

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held February 7, 2013

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

Absent: Bruno, Dostal

Also Present: Bob Lyons, Building Department, David and Tony Coury, Jeff and Pam Barker

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

Motion by Taylor, second by Burke, to approve the minutes of the meeting held January 17, 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.

David Coury
25024 Sunset Drive

C.O. 1153.04 – Variance
9 ft. rear yard
C.O. 1153.02 (1) - Variance
1 ft., 6 inch, front yard

Mr. Norton advised that the Board had an opportunity to review the application and visit the site. Two lots are being combined. The house to the west is oriented to the street similar to the plans of Mr. Coury. Rather than being parallel to the street line, the house is rotated to be not parallel to the street.

Mr. Taylor asked if the rear set back lines as shown on the drawings are in the deed for the property. The variance will be based on the set back being a city requirement. There is a 10-foot utility easement noted on the drawing. The surveying company would have indicated a deed requirement.

The neighbors to the west of Mr. Coury addressed the Board regarding their concerns of drainage to their property. The neighbors were assured that the same amount of footage is being used for the new construction. Additional green space is being added due to the existing home being demolished.

Mr. Coury explained that the 9-foot variance is for the two columns for the porch above. The actual structure is only 5 ft., 3 5/8 inch encroaching over the property line. As to the drainage issue, Mr. Coury related that he will make sure there are adequate swales at the completion of the project.

Mr. Lyons stated that the existing drainage issue starts on Lake Road. In 1974, the city drafted a plan to do sewers, sidewalks and drainage for the Sunset area, which was not undertaken. The problem is that even with swailing there is only so much you can do to get rid of the water. There was a city meeting a few months ago to address the problem. The work that was being done by the homeowners association for the breakwall prevented the city from doing anything while the heavy equipment was in the area.

Further discussion followed. Mr. Norton reviewed the construction plans with the neighbors to assure them that there is no additional footage being used for the new construction. Mr. Campbell noted that building the new home will not make the drainage worse. The construction may possibly improve the drainage.

Motion by Burke, second by Tyo, that the property located at 25024 Sunset Drive be granted the following variances:

A variance of 1 ft., 6 inches from the front setback requirements; three variances from the rear setback requirements: a 5 ft., 3 5/8 inch variance in the area designated on the drawings at the living room; a 9 ft., 0 inch variance in the area designated in the drawings as the master bedroom; a 4 ft., 0 inch variance also at the master bedroom as shown on the drawings, provided that the applicant must first confirm with the city that the setback lines shown in the drawings are in fact a city ordinance setback line and not a setback line set by any private deed restriction, and, secondly, that the variances contained in this resolution shall be strictly construed for the building as shown in the drawings submitted and are not in any way intended to extend variances beyond the setback lines for the full length of those setback lines.

Mr. Burke noted that the drainage swales are beyond the jurisdiction of the Board of Zoning Appeals. The swales are an engineering issue. Mr. Burke encouraged the construction, however, of some reasonable swales to see what can be done to alleviate the problem of the neighbors.

Vote resulted: Yeas – Burke, Campbell, Norton, Taylor, Tyo
Nays- None

Motion passed 5-0.

James E. Hagen
31216 Nantucket Row

**C.O. 1141.04 (J) Special Permit
for Generator**
**C.O. 1359.01(a) 6 ½ feet variance
to return air conditioning units to
former location**

Mr. Norton advised that the Board had an opportunity to review the application and visit the site. He noted that where Mr. Hagen is proposing to put the generator is very close to the neighbor's house. The total distance is 9 ft., 6 inches. There will be sound produced that will go back and forth between the two homes.

Mr. Hagen displayed photographs of the property and the proposed site for the Board. He advised that the air conditioners were originally at the site proposed and were removed last fall in order to get a backhoe to the rear for work to the home.

Mr. Campbell stated that he does not mind the air conditioners being returned to the original location because they were grandfathered in with the passage of the ordinance. He does not feel that the generator should be located on the side of the property.

Mr. Taylor noted the recent passage by Council of Ordinance 12-111, which requires that generators be located in the rear of the home.

Mr. Burke referred to a memorandum dated January 31, 2013 to the Board of Zoning Appeals from Daniel M. Galli, Director of Building, Engineering and Inspection, stating that "A variance allowing installation in the side yard due to 'other similar factors' and a variance of 6 ft., 5 inches are required to approve this application." He asked if this refers to the idea that if the placement of the air conditioners on the side of the home would first be approved, that would create the other similar conditions for the placement of the generator. Mr. Lyons stated that he believes this language came out of the new code, and may be talking about patios and pools being in the rear yard which would require putting a generator in the side yard.

Further discussion followed regarding the sound output of the generator as compared to the sound output of the air conditioners. Mr. Campbell stated that the generator would be louder than the two air conditioners. The air conditioning sound of 62 decibels is measured at the air conditioner. The sound of the generator is 66 decibels and is measured at 23 feet away from the generator site.

Mr. Hagen agreed to place the generator in the back of his property and withdrew his request for the generator placement on the sideyard.

Motion by Burke, second by Campbell, that the property at 31216 Nantucket Row be granted a 6 ft., 6 inch variance from the requirements of Codified Ordinance 1359.01 (a) as to the distance of the side lot line, for the installation of two air conditioning units to be located as per the drawings

submitted and further provided the air conditioning units be screened year around by year-around vegetation or fencing from view of the neighbor and the street.

Vote resulted: Yeas – Burke, Campbell, Norton, Taylor, Tyo
Nays- None

Motion carried 5-0.

Jeffrey Barker
27238 Lake Road

C.O. 1163.04 (d) – Variance
3 ft, 2 inches to install 6 ft., 6 inch
driveway gate with masonry piers
C.O. 1149.01 Accessory Structures
Add two (2) additional masonry
piers in front yard

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

Mr. Barker addressed the Board noting that the former home on the property has been demolished. They are in the process of building a new home, and would like to make the property safe and insure privacy.

Mr. Barker distributed a list of thirteen properties near the proposed home that have columns that are six feet high, and one property that has seven feet high columns.

Mr. Norton asked that the shrubbery not be allowed to be in excess of three feet in height. He noted that the ordinance refers to living fences behind homes toward the lake and discourages the screening off of the neighbors view deliberately. Mr. Barker agreed, noting that he is proposing Boxwood plantings.

Mr. Burke expressed concern about the gate going to the height of 6 ½ feet. He suggested that the height of the gate be limited to 6 feet, noting that approval to that height has been granted in the past. The pillar height of 5 ft. is agreeable.

Mr. Barker amended his request of a 3 feet variance for the gate height to be 2 ft., 6 inches.

Motion by Burke, second by Tyo, that the property at 27238 Lake Road be granted variances as follows:

A variance of 2'8" from the side setback requirements for the placement of the pillars as shown in the drawings;

A variance of 2'8" for the center height of the gate as per the drawings, with

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the exception that the gate height will be 6 inches shorter than as shown on the drawings, and a variance of 2' on the pier height, provided that the living fence shown on the drawings not exceed 3' in height and further provided that the remainder of the fence, the piers, and the gate be built according to the drawings and specifications supplied with the application.

Vote resulted: **Yeas – Burke, Campbell, Norton, Taylor, Tyo**
 Nays – None

Motion carried 5-0

There being no further business to come before the Board, the meeting adjourned at 9:30 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary