

Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held August 15, 2013

Members Present: Bruno, Burke, Dostal, Norton, Tyo

Absent: Messrs. Campbell, Taylor

Also Present: Bob Lyons, Building Department, John Hunger, Bob Feiklowicz, David Pekala, Pat and Kim Fairley

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

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.

**Motion** by Dostal, second by Bruno, to approve the minutes of the meeting held July 18, 2013 as prepared and distributed. **Motion passed 5-0.**

**John Hunger**  
**31000 Huntington Woods**

**C.O. 1370.05 (A) Variance for**  
**side yard generator placement**

Mr. Norton advised that the Board has had an opportunity to visit the site and review the application. Mr. Burke addressed Mr. Hunger, and discussed the existing air conditioning unit in the rear of the property, on the west end of the property. He asked if there is some reason the generator cannot be placed in that same area. Mr. Hunger stated that to the west of the air conditioning unit there is irrigation equipment for lawn sprinklers. He noted also that a generator placed there would be more in-sight in the back yard, as opposed to the side yard.

Mr. Norton noted that a generator is personal noise. If there is a power outage and the home next door has the windows open because their air conditioning is not functioning, the noise of a generator running continuously serving the homeowner next door is obtrusive. This is why the ordinance was written to require that generators be placed in the rear yards. The other factor that Council was considering is that the noise rating of a generator is calculated differently than an air conditioner. An air conditioner noise is determined by what is generated at the unit. A generator noise calculation is taken 23 feet away. It is difficult to rationalize an exception in this case, because it violates the spirit of what Council has written in the ordinance.

Mr. Hunger noted that portable generators are significantly noisier than the generator he is proposing to install. The suggestion of the Board to put the generator in the corner would create more noise than putting it on the side of the house.

Mr. Tyo noted that generators are used sporadically and he does not have a problem with the proposed installation. He noted, however, that the Board must be careful not to set a precedent in allowing these side yard installations. Mr. Norton stated that it is difficult for the Board to deal with these side yard requests, due to the many factors that influence the need to allow the variance to the ordinance. The requests approved by the Board thus far have been very extreme cases, mostly where there is no back yard.

Further review and discussion followed. Mr. Hunger chose to withdraw his application at this point. He will be placed on the agenda for the September 5, 2013 meeting of the Board of Zoning Appeals.

**David Pekala  
614 Bassett Road**

**C.O. 1321.05 Variance to build  
garage attached by a breezeway, 28' x 32'  
for a total of 892 square feet**

A letter dated August 5, 2013 to the Board of Zoning appeals from William Berning, 611 Wildbrook Drive, was read stating opposition to the variance request. Mr. Berning states that he has no dispute with a variance for a standard two car garage but this subject building is of size and height (over 20') that would dominate the appearance of the house and conflict with the neighboring residential architecture. The building structure is designed to resemble a barn which does not match the existing house to which it is connected, nor to the surrounding buildings.

Mr. Norton advised that the Board has had the opportunity to visit the site and review the application. He noted that the ordinance states that an attached garage, no bigger than 600 square feet is permitted. If this garage were detached, it is allowed to be 700 square feet based on the house size. Both an attached and detached garage are permitted by ordinance. In that case, a house this size (1514 square feet) could have a combined square footage of 1300 square feet. The request is for 892 square feet. The height is over the normal garage height of 18 feet, but once it is attached it becomes part of the house structure so the 22'3" height of the garage is not against the ordinance. Additionally, the home is on a very large, 27,000 square feet lot.

Mr. Burke asked what the intention is for use of the second floor of the garage. Mr. Pekala stated that the second floor will be used for storage. The temporary storage shed on the property presently will be taken down. The other storage shed is used for lawn equipment. One type of shed structure is permitted, per ordinance.

Mr. Berning was given an opportunity to speak and reiterated his position that the type of construction proposed is out of character with the neighborhood.

Mr. Bruno noted that Mr. Berning's property is behind Mr. Pekala's property and the area is heavily wooded. Mr. Norton noted that there are similar types of structures as the one proposed in the city. He also noted that the Board does not deal in types of architecture.

Further review and discussion followed.

**Motion** by Burke, second by Tyo, that the property located at 614 Bassett Road, be granted a variance to Codified Ordinance 1321.05 square footage requirements for the construction of a garage building as submitted by the applicant, provided that the garage be located at the location shown on the drawings that were submitted with the application, and that the second floor of the proposed garage be used for storage purposes only and not for living space, and further provided that no further detached garage buildings will be permitted on the property.

**Roll Call Vote:**        **Yeas – Bruno, Burke, Dostal, Norton, Tyo**  
                                 **Nays – None.**

**Motion passed 5-0.**

**Anderson Varejao**  
**26800 Lake Road**

**C.O. 1370.05 (A) –Variance**  
**for side yard generator placement**

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

A representative of Payne and Payne Builders, Inc. addressed the Board on behalf of Mr. Varejao, stating that the utility lines are at the side of the property, and on both sides of the property the garages of the neighbors are at the side, without windows. He also noted that Mr. Varejao spends most of his summers out of the country so typically the home is used when he is in the city for the basketball season. Mr. Norton noted that a variance lives with the property while the ownership and circumstances could change. He stated that there are windows and living space of the neighbors along the side going to the back of the property.

Mr. Norton advised that there is only ten feet from the next door property. He further noted that the ordinance states that the generator must be placed behind the home, and must be 10 feet from the property line. The existing trees that Payne and Payne say would have to be moved to accommodate the generator placement in the back are on the line of the property. He further noted that the height of the trees is illegal. The ordinance states that from 20 feet behind the home, on lakefront property, the barrier can be no higher than 3 feet, or 75% open. If a neighbor chose to complain, those trees would have to be cut down at a point 20 feet behind the structure and beyond.

Mr. Burke noted that placing the generator where the air conditioning unit is would not impede the view of the lake. Mr. Norton noted that the beneficiary of the use of the generator must absorb the negativity from a sound standpoint and not put the negativity from a sound standpoint onto any neighboring property. He explained that during a power outage a generator will run 24 hours, whereas an air conditioner starts and stops.

A letter from Terry Egger, 26816 Lake Road, was submitted with the application, stating that the Eggers support Anderson Varejao and his contractor to install a generator in the area between the two homes. The generator is proposed to be installed on the side of Mr. Varejao's home adjacent to the Egger home.

The Board noted that while they acknowledge and give some consideration to the expression of the neighbors, the variance stays with the property while the ownership of the homes is subject to change.

Further review and discussion followed. The contractor was given the opportunity to withdraw his application this evening to afford the opportunity to speak further with the property owner regarding his options for placement of the generator. The matter will appear on the September 5, 2013 Board of Zoning Appeals agenda.

**Christopher Blake  
Laura Watilo Blake  
28810 Wolf Road**

**C.O. 1153.03 Variance to  
build deck on east side of house  
of a size that would reduce sum  
of side yards to below 30% of lot  
width (and by 4.8 feet)**

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

Mr. Burke advised that this particular request seems to be of the type for which this Board was created since the applicant is asking for something that is not a significant change. The property is definitely unique in that the topography is falling off towards the creek. There is a long distance of woods between this and the other structure. Mr. Burke recommended granting the request. Mr. Bruno agreed with the comments of Mr. Burke.

**Motion** by Burke, second by Dostal, that the property located at 28810 Wolf Road be granted a variance to Codified Ordinance 1153.03 in the amount of 4.8 feet from the requirements of the sum of the side yards under the code to permit the construction of a deck, per the application filed with the city.

**Roll Call Vote: Yeas – Bruno, Burke, Dostal, Norton, Tyo**  
**Nays – None.**

**Motion passed 5-0.**

**Dr. and Mrs. Patrick Fairley**  
**26930 Lake Road**

**C.O. 1370.05 (A) Variance for**  
**side yard generator placement**

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

Dr. Fairley prepared pictures and drawings that he prepared for consideration by the Board. He stated that on the west side of the property they are well back from the requirements of 10 feet. There is a distance of 22 feet, 8 inches to the property line. The east wall of the property adjacent to where the generator will be located is south of where the generator will be placed. The only windows on that side of the home are two very small 18-inch bedroom windows on the upper level. The distance to the house is 28 feet.

Mr. Burke asked why the generator could not be placed to the north of the air-conditioning units and around the corner to the back. Dr. Fairley stated that this is their outdoor living space. The generator would sit right in the middle of that space.

Mr. Norton noted a heavy line of bushes at the northwest corner of the home. Dr. Fairley stated that this is screening to provide privacy when they sit outside. This placement would not detract from use of the outdoor patio area.

The contractor advised that they chose the area for placement because it is near the gas meter which is right around the corner. The electric service is on the opposite side of the house. By the structure of the house they would have to go all the way across the face of the house through the basement. If they put the generator in the back they would have to come outside the house and go down the entire exterior side of the house with both the gas line and the electric service. The electric service for the air conditioners is entirely different than the electric service for the generators.

Mr. Burke asked if there was any consideration given to placing the generator in the back of the property by the northeast corner. Dr. Fairley stated that would affect the aesthetics of the property. There is no permanent equipment installed on the north side of the house. There is permanent equipment installed in the non-living area on the west side of the house.

Mrs. Fairley stated that placement at the northeast corner of the property may be offensive to the neighbor to the east, whereas the neighbor to the west has a generator.

Chairman Norton suggested that the generator be placed at the northwest, north of the existing air conditioners, until it is screened behind the large bush that is there. From a sound standpoint, this will be significantly better than in front of the chimney area which is a solid brick wall. Between the screening required to be put around the front of the generator and the fact that the noise would be behind that section of the home it would be considerably quieter as far as the neighborhood is concerned. It would not affect the use of the outdoor living space from dining when considering the few days it may run on average in a year. Mr. Burke and Mr. Bruno concurred that Mr. Norton's suggestion is a reasonable approach.

Dr. Fairley stated that he would like to amend their drawings to include the suggestion of Mr. Norton for placement of the generator at the northwest corner of the property.

**Motion** by Burke, second by Dostal that the property at 26930 Lake Road be granted a variance from the applicable sections of Codified Ordinance No. 1370.05 (A) for the installation of a generator that would be located north of the line of the home at its northwest corner, but not more than 10 feet north of that northwest corner, and not less than 10 feet from the west property line, subject to submission to the Building Department of a drawing illustrating that location, and that the generator be screened from view of the neighbors and the street by year-around screening, and all other matters to conform with the specific requirements of the generator ordinance.

**Roll Call Vote:**        **Yeas – Bruno, Burke, Dostal, Norton, Tyo**  
                                 **Nays – None.**

**Motion passed 5-0.**

**John Hunger (continued)**  
**31000 Huntington Woods**

**C.O. 1370.05 (A) Variance for**  
**side yard generator placement**

Further review of Mr. Hunger's application for a variance followed with discussion about the options for placement. Mr. Norton noted that if the generator is placed on the side of the home, reverberation is pushed off the side of Mr. Hunger's home to the neighbor. If the generator is placed in the back of the home it is pushed off the house and into the back yard. The withdrawn application will be brought forward for a future agenda, possibly September 5, 2013, or September 19, 2013.

Board of Zoning Appeals  
August 15, 2013

There being no further business to come before the Board, the meeting adjourned at 9:00 p.m.

---

Jack Norton, Chairman

---

Joan Kemper, Secretary