Minutes of a Meeting of
Board of Zoning Appeals
Held November 3, 2016

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

Excused: Mr. Taylor

Also present: Jeff Fillar, Building Official of SAFEbuilt, Inc. and Law Director Ebert

Audience: Ed Smith, Renee Moell, Katherine McNeal, Michael Herrick, Gary Fischer, Casey from Heating and Plumbing

Chairman Norton called the meeting to order at 7:30 p.m.

Mr. Norton called for the approval of the minutes of the Board of Zoning and Appeals held October 20, 2016. Motion by Dostal, second by Tyo, to approve the minutes of the meeting held October 20, 2016.

Motion passed 6-0.

Michael Moell
555 Cahoon Road

C.O. 1163.05(H)(3) Install 81 feet of 6 feet fence for privacy and containment of dogs

Mr. Norton asked Renee Moell for clarifications regarding the plans that were submitted. Mr. Norton asked if the 4 foot section going back towards the shed would be 6ft fence as well as the 3 ½ x 4 foot gate plus 3 ½ foot fence going from the house over. Mrs. Moell said no. Therefore Mr. Norton verified that they will be only talking about a variance for the 81 feet of 6 foot fence.

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

Mr. Burke asked Mrs. Moell if she knew the dimensions of the lot. Mr. Burke explained that when we are dealing with lengths of 6 foot privacy fence there are sections of the code that we must follow, one being that you cannot exceed more than 32 ft. of 6 foot fence in one direction also the fence cannot exceed 10% of the perimeter of the property, therefore we need to know the lot dimensions are in order to determine whether the length that you are asking for exceeds not only the 32 feet but also the perimeter limitation.

Mr. Burke questioned whether we could even review this item tonight or if it should be tabled.

Mr. Norton asked Jeff Fillar that the memo they received from Safebuilt states that a 6 foot high privacy screening in excess of the 42.6 feet could be interpreted that they determined the
perimeter was 426 feet and 10% of that would be 42.6, however the information is vague in how they came up with that number. Mr. Fillar agreed.

Mr. Norton explained you are allowed to have 32 feet of a 6ft fence on both sides of your property. Furthermore, he explained that the function of the Board of Zoning and Appeals is not to legislate, that duty is for City Council and the BZA is permitted to make minimal changes to city ordinances. What is being asked of the board is to make a substantial change to the requirements of ordinance.

Mr. Burke asked Mrs. Moell if she has considered putting the gate and placing the 6 foot fence further back in order to cut back on the variance request. Mrs. Moell said they would like to continue the fence past because of the neighbors garage and the man door.

Mr. Tyo suggested non deciduous trees or pine trees in order to break up the fence and then starting the gate, however Mrs. Moell stated they still need a gate and fence for the dogs.

Mr. Miller asked Mrs. Moell if she has talked to the neighbors about them putting in 6ft of 32 feet privacy fence, having the 2 portions off set from each other. Mr. Miller suggested that when he does a quick scale of the drawing that is not to scale using the 50ft setback and use the shed corner and start there at 40ft you end up a third of the way up the garage and you are still 10 feet short of the corner of your home, and then you could do 4ft fence for the last 10 feet and square it up to your home.

Mr. Norton stated that the perimeter has been clarified by Jeff Fillar as 403 feet so you are allowed 40 feet total but only 32 feet in one direction. Mr. Fillar corrected Mr. Norton and explained that 403 is one property line the total perimeter is 947, therefore you are allowed 90 feet total, but then you would have to change directions since you are only allowed 32 feet of 6 foot fence in one direction.

Mr. Burke asked if Mrs. Moell would want to table the request until the next meeting and therefore give her a chance to redesign and resubmit.

**Motion** by Burke, second by Dostal for variance of 6ft privacy fence at 555 Cahoon Road be tabled until the next meeting to allow the homeowners time to reconsider and possibly resubmit a revised plan.

**Roll Call Vote:** Yeas – Bruno, Burke, Dostal, Miler, Norton, Tyo
Nays- None.

**Motion Carried 6-0**
Mr. Norton stated that he would need to abstain from voting on the special permit for 27030 Bruce Road since he is related to the applicant.

Mr. Burke asked the architect Gary Fischer for the Rhea property, on the drawings that were submitted is there a point on the drawings where the setback line shows as it crosses. Mr. Fischer said were the line cuts across because of the angle of the property, the section goes from 0 inches to 3 inches off the corner of the south east corner of the porch. Mr. Burke said he would like the exact drawings to be submitted to the Building Department showing the section going from 0 to 3 inches. Mr. Burke said that this is caused because of the slight curve of the street.

Mr. Bruno asked if the setback is set by a deed restriction or is it following city code. Mr. Fischer said it is following city code.

**Motion** by Burke, **second** by Dostal that property at 27030 Bruce road be granted a variance from the front setback requirements of C.O. 1153.02(1) and 1153.02(4) for construction of a front porch across the front of the house the amount of the variance being not more than a triangle of approximately a foot length and not more than 3 inches in depth at the South East corner of the proposed porch subject to submission by the applicants architecture a drawing where it shows exactly where the front building line crosses that corner.

**Roll Call Vote:** Yeas – Bruno, Burke, Dostal, Miler, Tyo
Nays- None.

**Mr. Norton Abstained**

**Motion Carried 5-0**

**Katherine McNeal**
323 Bay View Road

C.O. 1359.01(a) placement of air conditioner unit

Mr. Bruno asked why the air conditioner could not be placed in the back of the house. Ms. Katherine McNeal, explained that the electric is on the side of the house where they would like the unit and in the back of the house they have a deck.

Mr. Norton noted that the neighbors fence starts where the air conditioner unit would be placed therefore the air conditioner unit would be hidden. However, Mr. Norton explained that the board might consider having yearlong screening of the air conditioner unit in case some day the fence disappears; the property is still obligated to screen the air conditioner unit in sight and sound for the interest of the neighbors.

Mr. Tyo stated the DB rating (Decibel Level) is very low and when you have your air conditioner running most likely the neighbors will too. Mr. Tyo also asked Ms. McNeal where her furnace is located in the basement. Ms. McNeal responded that it is not on the wall but close to the middle of the basement.
Mr. Norton explained that in granting this request if Ms. McNeal could see if the manufacturer of the air conditioner unit sells a sound blanket to accompany the air conditioner unit and for this accessory to be a requirement when the board is making their decision.

Motion by Dostal, second by Burke that a variance be granted to the property located at 323 Bay View Road pertaining to C.O. 1359.01(a) a variance of 6 feet 5 inches for the installation of the air conditioner unit and a sound blanket be included and a visual barrier to be included.

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

Motion Passed 5-1

For the Record Mr. Fillar asked that 6 foot 6 inches is the same as 6.5 feet. This was agreed on.

Michael Herrick
23724 Cliff Drive
C.O. 1370.05(c) placement of a stand by-generator

On the Agenda it says Michael Herrick however the applicant should be James Herrick of 23724. Michael Herrick said he actually purchased the home and placed it in a trust.

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

Ed Smith a neighbor to the East at 23718 Cliff Drive, explained that he is very happy with the Herricks’ and he has no objections to the application, however, there is an outstanding issue on the property. If the Herrick’s decide to pursue that issue going forward he would like to know that the City will provide back up and support. Mr. Ebert assured him that this is being addressed and it should not interfere with the application this evening. Mr. Ebert noted that several easy solutions were suggested by the Board in the past. Mr. Bob Lyons, Property Maintenance Inspector for the City of Bay Village, is also involved in resolving the matter.

Mr. Burke noted that the proposed location at the North West corner down in almost a well which is the spot on the entire property where it would be least scene from anywhere. He stated that this is a reasonable request.

Motion by Burke, second Dostal by for the property at 23724 Cliff Drive be granted a variance form the requirements C.O. 1370.05(c) for the installation of a stand by generator of the type, size and location as shown in the application provided that the homeowner will comply with all other applicable ordinances regarding the times for testing.

Roll Call Vote: Yeas – Bruno, Burke, Dostal, Miler, Norton, Tyo
Nays- None.
Motion Carried 6-0

Michael Herrick
23408 Lake Road

C.O. 1370.05(c) placement of a stand by-generator

Mr. Burke noted that he had an opportunity to look at the property and the location at the front east end of the home is quite a bit depressed from the neighbor to the east and there is a good amount of trees and could not be seen from the street or probably not even the next door neighbor.

Michael Herrick’s stated that this is location that the neighbor prefers we put the generator.

Mr. Tyo asked what the frequency of testing is on the generator. Casey from Garvin Plumbing and heating, explained that it will test once a week and everything else is automatic.

Motion by Tyo, second by Dostal, to grant a variance to the property at 23408 Lake Road C.O. 1370.05(c), for the placement of a stand by generator at the southeast corner of the front of the property.

Mr. Fillar of SAFEbuilt, Inc. requested that a drawing be submitted with the Building Department application showing the property lines of the subject property. Mr. Miller asked if the Board of Zoning Appeals would receive a copy of the drawing. Mr. Fillar stated that it is required only for the Building Department in accordance with the State Building Code. Mr. Miller asked if the Charter provisions governing the Board of Zoning Appeals of the City of Bay Village would not require that the Board of Zoning Appeals also receive a property drawing. Mr. Norton stated that in some matters the state code pre-empts the City Code.

Roll Call Vote: Yeas – Bruno, Burke, Dostal, Miler, Norton, Tyo
Nays- None.

Motion Carried 6-0

The meeting adjourned at 8:19 p.m.

Jack Norton, Chairman

Kristine Jones, Secretary