

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held August 4, 2016

Members Present: Bruno, Burke, Dostal, Norton, Taylor, Tyo (Mr. Tyo arrived at 7:50 p.m.)

Excused: Mr. Miller

Also Present: Jeff Grassi, SAFEbuilt, Inc., Law Director Ebert, President of Council Koomar, Councilman David L. Tadych

Audience: Bob and Deb Ware, Dominic Vannucci, Mary Slaman, Mike Fawcett, Doug and Joni Norris, Fred Brenneman, Kara Winter, Mary Walsh, Ed Pavicic, Robert Haller, John Suter, Juliann and George Dunn, Kevin Moriarity, Katy Sutherland, Scott Saxton, Alex and Sue Goray, Peggy Kalister, Mark Chernisky, Jim Gerace, Jenny and Chris Hartzell, Leslie Smith, Jane Miller, Cliff Charvat, Molly Hinshaw

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 Dostal, second by Bruno, to approve the minutes of the meeting of the Board of Zoning Appeals held July 21, 2016 as prepared and distributed. **Motion passed 6-0.**

Robert Ware
30106 Ednil

C.O. 1149 Variance to construct
10 ft. x 16 ft. shed

The Board has had an opportunity to visit the site and review the application.

Mr. Taylor asked if there has been any communication from neighboring property owners in regard to this request.

Mr. Norton read an email received from property owner Scott Walters, 30027 Applewood Drive, stating that he hopes the Wares will not use the area behind the proposed shed, which faces Mr. Walters' backyard, as a dumping ground for garden waste and tools.

Mr. Bruno asked if there is a rear yard measurement from the proposed structure to the rear yard property line. Mr. Norton stated that the requirement is three feet from the side and rear yard lot lines.

Mr. Burke expressed concern that the overall footprint of the request is 40 square feet larger than permitted, or a 33% increase in the size of the footprint. Mr. Burke noted that the Board must be

careful not to set a precedent in granting a variance of this size. At a similar request recently, the homeowner agreed to reduce the size of their request.

After further discussion, Mr. and Mrs. Ware agreed to reduce the size of their request to something closer to the allowable amount. Mr. Norton stated that it has also been taken into consideration that the Wares have a generous lot, and a great deal of screening between the Ware property and the property behind them.

Motion by Burke, second by Bruno, that the property located at 30106 Ednil Drive be granted a variance from the requirements of Section 1351.03 of the Codified Ordinances of Bay Village for the construction of a utility shed in their backyard, the shed not to exceed either 10' x 14' or 8' x 16' and that it conform to all other requirements of the code.

Roll Call Vote: **Yeas – Bruno, Burke, Dostal, Norton, Taylor**
 Nays – None.
 Abstained – Tyo (due to late arrival)

Motion carried 6-0.

Matt Ullom
403 Longbeach Parkway

C.O. 1149 – 2 story 2 ½ car garage
22' high, plus adjacent to garage parking
spot

The Board has had an opportunity to visit the site and review the application.

Mr. Burke stated that the drawing may not be to scale, and it would certainly help the Board of Zoning Appeals to have a scale drawing of the proposal to get a more precise idea of placement, height, and footprint in comparison to the main house. Mr. Norton stated that in addition to the drawing, they would need to know the amount to be applied to the 30% rule, e.g., what is the total square footage of the area and how that relates to the request. Mr. Ullom stated that it is approximately 13% that is being asked for a variance to the 30% total sideyard rule. Mr. Burke stated that when the scale drawings are submitted to Mr. Grassi of SAFEbuilt, Inc., he would be able to verify the percentage of the 30% rule that is being requested.

Motion by Burke, second by Dostal, that the request for a variance to the property at 403 Longbeach Parkway be tabled until the next regularly scheduled meeting of the Board of Zoning Appeals so that the applicant can provide to the City scaled drawings and the City will then verify the exact amount of the variance requested.

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

Motion carried 6-0.

Neighbors present for the Longbeach Parkway variance request will speak at the next meeting. A copy of the scaled drawing will be sent to the neighbors when it is received.

