

September 16, 2019 Minutes

Motion: Mr. Simonton, motion to approve the September 16, 2019 minutes as presented.

Second: Mr. Mitchell

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

The September 16, 2019 minutes stand approved as printed.

2. Election of Co-Chairman for the Board of Zoning Adjustment

Mr. Mitchell nominated Norman Orr to serve as board Co-Chairman. There were no other nominations.

Motion: Mr. Mitchell, motion to elect Norman Orr to serve as Co-Chairman of the Board of Zoning Adjustment.

Second: Mr. Simonton

Vote: Unanimous voice vote in favor of Norman Orr serving as Co-Chairman.

3. Case A-19-22: 2504 Country Club Circle

EXHIBIT 1

Edward Goodwin, property owner, requests variances from the terms of the Zoning Regulations to allow a new single-family dwelling to be 15 feet from the rear setback (north) in lieu of the required 40 feet.

Hardship: The hardships in this case are the corner-lot configuration and the lot size (19,326 sf in lieu of the required 30,000 sf).

Hank Long, Henry Sprott Long & Associates, 3016 Clairmont Avenue, Birmingham, represented the property owner. The existing house will be removed and a new residence constructed. Approval of the requested variance will allow the new residence to be 15' from the rear property line rather than the required 40'.

- The new residence will meet all of the requirements for Residence-A zoning except for the rear encroachment.
- The small lot size, along with the corner-lot configuration, creates a hardship.
- The structure will face Country Club Place, as does the existing structure.
- The portion of the house that is toward the corner of Country Club Place and Country Club Circle will be 1½-story tall; the portion of the structure toward the northern part of the lot will be 1-story tall. There is a section above the garage that will be tucked into the roof.
- The second floor will consist of two bedrooms, a bathroom, and a sitting area.
- It is noted that this case was originally presented at the August 19, 2019 meeting, and then carried over from that meeting and the September 16, 2019 meeting.

Chairman Higginbotham confirmed the presented hardships.

There were no public comments. Chairman Higginbotham called for a motion.

Motion: Mr. Mitchell, motion to approve the variance request as submitted.
 Second: Mr. Orr
 Vote: Aye: Higginbotham Loveman Mitchell Orr Simonton
Nay: None

The variance request stands approved as submitted.

4. Case A-19-36: 2919 Surrey Road

EXHIBIT 2

Rob and Eleanor Nielson, property owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to an existing detached accessory structure that is 3.9 feet from the side property line (southwest) and 0-10 feet from the rear property line (northwest) in lieu of the required 10 feet.

Hardships: The hardships in this case are the lot size (15,000 in lieu 30,000), the lot width (80 feet in lieu of the required 100 feet), the irregular shape of the lot, and the existing design constraints.

Jimmy Laughlin, architect, represented the property owners. The requested variance will allow an addition to an existing detached carriage house at the rear of the property. The addition will be approximately 275 sf; the entire space will be within the allowable 625 sf. There is a shed portion of unconditioned storage area that can be removed from the proposal.

Chairman Higginbotham confirmed that the lot is small for Residence-A, narrow and irregularly shaped. He asked about the height of the shed portion and the type easement that it encroaches. Mr. Laughlin said that the plate height is approximately 8 feet, 3 inches; the building height does not exceed 15 feet currently. The encroachment is in the power easement. Higginbotham expressed concern about encroaching into the easement and the power lines. He would support the removal of the shed portion.

Ms. Nielson, property owner, said that Alabama Power accessed the easement recently by coming through her yard; they decided access would be easier from another property.

Mr. Orr asked if the structure will be fully sprinklered. Mr. Laughlin confirmed that it will. Mr. Orr stated that the proposal is not in compliance with the allowable 30% impervious surface area; mitigation will need to be satisfied prior to any permit issuance in order to comply with the stormwater ordinance. Chairman Higginbotham added that the proposed lot coverage is also over the maximum allowance of 25% and will need to conform prior to obtaining a permit.

There being no public comments, Chairman Higginbotham called for a motion.

Motion: Mr. Orr, motion to approve the variance request as submitted, with the following notation: The storage appendage is to be removed from the rear of the existing structure, and the maximum 30% impervious surface area and the maximum lot coverage of 25% must be met prior to any permit issuance.

Second: Mr. Simonton
 Vote: Aye: Higginbotham
 Loveman
 Mitchell
 Orr
 Simonton

The variance request is approved as submitted, with the notation that the storage appendage is to be removed from the rear of the existing structure, and the maximum 30% impervious surface area and the maximum lot coverage of 25% must be met prior to any permit issuance.

5. Case A-19-37: 201 Dexter Avenue

EXHIBIT 3

Bundi Reynolds, property owner, requests variances from the terms of the Zoning Regulations to allow a new single-family dwelling to be 25 feet from the rear property line (southeast) in lieu of the required 30 feet, and for two second floor dormer windows to be 15 feet from the secondary front property line (Elm Street) in lieu of the required 17 feet.

