Meeting Minutes of
Board of Zoning Appeals
Held March 7, 2019

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

Excused: Burke and Young

Also Present: Mark Barbour (Law Director) and Eric Tuck-Macalla (Building Department)

Audience: Joan Bruch, Ray Nowack, Carol Walker, David Walters, Tricia Walters, Jim Dixon, Pete Winzig and Dave Tadych

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

Mr. Norton called the meeting to order at 7:31 p.m.

Motion by Mr. Bruno, second by Mr. Gess to approve the minutes of the meeting held February 7, 2019, as prepared and distributed.

Motion passed 5-0.

James E. Dixon
30400 Wolf Rd.

The applicant is requesting a special permit per C.O. 1141.04 and a variance per C.O. 1350.03 to build a storage workshop at the back of property. (30’x42’/1,260 square feet)

Mr. Norton discussed the second agenda item.

Mr. Norton asked if anyone from the audience was attending the meeting with regard to this agenda item. He explained that the Board has had a chance to visit the site and review the application and asked for discussion.

Mr. Norton stated that it appears the house on the property is at least 4,000 square feet.

Mr. Tyo asked what the square footage of the house is.

Mr. Dixon stated that his house is approximately 5,000 square feet.

Mr. Norton explained that if the house on the property is between 4,000-5,999 square feet you are allowed 1,300 square feet of detached garage. The ordinance also states that the property can
have an attached and a detached garage. The 1,260 feet meets that requirement but it also is required to have a driveway.

Mr. Norton stated that it appears that the garage will be situated on the North East corner of the property with frontage on the side street. (Westlawn) If the garage is put on the NE corner, an apron would be needed in order to meet the requirements.

Mr. Dixon asked if he could leave the garage where it was drawn out and put in a stone driveway from the garage.

Mr. Norton explained that if Mr. Dixon put the building where he proposed with a stone driveway, then he believed he would not need a variance. In order to call the building a garage, it needs to have a driveway attached to it.

Mr. Dixon stated that the driveway is not an issue and will plan to attach one to the garage.

Mr. Tuck-Macalla explained that it is not a garage- it is an accessory building.

Mr. Norton asked what the difference was between an accessory building and a garage. He stated that it becomes a garage as soon as it has a driveway.

Mr. Tuck-Macalla stated that it does not say in the code that you need to have a driveway in order to have a garage. He explained that the property already has a garage on the property that fulfills the 1,300 square feet for the house. The applicant is asking for another accessory building.

Mr. Norton explained that he has always read the ordinance that the property owner is also allowed a detached garage. He stated that the attached and the detached garage both have their own rules based on the house size.

Mr. Tuck-Macalla stated that the house is 5,247 square foot and can have 1,300 square total garage size. He currently has 706 square feet of attached garage.

Mr. Norton explained that in the past, the code has been interpreted as a property owner can have an attached and detached garage up to a certain size based on the house size both with their own requirements. He explained that the Board will need to research further as to the actual interpretation of the Code.

Mr. Miller discussed a property on Humingston that had an attached garage and a structure in the back of the property and was being used as a garage with no formal driveway. From his recollection, he did not think the Board decided that they could continue to use it as a garage even if a driveway was put to it because they had satisfied that garage for the property.
Mr. Bruno stated that he felt Mr. Norton’s interpretation of how the Code is written is correct, but feels it would be good for Mark Barbour to do further research on the matter so it can be confirmed.

Mr. Barbour explained that based on the application, it appears to be an accessory building under the Code but he would be glad to take a further look at it and write an opinion.

Mr. Miller wanted further legal opinion on where the structure can be placed on the property. The proposed location is placed on the peninsula portion of the yard behind other neighboring homes.

Mr. Bruno echoed Mr. Miller’s thoughts about the uniqueness of the property and the possible garage location.

Mr. Barbour stated that it is generally frowned upon within the Code.

Mr. Norton stated that he was not comfortable with making a decision at this time because more research would be needed in order to move forward.

Mr. Norton asked if anyone from the audience wanted to express their opinion on the item.

Ms. Bruin asked for clarification as to where the driveway will exit and if the neighboring houses have been notified.

Ms. Vincent explained that any other neighboring properties that immediately butt up to the applicants property have been notified.

Mr. Barbour explained that anyone who sees the “Intent To Build” sign posted at the property has ten days to call and investigate. They have an opportunity to come before the Board to voice their concerns and objections.

Mr. Walter voiced his concerns to the garage changing aesthetics of his backyard and the noise factor that may come from the garage.

Ms. Walters was under the assumption that when the property was purchased, that piece of land that the garage is proposed to build upon is landlocked and there is no access to Westlawn.

Mr. Dixon stated that there has always been access to Westlawn.

Mr. Norton explained that the Mr. Dixon’s property has frontage on two streets. It is deeded that the front yard is on Wolf and the side yard frontage is on Westlawn.

Ms. Walters asked if the properties to the East of Mr. Dixon owned the land that connects to Westlawn.
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Mr. Norton explained that the lots to the East have more shallow lots in comparison to Mr. Dixon’s lot.

Mr. Gess stated that the applicant’s property is a single parcel.

Mr. Miller asked if there was an issue with having a secondary driveway.

