

Zoning Regulations to allow an addition to an existing single family dwelling to be 6 feet 2 inches from the side property line (northeast) in lieu of the required 15 feet.

Mr. Mitchell recused himself from this case.

Chairman Higginbotham stated that there is no one at the meeting to represent this case. It is noted that the case carried over from the December 16, 2019 and January 21, 2020 meetings. He said that at the last meeting, the Board determined that this case should be brought to a conclusion at the February meeting, and the applicant was notified of this decision.

Chairman Higginbotham called for public comments. A gentleman in the audience indicated that he had expressed his view at a previous meeting and that he had no new information to present.

Chairman Higginbotham called for a motion.

Motion: Mr. Orr, motion to deny the applicant's variance request.

Second: Mr. Boomhover

Vote: Aye: Nay:
 Boomhover None
 Higginbotham
 Loveman
 Orr
 Simonton

The variance request stands denied.

3. Case A-20-02: 2780 Pump House Road

EXHIBIT 2

Christopher and Lauren Tanner, property owners, request variances from the terms of the Zoning Regulations to allow the construction of a detached accessory building to be located in a front yard in lieu of the requirement to be behind the front building line, and be 48.2 feet from the front property line (northeast) in lieu of the required 100 feet.

Hardships: The hardships in this case are the irregular shape of the lot and the topography.

Christopher Tanner presented the variance request. The lot has an irregular, triangular shape with the residence constructed at the apex of the triangle facing the Florida Short Route. The property is accessed via a long driveway easement from Pump House Road. The portion of the lot where the improvements can be constructed is limited by the following conditions: the irregular lot shape (most of the property available for improvements are constrained by the 100' minimum front yard setback) and the lot topography – it is very steep in the rear yard.

Mr. Tanner said that there are no properties across from the front yard variance request location and only one residence on the Florida Short Route/Old Highway 280. Chairman Higginbotham added that the entrance to the lot is from the rear, not from the Florida Short Route. Mr. Mitchell added that the proposed structure would not be seen from the Florida Short Route.

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

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

The variance request stands approved as submitted.

4. Case A-20-03: 32 Clarendon Road

EXHIBIT 3

Russ Doyle, property owner, requests a variance from the terms of the Zoning Regulations to allow a portion of a new single family dwelling to be 15.75 feet from the rear property line (north) in lieu of the required 35 feet.

Hardships: The hardship in this case is the irregular shape of the lot.

Mr. Loveman recused himself from this case.

Mr. Doyle stated that a new home will be constructed on the lot. The lot is an irregular shape in that it is wider at the rear and narrower towards the front; pie-shaped. Due to this shape, much of the lot's usable space in the rear is in the setback. The lot abuts Mountain Brook Baptist Church's parking lot to the rear; the rear is also heavily vegetated.

Mr. Mitchell: The lot is more of a trapezoid shape. He asked for clarification that there is a three-car garage and a pool proposed within the setback. Mr. Doyle confirmed.

Chairman Higginbotham asked if any other options had been considered to minimize the encroachment; maybe reducing to a two-car garage. Mr. Doyle said that they investigated a front-facing style garage, but the functionality was not good, and they prefer not to have the garage facing the front. If changed to a two-car garage, one of their vehicles would have to park on the street or in the driveway.

Chairman Higginbotham agreed that the shape of the lot is a hardship, but is not finding a hardship to provide for a three-car garage.

Mr. Boomhover suggested repositioning the nook so that the garage could slide down and provide space for a two-car garage within the setback.

Mr. Doyle stated that they are set on a French Style home and do not want a front-facing garage. He feels this is a positive option since the cars will be out of sight from the front. Also, the property to the rear that belongs to Mountain Brook Baptist Church includes a 10' easement and buffering that will camouflage the garage from the view from the church property.

Chairman Higginbotham acknowledged the side setback improvements, compared to the existing structure's setbacks.

Mrs. Hazen asked if the garage will have a second floor. Mr. Doyle said there is to be a

second floor with the same footprint as the first floor. Those plans were not submitted prior to this meeting because they were not completed.

Public Comments:

Vince Blackerby, Mountain Brook Baptist Church, stated that the church is not contesting the request.

Mr. Mitchell stated that the question remains as to hardship. The lot is large, this is new construction therefore there are no existing design constraints, and there is a lot of buildable space in the rear.

Chairman Higginbotham said that his issue is the size of the garage and that it has two stories.

Mrs. Hazen mentioned the option of reducing to a two-car garage and adding an open parking space/pad for the third car behind the garage.

Mr. Doyle asked to amend the submitted variance application as follows:
Requesting a variance from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be ~~15.75~~ **24.75** feet from the rear property line (north) in lieu of the required 35 feet.

Chairman Higginbotham called for a motion on the amended variance request.

Motion: Mr. Mitchell, motion to approve the variance application as amended by the applicant at the meeting:
A variance from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be ~~15.75~~ **24.75** feet from the rear property line (north) in lieu of the required 35 feet, and includes both stories of the addition.

Second: Mr. Orr

Vote: Aye: Boomhover
Higginbotham
Mitchell
Orr
Simonton

Nay: None

The variance request stands approved as amended.

5. Case A-20-04: 3910 Hunter Lane

EXHIBIT 4

Laura McCrary Gasser, Trustee of the Markie Management Trust, requests a variance from the terms of the Zoning Regulations to allow a chain link fence to be constructed in the front yard in lieu of requirement to be behind the front building line.

Hardships: The hardship in this case is the topography of the lot.

John Gasser, representing his wife Laura who is the property owner, presented the variance request.

- The requested variance would allow a chain link fence rather than a solid fence. He stated that the hardship of this lot is the sloping topography because there is a low point where the proposed fence is located.
- The proposed 4-foot tall black vinyl chain link fence would allow storm water to flow through where it would be impeded by a solid fence material and would allow occupants of the property to see any safety hazard in the right-of-way (ROW) as well as the ability to monitor the increase of wildlife inhabitants.
- This property is unique in that there is no road frontage. The front of the property directly abuts an unimproved ROW that is wooded and heavily vegetated. The initial purpose of the ROW was to connect Hunters Lane to Witts End, but has been abandoned. Mr. Gasser stated that Steven Gay, City of Mountain Brook, confirmed that the ROW is abandoned and that the City is not responsible for maintaining it.
- The homes in that area that abut the property along the unimproved ROW are situated such that the rear of the structures would be facing the fence.
- Additional photos were presented showing the water flow from the rain this past week.
- The neighbor at 3920 Seven Bark Circle has a chain link fence on the Hunters Lane side.

Jason Kassouf, 3920 Seven Bark Circle, Mountain Brook: The back of his house faces Hunters Lane. He stated that the chain link fence mentioned was installed in 1973. He has plans to replace it.

Chairman Higginbotham clarified the area of fencing that is included in the variance and showed Mr. Kassouf the area on the survey.

Mrs. Hazen stated that Mr. Kassouf's fence was installed prior to the City's ordinance prohibiting chain link fences in the front yard. She also confirmed that the location of his fence is considered a secondary front.

Chairman Higginbotham asked why this type of fence is proposed because there are other allowable options, like the wrought iron in the proposed gate. This type material could be used in the area in the front yard, with chain link in the approved areas, and would not require a variance. This plan would allow the desired water flow.

Mr. Mitchell said that the ordinance states that chain link fences are not allowed in front yards. He acknowledged that there is a lot of vegetative buffer to keep it from being seen, but the concern is that a precedent will be set if allowed; therefore, he is reluctant to support.

Mr. Gasser asked why a ROW abandoned by and unmaintained by the city is allowed to be at the front of his house. Mrs. Hazen stated that the lot fronts on Hunters Lane from the subdivision standpoint.

Mr. Gasser stated rather than removing his variance request, he would like for the Board to vote on the proposed chain link fence.

Chairman Higginbotham called for a motion.

Motion: Mr. Orr, motion to approve the variance application as submitted.

Second: Mr. Loveman

Vote: Aye: Nay:
None Higginbotham
Loveman

Mitchell
Orr
Simonton

The variance request stands denied.

6. Case A-20-05: 3751 Westbury Road

EXHIBIT 5

Frank and Allison Davies, property owners, request a variance from the terms of the Zoning Regulations to allow the construction of a new attached garage to be 13.75 feet from the side property line (southwest) in lieu of the required 15 feet.

Hardships: The hardship is the existing design constraints. This is related to the orientation of the existing house to the side property line and the existence of a septic tank.

Frank Davies (property owner) and Eric Dale (Michael Eric Dale Residence Design, 935 Landale Road, Birmingham) attended the meeting. Mr. Dale: The house is aligned with the road, but skewed from the side property line. The requested setback variance is only needed for a small wedge of the proposed structure. The existing garage is being renovated because it is too small to be of use as a garage and is better suited for a new bedroom.

Mr. Dale stated that the left rear of the property is not buildable due to a septic tank. The existing house is non-conforming. There is an existing pool.

Chairman Higginbotham noted that no additional front encroachment will be caused by the addition and that the requested encroachments are minor. He asked the width of the garage. Mr. Dale said that the existing garage width is less than 20 feet and the proposed width is less than 22 feet.

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

Motion: Mr. Orr, motion to approve the variance application as submitted.

Second: Mr. Simonton

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

The variance request stands approved.

- 7. Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:40 p.m. The next meeting is scheduled for Monday, March 16, 2020.



Tammy Reid, Administrative Analyst