Minutes of a Meeting of  
Board of Zoning Appeals  
held May 4, 2017

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

Excused: Tyo

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

Audience: Alan Rhea, Marry Rhea, Jenny & Chris Hartzell, Chris Newell, Catie Romanchek, Lydia DeGeorge, Doug Gertz, Kevin Moriarty, Mike Romanchek, Greg & Sue Goray.

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 Appeals held April 20, 2017. Motion by Bruno, second by Gess, to approve the minutes of the meeting held April 20, 2017.

Motion passed 6-0.

Mr. Norton explained that the Board of Zoning Appeals consists of 7 members by ordinance and by ordinance you need to have the approval of the majority of the 7 members. Tonight there are 6 members present in which that changes the odds because you have to have 4 positive votes to grant a variance or special permit.

Alan Rhea  
27030 Bruce Road  
C.O. 1149.01 Requests a variance to have a detached garage less than 10' behind home.

Mr. Norton stated that he will need to abstain for the request of C.O. 1149.01 for 27030 Bruce Road due to a relationship with the applicant.

Mr. Burke explained that section 1149.01 of codified ordinance is required that an accessory building be at least 10 feet behind the main structure.

Mrs. Rhea explained that they have a very long and skinny lot and if there were to follow the 10 foot behind the house rule than they would be eliminating most of their backyard.

Mr. Burke explained that when he visited the site, the placement of the proposed garage will not be that visible from the street due to how the sunroom is placed. Mr. Bruno seconded Mr. Burkes comment and explained that the placement of the garage seems to be consistent with the intent of the other structures on the North side of Bruce Road.
Mr. Miller asked if there has been any objections from the neighbor due to the positioning of the proposed garage. It was stated no.

Mrs. Rhea stated that they spoke to their neighbor next door and they had no objections.

Mrs. Rhea explained that the beginning of the garage behind the neighbor’s house would be close to 30 feet.

Mrs. Bruno asked how much of a variance is being requested. Mr. Gess explained that it is 35 feet total distance forward from the 10 foot backset. Mr. Bruno clarified that it is 25 feet 6 inches plus the 10.

Motion by Bruno, second by Gess to grant the property at 27030 Bruce Road a variance per C.O. 1149.01 for 35 feet 6 inches for the placement of a detached garage per the drawings as submitted behind the home at said property.

Roll Call Vote: Yeas – Bruno, Burke, Gess, Miller, Young
Nays- None

Motion Carried 5-0

Michael & Catherine Romanchek C.O. 1359.01(A) Requests a 3 foot variance
421 Lake Forest Drive for an A/C unit to be placed on the side of
the house.

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

Mr. Bruno stated that on the record with the intent of the code he believes the placement of the air conditioner should be behind the home and does not believe the three hardships stated are being met.

Mr. Norton explained that one of the factors that makes this property unique is being a corner lot. He also explained that the proposed location for the air conditioner is opposite of the neighbors next door, so, they are doing exactly what the neighbors have done. Mr. Norton explained that one of the reasons the ordinance was written was because of how loud air conditioners used to be and if they were placed behind the house than you would not have noise reverberating between houses. He stated that now air conditioners do not make much noise and perhaps Council should update the code.

Mr. Miller asked if the air conditioner is a relocation or a new unit. Mr. Romanchek stated a relocation. Mr. Romanchek also explained that he has a letter from their neighbors at 415 Lake Forest Drive stating that they have no objections to the placement of the unit.

Mr. Norton explained that he believes it is important that we disguise the mechanical equipment.
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Mr. Burke asked what the distance is from either the front or back of the house to where the proposed unit will be. Mr. Romanchek stated it will be 24 feet from the rear of the house to the unit. Mr. Burke verified that the 24 feet is to the center of the proposed unit. Mr. Romanchek stated yes.

Mrs. Young asked if we should submit the neighbor’s letter for the record. Mr. Burke stated yes.

**Motion** by Bruno, **second** by Burke, to grant the property at 421 Lake Forest Drive per C.O. 1359.01(A) a 3 foot variance for the replacement of the air conditioning unit at the property to be placed on the north side of the home as submitted per the variance request drawings submitted in the applicants packet. Subject to year round vegetation or decorative fencing.

**Roll Call Vote:**
- Yeas – Bruno, Burke, Gess, Miller, Norton, Young
- Nays- None

**Motion Carried 6-0**

Chris Hartzell
577 Humiston
Consultation for a proposed lot split.
(per J. Grassi, Chief Bldg. Official)

Mr. Norton explained that they will need to request two variances. One for the 30% rule and the other for the 10 foot rule.

Mr. Norton explained the first request is for a side yard variance of 2 feet 8 inches and the second part to the side yard rule is that you need 30% total of what your frontage is. The frontage is now proposed to be at 75 feet, so you would need 22 and ½ feet total. He explained that you only have 11 feet 10 inch proposed. Therefore, the second request of the variance would have to be a variance for 10 feet 8 inch to the 30% rule.

Mr. Ebert explained that the Hartzell’s are here because they are looking to purchase the home next door and splitting the lot. However, before they move forward they would like to know exactly what the Board of Zoning Appeals would be looking at.

Mr. Ebert explained that this type of arrangement based on making improvements of their own house on the lot would prohibit another house from going up and would eliminate a previous situation that came up with the Pavicic construction.

Mr. Norton explained that he is not sure of the legality. Mr. Ebert explained that it can go both ways. One, you can grant a variance subject to acquisition of the title to the property. Second, you could buy subject to getting a variance, therefore variance first then closing after.

Mr. Norton explained that if the variance is granted it takes the risk away. The variance is conditioned upon buying the home.
Mr. Hartzell stated that we have a contract to buy the home but that is contingent upon the outcome of tonight’s meeting. Mr. Norton explained that he believes that technically you need to own the property before you can ask for the variance. Mr. Ebert said yes, the owner needs to come forward for example assigned by the owner to the person who maybe a tenant.

Mr. Hartzell explained that the current owner of the home is here tonight with some of our neighbors. He explained that the owner cannot come forward with a variance because he is already closer than the variance allows.

Mr. Ebert verified with Mr. Hartzell that his plan is to eliminate another house from being built on the land and to improve the greenspace. Mr. Hartzell explained it’s a defensive maneuver for ourselves and our neighbor to the North. He explained that this is a unique situation where both parties are willing to contribute to ensure the enjoyment of what we have.

Mr. Burke asked Mr. Hartzell what he is proposing to do with his garage in the back. Mr. Hartzell said we are going to tear it down.

Mr. Norton stated that it sounds that we are on solid legal ground to change this from a consultation to a request for variance. Mr. Ebert asked if they filled out the application for Board of Zoning Appeals. Mr. Hartzell stated that we filled out the application and have submitted the proper paperwork.

Mr. Ebert explained from a legal standpoint is to not delay and put the request on the agenda for the next meeting because it really was here for a consultation. Also, if anyone has objections they have time to come forward. Mr. Burke stated that Mr. Hartzell would need the current owner to sign over the right to him in order to proceed with the variance based on his proposal.

Christopher Newell stated that he is the owner and would sign over his rights tonight.

Mr. Norton asked if notifications were sent out to the neighbors. Ms. Jones stated yes. Mrs. Hartzell stated that they also have a signed petition from 9 of their neighbors supporting their request for a 7.5’ side setback variance in order to construct an attached mudroom and garage in the future.

Mr. Bruno asked what is being agreed to in this session.

Mr. Ebert asked Mr. Newell if he wanted to sign tonight. Mr. Newell said yes.

Mr. Miller asked if the split will be 50/50. Mr. Hartzell said no, the property is 40 feet wide and it will be 25 to us and 15 to Kevin.

Mr. Newell signed the bottom of the application for Board of Zoning Appeals that Chris Hartzell submitted, it reads:

   The undersigned owner of 573 Humiston Drive, hereby assigns as owner of set property the right to apply for variances on the property subject to purchase of the property. (see attached)
Mr. Burke explained that this also needs to be subject to the acquisition of at least 25 feet of that middle property taking title to it. Mr. Norton stated that the drawing that was submitted clearly shows the proposed split and it shows 25 feet for the one side. It was also noted for the record to include the proposed lot split drawing as part of the minutes.

Mr. Miller stated that this seems to be a very amicable agreement between the two neighbors. He explained that the Hartzell’s are asking for a variance on a piece of property that you can set that line at any point and wanted to verify that the current neighbor, to the north of the seller does not have an issue with their plot line of these properties. He asked that if granting this new condition where you are striking the line at 25 feet yet asking for a variance why not strike it at 27, 28 feet more.

Mr. Hartzell explained that it is economical. He explained that it is a stretch for them to do the lot split. He also stated that they will not be building the new garage immediately. He explained that they wanted to know their options for what they can do in the future.

Mr. Gess asked since this is a blank slate why are you not trying to work within the known guidelines. He explained that maybe the side yard setback would not be needed. Maybe there is a more minimal 30% variance needed and the 10 foot is not in question. Mr. Hartzell explained that there a few things. In terms of blending in with the neighborhood the street is full with 50 foot wide lots with very small setbacks. Currently there is concrete between the houses and if the garage is completed there will be 7 ½ feet of green space next to the garage and then another 18 feet of green space between the garage and Kevin’s property, therefore there will be 23 feet of greenspace.

For the record Mr. Bruno stated that Mr. Hartzell understands that our colleagues asked both respectfully the same question but slightly different in both regards and believes that Mr. Hartzell respects why we asked that. Mr. Hartzell agreed.

Mr. Burke stated that before they do a proposed resolution he wanted the following on the record. He asked Mr. Hartzell that the shown agenda shows this as a consultation and asked if he is requesting that we change this to an actual application for 2 variances.

1. Variance of 10 feet 8 inches from the total side yard setback requirements.
2. Variance of 2 foot 8 inch side setback on the North side.

Mr. Miller asked the Hartzell’s how they will be addressing the home. Mr. Hartzell explained that they will raze the home immediately, fill in the foundation and plant grass. Mr. Miller verified that it will be greenspace until such time they decide to build the new garage. They agreed. Mr. Miller explained that recently they had an applicant who razed the home immediately and then left a hole where the swimming pool was. Mr. Miller wanted to verify that if they do raze the home that they will address the property and deal with run off. He explained that the Hartzell’s are aware of a previous situation regarding a neighbor across the street and the runoff issue. The Hartzell’s stated that we would not want an empty hole or any runoff issues.
Mr. Norton stated that this is covered because you have to get a demolition permit. Then the demolition permit is based upon following the rules of demolition.

Mr. Newell stated one of the reasons he decided to sell to the Hartzell’s is partially influenced by what happened across the street and the Hartzell’s have the best interest of Humiston Drive.

Mr. Norton stated that this appears to be a substantial improvement to the neighborhood.

Mr. Miller clarified that he is not casting doubt he just wanted it to be struck to the record for having the conversation pertaining to addressing the home.

Mr. Burke stated that from changing tonight’s meeting from a consultation to an actual application for variances we will include the additional photographs that you submitted addressing the lot split of 25 feet and 15 feet.

For the record Mr. Burke asked Mr. Newell to confirm that he has signed what is now an application for variances and gives his permission to Mr. Hartzell to be seeking variances on what is now his property to become effective upon acquisition by Mr. Hartzell. Mr. Newell confirmed.

**Motion** by Burke, **second** by Bruno that the property at 573 Humiston be granted 2 variances for the construction of an addition to the house located at 577 Humiston as per the application subject to the following.
**Amended by Burke: That the record of the variances should they be granted this evening, shall be attached to the property record of 577 Humiston Drive.**

- First a variance of 2 feet 8 inches to the sideline setback requirement along what will be the north side of the revised property.
- Second, a variance of 10 feet 8 inches to the total side yard requirement of the ordinances. Again, based upon the drawings submitted with the application.
  - The motion is subject to and the variances would only take effect upon acquisition of the property at 573 Humiston Drive by the owners of the property at 577 Humiston. The amount of the acquisition being 25 feet of the total 40 feet of the property at 573 Humiston. Also, subject to the approval by all necessary city and county authorities of the lot split.

**Amended by Burke: Subject to the lot split and consolidation of 573 Humiston Drive between the lot immediately to the North which is 569 Humiston Drive, and the property owned by Mr. Hartzell.**

- Thirdly, subject to demolishing the garage that is currently at the rear of the property at 577 Humiston. The variances are granted for the construction of a 22 by 22 foot new garage connected to the house at 577 Humiston by a 6 foot mudroom as per the drawings submitted and subject to all other requirements of the Building and Zoning codes of the City of Bay Village.
- Mr. Norton stated that we will include in the record the diagram showing the lot split and the signed authorization of the current owner of 573 Humiston Drive.
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Roll Call Vote:    Yeas – Bruno, Burke, Gess, Miller, Norton, Young
                  Nays– None

Motion Carried 6-0

The meeting adjourned at 8:13 p.m.

Jack Norton, Chairman

Kristine Jones, Secretary
April 23, 2017

To Whom It May Concern:

I, Gary Nemes, own the property and reside at 415 Lake Forest Drive, Bay Village, Ohio, and am neighbors of Catherine and Michael Romanchek who own the property and reside at 421 Lake Forest Drive, Bay Village, Ohio. We consent to the placement of the Romanchek’s air conditioning unit on the north side of their house less than ten feet to the property line that is adjacent to our house. We have reviewed the proposed placement of the air conditioning unit with the Romancheks and do not feel that the placement would be injurious to our property.

Sincerely,

[Signature]

Gary Nemes

415 Lake Forest Dr.
Bay Village, OH 44140