Mr. Norton explained that in the past, there have not been an issue with having a secondary driveway. Over the years there have been several cases similar to this. The only stipulation that was required was that it must function as a garage with a driveway.

Mr. Bruno described a similarly situated house on the North side of Lake Road with multiple driveways.

Mr. Norton stated that the City has several unusual lot configurations and sizes due to the way the City was built over the years.

Mr. Bruno asked if Mr. Dixon planned to plumb the proposed structure.

Mr. Dixon stated that he did not plan to add plumbing to his structure. His plan was to make the garage aesthetically pleasing with landscaping. His plan for the garage was to store old cars but not install a lift, store lawn furniture and tools.

Ms. Bruch explained that the small peninsula portion the lot was recently sold to Mr. Dixon within the last few years. She explained that the reason that portion of property is so unusual was because when Westlawn was being put in, the past owners had sold off their back portion of their property in order to have Westlawn come into the property.

Ms. Bruch asked for clarification on what the City considers as a shed in regards to the size.

Mr. Tuck-Macalla explained that when the applicant came into the City it was requested to be a shed that looked like a garage. He stated that a shed can only be 10’x12’.

Mr. Barbour explained that is why he did not have an opinion on the application because he was under the assumption that this was going to be an accessory use as a shed and not a garage.

Mr. Tuck-Macalla read an email from a neighboring property owner who was out of town in objection of the proposed garage. (Which has been entered into the records.)

Mr. Norton asked for any further discussion asked for it to be placed on the agenda at the next meeting.

Mr. Dixon will amend his application to state his request for a garage instead of a shed adding the height of the garage. (Maximum of 18’)

Mr. Tyo asked what the biggest concern of the neighbors was towards this application.
Ms. Walters explained that the size of the garage in comparison to the neighboring houses and the aesthetically pleasing landscape in the back of the yard are the main reason for concern.

Mr. Tyo explained that the Board cannot rule based on those reasons. The Board must look at the property and the ordinance to inform their decisions.

Mr. Tadych asked how far back the setback is from Westlawn.

Mr. Norton was not completely sure but stated that the setback was significantly far back from both Wolf Road and Westlawn.

Ms. Walters asked there was access to Westlawn from Mr. Dixon’s property or if easements would be needed.

Mr. Tadych asked if the applicant’s setbacks would be further back than the other homes on Westlawn.

Mr. Norton explained that it would start out as a driveway and go back to the proposed location.

Mr. Norton stated that more research was needed in order to move forward and the item should be tabled until the next meeting.

Motion by Mr. Bruno, second by Mr. Miller that the Board will table the application at the property 30400 Wolf Rd. until the next meeting.

Roll Call Vote:
Yeas – Gess, Miller, Tyo, Bruno, Norton
Nays-
Motion Carried 5-0

Mr. Norton discussed the proposed draft of 1163.05 fence regulations brought to the Board by the committee.

Mr. Norton stated that the Board has been given a draft of the proposed new fence regulations. He stated that the Board was interested in suggesting to Council that we keep 4’4” height limitations for rear and side yard fencing. He stated that if a person would like their fence between 4’4”-5’4” it must be 75% open.

Mr. Barbour asked if the Board had received the most recent draft.

Mr. Norton clarified that the regulations should state that if a person wants a fence anything greater than 4’4” it must be at least 75% open. (rear and side yard)

The second aspect that the Board was comfortable with was the two eight foot transition pieces.
Lastly, the Board had not yet discussed the rear yard fencing going form 32’ to 40’. Mr. Norton asked Board members to weigh in on that aspect of the draft.

Mr. Miller stated that he felt there was good logic behind on how 32’ was established and he was comfortable sticking to that measurement.

Mr. Norton explained that the Board is agreeing to an additional 16’ of transition pieces.

Mr. Barbour explained that this was suggested by the Committee in which it is in front of and not all of Council. He also stated that there were some disagreements within the Committee on the proposed draft. He stated that the Committee was interested in the Boards input.

Mr. Norton explained that the Board is comfortable with the 4’4” to 5’4” difference and the 8’ transition pieces but possibly split on going form 32’ to 40’.

Mr. Barbour stated that the Board is more than welcome to email more thoughts and input to the Committee.

Mr. Gess discussed that if this were to go forward, allowing an additional 16’ of tapers is increasing the allowable by 50% and then adding the extra 8’ is a significant change.

Mr. Bruno discussed properties on the East with more narrow lots and stated that he felt that 32’ is more than enough with the tappers. He recommends using the different residential property zones that guide other Code based on square footage and lot size.

Mr. Norton stated that he could not speak for Ms. Young but he had discussed the draft with Mr. Burke. Mr. Burke is not comfortable with moving from 32’ to 40’. He stated that the Board is unanimous on that aspect of the draft.

Mr. Bruno asked why the original fencing regulations stated 32’.

Mr. Tadych was not sure but thought it could possibly be because that is the size of 4 8’ panels.

Mr. Barbour explained that there had been some talk that it was originally designed to go around your back patio or deck. Generally 32’ was more than enough to enclose the area.

Mr. Norton asked if there was any other discussion regarding the draft fencing regulations.

**There being no further business to discuss the meeting adjourned at 8:11 p.m.**

\[Signature\]

Jack Norton

\[Signature\]

Kateri Vincent, Secretary