

Birmingham Board Of Zoning Appeals Proceedings
April 8, 2025
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 8, 2025. The meeting was convened at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth, Vice Chair Jason Canvasser; Board Members Kevin Hart (recused from Appeal 25-05), Richard Lilley, Ron Reddy, Pierre Yaldo; Alternate Board Members Carl Kona, Donald Rogers (only voting on Appeal 25-05)

Absent: Board Member John Miller

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 March 11, 2025

Motion by Reddy

Seconded by Yaldo to approve the minutes from last month.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

5. Appeals

1) 774 Lakeside Appeal 25-05

Mr. Hart recused himself from Appeal 25-05, citing a potential conflict-of-interest due to professional involvement with the case, and left the room.

Mr. Rogers joined the Board for the hearing of Appeal 25-05.

BOD Zielke presented the item, explaining that the owner of the property known as 774 Lakeside was requesting the following variances for a single story rear addition and a second floor addition:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the maximum lot coverage is 30% of the lot in the residential zones. The required amount for this lot of 30% is 3372.90 SF. The existing is 30.60% (3445.00 SF). The proposed is 31.1% (3501.00 SF). Therefore, a variance of 1.10% (128.10 SF) is being requested.

B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the garage is 10.70 feet. The proposed is 20.90 feet for the mud room on the first floor. Therefore, a variance of 9.10 feet is requested.

C. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the existing home is 24.25 feet. The proposed is 20.90 feet for the second floor addition. Therefore, a variance of 5.75 feet is requested.

Informational questions from the Board were answered.

Eve Hadley, representative for the applicant, spoke regarding the appeal and noted the efforts at mitigation made since the last meeting.

Motion by Reddy

Seconded by Rogers with regard to Appeal 25-05, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the maximum lot coverage is 30% of the lot in the residential zones. The required amount for this lot of 30% is 3372.90 SF. The existing is 30.60% (3445.00 SF). The proposed is 31.1% (3501.00 SF). Therefore, a variance of 1.10% (128.10 SF) is being requested; B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the garage is 10.70 feet. The proposed is 20.90 feet for the mud room on the first floor. Therefore, a variance of 9.10 feet is requested; and, C. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the existing home is 24.25 feet. The proposed is 20.90 feet for the second floor addition. Therefore, a variance of 5.75 feet is requested.

Mr. Reddy moved to approve variances A, B, and C, and tied approval to the plans. He noted the home was pre-existing non-conforming and that the mudroom was a modest addition. He noted that the mudroom and deck requests were reduced in size since the prior meeting, and that variance C did not expand the pre-existing non-conformity. He stated that there were enough special conditions applicable to the property that the Board could grant the three requested variances, that literal enforcement would otherwise result in some unnecessary hardship for the appellant, and that granting the variances would not be contrary to the spirit and purpose of the zoning ordinance.

The Chair expressed appreciation for the mitigation of the variance requests since the last meeting. He stated the reduction of the mudroom was reasonable and significant and that the removal of some of the deck was well-received. He said he would support the motion for those reasons.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Rogers, Lilley, Yaldo, Kona, Canvasser, Reddy, Morganroth

Nays: None

**2) 1792 Banbury
Appeal 25-08**

Mr. Hart rejoined the Board for the remainder of the meeting, and Mr. Rogers returned to the audience.

BOD Zielke presented the item, explaining that the owner of the property known as 1792 Banbury was requesting the following variance to construct a detached garage:

A. Chapter 126, Article 4, Section 4.61(A)2 of the Zoning Ordinance requires on corner lots where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted accessory buildings. The proposed garage is 8.17 feet. Therefore, a variance of 6.83 feet is being requested.

Staff answered informational questions from the Board.

Mike Gordon, architect, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Board members raised the following point in the course of discussion:

- The alternate possibilities considered and ruled out by the applicant would likely have been less functional and done less justice to the neighbors overall.

Motion by Kona

Seconded by Reddy with regard to Appeal 25-08, A. Chapter 126, Article 4, Section 4.61(A)2 of the Zoning Ordinance requires on corner lots where there is no abutting

interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted accessory buildings. The proposed garage is 8.17 feet. Therefore, a variance of 6.83 feet is being requested.

Mr. Kona moved to approve the variance and tied approval to the plans. He noted the lot was very challenging due to its narrowing at the back. He appreciated the applicant's bringing illustrations of the other evaluated options, and concurred that of the options, this seemed to be the best solution to provide a garage. Withholding approval of the variance would unreasonably prevent the property owner from using the property for a permitted purpose, literal enforcement of the ordinance would result in unnecessary hardship because it would prevent a garage from being built, granting this variance would not be contrary to the spirit of the ordinance, and granting the variance would provide substantial justice to the area.

The Chair concurred with Mr. Kona, noting that if the lot did not narrow a variance would not be necessary. He also expressed appreciation for the illustration of the other considered options.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**3) 719 Larchlea
Appeal 25-09**

BOD Zielke presented the item, explaining that the owner of the property known as 719 Larchlea was requesting the following variances to construct an addition to the existing home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum total combined side yard setbacks to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 22.50 feet. The proposed is 11.73 feet. Therefore, a variance of 10.77 feet is requested.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that a minimum distance between principal residential buildings on adjacent lots to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 22.50 feet. The existing is 17.20 feet and the proposed is 15.23 feet. Therefore, a variance of 7.27 feet is requested on the south side.

C. Chapter 126, Article 4, Section 4.75 A(1) of the Zoning Ordinance requires that private attached garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The proposed is 2.00 feet behind the garage. Therefore, a variance of 7.00 feet is being requested.

Staff answered informational questions from the Board.

Don Wheeler, designer, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Board members raised the following points in the course of discussion:

- Every request in this appeal would expand a pre-existing non-conformity.
- The Board tends to have difficulty expanding non-conformities.

Mr. Hart moved to approve all three variances. The motion died for lack of a second.

Motion by Yaldo

Seconded by Kona with regard to Appeal 25-09, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum total combined side yard setbacks to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 22.50 feet. The proposed is 11.73 feet. Therefore, a variance of 10.77 feet is requested; B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that a minimum distance between principal residential buildings on adjacent lots to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 22.50 feet. The existing is 17.20 feet and the proposed is 15.23 feet. Therefore, a variance of 7.27 feet is requested on the south side; and, C. Chapter 126, Article 4, Section 4.75 A(1) of the Zoning Ordinance requires that private attached garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The proposed is 2.00 feet behind the garage. Therefore, a variance of 7.00 feet is being requested.

Mr. Yaldo moved to deny the motion. He said a two car garage could be achieved on site if the proposed front of the garage were brought in by two feet, given the petitioner's indication that would be possible. Although the Board sometimes grants variances when there are special conditions applicable to the lot, these variances would expand the non-conformities in a way that would move the home closer to the neighbors and could set an inappropriate precedent.

Mr. Reddy concurred with Mr. Yaldo.

VC Canvasser noted that certain variances could impact future neighbors, even if the present neighbors are comfortable with the request. He said the request was self-created and that there was no circumstance unique to the property that necessitated the variances.

Mr. Kona said the encroachment closer to the neighbor was a larger concern than the addition two feet proposed for the front of the garage. He noted that if the variances were granted that could cause the neighbor to need a variance in the future.

The Chair concurred with his colleagues.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**4) 1000 Shirley
Appeal 25-10**

BOD Zielke presented the item, explaining that the owner of the property known as 1000 Shirley was requesting the following variance to construct an addition to the existing attached garage:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the garage is 26.50 feet. The proposed is 24.75 feet for the garage addition. Therefore, a variance of 5.25 feet is requested.

Staff answered informational questions from the Board.

Keith Logsdon, architect, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Board members raised the following points in the course of discussion:

- Wanting to maintain the character of a home cannot be considered a hardship in the context of a variance request.
- This is a well-known older house in Birmingham, and the stewardship the present owner has shown towards this home is significant. It is challenging to make changes and renovations to an older home like this.
- There is not a consistency in the number of columns along the front of the home. Making a change in the rear of the home in order to avoid a variance would not likely impact the character of the home any more than the different number of columns across the front of the home does.

Motion by Reddy

Seconded by Canvasser with regard to Appeal 25-10, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that a minimum rear yard setback is 30.00 feet. The existing rear yard at the garage is 26.50 feet. The proposed is 24.75 feet for the garage addition. Therefore, a variance of 5.25 feet is requested.

Mr. Reddy moved to deny the variance request. There were not any special conditions that would prevent the appellant from using the property. Although the options may be aesthetically less preferable, the extant garage could be increased in size without the need for a variance. Expanding the pre-existing non-conformity did not seem necessary, and would set an inappropriate precedent. Literal enforcement of this chapter would not result in an unnecessary hardship for the petitioner, granting the variance would be contrary to the spirit and purpose of the zoning ordinance, and granting the variance would not do substantial justice to the appellant for the neighborhood.

The Chair concurred and supported the motion, noting that the home was beautiful and that he appreciated the appellant's intent. Concerns about turning radiuses or architectural consistencies are not factors for granting a variance. The Board also aims to avoid increasing non-conformities, and increasing the non-conformity in this case would be inconsistent with the intent of the ordinance.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**5) 488 Willits
Appeal 25-11**

BOD Zielke presented the item, explaining that the owner of the property known as 488 Willits was requesting the following variances to construct a new home with an attached garage:

A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum roof height for a pitched roof in an R-2 zoning district of 28.00 feet for this property. The proposed roof height is 38.50 feet; therefore a variance of 10.50 feet is requested.

B. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum roof height for a flat roof in an R-2 zoning district of 24.00 feet for this property. The proposed roof height is 32.96 feet; therefore a variance of 8.96 feet is requested.

C. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum eave height for the building for an R-2 zoning district of 24.00 feet for this property. The proposed eave height is 32.96 feet; therefore a variance of 8.96 feet is requested.

Staff answered informational questions from the Board.

Jeff Klatt, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Public Comment

The Board answered an informational question from Celeste Stewart.

Motion by Yaldo

Seconded by Lilley with regard to Appeal 25-11, A. Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum roof height for a pitched roof in an R-2 zoning district of 28.00 feet for this property. The proposed roof height is 38.50 feet; therefore a variance of 10.50 feet is requested; Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum roof height for a flat roof in an R-2 zoning district of 24.00 feet for this property. The proposed roof height is 32.96 feet; therefore a variance of 8.96 feet is requested; and, Chapter 126, Article 2, Section 2.08 of the Zoning Ordinance requires a maximum eave height for the building

for an R-2 zoning district of 24.00 feet for this property. The proposed eave height is 32.96 feet; therefore a variance of 8.96 feet is requested.

Mr. Yaldo moved to approve the variances as requested and tied it to the plans as submitted. He said the architect thoroughly demonstrated that a variance would be required to construct a house on the property due to the unique slope of the lot. The development will do substantial justice to the neighbor and the property owner, granting the variance did not appear to conflict with the spirit or intent of the ordinance, and literal enforcement of the chapter would result in an unnecessary hardship due to the unique circumstances of the lot.

Mr. Hart concurred, and further commended the applicant on the thoroughness of the presentation.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

6. Correspondence

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

7. General Business

Mr. Yaldo announced his resignation from the Board.

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

9. Adjournment

No further business being evident, the Board motioned to adjourn at 9:24 p.m.



Bruce R. Johnson, Building Official

Laura Eichenhorn, City Transcriptionist