

Meeting Minutes of  
Board of Zoning Appeals  
Held April 1, 2021

Members Present: Dan Gess, Clete Miller, Jack Norton, Jan Saurman, Scott Bruno

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

Excused: Terrance Burke, Carolyn Young

Audience: Dr. Nick Gravino, John Faile, Patrick Hughes, Petri Spirollari, Tim Brulport, Mr & Ms. Wamelink

*\*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 March 18, 2021.

**Motion** by Mr. Bruno to approve the minutes of the meeting held March 18, 2021 as prepared and distributed.

**Motion passed 5-0.**

Mr. Norton explained how quorums and majority function. He went on to advise the applicants that if they feel uncomfortable with a decision being made with less than a full board, 5 members present 4 for a quorum, they can ask to be put on the next agenda.

<p>John Faile architect on behalf of Dr. Ravi Berger 427 Bassett Rd.</p>	<ol style="list-style-type: none"><li>1) <b>Variance to section 1149.01</b> rear yard set-back. The garage is required to be 3' off the rear property line, the request is to be 1' off the property line. A 2ft. variance or 66%.</li><li>2) <b>Variance to section 1149.05 Size of Garage</b>, The permitted area of the garage per the size of the house is 900 sq. ft. the applicant is requesting 1300 sq. ft., this is the footprint of the garage though it is not depicted on the plans there may be up to an additional 180 sq. ft. on a second story. The variance would be for 400 sq. ft. or</li></ol>
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	<p>44% for the footprint or 580 sq. ft. or 64% for the assumed total sq. ft. of the garage.</p> <p>3) <b>Variance to section 1149.06 Height of Garage</b>, the permitted height of an accessory structure is 18 ft. the proposed is 20 ft. a variance of 2 ft. or 10%.</p>
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Mr. Norton introduced the next item on the agenda as John Faile for Dr. Ravi Berger of 427 Bassett Rd and went through the three variances he is requesting. He went on to advise that the board has had an opportunity to visit the site. It's to be noted that the property abuts the driveway of the high school. Behind this property, in the backyard, which fronts onto the mains street – is a strip of land that runs along the high school driveway. All of those houses front onto Wolf Rd. They happen to have very deep backyards and then it becomes a lightly wooded area. There is no access to put any road in to use that 'back property'. It will never be developed. The chances of having a structure immediately behind this property would be very slim because it would have to be from a lot that fronted on Wolf Rd. Which means that this property does provide one of the ingredients for a variance in that it's an unusual configuration. The second thing to note is that the state law says that the distance between structures must be at least 5'. Which is why the Bay Village ordinance requires 3' minimum from the garage/accessory structure to the property line. He further explained that this 3' buffer allows for neighbors to construct on their property, at the same distance, and maintain the proper building clearances that are in place for both maintenance and fire protection. When/if the board were to lower that distance to 1', for example, then the neighbor would need to build 4' away in order to maintain the distance required by law.

Mr. Saurman inquired if the garage structure was going to be in addition to the existing garage or if this is a tear down and building of a new garage.

Mr. Faile, the architect for the homeowner, replied that it is a tear down and new garage.

Mr. Saurman asked why the applicant would not just move the whole garage two feet to the west.

Mr. Faile replied that Dr. Berger wanted more area in the back for his vehicles. He realizes that 2' doesn't sound like much, but Dr. Berger was hoping to get it to move over. That was his preference. Mr. Faile can't speak to reason other than he was trying to get enough room back there to park other vehicles.

Mr. Saurman remarked that the other observation he has is, in looking at the property map on the Cuyahoga County Website, according to the lines on there it looks like the property behind the garage, just to the east, might belong to the school.

Mr. Faile replied in the affirmative that it does belong to the High School. He further explained that they approached the school district and they were notified of this meeting. He spoke with Ron Ignacz, the school service director, and he didn't seem to have any problems with this. He

added that he doesn't know if the school would ever use that land for any purpose. It is an unusual piece of wooded land that they own now.

Mr. Bruno replied that one of the things he considered is that the school may want to put some sort of accessory/storage structure on there at some point. To the Chairman's point we don't want to infringe on the schools ability to build on their land or even add parking. Since it's a new construction he don't see why the board would grant the first variance request at all. He is okay with the height, the third variance being requested, but this and then 2<sup>nd</sup> variance from a sizing perspective. There is some context with the neighborhood, that warrants discussion, but the first variance is a non-starter for him.

Mr. Norton remarked that once they've discussed each variance they should bring them up and vote on them as separate requests rather than lump them together. The 2<sup>nd</sup> requests refers to the sq. footage which is substantially greater than what is allowed.

Mr. Faile remarked that noticed that there is a typo in the ordinance. We are supposed to be dealing with 1149.06 not 1149.05, but it says in the right-hand box of the zoning code that the max attached garage area in the charter, but if you go down to the next chart it says 1149.06 detached garages, but in the comments section it says maximum garage area it should say maximum detached garage area in 1149.06. There are 4 categorizes 700 sq. ft., 1000 sq. ft., and he took the wrong number. The required area based on sq. footage of the house is 1000 sq. ft. based 1149.06 for detached garages. The next step up is 1300 sq. ft. which is what they're asking for. He wanted to make that clarification it's not 900 sq. ft. that is for an attached garage the next category is detached garage and per Dr. Berger's house he is allowed 1000 sq. ft. and he's looking to get 1300 sq. ft. He has a fairly large lot. It's not quite a ½ an acre, but it's pretty big. The Doctor could have a much larger home on this lot. His house right now is approximately 2600 sq. ft. and the ordinance allows 1300 sq. ft. garage if you have a 4590 sq. ft. house. He thinks fundamentally that's just wrong, personally speaking. Because you have a bigger house and you have more money you're allowed to have a bigger garage. He thinks that's pretty arbitrary and he's not sure where this thinking came from. If you have 6000 sq. ft. house you're allowed to have a 1600 sq. ft. garage. In his opinion it should have more to do with the size of the lot than anything and to his point Dr. Berger has a good size lot.

Mr. Miller replied that he believes it to be an equitable balance between the footprint of the home and the detached garage which applies to all residential districts throughout the City. So if you have a 1200 sq. ft. home and a detached garage you may get something smaller. It's not based on wealth it's based on land size.

Mr. Tuck-Macalla added that Mr. Miller's statement is correct.

Mr. Norton replied that it's a proportion. You can end up with a garage that is bigger than the house and it would look out of character so it's combined with that. In fairness to this lot, in this neighborhood, which has some unusual characteristics. To the south there is a similar old very large two story garage as is the existing one on this lot. Very similar to what is proposed to be built there. That goes back, whether it was ever permitted or not, probably before the ordinance was written from the looks of it. If you go east along Wolf and you view it from the high school

drive there is also a large, three bay garage set back towards the high school drive, but the house fronts on Wolf. It is somewhat similar to what is proposed here. Size wise there are some examples. One is an antiquity and one that looks like it was built in the last 5-10 years - whether it needed a permit or not it is associated with a very large house it may not have needed anything special.

Mr. Bruno advised that he agrees. There is one on the west side of Bassett visible from the street, maybe 390 Bassett, that is a two story that is pretty sizable but the sq. footage of that home can accommodate the proportion. That comes back to the context and they could have a discussion of a combination. He doesn't know if they want to have some discussion about the uniqueness of this property which is next to the drive on the high school which is highly visible to the public. We want this to be a nice property for both the owner and the community, but to the other board members points this request is pretty aggressive. Especially since they're considering having a second floor to this which, the agenda states would be 890 sq. ft., is there in intention to have a second floor?

Mr. Faile replied that the owner wants to use it for a wood shop. He's not sure what Dr. Berger's goal is, but he wants the space as long as he's rebuilding the garage. He has the space now, but the garage is lower headspace so it's not functional to use it up there. If they bumped it up 2' then it makes a big functionality difference.

Mr. Bruno remarked that the board is okay with the space being wired for electricity, but is there any intention of plumbing or occupancy on the second floor?

Mr. Faile advised no – not that he is aware of. The owner was thinking of putting a restroom on the first floor and he wants to heat the space.

Mr. Bruno replied that typically the board is not inclined to permit water plumb into detached structures.

Mr. Miller stated that for himself, he wants to be cautious that it doesn't become habitable like a kitchen with appliances, etc. He doesn't have a problem with a restroom, but he has a problem with an organized kitchen. If the owner wants to put a hot plate that's different. The distance between the single car bay and double bay that panel what is that distance – 5'?

Mr. Faile replied that Dr. Berger has a 16' garage door there and an 8' garage door. His wife has a large SUV and they have a big pickup truck. They want 8' garage doors which kind of pushes the floor up too - to use the 2nd floor. It looks like 4' between them. It is 4'4" between the two garage doors so basically 4' from the garage door to the side. He stated the board must know our garages aren't wide enough for our cars and other stuff.

Mr. Miller remarked that he wouldn't expect they'd both be entering and exiting their vehicles at the same time nor would they store things in-between them. So he wonders if they reduce it by moving the south wall north and it would help a little bit.

Mr. Faile replied by stating that legally, per code, if the owner has a 2000 sq. ft. home he is permitted to have a 1000 sq. ft. garage. Dr. Berger has a slightly bigger home, at 2710 sq. ft., which is 3 stories and is on a large lot and the next bump up in the chart is 1300 sq. ft. If the owner wanted to he could add to this home – he has plenty of room to add to it. The lot is large enough to increase the size of the house and then he'd quality for a larger garage. He realizes he's grasping at straws, but even if it were 1200 sq. ft. it would make a difference.

Mr. Bruno replied that they are trying to cover all bases to make sure it's all discussed and make sure we have everything spoken in quorum. One thing he wanted to confirm, with Mr. Tuck-Macalla, is the size of the home. Can he confirm the representation that this is a 2710 sq. ft. house? He went on to advise that he can certainly understand Mr. Faile's line of logic. Especially considering, having been near that property many times for high school events, he completely understands that size of the property. It's just a big ask when they are talking about the percentage of ask. When its 45-65% range. He mentioned 1200 sq. ft. – what are the board's thoughts on making some sort of accommodation to meet in the middle since Mr. Faile made some valid points.

Mr. Tuck-Macalla replied that the house, on auditors site, is 2,210 sq. ft., but it's only showing two levels 1<sup>st</sup> and 2<sup>nd</sup> floor.

Mr. Faile replied that they do, in fact, have a 3<sup>rd</sup> floor about 550 sq. ft. with bedrooms and is living space. It's not accounted for on the auditors website. When they sell this house they're going to sell for every square foot they can get and they have a 3<sup>rd</sup> floor bedroom space that is built out.

Mr. Norton added that they also have a lot of porch area that isn't counted by the county, but it does add scale to the house from an appearance standpoint. One of the things the ordinance is intended to do is to keep the scale in balance. To Mr. Bruno's point if this is allowed at 1000 sq. ft. and they are requesting 1300 sq. ft. he would agree that there is some circumstances here that would speak for flexibility. If you take the average of that it is 1150 sq. ft. and rather than to trying say move some off here and off there. The garage is designed to be very generous both in its depth, 26', and in the overall width. It is obvious why the applicant would like that, but that might be pushing it a little bit. Perhaps just having a variance/motion that relates to square feet rather than anything specific from a dimension standpoint and then Mr. Faile can reconfigure within that boundary.

Mr. Gess remarked that he would agree that there is some uniqueness to this lot. He thinks however that the uniqueness doesn't lend itself, in these applications. It is unique in that it abutted by a commercial property and a full 6' fence height would be permitted. Its situational uniqueness would lend itself to be a contributing factor to any of these size or height variances. He thinks the setback, as Mr. Bruno stated, is a hard one to contemplate. He is open some variance on some enlargement. He inquired if Mr. Faile would be able to make those adjustments tonight and doesn't want to force the application to modify his request on the fly.

Mr. Faile remarked that he'd need to talk to his client. He thinks it needs to be known that we are talking about what Bay Village allows for garages. He does think it's arbitrary and he

understands it's proportional to the size of the house. To him there is no doubt that people that have bigger homes they have more money and they're allowed to build bigger homes and they're allowed to have bigger garages. The ordinance allows us to start at 1000 sq. ft. which is the maximum for a 2000 sq. ft. home. This is a bigger home with a bigger porch. In Lakewood they count porches for the overall square footage when talking about lot coverage. There is a house he's working on, in Lakewood, with two decks which adds quite a bit of square footage to the house. This house does have a large front porch and other porches. His point being that if the house is bigger, and appears bigger, and it's three stories - proportionally speaking the garage he doesn't believe will dominate the house. It is much shorter. It is away from the house quite a bit. If the board wants to discuss proportions lets maybe not go to 1300 sq. ft., but maybe we can go to 1200 sq. ft. The maximum garage for large homes in Bay Village is 1600 sq. ft. which is pretty large.

Mr. Gess replied that he doesn't disagree, but for that size garage they'd need a 6,000 sq. ft. house.

Mr. Faile replied that if they have a 6,000 sq. ft. house you're privileged to have a 1,600 sq. ft. garage. He sees it as being privileged.

Mr. Gess remarked that Mr. Faile can look at it however he'd like, but he believe a 6,000 sq. ft. home would traditionally be on a more proportionate larger lot which would justify a larger garage.

Mr. Faile added that he'd like to add that the board has done quite a bit with allowing huge homes on tiny lots on the east side of Bay Village. With regard to house coverage over a lot - they board has allowed quite a bit there and he doesn't agree with that at all.

Mr. Gess replied that he knows the homes Mr. Faile is referring to. To his knowledge, in the past 4 years that he's been on this board, he doesn't know if many or any of those homes have come before the board. That is an ordinance question. The houses in the past have been smaller on a particular lot even though the ordinance allowed for a larger home. He can't remember a time that the board has allowed any of these large homes. That is the ordinance which dictates the size and these builders are taking advantage of it.

Mr. Bruno added that he doesn't believe it's an apples to apple analogy.

Mr. Miller remarked that some of the newer homes have taken multiple lots and broken them down into different lots to give them a square footage advantage.

Mr. Faile replied that it's all up and down Lake Rd. and on Elmwood. There are some very large homes over there that are not friendly to the lot.

Mr. Bruno replied that it's the code. For Mr. Faile to draw the analogy that the board has permitted the larger homes on those lots is somewhat inaccurate.

Mr. Norton added that having been involved with the BZA for three decades he can say that, they have never to his recollection, allowed a house to be treated differently because it was large. The original ordinances, when they were developed, tried to keep a balance between lot, house, and garage size. Ordinances related to how many square feet of structure can be on a property. It is economics, if you have the finances to afford a big piece of land then property rights say you can do what you want with that land within the communities' rules. Being wealthy is not a factor as far as allowing something like the size of the garage – at least not in Bay Village's history.

Mr. Faile summarized that the basis of his point is that they have a very large lot. He has done a lot of houses in Bay Village where they are dealing with 7,500 sq. ft. lots or 12,000 sq. ft. lots – which are decent size. This is a large lot. Dr. Berger could put a lot more house here if he wanted to. He believes the size of the lot is in line with what they are requesting for the garage.

Mr. Miller remarked that perhaps it's time to address the variances individually. He then inquired if Mr. Tuck-Macalla was aware of any concerns with the percentage of concrete/accessory structures in the backyard.

Mr. Tuck-Macalla replied that there is not.

**Motion by Mr. Bruno, second Mr. Miller**, to grant the property at 427 Bassett Rd. a variance per CO 1149.01 pertaining to the rear yard setback a 2' variance, or 66% variance, per the drawings as prepared and submitted.

**Roll Call Vote:**

**Yeas –**

**Nays - Norton, Saurman, Bruno, Gess, Miller**

**Excused – Young, Burke**

**Motion Failed 0-5**

**Motion by Mr. Bruno, second Mr. Gess**, to grant the property at 427 Bassett Rd. a variance per CO 1149.06 for the size of a detached a garage. The variance being requested would be 400 sq. ft., or 44%, for the footprint or 580 sq. ft., or 64%, for assumed total square feet of the garage considering the second floor sq. footage to be utilized as represented by the applicant's agent per the drawings as prepared and submitted.

Prior to the vote, Mr. Faile inquired if there was room for discussion to which Mr. Norton replied there was.

Mr. Faile remarked that they are allowed 1,000 sq. ft. and the next category up is 1,300 sq. ft. Can they get to a compromise number without jumping up to 1,300 sq. ft.?

Mr. Norton replied that he believes there was a comment that 1,150 sq. ft. is the middle point between the 1,000 and the 1,300. There is nothing to prevent him, as the owner's representation, from requesting the 1,150 sq. ft. This would not prohibit him from coming back and asking for a bigger square footage, but it has to be a meaningful change. If the applicant is so inclined and wants to test the water he doesn't know what the board would decide.

Mr. Faile replied that what he'd like to do is to propose that they go to that number of 1,150 sq. ft. He knows what his client wants and they just stepped up to the next number that is allowed based on the ordinance. He can speak on his behalf that he believes he would accept 1,150 sq. ft. He thinks they can make that work and that they wouldn't have to come back if the board is so inclined to allow for that compromise.

Mr. Bruno inquired, for the record, if that would be a 15% variance on the footprint? He requested someone confirm his math that they add the 2<sup>nd</sup> floor, 180 sq. ft., to the 150 sq. ft. that would be a 33% variance including the 2<sup>nd</sup> floor square footage?

Mr. Faile inquired if he was using the 900 sq. ft. or the 1,000?

Mr. Gess replied that 150/1,000 would be 15% and then adding another 180 then they're at 1,330/1,000 is 33%.

Mr. Bruno added that he feels those percentages are still significant, but based on the comments and context he feels this is the applicant finding a reasonable middle ground.

Mr. Norton stated for the record that Mr. Faile is modifying his second variance request to the 1,150 sq. ft. number.

Mr. Faile sought clarification that the 1,150 sq. ft. number is the footprint as opposed to the total square footage?

Mr. Bruno replied that the total square footage would vary 330' of variance.

Mr. Norton replied that the board is making the assumption that the 2<sup>nd</sup> floor is 180 sq. ft.

Mr. Faile replied that they are asking for a 20' high garage. When he first looked at it he realized they could potentially do an 18' garage and claim that space upstairs, but it will just be a tight ceiling. When they're talking about the square footage of the garage they're talking about the footprint on the first floor and they're not including the 2<sup>nd</sup> floor space.

Mr. Miller replied that historically, in his mind, they have looked at the footprint almost solely as the determinant and the loft space, whether it's at 18' and they just put kayaks up there or woodworking equipment up there and occupy it - it doesn't matter to him. It's more about the footprint and the height. He'd be okay at 1,150.

Mr. Norton added that historically they just use the footprint and assume that the height limitation keeps you from going overboard as to how you use the second level. If the board makes this variance on the 1,150 sq. ft. of the footprint that would address it without being concerned about exactly what is going to be done with the second level.

**Motion by Mr. Bruno, second Mr. Gess, to grant the property at 427 Bassett Rd. a variance per CO 1149.06 for the size of a detached a garage. The variance being requested would be 150 sq. ft., or 15% total variance based on the requirements of the code.**

**Roll Call Vote:**

**Yeas – Saurman, Bruno, Gess, Miller, Norton**

**Nays -**  
**Excused – Young, Burke**  
**Motion Passed 5-0**

Mr. Bruno remarked that on the 3<sup>rd</sup> variance request, of 2’ height, he doesn’t have any issues with it since they granted a variance recently to a property on the corner of Bruce and Fordham. Given the nature of the properties on Bassett and the size of the homes and other large garages this seems like a reasonable request.

Mr. Miller inquired, of Mr. Faile, what roof pitch was proposed.

Mr. Faile replied that he is using an 8/12 pitch on the main structure and on the shed a 2/12. It will necessarily be less if they don’t get the 20’. They might be able to get a 3/12 pitch on the shed which would be good because they could shingle it. If they have to go with an 18’ they will have to use a CNC metal or some kind of flat roof system. It would look better all shingled up.

**Motion by Mr. Bruno, second Mr. Gess, to grant the property at 427 Bassett Rd. a variance per CO 1149.06 pertaining to the height of the detached garage a 2’ variance, or 10% variance, above the permitted 18’ height to the proposed 20’ height.**

**Roll Call Vote:**

**Yeas – Bruno, Gess, Miller, Norton, Saurman**

**Nays –**

**Excused – Young, Burke**

**Motion Passed 5-0**

Seth & Jennifer Wamelinck 31003 Arlington Circle	1) <b>Front set-back variance:</b> using the original site plan and the set-back map the current attached garage is 50ft. from the Right of Way as permitted. The garage addition would project into that set-back 16 feet. The variance requested is 16 ft. or 32%. 2) <b>Side yard set-back variance,</b> due to the pie shaped lot the garage addition would encroach upon the required side yard set-back of 10 ft., by 8 ft. The requested variance would be 8 ft. or 80 %.
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Mr. Norton introduced the next item on the agenda on the agenda Seth and Jennifer Wamelinck 31003 Arlington Circle.

Mr. Tuck-Macalla advised that he would like to update the board before Mr. Norton goes over the specifics of the applicant’s request because, as a result of some measurements taken today, the numbers have changed since the agenda was distributed. Mr. Tuck-Macalla went on to share his screen. He showed the original survey for the lot and remarked that he had some issues trying

to find the setback on this one. The setback that is called out on the setback map doesn't work when he scales it on the survey map. Today he went to the property and measured from the center, which is where the original setback was taken, towards the garage and the garage is 83' from the center of the road - so the setback variance request would be for 8' rather than the full 16'. The second request was the side yard setback where when you pull that garage forward you're going to change the side yard. The original drawing, by the builder, when you come out it was 2'. However when you pull that addition out the new distance between the corner of the garage and their property line would be 4'. This size lot requires an 8' setback - so the variance that is requested is for 4'.

Mr. Miller summarized that now the variance request is for 50% rather than 80% and Mr. Gess stated that the first request is cut in half from to 8' and the 16%?

Mr. Tuck-Macalla replied in the affirmative to both.

Mr. Norton inquired if it's going to be a side entry garage similar to the sketch.

Mr. Tuck-Macalla replied in the affirmative.

Mr. Norton went on to say that the existing garage, if you look at what would be the face of the new configuration, the existing garage would be 21'. How many feet is it to the setback from there of the new addition, where you measured it what would that be about another 8'?

The board and Mr. Tuck-Macalla went on to discuss the side yard setback distance.

Ms. Wamelink joined the discussion and clarified that the face will be 36'. The problem is the entire garage will be little larger at 42' because of the way their front vestibule sticks out there is a 6' stick out. So they can't actually pull in a car into the small space between the garage and the vestibule. That 6' is sort of dead space which they plan to put a porch on. The rest of it will be 3 bays equaling 36'.

Mr. Norton inquired if they were planning to use 12' per bay plus 6' for the porch area.

Ms. Wamelink replied in the affirmative and advised that the 6' was unusable because they can't pull in there given the way the front vestibule sticks out in front of the house.

Mr. Norton replied that was he was getting at is that using 12' per bay, which is fine, is quite generous for cars. If that was reduced to 11' or 10' they'd need less extension towards the front. As soon as you start taking off a few feet going towards the street the 4' opens up because of the dramatic angle.

Ms. Wamelink remarked that the actual the depth of the garage is actually quite small and they need that additionally square footage. The depth is only 20' which is a little tight. They have 3 kids and they are getting a larger SUV that barely fits in at the 20'. In the extra 6' they were hoping to be able to keep their trash cans inside and add a dog washing station.

Mr. Bruno advised that one of things that he always likes to point out in Huntington Woods is a definite consistency and uniformity to the setbacks. Are there any deed setbacks or restrictions? The board certainly doesn't her purview over any if they existed, but he wants to bring it up. The

board often considers this within this development. He went on to confirm that these restrictions would not be requirements from the City of Bay Village, but rather on the deed.

Ms. Wamelink replied that there is nothing that she is familiar with, but they can look into it. There is a home on their street that is a newer build that has a similar garage look that they are going for. She is aware that they just granted a very similar variance for another Huntington Woods property. She would assume these properties all have similar deeds?

Mr. Bruno replied that he believes she may be referring to the DiBenedetto property that faces Bradley Rd. despite being addressed as Huntington Woods Parkway.

Mr. Wamelink replied that she figured since it was called Huntington Woods Parkway that the deeds would be similar. The other issue, and reason they are requesting it to be positioned this way, is there doesn't seem to be any other place to put an additional bay.

Mr. Wamelink pointed out the irregular pie shape of the lot. The side yards are much more limited than if it was a rectangular shaped lot. When you're moving a structure forward on a lot like that they may not have side yard setback issues.

Mr. Bruno replied that they have always given consideration to the uniqueness of the lot and this one certainly does meet that criteria. He just always gets a little concerned in this neighborhood when it comes to them granting variances on front setbacks as it relates to potential deed restrictions given the uniformity of the houses.

Ms. Wamelink replied that they'd have to relook at the deed. She knows there are houses where the garages are very close to the street.

Mr. Norton remarked that this may be a situation where they want to pause and take another look at this. First of all only 5 of 7 members are present. He also shares Mr. Bruno's concern about the Huntington Woods neighborhood and the way they maintain setbacks. He looked around this area, when he visited the property, and he didn't see anything that had this kind of projection. Maybe it would be helpful if the board put this off to the next meeting and studied it a bit further since there were also new facts that came to light tonight which essentially cut the request in half. It might also give the applicant a chance to consider reducing a couple feet from their request and the board could then take another look at this.

Mr. Miller remarked that he would like to share, in support of Mr. Bruno, that on the screen the board can see the property to the north of the applicant. If they also chose to request a 3 bay garage with side entry and extend it to the same point then there would be two of these 3 bay garages within a few feet of each other – within the overall setback. He wouldn't be surprised if a future homeowner asked to do the same thing. Now there are two large 3 bay garages poking out beyond the setback.

Ms. Wamelink replied that, when the board goes back to look at this, the new builds in Huntington Woods all have these garages that stick out. The difference is that they are two stories usually. The new home on Arlington Circle that was built in 2015 has this exact look – the garage sticks out. The garage on Plymouth, built around the same time in 2014, has a two

story garage that is a similar look. The current garage is only 550 sq. ft. if you notice most new builds all have 3 bay garages. Their current garage is extremely small for this size of the home. Not only would it improve the entire aesthetic of the home it would definitely increase the resale value. The other thing is that they have no parking available on their cul-de-sac where they are located because of the aprons of the driveways. They can't park in front of their house or on either side of their house – so this also helps with parking. They have three children that are all within a four year span so they'll have a lot of drivers soon and will need the space and parking availability. They want to be able to park all three cars comfortably within the garage as a safety issue.

Mr. Norton remarked that he feels a lot of good thoughts have come up. It is the applicants right to request a vote on this tonight and if it does not go in their favor they would have to come back with some substantial change to bring it before the board. Would they be more comfortable to put it off for now and let the board revisit this? He for instance, would be very interested if they took 3' off the request and they follow the arc around what would happen to the 4' number? Would 4' become closer to 6' and that may affect the board's attitude. They could study that and the board would be willing to go back into the neighborhood. Because if someone has been granted something than you should be granted it too. It is one of the reasons they are so careful – if they set a precedent. The precedent isn't living with you, as the applicant, it is living with the use of their property forever. It is for those reasons that they think these through as fully as possible.

Mr. Bruno added to the Chairman's comments that he suggests the applicant follows up with the Huntington Woods homeowners associate to find out a little bit further if there are any deed restrictions on that setback.

Mr. Miller stated that he'd like to speak to the applicant's observations on the newer builds. One could look at it and say, 'there is a three bay garage I want to do the same thing', but you also have to look at their setback. If they have a property that isn't configured like yours – then they can move the main structure back and still be within the setback then they have a right to build a three car garage on that size of property. You've got a unique formed layout of the property which is a bit of a challenge, but when you view the other precedent's where drawing more of a linear line of sight those setbacks are still being followed.

Ms. Wamelink advised that they'd be willing to table this. When the board comes back and looks at it she would like for them to review the fact that this is not a new structure they're keeping the existing garage and adding to it so they need to keep it in the same line. They will look at the Huntington Woods deed and ask some neighbors to measure their yards.

Mr. Brulport remarked that he is the neighbor whose yard they will be measuring. He added that he was surprised the Wamelink's didn't mention anything to him prior to this meeting.

Ms. Wamelink replied that they tried knocking on his door a few times and they didn't want to bother him unless they got a variance. He would still have time to object during the variance process of the application. If they can't do it there is no point in having the discussion.

Mr. Brulport replied that he saw Mr. Wamelink a few times and he thought he might have mentioned it as a neighborly gesture.

**Motion by Mr. Bruno, Second by Mr. Miller**, table the agenda item for 31003 Arlington Circle until the next meeting or another meeting that would accommodate the timeline research the property owner will do along with our board and building department.

**Roll Call Vote:**

**Yeas – Gess, Miller, Norton, Saurman, Bruno**

**Nays -**

**Excused – Young, Burke**

**Motion Passed 5-0**

Dr. Nick Gravino 560 Dover Center Rd	Applicant is seeking a <b>3 ft. or 30% variance to section 1370.06</b> to install a generator within ten feet of a property line.
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Mr. Norton introduced the next item on the agenda as Dr. Gravino at 560 Dover Center Rd. and advised that the board has had an opportunity to visit and review the site. This is the second meeting on this item.

Mr. Miller inquired if there had been any changes to the application.

Mr. Hughes replied that there haven't been any changes. He advised that the board requested previously that they look at turning the generator 90 degrees. Turning it 90 degrees and maintaining the proper clearances still leaves him 8" short of the property line.

Mr. Norton remarked that the original request shows that the generator would be 7' from the sidewalk and it would be spaced okay as far as codes from the transformer and the gas meter?

Mr. Hughes confirmed that was correct. He advised that he has to maintain 3' from the gas meter which moves the unit from 3' from the building to turn it sideways and move it closer to the building it would then it will need to be 5' from the building because the gas meter extends from the building and he has to maintain 3' from the building.

Mr. Norton inquired if there is any limitation from CEI standpoint for shielding the view of the transformer.

Mr. Hughes replied in the negative and advised that the side of the transformer that it is on is not the service doors. CEI's furthest point of limitations is from the doors that open which face north.

Mr. Norton remarked that the CEI transformer is existing and it is not screened at this point and it does look industrial in this mixed residential/commercial neighborhood. If you incorporated into the design for screening whether it be decorative fencing/screening or year round vegetation. Whatever the board might propose in a variance include shielding that CEI transformer.

Mr. Bruno advised the applicant that is typical for their motions.

Dr. Gravino replied that he has no problem doing that. There was a tree there that died which is why it's barren right now. It was always his intention to cover it to maintain the aesthetics of the property.

Mr. Norton stated that the nature of this being a generator, which will only operate when necessary, and the fact that it was 60 decibels.

Mr. Hughes advised that he could actually exercise this more infrequently than a normal residential grade generator.

Mr. Bruno remarked that he doesn't know if they would want to go there given the nature of why it's being placed. He believes that it absolutely should be tested once a week, if they choose to, based on the code.

Mr. Norton remarked that whatever the manufacturer's recommendation is. He believes there to be hours in which testing is permitted.

Mr. Tuck-Macalla confirmed that it's between the hours of 8am-5pm.

Mr. Norton advised that he doesn't have any problems with this unit. He can't envision it being an issue for any neighbors, including the neighbor they spoke to last time.

Mr. Bruno advised that he agreed, but he also appreciates the applicant understanding the questions of the board members in regard to giving the layout additional review.

Mr. Saurman inquired that he couldn't understand why they couldn't put the new generator where the existing generator is located. It seems like that would not require a variance.

Mr. Hughes replied that this is a much larger generator. There is no way they can put it where that little generator is and be 7' from the sidewalk. The generator that is there, which they don't make anymore, is probably is 24"x28" maybe 30"x30" the comparable generator is 26"x24".

Mr. Saurman inquired if what he's saying is that if they put the generator where it is now they will still need a variance?

Mr. Hughes replied that was correct.

**Motion** by Mr. Bruno, **Second** by Mr. Miller, to grant the property at 560 Dover Center Rd a variance per CO 1370.06 to install a generator within the 10' of the property line and grant them a 3' or 30% variance to that requirement provided that the generator be placed in the position in the application as prepared and submitted and screened year round by either decorative fencing or vegetation/landscaping and that the generator not be tested more than once per week between 8am-5pm on business week days.

**Yeas – Miller, Norton, Saurman, Bruno, Gess**

**Nays -**

**Excused – Young, Burke**

**Motion Passed 5-0**

<p>Petri Spirollari 26613 Lake Rd.</p>	<p>Applicant is requesting a <b>Special Permit per section 1121.41</b> to install 2 columns in the front yard of his home to attach his address.</p>
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Mr. Norton introduced the next item on the agenda as Petri Spirollari at 26613 Lake Rd. The board has had an opportunity to visit the site and review the application.

Mr. Saurman noted the ordinance is 1121.42 for a special permit.

Mr. Norton remarked that the only comment that he has on this request is that they try to make sure, when these decorative columns are put in, that there is an open view that is not blocked of the sidewalk. So a toddler coming along on a tricycle, which is low, and can come into the driveway and the car doesn't have a chance to see it. In this case, the only thing he'd like to see is that these columns are setback. He can't tell from the sketch how much, but there should be a 10' arc from the point of the sidewalk and the driveway meet left open. Right now the applicant has a small tree that does not block it because it is open for the first 5-6'. Right now the applicant shows it as 5' off on the one that is next to the driveway and he can't tell the one along the sidewalk, but it looks about 10' off.

Mr. Spirollari replied that it is about 2', but it is 10' off the road.

Mr. Norton asked how far that one is off the driveway.

Mr. Spirollari replied that from the driveway it's about 10'.

Mr. Norton advised that is what the ordinance calls for. It advises that there cannot be a visual barrier that is within 10' of the driveway so you can see a toddler coming along the sidewalk as you're pulling out of your driveway.

Mr. Spirollari replied that he thinks it's about 10'.

Mr. Norton inquired if there is a problem moving the one that is currently shown as 5' back to 10'?

Mr. Spirollari replied that it is going to be way far back. As you can see, looking at the front of the house, it's going to be way off and it won't look right. 10' is going to be way off from that. He advised that his driveway, they never back up because of the turnaround, but 10' from the sidewalk would defeat the purpose of the marker because the numbers will be too far back and it won't match the house.

Mr. Norton proposed that the numbers could be on the one that were closer to the sidewalk?

Mr. Spirollari replied that the numbers are on the one further from the sidewalk.

The board continued discussing the currently proposed location of the columns.

Mr. Norton advised that he'd like to see it pushed back to 10'. The whole purpose of the ordinance is so that the view is not blocked for the driver. If their view is blocked they will have no chance to see a toddler if there is a visual barrier. The ordinance refers to a 10' distance and no higher than 3' so even if you had shrubbery it would be blocked. There are a lot of examples in Bay Village that don't follow that rule. The City has sent the police to tell them that they have to change that, but that is the principal that they try to follow from a safety standpoint.

Mr. Spiollari made some additional comments that were difficult to hear, but ultimately was pointing out that his driveway is descending towards Lake Rd. It's quite hilly there so he doesn't believe his view would be obstructed. He advised that he took a walk about 300 yards from his property and he took 5 or 6 pictures of the neighbors that have similar columns to what he is proposing. His point is 10' is going to be disproportionate to the other column, the hill eliminates the view blockage, and it's similar to what is already in the neighborhood. If it's pushed back 10' it will be pointless since it will be in the middle of the lawn.

Mr. Miller advised that he'd have to generally agree with the applicant. He has seen numerous columns, for example one house two or three houses to the west on the north side of Lake, there are four columns within a foot of the sidewalk and driveway and it's very well vegetated and acting like a privacy screen. That is a huge offender and he's not sure if they had a variance, but he doesn't believe they asked this board.

Mr. Gess added that he recalled seeing one almost immediately across the street from the applicant. It's not stone columns, but sculpted tall hedges that come right up to the interface of the sidewalk and the driveway.

Mr. Miller referenced another example that has vertically oriented slab with the address on it and you can look through it fairly easily.

Mr. Gess advised that there are some that they have seen on the board where they talked about the 10' radius of the intersection of the sidewalk and the driveway. He doesn't know if it's worth researching which ones have gone through the process of special permits or variances to have some rationale. Just because someone has done it doesn't mean it is right nor is that the right precedent to follow. If someone has built one with a granted variance then it's one thing to use that as a basis and he'd feel more comfortable rather than the concept of two wrongs making a right.

Mr. Bruno remarked, to the board members points, that he's seen the ones on the north side towards Dover Center and they could go on and on. He thinks it would be helpful for the building department to some research on the properties that exists that have similar columns so that the board makes a fair decision. He went on to suggest that we table this to the soonest meeting to accommodate the applicant.

Mr. Spiollari remarked that his lot is not flat. The reason they chose those columns spread the way they are is so they won't block the view because that was one of their concerns. The one on the east side is going to be much lower than the one closer to the driveway. It's the same height, but it seems lower because of the lot.

Mr. Bruno replied that there is a grade yet it's not as severe as some of the others that you could make that case for. He would feel more comfortable knowing the research on similar properties to consider this.

Mr. Spirollari replied that he is open to a height change.

Mr. Bruno advised that 3' is what they typically approve.

Mr. Norton added that you can have a fence in your front yard that is 3'-4" so if that was the case it would be just as if you had a fence. He agrees that there are numerous examples throughout the city where the 10' radius was not observed – particularly with vegetation. The board almost never allows a 4' fence in the front yard so it is a matter of a child on a bike and if it's 3' fence you can still see the potential problem when you're driving out. He believes in fairness to the applicant, particularly since there are only 5 members present, they should put it off. He remarked that he'd personally like to take another look at the lot. He, for example, doesn't remember the grade issue. They want to be careful not to set precedent. If that is agreeable with the applicant they can make a motion to put this thing off to the next meeting?

Mr. Spirollari replied that he doesn't feel like he has a choice. The reason they did this was because they pulled the permit last year sometime for the all the changes to their house. They ended up adding these later on. They are trying to get the stone face on the front while it's warm. With contractors it's hard to get them to work on all the projects at the same time.

Mr. Norton replied that they can put it on the next meeting which is April 15<sup>th</sup>.

Mr. Spirollari confirmed that the board wants to research the issue further. He also offered that he'd be happy to meet any board members on site if that would be of assistance.

**Motion by Mr. Bruno, Second by Mr. Saurman, to table the application for the property at 26613 Lake Rd. to the next meeting, or a meeting convenient for the building department and the board to do the appropriate research in order to have a fair determination on the application.**

**Roll Call Vote:**

**Yeas – Norton, Saurman, Bruno, Gess, Miller**

**Nays -**

**Excused – Young, Burke**

**Motion Passed 5-0**

There being no further business to discuss the meeting adjourned at 9:17 p.m.

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Jack Norton, Chairman

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Lauren Oley, Secretary