

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held May 21, 2015

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

Not Present: Mr. Campbell

Also Present: Law Director Ebert,
John Cheatham, Chief Building Official, SAFEbuilt, Inc.

Audience: John D'Amico, Pam Clark

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 Bruno to approve the minutes of the meeting held May 7, 2015, as prepared and distributed. **Motion passed 6-0.**

Mark Boland
28030 Oakland

**C.O. 1163.05 (e) Variance to construct
5 ft. fence in rear yard – continued from
May 7, 2015**

The application of Mark Boland will remain tabled until further word is heard from the applicant.

Alan Schurra
623 Yarmouth Lane

**C.O. 1163.05 (F&H) variance for sideyard
privacy fence from 4' high to 6' high**

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

Mr. Norton advised that a communication has been received from Kevin Kelly objecting to the granting of a variance in regard to this application. The email objection sent Tuesday, May 19, 2015 states that Mr. Kelly is the only homeowner that this variance affects and he is opposed to the amount of fencing.

Mr. Norton asked Mr. Schurra if a variance was granted for the air conditioning unit that is located on the side of his property. Mr. Schurra stated that he does not know if a variance was granted to locate that unit which is approximately 18 inches from the property line. The intention of the fence is to shield the view of the neighbor's property. Mr. Norton asked if this could be accomplished with year-around planting. Mr. Taylor stated that plantings would provide a more preferable view for the Schurra's than a fence.

Mr. Tyo explained that a variance stays with the property forever. Except in rare or unique cases, a 6 ft. privacy fence, beyond what is permitted by code, in Bay Village is rarely approved. The photos indicate the garbage cans of the neighbors being in the sight-line of the Shurra's. By city ordinance, the garbage cans are to be located in the rear of the property. Mr. Schurra noted that his property is in the process of being landscaped professionally and he and Mrs. Schurra would prefer the fencing.

Mr. Norton explained the intent of City Council to keep the appearance of park-like neighborhoods in restricting the size of 6 ft. privacy fence to 32 feet in one direction and 10% of the perimeter of the lot.

Mr. Cheatham suggested that Mr. Schurra notify the Property Maintenance Inspector of the City of Bay Village of the storage of the garbage cans on the side of the neighbor's property.

Motion by Bruno, second by Taylor to grant the property at 623 Yarmouth Lane a variance to C.O. 1163.05 (F&H) for a privacy fence exceeding the maximum of 32 feet in one direction and the 10% perimeter total of the lot.

Vote resulted: Yeas – None

Nays – Bruno, Burke, Dostal, Norton, Taylor, Tyo.

Motion denied.

**Michaeline Groomes
559 Kenilworth Rd.**

**C.O. 1359.01 Air Conditioning System
on south side of property by fence**

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

Mr. Norton noted that there is currently 7 feet from the house to the neighbor's driveway, which is assumed is the neighbor's property line. Mr. Jeremy Tinney of Stack Heating and Cooling Company stated that they are requesting this variance because the back yard is concrete patio landscaping. The initial thought was to put the unit on the back right corner but he was informed that they have to be 10 feet from the corner of the house.

Mr. Norton stated that the small lots are common in the neighborhood. Mr. Cheatham stated that the requirement is 10 feet from the property line, not from the corner of the house.

Mr. Tinney noted that the neighbor has no problem with locating the air conditioning unit on the side of the house. Discussion followed concerning the placement of the air conditioning unit behind the fence that is protruding out from the side of the property.

Mr. Tinney, on behalf of the owner of the property, amended the request for a 5 ft. variance from the 10 ft. side yard setback to locate the unit behind the fence.

Motion by Burke, second by to permit a 3 ft. variance, if necessary, from the 10 ft. side yard setback requirements to permit placement of an air conditioning unit on a plane behind the rear elevation of the home, and to be blocked from view of the neighbor and the street, either by the fence that is currently there or if that fence should be removed, by some other natural or artificial barrier, subject to further determination by the Building Department as to the necessary distance from the fence and from the house for safety purposes, and provided that a sound blanket be added to the unit.

