

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held October 1, 2015

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

Also Present: Law Director Ebert

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 Taylor, to approve the minutes of the meeting held September 17, 2015 as prepared and distributed. **Motion passed 7-0.**

**Richelle Bell**  
**26624 Jefferson Court**

**C.O. 1359.01(A) Air Conditioner**  
**Unit on side of home**

Mr. Taylor recused himself from this matter and left the room while the hearing proceeded.

Mr. Norton advised that the Board has had an opportunity to visit the site and view the application. The unit is a replacement for a unit that was originally installed in the same location in the year 2000. Mr. Norton suggested additional screening from the street view.

**Motion** by **Dostal**, second by Tyo, that a variance be granted to the property at 26624 Jefferson Court pertaining to Codified Ordinance 1359.01 (A) for the installation of an air conditioning unit at the existing location of the previously used air conditioning unit and that screening and sound blanket be provided, if not included with the air conditioner.

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

**Motion carried 7-0.**

**Clifton L. Bennet**  
**26721 Normandy**

**C.O. 1141.04 (E) Dog Hosting**  
**Business in Home**

Mr. Burke stated that if this is determined to be a home occupation, no variance will be required. If it is determined that it is not a home occupation, a variance will be required as a use.

Mr. Norton asked Law Director Ebert why this matter comes before the Board of Zoning Appeals. Mr. Ebert stated that he suggested to SAFEbuilt, Inc. that maybe it should come to Legal for

interpretation because on the basis it doesn't appear to be a home business. A home business in the past has been doctors seeing patients, accountants, attorneys, etc. Mr. Ebert stated that what prompted this application was a neighbor complaint.

Mr. Burke stated that he would like to get an opinion from the Law Department as to whether this is the type of occupation, based on case law, that would normally come under the customary home occupation exception, and whether we then would consider a special permit. Mr. Campbell asked if the permit would stay with the property or would be exclusive for the life of the business at that property. Mr. Burke stated that if it is determined that this is a customary home occupation that is the end of the issue. If it is determined that it is not a customary home occupation, it will be heard by the Board of Zoning Appeals.

Further review and discussion followed.

Mr. Norton commented that if this is providing a service to the community, that it is a matter more of scale. The Board is allowed to place conditions on the variance. The Board would have to determine what is reasonable.

Mr. Burke asked Mr. Bennet the following questions:

1. Do you reside full time at the property?

Mr. Bennet: Yes.

2. Presumably there are times when you have to be away from your property for shopping, etc., to insure the well-being of the dogs that are there, what do you do to cover that?

Mr. Bennet: A lot of the dogs are becoming repeat dogs so I know them very well. Once it is determined that the dogs are all compatible, they are in the home like they would be as a pet. I would not go away for a weekend if I were hosting dogs.

3. Mr. Bruno asked what Mr. Bennet would do in the event of an emergency?

Mr. Bennet: I have nephews and nieces in Bay that would back me up, as well as good friends who are very good with dogs.

Mr. Burke resumed the questioning.

4. Do you have anyone to help you out as far as walking, bathing and grooming the dogs?

Mr. Bennet: No that is everything I do. I take the dogs for a walk.

5. In the year and a half that you have had this in your home, have you employed anybody on an hourly basis?

Mr. Bennet: No. I do not want to have any mistakes.

6. If you have a dog staying in your house and there is a problem, do you take the dog to the vet?

Mr. Bennet: Yes, I have done that.

7. In the application that you filed, you indicated that you are an employee of two web sites?

Mr. Bennet: Doggie Day Care and Rover.com. Would you call that an employee?

8. These are online referral services, are they not? And, you maintain a presence through them online?

Mr. Bennet: That is correct.

9. You have a description of yourself, your premises, and what your charge rates are. Do they then take a deposit, take their referral fee out of that and remit the balance to you?

Mr. Bennet: Yes, once a reservation is accepted, the charge is made at that time and it goes into their coffers. Two days after the dog leaves, they will make a transfer into my PayPal account, less their fee.

10. If I get too much into your private business, tell me and I will stop. Do you have to pay them for taking care of a dog from someone who comes to you directly, or do you only pay on a referral basis that comes from their website?

Mr. Bennet: I did not have anybody go direct and one of the reasons I stay with them is because they provide insurance. If the dog has an accident or get injured then that is taken care of. Would I take dogs from outside? I guess I would. I take my niece's dog.

11. Some of the complimentary things you included with your application, these were your neighbors and would you also have them go through the service?

Mr. Bennet: I would because of the insurance.

12. You will do some bathing of dogs and grooming of dogs on site if it is necessary while they are staying there?

Mr. Bennet: If it is necessary.

13. You do have a price list of services on line?

Mr. Bennet: That is correct.

14. Do you sell any kind of products to your dog owners?

Mr. Bennet: No. Down the road, it may be that they buy pictures of their dogs.

15. Your web presence is through those two sites, or do you have a separate one?

Mr. Bennet: The business is brought in through those two sites. I build web sites, I have a web site that parents can look at pictures of their dogs. Larrybennet.com

16. Generally speaking, the dogs have the run of your house just like your own dog does?

Mr. Bennet: Yes, there are a couple of bedrooms that I don't let them in, but they generally are around my feet in my office when I work.

17. Did you have to make any alterations to your house or business?

Mr. Bennett: I did not.

18. In your application you mention you host dogs or you babysit dogs. As I understand the definition in the dictionary this would be considered a dog kennel, would it not?

Mr. Bennett: I would want to take exception to that because it is directly me and them. In my opinion a kennel takes whatever dogs come, which I don't do. I do a meet and greet and even have a test night if I am suspicious of the dog. A lot of dogs are repeat.

19. Do you keep them overnight?  
Mr. Bennet: Yes.

Mr. Burke stated that Webster's Dictionary defines a kennel as a place for breeding or boarding.

**Motion** by Burke, second by Bruno to table the matter of the Dog Hosting Business in the home of Clifton L. Bennet, 26721 Normandy Road, until November 5, 2015, or until such time as the Law Director has time to research the matter further, and to learn of the restriction by city code of the number of animals permitted in a home. Also, to request from the Police Department by memorandum, their procedure regarding barking dog complaints.

Mr. Bennet stated that he keeps the dogs indoors when he is not at home with heat or air conditioning on and the windows closed. A further extent is a bark collar that deters a dog from barking.

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

**Motion carried 7-0.**

**Gene Barry**  
**31418 Lake Road**

**C.O. 1153.02 Front Yard Setback**  
**for Utility Room Addition**

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

Law Director Ebert stated that Mr. Barry's previous application was denied. Mr. Barry met with Law Director Ebert and Building Official John Cheatham and discussed reducing the amount requested for a variance.

Mr. Burke stated that as he understands the required setback is 50 feet, according to code. The last request was for a 24 ft. variance from that setback requirement. With this application, Mr. Barry is requesting a 22 ft. variance. Mr. Burke stated that when this was discussed the last time it was noted that the property is very densely built already, and a previous variance had been granted on a setback for the garage. The consensus of the Board of Zoning Appeals, when the last request was presented, was that the property was already dense enough. The presentation tonight is not a significant difference from the previous request. Mr. Bruno expressed agreement.

Mr. Barry stated that the problem is that in order to get into the house the door hits the column and the bush. They want to put up a man door that can be functionally opened. When the home was built originally, the architect did not allow for the door opening.

Mr. Norton stated that the problem is Mr. Barry started with a very tight lot, with restrictions on the back. When the property was built, that was known. The house is of such a size that it already crowds the lot. That is one of the reasons a variance was granted for the garage that was allowed to be built into the front yard setback. This is continuing to overbuild a lot that started out tight. The City didn't make it that way; that is the way the lot was plotted. If you overbuilt the lot, we cannot establish the kind of precedent that we would by continuing to allow this to get tighter and tighter.

Mr. Barry stated that the width of the house has not changed since 1964. The only thing they did was come out front. Mr. Bruno stated that the Chairman's comments were to the way the home was built in 1964. It was overbuilt to begin with.

Mr. Tyo stated that Mr. Barry added a garage; he does not consider that overbuilding. Mr. Norton stated that they did allow the garage to be built, recognizing the need for a garage on any property, and at the same time allowed the other side to be a storage addition.

Mr. Norton stated that when Mr. Barry purchased the home he had to know it was overbuilt and there were restrictions on the back yard. The City is being asked to set a precedent in granting this variance.

Mr. Burke stated that the home maximizes the size of the lot with very little room which would make a purchaser on notice that to add on there may be an issue.

Mr. Norton asked if the need is to expand storage. Mr. Barry stated that it is to expand storage, so that he can get two cars in the garage. Mr. Norton stated that the Board has already gone beyond allowing construction in the front yard setback, and it going against the spirit of the reason for the front yard setback to allow more because somebody wants more storage.

Mr. Tyo stated that he understands Mr. Norton's thinking, but he is looking at it from the standpoint of this extension won't come out as far as the first one that has already been allowed. He is not concerned with precedent as he would be if there were nothing on the other side of the house.

Mrs. Barry commented about the fact that they cannot open the door. Mr. Norton stated that there is an existing overhead door. If a man door is needed, it can be put where the window is.

Further review and discussion followed. Mr. Norton suggested the door be changed to an inswing door, or the door put on another wall. Variances have already been granted to allow for additional storage and to allow a substantial garage addition. It is continuing to overbuild the lot without just cause.

Mr. Tyo brought forth a similar case for a home on Lake Road (Ahern property).

After considerable discussion, the application of Mr. Barry was tabled and he will resubmit a new application for the meeting to be held November 5, 2015. The Secretary will research the records to learn what occurred with the Ahern property.

Board of Zoning Appeals  
October 1, 2015

There being no further items to review, the meeting adjourned at 8:30 p.m.

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Jack Norton, Chairman

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Joan Kemper, Secretary