

**CITY OF MOUNTAIN BROOK**  
**BOARD OF ZONING ADJUSTMENT**  
**REGULAR MEETING**  
**MINUTES**  
**July 15, 2024**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, July 15, 2024 at 5:00 p.m. The roll was marked as follows:

Board Present: Norman Orr, Chairman                      Absent: Marta Self, Supernumerary  
                   Scott Boomhover  
                   Noel Dowling  
                   Russ Doyle  
                   Rhett Loveman  
                   Oliver Williams, Supernumerary  
 Staff present: Tyler Slaten: City Planner  
                   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 agenda stands approved as printed.

**1. Approval of Minutes – June 17, 2024**

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

**2. Case A-24-26: Hardy and Margaret Mitchell, 35 Winthrop Avenue**

**EXHIBIT 1**

Hardy and Margaret Mitchell, property owners, requests variances from the terms of the Zoning Regulation to allow an addition to be 30 feet 1 inch from the primary front property line (Overbrook Road) and 31 feet 10 inches from the secondary front property line (Winthrop Avenue) both in lieu of the required 35 feet. 35 Winthrop Avenue

Scope of Work: The scope of work includes a two-story addition to the existing single

family home.

**Hardship(s):** The hardships in this case are the corner lot configuration and existing design constraint of the current home.

Kacy Crane, architectural designer, represented the applicants, Hardy and Margaret Mitchell. The corner lot configuration presents a hardship. The addition will include a master bathroom and closet that will also serve as a sound buffer from the sports field at the Junior High School. No adjacent property will be affected by light, and the noise would not increase to any of the surrounding neighbors. The existing height of the home will remain.

Chairman Orr asked Tyler Slaten which side of the property is considered the primary front. Mr. Slaten stated that the Overbrook Road side is the primary.

Chairman Orr: The Winthrop Avenue side variance request dose not encroach further into the setback; the addition will follow the line of the existing structure, not making the existing encroachment worse. The Board is sensitive to the streetscape; however, he feels that the proposed will not negatively affect the streetscape.

Public Comments: None

Chairman Orr agreed with the hardships of the corner-lot configuration and existing design constraints as it relates to this property. He called for a motion.

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

Second: Mr. Doyle

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

### 3. Case A-24-27: Lauren Richey, 305 Euclid Avenue

### EXHIBIT 2

Lauren Richey, property owner, requests variances from the terms of the Zoning Regulation to allow additions and alterations to be 25 feet from the front property line (Euclid Avenue) in lieu of the required 35 feet and to be 7 feet 3 inches from the side property line (east) in lieu of the required 8 feet for portions of the structure below 22 feet in height. -305 Euclid Avenue

Scope of Work: The scope of work includes additions and alterations to the existing single family home. The proposal features an alteration and enlargement to the existing covered front porch and a new master closet addition and rear deck.

Hardship(s): The hardship in this case is the existing design constraint of the non-conforming home.

Tyson Barganier represented the applicant, Lauren Richey. The new covered front porch will expand laterally from the existing front porch, but will maintain the same setback as it relates

to the property line. The master closet addition on the left right of the dwelling will extend along the current side façade maintaining the existing setback. Neither area of the proposed scope of work in the setback will encroach closer to the property line than the existing footprint.

Mr. Dowling asked the hardship of the lot. Mr. Barganier stated that the hardship is the existing design constraint of the non-conforming lot. Neither of the requested variances will encroach further into the setbacks than the existing house.

Mr. Dowling asked if the existing porch is covered. Mr. Barganier stated that the existing porch is covered and that the roof will extend to cover the addition. The roof will remain inline and not encroach further than the existing.

Mr. Doyle agreed with the presented hardship of existing design constraint of the non-conforming structure.

Chairman Orr stated that the requested variance will not make the existing non-conformity any worse.

Public Comments: None.

Chairman Orr called for a motion.

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

Second: Mr. Doyle

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

#### 4. **Case A-24-28: Joseph and Lisa Marie McGilberry, 3605 Montrose Road**

#### **EXHIBIT 3**

Joseph and Lisa Marie McGilberry, property owners, request variances from the terms of the Zoning Regulation to allow a covered porch addition to be 9.8 feet from the side property line (west) in lieu of the required 12.5 feet. 3605 Montrose Road

Scope of Work: The scope of work includes the construction of a new rear deck and covered porch.

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

Lisa Marie McGilberry, applicant, presented the variance request. The lot is very narrow and there are existing design constraints. She has spoken with her neighbor that would be most affected and they did not express any concern regarding the requested variance.

Mr. Doyle asked if there is an existing deck. Ms. McGilberry said there is not.

Mr. Doyle stated that he feels that the stated hardships relate to the requested variance.

Public Comments: None

Chairman Orr called for a motion.

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

Second: Mr. Loveman

Vote: Aye: Nay:

Boomhover

Dowling

Doyle

Loveman

Orr

Motion carries.

5. **Adjournment:** There being no further business to come before the Board at this time, the meeting stood adjourned. The next meeting is scheduled for August 19, 2024.

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Tammy Reid, Administrative Analyst

## ***Standard Parameters for the Granting of a Variance***

Section 129-455 of the municipal code frames the parameters for a favorable consideration of a variance:

Where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship to the owner of the parcel for which the variance is sought.

## ***Standard Hardships Required***

Section 129-455 of the municipal code outlines the hardships that the board may consider as justification for the granting of a variance:

- a. exceptional narrowness
- b. exceptional shallowness
- c. irregular shape
- d. exceptional topographic conditions
- e. other extraordinary and exceptional situations or conditions of such parcel which would result in peculiar, extraordinary and practical difficulties (existing design constraints).

## ***Required Findings for Approval***

Section 129-455 of the municipal code indicates that before any variance is granted, the board shall consider the following factors, and may not grant a variance unless it finds that these factors exist (not all of these findings will apply to every type of variance, but should be used wherever they are applicable):

**Applicable findings for approval should be read into the record of minutes for any motion to approve:**

1. That special circumstances or conditions apply to the building or land in question, and
2. That these circumstances are peculiar to such building or land, and
3. That these circumstances do not apply generally to other buildings or land in the vicinity;
4. The condition from which relief or a variance is sought did not result from action by the applicant;
5. That the granting of this variance:
  - a. will not impair an adequate supply of light and air to adjacent property;
  - b. will not be detrimental to the streetscape;
  - c. will not increase the danger of fire;
  - d. will not increase noise;
  - e. will not the risk of flooding or water damage;
  - f. does not merely serve as a convenience to the applicant;
  - g. is in harmony with the spirit and intent of the zoning ordinance.

## ***Findings for Denial***

If the above noted findings for approval do not apply to the subject request, then the opposite findings may be made for denial.