Minutes of a Meeting of
Board of Zoning Appeals
held November 2, 2017

Members Present: Bruno, Miller, Norton, Young

Excused: Burke, Gess, Tyo

Also present: Jeff Fillar, Building Official of SAFEbuilt, Inc.

Audience: Wendy Render and Edward Schaedler

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

Motion by Bruno, second by Young, to approve the minutes of the meeting held October 19, 2017 as prepared and distributed. Motion passed 4-0.

James & Wendy Render
28530 Lincoln Road

C.O. 1359.01 The applicant is requesting a variance to install 2 A/C condensers on the side of the house less than 10 feet from property line (8 feet).

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

Mr. Norton explained that this is a pretty common request and air conditioners are a lot quieter than they used to be. Sometimes the board requires that the equipment be well screened from both the neighbor and the sidewalk. This can be any type of yearlong screening such as evergreens or decorative fencing.

Mr. Miller asked if the 8 foot request is sufficient. The units are 2 feet and asked if it should be about 7 feet because there will need to be room for circulation around the unit. He noted that the units are probably going to be 2 foot or a little bit more so is the request for 8 feet sufficient, or should it be more like 7 feet because there will need to be some circulation around unit. Mr. Fillar agreed. Mr. Norton explained that some manufactures have a minimal requirement from the unit to a solid wall because of circulation and maintenance.

Mr. Fillar explained that the units are drawn against the house and they will not be against the house. Mr. Norton explained that the units are a little more than 2 feet they are 28 inches squared. Mr. Bruno stated that this is actually a 3 foot variance instead of a 2 foot variance. Mr. Norton agreeded a 3 foot or 3 ½ foot variance. Mr. Miller stated that 3 would be appropriate and Mr. Bruno agreed.
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Mr. Bruno noted the 74 sound rating and explained that the board typically would like the D.P. level be at a 72. He asked Mrs. Render if she knew if the unit had a built in sound blanket. She did not know, but said she would find out.

**Motion** by Bruno, **second** by Miller to grant the property at 28530 Lincoln Road a variance per C.O. 1359.01 per the application for a variance of 3 feet for the placement of 2 air conditioning condensers 7 feet from the side property line as submitted per the drawings. Provided that the units if not equipped with a sound blanket have a sound blanket installed and that there will be yearlong screening installed around both of the condensers.

*For the record there was a letter from Alan Wilhelm’s at 28522 Lincoln Road commenting that they do not have any objections to James and Wendy Renders request.*

**Roll Call Vote:**
Yea – Bruno, Miller, Norton, Young
Nay – None

**Motion Carried 4-0**

**Edward Schaedler**
592 Elmwood Road

**C.O 1359.01** The applicant is requesting a variance to install an A/C unit 8 ½ feet from the property line instead of the required 10 feet.

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

Mr. Norton explained that this unit 3 feet by 3 feet, 35 inches squared. Again, the unit needs to be about a foot away from the house, bringing it to be about 4 feet. Therefore the request is a 4 foot variance to the 10 foot rule.

Mr. Miller added that there is a fence installed therefore there already is screening in place for the unit. Mr. Norton noted that in the motion that screening be mentioned because in the future an owner might want to remove the fence but that requirement would grandfathered back onto that.

Mr. Bruno noted for the record that this unit has a 72 decibel rating which is exactly what the board prefers.

Mrs. Young asked if the house is 8 ½ feet from the fence. Mr. Schaedler said no. Mrs. Young stated that it shows 16 ½ feet between the houses but asked where the property line is. Mr. Norton said that it is 8 foot 2 inches to the fence. Mrs. Young asked if the fence is Mr. Schaedler. Mr. Schaedler said the fence is his. He believes the house to the property line is about 9 foot 2 inches. Mrs. Young explained that at 8 foot 2 inches with a 3 foot they are asking for more of a variance. Mr. Norton explained that if the unit is a 3 foot unit you need about a foot between the houses therefore, it will need to be 4 feet from the house.
Mr. Schaedler presented a letter from Joe and Sheryl Krall at 594 Elmwood stating that they have no issues with the variance request.

Motion by Bruno, second by Young, to grant the property at 592 Elmwood Road per C.O. 1359.01 for the 4 foot variance of the air conditioning condenser from the foundation of the existing home as submitted per the drawings for the placement of the air conditioning unit as prepared and submitted. Provided that the air conditioning unit be placed with yearlong screening. If the unit is not equipped with a sound blanket a sound blanket to be installed.

