

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**June 20, 2022**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, June 20, 2022, at 5:00 p.m. The roll was marked as follows:

Board Present:	Richard Simonton, Co-Chairman Scott Boomhover Oliver Williams, Supernumerary Noel Dowling Russ Doyle, Supernumerary	Absent:	Norman Orr, Chairman Rhett Loveman Gerald Garner, Council Liaison
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Also present:	Tyler Slaten: City Planner Tammy Reid: Administrative Analyst
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Mr. Simonton 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.

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Mr. Simonton 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.

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Mr. Simonton 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.

Mr. Simonton called the meeting to order. The agenda stood approved as presented and posted.

**1. Approval of Minutes – May 16, 2022**

Mr. Simonton presented the minutes for approval.

Motion: Mr. Dowling, motion to approve the May 16, 2022 minutes as presented.

Second: Mr. Boomhover

Vote:	<u>Aye:</u> Unanimous	<u>Nay:</u> None
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The minutes stand approved.

**2. Case A-22-15: 3800 Buckingham Place, Doug Levene****EXHIBIT 1**

This case carried over from the May 16, 2022 meeting.

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.

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

This case carried over from the May meeting due to the lack of a voting quorum, upon the recusal of Mr. Loveman.

Jason Kessler, 3505 Bent River Road, Birmingham, represented the applicant. The scope of work involves the construction of a new single family dwelling. The house is one level and has no windows on the rear of the structure. The hardships are the corner lot configuration, the shape of the lot, and the overall lot area is 24,874, which is less than the 30,000 minimum lot area required for Res-A.

Mr. Simonton confirmed the hardships of the lot.

Public Comments: None. Mr. Simonton called for a motion.

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

Second: Mr. Dowling

Vote: Aye: Nay: None

Boomhover

Dowling

Simonton

Doyle

Williams

The variance application stands approved as submitted.

**3. Case A-22-17: 4033 Rock Creek Way, Mickey and Marjorie Trimm****EXHIBIT 2**

Mickey and Marjorie Trimm, property owners, request variances from the terms of the Zoning Regulations to allow an addition to a single family home to be 31.9 feet from the secondary front property line (Rock Creek Way) in lieu of the required 40 feet.

**Hardships:** The hardships in this case are the corner lot configuration, existing design constraint, topography, and septic system with field lines.

David Blackmon, Blackmon Rogers Architects, 3 Office Park Circle, Birmingham, represented the applicants. The scope of work includes a new entryway enhancement on the secondary front facade. The hardships in this case are the corner lot configuration, existing design constraint, topography, and septic system with field lines. The same roofing and stone will be used to match existing façade. The requested variance is minor.

Mr. Simonton stated that the lot behind the applicant is vacant and he does not see that the variance will cause an issue with the streetscape. He confirmed the hardships submitted.

Public Comments: None. Mr. Simonton called for a motion.

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

Second: Mr. Doyle

Vote: Aye: Nay: None

Boomhover

Dowling

Simonton

Doyle

Williams

The variance application stands approved as submitted.

#### 4. Case A-22-19: 2704 Woodridge Road, William and Judy Nelson

#### EXHIBIT 3

William and Judy Nelson, property owners, request variances from the terms of the Zoning Regulations to allow a spa in the secondary front yard (Overton Road) in lieu of the requirement that accessory structures (and pools) are to be located only in a side yard or rear yard.

**Hardship(s):** The hardship in this case is the double frontage lot configuration.

David Lorberbaum, Lorberbaum McNair & Associates, 2213 Morris Avenue, Birmingham, represented the applicants. The scope of work entails a new spa in the secondary front yard.

The double frontage lot has the primary front on Woodridge Road, with Overton Road being the rear of the home. The site has an existing pool to the rear of the home (within in the secondary front yard area along Overton Road) in the same location as the proposed spa. The topography is such that the area in question sits approximately 60 feet above the Overton Road, which would shield the view of the proposed spa from the secondary front entirely.

Mr. Dowling asked about the noise that will be generated by the spa. Mr. Lorberbaum said the spa will be behind the house and will have an evergreen buffer.

Mr. Simonton confirmed the hardship of two front yards.

Public Comments: None. Mr. Simonton called for a motion.

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

Second: Mr. Williams

Vote: Aye: Nay: None

Boomhover

Dowling

Loveman

Orr

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, July 18, 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.