Minutes of a Public Hearing and Meeting
of the
City of Bay Village Planning Commission
held June 4, 2014

Present: Barbour, Foster, Lesny Fleming, Majewski, Persanyi

Absent: Mrs. Lieske, Mr. Maddux

Also Present: John Cheatham, Chief Building Official, SAFEbuilt, Inc.

Audience: Councilman Tom Henderson, Lawrence Kuh, David O'Neill, Daryl Stump, Bay Village City School District, Marie Dowling, Architect for the Bay Village City School District project, Denny Wendell, Mike Young.

PUBLIC HEARING
Bay Village Board of Education
Bay High School Softball Field and Practice Football Field
Construction of dugouts, fence and backstop, grading,
seeding and field drainage installation

Chairman Persanyi called the Public Hearing to order at 7:30 p.m.

Mr. Daryl Stumph, Operations Superintendent, Bay Village City Schools, and Marie Dowling, Architect for the Bay Village City School District project, presented an overview of the plans for the proposed work at the Bay High School athletic fields. Ms. Dowling stated that the School District is in their third phase of the project. What they have done so far are the soccer fields at the Bay High School and the Varsity Baseball field. The third phase is going to be the Varsity Softball field along with the practice field. It will be similar construction as the Varsity Baseball field and soccer field. The softball dugouts will be similar to the Junior Varsity Baseball fields and the Varsity Baseball fields. The dugout will be a roofed structure of split-face block. The split-face block is very similar to the material used at the Bay High School Stadium. The footprint of the construction is the same as the existing dugout.

Mr. Persanyi called for any questions from the public related to the project. There were none.

Mr. Persanyi called for questions from the members of the Planning Commission relative to the project.

Mr. Majewski stated that he still has questions about whether any of the existing trees will be removed. Mr. Majewski advised that he visited every park in the City and every field that he

could find. Any field that he could find with any obstruction of trees was the softball field at the High School. The only one close would be the softball field at the Middle School. Mr. Majewski stated that he could not get close enough because of road closure. It is still a concern to have those trees in the field of play and he is hoping there will be consideration for removing the ones that are obstructing.

Mr. Stumph stated that current plans are to save the trees. The Athletic Director and Softball Coach have asked at times for trimming of the trees. At this point they are not planning to remove full mature trees.

Mr. Persanyi asked if it would be possible to trim the trees for the season. Mr. Stumph stated that they typically do trim them to the satisfaction of the Softball Coach and Athletic Director. Mr. Persanyi stated that he assumes this current season has ended already. Can we get some kind of commitment that they will be trimmed for the next season so there does not have to be special ground rules for that particular field? Mr. Stump stated that he would ask that the schools be able to manage their fields to the satisfaction of their Softball Coach and Athletic Director.

Mr. Persanyi stated that he can understand their concern but it seems like it would benefit the athletes and the visiting teams if they could play on a field without obstructions. Mr. Stumph stated that he believes they can. The community enjoys the greenery and anytime they start cutting down big trees it is something that is frowned upon. They do their best to keep the area as green as possible.

There being no further comments regarding this project the public hearing was closed at 7:37 p.m.

REGULAR MEETING OF PLANNING COMMISSION

Chairman Persanyi called the meeting to order at 7:37 p.m.

Motion by Foster, second by Barbour, to approve the minutes of the meeting held May 7, 2014, as published and distributed, with one correction of the word aeration to irrigation on Page 3, Paragraph 4. **Motion passed 5-0.**

Bay Village Board of Education
Bay High School Softball Field and Practice Football Field
Construction of dugouts, fence and backstop, grading, seeding and field drainage installation

Mr. Persanyi stated that the Police Department and Service Department have filed their comments with the Secretary of the Planning Commission indicating that they are satisfied with the proposal.

Mr. Majewski stated that he was informed prior to the meeting this evening that the plans for this project were reviewed by the Architectural Board of Review. Mr. Majewski stated that his understanding of the review process is that they are not supposed to be sent to the Architectural Board of Review and the Board of Zoning Appeals for any required variance until after the public hearing. Mr. Persanyi asked if approval has been granted by the Board of Zoning Appeals. John Cheatham of SAFEbuilt, Inc. stated that the project has received approval by the Board of Zoning Appeals and the Architectural Board of Review.

Mr. Stumph commented that he understands the process because if the Architectural Board of Review brings something up that alters the plans then it would not have been presented to the public with all the current comments and information from the committees. Mr. Persanyi stated that it goes from the Planning Commission to a public hearing and then is referred to the Architectural Board of Review. The point of the process is that the public has input to the Architectural Board of Review and the Board of Zoning Appeals. After a public hearing if it is sent to either one of those Boards then the public has the option of going to the meetings and stating their opinion at those meetings. It then comes back to the Planning Commission with those reports. Mr. Majewski stated that he is curious how it got to those Boards before the public hearing.

Mr. Persanyi stated that in the past they have given contingent approvals based on approvals from the Architectural Board of Review. If they have any objections or recommendations that need to be reassessed, the Planning Commission will look at it again. Mr. Majewski noted that he does not have minutes from the Architectural Board of Review or Board of Zoning Appeals.

John Cheatham of SAFEbuilt, Inc. advised that the project was approved by the Architectural Board of Review with the change of a trim piece. The Board of Zoning Appeals did not feel that a variance was needed for the fence height due to the special nature of the project and the fact that the fencing is required for the safety of players and spectators. A special permit was granted for the fence and dugout. There were no objections from either Board.

Mr. Persanyi recommended a vote on the project.

Motion by Foster, second by Barbour to approve the application of the Bay Village City School District for Phase III of alterations to the Athletic Fields, with the comments of the Planning Commission on May 7, 2014 and the Architectural Board of Review on May 14, 2014 factored in to the approval.

Mr. Majewski stated that a memorandum from Police Lieutenant Calvin Holliday dated April 29, 2014 states that the school intends to install a paved walking path similar to what exists at Bradley Park. Mr. Majewski asked if that is another phase of this plan. Mr. Stumph stated that they are not seeking approval for that at this time. That is another project that he is not in charge of so he prefers not to comment, other than years ago there was a travel path. Part of the paving was for the trucks and sometimes they have to get back to the area. That would be the primary purpose and also sometimes the Police patrol. A secondary purpose would be that for a permit for people to utilize that, but that is not part of this project.

Roll Call Vote: **Yeas – Barbour, Foster, Lesny Fleming, Majewski, Persanyi**
Nays – None.

Motion passed 5-0.

Bay Skate and Bike Park Foundation
Addition to Bay Skate and Bike Park
451 Cahoon Road

Mr. Lawrence Kuh, Executive Director of the Bay Skate and Bike Park Foundation, presented an overview of their proposal to add an addition to the existing Bay Skate and Bike Park. The addition is proposed for the southeast corner of the park, 188 ½ square feet, 14 ½ feet x 11 feet with a 3 ft. quarter pipe and a 5 ft. deck on the top.

Mr. Persanyi stated that he is unable to understand the plans submitted by Mr. Kuh. Mr. Kuh reviewed the plans with Mr. Persanyi and the Planning Commission, pointing out the addition shown on the sketches. The rationale behind the proposed addition is two-fold. The railing that is currently in the skate park in the corner has limited approach. They knew that when they built the original design. The thought was that after the park was built and being utilized they would be able to add something like the proposed addition for a better approach than the rail. The other piece is that when you do a skate park design you are looking at a progression of skill levels. They currently have a 1 ½ ft. a 2 ft., a 4 ft., and a 6 ½ ft. quarter pipe. The only piece they are missing is a 3 ft. quarter pipe so this would fill that progression of skill level throughout the park. The area is also used as a waiting area and this feature in the area would move the users out of the area to the deck and provide for a better flow.

Mr. Persanyi asked how far above the ground this addition will project. Mr. Kuh stated that it will extend three feet above the deck. The image in the corner has an edge that is approximately 1 ½ to 2 feet above the existing grade of the upper deck. The addition would be about a foot or a foot and a half higher than the highest point currently in the park. It would also be in the

southeast corner so it would be the furthest away from the street. The skater can start on the flat deck as it currently is. With this additional feature it would allow them the ability to start on that upper deck, drop in on the quarter pipe which allows them to gain speed to then be able to navigate the park as well as get enough speed to approach the rail, which is what users are looking for. At this time they only have room for about two steps before they have to get on the board and make that move. It is usable without this addition but it is limited.

Mr. Persanyi stated that the sketches show there is mounding leading up to the flat part of the system. How far up will that mounding come and will it hide the concrete except for about 6 inches? Mr. Kuh stated that this is correct, similar to other existing areas in the park following the recommendation of the Architectural Board of Review to make the skate park environmentally and aesthetically pleasing. There is no reason to remove any trees either because they will be adding in a section that will not interfere with any of the growth patterns.

The addition will go 11 ft. out to the south and will be 14 ½ ft. wide.

Mr. Majewski stated that when this skate park was originally brought to the Cahoon Memorial Park Trustees the highest point was supposed to be 2 ft., 6 inches above grade. The Building Department issued a memorandum to the Board of Zoning Appeals at that time that they had no objection due to the highest area of the structure being only 2 ft., 6 inches above the existing grade. In the minutes of the Board of Zoning Appeals it was mentioned three different times by the members of the Board and by Mr. Kuh in an answer to a question to the public that the highest point would be 2 ½ ft. above existing grade. This proposal is for an additional 3 feet above that? Mr. Kuh stated that is correct. Mr. Majewski asked if that endangers the variance granted since it appears that is the information that was given to the Board of Zoning Appeals.
Was 2 ft., 6 inches a condition that everyone, including the Cahoon Memorial Park Trustees assumed would be the maximum above grade? Mr. Kuh stated that for the original build that was the plan and that is what they did. Now, they are making a suggestion to do otherwise on this submission. This is the process he was told he should follow to do that.

Mr. Majewski stated that he would have to say the Planning Commission might not be able to make this decision if all the other Boards, the Cahoon Memorial Park Trustees, and the City Council all ruled on a structure that was 2 ft., 6 inches above grade, and now we are going 3 ft. above that. Mr. Persanyi stated that Mr. Kuh will have to go through the whole process again and find out if it is acceptable to the Cahoon Memorial Park Trustees. The skate park is in Cahoon Memorial Park so they are the primary authority. Mr. Kuh stated that they were supportive of the idea and that in order to get approval, approval is necessary from the Planning Commission and then return to the Cahoon Memorial Park Trustees for final approval.

Mr. Majewski stated that in researching the history of the skate park, attending a lot of the meetings, and reviewing emails he sent to public officials, it is a condition of that location that it not exceed 2 ft., 6 inches above the grade. It has been mentioned so many times in the minutes and the record that the 2 ft. 6 inches was set in stone and it would not exceed that. When the proposal here states 3 ft. above that, it is a non-starter until told otherwise.

Mr. Foster stated he is about 5 ½ feet tall and looking at the image, relative to flat terrain that is pretty high. Mr. Kuh stated that he understands what is being said in straight vertical but if you look at the location you are talking 3 ft. and not 5 ft. because you don't ever stand at zero. The back of the sledding hill is probably 12 ft. high. In relativity to the area that is there it will be relatively minimal impact on the aesthetics of the area. There will be sloping in the southeast corner.

Mr. Persanyi stated that based on the past meetings of the Cahoon Memorial Park Trustees this matter will have to be discussed with them before going further on this proposal. They are responsible for what happens in the park. In this case we are acting as an advisory and if they feel it is acceptable to put this structure at the proposed site, I cannot say I am opposed. There aren't any other structures of this type in Cahoon Memorial Park that are that high, so we are talking about something that is significant, going from 2 ½ ft. to 5 ½ feet in height. Mr. Persanyi suggested that there be further discussion with the Cahoon Memorial Park Trustees.

Mr. Kuh asked if it is possible to make a motion for approval assuming that the height variance is approved by the Cahoon Memorial Park Trustees. Mr. Majewski stated that is not possible. This proposal will have to go to public hearing. Mr. Persanyi stated that it would not be advisable to approve something that the public doesn't even know about it. The Cahoon Memorial Park Trustees are responsible, they are supposed to be the guidance of the park. The Planning Commission should not approve something they might find unacceptable because they might not have looked at it in full view with the information Mr. Kuh presented today.

Mr. Majewski stated that his point is this was an extremely long process. There were a lot of people who were very interested in this. At the end they were told certain information and part of that was that it was not going to exceed 2 ft. 6 inches in height. We cannot make a decision unless everyone is on the same page.

Mr. Barbour stated that having been involved in all of that original discussion, in fairness to Mr. Kuh the park has been a roaring success. None of the potential problems that were discussed came to fruition. Mr. Barbour agreed with an abundance of caution, having been a Cahoon Memorial Park Trustee. The proposal should go back to the Cahoon Memorial Park Trustees for clarification of their permission to seek the expansion and clarify whether or not the 2 ½ ft. is a variance. Mr. Barbour stated that his personal view is it is a good plan the way it is written.

With the scope of the project and the mounding, the 5 ft. is not going to be a problem at all. It is probably going to blend in with the whole rest of the park.
Mr. Persanyi stated that members of the Planning Commission will attend one of the Council committee meetings. They may not have each sat down and examined these plans. Mr. Persanyi asked whoever is available to attend that meeting with Mr. Kuh there to show them the plans. The Planning Commission minutes will be available for them to get a better idea of the discussion this evening. If the Cahoon Memorial Park Trustees sends it back to the Planning Commission stating they have no objection to the height, the Planning Commission would go through the process of calling for a public hearing. Based on that they would have to make a decision. Once that is done the project would go back to the Cahoon Memorial Park Trustees.

Bradley Center Limited
Southern Extension of Crestview Drive (past 606 Crestview Dr.)
and development of 9 lots containing 4.31 acres

Mr. David O'Neill, representing Bradley Center Limited, stated that they are present this evening asking approval to move preliminary plans forward for an extension of Crestview Drive an additional 233 ½ feet south to include a cul-de-sac with 9 buildable lots, ranging from ¼ of an acre to a little over ½ acre.

Mr. Persanyi asked how far the water line that exists on the current Bradley Bay Health Center goes. Mr. Persanyi stated that the reason he is asking is that the Cleveland Water Department likes to loop these lines and they would be interested in having that line run out to the new subdivision and connect with the existing line on the portion of the street that is there now. Mr. O'Neill stated that he does not think that would be an option because the tap that they have is for the use of the nursing home and the sole purpose is just for fire protection. Mr. Young stated that there is a hydrant on the northeast corner of the Bay Commons. Mr. Persanyi noted that the Water Department doesn't like to have dead-ends if there is a potential for looping it. A loop is shown within the circle itself, a four-inch line. Mr. O'Neill stated that they could certainly look into it but the issue is that if the lines for the nursing home and the Bay Commons are privately owned, Cleveland Water will not tap a public main into a private main. If it is technically owned by a private entity it can't be looped.

Mr. Persanyi stated that the plans do not show which way the water drainage flows. When the addition was proposed for the Bradley Bay Health Center, there was some talk about having their detention basin serving this future development. What kind of service will there be from this development to that detention basin.

Mr. O'Neill stated that the intention would be to utilize the detention basin that will go with the addition to the Bradley Bay Health Center. Naturally, the topography of the site all flows

basically from east to west. They are proposing an easement along the southerly property line for a storm sewer. Mr. O'Neill displayed the maps, pointing out the location of the new development and the routing of the water from the new storm sewer to the basin. The basin will meet all of the Ohio Environmental Protection Agency water treatment requirements. The retention basin will be dry. Mr. Cheatham stated that the executed easement is on file with the City.

Mr. Persanyi stated that in looking at the zoning map it wasn't clear how these parcels are currently aggregated. Have there been any changes the way the parcels are designated by parcel number?

There are two parcels of property, one that is the former Sterkel property. That parcel goes all the way to Bradley Road. The other parcel was purchased in 2003. There is no access to Bradley Road from this parcel. It was formerly the proposed extension to the condominiums. That proposed extension never materialized. Mr. Persanyi asked if that parcel is still zoned Attached Residences, as the zoning map doesn't show it that way. Mr. O'Neill stated that there haven't been any changes to the zoning. Mr. Persanyi stated that essentially all of the proposed area to be developed is considered zoned First Residential District. As far as the sanitary sewer connections go, it currently ends where the end of the existing street is. There is currently a manhole that is right in the center of the existing roadway where it ends. They would basically extend that through the cul-de-sac. The water would go outside the pavement and then loop around and the storm sewers would go along the edges and ultimately route to the west.

Mr. Persanyi stated that since this will be on public property all the water mains and the loops will have to comply with Cleveland Water Department requirements.

Mr. Majewski noted that he is in possession of a copy of the Bay Village Thoroughfare Plan and a cul-de-sac is shown as proposed.

Mr. Majewski stated that according to the design standards of the subdivision, a cul-de-sac that is designed to be a cul-de-sac is not supposed to be longer than 1500 feet. Mr. Majewski stated that he does not know the length of Crestview Drive and how they measure that 1500 feet. Does that come from Ashton Lane to the end of the cul-de-sac, or would that just be the actual cul-de-sac. Mr. Cheatham stated that 1500 feet is correct, by codified ordinance. His understanding is that it is just what is being proposed here. It is not from Ashton Lane; it is the actual cul-de-sac area. Mr. Cheatham will seek confirmation from the Law Director.

Mr. Majewski asked if there is any flooding back in the area. Mr. Cheatham stated that there is no flooding that he is aware of. He is familiar with the flood plain maps and the riparian setback areas, and does not believe any extend into that area.

Mr. Persanyi stated that in talking with the Law Director he indicated that there is no requirement here for a public hearing on this proposal. City Council can call for a public hearing under the administrative code when the plan is sent to them. Mr. Persanyi opened the floor to any questions from the audience.

Mr. Edward Pavicic, a Bay Village resident, and developer, asked if the code allows preliminary plan approval for construction. Mr. Cheatham stated that the plan would have to have final approval through all committees and Council before he would allow any permits.

Mr. Pavicic asked if there is any city-owned land at the existing dead-end of Crestview Drive. He was informed there is no city-owned land at the site.

Mr. Young stated that along the southern part of Crestview Drive there is a utility easement, electric utility and cable, along the property line. He asked what would happen to that easement with this development of the cul-de-sac. Mr. O'Neill stated that the proposed utilities will be underground. There is a five foot easement along the neighboring properties. Mr. Foster asked if the easement would be continued or would the power be fed from the right-of-way. Mr. O'Neill stated that would be up to the power company. They do their own design and know how their grid is set up. Once the point is reached when they have lots established and a right-of-way they send it to the power companies and they determine the best way. They wouldn't be in the public right-of-way. They would be in an easement that would parallel the road or they would request the easements through the lots.

Mr. Persanyi stated that it looks like all the lots meet the minimum size and the minimum frontage on the cul-de-sac. It would appear now that variances will not be needed.

Mr. Majewski stated that the next step is to refer to the engineer and the Service Director for their reports. Mr. Majewski would like to see if that retention basin can hold the water from this development, and would like to see the engineer's report on that. Mr. Cheatham stated that we have an engineer's report and that was approved last year. The current consulting engineer did not see it, but Resar Engineering and former Service Director Dan Galli had reviewed it. Mr. Cheatham wrote the approval subject to receipt of the easement. The easement was provided, and is recorded and legal. It was approved for both Bradley Bay and the development. The reason for the easement is in case Bradley Bay ever in the future would sell off and have a new owner that nothing could interfere with the drainage for the subdivision.

Mr. Majewski reiterated that the next step is to submit the plans to the engineer and Service Director for their review. The Planning Commission has ninety days to approve.

An audience member asked what other Boards and Commissions the development has to go through. Mr. Persanyi stated that there is no one else involved because it is all single family homes. It does not go to the Architectural Board of Review; there are no variances required, the land is already zoned for this purpose. It meets all the requirements of the code. Mr. Majewski noted that the development has to be approved by City Council after the Planning Commission report goes to them. The Building Department is responsible for each individual building permit approval and compliance with code.

The audience member stated that she lives in the Bay Commons and those homes will be facing her back yard. She asked if approval is required for playground equipment. Mr. Persanyi stated that at least 25% of the lot must be behind the dwelling. There will be a buffer there which is part of the Building Code. Accessory structures must be approved by the Board of Zoning Appeals, with notifications to neighbors required before approval is granted and with an opportunity to express opposition. Mr. Cheatham noted for clarification that there are no ordinances regulating playground equipment.

Mr. Persanyi asked that Section 1105 of the Codified Ordinances be reviewed by the developer to insure that all items are submitted, including parcel numbers and location of adjacent homes showing actual structures, location of sidewalks, and all other pertinent details. Mr. Cheatham asked that full engineering drawings be submitted to him and he will deliver them to CT Consultants and Service Director Thomas. Comments will be solicited from the Police and Fire Departments. All items must be submitted prior to approval by the Planning Commission.

Mr. Majewski asked for clarification on that the radius of the cul-de-sac. The right-of-way is 62 ½ feet and the pavement radius is 50 feet. The cul-de-sac will have a 100 ft. diameter.

Motion by Majewski, second by Barbour, to refer the preliminary plat for the Crestview Subdivision to the City Service Director and the City's Consulting Engineer.

Motion passed 5-0.

Jacqueline and Michael Bruner
274 Bradley Road
Lot Split 274 Bradley/30888 Nantucket Road
To allow an existing, non-conforming lot to remain a "buildable" lot

Mr. Persanyi stated that this particular parcel came to the Planning Commission about twenty years ago. Mrs. Bruner stated that they want to keep the parcel on Nantucket buildable. At some point there was a sun porch addition that went over the property line as well as a corner of the garage that was built on the Bradley parcel. The Bruner's are requesting to take 10 feet from the Nantucket parcel and give it to the Bradley property so they are no longer illegal. There was

also a third parcel, about 10 feet that was included in the purchase of the house. They are proposing to split that line straight down between the two parcels.

Mr. Persanyi recalled when this particular parcel came up before they wanted to take land from the Nantucket parcel and transfer it to the Bradley parcel and that would have made the other parcel less than buildable based on the standards that were in effect at the time it was subdivided. That was denied because it would have made it unbuildable even by the 1929 standards. Currently, one parcel would be unbuildable because it is not big enough, based on the old standards, and there would be a violation with the Bradley parcel because of having less than 25% as a backyard. The structures would still be too close based on the depths of the yard. An unbuildable lot would be created as well as a violation based on the proximity of the parcel to the property line.

Mr. Persanyi stated that he did not think the Bradley parcel had the structures on it when it came to the Planning Commission in the past. This was many years ago, and the owner at that time was trying to do something to achieve what the Bruner's are doing. That was before the addition was built on the house and before the garage was built there. Whoever added those structures must have felt they owned that Nantucket parcel and it would not be a violation because it is on their property. Unless they did so without drawing a building permit.

Mr. Cheatham stated that he did some research and did not find any of this, nor did he find the original permits. But, the files were purged a few years ago of a lot of things. Mr. Cheatham stated he didn't know how they would have received permits to build that over the property line, because that is against the codified ordinances. Mr. Cheatham stated he would assume it was built illegally. Mr. Persanyi stated that was the first impression he had. Even if it had been subdivided in the 1920's, the legal lot size was 7500 square feet at that time. Those additions were probably put on without a permit. Mr. Persanyi stated that at this point he would not be able to approve this request.

Mr. Majewski asked the Bruner's if it is their intention to keep the house on Bradley Road. Mrs. Bruner stated that it is their intention to keep the home. Economically it doesn't make financial sense to tear it down. It is a charming house. It has a newer driveway and newer garage. Mr. Majewski stated that right now the lot on Nantucket Row is the backyard of the home on Bradley. If the Nantucket lot is made buildable, there is no backyard for the lot on Bradley. That is where the violation would occur. Mrs. Bruner stated that is why they asked for the 10 feet. The porch is only a couple of feet over the line. They asked for extra just to give it a back yard. Mr. Majewski stated that the code calls for 25% of the entire depth of the lot to be back yard, not to exceed 50 feet. More than 10 feet would be needed to make a legal back yard. If the buildable lot on Nantucket is changed and it doesn't meet the required square footage you cannot build on it. According to the code, the Planning Commission is not permitted to approve a substandard lot.

Mr. Persanyi stated that whoever would buy the property would still be subject to the setback requirements and the back yard requirements and if the depth of their lot is reduced that puts a severe restriction on them. You do not want to create a situation where we went from something that wasn't already correct and create two non-conforming situations.

Mr. Cheatham stated that the Bruner's asked him if they could apply to the Board of Zoning Appeals on this matter. Mr. Cheatham recommended that they come to the Planning Commission first. Mr. Persanyi stated they can still go to the Board of Zoning Appeals, but the Planning Commission cannot create unbuildable lots. Mr. Majewski stated that it is a minor subdivision and that comes under the Planning Commission approval. The Planning Commission is not permitted to approve a substandard lot. The only solution would be to remove the house on Bradley Road.

Mr. Persanyi stated that at this point it would be almost impossible for the Bruner's to come into compliance with the Bradley Road lot. It is actually encroaching on the Nantucket lot. Even though you own it, you are not allowed to build something that goes across the property line. It was done in the past but it was not done officially in terms of contractual agreement.

Mr. Persanyi explained further to Mr. Bruner that based on the current zoning, the Nantucket lot is a substandard lot by almost 50% because it is in a First Residence District and the minimum lot size there would be 14,700 square feet. But, because it was subdivided back in the 1920's, they had smaller lots then, it was grandfathered in. If anyone owned a lot that had been subdivided legally with a registered document, it remained a buildable lot. But, it was only a buildable lot if it was up to that size that it was originally when it was subdivided. What the Bruner's are proposing to do is cut back an already non-standard lot even smaller.

Mr. Cheatham stated that he has had three builders call him expressing interest in the Nantucket lot. The question one of them asked is what if they bought that lot from the Bruner's and built a house on it even knowing they have an existing illegal situation crossing the boundary line. Mr. Cheatham asked if we know that an illegal situation exists where the corner of the sun room on the house and the corner of the garage cross the boundary, is it incumbent upon the City to stop a builder from building on that lot if he buys it knowing that situation exists. Mr. Persanyi stated that this is something that would have to be referred to the Law Director. But, in any case as the Building Department, you would have to deal with the fact that something was built on the Bradley lot that was illegal. Under those conditions something should be done about it. It also puts a burden on whoever buys that lot. They have to have 25% of the depth of the lot behind their house; it doesn't leave them much room. You have very severe constraints if you want to build a house there. Taking into account the setbacks that are required and the back yard requirement you may end up with a house that is 20 feet deep and 60 feet wide.

Mr. Persanyi stated that he is not even sure that the lot is legal right now based on the old requirements. At one time, someone came to the Planning Commission and they wanted to sell of part of the Bradley lot to make the Nantucket lot legal based on the old requirements. Mrs. Bruner stated that it was her understanding the Nantucket parcel is buildable the way it is. Mr. Cheatham checked it out and found that it is buildable, barely, and as Mr. Persanyi said you would have an odd-shaped house. In fact, it is a weird-shaped parcel and they would basically have to build a house in an "L" shape to get any room at all into it because the back line goes at an angle. The lot has about 9000 square feet at this point. Mr. Majewski stated that it is buildable because it was platted before the lot sizes changed to 14,700 square lot. Mr. Cheatham clarified his previous statement, noting that as an existing, non-conforming lot it is buildable.

Mr. Persanyi stated it was deemed as buildable by the old standards because they were trying to sell part of it to the owners of the Bradley house.

Mr. Majewski stated that he does not know what the encroachment over the property line due to the Bradley construction does to the grandfathering of the lot. The people who built the house on Bradley Road are using that Nantucket lot as their backyard to make their house on Bradley legal. Mrs. Bruner stated that there are three parcels but they are described in two parcel numbers. Mr. Cheatham stated that he did check. It does have two parcels and two addresses on the Building Department lot plats.

Mr. Foster stated that it does leave the lot 25 feet buildable on the east side and 50 feet on the west side. It is not uncommon. That was the case in Lakewood all the time. Garages were creeping on someone else's property. It is not completely unheard of.

Mr. Majewski stated that you then run into the problem of no back yard. The back yard is a requirement of the code.

Mrs. Bruner stated that it is still a bigger lot than some of the other lots that have been built on in Bay Village. Mr. Persanyi stated that some of the existing lots are totally legal as 7500 square feet. In the Third Residence District the minimum lot size is 7500 square feet. They were legal when they were subdivided and they are legal today. They didn't have to be grandfathered in.

Mr. Foster asked if the parcels are deeded as three separate pieces of property. Mrs. Bruner stated that she does not recall but when they closed on the house they had three parcels described under two parcel numbers.

Mr. Majewski stated that he is not sure but he believes the garage can be in the back yard. Mr. Cheatham stated that it can be in the back yard. It can be three feet from the property line. The sun room is the part that is illegal on the Bradley property. The garage is illegal too but a garage detached can be within three feet of the property line. Mr. Majewski stated that even without the porch there is no backyard for that house. Mrs. Bruner stated that between the garage and sun room it seems that there is another area that would be a back yard. Mr. Cheatham asked if the survey Mrs. Bruner supplied to him showed 9000 square feet on the Nantucket parcel. Mrs. Bruner stated that the survey shows 8000 square feet on the Nantucket parcel.

Mr. Persanyi advised that the Planning Commission cannot approve something that is not legal by the City's code. The Law Director may be able to provide an opinion as to what happens if they sell the property as is, whether someone else could build on it. If a positive response is received it is really out of the hands of the Planning Commission.

Mrs. Bruner asked if removing the sun porch would be a better option. Mr. Persanyi stated that even then the main part of the house would still be within three or four feet of the back property line.

Mr. Bruner asked if the issue is satisfying the back yard requirements on the Bradley property. Mr. Persanyi stated that if everything on the Bradley property would be correct it would be very easy to sell the other property.

Mr. and Mrs. Bruner withdrew their application. Mr. Cheatham will consult with the Law Director regarding the legality of selling the other lot when there is an encroachment from the Bradley Road lot.

There was no Council update due to the absence of Councilwoman Lieske.

Mr. Majewski stated that he would like to bring one point up that he would like to get straightened out. How did the high school get to the Architectural Board of Review and the Board of Zoning Appeals before public hearing? That cannot happen. The approval process says that they have to come to a public hearing and that input from the public has to be considered by those two boards before they make their recommendations.

Mr. Persanyi stated that the Board of Zoning Appeals is not required to have access to the public hearing information. They act independently. Mr. Majewski stated that the Board of Zoning Appeals is supposed to take into consideration any input from the public hearing. The process is set up so that after the public hearing it is distributed out to the Boards and Commissions where it needs to go: the Tree Commission, the Board of Zoning Appeals, and the Architectural Board of Review. After they consider the input from the public, they make their decision and it comes back to the Planning Commission for final approval. That is the process that is set up in Chapter 1129.

Mr. Persanyi stated that he is partially in agreement with that but as you noticed there was no one here asking a single question so if it had gone to those boards they would have had nothing to work on as far as public input and the process would have been delayed another month.

Mr. Majewski stated that the whole idea behind the approval process when it was rewritten was to give more public input and that input go to the Commissions and Boards so that they could make their decisions with the public input. And, it gives the public an opportunity to attend those meetings if they want to keep following the project through the process. If they go to the Boards and Commissions before a public hearing and the decision is already made, how is the public supposed to feel? Decisions have been made without their input. That is the whole point of Chapter 1129.

Mr. Persanyi stated that he understands what Mr. Majewski is saying and he would like to avoid that happening. Ms. Lesny Fleming stated that what we should do is mark this portion of the minutes and send it to the Boards and Commissions so that they are aware of the issue.

Mr. Foster commented that all of these meetings are public venues. If you make that public hearing before all of these other meetings that makes this whole process two or three months.

Mr. Majewski stated that when the approval process was written the Boards and Commissions met twice per month. Mr. Majewski brought this point up to the Mayor that if you are going to cut meetings to once per month you are going to throw that approval process off and extend the period of time. They cut the meetings to once a month but didn't extend the time the Boards and Commissions have to review these proposals. It is still 60 days. If you look at the approval process that was written in Chapter 1129, it fits into twice-per-month meetings and they never made the changes. They just cut the number of meetings. That's where the issue is now. The idea of having public input is still the major point of the approval process. Years ago, when Mr. Majewski was on the committee to rewrite Chapter 1129, there was no public input. This resulted in contentious meetings with the public saying these decisions were made before they even knew about them. That's why Chapter 1129 was written; so the public has their opportunities. We are going back to the old procedure going through all these Boards and Commissions before the public even has a chance to say a word about it. We can't have that. That's not the way it was written and that's not the way it is supposed to be. It has to be corrected.

Mr. Foster stated that these meetings should have the public input while they are presenting. It seems counter-productive for them to present two or three times the same information. When the public is invited to this meeting they should have a moment to comment on that so that the comment is part of the dialogue. That is the important dialogue. They hear from us and we hear from them.

Mr. Majewski stated that customarily at Planning Commission meetings the Chairman has always recognized the public if they had questions. But, the purpose of the public hearing is people who may not have been notified, or people who may not have followed and saw that a project that affects them was on the agenda, the public hearing notifies those people by mail or whatever means the code requires, so that they can come to that meeting and know that is their opportunity to be heard on that project. And then, if they choose to do so, they can follow it through the Board of Zoning Appeals, the Tree Commission, or the Architectural Board of Review. They can speak at those meetings too. That was the whole purpose. After all that information is gathered and all those problems are solved at those Boards and Commissions it comes back to the Planning Commission. The Planning Commission should have a complete package. That way the Planning Commission can vote to approve or disapprove a project.

Mr. Young commented from the audience that just because it was changed to have meetings once a month doesn't mean you can't have a meeting in-between. It doesn't mean if we don't have meetings every two weeks the matters will be dragged out. It really calls for the Chairman

to schedule an extra meeting for the next month and the month after to allow the process to go forward.

Ms. Lesny Fleming noted that extra meetings have been scheduled on occasion.

Mr. Persanyi stated that maybe we ought to advertise the first presentation as a public hearing also. The problem is we would have to change the ordinance that calls for a public hearing and what constitutes a public hearing. Right now, we even have to vote on having a public hearing at our next meeting. You have to get the information out that a project is coming up that does require public input on a certain date, and then call it a public hearing as well as the presentation.

Mr. Majewski stated that the first meeting when someone comes in with a project is an important meeting so the Planning Commission can determine they have the submission that has all the information the Planning Commission needs. That way it can be sent on to public hearing. If they don't have a correct submission we can't push the process forward. We have to wait until they submit all the information that the Planning Commission needs to present to the public.

Mr. Persanyi noted that this has happened on a number of occasions.

Mr. Majewski stated that when former Building Director Milburn was here a stipulation was added that the presenter can have a pre-meeting with the Planning Commission to have any information that they would require. The clock wouldn't start for that project at that pre-meeting. It would just be a discussion as to what they need to present before they make a formal application. That is included in the ordinance now as a meeting to discuss the plans before the actual approval process begins and the 60-day clock begins.

Mr. Persanyi stated that even the Bradley Center Project really falls somewhere between what was supposed to be an informational meeting and a preliminary presentation. We called it a preliminary presentation. They submitted a preliminary plat and the Planning Commission has 90 days to approve that plat. When we get the report back from the Director of Public Service we still have 60 days to approve the preliminary plat. Then we move on to the final plat. Once we approve the final plat then it goes to City Council to approve.

Mr. Majewski stated that one of the problems we are having too is that a lot of people that are coming in are trying to beat deadlines and they are not coming in soon enough. The School Board with the softball field came in and said they wanted to get it started when school lets out. They would have to come in a little earlier.

Mr. Persanyi stated that hopefully the Bradley project won't be an issue because they do not have to go to the Board of Zoning Appeals or the Architectural Board of Review. All they have

to do is meet the requirements of the code regarding sizes, utilities, etc. Mr. Majewski stated that the only other possibility would be if the engineer or Service Director turn something up that needs attention.

Mr. Barbour advised that he will not be in attendance at the July 2 meeting of the Planning Commission. Mr. Persanyi asked anyone else who might not be in attendance at the July 2 meeting to please notify the secretary. If a quorum is not available for that meeting, the meeting will be rescheduled, hopefully in July.

There being no further comments this evening, the meeting adjourned at 9:05 p.m.

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Bela Persanyi, Chairman Joan Kemper, Secretary