

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held October 18, 2012

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

Absent: Mr. Bruno, Mr. Campbell

Also Present: Bob Lyons, Building Inspector, City of Bay Village, Michael Meszes, Chris Miedza, Maria Megyimori, Sam & Janice Forgione, Maria H. Nugyenuim, Phyllis Bruce, John Megyimori, Jo and Geo Theis, Betsy Martin

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

Motion by Taylor, second by Tyo, to approve the minutes of the meeting held October 4, 2012 as prepared and distributed. **Motion carried 5-0.**

Chris Miedza
535 Elmwood

C.O. 1350.03 Variance of 20 square ft.
for storage shed

Mr. Norton advised that the Board has had an opportunity to review the application and visit the site. He commented that the Miedza lot is a lot and a half. The neighbor to the south also has an extra half lot, meeting with the extra half lot of Mr. Miedza, therefore lots are 50% larger than most of the other lots in the area. The area is also very heavily wooded back in the corner and the shed will not be easily seen. This particular shed, at 7'3" high, is also much lower than most of the wooden style sheds.

Mr. Taylor asked if there were any comments from neighbors. There were none.

Motion by Tyo, second by Dostal, to grant a variance to the property at 535 Elmwood to Codified Ordinance 1350.03 of 20 square feet for the construction of a storage shed per drawings and application submitted.

Roll Call Vote: Yeas – Burke, Dostal, Norton, Taylor, Tyo
Nays – None

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.

Susan Zanetti and Chris Zirafi
358 Lake Park Drive

C.O. 1153.04 8'6" rear yard variance
C.O. 1321.05 244 sq. ft. variance
Both variances for garage construction

Mr. Norton advised that the Board has had an opportunity to review the application and visit the site. He noted that both variances involve garage construction. Mr. Norton asked the size of the new home. He was informed by the builder that the square footage of the new home is 3,279 square feet. The lot on which the home is to be built is 26,000 square feet. Mr. Norton stated that the required lot size for this building is 14,000 square feet.

Mr. Norton noted that when the ordinance for construction of garages was rewritten they tied the size of the garage to the size of the house, so that you did not have a small home and a large garage. The range that this application falls into is 2,000 square feet to 4,000 square feet. From 4,000 to 6,000 square feet, the code says 1,200 square feet of garage. Mr. Norton noted that the lot is unique in that it is a very odd shape, which gives it a certain unique character. Mr. Norton asked if there is a possibility of pulling the garage forward, toward the street, so that the area behind the house and the houses to the south would not be blocked by the garage. The builder stated that consideration has been given to that idea, but there is not parking available on the street and they are trying to get as much parking space in the driveway as possible for when the owners entertain. There is no parking on the cul-de-sac.

The owners have decided to shrink the length of the garage from 44 feet to 40 feet. The variance being asked for the rear would be reduced to 4 ft., 6 inches, and the size of the garage variance reduced to 140 square feet. They feel that the way the garage is shaped it does not look overly large from the street.

Mr. Norton asked if it would also be a consideration to not move it so far forward so that the breezeway was all the way back, but the breezeway met the garage in the middle. The builder stated that the intent of the garage is to store items in the back of the garage and the cars in the front. The daily use of the garage would be the area closest to the street, and the placement of the breezeway is established for daily use.

Mr. Norton called for comments from the audience.

Mrs. Betsy Martin, 364 Lake Park Drive, stated that she is the homeowner immediately to the south of the proposed construction. Mr. Norton stated that one of the difficulties is when someone purchases a piece of property and they have beautiful woods in the backyard but then someone buys the property behind them and takes the woods down to build a home, the adjacent

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property owner loses something that they feel they have a right to. He noted that, unfortunately, the view stops at the property line. He stated that he can see, due to the view of the lake, why Mrs. Martin would prefer not to have any house next door, but the fact that the view stops at the property line is something that the Board has to take into consideration. He noted that the extent that the proposed garage could be moved forward would be to the benefit of Mrs. Martin and the other lots falling to the south, in order to keep some opening to the lake.

Mrs. Martin stated that she realizes that she cannot prevent a wall from being put around her view, but there are some options to the location of the garage, noting that the garage is actually longer than her home. She asked if they could perhaps work together and come up with something that would be better than the proposed plan.

Janice Forgione, 368 Lake Park Drive, neighbors immediately to the south of Mrs. Martin, stated that they just moved to Bay Village a year ago. Mrs. Forgione stated that part of buying and selling a home is having an appraisal and their appraisal spoke to the lake view. The appraisal has a direct correlation to property value. They do not understand why the appraisal would be affected by the lake view, if the view stops at the property line. The appraisal has to do with the property value, which has to do with the amount of taxes being paid. A huge reason why they moved on the street was for the view of the lake. They presented a photograph of the view of the lake that they have from their back yards. The entire west side of the street is represented at the meeting this evening, with the same thought that the view of the lake is being blocked. Mrs. Forgione noted that when the homes were built on the west side of the street they were all built with screened in porches to take advantage of the view of the lake. Unfortunately, the garage structure, if built as presented, takes away the view completely. They are thrilled to have new neighbors building a beautiful home but they are heartsick that the view of those living on the street for thirty to fifty years will be blocked completely by a wall of wood.

Mr. Tyo stated that the property owner has a right to build a garage. He asked what kind of compromise the neighbors would be willing to accept. Mrs. Forgione stated that Mrs. Martin is used to the fact that the property has a side entrance garage that faces her two windows on the exposure. The assumption was that when a new home was built it would have parroted the structure that was there, taking into consideration that the small back area is the entire street's view. Mrs. Martin is used to looking at the existing garage. The simplest solution is if the garage could sit flush with the house and come closer to the street. It appears, when looking at the plans, that the width of the driveway is being doubled, which allows for two cars to be parked all the way back.

A neighbor on Lake Park Drive commented that permission to park on the street can be obtained by calling the Police Department.

Maria Megyimori stated that she has lived on Lake Park Drive for 44 years. Mrs. Megyimori submitted a letter written by Susan W. and Brendan C. Hughes, 380 Lake Park Drive stating that they join with their neighbors in respectfully requesting that the Board of Zoning Appeals reject the variances currently requested for the construction of a detached garage at 358 Lake Park Drive.

A Lake Park Drive resident asked if the Board takes into consideration the devaluation of adjoining property owners. Mr. Burke responded that as mentioned that the appraisal takes into consideration the lake view, an appraisal of property will take into consideration a number of things that the Board of Zoning Appeals cannot take into consideration. An appraisal may say that the property is on a beautiful street with large trees. If all the neighbors on the street took their trees down, the city could not do anything about it and that would affect the appraisal.

Mr. Tyo stated that the Board of Zoning Appeals does not establish code. The law is established by Council.

Mr. Burke noted that a property owner's rights to their view ends at their lot line, no matter how beautiful it may be beyond that lot line.

Further discussion followed. Mrs. Megyimori explained that the property owners on the street try to be good neighbors and their purpose this evening is to welcome their new neighbors, but with the hope that the views of the neighbors would be taken into consideration.

Mr. Tyo noted that for every case that comes before the Board there is an emotional attachment. The only reason for the Board of Zoning Appeals is for the Board to listen to appeals for codes. The codes do not carry any of the emotional appeal. Any rule that the Board of Zoning Appeals makes is going to live with the property. The Board of Zoning Appeals can only address the property, the building, and the effects thereof, regardless of how strongly they feel as to the appeal. The property owner does have rights.

Mr. Burke added that the Board of Zoning Appeals must consider whether the property is unique in some fashion that would cause a hardship to the homeowner if the variance were not granted. Mr. Burke noted that, contrary to the Chairman's comment, he does not find anything unique about this property. It is quite regular in its shape; there is more than sufficient room to put in a garage that is the size permitted by the code without any variance. Mr. Burke stated he does not see the need for a variance. The amount of the garage that lies to the east of the back set line is exactly 900 square feet, which is the maximum allowed by the code. The area of the garage to the rear, for which the 244 square foot variance is being requested, is the amount in excess. Mr. Burke stated that he did not, after looking at the property, see any compelling reason under the code to grant any variance. Mr. Burke stated that he wondered if a combination of things might

be helpful, and some kind of compromise might be considered by neighbors. He asked if the builder and property owner would consider moving the garage forward. This, together with reducing the amount of the variance requested, might help the situation with the neighbors, as well as help Mr. Burke feel more comfortable in the granting of a variance.

