

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, April 16, 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, April 16, 2024. The meeting was convened at 7:30 p.m.

2. Rollcall

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

Absent: Board Members Kevin Hart, Ron Reddy

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

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 may be found in the evening's agenda packet.

4. Approval Of The Minutes Of The BZA Meetings Of March 12, 2024

T# 04-14-24

Motion by Mr. Canvasser

Seconded by Mr. Yaldo to approve the minutes of the BZA meeting of March 12, 2024 as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 04-15-24

1) 2694 Dorchester Appeal 24-05

ABO Zielke presented the item, explaining that the owner of the property known as 508 W Lincoln was requesting the following variance to construct a new home with an attached garage:

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 be 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet. The proposed is 13.00 feet on the west side. Therefore, a variance of 1.00 feet is being requested.

Staff answered informational questions from the Board.

Jesse Parkinson with Greentech Engineer 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. Canvasser with regard to Appeal 24-05, 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 be 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet. The proposed is 13.00 feet on the west side. Therefore, a variance of 1.00 feet is being requested.

Mr. Miller moved to approve and tied approval to the plans as submitted. He explained that because of the special conditions applicable to the property in question, provisions of the zoning ordinance if strictly applied would be unreasonable. He explained that denial of the variance would prevent the property owner from using the property for a permitted purpose. He continued that the setbacks of the adjacent homes totaled only 12.7 feet, and would not allow, per ordinance, a full buildout of the lot. He said that literal enforcement of the chapter would result in an unnecessary hardship, and that the granting of the variance would not be contrary to the spirit and purpose of the zoning ordinance. He stated that granting the variance would result in substantial justice to the property owner and to the neighborhood. He noted that the new house would reduce the existing nonconformity.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

6. **Correspondence**
7. **General Business**
8. **Open To The Public For Matters Not On The Agenda**
9. **Adjournment**

No further business being evident, the Board motioned to adjourn at 7:40 p.m.



Bruce R. Johnson, Building Official



Laura Eichenhorn, City Transcriptionist