

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held November 20, 2014

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

Also Present: Roger Houpt, SAFEbuilt, Inc.

Audience: Dan Bennett, Kristin Kellerman, Chris Blue of LS Architects, Al Kruzer, T. Corson.

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 Burke, to approve the minutes of the meeting held November 6, 2014, as prepared and distributed. **Motion passed 7-0.**

**Mark and Talana Corson  
511 Cahoon Road**

**C.O. 1359 Air Conditioning Unit  
to be placed on south side of home**

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. It is noted that this is a lot that is backed up by the Cahoon Creek, and very close to the creek edge. The request is to put the air conditioning condenser on the south side of the home. The neighbor to the south side has two air conditioning units right across the driveway. Those are legally placed because the driveway gives them the 10 feet space.

Mr. Taylor noted that there is only 6 feet, and 3 inches on the south property line. Mr. Campbell advised that a foot is only required as a distance from the home for installation. Mr. Burke stated that he would be concerned about the precedent of allowing only less than three feet distance from the property line to the driveway to the south. Mr. Al Kruzer, 517 Cahoon Road, stated that he is the neighbor to the south and he has no objection to the placement of the air conditioner.

Mr. Burke asked Chairman Norton if he has recollection of variances granted to side property lines of less than three feet for air conditioning unit placement. Mr. Norton stated that they have been granted because many of the narrow lots (50 feet) allow building within 5 feet of the neighboring lot. Any variance that was granted to put an air conditioning unit on the side of the house would be as close as this application is requesting. Mr. Campbell stated that the unit in the application is a very quiet unit.

**Motion** by Burke, second by Tyo, to grant a sideyard setback variance to the property at 511 Cahoon Road for the installation of an air-conditioning unit on the south side of the property, as per the application submitted, provided that the unit is located no farther away from the foundation of the subject property than is necessary to meet safety and installation instructions and code, and further provided that it be screened from the street with year-around screening.

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

**Vote resulted: Yeas – 6-1**

**Motion carried.**

**Jeffrey and Kristin Kellerman  
25021 Sunset Drive**

**C.O. 1153.04 Rear Set Back Variance  
Reduce from 25 ft. to 12 ft. 6 inches for  
addition**

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

A letter has been received from Beverly Haas, 25015 Sunset Drive, expressing concern.

Mr. Norton noted that he is unsure of the connection because the request is for a rear-yard setback variance and the questions posed in Ms. Haas' letter are about a generator location and an air conditioner location.

Mr. Taylor asked if the setback requirement is a city imposed setback or a subdivision requirement. Mr. Norton stated that it is a city setback because the requirement is 25% of the depth of the lot, or a minimum of 25 feet. It should be noted that in this area these are former cottage lots. The minimum of 25 feet has been historically dealt with very gently. The 25 feet setback was often worked around as many of the cottages were converted to year-round homes

Mr. Burke noted that Ms. Haas in her letter expressed concern about drainage. By increasing the amount of square feet of building on the property, which will reduce the amount of ground that will absorb water, will this impact the property of Ms. Haas? Mr. Burke questioned whether this proposal meets the requirements of the maximum percentage of ground upon which building can take place on a property.

Mr. Norton stated that whether the Building Department was able to check that requirement is not specifically addressed in the memorandum received from SAFEbuilt, Inc. for this application.

Mr. Dan Bennett of Bennett Builders, representing Mr. and Mrs. Kellerman, stated that he checked in with the Building Department regarding coverage and there were no concerns expressed by the Building Department. Their primary issue is the rear setback. The deck in its current location will be removed and a new addition will be built in that location. The generator will just be temporarily removed and reinstalled in the current location. The generator location will then be behind the new addition. Mr. Campbell stated that this is acceptable as long as there is not a window within three feet. The air conditioning unit on the south corner of the home will not be relocated.

Mrs. Kellerman stated that their home sits about one foot lower than Ms. Haas' home.

Further review and discussion followed. Mr. Norton commented that he is not sure the drainage will be affected.

**Motion** by Burke, second by Dostal, that the property at 25021 Sunset Drive be granted a variance from the rear setback requirements of Codified Ordinance 1153.04, and that the applicant be permitted to build a new addition as per the specifications and application submitted, so that the southwest corner of the new addition will be granted a variance of 12 feet, 6 inches from the setback requirement, and the southeast corner be granted a variance of 7 feet, 6 inches from the setback requirements, provided however, that the variances granted are conditional upon the City approving the construction with respect to any ordinances regarding density of building to land.

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

**Vote resulted: Yeas - 7-0**  
**Motion carried.**

**Candrea Properties**  
**583 Dover Center Road**

**C.O. 1153.03 Variance to install awning**  
**at north side of building per request**  
**of Architectural Board of Review**

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

Mr. Norton stated that he can understand the recommendation of the Architectural Board of Review to not have plain windows on this side of the building. The only question Mr. Norton would have is the legality of something overhanging another property. Mr. Burke added that if the property is standing exactly on the lot line, there is no sideyard setback at all. The proposed awnings would be completely over and encroaching on the City-owned property to the north. He asked if the City has agreed to any type of easement to accommodate this encroachment.

Considerable discussion followed as to the right of the Board of Zoning Appeals to grant a variance for neighboring property. Mr. Norton stated that when this case came up during process review meetings recently. Law Director Ebert was asked for a memorandum as to how to deal with this situation. Mr. Norton suggested that perhaps permission can be granted based on approval by the City and the Law Department. Mr. Norton stressed the need to prevent delay of this application.

After further discussion, Mr. Chris Blue representing Candrea Properties, amended his request for a variance to be a request for a special permit for the awnings.

**Motion** by Burke, second by Tyo that the property at 583 Dover Center Road, be granted a special permit, as requested by the applicant as an amendment to the application, for the installation of two fabric awnings on the north side of the building which is the subject of the application, the location and size as per the specifications submitted with the application, with the following provisos:

- The Law Department approve of the action including jurisdiction of the Board of Zoning Appeals in granting this special permit since the awnings will be over an area not owned by the applicant;
- Granting of the special permit is subject to the granting by the City of Bay Village of an easement in favor of the applicant's property to cover the zoning encroachment of these awnings on the City-owned property to the north.

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

**Vote resulted: Yeas - 7-0**

**Motion carried.**

There being no further discussion, the meeting adjourned at 8:10 p.m.

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Jack Norton, Chairman

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Joan Kemper, Secretary