

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held June 2, 2016

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

Also Present: Jeff Fillar, SAFEbuilt, Inc.

Audience: Martha Welch, Bob Lewis, NEO Fence Company.

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 Bruno, to approve the minutes of the meeting held May 19, 2016 as prepared and distributed. **Motion passed 7-0.**

Martha Welch
27016 Osborn Road

Objection to proposed fence
for neighbor at 27026 Osborn,
Per Codified Ordinance 1303.06

Mr. Norton advised that the Board of Zoning Appeals has had an opportunity to visit the site and review the application. He suggested two possibilities: one is to keep the fence in a straight line and let the fence die with a dead man panel at the last post before the tree, cantilever out the fence and restart it after the tree. Mr. Lewis stated that it would be difficult to do this with a vinyl fence. Mr. Miller suggested starting the posts relatively tight to the tree and working out from there. Mr. Lewis stated that it would be almost impossible with the roots of the tree. The possibility of a gate to access the area enclosed by the notch proposed on the plans was discussed. It was noted that the fence is needed to keep in a small dog.

Martha Welch, 27016 Osborn, expressed her objections to the installation of the fence in the way it is proposed, explaining that maintenance of the fence will require her neighbor to use Ms. Welch's backyard. Mr. Miller asked Ms. Welch how she would feel about having a gate at the notch area so that the neighbor would have access to maintain the tree. Considerable discussion followed. Mr. Norton explained the way to install the fence along a straight line to the contractor, to avoid having the notch at the tree. Mr. Bruno cited an example on Russell Road where there is a fence that is installed the way Mr. Norton is suggesting.

Mr. Fillar of SAFEbuilt, Inc. commented that according to the State of Ohio, if there is one percent of a tree on your property, you are fifty percent owner of the tree. Secondly, it appears that there are two options. If the contractor doesn't want to do a dead-man panel on a vinyl fence, the other

option that can be worked with more easily is wood. Ms. Welch agreed that the ideal solution would be to have the fence in a straight line as described.

Finding of Fact

Mr. Burke stated that in connection with the appeal by Martha Welch, 27016 Osborn, of the design of the proposed fence at the property at 27026 Osborn Road, Bay Village, he **MOVES** that as a matter of Finding of Fact, the Board of Zoning Appeals finds that the fence as proposed with the bump-out around the tree would substantially injure the existing use or value of the neighboring property at 27016 Osborn Road, as that phraseology is used in Section 1303.06 (c) of the Codified Ordinances of the City of Bay Village, and as a result the Board of Zoning Appeals finds that the appeal of the granting of a fence permit should be granted. The motion was seconded by **Mr. Bruno**. A vote of Yea will uphold the appeal filed by Martha Welch.

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

Motion carried 7-0.

The meeting adjourned at 8:10 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary