

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held August 18, 2016

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

Also Present: Jeff Grassi, SAFEbuilt, Inc., Law Director Ebert, Councilman Marty Mace, Councilman David L. Tadych

Audience: Dick Majewski, Kit Newell, Fred Brenneman, Mary Slaman, Lydia DeGeorge, Juliann and George Dunn, Rachel and Sean Meaney, Joni and Doug Norris, Clifford and Star Charvat, Jenny Hartzell, Richard McLendon, Mike Fawcett, Kevin Moriarity, Greg Goray, Gordon and Marie Hess, Matt and Laura Saal, Katy and Paul Sutherland, Jane Miller, M. Walsh.

Chairman Norton called the meeting to order at 7:30 p.m. Mr. Norton called for approval of the minutes of the meeting held August 4, 2016. **Motion** by Dostal, second by Bruno, to approve the minutes of the meeting of the Board of Zoning Appeals held August 4, 2016 as prepared and distributed. **Motion passed 7-0.**

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.

**Matt Ullom (continued from 8-4-16)      C.O. 1149 – 2 story 2 ½ car garage**  
**403 Longbeach Parkway                      22' high, plus adjacent to garage parking**  
**spot**

Mr. Norton stated that he does not think the Board of Zoning Appeals can review this matter further this evening because one of the requirements is that the detached garage occupy 30% or less of the rear yard. It is assumed that the rear yard starts at the point behind the existing attached garage. Mr. Ullom stated that it actually starts at the house because the attached garage is falling apart. This is the reason they are building another garage. Mr. Norton asked if the attached garage is to be demolished. Mr. Ullom stated that it is to be demolished, once everything is done.

Mr. Norton noted that Mr. Ullom has provided no calculation of the rear yard. Without these dimensions, the Board cannot address the 30% allowance for the garage. Mr. Norton added that the Board has no idea of the height of the proposed garage.

Mr. Taylor commented that the plans are for a three-car detached garage. Mr. Ullom stated that it is actually a two-car garage with a side port for a boat. Mr. Taylor noted that the plans also indicated a stairway leading to the second level of the garage. It also clearly indicates a full pad going across the front of the garage.

Mr. Norton stated that it is difficult for the Board to determine the nature of the request to the extent of making a judgement. Mr. Ullom stated that the floor plans show a 9 ft. height on the first floor and 8 ft. on the second floor. The height falls under 20 feet. The illustration shown with the new plans shows the style of the garage to be constructed.

Mr. Burke stated that the Board cannot determine from what has been submitted if a variance for the height of the proposed garage is needed. An actual scale elevation will need to be submitted to make that determination.

Mr. Ullom stated that the company that the garage is being purchased from is the exact same company that the Board of Zoning Appeals passed a variance for the Davenport garage on May 3, 2012. That garage was 21 feet in height.

The Secretary retrieved the minutes of the Board of Zoning Appeals meeting held May 3, 2012 for reference. The actual variance was for two feet of the height of the garage located on the Davenport property at 361 Longbeach Parkway. The Davenport garage backs up to park property.

Mr. Burke asked Mr. Ullom to show the measurements of the rear yard from the back of the house so that the Board can determine the 30%. Mr. Ullom stated that the Davenport property exceed the 30% requirement as well. The Davenport home is about 1½ times the size of the Ullom home.

Mr. Burke asked Mr. Ullom to submit through the Building Department the necessary information for the next meeting:

- Scaled Drawing showing the Height of the Proposed Garage
- Dimensions of the rear yard taken from the back of the property in order to clarify the 30% rule.
- Overall size of the Garage Structure\*

\*For the size of the Ullom home, 600 square feet is permitted.

Mary Slaman, 411 Longbeach Parkway, stated that she is the next door neighbor to the Ulloms and she does have comments regarding the variance request.

Mr. Norton noted that based on the size of the Ullom home, Mr. Ullom is asking for a considerable increase in garage size. Mr. Ullom stated that they do not necessarily need the port that was designed for boat storage. Mr. Norton asked if the old garage will become part of the home. Mr. Ullom stated that eventually they will tear down the old garage, make it smaller, and build a fourth bedroom upstairs. The house will increase in size within the next year and one-half.

Mr. Ullom stated that he would be interested in hearing the comments from the neighbors regarding any issues that they might have. Mr. Norton stated that the answers to the questions presented by the Board might affect how the neighbors may feel. He asked Mr. Ullom to keep in mind that the neighbors do not make the decision. Whether the neighbors are in favor of something or not in favor of something is taken into consideration to a certain extent. The mission of the Board of Zoning Appeals is not to make everyone in the neighborhood agree on something. The mission of

the Board of Zoning Appeals is to grant variances to ordinances in a small enough sense to allow slight variations to the ordinances established by City Council to permit construction.

Mr. Burke noted that Mr. Ullom is asking for a variance of 336 feet to the 600 square feet permitted for the attached garage. The Board of Zoning Appeals must be careful not to grant variances of such a large nature that they are not respecting the intent of the Council when the legislation was passed.

**Motion** by Burke, second by Dostal, that the request of Matt Ullom, 403 Longbeach Parkway, be continued to the next regularly scheduled meeting in order for the applicant to provide additional information to the Board of Zoning Appeals.

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

**Motion carried 7-0.**

**Edward Pavicic**  
**580 Humiston Road**

**C.O. 1153.03 2.6% Sideyard Setback**  
**Variance**

Law Director Ebert stated that this matter was withdrawn by the applicant at the meeting held August 4, 2016. After that meeting, the attorney for the applicant contacted Mr. Ebert and wanted it placed back on the agenda so that the Board could vote on the motion that was presented at the August 4 meeting.

Mr. Ebert stated that the intention of the applicant is that the lot to the north of 580 Humiston will not be built on in order to annex the number of square feet that needs to be added to 580 Humiston to make the lot legal for the current house that is built on the 580 Humiston Lot. The proposal is to donate the remnants of the lot to the north of 580 Humiston as a park. While that sounds like a good idea, the discussion is that the City is not in the market to maintain the property. If the Board of Zoning Appeals will take their motion under advisement tonight, the builder will have to consolidate some portion of the north lot to the existing lot at 580 Humiston in order to make it a legal lot in relation to the square footage needed for the sideyards. After that takes place, the builder will not need a variance on the home at 580 Humiston. However, the residents have filed their objection on the intent to build for both the north lot and the south lot to the property at 580 Humiston. The objection to the south lot would remain.

Mr. Ebert advised the Board of Zoning Appeals to vote on the motion introduced at the meeting held August 4, 2016, regarding the property at 580 Humiston Road.

The Secretary read the motion introduced at the meeting of the Board of Zoning Appeals held August 4, 2016:

“In regard to the issuance of the variance, Mr. Burke **MOVED**, second by Dostal, that the property located at 580 Humiston Road be granted a variance from the total 30% sideyard requirements of

Codified Ordinance 1153.03 (1), a variance not to exceed 14 inches from that 30%, so as to allow the building as built.”

Mr. Miller noted that he was not in attendance at the August 4, 2016 meeting, and asked if he is permitted to vote on the motion as read this evening from the minutes of August 4, 2016. Mr. Norton confirmed that Mr. Miller has had an opportunity to review the minutes of the meeting held August 4, 2016, and was present at previous meetings when this matter was discussed. Mr. Norton stated that Mr. Miller would be permitted to vote on the motion.

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

**Motion defeated 7-0.**

Mr. Norton stated that the center house (580 Humiston) cannot go forward to obtain an occupancy permit without that variance being passed. Since the variance has been turned down, the matter remains in limbo where the center house is built and is not allowed to be occupied. Based on what the builder proposes in order to remedy that situation, the only remedy before him at this point is to present an appeal to the action of the Board of Zoning Appeals in Common Pleas Court, or to add property to the center lot in order to meet the 30% requirements. Until that happens, the Board cannot hear the complaint by the neighbors to the south lot and the north lot. The objection to build will wait in abeyance until further action is taken by the builder of the property at 580 Humiston.

Mr. Ebert stated that if the builder annexes a portion of the northern lot to make the center lot at 580 Humiston legal, the matter of the objection to the northern lot will become a moot issue. At that point in time, the Board of Zoning Appeals will be notified to place the objection to build on the southern lot back on the agenda of the Board of Zoning Appeals. If the builder decides to annex property on the southern lot, the northern lot would be placed back on the agenda for the objection to build.

A resident discussed with the Law Director the procedure followed this evening to vote on the previous motion when the matter was withdrawn at the August 4, 2016 meeting. Mr. Ebert explained that the attorney for the builder had requested that the matter be placed back on the agenda this evening. Mr. Norton noted that nothing can happen on any of these three lots until further action is taken by the builder.

A resident asked how much time the builder has to make a decision on what he will do. Mr. Ebert stated that based on an email received from the builder’s attorney, they would like to meet soon to discuss the remnant portion of the lot to be annexed. There is not a set period of time for the builder to make that decision.

Mr. Miller asked if this annex of the northern and southern property would occur, is there any way for the Board of Zoning Appeals to prevent that additional property from counting as the back yard quantity. They will have more than doubled the back yard; what is to prevent them

from building a 2½ car garage and putting it back there now that they have twice as much back yard?

Mr. Norton stated that the size of the detached garage is based on the house size. The house is built so the size of a detached garage would not change. If the property is annexed, the house will be on a lot with a large side yard.

Mr. Miller asked if the Board of Zoning Appeals will have any ability to prevent them from building an accessory structure on that property. Mr. Ebert stated that Mr. Miller brings forth a good point. They could come forward based on the size of the lot.

A resident asked if Council is considering revising the rules for these 45 ft. wide lots. Mr. Ebert stated that it is preliminarily in committee. It will take some time, in consideration of property rights. Some of the discussion has been about the size of the home permitted based on the square footage of the lot.

A resident asked if there has been discussion about putting a moratorium on building permits on the 45 ft. lots while Council takes this matter under consideration.

Mr. Ebert stated that there has just been some very preliminary discussion. At the present time, City Council is considering a major improvement in the Sunset area. Most of the lots in that neighborhood are smaller lots where cottages were converted to homes.

Mary Slaman, 411 Longbeach Parkway, stated that she has information to distribute to the members of the Board of Zoning Appeals before the September 1, 2016 meeting. Mrs. Slaman was advised to deliver the information to the Secretary to circulate it to the Board before the next meeting.

**Gregory Goray (continued from 8/4/16) C.O. 1303.06 Objection to Build  
566 Humiston at 574 and 584 Humiston**

**Motion** by Bruno, second by Mr. Miller, that the vote on the objections of the neighbors to the issuance of the permits for 574 and 584 Humiston Road be tabled indefinitely until such time as the builder resolves the variance issue on the center lot.

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

**Motion carried 7-0.**

A resident asked if there has been any movement on the part of Council about establishing a residential Architectural Board of Review. Mr. Ebert stated that Council is on recess currently, but it will be a matter of discussion in the fall.

The meeting adjourned at 8:30 p.m.

---

Jack Norton, Chairman

---

Joan Kemper, Secretary