Minutes of a Meeting of
Board of Zoning Appeals
Held August 16, 2018

Members Present:   Burke, Gess, Miller, Tyo, Young (7:45)

Excused:           Bruno, Norton

Also Present:      Mark Barbour, Law Director; Gary Ebert, Special Council; Jeff Fillar, SafeBuilt Official.

Audience:          Petri Spirollari, Bela Persanyi

*Full recording of the meeting is permanently available on the City of Bay Village website under City Government /Board of Zoning Appeals.

Chairman pro tem Tyo called the meeting to order at 7:30 p.m.

Motion by Miller, second by Gess, to approve the minutes of the meeting held August 2, 2018, as prepared and distributed. Motion passed 5-0.

Mr. Tyo advised that the code states that the Board consists 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.

Petri Spirollari
26613 Lake Road

C.O. 1350.03 & 1141.04 (J) Applicant is requesting a variance for a 10' x 14' shed.

Mr. Spirollari stated that he would like to replace his existing 12 ½ foot by 12 ½ foot shed with a 10 foot by 14 foot shed. The existing shed has been on the property for at least 20 years and has deteriorated. He would like to relocate the proposed new shed to the southwest side of his property. The proposed shed will be 4 feet away from both property lines in the rear yard.

Mr. Burke verified with Secretary Kristine Jones that none of the abutting neighbors have filed a complaint about the proposed shed. Ms. Jones said no.

Mr. Miller asked if the Board knows if there is a variance for the existing shed since the request is to reduce the square footage of the accessory structure. Mr. Fillar stated that he will pull the property file.

Mr. Fillar stated that there is not an old permit, site map or plot map for a shed in the property file for 26613 Lake Road. Mr. Tyo confirmed as a point of fact that there was never a permit requested or the current shed on the property precedes the current code.
Mr. Burke noted that the proposed shed is about 16 square feet less than the current shed and does not believe this is an unreasonable request. Mr. Miller verified with Mr. Spirollari that he would remove the existing shed. He said yes.

Motion by Burke, second by Gess, that the property that located 26613 Lake Road be granted a variance from the provisions of codified ordinance section 1350.03 & 1141.04 (J) to permit the replacement of an existing shed of 10 feet by 14 feet and a variance of 20 square feet of additional area to be built according to the designs submitted to the City and further provided that the existing shed be removed upon complication of the construction of the new shed, provided that it meets all building requirements.

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

Motion Carried 5-0

Mr. Gess advised that in the staff report sent by Steve Vogel there was also a variance stating “and a waiving of the requirement that nonconforming uses, where the reconstruction exceeds 50 percent of the replacement value, be prohibited.”

Amended, resolution to show that the variance is granted to also include a variance from the requirement that the reconstruction cannot exceed 50 percent of the replacement value of the existing structure.

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

Motion Carried 5-0

Bela Persanyi
30666 Wolf Road

C.O. 1373.01 The applicant is requesting a variance to store their boat on a trailer in their front yard.

Chairman pro tem Tyo asked Mr. Persanyi if he had any additional information or comments that he would like to add since the last meeting of August 2, 2018.

Mr. Persanyi referenced a section Mr. Ebert’s memo dated January 3, 2018, that a City has an interest of "preserving and protecting" the orderly development, the character and the integrity of a single-family neighborhood. He stated that in his neighborhood the property values have significantly increased and believes that his boat has not had a negative impact on these properties. He explained that he has had this property right for 26 years. Also, he believes the City has a right to inform residents when they are considering a change in an ordinance and there was never a public notice that this section of the code was being revised. This part of the ordinance was passed in a special meeting on July 11, 2016.

Mr. Ebert responded that issues of Council are public and even though this was a special meeting in the summer, it was still publicized and open to the public. It was passed in a Special Meeting
but it was on readings and before that committee meetings and council discussions. Also, the ordinance still allows residence to store their boats but they need to be in the rear yard. The purpose of the change in the ordinance is to prohibit boat and trailer storage in front yards.

Mr. Ebert stated that this is not a property right for Mr. Persanyi. His boat is personal property in which it can be moved.

Mr. Burke explained that in the fall of 2017 when this case was first brought to the BZA, the sense of the Board at that time was that this is something that needs to be considered by Council and the Board encouraged you to contact your Councilman. He asked Mr. Persanyi if he has contacted Council or his Councilmen. Mr. Persanyi said no.

Mr. Persanyi stated that this is a right that he had and believes that the BZA has the power and right to grant him a variance or permit to continue the right he has had for 26 years. The boat has not had a negative impact on the neighborhood. It will also cost him additional expenses to move the boat to his backyard or to store it somewhere else. He noted that he could come to the BZA on a yearly basis to ask for a permit to continue the use to store his boat in his front yard.

Mr. Ebert explained that this is not a property right and if the Board votes in favor of Mr. Persanyi’s request, it would have to be a conditional variance. If a conditional variance is granted, then this could open up a number of requests from residents.

Mr. Gess explained that the BZA has the power to “tinker” around the edges of an ordinance. His concern is that if a special permit or variance is granted it would be the complete opposite of what Council intended the ordinance to be.

Mr. Persanyi noted that there is a business across the street from the post office that leaves their equipment in the front of their business and he does not understand how that is okay but his boat is not.

Mr. Barbour advised that what is happening in other locations has no bearing on Mr. Persanyi’s application. The ordinance was enacted in 2016 and it is now 2018. There is not a requirement that notices need to be sent out to residents, all meetings are held in a public domain and all citizens are charged with knowing what is the law. In regards to the properties to the west of Mr. Persanyi’s home, the reasons the property values have increased is because that was available property to build large and expensive homes. He does not believe the boat had any impact one way or the other. To say that the existence of the boat is not affecting the overall appearance of the neighborhood would be misleading. He noted that in the past three months that he has been Law Director, the City has received many complaints about boat storage. Also, there has been specific complaints regarding the storage of Mr. Persanyi’s boat.

Mr. Barbour stated that from his perspective as Law Director, and Gary Ebert’s perspective as Special Council, Mr. Persanyi is not entitled to a variance as the ordinance stands.
Mr. Persanyi stated that his property right was taken away. Mr. Barbour and Mr. Ebert stated that the boat is personally property, it is removable.

Motion by Burke, second by Gess, that the property located at 30666 Wolf Road be granted a variance from the requirements of Codified Ordinance section 1373.01 to permit the applicant to park his boat and or trailer in a location specified in the drawing that is attached to the application, provided however that this variance, if approved, shall not permit the applicant to park his boat and/or trailer anywhere else on the property except as permitted by the ordinances of the City of Bay Village.

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

Motion Denied 5-0

Removed from the agenda per Special Council Ebert

Edward Pavicic  
550 Red Oak Lane

(Tabled: Reconsideration for Variance)

C.O. 1306.04(d)(4) Applicant is requesting a variance to construct a basement within the 100-year flood plain.

For the record Mr. Ebert stated that he spoke to Mr. Pavicic’s council and that this matter be removed until further notice.

There being no further business to discuss the meeting adjourned at 8:09 p.m.

Barry Tyo, Chairman Pro Tem  
Kristine Jones, Secretary