

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**March 18, 2024**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, March 18, 2024 at 5:00 p.m. The roll was marked as follows:

Board Present: Norman Orr, Chairman                      Absent:  
 Scott Boomhover  
 Noel Dowling  
 Russ Doyle  
 Rhett Loveman  
 Marta Self, Supernumerary  
 Oliver Williams, Supernumerary

Staff present: Virginia Smith: Council Liaison  
 Tyler Slaten: City Planner  
 Glen Merchant: Building Official  
 Tammy Reid: Administrative Analyst

Chairman Orr stated that any variance which is granted today expires and becomes null and void twelve months from today, unless construction is begun in less than twelve months from today on the project for which the variance is granted. If construction will not be started within twelve months from today, the applicant may come back in eleven months and ask for a six-month extension.

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Chairman Orr stated that a variance approval will require four affirmative votes. He reviewed the parameters for a favorable consideration of a variance. These parameters are attached to the end of these minutes.

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Chairman Orr asked if all adjacent property owners in each of the cases on the agenda received legal notice of this hearing. Tammy Reid confirmed, based on the information supplied by the applicants, that the adjacent property owners were notified.

Chairman Orr called the meeting to order.

The Board welcomes new supernumerary member, Marta Self.

**1. Approval of Minutes – February 20, 2024**

Motion to approve: Mr. Loveman  
 Second: Mr. Doyle  
 Unanimous approval.

**2. Case A-24-08: Mike and Penny Fuller, 76 Country Club Blvd. (Carry-over)**

**EXHIBIT 1**

Mike and Penny Fuller, property owners, request variances from the terms of the Zoning Regulation to allow additions and alterations to the existing non-conforming dwelling to be 13 feet 6 inches from the left side property line (north) in lieu of the required 15 feet, and to allow the building area to be 26.1 percent in lieu of the maximum allowed of 25 percent. 76 Country Club Blvd.

Scope of Work: The scope of work additions and alterations to the existing non-conforming dwelling which includes extending the existing left side of the structure that is 13 feet 6 inches from the property line. The proposal also includes the removal of an existing detached garage and the construction of a new detached garage.

Hardship(s):

Setback: The hardship related to the side setback request is the existing design constraint of the non-conforming home. The proposal would not increase the encroachment or move the side of the home closer to the property line, but would extend the side of the home from front to back.  
Building Area Coverage: The applicant stated that the hardship is that lot is 16,802 square feet in total area which is less than the 30,000 square foot minimum in Res-A.

Penny Fuller, property owner, addressed the Board. Sarah Barr, project manager, also attended the meeting. Mrs. Fuller stated that the variances would allow the home to be more accommodating in consideration of her husband's medical needs. A cistern will be installed that will service the water runoff from her property, as well as properties up from her. She believes this will be a service to the City. Ms. Barr stated that landscaping will be installed to aid in the slow release of water; the driveway will be constructed of permeable pavers. The existing two-story shed will be removed.

Mr. Loveman: The first setback request of 13' in the side yard relates to the hardship of existing design constraints. Regarding the building coverage area, the proposed materials for the driveway, the proposed cistern, and removal of the shed are helpful regarding lot coverage; however, a smaller lot is not a hardship as related to the ratio of building coverage, so a hardship needs to be determined.

Glen Merchant, Building Official: Water retention measures are only required if the lot coverage area is over 30%. This lot is 5-10 feet further back from the road; the right-of-way does vary from lot to lot in some areas.

Chairman Orr: Since so close to the 25% allowable coverage, could the renovation be reduced a small amount to be in compliance? He is struggling to find a hardship and feels this will set a precedent for other cases. He agrees with the side setback hardship.

Ms. Barr: Reduction has been studied, but the need for wheelchair access restrains reducing the footprint.

Mr. Williams: Because of water issues in the city, the offering of an underground retention system would be a positive. Ms. Barr: A civil engineer will size the system properly.

Glen Merchant: By ordinance the lot coverage can go up to 30%. Anything less is helpful. One application used in the city is a footprint smaller than the exterior walls, which helps meet the requirements.

Tyler Slaten: The initial calculation may not include the change in driveway materials. Ms.

Barr: It does not.

Mr. Doyle: Since the addition is on the back side and not viewable from the front; he feels the request meets the spirit of the code.

Public Comments:

Isabelle Dreher, owner of the property to the right when facing the subject property (75 Country Club Blvd.): She is 100% for the approval of this request.

Chairman Orr: Unique situation; concerned about setting a precedence. Considering the additional actions offered, he feels he can support the request.

Chairman Orr called for a motion.

Motion: Mr. Loveman, motion to approve the variance as submitted, with the following conditions:

- Removal of the existing accessory building.
- Permeable materials are used for the driveway.
- Native plants will be installed.
- Storm water system shall be installed as proposed.

Second: Mr. Doyle

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

**3. Case A-24-10: William and Catherine Moates, 3832 Cromwell Drive**

**EXHIBIT 2**

William and Catherine Moates, property owners, request a variance from the terms of the Zoning Regulations to allow a detached accessory structure to be 5.7 feet from the side property line (south) in lieu of the required 10 feet. -3832 Cromwell Drive

Scope of Work: The scope of work includes the construction of a detached accessory structure. There was an existing shed in this location that was destroyed by a storm. This proposal would allow the applicants to rebuild the shed in the exact same footprint as the one that was destroyed.

Hardship(s): The applicant stated that the existing design constraint of the garden in the backyard and location of the previous shed are hardships.

Kate Moates, property owner, stated that the hardship is there is an existing, very old garden, where a large tree fell and destroyed the shed. Replacement will be at the same location. The garden was started around 5 decades ago. The structure will be identical; no variation in any way.

Chairman Orr agreed that the hardship is existing design constraints.

Public Comments: None.

Chairman Orr called for a motion.

Motion: Mr. Dowling, motion to approve the variance as submitted.

Second: Mr. Boomhover

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

#### 4. Case A-24-11: William and Langston Hereford, 3813 Glencoe Drive

#### EXHIBIT 3

Mr. Loveman recused himself from this case.

William and Langston Hereford, property owners, request a variance from the terms of the Zoning Regulations to allow a new deck, screened porch and fireplace to be as close as 12 feet 3 inches from the side property line (east) in lieu of the required 15 feet. 3813 Glencoe Drive

Scope of Work: The scope of work includes enlarging a wooden deck and constructing a screened porch with a fireplace beneath the deck.

Hardship(s): The hardships in the case are the existing design constraints and slightly unusual lot shape and width.

Will Hereford, property owner, present the variance request that would allow for a new deck, screened porch and fireplace. The fireplace chimney is ventless; approximately 5' wide. He noted hardships of existing design constraints due to the placement of the house on the property and the narrowness of the lot - 90' at the front, narrowing to 55' at the rear. The lot is also small.

Mr. Doyle agreed with the hardship of existing design constraints.

Mr. Williams asked if there is a fence on that side. Mr. Hereford said there is no fence but there is landscaping between his property and the adjacent lot. He has spoken to that neighbor and they are in support.

Public Comments: None

Chairman Orr agreed with the hardship of existing design constraints. He called for a motion.

Motion: Mr. Boomhover, motion to approve the variance as requested.

Second: Mr. Williams

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Orr

Williams

Motion carries.

**5. Case A-24-12: Smartbank/MAM Investments, LLC; 101 Office Park Drive**

**EXHIBIT 4**

Mr. Orr recused himself from this case.

SmartBank/MAM Investments, LLC, property owner, requests the approval of a shared parking agreement between two adjoining properties, in lieu of each property providing required parking independently. 101 Office Park Drive

Scope of Work: The subject property contains Lot 1 (at the intersection of Office Park Drive and Hwy 280) and Lot 2 (to the immediate north of Lot 1, fronting on Hwy 280 but taking access from Office Park Drive, across Lot 1). Lot 2 is proposed to be developed as a freestanding use (one that is permitted in the Office Park District). The scope of work includes the construction of additional square footage on Lot 2, as well as the recordation of a shared parking and access agreement.

Lot 1 contains the existing SmartBank location. Lot 2 has approximately 4,000 square feet of existing building space and the applicant intends to construct approximately 3,000 additional square feet. This lot can only be accessed through Lot 1 and will not contain adequate space to provide the required parking once the additional square footage is constructed.

The total building square footage across both lots is approximately 14,580 square feet. The Office Park District requires a minimum parking requirement of 4 spaces per every 1,000 square feet of space or 1 per every 250 square feet. The total required parking for both lots is 59 spaces. The applicants are proposing to provide the full complement of 59 required spaces to be shared across both lots.

Erik Hendon, architect, presented the request for approval of a shared parking agreement.

Mr. Williams: Based on the square footage of the buildings, will the parking requirement be met on the lot 2 property? Mr. Hendon, "yes".

Public Comments: None.

Chairman Orr called for a motion.

Motion: Mr. Doyle, motion to approve the shared parking agreement as submitted.

Second: Mr. Loveman

Vote: Aye: Bloomhover  
Dowling  
Doyle  
Loveman  
Williams

Motion carries.

**6. Case A-24-13: Taylor and Elizabeth Powell, 3832 Williamsburg Circle**

**EXHIBIT 5**

Mr. Loveman and Mr. Williams recused themselves from this case.

