

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held September 5, 2013

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

Absent: Mr. Tyo

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

Audience: Erick Waller, Tom Spooner, Randy Walters, Lori Hanson, Doug Gertz,
Jeff Powell, Robert Geschke, John Faile, Rashi Presswala

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 Burke, to approve the minutes of the meeting held August 15, 2013 as prepared and distributed. **Motion passed 5-0.**

John Hunger
31000 Huntington Woods

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

Mr. Hunger has requested to be removed from agenda at this time.

Anderson Varejao (continued from Aug. 15)
26800 Lake Road

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

There was no one present to represent this request. Further information will be sought from the applicant as to whether they wish to continue with this request.

Dolores (Lori) Hanson
31319 Fairwin

**C.O. 1149.01 – Objection to
proposed location of storage shed
at 31311 Fairwin Drive**

Robert and Nancy Geschke
387 Hurst Drive

**C.O. 1149.01 – Objection to
proposed location of storage shed
at 31311 Fairwin Drive**

Mr. Bruno recused himself from participating in these items.

Mr. Norton explained that these items are applicable to the powers of the Board of Zoning Appeals to hear objections to Building Permits.

Mr. Norton stated that the Board has had an opportunity to visit the site and review the materials presented by the persons filing the objections. He afforded those present an opportunity to speak further on their objections.

Lori Hanson, 31319 Fairwin, stated that her objection is that the proposed shed will be visible from her yard, and from the street. While she does not necessarily object to having a shed in the yard of the property owner at 31311 Fairwin Drive, she feels that the rules may be more flexible. The property owner has a long, thin, shoe-box shaped yard, and there are many places in the yard where the shed could be placed. Mrs. Hanson is hoping there could be another location in the yard that would provide less visibility of the structure for the neighbors. There is a fence issue in the back of the yard, and Mrs. Hanson's husband would be willing to give one-half of the cost of rebuilding their fence, up to \$1,000, so that it is more appropriate for placing a shed.

Mr. Norton noted that when he visited the site he noted that there is natural coverage from the view of Mrs. Hanson's property to the property in question. Mrs. Hanson stated that she still does not want to see the shed from the street.

Mr. Robert Geschke, 387 Hurst Drive, stated that the back line of his property is on the side line of the lot of the property owner where the shed will be placed. The Geschke's concern is that they have a direct view of where the shed will be located. Their property is not very deep. Their patio, kitchen, family room and dining room are in plain view of where the shed is intended to be built. They would rather see the shed placed along the back of the property line.

The property owner where the shed will be placed commented that the placement of the shed is within code. If he moves it to the back of the property it will be in plain view of the next neighbor on Hurst. Anyone can find an objection to it. The only reason there is an unobstructed view into his back yard from the back of the Geschke house is because a 70-ft. pine tree was removed from the location where the shed will be placed. The structure will be a custom, Amish-built structure. The vendor is licensed with the City of Bay Village to be an authorized contractor within the city.

Mr. Burke asked why the back, left corner of the property was not chosen as a location for the shed. The property owner presented a survey map. There is a fence along the property line as well as ten to fifteen years of overgrown trees and vegetation, ten to fifteen across. To place the

shed there would require immense landscaping. If placed in that location, it would be in the sight of another neighbor. It is just a matter of who gets to look at. He suggested that the neighbors are certainly welcome to landscape their property to obstruct the view.

A neighbor commented that they could see right through the lower section of the pine tree and stated that the removal of the pine tree has nothing to do with the view of the shed. She stated that their property is the only one that actually faces the house. All of the other lot lines face open grass.

Mr. Taylor commented that the view stops at the property line. He suggested that the best thing that can be done is to landscape to obstruct the view.

Mr. Burke stated that the permit is within code and for the Board of Zoning Appeals to object to a permit that is within code requires something extremely unusual or unique. It is difficult for the Board to not allow something that is within code. Mr. Burke asked if the property owner has spoken with Mrs. Hanson regarding her financial assistance for an alternate placement of the shed. The property owner stated that he is not looking for financial assistance with this project.

Mr. Norton noted that a property owner does not have to justify doing something that is within code. This kind of situation is not uncommon with corner homes. There are hundreds of examples that are very similar. He noted that it would be very easy to screen the shed with year-around evergreens.

Motion by Burke, second by Dostal to grant the objection that has been filed by Mr. and Mrs. Hanson and Mr. Robert Geschke be approved, thus prohibiting the placement of the shed as submitted and for which the permit was granted.

Roll Call Vote: **Yeas – None.**
 Nays – Norton, Taylor, Dostal, Burke, Campbell (Mr. Bruno had recused himself from participating in the review of this issue).

Motion denied 0-5. The building permit stands.

