

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held September 19, 2013

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

Also Present: Mr. John Cheatham, Chief Building Official (SAFEbuilt)

Audience: Sandy Juba, Tiffany Juba, Greg Hebble, Stuart Butcher, Cheryl Leece  
George Gulac

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 Taylor, second by Bruno, to approve the minutes of the meeting held September 5, 2013 as prepared and distributed. **Motion passed 7-0.**

**Ed Moore**  
**363 Pinewood Drive**

**C.O. 1163 Special Permit**  
**Install (2) 5 ft. wide, 8 feet**  
**high lattice garden trellis sections**  
**10 feet total length on 4x4 posts**

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

Mr. Burke expressed that in reviewing this request it seems that the object to be constructed is more of a fence than a trellis. He asked if the fence ordinance would be the code to consider, rather than the special permit regulations for a trellis. Mr. Norton stated that Mr. John R. Cheatham, Chief Building Official, in his memorandum dated September 10, 2013, has indicated that the applicant desires and requests a variance from fence regulatory height (Codified Ordinance No. 1163) to install two (2) 5 feet wide by 8 feet high trellis for the planting of vines.

Further review and discussion followed. Mr. Greg Hebble of the Elyria Fence Company stated that the structure is a garden trellis as opposed to a fence. A wisteria vine will be grown on the trellis.

The Board determined that the structure will be considered a fence, rather than a trellis. Mr. Moore modified his request to be a two (2) ft. variance from Codified Ordinance 1163.

**Motion** by Burke, second by Tyo, that the property at 363 Pinewood Drive be granted a variance of two (2) feet for the installation of a privacy screen/trellis, 10 feet in length to be installed in the location as shown on the revised drawings submitted this evening by the applicant.

**Roll Call Vote:**      **Yeas – Campbell**  
                                 **Nays – Norton, Taylor, Tyo, Bruno, Burke, Dostal**

**Motion denied 1 yea, 6 nays.**

**Richard Norcross**  
**25119 Wolf Road**

**C.O. 1370 Variance for Generator**  
**Placement in Side Yard**

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

Mr. Burke asked if there is some reason the generator could not be placed in the southeast area of the backyard. Mr. Norcross stated that moving the generator to the back of the property would actually make it closer to the home behind them. The proposed location is the furthest from any other property in the neighborhood.

Mr. Tyo commented that the situation for this property is unique. The home is far back from Wolf Road and the generator could not be seen from the curb, nor should there be concern about sound baffling. Mr. Bruno expressed agreement, noting the importance of the provision of screening from view.

**Motion** by Dostal, second by Tyo, that a variance be granted to the property at 25119 Wolf Road, to the provisions of Codified Ordinance No. 1370 for placement of a generator in the side yard per the plans submitted by the applicant, with the stipulation that all other requirements of Ordinance No. 1370 pertaining to screening and testing be fulfilled.

**Roll Call Vote:**      **Yeas – Norton, Tyo, Bruno, Campbell, Dostal**  
                                 **Nays – Burke, Taylor**

**Motion passed 5-2.**

**Joseph Krueger**  
**28501 Wolf Road**

**C.O. 1153.03 (1) Request**  
**Permission to Build Garage**

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. He commented that it is not clear with what the Board had been furnished what the request is specifically.

Mr. Krueger stated that the sideyard setbacks have been changed in the last few years. There is no sideyard variance needed. The variance needed is for a total percentage of the sideyard. The lot is 75 ft by 230 ft. A variance of 7 feet is requested on the sum of the sideyards.

A letter from John R. Cheatham, Chief Building Official, stated that the house was built in 1959 and not completed, and the zoning ordinance has changed significantly in the interim. The proposed garage will be attached to the dwelling.

Mr. Norton explained that the originally intended construction of the garage would not have required a variance. The alternative to this proposed construction at this time would be a detached garage which would be close to the home on the east side of the property. The property owners on the east, John and Patti Komperda, 28421 Wolf Road, have submitted permission, expressing favor to the attached garage.

Mr. Campbell asked that the variance be granted so that the garage will be no closer than 10 feet from the east property line.

**Motion** by Burke, second by Taylor, that the property at 28501 Wolf Road be granted a variance of 7 ft. from the sum of the sideyard requirements pursuant to Codified Ordinance Section 1153.03 (1) to permit the construction of an attached garage on the east side of the house, according to the dimensions in the application, and that the garage be built no closer than 10 feet from the east lot line.

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

**Cheryl Leece**  
**26206 Lake Road**

**C.O. 1163.05(E) Variance for a**  
**5 feet high fence in rear yard on**  
**lake**

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

Mr. Norton verified with the applicant that the fence is intended to be a narrow picket fence. A letter from John R. Cheatham, Chief Building Official, was read stating that the applicant is affected by an incident when a boy lost his life by falling over a 4' high fence in Bay Village.

Mr. Burke commented that the safety issue is one that should be addressed by City Council. Mr. Norton stated that this particular property is on a very sheer cliff. There is no downside in allowing the extra foot in this particular instance. With the open style of this fence, it does not provide a visual barrier. Mr. Campbell added that the fence must stay in the future as shown in this application.

**Motion** by Burke, second by Dostal, that the property at 26206 Lake Road be granted a 1 ft. variance from the maximum height requirements of Section C.O. 1163.05 (E) of the ordinances of the City of Bay Village to permit the installation of a fence along the lake cliff as shown in the

application submitted to the city, provided that the fencing be of the same open design and style as shown in the photograph attached to the application, and further provided that once installed the fence remain open and vegetation should not be permitted to grow on the fence to obscure the openness of the fence.

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

**Motion passed 7-0.**

**Stuart Butcher**  
**25458 Wolf Road**

**C.O. 1350.03 Variance to construct**  
**12’x16’x14’ shed**

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. He noted that there has been an objection, dated September 11, 2013, from the neighbor, Sandy Juba, at 25470 Wolf Road, and five other addresses on Wolf Road that have signed a petition in objection to the variance request.

Mr. Norton addressed Mr. Butcher, stating that the trailer in the front yard of Mr. Butcher’s property does have a current license plate, but none of the boats have Ohio stickers. Mr. Butcher stated that Mr. Norton’s statement is correct, and acknowledged that he is the owner of the boats. Mr. Norton asked Mr. Butcher if he is aware of the ordinance that prohibits him from parking the trailer in the front yard of the property. Mr. Butcher stated that he was not aware of the ordinance.

Mr. Norton stated that there is a structure in the back yard that has three additional boats. Mr. Butcher stated that these are race boats and do not require a tag. He offered to submit the paper work verifying that statement. Mr. Norton stated that the boats are on a structure, and asked if there was a permit issued for that structure. Mr. Butcher stated that there was no permit issued for that structure. That structure will be removed. Mr. Norton asked if the existing shed will also be removed if the new shed is permitted. Mr. Butcher stated that it would be removed.

Mr. Norton asked Mr. Butcher’s future intention for storage of the boats. Mr. Butcher stated that his future intention would be to keep them at the yacht club or marina. A sailing society was started this year to teach children sailing and the boats were recently acquired with plans to put them in storage over the winter.

Sandy Juba stated that she has questioned the city previously about the storage of these boats on Mr. Butcher’s property. Mrs. Juba presented copies of the email correspondence verifying the fact that she has brought this property to the attention of city officials. Photographs were submitted of Mrs. Juba’s property and Mr. Butcher’s property for purposes of illustration of her objection to this large shed.

Mr. Norton asked SAFEbuilt representative Bob Lyons if he is aware of any complaints against the Butcher property or any action that the city has taken. Mr. Lyons stated that he is not aware of any complaints or actions.

Mrs. Juba presented seven copies of emails to and from the Building Department and Mrs. Juba, with communications beginning in March of 2013 concerning barrels on the property and asking for help to correct the situation of a moldy roof on Mr. Butcher's property.

Mr. Burke stated that what is pertinent is whether there is something unique about this property that would justify granting this substantial variance (60%). There have been occasions when there were very large lots and some variances were granted on the size of sheds based on the size of the lot. The lot in question is not of the size of those that have received those variances. Mr. Burke stated that he fails to see why either the use or the objects that the applicant seeks to put in the shed are sufficient reasons to grant a variance. Mr. Bruno expressed agreement.

Mr. Norton stated that a storage barn of 120 square feet footprint with a decorative porch would be entertained. But to go beyond the basic square footage of the ordinance without a reason that is unique to the lot would not be agreeable. As to the other property issues, if a formal complaint has been made to the Building Department, the Building Department must issue a citation that the conditions described by Mrs. Juba cannot remain to be in existence. The Building Department has a normal process to address those issues. Mr. Norton stated that if Mrs. Juba pursues those issues he is confident that the city will deal with the complaints.

The formal issue before the Board this evening is a request for a variance for a 12 ft. by 16 ft. by 14 ft. shed. If not granted, the allowed shed is 120 square feet, typically a 10 ft. by 12 ft., and no higher than 12 ft. Only one shed is permitted.

**Motion** by Burke, second by Dostal, that the property located at 25458 Wolf Road be granted a variance from the maximum size requirements under Codified Ordinance Section 1350.03 for the construction of a shed, 12 ft. by 16 ft. by 14 ft., as shown with the plans submitted with the application, provided that if approved the existing shed and boat rack structure are removed from the property.

**Roll Call Vote: Yeas – None**

**Nays – Norton, Taylor, Tyo, Dostal, Campbell, Burke, Bruno**

**Motion denied 0 Yeas – 7 Nays.**

Mr. Butcher asked if he can request approval of the variance based on a hardship that he cannot fit his hobby into his garage. Mr. Tyo stated that a variance must be related to conditions of the property, not the hobby of the homeowner.

Mrs. Juba expressed appreciation to the Board.

Mr. Norton advised that the last two items on the agenda have been postponed indefinitely:

John Hunger

C.O. 1370.05 (A) Variance for

Board of Zoning Appeals  
September 19, 2013

31000 Huntington Woods

side yard generator placement

Anderson Varejao  
26800 Lake Road

C.O. 1370.05 (A) Variance for  
side yard generator placement

Mr. Lyons stated that Anderson Varejao has withdrawn his application, choosing to place his generator behind his home.

There being no further business to come before the Board, the meeting adjourned at 8:30 p.m.

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Jack Norton, Chairman

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Joan T. Kemper, Secretary