Meeting Minutes of
Board of Zoning Appeals
Held August 1, 2019

Members Present: Gess, Norton, Burke, Young

Excused: Bruno, Miller, Tyo

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

Audience: William Black, Marie Black, Robert Shearer and Jill Brandt

*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 7:33 p.m.

Motion by Mr. Burke, second by Mr. Gess to approve the minutes of the meeting held July 18, 2019, as prepared and distributed.

Motion passed 4-0.

Matt and Jenny Disco
31414 Fairwin Drive (Tabled July 18th)

The applicant is requesting a variance per C.O. 1153.02-(Minimum front yard (building lines) to build within the front setback line approximately 10' to accommodate a larger garage.

Mr. Norton discussed the third agenda item since the second item had been previously tabled. He also explained that the Board of Zoning appeals is constituted of seven members and only four are in attendance, which is enough for a quorum. But if during the course of the discussion if the applicant is uncomfortable with how the conversation is going, it is the applicant’s right to request that the agenda item be tabled until a following meeting when all members can be in attendance.

Mr. Norton explained that that Board has had a chance to visit the site and review all the applications that are on the agenda.

Mr. Norton stated that there had been some discussion at the last meeting and asked if there were any changes to the proposed variance request.

Ms. Brandt, the architect, stated that no changes had been made but had additional renderings that could be shared with the Board.

Mr. Norton asked if there was discussion.
Mr. Burke stated that after viewing the property and how it lines up with the other properties on the street, it has a very consistent setback with all the houses on the street. He feels a 10’ variance from the setback line would be inappropriate with the other houses on the street.

Mr. Norton stated that the plans call for a full 10’ and looking at the other houses, it would make it somewhat unusual. He shared that the Board needs to be careful about setting precedent and because the houses along the street are pretty lined up, granting a variance as big as 10’ would set a precedent that negates the whole reason they started with a front setback line. The size of the variance is quite a bit. He understands that one of the vehicles is longer and not able to tuck into the garage.

Mr. Disco stated that he has 5 drivers in his household and with the City ordinance not allowing them to park on the street overnight, the request has been proposed.

Ms. Young asked if he was the owner of the business and if he brought his truck home overnight.

Mr. Disco stated that yes, he is the owner of the business.

Mr. Norton stated that if the request was a couple of feet it might get a better reception. He shared that the older garages used to build a bump out as cars got longer to accommodate that issue. But with a bare quorum, the 10’ variance request might be a bigger ask than would get through at the meeting.

Ms. Young asked if it was possible to build something to the side of the existing garage as far as setbacks go.

Mr. Norton stated that architecturally it might be a little awkward but technically you need 30%, 25.5’ out of 30’ which would only be around 7’ that could be extended off to the side.

Mr. Disco stated that their house is only one of three houses in the neighborhood that is split level and part of the request was made to change the depth and the character of the house to fit the neighborhood.

Mr. Gess asked what the additional length that was needed in order to fit his vehicle.

Mr. Disco explained it is a full size pick-up truck but off the top of his head he was not sure the exact length. 10’ would make it fit comfortably with room up front. He stated that if 6’ is better than 10’ then maybe they would request that.

Mr. Burke stated that 6’ is still a substantial amount. If the request of the variance is based on a particular use by the homeowner, that it not something that is considered by the Board. The Board is looking for something unique to the property itself as opposed to the use. He understands the want because of the size of the vehicle and having 5 drivers but that is more of a
use. The other factor is how substantial the variance request is. The Board can tweak around the edges of the ordinance by a few inches or a foot here and there to accommodate but the father the Board gets away from the ordinance required, it puts them in the position of actually legislating which is up to City Council.

Ms. Young asked if it was determined what the side setback would have to be.

Mr. Norton stated that the side setback would have to be 25.5’.

Ms. Young stated that if the request was for a side setback it would only require a 4’ variance as opposed to a 10’ frontal variance.

Ms. Brandt stated that they felt that there was not a strong front line based on looking at the aerial map. She explained that where the property sits, it is close to where the street bends and curves back quite a bit and felt that there wasn’t a strong line as far as front setbacks. There are a number of homes that have similar front projecting garages. Part of the renovations to the house is updating the aesthetic style because of its very flat façade and very dated split level. With the lovely homes on the street they wanted to enhance the character and fit in better with the neighborhood.

Mr. Burke asked to be shown on the aerial view which home was theirs.

Ms. Young stated that she can appreciate the aesthetics but the Board is not in the position to change the Law, only tweak it.

Mr. Norton explained that if they did want to put it off to the side they would have 7.3” available before a variance would be needed. So an additional 3’ may be enough room to have a side driveway and the 10’ frontal variance request is a big ask. If the request was more in the neighborhood of 5’ the Board MAY consider it. He explained that one of the difficulties of tonight’s meeting is that there is a bare quorum and they would need every Board member to say “yes” in order to grant the variance request. He suggested they might be best advised to think about something less than the 10’ to repurpose the request and for a full complement of the Board to get 6 or 7 members present.

Ms. Brandt asked if they could modify their request tonight to around 6’.

Mr. Norton stated that the modification could be proposed but once the request is changed and answered, then you can come back to the Board with a new request but it has to be with meaningful changes. The applicant cannot come back and request for a minor change of only a foot.

Ms. Young stated that she was not sure cost wise what the difference was but if they had a third bay to the side for a garage it wouldn’t appear to be as close to the neighboring property and
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would give him a three car garage. A variance would still be needed but it would be a side yard variance as opposed to a front.

Mr. Norton asked if they would like to think about their decision and the Board could move on with other items until they were ready.

Mr. Disco stated that he would like to table it until the next meeting to give time to see what the front elevations are. The side option would restrict his access to the backyard.

Mr. Burke reiterated the Chairman’s comments that just because the variance request is changed, it does not mean it will automatically be approved. The smaller the request for variance the better chance it will be granted.

Ms. Brandt requested to table their request.

Mr. Disco asked if they would have advanced notice of how many Board members would be present at the next meeting.

Mr. Norton stated that not really until the last minute but typically almost all members are present. He stated that he cannot remember the last time they had a bare quorum.

Ms. Brandt wanted to clarify whether or not their application had been privately discussed at the last meeting.

Mr. Norton stated that yes, it was discussed and the same sentiments were said and that 10’ was a large variance request.

Ms. Brandt stated that they were not aware that the application was going to be discussed without their presence.

Mr. Burke clarified that he was not aware of the discussion.

Mr. Norton clarified it was tabled from the last meeting and that it was looked at. Outside the actual meeting there is very limited discussion and it is supposed to be a public discussion.

Ms. Brandt explained that they were all on vacation and that is why the application was tabled at the last meeting.

**Motion** by Burke to table the application at the property at 31414 Fairwin Drive for the variance per C.O. 1153.02 until the next meeting.

**Roll Call Vote:**  
**Yees** - Gess, Norton, Burke, Young  
**Nays-**  
Motion Carried 4-0
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Steve Schill/Schill Architecture  
On behalf of Timothy Doyle  
28210 West Oakland/AKA  
28217 Wolf Rd.  

The applicant is requesting a variance per C.O. 1151.01-(Height limitations) of 2’ to build an accessory building on this recently consolidated lot.

Mr. Norton discussed the fourth agenda item since the third agenda item was removed from the agenda and asked if there was discussion.

Mr. Norton discussed that there was some confusion on the lot and the location of the house.

Mr. Schill clarified for the Board the lot/house/shed location on the newly consolidated lot. He shared the reason for the request was to balance the roof pitch and to have a not too flat of a roof to tie in with the existing home.

Mr. Burke asked what the intent is for the rest of the space and upstairs.

Mr. Schill explained that he has a boat and yard equipment. He shared that he is going to put a glorified “man cave” and not living space.

Mr. Burke clarified he was going to limit the heating and electrical.

Mr. Schill explained that it is not going to be much of a house or rental. He explained there had been a discussion with Mr. Tuck-Macalla previously.

Mr. Burke stated that he does not have a problem with the 2’ height variance request on this lot.

Mr. Norton asked if there was any further discussion and a motion.

Ms. Young asked if the applicant can have multiple garages on one lot.

Mr. Tuck-Macalla explained that yes, his house is allowed to have an attached and detached garage.

Mr. Norton explained that due to the property size, it is within the square feet of what is allowed.

Motion by Mr. Burke, second by Mr. Gess to grant the property at 28210 West Oakland Road a variance per C.O 1151.01 of 2’ to build an accessory building on this recently consolidated lot as per the drawings as submitted with the application. Provided that the space, both on the 1st and 2nd floor, not be used as living space and that there be no kitchen or sleeping space.

Roll Call Vote:
Yea – Gess, Norton, Burke, Young
Nays-  
Motion Carried 4-0

Robert Shearer/RWS Architecture  
On behalf of Pat and Trisha Sullivan  

The applicant is requesting a variance per C.O. 1149.01-(Location) to encroach upon
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24310 Lake Road the required 3’ side setback from lot line for accessory buildings, the variance is for 2’.

Mr. Norton discussed the fifth agenda item and asked if there was discussion.

Mr. Burke asked if there have been any discussion or objection from the neighbors. He also asked if there have been any letters from the neighbors.

Mr. Burke stated that based on looking at the backyard that day and the neighboring property, the placement seems ok.

Mr. Norton agreed and stated that there is a new house on the neighboring property that isn’t going to move and he does not see a problem with the variance.

Mr. Gess had one question whether both structures are offset to the East side of the house.

Mr. Shearer explained that there is the roof overhang and a chimney.

Mr. Gess explained that it appears that the foundation, main structure and the columns are slightly offset to the East.

Mr. Shearer explained that they are trying to give the eye something to look at other than the back of the neighboring house.

Mr. Norton asked if there was any further discussion and if there was a motion.

**Motion** by Mr. Burke, **second** by Mr. Young to grant the property at 24310 Lake Road a variance per C.O 1149.01 to the side yard setback line with a variance of 2’ allowing the structure to be 1’ from the line. Provided it is constructed according to the plans that were submitted with the application.

**Roll Call Vote:**  
**Yeas –** Gess, Norton, Burke, Young  
**Nays-**  
**Motion Carried 4-0**

Mr. Sullivan had a question about when the 35’ height level measurement is made on the main structure. He asked if it was from ground level. He shared that is neighbor’s property have a structure that was “mounded up” and then built on.

Mr. Burke stated that it should be built from the natural ground.

Mr. Gess stated that he thought there was a variance on that property for height.

Mr. Sullivan explained that was for the front of the house for some iron work. He stated that everyone that comes to his house wonder how it ever got past zoning.
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Mr. Norton explained that you are not allowed to build a mound at an artificial level to create a new elevation and use that as the base. The ordinance states that it has to be an average of the original grade.

Mr. Burke asked Mr. Tuck-Macalla if the natural state would be at the center of the front face.  

Mr. Tuck-Macalla stated yes, that when he is out on a site he uses that to measure the 35’.

Mr. Sullivan asked if the structure has to be 50’ from the lake and discussed his neighbor’s structure that obstructs his view of downtown.

Mr. Norton explained that it has to be a minimum of 50’/25% of the lot depth.

Mr. Sullivan asked if somebody comes out to approve after it is built.

Mr. Burke stated that is the way it is supposed to work.

Ms. Young stated that a deck would need a permit but a patio you do not.

Mr. Tuck-Macalla explained that she was correct.

Mr. Norton stated that if it as grade level you do not but if it is raised up you do.

Mr. Sullivan explained that it is a beautiful house and has nothing against his neighbor but doesn’t understand how something like this could have been approved.

Mr. Norton explained that that structure would have gone through the previous building department. (SafeBuilt)

Mr. Sullivan stated that he had tried to talk to SafeBuilt when it was being constructed but it went nowhere.

Mr. Barbour stated that SafeBuilt is no longer involved with the City. As of February 1, 2019, Mr. Tuck-Macalla became the building department head and the City now has their own in house department.

Tammi Graf/Hurst Design Build  
On behalf of Donna Keller and Chris Conte  
26717 Midland Road

The applicant is requesting a variance per C.O. 1153.03-(Minimum side yards) to encroach upon the required 11’ side yard setback 2’8” in order to reconstruct this home.

Mr. Norton discussed the six agenda item and explained that the Board has had the opportunity to review the application and visit the site.
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Mr. Burke clarified that it will be on the same footprint.

Mr. Conte stated that yes, and that the West side is 6’ from the property line. He explained that the existing home had some mold issues and is completely gutted. They are tearing it down and building a new one and it will be 8.4’ off that side property line. It is currently non-conforming.

Mr. Burke asked if there is going to be any expansion of the current footprint.

Mr. Conte explained that there will not be any expansion on the sides of the property but on the back side there will be but it is within the setback requirements.

Mr. Norton stated that he does not think this variance request is a problem because if a piece of the old house would be left, it would be grandfathered in due to the way the ordinance is written.

Mr. Barbour clarified that they planned to take down the whole house and build a new house in the existing width of the current house.

Mr. Conte explained that the new house would actually be slightly narrower by a couple of feet.

Ms. Young asked if the audience member was at the meeting to comment on this agenda item.

Ms. Black, neighbor to the left, wanted to know if the new build was planned to be extended closer to her house.

Mr. Conte stated that no, the new house will not be any closer to her house. It is actually getting narrower but a little bit deeper. The 2’8” variance is for the West side of the house which is currently nonconforming.

Ms. Black stated that she’d like to see the plans.

Mr. Gess stated that the house is going to maintain the same footprint on that side of the house.

Mr. Norton asked if there was any more discussion or a motion.

Motion by Mr. Burke, second by Mr. Young to grant the property at 26717 Midland Road a variance per C.O. 1153.03 of 2’8” from the total side yard requirements to construct a new house.

Yeas – Gess, Norton, Burke, Young
Nays-
Motion Carried 4-0

Jennifer Hartzell

The applicant is requesting a variance per
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577 Humiston Drive  

C.O. 1373.02-(Portable temporary storage units) to keep a temporary storage pod on the property for 6 months.

Mr. Norton discussed the sixth agenda item and if there was a motion.

Mr. Burke clarified that the Ordinance is for one month/30 days and that the request is for five months.

Mr. Norton asked if there was any further discussion or a motion.

**Motion** by Mr. Gess, **second** by Mr. Burke to grant the property at 577 Humiston Dr. a variance per C.O. 1373.02 to allow a portable temporary storage unit to be kept on property for six months, needing a five month variance.

**Yeas** – Gess, Norton, Burke, Young  
**Nays**-  
**Motion Carried 4-0**

**There being no further business to discuss the meeting adjourned at 8:16 p.m.**

[Signature]

Jack Norton  

[Signature]

Kateri Vincent, Secretary