

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
REGULAR MEETING
MINUTES
December 18, 2023

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, December 18, 2023 at 5:00 p.m. The roll was marked as follows:

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

Staff present: 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. Tammy Reid confirmed, based on the information supplied by the applicants, that the adjacent property owners were notified.

Chairman Orr called the meeting to order.

1. Approval of Minutes – October 16, 2023

Motion to approve: Mr. Loveman
 Second: Mr. Boomhover
 Unanimous approval.

2. Case A-23-36: Mr. and Mrs. James Outland, 2533 Montevallo Drive

EXHIBIT 1

Mr. and Mrs. James Outland, property owners, request variances from the terms of the Zoning Regulation to allow additions and alterations, including a new second story, to an existing non-conforming single family dwelling to be 25.9 feet from the front property line (Montevallo Drive) and 18.8 feet from the rear property line (east), both in lieu of the required 40 feet; and to be 12.3 feet from the side property line (south) and 2.2 feet from the side

property line (north) both in lieu of the required 15 feet. 2533 Montevallo Drive

Scope of Work: The scope of work includes alterations and a 2nd story addition over the front of the existing home. A new roof structure will be required over the entire dwelling.

Hardship(s): The hardships in this case are the existing design constraints and small lot size, width, and depth. The existing home is non-conforming as it relates to all setbacks. All of the lots along Montevallo Drive are considerably smaller than the minimum lot size in Res A and all feature non-conformity with regard to setbacks.

Pete Pritchard, architect, presented the variance request on behalf of the applicants. The existing house is non-conforming. The requested variances will not increase the existing encroachment. The foundation will remain and a half-story and roof added. The area two feet away from the property line will have a shed roof.

Glen Merchant, Building Official, will be the point of contact during the permitting process and will address sprinklering requirements if they apply. Also, it may be deemed necessary to go before the Planning Commission to combine the two lots into one.

Chairman Orr stated that the hardships presented seem to meet the spirit of the code and the requests are in line with the neighborhood.

Public Comments: None

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

Second: Mr. Loveman

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

Motion carries.

3. Case A-23- 37: Rachel Brown Fowler, 35 Cross Creek Drive

EXHIBIT 2

Rachel Brown Fowler, property owner, requests a variance from the terms of the Zoning Regulation to allow a new pool to be 4 feet from the side property line (east) in lieu of the required 10 feet. 35 Cross Creek Drive

Scope of Work: The scope of work includes a new pool.

Hardship(s): The hardship in this case is the existing design constraints. The applicant stated that the pool would be an extension of the existing patio. The pool equipment will be located more than 10 feet from the property line.

Mike Edwards presented the variance request on behalf of the applicant. There is little room in the rear of the property to place a pool. There are topography issues as well.

Mr. Dowling asked if other locations were considered for the pool. He is concerned about setting precedence for future requests.

Mr. Edwards stated other areas were looked at, but would not work. The pool equipment will be within the setback.

Chairman Orr stated that he also is concerned about setting precedence; however, the fact that common area surrounds the proposed area helps; topography and existing design restraints affirmed hardships.

Public Comments: None.

Chairman Orr called for a motion.

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

Second: Mr. Doyle

Vote:	<u>Aye:</u>	<u>Nay:</u>
	Boomhover	Dowling
	Doyle	
	Loveman	
	Orr	

Motion carries.

4. Case A-23- 38: Matthew and Paige McClees, 136 Cherry Street

EXHIBIT 3

Matthew and Paige McClees, property owners, request variances from the terms of the Zoning Regulation to allow additions and alterations to be 28 feet 11 inches from the front property line (Cherry Street) and 7 feet 6 inches from the side property line (southeast) in lieu of the required 8 feet. 136 Cherry Street

Scope of Work: The scope of work includes an addition to the rear of the existing non-conforming home. The applicant is also seeking a variance to extend the width of the current non-conforming front porch.

Hardship(s): The hardships in this case are the existing design constraints and narrow lot width. The existing home is non-conforming with regard to the front and left side setbacks. The proposed additions would extend the encroachments linearly, but would not move closer to the property line in either direction.

Amanda Hickam, Harper Harris Design, presented the variance request on behalf of the applicants. The scope of work includes an addition to the rear of the existing non-conforming home. The applicant is also seeking a variance to extend the width of the current non-conforming front porch. The proposed deck will not be covered. Existing design constraints and the narrowness of the lot present hardships. There is no current water drainage issue; French drains were installed earlier.

Public Comments: None

Chairman Orr said the lot is extremely narrow and there are existing design constraints. It does not appear that neighboring properties will be adversely affected by the granting of the proposed variances.

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

Second: Mr. Boomhover

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

Motion carries.

5. Case A-23- 39: Robert Gingham and Laura Elliott, 333 Richmar Drive

EXHIBIT 4

Robert Gingham and Laura Elliott, property owners, request variances from the terms of the Zoning Regulation to allow a second story addition to the existing non-conforming single family dwelling, to be 14.5 feet from the side property line (east) in lieu of the required 15 feet. 333 Richmar Drive

Scope of Work: The scope of work includes the addition of second story to the existing home.

Hardship(s): The hardships in this case are the existing design constraints and irregular lot shape. The existing home is non-conforming as it relates to the right side setback. The current footprint is 14.5 feet from the property line.

Chris Hancock, homebuilder, presented the variance request on behalf of the applicants. The applicant also attended the meeting. The hardships of the lot are the existing design constraints and irregular lot shape. A second floor addition will go straight up. The pool is remaining.

Mr. Loveman asked if there are windows on right-end wall facing the adjacent neighbors. Mr. Hancock confirmed there are no windows.

Mr. Loveman confirmed the hardships of existing design constraints and the irregular lot shape.

Public Comments: None.

Chairman Orr agreed with the hardships as presented. He called for a motion.

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

Second: Mr. Boomhover

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

Motion carries.

6. Case A-23- 40: Steven and Frances Nichols, 2812 Surrey Road

EXHIBIT 5

Chairman Orr recused himself from this case. An approval will require an unanimous vote in the affirmative. The applicant may delay presenting the case until the next meeting if they so desire.

Steven and Frances Nichols, property owners, request a variance from the terms of the Zoning Regulation to allow an addition to the existing single family dwelling to be 17 feet 5 inches from the rear property line (west) in lieu of the required 40 feet. 2812 Surrey Road

Scope of Work: The scope of work includes the addition of new screened porch to the rear of the existing home.

Hardship(s): The hardships in this case are the existing design constraints and irregular lot shape. The existing home is non-conforming as it relates to the rear setback. The current footprint is 14 feet 6 inches from the rear property line at the closest corner. The home is also approximately 70 feet from the front property line along Surrey Road. This is 30 feet farther than the required front setback and pushes the home toward the back property line in a non-conforming manner. The angled rear property line creates a hardship with the existing orientation of the home as well.

Katherine Crane presented the variance request on behalf of the applicants. The scope of work includes the addition of new screened porch to the rear of the existing home. The house sits about 70 feet from the front property line. The hardships are the existing design constraints and irregular lot shape.

Mr. Dowling agreed with the presented hardships.

Public Comments: None.

Chairman Orr called for a motion.

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

Second: Mr. Loveman

Vote: Aye: Nay:
 Boomhover
 Dowling
 Doyle
 Loveman

Motion carries.

7. Case A-23-41: Gustavo and Carmen Heudebert, 3528 Belle Meade Way

EXHIBIT 6

Gustavo and Carmen Heudebert, property owners, request a variance from the terms of the Zoning Regulation to allow a carport addition to be 3.9 feet from the side property line (west) in lieu of the required 15 feet. 3528 Belle Meade Way

Scope of Work: The scope of work includes a new attached carport.

Hardship(s): The applicant stated that the desire to protect vehicles from the environment and weather related conditions as the reason for the requested variance.

The applicant presented the variance request. The variance will allow for a new attached carport. The hardship is existing design constraints. There is a retaining wall that restricts possible carport placement, which is also a hardship of the lot.

Chairman Orr stated that the applicant should consult with Glen Merchant, Building Official, regarding fire sprinkling requirements.

Public Comments: None.

Chairman Orr confirmed the hardship of existing design constraints as well as the topography. He called for a motion.

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

Second: Mr. Doyle

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

Motion carries.

8. Case A-23-42: Francis Summersell, 3816 Cromwell Drive

EXHIBIT 7

Francis Summersell, property owner, requests a variance from the terms of the Zoning Regulation to allow a rear screened porch addition to the existing single family dwelling to be 34 feet from the rear property line (west) in lieu of the required 40 feet, and to allow the building area to be 25.6 percent in lieu of the maximum building area allowed of 25 percent. 3816 Cromwell Drive

Scope of Work: The scope of work includes the addition of new screened porch to the rear of the existing home.

Hardship(s): The hardship in this case is the existing design constraints. The existing home is non-conforming as it relates to the rear setback. The current footprint is 34 feet from the rear property line.

J K Terry presented the variance request on behalf of the applicant. The lot is very small. The addition will not extend any farther into the setback.

Chairman Orr affirmed the hardship of existing design constraints. The lot coverage percentage is a minor issue.

Public Comments: None.

Chairman Orr called for a motion.

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

Second: Mr. Boomhover

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

Motion carries.

9. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned. The next meeting is scheduled for Tuesday, January 16, 2024.

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.