

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held December 6, 2012

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

Absent: Mr. Tyo

Also Present: Bob Lyons, Councilman Miller, Bruce Geiselman, Robert Greenberg, Jeff Consolo, Mitch Greenberg, Walter and Judy Van Tilburg, Shaun Brady, Maciej & Elizabeth Zborowski, Ken Kennard, Tim Cleary, Cathy Anhold

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

Motion by Taylor, second by Dostal, to approve the minutes of the meeting held November 15, 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.

Lori B. Campana
30006 Lake Road

C.O. 1149.01 Boat House and Deck
Renovation – Accessory Structure

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

Mr. Norton noted that a memorandum from Daniel M. Galli, Director of Building, Engineering and Inspection, dated November 30, 2012, states that the applicant is rehabilitating an existing accessory structure. A survey revealed that the structure encroaches on the neighboring property. The neighboring property owner has provided an easement allowing this structure to remain. A variance for the location of this accessory structure will be required to approve this application.

Mr. Norton confirmed with the applicant to the Board of Zoning Appeals for this renovation, Mr. Shaun Brady, that the easement between the two property owners has been filed with Cuyahoga County. Mr. Brady stated that the existing structure on an existing deck was unsafe. When Mr. Brady's clients took possession of the property, they wanted it torn off and replaced. It was unable to be replaced because it doesn't conform to the existing codes. The Campana's attorney and the Law Director worked together and devised a solution to obtain an easement from the adjacent property owner in order to obtain the variance.

Mr. Burke stated that this goes to the issue of the title of the property, rather than the zoning and building codes.

Mr. Bob Lyons stated that in order to improve that property the variance is being granted to allow it to sit under the easement and not meet the three-foot setback. A substantial improvement to an existing structure requires a variance to proceed with the improvement. The structure is a one-room pool house with a deck on top. The foundation is still in place and the foundation sits up against the line. In order to put the deck back on to cover the foundation like it was before, it actually extends over the property line by a little less than 3 feet.

Motion by Burke, second by Taylor, that the property at 30006 Lake Road be granted a variance from the side yard setback requirements of the ordinances of the City of Bay Village so as to permit the continued existence and renovation of the structure currently located on the property, but not for any additional structures that would not conform without further action of the Board of Zoning Appeals, pursuant to the plans and specifications submitted by the applicant.

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

Motion passed 6-0.

David Thomas
581 Welshire Drive

C.O. 1153.03 (1) 5 ft. variance
of minimum side yard requirement
and 30% sum of both side yards

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

Mr. David Maddux, architect representing Mr. and Mrs. David Thomas, addressed the Board of Zoning Appeals stating that the house is in the center of two 80 foot wide lots. There is 16 feet of setback on each side. The Thomas' are requesting the variance in order to build a single car attached garage on the side of the existing two-car garage, and maintain the same front building line.

Mr. Taylor confirmed with Mr. Maddux that the setback line for the property is not a deed restriction.

Mr. Burke expressed concern that the remaining 11 feet on the south side of the property, should the variance be granted, leaves 5 ½ feet to the property line. The fence of the neighbor to the south and the existing Oak tree might prevent a vehicle from going to the back of the property. Mr. Maddux stated that there are 16 feet on the north side of the property to provide access to the rear.

All adjoining property owners have been notified of the request for a variance.

Motion by Dostal, second by Burke, that two variances be granted to the property located at 581 Welshire Drive. The first variance is for a sideyard setback of 4 ft., 11 inches, and a variance of 3 feet for the total sideyard requirement.

Mr. Bruce Geiselman, neighbor on Debbington Drive, asked to see a copy of the plans. Mr. Geiselman reviewed the plans and expressed no objection.

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

Motion passed 6-0.

Mr. Norton advised that the next twelve applications are for special permits for generators.

The reason that a special permit is required is if something isn't covered in the ordinances, it must be submitted to the Board of Zoning Appeals for a special permit. In order to expedite these applications, the following information was submitted to all of the applicants, as standard characteristics as part of the approval of their application.

Motion by Burke, second by Taylor, that each of the motions going forward this evening include the following conditions as part of the motion:

- 1) The generator be located and installed in accordance with the manufacturer's instructions and also in accordance with the plans presented with the application to the Board of Zoning Appeals, as modified by the Board of Zoning Appeals as necessary;
- 2) That there be year-around screening for the unit to prevent visibility from the street and neighboring properties;
- 3) Testing of the unit be per the manufacturer's specifications, but not more frequently than once per week between the hours of 9 a.m. and 6 p.m., Monday through Saturday;
- 4) That the installation conforms to all applicable building, fire and safety codes.

Mr. Norton explained each condition in greater detail for each of the applicants. Mr. Bob Lyons noted that applications must still be submitted to the Building Department for the permit after approval by the Board of Zoning Appeals.

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

Motion passed 6-0.

**Gordon A. Anhold
27113 Russell Road**

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

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 27113 Russell Road for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

**Walter P. VanTilburg
26500 Bruce Road**

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

Motion by Dostal, second by Burke, that a special permit be granted to the property located at 26500 Bruce Road for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

**Jeffrey P. Consolo
303 Tanglewood**

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

Motion by Burke, second by Dostal, that a special permit be granted to the property located at 303 Tanglewood Lane for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

**Robert N. Greenberg
27839 Aberdeen**

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

Board of Zoning Appeals
December 6, 2012

Motion by Dostal, second by Campbell, that a special permit be granted to the property located at 27839 Aberdeen Road for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

Alan Linder
29800 Osborn Road

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

Mr. Norton advised that this application proposes to place the generator in the sideyard of the property. Photographs were submitted of the property and the proposed location. Further review and discussion followed. Mr. Linder preferred the sideyard application to avoid putting the generator in the back due to the fact that the rear of the home has many windows.

Mr. Linder modified his request for placement of the generator to be behind the home, at least ten feet from the side property line.

Motion by Dostal, second by Campbell, that a special permit be granted to the property located at 29800 Osborn Road for the installation of a generator in the rear yard of the home, at least ten feet from the side property line, and not more than 10 feet from rear wall of the home.

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

Motion passed 6-0.

Mary C. Sullivan
30332 Salem Drive

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

Motion by Dostal, second by Taylor, that a special permit be granted to the property located at 30332 Salem Drive for the installation of a generator, per the applicants request and not to be less than ten feet from the property line.

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

Motion passed 6-0.

Kenneth Kennard

C.O. 1141.04 (J) Special Permit

29216 Lincoln Rd.

for Generator

Motion by Dostal, second by Burke, that a special permit be granted to the property located at 29216 Lincoln Road for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

Nancy Cleary
31224 Nantucket Row

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

Motion by Burke, second by Dostal, that a special permit be granted to the property located at 31224 Nantucket Row for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

Elizabeth Zborowski
28805 West Oakland Drive

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

Review of plans and discussion followed.

Motion by Dostal, second by Burke, that a special permit be granted to the property located at 28805 West Oakland Drive for the installation of a generator, per the plans submitted.

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

Motion passed 6-0.

Kyle J. Saxton
30669 Wolf Road

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

The original application showed the generator behind the home. A change of location was submitted prior to this evening, still to be placed behind the home but on the other side of the property as originally indicated.

Board of Zoning Appeals
December 6, 2012

Motion by Burke, second by Dostal, that a special permit be granted to the property located at 30669 Wolf Road for the installation of a generator behind the home, a minimum of ten feet from the side property line, and not more than 10 feet from the back of the farthest rear extension of the home.

Mr. Campbell explained that the stipulation of not more than 10 feet from the back of the home is because a generator is part of the necessity of running the home in the event of power outages, rather than an accessory structure such as a shed.

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

Motion passed 6-0.

Graham Hall
22916 Lake Road

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

Mr. Taylor emphasized that the measurement for placement of the generator be from the wall of the home, and not from the overhang on the home. Mr. Dostal noted that the placement of the home on this property is unique. This is the northern most home of three homes that use a common ingress driveway.

Motion by Dostal, second by Burke, that a special permit be granted to the property located at 22916 Lake Road for the installation of a generator, per the plans submitted.

Jon Burney
497 Cahoon Road

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

The applicant's contractor noted that the sideyard installation is necessary because the rear yard drops off as a cliff. The request was amended to include a 2'8" side lot line requirement.

Motion by Burke, second by Dostal, that a special permit be granted to the property located at 497 Cahoon Road for the installation of a generator, and a 2'8" sideyard variance be granted, per the plans submitted.

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

Motion passed 6-0.

Draft of Generator Ordinance for submission to Council

Councilman Clete Miller, Chairman of the Planning, Zoning, Public Buildings and Grounds Committee, presented a proposed ordinance governing the installation of generators, upon application to the Building Department.

A meeting of the Planning, Zoning, Public Buildings and Grounds Committee was held on Monday, December 3, 2012, to review the proposed ordinance. Mr. Miller took the suggestions and comments heard at that meeting, applied those to the draft of the ordinance. A copy of the proposed ordinance is attached to the original copy of these minutes.

After considerable discussion and review, the following suggestions to the draft were made by the Board:

- 1) Section 1370.04 Sound Level Measurement, Appeal shall be removed from the proposed ordinance.
- 2) Front and side yard installations shall be required to submit applications to the Board of Zoning Appeals

A complete summary of the discussion between Mr. Miller and the Board of Zoning Appeals will be given to the Bay Village City Council on December 10, 2012.

There being no further business to come before the Board, the meeting adjourned at 9:45 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary