

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**MINUTES**  
**July 15, 2019**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, July 15, 2019, at 5:00 p.m. in the Council Chamber at Mountain Brook City Hall.

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

Also present: Virginia Smith: Council Liaison  
                     Dana Hazen: Director of Planning, Building and 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.

---

The agenda stood approved as printed. Chairman Higginbotham stated that a variance approval will require four affirmative votes.

**1. Approval of Minutes – May 20, 2019 and June 17, 2019**

Chairman Higginbotham stated that a vote will be taken at the next meeting regarding the May 20, 2019 minutes. There is not a quorum of attendees at this meeting that also attended the May meeting.

**June 17, 2019 Minutes**

Motion: Mr. Hereford, motion to approve the June 17, 2019, minutes as presented.

Second: Mr. Loveman

Vote:    Aye:                      Nay:  
                     Higginbotham                  None  
                     Hereford  
                     Loveman  
                     Garner

**2. Case A-19-21: 18 Peachtree Street****EXHIBIT 1**

Gregory Mayberry and Thayer Moor, property owners, request a variance from the terms of the Zoning Regulations to allow a new single-family dwelling to be 22 feet from the rear property line (southwest) in lieu of the required 35 feet.

**Hardship:** The hardship in this case is the shallow lot depth (110 feet, where a typical Crestline lot is 150 feet deep).

Thayer Moor presented the variance request. The sloped lot is narrow and shallow, presenting a hardship. There is also a utility pole deep into the rear yard. There are several houses along the same side of Peachtree Street that encroach into the required 35-foot rear setback.

Chairman Higginbotham confirmed the hardship presented of the lot being shallow, but excluded the utility pole mentioned that is not considered a hardship; the applicant may check with Alabama Power Company about having it moved. It is noted that the proposed rear of the structure will be 22 feet from the rear property line; however, there is an existing fence that extends an additional 8 feet into an alley, creating a 30 foot distance from the back of the structure to that fence.

Sheri Robinson, 21 Spring Street, Mountain Brook, adjoins the property to the rear. She is concerned that this will be too much of an encroachment.

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

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

Second: Mr. Simonton

Vote: Aye: Nay:  
           Higginbotham   None  
           Hereford  
           Simonton  
           Loveman  
           Garner

The variance request is approved as submitted.

**3. Case A-19-23: 14 Montrose Circle****EXHIBIT 2**

Coates and Lib Covington, property owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to an existing single-family dwelling to be 20.27 feet from the rear property line (south) in lieu of the required 35 feet, to remain as located 11.41 from the side property line (east) and to be 12.38 from the side property line (south), both in lieu of the required 12.5 feet.

**Hardship:** The hardship in this case is the irregular shape of the lot; the allowable buildable area is shallow from front to back.

Mr. Covington presented the variance request. The shape of the lot presents a hardship in allowing an addition to the rear of the house that would meet setback requirements. The

existing pool will be filled in.

Chairman Higginbotham noted that in August of 2018, the Board approved a request on this same property (Case A-18-19) to allow a new single-family dwelling to be 8.6 feet from the rear property line (south) in lieu of the required 35 feet.

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

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

Second: Mr. Loveman

Vote: Aye:                      Nay:  
          Higginbotham        None  
          Hereford  
          Simonton  
          Loveman  
          Garner

The variance request is approved as submitted.

#### 4. Case A-19-24: 3532 Rockhill Road

#### EXHIBIT 3

Art and Marie Freeman, property owners, request a variance 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 (northeast) in lieu of the required 15 feet.

**Hardships:** The hardships in this case are topography (steep front and rear yards) and existing design constraints.

Kris Nikolich, Design Initiative, 2405 First Avenue S, Birmingham, represented the property owners, who also attended the meeting. The proposal involves a new carport with an open deck above. The existing residence is sited on the top of a rocky ridge with a steep drop-off to the front and rear yards.

Mr. Nikolich submitted a letter of support from the neighbor closest to the proposed construction, Paul Booker, 3534 Rockhill Road, Mountain Brook.

Chairman Higginbotham confirmed the presented hardships.

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

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

Second: Mr. Simonton

Vote: Aye:                      Nay:  
          Higginbotham        None  
          Hereford  
          Simonton  
          Loveman  
          Garner

The variance request stands approved as submitted.

**5. Case A-19-25: 3789 Village Lane****EXHIBIT 4**

Ramon Bean, property owner, requests a variance from the terms of the Zoning Regulations to allow an outdoor fireplace/chimney to be zero feet from the property line (west) in lieu of the required 10 feet.

**Hardships:** The hardships in this case are the small lot size and the corner-lot configuration.

Brook Russell, Russell Building Company, 3516 Squire Lane, Vestavia, presented the variance request that would allow for an outdoor fireplace/chimney to be constructed zero feet from the property line.

Chairman Higginbotham asked for a description of the existing wall. Mr. Russell stated that it is 10-feet in height and constructed of poured concrete with a stucco finish. The wall is approximately 10-inches thick and is on the property line.

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

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

Second: Mr. Simonton

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

The variance request stands approved as submitted.

**6. Case A-19-26: 3731 River Bend Lane****EXHIBIT 5**

Jason and Audrey Brewer, property owners, request a variance from the terms of the Zoning Regulations to allow a new detached accessory building in a secondary front yard (Overton Road) where the code requires that detached accessory buildings be located behind the front building line.

**Hardship:** The hardship in this case is the corner-lot configuration.

Efrain Horta, Horta Construction, 3401 Watertown Place, Vestavia, represented the applicants. The request would allow for the construction of a new detached carport. The existing vegetation buffer will remain on the Overton Road side; the new structure should not be seen from Overton Road. The fact that the lot is on a corner presents a hardship due to setback requirements.

Chairman Higginbotham confirmed the presented hardship.

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

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

Second: Mr. Loveman

Vote:     Aye:             Nay:  
          Higginbotham     None  
          Hereford  
          Simonton  
          Loveman  
          Garner

The variance request stands approved as submitted

7. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:32 p.m. The next meeting is scheduled for Monday, August 19, 2019.

---

Tammy Reid, Administrative Analyst