**Edward Pavicic (continued from 7/21/16) C.O. 1153.03 2.6% Sideyard Setback
580 Humiston Variance**

Mr. Bruno asked Mr. Pavicic the reason behind his making the decision for the grade, versus going with the grinder pump at this property. Mr. Pavicic stated that when they submit for a demolished house they can tie into the existing sanitary lines. They did not know the depth of that location. When they submit a site plan to replace the demolished house, it is the best guestimate of where the line is. When they have the ability not to use a sanitary pump it is what they do as long as it is within standard engineering practices. If it is in the range that is acceptable, it is what they do. One of the excavators that was on the site that day called Mr. Pavicic's office and talked to the engineer, and the engineer made the adjustment. The engineer submitted that to the City. They had a new site plan and the excavator met with the inspectors when they did the footer inspection and wall inspections.

Mr. Norton asked Mr. Pavicic if he is saying that the City knew that he was raising it. Mr. Pavicic stated that they absolutely knew and it passed all inspections. They absolutely knew it was a change; they submitted the plans. Mr. Pavicic stated that this is why he wanted his excavator here this evening because he was the one on site that had all that. Mr. Pavicic stated that he spoke with the excavator this morning.

Mr. Burke stated that it is his understanding that the grade was raised approximately 14 inches. Mr. Pavicic stated that it was raised 17 inches. Mr. Burke stated that he understands that when it was raised there was no new drawing submitted to the City showing that increase in grade. Mr. Pavicic stated that this is absolutely wrong; it was submitted.

Mr. Bruno stated that based on the minutes, Mr. Burke is representing what Mr. Bruno understands: there were no drawings submitted to that effect. Mr. Bruno asked if the City has drawings with the tie-in to the sanitary sewage lines. Mr. Pavicic stated that they are on the site plan. Mr. Pavicic stated that he believes the date was in February. There was an email sent out from his office the first week of February and the footer inspections were done February 12. He noted further that this is something that has been done with a lot of homes in Bay Village. This is the same process that has taken place in the 25 to 30 homes he built. They have made these adjustments the same way they did this one. When building permits are obtained, after the plans are reviewed, they start with the tie-ins for the sanitary and storm sewers, and the water connections. That is where the excavator discovers this. That is when he reshoots all the grade and reshoots all of the necessary things to determine where things are going to be. The excavator stopped the process and the engineer resubmitted to SAFEbuilt, Inc.

Mr. Burke asked Mr. Vannucci, attorney for Mr. Pavicic, if it is his client's position that because the City approved the resubmitted plan this exonerates his responsibility on building something that is not according to code. Mr. Vannucci stated that they understand that they have an obligation to do something. However, as he indicated at the last hearing, there clearly was not an intent to deceive. It was clearly a situation that the City didn't catch it either. They approved it. Now, we

have a situation here that had he known about this he certainly wouldn't have built it in the area that he did. We now have a practical difficulty situation where we have a structure and it is 14 inches in violation. We are indicating that as a result of the entire scenario, the fact that the setback is encroaching on another lot which he also owns, there is certainly some practical difficulties here. We do not believe that when we look at the character of the entire neighborhood, that the particular setback variance would violate the code, nor would it provide any difficulty to any of the three property owners. We understand the property owners are upset with the fact that there are going to be three homes here. But, that is not the issue. The issue is whether or not there is a need for a variance because a structure was mistakenly built too close to the setback.

Mr. Burke stated that the client does own the parcels on each side and does have the ability to remedy the issue which, unintentionally, was caused by the client. The remedy would be using some land from one or both of the properties next door. Mr. Vannucci stated that when they do that they would then violate the ability to build on the other lot. Mr. Burke asked Mr. Vannucci if he would suggest damages as a result. Mr. Vannucci stated that the whole thing was built with the idea that these are three separate parcels. Mr. Burke asked Mr. Vannucci if he would not have recourse to the engineer or architect. They are the ones that caused this to occur. Mr. Vannucci stated that he is sure SAFEbuilt, Inc. would have some responsibility; the engineer would have some responsibility. But, when you look at it in the overall picture when you are talking about 14 inches, who needs to create litigation?

Mr. Burke stated that we are talking about a 45 ft. lot that is already grandfathered, and there is a difficulty granting variances on a property that is absolutely minimal to build a house. Mr. Norton added that it has been stated that there is a bay window on the side of the house that protrudes more than two feet. Mr. Goray stated it protrudes three feet, and if a gutter is added it will protrude three feet, five inches on the north side. Mr. Pavicic stated that he believes his engineer has addressed that.

Mr. Norton stated that Mr. Pavicic is asking for a 14-inch variance to the 30% sideyard rule. If the bay window comes out three feet, another foot is needed. The 30% rule is 13ft., 6 inches, the variance request should have been for 26 inches. Mr. Pavicic stated that he would have to verify that information.

Mr. Ebert referred to the minutes of the Board of Zoning Appeals meeting of July 21, 2016 stating that in reference to the elevation, "Mr. Cheatham stated that the original topo was approved and as it was being excavated, Ed and his excavator made a decision without informing him (Mr. Cheatham) that they were going to hold it up out of the ground so that they could do the gravity that he was talking about." Mr. Ebert noted that there is a discrepancy in that issue concerning how that came about.

Mr. Ebert stated that if, in fact, because a variance is being requested on the side yard, if he consolidated the northern lot the variance would go away. He would lose the ability to build on that lot, but the middle lot would no longer need a variance and he would still have the ability to build on the southern lot.

Mr. Norton reiterated that the true variance request is for 26 inches on the total sideyard calculation of 30%, not 14 inches or 2.6% as requested by Mr. Pavicic. Mr. Pavicic stated that he would have to verify that with his engineer, who had a meeting at another city this evening. Mr. Pavicic attempted to pull up the site plan on his telephone.

Mr. Bruno stated that he appreciates Mr. Ebert's reference to the minutes of the Board of Zoning Appeals meeting of July 21, 2016 regarding the elevation. Mr. Pavicic stated that he could have put an estimate of 80% grade on the drawing and the City would have passed it. Mr. Bruno stated that at the moment we are more concerned with the sideyard variance.

Mr. Pavicic asked if there are any questions he could answer while waiting for the site plan to upload to his telephone.

Mr. Norton stated that the City established many years ago the requirements for buildable lots in different sections of the City. They noted that there were many lots owned that would lose their value due to no longer being a buildable lot, so they decided to grant a variance, or grandfathering clause, to everyone in the City who had a buildable lot that was no longer buildable if it had to follow the new requirements. All of these are substandard lots, and there are ten on Humiston that already have a house on them that fall under the grandfather clause. The Board must be careful about granting a variance to a lot that already has a variance. If that precedent is set, there must be a good reason to do so. This lot of Mr. Pavicic's was already given a variance under this grandfather clause.

Mr. Vannucci addressed Mr. Norton and stated that the property owners who had these 45 foot lots could rely on the fact that they could continue to build because they were grandfathered in. He asked if Mr. Pavicic succeeds to that right when he purchased that lot. Mr. Norton agreed, and stated that if Mr. Pavicic didn't need a variance we would not even be here this evening.

Mr. Vannucci stated that this was an innocent mistake that was approved by the City and could have been corrected had it been done appropriately. Mr. Norton stated that this is a builder that has built numerous homes in the City, and the engineer and architect have done this type of work, and there have been repeated violations to the rules.

Mr. Pavicic commented that all of these issues keep coming up and he is behind schedule on these properties by 120 days. He has reduced the size of the homes to 2600 square feet because it was said they were too big. Mr. Pavicic produced a spreadsheet of everything on the street and noted that there are eight permits that were issued on the lots, probably with one or two variances. He submitted a spreadsheet of fifteen adjacent properties on Humiston Road with information that was taken from the Cuyahoga County website.

Mr. Burke noted that the width of the property is 45 feet. Thirty percent of the 45 feet is required for the total minimum sideyard. What exactly are the two sideyards as built? Mr. Pavicic stated that they are 7 inches under on each side. He made up for that difference with the approved site plan that was submitted with the two plans for Sublots Nos. 9 and 11 to accommodate those inches. They actually have the same spacing between the homes that would normally have to be there. This is without shifting property lines. The size of the house was reduced to accommodate that.

Mr. Burke asked if the bump outs exceed two feet. Mr. Pavicic stated that they are two feet. If they are over that he would have no problem reducing that.

Mr. Greg Goray stated that in his appeal dated July 12, 2016, he did bring up those cantilevered projections including the bay window, the roof overhang and the gutter. It is not a surprise issue. The bay window does measure 24 inches on the drawings, but it also has a notation "typical overhang of one foot" on a different page, and it is calling for a five inch gutter. The total assembly equals three feet. Mr. Pavicic stated he can adjust those.

