Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held March 5, 2015

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

Also Present: Gary Ebert, Director of Law, John Cheatham, Chief Bldg. Official

Not Present: Mr. Dostal

Audience: Mark Reinhold, Jess and Alexis Oster, Dave and Kelly Campbell, Gina Crawford, Doug Bartman, Laura Keck, Gary Ippolito, Peter Liatti, Mark Bennett, Dennis Liatti, David L. Tadych, Councilman, Ward 1.

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 February 5, 2014, as prepared and distributed. **Motion passed 6-0.**

Gary Ippolito
27101 Osborn

C.O. 1153.03 Variance to allow a change in 30% side yard requirement to add additional bay for attached garage

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

Review of the application followed. A letter from St. Raphael's Catholic Church dated January 30, 2015 has been received approving the move of the garage structure two (2) feet from the common property line.

Motion by Burke, second by Tyo, that the property at 27101 Osborn Road, be granted a variance of eight (8) feet from the sideyard setback requirements set forth in C.O. 1153.03 for the enlargement of a garage on the property, per the plans and specifications submitted with the application.

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

Motion carried 6-0.

David & Kelly Campbell

Accessory Structure and 2 ft. variance

23814 Cliff Dr. **to remove a hardship**

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

The adjoining neighbor on the west side of the Campbell property, Mr. Crawford, expressed objection to the application based on respect for the rules and the importance of maintaining spacing for aesthetic reasons, and also for access for emergency vehicles Mr. Crawford suggested building on the east side of the property, rather than on the west side of the property.
Further review and discussion followed. Gina Crawford stated that she thinks that the 2 ft. is a misrepresentation. The variance involves an additional 1400 square feet to the home. Once they build a house on the other side, there will be no way for an emergency vehicle to get between the homes.

Mr. Norton stated that there is 9 feet from the distance from the property line to the Crawford home. That is a total of 14 feet. Mr. Crawford stated that if they pushed the garage out two feet to the east they would not need a variance and there would not be a hardship for them. Mr. Norton stated that he does not see a hardship to the Crawford property by the granting of this variance.

Motion by Burke, second by Tyo, granting a variance of 2 ft. from the cumulative minimum sideyard setback requirements of C.O. 1153.01 for a distance only of 20 feet to allow the enlargement of the building on the west side of the garage per the drawings submitted. The variance is not to be for the entire depth of the property, but only for the 20 feet on the west side of the garage.

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

Motion passed 6-0.

Jess Oster
29495 Wolf Road

C.O. 1153.03 Variance for Sideyard Setback Requesting 4 feet setback variance on east side front yard setback (perpendicular distance). Requesting 5 inches of parallel distance (approximately 4 ft. perpendicular distance

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

Mr. Cheatham clarified that there are two variances requested. One is a setback variance on the east side of the property (C.O. 1153.03), and one on the front yard setback. (C.O. 1153.02).

Mr. Norton read a communication from Doug Bartman submitted March 5, 2015 at 4:36 p.m. via email to Secretary Joan Kemper, stating that he resides at 29475 Wolf Road with his wife, Laura

Keck, who is the title holder to the home. Mr. Bartman objects in the capacity as resident/neighbor, and as counsel to Laura Bartman Keck to the proposed variance on the grounds that the applicants have not met their burden of proof, particularly failing to show that the alleged practical difficulties are caused by the property rather than by the particulars of the home they have chosen to attempt to construct. They have designed a home that does not conform to the ordinances.

Review of the application and discussion followed. Mr. Norton noted that the front yard setback seems to be minor. The fact that Wolf Road is curved in this area creates an unusual front yard situation.

Motion by Burke, second by Bruno, that the property located at 29495 Wolf Road be granted a front setback variance. The site of the variance is 11 feet along the side of the garage facing Wolf Road, and the northwest corner of the structure, by 4 feet, 8 ¼ inches along the west side of the same structure, the area of the variance as shown on the drawings setback, to the requirements of the front yard setback as set forth in C.O. 1153.02.

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

Motion passed 6-0.

Discussion followed concerning the second request: a sideyard variance of 4 feet, 3 inches on the east side of the property. Objection has been expressed by the neighboring property owners.