Mr. Norton stated that there was a house on the property for many years. The back of the house established how much view there was from the other lots. At 900 square feet, a 26 x 35 feet garage can be constructed. If the garage was moved forward to where the former foundation line was, Board of Zoning Appeals permission will not be required. The objective of a larger garage would not be met. If a variance is granted for the additional square feet for the garage, and the garage is moved forward so that the back of the garage is at the building line, the Board may feel more comfortable in granting the variance for a larger garage.

Further discussion followed.

Mr. Sam Forgione displayed a photograph depicting the view of the lake from his property as it exists today, and how the view would be blocked by the proposed construction. He stated that he is empathetic to both the property owner who wishes to build the garage, and to Mrs. Martin as the immediate neighbor. He added that he just moved in one year ago and bought the house because of the lake view. If the structure is built, they will be looking at a wall of wood. He asked if the garage cannot be moved in some way.

Mr. Burke asked if the property owner would take a few minutes to discuss their options while the Board continued with the remainder of the agenda.

**D. Scott Morrison
29336 Lake Road**

**C.O. 1163.05 (c) (4) Variance to
75% open fence requirement**

Mr. Norton advised that the Board has had an opportunity to review the application and visit the site. He stated that this is an existing fence with the proper building permit pulled. The pickets were replaced. The fence is 3 feet in height.

Motion by Burke, second by Taylor, that the property at 29336 Lake Road be granted a variance from Codified Ordinance Section 1163.05 (c) (4) to permit the picket fence that is currently on the property at 29336 Lake Road, which does not allow for the 75% open fence requirement to remain.

**Roll Call Vote: Yeas – Burke, Dostal, Norton, Taylor, Tyo
Nays – None**

Motion passed 5-0.

**Charles Young
29039 Lake Road**

**C.O. 1350.03 – 40 square ft. variance
to erect a 10 ft. by 16 ft. shed**

Mr. Norton advised that the Board has had an opportunity to review the application and visit the site. He noted that the Board had previous discussion about sheds and their size earlier in this meeting. Mr. Burke noted that the application indicates that the lot size is one acre. Mr. Norton added that the yard tapers off very unusually in the back and is quite deep in the corner.

Mr. Young stated that the shed would be positioned directly behind their house. The neighbors to the rear have two sheds.

Motion by Dostal, second by Taylor, that a variance be granted to the property located at 29039 Lake Road to the requirements of Codified Ordinance 1359.03, in the amount of 40 square feet, for the construction of a shed per the plans submitted.

**Roll Call Vote: Yeas – Burke, Dostal, Norton, Taylor, Tyo
Nays – None**

Motion passed 5-0.

**Susan Zanetti and Chris Zirafi
358 Lake Park Drive**

**C.O. 1153.04 8'6" rear yard variance
C.O. 1321.05 244 sq. ft. variance
Both variances for garage construction**

(continued)

Mr. Michael A. Meszes, the builder for Susan Zanetti and Chris Zirafi, stated that Susan and Chris have decided to move the garage forward ten feet. Review of plans followed. Mr. Norton explained that from where the back of the house is now, the proposal is to put the back of the new garage, just 5 ½ feet west. The garage size will be 26 feet x 40 feet. Mr. Burke stated that the builder is proposing that the garage be 26 feet wide by 40 feet deep, and the rear of the garage will be 5 ½ feet east of the rear set back line. Instead of asking, as they did in the original application, to go 8 ½ feet back to the west, past the legal rear set back, they are now saying they would bring the back of the garage east so that it would be 5 ½ feet from the rear set back, east.

Motion by Burke, second by that the property located at 358 Lake Park Road be granted a variance in the amount of 140 square feet from the maximum square footage allowed for a

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garage, pursuant to Chapter 1321.05, provided that the garage be constructed so that the back of the garage be not less than 5 ½ feet from the rear setback line and the garage dimensions be changed to 26 feet front by 40 feet deep, The back of the garage is to be 5 ½ feet east of the rear setback line. Mr. Taylor modified the motion to require that the printed documents be revised to show this change.

Roll Call Vote: Yeas – Burke, Dostal, Norton, Taylor, Tyo
Nays - None

Motion passed 5-0

There being no further business to come before the Board, the meeting adjourned at 8:40 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary