

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held August 2, 2012

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

Absent: Campbell

Also Present: Dan Galli, Director of Building and Engineering  
Mr. Bob Lyons, Building Inspector, City of Bay Village

David L. Tadych, James Sondles, Ronald Gibson, Stephen Schill, Misha Riveros, Duret Smith, Ron Puzzitiello, Alice O'Donnell, Tom Liggett, The Arcus Group

Chairman 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 Dostal, second by Bruno, to approve the minutes of the meeting held July 19, 2012 as prepared and distributed. **Motion carried 6-0.**

**Susan Nottingham**  
**25926 Lake Road**

**C.O. 1360.10 (c) Variance for 2 gas wells located less than 200 ft. from new dwelling**

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

Mr. Stephen M. Schill of Schill Architecture LLC, Charles Morgan, LLC, architect for Mr. and Mrs. Nottingham, the property owners, and Mr. Ronald A. Gibson, P.E., Ronald A. Gibson & Associates, Inc., a petroleum engineer, were present representing the Nottinghams. Mr. Schill explained that one gas well is three feet from the home under construction; the second well is 73 feet from the home under construction.

Building Director Daniel M. Galli distributed a letter to the Board of Zoning Appeals dated August 1, 2012, addressing the issues and questions raised regarding the Nottingham application at the July 19, 2012 meeting of the Board of Zoning Appeals. Mr. Galli's letter reports the following:

**Fire Department Response**

- Chief Lyons referenced a conversation with Norburt Lowder, Mineral Resources Inspector with the Ohio Department of Natural Resources (ODNR), where Chief Lyons recommends a minimum distance of 50 feet from any structure be maintained from any gas well.
- I contacted Mr. Lowder and he indicated that the 50 foot requirement was for access to the well.
- While there is no requirement he suggested it may be in the property owner's best interest to maintain access to the well point for future maintenance.
- Chief Lyons' concern is, in the event of a fire, will the concrete vault and equipment be able to sustain the heat due to the close proximity? Is there an emergency shut-off valve in the vault? What other concerns or measures will be required or should the fire department have regarding these gas wells in the event of a fire?

**Norburt Lowder, ODNR**

- Mr. Lowder indicated that there is no restriction or law limiting the distance from a structure to a gas well.
- The only restriction is for drilling a new well. The current law restricts drilling any new well within 150', and many times this is reduced to 100'.
- Mr. Lowder indicated that his biggest concern is that a gas well is not properly maintained and inspected. However, poorly maintained gas wells tend to under produce natural gas.
- The State of Ohio (ODNR) has only three regulations pertaining to the use of a gas well. The well must be registered, bonded and insured.

**Ronald A. Gibson & Associates, Inc. (Letter & Resume attached)**

- Technology today much safer than when Bay Village ordinance was passed in 1964.
- Install vaults with vents.
- Provide combustible gas meters and integrate devices into home security system.
- Meters to be tested annually.

Mr. Ronald Gibson, P.E. presented a copy of a letter dated August 1, 2012 to Mr. Stephen M. Schill, regarding his evaluation of the use of the two natural gas wells located on the Nottingham property at 25926 Lake Road, with the purpose of determining whether the wells can be used to safely provide home heating as to the newly constructed home on the property.

The letter states that the two wells located on the Nottingham property have been tested and are capable of producing significant volumes of natural gas from the Ohio Shale formation at a depth of 800 feet. The maximum recorded wellhead pressure was 53 psi in October, 2010. Mr. and Mrs. Nottingham are seeking a variance from Bay Village C.O. 1360.10 (c) which requires the wells be plugged due to their proximity to the newly constructed house. Mr. Gibson makes the following recommendations:

1. Install concrete vaults with remote vents and sealed manhole covers around both wells.
2. Install combustible gas meters in the lower level of the house and integrate those devices with the home security system. Have the meters tested annually by a qualified contractor.
3. Use high pressure plastic (HOPE 3408 SDR-7) gas line from the wells to the regulator station.
4. Use new, properly sized regulators with internal relief valves to regulate gas pressure entering the house.
5. Have gas lines and regulators installed and annually inspected by an Ohio DOT licensed and insured contractor.

Mr. Norton noted that upon his inspection of the property there was water collected inside the concrete vault. Mr. Schill explained that the vaults have not been covered; they were delivered to the site and will be properly installed and covered.

Mr. Taylor stated that in reading Codified Ordinance 1360.10 (c) he has determined that the application must be approved by the Planning Commission. He also asked who is responsible for the wells. Mr. Norton responded that the Planning Commission is only involved when a new well is drilled. Codified Ordinance states that if the well is located within 200 feet of proposed construction of a new building it is required to be plugged. The Board of Zoning Appeals needs to decide if a variance will be granted to Codified Ordinance 1360.10 (c) to the Nottinghams for the use of these two wells. Since 1964, when the code was adopted, these wells have been used even under new construction. Mr. Taylor stated that variances have been granted for these wells, but never under three feet. He noted that the code states that the Building Commissioner is responsible for proper installation. Mr. Ronald Gibson is a certified engineer and his seal will be affixed to the plans. Mr. Bob Lyons, representing the Bay Village Building Department stated that Codified Ordinance Section 1360.13 places the responsibility for the maintenance of the wells on the owner of the property.

**Motion** by Burke, second by Tyo, that the property located 25926 Lake Road be granted a variance from the requirement as specified in Codified Ordinance 1360.10 (c) to permit the use of two gas wells that are located less than 200 feet from the new dwelling being constructed provided that the owners meet all Ohio Department of Natural Resource requirements for such installations and also meet the recommendations specified in the letter of August 1, 2012 from Ronald Gibson, P.E., as part of the Board's record, including but not limited to any requirements

for registration, bonding, and sufficient insurance, and that the owners meet any requirements additionally imposed by the Fire Chief of the City of Bay Village, and that the owners provide to the City of Bay Village a written agreement holding the City of Bay Village harmless in anyway regarding installation, maintenance, or use of the gas wells.

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

**Motion carried 6-0.**

**Jacobson M. Riveros  
173 Plymouth**

**CO. 1153.02 – Variance of 15 feet  
of front setback to build a garage**

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

Mr. James Sondles, architect for Jacobson Riveros, addressed the Board and stated that the plan that has been given to the Board of Zoning Appeals is based on a subdivision map that was furnished to Mr. Sondles from the Service Department. The map is of Huntington Woods Subdivision No. 3, and divides the layout of the north end of Plymouth Drive. The Riveros property is identified as Lot No. 208, immediately east of the center of the circle, on the subdivision map. The building line is 50 feet back from the circle. The existing garage is on the 50 ft. line. The only place to add a third garage to accommodate the four adults living in the home is 16 feet in front of the building line. The front of the garage will be east of the building line. Photographs of the property were distributed to the members of the Board and Mr. Sondles further explained the placement of the proposed garage.

Mr. Taylor asked if the building line is imposed by the subdivision, or by the city. If the building line is part of the dedicated plat, the Board of Zoning Appeals cannot deal with the request. Mr. Norton asked if there is a Huntington Woods deed restriction. He noted that Huntington Woods did have restrictions on various aspects of the plat. Mr. Bruno stated that his wife grew up in the subdivision, and Mr. Norton is correct in his statement. The Board may need to have further information in that regard.

Mr. Burke stated that when he examined the property it appeared that the addition would be put in forward of the circular building line. It would be the only one forward of that line in the cul-de-sac.

Mr. Dale Alexander, the neighbor to the north of the Riveros, addressed the Board advising that his home was the last house on the cul-de-sac to be purchased, thirty-four years ago. The code,

in terms of developing the neighborhood, was put into place for aesthetic appearance of the neighborhood, and setback of the homes on the cul-de-sac. Mr. Alexander stated that in order to accomplish the addition to the garage, the large evergreen trees will need to be taken down. He noted that in order to grant approval, the Board must find a practical difficulty or unnecessary hardship in existence on the property. Mr. Alexander does not agree that the requirement for a garage for a third car is a practical difficulty or unnecessary hardship, noting that when his children were living at home he had four cars in his family and did not have a problem with two extra cars sitting in his driveway. Mr. Alexander further called attention to the fact that the Board would be setting a precedent in the granting of a variance in this matter. Further discussion followed. The granting of this variance would compromise the code, the plan of the subdivision, and cause a change in the integrity and complexion of the neighborhood.

Mr. Norton advised that he is not seeing an unnecessary hardship that is peculiar to the property. Having larger storage space in utility buildings and having larger garage space for cars and other items is a general, desirable thing. The code was put in for a reason. In this case we are talking about a setback requirement. In this neighborhood, there is no construction in front of the building line.

Mr. Burke agreed, and noted that over the years in hearing requests to add more structure forward of the front building line, in some cases most of them were situations where the other structures on the street that were built forward of that line were done so before the code was established. The Board determined that the overall appearance of the street was such that they would not be out of line with others that are forward. This is not the case here. The houses going around the cul-de-sac are all behind that 50 feet building line.

Mr. Alexander noted Question Number Three in the Riveros' application for a variance. "Was the hardship, difficulty, or condition existing, or was it created by the applicant? What is the hardship or difficulty?" The answer is that "The hardship was created when Huntington Woods Subdivision No. 3 was approved in 1972. Mr. Alexander noted that 1972 was 40 years ago. That was before not only Mr. Alexander, but the homeowner purchased their home. It was purchased with full knowledge.

Mr. Norton reiterated that the purpose of the Board of Zoning Appeals is to find those exceptions where issuing one set of rules needs to have some leeway because of certain conditions which are enumerated, one of them being something peculiar to the premises. One of the difficulties the Board may have is finding that this is a peculiar situation. The Board must also be very careful about setting a precedent. If the Board cannot find this is a unique property, a new standard will be set by granting a variance. The next person that comes in with a similar situation, which is very common in this city, would be entitled to a similar variance. As Mr. Tyo mentioned, a situation might be created where a lot is very difficult to build on due to unusual, natural

conditions, such as a creek or ravine running through the property, or a very unusually shaped lot.

Mr. Bruno stated that he concurs with the comments of Mr. Burke.

Mr. Alexander noted that he is also concerned that the three very large trees that add to that property are going to come down voluntarily which will change the integrity of the cul-de-sac.

Ms. Riveros addressed the commission stating that she has had an arborist come in and part of one of the trees has fallen. The house was purchased in 2004 by Ms. Riveros, after being empty for 600 days. The house has only three bedrooms, the only home on the cul-de-sac with three bedrooms, which will cause difficulty in trying to sell the house. They are trying to keep the house. They need space for an additional car because of an increase in family size due to marriage. Another bedroom will be added to the home and adding the garage is an overall upgrade of the house so that at some point it does get sold.

Mr. Bruno stated that his wife grew up in Huntington Woods. They looked at a home on Manchester Drive recently that has three bedrooms, very unique to the neighborhood, very consistent with the setbacks and the style of the neighborhood. The consistency of the neighborhood is something that is very unique to Bay Village and respect should be given to that without having ventured into researching guidance from the deed.

Mr. Norton stated that the ordinance of the City of Bay Village states very specifically what the Board is allowed to do. The Board is not permitted to change the law. If they are unable to find that there is something unique about the property that is not common to a majority of the properties, then, in effect the ordinance will not permit the granting of a variance.

Mr. Sondles stated that what is unique to this situation is that the building line is not a line, it is a circle. This proposed construction does not detract in any way from the house to the north.

Mr. Tyo noted that the Board must follow the criteria established for granting a variance. One is the uniqueness of the property. Additionally, the Board must be very careful not to set precedent. Whether you can see the construction when you come around the corner is really irrelevant. The Board does have guidance as to how far they can go regarding precedent and the three established requirements for granting a variance.

Mr. Sondles stated that the homeowners are planning to put three additions on the home and improve the fourth room. They are going to invest a lot of money in the house, adding to the value. The neighborhood benefits from that.

Mr. Sondles stated that he sat on the Board of Zoning Appeals when many variances were granted for front yard setbacks, particularly on Lake Road because of the small lots on Lake Road that the 50 feet setback does not hold. They did not change the law to grant those variances.

Ms. Riveros noted that one benefit the neighbors have is their driveways go along the side of their property and into the back. She does not have that situation.

Mr. Norton stated that if this case were one where the garage would come forward two to three feet it probably would have been received differently. The amount of this variance changes the feeling of the setback on the houses all the way around the circle.

Mr. Riveros stated that they do not have the luxury of having a long driveway coming along the side of the home because of the way the lot was configured. Mr. Sondles added that this is a unique neighborhood and the plans of the Riveros have the potential of greatly improving the value of their home, enhancing the value of the neighborhood.

Mr. Burke stated that the question is whether or not this Board should grant a variance to allow the construction of the garage and therefore make this house inconsistent with all the others on the circle. The circle is nothing more than a curved line maintaining the same 50 feet setback line.

Mr. Alexander noted that in Huntington Woods there are four cul-de-sacs. Granting this variance would set precedence for all four of those cul-de-sacs because they are all in a similar situation.

**Motion** by Dostal, second by Burke, that a variance of 16 feet to the front setback be granted to the property located at 173 Plymouth Drive, pertaining to Codified Ordinance No. 1153.02.

**Roll Call Vote: Yeas -None.**

**Nays — Burke, Bruno, Dostal, Norton, Taylor**

**Abstained - Tyo**

**Motion denied 0-5, and one abstention.**

**Jim & Susan Flynn  
613 Welshire**

**C.O. 1350.03 –Variance of 48 square  
to construct shed**

The request of Jim and Susan Flynn of 613 Welshire will be heard on Thursday, August 16, 2012.

**Richard A. Statesir, MD  
Georganne Vartorella, MD  
23718 Cliff Drive**

**Letter of Objection  
to proposed plans for new home  
cabana, and swimming pool at 23724  
Cliff Drive**

**Bridget O'Donnell  
23724 Cliff Drive**

**C.O. 1141.04 (J) Special Permit to  
build a cabana**

Mr. Gregory Schneider, attorney-at-law, representing Dr. Statesir and Dr. Vartorella, addressed the commission with objections to the construction proposed by Bridget O'Donnell, 23724 Cliff Drive.

There is a two-hundred year old oak tree on the Statesir/Vartorella property that is close to the property line. Photographs of the tree were distributed. An arborist has determined that the construction that is going to occur will damage the roots of the tree and may kill the tree. If it does not kill the tree, the construction may cause damage to the root structure causing the tree to fall during a storm resulting in significant property damage to both properties well beyond the \$10,000 value of the tree. If they were able to catch it before it fell, it would cost \$3,000 to \$5,000 to remove the tree. If construction is permitted to proceed, precautions would have to be put into place during the construction to insure that damage was minimized to the tree.

Mr. Schneider continued, stating that on April 19, 2012, the cabana construction was addressed by the Board of Zoning Appeals as a pool house when the Statesirs were seeking a privacy screen. Throughout the hearing, the Board referred to the cabana as a beach house and said that it would have to meet the regulations where it is, or be below street grade. The structure that is being proposed to replace the structure that was referred to as a beach house is actually taller and has four walls and a deck. It will be seven feet taller than street grade.

Thirdly, it is unsure what the extent of the damage would be to the shoreline and cliff due to the excavation of the pool and taking down the current pool house structure. It is hoped that there will be more study to insure that it would not cause fissures or erosion occurring along the beach line along the cliff.

Mr. Schneider stated that the property has a lot of noise complaints. It seems to have had a lot of entertainment and extending the house back, 30 feet beyond the other homes on Cliff Drive, will change the character of the neighborhood and put the pool and the pool house in view of everybody and, if the entertainment does continue, that location will exacerbate any noise issues that currently exist.

Board of Zoning Appeals

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Mr. Norton commented that this last issue would be a police matter and unable to be dealt with by the Board of Zoning Appeals.

Mr. Norton asked if any engineering work has been done regarding the pool location near the edge of the cliff.

Tom Liggett of the Arcus Group, the architect for the O'Donnell property at 23724 Cliff Drive, stated that Solar Testing Laboratories has completed three soil borings. They have given a recommendation as to how to deal with the foundation and how to deal with the pool. There are two borings located underneath the site of the cabana and one under the pool. There are guidelines to be able to take care of the bluff and the land.

Mr. Taylor asked if these were borings or probes. Mr. Liggett stated that he believes they are borings, at a depth of 15 to 20 feet. Mr. Taylor stated that at that depth those would be probes.

Mr. Norton stated that the pool in relationship to the tree is not an issue. The pool in relationship to the bluff is a potential issue, more so in this situation because this is a very tiny lot. Normally in this zone, the lot is supposed to be 14,700 square feet. This lot is 8,500 to 8,700 square feet. It is grandfathered in, so it is a buildable lot. The footprint on the home is within all of the sideyard and rear yard setbacks. Because of this, the lot has unique character that must be taken into consideration. Before the Board of Zoning Appeals can proceed, they will need to see the report and testing of the Solar Testing Laboratories.

Mr. Bob Lyons of the Building Department has received a copy of the Solar Testing Laboratories report which he distributed to the members of the Board of Zoning Appeals. He noted that the borings went to the depth of 6 ½ feet. Mr. Taylor commented that this would be a probe.

Mr. Liggett stated that George J. Ata, P.E., the geotechnical engineer on the assignment, stated that he had no trouble with the way the soil was at the site, and the levels of soil. He gave recommendations that when the pool is built the ground be lined with clay to encapsulate the shale. If his guidelines are followed there should be no problem with the hillside. Regarding the cabana, as long as they stay 5 ft. back from the ridge there would be no problem going with traditional spread footings to be able to hold up the building.

Mr. Schneider stated that the current structure is not up to code. Tearing out what is on the property is not incorporated into the study. Taking out the existing structure is something that should be looked into. The problem of the beach house that still exists is that it needs to be below street level.

Mr. Liggett stated that the way they view it and approach the whole project, is that they designed the home to fit within the guidelines of the requirements of the city. Regarding the pool, the code states that a pool is an accessory structure of a home, which is allowed in the First District Residential. The building is an accessory building for the pool for storage of pool furniture and towels. There will be a mini-bar in the pool house without a water hook up. There is no toilet facility in the pool house. It is a structure to be able to take care of what is happening in the pool so that swimmers do not go into the house when they are wet from the pool. According to the code, an accessory building is incidental use to the main structure on the property, which is the home. The purpose of the cabana is to prevent people from constantly going in and out the house when they are wet from the pool, it gives them a chance to dry off and be entertained outside as you are supposed to do around the pool. The building is viewed as an accessory building. It is not a beach house because it is not dealing with the beach as a live-in structure around the beach, and it is not taking care of a boat. It is basically a pool house to take care of the pool, which is an accessory use to the property.

Mr. Bruno noted that it does have a small porch and stairs on the opposite side of the pool from the home. It is doing much more than aiding the pool.

Dr. Richard Statesir stated that when the Statesirs applied for a variance on their property for a privacy screen, on April 19, 2012, the structure was referred to as a beach house by the Building Department, and was also labeled a beach house by the Board of Zoning Appeals. The structure that is being proposed is essentially the same structure, with a roof and a deck which projects over the lake. For all intents and purposes, that is exactly what is there now.

Mr. Norton stated that the difference is that if that structure, for which there was not a permit issued, stays then the only thing you could call it is a utility building or beach house and in that case it falls under a set of rules that says the top of it has to be below the sidewalk. If it stays as is, it is illegal and has to be removed. The ordinance also says you are allowed to have a swimming pool. The ordinance goes on further and says that a structure that is incidental and normal to that use is permitted. If there is no swimming pool a building is not permitted. If there is a swimming pool, the ordinance is clear that you can have a structure but it doesn't define the structure. The Board has to determine an acceptable size of the building while accepting the principle of allowing a structure that is part of the pool scene.

Mr. Burke stated that he is going to abstain on this issue but would like to make a comment which is not in any way meant to indicate an opinion on the merits of either side. He stated that it does seem from the experience of this panel over the years, there have been structures on the north side of Lake Road which have caused concern over the integrity of the cliff given the fragility of the shale. On some occasions, the Board has required a geotechnical survey by professional engineers to be submitted to the city and reviewed by a city engineer and a copy

provided to the objecting party for review by their engineer. Action on the objection to the building permit should be deferred until a city engineer can submit an opinion.

Mr. Taylor stated that he would like to see a pool drawing and suggested that the other building should not be considered until the pool design is submitted. Mr. Lyons showed Mr. Taylor a plot plan showing the location of the proposed pool and noted that a plan of the pool is separate from the building plans.

Mr. Burke further stated that the city engineer should review the report of Solar Testing Laboratories dated June 7, 2012 and submitted by Mr. Lyons to the Board of Zoning Appeals this evening, and give the Board of Zoning Appeals an opinion on the report, as well as giving the Statesirs an opportunity to let their engineer review the report.

Mr. Martin Reuben, 23728 Cliff Drive, neighbor to the west of the site of the proposed construction, 23724 Cliff Drive, stated that he has been in his home for 27 years. The current house was physically moved back, pulled towards the street, because of erosion problems. Mr. Reuben noted that engineering studies are critical in this case. After 27 years there has been very little erosion, but in the past couple of years erosion has increased.

Mr. Tyo noted that in Mr. Reuben's letter to the Building Department dated July 18, 2012, he also mentions the size of the home and the retaining wall. Mr. Reuben stated that the size of the home and coverage of the property seem well in excess of anything else on the street. It appears to be a full three stories tall, is physically larger than any other house on the north side of the street, extending a full 30 feet back into the property. There is a rolling hill that connects the two properties, and there is no evidence in the plans of a retaining wall or anything that will keep the land on the Reuben property from collapsing and eroding into the adjoining lot near the proposed structure.

Mr. Liggett stated that they are required to meet the grades on each of the adjoining lots where they are now and not adjust the grades whatsoever. The only portion that will have any type of landscape is going to be the last ten feet of the home. The neighbors' grades will not be changed or affected.

Mr. Schneider noted that an issue with the grading and excavation is that if the tree does die it extends to a very wide area and you can't predict what will happen if the ground is compromised.

Mr. Norton questioned the law regarding trees on adjoining property, noting that if a tree falls on adjoining property is becomes the responsibility of the property owner on whose property the tree or limbs of the tree fell.

Mr. Michael Wood of the Reminger Law Firm, representing the O'Donnells, stated that they have the right to remove anything from the adjoining property that encroaches upon their property, referring to the roots of the tree.

Mr. Wood stated that they are willing to work with Dr. Statesir and Dr. Vartorella, the owners of 23718 Lake Road. If they want to have their own tree expert work with them they would be willing to do that.

Mr. Norton stated that the tree benefits everyone. It is a beautiful tree with a high canopy and adds to the neighborhood. The plans to build the house can potentially cause harm to the tree. If there is some way to design a system below the grade that can be worked so that the tree has a better chance of surviving it would be in everyone's best interest. In the interim, the engineering report of Solar Testing Laboratories will be circulated so everyone has a chance to review the report.

Mr. Norton noted that the distance from the basement wall excavation is very close to what the arborist feels is going to cause tree damage. Mr. Wood stated that they plan on working with the Statesir to find out about nourishing the tree and keeping the heavy equipment away from that side of the property. The majority of any excavation is going to be over 9 ft. off the property line.

Virginia Garver, 23814 Cliff Drive, stated that the roots from the tree are underneath her home.

Mr. Norton stated that the issue with the tree is a legal area that is not the forte of the Board of Zoning Appeals. The footprint of the house is within the code. The tree is a legitimate question but is not something that the Board of Zoning Appeals can deal with. The security of the bank is one that needs to be addressed by the Board of Zoning Appeals, and the study of the engineering report of Solar Testing Laboratories will be reviewed by the members of the Board prior to the next meeting.

Mr. Bruno noted that the tree is helping the stability of the shoreline of that property as well. The root system is helping to maintain the property.

Virginia Garver asked how close the pool is going to be to the cliff. She was informed that the pool would be 15 feet from the bank. Mrs. Garver noted that Mr. Reuben, her neighbor recently had a tree go over the cliff and in January of this year the Garvers had a tree go down and lost three or feet. She further noted that there is a fence post three or four feet back from the cliff that went in straight and is now at an angle because there is pressure on the cliff. Mrs. Garver further

noted that the beach house in existence now has a flat roof. The new one will have a pitched roof which will take away from their view to the east.

Mr. Tyo stated that he understands the view is important, especially when you live near Lake Erie. Unfortunately, the right to a view ends at the property line. If we don't buy the property next door to protect it from never having anything built on it, the property owners are governed only by the building code as to what they can do with their property. The Board of Zoning Appeals cannot consider anything that has to do with the right to a view.

Mr. Schneider asked for additional time beyond the two weeks for the next scheduled meeting of the Board of Zoning Appeals to review information and prepare their own report concerning this case. Mr. Norton stated that since the Solar Testing Laboratories report is available, it is reasonable that an engineer could read the report and advise whether they feel it is good, bad, or indifferent, and be at the next meeting to defend his position. Two weeks is a reasonable time for that review.

**Motion** by Tyo, second by Dostal, that the Board's action in the objection of the issuance of a building permit for the construction of a home and pool, and on the application for a special permit for the construction of a cabana, be tabled until the meeting of the Board of Zoning Appeals of August 16, 2012, until the owner of the property at 23724 Cliff Drive can provide the city and the owners of property at 23718 Cliff Drive a geotechnical survey by a qualified engineer addressing what, if any, impact the construction of the home and pool will have on the stability and integrity of the cliff along the lakeshore of the subject property and adjacent properties.

**Roll Call Vote: Yeas - Bruno, Dostal, Norton, Taylor, Tyo**  
**Nays - None**  
**Abstained - Burke**

**Motion carried 5-0, and one abstention.**

There being no further business to come before the Board, the meeting adjourned at 9:20 p.m.

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Jack Norton, Chairman

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Joan Kemper, Secretary