

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
MINUTES
May 18, 2020

In response to COVID-19 social distancing mandates, the meeting was held via audio conferencing.

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on May 18, 2020, at 5:00 p.m., via audio conferencing. The roll was marked as follows:

Board Present:	Patrick Higginbotham, Chairman Norman Orr, Co-Chairman Gerald Garner Rhett Loveman Chris Mitchell	Absent:	Scott Boomhover Richard Simonton
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Also present:	Virginia Smith: Council Liaison Dana Hazen: Director PBS Tyler Slaten: City Planner Glen Merchant: Building Official Tammy Reid: Administrative Analyst
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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 amended: Case A-20-11 lists 2541 Montevallo **Road** as the subject address. The correct address is 2541 Montevallo **Drive**. It is noted that the legal notices appropriately listed "Drive".

Chairman Higginbotham stated that a variance approval will require four affirmative votes.

1. Approval of Minutes – April 20, 2020

Motion: Mr. Orr, motion to approve the April 20, 2020 minutes as printed.

Second: Mr. Garner

Vote:	<u>Aye:</u> Garner Higginbotham Loveman Mitchell Orr	<u>Nay:</u> None
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The April 20, 2020 minutes stand approved as printed.

2. Case A-19-19 (Extension): 8 Montevallo Terrace
(Original case was approved on June 17, 2019.)

EXHIBIT 1

Ben and Kate Sutlive, property owners, request variances from the terms of the Zoning Regulations to allow a portion of the first floor to be 8 feet from the side property line (south) in lieu of the required 9 feet; a portion of the second floor to be 9 feet 7 inches from the side property line (south) in lieu of the required 13 feet; and for a chimney to be 7 feet 2 inches from the side property line (south) in lieu of the required 7 feet.

Mary Coleman Clark represented the applicant at the meeting. An extension is requested because the start of the project was delayed due to current events.

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

Motion: Mr. Orr, motion to approve the variance extension for six months as requested.

Second: Mr. Mitchell

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

The variance extension request for a period of six months stands approved.

3. Case A-19-21 (Extension): 18 Peachtree Street
(The original case was approved on July 15, 2019.)

EXHIBIT 2

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.

Thayer Moor and Gregory Mayberry, applicants, participated in the meeting. They request an extension of the original variance approval due to current events.

Chairman Higginbotham asked about new information regarding this case. Ms. Moor stated that there was a question regarding the survey and whether the measurements provided were from the front of the house or another location. Ms. Moor stated that they will make sure that the variance request is followed as approved – 22 feet from the rear property line. Glen Merchant, Building Official, confirmed that he is satisfied with this commitment as stated.

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

Motion: Mr. Orr, motion to approve the variance extension for six months as requested.

Second: Mr. Loveman

Vote: Aye: Nay:
Higginbotham None
Loveman
Mitchell

Orr
Garner

The variance extension request for a period of six months stands approved.

4. Case A-20-09: 1 Pine Crest Road

EXHIBIT 3

John and Marie Joseph, property owners, request variances from the terms of the Zoning Regulations to allow the construction of a home to be located be 34.8 feet from the secondary front property line (Pine Crest Rd) in lieu of the required 35 feet, 12.3 feet from the side property line (north) in lieu of the required 12.5 feet and a wall to be located in the secondary front setback (Pine Crest Rd) to be 10 feet tall in lieu of the maximum allowed height of 4 feet.

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

Don Proctor, Proctor Building Company, 5307 Caldwell Mill Road, Birmingham, represented the applicant at the meeting. The variance is requested due to an accidental movement of the foundation forms during the pouring of the foundation, caused by difficult conditions due to rain. This movement is 2 inches on the left side of the home and 4 inches on the right side (Pine Crest Road). The change was not intentional.

Chairman Higginbotham asked what the hardship would be in this case. Mr. Slaten said that the topography and the rain issue caused the hardship.

Mr. Mitchell mentioned a previous case where the foundation was several feet off of the approved variance in which the Board required the applicant to remove the foundation. Mrs. Hazen stated that in that particular case, the approved variance was based on an incorrect survey and to allow continuation would have placed the house considerably in front of the other houses on that street.

Chairman Higginbotham added that he feels that this is a minor request; Mr. Mitchell agreed.

Chairman Higginbotham asked for clarification regarding the retaining wall. Mr. Proctor said that the topography of the lot made the retaining wall necessary because the lot slopes from the high side along Montevallo Road and falls away toward the back of the property. The main level driveway slopes downward to a basement entrance; a wall is required to retain the dirt to accommodate the lower portion of the driveway. Basically, the portion of the wall that will be seen is approximately 6-7 feet in the curve (seen from Pine Crest); the rest will be to the side or rear.

Mr. Mitchell asked if neighbors down the street on Pine Crest will see a 10-foot tall wall. Mr. Proctor answered "yes". Mr. Mitchell added that in other similar cases, the Board has required landscaping to minimize the impact of viewing retaining walls by adjacent property owners. Mr. Proctor stated that the wall will most probably be made of brick; strawberry vining may be used but additional landscaping has not been discussed. Mr. Mitchell said he would like assurance from the applicant that there will be landscaping to soften the view of the wall for the neighbors. Mr. Proctor said that the applicant is with him at this time and he does not have a problem with the landscape request.

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

Motion: Mr. Mitchell, motion to approve the variance request as submitted, with the stipulation that the wall will be landscaped on the southern side.

Second: Mr. Orr

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

The variance request stands approved as submitted with the stipulation that landscaping is added to camouflage the wall on the southern side.

5. Case A-20-10: 4 Eastis Street

EXHIBIT 4

Jody and Kendall Quick, property owners, request a variance from the terms of the Zoning Regulations to allow the construction of a home to be located 17.5 feet from the secondary front property line (Eastis Street) in lieu of the required 35 feet.

Hardships: The hardships in this case are the vacated ally on the south side of the lot and the corner-lot configuration.

The property owner, Jody Quick, stated the variance is requested to allow the construction of a new home that will shift toward Eastis and keep the 35' setback of primary frontage. The hope is to maximize the back yard space. The hardship is the corner-lot configuration opposite a vacated alley.

Mr. Quick: The residence parking will be at the back of the home and a graveled driveway off of Sims Avenue will facilitate guest parking. The existing house currently faces Eastis Street and the applicant would like to keep that address. The new front door will face Eastis; at that entrance there will be a corner front porch that will give the appearance of fronting Sims Avenue. Currently the structure is located on two lots; these lots will be combined.

Chairman Higginbotham agreed that the corner-lot configuration presents a hardship.

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

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

Second: Mr. Loveman

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

The variance request stands approved as submitted.

6. Case A-20-11: 2541 Montevallo Drive

EXHIBIT 5

Peyton and Lillian Falkenburg, property owners, request variances from the terms of the

Zoning Regulations to allow the construction of a home to be located 10 feet from the front property line (Montevallo Rd) in lieu of the required 40 feet and 10.7 feet from the rear property line (east) in lieu of the required 40 feet.

Hardship: The hardship in this case is that the lot is an odd shape and the lot is small in size. There is limited buildable area.

Peyton Falkenburg, applicant, and James Laughlin, architect, attended the meeting. Mr. Laughlin presented the variance request: The existing residence will be demolished and a new residence constructed. The proposed footprint will increase the distance between the new structure and the adjacent neighbors. The hardship for this lot is that it is an odd shape and it is small in size.

Chairman Higginbotham agreed that the lot is shallow and an odd shape, with little buildable area.

Glen Merchant, Building Official, asked if there will be anything in the driveway. Mr. Laughlin stated that the curb cut will be in the same location; by shifting the structure by 30', they gained a 30' square gravel parking area.

Mr. Bromberg, 2812 Carriage Place, expressed his initial concern that the new structure might loom over his property, but after consulting with Mr. Laughlin, he is no longer concerned.

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

Second: Mr. Orr

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

The variance request stands approved as submitted.

- Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned at approximately 5:34 p.m. The next meeting is scheduled for Monday, June 15, 2020.



Tammy Reid, Administrative Analyst