

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**MINUTES**  
**July 19, 2021**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, July 19, 2021, at 5:00 p.m., at City Hall, 56 Church Street, Mountain Brook, Alabama. The meeting was in person, with Zoom capabilities. The roll was marked as follows:

Board Present:	Norman Orr, Chairman	Absent:	Scott Boomhover
	Richard Simonton, Co-Chairman		Chris Mitchell
	Rhett Loveman		
	Noel Dowling, Supernumerary		
	Russ Doyle, Supernumerary		

Also present:	Gerald Garner:	Council Liaison
	Dana Hazen:	Director, Planning, Building and Sustainability (via Zoom)
	Tyler Slaten:	City Planner
	Glen Merchant:	Building Official (via Zoom)

Chairman 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.

---

Chairman Orr stated that a variance approval will require four affirmative votes. He reviewed the parameters for a favorable consideration of a variance. These parameters are attached to the end of these minutes.

---

Chairman Orr 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.

The agenda stood approved as presented and posted.

**1. Approval of Minutes – June 21, 2021**

Chairman Orr presented the June 21, 2021, minutes for consideration.

Motion: Mr. Loveman, motion to approve the minutes as presented.

Second: Mr. Doyle

Vote: Aye: Unanimous                      Nay: None

The June 21, 2021, minutes stand approved.

**2. Case A-20-17: 920 Sheridan Drive, Patrick Moulton - EXTENSION****EXHIBIT 1**

**Extension:** Patrick Moulton, property owner, requests variances from the terms of the Zoning Regulations to allow for construction to replace a non-conforming detached accessory structure to be located 8.4 feet from the rear property line in lieu of the required 10 feet and 2.9 feet from the side property line in lieu of the required 10 feet. The original variance was approved on July 20, 2020.

**Hardship(s): Existing design constraint.**

Patrick Moulton, property owner, stated that financial issues kept the project from moving forward.

Chairman Orr stated that an approved extension would be for a period of six months.

Public Comments: None. Chairman Orr called for a motion.

Motion: Mr. Simonton, motion to approve the variance extension request for a period of six months, as requested by the property owner.

Second: Mr. Doyle

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

**3. Case A-21-30: 3669 Rockhill Road, Don and Lila Wooten - CARRY OVER****EXHIBIT 2**

Don and Lila Wooten, property owners, request a variance from the terms of the Zoning Regulations to allow an addition to be 5 feet 6 inches from the side property line (west) in lieu of the required 15 feet. This case carried over from the June 21, 2021 meeting.

**Hardship(s): Existing design constraints; the location of a septic system and field lines.**

Property owner, Lila Wooten, addressed the Board. The previous contractor is no longer on the project. The scope of work includes the construction of a covered patio addition with an outdoor fireplace in the side setback. There is currently an uncovered patio on this side of the single family dwelling. The proposal would extend the roofline off of the main structure to cover a portion of the uncovered patio.

Mr. Simonton asked the lot hardship. Mrs. Wooten stated that the proposed location is the only place that the covered patio can be located because placing it at the rear would put it over the septic tank and field lines; also, attaching the patio covering to the house at the rear location would not allow the pitch needed for drainage.

Mr. Simonton asked the height of the patio. Mrs. Wooten said that the patio roof will maintain the pitch of the roofline.

Chairman Orr noted the photo submitted by the property owner that substantiates existing design constraints as a hardship of the lot.

Public comments: None

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

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

Second: Mr. Simonton

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

The variance request stands approved.

#### 4. Case A-21-33: 17 Montcrest Drive, Buford Todd – CARRY OVER

#### EXHIBIT 3

Buford Todd, property owner, requests a variance from the terms of the Zoning Regulations to allow pool equipment to be 8 inches from the side property line (north) in lieu of the required 10 feet. This case carried over from the June 21, 2021 meeting at the request of the property owner.

#### Hardship(s):

Jonathan Mitchell, Blue Haven Pools, represented the applicant:

- Blue Haven Pools installed the pool at this location. The scope of work includes the installation of pool equipment (already installed).
- The location for the equipment was chosen because there is a complex drainage system that they wanted to avoid.
- Through the inspection process, there was no mention of a problem with the equipment location until the final inspection.
- The equipment includes: pump, filter, gas spa heater, and electric heat pump. These items can be moved but will require digging up the property owner's yard. Moving the equipment inward to comply will not eliminate the noise.
- If the issue is noise they are willing to install, in addition to the existing six-foot tall board-on-board fence surrounding the equipment, an acoustic sound barrier inside the fence, and a surround for the pump itself. This should reduce the sound by 75 to 90%.

Mr. Loveman: At the last meeting, there was opposition from some of the neighbors. The zoning code specifically anticipates that pool equipment is not appropriate in the side yard closer than 10 feet to a property line.

Public Comment:

Richard Underwood, 21 Montcrest Drive, MB, said that the equipment is 8 inches off of

the fence line; 15 steps from his screened porch. He can hear the equipment; sounds like an idling truck; annoying. Even if noise is suppressed, he does not want to see the equipment. The existing fence will need to be replaced at some point. He has not heard from the applicant.

Dereck Belden, 15 Montcrest Drive, MB. It is a concern that the equipment is 8 inches from the property line. He said that there is an existing single pipe drain across the subject property; all other utilities were added with the project, along with a generator. He feels this issue could have been resolved prior to this point and that this is a self-created hardship.

Mr. J. Mitchell (Blue Haven Pools): The equipment and fence can be moved to meet the 10-foot setback requirement. The situation was an apparent oversight and they wanted to offer a solution by proposing the addition of noise suppression equipment. If they are required to move the equipment, the noise suppression system will not be installed unless the homeowner requests it.

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

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

Second: Mr. Dowling

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

The variance request stands denied as submitted.

#### 5. Case A-21-34: Andrew and Morgan Gearhart – 752 Bentley Drive

#### EXHIBIT 4

Andrew and Morgan Gearhart, property owners, request variances from the terms of the Zoning Regulations to allow an existing accessory structure to remain as located, 1.7 feet from the side property line (west) in lieu of the required 10 feet, and 3 feet from the principal structure (east) in lieu of the required 5 feet.

#### **Hardship(s): Existing design constraints; topography.**

Andrew and Morgan Gearhart, property owners, presented the variance request. An existing, non-conforming accessory structure was removed due to severe disrepair (rotten and collapsing) and a new structure built in the same location. The applicants said that they assumed that the prior structure was already approved and did not need further approval upon replacement.

The new structure consists of a post frame construction with a roof and is open on the sides, providing storage for outdoor equipment, bikes, etc. This location is the only place on the property for such a structure because there is an existing retaining wall in the back, a patio on the right side of the property, and the backyard is sloped.

Mr. Dowling asked how they found out that approval was needed and if they were using a contractor. Mr. Gearhart said that the City issued a stop-work notice upon discovery. They are doing the construction themselves.

Mr. Dowling asked if the City will inspect the structure. Tyler Slaten, City Planner, said that they will need a building permit and it will need to be inspected going forward if approved.

Chairman Orr said that usually the Board sees plans, drawings, etc. to facilitate in the decision process; it is difficult to process without more information like the height of the structure, the roof type, etc. Mr. Gearhart forwarded a picture of the structure to the Board. He said that it is approximately 11 feet tall.

Mr. Dowling: Are there fire safety requirements associated with this structure? Mr. Slaten stated that his understanding is that a fire suppression system is not required because it is an open-air structure. Glen Merchant, Building Official, said that since this is a carport structure with a roof only, there is not a fire danger component.

Applicants: Several neighbors signed a memorandum in support of the project. The neighbors are glad to have it replaced because it was so dangerous for children playing in the area. Shingles and paint will be added to match the house.

Chairman Orr asked the hardship of the lot. Mrs. Gearhart said that the design of the existing house limits the use of the lot; also, the yard slopes, creating water issues (topography).

Public Comment: None

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

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

Second: Mr. Dowling

Vote:	Aye:	Nay:
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

The variance request stands approved.

## 6. Case A-21-35: Caroline Clark – 2900 Thornhill Road

## EXHIBIT 5

Caroline Clark, property owner, requests variances from the terms of the Zoning Regulations to allow a new single family dwelling to be located 9.127 feet from the side property line (northeast) in lieu of the required 15 feet.

**Hardship(s): The narrowness of the lot as it relates to the side yard encroachment.**

John Carraway, Carraway and Associates, 2409 Park Lane S, Birmingham, represented the property owner, via Zoom. The scope of work involves the construction of a new single-family dwelling. The property is particularly narrow; it is 30 feet less than what is required for Residence-A zoning. Also, the lot area is approximately 14,280 sf rather than the required minimum lot area of 30,000 sf in this zone.

Mr. Doyle: It appears that other lots are larger in the area. Comparing the setbacks of the existing structure to the proposed, the proposed is decreasing the setback encroachments. Chairman Orr agreed that lessening the encroachments is important to note.

Public Comments: None

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

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

Second: Mr. Simonton

Vote:	Aye:	Nay:
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

The variance request stands approved.

#### **7. Case A-21-36: Lloyd and Jane Timberlake Cooper – 210 Mountain Avenue**

**EXHIBIT 6**

Lloyd and Jane Timberlake Cooper, property owners, request variances from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be 32.4 feet from the primary front property line (Mountain Avenue) in lieu of the required 35 feet, and 8.5 feet from the secondary front property line (Main Street), in lieu of the required 13 feet.

#### **Hardship(s): Existing design constraints.**

Scott Carlisle, Carlisle Moore Architects (2814 Petticoat Lane, MB), represented the property owners. The scope of work entails an addition to the existing non-conforming home to enlarge the living room and create a small porch. The proposal would extend the front wall of the house approximately six feet. The lot hardship is the existing design constraint.

Chairman Orr noted the hardship of existing design constraints. He asked how many feet the front of the house is extending. Mr. Carlisle said that to match the existing front façade, it will extend approximately 8 feet and the height at the tallest point is approximately 12 feet. Chairman Orr stated that he appreciates that the encroachment request is minimal.

Public Comment: None

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

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

The variance request stands approved as submitted.

## 8. Case A-21-37: Stephen and Lane Cross – 332 Cherry Street

## EXHIBIT 7

Stephen and Lane Cross, property owners, request a variance from the terms of the Zoning Regulations to allow the construction of an accessory structure to be 8 feet from the rear property line (southwest) in lieu of the required 10 feet.

### **Hardship(s): Narrowness of the lot and small lot size.**

Justin Collier, architect, 2820 Old 280 Court, Vestavia Hills, AL, represented the property owners. The scope of work includes the construction of a new detached garage.

Mr. Simonton asked for a description of the requested variance.

Mr. Collier:

- The proposed two-car garage would be 576 square feet in size.
- The site is currently large enough to support a garage addition; however, the 10' setback required for accessory structures renders the backyard nearly useless once the structure is built.
- The property owners have experienced multiple break-ins into their vehicles because they have no means of secured parking.
- A public alley serves as their driveway since their site is so narrow.
- A detached garage would eliminate the security issue and an 8' setback would gain them a more functional backyard and not harm their property value.
- There is attic space only above the two-car parking area; 25 feet in height at the gable that matches the pitch of the house.

Mr. Doyle: Could the size be reduced to meet setback requirements?

Mr. Collier: The standard for a two-car garage is 24' by 24', outside to outside, to accommodate most vehicles.

Mr. Doyle: It is difficult to see the hardship of this case; the need for usable yard space is not a hardship. Mr. Simonton agreed.

Chairman Orr: Remedies to resolve the setback encroachment include reducing the size of the structure and moving it forward; there are other ways to work this without needing a variance. He appreciates the security issues mentioned, but that is not part of the criteria for consideration. Drawings are helpful in assessing the impact of the height, size, location, etc.

Mr. Collier: Requests to carry the case over to the August 16, 2021 meeting for further exploration by the applicant.

Public Comments: None

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

Motion: Mr. Doyle, motion to carry the case over to the August 16, 2021 meeting, as requested by the applicant.

Second: Mr. Loveman

Vote:	Aye:	Nay:
	Loveman	None
	Simonton	
	Orr	
	Dowling	
	Doyle	

The request for a variance will carry over to the August, 16, 2021 meeting, as requested by the applicant.

- 9. 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, August 16, 2021.

*Tammy Reid*

Tammy Reid, Administrative Analyst