

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held February 21, 2013

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

Absent: Burke, Dostal

Also Present: Bob Lyons, Building Department, Gayle Fisher, Russell Thompson, Mary and Dan Barringer, Bruce Geiselman, Sharie Jasin

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

Motion by Taylor, second by Bruno, to approve the minutes of the meeting held February 7, 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.

**Daniel J. and Mary T. Barringer
24433 E. Oakland Rd.**

**C.O. 1163.05 (H) (2) Installation of
8 feet high fence for 27 feet along
east side of driveway**

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

Mr. Taylor confirmed with the Secretary that the neighbors have been notified.

Mr. Norton advised that in the application to the Board of Zoning Appeals Mrs. Barringer referred to a legal matter with Rocky River Court as allowing the installation of an 8-foot high fence.

Mrs. Barringer said that the installation of an 8-foot high fence was suggested by Judge Hagen of Rocky River Municipal Court. Mrs. Barringer further stated that the 8-foot fence was part of a settlement of neighborhood difficulties.

Mr. Norton stated that the laws of the City of Bay Village do not allow a variance to an ordinance by agreement with the neighbors. He advised that the Board of Zoning Appeals needs to find that there is something unique about this particular parcel.

Mrs. Barringer stated that her neighbor, Paul Jasin, had a variance granted for a higher fence because supposedly his neighbors' lights were shining on to his porch. She stated that they have a neighbor with lights shining in their yard constantly and the proposed fence would block the light from the Barringer's yard.

Mrs. Jasin was in the audience and stated that the variance granted to the Jasin's was for an additional fence, not height. Neither of the fences are above 6 feet, 4 inches.

Gayle Fisher, 24429 E. Oakland Road, was in the audience and has filed opposition to the issuance of the variance requested on the Barringer property.

Mr. Norton commented that he cannot recall issuing a height variance for a privacy fence. The Board has issued an exception to the 32 feet maximum in one direction. He cited an example of an exception near a delicatessen where the CEI trucks idle near a neighboring corner house where the owner of the home has a patio. This was an unusual situation and the Board allowed additional sections of a six-foot fence to shield that activity. An adult standing next to a six feet privacy fence forms the purpose of privacy. If the Board were to grant an extension of height, it would not be in the spirit of the way the ordinance was written and it would set a precedent that there is nothing unique with the lot. There is understanding that there is difficulty between the present owners of the properties, but a variance goes with the property, and is permanent with the property.

Mrs. Barringer reiterated that the Jasin's applied for a variance based on their complaints about the neighbors garage lights shining on their deck. The point of the Barringer application is to stop the problem. Mrs. Barringer addressed Law Director Ebert, stating that the Barringer's were told to come up with a way to stop the problem. She noted that there have been instances, since they came home from court, where the neighbors were told not to look at each other and not to talk to each other, where the neighbor threw ice at their car and that night danced around the back yard and received a Disorderly Conduct citation. Mrs. Barringer stated that the height of the fence will prevent Mr. Jasin from hollering obscenities at the Barringers.

Law Director Ebert stated that he is not aware of what agreement was made by the Court. City Prosecutor Gary Hotz called Mr. Ebert today to indicate that he was not part of any agreement saying that the parties could have eight-foot fences. If a party wants to have an eight-foot fence they have to go to the Board of Zoning Appeals.

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Mr. Norton stated that if the Barringers feel that the Board of Zoning Appeals does not have enough information to make a proper judgment, and the fact that there is not a full Board present this evening, it is their right to withdraw this evening and put it on the next agenda. Mrs. Barringer stated that they would have the paper work for the Board at that time.

Law Director Ebert advised that any appeal of a decision of the Board of Zoning Appeals goes to Common Pleas Court.

Mrs. Barringer asked if a representative of the Building Department would visit the Jasin property and measure the height of the fence, all the way to the flower boxes mounted on top of the fence. Mrs. Jasin stated that the flower boxes are not mounted; they can be taken off at any time.

The application of Daniel and Mary Barringer is referred to the meeting of the Board of Zoning Appeals to be held on March 7, 2013.

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

Jack Norton, Chairman

Joan Kemper, Secretary