

# BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

**UPDATED: VIRTUAL MEETING DUE TO COVID-19 PANDEMIC**

**Go To: <https://zoom.us/j/96343198370>**

**Or Dial: 877 853 5247 US Toll-Free**

**Meeting Code: 963 4319 8370**

OCTOBER 13, 2020  
7:30 PM

## 1. CALL TO ORDER

## 2. ROLL CALL

## 3. APPROVAL OF THE MINUTES

a) September 8, 2020

## 4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1496 CHESTERFIELD	LUXE DESIGN & BUILD	20-39	DIMENSIONAL
2)	707 LAKEVIEW	BRIAN NEEPER ARCHITECTURE	20-40	DIMENSIONAL
3)	530 VINEWOOD	ZAWAIDEH	20-41	DIMENSIONAL
4)	1292 COLE	AMSON CUSTOM HOMES	20-42	DIMENSIONAL

## 5. CORRESPONDENCE

## 6. GENERAL BUSINESS

## 7. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

## 8. ADJOURNMENT

### Title VI

Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing, or other assistance.

*Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).*

The public entrance during non-business hours is through the police department at the Pierce Street entrance only. Individuals requiring assistance entering the building should request aid via the intercom system at the parking lot entrance gate on Henrietta Street.

La entrada pública durante horas no hábiles es a través del Departamento de policía en la entrada de la calle Pierce solamente. Las personas que requieren asistencia entrando al edificio debe solicitar ayudan a través del sistema de intercomunicación en la puerta de entrada de estacionamiento en la calle de Henrietta.

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS**  
**TUESDAY, SEPTEMBER 8, 2020**  
**Held Remotely Via Zoom And Telephone Access**

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**1. CALL TO ORDER**

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, September 8, 2020. Chairman Lillie convened the meeting at 7:31 p.m.

**2. ROLLCALL**

**Present:** Chairman Charles Lillie; Board Members Richard Lilley, John Miller, Erik Morganroth, Francis Rodriguez; Alternate Board Member Ron Reddy

**Absent:** Board Members Jason Canvasser, Kevin Hart; Alternate Board Member Jerry Attia

**Administration:**

Bruce Johnson, Building Official  
Brooks Cowan, City Planner  
Laura Eichenhorn, Transcriptionist  
Mike Morad, Asst. Building Official  
Jeff Zielke, Asst. Building Official

Chairman Lillie explained the meeting was being held virtually due to the Covid-19 pandemic. He explained the procedures that would be followed for the virtual meeting. He then welcomed Vice-Chairman Morganroth to assume leadership of the meeting.

Vice-Chairman Morganroth explained BZA procedure to the audience. 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.

Vice-Chairman took rollcall of the petitioners. All petitioners were present.

**T# 09-49-20**

**3. APPROVAL OF THE MINUTES OF THE BZA MEETING OF AUGUST 11, 2020**

**Motion by Mr. Lilley  
Seconded by Mr. Lillie to accept the Minutes of the BZA meeting of August 11, 2020  
as submitted.**

**Motion carried, 6-0.**

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Lillie, Miller, Reddy, Rodriguez

Nays: None

**T# 09-50-20**

**4. APPEALS**

**1) 1120 E. Lincoln  
Appeal 20-38**

City Planner (CP) Cowan explained that the owner of a business applying to occupy a tenant space located at 1120 E. Lincoln Avenue was requesting an administrative appeal of the proposed use for the property:

**A. Chapter 126, Article 08, section 8.01 (F)1(a)** of the Zoning Ordinance authorizes the Board of Zoning appeals to hear and decide appeals from and review any determination made by an administrative official charged with the enforcement of the Zoning Ordinance. The Community Development Department has determined that the proposed use of alcoholic beverage sales for off-premise consumption does not meet the requirements of permitted uses as outlined in the Zoning Ordinance. Therefore, the applicant is requesting a reversal of that decision.

CP Cowan then reviewed the staff notes included in the agenda related to the item.

According to Building Official Johnson the City determined that permits granted to Birmingham Wine by the City in 2014 allowing the sales of takeaway alcoholic beverages in the O2 were granted incorrectly. Since then, Birmingham Wine moved its location a bit northward of its previous one and applied for an initial merchant's license to operate in that space. At that point the City discovered Birmingham Wine had applied neither for their business permits nor occupancy permits to operate in that space, which the City is currently working through with the business. Building Official Johnson stated that Birmingham Wine will be receiving a violation notice. He explained that their new application to operate and sell alcoholic beverages in that location will not be granted because the sale of alcoholic beverages is not a permitted use in the O2 zone.

In reply to Vice-Chairman Morganroth, CP Cowan explained that 'incidental' in the zoning ordinance is usually determined on a case-by-case basis by Planning Staff. He said if reasonable minds could infer that a use is incidental that finding usually stands. CP Cowan continued that

since alcohol is such a highly-regulated use and its use is specified in nine other zones in the zoning ordinance it is difficult to define alcohol sales as incidental.

Stephon Bagne, lawyer for the applicant, was present on behalf of the application. Mr. Bagne reviewed the letter and letter addendum submitted to the BZA by William Werner, co-owner of Mongers' Provisions (Mongers'), both of which are included in the meeting's agenda packet.

In reply to Vice-Chairman Morganroth, Mr. Bagne acknowledged that the O2 zone was intended as a buffer between residential neighborhoods and commercial districts in Birmingham. He said that with this understanding it would be appropriate to have a specialty food store that sells alcohol to be part of such a buffer zone because it would be a low-traffic, low-intensity use. He explained that it would have no impact on the surrounding residences whether a customer leaves Mongers' with just charcuterie or leaves with both charcuterie and a bottle of wine. The City's allowance of bistros in the O2 zone also proves that the sale of alcohol is not inherently prohibited in the O2 zone.

In reply to Mr. Rodriguez, Mr. Bagne reported that in general Mongers' alcohol sales comprise about 8% of their revenue at their Detroit and Ferndale locations.

Mr. Lillie said zoning regulations in the City are very specific about where alcohol can be sold, and that he was not persuaded that the City intended to allow off-premises alcohol sales in the O2 zone. He also noted that alcohol available in bistros is consumed on-premises, whereas the alcohol sold in a specialty food store is takeaway, which constitutes an important difference. Mr. Lillie concluded by stating that it is up to the City Commission to determine where alcohol can be sold, and not the BZA.

Mr. Bagne asserted that the City unequivocally meant to allow alcoholic beverages in the O2 when they used the word 'beverage' in the zoning information without any modification. He noted that definitions of the word 'beverage' include beer and wine as possible beverage types. If the Commission had wanted to exclude alcoholic beverages, they either could have written non-alcoholic beverages or could have written a definition of beverages specific to the ordinance that excluded alcoholic beverages. With this understanding, Mr. Bagne opined that ruling against Mongers' in this situation would do exactly what Mr. Lillie stated he wanted to avoid, which was failing to follow the City Commission's previous determinations.

In reply to Mr. Reddy, Mr. Bagne said he had not seen any evidence that allowing Birmingham Wine in 2014 to operate in the O2 zone was actually in error. Mr. Bagne said declaring it such seemed like a retroactive change by City staff, uninvolved in the original decision, in order to justify treating Mongers' differently from how Birmingham Wine had been treated. Using a different definition of 'beverage' now to render moot the singular precedent in this case is an erroneous interpretation, arbitrary and capricious, and an abuse of discretion, Mr. Bagne continued. If allowing Birmingham Wine to operate in the O2 had indeed been an abuse of discretion then the City should have altered the ordinance to specify non-alcoholic beverages in the definition of specialty food store to make that clear. Birmingham Wine would have then become a legal non-conforming use which could not be used to establish precedent for any following businesses. Allowing Birmingham Wine to operate for six years without making it a legal

non-conforming use proves that it can be used to establish precedent for selling alcoholic beverages in the O2 zone.

Mr. Lillie responded to Mr. Bagne's contention that there was no evidence the City made a permitting mistake for Birmingham Wine in 2014. While Mr. Lillie granted that may be true, he explained there was also no evidence contradicting the assertion.

Mr. Bagne disputed that the onus was on him to prove the absence of a permitting mistake. Rather, he suggested, the City should have to convincingly prove that a permitting mistake existed vis-a-vis Birmingham Wine. He reiterated that since the City did not change Birmingham Wine into a legal non-conforming use in the O2 in the course of its six-year operation it could reasonably be used to establish precedent for alcohol sales in the O2 zone. He stated that Birmingham Wine was allowed to engage in selling takeaway alcohol in the O2, that the ability to do so is supported by the ordinance's use of the word 'beverage', and that the zoning ordinance included no special definition of the word 'beverage' in the zoning ordinance to make alcoholic sales prohibited. For these reasons, Mr. Bagne reasserted his client's right to sell takeaway alcohol in the O2.

Vice-Chairman Morganroth said he the assertion that the City should have corrected Birmingham Wine's erroneous licensing in order to avoid potentially establishing a precedent had some merit. Acknowledging that, he said he also saw the following two facts that indicated the City did intend to prohibit the sales of takeaway alcohol in the O2 area:

- That when alcohol sales are permitted in a given zone, the zoning ordinance explicitly states it; and,
- That no other businesses have been permitted in the O2 zone to sell takeaway alcohol.

Mr. Bagne replied that Article 5.09 in the zoning ordinance says that "alcoholic beverage sales for consumption off-premises, in conjunction with grocery stores and drug stores is permitted subject to a special land use permit" because the City desired to limit alcohol sales in the B1 district. He said that the O2 lacked that specification, in contrast, because the City did not wish to limit takeaway alcohol sales in the zone.

Seeing no further discussion at the BZA level, Vice-Chairman Morganroth invited public comment.

Dr. Andrew Rosenberg asserted that across the United States it is understood that a specialty food store includes the sale of specialty alcoholic beverages. He said that since Mongers' is a specialty food shop, they should be permitted to sell specialty alcoholic beverages. Dr. Rosenberg noted that in general one would be more likely to buy alcohol incidentally at Mongers' especially because the alcohol selection is curated to pair with Mongers' other products. He said that while he appreciated the zoning ordinances' intention to prevent nuisance and danger, he could not see how buying a wine to pair with cheese would cause a nuisance to the surrounding residences. Dr. Rosenberg said that the existence of many stores selling alcohol within 500 feet of Mongers' also belies the idea that City intended to provide an alcohol-free 'buffer', via the O2, to the nearby residences. He said it would be a great inconvenience to him to have to make two trips for food and wine when he could just stop at Mongers' to purchase both.

### **Motion by Mr. Lillie**

Seconded by Mr. Reddy with regard to Appeal 20-38, A. Chapter 126, Article 08, section 8.01 (F)1(a) of the Zoning Ordinance authorizes the Board of Zoning appeals to hear and decide appeals from and review any determination made by an administrative official charged with the enforcement of the Zoning Ordinance. The Community Development Department has determined that the proposed use of alcoholic beverage sales for off-premise consumption does not meet the requirements of permitted uses as outlined in the Zoning Ordinance. Therefore, the applicant is requesting a reversal of that decision.

Mr. Lillie moved to deny the applicant's request for a reversal of the Community Development (CD) department's decision to prohibit the sale of alcoholic beverages in the O2 for off-premises consumption. He said he believed CD acted properly and that their decision was supported by the zoning ordinance. He explained that the sale of alcoholic beverages is regulated by the City, that the City designated nine zones in which alcoholic beverages for off-premises consumption could be sold, and that the O2 is not listed among those zones. Mr. Lillie continued that only the City Commission is authorized to permit the sale of takeaway alcoholic beverages in the O2 district.

Mr. Miller said that there were many positive aspects of the project both for the neighborhood and for the City, but to allow the sale of takeaway alcohol in the O2 would cause the BZA to be too far afield of its review scope. He said deciding where liquor can be sold in the City is addressed variously by the City Commission, Master Plan, the Planning Board, and the Planning Department and not by the BZA. Beyond that, Mr. Miller stated that CD made a reasonable determination in this case and that those facts lead to him supporting the motion.

Vice-Chairman Morganroth said he would also be supporting the motion. He said that while he would love to see Mongers' thrive in Birmingham, he did not find that this matter showed any kind of capricious or inappropriate interpretation on the part of CD. He said he was hard pressed to see alcoholic sales as incidental given its regulation by both the State and the City.

**Motion carried, 5-1.**

ROLL CALL VOTE

Yeas: Morganroth, Lillie, Miller, Reddy, Rodriguez

Nays: Lilley

**T# 09-51-20**

## **5. CORRESPONDENCE**

Included in the agenda packet.

**T# 09-52-20**

**6. GENERAL BUSINESS**

None.

**T# 09-53-20**

**7. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

None.

**T# 09-54-20**

**8. ADJOURNMENT**

**Motion by Mr. Lillie**

**Seconded by Mr. Lilley to adjourn the September 8, 2020 BZA meeting at 8:41 p.m.**

**Motion carried, 6-0.**

ROLL CALL VOTE

Yeas: Morganroth, Rodriguez, Lilley, Miller, Lillie, Reddy

Nays: None

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Bruce R. Johnson, Building Official

# 1496 CHESTERFIELD MAP



# **CASE DESCRIPTION**

**1496 Chesterfield (20-39)**

**Hearing date: October 13, 2020**

**Appeal No. 20-39:** The owner of the property known as 1496 Chesterfield, requests the following variance to construct an addition to the existing non-conforming home:

**A. Chapter 126, Article 4, Section 4.74(C)** of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots of 14.0 feet or 25% of the lot width whichever is greater. The required total is 27.05 feet. The existing/proposed is 17.49 feet on the south side. Therefore, a variance of 9.56 feet is being requested.

**Staff Notes:** The applicant is requesting a variance to construct an addition to the existing non-conforming home. The existing home was constructed in the 1940's.

This property is zoned R1 – Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

**CITY OF BIRMINGHAM**  
**Community Development - Building Department**  
 151 Martin Street, Birmingham, MI 48009  
 Community Development: 248-530-1850  
 Fax: 248-530-1290 / [www.bhamgov.org](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9-15-20

Hearing Date: 10-12-20

Received By: BM

Appeal #: 20-39

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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**I. PROPERTY INFORMATION:**

Address: <u>1496 CHESTERFIELD</u>	Lot Number: <u>146</u>	Sidwell Number:
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**II. OWNER INFORMATION:**

Name: <u>COURTNEY AND DEY SHAH</u>			
Address: <u>1496 CHESTERFIELD</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email:* <u>DONALDSON_COURTNEY@HOTMAIL.COM</u>		Phone: <u>616.648.8425</u>	

**III. PETITIONER INFORMATION:**

Name: <u>JOHN VAN BROUCK</u>		Firm/Company Name: <u>LUXE DESIGN + BUILD</u>	
Address: <u>360 HAMILTON ROW</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>VANBROUCK@COMCAST.NET</u>		Phone: <u>734.604.2409</u>	

**IV. GENERAL INFORMATION:**

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12<sup>th</sup> day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example				
Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

**V. REQUIRED INFORMATION CHECKLIST:**

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

**VI. APPLICANT SIGNATURE**

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

\*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: <u>[Signature]</u>	Date: <u>9/11/20</u>
Signature of Petitioner: <u>John Van Brouck</u>	Date: <u>9-11-2020</u>



CITY OF BIRMINGHAM  
 Date: 09/15/2020 2:01:47 PM  
 Ref: 001725  
 Receipt: 545920  
 Amount: \$360.00

**John VanBrouck**  
**LUXE Homes Design + Build**  
360 Hamilton Row  
Birmingham, Michigan 48009

September 11, 2020

City of Birmingham Board of Zoning Appeals  
151 Martin Street  
Birmingham, Michigan 483009

Subject: Shah Residence-1496 Chesterfield Avenue

Dear Members of the Board,

The Shah Family residence is an existing home located at 1496 Chesterfield Avenue in Birmingham. The home was originally built in the 1940's and its construction preceded the existing ordinance by several decades. The current house is a legal, non-conforming structure with encroachments of 9.56 feet into the South Side Distance Between Setback of 27.05 feet.

Courtney and Dev Shah are proposing to build an austere 970 square foot addition onto their home. The first floor addition would include a new mudroom and Family Room off of the back of the existing house. The second floor addition would include four bedrooms and three bathrooms. One of the bedrooms is proposed to go over top of the existing room below. The space is currently used as a bedroom but will need to be removed to allow proper construction of that area. The proposed construction will not extend beyond the current lines of structure. The design sensibly stacks the new walls over the existing walls seamlessly. It was determined that the existing roof would be compromised with the new construction of the room above. We are requesting these variances to cover the re-construction effort as necessary. The new square footage will be built within all of the setbacks.

The unique circumstance for the house is its age. The home is an existing, non-conforming structure. The non-conformity was not self created. The proposed addition is a sensible approach enlarging the structure without adverse effects on the neighboring properties. Forcing the homeowners to adhere to the side yard setback requirement would create an undue hardship with a complicated structure that would require an expensive, disjointed and unseemly geometry. The proposed addition would be harmonious to the existing structure and would appear to have been part of the original construction. The work will be attractive to the homeowners and to the neighbors.

The Shah Family respectfully requests relief from the 21.5 foot South Side Distance Between Structures of 27.05 feet with a variance of 9.56 feet.

Please feel free to contact me if you have any questions.

Thank you.

Sincerely,

  
John VanBrouck

# **CASE DESCRIPTION**

## **707 Lakeview (20-40)**

**Hearing date: October 13, 2020**

**Appeal No. 20-40:** The owner of the property known as 707 Lakeview, requests the following variances to construct a new home with an attached garage:

**A. Chapter 126, Article 2, Section 2.08.4** of the Zoning Ordinance requires that the maximum building height for sloped roofs is 30.00 feet to the midpoint. The proposed is 35.30 feet. Therefore a variance of 5.30 feet is being requested.

**B. Chapter 126, Article 2, Section 2.08.4** of the Zoning Ordinance requires that the maximum building height to the eave is 24.00 feet. The proposed is 30.60 feet. Therefore a variance of 6.60 feet is being requested.

**Staff Notes:** The applicant is requesting height variances to construct a new home with an attached garage. The lot slopes from the front to the rear. The southwest corner of the proposed house is the area in which the variance are being requested.

This property is zoned R2 – Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

**CITY OF BIRMINGHAM**  
**Community Development - Building Department**  
**151 Martin Street, Birmingham, MI 48009**  
**Community Development: 248-530-1850**  
**Fax: 248-530-1290 / [www.bhamgov.org](http://www.bhamgov.org)**

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9-14-20

Hearing Date: 10-13-20

Received By: DM

Appeal #: 30-40

Type of Variance:	<input checked="" type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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**I. PROPERTY INFORMATION:**

Address: <u>707 LAKEVIEW</u>	Lot Number: <u>43+44</u>	Sidwell Number: <u>19-260-427-038</u>
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**II. OWNER INFORMATION:**

Name: <u>BRANDON + SARIN LIPARI</u>			
Address: <u>279 FERNDALE</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: *	Phone:		

**III. PETITIONER INFORMATION:**

Name: <u>BRIAN NEEPER</u>	Firm/Company Name: <u>BRIAN NEEPER ARCHITECTURE PC</u>
Address: <u>680 N. OLD WOODWARD</u>	City: <u>BHAM</u> State: <u>MI</u> Zip code: <u>48009</u>
Email: <u>BRIAN@BRIANNEEPER.COM</u>	Phone: <u>248 259 1784</u>

**IV. GENERAL INFORMATION:**

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The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example				
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- V. REQUIRED INFORMATION CHECKLIST:**
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  - One original and nine copies of the certified survey
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  - If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

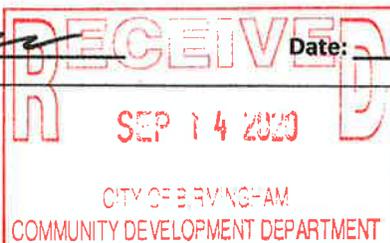
**VI. APPLICANT SIGNATURE**

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

\*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature] Date: 9-11-20

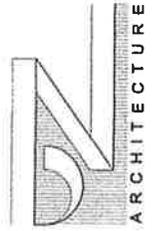
Signature of Petitioner: [Signature] Date: 9-11-20



CITY OF BIRMINGHAM  
 Date 09/15/2020 2:24:44 PM  
 Receipt # 54592  
 Amount \$160.00

**Brian Neeper Architecture P.C.**

630 N. Old Woodward, Suite 203 Birmingham, MI 48009 248. 259. 1784 brianneeper.com



City of Birmingham  
Board of Zoning Appeals  
151 Martin St.  
Birmingham, MI 48009

Re: 707 Lakeview, Lipari Residence

September 14, 2020

Members of the Board,

On the behalf of my clients, Brandon and Sarvy Lipari, I respectfully request your consideration for the approval of the required dimensional variances to allow the construction of the proposed new single-family residence. The existing property is zoned R2. The property has some exceptional grading challenges, unique to this site, which make it substantially more difficult to achieve a typical 2-story residence with a pitched roof, within the requirements of the ordinance.

The site's grade falls roughly 8' from the front to the rear of the property. The interpretation of the required heights for this site are taken from the lowest existing grade at the proposed structure (752.25'). Thus, our base line for the required height calculations is roughly 7.75' lower than the proposed high grade at the front (760.0'). The Building and Eave heights for the proposed house will need variances as indicated below.

***Variance A - Building Height***

The required building height for R-2 is 30'-0". We are requesting a 5.3' variance for a building height of 35.3' from the low grade.

***Variance B - Eave Height***

The required eave height for R-2 is 24'-0". We are requesting a 6.6' variance for an eave height of 30.6' from the low grade.

I have taken care in the architectural design to set the roof to a low profile so that most of the building heights and eave heights on the front of the house fall within in the allowable heights as measured from the proposed grade at the street front. The roof lines have been designed to step down towards the rear following the natural grades. The existing natural grades on the site will be maintained, therefore the height issues are not self-created. I believe the architecture of the proposed home will fit the scale of the site and the surrounding neighborhood's architecture. We believe the approval of this variance request will allow my client to build an attractive and functional 2 story single-family residence without any negative impact to the adjacent neighbors or the "Holy Name" neighborhood as a whole.

Thank you for your consideration.  
Sincerely,

Brian Neeper, AIA



Jeff Zielke <jzielke@bhamgov.org>

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## 707 Lakeview Variance

1 message

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**Alvin Sallen** <asallenlaw@gmail.com>  
To: jzielke@bhamgov.org

Wed, Sep 30, 2020 at 3:11 PM

Dear Mr. Zielke:

I emphatically object to the requested variance.

I have resided on Lakeview since 1981. When I built my present house at 675 Lakeview in 1998 I requested and was denied a variance.

The builder spec house to my West, which was built several years ago , removed my view of Quarton Lake, its park trees, and my open view of the sky and sunsets.

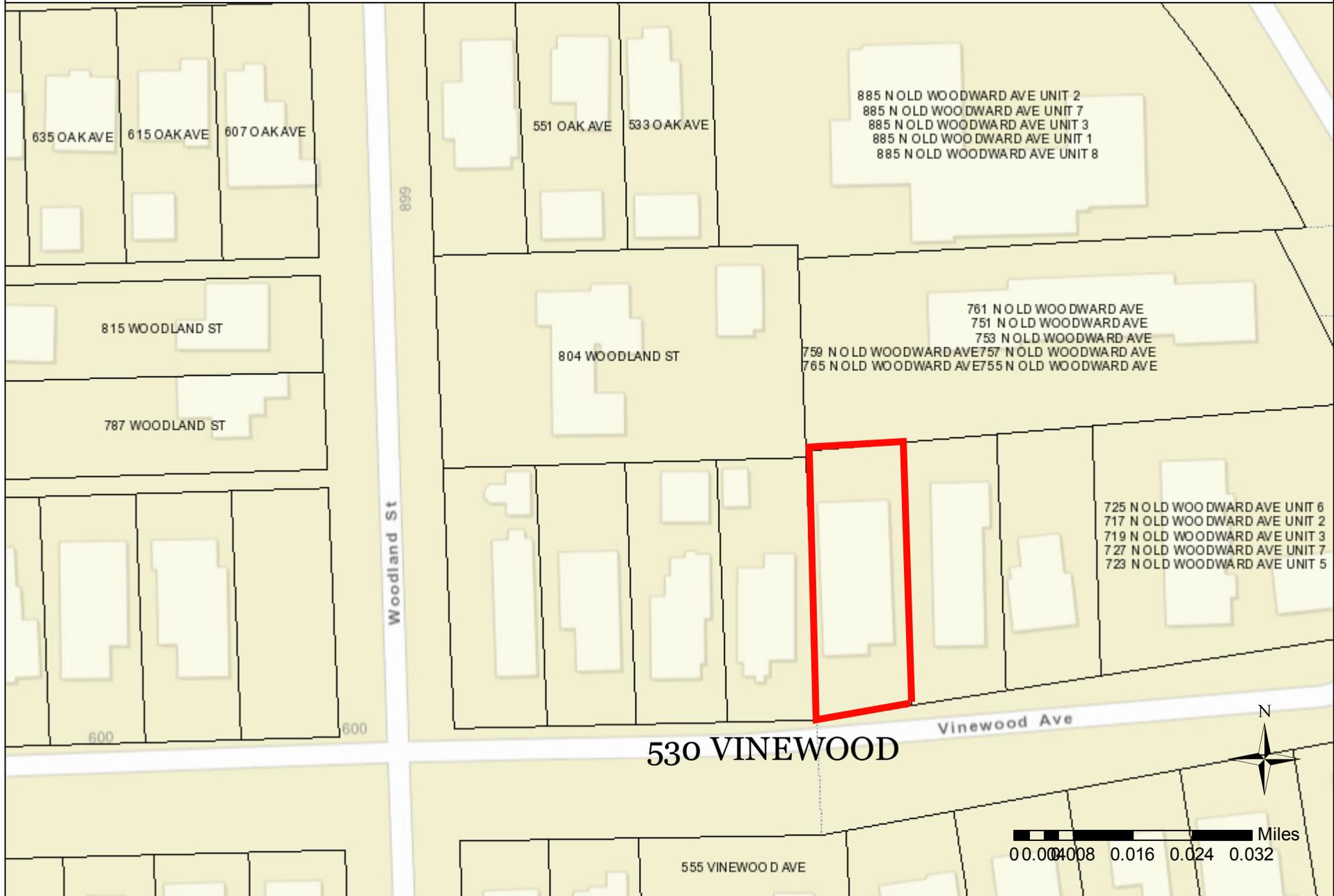
Now, this new builder, requesting this variance, will further significantly close me in by adversely impacting upon and diminishing my open space to the North.

My right to open space is protected by Birmingham's building code.

Thank you.

Alvin Sallen

# 530 VINEWOOD MAP



# **CASE DESCRIPTION**

## **530 Vinewood (20-41)**

**Hearing date: October 13, 2020**

**Appeal No. 20-41:** The owner of the property known as 530 Vinewood, requests the following variance to reconstruct the existing non-conforming driveway and patio:

**A. Chapter 126, Article 2, Section 2.08.1** of the Zoning Ordinance requires that a single family residential lot shall have a minimum open space of 40%. The minimum open space required is 2758.40 SF (40%). The proposed is open space is 1968.00 SF (28.5%). Therefore a variance of 790.40 SF (11.50%).

**Staff Notes:** The applicant is requesting a variance to reconstruct the existing brick paver driveway and patio.

This property is zoned R2 – Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

**CITY OF BIRMINGHAM**  
**Community Development - Building Department**  
**151 Martin Street, Birmingham, MI 48009**  
 Community Development: 248-530-1850  
 Fax: 248-530-1290 / [www.bhamgov.org](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9-15-20  
 Received By: BN

Hearing Date: 10-13-20  
 Appeal #: 20-41

Type of Variance:	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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**I. PROPERTY INFORMATION:**

Address: <u>530 Vinewood Ave</u>	Lot Number: <u>4</u>	Sidwell Number: <u>08-19-25-326-011</u>
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**II. OWNER INFORMATION:**

Name: <u>Santa Zawaidch</u>					
Address: <u>530 Vinewood Ave</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>		
Email: <u>szawaidch@directix.com</u>			Phone: <u>248-884-2270</u>		

**III. PETITIONER INFORMATION:**

Name: <u>Same</u>		Firm/Company Name:			
Address:		City:	State:	Zip code:	
Email:		Phone:			

**IV. GENERAL INFORMATION:**

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12<sup>th</sup> day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

*Variance Chart Example*

Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

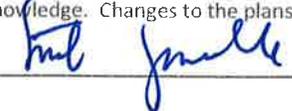
**V. REQUIRED INFORMATION CHECKLIST:**

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

Ref: 00172663  
 Receipt: 545224  
 Amount: \$360.00

**VI. APPLICANT SIGNATURE**

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: 

Date: 9/14/20

Signature of Petitioner: \_\_\_\_\_

Date: \_\_\_\_\_

Re: 530 Vinewood

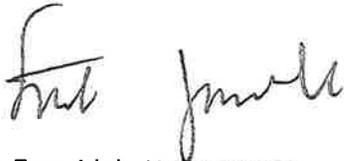
Dear Zoning Board Members,

I am writing this letter to request approval for a variance that will allow me to replace my current driveway, porch, walkway, and deck. Currently the driveway, porch, and walkways are red brick pavers and the deck is made of wood. The proposal calls for regular and decorative exposed aggregate concrete. Here are the reasons in which I respectfully ask for the board's approval.

1. The home was built prior to current lot coverage standards for impervious surfaces and my request is only to replace what is currently on the property, except for the deck.
2. The current red brick pavers continue to present issues. Every year I must have them adjusted as they "fall" and become uneven throughout the property. I am concerned with my safety and the safety of all my grandchildren when they visit.
3. I want to continue to maintain the aesthetic beauty of my home on the outside and keep up with the standards of our beautiful street.
4. Although I am replacing the current rotted out deck with concrete, my contractor will not be going all the way back to the rear lot line (as it is currently with brick pavers). Total "green" space will increase.

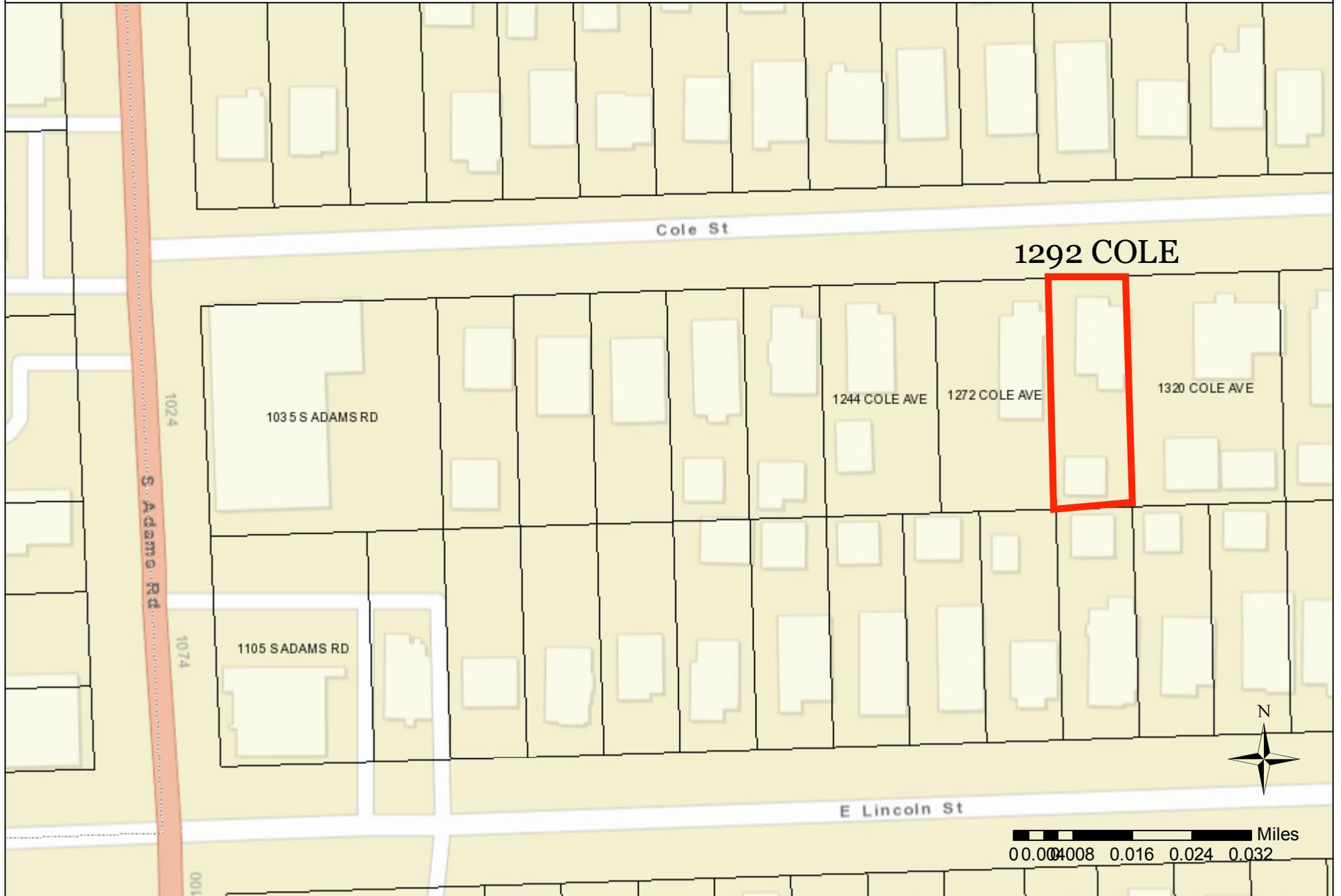
I thank the Board members for their consideration and look forward to their approval. Should any more information be required, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Santa Zawaideh". The signature is written in a cursive, flowing style.

Santa Zawaideh, Homeowner  
248-884-2270

# 1292 COLE MAP



# **CASE DESCRIPTION**

**1292 COLE (20-42)**

**Hearing date: October 13, 2020**

**Appeal No. 20-42:** The owner of the property known as 1292 Cole, requests the following variance to construct a new single family home with a detached garage:

**A. Chapter 126, Article 4, Section 4.74(C)** of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots of 14.0 feet or 25% of the lot width whichever is greater. The required total is 14.00 feet. The proposed is 12.03 feet. Therefore, a variance of 1.97 feet is being requested.

**Staff Notes:** The applicant is requesting a variance to construct a new single family home with a detached garage. The house to the west is existing non-conforming on the adjoining side.

This property is zoned R3 – Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

**CITY OF BIRMINGHAM**  
**Community Development - Building Department**  
**151 Martin Street, Birmingham, MI 48009**  
 Community Development: 248-530-1850  
 Fax: 248-530-1290 / [www.bhamgov.org](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9/10/2020  
 Received By: \_\_\_\_\_

Hearing Date: 10/12/2020  
 Appeal #: \_\_\_\_\_

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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**I. PROPERTY INFORMATION:**

Address: <u>1292 COLE ST</u>	Lot Number: <u>250</u>	Sidwell Number: <u>2031155009</u>
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**II. OWNER INFORMATION:**

Name: <u>AMSON CUSTOM HOMES / ALAN AMCHESLAVSKY</u>
Address: <u>1954 DEER PATH TRL</u> City: <u>COMMERCE TWP</u> State: <u>MI</u> Zip code: <u>48390</u>
Email: <u>AMSONCUSTOMHOMES@YAHOO.COM</u> Phone: <u>248-420-0805</u>

**III. PETITIONER INFORMATION:**

Name: <u>ALAN AMCHESLAVSKY</u> Firm/Company Name: <u>AMSON CUSTOM HOMES</u>
Address: <u>1954 DEER PATH TRL</u> City: <u>COMMERCE TWP</u> State: <u>MI</u> Zip code: <u>48390</u>
Email: <u>AMSONCUSTOMHOMES@YAHOO.COM</u> Phone: <u>248-420-0805</u>

**IV. GENERAL INFORMATION:**

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12<sup>th</sup> day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

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The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

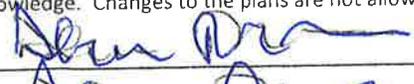
Requested Variances	Required	Existing	Proposed	Variance Amount
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Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

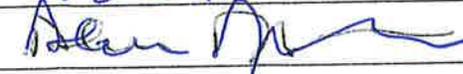
**V. REQUIRED INFORMATION CHECKLIST:**

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

**VI. APPLICANT SIGNATURE**

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner:  Date: 9/10/2020

Signature of Petitioner:  Date: 9/10/2020

September 10<sup>th</sup>, 2020

## HARDSHIP LETTER

Re: 1292 Cole Street

Birmingham Mi 48009

TO: Birmingham Board of Zoning Appeals

Dear Board Members,

I'm in the process of trying to build an approximately 2,200 sqft 2 Story New Construction home located at 1292 Cole Street. The plans are in the process of being approved by the City of Birmingham. The west side neighboring home (1272 Cole) built an addition to the home at some point in the past. This addition is encroaching into the east side setback, thus preventing me from having a 14' distance in between structures.

I am humbly asking your permission for a 1.97 foot variance in the distance allowed in between structures. It will not effect the resident of 1272 Cole in any way since his/her encroachment is enclosed with no windows and it's a very small area of the total square feet of his/her house (10.5x2- total 21sqft). This new build plan has been built before in the City of Birmingham (2019) on the same size lot (40x120) with no issues.

I greatly appreciate your consideration.

Alan Amcheslavsky



Amson Custom Homes LLC