Mr. Oster noted that there is a lot for sale between his property and the property of the person who is expressing an objection. Mr. Oster presented a letter dated March 5, 2015 from Manual P. Glynias, owner of the adjacent lot to the east of 29495 Wolf Road, giving his consent to the variance request submitted by Jess Oster.

Mr. Oster confirmed that there was a recent lot split. Mr. Oster explained that the home is designed to appear as a Cape Code style home that could have been built when Bay Village was originally built up. He elaborated on the design of the home, noting that the request of the variance is based on the spacing of the pylons.

Mr. Taylor commented that he would like to make sure that the grade is set so that it is not three feet off the ground. Mr. Cheatham stated that the plans have not yet reached that point.

Mr. Oster noted that they had planned to do a shared driveway with the adjacent property. The plans have changed and they will no longer include that shared driveway. The auxiliary building shown on the plans is just a concept at this time. Mr. Norton noted that an accessory structure would require a special permit.

Mr. Norton noted that the lot is unusual. The house will need to be oriented in an east/west direction, because the topography to the south works against putting up a structure. He noted that given the nature of the lot, this is not an unreasonable request.

An objection was expressed by Mr. Bartman, the nearby property owner, who stated that the lot that was there had one home on it. The lots were split. The concern from the neighbor's perspective is that the concept of taking a large lot and taking it to the minimum size of two lots with large homes constructed is not typical of the structures in the City and it is not desirable to have small lots with over-sized homes close to each other. It doesn't fit with the general look of the community and this section of Wolf Road. If there is some problem or someone is deprived because of the nature of the property from building a home on the lot, a variance is appropriate. If it is a design issue, or wanting to save money, that is not where variances come into play. That is not a practical difficulty. The burden of proof is on the applicant to prove practical difficulty according to the building codes of the City and the State of Ohio. There have been no reports that the variance that is requested is necessary. That is the job of the Board of Zoning Appeals to be sure that variances are granted when appropriate and the burden of proof is on the applicant.

Mr. Norton stated that he does not agree that there is an injustice being done to the City in carving this lot into two lots. There are two factors at work here. The lot is different than the norm, based on topography. The request is reasonable and relatively minor. The property that abuts this property, shown as Lot B, is owned by Manual Glynias, who has expressed in writing that he has no objection to the variance requests.

Mr. Burke commented that the case law is such that the larger the variance asked for, the greater the burden is on the applicant. Looking at the size of the structure proposed and the overall lot, the area of the variance for the north/south length of the master bedroom, does not seem significant size-wise considering the overall size of the lot and structure. It seems to be in line with typical variance requests.

Motion by Burke, second by Tyo, that the property located at 29495 Wolf Road be granted a variance of 4 feet, 3 inches from the cumulative sideyard requirements. The amount of the variance should be limited to 21 feet along the north-south face of the master bedroom on the plans submitted to the City.

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

Motion passed 6-0.

Peter Liatti **29110 Lincoln Road**	**C.O. 1153.03 Variance to exceed the side-yard setback to 30% total sideyard by 2 feet 2 3/8 inches. Yard= 74 feet width. House Design 54 feet. Thirty percent rule says House can be a maximum of 51 feet, 9 5/8 Inches wide**

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

Mr. Norton stated that this appears to be a situation where the minimum of ten feet is met on both sides of the structure. In order to get a 21 ft. width to the garage, the variance requested is from the 30% sideyard requirement. There has been no objection received from neighbors. Mr. Norton noted that the ordinances read 25% total sideyard for many years. A change was made a few years ago that went from 25% to 30% total sideyard because some of the homes were being constructed very close together.

This request keeps the spirit of the correction made, in that both side yards meet 10 feet.

Motion by **Burke,** second by **Bruno,** that the property at 29110 Lincoln Road, be granted a variance to the requirements of C.O. 1153.03 of 2 feet, 2 3/8 inches from the cumulative sideyard requirements provided that the variances along the west side of the building be limited to the 28 feet depth of the garage.

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

Motion passed 6-0.

There being no further discussion, the meeting adjourned at 8:16 p.m.

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Jack Norton, Chairman Joan Kemper, Secretary