

Meeting Minutes of
Board of Zoning Appeals
Held February 4, 2021

Members Present: Dan Gess, Clete Miller, Terrance Burke, Carolyn Young, Jack Norton, Jan Saurman, Scott Bruno

Also Present: Eric Tuck-Macalla (Building Director), Lauren Oley (Assistant to Building Director), Mark Barbour (Law Director)

Audience: Christopher Blake, Emily & Michael Tarr, John Faile, Karen & Danielle DiBenedetto, Millie Larsen, Macy & Mitchell Mikoletic, Dan Clayton, Tom Macmillian

**Full recording of the meeting is permanently available on the City of Bay Village website under Government/Board of Zoning Appeals/View Most Recent Agendas and Minutes/Media*

Mr. Norton called the meeting to order at 7:33 p.m.

Mr. Norton introduced the first item on the agenda, the approval of the minutes that were held January 21, 2021

Motion by Mr. Burke, **second by** Mr. Bruno, to approve the minutes of the meeting held January 21, 2020 as prepared and distributed.

Motion passed 7-0.

1) Clayton Heating and Air Conditioning/Dan Clayton on behalf of Macy Clayton & Mitchell Mikoletic 30225 Lake Rd.	Tabled Item from 1/7/21 Meeting. Dan Clayton, agent for Mr. and Mrs. Mikoletic, is requesting a variance to Section 1359.01 to place an Air Conditioning less than 10 feet from the property line. The Variance is for 10 ft. or 100%.
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Mr. Norton introduced the next item on the agenda as 30225 Lake Rd and advised the board has had an opportunity to visit the site and review the application.

Mr. Miller advised that he has a question regarding the plan that was submitted. Will this unit be mounted to the wall of the home and is it depth of the unit 100% of the setback from the property line?

Mr. Clayton confirmed it will be mounted to the home and that it is right on the property line.

Mr. Norton inquired if Mr. Clayton was being literal that the foundation of the home is exactly on the property line.

Ms. Mikoletic clarified that their home is 2' 10" off the property line. They are asking for a 10' variance because we are basically right on the property line.

Mr. Norton clarified that the depth of the AC would make them right on the property line.

Ms. Mikoletic advised that the AC is 14" wide so it would still be on their property, mounted to the side of the home, but they are asking for a variance because the house is so close to the property line.

Mr. Norton inquired if they had a survey or were using county records to get the property line.

Ms. Mikoletic confirmed that they were.

Mr. Norton summarized that they aren't dealing with a 10' request then. If the house is 2' 10" from the line and the unit is 14' deep the variance will need to be 8' 10".

Ms. Young clarified that it is an 8' 4" request.

Mr. Burke asked Mr. Tuck-Macalla if, in his notes, he were referencing being 10' from the neighbor's home as opposed to the property line?

Mr. Tuck-Macalla advised he was suggesting that the unit could be placed on the back of the house. The unit has been changed to a mini split, which is a lot quieter, and based on his experience placing it in the back wouldn't be as disruptive as a big unit on the patio. He was just making a suggesting as to an alternate location.

Mr. Miller advised that he would prefer that it stay low on the wall so they can surround it with a fulltime obstruction whether it's evergreen or a fence.

Mr. Clayton advised they would put landscaping round it.

Mr. Miller clarified that it should be evergreen.

Mr. Mikoletic confirmed understanding.

Mr. Norton remarked that no permit was pulled for the neighboring unit and it is difficult to tell if it is in compliance.

Mr. Tuck-Macalla confirmed that the building department does not have a permit for that unit.

Mr. Norton remarked that it is hard to tell if it is in compliance from a distance standpoint, but that nevertheless that area appears to be the utility corridor between these two homes. The applicant is desiring to have the unit, from an appearance and sound perspective, away from the deck on the south side of that corner.

Ms. Mikoletic confirmed that was correct.

Motion by, Mr. Burke, **second by** Ms. Young, that the property located at 30225 Lake Rd. be granted a variance of 8' 4" from the side yard setback requirements of 1359.01 of the CO of Bay Village for the installation of an Air Conditioning as per the application submitted provided there be year round screening so it cannot be seen by the neighbors or the street.

Roll Call Vote:

Yeas –Miller, Burke, Young, Norton, Saurman, Bruno, Gess

Nays -

Motion Passed 7-0

<p>1) David DiBenedetto Parcel#201-11-016 Bradley and Huntington Woods Parkway</p>	<p>Tabled Item from 8/2/20 & 3/5/20 Meetings. David DiBenedetto is requesting a variance to lot size, Section 1155.01. The required lot size in R-1 district is 14,700 sq. ft. the size of this parcel is 12,495 Sq. Ft. the variance would be for 2,205 Sq. Ft. or 15%.</p> <p>The second variance is for a front Building Line set back, the Building Line at this corner is 75ft. from the center of the road, the proposed home would be set 61 ft. from the center of the road. Section 1153.01 Minimum front yard, The variance would be for 14 ft. or 18%.</p>
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Mr. Norton introduced the next item on the agenda as David DiBenedetto. This is an item that was tabled twice. The board has had an opportunity to visit the site and review the application. It is to be noted that this lot was left over when this area was carved up and there was a general feeling that if an appropriate structure could be built on it then it would be better than an empty lot for the sake of the community. Right now it looks pretty scruffy. It also might be noted that the house immediately to the south is an older home and its location would be further out of compliance as to the front yard setback than this proposal. Lastly, this design takes into consideration some of our comments in the past and reduces fairly substantially the size of the setback requirement.

Danielle DiBenedetto remarked that she would like to say a few words. Since the issue was last discussed she took some time to think about all the comments. She's tried to take into consideration everything the board, and her new potential neighbor, have asked for. After reviewing it she decided that the size was too large. She completely scratched the plans and redid the entire drawing - reducing it by a ton. The side neighboring Tom Macmillan's house went from 77.2' to 62' and now it is all the way down to 40' on his side. They also took into considerations the dimensions of the house so it doesn't seem as large. One part of the house is two stories and some is one story and the aesthetic of the house really takes into consideration the neighbors. It looks French country. She feels like they also tried to submit everything that was requested from the last meeting.

Mr. Macmillan remarked that she's done a lot to both listen to the requests and respect the space. He wanted to say that he really appreciates that. He got to see the pictures of the exterior and the layout of the new plan.

Ms. DiBenedetto remarked that she honestly feels it is important to listen to these folks because they are going to be her new neighbors. That is why they didn't come back a month later. They took their time to make it right. Even with the setback, initially they talked about it being even with Mr. Macmillan's house, but they took into consideration that they may have trouble pulling out of Huntington Woods. She actually lives in Huntington Woods and pull out every day looking at it and they tried to come up with a happy medium. They would, however, appreciate being able to have a little bigger of a yard because of their kids

Mr. Norton remarked that the board appreciates the comments.

Mr. Macmillan advised that he assumes the two trees on the lot are going to be gone and the electrical and sewage works – that they found a way to reroute the electric and sewage?

Ms. DiBenedetto replied that they have a letter from CEI, included in the package, saying that they are willing to work with them and they also have a letter rerouting the sewer and the new plot plan and the reduction of the home size. They have tried to hit all four marks that were requested.

Ms. Young inquired if the exterior pictures that were submitted were exact renderings of the home?

Ms. DiBenedetto remarked that she pulled those for inspiration and they will be pretty close to that look.

Ms. Young inquired if the main entrance will be off of Bradley or Huntington Woods?

Ms. DiBenedetto replied that it will be off Bradley. Everyone agreed it would be too difficult to pull in off Huntington woods.

Ms. Young inquired if the Huntington Woods side of the house is the mainly the one story?

Ms. DiBenedetto replied that the side towards Huntington Woods has the lower level and went on to discuss the potential layout of the rooms of the home.

Ms. Young inquired if the garage would be one or two story?

Ms. DiBenedetto advised that there will be attic above the space.

Mr. Burke inquired if the driveway will open out into the narrow portion next to the island?

Ms. DiBenedetto confirmed that was correct.

A discussion followed about where the driveway will open up and ended with Mr. Norton summarizing that the cars will pull off of Bradley straight into the garage. The garage faces Bradley not the parkway.

