Minutes of a Meeting of
Board of Zoning Appeals
Held December 20, 2018

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

Excused: Gess

Also Present: Gary Ebert-Special Counsel

Audience: Robert Bennett, Tom and Mary Stockett, David Maddux, Dave Tadych, Nancy Stainbrook and Justin Kapela

*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 7:35 p.m. A correction to the November 15, 2018 meeting was made and will be approved at the next BZA meeting.

Mr. Norton addressed the audience and offered to have hearings postponed due to the fact that not all Board members were present. He explained that if at any point they are uncomfortable with not having a full complement of Board members to hear the case, there was not a problem with asking for their request to be put on the next agenda when all members would be present.

| Robert Bennett | C.O. 1151.01 The applicant is requesting a height variance of a new detached garage from the required 18’ to 19’. |
| 512 Parkside Drive |

Mr. Norton began discussing the first case and asked the audience who was there on behalf of the request. He explained that the Board has had the opportunity to visit the site and review the application. The reason for the requested garage size was to match the size and architectural look of the home.

Mr. Norton asked if there was any discussion from the Board. He explained that it seemed to be a small and reasonable request.

Mr. Burke discussed that the reason for the request was to put a hoist in the garage.

The applicant explained that the reason was to make it easier to lift and store their boating supplies above their cars.

Mr. Burke explained that the plans showed a set of stairs leading to the second floor and asked what the plan for the second floor was.

The applicant explained that it will be used as storage and a wood working area.
Mr. Tyo asked if they planned to have any plumbing or electrical installed on the second floor.

The applicant stated that there would be electrical but no plumbing and that there would not be any living space on the second floor.

Mr. Norton asked if there was any further discussion.

A motion by Mr. Bruno was made and amended.

**Motion** by Mr. Bruno, **second** by Mr. Tyo that the property at 512 Parkside Drive be granted a height variance per C.O. 1151.01 of a new detached garage from the required 18’ to 19’ as requested and submitted and that there is to be no occupation or any living space on the second floor of the structure.

**Roll Call Vote:**
- Yeas – Bruno, Burke, Norton, Miller, Tyo, Young
- Nays-

Motion passed 6-0.

Greg Folger  
24525 Bruce Road

C.O. 1163.05 The applicant is requesting a variance for a 5’ fence in the side yards and backyard and the fence would exceed the 32’ requirement.

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

Mr. Burke addressed the applicants about the current fence in the back of their lot. He asked if the current fence had two different heights and what the purpose was.

The applicant explained that the reason for the two different heights was because the land was uneven in that part of the yard.

Mr. Norton asked what the current length of the back fence was.

The applicants stated that the current length was thirty feet. She explained that they requested a longer fence in order to line up with the neighbors.

Mr. Burke explained that they have had requests for higher fences because of dogs and typically the Board has turned them down simply because it goes to the issue not of the particular uniqueness of the property, but rather the use by the homeowner. Mr. Burke stated that he has some difficulty with the request in that regard.

The applicant submitted a letter from their veterinary specialist.
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Mr. Norton explained one of the difficulties that comes up when dealing with applications of this nature is that the variance lives with the land. Once a variance is granted to a permanent parcel it last forever. It is the job of the Board to look at the intention of City Council when this law was first passed. The Board is to be careful on the exceptions that are allowed and particularly fences that block the view. Council’s intention very clearly states that they don’t want to separate yards and they want to visually be able to see into yards.

Mr. Norton sympathized with the applicants about their animal but wondered if a fence that it could not be seen through at 4’ 4” would be beneficial for the animal. He explained that Board needs to be careful because whatever they allow, everyone else in the city must be given same exception and explained that this is why he struggles with this request.

Mr. Tyo echoed Mr. Norton’s viewpoints. He explained that their application could be altered and they could come back to the Board at another meeting.

The applicant asked what alterations could be made to their request.

Mr. Norton discussed that homeowners are allowed a certain amount of six foot fence. The homeowner could take the perimeter of the lot and 10% of that could be made up of six foot fence. He explained the second part of the ordinance, that homeowners can only have up to 32 feet of fencing in one direction. He explained that the applicants would never be able to have enough to enclose the backyard.

The applicant clarified that after the yard was measured, they decided on a five foot fence which was the least that their dog would be able to stand up on as to compromise with the City. She explained that their goal is not to block the neighbors but are hoping to be able to let their dog out in the yard without so much stimulation.

Mr. Norton explained that Council is currently struggling with the concept of allowing five feet fences based on the basis that it is visually an open fence. This subject is in the beginning stages of being discussed in Council’s committees. But stated that even if Council were to make that type of change, it would not help their kind of situation.

Mr. Ebert mentioned that there was a meeting held recently concerning an applicant wanting a five foot fence for their dog and has prompted the discussion with City Council. There has not been a change but dialogue is happening within committees.

Mr. Ebert suggested that they might want to consider withdrawing their application rather than having the Board vote and it not be passed. Waiting to see what the committee plans to do, may be helpful in their situation.

Mr. Miller explained that the Board does allow a certain length of six foot fence that could be placed in a specific area of the yard that the dog is most drawn to. Limiting that six foot fence to a specific area, may help the Board get to the correct measurements. He also mentioned that
when fence requests are made, it is helpful to have a drawn layout of the property and fence area that is being requested so the Board can better understand and do some math to potentially come up with a solution.

The applicant stated that unfortunately their yard is surrounded by chaos, so the higher fence in only a particular area would not help.

Mr. Norton asked if there was further discussion.

Mr. Burke asked the applicants if they wished to move forward with the vote or if they would like to withdraw their application to be discussed at another meeting. He explained that if the Board votes on their request and it is turned down, they could not come back to the Board with minor tweaks or changes. Their request would have to be substantially changed in order for the Board to vote on another fence request.

The applicant stated that unfortunately due to time constraints, they would have to move forward because a fence is needed for their dog immediately.

**Motion** by Mr. Burke, **second** by Mr. Bruno that the property at 24525 Bruce Road be granted a variance per C.O. 1163.05 to construct a 5’ fence in the side yards and backyard which would exceed the 32’ requirement per the application.

**Roll Call Vote:**
**Yeas** –
Nays- Bruno, Burke, Norton, Miller, Tyo, Young
Motion was denied 6-0.

Zack Wimpsett
518 Upland Road
(Tabled on November 15, 2018)

C.O. 1149.06 Applicant is requesting a variance to build a detached garage with a height variance for garage at 5’1” and a square footage variance of 70.5 feet.

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

Mr. Kapela stated that the drawings and measurements have been revised and resubmitted based on previous meeting discussions.

Mr. Norton discussed how the architectural design of the garage lends itself to needing the extra height.

Mr. Bruno agreed and stated that based on the lot size and the architectural detail of the home on the property, the garage aligns well. The footprint has been reduced since the original application was submitted.
Mr. Burke asked if the homeowners agreed to have the current garage taken down.

Mr. Kapela shared that yes, they are planning to take the current garage down.

Miss Young asked if the covered porch area was counted in the total square footage.

Mr. Kapela stated yes, the total square footage was included in the total amount that was resubmitted.

Mr. Norton asked if there was any further discussion.

Motion by Mr. Tyo, second by Mr. Burke that the property at 518 Upland be granted a variance per C.O. 1149.06 a height variance for garage at 5’1” and a square footage variance of 70.5 feet provided that the current and standing garage be removed.

Roll Call Vote:
Yeas – Bruno, Burke, Norton, Miller, Tyo, Young
Nays–
Motion passed 6-0.

Tom Stockett
29202 Lake Road

C.O. 1153.02 and C.O. 153.03 Applicant is requesting a variance for a front yard variance of 6’ and a side yard variance to decrease the side yard setback to 12’.

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

Mr. Norton noted that the master bedroom addition is in line with present west side of the home and does not increase that area. It is five feet from the property line which is what the old ordinance required. This addition is not extending beyond that portion of the house.

Mr. Norton also noted that after some research, the front yard variance of up to eleven feet had been given. He also noted that even with the addition of the side yard towards the rear portion, the minimum ten foot is still honored. They still have more than the minimum requirement. (twelve feet) The portion that fails is the 30% rule which was changed from 25% that it was historically.

Mr. Bruno agreed with Mr. Norton’s comments and added that due to the circumstances and its location on Lake Road the sight line and front yard setback is in line with the house to the left.

Mr. Burke also shared that a house 3-4 houses down to the East also comes out closer to Lake Road.
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Mr. Norton stated the house immediately to the left has a small portion that is in front of the setback line. He explained that front yard setbacks along the Lake have varied due to the location and the rear typography as it drops off to the Lake.

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

**Motion** by Mr. Bruno, **second** by Mr. Burke that the property at 29202 Lake Road be granted a variance per C.O. 1153.02 and C.O. 153.03 per the application as prepared and submitted for a front yard variance of 6’ and a side yard variance to decrease the side yard setback to 12’ despite the 30% rule.

**Roll Call Vote:**
**Yeas** – Bruno, Burke, Norton, Miller, Tyo, Young
**Nays**–
**Motion passed 6-0.**

There being no further business to discuss the meeting adjourned at 8:07 p.m.

Jack Norton, Chairman  
Kateri Vincent, Secretary