Minutes of a Meeting of
Board of Zoning Appeals
Held November 15, 2018

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

Excused: Norton

Also Present: Mark Barbour-Law Director, Jeff Fillar-SafeBuilt

Audience: Joe Schill 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. Tyo- pro tem, called the meeting to order at 7:30 p.m.

Motion by Mr. Bruno, second by Mr. Miller, to approve the minutes of the meeting held November 1, 2018, as prepared, edited and distributed.

Motion passed 6-0.

Jason Jankowski
28401 Lincoln Rd.

C.O. 1349.07 Applicant is requesting a variance for an aluminum style fence to enclose the backyard around pool.

Mr. Tyo addressed the audience and offered to have hearings postponed due to the fact that not all Board members were present.

Mr. Tyo asked the members of the audience who was there on behalf of the first agenda item.

Joe Schill, the Jankowski’s landscaper, spoke on behalf of the applicant. He explained how he was hired to design and implement landscaping around their pool. As part of the landscaping, the Jankowski’s are hoping to use aluminum style fencing to enclose the pool. He explained that from a design standpoint, durability, and for safety reasons, aluminum fencing is most ideal.

Mr. Burke explained that it has been 12 years since this specific ordinance was passed and asked Jeff Fillar if he was aware as to why the use of aluminum is not permitted to be used.

Mr. Fillar explained that they are seeing the use of aluminum used more and more.

Mr. Burke noted to the Chairman that he was inclined to agree with the request for the variance of the applicant.
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Mr. Bruno asked if the Board was comfortable with the 4” spacing between each picket, per Steve Vogel’s memo. 

Joe Schill explained that the spacing was less than 4” apart and fit the standards. 

Mr. Gess looked at the fencing website and it was determined that the only options available were less than 4” apart.

Motion by Mr. Bruno, second by Mr. Burke that the property at 28401 Lincoln Road be granted a variance per C.O. 1349.07 for the placement of a fence around the pool per the drawings as submitted provided that the model of the fence being placed does not have spacing between the pickets any greater than 4”.

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

Zack Wimpsett  
518 Upland Rd.  

C.O. 1149.06 Applicant is requesting a variance to build a detached garage with a height variance for garage at 5’5” and a square footage variance of 281 feet.

Mr. Tyo introduced the next agenda item at 518 Upland Road.

Justin Kapela from Kapela Design and Construction was there on behalf of the homeowner, Zack Wimpsett. He explained that the homeowner is asking for two variances in order to achieve architectural details that resemble the existing Dutch Colonial home. He stated that the footprint of the detached garage falls under the 700 square foot ordinance, not counting the above the garage area. The siding on the existing house and new garage will be painted to match.

Mr. Tyo asked for more information about how the second floor space is planned to be used.

Justin Kapela explained that the upstairs area is planned to be used a craft room, kids playroom and extra space for guests.

Mr. Fillar asked Justin Kapela to explain further what the extra space for guests would be used for because it is prohibited to be used as a sleeping quarters.

Mr. Tyo explained that extra area upstairs will be mentioned in the motion and should be discussed further with the homeowner.

Mr. Burke asked what the current square footage of the house is.
Ms. Young stated that the square footage of the house is 1,742”, and measures 27’ by 28’.

Justin Kapela discussed that the footprint of the new garage is 672 square feet.

Mr. Burke asked what the height of the proposed garage is.

Justin Kapela explained that it was 23’5”, 5’5” above the allowed ordinance.

Mr. Miller asked what the homeowners planned to do with the existing garage.

Justin Kapela explained that they would like to keep it if possible. He explained that with the way the new side porch would be located, it would serve as a nice courtyard between the two and would be used for extra storage. He also explained that based on his quick calculations, that having both garages together, it would only cover 9.4% of the backyard not exceeding the 30% ordinance.

Ms. Young asked if the new garage would be placed up near the existing house and garage.

Justin Kapela explained that the new garage would be placed 10’ from the back of the house and that the rear walls of the two garages would be closely aligned with each other.

