

Birmingham Board Of Zoning Appeals Proceedings
May 13, 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 May 13, 2025. The meeting was convened at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth; Board Members Kevin Hart (arrived 8:18 p.m.), Richard Lilley, John Miller, Ron Reddy; Alternate Board Members Carl Kona, Donald Rogers

Absent: Vice Chair Jason Canvasser

Staff: Building Official Johnson; City Planner Blizinski, Planning Director Dupuis, 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 April 8, 2025

Motion by Lilley

Seconded by Reddy to approve.

Motion carried, 6-0.

VOICE VOTE

Yeas: Miller, Rogers, Lilley, Kona, Reddy, Morganroth

Nays: None

5. Appeals

1) 280 E Lincoln Appeal 25-13

The appellant for appeal 25-13 elected to wait for a full board to be present. As a result, Appeal 25-13 was heard first.

CP Blizinski presented the item, explaining that the owner of the property known as 280 E Lincoln was requesting the following variances to minimum required open space and side setbacks:

A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance requires minimum open space of 40.00%. The existing open space is nonconforming at 28.80%. The proposed site plan increases the nonconformity by 2.10% to 26.70%. Therefore, a variance of 13.30% is requested.

B. Chapter 126, Article 4, Section 4.61 of the Zoning Ordinance requires that the minimum side street setback shall be 10.00 feet for the permitted principal building on a corner lot. The proposed is 4.80 feet for an exterior stairwell. Therefore, a variance of 5.20 feet is requested.

Staff answered informational questions from the Board.

Andrew Iverson, architect, 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 point in the course of discussion:

- The size of the building is being dictated by the way the stairway is being drawn. The staircase could be recessed in or four feet narrower.
- The Board rarely supports expanding a pre-existing non-conformity.
- It seems there may be options to reduce the variance request. It might be possible to include the stair without needing the variance.
- The appellant's representative indicated a reduction in the variance request might be possible.
- Attempts at mitigating the variance request would be welcome.
- The width of the building is not being expanded. The stair is being added to meet code requirements. That is the encroachment into the side setback. There was a question as to whether that would be a hardship.
- If they were able to replace two concrete islands in the parking lot with landscaping, it would reduce or possibly eliminate the expansion of the pre-existing non-conformity in terms of open space.
- If the stair vestibule were moved to the north side, it could interfere with the extant kitchenette. The two bathrooms might be affected as well.

Motion by Reddy

Seconded by Kona with regard to Appeal 25-13, A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance requires minimum open space of 40.00%. The existing

open space is nonconforming at 28.80%. The proposed site plan increases the nonconformity by 2.10% to 26.70%. Therefore, a variance of 13.30% is requested; and, B. Chapter 126, Article 4, Section 4.61 of the Zoning Ordinance requires that the minimum side street setback shall be 10.00 feet for the permitted principal building on a corner lot. The proposed is 4.80 feet for an exterior stairwell. Therefore, a variance of 5.20 feet is requested.

Mr. Reddy moved to approve variances A and B, tied to the plans. The appellant should proceed with their offer to add 463 sq. ft. of open space in the form of landscaping to the parking lot. This would mitigate any expansion of the pre-existing non-conformity in terms of the open space. The building dates back to 1957. In order to accommodate a request from the Planning Board to reconfigure the parking lot for safer egress, the appellant had to reduce the amount of open space it had originally planned. Due to those particular circumstances, a variance is merited. For variance B, the stairs are being added to meet a code requirement. It is a modest staircase. There are enough special conditions on the property that the Board can approve variances A and B.

It was clarified that while 463 sq. ft. was offered, the appellant could have some flexibility with that amount as long as enough open space was added to the parking lot to either match or reduce the present open-space non-conformity.

Mr. Miller noted that there were concerns about the stairs. He said that while there might have been some options to mitigate that variance request, he would defer to the Planning Board's review and approval of the feature.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Rogers, Hart, Lilley, Kona, Reddy, Morganroth

Nays: None

**2) 2425 E 14 Mile
Appeal 25-12**

PD Dupuis presented the item, explaining that the owner of the property known as 2425 E 14 Mile was requesting the following variance for a nonconforming use in the R2 and MX zoning districts:

A. Chapter 126, Article 2, Section 2.39 of the Zoning Ordinance provides the District Intent, Permitted Uses, and Special Uses for the MX (Mixed-Use) zoning district. In addition, Chapter 126, Article 2, Section 2.07 of the Zoning Ordinance provides the District Intent, Permitted Uses, and Special Uses for the R2 (Single-Family) zoning district. The Clover Hill Park Cemetery is considered a Cemetery use. Cemetery uses are not permitted in either the MX or R2 zoning district. Therefore, a use variance to permit a Cemetery Use in the MX and R2 zoning districts is requested.

Staff answered informational questions from the Board.

Patrick Howe, attorney, 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:

- This was determined to be a use variance, not a dimensional variance. This is why the appellant elected to delay their presentation until seven BZA members were present.
- These plans were reviewed, modified, and approved by the Planning Board.
- The Planning Board and the BZA consider different circumstances and sets of criteria in their review processes. While the deliberations are somewhat related, an approval at the Planning Board does not necessarily result in an approval at the BZA.

Motion by Miller

Seconded by Lilley with regard to Appeal 25-12, A. Chapter 126, Article 2, Section 2.39 of the Zoning Ordinance provides the District Intent, Permitted Uses, and Special Uses for the MX (Mixed-Use) zoning district. In addition, Chapter 126, Article 2, Section 2.07 of the Zoning Ordinance provides the District Intent, Permitted Uses, and Special Uses for the R2 (Single-Family) zoning district. The Clover Hill Park Cemetery is considered a Cemetery use. Cemetery uses are not permitted in either the MX or R2 zoning district. Therefore, a use variance to permit a Cemetery Use in the MX and R2 zoning districts is requested.

Mr. Miller moved to approve the appeal and tied approval to the plans as submitted. He noted that this use has been in effect since 1918, and that granting the variance would do substantial justice to the petitioner. He said that not being able to use the land for the requested purpose would result in a hardship to the owner, that it would not be contrary to the spirit or purpose of the ordinance, and that the ordinance does not specifically address a cemetery use in this area.

The Chair supported the motion, noting that it was an existing use, that the use was needed in the community, and that there was no reason the adjacent land could not function for the same purpose. He noted that these changes would result in an increase in green space, because the present equipment storage would be removed to another location.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Rogers, Hart, Lilley, Kona, Reddy, Morganroth

Nays: None

**3) 245 S Eton
Appeal 25-14**

PD Dupuis presented the item, explaining that the owner of the property known as 245 S Eton was requesting the following variance for new signage above the entrance:

A. Chapter 86, Article 1, Table B of the Sign Ordinance requires that a canopy sign may not exceed an area of no more than 0.33 square feet for each linear foot of canopy

length of the canopy upon which the sign will be placed. The linear footage of the canopy upon which the proposed sign will be placed measures 25 feet 6 inches. Thus, the maximum permitted area of a canopy sign placed on the subject canopy is 8.4 square feet. The proposed canopy sign measures 24.4 square feet in area. Therefore, a variance of 16 square feet is requested.

Staff answered informational questions from the Board.

Mark Knauer, 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 Birmingham Theatre Marquee, another landmark building in the City, also required a variance. This request seems similar.
- There was some kind of metal canopy over the door, historically.
- Two other signs at the establishment will remain after updates. While those signs are not part of the present request, their existence raises the question of whether the canopy sign needs to be the size requested.
- Ordinarily, the appellant would be allowed more signage than is being requested. Because the building is historic, the sign cannot be affixed to the building. The appellant proposed this variance as a way of preserving the historic facade.

Motion by Hart

Seconded by Miller with regard to Appeal 25-14, A. Chapter 86, Article 1, Table B of the Sign Ordinance requires that a canopy sign may not exceed an area of no more than 0.33 square feet for each linear foot of canopy length of the canopy upon which the sign will be placed. The linear footage of the canopy upon which the proposed sign will be placed measures 25 feet 6 inches. Thus, the maximum permitted area of a canopy sign placed on the subject canopy is 8.4 square feet. The proposed canopy sign measures 24.4 square feet in area. Therefore, a variance of 16 square feet is requested.

Mr. Hart moved to approve the variance and tied approval to the plans as submitted. He stated that the appellant persuasively explained the need for the variance, noting that the historically-designated building affected where a sign could be installed. The historic facade would prevent other ordinance-compliant signage from being installed. This solution would not result in any unnecessary hardship to neighboring properties, aligns with the spirit and intent of the ordinance, and provides substantial justice to the owner and neighboring properties.

Mr. Miller supported the motion, noting that similar conditions do not exist elsewhere in the City. He said granting the variance would not be detrimental to any property owners in the vicinity.

The Chair supported the motion as well. He noted that by right the appellant would be permitted more square footage of signage if the signage could be installed on the building. He continued that the requested signage represented significantly less square footage than would otherwise be permitted. He noted that the style of the sign

aligned with the historic nature of the building, that the canopy sign was allowed, and that the illumination was allowed. He supported the appellant being able to brand the location as 'Big Rock' for advertising purposes.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Rogers, Hart, Lilley, Kona, Reddy, Morganroth

Nays: None

6. Correspondence

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

7. General Business

The Board acknowledged Mr. Kona on his appointment to a regular Board position and BO Johnson on his retirement from the City.

The Board also noted that there was an alternate position open on 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 9:14 p.m.



Jeff Zielke, Building Official



Laura Eichenhorn, City Transcriptionist