

Meeting Minutes of  
Board of Zoning Appeals  
Held June 18, 2020

Members Present: Gess, Miller, Burke, Young and Bruno

Excused: Tyo and Norton

Also Present: Eric Tuck-Macalla (Building Director)

Audience: Residents signed in through Zoom technology.

*\*Full recording of the meeting is permanently available on the City of Bay Village website under City Government/Board of Zoning Appeals.*

Mr. Burke called the meeting to order at 7:30 p.m.

Mr. Burke explained that the Board of Zoning appeals is constituted of seven members and only five were in attendance, which is enough for a quorum. There is a requirement that you have to have a majority in agreement. But you have to have the majority of the seven members that are constituted. Which means, because they were shy two members, the odds changed. As the case was discussed if the applicant was uncomfortable with the fact that the odds changed and made it more difficult for an applicant to receive a variance under this condition, there was no penalty at all to request that you be put on the next agenda.

Mr. Burke introduced the first item on the agenda, the approval of the minutes that were held June 4, 2020.

**Motion** by Mr. Bruno, **second** by Ms. Young to approve the minutes of the meeting held June 4, 2020 as prepared and distributed.

**Motion passed 5-0.**

Jocelyn Rojeck  
30334 Manhasset Drive

The applicant is requesting a variance per  
C.O. 1359.01 of 3' to install an AC  
condenser

Mr. Burke discussed the second agenda item and explained that the Board has had an opportunity visit the site and review the application.

Ms. Rojeck explained that currently the exiting unit is in the middle of the back patio and they hoped to move it to have more space. The neighbor's unit is out on the other side underneath their bedroom window and they have never heard it. She believed that it should not be any trouble with the neighbors but was open to advice. She is new to Bay Village and the process.

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Mr. Burke explained that their neighbor, Alistair Bailey, had submitted an email to the Building Department. (As written below)

*Hi Kateri*

*We will not be able to attend the appeals meeting this Thursday but wanted to submit our feedback per Jocelyn Rojeck's request for AC variance.*

*We do not have any major issues with this request as long as AC unit is fairly quiet. We have two bedrooms on that side of the house and obviously would not want it to be a disruption.*

*Regards*

*Alistair Bailey*

*30324 Manhasset dr*

*Bay Village, OH 44140*

Mr. Burke asked if there was discussion.

Mr. Bruno pointed out that per the application, the decibel rating of the unit is 72 and stated that it is relatively quiet compared to other ratings that the Board sees. He asked Ms. Rojeck if her unit was equipped with a sound blanket as manufactured.

Ms. Rojeck said she would have to ask the installers as she was not sure.

Mr. Bruno explained that if a variance was granted the Board would require that one be installed if not done so already.

Mr. Bruno asked about the positioning of the unit per the drawing in the application. Based on how their house is situated, he clarified that the unit would be facing the neighbor to the south east. He asked if she knew how far it was from her north east corner of the home as it is positioned towards the street.

Ms. Rojeck said it would be around 15'-20' from her north east corner. She explained that there is some flexibility in the literal spot. There are some plants in the location currently but she would be happy to move the unit if there is a particular range the Board was interested in.

Mr. Bruno explained that they do appreciate the plants are in proximity. Another thing the Board typically requires is year round screening such as fencing or greenery to put around the unit. He is not as worried about the sound to the neighbor's home but more concerned with the position toward the street. The Board would like it more towards the back corner of their yard. They are required by the Code to have it positioned in the rear yard. He asked if the contractor had given her a measurement as to where it is going to be placed.

Ms. Rojeck stated that he placed it in the middle because it was already between all the current plants. The further back they were to place it, the closer it would be to the neighbor's master bedroom window. The current placement is across from the garage. She does not have a strong preference as to where the unit is located and looked to the Board for guidance on the best spot.

Mr. Bruno stated that he prefers that it would be located across from the garage and not too close to the street.

Mr. Miller explained that the neighbors have two bedrooms on that side of the home.

Mr. Burke asked if there was further discussion or a motion.

**Motion** by Mr. Bruno, **second** by Mr. Miller that the application at 30334 Manhasset be granted a variance per C.O. 1359.01 of an additional 3' from the side yard setback requirement to install the air conditioning condenser per the application and drawing as prepared and submitted provided that a sound blanket be installed with the condenser and that there be year round screening with either decorative fencing or vegetation.

**Roll Call Vote:**

**Yeas – Burke, Gess, Young, Miller, Bruno**

**Nays-**

**Motion Passed-5-0**

Anita Ripepi  
445 Canterbury Road

The applicant is requesting a variance per C.O. 1163.01 for an additional 40' of 6' fencing for a total of 72'.

Mr. Burke discussed the third agenda item and explained that the Board has had an opportunity visit the site and review the application.

Mr. Burke discussed the function of the Board of Zoning Appeals. He explained that City Council sets the ordinances and various requirements. The BZA is permitted to grant variances that are just tweaking around the edges and not major changes. The BZA is not allowed to legislate. The larger percentage over and above what is permitted makes it more and more difficult for the BZA. Over the years, City Council has stuck to the rules as far as 32' maximum in any one direction as well as a maximum of 10% of the perimeter of the property. The idea being that the community is trying to avoid the situation of backyards becoming corrals. Last year there was considerable discussion within the City of changing the fencing ordinance but ultimately it was left the same by City Council.

Mr. Burke asked Ms. Ripepi to give a brief overview of what variance she is seeking and why.

Ms. Ripepi explained that she is seeking a variance for privacy screening in the north side of her back property in the east corner. She wants to secure her black lab. She then toured her back yard for the Board to see where and what exactly she was requesting via video. She explained that all along the north side of her back property, she would like to have as a 6' fence for privacy. She explained that from the corner of her house it is going to be a chain link fence. (At this point the video started to break up as she was explaining.) She would like it to look uniform and even. She has updated her property and would like to concentrate on the outside because Bay Village is a

beautiful City. She plans to put up a wood fence to help it blend in. She is hoping to finish it on the north side of her back property. She feels that if you stop the fencing where the neighbor's garage is, it will not look as nice.

Mr. Bruno explained that the Board typically tries to stay within the spirit of the Code much like Mr. Burke had explained previously. He suggested that she may want to consider year round ever green as an alternative. He explained that it could provide privacy and help to accentuate the yard and the aesthetic she is going for. He asked if she had considered that with the allowable amount and the configuration of her yard.

Ms. Ripepi explained that her main priority is to secure her dog. If she were to put up a chain link fence with ever greens, the trees would be coming in the yard another 5'-7' and take up more of her yard. She would be losing real estate and is why she was thinking of having a privacy fence in that area. She does not want to box it in and if she is not allowed to finish it in that area it will look as if she ran out of money.

Mr. Burke pointed out that one of the things as Board has to look at and find is whether or not the property is somehow unique to such a degree that it would allow something to be changed from the Code. Ms. Ripepi's property is not all that unique and similar to many other properties in Bay Village.

Ms. Ripepi gave another view of her backyard via video. She discussed her neighbor's pole barn. She wondered how it was allowed within the City. Her neighbors were never notified that it was going up. She wondered what the difference was between that and a 6' fence. She is just hoping to cover it up. (Her video started breaking up again. She then got closer to her house.)

Mr. Miller explained that the neighbor's structure she pointed out would have a limitation in size within the City. (18' tall) It is hard to compare your neighbor to the norths garage which is very short with the other neighbor's garage. The other neighbor took advantage of the 18' limitation and does dwarf the things around it.

Ms. Ripepi showed her new garage versus her neighbor's garage.

Mr. Miller explained that unfortunately the neighbor's garage is not for the Board to arbitrate as part of Ms. Ripepi's application.

Ms. Ripepi stated that she just wants some privacy.

Mr. Miller said he understood and explained that you can see a lot of homes in Bay Village that are similar to her property. You have to have the collegiality of putting up blinds and closing them when you should. But again, ever green foliage and things like that may block the view of the pole barn. To the matter of the fence length, something she might consider is that she transition her fencing from 6' to 4' with a gradual panel that descends or steps down.

Ms. Ripepi asked if she would be able to at least go to the end of her neighbor's garage and then gradual go down to the corner where the pole barn is located.

Mr. Burke said that the Board would need to know the exact amount of feet it would be before it would be considered. He suggested that her application be tabled so she could resubmit a revised drawing based on the conversation that was had.

Ms. Ripepi said she would like to get it done.

Mr. Miller explained that it would be very unusual for the Board to grant a variance as big as she requested.

Ms. Ripepi discussed panel sizes. (8' long) She asked if she could do two more panels so she could cover to the end of the garage and then she will put up what she is allowed. (4'4") She will also invest in more landscaping.

Mr. Burke clarified that she is asking for an additional 16' over and beyond the 32' permissible.

Mr. Burke explained that it would be a 50% variance, which is quite high.

Mr. Bruno explained that typically the Board allows applicants to have transition panels that gradually taper down to 4'4" from the 6' to give additional privacy at either end of the 32' run that would be allowed. That is about the most the Board would provide given her lot situation.

Mr. Miller stated that the distance for the slope is an 8' panel.

Ms. Ripepi clarified that she can put another 8' panel onto but the panel has to be cut down to 4'4".

Ms. Ripepi asked if she would be allowed one more full 8' panel beyond that and then an additional 8' transition panel on her property that she has purchased and pays taxes on.

Mr. Gess explained that she has a very typical property and the request is based solely on a use. The Board really needs to find something unique with the property that would cause a hardship where by the ordinance did not seem to be fairly applied to the specific lot and this process is the avenue to grant relief. He said that this is the most the Board has typically entertained or felt comfortable with and it is not within their authorization to dramatically change the ordinances within Bay Village. As such, the most comfortable the Board has felt is to grant a slight increase through the tapered panels to provide the privacy and give a better line sight architecturally and visually. He reiterated that the variance lives with the property and not the owner and is why these things are taken seriously. The Board does not grant variances for a particular use. The variance stays with the property into perpetuity.

Ms. Ripepi stated that being in real estate, if she were to take a client in a backyard and they saw a 6' fence that all of the sudden just gradually within 8' goes down to 4'4" they would wonder what happened with the rest of the fence. She asked if she could just have one more panel.

Mr. Bruno explained that he had acquired a home with that same situation and there was no tapering. There was a 32' run and then a drastic drop to 4'4". He explained that the Code is what

it is and the Board is willing to accommodate it and work within what is fair to all the other citizens that have similar properties in town.

Ms. Ripepi said she understood and that she has done it all the right way. She has submitted her application, paid \$50 and she just wants one more 8' panel and it will not be cutting off half of her property.

Ms. Young pointed out examples of properties that have a similar situation to what the Board is suggesting for Ms. Ripepi. They do not have a straight line from 6' to 4'. There are different styles of the step down.

Ms. Ripepi understood she could not have her requested amount but was hoping to have one more 8' panel. So instead of 32' it would be 40' of a 6' privacy fence with the gradual step down. She asked if the Board could vote on that.

Mr. Burke clarified that she is asking to change her application so that instead of 65' of 6' privacy screening along the north lot line would now be 40' of 6' and one step down panel of 8'.

Ms. Ripepi agreed.

Mr. Burke asked if she was amending her application.

Ms. Ripepi said yes.

Mr. Burke said the Board could vote on granting a variance of 40' of 6' plus the step 8' panel. The Board would also have to grant a variance from the perimeter requirements. Under the current Code she would be limited to 35.6' maximum of 6' fence. Two variances would be required. He explained could vote on the amended application tonight and 4/5 members or it could be continued. He asked what she would like them to do.

Ms. Ripepi stated that she is on a time line of getting things done. She is just asking for one more panel.

Mr. Gess discussed the drawing in the application, specifically the front left of the drawing. He clarified the rest of the fence line would be at 4'4". They are only talking about the neighboring property line that would be at the 6'.

Ms. Ripepi agreed.

Mr. Burke said that the additional 7' would have to be considered when discussing the perimeter requirements of the property.

Mr. Gess just wanted to double check that she did not intend to continue the 6' fencing along the north west corner back to the house with the front section.

Mr. Burke stated that he was right and it would have to be considered in the perimeter of a variance.

Ms. Ripepi showed her property line.

Mr. Gess asked if any other part of the fence was proposed to be 6'.

Ms. Ripepi explained the 6' fencing is right long the property line to half of the garage and then she would take it down to a 4'4" fence. She could always put up some shrubs to cover up the pole barn.

Mr. Burke discussed the section of fencing with the gate. He asked if that portion was proposed to be 6' fencing.

Ms. Ripepi said that it does not have to be.

Mr. Burke said that per the drawing it shows the gate at 4' and then 3' run to the left of the gate.

Ms. Young said that she thought the width was 4'.

Ms. Ripepi agreed and said that she was going to have it be 6' fencing there but it does not have to be. It could be 4'4".

Mr. Gess explained that the reason it matters is in calculation and determining the overall. In theory this will be in excess of the 10% limitation as well. It potentially makes the variance an additional 7'.

Ms. Ripepi clarified that she could have a 4'4" fence where the gate is and then have the 6' down the side.

Mr. Miller suggested that the gate and section of 3' fencing be the 4'4" and as you turn the corner she could start a transition panel from 4'-6' and then have a run of 32' of 6' fence and then another 8' transition piece. It would give her a slightly longer 6' area in the fact that it has been moved down 8'. It would kind of be like giving her an extra 8' panel. He explained that they have had applications where the 6' fencing is centered within the overall length with transition pieces. He asked if Ms. Ripepi would consider that.

Ms. Ripepi asked if she was allowed to put up a fence that had lattice along the top 18" along the whole side of the house. It would be a 5' fence with an additional 18". She asked if that would be considered a 6' privacy screen.

Mr. Tuck-Macalla stated that would still be considered a 6' fence.

Ms. Ripepi asked if she would be allowed to put up a 5' fence along her property.

Mr. Tuck-Macalla stated that the ordinance is for 4'4". She would still need a variance.

Ms. Ripepi stated that she would like to have a variance for 40' 6' fence with an additional panel. The rest of the fencing she will have to figure out what to do with the angle and get something that would match the fence that she is going to put up.

Mr. Burke said that if there is a motion on the amended request for a variance, the motion should include both the variance for the length of the privacy fence as well as the perimeter variance.

Mr. Bruno added that the variance would be 5' from the 10% of the entire perimeter requirement.

Mr. Bruno asked Mr. Tuck-Macalla what the perimeter of the property was.

Mr. Tuck-Macalla explained that the perimeter is 35.6'.

Mr. Bruno clarified that the perimeter requirement was 35.6' and she is requesting a run of 40', they are looking at 4.6' variance.

Ms. Young pointed out that she is also looking for an additional sloped down panel.

Mr. Bruno explained that it would be a just over a 14% variance without the transition panels. He mentioned that it is a pretty sizable variance from his perspective. Without the transition panels he might consider it but opened up to the other Board members for further discussion.

Mr. Miller said that there is potential for a nice style. If she is considering the lattice style and she goes from a 4' to a 6' and across the 6' there is the lattice, architecturally and aesthetically it will be appealing without transition panels.

Mr. Bruno concurred.

Ms. Ripepi agreed and she would probably go with that type of fence if she has to go with the gradual slope down. She asked if she was allowed to do that.

Mr. Tuck-Macalla said that a fence with lattice is still considered a 6' fence.

Ms. Ripepi clarified her proposed fencing request and asked if she could have one more panel and then do the gradual step down. It will visually look prettier.

Mr. Burke explained that when the Board does grant a variance, the Board has to then look at that as precedent if another similar requests comes before the Board. They have to be careful on what the Board grants.

Ms. Ripepi said that she does not want other property owners to get on the Board's case so she would leave it at 32' and then gradually go down.

Mr. Burke asked if there was a motion.

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Mr. Bruno clarified for the applicant that with the motion the Board would include a variance for the transition panel since technically it would be out of compliance beyond the allowable 32' run.

Ms. Ripepi clarified she can have 32' of 6' privacy fence and an additional panel that will gradual go down to 4'4".

Mr. Burke clarified that the variance would be for the transition panel and the variance on the perimeter.

**Motion** by Mr. Bruno, **second** by Mr. Young that the application at 445 Canterbury Road be granted a variance per C.O. 1163.01 for an additional 8' of transition fence gradually sloping from 6' to 4' within that 8' and an additional 4.6' of variance for the 10% yard perimeter requirement.

**Roll Call Vote:**

**Yeas – Burke, Gess, Young, Miller, Bruno**

**Nays-**

**Motion Passed-5-0**

**There being no further business to discuss the meeting adjourned at 9:09 p.m.**

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Terry Burke

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Kateri Vincent, Secretary