

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
September 19, 2022

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, September 19, 2022, at 5:00 p.m. The roll was marked as follows:

Board Present: Norman Orr, Chairman Absent: None
 Richard Simonton, Co-Chairman
 Scott Boomhover
 Noel Dowling
 Rhett Loveman
 Russ Doyle, Supernumerary
 Oliver Williams, Supernumerary

Staff present: Gerald Garner: Council Liaison
 Tyler Slaten: City Planner
 Glen Merchant: Building Official
 Tammy Reid: Administrative Analyst

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. Regarding case A-22-25, it was determined that all of the adjacent property owners did not receive notification. Regarding case A-22-26, 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 – August 15, 2022

Motion: Mr. Loveman, motion to approve the minutes as submitted.
 Second: Mr. Simonton
 Vote: Aye: Nay:
 Unanimous None

2. Case A-22-25: 2855 Surrey Road, Lois and Ingrum Bankston

Lois and Ingrum Bankston, property owners, request variances from the terms of the Zoning Regulations to allow an addition to a single family dwelling to be 10 feet 7 inches feet from the rear property line (east) in lieu of the required 40 feet, to be 11 feet from the side property line (north) in lieu of the required 15 feet and to allow the building area to be 37 percent in lieu of the maximum building coverage allowed of 25 percent. 2855 Surrey Road

Scope of Work

The scope of work entails a proposed storage room addition on the rear of the existing attached garage. The dimensions of the addition would be 18 feet long by 6 feet deep.

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

This case will carry over to the October meeting because it was determined that not all of the adjacent property owners received notification of this hearing. Notices were sent out based on the addresses provided by the Jefferson County Tax Assessor's office. New notices will be sent regarding the October meeting based on the Jefferson County list, plus 2858 and 2900 Canterbury Road.

3. Case A-22-26: 19 Montevallo Park Circle, Mathieu and Hannah Nader

EXHIBIT 1

Ms. Reid confirmed, based on the information supplied by the applicants, the adjacent property owners were notified of this hearing.

Hannah and Mathieu Nader, property owners, request a variance from the terms of the Zoning Regulations to allow a 12 foot high uncovered rear deck and railing to be 14 feet 10 inches feet from the rear property line (east) in lieu of the required 25 feet.

Scope of Work

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

Hardship(s): The unusual lot shape and topography.

Anna Evans, architect for the project, represented the property owners. The variance request is for approval of a 12 foot high wall - 9 feet wall with 3 feet of railing - 15 feet from the rear property line. She stated that the lot hardships are the topography and the irregular shape. She added that the lot to the rear is all vegetation and feels that this wall will not be seen. This is new construction; no existing house.

Chairman Orr asked about the topography.

Ms. Evans: From front to back, there is a 24' slope. There is a lot of unbuildable area at the front of the lot because of the narrowness.

Ms. Evans: The terrace is not covered; there is a railing around it.

There is no living space underneath the wall. It is more like a patio or terrace; a paved area attached to the structure.

Glen Merchant, Building Official: This is a Planned Unit Development. Due to the specific requirements, the staff reviewed prior to the submission of the application.

Josh Wright, 23 Montevallo Park Circle: He stated that he feels he can speak on behalf of the Architectural Review Committee for the development. The committee approved the plan as it relates to the HOA. Their only concern was the drainage easement. Upon receipt of a plan from the builder and the architect, they feel those concerns were addressed.

Ms. Evans: The front of the house is 45 feet from the property line.

Mr. Slaten, City Planner, clarified that the request is for 15 feet from rear property line rather than 14 feet, 10 inches.

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

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

Second: Mr. Loveman

Vote: Aye: Nay:

Boomhover

Dowling

Loveman

Orr

Simonton

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, October 17, 2022.

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.