

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**MINUTES**  
**January 22, 2019**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Tuesday, January 22, 2019, at 5:00 p.m. in the Council Chamber at Mountain Brook City Hall.

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

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

Chairman Higginbotham 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.

Chairman Higginbotham 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.

**1. Approval of Minutes – December 17, 2018**

Motion: Mr. Hereford, motion to approve the minutes as printed.

Second: Mr. Orr

Vote: Ayes:                      Nays:  
          Higginbotham      None  
          Hereford  
          Orr  
          Simonton  
          Loveman

Motion carries by unanimous voice vote.

**2. Case A-18-35: 3916 Glencoe Drive (carried over from the December 2018 meeting).      EXHIBIT 1**

Charlie and Jennifer Regan, property owners, request variances from the terms of the Zoning Regulations to allow a swimming pool, arbor and 5-8 foot high privacy wall in the required secondary front yard (South Cove Drive/Cove Drive), whereas the zoning

code requires that accessory structures be behind the front building line, and swimming pools be to the rear of the principal structure; walls are limited to 4 feet in height in a required front setback (40 feet in Res-A).

**Hardships:** The hardships in this case are the topography, the corner lot configuration and the existing design constraints.

Randy McDaniel, McDaniel Land Designs, Birmingham, Alabama, attended the meeting as well as Charlie Regan, applicant.

Mr. McDaniel:

- The applicant requested that the case carry over from the December 17, 2018 meeting to the January 22, 2019 meeting in order to make revisions to the original submission.
- The plan has been modified to minimize the impact of the pool placement. The pool area has been reduced and the shape of the pool area has been rotated 90 degrees, such that the proposed wall is 16 feet from the secondary front property line (where it was 6 feet from such in the initial rendering).
- A new landscape design plan is submitted that will provide privacy.

Chairman Higginbotham confirmed that the lot is a unique shape and that there are challenges due to the topography in the rear of the lot.

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

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

Second: Mr. Orr

Vote:	<u>Ayes:</u>	<u>Nays:</u>
	Higginbotham	Garner
	Hereford	
	Orr	
	Simonton	

**The variance request is approved by a 4 to 1 vote.**

### 3. Case A-19-04: 31 Country Club Blvd.

### EXHIBIT 2

Gary and Cathy York, property owners, request variances from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be 15 feet from the rear property line (southeast), in lieu of the required 40 feet. Also for a new bay window to be 27.4 feet from the secondary front property line (Greenway Road) in lieu of the required 40 feet.

**Hardship:** The hardships in this case are the corner lot configuration and the existing design constraints of the principal structure being 66 feet from the primary front property line (Country Club Boulevard).

James Laughlin, architect, represented the applicants. This case was heard at the

December 17, 2018 meeting, and was carried over at the request of the applicant. Due to the extent of changes, the case was given a new number.

Mr. Laughlin:

- The previously proposed detached garage has been eliminated from the new plan.
- The existing detached accessory structure at the left rear corner of the site is to be removed.
- An addition is proposed that will encroach into the rear setback. Seven surrounding properties encroach similarly at the rear setback (averaging approximately 12 feet of encroachment). This addition will include a master bedroom and a garage.
- A bay window is proposed which will encroach into the secondary front setback.
- The main hardship is that there is a secondary front setback; also, the placement of the house is to the rear of the lot.
- The homeowners on the left of the property support the project.

Chairman Higginbotham confirmed that the placement of the structure, the size of the lot and the corner lot configuration present hardships on this lot. The rear encroachment seems to be common with other properties on the street.

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

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

Second: Mr. Orr

Vote:	<u>Ayes:</u>	<u>Nays:</u>
	Higginbotham	None
	Hereford	
	Orr	
	Simonton	
	Loveman	

**The variance request stands approved as submitted.**

**4. Case A-18-37: 2537 Montevallo Drive**

**EXHIBIT 3**

Chase Adcox, property owner, requests variances from the terms of the Zoning Regulations to allow alterations and second floor additions to an existing single family dwelling to match the existing first floor footprint, 24 feet from the front property line (Montevallo Drive) and 1.5 feet from the rear property line, both in lieu of the required 40 feet; and 4 feet from the side property line (south) and 13 feet from the side property line (north), both in lieu of the required 15 feet.

**Hardships:** The hardships in this case are the lot size (3,200), width (51 feet) and depth (60 feet), as well as existing design constraints (existing footprint encroaches into all required setbacks).

Applicant Chase Adcox attended the meeting, as well as his contractor, Pat Roberts, 914 Queen City Avenue, Tuscaloosa, Alabama.

Mr. Roberts:

- The presented design will allow repair and restructuring of load-bearing beams, which support the original roof structure; these beams have sagged and moved out of place, causing damage to the ceiling at the first-floor level.
- The footprint of the structure will not change.
- The new design includes a modified roof design and construction of two shed dormers. The roof height will be approximately 1'9" above the original height.
- All materials and fixtures on the home are to be matching and consistent with the original home.
- The small size of the lot presents a hardship.

Chairman Higginbotham stated that there is a sewer easement that runs along the rear property line. He asked if any improvements will be in that easement. Mr. Roberts said that all of the structure will be built to the easement line, not within.

Glen Merchant, Mountain Brook Building Official, suggested that the applicant contact Jefferson County regarding the easement.

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

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

Second: Mr. Orr

Vote: Ayes:                      Nays:  
          Higginbotham        None  
          Hereford  
          Orr  
          Simonton  
          Garner

**The variance request stands approved as submitted.**

**5. Case A-19-01: 19 Glenview Circle**

**EXHIBIT 4**

John and Catherine Romero, property owners, request a variance from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be 32 feet from the secondary front property line (Glenview Drive) in lieu of the required 40 feet.

**Hardship:** The hardships in this case are the lot size (20,000), the irregular lot shape, and the shallow lot depth along the left side of the property (124 feet, leaving only 44 feet of buildable depth after required 40-foot front double-front setbacks are deducted).

John and Catherine Romero, applicants, presented the variance request:

- The shape of the lot (pie-shape) presents a hardship; also the topography is steep.
- The project will include a modification and extension of the current one-level laundry room.
- There are no houses directly behind the lot, so no impact that direction.
- The addition is one story.
- The addition will not cause the encroachment to be worse than it is at this time.

Chairman Higginbotham confirmed that the lot is small for Residence-A zoning and that the lot is irregularly shaped.

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

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

Second: Mr. Orr

Vote: Ayes:                      Nays:  
          Higginbotham      None  
          Hereford  
          Orr  
          Simonton  
          Loveman

**The variance request is approved as submitted.**

**6. Case A-19-02: 3236 Rockledge Road**

**EXHIBIT 5**

Allen and Mimi Ritchie, property owners, request a variance from the terms of the Zoning Regulations to allow a swimming pool to be located in the side yard (northeast) in lieu of the requirement to be to the rear of the principal structure.

The hardships in this case are the irregular shape of the lot, the shallow depth of the lot (150 feet), and the topography in the rear of the lot.

Nimrod Long, 354 Overbrook Road, Mountain Brook, Alabama, represented the applicants:

- Proposing to install a pool in the side yard of the lot.
- The lot has an irregular shape and the topography at the rear of the lot is difficult.
- Existing and proposed landscape enhancements will reduce the effects to the adjoining property. The adjoining property has a driveway and garage entrance on the side adjacent to the proposed pool area.
- The pool is small, 9' x 27'.
- The street is lower than the pool area, so the view from the street will be hidden by the wall and additional landscaping.

Chairman Higginbotham stated that the lot is shallow and very unusual. He asked if alternative pool placement areas were explored. Mr. Long said that several options were looked at, but the lot is challenging.

Trent Scofield represented his mother, Patricia Scofield, 3240 Rockledge Road, Mountain Brook, Alabama. This property adjoins the subject lot. He stated that the applicant shared the proposed plans with him and his mother. He said that Mrs. Scofield is resistant to change.

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

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

Second: Mr. Simonton

Vote: Ayes:                      Nays:  
          Higginbotham      None

Hereford  
Orr  
Simonton  
Garner

**The variance request is approved as submitted.**

**7. Case A-19-03: 3084 Salisbury Road**

**EXHIBIT 6**

Robert and Kathleen Israel, property owners, request variances from the terms of the Zoning Regulations to allow additions to an existing single family dwelling to be 10 feet from the side property line (southwest) in lieu of the required 15 feet, and 25 feet from the rear property line (northwest) in lieu of the required 40 feet.

**Hardships:** The hardships in this case are the lot size (17,000) and existing design constraints (house is 70 feet from the front property line, where 40 feet is required).

Meredith Sherrill, Meredith Sherrill Designs, Birmingham, Alabama, represented the applicants:

- The proposal involves the addition of a master bedroom on the side property line (southwest) and a covered porch in the rear yard.
- The hardship is that the lot is small for Residence-A and the house is set back on the property.
- Addition is one-story.
- There is a free-standing garage at the right rear that will not be touched.
- The project was discussed with the neighbor at the rear; he seemed agreeable to the project.

Chairman Higginbotham called for public comments.

Meade Hartfield, 3070 Salisbury Road, Mountain Brook, Alabama, referenced a letter that she submitted to the Board prior to the meeting. She would be the most affected by the granting of this variance. The side variance is the issue; she feels that there are other options that would not require a side variance. Allowing this variance would affect her privacy and the noise level. Ms. Hartfield stated that there are deed restrictions.

Dana Hazen, Mountain Brook Director of Planning, Building and Sustainability: The Board has no jurisdiction over deed restrictions.

Mr. Orr expressed that there appears to be other options than those presented.

The applicant requested that the application be amended by the withdrawal of the left side portion of the variance request. The rear variance request stands as submitted.

Chairman Higginbotham called for a motion.

**Motion:** Mr. Hereford, motion to approve the variance request as amended by the applicant: The left side portion of the original variance request is withdrawn. The rear variance request stands as submitted.

Second: Mr. Orr  
Vote: Ayes:                    Nays:  
         Higginbotham       None  
         Hereford  
         Orr  
         Simonton  
         Loveman

**The variance request is approved as amended.**

8. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 6:05 p.m. The next meeting is scheduled for Tuesday, February 19, 2019.



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Tammy Reid, Administrative Analyst