

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**October 16, 2023**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, October 16, 2023 at 5:00 p.m. The roll was marked as follows:

Board Present: Norman Orr, Chairman  
 Scott Boomhover  
 Noel Dowling  
 Rhett Loveman  
 Oliver Williams, Supernumerary

Absent: Russ Doyle, Supernumerary

Staff present: Dana Hazen: Director of Planning, Building and Sustainability  
 Glen Merchant: Building Official  
 Tammy Reid: Administrative Analyst (via Zoom)

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. Tyler Slaten confirmed, based on the information supplied by the applicants, the adjacent property owners were notified.

Chairman Orr called the meeting to order.

**1. Approval of Minutes – September 18, 2023**

Motion to approve: Loveman  
 Second: Boomhooover  
 Unanimous approval.

**2. Case A-23- 33: Thorne and Melissa Williams, 126 Spring Street**

**EXHIBIT 1**

Thorne and Melissa Williams, property owners, request a variance from the terms of the Zoning Regulations to allow additions and alterations the existing single family dwelling to be 7 feet 8 inches from the side property line (west) in lieu of the required 8 feet. 126 Spring Street

Scope of Work: The scope of work includes alterations and a single story addition to the rear of the existing home.

Hardship(s): The hardships in this case are the existing design constraints and the narrow lot width. The existing home is non-conforming as it relates to the side property line.

Mr. Williams recused himself from this case.

David Blackmon, architect, represented the applicants. This is a one-story addition that should not adversely affect the adjoining neighbor.

Chairman Orr stated that he sees two hardships of the lot – exceptional narrowness and existing design constraints. The wall will continue the existing non-conformity, not making it better or worse. He feels that the request relates to the hardships and if granted, will not adversely affect the neighbor.

Mr. Blackmon: The roof plane will remain the same in terms of the slope.

Public Comments:

The resident at 121 Cherry Street, property behind the subject property, asked if the fence will move. Mr. Blackmon stated that the fence will not move.

Chairman Orr stated that a unanimous vote will be require for approval.

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

Second: Mr. Dowling

Vote: Aye: Loveman  
Nay: Orr  
 Dowling  
 Boomhoover

Motion carries.

**3. Case A-23-34: Whitt and Lucy Israel, 4009 Winston Way**

**EXHIBIT 2**

Whitt and Lucy Israel, property owners, request variances from the terms of the Zoning Regulations to allow additions and alterations to the existing single family dwelling to be 30 feet 11 inches from the rear property line (south) in lieu of the required 40 feet. 4009 Winston Way

Scope of Work: The scope of work includes additions and alterations to an existing single family dwelling.

Hardship(s): The hardships in this case are the corner lot configuration and existing design constraints. The corner lot has an irregularly shaped rear lot line.

Mary Coleman Clark, architect, presented the variance request. The existing home is non-conforming along the rear at 33 feet 1 inch from the property line currently. The request for the rear setback would allow a new addition that would create a small encroachment of 132 square feet. The angle of the existing home in relation to the rear property is the hardship for this encroachment. A conforming detached carport is proposed. These improvements should not

affect the neighbor's access to light and air flow.

Mr. Loveman stated that the proposed will take a non-conforming situation and make it conforming. The existing design constraints and corner-lot configuration are hardships of the lot.

Chairman Orr stated that a variance is not needed for the accessory structure since it is conforming and that it will not affect the flow of light or air for the adjoining neighbor.

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:

Loveman

Orr

Boomhover

Dowling

Williams

Motion carries.

#### 4. Case A-23-35: Kirk and Tate Forrester, 12 Montcrest Drive

#### EXHIBIT 3

Kirk and Tate Forrester, property owners, request variances from the terms of the Zoning Regulations to allow a detached accessory structure to be 3 feet 10 inches from the side property line (north) in lieu of the required 10 feet. 12 Montcrest Drive

Scope of Work: The scope of work includes the construction of a new detached accessory structure.

Hardship(s): The hardship in this case is the existing design constraint of the non-conforming location of the previous accessory structure and foundation.

#### Background

A permit was issued on June 2, 2023 for work that included a foundation repair to an existing non-conforming detached accessory structure. The structure was lifted off of the foundation for repairs, but the structure itself required more repairs than anticipated which amounted to essentially rebuilding it, structurally, necessitating the need for a variance.

Marvin McCullough, contractor, presented the variance request. The hardship is the existing design constraints.

Mr. Dowling asked if the building height is the same as the previous building. Mr. McCullough stated that the height has not changed.

Mr. Dowling said that the roof presents an increased probability that water could flow on to the neighboring property. Mr. McCullough stated that a gutter can be added.

Public Comments:

Joe Emack, 14 Montcrest Drive, stated that he has not noticed a negative impact regarding water flow from the subject property.

The applicant is happy to add a gutter for water control.

Motion: Mr. Boomhover, motion to approve the variance request as submitted, with the condition that a gutter is installed on the portion of the roof of the structure adjacent to the side property line.

Second: Mr. Loveman

Vote: Aye:                      Nay:  
          Loveman  
          Orr  
          Boomhover  
          Dowling  
          Williams

Motion carries.

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, November 20, 2023.

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Tammy Reid, Administrative Analyst