he proposes in his documents, a limestone or bluestone cap, as well as an appropriate amount of screening because it is being allowed on the front elevation.

The motion is tied to the plans as submitted, with the additional details.

Motion carried, 7-0.

Mr. Jones commented there are only certain areas where a basement bedroom could go. He doesn't know why the Ordinance couldn't be amended to permit a window of this nature in the front setback, since it already permits it on the sides. Mr. Johnson agreed to bring that up at a development meeting.

Mr. Rodriguez announced that he also supports the motion. He does not think it will adversely affect any of the neighbors. Given the existing landscaping the public will not see the window.

Mr. Hart thought it is commendable that the appellant wants to install the window for safety reasons. He will support the motion.

Mr. Miller said he also supports the motion. He wished the submittal was more explicit. However, he thought it is obvious what the applicant wants to do.

ROLLCALL VOTE

Yeas: Morganroth, Jones, Canvasser, Hart, Lillie, Miller, Rodriguez

Nays: None

Absent: Judd

T# 06-49-18

1370 LATHAM

Appeal 18-22

The owner(s) of the property known as 1370 Latham request the following variances to construct a garage addition on an existing non-conforming home:

A. Chapter 126, Article 2, section 2.08 of the Zoning Ordinance requires the front yard setback is the average of homes within 200 ft. The required front yard setback for this property is 58.97 ft. The proposed setback is 39.19 ft; therefore, a variance of 19.78 ft. is requested.

B. Chapter 126, Article 4, section 4.75 A (1) of the Zoning Ordinance requires that attached garages be set back a minimum of 5.00 ft. from the portion of the front façade that is furthest setback from the front property line. The proposed garage is 14.33 ft. in front of the furthest front facade. Therefore, a variance of 19.33 ft. is requested.

This property is zoned R-1.

Mr. Zielke explained this non-conforming home has an existing front street-facing garage with a single 16.00 ft. garage door. The existing garage also is non-conforming to being 5.00 ft. behind the furthest front façade. The applicant is proposing an addition to the front of the existing two car garage which will expand the non-conforming structure by 8 ft. The applicant is proposing to correct the widths of the garage door(s).

Mr. Hart noticed that the inside depth of the garage is barely 17 ft.

Mr. Roger Young with Young & Young Architects spoke to represent Dr. Paul Gradolph, the homeowner. The home was built in 1981. The practical difficulty is that the rear yard falls precipitously to the north along the Rouge River ravine. Dr. Gradolph has been parking outside the garage. He parks his classic Corvette inside but one stall is basically not useful for parking his regular vehicle. Recyclables and garbage are stored there. The need for increased depth is to allow enough room to park a vehicle, to walk around that vehicle and still have room for garbage cans. They want a provision to provide an accessible ramp entrance into the home through the garage, if needed in the future. Distance from the curb to the garage is about 45 ft. so they are still way back. Latham curves, so that visibly it can't be seen that the garage is closer to the road than the neighbors' garages. They feel the depth of the garage at 25 ft. is akin to what is

seen in new construction. It will not project any further than the landscape wall. The plan is to replace the single overhead garage door with two 9 ft. overhead doors.

They received a letter of support of the variances from the neighbors to the west.

Chairman Lillie noted that 25 ft. may be the depth for new construction, but there are many houses in the City that don't have a garage that deep.

Mr. Morganroth said he is involved with new construction and what he is used to is a 20 - 22 ft. garage depth. So he sees this request as excessive, considering the garage is existing non-conforming. Mr. Young replied it would be a tremendous benefit to the homeowner to have 17 ft. to the face of the vehicle, 2 ft. for circulation and 3 ft for storage space. In terms of mitigation, as it relates to the exterior architecture a foot or two would not be noticed.

Chairman Lillie noted that how the house looks doesn't justify increasing a non-conformity.

Mr. Canvasser indicated that he too is having trouble with the 8 ft. variance request.

Mr. Young said they would be open to offering a lesser variance by reducing the request from 8 ft. to 6 ft. 5 in. from the face of the existing building.

Mr. Hart said his experience has been that 24 ft. x 24 ft. is a minimum two-car garage.

It was agreed that the board has the ability to grant a variance that is less than what was advertised if nothing else changes.

No one in the audience wished to comment on this appeal at 8:26 p.m.

Motion by Mr. Hart

Seconded by Mr. Miller in regard to 1370 Latham, Appeal 18-22, that the board approve the variance request (A) with the modification for Chapter 126, Article 2, section 208 that the applicant is no longer asking for an 8 ft. extension of the existing non-conformity, but is asking for a 6 ft. 5 in. variance to the non-conforming structure. The variance would now be 18.20 ft.

He thinks that the appellant has demonstrated that this would be substantial justice for the owner and for the neighborhood. We have an existing non-conformity which is a practical difficulty and a hardship. Again, he thinks the size being close to 24 ft. is a reasonable request.

The second variance (B) to Chapter 126, Article 4, section 4.75 A (1) is also approved. at a modification to 17.75 ft.

The motion is tied to the plans and letters presented this evening.

Mr. Rodriguez said he will support the motion because of the unique circumstances that apply to the property and the reduced variances.

Mr. Canvasser indicated he will not support the motion because the goal is to get rid of a pre-existing non-conforming use if possible. In this case he is not convinced the applicant has mitigated to the fullest extent possible to allow a garage that fits a modern vehicle.

Chairman Lillie announced that he also will not support the motion for the reasons that Mr. Canvasser has stated and that the board does not have enough information to make an informed decision.

Mr. Morganroth stated he would not support the motion. He thinks the request exceeds what is reasonable considering the garage is existing non-conforming.

Mr. Miller said he supports the appeal. There are two garage doors that reduce the scale and he thinks that is a further mitigation and a softening of the fact that the garage is being pushed forward into the front yard. Also, mitigating the situation is the introduction of a closed storage area that will hide some of the clutter, with the garage facing out to the street.

Mr. Jones said he believes this is a unique circumstance. The house cannot go back because the lot drops off into a ravine. He doesn't know if 6 or 8 more feet added to the garage will affect the community or the neighborhood. But he is keenly aware that he doesn't like to sit on the Board of Zoning Appeals and allow extension of the non-conforming use. He doesn't know if an additional 6 ft. 5 in. will do it and he isn't going to support the motion because he thinks more information is needed.

Motion failed, 3-4.

ROLLCALL VOTE

Yeas: Hart, Miller, Rodriguez

Nays: Jones, Lillie, Morganroth, Canvasser

Absent: Judd

06-50-18

CORRESPONDENCE (none)

T# 06-51-18

GENERAL BUSINESS

a) Rules of Procedure Discussion

Chairman Lillie recalled this is a continuation from last month's discussion. There are still some issues that need to be resolved. A quorum is four (4) board members present. When an even number of members is present and there is a tie vote then the applicant has the option to come back next month.

Mr. Johnson highlighted proposed changes to the Rules:

- An appeal stays all proceedings in accordance with Act 110, Public Acts of 2006, Article VI, section 125.3604 (3).
- For a motion to either grant or deny a petitioner's request, the motion must receive four (4) affirmative votes.
- When the motion made is to approve or deny a petitioner's request and if there is a tie vote, then the vote results in no action by the board and the petitioner shall be given an opportunity to have his or her request heard at the next regularly scheduled meeting when all the members are present.
- When there are only six (6) members of the board present for a meeting, then a petitioner requesting a use variance shall be given an opportunity before his/her request is heard to elect to have it heard at the next regularly scheduled meeting where they would be first on the agenda.
- When there are only four (4) or five (5) members present for a meeting, than all petitioners shall be given an opportunity before the petitioner's request is heard to elect to have the request heard at the next regularly scheduled meeting.

Mr. Johnson recommended that he and the chairman spend more time working out the specifics to be discussed further at the August regular meeting.

T# 06-52-18

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA (no public was left)

T# 06-53-18

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:53 p.m.



Bruce R. Johnson, Building Official