Taylor and Elizabeth Powell, property owners, request variances from the terms of the Zoning Regulation to allow a detached accessory structure to be 5 feet from the rear property line (south), and 5 feet from the side property line (east), both in lieu of the required 10 feet. 3832 Williamsburg Circle

Scope of Work: The scope of work includes the placement of a detached accessory structure (shed) 5 feet from the side property line.

Hardship(s): Other extraordinary and exceptional situations or conditions of such parcel which would result in peculiar, extraordinary and practical difficulties.

Taylor Powell, property owner, presented the variance request to allow the replacement of a detached accessory shed with a Tuff storage shed, constructed of wood with a steel roof. The original location requested was on the south end of the property, but Alabama Power Company said that would involve the right-of-way. The placement request then moved to the east side of the property. The hardship is there is an existing septic tank and field lines. To correct the record: The request is for one variance of 5' on the eastern side of the property.

Mr. Boomhover asked if the structure will affect light or air flow to neighbors and what will it look like? Mr. Powell: No; the shed will be approximately 10' x 12'. Wooden with steel roof; a-framed. The existing shed will be removed.

Chairman Orr asked if the shed will be one-story in height. Mr. Powell confirmed one-story.

Mr. Dowling asked the height of the shed. Mr. Powell stated 12'. Mr. Dowling agreed that the request is an improvement.

Ms. Self stated that an approval could be based on the demolition of the existing shed.

Public Comments: None.

Mr. Powell distributed a letter from Walter Kelley (3833 Williamsburg Circle) that stated he has no objections to the proposed project.

Chairman Orr called for a motion.

Motion: Mr. Doyle, motion to approve the variance as requested, subject to the removal of the existing shed.

Second: Ms. Self

Vote: Aye: Boomhover  
Dowling  
Doyle  
Orr  
Self

Motion carries.

## 7. Case A-24-14: Ebert Investments, LLC; 4012 Little Branch Road

**EXHIBIT 6**

Ebert Investments, LLC, property owner, requests a variance from the terms of the Zoning Regulation to allow an addition to the existing single family dwelling (attached carport) to be 7.9 feet from the side property line (north) in lieu of the required 15 feet. -4012 Little Branch Road

Scope of Work: The scope of work includes the construction of an attached carport.

Hardship(s): The applicant stated that the lot is an irregular shape as it is narrow in the front and widens toward the rear. The applicant also stated that there are topographic challenges as the lot slopes downward in the back rear of the property.

Herbert Beville, Ebert Invest, LLC, presented the variance request. He is the property owner. He feels that the lot hardships are the topography because of the back drop-off and the irregular lot shape. The carport dimensions are 11' wide and 10' tall. He did not get a permit because he did not know that it was required since it was over the driveway.

Mr. Dowling: Is this part of a complete home renovation?

Mr. Beville: Yes. Took the existing house down to the studs; three levels.

Mr. Dowling asked if the renovations were covered by a building permit. Mr. Beville said that a permit was obtained for the renovations, but not for the carport; the carport was built without a permit.

Mr. Doyle said he sees the topographical issues.

Mr. Dowling asked if the original house had a carport. Mr. Beville: "no". There was only a driveway to the rear.

Chairman Orr: Same exterior footprint of the home? Mr. Beville: "yes".

Mr. Williams stated that by being an open-air structure, it would less affect light and air flow to neighboring property.

Mrs. Smith, Council Liaison, asked if there is a wall at the back of the carport for safety. Mr. Beville stated there is an open iron fence

Public Comments:

Lester Seigel, 4008 Little Branch Road, MB; property adjacent to the carport. He is not in favor of this carport. He appreciates how the property has been improved, but the carport is very close to his property. He spoke with Mr. Beville regarding this issue. Mr. Seigel would like greenery to help screen the carport and would allow the planting on his property for maintenance purposes. Jane Seigel stated that the builder did a lovely job, but the carport is huge and very close to her house. The lot is narrow and there has never been a carport on that property.

Regarding landscaping, Mr. Slaten said that the board cannot require a condition that involves another's property.

Mr. Beville said that he planned to install landscaping.

Chairman Orr agreed with the hardships of irregular shape, topography and existing design constraints, but is concerned about the effect on neighbors. A green barrier between the carport

and neighbor's property should be a requirement of approval in his opinion; evergreens at least 5' tall.

Chairman Orr called for a motion.

Motion: Mr. Doyle, motion to approve the variance as submitted, with the condition that a shrubbery screen of 5' tall evergreen plants will be installed at the applicant's property line where the carport is located.

Second: Mr. Boomhover

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

8. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned. The next meeting is scheduled for April 15, 2024.

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Tammy Reid, Administrative Analyst