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 September 21, 2020, at 5:00 p.m., via audio conferencing. The roll was marked as follows:

Board Present:  Norman Orr, Chairman  Absent:  None
Richard Simonton, Co-Chairman
Gerald Garner
Rhett Loveman
Chris Mitchell
Scott Boomhover, Supernumerary
Noel Dowling, Supernumerary

Also present:  Virginia Smith:  Council Liaison
Dana Hazen:  Director PBS
Tyler Slaten:  City Planner
Glen Merchant:  Building Official
Tammy Reid:  Administrative Analyst

Chairman Orr asked if all adjacent property owners in each of the cases on the agenda received legal notice of this hearing. Mr. Slaten confirmed that, based on the information supplied by the applicants, they had been notified.

Mr. Orr 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 presented.

Mr. Orr stated that a variance approval will require four affirmative votes.

1. Approval of Minutes – Minutes to follow at a later date.

2. Case A-19-22: 2317 Country Club Place (Extension)  EXHIBIT 1

Ann Thomas, property owner, requests variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 15 feet from the rear property line (north) in lieu of the required 40 feet; also for the lot coverage to be 37% in lieu of the maximum allowable 25%. – 2317 Country Club Place. (Original variance approvals granted on October 21, 2019, address has been changed from 2504 Country Club Circle)

Hank Long, Henry Sprott Long & Associates, 3016 Clairmont Avenue, Birmingham,
represented the new property owner, Edward Goodwin. The request is for a six-month variance extension. This variance was approved on October, 2019. Plans are complete and the project should go for bids in the next few weeks.

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

Motion: Mr. Simonton, motion to approve the variance extension request for a period of six months.
Second: Mr. Boomhover
Vote: Aye: None
      Nay: None
Garner  Loveman  Mitchell  Orr  Simonton

The variance extension request stands approved as submitted.

3. Case A-20-23: 56 Ridge Drive

Ronald and Liz Wolff, property owners, request a variance from the terms of the Zoning Regulations to allow for the construction of a porch to be located 28.8 feet from the front property line in lieu of the required 40 feet.

Hardships: This is a shallow lot on a curve that is steep in topography and a pie-shape.

Steve Jones, Huckleberry Construction, contractor, represented the applicant. The proposed plan is to replace a canvas awning over the existing porch with a metal roof with support columns. The footprint of the porch is not expanding, nor the roof height. The size of the lot presents a hardship; it is approximately 19,000sf; the zoning minimum for this property is 30,000sf. Also, there is a retaining wall and topography issue to the rear.

Mr. Orr confirmed the hardships of the lot caused by a pie-shaped lot and grade issues. He noted that the size and height of the porch will not change.

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

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

The variance request stands approved as submitted.

4. Case A-20-24: 3416 Mountain Park Drive

Anna Manasco, property owner, requests a variance from the terms of the Zoning Regulations to
allow for the construction of roof over an existing porch to be located 5.4 feet from the side property line in lieu of the required 15 feet.

**Hardships:** The irregular shape of this corner lot and the existing design constraints.

William Siegel with Twin Construction, 2907 Central Avenue, Homewood, represented the applicant. Proposing to cover and screen in an existing porch. Only a portion of the existing deck will be covered.

Chairman Orr said that the hardships of the lot are that the lot is on a corner, irregularly shaped, and that there are design constraints. He asked what portion of the porch will be covered. Mr. Siegel said that approximately 21 feet of the width on the left side will be enclosed with a gable. The height of the covering will be approximately 19 feet to the peak of the gable ridge. The neighbors adjacent to the porch area, Mr. and Mrs. Chalkley, expressed to him that they do not oppose the project.

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

Motion: Mr. Mitchell, motion to approve the variance request as submitted.  
Second: Mr. Simonton

**Vote:**  
**Aye:** Garner, Loveman, Mitchell, Orr, Simonton  
**Nay:** None

The variance request stands approved as submitted.

5. **Case A-20-25: 2 West Montcrest Drive**

Amanda and Sam Brien, property owners, request variances from the terms of the Zoning Regulations to allow for the construction of additions to be located 11.1 feet from the side property line in lieu of the required 12.5 feet and 21.6 feet from the property line along the secondary front in lieu of the required 35 feet.

**Hardships:** This is an atypical corner lot with existing design constraints.

Eric Dale, 935 Landale Road, Birmingham, represented the applicants, Amanda and Sam Brien. Proposed is a one-story addition to the existing one-level home. There is a street frontage on two sides of the lot. Instead of a typical corner condition, the roadway curves into the lot and removes a sizeable amount of land at the frontage. The house was placed at an angle in response to the curved road, creating a hardship. The existing home is non-conforming with regard to the secondary front setback as it sits 21.6 feet from the property line along that front. The addition on that side will not be closer to the secondary front property line than the house is now.

