

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, December 10, 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, December 10, 2024. The meeting was convened at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth, Vice Chair Jason Canvasser; Board Members Kevin Hart, Richard Lilley, John Miller, Ron Reddy, Pierre Yaldo

Absent: Alternate Board Members Carl Kona, Donald Rogers

Staff: Building Official Johnson; City Transcriptionist Eichenhorn, Building Official Designee Zielke

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

3. Announcements

The Chair 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.

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

Motion by Lilley

Seconded by Miller to approve the minutes of the BZA meeting of November 12, 2024.

Motion carried, 7-0.

VOICE VOTE

Yeas: Canvasser, Reddy, Yaldo, Morganroth, Miller, Hart, Lilley

Nays: None

5. Appeals

1) 687 Davis Appeal 24-28

BOD Zielke presented the item, explaining that the owner of the property known as 687 Davis was requesting the following variances to construct a second floor addition to the existing non-conforming home:

- A. Chapter 126, Article 2, Section 2.10.2** of the Zoning Ordinance requires that front yard setback is the average of homes within 200.00 feet in each direction. The required is 25.28 feet. The existing and proposed is 20.14 feet. Therefore, a variance of 5.14 feet is being requested.
- B. Chapter 126, Article 2, Section 2.10.2** of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 4.10 feet on the west side. Therefore, a variance of 0.90 feet is being requested.
- C. Chapter 126, Article 4, Section 4.30(C)1** of the Zoning Ordinance permits porches to project into the required front yard setback for a distance of 10.00 feet. The existing and proposed is 11.00 feet. Therefore, a variance of 1.00 feet is being requested.

Staff answered informational questions from the Board.

Ted File, appellant, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Public Comment

Frank Paizano supported the requested variances.

Motion by Hart

Seconded by Canvasser with regard to Appeal 24-28, A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that front yard setback is the average of homes within 200.00 feet in each direction. The required is 25.28 feet. The existing and proposed is 20.14 feet. Therefore, a variance of 5.14 feet is being requested; B. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 4.10 feet on the west side. Therefore, a variance of 0.90 feet is being requested; and C. Chapter 126, Article 4, Section 4.30(C)1 of the Zoning Ordinance permits porches to project into the required front yard setback for a distance of 10.00 feet. The existing and proposed is 11.00 feet. Therefore, a variance of 1.00 feet is being requested.

Mr. Hart moved to approve the variances and tied approval to the plans as submitted. He noted that all three variances stemmed from the pre-existing non-conformities in the setbacks, that the variances would not increase the existing non-conformities, and that approval would do substantial justice to the appellant and the neighboring properties.

The Chair concurred with Mr. Hart, and added that the proposed construction did not require a variance.

Mr. Miller explained that the appeal was necessary because the home was positioned slightly askew on the lot. He said the proposal would not be contrary to the spirit and purpose of the zoning ordinance, nor would be contrary to any public health, safety, or welfare issue. He concluded that it is reasonable for homeowners to do required maintenance on their homes.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Canvasser, Reddy, Yaldo, Morganroth, Miller, Hart, Lilley

Nays: None

6. Correspondence

All correspondence was provided to the Board and the relevant appellants.

7. General Business

BO Johnson announced that he would be retiring in May 2025, and that former Assistant Building Official Zielke was promoted to Building Official Designee.

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

9. Adjournment

No further business being evident, the Board motioned to adjourn at 7:46 p.m.



Bruce R. Johnson, Building Official



Laura Eichenhorn, City Transcriptionist