

Minutes of a Meeting of
BOARD OF ZONING APPEALS
Held April 3, 2014

Members Present: Bruno, Burke, Campbell, Norton, Taylor, Tyo

Absent: Mr. Dostal

Also Present: Mr. Bob Lyons, SAFEbuilt, Inc.

Audience: Dennis Ruddy, Kevin Anderson, Anthony Asimou, Mike and Patty Dendinger

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 Taylor, second by Burke, to approve the minutes of the meeting held March 20, 2014, as prepared and distributed. **Motion passed 6-0.**

**Dennis Ruddy
30306 Wolf Road**

**Variance of 246 square feet to
add to existing garage C.O. 1321.05**

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

Mr. Burke asked Mr. Ruddy if the plans are for an addition or a separate building. The drawing that was submitted seems to be a separate structure. Mr. Ruddy stated that the back of the garage will be extended 12 feet. The existing back wall be removed.

Mr. Bruno asked about the dimension of ten feet shown in the middle of the drawing. Mr. Ruddy stated that the garage is 20 ft. long and he is going out 12 feet to the back. The drawing is confusing.

Mr. Burke asked the amount of the acquired maximum square footage. Mr. Norton stated that Mr. John Cheatham's memorandum of March 20, 2014 states that the applicant desires and requests a

variance of 246 square feet in order to extend the current garage. The applicant has obtained a building permit to construct a detached garage but decided that adding on to the existing structure would be more logical, less intrusive to the neighborhood, and in keeping with the spirit of Bay Village. This is a corner lot and the total lot coverage would be substantially less. The property owner would void the permit for the detached garage. A variance is required for the project. Mr. Lyons explained that they are allowed 600 square feet and are asking for 768 square feet total with the garage addition.

Motion by Burke, second by Campbell that the property located at 30306 Wolf Road be granted a variance of 168 square feet from the maximum allowable square footage for a garage, pursuant to Section 1321.05 of the Codified Ordinances of the City of Bay Village, provided that a drawing satisfactory to the Building Department be submitted prior to any work being started, and that the drawing show that the 12 ft. x 24 ft. addition is part of the existing garage as an extension on the west side of the garage.

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

Motion passed 6-0.

Kevin Anderson (Property Owner)
Anthony Asimou (Architect)
26899 Wolf

Special Permit for Outdoor Fireplace
C.O. 1145

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

Mr. Mike Dendinger, 392 Douglas Drive, stated that they live to the southeast corner of the property. He asked clarification if a fireplace is being requested with a pad. Architect Anthony Asimou stated that as far as they were told that in order to build an outdoor fireplace in Bay Village you have to go through the variance process and obtain a special permit. He was told that keeping it ten feet off the property line is the right thing to do. They are here this evening to obtain approval for the fireplace.

Mr. Burke stated that the drawings that were submitted would indicate that this seems to be more than a stone fireplace. It looks like there is a pavilion, with pillars and a roof. Mr. Asimou stated that the pavilion is 16 ft. x 16 ft. and the width of the fireplace is 7 ft. 8 inches. The pillars are supporting the roof. Mr. Burke asked if this will need to meet the requirements of an out building. Mr. Lyons stated that the pavilion would require a special permit as an accessory structure.

Mr. Burke asked how this would differ from the height requirements and square footage of a shed. Mr. Lyons stated that the type of permit is at the discretion of the Board of Zoning Appeals.

Mr. Asimou stated he was told he needed a special permit for the fireplace, and that is why he is before the Board. He stated that their overall scheme is very simple. They are taking away a dilapidated, small old garage and building a new garage. Beyond that it is an outdoor terrace and a little outdoor covered area.”

Mr. Dendinger stated that this looks fine and he does not have a problem with it.

Mr. Bruno stated that he believes this structure to be more of a gazebo, which will require a special permit. It basically has one wall with four sides, and is an open structure.

Mr. Norton invited Mr. Dendinger to continue his comments. Mr. Dendinger read the following statement:

“My name is Mike Dendinger. My wife and I live at 392 Douglas Drive. Because this is actually our side yard, our house is close to the proposed fire pit and or party house, whatever you want to call it. Our objection to the fireplace stems from the noise and smoke as well as it being out of character to the neighborhood. We would have no objection to the fireplace if it is permanently attached to the house like a three-season room addition which would be aesthetically pleasing and architecturally consistent with the other homes in the area. Several houses west of 26889 Wolf Road have room additions which add value to the neighborhood and are in harmony with their surroundings. If the Andersons want a large gathering they can rent a tent or a van for a graduation or family reunion like the rest of the neighborhood has done in the past. On an occasional basis no one would have an objection to this. I get up at 4:30 a.m. My job involves air craft safety and it is important I am sharp and well-rested. My bedroom window is in close proximity to the smoke and the noise from the proposed party pavilion. I have asthma so the smoke could affect my health or be a concern. Safety is my primary concern. We are worried about the fireplace and more importantly what goes in it. I spoke to the Fire Chief and he said really only dry wood should go into the fire pit. I am concerned with it being separate from the house and not being monitored as closely. Paper plates, Styrofoam cups, wet wood, etc. could be burning in the fire place and that is a concern because the things coming out of the stack would be drifting toward my house. My house is in that corner. I like to have the windows open in the summertime and I am going to smell this fire. I just feel like if the fireplace was attached to the house the property owner would see that the fire is put out and not allowed to smolder all night, and that nothing hazardous would be put in the fire, no one would get burned and the fireplace closely monitored. Having looked around

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at other people that have fire pits in the past they have left it smoldering overnight and I am concerned about that.”

Board Member Terry Burke asked the distance from the chimney to the side of Mr. Dendinger’s house. The architect stated it is 50 to 60 ft. away. This was verified by the Board measuring the drawings.

Mr. Norton stated that outdoor fireplaces are pretty common in the city. There are more and more of them. I don’t know that the Board can single this out and say that this distance is a problem for approving the fireplace aspect of this. Mr. Taylor expressed agreement.

Mr. Burke stated that he has a concern here. Two others have been granted which are probably similar.

Mrs. Dendinger made the following statement:

“Because you have a pavilion attached it means it is like a 24/7 operation. Normally it is just an outdoor fire pit. When it rains, people go home. They don’t stand out in the rain. When it’s cold they go home. So, it’s not a 24/7. That mean’s its anytime, anywhere because we’ve got a covered patio and the heated fire place so it seems to be it is more of a nuisance rather than a little gathering place.”

Mr. Norton stated that there are property rights. They have a piece of property and if they are using it a legitimate way they have a right to do that. If they are making noise late at night that’s a police issue. Along with a piece of property, that property gives you rights to use it in a manner that is not against the law.

Mr. Tyo stated that all of our capabilities and what we can do has to do with the property as opposed to the owners’ habits. We have had two fireplace requests recently. They are all pretty much the same situation. They require a special permit and as long as the safety features are there and they are not encroaching any of the codes the permit may be granted.

Mr. Burke asked what kind of screening will be placed on top of the stack. The architect stated that he talked to the Fire Department and Mr. Cheatham. Mr. Cheatham of the Building Department told him it must be 10 feet away from the property line, and it shouldn’t be a problem.

Mr. Lyons of SAFEbuilt stated that a spark arrestor is placed at the top of the stack.

Mrs. Dendinger expressed her concern that if the fireplace was higher than the 17 feet in height it would go beyond their bedroom windows.

Mr. Norton stated that the smoke would go up.

Mr. Taylor stated that there are fireplaces all around the area. "Seventeen feet is fine."

Motion by Burke, second by Tyo, that the property located at 26899 Wolf Road be granted a special permit for the construction of a pavilion with fireplace as per the specifications submitted to the city, as located on those specifications, provided first that the existing garage be removed from the property, and secondly that a spark arresting screen of some sort for the top of the chimney be installed satisfactorily to the City Building Department, and that the sides of the pavilion not be enclosed except for the 7 ft., 6 inch fireplace area and the removable panels shown on the specifications and per the drawing submitted.

Vote resulted: Yeas – Bruno, Campbell, Norton, Taylor, Tyo
Nays – Mr. Burke

Motion carried 5-1.

There being no further discussion, the meeting adjourned at 8:30 p.m.

Jack Norton, Chairman

Joan Kemper, Secretary