Mr. Miller advised that he has a question regarding the sewer relocation. Where in relationship to the front of the home is the sewer line?

Karen DiBenedetto replied that it was in the middle of the property close to where the trees are. She advised Mr. Bierut was out there speaking with her husband Dave DiBenedetto and he saw no issues with it at all - it was an easy fix.

Mr. Miller inquired if the intent is to push it forward east or west of the property?

Karen DiBenedetto advised they weren't sure, but Mr. Bierut made it seem like it wasn't going to be an issue. They aren't sure about the sewer.

Mr. Tuck-Macalla advised the sewer would be abandoned. The homes downstream would be rerouted to a different sewer. That section would be abandoned. It is an old section that runs right through the middle of the property and it would be right under the house essentially.

Mr. Miller clarified that it will be abandoned and then routed out to Bradley.

Mr. Tuck-Macalla advised that it's routed somewhere further downstream on the other side of Huntington Woods. It goes diagonally from Bradley across the property and back into Huntington Woods. It would be rerouted from that point.

Mr. Macmillan advised that there is a line of trees on his property and he assumes the rerouting won't affect those trees?

Ms. DiBenedetto remarked that it isn't even near those trees. It's more in the middle of the property. They really like those trees and don't want to touch them. They will do everything in their power to keep everything intact on his side.

Mr. Burke remarked he has a question on the second of the two requested variances. Wouldn't it not be needed if the house were more centered on the property? He has a concern about granting a variance where none is really necessary.

Ms. DiBenedetto replied the reason they want to move it forward is, and they really took their time trying to decide what is best suited for the house, that with regards to the house, and the size of the backyard they just think what we are asking for is appropriate for everyone involved for the neighbor, for people on the sidewalk, coming out of Huntington Woods, and they just think that is the best way to go. They want to make sure it is safe pulling out of the driveway and safe coming out of Huntington Woods. Initially they wanted to be grandfathered in, but they are just hoping to have a little more backyard since they do have little kids. If they were just two adults they wouldn't care as much but kids like to play in the yard.

Mr. Macmillan advised that yards are important and having a place for kids to play is crucial.

Mr. Miller advised that he has observation about this. For him, this request for a variance is not just for their family, but for the property in its entirety. The home to the south, Mr. Macmillan's home, and the property to the north, on the other side of Huntington parkway, are relatively close to the streetscape. So for him, in regards to pushing it back- he doesn't care for that sort of in and out and he doesn't want everything on a perfect straight line and everyone hugging that line. Sometimes that is appropriate and sometimes it is not. In this case, it helps to keep the house

closer to Bradley rather than recess it further to the back. At least when he drives by he thinks that.

Mr. Norton advised that he thinks that is a good point. The house to the north, between the house location and the nature of its landscaping, seems to have that feeling of hugging Bradley as does the house to the south. He can see where Mr. Miller is coming from – from an architectural standpoint it reduces that saw tooth feel.

Mr. Bruno remarked that he would like to echo Mr. Miller and Mr. Norton's statements. Two meetings ago, way back in the spring, his concerns were never with the setback from Bradley, but it was always the size of the house on the lot, the easement issue, and other utility issues. A lot of thought has been put into this proposal by the applicant and this is definitely something worthy of consideration and he appreciates the other board members dialog.

Mr. Gess advised that he'd like to ask one thing to Mr. Tuck-Macalla - from a city standpoint, separate from your review regarding setbacks and size variances, is the building department and service department okay with the plans and the efforts being proposed to reroute power and sewers from an infrastructure standpoint?

Mr. Tuck-Macalla advised that they don't have any issues with what is being proposed. The biggest input they have is the rerouting of the sewer. Whatever happens with the utility company and the power line above he doesn't really have much input. They don't see any issues with it.

Mr. Norton inquired if the board should keep the two variance requests separate or does it make sense to keep them together? He thinks it's just as simple to keep them together.

Motion by Mr. Burke, **Second** by Mr. Saurman, that the property located at the SW corner of Bradley and Huntington Woods Parkway be granted two variances. The first is a variance of 2,205 sq. ft. from the minimum lot size requirement of Section 1155.01 of the CO of the City and the second is a variance of 14' from the minimum front yard setback requirements of section 1153.01 of the CO for the construction of a home as per the application submitted.

Roll Call Vote:

Yeas – Burke, Young, Norton, Saurman, Bruno, Gess, Miller

Nays -

Motion Passed 7-0

Mr. Norton thanked the application for her patience and willingness to modify the original design to come up with a good conclusion.

Ms. DiBenedetto advised that she wants to thank the board because it really made them go back and look at the plans.

<p>1) John Faile on behalf of Michael Tarr 28876 Wolf Rd.</p>	<p>John Faile, Architect for Michael Tarr, is requesting a side yard variance per section 1153.03 (1) minimum side yards. The combined side yard for this lot is 28 ft. This house though exceeds this side yard set back by 6 ft. and the minimum required set-back of 10 ft. by 5 ft. Therefore we will use the difference between the existing west set-back and the proposed as the size of the variance. The existing set back to the west is 17 ft. 1 in., the requested set back is 10ft. 2 in. The requested variance to section 1153.03 Minimum side yards, would be for 7 ft. 1 in. or 41%</p>
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Mr. Norton introduced the next item on the agenda as 28876 Wolf Rd. Discussion ensued about the math used to come up with the variance request and the unique shape of the lot as a rhombus.

Mr. Blake advised that he lives next door and 20 years ago a surveyor advised him that he has a rhombus.

Mr. Norton advised that the board has had an opportunity to visit the site and review the application and not only is the shape of the lot usual, but the setting is unusual as well in that it goes back into a pretty severe ravine.

Mr. Saurman remarked that he was wondering why they want to put the addition so close to the lot line. Why not move it over straight back or move it over 5’?

Mr. Tuck-Macalla advised that he received a new drawing via email and the members of the board don’t have it. The new drawing shows that the side of that addition runs parallel to the lot line so that the back corner will be the same 10-2” from the side lot line. So it will be parallel.

Mr. Faile requested to address that. When they were looking at this initially the house had recently been completely redone. In the back of the house there is a family room and there is a set of very large windows that look into the backyard. It is beautiful and it is the only view that the applicant has of the back other than the kitchen window. That is a view they did not want to lose. Initially they tried to put the addition back there, but he didn’t think it was going to work. The plan that the board is looking at is squared off the house, but that does take it close to the property line on the east side. That scheme A that they’re looking at they would need two variances – the side yard setback on the east side and the cumulative setback for the east and west side. He is not sure about the description on the agenda - he thought he laid it out that they’d need two variances.

Mr. Tuck-Macalla advised that they wouldn’t need two variances. They would only need one due to the way the ordinance reads since they have a non-conforming setback. They would just take however far you’re going to encroach on the existing setback, which is nonconforming, and use

that as your setback. The only variance, you really need, is at the front building line at 10'2". Since they are already non-confirming they don't have a 10' sideyard.

Mr. Burke advised that he's still not quite understanding. What variance is required?

Mr. Tuck-Macalla clarified that the applicant would just need a variance on the east side, at the front of the addition which is proposed to be 10-2". They would need a variance for however far that addition sticks out past the original side of the house.

Mr. Burke sought clarification that is the 17'1"?

Mr. Tuck-Macalla advised that is correct. As it stands if you take the lot without a house on it you need 28' of side yard, but they don't even have that on the house as is.

Mr. Burke remarked so he's talking 6-11" variance?

Mr. Tuck-Macalla confirmed that is correct.

Mr. Norton remarked that the total side yard under the new drawing, that they don't have, will have a have one side as 10-2" and another at 5' or 15-2" total.

Mr. Tuck-Macalla advised that is correct. The 28" would be the side yard setback if there was no house on the property - if they were starting from scratch. They might as well forget about that because they are not starting from scratch. The house is non-conforming. The side yard setback that they need a variance for is just the side where the addition sticks out past the original house.

Mr. Norton clarified that they have met the minimum at 10' at 10'-2", but they don't have the total based on that.

Mr. Tuck-Macalla replied that is correct and they would never be able to have that because the house is non-conforming.

Mr. Norton advised that the number that they would need to have is 6-11".

The Board then discussed that this is just the variance from the side yard setback on the east line not total side yard requirements. Since its non-conforming it's all relative to the existing house.

Mr. Bruno remarked that he has a hard time voting for something when they don't have the current/proposed drawing.

Mr. Tuck-Macalla remarked that the variance that they will be voting on doesn't really have any bearing on the new drawing that runs parallel to the house on that side lot line. The variance is just for that corner. The south east corner of the addition. If you look at what has been provided there is a 3-5" between the back corner of the addition and the side lot line that doesn't have anything to do with the variance that is requested.

Mr. Norton inquired if there was further discussion given all that new information.

Mr. Blake advised that is the neighbor to the east. He wants clarification because he joined the meeting because he had a concerns about what Mr. Tuck-Macalla just referenced regarding the

proximity to his lot at the 3'5" corner. Is that plan off the table now in light of the new plan that has been submitted?

Mr. Faile advised that they came up with two plans - would the homeowners like to address what they want from the board? Do they know if they want to go with scheme A or B?

Mr. Tarr advised that of the two plans plan A shows 3'5" and B shows 10'2" at that lot line. They kind of think whatever everyone is in agreement with is the best option. If everyone is in agreement with B then they can proceed with that. They originally liked A because it matched the lines of the home. Because we're on this rhomboid and the house is at a weird angle on the property they wanted to make sure that the lines looked okay. However if plan B works better then they will go with plan B.

Mr. Faile proceeded to share his screen so that everyone can see the proposed plan B. He advised it's a little tricky because they are trying to get another garage in the space, which you can see on this plan, it is adjacent to the existing garage. What they did is they rotated the entry and put a front door on that side of the house. It is a side door into the space. They were able to rotate the building and he doesn't think it will detract from the look of the house. It will actually look pretty nice and they can go with a vaulted ceiling in the space. They were able to maintain a 10'-2" setback off the east property line, assuming the chimney doesn't count. He thinks that this is as good as they can do and still allow for the view from the existing family room into the back area. He thinks they are planning on putting a deck in that area eventually. It will be a nice livable space back there.

Mr. Norton advised that he has a question. He doesn't have a problem with Plan B. The problem he had with plan A was the 3'-5". However it sounds like, from what Mr. Tuck-Macalla outlined, if the board grants this variance without specifying it was for plan B the applicant could go back to plan A and be in compliance.

Mr. Tuck-Macalla advised that was correct.

Mr. Burke added they could specify in their motion which plan the variance was granted for.

Mr. Norton inquired if anyone else is concerned about the 3'-5" from the property line then they need to include some restriction that addresses that as part of the rationale.

Mr. Bruno remarked that they can we add reference site plan 2 vs. site plan 1.

Mr. Burke remarked that they have done that before - where they designated a revised drawing. They would need to reference site plan B since they are both dated the same date. He went on to say that he would also like to see that the variance be granted only to the length extent needed to construct the addition as submitted in scheme B so they aren't granting it for the whole length of the property.

Mr. Bruno advised that would be excellent. He would support that.

Mr. Blake added, that as the neighboring homeowner, he would appreciate that item being included for the record, if nothing else. He is afraid of the 3-5" area because it's within the root

line of a pretty significant tree on his property which might or might not cause an issue. It's also within striking distance of a swing set. Those specifications are much appreciated. He advised that he hasn't seen anything more than this scheme B site plan, but he doesn't have an issue with these numbers. He appreciates that his neighbors had an alternate plan in the works for consideration.

Motion by Mr. Burke, second by Mr. Bruno, that the property located at 28876 Wolf Rd. be granted a variance of 6-11" from the side yard setback requirements of CO 1153.03 for the construction of an addition to the home as shown in what is designated scheme B, a revised drawing submitted to the building department, provided that the variance shall only be to the extent and length as needed for the construction of the addition and not along the entire east lot line.

Roll Call Vote:

Yeas –Young, Norton, Saurman, Bruno, Gess, Miller, Burke

Nays -

Motion Passed 7-0

There being no further business to discuss the meeting adjourned at 8:25 p.m.

Jack Norton, Chairman

Lauren Oley, Secretary