Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held September 6, 2018

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

Also Present: Jeff Fillar, SAFEbuilt, Inc.

Audience: Doug Moore, Jay Schwarz, Chris and Tiffany Yessayan, Hal Wade

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

Motion by Bruno, second by Gess, to approve the minutes of the meeting of the Board of Zoning Appeals held August 16, 2018 as prepared and distributed. Motion passed 6-0. Ms. Young arrived a few moments after the minutes were approved.

Katie Kelly
31165 Huntington Woods Parkway

C.O. 1145.01
Special permit for a detached pavilion and outside fireplace.

A communication from Mr. Steve Vogel, Chief Building Official, dated August 28, 2018, was submitted to the Board of Zoning Appeals concerning this application as follows:

Applicant: Katie Kelly
Property Owner: Same
Address of Property: 31165 Huntington Woods Parkway
Zoning District: Residence District 1
Relevant Ordinance: 1141.04 (J), 1121.42

Variance Requested: Applicant is requesting to build a 480 square foot (20’x24’) pavilion 15’ in height (18’ to the top of the chimney) in the rear yard. The structure is proposed to be 8’ from the side property line, 37’ from the rear property line and 10 feet from the main structure. Bay Village Codified Ordinance section 1141.04 (J) allows this type of accessory structure on “special permit”. BVCO section 1121.42 defines “special permit” as a permit authorized by the Board of Zoning Appeals. The applicant is requesting a special permit from the Board of Zoning Appeals for this structure.

A special permit from the Bay Village BZA is required for this project as submitted

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. Mr. Burke stated that the Board has approved several of these detached pavilion and outside fireplace requests in the past. The property is surrounded by woods in the back of the property.
Mr. Miller commented that the detail shows gutters but there is no downspout landing on the ground. Mr. Jay Schwarz, Ohio Valley Group, representing the homeowner, stated that it will be tied back to the house underground.

Ms. Young asked if the pavilion and fireplace will be attached to the existing deck. Mr. Schwarz stated that the deck will be removed and the existing deck will become pavers on concrete. Those pavers on concrete will tie into the pavilion.

Ms. Young asked how close the neighbor’s home is to the property line. Mr. Schwarz stated that the home behind the Kelly property is approximately 100 feet distance. The neighbor’s home is approximately 35 feet away, and is set back as well.

Mr. Tyo asked if there will be room for access to the rear by emergency vehicles. Mr. Schwarz stated that it will not be any more difficult for access than it is presently. There are trees and other obstacles in the backyard. In an emergency situation, the vehicles could access from the side street through back yards.

Motion by Bruno, second by Tyo, to approve the application for a special permit to the property at 31165 Huntington Woods Parkway, per Codified Ordinance 1145.01 for a detached pavilion, outside fireplace, and other structures as prepared and submitted through the drawings.

Roll Call Vote: Yeas – Bruno, Burke, Gess, Miller, Norton, Tyo, Young
Nays – None.

Motion carried 7-0.

Chris Yessayan
29009 Wolf Road
2. C.O. 1163.05 (H) (3) Variance for a 6 ft. high fence along the length of Bracken Way (approximately 100 ft.) as well as off the sides of their home.

A communication from Mr. Steve Vogel, Chief Building Official, dated August 28, 2018, was submitted to the Board of Zoning Appeals concerning this application as follows:

Applicant: Chris Yessayan
Property Owner: Same
Address of Property: 29009 Wolf Road
Zoning District: Residence District 1

Relevant Ordinance: 1163.05 (h) (1), (h)(3)

Variance Requested: Applicant is requesting to build a 6 foot high privacy screen with a total linear dimension of 125 feet. The side yard privacy screen dimensions are proposed at 9’ and 21’ in length respectively and the rear yard privacy screen dimension is proposed at 95 feet in
length. The total perimeter dimension of the lot is approximately 609 feet. Bay Village Codified Ordinance section 1163.05 (h) (3) and (h) (1) allows a privacy screen in the rear and side yards of six feet four inches in height as long as it does not exceed 32 feet in any direction and does not exceed 10 percent of the perimeter of the lot. **The variances requested are an additional 64 linear feet of six-foot high privacy screen and an additional 63 feet of privacy screen in one direction.**

Two variances from the Bay Village BZA are required for this project as submitted.

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

Mr. Burke reviewed the drawings with the applicant. The fence will be at the southeast corner of the building extending to the far southwest corner, across the back and then connecting to the home. Mr. Yessayan presented drawings of the 6 ft. high fence that was in place before the previous home was demolished. The fence was 6 ft. high around the entire perimeter. The previous home had an in ground swimming pool. The proposed fence is to be 6 ft. in height in certain sections, and 4 ft. in height in other sections.

Mr. Norton stated that a 6 ft. fence was permitted under the old swimming pool rules because the property had a swimming pool. It was a safety issue to prevent people from getting into the pool, versus just a yard enclosure.

Mr. Yessayan asked if there would have been a permit issued with the last fence. Mr. Norton stated that the fence may have been granted as part of the swimming pool permit.

Mr. Young asked if Mr. Fillar has reviewed the property file to determine if a permit was granted for the fence in the past. Mr. Fillar stated that he has not reviewed the file.

Mr. Miller commented that he does not believe a previous permit would carry through now that the home has been demolished and the pool removed.

Mr. Norton stated that once the pool was removed that fence would then be illegal.

Mr. Norton explained that the ordinance relating to fences is very specific and the goal is clearly outlined, in that the City officials do not want to block view. The intent is to give the homeowner a privacy screen, defined as 32 feet in one direction, and for not more than 10% of the perimeter of the lot. The Board traditionally has held to this intent of the City officials as far as reasonably possible.

Mr. Yessayan expressed appreciation for the opportunity to come before the Board. He explained that the home is in a high traffic area, even more than they had anticipated since it is in such close proximity to the high school. They have had vandals in their backyard. Mr. Yessayan displayed photographs of parking on the street on a typical night when there is a game in the Bay High School stadium. He stated that the high traffic volume inhibits the ability of the homeowners to enjoy the outdoors on their property. The previous owner blocked off one of the two driveways that exist on Bracken Way and Wolf Road because of people using the drive to cut through to the street.
Mr. Burke noted that the Board deals with the issue of precedent. This request represents a substantial variance.

Mr. Norton stated that in this case it is understandable that Mr. Yessayan would want to go across the whole section of Bracken Way. He understands that dropping the height from a 6 ft. section to a 4 ft. section may look architecturally awkward and for this reason the Board has considered approving the technique of tapering down on each side to 4 ft. in height.

Mr. Miller referred to the communication from the Building Department stating that Mr. Yessayan is requesting an additional 64 feet of 6 ft. high privacy screen, and an additional 63 feet of privacy screen in one direction. Mr. Miller stated that it sounds like the Board is hearing a request for fence, not privacy screen. Mr. Yessayan stated that he is looking for a 6 ft. high fence along Bracken Way.

Mrs. Young noted that Mr. Yessayan does not need a variance for the east to west fence of 4 ft. in height.

Mr. Norton asked Mr. Yessayan if he would like to withdraw the present application and reapply with a different design along Bracken Way.

Mr. Tyo suggested breaking up the 6 ft. sections with vegetation as an alternate design.

Mr. Gess stated that the property does have some uniqueness given that it is a corner lot and its proximity to a main, Wolf Rd. thoroughfare. This uniqueness may warrant some allowance.

Mr. Bruno stated that according to calculations by Mr. Miller and himself, the perimeter of the lot is 609 feet versus the 544 feet on the memorandum from Mr. Vogel, which would allow 61 feet of fencing along the perimeter, 32 feet only in one direction.

Mr. Burke noted that if Mr. Yessayan decides to submit another application it would be helpful if part of the application included a design of the fence. A more open fence would be preferred.

Further review and discussion of the possibility of tapering the fence down followed. The Board submitted several suggestions for tapering the fence to 4 feet in height after using the allowable 32 feet.

Mr. Gess asked Mr. Norton if the part of the fence that includes the transition is considered part of the variance request. Mr. Norton stated that the part of the fence that makes the transition does not need a variance. It is an allowable way to transition from the variance to the non-variance section.

**Motion** by Burke, second by Bruno, that the application of Chris Yessayan, 29009 Wolf Road, be tabled until receipt by the Board of Zoning Appeals of revised drawings and pictures of the proposed style of fence, tentatively for October 4, 2018.
Motion carried
7 yeas -0 nays.

Doug Moore
497 Bradley Road

C.O. 1163.05 (H) (3) Variance for
6 ft. high fence for entire back yard.

A communication from Mr. Steve Vogel, Chief Building Official, dated August 28, 2018, was submitted to the Board of Zoning Appeals concerning this application as follows:

Applicant: Doug Moore
Property Owner: North Coast Community Homes Inc.
Address of Property: 497 Bradley Road
Zoning District: Residence District 1

Relevant Ordinance: 1163.05 (h) (1), (h) (3)

Variance Requested: Applicant is requesting to build a 6 foot high privacy screen with a linear dimension of approximately 225 feet that would enclose the rear yard. Each direction of the fence would be approximately 75 feet long. Bay Village Codified Ordinance sections 1163.05 (h) (1) and (h) (3) allow a privacy screen of six feet four inches in height in the rear and side yards as long as it does not exceed 32 feet in any direction and does not total more than 10% of the perimeter of the property. The total perimeter measurement of this property is approximately 544 feet, allowing a total length of 55 feet. The variances requested are an additional 170 linear feet of six-foot high privacy screen and an additional 43 feet in each direction.

Two variances from the Bay Village BZA is required for this project as submitted.

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

Mr. Burke verified with Mr. Moore that a 6 ft. high fence around the entire perimeter of the property is being requested. Mr. Moore stated that the fence requested is for the back of the property, behind the house. Mr. Burke noted that when he looked at the property today, he noticed that part of the property was fenced. Mr. Moore stated that is the property behind his property that has the existing fence. The fence that Mr. Moore is requesting has been designed to have the same style as the fence on the property behind and to the left of the house.

Mr. Burke asked the connection between Mr. Moore’s firm, Moore’s Helping Hands, and North Coast Community Homes. Mr. Moore stated that North Coast Community Homes owns the property. Mr. Moore is a provider of home modifications to the State of Ohio. This application is a home modification for the four disabled individuals who live in the home. One has behavior issues related to Autism, and the request is for her safety.
Mr. Moore stated that these four individuals all have guardians, support administrators that take care of all their needs, whether it is medical, physical, or safety. The reason for a 6 ft. fence rather than a 4 ft. fence is to prevent climbing over the fence.

Mr. Tyo asked for clarifications for the dimensions of the fence. Mr. Moore explained that the fence requested would be 80 feet on the north side, 75 feet along the back, and 93 feet along the other side, and 12 additional feet with a gate. Mr. Bruno stated that his calculations indicate: 12 feet and 12 feet on the side of the house as the fence comes away from the house where the gate is, on the other side at the back corner of the house where the fence moves toward the property line, then as the fence moves toward the back of the property line, 80 feet, the back property line, 75 feet, and the other side of the property line 93 feet. This is a total of 272 linear feet.

Mr. Hal Wade, the homeowner to the south of the property, 501 Bradley Road, asked if the property will be surveyed. Mr. Moore stated that the property will be surveyed. Mr. Wade stated that he has no objection to the fencing.

Mr. Norton suggested referring the matter to the Law Director for information concerning the specific federal and state rules regarding this property, and the City’s ability to make changes, noting that a variance stays with the property.

Mr. Burke stated that the question is whether the City has to grant some kind of reasonable accommodation, whether it is based on the disability or whatever the case may be. Then the Board will look at the reasonable accommodation to be made. Mr. Burke asked Mr. Moore if they need that large of an area of 6 ft. fencing, or based on windows and doors along the back of the house are they able to trim that back so the request can accommodate the need but come closer to the code.

Mr. Moore said that he would have to go back to the Support Administrator of Cuyahoga County. They asked for the entire back yard. Mr. Burke said that the panel is understanding of the situation, and will need advice or a ruling from the Director of Law.

Ms. Young presented the possibility of considering a 5 ft. high fence. Mr. Burke noted that the question is what would be the least amount of variance needed to make a reasonable accommodation if the law requires such a reasonable accommodation.

Mr. Tyo noted that the owner of the property is Northwest Community Homes. From a special use standpoint, that is a business that is being conducted at the residence. Moore’s Helping Hands, represented this evening by Doug Moore, contracts with the county and the state to provide home modification services. Northwest Community Homes is the owner. They are non-profit and have been doing business in a number of the west side communities. There is a requirement on the part of the City not to prevent such group homes from being allowed in residential areas.

Mr. Miller noted that there is not an objection to the group home, it is the fundamental of the fence.
Motion by Burke, second by Miller, that the matter of a variance to the property at 497 Bradley Road be tabled to October 4, 2018, pending receipt of legal opinions from the Law Director and also pending receipt of a more definitive drawing of the property and fence dimensions.

Mr. Miller asked how long the residents, specifically the person generating the request, have occupied this home. Mr. Moore replied that it has been three or four months.

Roll Call Vote:

Yeas – Norton, Bruno, Burke, Gess, Miller, Tyo, Young
Nays – None.

Motion carried 7-0.

The meeting adjourned at 8:49 p.m.

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Jack Norton, Chairman     Joan Kemper, Secretary