

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**March 20, 2023**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, March 20, 2023 at 5:00 p.m. The roll was marked as follows:

Board Present:	Norman Orr, Chairman Scott Boomhover Rhett Loveman Russ Doyle, Supernumerary Oliver Williams, Supernumerary	Absent:	Noel Dowling Richard Simonton, Co-Chairman
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Staff present:	Virginia Smith: Council Liaison Tyler Slaten: City Planner Glen Merchant: Building Official Tammy Reid: Administrative Analyst (Via Zoom Conferencing)
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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.

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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.

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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.

**1. Approval of Minutes – February 21, 2023**

Chairman Orr presented the February 21, 2023 minutes for consideration. There being no comments or corrections, he called for a vote.

Vote:	<u>Aye:</u> Unanimous approval	<u>Nay:</u> None
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## 2. Case A-23-10: Patrick and Anna Robinson, 5 Gaywood Circle

## EXHIBIT 1

Patrick and Anna Robinson, property owners, request a variance from the terms of the Zoning Regulations to allow an addition to be 12 feet from the side property line (north) in lieu of the required 15 feet.

Scope of Work: The scope of work includes additions and alterations to an existing single family dwelling as well as the construction of a new pool and pool house.

Hardship(s): The hardship in this case is the lot size. The Residence-A minimum lot size is 30,000 square feet and the subject location is approximately 15,161 square feet. The lot is also 83 feet wide and the required district minimum lot width is 100 feet.

Patrick Robinson, applicant, presented the variance request. The hardships are the size and width of the lot. The requested encroachment projects 3 feet into the left side setback and is 17 feet in length for a total encroachment of 51 square feet.

Chairman Orr confirmed that the only variance request is for a small bump-out to the left of the house. The other additions in the rear are within the setbacks and do not require variances. The existing structure will remain.

Mr. Boomhover asked about the roof for the addition. The applicant stated that the new roof will be flush with the existing roof. The bump-out is on the second floor.

The applicant stated that InSite Civil Engineering is designing a plan to satisfy the requirement of the city's Stormwater Ordinance.

### Public Comments:

Tom Clark, 2620 Caldwell Mill Lane, MB, represented his mother (Mary Ellen Clark) who lives at 18 Village Place, MB. Her property is behind the subject property. He expressed concerns that the lot is small and there is a lot going on there. He met with the applicant regarding his concerns:

- water runoff - existing and possible new issues
- pool/pool equipment noise
- the view from neighboring properties

Mr. Clark asked that landscaping/shielding be required for the protection of the neighbors.

Chairman Orr: While he appreciates the concerns, the zoning ordinance allows for a 10-foot setback from the property line for the pool and equipment. The Board is only considering the variance request for the bump-out mentioned.

Tyler Slaten, Planner, said that the pool and equipment are required to be a minimum of 10 feet from the property line, per ordinance.

Glen Merchant, Building Official, stated that he has not heard of any water issues at that location; he encouraged Mr. Clark to call city hall with runoff issues; there is a stormwater plan in place.

Virginia Smith, Council Liaison, asked if the creek is on the property line. Mr. Slaten confirmed.

Mr. Doyle asked if there is a privacy fence in place. Mr. Robinson said that there is a 6' tall fence; two years ago, he planted Green Giants along entire fence line that are approximately 8' tall now and should grow 2-3 feet in the next couple of years and will fill in completely.

Chairman Orr: The submitted hardship is related to the variance requested. The lot is small and narrow. The variance request is for a small bump-out only.

Chairman Orr called for a motion.

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

Second: Mr. Loveman

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

### 3. Case A-23-11: David and Mary Anna Malone, 105 Crestwood Drive

### EXHIBIT 2

David and Mary Anna Malone property owners, request a variance from the terms of the Zoning Regulations to allow an addition to a single family dwelling to be 29 feet from the rear property line (east) in lieu of the required 35 feet.

Scope of Work: The scope of work includes the construction of a new covered patio with a fireplace over an existing uncovered patio.

Hardship(s): The hardship in this case is the corner lot configuration

Robb Walker (131 Greenbrier Lane, MB), architect, represented the applicants. This is a corner lot, irregularly shaped. In August of 2012, a variance request was approved for a rear setback of 17.5 feet for the construction of a new carport on the property. This request includes the construction of a new covered patio with a fireplace over an existing uncovered patio.

Mr. Loveman: The hardships are the corner lot configuration and existing design constraints. The house to the east presents a side yard to the rear of the subject property, meaning that the structure can be as close as 12.5 feet from the shared property line that the applicant is proposing a setback of 29 feet for the covered patio.

Chairman Orr asked if the proposed is one story in height. Mr. Walker: Yes  
Chairman Orr confirmed that the fireplace is within the footprint and meets outdoor chimney requirements.

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

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

Second: Mr. Boomhover

Vote:     Aye:                 Nay:  
           Boomhover             None  
           Doyle  
           Loveman  
           Orr  
           Williams

4. **Case A-23-12: Jan Davis, 3812 Arundel Drive**

**EXHIBIT 3**

Jan Davis, property owner, requests a variance from the terms of the Zoning Regulations to allow an addition to a single family dwelling to be 36.2 feet from the rear property line (west) in lieu of the required 40 feet.

Scope of Work: The scope of work includes the addition of a roof over an existing deck.

Hardship(s): The hardship in this case is the existing design constraint. The house is oddly shaped with an existing deck in the same footprint as the proposed covered deck.

Brook Russell, Russell Building Company, represented the applicant, Jan Davis. The request is for approval of a variance to add a roof over an existing deck. The hardship is the existing design constraint. The encroachment only projects 3.8 feet into the setback.

Mr. Boomhover asked about the height of proposed structure. Mr. Russell said that it is 1 story and that the roof will be in line with the existing roof. There is no fireplace or plumbing. The deck is existing, nonconforming. The brick wall has been there for years.

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

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

Second: Mr. Doyle

Vote:     Aye:                 Nay:  
           Boomhover             None  
           Doyle  
           Loveman  
           Orr  
           Williams

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 April 17, 2023.

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 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.