Meeting Minutes of
Board of Zoning Appeals
Held July 18, 2019

Members Present: Miller, Gess, Norton, Tyo, Burke, Young

Excused: Bruno

Also Present: Eric Tuck-Macalla (Building Director)

Audience: Deb Blauman, Kate Bilski, John Petz, Joe Neiswonger, Bernice Cernod, Ralph and Mary Rosenberger and Craig McAm.

*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 7:30 p.m.

Motion by Mr. Miller, second by Mr. Tyo to approve the minutes of the meeting held June 6, 2019, as prepared and distributed.

Motion passed 6-0.

Ralph Rosenberger
557 Cahoon Road

The applicant is requesting a variance per C.O. 1370.05- (Residential use location requirements) to install a Residential Electric Power Generator in the side yard within 10’ from the property line.

Mr. Norton discussed the second agenda item.

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 asked if there was discussion.

Mr. Burke asked if Mr. Tuck-Macalla knew the amount of the variance requested.

Mr. Tuck-Macalla was not sure.

Mr. Burke asked if the applicant was present at the meeting.

Mr. Burke asked Mr. Rosenberger how far the generator will be from the lot line.

Mr. Rosenberger said approximately 8’-9’ from the side lot line but wasn’t exactly sure.
Mr. Burke explained that they will need a 2' variance but that it is difficult for the Board to consider a variance when the exact variance request is not clear.

Mr. Rosenberger presented the Board with pictures of the house and placement of the generator.

Mr. Tuck-Macalla said he could not give the Board a definitive number.

Mr. Norton stated that based off the pictures, it appears that it is planned to be placed in front of the living part of the next door neighbor.

Ms. Rosenberger explained that it will be tucked in the inset of their home and showed pictures.

Mr. Norton asked if Ms. Rosenberger had any pictures of what the neighbor’s side of the house looked like.

Ms. Rosenberger showed one picture that best showed what the neighbor’s house looked like.

Mr. Norton stated that if this were an air conditioner, he’d be a little more concerned with the location. But due to the fact it is a generator and will rarely be used, he is more comfortable with it.

Mr. Rosenberger and Ms. Young explained that they had spoken with the neighbor about the proposed location.

Mr. Norton proposed they make a motion to grant a 3' variance just to make sure they are covered and add screening with fencing or year round vegetation.

Ms. Rosenberger explained that there is some vegetation currently in that area but they will plant additional vegetation as well.

Mr. Norton explained that the City’s ordinances state when the generator can be tested and for how long.

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

**Motion** by Mr. Tyo, **second** by Mr. Gess to grant the property at 557 Cahoon Rd. a variance per C.O. 1370.05 for the installation for Residential Electric Power Generator in the side yard to be no closer than 7’ from the property line and that it be hidden from view from the street by fencing or non-deciduous plants.

**Roll Call Vote:**
**Yeas** – Gess, Miller, Norton, Tyo, Burke, Young
**Nays**
**Motion Carried 6-0**

Craig and Julie McArn The applicant is requesting a variance per
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296 Bayview Road
C.O. 1359.01- (Installation requirements) to install an Air Conditioning Condenser within 10’ of the side lot line. Approximately 5’ from the lot line.

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

Mr. Norton explained that the request is 3’5” from the property line and a 6’5” variance would be needed.

He explained that the unit is tucked behind the chimney on that side. He recalled that the neighboring house has a drive on that same side which makes it a long distance from the neighboring house and the occupied space is 20’ or more away from the unit.

Mr. Miller clarified that it would be 3’5” from the fence and leave about 1’6” from the unit and the house.

Mr. McArn stated that the installer said it would be about a foot.

Mr. Norton asked if the unit is equipped with a sound blanket. He stated that the proposed unit is at a 76 decibel rating. He explained that often time the motion made for this type of request is made requiring the use of a sound blanket. If it is not given as a standard feature, it can be purchased as an accessory which is a modest cost to make it operate as quietly as possible.

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

**Motion** by Mr. Tyo, **second** by Mr. Burke to grant the property at 296 Bay View Rd. a variance per C.O 1359.01 for the installation of an air conditioning condenser 6’6” from the house. The unit must be screened with an artificial screen or plants and have a sound blanket.

**Roll Call Vote:**
**Yees – Gess, Miller, Norton, Tyo, Burke, Young**
**Nays-**
**Motion Carried 6-0**

Joe Neiswonger
600 Glen Park Drive

The applicant is requesting 2 variances per C.O. 1149.01-(Location) and C.O. 1149.03-(Height limitation) to build a garage in the front yard (1149.01) taller than 18’ (1149.03).

Mr. Norton discussed the fourth agenda item and asked if someone was present on behalf of this agenda item.

Mr. Norton explained that this is a very small house with plans to put a garage bigger than the house in the front yard. He asked why not try to incorporate the garage so it’s an attached garage.
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Mr. Neiswonger stated that he was told that it must be 3’ from the property line if it is detached and 10’ from the property line if it is attached.

Mr. Norton clarified that if it is detached, it must be at least 3’ from the property line but it also must meet other requirements.

Mr. Norton explained that on all three requests, he sees a lot of difficulty with this proposed garage fitting in with the neighborhood. On occasion, garages are allowed in the front yard but usually because there is an obstacle to the backyard. He explained that a driveway can go right up to the property line and does not need an offset from the property line.

Mr. Norton asked if there was discussion.

Mr. Neiswonger stated that he called and was told it could be 700 square feet and that is why he picked that size.

Mr. Tuck-Macalla stated that the footprint that was scaled out was 750 square feet. He stated that the ordinance doesn’t really say anything about footprint size, but square foot size.

Ms. Young asked if he had an images of what the proposed garage would look like.

Mr. Burke explained that when an applicant is filling out an application, one of the questions asked is whether the variance requested is a minimum variance that will accomplish the purpose. He explained that the purpose is to add a garage and it seems to him that a building of such a size, exceeds what would be necessary. Also, in regards to question number 7 on the application, there is concern of it not fitting in with the other houses in the neighborhood. (size/height)

Mr. Burke asked Chairman Norton what specific variances would be needed. (Garage in the front yard, 6’ height variance and approximately 1050 square feet which is a 50% request in size.)

Mr. Tuck-Macalla explained that the square footage that would be allowed would be 700 square feet, the proposed footprint of the garage would be 750 square feet and with the second floor loft, it would be approximately 1050 square feet.

Mr. Norton stated that it would be about a 50% request.

Mr. Burke asked if Mr. Neiswonger had the same numbers as Mr. Tuck-Macalla.

Mr. Neiswonger stated that he came up with 30’ by 25’/ 700 square feet. But explained that he has been thinking about it the last couple of weeks and that it would be fine if it were just a basic two car garage that is smaller than his house.

Mr. Norton stated that he mentioned he cannot get a drive up the side but on one side there appears to be 9’8” and around 14’ on the other side. The driveway could run up the South side of
the property. He explained that a free standing garage in the front yard is fairly unusual and if there is one it is because there is no backyard.

Mr. Neiswonger stated that his house sets back farther than any house on the street. His house starts 12’ farther than the back of his neighbor’s house.

Mr. Miller stated that one of the challenges he has is that the Board does not know where the garage is going to be situated in the front yard.

Mr. Burke asked if Mr. Neiswonger if he knew where the setback line would be in relation to the other houses on the street.

Mr. Burke stated that the Board has a number of challenges with this application and is concerned with the lack of a precise plat showing exactly where the garage will be placed in relation to the front setback line and the house itself.

Mr. Burke asked Mr. Neiswonger if he would consider coming up with the different smaller design that would address the concerns that have been expressed by the Board or the Board could vote on the current proposal.

Mr. Neiswonger explained that he was going off what he was told over the phone and could reduce the size to 25’ by 25’ and stay at the required 18’ in height.

Mr. Norton stated that he is struggling with the fact that there is 42’ in the backyard and that a driveway could be put on the side of the house with a garage in the backyard behind the house.

Mr. Tyo stated that the Board has to be very concerned with setting a precedent within the City.

Mr. Gess asked if there were fewer challenges to overcome if it was somehow an attached garage.

Mr. Tuck-Macalla stated that if the garage was attached, there wouldn’t be a height limitation because then it would part of the house.

Mr. Norton discussed side yard setback relative to the property and other options of placement for a garage on the back of the property.

Mr. Norton explained that the Board can vote on the proposed request that was brought to the Board tonight or the request can be withdrawn and come back with a different design. If the new design still would require a variance, then it can be presented to the Board.

Mr. Miller asked if the request was being withdrawn or tabled.

It was discussed that the agenda item would be tabled for now to allow for changes.

Mr. Norton asked if there was any further discussion and if there was a motion.
Motion to table the application request at 600 Glen Park Drive.

Roll Call Vote:
Yeas – Gess, Miller, Norton, Tyo, Burke, Young
Nays –
Motion Carried 6-0

Kate Bilski and Debbie Blauman
23723 Lake Road

The applicant is requesting a variance per C.O. 1359.01-(Air Conditioning Equipment, Installation requirements) to install 2 Air Conditioning Condensers on the East side of the house, the house is approximately 5’ from the property line. The variance requested would be 8’.

Mr. Norton discussed the fifth agenda item and explained that the Board has had the opportunity to review the application and visit the site.

Mr. Norton discussed how the applicant’s house is under construction. He stated that the difficulty he saw with the application is that there is occupied space on the property line.

Mr. Norton explained that on the application it states that the unit’s proposed location is due to the fact that there is a porch in the back of the house and they do not want to hear the noise. In saying that, it is saying that it is okay for the neighbor to put up with the noise next to the property.

Ms. Blauman stated that it is less about the noise in the backyard as it is the lack of space. If the unit was placed in the backyard, it would be closer to her bedroom window as opposed to moving to the front corner. The neighbors on the other side have a unit that is even closer to the main living space of the applicant’s house.

Mr. Norton stated that he did notice the neighbor’s unit and was not sure if it was permitted or not. He noticed it was not screened and he guessed they may not have gotten a permit for that which could be looked into. At the very least, the unit should be screened. When a unit is in a violation of the ordinance, it should be hidden as an unsightly piece of equipment.

Ms. Blauman stated that they plan to landscape around the unit. She explained that they have spent a lot of money on the property and do not plan to skimp on that area and to make her neighbor’s life miserable.

Mr. Burke asked if the neighbor to the East was present.

The neighbor was in the audience.
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The neighbor explained that she does not have air conditioning and that her windows are frequently open. She is concerned that there is two condensers and that the 76 decibel rating is too loud. She read that a decibel rating higher than 84 is harmful to your hearing. She is concerned about the noise level and she lives in 1928 Sears house with a very narrow driveway. She explained the placement of the two units will make living very hard for her. She also stated that she wants to be cooperative.

Ms. Blauman explained that the units are smaller and because the house is very old, they put one unit upstairs in the attic space and one in the basement in order to come through the floors and not up through the walls.

Mr. Burke stated that he would like to know exactly where the lot line is between the applicant’s property and the neighbors. He stated that based on what he saw, the edge of the driveway is about 6’6” away from the foundation of the home.

Neighbor to the East stated that it is actually 7’6” and that the previous neighbor said that there was a part of the tree lawn that was on the property line.

Mr. Burke stated that the Board is not sure if the neighbor’s driveway is on the lot line or whether it comes in from the lot line.

Ms. Blauman and Ms. Bilski explained that they were not sure where the lot lines are and it would be purely speculative to decide.

Ms. Blauman stated that they had all been talking the evening before and decided that if the units were placed in the back they’d actually be more of an annoyance during sleeping hours.

Neighbor stated that the room on that side of the house is a guest room and she sleeps on the other side of the house with a room in the middle.

Mr. Miller stated that the Board does not have any specific measurements of the lay out/property lines that would show the proximity to the line and the position alongside the home. He stated that he would like to see that plan in order to make a decision.

Mr. Norton agreed with Mr. Miller. As he looked at it, he felt very negative about it. From looking at it, it looked like the units will be right on the property line. If an 8’ variance is what is needed, then it will be very close to the property line and would be a very large variance request.

Ms. Blauman stated that the units will be one foot off the house and they are 24”.

Mr. Norton explained that the face of the unit is only going to be a couple of feet away from the property line. Only having a total of 4’6” feet, with a 2’ unit and 1’ off the house leaves only about 18”.

Mr. Tuck-Macalla stated that the dilemma is not knowing the exact property lines.
Mr. Burke asked if they have considered placing the units in the South East back of the house.

The applicants explained that there is not a lot of space in the back with the porch and driveway and would be unsightly. They also stated that if the units were in the back, they could be heard more easily.

Neighbor asked if one unit could be placed on one side of the house and the other could be moved to the other. She stated that the amount of decibels would be very high.

Mr. Gess stated that the decibel rating would not double because there are two units. There would be an increase. (upper 70’s) He stated that they are starting off at louder decibel rating than usual. (74) He asked if there is any other equipment selection that could be chosen in order to accommodate everyone.

Mr. Burke asked if placing the units between two house that are close together act as a sound box as opposed to in the back of the house where the sounds can dissipate.

Mr. Gess stated that yes, it would make the sound louder being placed at the proposed location.

Mr. Norton stated that the Board needs to get a better handle on what the dimensions are, establish fence and driveway line and determine how much side yard there is.

Mr. Burke asked if there has been a survey in the back yard.

Ms. Blauman stated that they haven’t come across any. She stated that the fence runs into the trees.

Mr. Tyo asked if this design was something the applicants thought about or did the unit installers suggest the proposed location.

Mr. Tuck-Macalla stated that there is considerable distance between the basement and the back of the porch. He asked if they have ever thought of placing the units in the front behind decorative hedges which would alleviate some concerns. He also explained that the basement is in the front and would make it more efficient to hook up.

Mr. Norton explained that over the years there have been times when a front yard placement made sense and he would be a lot more comfortable with the request.

Mr. Burke asked if that is something they would consider.

Ms. Blauman explained that a front yard placement would be by the dining room window.

Mr. Norton explained that the units are fairly small and doubts you’d be able to see them unless you went right up the window and looked down.
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Ms. Bilski stated that they are open to other ideas but she is not sure there is 2’ of foundation in that area.

