

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**MINUTES**  
**May 20, 2019**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, May 20, 2019, at 5:00 p.m. in the Council Chamber at Mountain Brook City Hall.

Board Present: Norman Orr                      Absent: Patrick Higginbotham, Chairman  
Richard Simonton                              William Hereford, Co-Chairman  
Chris Mitchell  
Gerald Garner  
Rhett Loveman

Also present: Virginia Smith: Council Liaison  
Dana Hazen: Director of Planning, Building and Sustainability  
Glen Merchant: Building Official  
Tammy Reid: Administrative Analyst

Mr. Orr presiding over the meeting; he asked if all adjacent property owners in each of the cases on the agenda received legal notice of this hearing. Ms. Reid confirmed that, based on the information supplied by the applicants, they had been notified.

Mr. Orr stated that any variance which is granted today expires and becomes null and void twelve months from today, unless construction is begun in less than twelve months from today on the project for which the variance is granted. If construction will not be started within twelve months from today, the applicant may come back in eleven months and ask for a six-month extension.

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The agenda stood approved as printed. Mr. Orr announced that he is recusing himself from Case A-19-13 and that Mr. Mitchell will chair for that case. He noted that it will take a vote of at least four affirmatives to approve a variance.

**1. Approval of Minutes – April 15, 2019**

Motion: Mr. Mitchell, motion to approve the minutes as submitted.

Second: Mr. Garner

Vote: Aye:                      Nay:  
Orr                                      None  
Simonton  
Mitchell  
Garner

Motion carries by unanimous voice vote of those members who attended the April meeting.

**2. Case A-19-11: 8 Alden Lane**

**EXHIBIT 1**

Jack and Lane Bethay, property owners, request a variance from the terms of the Zoning Regulations to allow a new screened porch to be 10 feet from the rear property line

(southwest) in lieu of the required 35 feet, and for an existing fireplace/chimney to remain as located 8.5 feet from the rear property line (in lieu of the required 10 feet for a detached accessory structure). - **8 Alden Lane.**

This case carried over from April 15, 2019; subsequently, the applicant withdrew this application.

### 3. Case A-19-13: 3021 Cambridge Road

### EXHIBIT 2

Charles and Ashley Parrish, property owners, request a variance from the terms of the Zoning Regulations to allow a new detached accessory building to be 1.6 feet from the side property line (northwest) in lieu of the required 10 feet.

**Hardships:** The hardships in this case are the irregular shape of the lot, the lot size (14,451 sf in lieu of the required 30,000), and existing design constraints.

Mr. Orr recused himself from participating in this case; Mr. Mitchell acted as chair.

It is noted that on April 15, 2019, the Board approved the applicant's request to carry this case over for revisions. The revised plans submitted are to eliminate the second floor of the proposed accessory building.

Katrina Porter, Katrina Porter Designs, 9 Office Park Circle, Birmingham, and Mrs. Parrish attended the meeting. Ms. Porter stated that they are removing last month's request for a two-story structure and now requesting approval of a one-story structure with additional sidewall height.

Mr. Mitchell stated that an approval will require four affirmative votes and that, as he indicated at the last meeting, supports a variance that involves the replacement of the detached building in the same footprint and same height as the existing structure.

Ms. Porter asked that the case carry over to the next meeting in June.

Mr. Mitchell called for a motion.

Motion: Mr. Simonton, motion to approve the applicant's request to carry the case over to the June 17, 2019 meeting.

Second: Mr. Garner

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Simonton	None
	Mitchell	
	Loveman	
	Garner	

The request to continue the case to June 17, 2019 stands approved.

### 4. Case A-19-14: 37 Fairway Drive

### EXHIBIT 3

Thomas and Dorothy King, property owners, request variances to allow additions to an existing single family dwelling to be 5 feet and 11 feet from the side property line (north),

and 10 feet and 0 feet from the side property line (south), all in lieu of the required 15 feet. Also, for an addition to cross the south side property line into a dedicated easement on the adjoining property (49 Greenway Road), to be 0 feet from the rear property line on the adjoining lot in lieu of the required 40 feet. Additions will result in a lot coverage of 29% in lieu of the allowable 25%.

**Hardships:** The hardships in this case are the lot size (11,778 sf in lieu of the minimum 30,000), lot shape, and existing design constraints.

Charles Beavers, 1819 5<sup>th</sup> Avenue N, Birmingham, represented the applicants, Thomas and Dorothy King, who also attended the meeting. Mr. and Mrs. King currently reside at 8 Ridge Drive and have purchased the subject property. Mr. Beavers:

- The applicants hold title to approximately 969 sf of a vacated alley which is adjacent to Lot 10 (applicant's property) at the lot's rear boundary line. There is an exclusive use easement across approximately 400 sf of the rear yard of the adjacent Lot 11. An application for approval of a resurvey will be submitted to the Planning Commission and will include these elements.
- Hardships are the size and shape of the lot, which limit buildable area.
- Existing house is non-conforming.
- Proposed additions of living space include both rear corners of the house.
- It is proposed to convert the stone patio to a screened porch.
- A porte cochere is proposed to cross the side property line into the rear of the adjoining property (49 Greenway Road) for which said property owner has agreed to an exclusive perpetual use easement. The porte cochere is proposed to be 4.5 feet from the southwest easement line on the adjoining property. The easement area has been fenced in to the benefit and use of 37 Greenway Road, for many years.
- Plan to roof and screen existing porch.
- These additions will increase the lot coverage and will require a variance; if approved, the applicant will mitigate the impervious area coverage via measures allowed by the Stormwater Ordinance, working with the Building Official on this point.
- Adjacent property owners, Rice at 47 Greenway Road and Gresham at 49 Greenway Road, provided letters of support; Mr. Beavers gave a copy of the letters to the Board members.

Mr. Orr stated that it is an unusual lot, with hardships associated with it, and there are existing design constraints. The proposed addition on the rear left does not line up with the existing house. What is planned for that space? Any thought of moving that portion to line up with the house? Mr. King stated that there is an existing deck with a slab underneath. They wish to use the existing slab footprint to incorporate a bathroom into the existing house.

Mr. Beavers stated that after consulting with city staff and council prior to this meeting, the applicant is requesting to amend the original variance request to allow the porte cochere to be 0 feet from the side property line so as not to encroach into the dedicated easement. The porte cochere may move further to the rear of the property as well.

There being no public comments, Mr. Orr called for a motion.

Motion: Mr. Mitchell, motion to approve the variance request as submitted, with the amendment that the porte cochere will be 0 feet from the side property line so as not to encroach into the existing use easement.

Second: Mr. Simonton

Vote: Aye:                      Nay:  
       Orr                                None  
       Simonton  
       Mitchell  
       Loveman  
       Garner

The variance request stands approved as amended by the applicant. Mr. Orr stated that the approval is subject to a resurvey of the lot and resolution of the impervious area coverage with Glen Merchant, Building Official.

#### 5. Case A-19-15: 43 Pine Crest Road

#### EXHIBIT 4

Kyle and Chelsey Heslop, the property owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to an existing single family dwelling to be 11 feet from the side property line (east) and 10 feet from the side property line (west), both in lieu of the required 12.5 feet.

**Hardship:** The hardship in this case is the existing design constraint. The existing house currently encroaches into both required 12.5-foot side setbacks.

Mr. Mitchell recused himself from this case.

Anna Evans, Architect, 128 Elm Street, Mountain Brook, represented the applicants. The proposal involves the following:

- Requesting new roofing over the existing left side encroachment.
- A new addition at the right rear to match the existing right side setback. This will provide a master bedroom closet.
- Letters from both side neighbors and the neighbor across the street were presented, expressing support for this project.
- The existing design constraints present a hardship in this case.

Mr. Orr confirmed the hardship related to existing design constraints.

Public Comment:

Chris Hastings, 52 Norman Drive, Mountain Brook, is the property owner to the rear of the subject property. There is a steep drop from the subject home to his property. Will a retaining wall be built? He is concerned about water flow onto his property. He discussed this with the applicant and feels they will be able to work together on this issue. Mr. Hastings states his concern for the record.

Mr. Orr stated that this Board does not have authority over a retaining wall or water flow.

Glen Merchant, Building Official, stated that regarding the water flow, he is available to discuss this at his office at City Hall.

Mr. Orr called for a motion.

Motion: Mr. Simonton, motion to approve the variance request as submitted.

Second: Mr. Loveman

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Orr	None
	Simonton	
	Loveman	
	Garner	

The variance request stands approved as submitted by the applicant.

## 6. Case A-19-16: 3031 Canterbury Road

## EXHIBIT 5

Mr. and Mrs. Benny LaRussa, property owners, request variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 10 feet from the side property line (north) in lieu of the required 15 feet; and two chimneys to be 8 feet from the side property line (north) in lieu of the required 13 feet.

**Hardships:** The hardships in this case are the lot size (22,962 sf in lieu of the minimum 30,000), the lot width (82 feet at the front setback line in lieu of the required 100 feet), and the irregular shape of the lot (narrows from front to back).

Hank Long, Henry Sprott Long & Associates Inc., 3219 Pine Ridge Road, Mountain Brook, represented the applicants. The existing structure will be removed and a new residence constructed that will be two stories in height on the front portion and one story at the rear wing. The request is for approval for the new house, which will conform to the south side setback, to encroach into the north side setback (main structure and chimneys).

Mr. Long stated that the hardship of the lot is that it is small in size; the lot width and irregular shape also present hardships. The existing house encroaches into both required 15-foot side setbacks. The new house will conform to the south side setback and will encroach into the north side setback (main structure and chimneys). A 62-foot front yard setback is proposed in lieu of the allowable 40 feet. The applicant met with and left letters to communicate the proposed project with adjacent property owners.

Mr. Orr confirmed the hardships of the lot size and shape.

Mr. Mitchell stated that rarely are variances granted with new construction, but this lot shape is so irregular that the variance request is justified.

There being no public comments, Mr. Orr called for a motion.

Motion: Mr. Mitchell, motion to approve the variance request as submitted.

Second: Mr. Simonton

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Orr	None
	Simonton	
	Mitchell	
	Loveman	
	Garner	

The variance request stands approved as submitted by the applicant.

## 7. Case A-19-17: 2760 Abingdon Road

## EXHIBIT 6

John Phillips, property owner, requests a variance from the terms of the Zoning Regulations to allow a new detached garage to be 67.6 feet from the secondary front property line (Pump House Road) in lieu of the required 100 feet.

**Hardships:** The hardships in this case are the corner lot configuration and the irregular shape of the lot.

Kelvin Terry, J. K. Terry and Co., P.O. Box 130041, Mountain Brook, represented the property owner. He stated that the lot is an oddly-shaped corner lot which limits the placement area for a garage.

Mr. Terry:

- The proposed garage will be situated at a point on the lot where there are no residential properties across from it; directly across from the rights-of-way at the intersection of Pump House Road and US Highway 280.
- Trees will remain as a buffer and the garage will not be visible from any road.
- There is an existing right wing (eastern side) of the home that is a two-car garage below a living room addition.
- Currently the main structure is 175+ feet off of the front property line.
- He presented a sketch of the proposed garage; this new structure will maintain the same historic character as that of the existing structure by using the same materials and roof pitch.

Dana Hazen, Mountain Brook Director of Planning, Building and Sustainability, stated that a secondary structure is limited to a maximum of 800 square feet in size. Mr. Terry stated that the proposed dimensions are 22'-9" x 35', equaling approximately 796.5". Mrs. Hazen added that if a second story is planned, livable area counts into that square footage total; the height cannot be not taller than the primary structure.

Mr. Orr confirmed the hardships of the lot.

There being no public comments, Mr. Orr called for a motion.

Motion: Mr. Simonton, motion to approve the variance request as submitted.

Second: Mr. Garner

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Orr	None
	Simonton	
	Mitchell	
	Loveman	
	Garner	

The variance request stands approved as submitted by the applicant.

**8. Case A-19-18: 940 Beech Lane****EXHIBIT 7**

Scott and Jennifer Settle, property owners, request variances from the terms of the Zoning Regulations to allow an addition to be 31.8 feet from the front property line (Beech Lane) in lieu of the required 35 feet.

**Hardships:** The hardships in this case are the irregular shape of the lot, and the “corner lot” configuration.

Luke Cobb, CLC Construction Services, 15390 Highway 55, Sterrett, Alabama represented the property owners.

Background: On April 15, 2019, the applicant made a variance request (A-19-12) to allow an addition to be 29.6 feet from the front property line (Beech Lane) in lieu of the required 35 feet. At that meeting the applicant amended the request to allow an addition to be 34 feet from the front property line (Beech Lane) in lieu of the required 35 feet, and the Board approved the request.

The new request is to approve a variance that will allow an addition to be 31.8 feet from the front property line in lieu of the required 35 feet. This approval of this variance will allow an entry foyer that is necessary to allow adequate entry space at the front door as it opens into the bottom of existing stairs.

Mr. Orr confirmed that the lot has an irregular shape and it is on a corner, creating hardships. It is important to respect the streetscape and he feels this proposal does that.

There being no public comments, Mr. Orr called for a motion.

Motion: Mr. Mitchell, motion to approve the variance request as submitted.

Second: Mr. Simonton

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Orr	None
	Simonton	
	Mitchell	
	Loveman	
	Garner	

The variance request stands approved as submitted by the applicant.

- 9. Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:54 p.m. The next meeting is scheduled for Monday, June, 17, 2019.



Tammy Reid, Administrative Analyst