

Meeting Minutes of
Board of Zoning Appeals
Held May 06, 2021

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

Also Present: Shawnee Schuller (Assistant to Building Director), Eric Tuck-Macalla (Building Director)

Excused: Lauren Oley (Assistant to Building Director)

Audience: Adam Lindsay, Andrew Seger, Andrew Eggeman, Bryan Kelly, Debbie Diamond, Denis, Dino Hysenaj, Elizabeth Barry, Eric Burguera-Couce, Ryan & Janine Little

**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 7:31 p.m.

Mr. Norton introduced the first item on the agenda, the approval of the minutes that were held April 15, 2021

Motion by Mr. Bruno, **Second** by Mr. Burke, to approve the minutes of the meeting held April 15, 2021 as prepared and distributed.

Motion passed 7-0

1) Andrew & Ann Seger 23416 Lake Rd.	The applicant is requesting a variance to section, 1359.01 to install Air Conditioning Equipment closer than 10 ft. from the west property line. The request is for a 3 ft. variance or 30%
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Mr. Norton introduced the second item on the agenda as 23416 Lake Rd. The board has had an opportunity to visit the site and review the application. It's to be noted that a communication was received from Carol Yellig regarding the air conditioner. Ms. Yellig's house is to the immediate west of where the generator & the air conditioner is proposed. Is there discussion?

Mr. Seger stated that Ms. Yellig's generator and air conditioning unit are also along that same line like they're kind of lining them up. So they'll all be in the same area. Aesthetically, it seems to make sense. He just wanted to point that out.

Mr. Norton stated that the applicant has sort of a blank slate when you when you remove the old house. Was consideration given to either the east side, where you have more side yard, or to the

south to put it around the front of the house? The house is set back extremely far. He believes it's more than 200' from Lake Road and so it could be concealed, you'd still need a variance because it's in the front, but it would then take any sound out of the corridor between the houses, which is rather tight.

Mr. Seger replied that he thinks the problem with the east side was that they had to work with the riparian setback from the creek. So they were trying to work within that from the east side. They lined it up exactly with where Ms. Yellig's stuff is. Her HVAC and her generator. So in regards to noise, when hers is running theirs will be running and vice versa. So it will be exactly the same.

Mr. Eggeman, introduced himself as the Seger's builder, he advised that on the front of the house they will have a porch the whole way across the front. It's basically an L shaped courtyard style house. So there's a porch across the whole front, so you really can't put it there and then then the garage is in front of that. So there's really no good way to put it in the front of the house either. They could have easily put it on their side if we didn't have the riparian setback.

Mr. Norton remarked that he noticed that there was no information on the air conditioning. Usually, a form is filled out as to the decibel rating, and so on. Do you know what the decibel rating is on this?

Mr. Eggeman remarked that he doesn't. He knows it's a 14 seer air conditioner. He advised that he could easily get that for you. They are much quieter than what they used to be. He doesn't have the exact model number in front of him, but he can definitely provide that for you and give you the decibel rating. He believes it's a carrier unit.

Mr. Seger inquired if there was a variance for Ms. Yellig's property? It seems to him that it's the same distance to property lines.

Mr. Norton remarked that he's looking at the plan that was submitted with the variance request. It appears that their setback on that side is quite a bit bigger than his. Just looking at the dimensions of the plan. In fact, he's not sure that where it says the 'subject parcel' it may have been the old house that they're looking at on the print that was given to them because it shows where you're proposing to put the generator HVAC unit. It shows a notch in the house and looking at it there is notch in the backside of the house. Maybe we're looking at a previous plan?

Mr. Eggeman replied that they have an overlay on there. On the plans provided that dotted line, the hash line, is the old house. The solid line is, is the new house, the solid lines there.

Mr. Norton remarked that it's a little hard to tell on this scale of a plan.

Mr. Miller inquired if they are also reviewing the generator tonight? Because the application and agenda only says for the air conditioning.

Mr. Tuck-Macalla replied that the generator doesn't necessarily have to go to BZA. The way that the ordinance is written, it's really up to the Building Commissioner to decide. If the air conditioner were to be placed in that, where it wouldn't be an issue, then he would most likely let the generator go in the same position.

Mr. Seger advised that they are not intending to install a generator at the current time.

Mr. Norton inquired what the possibility of moving that. Right now the HVAC proposed unit is shown right between the houses. He can see why you would not want to move it north, you've got a deck there and people don't like to have a piece of equipment, both from a noise and appearance standpoint. But if you moved south, at least far enough to get it out from the corridor between the houses, would that be a problem?

Mr. Seger replied that one thing about that is if they move it up front, if you see how Ms. Yellig's property aligns with theirs, it might likely hit her front door or front porch area. Their thought was that they would put it kind of where hers is. The noise is what it is for both of them. But if they pull it forward to the south, it's going to hit the front of her house.

Mr. Tuck-Macalla advised that the decibel level on that unit, or comparable unit would be 56 decibels.

Mr. Bruno thanked Mr. Tuck-Macalla and advised Mr. Seger that where he has it placed currently, yes, it is relatively close to where your neighbor to the west has theirs placed. But to his point about the sound corridor, if you were to move it further south, there's a patio space similar to your deck space, in somewhat proximity to both of the units if they were placed near each other that would impact their patio more than your deck. Given that, if the board were to move and to grant a variance, they always provide for year round screening or recommend year round vegetation or some decorative fencing. So he would imagine that your neighbors probably are going to spend less time in their front of their property and with decorative fencing or vegetation, it's going to be less of an impact than it would be from a sound perspective on their patio, enjoying their patio space.

Mr. Seger replied that makes sense and that they'd be happy to put some decorative fencing or plants around it.

Mr. Bruno replied that either way given where you are requesting it, or if you were to, accommodate and relatively amend your application with their builder here. They would still require that year around decorative fencing.

Mr. Seger replied that makes total sense and they'd definitely be willing to.

Mr. Gess commented that they are still lacking the information regarding the specific model number. There are Carrier 14 seer units that can go anywhere from 50s to 70s. Sound properties aside, what about the physical characteristics, they're being asked to consider a variance of a certain dimension. But they don't know the dimensions of the unit unless the builder, Mr. Eggeman, or Mr. Seeger can confirm which model and the dimensions because that may play into the variance requested. It just seems like they're talk about this conceptually, but without some of the physical characteristics, it's hard to feel comfortable making motion.

Mr. Bruno added that he wouldn't be comfortable moving or voting, if they don't have a specification submitted or amended to the application.

Mr. Eggeman stated that he believes they are asking for three foot variance. The size of it is less on the model and its more so on the tonnage of the unit. He knows that the unit is not wider than three feet. So if anything, it would be less than that.

Mr. Bruno replied that he appreciates the representation. But yet, he agrees Mr. Gess' comments, and they've been pretty consistent with that, they like to see the specifications submitted clearly with the application.

Mr. Norton remarked that they're assuming a setback that you have right now on the house is 10'. But if you got a three foot unit, it can't be up against the house, it's got to be a certain space based on the manufacturer's recommendations away from the house. So it leaves it up in the air, a little bit, of exactly what kind of variance dimension you need. He would also like to see that they're considering moving it at least some dimension to the south, so that it moves it somewhat from the corridor. It is true that the neighbor's units are on the same side. But they're legal. They set back the house far enough, at least he's making that assumption, visually when he looked at it, it seemed to be the case.

Mr. Seger inquired if it could be checked to see if Ms. Yellig has a variance for those?

Mr. Norton replied that they can, but not on the fly. He suggested that they think about putting this off to the next meeting. Where the air conditioning information can be filled out as far as its size and its location so they have a little better idea of where it's proposed. And to consider putting it somewhat further south. So that it's not in between the two structures.

Mr. Bruno added that if they do consider moving it further south and it's still along the exterior wall of the west side of the residence, they do want to know exactly where they'd like to place that. Most standard units require about 18" of access between exterior wall or some sort of obstruction and the servicing panel. So that's why they're trying to be thorough with this as well.

Mr. Eggeman replied that they hang their unit on a bracket. So it's very close to the house. It doesn't extend beyond three feet. He'll get the specs, but it's within maybe six inches away from the house, it's very close to the house. They're not on pads that are set down on the ground. If they move it up, can they move it right in front of the generator, it's usually the solid line that's right in front of the generator, that's the front that's the back of their garage. So if they can place it there, they can get a line out of the foundation. And that does place it in front of that corridor slightly just right in front of the neighbor's house. Would that be okay?

Mr. Bruno stated that based on the drawing that he has, it's a little bit difficult exactly to see specifically in dimension relative to the west side yard property line where that generators placed. That would be something else he would like to see a little bit more specific or in a little bit more legible.

Mr. Seger replied that they're not doing a generator. They're just doing an HVAC.

Mr. Bruno advised that if he's going to use the generator placement as something in relation to where he plans to place the air conditioner, it would be most helpful for them to explicitly know the dimensions of where that is relative to the generator and the house and the property line.

Mr. Eggeman replied that he was just trying to use that as illustration. The black line is the back of the garage so they wanted it as tight as they could. It doesn't really relate to the generator, he's just trying to say they'd move it on the front side of that. So it'd be right on that line, they would put it as close to that as possible. It's close to the ground.

Mr. Bruno replied that whatever they can do to help us just kind of get really good clarity and transparency and where you're planning on and the specs for the unit would be most helpful.

Mr. Norton commented that in the past they required, always for AC unit placement, to have a form filled out, that gives the dimensions of the unit and the model number and the specifications as far as, particularly as far as decimal rating is concerned. So if they could put this off to the next meeting, then they'd have a way to deal with this better without making some substitutions that they're guessing on. Is there further discussion?

Motion by Mr. Burke, **Second** by Mr. Bruno, that the application of the property owner to 23416 Lake Road for a variance for installation of air conditioning unit be tabled until the next meeting to allow time for the applicants to submit a new drawing, indicating the location of the air conditioning unit farther south as they have discussed and further to give them time to submit to the building department to the specifications of the proposed unit.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

<p>2) Dellisanti Construction on behalf of Marta Couce & Bartolome Burguera 31582 Lake Rd.</p>	<p>The applicant is requesting two variance for the front building line set-back. This is in the Eagle Cliff area of Lake Road. The required set back is 50 ft., and the house is set-back at 30 ft. the owners have been granted a 4 ft. variance for a stoop and overhang in the past. The requests are:</p> <ol style="list-style-type: none">1) A five foot variance for a new stoop and steps, this feature will be a total of 9'6" off the front of the house, subtracting the 4 ft. variance per Section 1153.02 this variance is for 5 ft. 6 inches.2) The second is for a Special permit per section 1153.02 for a 30 ft. front yard setback, this is to construct a second floor addition to this home.
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Mr. Norton introduced the next item on the agenda is Dellisanti Construction for 31582 Lake Road requesting two variances for the front building line setbacks. He advised that they will take these separately. The board's familiar with the situation along this stretch of Lake Road, where there is little or no rear yard available for constructing. He inquired, of Mr. Tuck-Macalla, if the 30' setback area has been granted to all the houses along that strip?

Mr. Tuck-Macalla replied that back in February of 2019, there was a house done two houses from Avon Lake, and it was kind of the same thing. The garage was right at the front setback, they wanted to build an addition above. They were granted a special permit to be able to build that second story addition, in front of that setback, even though the garage below it was already well within that setback and that's exactly how it was written. So in order to be consistent, he added this special permit per section 1153.02 for front yard setback, same wording as the last one.

Mr. Norton advised that is how they dealt with the fact that the present footprint of the house is already in that 30 foot position. Then building anything, even on top of it, just to cover their bases, they used the special permit approach. He also noticed that the house to the east has a similar situation with their steps, where it comes out of the house goes to a little landing and then turns west and goes down another few steps because these houses don't have a full regular basement, the basement is partially out of the ground. The first floor has more steps than the average house along there.

Mr. Bruno remarked that they've also been granted a 4' variance for the stoop that exists already. So from that perspective, on the first item, another 1.6" seems like a minimal and reasonable request.

Mr. Norton remarked that he is curious about the new concrete drive, going into a new depressed garage. He inquired, of Mr. Tuck-Macalla, if there was a requirement that the retaining walls have to have heights protection in the guise of a railing or being raised up out of the ground so somebody doesn't walk off an edge?

Mr. Tuck-Macalla advised that would be dealt with on a when the plans were submitted.

Mr. Norton advised that the plan is to submit most of the rest of the front yard and there is a percentage of paving that they have to deal with.

Ms. Young remarked that is what she was wondering.

Mr. Burke commented, to Mr. Bruno's point, they're talking about 5'6" in addition to the 4' that had been previously granted.

Mr. Norton remarked that the new stoop would come out 6'6".

Mr. Burke advised that on the agenda, it shows the new stoop steps total 9'6" off the front of the house and then they take off the 4' variance that they were previously granted.

Mr. Norton remarked that he's reading 6'6".

Mr. Kelly advised that the concrete stoop itself is set to protrude from the building 6'6". There's a couple of set of curved stairs coming off of the top of that stoop. Those are what would ultimately reach another 3' past that would project around there. So that's where he thinks they're getting the 9'6", if they include the depth out to the front of those stairs.

Mr. Burke inquired if the measurements shown on the agenda are correct?

Mr. Kelly replied that it was correct. It would be an additional 5'6" as they understand it on top of the already granted 4' variance.

Mr. Tuck-Macalla advised that he is correct. That the whole front section in front of that stoop if that were paved that would that would need another variance.

Mr. Kelly replied that currently, as it stands, they're under contract to just provide the driveway area. The homeowner has expressed an interest to still try to pave a turn around there kind of like what they already have. They don't really feel that by the time retaining walls get in there that that will even be feasible. So they were going to try to cover that at another point. He had mentioned to the homeowner that they thought some special permission may be even needed, if they were to go through that much coverage on the lot with the driveway. As it stands right now, they're under contract just to do the sunken driveway down to the garage.

Mr. Norton advised that when they submit a permit for the sunken driveway they would have to take into consideration whatever protection is required based on it how deep it is, and so on.

Mr. Kelly replied that he doesn't know if their drawings accurately show railings, but they do protrude out of the ground a bit. He had figured that they would most likely, after building review, probably be required to put some sort of railing or protection across those walls for sure.

Mr. Gess replied that he's curious, how deep relative to the current garage slab, what's the change of elevation to the new garage slab?

Mr. Kelly replied that the change of elevation will go down to match the existing sunken lower level. So those levels on those homes with split levels are about 4' below grade. The garage ultimately lines up with the level below it and will be recessed about 4' below grade.

Mr. Gess confirmed that the slab is going to go down about 4'? And obviously you've got foundations below that deeper.

Mr. Kelly confirmed that was correct.

Mr. Norton replied that they would definitely need some railing type protection. At least for part of the retaining wall area. So they're not dealing with the paving in the front yard at this point. That would have to be a separate request. Some of the houses along there, because they are so tight to the street, have more paving than they're normally allowed. But this sounds what they're looking at in this drawing is paving the whole front yard - so they might want to work on modifying that thought to reduce that sum for the future. But for tonight, then they'll deal with the 5' variance for the front stoop and the special permit to allow the 30' setback for the second story of the house.

Mr. Bruno commented to Mr. Kelly, just to be clear for the record that their only concern about the driveway is just relative to the concrete that may be considered for the rest of front of the yard.

Mr. Kelly replied that they understand that and that's why they kind of wanted to see how this settles in and what they're left with after these foundation walls go in. They were envisioning a turnaround, but he don't know that that's even going to be feasible with the slope of the driveway. But you know, they are going to approach that as a separate submittal down the line.

Ms. Young inquired if the other drive is already existing?

Mr. Kelly replied that there is a U shaped drive that covers pretty much most of the front yard because there isn't much front yard there as existing.

Mr. Burke inquired if Mr. Chairman wanted two separate motions or combine?

Mr. Norton inquired what the opinion is of the board on that. The special permit is sort of a matter of housekeeping, more or less, so they could combine them?

Mr. Bruno replied that he thinks they should put them together.

Motion by Mr. Burke, **Second** by Mr. Bruno, that the property located at 31582 Lake Rd. be granted a variance and a special permit. The variance is in the amount of 5'6" from the front setback requirements, of Section 1153.02 are the codified ordinances, for a new stoop and steps as submitted. The 5'6" is in addition to the previously granted 4' variance. Secondly, the motion is for a special permit pursuant to Section 1153.02 for 30' front yard setback for the purpose of constructing a second floor addition to the house.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

3) Dino Hysenai 569 Columbia Rd.	The applicant is seeking a variance to section 1153.02 Minimum Front Building Line to build a front deck or porch. The set back on this side of Columbia Road is 50 ft. the Owner is requesting an 8 ft. Variance or 16%.
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Mr. Norton introduced the next item on the agenda as 569 Columbia Rd and advised that the board has had an opportunity to review and visit the site.

Mr. Burke remarked that when he drove up and down Columbia Road several times he noticed that he didn't see any other similar type structures outside of the setback. The setback up and down that street is pretty consistent. Although percentage wise it's not a huge percent, 16%, he has some concern about that. Especially given the design of the structure itself, which is more than simply a just steps and a stoop, it's kind of like a pergola. It's fairly substantial. He's concerned to how it would appear in connection with the other properties along the street.

Mr. Bruno replied that he would agree with those comments. Seems a little bit out of character with the setbacks as well as the character of that section of Columbia Rd.

Mr. Norton remarked that he noticed from the tracks to Wolf, at least, on both sides of the street. They have a fairly modest stoops and steps, but nothing really protruding into the setback. He guesses if it was something like a 6' depth, which is the depth they've sort of settled on, somewhere between 5-6', you can get a chair and walk in front of it so a 6' with open sides and

open top, so that it doesn't appear to be a structure, but rather just a sitting porch with open railings. It seems to be something that maybe the applicant wants to consider changing it to. One of the difficulties they've got is they need to worry about setting precedent where the ordinance says you can't build in front of a certain line. The board's job is to make exceptions only when there's something unusual. If they violate that everybody in that area is going to want the same thing and they'd have to grant them. Because once they've set a precedent, then they can't turn and play favorites.

Mr. Hysenai thanked the board for the opportunity to talk to them. Actually when he measured his steps it is like 5'10" and he wants to add 2 more feet. It's going to be a small porch with good stairs and nothing else. He will follow their rules and whatever, you know, there's nothing attached to the house. Maybe he'll be the first one to do something and he hopes maybe it's a better way. Maybe the other people like it, you know?

Mr. Adam Lindsay introduced himself as Dino Hysenai's next door neighbor. He thought, when Mr. Hysenai brought it up, that this street could actually use a little bit more character. He's been there almost 30 years and it's very plain Jane. He's not saying that Mr. Hysenai should have something really outrageous or anything, but it seemed to him, when he suggested it, he thought it would add a little character to the street. He liked the idea. He thought maybe if somebody did it, maybe others would too. A porch on the front of a house really does add some character and some personality and a little more functionality to it. That was his opinion of it when he brought it up to him and asked his opinion was. And that's his two cents.

Mr. Norton thanked Mr. Lindsey for his comments. He then inquired what the thoughts would be about something that is a porch that you can sit on, which he thinks they could settle on a 6' foot depth as being very useful in that regard, without a top so that it didn't appear as bulky or massive a structure into the setback?

Mr. Hysenai advised that he is going to agree with whatever they are going to give to him. He has no other choice.

Mr. Norton added that he hopes Mr. Hysenai understands their dilemma of setting a precedent.

Mr. Hysenai clarified that this is to make it a little bit better looking or something like that. This is not going to be a roof or anything. It's not going to be attached to the house, just to look good – that's it. That's why it's his idea. But he's gonna agree whatever you guys you know.

Mr. Bruno remarked that the Chairman's comments are starting from that 6' that he mentioned is something that the BZA has proposed to numerous other applicants in other neighborhoods in Bay, with the rationale of giving you something to be able to enjoy from a sitting perspective, as well as being able to, you know, open a doorway for consideration for that if there happens to be a doorway involved. He always appreciate the chairman's comments about our board of zoning. They're here to listen to applications for a variance from the City ordinance, the City code, and they can tinker around the edges, as they often say, and so trying to reduce that variance, anywhere closer to around a 10% range. With, consideration to 6' as a reasonable amount of space for someone to be able to stand up, take a couple of steps, etc., open a doorway, hopefully the applicant can understand and appreciate those are some of the reasons for that suggestion for you to modify your application.

Mr. Hysenai thanked Mr. Bruno for his comments. When he made use of it over here, he made you know, only two field lists, there's by myself, there are 510 all the stairs, if I go with 5', like they say, he can't even put a chair where there are two chairs. So if he does something there, you know, I can do something so I can see that sight enjoyed my house you know, but whatever rules like I said in the beginning, I ran follow them you know, the City rules. I gave everything. I had a beginning he drew it for 10' and they came down to 8'. So I did agree with that and now it's in your guys hands.

Mr. Gess commented that current stairs don't count into the setback. The house is on the setback and the stairs are allowed to protrude, since they're really not part of the structure, per se. He doesn't understand what the applicant is saying, but we really don't have any encroachment of a setback per se currently correct.

Mr. Lindsay replied that is true.

Mr. Gess went on to say that he understands that physically, there's something there. But on the record, there's nothing encroaching the setback. So they're being asked to consider the full value. And he know it looks like you're only going 2' more than the stoop. But it's also for, you know, half the front elevation of the house so that is a big jump from nothing technically to 8' encroachment across a good section of the front of the house.

Mr. Norton remarked that based on the exceptions they've made in the past, he's not sure that the board's going to be able to see their way past something like a 6' mark. Obviously, he wants to be able to come out the front door and he doesn't remember exactly the placement of the front door in relationship to this. But if you came out the front door and on to a 6' deep deck and then as you went west on the on the deck, the steps came off and pointed north. The steps would be within that 6' area so you would have a platform to come out of your front door on that was fully 6' wide and instead of the steps fitting into a notch the steps would be right to the house.

Mr. Burke remarked that the drawing, right in the center of the drawings that they received with the application appears to do exactly that as far as the steps - doesn't it?

Mr. Norton replied that it looks like there's a notch left in the northwest corner of this deck that the steps are tucked into. He inquired of Mr. Hysenai if that was his design?

Mr. Hysenai replied that yes they're going to touch the deck.

Mr. Norton continued by saying that if the steps were pulled north, so that instead of tucking them into the notch they were north of the of this new porch, then they could exit the front door comfortably and safely.

Mr. Lindsay remarked that there is a diagonal walkway from the present front steps going to the driveway and he was helping Dino with that. What they were trying to do is just get it to the point where the steps actually line up with that present diagonal walkway so that it all melts correctly. Rather than having to move any of that kind of stuff, but he thinks there was space between where the stairs were to the walkway to in the front of the porch. Seems to him that if they pulled back stairs, to the left, there would be no appreciable loss to that design.

Mr. Norton advised that if they had a variance that said you could come out 72" and go up to 192" wide with no roof railings it might enable you to get enough of what he wanted that it's going to work for you. He doesn't want to put words in his mouth, but he's trying to have some

direction as to how this might be approached. He agrees with both the applicant and Mr. Lindsey that porches are a wonderful addition to a neighborhood. We just have to make sure that we're not going so far with it that we're going to start changing the rules in a bigger way than we're sort of allowed to.

Mr. Lindsay remarked that he'd like to say one of the reasons why property values are kept high in Bay Village is exactly what you guys are doing and not allowing things to get crazy and every which way consistent. The architecture going about through the community in certain areas benefits all of us. He thinks what the board is saying right now.

Mr. Norton clarified that the applicant wants to change his request to a 72"x192" open sided, open railings, and no roof structure.

Mr. Hysenai replied in the affirmative.

The board discussed the specifics of the new proposal.

Mr. Hysenai advised he was willing to amend his request.

Mr. Lindsey sought clarification on the open roof. What Mr. Hysenai had in mind was to have vertical joists going across – would those be considered open?

Mr. Norton advised that those would not be part of it. The idea is to minimize how big of a structure this feels like.

Mr. Lindsey replied that is what he thought the board was saying, but he wanted to be sure.

Mr. Burke confirmed there is to be nothing structural above the open railings.

Motion by Mr. Burke, **Second** by Ms. Young, that the property located at 569 Columbia Rd. be granted a 6' variance from the front yard setback requirements, by ordinance section 1153.02 for production of a front porch, provided that the front porch be no larger than 72" in depth 192" in length and further provided that the railings be open and there'll be no structure above the open railings. This is per an amended application by the applicant this evening.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

Mr. Norton advised they need to submit drawings back to the building department for the modifications.

4) Denis of Oster Construction on behalf of David & Lindsey O'Neil 25111 Lake Rd.	The applicant is requesting a Special Permit per section 1121.41 to build an address marker. The total height of the marker would be 48" with a light on top the height of which is undetermined. The marker would be 5 feet in both directions from the point where the driveway meets the Right of Way.
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Mr. Norton introduced the next item on the agenda as 25111 Lake Road.

Mr. Burke inquired if Mr. Tuck-Macalla, given the distances from the driveway and the front walk and the dimensions of the marker itself, was satisfied as far as safety is concerned?

Mr. Tuck-Macalla replied that he is satisfied as far as safety is concerned. It's far enough back. If someone is coming out of that driveway, you have trees to contend with that would be even closer to the road than the marker. He doesn't see any danger there. There's a turnaround and you're always going to be coming out of that driveway head first. The reason that the height is undetermined is because of the light that's on top. So the actual height of the structure is 48" and then there's a light on top and he doesn't know how big that light is.

Mr. Bruno advised that the height of the light was the only question that he had. Otherwise, this seems very different from a recent application that they just heard in one of their last meetings. He, frankly, doesn't have any issues after inspecting the property, but he doesn't know if the board wants to provide for a limitation on the height of the light. In addition to that at 48".

Mr. Norton replied that he isn't sure if the height matters. It's going to be some light that's going to be in scale with the whole purpose of it. It's not going to add any visual situation as far as safety on the sidewalk and toddlers.

Motion by Mr. Bruno, **Second** by Mr. Burke, to grant the property at 25111 Lake Rd a special permit per codified ordinance section 1121.41. To build an address marker not to exceed a height of 48" per the drawings as prepared and submitted.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

5) Old World Classics Construction on behalf of Ryan and Jaine Little 24744 Lake Rd.	The applicant seeking a variance to Section 1153.04 Minimum Rear Yards the request is for 15 ft.
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Mr. Norton introduced the next item on the agenda as 24722 Lake Rd and advised that the note Mr. Tuck-Macalla sent the board stated that this lot was a split lot that went to the Planning Commission. Mr. Tuck-Macalla indicated on his notes, that the setbacks were required to be maintained with the existing house and garage.

Mr. Tuck-Macalla replied that he is correct. The existing lot had to be split relative to the existing house which was going to remain so they had to maintain setbacks from the new lot line to the garage to the old garage to the old house. Because of that - the lot is a little odd shaped in the back. So therefore trying to find that line where the end of the rear yard was a little bit challenging. To kind of go through my map on that he used the square footage that would be required for a lot in an R1 district and measured from the front Right-of-Way to the back. He has worked with the former owners of this lot, the Zimmerman's, for over six months in order to

get these lots the way that they are. The drawing that they have in their packet shows just a small corner that requires a variance.

Mr. Norton inquired if this was the old Salmon lot?

Mr. Tuck-Macalla replied in the negative and advised that this is right on the corner of Rockledge adjacent to the Salmon lot.

Mr. Barry advised that he owns 303 Rockledge that used to be the Zimmerman's home. Debbie Diamond owns the adjacent lot which used to be the Salmon Lot. He advised that they were not made aware, at all, of the meeting. They just found out 10 minutes prior to the meeting.

Mr. Tuck-Macalla advised that everyone was set a letter.

Mr. Barry and Ms. Diamond both confirmed they did not receive notification.

Mr. Tuck-Macalla advised that the way the mail has been going that they may be delayed. There was a big issue with the sewer bills. The way that the mail has been going lately you may receive notification two weeks from now.

Mr. Norton sought clarification of the property layouts and inquired who the property split.

Mr. Barry confirmed that the Zimmerman's did the split prior to them purchasing the home. Someone purchased the lot prior to the Little's and then sold it to them.

Ms. Diamond confirmed that she is the owner of the land to the East of the property in question which they bought from the Salmons. She advised she's operating blind because she just found out about this meeting.

Mr. Norton advised that what the board is looking at is a house that comes off of Rockledge with the driveway rather than off of the driveway is not off of Lake Road, in what is proposed. As you know, it's a modest size structure as far as the house is concerned and one corner of it is in what technically can be interpreted as the real yard setback, although that's difficult to come up with that dimension.

Mr. Eggeman proceeded to share his screen so they can see what they have.

Mr. Norton remarked that if you look at the where it says two car garage. And then that two car garage is joined with an outline of a house and in the middle of that outline it says parcel B. In the upper right hand corner is a dashed line. The way the rear setback has been calculated, that little corner of the house would be in that setback. And so tonight, the applicant is requesting a variance to allow that corner to be built into the setback. If you follow the setback dotted line around, it's a very unusual shape, obviously, because of the way the front and rear lines of the property are on an angle and the rear line has a substantial offset to it. That got them to 14,700 square feet in order to build in this zone. What was the nature of the Planning Commission meeting and they're putting in the comment or requirement to maintain the existing setbacks?

Mr. Tuck Macalla replied that was so that this lot could be created without causing any zoning issues, that's part of the part of their purview is that this lot does not cause any zoning anomalies. So they had to stay a certain a certain distance from the garage to the north. Now, he thinks that was the biggest issue was that garage to the north. They had talked to the Zimmerman's about

maybe demolishing that garage in order to make the line a little bit more rectangular, but they really wanted to keep the garage in the house as it was. That's how it was worked out.

Mr. Norton inquired if that's a requirement of the Planning Commission would BZA be allowed to override?

Mr. Tuck-Macalla replied in the affirmative. This is a separate situation. What the Planning Commission was doing was preserving the setbacks on the other lot on the lot to the north.

Mr. Bruno remarked that with this information being offered, and knowing the Salmon lot and the nature the size of that lot. Is this corner sort of sticks over the setback? He doesn't see much of an issue, quite frankly, based on the peculiar nature of this lot. That's one of the first hardships that they consider with any application. And, you know, knowing that the Salmon lot to the east is sizable. When we consider future, since the variance lives with the property and when we consider in the future possibility of that lot of the east. He can't imagine that from an access perspective for any type of construction equipment, safety, etc. It seems to him that this would be a relatively reasonable variance because of the unusual nature. The lot that were configuration size and positioning relative to Lake Road and Rockledge and the other lots.

Mr. Burke remarked that he would concur with that.

Mr. Norton remarked that it seems to be a very small ask and he can't see it affecting any other property. They have the full setback on the side yard. In what is left from the lot split the footprint allowed is a very unusual footprint.

Mr. Barry inquired if he could ask a question. He advised that footprint of the lot was like this when purchased. So the owners knew when they bought that lot, what the size a lot was going to be. So for us as neighbors to have to assume the responsibility that they need to be breaking the variance to be closer to us, it seems a little bit unnecessary to us. As a question, can we talk through what is actually being considered? It appears a deck of some sort or a porch is being built on that north east corner that would break what would be a 15 foot variance down to a 10 foot variance. And then also the house itself being closer to the Diamond lot under a 15 foot variance. Is that what's being considered here?

Mr. Norton replied in the negative. He advised that he thinks he's on the other end. The part of the house that is next to Deborah and Stephen Diamond's lot, which we're referring to this as the old Salmon lot, and he apologized for doing that Deborah & Stephen, but they've been there for many, many years, and were well known. So you'll probably have people referring to what you're probably calling your lot as a as a Salmon lot for a while.

Ms. Diamond advised that they're familiar with the little acre.

Mr. Norton went on to say that the proposed house is 10.6' and it's required to be a minimum of 10 feet. So it is within the allowable footprint along that eastern border of the proposed house.

Mr. Barry further inquired about the setback for the backyard - were there requirements there?

Mr. Norton advised that the setback for the backyard is for 25% but not to exceed 50'. But the difficulty with this is that you don't know because it's a sliding dimension of what the depth of the lot is, as it changes as you're going down through this staggered line of the backyard. When the Zimmerman's sold that, and were given permission to have it as a separate lot, they carved it

up in order to preserve the present Zimmerman house and they made that line look parallel to the side of the Zimmerman house. And that's why it's on an angle for the backyard setback.

Mr. Bruno remarked that it is also parallel to Rockledge as well.

Mr. Gess inquired if the person sharing their screen could circle or kind of move your mouse around the area that's in question. It would be the Northwest corner of the proposed house that violates the setback? A little bit.

Mr. Barry inquired what does the rule dictates that it should be.

Ms. Young commented that if he looks where his current garage is. There's some verbiage there that says setback from Lake Road existing and then proposed.

Mr. Tuck-Macalla advised that dotted line is the rear yard setback. And the proposed setback is here. The second dotted line. So it only affects this little corner on the house. So in reality, this house could have continued all the way back into this area here.

Mr. Gess inquired of the builder and applicant. He remarks that he agrees with Mr. Bruno and kind of in the big picture this ask isn't that unusual in a sense, and there certainly, definitely some uniqueness to the property. That said, there were existing conditions known at the time of purchase and this is kind of a blank slate. My question is, he's been contemplated to just rotate the design, 5-10 degrees to make the structure parallel to Lake, so you're not, you know, fighting the orientation of the house relative to the setbacks and kind of following parallel to Lake and reorient and redesign the mass of the house that the garage would still fit within the setback areas in the garage area. Then the house, the structure, the main body of the house, it might be a little long and more rectangular, instead of square, but he certainly see there's a ton of area within the permitted setback that's not being used. He's suggesting there's a probably a creative way that this house could be built without needing a variance.

Mr. Bruno replied that one of the things he thought about that, to his point, is if you look at the northeast corner of the footprint of the proposed house, you start rotating that northeast corner, South and the northwest corner of the drive house towards the Northwest and north. It looks like that northeast corner is going to start encroaching upon the East property line. So he thinks they tried to accommodate.

Mr. Gess replied that he's right it would.

Mr. Barry inquired why can't they just build a house that fits within well, that that structure.

Mr. Gess replied that is essentially his question. If they just rotated the square, that would start to violate the East setback, but he thinks the builder could be challenged to come up with a different floor plan. That's not a square house, but a long linear rectangular house and fit within the setback. And then they wouldn't need a variance, which is always the preference. Especially in this case, where it's a blank slate, knowing that the homeowner or a property purchaser would be getting into. He just thinks that they own a little bit more of the onus and the responsibility, because it's existing condition known at the time of purchase. That's where he's struggling.

Mr. Miller remarked that he agrees with Mr. Gess. This is a very open blank slate. He thinks, any designer, you've got a number of examples that are, let's say, closer to the center of Bay, near Dover Center Rd., where they have they have manipulated the footprint, and still had great

accommodations. He thinks they've got a lot of area to work with, than having a deeper main home, he doesn't think is unreasonable to stay within those setbacks.

Mr. Eggeman introduced himself as both the builder and designer so he can answer some of their questions. When they first looked at this, he had the exact same comments Mr. Gess brought up, particularly with the orientation, because traditionally you see them parallel to the road to Lake Road. However, if you, if you look at all the houses there, they are all oriented this way. So we designed it, we want to keep the fabric of the neighborhood and make it consistent. So that's why it's oriented in this manner. They could parallel it up and elongate it to make take up that space a lot, but then you're kind of changing the fabric of what's on Lake Road there. There's a little corner of the house they're talking about, about 105 sq. ft., it is .07% or .7% of the lot. So it's very, very, very small area, sort of in the whole lot space. When you look at the neighbor's house in the back, and we were talking about a setback from a garage, so we're not talking about the setback of their house, if we elongate this house and take up that space, it's going to be closer to the backyard, this owners backyards would be closer there. So this mean we're encroaching is a very small piece next to this garage. He thinks it makes more sense for the variance for everybody. It's so small. He knows the 15' sounds like a big variance, but when you look at the little small piece that it actually is, it's not a big ask and it makes more sense than trying to force an odd shaped house that is not going to look as good and right with the neighborhood as this one does. And it doesn't give you as much distance in the backyards and space.

Mr. Bruno remarked that there is a driveway consideration as well, too. You're also taking the drive onto Rockledge, as opposed to Lake Road. From an ease of access, preference, little bit easier to get in and out a little bit safer to get in and out of the property with your vehicle.

Mr. Norton stated that it appears that the house on Rockledge, to the north of this rear property line, is on a similar angle to what the rear property line is. The old Zimmerman garage and the old Zimmerman house seems like they're not perpendicular to Rockledge, either. Coming in off of Rockledge, the permitted footprint is on an angle. And so that would match the same angle as the other structures along the street, at least the two that we can see the garage in the in the old house on Rockledge are on the same angle. He's torn, but he appreciates colleagues' comments that you've got a blank slate and with some design work you can get all the square foot that you need on the permitted footprint. He's also concerned that the Planning Commission could have turned this lot split down and they didn't, but they put in the caveat that they setbacks were to be maintained. He's a little uncomfortable with going against what the Planning Commission allowed when there is a solution to reorient the new home and redesigning it in such a way that you got everything you want in the home and all the square feet that you want in the home without needing a variance. But he has to admit that he's sort of up in the air on this. He inquired if the applicant wants to take it back to the drawing board and see if there's a another solution that, meets all of your wishes that maybe doesn't need a variance? Because they can always put this same request on a future agenda. One of the difficulties is once if something is proposed, and a motion is made, and if it's turned down, then you can come back to the board and ask another question, but it has to be substantially different. It can't be just what we took a foot off here and basically can we ask the same question. And so rather than maybe, deal with that at tonight's meeting, perhaps to put it on to a future agenda after you've had some chance to digest this.

Mr. Burke remarked that possibly they might not even have to seek a variance if that's done. Certainly given the number of the members of the board that question the necessity of this variance given that it's a clean slate at this point as far as designing the structure, it would seem to him it would be prudent for the applicant and architect/builder to take another look at this and, and see if that variance really is something that's absolutely needed. Because it doesn't seem that a refusal by the board would deprive the owner of property rights, which is one of the things we have to look at and it would seem to him a prudent thing to do

Mr. Bruno remarked that they typically ask other property owners as well, that are going to be putting in new construction on a lot. So just to know that from a precedent standpoint. The board members comments are well taken because when you're looking at new construction he's usually on that side. He wants to do prefer to take the other alternative, so that they could have some good discussion about this, because of the uniqueness of the lot and the fact that the Planning Commission weighed in on this lot, instead of leaving it up to the Board of Zoning to determine what would be prudent within the setbacks.

Mr. Little advised that, as new owners, they want to do the right thing for the Bay Village and they did do a lot of due diligence with Old World Classics. Even before they bought the property, they actually contacted them and did a lot of different iterations of what the home could look like. This is what they kind of felt fit best on the property. It was kind of really hard, if it's something they wanted, on there with the exact dimensions. It's pretty small, in his opinion. He thinks that Mr. Eggeman made a really good point. They could build all the way to the backyard, but in his opinion, that's a really, that would interfere with our neighbors a lot more. They could put their living room all the way back and we could see into their house. He sees that this variance would be much better for them than us building all the way back there, he'd rather give them more space and not interfere with their property. Along the same lines, they want it to look good in Bay Village and the exterior that they picked they think it fits really well into the City and he thinks this house going to look phenomenal. Just thinking about what Mr. Eggeman said, they looked at all the houses that line up on Lake and they came up with an angle that fits in exactly what the community and that's kind of our argument with is that picked something that they thought would fit in look nice and be good to our neighbors at all. He honestly doesn't think they're really interfering much at all.

Ms. Little remarked that they've explored options. This was not just a quick decision, they've played with it as much as they can rotating and they presented this not wanting to project into that backyard right up on our neighbors.

Mr. Norton inquired if there were any other comments from the board or the neighbors?

Mr. Barry replied that he had nothing.

Mr. Norton replied that they can go ahead and make a motion.

Ms. Young advised that she has one more thing, just looking at the lot lines again, and where the back yard setback is. As far back as they could build with only barely touch into the neighbor's garage area. Not as far back as their house.

Mr. Norton confirmed that was correct and advised that without seeing the house plans. And they aren't here to play designer architect. That's not their function at all. But without, you know, knowing how the house is, is planned currently with a room layout and so on. It just doesn't seem

to him like that, that would be difficult to get the same square footage of the house and stay within the allowed footprint,

Ms. Young remarked that maybe just that little bump out on the east side that were rearranged.

Mr. Norton agreed and went to say that on the north side could be extended down into that permitted footprint, but it's up to the applicant. They can propose this tonight and vote on it. And the only caveat is if it doesn't make it, then there has to be some reasonable change.

Mr. Eggeman advised that they could still fit the square footage on a lot, correct. They could make a house fit any way, but that doesn't mean that it's right or that it's going to appraise for the same value. So make it an odd shaped house a lot does deprive them of value and that house and that's taking something away from them. So the variance is warranted and it's not a large variance. It's a minor variance. It's like he said, it's only .7% of the lot. It sounds like 15', but it is not 15' in a straight line. He doesn't know if they could propose it in a way that it wouldn't be 15', is just that little chunk. It's only 105 sq. ft. It's kind of funny to write a variance in that way, but it's a really, really small area. So they're not asking for a large variance it is not substantial. He knows that's one of the other requirements that is not a substantial variance. It doesn't harm the neighbors. He think there's a lot of good reasons for this variance and he thinks it's worse to not get the variance to get it. Yes, they can design another house, but that's not the best decision for the neighbors or for the board to make.

Mr. Gess remarked that sometimes they often make a motion that's tied to kind of as the plans are submitted and presented, but his concern and while the variance is minor, this is a variance that lives with the property and not necessarily just Mr. and Mrs. Little. To the extent that they have no plans to build further, what would prevent someone if a variance was granted say this 15' variance from the next owner is putting an addition across that whole backside within the adjusted setback. That's the concern that this variance is with the property, even though maybe the current applicant doesn't have any intention, but that would be a concern and consideration as well. But that opens up potential opportunities that may be further detrimental to adjacent property.

Mr. Burke responded that they have, on occasion, limited variance to a specific section as shown on the drawings and not permitted it to be extended for the whole length of the setback line.

Mr. Bruno agreed advising 'as prepared as submitted'.

Mr. Barry remarked that he can speak from experience with the Salmon Lot. That exact same thing happened that Mr. Gess mentioned where the variance granted, and over time, they built an entire patio that now cross into their yard. Luckily, they're on good terms with the Diamonds, and they were able to reconcile that variance that was granted who knows how long ago to the right side of their property. Which they say 'on its only 15' here and there', but it adds up and it makes a big difference. He thinks Mr. Gess makes a good point that this is not just for the current owners, it's for the future owners as well. So once you give you give an inch a mile is taken.

Ms. Diamond advised that she would agree with Mr. Barry because they are planning on remediating that variance that sits on your property so that they make it whole for you. So yes, she agrees.

Mr. Eggeman inquired if they could limit this variance to just the small section on the plan just as proposed? It's not a not a 15' variance the so they could never build on past this corner of the house.

Mr. Burke remarked that no matter what their discussion has been for the last half an hour that would have been the nature of the resolution anyhow.

Andrew clarified that it wouldn't have given them the ability to build something in the other 15'.

Mr. Bruno advised that would be consistent with his comments at the beginning.

Ms. Young advised that wishes to clarify for her own purposes. They're going to submit this as 'as proposed' and just for that one northwest corner of the proposed home and not a full 15' variance going straight down to Rockledge. Is that right?

Mr. Bruno and Mr. Burke replied that would be their understanding as well.

Ms. Young remarked that she didn't realize they could do it that way. She thought that one they granted it a variance it ran the line.

Mr. Burke replied that on a number of occasions they've limited to a specific part of the area.

Mr. Bruno added that knowing the nature of Lake Road homes, and the amount of, variances and accommodations, up and down the north side of the street, less so on the south side of the street, of the road. This seems like, again, to my earlier comments, a minor accommodation with proper provisions.

Ms. Diamond advised that she was pulled into this at the 11th hour, but she's not familiar with the process and how the notification goes and what the next steps are. But it would seem reasonable to me, and she's not sure where this lands, if you take a vote at this point, and then move forward. Or maybe you could clarify that for me. So I'm understanding where we're at.

Mr. Norton inquired if she has an understanding now of what their request is?

Ms. Diamond replied that she doesn't because she's still in her car. She would like to take a step back since they didn't receive any notification until, 30 minutes ago, via a share from someone else that they would have the opportunity to at least have visibility into what the proposed variance is. Because at this point, she's just shooting in the dark. She can't even say yea or nay. Because she doesn't have a fact base to submit a response on, if that makes sense.

Mr. Bruno replied that he thinks that's very fair if that is the case.

Mr. Saurman replied that he hate to see a challenge to whatever they do here, because proper notice wasn't received by the Diamonds or the Barrys.

Mr. Norton replied that he believes that technically, they're on solid ground in that we're obligated to send notification and he has no reason to believe that they didn't, but because of our experience with the post system. It's entirely possible that, you know, it'll show up next week. It doesn't sound like it's going to be the end of the world for the applicant, if this is delayed to for two weeks to our next meeting. And that would give you folks, the neighbors have a chance to see the plan, not just on the zoom, but in in hardcopy. It would also give the applicants more time to think about the comments from tonight. He would proposed they put this off for two weeks,

and give everything a chance to catch up. From his standpoint, he'd like to visit the lot again because he had some confusion when he was out there as to exactly what I was looking at. It's sort of a mess. Because there's no markings on the ground.

Mr. Eggeman inquired if it would help if they staked it out?

Mr. Norton replied that yes, if they had some indication of where this footprint was in relationship to Rockledge and in relationship to the old properties, or the old structures on the Zimmerman property that would help the board understand better what they're dealing with.

Ms. Diamond advised that they've already had the property surveyed. So they have stakes in the ground and they will have those readily available.

Ms. Young inquired if copies could be made for the Diamonds and the Berry's to pick up at City Hall?

Ms. Schuller advised she can have them ready tomorrow.

Mr. Norton advised that they can take three or four days to get mistakes in it. So they'll go out the following week. He thinks the members would like to take another view of the property under those circumstances.

Ms. Eggeman sought clarification that they're not talking about not next week, but the following Monday.

Mr. Norton replied that they can make their visit the Monday the week of the meeting.

Motion by Mr. Burke, **Second** by Mr. Bruno, that the application for variance of the property 24744 Lake Road be continued is tabled until the next meeting, to provide sufficient time for the neighbors to view the proposal and also to give some time to the applicant and their architect to consider whether or not they want to adjust the drawings in light of what's been discussed this evening.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

There being no further business to discuss the meeting adjourned at 9:22 p.m.

Jack Norton, Chairman

Lauren Oley, Secretary