Mr. Tyo asked Jeff Fillar if he had any more information on behalf of the building department or if Mr. Miller had any opinion architecturally speaking.

Mr. Miller explained that architecturally it is perfectly fine but the issue he is struggling with is the notion that the Board is adding a nonconforming structure to the property.

Mr. Bruno agreed and explained that the height issue is not a problem in his mind but the idea that they would be adding another structure to the property he is not comfortable with. Code specifies that the use of more than one occupied structure on a residential property is not allowed.

Justin Kapela explained that homeowners would be willing to take the existing garage down in order to build a new one.

Mr. Bruno clarified that he would still not be comfortable with the purposed new garage.

Ms. Young asked how the heights of the house and the new garage compared.

Justin Kapela explained the house is 25’ tall and the purposed garage is 23’5”. He showed a drawing that was to scale to show the height difference due to the fact the garage is set back farther from the house.

Ms. Young discussed that the foot print of the homeowner’s house is 27’ by 28’ and the new garage is 24’ by 28’. Due to the fact that the new garage will need a height variance and will include a second story, it is almost like putting identical house on the property.
Mr. Tyo explained that the Board has had requests for the same type of variances in the past and what the Board has to guard against is allowing it for this property and being expected to allow it for another in the future. He stated that they have allowed height variances but they have not allowed the number of occupied buildings on single properties.

Mr. Bruno explained that this request would be a significant variance percentage wise to the square footage of the primary residence on the property and the footprint of the entire property and he has yet to see any hardships with the property.

Mr. Burke discussed that the Board of Zoning Appeals cannot legislate. The Board can tweak and make some slight changes but they cannot deviate too far from the code. He explained that the square footage of the purposed garage is more than double of what the code allows. From his point of view, he agrees that it looks like a second house is being built on the property and no hardships are being shown that suggest the variance should be granted.

Mr. Tyo explained that Mr. Kapela could make changes and the Board could vote or the Board can table this item and he could speak with his client, make changes and come back to the Board at a later date.

Ms. Young discussed a property that had an overhang which pushed it over the allowed square footage and questioned if this item would be in considered in the same category because it is an attached structure.

Mr. Miller discussed further about a prior item that had been brought to the Board and explained that the overhang is still counted as square footage of the structure whether or not it is enclosed.

Mr. Kapela asked for clarification on how the square footage is calculated.

Mr. Miller explained that from his understanding it is measured by what lands on the ground. The square footage is measured by what is covered by the porch, roof and the area enclosed by the four walls.

Mr. Fillar explained that square footage is counted by the foot print and anything over two feet of the overhang. The porch and the footprint under the garage counts as square footage but not the second floor of the garage.

Mr. Kapela explained that from his square footage calculations the garage is 672’.

Mr. Fillar explained that the second floor is for incidental storage and it needs to be clarified as that in the motion.

Mr. Gess asked if the covered porch (12’x25’) is considered square footage.

Mr. Fillar explained that anything past the two foot overhang counts toward the square footage.
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Mr. Kapela recalculated the square footage to 948’ which would make a 248’ over the allowed square feet. (30%)  

Mr. Miller suggested shortening the overhang and put a steeper pitch on the garage so the square footage could come down.  

Mr. Gess brought up the other issue with this item is the fact that there would be three structures on the property.  

Mr. Kalepa stated that the homeowner would be willing to take the old garage down and the stone driveway would be grassed over. The new concrete driveway would be poured. He clarified that he would need to reduce the size of the porch or the depth of the garage in order to get closer to the allowable square footage.  

Mr. Kapela moved to table his client’s agenda item so new plans could be made.  

Mr. Tyo suggested a vote for a continuance. 

Motion by Mr. Tyo, second by Mr. Bruno that the property at 518 Upland Road agenda item be tabled.  

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

There being no further business to discuss the meeting adjourned at 8:04 p.m.  

Barry Tyo, pro tem  
Kateri Vincent, Secretary