

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held August 6, 2015

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

Absent: Mr. Burke, Mr. Taylor

Mr. 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 Bruno, to approve the minutes of the meeting held July 16, 2015 as prepared and distributed. **Motion passed 5-0.**

Jerome Dowling  
25001 Lakeview Drive

**Continued from July 9, 2015**

C.O. 1153.03 and 1153.04 Variance  
of minimum side yard and minimum  
Rear yard requirements

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

Mr. Dowling stated he is here to redesign his original proposal so that an increase will not be added to any of the existing non-compliance on the property. The line of the side porch will be used for the extension, and the extension will be no farther towards the street than the side porch line. The original plot plan was submitted, showing that the end of the side porch to the street is 7 feet. Mr. Dowling stated that his interpretation of the code is that if the line is 6 feet or under a variance is not required.

Mr. Norton stated that based on the width of the lot, he is unsure as to how it would apply to the 30% requirement, but as far as the minimum sideyard in a narrow lot like this, 6 feet is the right dimension. The plot plan shows 7 feet to the porch bump-out, but the deck is structure, so from the chimney out would reduce that 7 feet. The 7 feet would become 4 feet, because the deck is now part of the structure.

Mr. Norton stated that what he understands is that the proposal is to add 16 inches to the east side of the existing front deck, and striking that line to go straight back to tie the two decks together. Mr. Dowling agreed. Mr. Norton further explained that the request would read to the effect that Mr. Dowling wants to put a 16 inch extension on the existing deck to make the structure on the east side to be 36 inches east of the chimney. Mr. Dowling agreed, and stated that would align with the existing east end of that small deck and would not exceed that existing structure.

Mr. Norton noted that a variance was granted in 1985 for a 3'4" sideyard variance, and that variance was tied to the ordinance at the time, which had a minimum of 5' sideyard variance. Currently that would require a minimum of a 6' variance. This would reduce that by 16 inches. The other part of the request is to extend north the existing deck by 4 feet. Mr. Dowling stated that is correct. The Board will take these as two separate requests. The first request will be for 16 inches from the east side of the existing deck, making a total on the east side of 36 inches from the chimney, as shown on the revised print submitted and signed by Mr. Norton.

Mr. Regis Garrity, 328 Forestview, spoke in opposition to the variance requests, stating that the requests, if granted, may result in blocking the view of kids riding around the corner on bicycles. Mr. Garrity presented photographs of the area to support his opposition. Mr. Dowling explained that the design of the proposed deck would not change the view of people coming around the corner, as demonstrated by the angle of the deck at the northeast corner.

Further review and discussion followed.

**Motion** by **Tyo**, second by Dostal, that a variance to the property at 25001 Lakeview be granted for an addition of 16 inches on the east side of the property, for a total of 36 inches from the chimney as shown on the signed plan.

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

**Motion carried 5-0.**

Mr. Dowling requested the variance for the second item to be a 24 inch variance. Mr. Garrity again expressed opposition.

Mr. Bruno noted that not included in the discussion this evening, but included in previous discussions, are the engineering plans underway currently for a permanent road in the neighborhood. Mr. Dowling stated that this has been taken into consideration in the drawing of his plans.

**Motion** by **Tyo**, second by Dostal, to grant a 24 inch variance to the north side of the property at 25001 Lakeview Drive, per the signed drawing submitted by the applicant.

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

**Motion denied 3-2**

Elias Fernandez  
30648 Wolf Road  
**Continued from July 9, 2015**

C.O. 1141.04 Special Permit for Accessory  
Building

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

Mr. Norton stated that the grill area is not shown on any of the documentation. The roof of the outdoor kitchen area is estimated to be 8' x 10'.

In 2006, the Fernandez' applied for the pool permit. At that time, they were told that they needed a variance for the pool house. The Building Director overrode that and included the pool house as a standard, accessory use of a pool. A building permit was granted for the pool house/cabana area and the pool. Also, at that time, the ordinance for swimming pools said that a fence surrounding the pool could be installed at a height of 6 feet. The way the ordinance was written, at that point in time, a 6 ft. fence could be installed around the entire property. Shortly thereafter, the ordinance was changed to not include any part of the driveway, in order to provide a safety enclosure around the swimming pool itself. Mr. Norton noted that the Fernandez lot is very large, and stated that the Law Director may rule that the Fernandez' fence is grandfathered.

Mr. Norton advised that part of the mandate of the Board of Zoning Appeals under Section 1127.04 is that the BZA can take into consideration health, safety and general welfare. Mr. Norton also recognized the existence of an over-sized shed in the rear yard, 100% larger than normal. The structures being requested are a little over 400 square feet. The grill, or kitchen area will be counted as a structure area. The pool house doesn't count because it came in with the pool. A variance is needed for the new structure. It probably is not an unreasonable request given the nature of it (open sided), and the unusually large lot. Mr. Norton requested that Mr. Fernandez consider a trade to upgrade the safety level of the pool. The proposal of the BZA would be for Mr. Fernandez to install a fence, at least 4 feet in height, not more than 4 feet, 4 inches high, that it be at least 50% open, and that it surround the pool area in a fashion that is acceptable to the Building Department.

Discussion followed. Mrs. Fernandez stated that a fence inside the fence would cut the yard in half. Mr. Fernandez noted that there is a variance on file for the existing fence. Mrs. Fernandez asked why this same consideration is not applied to the municipal swimming pool.

**Motion** by **Dostal**, second by Bruno, to table the issue of Elias Fernandez' request for a special permit pertinent to Codified Ordinance 1141.04 until a determination is made by the Director of Law regarding the fence.

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

**Motion carried 5-0.**

**Stephen and Melissa Wank**  
**24860 Sunset Drive**

**C.O. 1360.10 Variance to build home on**  
**property with abandoned, plugged,**  
**Capped, and vaulted gas well**

The application of Stephen and Melissa Wank has been withdrawn at the request of the property owner.

**Mike Ronan**  
**28729 Osborn Rd.**

**C.O. 1149 Variance to construct utility shed large enough to hold tractors and other yard equipment**

Mr. Norton stated that the Board has had an opportunity to visit the site and review the application, and commented that the Ronan's have a huge barn in their backyard. It brought into the question as to why they would like to have an oversized utility building.

Mr. Ronan advised that he has two cars in the barn and cannot fit the outdoor yard equipment he would like to store.

Mr. Norton noted that the ordinances only allow slight modifications based on special circumstances. If those circumstances cannot be found, the Board is, in effect, rewriting the laws. In this particular case, the Board is unable to find that the Ronan's circumstances are unique. Mr. Norton noted further that the Ronan's are entitled to erect a shed of the approved size of 10' x 12', without a variance.

**Motion** by **Tyo**, second by Dostal, to grant a variance to the property at 28729 Osborn Road, per Codified Ordinance 1149, to construct a utility shed of 10' x 16'.

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

**Motion denied.**

**Richard Stark**  
**23803 Knickerbocker Rd.**

**C.O. 1163.05 variance for fence height**

Mr. Norton stated that the Board has had an opportunity to visit the site and review the application. He noted that the Knickerbocker property of the Stark's has multiple unique circumstances, due to the railroad tracks behind the property, the bridge almost adjacent, and the utility building across the street. The height of the existing fence along the driveway between the Stark property and their neighbor to the west is 4'9" to about 5'10".

**Motion** by Dostal, second by Tyo, that a variance pertaining to Codified Ordinance 1163.05 be granted to the property at 23803 Knickerbocker Road to allow the existing fence to remain, the fence height being 4'9" to a maximum height of 6 feet.

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

**Motion passed 5-0.**

**Rick Fragnoli**

**C.O. 1153.03 and 1153.04 Variance to**

**31424 Lake Road**

**extend shed and deck**

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

After a lengthy dissertation by Mr. Fragnoli regarding his experience with a contractor who allegedly was working with a fraudulent permit, Mr. Norton relayed his recollection of the previous experience with this property. He stated that the last request included a statement that the 3-foot wide walkway is paving, and the Board did not have a problem with the paving as a ground-level walkway. The Board of Zoning Appeals was not comfortable with granting a variance to extend the deck on the north side, due to the fact that the land is commonly owned by the Eagle Cliff Association. Mr. Fragnoli is unable to find any record of the association. The matter will be referred to the Law Director for his opinion as to whether the Board of Zoning Appeals can grant a variance to the north side of the property for the extension of the deck.

**Motion by Bruno**, second by Dostal, to grant a one foot variance to the property at 31424 Lake Road from the sideyard setback for the cold storage construction as proposed and submitted per the drawing and application.

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

**Motion carried 5-0**

Prior to adjourning, Mr. Norton stated that there is a property at 31418 Lake Road, owned by Mr. Gene Barry. The Board denied a request to Mr. Barry for an expansion to the front of his home. It has been noted that the amount of paving in the front substantially exceeds the 40% requirement. It was stated that he had received a permit from the Building Department. The Building Department will be asked to review the 40% requirement.

There being no further items to review, the meeting adjourned at 9:00 p.m.

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Jack Norton, Chairman

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Joan Kemper, Secretary