

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
August 15, 2022

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, August 15, 2022, at 5:00 p.m. The roll was marked as follows:

Board Present:	Norman Orr, Chairman Noel Dowling Rhett Loveman Russ Doyle, Supernumerary Oliver Williams, Supernumerary	Absent:	Scott Boomhover Richard Simonton, Co-Chairman
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Also present:	Gerald Garner: Council Liaison Tyler Slaten: City Planner Glen Merchant: Building Official 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 and July 18, 2022

Motion:	Mr. Loveman, motion to approve both sets of minutes as submitted.	
Second:	Mr. Williams	
Vote:	<u>Aye:</u>	<u>Nay:</u>
	Unanimous	None

1. Case A-22-21: 2923 Balmoral Road, Mary Conyers and John Hicks
(Carried over from the July 18, 2022 meeting.)

Mary Conyers and Jordan Hicks, property owners, request a variance from the terms of the Zoning Regulations to allow a new single family dwelling to be 25 feet from the secondary front property line (Pine Haven Drive) in lieu of the required 35 feet.

Hardship(s): The corner lot configuration.

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

Erica Neill, contractor, represented the applicants. This case carried over from the July meeting. New plans have been drawn with a smaller footprint than the original proposal.

Martin Evans, 2001 Park Place N, Birmingham: The new proposal to build at 25 feet from Pine Haven Drive reduces the current setback encroachment by approximately 8 feet. The variance will allow the house to be centered on the lot, allowing flow of light and air. The nature of Pine Haven Drive and the existing setbacks of dwellings in the vicinity, results in inconsistency in the streetscapes; there are no streetscape concerns with the proposed. The topography also is a hardship. There is a driveway that abuts on the western side of the lot. If there were an alleyway rather than a utility easement on the lot, a variance would not be required.

Mr. Loveman confirmed the presented hardships. If the house is moved all the way to the left on the lot, light and air flow would be affected on the other side. The neighbor that would be affected is not in favor of that change. The curvature of road affects the streetscape. Chairman Orr confirmed the importance of air and light flow.

Mr. Dowling asked the square footage of the original house.

Ms. Neill: The new structure is approximately 2,800 sf. The new version is scaled down by approximately 600 sf.

Mr. Dowling asked if it had been considered placing the structure on the lot in such a way as to eliminate the need for a variance.

Ms. Neill: The footprint is scaled down from the proposed structure presented in July, based on meeting comments as well as input of neighbors.

Chairman Orr: The issue of light and air flow is important, and the presented seems to be in harmony with the spirit of the code.

Mr. Dowling stated that the Board received an email from the neighbor at 2901 expressing support for the project. Existing water runoff issues were mentioned.

Ms. Neill stated that a civil engineer has been engaged to address that issue.

Public Comments:

Mat Johnson, 2901 Pine Haven Drive, MB: The back property line of the subject lot runs the entirety of his side yard. He is in favor of the proposed structure. It is his understanding that the proposed construction will address the existing serious drainage issues. He supports the project.

Mr. Loveman: If the house could be placed more to the left, a variance would not be needed, but that would create an issue with the flow of light and air on the other side of the lot.

Chairman Orr called for a motion.

Motion: Mr. Loveman, motion to approve the variance request as presented and amended from the original application.

Second: Mr. Williams

Vote: Aye: Loveman
Nay: Dowling
 Orr
 Doyle
 Williams

The variance request stands approved as requested.

2. Case A-22-23: 2716 Culver Road, Jay and Theresa Friedman

EXHIBIT 2

Jay and Theresa Friedman, property owners, request a variance from the terms of the Zoning Regulations to allow 1 onsite parking space in lieu of the required 7 spaces. 2716 Culver Road

Hardship(s): The applicant cites the irregular lot shape which creates an existing design constraint and precludes efficient utilization of the building area.

The subject site is non-conforming with regard to on-site parking, wherein it contains two parking spaces while the zoning code requires seven parking spaces. The proposed scope of work involves the removal of one of the existing two on-site parking spaces to allow the construction of an outdoor patio at the rear of the property.

Jay Friedman, applicant and property owner, addressed the Board. Highlights:

- Future tenant, The Rougaroux (Ed Stacey and Ryan Champion).
- Proposed is a small, outdoor patio dining area capable of seating twenty-two patrons. To accomplish this, one on-site parking space behind the building will be eliminated, reducing the parking from two spaces to one.
- There will be one on-site parking space located directly behind the building (for staff). All other staff will park around the perimeter of Mountain Brook Village.
- Rougaroux anticipates needing five employees maximum to operate the restaurant.
- Given the fast-casual nature of proposed service, Rougaroux anticipates it will cater primarily to existing foot-traffic at its lunchtime service.
- Concept – fast-casual. Elevated foods; disposable plates, utensils, etc.
- The same dining room footprint will be used.
- As proposed, the restaurant will not significantly change the traffic operations at nearby intersections because the three parking spots in the front will remain unchanged.
- The service area is accessible via alleyway.
- The irregular lot shape and the strict application of the zoning regulations create an existing design constraint, causing undue hardship. Utilization of approximately 30% of the lot's buildable area is unavailable due to the zoning regulation and the lot shape.
- Currently two businesses have converted parking spaces into outdoor patio seating with great success. Watkins Branch has outdoor seating.
- This plan will increase sales tax for the city.
- The hardships are unique to this lot.
- This request is in harmony with the Village Masterplan.

Chairman Orr confirmed that there are 42 seats inside and the proposed patio will add another 22 seats. This adds a substantial amount of patrons to an already crowded parking situation. To allow the reduction in parking spaces, we need to determine if the requirement of the parking is unnecessary because of the character or use of the building. Also, regarding Watkins Branch, they will receive a letter regarding their outdoor seating. This was done without approval and the outdoor seating will have to be removed. Each application is considered individually.

Mr. Friedman: The application of the zoning code creates an undue hardship - existing design constraints.

Chairman Orr: The code allows the restaurant use, but you are increasing the size of the restaurant; increasing the amount of customers by 1/3 also creates the need for additional parking, per the code.

Mr. Friedman said that the request reduces employee parking, not patron parking. The maximum staff required at this restaurant is five. This will add four additional employees needing parking to the 240 shared employees parking designated throughout the village.

Mr. Garner, Council Liaison, stated that he is an advocate for businesses in the city. Parking is awful already. He does not have issue with the proposed, but is not a voting member.

Mr. Doyle: The number of employees stated, five, seems low.

Mr. Friedman: Most food preparation will take place at another location, then brought to this location. Counter service; two cooks.

Chairman Orr stated that he has been behind this building in the alleyway and it is difficult to maneuver as is.

Ed Stacey, proprietor of Rougaroux in Forrest Park: He is looking forward to opening this location in Mountain Brook and feels it is a good fit for the city.

Mr. Williams: This seems to be more an issue of one employee parking space being removed than an issue of congestion.

Mr. Loveman: Is saving one parking space worth taking away the option of outdoor seating?

Mr. Friedman: The additional seating is important to the viability of the restaurant.

Chairman Orr: In the case that outdoor seating is not an option, would that affect your plan? Mr. Friedman said that it would definitely make it more difficult to obtain the needed revenue.

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

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

Second: Mr. Doyle

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Dowling	Orr
	Loveman	
	Doyle	
	Williams	

The variance application stands approved.

3. Case A-22-24: 2011 Garden Place, David Williams and Barbara Burton

EXHIBIT 3

David Williams and Barbara Burton, property owners, request a variance from the terms of the Zoning Regulations to allow an addition to be 23 feet 6 inches from the rear property line (south) in lieu of the required 25 feet. 2011 Garden Place

The scope of work involves the addition of a new rear porch. The proposed variance would allow a small portion of the addition to be located 1 foot 6 inches into the rear setback. The porch addition would be a one story screened porch with a flat roof. The height would be approximately 11 feet 4 inches above the existing grade.

Hardship(s): Shallowness of the lot and the angled rear property line.

David Williams presented his variance application. Garden Place is a 12 unit development. The hardship of the lot is the irregular shape; the only one in the development with this unusual shape. There is a 9 foot tall wall surrounding the entire development, so the porch will not be visible outside of the development. The plans were approved by the architectural committee of the development.

Mr. Dowling: The requested variance is minimal.

Chairman Orr: This is a minimal request. He called for a motion.

Motion: Mr. Williams, motion to approve the variance request as amended.

Second: Mr. Loveman

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

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, September 19, 2022.

Tammy Reid

Administrative Analyst