

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
July 18, 2022

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, July 18, 2022, at 5:00 p.m. The roll was marked as follows:

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

Approval of Minutes – June 20, 2022

Chairman Orr stated that the minutes from June 20, 2022 will carry to the August meeting due to the lack of a quorum of attendees from that meeting.

1. Case A-22-20: 128 Lake Drive, JLH Building LLC

EXHIBIT 1

JLH Building LLC, property owners, request variances from the terms of the Zoning Regulations to allow an addition to a single family dwelling to be 32 feet from the rear front property line (east) in lieu of the required 35 feet.

Hardship(s): Existing design constraint.

The scope of work involves the addition of a new rear covered porch and fireplace to the rear of the home.

Property owner, Blair Trotter, presented the variance request. The hardship of the lot is existing design constraints. The current structure encroaches into the rear setback. The plan is to square off the rear; the addition will not encroach any farther into the setback. Mr. Trotter stated that he contacted neighbors regarding the proposed project; no one expressed objections.

Chairman Orr stated that the hardship of the lot is the existing design constraint. The existing house remains. The rear portion of the fireplace and the house will be at 32 feet. What about the stairs?

Mr. Trotter stated that the steps will be built straight off the rear.

Mr. Simonton said that the proposed project will have minor impact.

There is significant tree coverage to buffer the neighbors in the rear.

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

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

Second: Mr. Simonton

Vote: Aye: Nay: None

Dowling

Loveman

Orr

Simonton

Williams

The variance application stands approved as submitted.

2. Case A-22-21: 2923 Balmoral Road, Mary Conyers and John Hicks**EXHIBIT 2**

Mary Conyers and Jordan Hicks, property owners, request variances from the terms of the Zoning Regulations to allow a new single family dwelling to be 20 feet from the secondary front property line (Pine Haven Drive) in lieu of the required 35 feet.

Hardships: The corner lot configuration.

The scope of work entails a proposed new single family dwelling.

Jason Robb, architect, presented the applicants, who also attended the meeting. The new house will be at the same location as the original structure. The lot hardship is that the original structure is nonconforming. The plan is to use the lot as it was used originally.

Mr. Dowling: Did you consider a plan that would fit within setbacks with no variance required?

Mr. Robb: This is a custom built home that meets the requirements of the property owners. The house was pulled farther from the neighbor at 2924 to create a green space. The porch is open, covered but not screened. One of the garage doors will allow entrance underneath the porch. The garage door is flush with the variance request. The structure could be moved over into buildable area, but that will mean that the porch will have to be removed.

Chairman Orr: If the structure is shifted back, the porch could be within the setback.

Mr. Robb: The neighbor's driveway is at the property line. The plan is to add a vegetative buffer for privacy and to reduce the amount of concrete. The slope of the property provides only for access to the basement garage from Pine Haven. The buildable area is pushed over because of two 35' setbacks. The house is significantly larger than the original structure. The encroachment on Balmoral is not needed with this plan because the stoop is removed.

Mr. Simonton: The hardship is removed once the existing house is demolished.

Erica Neill, contractor for the job: The hardship is that there are two front setbacks. Chairman Orr: The two front setbacks can apply as a hardship if the house is already on the property. His understanding is that new construction eliminates that hardship.

Mr. Robb: It is obvious that other neighbors were granted variances. Chairman Orr: The board looks at each case separately.

Public Comments:

Kelley Aland, 2921 Balmoral Road: If the house shifts towards us as mentioned, it will be too close to our home.

Carter and Cynthia Harsh, 2927 Balmoral Road: Mr. Harsh agrees that there are disadvantages to a corner lot. Moving the structure closer to the neighbor is not optimal. The new house is significantly larger than the original house. It was requested to see a 3-D view to better visualize how the house will fit into the neighborhood.

Mr. Harsh read a letter from neighbor Kathryn Frierson; she lives across the street from the subject property: This seems to be an oversized project. Concerned about drainage problems; removal of trees. She asked that the variance is denied.

Mr. Robb stated that he did not know the square footage of the original house. The total square footage proposed is just under 5,000 sf, not including the basement. He disagreed that the proposed house is too large for the lot and said that it meets impervious requirements. The original house was under scale for the neighborhood.

Mr. Simonton said that he feels a hardship has not been established.

Chairman Orr: There are three options at this point. (1) Amend request (reduce) now. (2) Leave request as is and vote tonight. (3) Ask for a continuance; discuss further with neighbors.

Mary Conyers Jerdigan, property owner, said they had not planned to build a new structure, but there were foundation issues. They chose to put the deck on the side of the house to give space between neighbors.

Gerald Garner, Council Liaison: Should you proceed as is and the variance is denied, you will need to wait six months before reapplying and the new request has to be substantially different. He suggested that the applicant consider carrying the case over to the August meeting.

Ms. Jerdigan said that waiting another 30 days is a hardship. They were already pushed back a month due to a filing issue with the city.

Mr. Robb asked to carry the case over to the August meeting.

Motion: Mr. Simonton, motion to approve the applicant's request to carry the case over to the August meeting.

Second: Mr. Dowling

Vote: Aye: Nay:
Unanimous None

The applicant's request to carry the case over to the August meeting stands approved.

3. Case A-22-22: 24 Woodhill Road, Rhett and Margaret Loveman

EXHIBIT 3

Rhett and Margaret Loveman, property owners, request variances from the terms of the Zoning Regulations to allow a detached accessory structure to be 5 feet from the side property line in lieu of the required 15 feet.

Mr. Loveman left the dais to present his variance request.

Hardship(s): Design constraint of the location of the carport and topography.

The scope of work includes a new roof structure for a carport.

Mr. Loveman: The roof of the existing carport is in poor condition. The hardship is existing design constraint of the location of the carport and topography. The roof will be removed and a window with shutter added. The existing carport is surrounded by retaining walls due to the grade changes on the property, which prevents the carport location elsewhere on the property.

Mr. Dowling stated that the proposed will not encroach any farther into the setback.

Chairman Orr confirmed that this is not a complete tear down.

Glen Merchant, Building Official, added that the height of the carport cannot be higher than the primary structure. Mr. Loveman confirmed.

Mr. Dowling stated that the request is minor.

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

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

Second: Mr. Williams

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

The variance application stands approved.

- 4. 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 15, 2022.

Tammy Reid

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.