

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
May 16, 2022

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, May 16, 2022, at 5:00 p.m.; the meeting was held in-person and via Zoom video conferencing. The roll was marked as follows:

Board Present: (In Person)	Norman Orr, Chairman Scott Boomhover Noel Dowling Rhett Loveman	Absent:	Russ Doyle, Supernumerary Richard Simonton, Co-Chairman Oliver Williams, Supernumerary
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Also present:	Gerald Garner: Council Liaison Tyler Slaten: City Planner Tammy Reid: Administrative Analyst (via Zoom)
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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. Tammy Reid confirmed, based on the information supplied by the applicants, the adjacent property owners were notified.

Chairman Orr called the meeting to order. The agenda stood approved as presented and posted.

1. Approval of Minutes – April 18, 2022

Chairman Orr presented the minutes for approval.

Motion: Mr. Loveman, motion to approve the April 18, 2022 minutes as presented.

Second: Mr. Dowling

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Unanimous	None

The minutes stand approved.

2. Case A-22-12 406 Cherry Street, Emily Brown Cotney

EXHIBIT 1

This case carried over from the April 18, 2022 meeting, per the request of the applicant.

Emily Brown Cotney, property owner, requests variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 7.4 feet from the side property line (south) in lieu of the required 9 feet for portions of the home less than 22 feet in height; to be 7.3 feet from the side property line (north) in lieu of the required 9 feet for portions of the home to be less than 22 feet in height; and to be 25.6 feet from the rear property line in lieu of the required 30 feet.

Hardship(s): The narrowness of the lot, the irregular lot shape and size of the lot.

Mrs. Cotney presented the variance request.

Chairman Orr stated that the hardships were established at the last meeting – narrow lot, irregular shape of the lot, and the size of the lot. The sides of the house meet setback requirements; only the bump outs require a variance. The proposed addition in the rear is one story. The request change from last meeting is that the second story variance is removed.

Mr. Dowling stated that he appreciates the improvements. Chairman Orr agreed.

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

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

Second: Mr. Boomhover

Vote: Aye: Nay: None

Boomhover

Dowling

Loveman

Orr

The variance application stands approved as revised and submitted.

3. Case A-22-15: 3800 Buckingham Place, Doug Levene

EXHIBIT 2

Doug Levene, property owner, requests a variance from the terms of the Zoning Regulations to allow a new single family dwelling to be 32.2 feet from the rear property line (west) in lieu of the required 40 feet.

Jason Kessler represented the applicant.

Mr. Loveman recused himself from participating in this case. At this time, Chairman Orr stated that the case will carry over to the June meeting due to the lack of a voting quorum.

4. Case A-22-16: 141 Spring Street, John and Melanie Laird

EXHIBIT 3

John and Melanie Laird, property owners, request a variance from the terms of the Zoning Regulations to allow a retaining wall in the front yard to be up to 7 feet in height in lieu of the maximum wall height allowed of 4 feet.

Hardship(s): Topography.

The applicants presented the variance request. The scope of work includes the construction of a retaining wall in the front yard that ranges from 4 to 7 feet in height. The proposed retaining wall is 7 feet in height at the tallest point from the natural grade.

Mr. Boomhover confirmed the hardships of existing design constraint and topography. Mr. Laird confirmed that the variance area is at the far right side; 7' tall for a small portion of the wall.

Mr. Boomhover asked if stepping the property was considered so that the wall height would be lower. Mrs. Laird stated that the contractor said that the wall would have to be that tall to prevent water runoff.

Mr. Dowling: At the highest point of the wall, will the grass meet the top of the wall? Mr. Laird stated that the grass will slope down to the wall, so the wall will be lower than the grass.

Chairman Orr asked if the height of the new wall is the same as the old wall. Mr. Laird replied "yes".

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

Motion: Mr. Dowling, motion to approve the variance as requested.

Second: Mr. Boomhover

Vote: Aye: Boomhover
Dowling
Loveman
Orr

Nay: None

The variance application stands approved

- 5. 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, June 20, 2022.

Tammy Reid

Tammy Reid, Administrative Analyst

Standard Parameters for the Granting of a Variance

Section 129-455 of the municipal code frames the parameters for a favorable consideration of a variance:

Where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship to the owner of the parcel for which the variance is sought.

Standard Hardships Required

Section 129-455 of the municipal code outlines the hardships that the board may consider as justification for the granting of a variance:

- a. exceptional narrowness
- b. exceptional shallowness
- c. irregular shape
- d. exceptional topographic conditions
- e. other extraordinary and exceptional situations or conditions of such parcel which would result in peculiar, extraordinary and practical difficulties (existing design constraints).

Required Findings for Approval

Section 129-455 of the municipal code indicates that before any variance is granted, the board shall consider the following factors, and may not grant a variance unless it finds that these factors exist (not all of these findings will apply to every type of variance, but should be used wherever they are applicable):

Applicable findings for approval should be read into the record of minutes for any motion to approve:

1. That special circumstances or conditions apply to the building or land in question, and
2. That these circumstances are peculiar to such building or land, and
3. That these circumstances do not apply generally to other buildings or land in the vicinity;
4. The condition from which relief or a variance is sought did not result from action by the applicant;
5. That the granting of this variance:
 - a. will not impair an adequate supply of light and air to adjacent property;
 - b. will not be detrimental to the streetscape;
 - c. will not increase the danger of fire;
 - d. will not increase noise;
 - e. will not the risk of flooding or water damage;
 - f. does not merely serve as a convenience to the applicant;
 - g. is in harmony with the spirit and intent of the zoning ordinance.

Findings for Denial

If the above noted findings for approval do not apply to the subject request, then the opposite findings may be made for denial.