Roll Call Vote: Yeas – Bruno, Miller, Norton, Young
Nays - None

Motion Carried 4-0

Mr. Norton explained that the Board of Zoning Appeals was requested to review the proposed ordinance that’s in council on accessory structures and how it relates to lighting.

Mr. Bruno stated that in regards to the use, operation and lighting of a structure whether it be a basketball court, ice rink or tennis court he believes that it is reasonable for folks to be able to use those types of recreation structures after the sun goes down. He stated that the board previously discussed at length the time frame of the lighting. He appreciates the neighbor’s comments however enforcement of a day to day basis is not the BZA’s role. He doesn’t believe that we can restrict people from building a tennis or basketball court and lighting it.

Mrs. Young suggested that there be an allowance for how close you are to a neighboring property. Mr. Bruno agreed.

Mr. Bruno stated the hours of use are up for discussion. They had a large discussion on the time days, and time year. They discussed 10 p.m. on weekends, day light savings time and Sundays. He explained that there is a need for additional discussion based on what is before council. He believes that they have laid a good base on what was discussed in terms of time at that meeting last February.

Mr. Norton explained that the item Mr. Ebert specifically mentioned was item 5 in the proposed ordinance it says “No floodlights, light poles or lighting of courts is permitted”. Mr. Norton suggested that the board’s recommendation could be that the lights need to be reviewed. Having someone go out to specially look at the lights and look at the angles they are proposing. Also to put in time restrictions. To say no lighting is permitted rather to say if the court is intended to be lit they must apply for a special permit then it automatically comes to the BZA. Then the board can go out and critique the applicants plan. The Building Department critiques it from a safety standpoint. Then if there is a situation that we run into and we see that it is going to shine into someone’s window we can suggest to the applicant that they get a different fixture, lower it, put a shade on it, therefore someone has given it a review.
Mr. Fillar asked Mr. Miller regarding parking lot lighting, does there need to be a lighting survey from a lighting contractor that shows the angle, shade and brightness. He asked that maybe if we are going to give somebody an approval to do something like this it should be more than putting up two 300 watt lightbulbs an aiming the lights down. Mr. Miller said a photometric study would show where the foot candles are at the property line. Mr. Miller explained that when we reviewed the ice rink he believes the applicant went to Lowes and picked up some utility lights. He then flooded the space with light and got the exact lighting he wanted but it wasn’t necessarily what the neighbors wanted to see. Mr. Fillar said a photometric survey would study the material what the light is shining on. White ice reflects all the light. If it was on green grass it would not appear as bright. Mr. Norton explained that the difficulty with a photometric study is you will have to have an electrical engineer come out, spend a substantial amount of time and money just to put some lights up on a basketball court. Mr. Norton stated that most of this is common sense. If they are going to apply for a special permit then they will have to have a layout and indicate what they want to do. From that you can pretty well tell if it is going to light the court until the 9 o’clock hour. Mr. Bruno explained that he believes the citizen should the bear the expense, if they want to do something beyond buying a light fixture that can attach to their garage. They need to go through a certain protocol that the board sets up.

Mr. Norton said that to do a photometric analysis is very expense. Mr. Norton said it comes back to common sense. If you are buying a light make sure it has a shield on it or aim it differently. That’s why you have 7 citizens with common sense that will critique it. Mr. Norton said that the neighbor has an out, he has the right to complain. That complaint comes right here and we can go out when it’s actually lit and critique it and force a change. He believes there is a mechanism to make this happen with common sense rather than serval thousand dollars for a study. Mr. Bruno said that he was saying if the board sees something that is unreasonable the citizen should have to go through the process and have it thoroughly reviewed.

Mr. Miller explained that on the ice rink if they would have used a refracted lens not just a clear lens with halogen lamp on it then it wouldn’t have been such a harsh brilliant light. Yes, it’s probably exactly what they want and with that you get a glow that bleeds into the neighbor’s yard. He explained that the fixture type is the kind of thing to critique. He believes they would be able to critique the cutoff so you will be able to have shield that would allow them to have benefits at the source.

Mr. Norton added that in addition to the lighting Council proposed that this not be in the front yard. Item number 2 states “recreational courts shall only be located in the rear yard.” He stated that the problem with this is that it’s very common for someone to have a cement driveway and put up a basketball hoop in their front yard. Mr. Norton wanted the minutes to show that the board is concerned with the wording of item number 2.

Mr. Miller also suggested hours of use in the evening referred to February 2017 variance for Ice Rink Hours. Mr. Norton asked if the board is comfortable to offer suggestions of hours to
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council. Mr. Bruno said yes. Mr. Bruno said there should be something to that affect with hours in the legislation. He said that it is only fair for every citizen to have that clearly defined so everybody knows the rules. Mr. Bruno suggested that the lights need be turned off at 10 p.m. on Friday and Saturday evenings. Then Sunday through Thursday the lights need to be tuned off at 9 p.m.. Mr. Bruno also stated that he wants to be consistent with what they have done in prior decisions. He also verified that motorized equipment is 8 a.m. to 8 p.m.. Mr. Fillar stated 9 p.m. in the summer. Mr. Bruno stated that he believes 8 a.m. to 8 p.m. Sunday through Thursday is a reasonable request.

Mr. Fillar asked if we know what the candlepower would be. Mr. Norton said the IES would have a recommendation for professional court, amateur court and home recreational court, But it’s not the brightness of the court. Brightness was a factor on the ice rink because it’s a reflection. On an asphalt or a cement driveway there will not be that reflective glare. The amount of light is not that important compared to where that light is aiming. If you can control the light and have it so it’s coming from a non-offensive position onto the court then from the neighbor’s standpoint it does not make much difference. Mr. Bruno verified that for the ice rink the lights would need to be pointed from the west towards his house for it to be non-offensive. Mr. Norton believes that he has lights on the 2 short ends (north & south) which is effecting his north, south and west neighbor. Mrs. Young suggested to add screening. Mr. Norton noted that might not look nice. Mr. Miller suggested cut off shades on the lamps. However the utility lights are not very appropriate. Mr. Fillar said it’s a flat face and the light goes right out of the sides.

The meeting adjourned at 8:02 p.m.

[Signatures]
Jack Norton, Chairman

Kristine Jones, Secretary
October 24, 2017

Kristine Jones, Secretary
Board of Zoning Appeals
City of Bay Village, OH

Dear Ms. Jones:

My wife and I are neighbors to the property owned by James and Wendy Render (28530 Lincoln Road). We are in receipt of information provided by the Board of Zoning Appeals indicating that the Renders are “requesting a variance to install 2 A/C condensers on the side of the house less than ten feet from the property line (8 feet).

We are writing to state that we have no objection to the applicants’ request. The Renders are wonderful neighbors and we compliment them on their home improvement project.

Cordially,

[Signature]

Alan G. Wilhelms
28522 Lincoln RD
Bay Village OH
440-759-6632
AGENDA
BOARD OF ZONING APPEALS
NOTICE OF MEETING AND PUBLIC HEARING
November 2, 2017
7:30 P.M.
COUNCIL CHAMBERS BAY VILLAGE CITY HALL
350 Dover Center Road

1) Approval of Minutes
   October 19, 2017

2) James & Wendy Rendel
   C.O, 1359.01 The applicant is requesting a
   28530 Lincoln Road
   variance to install 2 A/C condensers on the
   side of the house less than 10 feet from
   property line (8 feet).

3) Edward Schaadler
   C.O 1359.01 The applicant is requesting a
   592 Elmwood Road
   variance to install an A/C unit 8 1/4 feet from
   the property line instead of the required 10
   feet.

4) Adjournment

Variance requests are subject to change pending a review by the Building Director. You may call 24 hours in
advance of the meeting to confirm the above information (899-3406). A majority of the Board shall constitute a
quorum to do business, but any decision made by the Board on matters before it upon which it is required to pass
under the provisions of the Zoning Code shall require a majority vote of all members appointed to and serving on
the Board. All members voting shall be present at the meeting when such decision is made. If all members are not
present, the applicant may request a delay so that all members may be present. An applicant may delay a decision
up to two times. Subsequently, action may be taken by the Board, regardless of all members being present, as long
as there is a quorum.

DEAR BZA,

SHELBY! I HAVE NO ISSUES WITH ED’S VARIANCE REQUEST
C.O 1359.01 NOTED ABOVE.

Sincerely,

JOE SHELBY KERN
592 ELMWOOD ROAD

11/2/2017