Minutes of a Meeting of
Board of Zoning Appeals
Held January 5, 2017

Members Present: Bruno, Burke, Dostal, Miller, Norton, Tyo

Also present: Jeff Fillar, Building Official of SAFEbuilt, Inc.

Audience: Dino Lustri, Daniel Margulies and Todd Kalish.

Chairman Norton called the meeting to order at 7:35 p.m.

Mr. Norton called for the approval of the minutes of the Board of Zoning and Appeals held November 17, 2016. **Motion** by Bruno, **second** by Burke, to approve the minutes of the meeting held November 17, 2016.

**Motion passed 6-0.**

Dino & Paola Lustri
475 Cahoon Road

C.O. 1153.03 Requests a 7 feet side-yard variance from the required 10 feet on north side of property to build a new garage.

Mr. Norton advised that the board has had an opportunity to visit the site and review the application.

Mr. Burke asked Mr. Lustri if he would be removing the existing garage if he is granted a variance to build a new garage. Mr. Lustri stated that yes they will be removing the old garage.

Mr. Lustri explained that his current garage is failing due to the proximity to the slope.

Mr. Norton noted that this is technically an attached garage and it is very similar to a detached garage in which 3 feet is allowed to the property line.

Mr. Burke explained when he viewed the property he noticed that the concrete is dropping off into the slope and noticed that on the southeast corner the garage is very close to the slope.

Mr. Lustri stated that they are shifting the garage north away from the slope.

**Motion** by Burke, **second** by Bruno, that a 7 feet variance be granted to the property at 475 Cahoon Road, pertaining to the C.O. 1153.03 for the construction of a new garage on the northeast corner of the lot.
Roll Call Vote: Yeas – Bruno, Burke, Dostal, Miler, Norton, Tyo
Nays- None.

Motion Carried 6-0

Todd Kalish
30200 Lake Road

C.O. 1153.02(1) Requests a 20.22 feet variance from the required 50 feet front setback for construction of a 3 car side loaded attached garage.

Mr. Norton advised that the board has had an opportunity to visit the site and review the application.

Mr. Norton explained to Mr. Margulies the architect of the property that the board attempted to do research to find similar variance requests. It was discovered during the research that the board will need more time to find similar variance requests in order to make an accurate decision on the Kalish property. The initial examples of research the board was looking at were properties in Eagle Cliff. Mr. Norton explained that the properties in Eagle Cliff have shallow lots and there is common ground in which you cannot build on. Mr. Norton explained that the lots on Eagle Cliff cannot be compared to Mr. Kalish’s property because these lots have a special condition of no backyard.

Mr. Norton explained that the board is concerned about setting a new precedent. He explained that the city has traditionally allowed even detached garages in the front yard along the lake, because the lake itself is a peculiar condition. However, in regards to the front yard setback requirement there have been some variances granted however not for as much as the applicant is requesting.

Mr. Margulies explained that he drove down Lake Road and noticed the following homes that appear to have front yard variances.

- 29100 Lake Road
- 29336 Lake Road
- 29434 Lake Road
- 29560 Lake Road
- 29612 Lake Road

Mr. Burke stated that the board needs to review similar properties and see what has been granted or denied and why.

Mr. Burke stated that he has a concern with “creeping variances”, where the board will grant a 10 foot variance and then another applicant would want an 11 foot variance. He questioned “where do we draw the line”?
Mr. Margulies explained that in order to achieve a 3 car garage the only option is to create a “court yard” style garage since they cannot build back.

Mr. Burke asked Mr. Kalish how long he has owned the house. Mr. Kalish stated 8 years. Mr. Burke asked if he was okay with the garage when he bought it. Mr. Kalish, explained that he now has 4 kids and a lot of extra items in which they need the extra space.

Mr. Burke asked if there has been any consideration to leaving the existing garage as a garage but still build out to the south. He explained this would decrease the variance request.

Mr. Margulies explained that he does not understand how having a 2 front wide garage would help his clients. Mr. Burke explained that there will be more room for “stuff”. Mr. Margulies explained that they have 4 kids and soon they will be driving and will need more room for cars. Mr. Tyo explained that we cannot consider kids, cars and dogs into our decision.

Mr. Norton stated that the variance lives with the property not the owner. He explained that there is a tendency to overbuild and therefore have too much house on a too small of a lot.

Mr. Norton stated that the board will need to research the properties including the ones Mr. Margulies gave and at the next meeting come back and make a decision. He explained that by researching the board will be able to come up with facts.

Mr. Miller stated that the neighbor Ken Paradise has concerns for the welfare of their maple tree which will be very close to the area that will be excavated for the proposed construction. Mr. Paradise stated in a memo he sent to the Board of Zoning Appeals that, “It is a mature 50 foot tree with an extensive root structure and we fear any construction very close to the tree will compromise its heath”. Mr. Miller stated the tree is not on the Kalish property, however, with the proposed construction they will be close to the tree.

Mr. Margulies stated that in the past he dealt with a silver maple tree and that tree is still alive. He also stated that he understands the neighbors concern for the tree.

Mr. Norton asked if they knew what the side set back is on the west side of the property. He explained that it looks like they might need a variance to the 30% rule and suggested they find out the dimensions.

**Motion** by Burke, **Second** by Dostal that the application of Todd Kalish for a front yard setback variance at 30200 Lake Road be tabled to allow research on any variances granted or refused by the Board of Zoning Appeals on any similarly situated properties along Lake Road, and also time for the BZA members to review the results of that research.

The meeting adjourned at 8:02 p.m.
Jack Norton, Chairman

Kristine Jones, Secretary