Minutes of a Meeting of  
Board of Zoning Appeals  
Held January 18, 2018

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

Excused:  
Bruno

Also present:  
Law Director Gary Ebert & Steve Vogel, Chief Building Official of SAFEbuilt, Inc.

Audience:  
Terri Bennett, Caprice Mercer, Joel Loufman

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

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

Motion by Miller, second by Tyo, to approve the minutes of the meeting held January 4, 2018, as prepared and distributed. Motion passed 6-0.

Caprice Mercer  
615 Debbington Drive  
C.O. 1163.05 (e) The applicant is requesting a variance for a fence in the rear yard to be 5 feet tall in height Instead of the required 4 feet.

Mr. Norton advised that the Board has had an opportunity to visit the site, review the application and asked for any discussion.

Mr. Burke explained that over the past serveral years there have been numerous requests for an increase in fence height because of dogs and he believes that in all cases the board has declined to grant a variance.

Ms. Mercer asked why is the height limit for a fence at four feet? She noted that she would like to replace her current old chain link fence with a new chain link fence. Mr. Burke responded that when city council made the ordinance they felt that four feet is an appropriate fence height. The Board of Zoning can grant minor height variances but there needs to be something unique about the property itself rather than the use to the owner.

Mr. Burke advised that the board has granted height variances for fences but there was a uniqueness to the applicant’s property. He referenced the home behind Martin’s Deli and the home behind the bus service station at the high school.
Mr. Norton explained that by ordinance the BZA cannot create law we can only tinker around the edge and we need to be very careful about setting precedent. Mr. Tyo added that any variance granted to the property stays with the property.

Mr. Ebert asked what is currently there. Ms. Mercer responded that there is a four foot, 42 year old green fence that is faded and bent that she installed in 1977. Mr. Norton explained to Ms. Mercer that she could have the fence company mount the new fence so that the top of the fence is four foot four inches off the grade. Ms. Mercer stated that her dog can still climb that height.

Mr. Miller suggested to Ms. Mercer that she could select a fence with vertical post then there is no place for the dog to set its paw, unlike the chain link fence. Ms. Mercer stated that her dog is very clever and could climb any style fence and get over.

Mr. Tyo suggested that Ms. Mercer come back with a different variance request. He explained that there needs to be something unique with the property not the owners use.

Mrs. Young stated that Ms. Mercer is allowed to have her fence go 32 feet in one direction as a privacy fence up to 6 feet high. Ms. Mercer stated that would not help with her situation.

Mr. Ebert recommended to Ms. Mercer that she withdraw her application and he would have a discussion with her.

Mr. Burke asked the applicant to confirm for the record that she would be withdrawing her application pending further discussion with the Law Director. Ms. Mercer said yes.

Joe and Melanie Joyce  
26701 Lake Road  
C.O. 1153.03 Homeowner is requesting a  
5 foot side yard variance.

Mr. Norton advised that the Board has had an opportunity to visit the site, review the application and asked for any discussion.

Mr. Bennett stated that the existing garage is 5 foot 7 inches off the property line. The new structure request is for a 5 foot sideline request. When the house was built he believes there was only a 5 foot side yard requirement. Now there is a 10 foot minimum sideline requirement and the addition of the third car garage will push the new garage 8 feet in front of the other garage. This would then render the existing driveway not be passable to get into the garage. He stated that this is a peculiar lot. Mr. Bennett explained that if you follow the left side of the property against the house that it is actually perpendicular to Lake Road. However, right at the front, it veers and goes in a diagonal and that is the part that we are looking to build the addition. It encroaches in the sideline. Mr. Bennett referenced the site plan.

Mr. Burke asked if Mr. Bennett will be reconfiguring the concrete. Mr. Bennett responded that they will not have to if they are granted the five foot variance and they would be able to use the existing driveway. However, if they are not granted and it is a 10 foot sideline, they would have to rip up the driveway and replace it in order to get into the garage.
Mr. Norton referenced the site plan and said from the corner of the existing garage that it is 5 foot 7 and explained that on the new garage it will be 5 foot from the side line. Mr. Bennet noted that the existing sideline is 5 foot 7 inches. Mr. Tyo verified that the existing garage will still be a garage and will not be additional living space. Mr. Bennett said correct.

Mr. Norton stated that traditionally when the side yard setback is grandfathered in for an existing building the board will allow an addition so long as it doesn’t exceed that. He noted that they had to offset the structure because the lot line shifted. Mr. Bennett added that aesthetically, it looks better rather than lining up the back wall of the garage then it would be a 400 foot long wall.

Mr. Gess asked is it unique that this house is parallel to Lake but the property is on an angle? Or is it more that the houses are staying parallel with the side property lines? Mr. Norton responded in this case they built the houses perpendicular to Lake Road but when they plotted the land they shifted it. Therefore, there is a uniqueness to this property.

Mr. Gess asked if the current garage is grandfathered in within the 5 feet as opposed to the 10 feet, isn’t it permissible for them to continue the extension on? It sounds like they are asking for nothing different but the oddity of a bend in a property and they are not asking for more than they already have. Mr. Gess asked is variance even needed? Mr. Norton stated that technically a variance is still needed.

**Motion** by Burke second Gess that the property located at 26701 Lake Road be granted a variance of 5 feet from the side setback requirements per codified ordinances 1153.03 (1) and 1125.02 (B) for the construction of a garage addition per the drawings specifications submitted with the application. Also, for the enlargement of a nonconforming building on the property per the drawings that were submitted with the application.

**Roll Call Vote:**

Yeas – Burke, Gess, Miller, Norton, Tyo, Young

Nays – None

**Motion Carried 6-0**

**Liberty Development Company**
27401 Wolf Road

Applicant is requesting a variance per C.O. Table 1158-4a projections into required yard setbacks (see details attached). C.O. 1158.04 (E) (7) street and access for the proposed townhomes.

Mr. Siley presented a PowerPoint presentation of the proposed project. He stated that they are proposing a 13 unit residential development at 27401 Wolf Road. The site is approximately 2.35 acres and is currently a vacant lot that was formally occupied by a bank drive-thru and gas station. The property is zoned as retail business which allows attached housing.
Mr. Burke asked if the property is one parcel. Mr. Siley answered that right now it is multiple parcels owned by Goodman Real Estate. However, Liberty is planning on consolidating the parcels located at 27401 Wolf Road into one parcel.

Mr. Siley outlined Liberty Developments key components to the Bay Village Master Plan:

- Keep a commitment to place
- Diversifying housing options
- Creating a more vibrant village center
- Establishing a pedestrian and bicycle friendly community.

Mr. Siley stated Liberty Developments key goals:

- Support the community vision
- Respect the context
- High quality materials, real brick and hardie siding (4 sided design)
- Help diversify Bay Villages housing options
- Be a valued community partner.

Mr. Siley presented the site plan of the proposed project. He presented different views and angles of the site.

Mr. Siley advised that they will be eliminating the current curb cuts that serviced the old gas station and will be creating a streetscape along that property line. He explained that initially there was a separate entrance off Wolf Road. The entrance would have split the townhome units into three units on one side and two units on the other side. There was a lot of discussion from the Planning Commission members and it was agreed that accessing between the units on Wolf Road would be a traffic and potential a safety problem. The entrance now will be the shared alleyway along the eastern property line. He added that Goodman’s will dedicate an easement to Liberty Development Company.

Mr. Siley stated that Bay Village City Ordinance requires that Liberty Development Company needs to be under 50% of impervious pavement and they are at 48%.

Mr. Siley stated that there is a requirement in the code that there needs to be sidewalks on both sides of the streets with 4 foot buffers he noted that one of Liberty’s variance requests will be to have just one 4 foot dedicated pedestrian sidewalk that will be located along the eastern border of the development and will connect with Wolf Road. He said that they added a community green in the middle of the development. Also, each of the units will have 2 parking spaces and they added an additional 10 parking spaces inside the development for guests.

Mr. Siley presented the topography of the proposed site plan that included the riparian setback and 100 year floodplain. Mr. Siley stated that they did a review with their civil engineer, The City of Bay Village City Engineer and City of Bay Village Building Official related to the riparian setback and the 100 year floodplain. The review concluded that Liberty meets all of the setback requirements in that area.
Mr. Siley presented the site plan and heights of the five units facing Wolf Road. He explained that the height to the top of the elevated penthouse is 41 feet 8 inches, 35 to the parapet and 32 feet to the roof deck. He added that all 5 penthouses will have a rooftop deck.

Mr. Siley noted that they removed an additional cap piece at the top of the staircase on the rooftop deck. This was a suggestion by the ABR to reduce the overall appearance of the height. He explained that they are still working on the east and west elevations of the townhome units.

Mr. Siley presented the rear elevation of the buildings. He added that each unit will have a two car garage and grilling balconies off of the kitchen.

Mr. Siley presented the drawings of the scale and context of the proposed townhomes. The drawing included views of the approximate height scale to the adjacent retail center and a view to the bridge. He noted that the view to the bridge is a little bit deceiving since it does not show any of the trees that cover the creek. Mr. Siley stated that Planning Commission and ABR has asked for a more detailed perspective and Liberty is currently working on what these views would look like into the east and west end. Also one of the challenges in drawing this perspective is the next house is about 285 feet away.

Mr. Siley presented the floor plans and gave a description of the townhomes that front on Wolf Road. He stated that they exceed the minimum 10 foot front setback requirement and they are at 12 feet. The porches also encroach into the setback by five feet eight inches and the requirement is four feet. He informed the board that they wanted to create "real usable" front porches. He continued with the description and layout of the townhome units. Mr. Siley presented a slide that showed the finishes Liberty uses. He also stated that all of units will have 9 foot ceiling and 6 foot windows.

Mr. Siley presented a slide of the rooftop decks, he noted that it sits back from the edge of the parapet. Also the deck space is the same width as the penthouse and it projects out another 8 or 9 feet.

Mr. Siley presented the floor plans of the first floor master units. He referenced the drawing pointing out where the garage is located, the front entry, the kitchen, dining area and great room. There is a balcony or deck that will look over the creek. The master unit is also on the creekside. He noted that the upstairs on the first floor master units have an additional bedroom, bathroom and loft space. Also, all the basements could be built out for additional living space.

Mr. Siley presented the topography of the proposed site plan that included the riparian setback and 100 year floodplain. He commented that they are outside of the floodplain and they are also respecting the riparian setback requirements.

Mr. Siley presented the landscape plan. He informed the board he met with the Tree Commission to get a better understanding of Liberty’s obligation and requirements to the streetscape master plan. He added that at the Tree Commission meeting the City Arborist offered to walk the site with them. The arborist will help Liberty identify which trees need to be
preserved and which trees can be removed. He added that any trees being removed will be marked.

Mr. Siley concluded his presentation of the proposed project. Mr. Norton suggested to Mr. Siley that he should read the variance requests one at a time and then the board will discuss.

1. **Minimum setback requirement on the front porches is 10 feet Liberty is at 12 feet.** The porches are allowed to encroach up to 4 feet into that setback they encroach 5 feet 8 inches. Liberty is requesting a 1 foot 8 inch setback variance on the front porch.

Mr. Burke commented that the sidewalk at the bank pushes right up to the foundation of the building and asked if they will have a straight line east to west. He asked if the front porches will be against that line or do they extend from the foundation of the bank building? Mr. Siley referenced the slide and asked this line? Mr. Burke said yes. Mr. Siley said no that there will be green space in front of that, there is a break in-between.

Mr. Norton advised that there will be 4 feet in-between the sidewalk and the porch foundation. Mr. Siley added that there is plantable area in front of the porches. From the stoop, there will be a pad of concrete from the porch connecting to that sidewalk. Mr. Burke asked that the edge of the sidewalk in front of the 5 units will be on the same line as the foundation of the bank. Mr. Siley answered roughly.

Mr. Norton asked if the steps are double wide leading up to the porch? Mr. Siley responded that the steps are slightly wider than the door itself. The sidewalk entrance up to those steps will match the width.

Mr. Miller commented “that the variances being requested are under Chapter 1158 the attached residence district. So in many ways 1158, which is trying to craft that attached residence district, is by our master plan pretty much localized to Dover Center or to this property edge. So in the case of the height variance, we are not granting this for a residence district we are granting this for the attached residence. My observation is that we are not potentially opening the door for someone to show up on Lake Road and build a 44 foot tall home. We are really concentrating this for the attached resident district”.

Mr. Miller asked if one of the variances does not pass does it cascade to others. Mr. Siley responded that it could depending on which ones.

Mrs. Young asked how deep the front porches are. Mr. Siley responded they are 8 feet.

Mr. Norton stated this request is pretty small in scale and believes it to be a positive for the residents to be able to use a “real” front porch. The porch is also low to the ground and has a railing.
2. The requirement for a side setback is 20 feet to the property line, Liberty is requesting to be 15 feet from the side property line. Therefore, Liberty is requesting a 5 foot variance.

Mr. Burke asked if the 5 foot variance only applies to the front section of townhome units that front on Wolf Road. Mr. Siley said correct.

Mr. Norton referenced a comment that was made by Planning Commission in shifting the 5 townhome units to the west. He asked if that is a possibly. Mr. Siley explained that the shifting was driven by a conversation of the entrance and exit of the alleyway. If you have a vehicle stopped right here, (referenced slide) do they have sufficient line of sight with the building being 15 feet from the edge of the drive. We put the façade of the building in line with this piece (referenced on the slide) of the commercial building to the east. The stoop is low. Mr. Siley referenced the site plan and explained that “If you are parked right here this is 12 feet before you get to the property line, you will have sufficient line of sight. The challenge is if someone is travelling westbound on the Wolf Road sidewalk and they hug this wall and come out here you will not be able to see them”. Mr. Siley mentioned that they are going to talk to the Goodman’s to see if it would be possible to add decorative fencing to this area (referenced the area on the site). Therefore, the pedestrians could not cheat and would have to follow the line and come across directly in line with the sidewalk that is existing on Wolf. Mr. Siley stated that the ability to adjust the units to west could happen but believes it to be unlikely. He also added that they will lose meaningful greenspace.

Mr. Burke asked if Liberty is contemplating any future changes to the site that would require to have 5 feet all the way along the property line. Mr. Siley said no and explained that if for any reason they need to change their design they know they need to come back to the BZA for that request.

Mr. Norton referenced a comment that was made at the Public Hearing regarding that a very nice development is looking out at the backside of a shopping center. He asked if they plan on cleaning up the utilities that are on that back wall. Mr. Siley answered that the Goodman’s who own the retail shopping center is selling the project site to Liberty Development Company and he noted that they have a very good working relationship with them. He added that we cannot compel them to do anything to the backside of the building. However, it could just be cleaning up the utilities.

Requests for numbers: 3, 4, and 5., are for the rear 25 foot setback requirement.

3. For Units 8 and 9 the units are 21 feet and 19 feet from the rear property line. Liberty is requesting a variance of 4 feet for unit 8 and 6 feet for unit 9. Mr. Siley added that the next nearest residential property is about 275 feet away.

4. For Units 12 and 13 the units are 12 feet 2 inches and 15 feet 6 from the rear property line. Liberty is requesting a variance for 12 feet 10 inches for unit 12 and 9 feet 6 inches for unit 13.
Mr. Siley referenced the drawing and explained that the location of these units are unique and there is no adverse impact to the adjacent properties. For units 8 and 9 the units back up to the creek and for units 12 and 13 they back up to the rear loading parking area for Heinen’s.

5. **Also on units 12 and 13 there is a 15 foot setback requirement for patio and decks.** The patio/decks are 10 feet 2 inches and 13 feet 6 inches from the rear property line. Liberty is requesting a variance of 4 feet 10 inches for unit 12 and 1 foot 6 inches for unit 13.

Mr. Norton asked the board if there are any questions on the 25 foot rear setback variance request. There were no questions from the board concerning these variance requests.

6. **There is 25 feet required minimum separation between ends of buildings.** Mr. Siley stated that they meet that requirement in all areas except for units 7 and 8 and units 9 and 10. For units 7 and 8 the units are separated by 17 feet and for units 9 and 10 the units are separated by 17 feet. Therefore Liberty is requesting an 8 foot variance separation.

Mr. Siley stated that they could solve this request and have all 6 unit buildings connect. However, they thought it was a better design to have the units open to 3 separate buildings instead of a relentless wall of buildings. Mr. Burke asked if fire has given their input on public safety issues. Mr. Siley responded that these are all fire rated walls and fire had no further comments. Mr. Burke asked if fire had any comments about getting fire equipment through the development. Mr. Siley answered that there is a fire hydrant on Wolf Road and most likely we will be asked to add another fire hydrant. However, the fire chief did not have any comments with the separation of the buildings.

7. **Requesting a variance from section 1158.04 (e) (7) Walkways: “A walkway system shall be provided along perimeter streets abutting the District and on both sides of interior streets within any development. The walkways shall be ramped at all street intersections to provide handicapped accessibility and shall be separated from the adjacent dedicated or private street by a grass strip at least four feet wide”**.

Mr. Siley stated that Liberty could install a circuitous route throughout the property. However, after talking to ABR and Planning Commission, it was concluded that it would be more successful in supporting the pedestrian access into the development if Liberty installed a 4 foot sidewalk along the entirety of the eastern property line. Therefore Liberty is requesting a variance from the requirement of section 1158.04 (e) (7).

Mr. Burke asked if Cahoon Ledges has interior sidewalks. Mr. Ebert said no. Mr. Gess agreed with Mr. Siley and believes the 4 foot sidewalk along the property will benefit actual pedestrian and community use. Mr. Miller added from a privacy factor having the sidewalk on the perimeter rather than circulating throughout the space is more like a single family residence. Single family residence sidewalks wrap the street they are not right by the homes.
8. The maximum building height is 35 feet and units 1-5 are proposed as a 3-story structure.
Mr. Siley explained that the roof deck is at 32 feet 5 ¼ inches, the top to the parapet is 35 feet. The mass of the building as far as total height is at code. The total height of the building is distributed over 3 stories instead of 2 ½. Liberty is requesting a ½ story variance. Also, the roof of the stairwell penthouse is at 41 feet 8 inches and Liberty is requesting a 6 foot 8 inch variance for only that piece of the penthouse for the stairs out onto that rooftop deck.

Mr. Burke asked how high the peak at City Hall or the Middle School is. Mr. Siley responded that he believes the peak at the middle school is 47 feet. Mr. Norton asked that when you are walking along the sidewalk would you be able to see that extra bump out. Mr. Siley referenced the slide and said if you are standing on Wolf, looking up you will not see the deck. From the western elevation you will not be able to see much because of the large trees but from the eastern and northern elevations they are more exposed therefore you will be able to see.

Mr. Gess verified that the 6 foot 8 inch variance will only be for the specific piece on top of the rooftop penthouse. He asked what if for some reason a homeowner wanted to extend the deck and for example, wanted a screened in front porch for the entire 10 x 8. Mr. Siley answered that the home owner’s association documents the limit of height will be referenced. Mr. Miller asked in the variance request do we need to add that the limit be documented in the HOA?

Mr. Norton responded that the request mentions the stairwell penthouse only and it does not mention the decking. His interpretation is that if someone wanted to add an awning or change the railing they would not be allowed. They would have to get a variance for that. He stated that if the word stairwell penthouse is included in the motion than that limits it to just the stairwell penthouse even though there is more structure on the deck.

Mr. Burke asked if Liberty is using one HOA for all 13 units. Mr. Siley answered yes, because they are sharing one common area. The specific variances are going be part of the record they are going to be required in order for Mr. Vogel to eventually approve permits. We have to comply with that. Mr. Tyo asked if the HOA is selected. Mr. Siley responded that Liberty is the managing member of the HOA until the last unit is sold. Then the HOA has the opportunity to contract with Liberty’s property management company or they can seek out their own maintence company for the development.

Mr. Burke verified that the HOA owners cannot vote to allow additions on top of the rooftop decks. Mr. Siley answered that Liberty would site that any changes to the exterior buildings would have to go through the required process the city has in place. Mr. Burke verified with Mr. Ebert if this is correct. Mr. Ebert responded that they would have to come to the city.

Mr. Miller asked about the existing electrical pole on Wolf Road and how the utilities will come onto the site. Mr. Siley said they will relocate the electrical pole and they have not gotten into the specific designs of the utilities. They believe the line will drop somewhere in here (referenced the slide) and then they will run the utilities underground throughout the development. Mr. Miller asked about Storm water? Mr. Siley responded that they have not done all of their calculations.
Mr. Ebert asked if these units will have generators or is it a possibility. Mr. Siley responded that they could, they could tuck them in-between the units.

Mr. Norton commented that normally we have a 10 foot minimum side yard setback for air conditioners and asked if there are any rules regarding air conditioners for this district. Mr. Ebert stated no, this is not a single family lot.

Mr. Gess asked that in an anticipation of motions do we need to make a clarification to the property since we are talking about property that has not been consolidated yet. There has been discussion before about selling a piece a property and making sure that we are granting a variance to the right property. He asked if 27401 Wolf Road will be the address of the new consolidated property. Mr. Siley stated that the materials that they are presenting tonight will reflect the final lot consolidation under 27401 Wolf Road. If that should change and a lot line needs to be adjusted we know that we will have to come back because it is new information and it will have an impact on the dimensional counts of these variances.

Below are a series of motions that relate to the property described in the application as 27401 Wolf Road, a 2 acre parcel as fully described in the drawings submitted with the application that was made by Liberty Development Company. Each of the individual motions will reflect that 27401 Wolf Road is the property in which the motion applies.

*Observation by Mr. Miller that the numerical unit numbers assigned by Liberty Development Company may change if reassigned by the Post Master and may not match the variance referenced for those unit numbers. The board concluded to reference the unit numbers as to what is shown on the drawings that were submitted with the application.

**Motion** by Burke, second by Gess, to grant a variance of 1 foot 8 inches from the required 10 foot front setback requirements for the units designated as units 1 through 5 in the drawings submitted with the application. For clarification the unit numbers will reflect what is shown in the drawings submitted with the application.

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

**Motion Carried 6-0**

**Motion** by Burke, second by Tyo, that a variance of 5 feet be granted from the 20 foot required side yard setback under the ordinance for the area running from the north east corner of the property along the east lot line south to the point even with the south east corner of unit 5.

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

**Motion Carried 6-0**

Mr. Burke asked that the submission on the application says rear but should it be a side yard setback on units 8 and 9?
Mr. Vogel stated he defined it as side yard even though it was the rear of the unit because as he looks at it there is a front, rear and two sides. He figured that Wolf Road is the front.

Mr. Gess asked is the classification of the side or rear relative to the structure or to the parcel. Mr. Norton said that it has to be to the parcel. Mr. Norton referenced the site plan and the orientation of units 8 and 9. Mr. Tyo stated that for the requirement we need to specify the east or west elevation. Mr. Burke asked Mr. Ebert the number of parcels in Bay Village on corners where they were fairly narrow and if they put the addresses on the side. He asked that in those instances do you know what they consider a sideline and what they considered a front. Mr. Ebert said the front door as the front of the house, even though it might be the smallest part of it. The front door was the front yard.

For purposes of this motion the back lot line and therefore the setback, is based upon the orientation of the front door of the unit.

**Motion** by Burke, **second** by Gess, that following variances be granted:

- Unit 8: A 4 foot variance from the required 25 foot rear setback requirement.
- Unit 9: A 6 foot variance from the required 25 foot rear setback requirement.
- Unit 12: A 12 feet 10 inch variance from the 25 foot rear setback requirement.
- Unit 13: A 9 foot 6 inch variance from the required 25 foot rear setback requirement.

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

**Motion Carried 6-0**

**Motion** by Burke **second** by Miller that the following variances be granted for the patio/decks as shown in the drawings that were submitted:

- Unit 12: A 4 foot 10 inch variance from the required 15 foot rear setback requirement.
- Unit 13: A variance of 1 foot 6 inches from the required 15 foot setback requirement.

**Motion** by Burke, **second** Tyo, to grant variances for units 7 and 8 from the 25 foot required minimum separation between ends of buildings so that the distance between units 7 and 8 would be 17 feet as shown in the drawings. The same amount for the separation between units 9 and 10 a variance of 8 feet allowing the actual amount to be 17 feet.

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

**Motion Carried 6-0**

The next motion relates to the maximum building height, the code allows for a maximum of 35 feet in height.

**Motion** by Burke, **second** by Tyo that the units 1 through 5 be granted a variance of 6 feet 8 inches limited to the structures designated as the stairwell penthouses for each of those units.
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Further, that for units 1 through 5 the construction be permitted for a 3 story building rather than 2 ½ stories as permitted by the code. Therefore a variance of ½ of a story.

Roll Call Vote: Yeas – Burke, Gess, Miller, Norton, Tyo, Young
Nays – None
Motion Carried 6-0

Motion by Burke, second by Tyo that a variance for the overall development as described in the application from the internal sidewalk requirement per 1158.04 (e) (7) so it is not to require such interior sidewalks on both sides of internal streets provided that there be a single sidewalk along the eastern perimeter of the property as shown in the drawing of the application.

Roll Call Vote: Yeas – Burke, Gess, Miller, Norton, Tyo, Young
Nays – None
Motion Carried 6-0

There being no further business to discuss the meeting adjourned at 9:20 p.m.

Jack Norton, Chairman
Kristine Jones, Secretary