Hardships: The hardships in this case are the lot width (57.5 feet in lieu of 70 feet), and the corner-lot configuration.

Ms. Reynolds stated that her lot is narrow and is located on a corner, thereby creating a hardship. She stated they she does not want to over-build on the lot. The existing house faces Elm Street, but has a Dexter Avenue address. The plan is to have a corner front door, but the orientation will stay the same. The variance will allow an encroachment of 5 feet in the rear; the front dormers will encroach 2 feet. Ms. Reynolds said that she will be encroaching less to the rear than some of the other houses on her street.

Chairman Higginbotham confirmed the hardships of the lot.

There were no public comments; Chairman Higginbotham called for a motion.

Motion: Mr. Simonton, motion to approve the variance request as submitted.
 Second: Mr. Orr
 Vote: Aye: Higginbotham
 Loveman
 Mitchell
 Orr
 Simonton

The variance request stands approved as submitted.

6. Case A-19-38: 104 Pine Ridge Circle

EXHIBIT 4

Robert and Martha Haley, property owners, request a variance from the terms of the Zoning Regulations to allow a covered porch to be 26.1 feet from the rear property line in lieu of the required 40 feet.

Hardships: The hardships in this case are the lot size (17,000 sf in lieu of 30,000 sf) and the existing design constraints.

Kevin Misso, River Brook Design and Construction, 3349 Independence Drive, Homewood, represented the property owners. The requested variance will allow the addition of a covered patio in the rear yard. The existing front building line is 78.6 feet from the front property line, where a minimum of 40 feet is required by zoning code; therefore, the house is located farther back on the lot than required. The existing impervious amount is 36%; they are proposing to maintain that 36%.

Chairman Higginbotham confirmed the hardships presented and that the patio will be covered, but not enclosed.

Mr. Mitchell added that the house is sited much further back on the lot than required.

Mr. Orr asked if the proposed is a single-story structure. Mr. Misso confirmed that it is a single-story structure.

Public Comments:

Clyde Riley, 100 Pine Ridge Circle, Mountain Brook, objects to the covered patio because it will be adjacent to his bedroom. He feels the patio will be used more if it is covered and that it will present an opportunity to become a noise nuisance. He objects unless the patio is totally enclosed to contain noise, but he does not like the thought of it being so close to his house.

Chairman Higginbotham stated that there is not a side setback encroachment issue; only a rear setback encroachment is requested.

Ryburn Bailey, 3 Pine Ridge Lane, Mountain Brook, said that his property adjoins the subject property at the rear. Since he has a corner lot, any encroachment toward him from the rear will minimize his property. The structure will be monstrous in size and will be seen from his deck.

Mr. Misso said that the structure will be gabled off the back and will be 22 feet wide. He also responded that the height of the structure appears higher than it actually is. He distributed last-minute drawings to the Board that were completed this date prior to the meeting. Those with public comments also viewed the plans. The patio will be approximately 12 feet tall at the top point and will have a roof with shingles.

Mr. Bailey said he has an estate lot, and already has a hardship; he feels this addition will lower his property value. Chairman Higginbotham clarified that his lot is Residence-A zoning.

Mr. Riley stated that seeing the drawings presented at the meeting - the proposed size of the structure and the height of the gabled roof - reinforces his concern about a noise issue.

Chairman Higginbotham asked why such a large structure is proposed. Mr. Misso said that they are using the same footprint as that of the existing patio. The house is a large, two-story structure that will tower over the proposed covered patio. No one will be able to see it because of the vegetative growth and the slope of the roof. Mr. Riley responded to that statement: He and Mr. Bailey may be the only ones that will be able to see the structure, but they will have a bird's-eye view of it; he agrees that it will not be seen from the street.

Mr. Orr: Instead of using the existing footprint, could the structure size be reduced and moved closer to the rear of house? Mr. Loveman: Could a smaller portion of the patio be covered and moved inward, thereby eliminating the need for a variance?

Mr. Misso said that the plan is to have an open patio area as well as a covered portion. The applicants have a large family and feel they need the bigger area to accommodate outdoor activities.

Chairman Higginbotham stated that should the variance request be denied, another variance may be requested, but cannot be the same request presented at this meeting. Another option is to carry the case over to the next meeting.

Mr. Orr stated it is always helpful to communicate with neighbors; should the case carry over, it will provide an opportunity to work with the neighbors regarding their concerns.

The representative conferred with the applicant whether to request to carry the case over to the next meeting or to proceed. Mr. Misso told the Board that the applicant would like to go forward with a vote.

Chairman Higginbotham called for a motion.

Motion: Mr. Mitchell stated that he feels that a hardship has been established in this case and made a motion to approve the variance request as submitted.

Second: Mr. Simonton

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Mitchell	Higginbotham
	Simonton	Loveman
		Orr

The variance is denied by a 3-2 vote.

7. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:39 p.m. The next meeting is scheduled for Monday, November 18, 2019.



Tammy Reid, Administrative Analyst