

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held April 4, 2013

Members Present: Burke, Campbell, Norton, Taylor, Tyo

Absent: Bruno, Dostal

Also Present: Bob Lyons, Building Department,

Chairman Norton called the meeting to order at 7:30 p.m.

Motion by Burke, second by Taylor, to approve the minutes of the meeting held March 21, 2013 as prepared and distributed. **Motion passed 5-0.**

A copy of City of Bay Village Codified Ordinance 1127.01 was posted and Mr. Norton advised that the code states that the Board shall consist of seven electors of the City not holding other municipal office or appointment. If all members are not present at a meeting, the applicant may request a delay so that all members may be present. An applicant may delay a decision up to two times.

James E. Hagen
31216 Nantucket Row

C.O. 1370.05 (c) location of
Generator (further than 10 feet from
rear of house)

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application.

Further review of the application and discussion followed. Mr. Scott Adams, contractor for Mr. Hagen, appeared on behalf of Mr. Hagen.

Chairman Norton stated that the difficulty he has is that the ordinance was written to say that the noise from a generator be kept close to the home of the property owner, rather than adjoining property owners. This was the rationale for the 10-foot distance. If the Board goes beyond that restriction in this circumstance, an unfavorable precedent will be set. In this situation, the generator would be placed five times the distance of what is permitted.

Mr. Burke noted that the Board of Zoning Appeals is to follow the ordinance that has been written by City Council. The farther away the Board gets from the legislation, they are considered to be legislating rather than following the guidelines to which they are restricted.

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Fairly minor changes with good reason are acceptable. But, in this situation, this is five times the requirements of the ordinance.

Additional review and discussion followed. Mr. Adams asked consideration to modify a garden shed and enclose the generator in the shed. Mr. Adams has noted that he has already trenched and laid the pipe to the rear area. Mr. Norton stated that he would be hesitant to approve a generator within a structure.

After further discussion, Mr. Adams withdrew the request for the 38-foot variance for Mr. and Mrs. Hagen for installation of a generator at 31216 Nantucket Row.

There being no further business to come before the Board, the meeting adjourned at 8:00 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary