Meeting Minutes of  
Board of Zoning Appeals  
Held June 6, 2019

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

Excused:

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

Audience:  Deb Blauman, Kate Bilski, Michael Doran, Garrett Lapping, Sharon O’Donnell, Joe and Sheryl Krall

*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. Bruno, **second** by Mr. Gess to approve the minutes of the meeting held May 16, 2019, as prepared, edited and distributed.

**Motion passed 7-0.**

Michael Doran  
514 Elmwood Road  

The applicant is requesting a variance per C.O. 1153.02-(minimum front yard-building lines). The current masonry steps need replacing, owner is seeking a variance to encroach into the 30’ front yard set-back 5’6” in order to build a wooden deck and steps.

Mr. Norton discussed the second agenda item.

Mr. Norton explained that that Board has had a chance to visit the site and review the application.

Mr. Norton asked if there was discussion.

Mr. Burke asked if the applicant was present. He asked how far the base of the step to the front of the house was.

Mr. Doran stated that he thought it was about 6’.

Mr. Burke clarified the requested measurement of the proposed steps was 5’6”.
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Mr. Norton stated that looking at the house just to the North of the home, it looks like they have a similar situation and their steps stick out the same or even a little bit more than the current request.

Ms. Young stated that she spoke with that neighbor and they had no problem with the variance request.

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

Motion by Mr. Burke, second by Mr. Bruno to grant the property at 514 Elmwood Rd. a variance of 5’6” from the front yard set-back per C.O. 1153.02 to permit the construction of a new front step in accordance to the application as prepared and submitted.

Roll Call Vote:
Yea - Gess, Miller, Bruno, Norton, Tyo, Burke, Young
Nay -
Motion Carried 7-0

Kathryn Bilski and Debra Blauman
23723 Lake Road

The applicant is requesting a variance per C.O. 1121.09-(building line) to add a roofed front porch to this house extending 8’ into the front set-back.

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

Ms. Young stated that it is odd that there is not a front door to the house.

The applicants stated that the front door is located in the back of the house.

Mr. Norton explained that the house was moved from across the street.

The applicant discussed that the house was moved from across the street and the trolley used to run in front of it. She shared that the back of the house is actually really pretty and is the old front of the house.

Mr. Norton stated that the new design is a lot more attractive in creating a front view.

Mr. Bruno stated that he did not have any problem with the request.

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

Motion by Mr. Tyo, second by Mr. Bruno to grant the property at 23723 Lake Rd. a variance per C.O 1121.09 to add a roofed front porch to the house, extending 8’ into the front set back.

Roll Call Vote:
Yea - Gess, Miller, Bruno, Norton, Tyo, Burke, Young
Nays-Motion Carried 7-0

Garrett Lapping, Sixmo A/E
on behalf of Sharon and James O'Donnell
235 Bradley Road

The applicant is requesting a variance per C.O. 1153.04-(minimum rear yards) to encroach upon the rear yard set-back requirement of 50' by 20'10" to expand garage and living space.

Mr. Norton discussed the fourth agenda item. He stated that this property has a bit of an unusual situation in that the address is on Bradley but appears as if it should be on the side street. He also noted that if the house was treated as the address on the side street, there is quite a bit of distance and would need a side yard set-back.

Mr. Norton asked if there was discussion.

Mr. Miller asked Building Director Tuck-Macalla if there is a percentage of rear yard that needs to be maintained as usable green space.

Mr. Tuck-Macalla stated that there is no requirement for the backyard except when discussing accessory use but there is one for the front yard.

Ms. Young asked if the shed will be removed.

Mr. Lapping stated that the shed will be removed.

Mr. Burke stated that he had some reservation given the amount (percentage wise) of the requested variance is being requested. (about 40%) It is the BZA’s job to tweak around the edges and asked if they had considered other options.

Mr. Thornton, Mr. Lapping’s employer and previous neighbor from across the street, stated that when the process was started they made a bunch of assumptions, one being that it was a side yard. After getting through the process they realized it was not the side yard and have not explored other alternatives. He explained the homeowners have a nice u-shaped courtyard that they are hoping to maintain and it seemed to make sense to take it out in the rear yard direction.

Mr. Burke asked if it was open to the view to the East.

Mr. Thornton stated yes, it is open to the view to the East. He explained that all of the houses on the side street are around 10’-12’ apart. This request is not quite that tight.

Mr. Norton stated that the homes to the East of the applicant on Webster, view this as a side yard since they are facing Webster. He explained that it is a little unusual in the way the land was initially carved up and probably was given the wrong address. The wrong address created a problem because it made the lot very shallow and wouldn’t have ended up with a backyard.
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Mr. Bruno asked Building Director Tuck-Macalla if there was another existing home previous, explaining that usually the location of the front door dictates the address of the home.

Mr. Thornton stated that this home was the original home on the property and that the homes on Bradley were there before.

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

**Motion** by Mr. Burke, **second** by Mr. Tyo to grant the property at 235 Bradley Rd. a variance of 20’ 10” from the rear yard set-back requirement per C.O. 1153.04 to permit the construction of an addition to the building in accordance with the plans and application submitted.

**Roll Call Vote:**  
**Yeas** – Gess, Miller, Bruno, Norton, Tyo, Burke, Young  
**Nays**-  
Motion Carried 7-0

Ryan Rowland and Elizabeth Difiore  
25034 Lake Rd.

The applicant is requesting a variance per C.O. 1359.01-(installation requirements) to install AC condenser on the side of the house closer than 10’ from the property line.

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

He stated that he noticed that a not fully installed unit is sitting behind the house.

Mr. Rowland stated that yes, a unit is sitting behind the house. He explained that this is a significant investment that they have been considering making over the last couple of years. Two owners had addressed it but ultimately decided it was not worth the investment. He explained that it was an after-thought as to where the unit was to go. When they came to install the unit, they had wanted to put the unit on the roof of the back of the house or explained that a variance would be needed in order for it to be placed on the side of the house like their neighbor. Feeling as though it would be an eye sore to both them and the neighbor, it is currently in a temporary holding spot as they wait for the City. The unit is currently in their flower bed which is equal distance from the house next door and is behind instead of on the side. Previously, there was a massive window unit that was more BTU’s on the side of where the proposed unit will be.

Ms. Difiore explained the proposed unit is an efficiency unit that will be on the ground and will be inside of their fence.

Mr. Rowland explained that this is a $20,000 investment and it is not ideal to have the unit on the roof of their house.
Mr. Norton explained that when he went to the back of the house he did not look over the fence to see if the neighbor had anything.

Mr. Rowland explained that their neighbor has a unit and that their house extends out a little bit shorter than to where their house extends out. He explained that depending on where they put their unit, it may be relatively in line to where their neighbor's unit is.

Mr. Norton asked for clarification as to where the neighbor's unit is located.

Mr. Rowland explained that it is in the back of their house but their house is not as far back as theirs. It is right at the edge of where the side of the house is.

Mr. Burke asked if it is going to be on the West side of the house.

Mr. Rowland stated that yes, the unit will be on the West side of the house.

Mr. Burke stated that looking down the West side of the house, you see a chimney that bumps out and a bump out from the house itself behind the chimney. He stated that he does not think it would be seen very much due to the bump outs in front of it.

Ms. Difioire explained that there is a fence and a gate as well.

Mr. Rowland stated that the unit will be behind the fence area and not visible from the road.

Mr. Bruno stated the proposed unit is 56 decibels which is extremely low, and that his only concern was the decibel rating since it is right next to the neighbor's house. He stated that he did not have any issue with this application.

Mr. Tyo asked if the motion were to include the requirement of a sound blanket and some type of screening (ex: deciduous plants) would it be a problem.

Mr. Rowland and Ms. Difioire stated no, and that they planned to have plants anyway.

Mr. Norton explained that it would just mean that if a person took that fence down, that they would have to come up with some screening from your neighbor's view in order to comply and keep the variance making it a long term requirement.

Mr. Norton asked if there was a motion.

**Motion** by Mr. Tyo, **second** by Mr. Gess to grant the property at 25034 Lake Rd. a variance per C.O. 1359.01 to install an air conditioner on the West side of the house which would be approximately 3' from the property line with condition that a sound blanket be installed and natural or constructed year round screening.

**Yeas —** Gess, Miller, Bruno, Norton, Tyo, Burke, Young

**Nays—**
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**Motion Carried 7-0**

Gregory Brown
25751 Lake Road

The applicant is requesting a variance per C.O. 1350.03-(installation and location) to replace existing shed with newer shed that is 10’x14’, 2’ longer than allowed.

Mr. Norton discussed the sixth agenda item. He explained that the lot is fairly large by Bay Village standards and irregular in the back corner. He asked if there was discussion.

Mr. Burke asked if this proposed shed was to replace the shed right next to the garage.

Mr. Brown stated that yes, it will replace the existing garage.

Mr. Burke stated that this does not seem like a very large variance request.

Mr. Norton stated that it does not look like it is really crowding the lot since the lot is pretty generous.

Mr. Bruno clarified the request in that the new shed is going on the existing footprint.

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

**Motion** by Mr. Bruno, **second** by Mr. Burke to grant the property at 25751 Lake Rd. a variance per C.O. 1350.03 to replace the existing shed with a new shed that is 10’x14’, 2’ longer than allowed per Code. The placement will be placed as submitted per the drawing and application.

**Yeas – Gess, Miller, Bruno, Norton, Tyo, Burke, Young**

**Nays**

**Motion Carried 7-0**

Mr. Schaedler
592 Elmwood Road

Right of Appeal- C.O. 1127.03(a) An appeal has been made by Mr. Schaedler regarding the Building Director’s decision to grant a permit to the owner of 594 Elmwood Road, Joe Krall, to erect a fence on his property.

Mr. Norton discussed the seventh agenda item and asked if Mr. Schaedler was in attendance.

Mr. Norton stated that it appears the fence meets the ordinance and asked that he explain to the Board why he feels it is not appropriate.
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Mr. Schaedler stated that he was just going by what was written in the regulations and that if it is contested, the owner would need to provide a survey. He believes the fence application was wrong based on the survey. The survey submitted was a 21 year old plot line. He explained that his house is to the North and was not built at the time of the plot line survey. The house directly to the South is not even on the plan that was submitted.

Mr. Norton stated that he noticed that the yard had strings and asked if those pins were found.

Mr. Tuck-Macalla stated that he found the pins and then plotted the strings back according to the survey and other surveys from the neighbors to the North and South. (The original plot plan from the neighbor to the North and a survey from the neighbor to the South of 2017.) He also had the original survey that was submitted for construction of the house as 594 Elmwood Rd.

Mr. Norton stated that the pins have been located and there is no evidence that they have been tampered with. The concern would only be that the fence is not built on Mr. Schaedler’s property.

Mr. Schaedler asked where the pins were located and if one was located in the backyard. He asked if the one in the front and the one in the back were needed in order to make a straight line.

Mr. Tuck-Macalla stated that the pins were located on either corner of the front yard. Due to the fact that there is a survey from both neighbor’s house, he was able to measure from the house. (8.5’)

Mr. Norton clarified that what Mr. Schaedler was asking for is for his neighbor to bare the expense of a new survey even though the City is satisfied with an accurate survey and has in ground evidence that establishes what that line is. The Board would be hard pressed to force another new survey since the Building Department has confirmed that yes, the pin locations are accurate. Looking at the surveys of the surrounding neighbors and building permits, you can measure and see the string is in the right spot.

Mr. Tyo asked how far Mr. Schaedler thinks the survey is off.

Mr. Schaedler explained he was just going by what the regulations said. He discussed the location of the spike in the back and believes that there should be a straight line and that it had to be a foot inside the property line. Mr. Schaedler believes that the proposed fence is nowhere near that requirement.

Mr. Norton described that a fence can be on a property line and that there is not a one-foot requirement for the fence’s placement on the side yard. Further, Mr. Norton described how when measuring the surveys that they are accurately based on the pin locations described.

Mr. Miller asked Mr. Tuck-Macalla that when the application was made whether the survey was provided. Mr. Tuck-Macalla stated that a survey is not required for a fence installation, but is
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only requested when it is challenged by a neighbor. When there is a challenge to the fence application, then the Building Department asks for a survey. Mr. Tuck-Macalla said that the survey being reviewed is from the original home builders and that he provided it to Mr. Schaedler for review. Mr. Tuck-Macalla is confident with the survey because of the common shape of the lot. If it were an odd-shape lot, he would probably have someone else look at the survey.

Mr. Burke stated to Mr. Schaedler that he understands Mr. Schaedler’s position that he does not believe the survey is correctly positioned, but asks what the basis is for the position Mr. Schaedler takes.

Mr. Schaedler said that he believes it is off because it goes directly off the fence line and that they cannot find the other pin that goes in the back of the lot and believes he’s going off the regulations. He expected a survey to be performed since he challenged the fence application.

Mr. Burke acknowledged the challenge and reiterated that the survey provided by the original builder was satisfactory according to the Building Department Director.

Mr. Tuck-Macalla stated how he came upon the survey at issue and that they were both in the City’s files. He stated that the line between pins demonstrates that fence installation can be anywhere within the string lines on the side yard.

Mr. Bruno wanted to clarify that a fence installation can be all the way up to a property line, but not on top of the property line and the Chairman’s comments describe the requirement. He also stated that the survey provided received the stamp from an engineer that is licensed through the State of Ohio to show it’s a fair assessment.

Mr. Schaedler is concerned that although it’s permitted, he believes there is a safety concern with the fence being placed directly next to a sidewalk. There may be difficulty seeing children walking on the sidewalk, although that isn’t a matter in front of the Board for this objection to the fence application.

Mr. Norton said that that’s why there is a three foot maximum heights, so there’s plenty of visibility for someone walking by. Additionally, he stated that the purpose of the appeal is whether to approve the Building Director’s decision or rule in favor of Mr. Schaedler’s appeal.

Mr. Burke stated that since the appeal has been reviewed, that the Board’s decision is to either grant the appeal or deny the appeal.

**Motion** by Mr. Burke, **second** by Mr. Tyo to grant the appeal by Mr. Schaedler regarding the fence application for the property at 592 Elmwood Rd.

**Yea**s—
Nays- Gess, Miller, Bruno, Norton, Tyo, Burke, Young
Motion Denied 7-0

Mr. Norton commented that the nature and thoroughness of the reports by Building Director Tuck-Macalla were wonderful. In the past, there had been some difficulties and they were a perfect way of doing it and the Board is appreciative of the detail.

There being no further business to discuss the meeting adjourned at 8:10 p.m.

[Signature]
Jack Norton

[Signature]
Kateri Vincent, Secretary