**Rashi Presswala
24400 Lake Road**

**C.O. 1163.05 (D) Variance- 8
inches to height of front yard fence**

Mr. Norton stated that the Board has had the opportunity to visit the site and review the application. He noted that it is a 10- inch variance that is required due to the style of fence that will be used. There will be no gate. Mr. Norton explained that gates on properties located close to the street provide an obstruction to traffic when the car must be stopped to open the gate.

Review of plans and discussion followed.

Motion by Dostal, second by Burke, that a variance be granted to the property located at 24400 Lake Road, for the construction of a fence as submitted to the city, in the amount of 10 inches to the height of the fence, and that the open fence be per the request in the application of 3.9 inches, and that no gate be allowed in this construction, now or in the future.

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

Motion carried 6-0.

Richard Simon (Easement to Columbia Gas)
23726 Knickerbocker

**C.O. 1153 – Variance to construct
new structure to replace recently
demolished structure**

Mr. Norton stated that the Board has had the opportunity to visit the site and review the application. It was noted that the structure claimed to be recently demolished is still intact.

Further review of plans and discussion followed.

Motion by Dostal, second by Burke, that a variance be granted for the property at 23726 Knickerbocker Road to Codified Ordinance 1153, to construct a new structure to replace the structure to be demolished. The new structure will have a larger footprint 12' x 18' (enlarging from the existing 19 square feet to 224 square feet) than the existing structure, and will be one foot from the property line, per the plans and specifications submitted.

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

Motion carried 6-0.

Thomas Spooner
25570 Lake Road

C.O. 1370.05 Generator Placement
“near front door” of residence

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

Review of plans and discussion followed. After lengthy review of the land layout provided by Mr. Spooner, it was requested by Mr. Spooner to modify his request with the idea to place the

generator near the existing air conditioner on the northeast side of the home, in an area described as an “L” shaped configuration.

It was **MOVED BY** Burke, second by Taylor approving the placement of a gas-powered generator in the same area as the existing air conditioner on the northeast side of the house, within the existing “L” shaped alcove area in the property at 25570 Lake Road, between the most northerly section of the home and the extension that goes to the east, with proper screening and testing procedures according to Codified Ordinance 1370.05.

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

Motion carried 6-0.

Timothy Williams
24103 Bruce Road

**C.O. 1359.01 (A) Replacement of
Air Conditioner in existing
non-conforming location**

Mr. Norton stated that the Board has had the opportunity to visit the site and review the application. He noted that there are limited places to place the unit on this narrow lot. Mr. Doug Gertz, speaking on behalf of the homeowner, noted that the new unit is much quieter than the old unit.

Motion by Dostal, second by Burke, to grant a variance to the property at 24103 Bruce Road, to Codified Ordinance 1359.01(A) to permit the replacement of the air conditioning unit in the existing non-conforming location, provided it is screened with year-around vegetation.

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

Motion carried 6-0.

Ray Lain
30527 Webster Road

**C.O. 1359.01 (A) Replacement of
Air Conditioner in existing
non-conforming location**

Mr. Norton stated that the Board has had the opportunity to visit the site and review the application. Mr. Norton cautioned the heating and cooling company representative that knowledge of and adherence to the building code is of utmost importance to the residents to whom they are providing their service.

Motion by Burke, second by Dostal to grant a variance to the property at 30527 Webster Rd., to Codified Ordinance 1359.01(A) to permit the replacement of the air conditioning unit in the existing non-conforming location, provided it is screened with year-around vegetation.

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

Motion carried 6-0.

Erick and Katie Waller
320 Ruth Street

C.O. 1153.03
Variance of 2 feet for side yard setback

Mr. Norton stated that the Board has had the opportunity to visit the site and review the application. An objection filed by Jim Kozel, 314 Ruth Street, was noted as part of the records. Mr. Doug Gertz, builder, spoke on behalf of the homeowner and explained why there was not a design submitted with the application. Mr. Norton suggested an alternative placement of the people door for the garage that would not require a variance.

Motion by Burke, second by Dostal to grant a variance to Codified Ordinance 1153.03 in the amount of 2 feet as a side yard setback variance to the property at 320 Ruth Street.

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

Motion denied 1 yea-5 nays

Skip and Diane Aldridge
293 Saddler Road

C.O. 1151.01 - Variance of height of garage to be able to match the existing house roof pitch.

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

Review of plans and discussion followed. Architect Dave Maddux explained the design for the non-habitable area above the garage that will be used for storage.

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Motion by Burke, second by Dostal, granting a 4 feet, 7 inch variance of Codified Ordinance 1151.01 for additional space on the second floor, provided that the space on the second floor shall be limited in use for storage and shall not be used as habitable space.

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

Motion carried 6-0.

There being no further business to come before the Board, the meeting adjourned at 9:00 p.m.

Jack Norton, Chairman

Joan T. Kemper, Secretary