Chairman Orr agreed that the curve in the road and the corner lot configuration are hardships of the lot.
There were no public comments. Chairman Orr called for a motion.

Motion: Mr. Loveman, motion to approve the variance request as submitted.
Second: Mr. Garner
Vote: Aye: Garner
Nay: None

Garner
Loveman
Mitchell
Orr
Simonton

The variance request stands approved as submitted.

6. Case A-20-26: 3525 Mountain Park Drive

Jason Rogoff, property owner, requests variances from the terms of the Zoning Regulations to allow for the construction of new home to be located 13’3” feet from the side property line in lieu of the required 15 feet and a variance to allow a concrete retaining wall topped by a black iron fence to be a total of 11 feet in height in the side and rear yards in lieu of the 8 feet maximum height allowed.

Hardships: Topography and an irregularly shaped lot.

Mr. Rogoff, the property owner, presented his variance request. The foundation of the new home and foundation walls were poured. An architectural change occurred afterward, resulting in what previously had been uncovered steps to the basement now being incorporated into the overall roof structure. This change requires a setback variance. Also, a height variance is requested for a retaining wall in the side and rear yards. A standard, black iron fence, three feet in height, will be added to the top of the retaining wall for safety purposes (8’ drop-off). The retaining wall is necessary due to the severe slop of the property.

Chairman Orr: This is a minimal variance request; since this is new construction, could it be worked so that a variance is not necessary? Mr. Rogoff said that the foundation walls already exist.

Mr. Mithell noted that other cases have come before the Board where foundations have been poured prior to requesting a variance, and the variances were denied. He recused himself from this case so that someone with more architectural knowledge could have input. Scott Boomhover will vote in his place.

Mr. Rogoff stated that he discussed the project with a neighbor, George Yang, 401 Michael Lane; he has no objection to the project.

Mr. Loveman asked if the iron portion of the wall was not added, would a variance be necessary. Mrs. Hazen responded that a variance is needed for the wall/fence because it is more than 8 feet in height from the grade. If the iron railing was eliminated, no variance is required.

Mr. Garner: Will the neighbors be looking at a huge wall or just the iron portion due to the
topography? Mr. Rogoff said that additional landscaping will be added to the existing dense buffer of trees and shrubbery. Chairman Orr noted that there is a utility easement that runs behind the property.

Henry Graham, 405 Michael Lane, owns the property on the low side of the wall. He has no objection to the iron fence on the top of the wall as a safety measure. He asks that the wall is adequately landscaped to camouflage; he would like vegetation to remain in the utility easement and on Mr. Rogoff’s property. He is concerned about stormwater runoff during construction; the existing silt fences are in need of attention. Mr. Rogoff responded that the placement of the wall was taken in consideration of the existing trees; they will remain. The brush will be cleaned up and shrubbery planted.

There being no further comments, Chairman Orr called for a motion.

Motion: Mr. Simonton, motion to approve the variance request as submitted.
Second: Mr. Boomhover
Vote: Aye: None
     Nay: None
     Boomhover
     Garner
     Loveman
     Orr
     Simonton

The variance request stands approved as submitted.

7. A-20-27: 3103 Salisbury Road

Angela Thornton and Howard Downey, property owners, request a variance from the terms of the Zoning Regulations to allow for the construction of an addition to an existing home to be located 12.5 feet from the side property line in lieu of the required 15 feet.

Hardship: Existing design constraint.

John Forney, architect, presented the variance application for the applicants, Angela Thornton and Howard Downey.

The home is situated at a slight angle to the west property line. The requested variance would allow the owners to build a new main bedroom wing above a new two car garage. The proposed addition maintains the same alignment with the existing side of the home. A small sliver of the proposed addition will encroach 2.5 feet into the side setback at the rear of the addition.

Mrs. Hazen said that this variance is based on combing the two lots. The process is underway.

Chairman Orr noted that design constraints and the angle to the property line are lot hardships.

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

Motion: Mr. Loveman, motion to approve the variance request as submitted.
Second: Mr. Simonton
Vote: Aye: None
     Nay: None
     Garner
The variance request stands approved as submitted.

8. **Case A-20-28: 11 Montevallo Lane**

Cooper Bennett, property owner, requests variances from the terms of the Zoning Regulations to allow for the construction of additions to an existing non-conforming home to be located 19.9 feet from the front property line in lieu of the required 35 feet, 14.8 feet from the secondary front property line in lieu of the required 35 feet and 23 feet from the rear property line in lieu of the required 35 feet.

**Hardships:** Corner lot configuration with the design constraint of an existing non-conforming house; small size of the lot.

Cooper Bennett, property owner, presented the variance application. This Residence-B lot is approximately 7928.5 square feet in total area which is less than the minimum parcel area of 10,000 square feet required in this zoning district. The corner lot configuration carries two required front setbacks of 35 feet each as well as a required rear setback of 35 feet.

The proposed scope of work includes the construction of a 1.5 story, 4 bedroom, 3.5 bathroom house utilizing as much of the existing structure as possible. The existing home will be expanded along the primary front and rear.

Chairman Orr confirmed the hardship of a small lot. Mr. Bennett said that he does not have complete construction plans, but would like to expand 1 ½ story to the rear. Park Lane has one lane, so there is little traffic. Also, there are no houses fronting the encroachment at this section. There is a right-of-way across the front and secondary front. Orr stated that the Board is protective of the streetscape. It appears the proposed will maintain the house line established for the area.

Mr. Mitchell stated that he feels seeing the proposed plans would be beneficial so that the Board would know what they are voting to approve/deny.

Mr. Garner asked if something else is wanted, like a deck or other addition, would this variance cover it. Mrs. Hazen said at that time, the staff would review and determine if the change/addition would be within the scope of the variance or if a new variance would be necessary.

Chairman Orr confirmed that it would be helpful to have more information, but understands limiting the investment until a variance is confirmed.

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

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

**Second:** Mr. Garner

**Vote:**

- **Aye:** Garner
- **Nay:** None

V:/Minutes &Agendas/BZA Minutes/2020/20200921

September 21, 2020
The variance request stands approved as submitted.

9. Case A-20-29: 301 Dexter Avenue  EXHIBIT 8

Stephen and Lucy Spann, property owners, request a variance from the terms of the Zoning Regulations to allow for the construction of a covered screened-in porch to be located 0 feet from the secondary front property line in lieu of the required 35 feet.

**Hardships:** Corner lot configuration and a unique lot.

Sissy Austin, architect, 2301 Peacock Lane, Mountain Brook, represented the property owner.
- The existing home and porch are non-conforming.
- The approved variance will allow for the replacement and extension of the roof over the existing covered porch; the new screened-in, covered porch will extend to the property line.
- The porch is currently just less than five feet from the secondary front property line.
- The current roof does not extend out far enough to protect the entrance doors from the rain; water issue.
- The owners will maintain the privacy hedge. This addition will be totally screened from the street and neighbors,
- The applicant will install the required sprinkler system at the screened porch.

Chairman Orr asked about the location of the shrubbery. Ms. Austin said that it is outside of the property line and is currently maintained by the applicants, per the City. He expressed concern about building to a lot line at a street. Should the shrubbery be removed at a later date, this could create a dangerous situation. He also noted that replacing just the existing structure would still require a variance.

Ms. Austin said that the house faces Dexter where there are no power lines; she wouldn’t think the power company would come in to utilize that area. Should a sidewalk go in, it would make sense for it to be on Dexter, not Main. The porch area is off Main Street which has an ”alley feel”. The side of the house across from them faces the porch.

Mr. Garner asked if the proposed overhang would be inside the shrubbery area and how much further out it would extend; also, are there other properties similar? Mr. Slaten said that it would extend another couple of feet but would be inside of the shrubbery area. Ms. Austin responded that there is no street scape because of the trees and the hedge row; cannot see the Spann’s house or other houses. It feels like an alley side street.

Chairman Orr asked for clarification of the request. Mr. Slaten said that the project includes replacing, screening in and extending the existing non-conforming porch. Proposed is an enlarged/screened porch rather than covered/open structure.

Mr. Loveman asked how many feet will the porch extended. Ms. Austin said that the extension will be 3 ½ feet. Loveman said that additional encroachment could cause a safety
issue, but it seems in character with the neighborhood.

Glen Merchant, Building Official, stated that Ms. Austin is familiar with the code regarding sprinkler requirements. Ms. Austin said that the applicant is willing to implement a sprinkler on the porch.

Mr. Simonton expressed concern that there is an existing encroachment and that the shrubbery buffer is not on the applicant’s property.

Mr. Mitchell asked if the Board remembers ever approving a variance to a property line. Mr. Orr said he could not recall having approved a variance to a property line, especially at a street. Mitchell: Could roof portion be extended to address the water issue without taking the entire porch to the property line? Austin: We could extend the roof out to the edge of the current brick wall, and screen in the porch. We were asking to extend the terrace 3 ½ feet. After listening to feedback, we ask that the request be amended to replace the roof and extend the roof to the current wall of the terrace, not to the property line, about 2 feet short of the property line. Everything proposed will be pulled in to 2 ½ feet from the property line.

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

Motion: Mr. Mitchell, motion to approve an amended variance request to allow the construction of a covered screened-in porch to be located 2.5 feet from the secondary front property line in lieu of the required 35 feet.

Second: Mr. Loveman

Vote: Aye: Loveman, Mitchell, Orr, Simonton

Nay: None

The variance request stands approved as submitted.

10. Adjournment: There being no further business to come before the Board at this time, the meeting stood adjourned. The next meeting is scheduled for Monday, October 19, 2020.

Tammy Reid, Administrative Analyst