Mr. Burke stated that the request for the variance, as it is on the agenda, is for an additional 14 inches, or a fraction of the 30% of the total side yard, or 13.5 feet. The house as built is 14 inches short of the 13.5 feet required, not including the bump outs. Mr. Burke asked if anyone in the audience has any suggestions to the contrary.

Mr. Burke stated that the Board of Zoning Appeals can proceed this evening to vote on whether or not to grant the property a variance of 14 inches maximum on the 30% rule, and, depending on how the Board votes, if the Board should grant it, if there are still any issues with the bump outs they would have to be corrected or Mr. Pavicic would have to be back here for a variance for that issue.

Finding of Fact presented by Mr. Burke

1. The creation of the violation was the result of drawings submitted by the builder, engineer or architect.
2. Since the builder (applicant) owns both properties, one on the north and one on the south, and they are vacant, the builder does have the ability to correct the violation himself.
3. There are a number of 45 feet wide lots in the city and the lot does not have unusual circumstances to it.

Motion by Burke, second by Dostal, to accept these findings of fact.

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

Motion carried 6-0.

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. Mike Fawcett stated that there is not an answer to this that is going to make everyone happy. He recommended that the position should be taken that makes everyone equally unhappy: disapprove the variance which forces the builder to give up some of the land from one of his lots, he only gets to build two houses instead of three as his penalty, the neighborhood pays because they get stuck with having two big houses that they think ought to have only one big house or three

small ones, and the City loses a little tax income. If the variance is approved, a message is sent to all the builders in the City that there are no ramifications, but the neighbors that get stuck living with the mistakes.

Greg Goray stated that a variance is a privilege, not a right. The privilege has already been granted by grandfathering in these small lots. Granting a different variance here is not right for the residents of Humiston.

Chris Hartzell commented that he doesn't understand how you can look at a small lot with 3000 square foot homes, and set a precedent to say you can actually make them bigger than that. No one is happy about the big houses on small lots. Something should probably be done by Council to deal with this situation going forward. But the ability to give them more space, and set that precedent so that the next time a 45 ft. wide lot comes up, and someone wants to build a big house, and they make a mistake, you are going to have to allow that every time. How can you go back and say no? The applicant will say you let this one slide; you have to let me slide. That is the precedent you would be setting. Mr. Pavicic has the ability to fix this; he owns two more lots; it was his mistake.

Steve Lane, Bay Village resident, stated that he does not understand this talk about setting a precedent. Mr. Pavicic bought three lots that, per City ordinances, he can build three homes on. The mistake has been made. You caught him in the mistake. Now, you are trying to prevent him from doing what he has every right to do. It is more tax dollars for our City; it is improving the property value of the street. We are talking about 14 inches; 7 inches on each side yard. If that mistake wasn't made we wouldn't even be sitting here right now. There would be three houses up and there would be nothing anybody in this room could do about it.

Bob Haller, Bay Village resident, asked if there is a time that the mistake should have been picked up by the neighbors. It should have been done before the permit was issued and the house was actually built. Those plans were available. It could have been picked up earlier.

Mr. Norton stated that there was some difficulty as to whether it was seven days or ten days initially. We have gone past that issue. The neighbors have a right to issue a complaint. Once a complaint is issued, then the Board of Zoning Appeals is charged with hearing that complaint and making a decision on it. There isn't any question at this point of timing and if they objected in a timely manner.

Doug Norris, 510 Humiston, stated that at the last meeting the builder and Mr. Cheatham kept talking about innocent mistakes. The builder, at the last meeting, went on to talk about all the experience he has and all the buildings he has built. This business of building a house too large, with too big of a footprint, is one of the first things people should be looking at. Mr. Cheatham included. You might be able to deem that as being negligent. The builder had the experience. The Board did not assume it was a mistake. They can't make the charge that it wasn't. But, they cannot assume it was simply an innocent mistake. The point is what you are doing if the builder comes in and violates codes and supposedly he is knowledgeable, then the Board would be rewarding that kind of behavior. This is not a minor issue; this is a big deal. You don't want the community to think that the Board has a laissez-faire attitude when it comes to building code. We

look at those codes as protection for the citizens of the City, and if these things are continually ignored and improper behavior is rewarded, it just invites abuse in the future.

