

Meeting Minutes of
Board of Zoning Appeals
Held July 2, 2020

Members Present: Gess, Miller, Burke, Bruno, Norton and Saurman

Excused: Young

Also Present: Eric Tuck-Macalla (Building Director)

Audience: Stephen Schill

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

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

Mr. Norton formally welcomed Mr. Saurman as the newest member of the Board of Zoning Appeals.

Mr. Norton introduced the first item on the agenda, the approval of the minutes that were held June 18, 2020. He pointed out a few clerical errors that were made in the meeting minutes that were previously distributed to the Board. The secretary took note and agreed to make the proper edits.

Motion by Mr. Bruno, **second** by Mr. Burke to approve the minutes of the meeting held June 18, 2020 as prepared, edited and distributed.

Motion passed 6-0.

Stephen M. Schill
On behalf of Englewood Real Estate, LLC
24524 Lake Road

The applicant is requesting two variances per C.O. 1153.03 and 1370.05 for a side yard variance of 27' and a variance to place the generator in the front yard.

Mr. Norton discussed the second agenda item and explained that the Board has had an opportunity visit the site and review the application. He asked if there was discussion.

Mr. Burke pointed out that on Mr. Schill's plot plan it shows the eastern lot being sub lot 003 and the one to the west is 004. In talking with Mr. Tuck-Macalla it seems that those should be reversed.

Mr. Schill said that he had pulled that information off of the owner's survey and it might be reversed. If it is, he will make the adjustment.

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Mr. Norton discussed one of the plans that were submitted with the application. It says the setback shown is 51.38' cumulative. He was not sure what his interpretation of that was.

Mr. Schill gave a brief introduction of the proposed project for the Board. He designed the original house back in 1999 and it is a rather large home. A prior client bought this home and hired him to design on a "man cave". As they looked at this, he did not want to necessarily attach it to the house because it would make an already large house that much bigger. They had this idea of designing a man cave that almost looked like a single family residence that would be attached by a sky bridge. (as shown in the 3-D renderings in the application) If he were to slam this to the east and attach it to the house, he would not need a variance because he would have enough side yard. Between what would be the new lot 152', he has 10' on the west side, 8' on the east side and 33.38' in the middle. So cumulatively he has 51' of open space.

Mr. Norton clarified that the above calculation is how he arrived at the 51.38'.

Mr. Burke asked that Mr. Schill tell the Board a little bit more about the proposed structure, what is going to be inside and the use.

Mr. Schill explained that the main area that is shown open on the plan is an area where the owner has his collection of furniture and where it is refurbished. He has furniture in other areas around town and he would like to showcase it in the man cave. That is the bulk of the area and is why there is the garage door in the space so he can easily move furniture in and out. The back portion towards the Lake is going to be the cabana for the new pool that is being built. In the application he did not show the second floor but there will be an office and an outdoor deck.

Mr. Burke discussed the main section of the structure. He asked if it is open the full height of the building.

Mr. Schill explained that it is a two story space and there will be wood trusses in there and it is going to be a very formal space to display the furniture.

Mr. Miller asked if it was a slab on grade.

Mr. Schill said no and said that there is going to be a basement beneath it because he buys furniture and restores it there until it is refurbished.

Mr. Miller clarified it will be the lower level from the south end to north end.

Mr. Schill said correct and explained that there is a set of stairs on the floorplan to move furniture in and outdoor things in for the winter.

Mr. Miller asked if there was an outdoor kitchen adjacent to the stairs.

Mr. Schill said yes. There will be a grill and a counter.

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Mr. Norton explained that it is hard to wrap his head around from the standpoint of it is not a type of structure the Board has had to deal with in the past. The variance would be 27.6'. It is a huge percentage request.

Mr. Miller pointed out that the memo from Mr. Tuck-Macalla states that it is 164% variance request.

Mr. Schill explained that if this was one gigantic building, yes it would be that big but the interstate between the two structures is open space. He thought he was trading the space.

Mr. Burke commented that side yard setbacks seem to be in part for the benefit to the neighboring properties where the open area in the center is strictly for the benefit of the subject property. He does not think that approach relates to the side yard setback.

Mr. Schill recognized that this is unusual and said that he has never designed something like this before. He was just trying to rationalize it that way and there is open space.

Mr. Bruno further discussed the side yard setback. Traditionally the Board addresses things like this in this manner because they are there for emergency vehicle access, etc. He is struggling with new construction infringing to the property to the west.

Mr. Schill said he could attach it to the house. He was just trying not to make a monstrous structure. He was trying to preserve the character of the neighborhood by not having one gigantic structure.

Mr. Bruno asked what the width of the courtyard plaza between the two buildings was. He mentioned it is a pretty sizable greenspace.

Mr. Schill explained that it was on the site plan in the application towards the rear. (33.38')

Mr. Bruno said he was missing the drawing in his packet.

Mr. Norton shared the communication from one of the neighbors that was submitted previously via email. Below is what was written.

Dear Eric and Kateri,

We are writing to you about the proposed variances at 24524 Lake Road in Bay Village.

The generator in the front yard is a little concerning because it sets a precedent for other residents to place a generator in the front yard. It looks like the architect just added the generator after the rest of the designs were done and put trees around it to hide it. In reality, the trees may not end up getting placed there because there is no requirement to do so. Also, what happens when the trees die? If generators are allowed to be placed in the front yard, will the city allow air conditioning units to be placed in the front yard? A generator and A/C unit are both similar in look, a metal rectangular box. The question is do residents want to set a precedent on allowing

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generators to be put in the front yard and be visible to others driving or walking by on the most scenic road in Bay Village?

Our main concern though is the variance to the side yard requirement. This will set a precedent on allowing large houses to be built and wall in their neighbors. I live to the east of the property, so this addition does not impact me now. However, the architect is the same architect for the properties to the east of my property, and I don't want to see another large wall of a building face my house (like I have to the west) and make me feel like I live in a tunnel. It will also reduce my property value and future saleability. I saw the architect's comments that the middle section between the 2 buildings will allow the visibility to the lake and that would be true if there was no skyway. Aesthetically the complex looks like a hotel or commercial complex. Lake Road receives a lot of pedestrian, bicycles, and automotive traffic of people that want to traverse down Lake Road and see the lake, they are on a scenic adventure. By allowing variances on side yards, the view of the lake will disappear to most of the Bay Village residents and that is one of the reasons people choose to live in Bay Village. If you take away the lake view, the town will lose its cache for residents that don't live on the north side of Lake Rd and it will reduce the desire to live in Bay Village.

I hope you will take into consideration our opinions when deciding on the variances for 24524 Lake Rd.

Regards,

Tim and Jill Lis, 24510 Lake Road

Mr. Norton feels like this variance request works against the spirit of the Code. Even though there is a substantial 33' gap, the view is still obstructed. There is a bridge that cuts across that inhibits the view and the other way it appears there is a ramp that goes into the garage opening. They have eliminated a view between the structures and then they are back to nowhere near the 30% total penetration to the view.

Mr. Schill said he could take the walls down off the ramp up to the garage. The bridge is a wire cable bridge that can be looked through.

Mr. Miller asked if that is really going to be the structure. It is a fairly shallow beam below and there is no beam above. He asked if it was a hardened box beam.

Mr. Schill explained that it is going to be a two steel truss.

Mr. Miller said that he does not think there is a single precedent in all of Bay Village but historically there are many precedents for having a bridge connecting two structures. (Venice, Pittsburg and Cleveland State are some examples) But they do not obstruct the view to the Lake. He feels the 33' wide courtyard could absorb some reduction in space and still allow a glimpse. Keeping with Council's precedent of maintaining side yard setbacks, if you are giving back that view from one side of the home or the other, he would be comfortable with that. He can't justify the large courtyard in the center. He does not feel like it is going to be the view the sketch portrays. He has reservations about a bridge that wide and a courtyard that could be reduced in scale. (width wise) A 164% variance request is astronomical.

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Mr. Bruno agreed.

Mr. Schill understood his position.

Mr. Gess clarified that the application was being made for the address at 24524 Lake Road with the house. He asked if the parcels have been combined.

Mr. Schill explained that right now they are two individual parcels. If this does not get approved, he will move it over and attach it to the house and they will still need to be consolidated into one lot. If this variance was granted, it would be under the assumption that it is a single parcel. Which is what the calculations and analysis have been based on. He wonders if the Board is even evaluating the right calculations.

Mr. Schill said that they would be correct under the assumption that the lots would be consolidated.

Mr. Bruno agreed and wondered if the Board could even move on the variance requests without the lots being consolidated.

Mr. Norton said that they would have to preface the motion stating that it would need to be legally consolidated in order for the variances to be approved.

Mr. Burke added additional points about the redevelopment of lots along the north side of Lake Road. We are seeing more and more very large homes and he thinks it is even more important to maintain the side yard setbacks especially if the home that is being constructed is near one that is older and smaller. He feels that it is more than the fact that it is 164% of a variance request. They are starting with a clean slate and whatever you want can be designed on there and he questions whether there should be any variance necessary. Why can't the buildings be designed within the Code?

Mr. Schill explained that his original drawing was that the proposed building would be attached to side of the existing home. The house right now without this addition is 15,000 square feet. The proposed structure is 6,200 square feet. When it is attached to the house, it would be a 20,000 square foot house and would look a little big. But he understands the Board's position. If they have to slide it over and attach it, they can slide it over.

Mr. Miller discussed the site development plan and the dashed line that comes around much of the property and then south to the frontage and back up to the existing home. He asked if that is the correct setback.

Mr. Schill said yes, that is the required setbacks.

Mr. Miller said that in seeing that, if you were inside the setback you would literally have to move it over 33' or so.

Mr. Bruno agreed and asked to address the generator variance request.

Mr. Bruno said the decibels are fine but the placement of the generator should be in the back yard of the property. Considering they have a blank slate, he would expect it would be appropriately positioned in the backyard somewhere.

Mr. Schill explained that he has previously been granted variances for a generator to be placed in the front yard in all of the Lake front communities because generally people do not want a generator in their Lake view. He said that he would like to table this so he could discuss with the owner further. The owner was checking with his legal representation on if they can get an easement for the bridge to cross through properties. If that is the case, he would not even have to be asking for the variance requests.

Mr. Norton said the Board can certainly table it but even if he had a legal easement, the Board would still consider it one structure. The side yard issue would not go away. As soon as they are connected, they are one structure.

Mr. Schill understood and asked that it be tabled.

Mr. Norton asked Mr. Tuck-Macalla for some clarification. If the lot is not split and this is a separate structure on a separate lot and it meets the side yard requirements, what constitutes the necessary qualifications for a house.

Mr. Tuck-Macalla said that there needs to be sanitation, a cooking areas and sleeping area.

Mr. Schill said that maybe he will build a structure without the bridge but he would like to consult with the owner and see what direction he would like to go.

Mr. Norton asked if everybody on the Board felt that was a reasonable thing to do at this time.

Everyone agreed pending a revised submission.

Mr. Miller discussed moving the structure against the existing house, the generator in his opinion should be in the back yard or side yard. If they are going to maintain a lower level, maybe they could consider putting an aerial well with a grate over it. That way you could drop it out of site.

Mr. Schill said the first go around, he had it designed that way. When it is pushed against the house, the setback are good and he had in the side yard.

Mr. Miller said it is a big unit.

Mr. Schill said that years ago he was in front of the Board and was granted a variance for one and said that it would be screened and you would not be able to see it. But he understood their point.

Mr. Bruno said that there may have been unique circumstances with the property.

Mr. Miller said that he thinks it may have been further west on Lake Road.

Mr. