

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held March 17, 2016

Members Present: Bruno, Burke, Miller, Norton, Taylor, Tyo

Excused: Mr. Dostal

Also Present: Jeff Fillar, SAFEbuilt, Inc.

Audience: Edward Pavicic, Deb Conway, Mark Chernisky, Alan Lewis, Diane Kahler, John Berlan

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

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.

Motion by Burke, second by Bruno, to approve the minutes of the meeting held March 3, 2016 as prepared and distributed. **Motion passed 6-0.**

**Deco LLC
23105 Lincolnshire Dr.
Tabled from March 3, 2016 meeting**

**C.O. 1153 – Sideyard Setback Variance
to convert single car garage to double car
Garage**

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

A copy of a letter sent to Mayor Debbie Sutherland by Robert and Diane Kahler, 23101 Lincolnshire was noted asking that the variance not be granted on the basis that if granted the aesthetics of the neighborhood would be compromised. The letter states further that the owner of the property at 23105 Lincolnshire Drive does not plan to reside in the property next to the Kahler's but only wants the suggested enhancements to make the property more attractive for a future buyer. Mr. Norton stated that the Board must take exception to this part of the objection expressed to the Mayor because of the property rights of the owner.

Mr. Norton stated that the Board has also asked for clarification on the uniqueness of this lot as compared to other lots in the neighborhood. Clarification was received in the form of a plat plan listing the width of the frontage of the lots on the street.

Mr. Mark Chernisky, 23016 Lincolnshire Road, submitted a letter in opposition to the ordinance on the basis that he feels the variance is excessive and will set a precedence for anyone to build 4'

off of the property line. Mr. Chernisky addressed the Board and asked what the Board found in regard to the clarification they received listing the width of the frontage of the lots on the street. Mr. Norton stated that all of the houses on the south side of the street have two car garages with the exception of two houses. Mr. Chernisky stated that how the house was built in the 1950's does not make this lot unique. Mr. Norton stated one of the things that would be unique to the situation is that the house next door is an identical lot and has a two car garage, and has even less side yard than this proposal. Is it appropriate, then, to say this is allowed next door to you, but you will be denied? The house next door that has a two-car garage has a 17 foot, 7 inch total sideyard; the proposal that is before the Board is an 18 foot total sideyard.

Mr. Burke addressed Mrs. Kahler regarding the letter that was sent by the Kahler's to the Mayor stating that in the past the Kahler's request to extend their garage was denied. Mr. Burke noted that there is no record of an application for that extension request in the Building Department files. Mr. Burke stated that the Kahler's have been granted two variances, one to park a camper on one side of the property, and one for a rather large barn. The barn variance was a very substantial variance. Mr. Burke stated that the Kahler's letter states that if the variance is granted for the property next door it would be arbitrary. He asked how it would be arbitrary in comparison to the large variance the Kahler's were granted for their barn. Mrs. Kahler stated it would make the property look terrible because it would be close to the landscaping on their property.

Mr. Burke asked what is kept in the barn for storage and Mrs. Kahler stated that there are vehicles stored in the barn. Mr. Burke asked if Mr. Kahler uses the property next door as a driveway to pull his vehicles onto the street. Mrs. Kahler stated that he can do that but he prefers to use the driveway. Mr. Burke noted the existence of a trailer on the driveway that would block the passage of a vehicle. Mrs. Kahler stated he did use the property next door to pull vehicles through when the former owner of the property lived there but they have not used it for that purpose since. Deb Conway, the current owner, has produced pictures with tire tracks and Mr. Jeff Fillar of the Building Department did witness a Jeep Cherokee being pulled through on the neighbor's property from the barn. Mrs. Kahler stated that was her neighbor's doing since they were out of the City on a cruise. Mr. Burke stated that if the garage variance were granted, Mr. Kahler would not be able to use the property to pull his vehicles from the barn to the street.

Mr. Chernisky stated that a variance to build 4 feet from the lot line is a very small sideyard. He stated that there was a case on Lake Road where a gentleman wanted a similar variance and was denied by the Board. Mr. Norton stated that the rule was a minimum of a 5 feet sideyard until it was changed a few years ago.

Mr. Norton stated further that a variance was granted to the Kahler's to allow a camper to be stored on the side of their property, with the condition that the camper be screened from view. Mr. Norton noted that there is no screening of the camper, or trailer as referred to by Mrs. Kahler. Mr. Norton stated that the trailer is the same as the camper as far as the Board is concerned.

Mr. Burke stated that in measuring the property it appears that granting the variance will still maintain 12 ½ feet between the side of the proposed garage of property in question and Mr. and Mrs. Kahler's property.

Mr. Al Lewis, 23209 Lincolnshire, addressed the Board and stated that the house next to them is the same configuration and has a single car garage. He noted that he would protest a request from that neighbor if they requested a two-car garage because he does not want to have to look out his windows to look at a garage wall within 5 feet from his house. He stated the house in question this evening was built the way it is and he sees no reason to add to it. If a variance is granted to this property owner, someone on the street may request a variance for the other side of their house for an addition and if granted it would alter the aesthetics of the entire neighborhood.

Mr. Norton stated that in 2002 the Kahler's requested a storage building variance of 326% increase over what was allowed, and was granted that variance. Both of these properties are identical at 85 feet in width, and both have the same amount of total sideyard. The argument is that the property should not be allowed a 2 feet variance on the sideyard.

Mr. Bruno stated that he does see that a two-car garage at the property at 23105 Lincolnshire would be consistent with the house next door which is exactly the same and has a two-car garage. Mr. Burke stated that the request for the variance is not unreasonable and will actually be beneficial to the neighborhood because it will allow for the parking of two cars in the garage instead of having one continually in the driveway.

Motion by Tyo, second by Bruno, to grant a variance to Codified Ordinance 1153 to the property at 23105 Lincolnshire, for a 6 foot sideyard variance from the 10 feet sideyard requirement, along the east lot line to construct a two-car garage, per the application submitted.

Roll Call Vote: Yeas – Bruno, Burke, Miller, Norton, Taylor, Tyo
Nays – None.

Motion carried 6-0.

Brian Gadd
28801 Northfield
Tabled from March 3, 2016 meeting

C.O. 1153 – Side Setback Variances
2 ft. on west side; 3.1 ft. on east side

Mr. Norton stated that there is a change in the west proposed sideyard on the new drawings submitted, from 5 feet to 6 feet. Mr. Norton suggested that any change on the blueprint be noted as a revision on the print itself. Mr. Taylor noted that one print is dated February 5, and the other is dated March 7, 2016. The March 7, 2016 is the one that is to be reviewed this evening.

The width of the home has been reduced by one foot from the February 5 version of the plan which was reviewed by the Board at the March 3, 2016 meeting.

There is no longer a sideyard variance requested on the west side of the property. A variance of 2.05 feet is needed on the east side of the property for the sideyard setback. The total of the sideyard setback is a variance of 7.75 feet to the 17.7 feet required.

Mr. Norton noted that the correct sideyard setback of 6 feet is maintained on the west side of the property. The only variance requested is now on the east side of the property. The property is unique in that there is 40 plus feet between the corner of the house on the east side and the next

structure, which is the BAYarts building. Mr. Norton stated that the Board was also concerned at their last meeting of the nature of the construction as compared to the other homes in the neighborhood. He noted that it almost looks like they have duplicated the house next door.

Motion by Burke, second by Taylor, that the property located at 28801 Northfield be granted two variances. The first is a variance of 2.05 feet from the sideyard setback requirements along the east lot line of the property, only to the extent necessary to construct the home as submitted in the drawing, and not the entire length of the lot line; secondly, a variance to the total sideyard setback of 7.75 feet for the construction of the home as submitted. Reference for these two variances is Drawing No. 20153047 dated March 7, 2016.

Mr. Taylor confirmed with the builder that the elevation of the garage floor is basically two feet.

Roll Call Vote: Yeas – Bruno, Burke, Miller, Norton, Taylor, Tyo
Nays – None.

Motion passed 6-0.

Dennis Tricsko

C.O. 1153.02 – Variance of 42' front setback

**No address established
(Just west of 24201 Wolf Road)
(Permanent Parcel No. 204-200-077)**

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. The existing home and garage will be demolished.

Mr. Norton advised that the tree lawn along Wolf Road in this area is an unusual situation. There are homes fronting on the side street that have their address on Wolf Road. Particularly on the south side the tree lawn is huge, so that the distance from the street area to the front of this home is much further away when talking about a front yard setback.

Mr. Burke stated that the stretch of Wolf Road from this property at Upland to Canterbury has more houses angled to the street than are parallel to the street. Mr. Norton stated that the situation was created by the curve of Wolf Road and they started the lots as rectangles and when they came to the curve it created some unusual situations. The former Inter-Urban Railway may have caused some of the odd conditions.

Motion by **Burke**, second by Bruno, that the property immediately west of the property located at 24201 Wolf Road be granted a maximum variance of 21.85 feet declining to 5.38 feet from the 42 front yard setback, as per the drawings submitted with the application for a variance.

Roll Call Vote: Yeas – Bruno, Burke, Miller, Norton, Taylor, Tyo
Nays – None.

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Motion passed 6-0.

The meeting adjourned at 8:25 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary