

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held November 15, 2012

Members Present: Bruno, Burke, Campbell, Dostal, Norton, Taylor

Absent: Mr. Tyo

Also Present: Bob Lyons, Building Inspector, City of Bay Village, Greg Hobble, Elyria Fence, Jim Sondles, Charise Pfahl, Cynthia Bush, Bill Nageotte, Donna Gron, Michael Delmonico, Misha Riveros

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

**Motion** by Dostal, second by Taylor, to approve the minutes of the meeting held October 18, 2012 as prepared and distributed. **Motion passed 6-0.**

A copy of City of Bay Village Codified Ordinance 1127.01 was posted and Mr. Norton advised that the code states that the Board shall consist of seven electors of the City not holding other municipal office or appointment. If all members are not present at a meeting, the applicant may request a delay so that all members may be present. An applicant may delay a decision up to two times.

**William Nageotte**  
**28205 Oviatt Road**

**C.O. 1141.04 (J)**  
**Special Permit for Wood Burning**  
**Outdoor Fireplace**

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

Mr. Burke stated that the application is for a special permit for a fireplace. Neighbors on both sides of Mr. Nageotte's property have stated that they have no objections to the fireplace. Mr. Burke stated that when he studied the drawings, he noted a 6' privacy fence along the perimeter of the property, for a length of 92 feet on the east and west lot lines, and 70 feet on the south lot line. As Mr. Burke understands the ordinance regarding security fencing around an in-ground swimming pool, the fencing is to be around the pool and the proposed fencing seems to be in violation of the ordinance that prohibits any kind of privacy fence longer than 32 feet in any one direction.

Mr. Nageotte stated that the height of the fence is 6 feet at its highest point but scallops down to 4.5 feet as part of the design.

Mr. Norton stated that there is a limit as to how many feet a 6' fence can be installed; the ordinance refers to the fact that the total perimeter of the lot cannot exceed ten percent and the amount in one direction can't exceed 32 feet. In the case of swimming pools, the fence can go up to 6' in height as a protective barrier, but the interpretation is that six feet in height fencing shall be permitted in compliance with Section 1163.05(h), which states that six (6) feet in height shall not exceed thirty-two (32) feet in any direction. Mr. Norton referred to a memorandum from Doug Milburn, Building Director, dated July 16, 2002, regarding Swimming Pool Enclosing Fence Requirements, in the matter of this interpretation of the code.

Mr. Nageotte stated that when the Bay Village code refers to a pool barrier, it states that it can be up to 6' in height, and also that the six feet fence cannot be interpreted as a gate through the driveway. He noted that his driveway does not go into his backyard. He stated that he has nothing to protect his pool from deer. At its lowest point each scallop is going to be no more than 5 feet in height.

Mr. Burke stated that a ruling from the Law Director will be sought as to whether or not putting the fencing at the perimeter of the property is what is intended by the City Council for protection of the pool area. Mr. Burke stated that as far as deer are concerned, the Board has had requests many times for six feet high fences in backyards because of deer and it has never been allowed as a reason for a six feet high fence.

Mr. Burke noted that the special permit for the outdoor fireplace is the item on the agenda for consideration this evening, but he brings up the matter of the fence so that the homeowner does not install the fence and find out, to his detriment, that it is not permitted.

**Motion** by Burke, second by Dostal, that the property at 28205 West Oviatt be granted a special permit pursuant to Chapter 1141.04 (J) of the codified ordinances of the City of Bay Village to permit the construction of an outdoor fireplace in accordance with the design and specific location as shown on the application submitted.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

**Kimberly Moore**  
**363 Pinewood Dr.**

**C.O. 1141.04 (J)**  
**Special Permit for 8'x4'x2' arbor**

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

**Motion** by Dostal, second by Burke, that a special permit be granted to the property located at 363 Pinewood Drive to install an arbor as submitted in the plans and application.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

**Misha Riveros**  
**173 Plymouth Dr.**

**C.O. 1153.04 – Variance of 9’6”**  
**for rear yard setback for addition**

Discussion followed concerning the size of the lot and the amount of variance required. Although there may be less distance required for the variance, it was determined to proceed with consideration for up to the entire 9 foot, 6 inch variance, or a maximum extension of 14 feet from the back of the home, since the plot plan was not developed from a survey.

**Motion** by **Burke**, second by **Campbell**, that the property at 173 Plymouth Drive, be granted a variance from the rear yard setback requirements of Codified Ordinance 1153.04, of a maximum of 9 feet, 6 inches, but that the extension (the addition) shown on the drawings submitted not exceed 14 feet in depth from the foundation of the main structure.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

**Donna Gron**  
**30215 Westlawn Drive**

**C.O. 1153.02 (1) – 9 ft. setback**  
**variance for front porch**

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

The contractor for Mrs. Gron explained that they would like to build a front porch for the home to replace the stoop which is falling into the ground. The door to the home cannot be opened fully while standing on the stoop, and while rebuilding they would like to extend the size. Photographs of the other homes in the neighborhood were distributed. Review and discussion followed.

Mr. Burke noted that the Gron residence lines up to the homes to the west, but that when you look to the east those houses seem to be further set back. Mr. Taylor questioned whether there

may be a setback line over and above the building code that would not permit construction. Mr. Norton noted that the home is a little more elevated than the other homes on the street. Mr. Norton questioned whether an 8' set back variance is needed for the proposed construction, or if a smaller set back variance would be sufficient to accomplish the goal of being able to fully open the door to the home while standing on the stoop, or porch.

Mrs. Gron and her contractor agreed to change the request to a 6 foot setback variance.

**Motion** by Burke, second by Dostal, that the property at 30215 Westlawn Drive, be granted a variance from the front set back requirements to permit the construction of a new front step and porch, which variance shall be not more than 6 feet from the set back requirements, so as to permit the construction of the porch coming out not more than 6 feet from the foundation, and further provided that the railing on the porch be of an open, lattice work design, and further provided that at no time later shall any covering over the porch be permitted.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

**Brad Krewson**  
**588 Lindford Drive**

**C.O. 1141.04(J) Special Permit**  
**for Generator**

**Motion** by Dostal, second by Campbell, that a special permit be granted to the property located at 588 Lindford Drive for the installation of a generator, allowing the generator to be tested once per week, per the manufacturer's specifications between the hours of 9 a.m. and 5 p.m., and that year-around screening of the unit from neighbors' and street view be required.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

**Cynthia Bush**  
**364 Oakmoor Dr.**

**C.O. 1145.02 (C) Special Permit**  
**for Generator**

Discussion followed concerning the proposed locations for the generator. The Board expressed favor with the location known as Location "B" indicated on the plans and application.

**Motion** by Burke, second by Dostal, that the property at 364 Oakmoor Drive be granted a special permit for the installation of a generator in the location shown as “Option B”, which the applicant has acknowledged is preferable for her, that the unit be screened from view of the street by year-around vegetation, and that the testing of the generator not be conducted any more frequently than once per week, not to exceed thirty minutes of testing, per the manufacturer’s specifications. between the hours of 9 a.m. and 5 p.m.

**Roll Call Vote: Yeas – Bruno, Burke, Campbell, Dostal, Norton, Taylor**  
**Nays - None**

**Motion passed 6-0.**

Mr. Norton requested that the roll call for the voting for future meetings be continued alphabetically, but be rotated with each motion to begin with the next person on the alphabetical list.

Mr. Norton advised that research has been done regarding the requests for outdoor shed construction over the past five years. The brief summary of the research indicates that small variances in sizes, of about 20 square feet, were permitted on a regular basis. Mr. Norton noted that the City of Westlake code permits a 120 square foot shed on a lot of 20,000 square feet or less. On a 20,000 to 40,000 square foot lot, the shed permitted is 150 square feet. Forty to 60,000 square feet is a 200 square foot shed, with further allowances up to 400 square feet.

Mr. Campbell noted that the larger sheds were permitted by this Board on properties with a high degree of vegetation, or with unusual land conditions.

Mr. Norton stated that several times the Board has permitted a 72 feet variance, with unusual circumstances defined by the property owner and confirmed by the Board.

Mr. Burke questioned whether Council should be asked to study the code with consideration for a possible amendment.

Mr. Norton stated that a 20 feet variance is reasonable from the 120 square feet maximum allowance for shed construction. Mr. Taylor commented that he would object to going to a 200 square feet, or 10’ x 20’ shed allowance, noting that this is the size of a garage.

Mr. Lyons stated that a purchase agreement has been executed for the property at 319 Glen Park Drive that was reviewed by the Board of Zoning Appeals on September 6, 2012, relative to an Adjudication Order. The existing residence will be demolished by the new owner.

Board of Zoning Appeals  
November 15, 2012

Law Director Ebert will be sent a copy of the memorandum from Mr. Doug Milburn dated July 16, 2002 regarding swimming pool enclosing fence requirements with a request for Mr. Ebert's opinion, along with a draft copy of the minutes of this meeting.

There being no further business to come before the Board, the meeting adjourned at 8:45 p.m.

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Jack Norton, Chairman

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Joan Kemper, Secretary