

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**November 21, 2022**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, November 21, 2022 at 5:00 p.m. The roll was marked as follows:

Board Present:	Richard Simonton, Co-Chairman Rhett Loveman Noel Dowling Russ Doyle, Supernumerary Oliver Williams, Supernumerary	Absent:	Norman Orr, Chairman Scott Boomhover
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Staff present:	Virginia Smith: Council Liaison Tyler Slaten: City Planner Dana Hazen: Director of Planning, Building and Sustainability
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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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A variance approval will require four affirmative votes. The parameters for a favorable consideration of a variance are attached to the end of these minutes.

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Regarding all adjacent property owners in each of the cases receiving legal notice of this hearing: Mr. Slaten 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** – October 17, 2022  
The minutes were approved by unanimous vote.

2. **Case A-22-02: David and Corley Tickle, 2938 Pine Haven Drive**  
*(Extension request; original approval on January 18, 2022.)*

**EXHIBIT 1**

David and Corley Tickle, property owners, request a variance from the terms of the Zoning Regulations to allow an addition to the dwelling to be 34 feet from the front property line (Pine Haven Drive) in lieu of the required 35 feet.

The Board voted to approve the extension request for a period of six months, beginning January 18, 2023.

**3. Case A-22-30: William and Judy Nelson, 2704 Woodridge Road**

**EXHIBIT 2**

William and Judy Nelson, property owners, requests a variance from the terms of the Zoning Regulations to allow request a variance from the terms of the Zoning Regulations to allow a detached accessory structure (pavilion) in the secondary front yard (Overton Road) in lieu of the requirement that accessory structures be located only in a side yard or rear yard. 2704 Woodridge Road

Scope of Work

The scope of work entails a proposed new pavilion in the secondary front yard.

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

The Board voted to approve the variance request as submitted.

**4. Case A-22-29: Andrew and Tiffany Linn, 401 Michael Lane**

**EXHIBIT 3**

*(Carry-over from the October 17, 2022 meeting.)*

Andrew and Tiffany Linn, property owners, request variances from the terms of the Zoning Regulations to allow a retaining wall to be up to 10 feet in height in the front yard (Michael Lane) in lieu of the maximum allowed wall height of 4 feet. 401 Michael Lane.

Scope of Work

The scope of work for this site entails a proposed new single family dwelling with a front retaining wall.

Hardship

The applicant stated that the slope of the lot made the retaining wall necessary to facilitate the front drive access and to create a usable functional front yard. Topography.

**Public Comments:**

William Robinson, 3508 Mountain Park Drive: The flooding is an issue for the neighborhood.

Nicole Boomhooover, 3500 Mountain Park Drive, stated there are significant problems with her home since this project began - shifting, front step 5-6 inches lower now, and sidewalk issues. Her yard has eroded.

Mr. Simonton: The flooding issue is outside of BZA scope. Mr. Slaten: Stormwater runoff is not under the purview of this board. The applicant must verify a hardship related to this property to warrant a variance.

Virginia Smith, Council Liaison, stated concern about the precedent set. The 2020 Stormwater Ordinance is in place to provide protection.

Mr. Slaten stated that he consulted with Walter Shoel, Schoel Engineering Co, Inc. (city engineer). Mr. Shoel said that there is a way to make the drainage work with a 4' tall wall; will require redesign.

**Board comments:**

- The runoff is an unfortunate situation. If the wall had been proposed during the design phase, would it have been approved?

- Consider engineering recommendations regarding drainage.
- Sympathize with the neighbors – it is a large concrete wall affecting the streetscape.
- Will there be more water issues if they reduce to a 4' wall?
- Handicap considerations are not considered a hardship.
- The applicant needs to substantiate a hardship.

Teresa Miller/David Miller, 3435 Mountain Park Drive: The house design is not for a lot with this type of slope. More vegetation on the hill will be better for everyone. Drains are failing on top of the mountain now. Appreciates the drainage installed but no guarantee it will be effective. There is no way to properly landscape the wall. Flooding is already an issue.

Resident at 3508 Park Mountain Drive: Creating three lots from one has caused issues: Property values are down; her view is of tons of concrete and walls; they have overbuilt the homes on these lots.

Mr. Slaten: With a grade of more than 15 percent, post construction drainage must equal to or be less than pre-construction drainage, per the Stormwater Ordinance. That is why an engineering plan is required. There are three lots of record. There can be no construction across lot lines.

Andrew Linn: We are only half way complete. There will be 4'-6' trees installed to reduce wall appearance; plants in retention pond; landscaped parking pad. Engineers designed a system to mitigate water flow; it is not connected yet. A 10' boulder wall was approved by the city, but it would seep water. Handicap accessibility is needed.

Dana Hazen, Director of Planning and Building: The applicant can reapply at any time and can present the same request if desired; there is not a required one year period between requests.

Mr. Linn asked that the board look at the reasoning for the height of the wall; consider the topography and drainage - how a 4' tall wall might affect neighbors. He requested to carry over to the December 19, 2022.

Motion: Mr. Loveman, motion to carry the case over to the December 19, 2022 meeting.

Second: Mr. Doyle

Vote: Aye:                      Nay:  
           Simonton  
           Loveman  
           Doyle  
           Dowling  
           Williams

The variance request will carry over to the December 19, 2022 meeting.

- 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, December 19, 2022.

*Tammy Reid*

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Administrative Analyst