Steve Lane, resident, asked how many variances in the past year have been granted similar to this one where you are asking for less than 10% of the sideyard variance.

Mr. Norton stated that a typical sideyard variance is for placement of an air conditioner. Here we are talking about something totally different. The kind of sideyard variances we normally grant are not the kind of sideyard variances that are directed to structure.

Jennie Hartzell, Humiston, asked how many variances are requested after a home is already built. If they are asking for a sideyard variance before the house is built, that is fair game. It is crazy to be asking for it after the house is built. It probably does lie with the City ultimately because they didn't catch it. We were told no variances were asked for this house. That is what Mr. Cheatham told me. We are not architects; that is why the City is supposed to be protecting us.

Mr. Norton noted that at the last meeting it was acknowledged that there is blame to go around: the architect, the engineer, the builder, the City, all have not done a good job. That is why we are here. Now, we have a fact that a structure is in existence and we have to wrestle with the remnants of that effect.

Mr. Vannucci stated that all of the Board members are experienced of the standard and practical difficulties and gave an excellent dissertation at the last meeting of the gentleman who built the house and it is too high, and it would be silly to knock down the structure because he was in violation. To say that it was intentional makes no sense whatsoever. Had he known it was going to be this way he would have made the structure in conformity with the code. He submitted the plans, innocent mistakes were made on both parts. I am sure if this matter were to go to court that the court isn't going to ask him to tear the structure down so that he has seven inches on side. It is a practical difficulty and by that standard I think this variance should be granted. I would ask for your consideration in that regard.

Mr. Norton stated that one of the mitigating factors is that the owner has a solution in hand. The solution is to join a piece of the other lot to this lot. You cannot increase a nonconforming lot itself, but you can adjoin the lot to the north which, then, the variance request is moot because you have a bigger lot on which the house exists. You can still build on the south lot; you cannot build on the north lot. You have the ability to build two houses, not three.

Mr. Pavicic stated that he has people who want to buy these lots. After cross discussion between Mr. Pavicic and Mr. Ebert, Mr. Pavicic stated that he will table his request for a variance.

Mr. Ebert stated that there is a motion pending for a vote, but Mr. Pavicic can withdraw his request and bring it back to the Board of Zoning Appeals at a later date. Mr. Vannucci stated that they will withdraw the request.

Mr. Norton stated that the request for the variance has been formally withdrawn. In order to ask for a variance in the future, a new request has to be made, with the process starting all over.

Mr. Ebert informed Mr. Pavicic that he can only build on the south lot as it stands right now.

Mr. Norton stated that the Building Department issues an occupancy permit when a house is completed and approved. This house at 580 Humiston cannot get an occupancy permit because they are required to obtain a variance to the 30% total sideyard in order to be clear of the issues. As it stands now, the middle house cannot be sold because you cannot sell a house without an occupancy permit.

Mr. Mike Fawcett asked if there is anything to prevent from building the other two homes.

Mr. Norton stated that brings us to the last item on the agenda, the objection to build on the adjoining two lots, 574 and 584 Humiston. Mr. Norton stated that the Board has not had an opportunity to review the plans for the homes as submitted. One of the things the Board wants to look at is what is being built and to know that it fits with the rules. They do not know how it will impact the neighbors and the neighborhood, which is one of the things they must take into consideration when hearing the objections.

Mr. Ebert stated that Mr. Pavicic could annex the south lot to the current house as well, and the variance would be moot. If an application came in to the Building Department through Mr. Grassi's office for either one of those lots, Mr. Pavicic will have to make a determination on what he will do. He has a grandfather clause on the north and south lots, but the house in the middle will not get an occupancy permit because of the sideyard situation.

Mr. Pavicic stated that if that situation happens there will be cross claims of litigation. He noted that he has agreements with investors.

Mr. Ebert reiterated the Board of Zoning Appeals proposal that if Mr. Pavicic annexes the lot to the north he can build two homes, (the existing home and a lot on the south) he is grandfathered in on the lot to the south and the current house becomes in conformity.

