

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, February 13, 2024
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, February 13, 2024. The meeting was convened at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth, Vice Chair Jason Canvasser; Board Members John Miller, Ron Reddy, Pierre Yaldo; Alternate Board Member Carl Kona

Absent: Board Members Kevin Hart, Richard Lilley

Staff: Building Official Johnson; City Transcriptionist Eichenhorn, Assistant Building Official Morad, Assistant Building Official Zielke

Special Guest: Graham Kona

Chair Morganroth welcomed those present and reviewed the meeting's procedures. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Chair Morganroth took rollcall of the petitioners. All petitioners were in attendance.

3. Announcements

Announcements can be found in the evening's agenda packet.

4. Approval Of The Minutes Of The BZA Meetings Of January 9, 2024

T# 02-07-24

Motion by Mr. Yaldo

Seconded by Mr. Kona to approve the minutes of the BZA meeting of January 9, 2024 as submitted.

Motion carried, 6-0.

VOICE VOTE

Yeas: Reddy, Miller, Yaldo, Kona, Morganroth, Canvasser

Nays: None

5. Appeals

T# 02-08-24

**1) 2428 Northlawn
Appeal 24-01**

ABO Zielke presented the item, explaining that the owner of the property known as 2428 Northlawn was requesting the following variance to construct a new home:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 30.00 feet. The proposed is 27.40 feet on the west side. Therefore, a variance of 2.60 feet is being requested.

Staff answered informational questions from the Board.

Kent Johnston, owner, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Motion by Mr. Miller

Seconded by Mr. Reddy with regard to Appeal 24-01, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 30.00 feet. The proposed is 27.40 feet on the west side. Therefore, a variance of 2.60 feet is being requested.

Mr. Miller moved to approve the variance and tied approval to the plans, stating that the lot had special conditions and faced an unusual hardship due to the unique situation of the existing home on the lot. He said that granting the variance would not be contrary to either the spirit or the purpose of the zoning ordinance and would result in substantial justice to the property owner and the neighbors.

Mr. Kona concurred with Mr. Miller, noting that the location of the house on the property and the shape of the lot was a hardship. He added that the appellant would be reducing the existing nonconformity and improving the property overall.

The Chair noted that the plans would slightly compromise the functionality of one garage bay in order to meet the ordinances, unusual shape of the lot, and the setbacks. He said in this case that these were legitimate reasons to request a variance, and to receive a variance approval. The Chair offered support for the motion.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Reddy, Miller, Yaldo, Kona, Morganroth, Canvasser

Nays: None

6. Correspondence

All correspondence was provided to the Board members and the relevant applicants.

7. General Business

T# 02-09-24

Nomination by Mr. Yaldo

To nominate Jason Canvasser to service as Vice Chair.

Motion carried, 6-0.

VOICE VOTE

Yeas: Reddy, Miller, Yaldo, Kona, Morganroth, Canvasser

Nays: None

8. Open To The Public For Matters Not On The Agenda

Special guest Graham Kona received a warm welcome from the Board.

9. Adjournment

No further business being evident, the Board motioned to adjourn at 7:49 p.m.

A handwritten signature in blue ink, appearing to read "Bruce R. Johnson".

Bruce R. Johnson, Building Official

A handwritten signature in black ink, appearing to read "Laura Eichenhorn".

Laura Eichenhorn, City Transcriptionist