Minutes of a Meeting of
Board of Zoning Appeals
Held August 2, 2018

Members Present: Bruno, Gess, Miller, Norton, Tyo

Excused: Burke, Young

Also Present: Gary Ebert, Special Council

Audience: Bela Persanyi

*Full recording of the meeting is permanently available on the City of Bay Village website under City Government/Board of Zoning Appeals.

Chairman Norton called the meeting to order at 7:30 p.m.

Motion by Bruno, second by Tyo, to approve the minutes of the meeting held July 19, 2018, as prepared and distributed. Motion passed 5-0.

Bela Persanyi
30666 Wolf Road

C.O. 1373.01 The applicant is requesting a variance to store their boat on a trailer in their front yard.

Mr. Norton stated that Mr. Persanyi’s request has been tabled from the October 19, 2017, November 16, 2017 and January 4, 2018 Board of Zoning Appeals meetings.

Mr. Norton and Mr. Ebert explained that since there is not a full complement this evening that a vote will not take place but a discussion will be had.

Mr. Persanyi asked if the change in the ordinance came about because there was non-compliance with the existing ordinance. Mr. Ebert answered there was a violation.

Mr. Persanyi noted Bay Village is a boating community and that there is currently 250 members of the Bay Village Boat Club and a requirement to be a member is that one must own a boat.

Mr. Persanyi referenced Mr. Ebert’s memo dated January 3, 2018, that says it’s permissible for City Council to pass an ordinance because they find boats and trailers a nuisance. Mr. Persanyi stated that he finds it hard to understand how that can be applied. He also noted that in the past 10 years four homes have been built within 500 feet of where his boat is parked in the fall and winter and the boat did not have a “nuisance” impact on these homes. He also addressed the new ordinance in which it states that businesses must have trailers and other equipment parked in the backyard. He noted that there is a business across the street from the post office that leaves their
equipment in the front of their business and he does not understand how that is okay but his boat is not.

Mr. Norton noted that the case research refers to vested non-conforming use. The research says that it is normally permitted unless it is considered a nuisance. He asked if this changes if a vested non-conforming use is portable. The fact that the boat is on wheels and can be moved verses a permanent structure.

Mr. Ebert responded that with regards to a vested right he believes, in this situation, it is not a vested right because the boat does not go with the land. The boat is portable. He noted that he has additional research that discusses property rights after an ordinance is passed. In the documents, nuisance is referenced as not only aesthetics but as a residential community/City the ability to pass legislation. For example, legislation for setbacks, fence requirements, shed requirements. Also, he does not believe Council will address this until they are back from recess in the fall.

Mr. Ebert stated that he will provide more research however, he does not believe it will change with regards to property rights. The matter is not a grandfathered position. It is a portable piece of property. It is not real property that falls into the definition.

Mr. Ebert asked to put this matter back onto the agenda for the next Board of Zoning Appeals meeting.

Edward Pavicic
550 Red Oak Lane
(Tabled: Reconsideration for Variance)

C.O. 1306.04(d)(4) Applicant is requesting a variance to construct a basement within the 100 year flood plain.

Mr. Norton advised that this item will remain tabled.

Mr. Ebert asked to put this matter back onto the agenda for the next Board of Zoning Appeals meeting.

There being no further business to discuss the meeting adjourned at 7:57 p.m.

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Jack Norton, Chairman       Kristine Jones, Secretary