Mr. Norton noted that there is legally before the Board of Zoning Appeals, an objection to build on the north and south side. After the Board has done whatever it needs to do to understand what is being built there and all the implications, if the Board finds that the objection is withheld on one or both lots, then Mr. Pavicic cannot build on those lots. At that point, either the north or south, or both lots are frozen because the Board, in their determination, feels that it is going to meet the requirements as to what it does to the nature of the neighborhood, etc.

Mr. Pavicic stated that the Board would then be creating a resident Architectural Board of Review. He noted that he can see the same non-conformity anywhere from here to Clague Road. You see Hammerschmidt homes, Valore homes, DiBenedetto homes, they are all new homes.

Mr. Norton stated that the residents have the power to file a complaint. They did. The Board of Zoning Appeals has to hear and determine an answer to that complaint. This is the next legal step. Before this Board is an objection to build and we need to hear it. The Board needs to know more than the information that they have thus far, such as the nature of what is being built.

Mr. Burke stated that he has been out to the property several times. He stated that he is not an engineer, but looking at the way the home has been raised up so high, he believes there is a significant question as to the effect on the two sideyards, the one to the south and the one to the north. Mr. Burke stated he would not be in a position to vote on the objection of the neighbors to granting a permit without having more information on the drainage.

Mr. Pavicic stated that CT Consultants has approved the drainage. The property is still in the rough grade; it is not even close to being final yet.

Mr. Burke stated that the Board still has the issue of the variance request for the home standing at 580 Humiston. That variance request, in some way, is tied to one or the other of the properties. The ability of Mr. Pavicic to remove the variance request by annexing one or the other property removes the substance of the practical difficulty issue. He has the ability to remedy the problem he created.

Mr. Pavicic suggested that the Board of Zoning Appeals allow him to build the house to the south, and sell the property to the north. Those people can choose what they want up to a square footage that the entire street wants, but the lot would have to be made buildable.

Mr. Ebert stated that the property on the north cannot be sold and built upon because it has to be annexed to the current house or the current house cannot get an occupancy permit. The City is not going to allow a house to be left there unattended.

**Gregory Goray (continued from 7/ 21/16) C.O. 1303.06 Objection to Build
566 Humiston at 574 and 584 Humiston**

Mr. Burke stated that he would prefer that this item be tabled until such time as they have additional information on the structure itself, on the drainage, and the effect of the violations of the center lot.

Margaret Kalister, 588 Humiston, stated that she agrees with Mr. Burke and his comments about drainage. When the new structure was being built in early February, her basement flooded. Mrs. Kalister had damages of \$2,500. This was very distressing due to the fact that she just had a hip replacement and it compounded everything else. She stated that her concern would be for the neighbors is that the north lot is not buildable, and the south lot is, what is it going to look like, what is the drainage going to be, and will it be enough not to cause problems again.

Mr. Tadych asked about the retaining walls. How do they, or don't they fit into the problem with the two side lots. Mr. Ebert stated that the retaining walls were removed on the last set of plans that were submitted by Polaris Engineering. There are no retaining walls as we speak.

Mr. Pavicic stated that they removed the retaining walls at the request of the neighbors. They also reduced the size of the house from 3200 to 2630 square feet. Mr. Pavicic stated that they did a topo for every single property. Water cannot go uphill. Mr. Tyo stated noted that water can't go downhill into the neighbor's basement either.

Motion by Burke, second by Dostal, to table the objection of Gregory Goray, per Codified Ordinance 1303.06 Objection to Build at 574 and 584 Humiston, until the Board of Zoning Appeals has the drawings of the properties proposed and more information on the drainage, and further information from the Legal Department as to the effects of the continuing violation of the center property and what effect that has on the buildability of the two adjacent parcels.

Mr. Vannucci stated that if the Board reads the ordinance as far as their ability to address these issues it should be done at the next meeting after the objection is filed. Mr. Vannucci stated that he believes it violates Mr. Pavicic's rights to table the matter.

Mr. Burke stated that the code states that it shall be referred to the Board of Zoning Appeals at the next regular meeting. Mr. Burke does not see anything that prevents the Board from tabling the matter anymore than any other request.

Mr. Vannucci requested that his comments be noted for the record.

Mr. Ebert stated that if the information they need is not available to the Board they can table the matter.

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

Motion carried 6-0.

The meeting adjourned at 9:35 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary