

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
June 19, 2023

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, June 19, 2023 at 5:00 p.m. The roll was marked as follows:

Board Present:	Norman Orr, Chairman Richard Simonton, Co-Chairman Scott Boomhover Noel Dowling Russ Doyle, Supernumerary	Absent:	Rhett Loveman Oliver Williams, Supernumerary
----------------	---	---------	---

Staff present:	Dana Hazen: Director of Planning, Building and Sustainability 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. 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 – May 15, 2023

Chairman Orr stated that the May 15, 2023 minutes will be voted on at the July meeting because there is not a quorum of attendees from the May meeting in attendance.

2. Case A-23-17: Craig and Justyn Millar, 3703 Dunbarton Drive
(Carry-over from the May 15, 2023 meeting per the applicant's request.)

EXHIBIT 1

Craig and Justyn Millar, property owners, request variances from the terms of the Zoning Regulations to allow a detached accessory structure (treehouse) to be located in a front yard (instead of behind the front building line) and to be 30 feet from the secondary front

property line (Wimbledon Road) in lieu of the required 40 feet.

Scope of Work: The scope of work includes the construction of a new treehouse in a front yard.

Hardship(s): The applicant states that existing design constraints, as well as the topography of the rear yard, are the hardships related to this request.

Craig Millar, property owner, stated that there are no changes to the original variance requests.

Hardships:

- The house sits skewed on the property.
- In the small rear area there is a patio, deck, wall, and a building that is used as an office.
- There are limited location options.
- There are exceptional topographical elements on the property; to build at the back would impede on the privacy of the adjacent properties.

Chairman Orr:

- Looking at the survey, the treehouse could be placed in the side yard, even if not attached to a tree.
- The Board is protective of the streetscape; the code adopted in 2012 was created for this purpose; he feels that the requested location is not in the spirit of the code.
- As shown in the photos presented by the applicant at the last meeting, there are cases of accessory structures in front yards, but they were in place before the adoption of the code or were not approved by the City.
- He appreciates that there are hardships of existing design constraints and the corner-lot configuration, but feels that the treehouse can be located in an area that does not require a variance.

Mr. Millar said that there is a topographical issue; he is trying to be considerate of neighbors while choosing the treehouse location. He agreed that there are other locations that do not require a variance, but would be more obtrusive to the streetscape and adjacent property owners.

Chairman Orr stated that a permit is required to build an accessory structure; this was initially missed by the applicant and was brought to the attention of city staff.

Mr. Millar said that there is no mention of treehouses in the code. Mrs. Hazen said that it is considered a detached accessory structure, which is addressed in the code.

Chairman Orr said, that in his opinion, the proposed location of the treehouse will be detrimental to the streetscape and would set a precedent for other residents.

Mr. Millar: Have precedents not been set by other structures already in front yards?

Mrs. Hazen: Regarding setting a precedent, in this case it refers to setting a precedent of the Board approving an accessory structure in the front yard that other residents might cite to ask the Board for the same approval.

Public Comments: None

Mr. Millar asked to withdraw the variance application.

Motion: Chairman Orr, motion to accept the applicant's request to withdraw the application.

Second: Mr. Boomhooover

Vote: Unanimous consent

Motion carries.

3. Case A-23-18: Sara James, 304 Dexter Avenue

EXHIBIT 2

Sara James, property owner, requests variances from the terms of the Zoning Regulation to allow additions and alterations to be 24 feet 6 inches from the front property line (Dexter Avenue) in lieu of the required 35 feet, to be 12 feet from the rear property line (northwest) in lieu of the required 30 feet, to be 6 feet from the side property line (northeast) in lieu of the required 8 feet for portions of the building below 22 feet in height, to allow the maximum building area to be 39.9% in lieu of the maximum allowed of 35 percent, to allow walls to be as tall as 12 feet 9 inches in height in a front setback in lieu of the maximum front yard wall height allowed of 4 feet, to allow a wall to be as tall as 12 feet 4 inches in height in a side setback (northeast) in lieu of the maximum wall height allowed in a side setback of 8 feet, to allow a pool to be 0 feet from the rear property line (northwest) in lieu of the required 10 feet, and to allow pool equipment to be located 5 feet from a side property line (southwest) in lieu of the required 10 feet.

Scope of Work: The scope of work for this site entails additions and alterations to the front of the existing single family dwelling, along with an addition to the rear, new walls in the front and side yards, a new pool in the rear yard, and related pool equipment in the side yard.

Hardship(s): The applicant stated that the small lot size, narrow width, and shallow depth are hardships related to the requested variances.

Robert Thompson, Thompson Architecture, represented the applicant. Emily Coe with Thompson and Ms. James, applicant, also attended the meeting. The hardship of this lot is that it is narrow and shallow. While the required minimum square footage for this zone is 7,500, this lot is 5,000 square feet.

Front setback: The current house is at 25 feet from the property line, which is common in the area. The requested variance will allow for a brick and stucco veneer, adding approximately 6" to the existing façade. Also, to enclose the existing front patio, this will not extend out further than the existing facade.

Rear: Addition of a small wading pool to abut the rear property line in lieu of the 10' required setback. A new masonry screen wall will provide separation from this area and the neighboring properties. The pool will be 6' x 14'. The applicant has investigated and is willing to apply a noise reduction cover on the equipment. Since the pool is so small, there will be less water to filter, so the equipment is small and will make less noise. Also, a master suite addition is proposed at the rear, requiring an 18' rear variance and a 2' side variance.

There has been a flooding problem to the rear; it is believed that this issue will be improved by adding a solid, masonry wall that will prevent water flow back to the property behind; drainage will be handled on the subject property. The applicant understands that stormwater management measures may be required on that lot.

The proposed will put the lot building coverage over the 35% maximum requirement; just under 40%. It is felt this is a reasonable request considering the lot size. He understands that Mr. Merchant, Building Official, may be the determiner of that component. Chairman Orr stated that the building coverage area is a component that this Board will consider.

A right front sidewall piece is requested where a one-space carport exists; the wall will help to visually soften the look of the front elevation. The height of this piece is taller than allowed. Also, there will be a left side wing wall.

The new addition will have a mudroom below and storage above.

Mr. Simonton said that considering the massing of the structure, he is concerned about blocking light from the neighboring properties. Mr. Thompson said that because of the slope of the roof, it is felt that additional shadowing will not occur.

Chairman Orr asked how the ½-story will be used. Mr. Thompson said they will claim some of the attic space for a sitting area for the children.

Mr. Simonton asked the existing lot coverage percentage. Mrs. Hazen: 29% per the application.

Chairman Orr: Regarding the front request, we look at the possible effect on the streetscape and if the request is consistent with the spirit of the code. In this case, the applicant is staying within the existing footprint; not making the encroachment worse. Regarding the rear, he understands the desire to have the master on the main, but this is a small lot and adding a large addition to an existing conforming rear setback causing the need for a variance, then adding a pool at the property line, is a big ask. This lot is unique in comparison to some of the lots in the area, but is very similar to others. It is his opinion that this lot is not unique compared to the two lots that would be most impacted by the variances.

Mr. Thompson said that the encroachment would be to the neighbor's side property line and considers the setback from the side setback perspective/requirement.

Mr. Simonton: At the proposed lot coverage, it feels like a different type of development than intended for the area.

Mr. Doyle: Regarding impervious surface area, the pool counts in that calculation. Mr. Thompson stated that he is aware.

Public Comments:

Margaret Burg, 75 Main Street, MB, lot behind the subject property:

- Submitted a detailed letter of opposition to the proposed rear variances.
- Existing flooding problems. She sent pictures to staff illustrating the amount of runoff.
- The massive wall proposed could impede water flow on to her property; could increase flooding.
- Regarding the hardship of a small lot, the owner purchased the property knowing the size. She feels the hardship is self-imposed.

- Adding a pool at the property line could destabilize her fence. Concerned about the pool depth. Could cause additional water issues for her property.
- There is a playhouse, 6'x6', on the corner of the lot.
- Objects to the proposed lot coverage. A previous owner's request for over 35% coverage was denied.
- Flooding is her major concern.
- Addition will be huge and obtrusive to her property.
- Will set a precedent for other residents.
- Strongly opposes the rear variance requests. No objection to front variance requests.

Mr. Thompson said that the applicant is willing to remove the pool from the project even though he feels that the flooding issue would be helped by the proposed, limiting the amount of water flow to her property.

Mr. Thompson stated that the new wall is 8' in height; meets zoning requirements.

Mr. Thompson stated that the applicant would like to amend the variance application by removing the pool and pool equipment portion.

Motion: Chairman Orr, motion to accept the applicant's request to remove the pool and pool equipment from the application.

Second: Mr. Simonton

Vote: Aye: Unanimous consent Nay: None

Motion carries.

Chairman Orr stated that removing the pool and equipment does not help with the lot coverage calculation. It does count in the impervious calculation. At 39.9% lot coverage, with existing drainage issues, the lot coverage amount could risk additional water runoff issues. Also, lot coverage limitations are to prevent the overbuilding of lots. He feels that the requested rear lot coverage is a substantial ask. Mr. Thompson said that an underground drainage system will address the water issue and will not create more water flow than that with the 35% coverage; they are happy to apply those measures.

Mr. Boomhoyer: The size of the addition seems large for a master bedroom. Mr. Thompson: There is a master bedroom, bathroom, closet; also a small screened porch.

Mr. Simonton: Drainage is not an issue for him; he feels that the water retention plan will improve the runoff situation.

Motion: Mr. Doyle, motion to approve the requested variances as they relate to the front façade, front improvements, and front addition (enclosing existing front porch), including the side wing walls that encroach into the front and side setbacks. Motion to deny the requested variances for the lot coverage and for the rear addition which is proposed to encroach into the side and rear setbacks.

Second: Mr. Dowling

Vote: Aye: Boomhoyer
Doyle Nay: None

Orr
 Simonton
 Dowling

Motion carries.

4. Case A-23-20: Todd and Mary Pat Weiss, 2901 Montevallo Road

EXHIBIT 3

Todd and Mary Pat Weiss, property owners, request a variance from the terms of the Zoning Regulation to allow the addition of a covered deck to be 34 feet 6 inches from the rear property line (east) in lieu of the required 40 feet. **2901 Montevallo Road**

Scope of Work: The scope of work includes a new roof addition over a deck on the rear of the home. The project also includes the replacement of the existing decking. Part of the deck that is uncovered is greater than 8 feet in height and extends to the proposed 34 feet 6 inches from the rear property line. The covered portion will be in line with the rear façade of the house at 38 feet 6 inches.

Hardship(s): The hardship in this case is existing design constraint of the non-conforming house. The rear façade of the existing dwelling is in the rear setback and the proposal would not encroach closer than it does now.

George Shaw, contractor, and Mr. Weiss presented the variance request. He described the scope of work. The roof will not be closer to the rear property line. The existing stairs will be removed and circular, steel stairs will be added; they will not encroach any more than the existing stairs.

Public Comments:

Joe Welden, 2862 Surrey Road, MB, said that his lot and the subject lot share corners. The house has already had additions. He is concerned about privacy and is opposed to extending the deck any further because it will hover over his property.

Mrs. Hazen: The added deck pop-out will extend an additional three feet, without a roof. The stairs will be removed.

Chairman Orr called for a motion.

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

Second: Mr. Boomhover

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

Motion carries.

5. Case A-23-21: John and Shelby Anderson, 2 Montevallo Lane

EXHIBIT 4

John and Shelby Anderson, property owners, request variances from the terms of the Zoning Regulation to allow an addition to be 8.5 feet from the secondary front property line

(Montevallo Road) and 26.92 feet from the rear property line (west) both in lieu of the required 35 feet. 2 Montevallo Lane

Scope of Work: The scope of work includes a new addition to the existing single family dwelling.

Hardship(s): The hardships in this case are the existing design constraints of the non-conforming house and the corner lot configuration. The proposed addition would be in line with the existing front façade and would not encroach closer to the secondary front property line. The rear of the addition would also be located within the rear setback, but the existing structure is much closer to the rear on this side than the proposed addition.

Korey Nations, contractor, and John Anderson attended the meeting. Mr. Nations said that the lot is non-conforming. The addition will not be encroaching any further than the previous addition. There is no driveway, only two parking spots on Montevallo Lane. The previous owner added the encroaching master suite.

Mr. Dowling stated that he feels this is a minor request.

Chairman Orr: There are existing design constraints and the lot is small and uniquely shaped. The variance requests seem reasonably related to the hardships.

Public Comments: None

Chairman Orr called for a motion.

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

Second: Mr. Boomhover

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

Motion carries.

6. **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, July 17, 2023.

Tammy Reid, Administrative Analyst