

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

2. Rollcall

Present: Vice Chair Jason Canvasser; Board Members Richard Lilley, John Miller, Ron Reddy; Alternate Board Members Carl Kona

Absent: Chair Erik Morganroth; Board Members Kevin Hart; Alternate Board Members Donald Rogers

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

The Vice¹ Chair took rollcall of the petitioners. All petitioners were in attendance. Since five out of seven Board members were present, petitioners were given the option to postpone.

The appellants for Appeals 25-19 and 25-21 elected to postpone to the August 2025 meeting.

3. Announcements

The Vice² 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 June 10, 2025

Motion by Lilley

¹As amended at the August 12, 2025 meeting.

²As amended at the August 12, 2025 meeting.

Seconded by Kona to approve.

Motion carried, 5-0.

VOICE VOTE

Yeas: Canvasser, Miller, Lilley, Kona, Reddy

Nays: None

5. Appeals

**1) 2630 Dorchester
Appeal 25-15**

VC Canvasser disclosed a previous business relationship with the appellant. He said he did not believe that the previous business relationship necessitated recusal from this item.

ABO Morad presented the item, explaining that the owner of the property known as 2630 Dorchester 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 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 14.00 feet. The proposed is 12.23 feet. Therefore, a variance of 1.77 feet is requested on the west side.

Staff answered informational questions from the Board.

Debi Babi, representative from the appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Motion by Reddy

Seconded by Lilley with regard to Appeal 25-15, A. 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 14.00 feet. The proposed is 12.23 feet. Therefore, a variance of 1.77 feet is requested on the west side.

Mr. Reddy moved to approve, tying it to the plans. In Birmingham, it is not uncommon for a new home to be built within setbacks, and to still require a variance because of a neighboring home's position on its lot. He continued that literal enforcement of the chapter would result in unnecessary hardship and that the variance would not be contrary to the purpose of the ordinance.

Mr. Miller concurred, noting that this motion aligned with the Board's past approach to similar circumstances. He opined that this was a reasonable request.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Canvasser, Miller, Lilley, Kona, Reddy

**2) 1998 Hazel
Appeal 25-18**

BO Zielke presented the item, explaining that the owner of the property known as 1998 Hazel 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 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 14.00 feet. The proposed is 10.00 feet. Therefore, a variance of 4.00 feet is requested on the west side.

Staff answered informational questions from the Board.

Lindon Lajcaj, owner, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Public Comment

Clarification was provided for Michael Wilson. Mr. Wilson noted that a fence on his property, 1974 Hazel, was located approximately one foot closer to his home than the actual property line between his lot and 1998 Hazel.

Motion by Miller

Seconded by Reddy with regard to Appeal 25-18, A. 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 14.00 feet. The proposed is 10.00 feet. Therefore, a variance of 4.00 feet is requested on the west side.

Mr. Miller moved to approve 1998 Hazel and tied approval to the plans as submitted. He noted that the variance would allow the site to be buildable, and that the adjacent house received a variance for that house's position on its lot. This is a reasonable request, and the special conditions applicable to the property in question would make strict application of the ordinance would prevent the property owner from using it for its permitted purpose. Literal enforcement of the ordinance would create a hardship. Granting the variance would not be contrary to the spirit of the ordinance and would to substantial justice to the appellant. It is a similar condition to the across-the-street neighbors as well.

VC Canvasser concurred, emphasizing that without a variance a house could not be built on this lot. He said the request was very reasonable.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Canvasser, Miller, Lilley, Kona, Reddy

**3) 798 Redding
Appeal 25-20**

ABO Erickson presented the item, explaining that the owner of the property known as 798 Redding was requesting the following variance to construct an addition of the east side of a nonconforming home:

A. 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 54.54 feet behind the front of the garage. Therefore, a variance of 59.54 feet is requested.

Staff answered informational questions from the Board.

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

Motion by Kona

Seconded by Miller with regard to Appeal 25-20, A. 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 54.54 feet behind the front of the garage. Therefore, a variance of 59.54 feet is requested.

Mr. Kona moved to approve the variance, tying approval to the plans, and noting the request was due to a pre-existing condition. The addition would neither change nor expand the pre-existing non-conformity. It would be an unnecessary hardship for the pre-existing condition to prevent this modification to the home. This would not impact the spirit or intent of the ordinance because of the pre-existing nature of the condition. This should result in justice to the property owner and the neighbors because the proposed change would be an enhancement to the property.

Mr. Miller noted this request was precipitated by an unintended consequence of the ordinance. He said it was a very unusual lot, and that the landscaping would make the addition invisible from the front of the home.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Canvasser, Miller, Lilley, Kona, Reddy

6. Correspondence

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

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 8:01 p.m.



Jeff Zielke, Building Official



Laura Eichenhorn, City Transcriptionist