Mr. Tuck-Macalla suggested other front of the house unit placement options.

Mr. Tyo asked if they currently have air conditioning in the house.

Ms. Blauman stated that no, they do not currently have air conditioning.

Mr. Norton stated that he thinks everyone is getting to the same point that they might want to reexamine other possibilities and withdraw it for tonight or the Board can vote on the proposed request.

Ms. Blauman asked about the sound blankets that were previously suggested during the meeting.

Mr. Miller stated that they will still require a sound blanket but that he is still not comfortable saying yes because the Board does not have a specific plan with measurements.

Mr. Norton agreed.

Ms. Young stated that she thinks because they don’t know where the property line is and they are basing the measurements off the driveway which might not be the property line. In order to say in the variance with any certainty, the measurements are needed.

Mr. Tuck-Macalla asked if they got a mortgage survey. He stated that they can look in their file to see if they can find something.

Ms. Young asked if anyone from the City could do that.

Mr. Norton said the contractor that is doing the work for them could look as well. They would know where to look and where the pins should be.

Mr. Tuck-Macalla said they could do some digging on that side of the street and get a better idea of where the line is.

Mr. Burke clarified that even if they came back with more specific measurements but same placement, he would still have concerns about the narrowness of the area.

Ms. Blauman stated that the Board could table their application.

Motion by Mr. Burke, second by Mr. Gess to table the application for the variance submitted by the property at 23723 Lake Rd. until the following meeting.

Yeas – Gess, Miller, Norton, Tyo, Burke, Young
Nays-
Motion Carried 6-0
Michael Aerni on behalf of John Petz  
315 Elmwood Road

The applicant is requesting a variance per C.O. 1359.01- (Installation requirements) to install an Air Conditioning Condenser within 10' of the side lot line.  Approximately 6' from the lot line.

Mr. Norton discussed the sixth agenda item.

Mr. Norton explained that this is an unusual and very slender unit.

Mr. Burke asked if the intent is to replace an existing unit.

Mr. Petz shared that he had to have all his block replaced because it had cracked and plan to possibly put a deck out there.

Mr. Burke asked if there was currently an air conditioning unit on the side and if the new one will be in the same spot.

Mr. Petz stated that the unit used to be in the rear of the house and was hit by a tree 2-3 different times over the years.

Mr. Burke stated that he was confused by the drawing that was presented to the Board and the proposed placement of the unit.

Mr. Petz explained that they plan to put the unit between the two houses on the side of the house.

Mr. Burke clarified that the existing unit is on the right/South side of the house and just passed the back wall of the neighbor’s house. He asked for clarification as to where the new proposed unit will be placed.

Mr. Petz stated that the new unit has already been installed and is operating.

Mr. Norton clarified it is on the South side of the house and very close to the back of the house.

Mr. Petz stated that it is 12’ from the back of the house.

Mr. Burke clarified that the unit he saw when he visited the site is the new unit.

Mr. Norton stated that on the South side, it shows 9’ to the fence.

Mr. Petz said that it was more like 6’.

Mr. Norton asked if he knew the total width of his lot.
Mr. Petz was not sure.

Mr. Norton stated that the drawing the Board is reviewing is not to scale. He stated that the redeeming feature is that the unit has a decibel rating of 57, only 13” deep and goes rectangular against the side of the house.

Mr. Gess stated that according to the County Auditor’s website, the effective front is 45’. He asked if this unit is made to be used for the whole house.

Mr. Petz stated that it is supposed to but it does not hit the bedrooms in the upstairs.

Mr. Norton stated that given the decibel rating and nature of the unit, he does not have a difficulty with it.

Mr. Gess wondered why the unit had already been installed. Was it flagged by inspection after the fact?

Mr. Petz stated that the City inspector saw it as they were driving down the street.

Mr. Tyo asked if the contractor who installed the unit mentioned that a permit would be needed.

Mr. Petz was not sure but stated that he does a lot of work in Bay Village.

Mr. Gess asked if this unit is on the same side of the house as the previous one with an existing variance.

Mr. Tuck-Macalla stated that no, the previous unit was in the back of the house.

Mr. Norton stated that if the variance is granted, Mr. Petz should have the contractor pay the filing fee because he should have known one was needed. The contractor is responsible for causing the stress and discussion.

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

Motion by Mr. Tyo, second by Mr. Burke to grant the property at 315 Elmwood Rd. a variance per C.O. 1359.01 to install and air conditioner approximately 6’ from the lot line.

Yeas – Gess, Miller, Norton, Tyo, Burke, Young
Nays-
Motion Carried 6-0

There being no further business to discuss the meeting adjourned at 8:40 p.m.

Jack Norton

Kateri Vincent, Secretary