

Chairman Higginbotham announced that the applicant contacted the staff just prior to this meeting. He is out-of-town and cannot make it back for the meeting; therefore, he requests that the case carry over to the February 18, 2020 meeting. Should the Board vote to carry the case over, it will be heard at the February 18 meeting; this case will be brought to a conclusion at that time. Chairman Higginbotham expressed apologies to citizens in the audience that were attending the meeting regarding this case.

Chairman Higginbotham called for a motion.

Motion: Mr. Mitchell, motion to approve the applicant's request to carry the case over to the next meeting on February 18, 2020.

Second: Mr. Loveman

Vote: Aye: Boomhover
Nay: None
 Garner
 Higginbotham
 Loveman
 Mitchell

3. Case A-20-01: 2796 Pump House Road

EXHIBIT 2

Chuck and Patsy Thomas, property owners, request a variance from the terms of the Zoning Regulations to allow an existing wall to remain located in the side and rear yards (north and east); the wall is up to 13 feet tall where the height limit is 8 feet.

Hardships: The hardships in this case are the topography of the lot, irregular shape of the lot and location of an existing septic tank.

Keith Russell and Brook Russell, Russell Building Co., 4100 Autumn Lane, Vestavia Hills, represented the property owners. Originally, the building plan included a driveway in the front to come around to a garage, with the house at a lower elevation (5 feet lower). At the point of demolition it was discovered that the site could not be lowered because of the location of the septic tank and auxiliary lines. This made it necessary for a retaining wall at the back of the lot to provide a level area for the motor court. The height of the retaining wall complies with code. The second fence/wall does not comply with height code and requires a variance. This additional fence/wall on top of the retaining wall is necessary as a safety measure and will also provide privacy.

- The topography of the lot falls off to the rear of the property. Also, the lot is a triangle shape, which limits the usable area in the rear of the property.
- The existing septic tank in the front yard precludes the use of that area for the construction of the proposed improvements.
- The existing wall is a means to level the lot and make use of the retained topography in order to create a landscape plan that controls water runoff and allows adequate field lines for the septic tank. The wall is a necessary component to level the subject area of the property which will allow for a parking pad and motor court.
- The height of the retaining part of the wall is in compliance; the additional portion of the wall/fence requires a variance and is necessary as a safety measure. A permit was issued for the additional portion inadvertently; the permit application appeared to be for a wall

measuring 6 inches rather than 6 feet. If the additional wall had not been built, a 42-inch iron fence would have had to be added as a safety measure. Mrs. Hazen affirmed that the iron fence would require a variance as well.

- The wall will have a stucco type painted finish with Boston Ivey growing on it as a camouflage. Twelve-foot tall hollies have been planted. Mounds of soil will also be used to visually lower the wall height.
- Several drainage issues have already been addressed and remedied. Catch basins have been added and prove to be effective. These basins are on the owner's property and will be landscaped to camouflage.
- The motor court area is designed to flow with trees, a garden space and parking.
- The builder and the applicants have met with all neighbors. It is believed that they are confident that should an issue occur, it will be handled. The builder said that the neighbors have not expressed happiness over the size of the wall, but with the landscaping introduced and water mitigation, they are not complaining. The landscaping will provide privacy for them as well; they will not have to look at the applicant's garage. Nellie R. Stevens Hollies that are approximately 6-foot tall and Needlepoint Hollies that are approximately 12-foot tall have been planted. These plants will grow quickly. Additional landscaping to come.

Mrs. Smith and Mrs. Hazen excused themselves from the meeting at approximately 5:15 p.m.

Chairman Higginbotham confirmed that the topography presents a hardship.

Chris Tanner, 2780 Pump House Road, Birmingham, owns the property most affected by the wall. He stated that there was a water issue during construction, but the contractor worked to remedy the issue and there have not been any further problems. His biggest concern is the possibility of a water issue. Mr. Russell stated that he will continue to work until there are no issues; he will not let an issue exist. He has worked in Mountain Brook for many years and intends to keep his good standing in the building field.

Chairman Higginbotham asked if the neighbors are confident with these statements going forward. Mr. Tanner agreed they have addressed every issue thus far and that if the wall had to be torn down, the dirt and water issues will return and the safety issue will remain. Chairman Higginbotham said that the bottom eight feet of the wall is not in question, only the top portion.

Mr. Garner is concerned that, even though not expressing concern now, the neighboring residents might feel displeased in the future. Mr. Russell said that he is and will work with the neighbors to satisfy their hopes and desires regarding this wall. Mr. Russell feels that as the landscaping matures, it will also help ease the appearance of the wall height.

Keith Russell stated that his company will continue to work with this project going forward to insure no issues for neighbors. Mr. Tanner nodded in agreement.

Mr. Mitchell stated that the Board usually requires a landscape plan in this situation; however, in this case, the plan has been discussed with the neighbors and they have not expressed opposition, so there is no need to present a landscape plan to the Board.

Chairman Higginbotham called for a motion.

Motion: Mr. Mitchell, motion to approve the variance application as submitted based on the landscape plan discussed at the meeting.

Second: Mr. Loveman

Vote: Aye: Nay:
 Boomhover None
 Garner
 Higginbotham
 Loveman
 Mitchell

4. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:30 p.m. The next meeting is scheduled for Tuesday, February 18, 2020.



Tammy Reid, Administrative Analyst