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

Motion carried 6-0.

Timothy VanNewhouse
28027 Sites Road

C.O. 1163 Requesting one foot variance to
allow additional privacy and security

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

After considerable discussion and review, Mr. Norton advised that the Board has been unable to find a unique feature of the property. Mr. Bruno stated that in addition to those unique features described by Mr. Norton that would qualify the property, the grade of the property would also be considered.

Mr. Norton advised Mr. VanNewhouse that he is permitted to have a 5 ft. high fence for a distance of 32 feet in one direction, and the total of 6 ft. high fences can only be 10% of the perimeter, which is 38 feet for this property.

Mr. Bruno suggested using the permitted allowance of fencing higher than that permitted by code at the rear or south line of the property where new construction was done. Mr. Burke noted that if future plans include constructing a garage in the rear portion of the property, the width of the garage would provide the privacy desired.

Mr. VanNewhouse withdrew his application and will proceed with a 4ft, 4 inch fence which is within code, and possibly 32 feet of 6 ft. fence.

Pamela Clark
420 Kenilworth Rd.

C.O. 1149.01 – 4” sideline variance for a
detached 14’x 20’ gable garage

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

Motion by Dostal, second by Burke, that the property at 420 Kenilworth Road be granted a four inch sideline variance to the requirements of C.O. 1149.01 for a detached 14’x20’ gable garage, per the plans submitted.

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

Motion carried 6-0.

Greg Flanik
379 Huntmere Rd.

C.O. 1163.05 (H) 6 ft. privacy fence

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

Mr. Burke advised that he had difficulty determining from the drawings what the variance is that is being requested. Mr. Flanik stepped forward and explained the drawings in further detail.

The property owners are asking to install 6 ft. high fence across the back property line for a distance of 38 feet. Mr. Norton noted that this is a very minor variance request.

Motion by Bruno, second by Tyo to grant a variance to C.O. 1163.05 (H) of 6 feet to construct a 6 ft. high privacy fence along the rear property line for a distance of 38 feet in total, per the plans submitted.

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

Motion carried 5-1.

Steve and Melissa Wank
24860 Sunset Drive

C.O. 1153.04 Rear Yard Setback for a small portion of the home and an elevated deck.

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

Architect for the Wank's, Mr. Stephen Schill presented a colored drawing of what is being proposed for the allotment on Sunset Drive. The darker green areas on the drawing are the areas that are projecting into the rear yard setback. The larger, shaded green areas are an elevated deck proposed off the back of the house for outdoor living space. The neighbor immediately to the east has a rear, elevated deck, as shown in photographs provided by Mr. Schill. Both homes are built directly on the property lines.

Mr. Norton noted that the lots in this area are unique in that they once were cottage lots that have now become home lots. The area has many unique building situations that have occurred to accommodate those lots. The elevated deck will remain open underneath.

Further review and discussion followed. Mr. Burke expressed concern about the deck going so far back because the other house is so close to the property. The deck on the second floor will be

looking right into the windows of the neighboring property. Mr. Tyo noted that this is the uniqueness of the neighborhood. Mr. Norton suggested that because there are multiple areas and the dimensions vary with the angle back, a motion for approval include the date of the drawing which show clearly the setbacks.

Motion by Burke, second by Dostal, to approve a variance to the property at 24860 Sunset Drive from the rear setback requirements of Codified Ordinance 1153.04 for the construction of a home and a two story deck, provided that the variance shall be limited only to those areas shown in need of such variance on the drawing submitted with the application, the drawing being numbered SB 1 dated May 1, 2015, and revised May 5, 2015, and further provided that the deck shall at no time be enclosed either on the main level or second floor, and that the fencing around the deck shall be of an open design, all as approved by the Building Department.

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

Motion carried 6-0.

There being no further items to review, the meeting adjourned at 8:35 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary