

ZONING BOARD OF ADJUSTMENT STAFF REPORT

April 26, 2021

ZBA-24-21

GENERAL INFORMATION

Property Owner (X) Petitioner (X)

Burce and Felicia Henderson

Requested Action and Purpose

A variance from the residential setback regulations

Location and Existing Zoning

140 The Highlands. Zoned R-1. (Council District 5)

Size and Existing Land Use

Approximately 0.22 acres, Single-family dwelling

Surrounding Land Use and Zoning

North: Single-family dwelling, R-1

East: Single-family dwellings, R-1

South: Single-family dwelling, R-1

West: Single-family dwelling, R-1

Applicable Regulations

[Sec. 24-35](#). - Yards and usable open space.

(b) *Side Yards*. For every building in a residence district, other than an RMH Mobilehome District, side yards of the following minimum widths (in feet) shall be provided:

| | |
|--|---------|
| R-1 | |
| Single-family dwelling | |
| Two (2) side yards required. Aggregate width of both yards | 20 feet |
| Least width of either yard | 10 feet |

(c) *Rear yards*. For every principal building in a residence district, other than an RMH Mobilehome District, rear yards of the following minimum depths shall be provided:

| Residence Districts | Minimum Depth |
|---------------------|---------------|
| R-1 | 35 feet |

SUMMARY

The petitioner is requesting a variance from the rear yard setback regulations in order to build a new single-family residence. The original single-family residence was demolished, but the accessory structure (two car garage) still remains on the property. The accessory structure is located on the western side property line. The proposed home will incorporate the accessory structure, making the accessory structure part of the primary structure. When incorporated into the primary structure, the minimum distance the garage would need to be from the side yard is 10 feet. The request is to allow the primary structure to be located zero feet from the western side lot line. The petitioner is also proposing to extend the garage closer to the rear lot line, making the

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distance from the rear lot line 20 feet instead of the required 35 feet, which is an encroachment of 15 feet. The petitioner has submitted with their application a letter from the northern (rear) property owner and the western (side) property owner, who both voice their support for the petition. The Highlands subdivision was platted in 1924.

Office of Urban Development, Planning Division: No comment

Office of Urban Development, Building and Inspections Division: No comment

Infrastructure and Public Services, Engineering Division: No comment

Fire and Rescue Department, Fire Administration: No comment

Please complete all of the following required fields:

Location of Petitioned Property

Address: 140 The Highlands (35404)

Property Owner

Name: Bruce and Felicia Henderson Phone: 205.310.2847 Email: bhenderson@pjgf.com

Address: 1401 Pinnacle Park Ln., Unit 502 ZIP Code: 35406

Petitioner (if different from owner)

Name: _____ Phone: _____ Email: _____

Address: _____ ZIP Code: _____

The Petitioner requests the following item(s) from the Zoning Board of Adjustment:

A special exception is a conditional use which the zoning ordinance expressly permits under conditions specified in the zoning ordinance. A variance is a deviation from the regulations in the zoning ordinance which requires proof of an unnecessary hardship. An appeal is a formal challenge of the zoning officer's ruling.

- | | | |
|---|---|--|
| <input type="checkbox"/> Special Exception | <input checked="" type="checkbox"/> Use Variance | <input type="checkbox"/> Variance |
| Commercial \$ 200.00 per lot | Commercial \$ 200.00 per lot | Commercial \$ 200.00 per lot |
| Residential \$ 50.00 per lot | Residential \$ 50.00 per lot | Residential \$ 50.00 per lot |
| <input type="checkbox"/> Short-Term Rental \$ 400.00 per lot | <input type="checkbox"/> Appeal Zoning Officer's ruling \$ 10.00 per lot | |

Briefly describe the variance, special exception, and/or appeal being requested:

Allow new owners to keep and modify the current masonry 2-car garage which is on the left (west) side of the subject property line, or to rebuild it on its current site, and to extend the rear of the garage (north) 15' to allow for storage.

Certification of Applicant

I certify that the foregoing facts, to the best of my knowledge, are true and correct and that except for the exception, variance, or appeal requested in this petition, the proposed construction and use complies with all requirements for the zoning district in which the property is located. I recognize the City will send public notification and place a sign on the property with information for the public. This Petition will not be accepted until all required information is provided.

- For all requests for any variance from or special exception to a zoning requirement pertaining to a dimensional requirement or the site, a scaled site plan and/or building elevation produced by a registered land surveyor, professional engineer, or architect shall be required.
- Requests for an exception from fence requirements must depict proposed location and design of fence.
- Any request which will not be represented by the property owner at the public hearing must be accompanied by a designation of agent form.

Print Name: Bruce and Felicia Henderson

Signature:  **Date:** 4/5/21

Please complete the applicable fields prior to application submission:

Answer the following for ALL requests:

Describe the reasons for the request and, if requesting a special exception, any extra related information. (e.g. number of parking spaces, hours of operation, etc.)

We are attempting to keep the scale of our new home in keeping with the fabric of this historic and wonderful neighborhood, which we have both loved since we first saw it. There is an existing 2-car masonry garage that sits on the west property line of our lot. We would like to keep that garage where it sits, and modify it or rebuild it to make it more useful and practical by adding a third car area as well as extending it an additional 15 feet for storage and a carriage or pool house. We have discussed these two proposals with all affected neighbors, and they are all totally in support of our plans. Two of the most impacted neighbors to the west and north of us have submitted statements indicating their approval.

Answer the following for VARIANCE requests ONLY:

The petitioner must specifically state a hardship for the variance. Explain the ways in which the zoning regulation creates a hardship on the property. When a variance is at issue, the primary consideration is whether a literal enforcement of a zoning ordinance will result in unnecessary hardship. Explain any special circumstances or conditions that are peculiar to the land or buildings because of which a strict application of the ordinance would deprive the applicant of the reasonable use of such land or building.

The lot size is 120' wide. The 2-car masonry garage currently sits on the property line (west side). We need to keep the garage on its current footprint to retain the scale of the neighborhood the same as other houses in the area, such as the home to our immediate east (138 The Highlands). The garage at that house sits on the property line, and has a carriage house in the rear as we would like to build. The current driveway also leads directly into the current garage, so to remove all of it to rebuild and be forced to move it 5 or 10 off the property line would be a hardship for us. Further, there are several 3-car garages in the neighborhood, with one right across the street from us (214 The Highlands) and two doors to the west (132 the Highlands). The need to add storage space to the rear is needed as it would be both a hardship to add a second story simply for storage purposes as well as making our house out of scale with other homes on our side of the street which are mainly story and a half homes. As stated, the two most impacted neighbors do not oppose this proposal, and we are determined to keep our home compatible with the neighborhood.

Explain how the variance request is in harmony with the general purpose and intent of the regulations imposed by this ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

As set out above, our goal in designing our new home is to maintain the unique fabric and style of the Highlands. We have shared our ideas and plans with the contiguous neighbors, and they are all fully supportive of our plans. The request to keep a garage on the west property line is in total conformity with the adjacent properties in the Highlands. The neighbor to the west of our home has no opposition, and the garage is currently there. The neighbors to the right (east at 138 The Highlands) have their garage on their property line. Their garage also has a guest or carriage house on the rear of their garage, as we would like to build. Plus, there are two 3-car garages close to us, both across the street at 214 The Highlands and two doors down at 132 The Highlands. Allowing us to extend the garage into the 35' set back area in back of our lot would be in keeping with the neighborhood, as that is the case with our neighbors to the east (138 The Highlands) as well as the home behind us at 8 Central Highlands, and the house two doors down at 132 The Highlands. We believe that our home will add value to the neighborhood and in no way detract from its historic character.

**PLEASE SUBMIT AN ELECTRONIC COPY OF THIS
APPLICATION AND ANY NECESSARY SUPPORTING MATERIALS TO:**

Office of Urban Development:
Planning Division

2201 University Boulevard, Annex III
Tuscaloosa, AL 35401

Email: zba@tuscaloosa.com

SUBMIT FORM

FOR OFFICE USE ONLY:

ZBA Case Number: _____

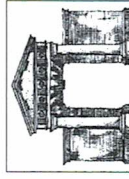
Submission Date: _____

Zoning District: _____

Hearing Date: _____

Central Highlands
Pb. 4, Pg. 128

DATE PUBLISHED 4/5/2021



**RESIDENTIAL &
INTERIOR DESIGN**
**141 EAST GLENWOOD DRIVE
BIRMINGHAM, ALABAMA 35209**

A NEW RESIDENCE FOR
BRUCE HENDERSON & FELICIA ELLISON
140 THE HIGHLANDS
TUSCALOOSA, ALABAMA

A1

DECLARATION OF JACK R. LEIGH

NOW COMES Jack R. Leigh, who declares and states under his oath as follows:

1. I live at 8 Central Highlands in Tuscaloosa. My wife Emily and I bought our house in 1991. I laughingly say it was likely the ugliest house in the entire Highlands neighborhood.

2. Since then, we substantially modified the house, including preserving our existing three-car garage, as well as creating a Mediterranean look that was similar in style to the original houses built when The Highlands neighborhood was conceived in the 1920s.

3. I am glad to see the recent trend of people renovating and even tearing down some of the outdated houses in The Highlands and replacing them with more modern and architecturally significant homes that still maintain the unique style and essence of The Highlands.

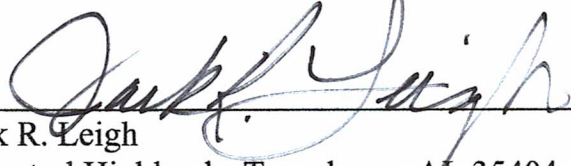
4. I have had numerous discussions with my soon-to-be backyard neighbor, Bruce Henderson. His house at 140 The Highlands backs up to the left (east) rear of my lot in the Central Highlands. From my lot I can see the back of the garage of the house the Hendersons bought. It is situated right on his property line. It has been there at least since we bought our house in 1991.

5. Bruce has shown me early renderings of the way the new garage will look if he is able to demolish the old garage and build a new one, or if he just renovates the existing old garage. It looks very nice and is in keeping with the style of the neighborhood.

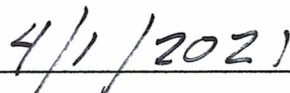
6. I have no opposition to him being allowed to renovate or to demolish the existing garage and build a new one on the same general footprint along the lot line as the old garage.

7. I also have no objection to them extending the garage about 15 feet further north (toward the back) on their lot, and closer to my back yard, even though it would exceed the 35' set back. Other homes in and around me have garages or structures that are closer than 35' from the lot line, including the one on the other side of the Hendersons.

8. I consider his proposed changes to be a significant improvement to our neighborhood.



Jack R. Leigh
8 Central Highlands, Tuscaloosa, AL 35404



Date

DECLARATION OF JASON H. DILLON

NOW COMES Jason H. Dillon, who declares and states under his oath as follows:

1. I live at 144 The Highlands in Tuscaloosa. I have lived in the house since I purchased it in 2005.

2. I live next door to 140 The Highlands, to the immediate left as you face our homes. I have recently met the new owners of the home at 140 The Highlands, Bruce and Felicia Henderson.

3. They have kept me and other neighbors regularly updated about their plans to improve the lot by demolishing the existing house and using an architect to draw a new more appealing house. He has recently shown an early rendering of the house to me, and I am very excited for them, and to be next door to such a pretty new home.

4. There has been a brick garage on the lot line between our houses belonging to the owners of 140 The Highlands. It is a white painted brick two-car garage. It has been there at least since I bought my house 16 years ago.

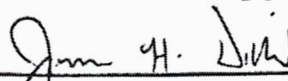
5. The Hendersons approached me about whether I would have any opposition to their plan to demolish both the house and the garage, and to place the new garage on its same general footprint on their lot. Like the current one, it will be a painted white brick garage on the lot line.

6. I told Bruce that I have no opposition whatsoever to their putting a new brick garage on the same general footprint as the current garage and on their property line, or anywhere in that same general area along the property line.

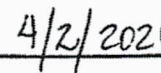
7. I also have no objection to them extending the garage about 15 feet further north (toward the back) on their lot, even though it would exceed the 35' set back. Other homes in and around me have garages or structures that are closer than 35' from the lot line, including the one on the other side of the Hendersons.

8. From what I have seen of their house plans, it will be a significant improvement to our street and to the entire neighborhood. And there is already a white brick two-car garage sitting there. So, to me, it would not impair at all my view or my lot. In fact, it would make it more appealing than the existing structure.

8. This declaration is true and correct. I asked the Hendersons to let me sign this Declaration because I am happy with their building plans.



Jason H. Dillon
144 The Highlands, Tuscaloosa, AL 35404

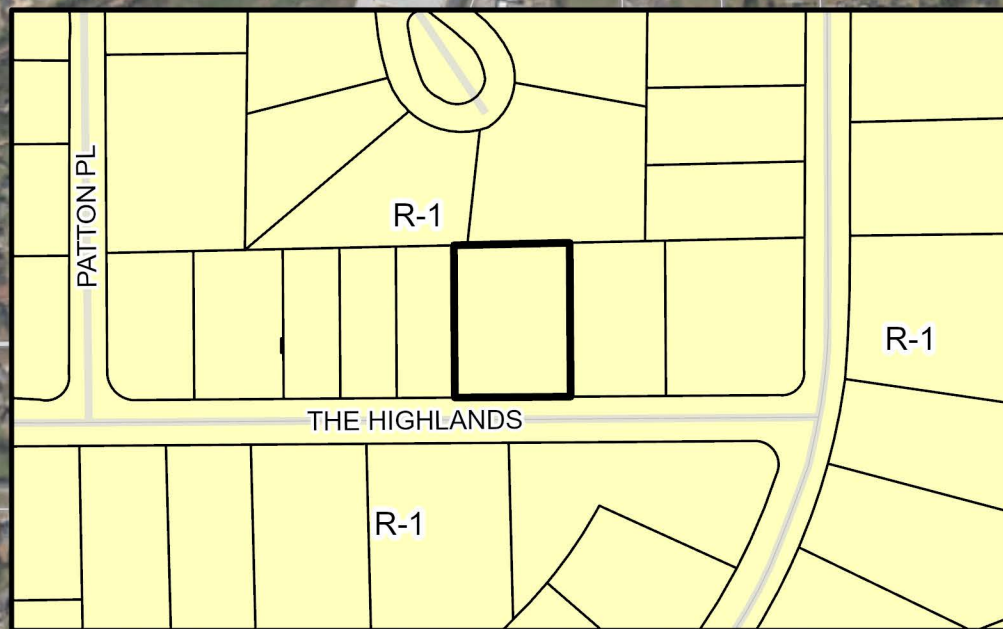


Date



ZBA-24-21: 140 The Highlands

1 inch = 70 feet
0 35 70 105 140





ZBA-24-21: 140 The Highlands

1 inch = 50 feet
0 25 50 75 100

N



THE HIGHLANDS

ZBA-24-21





















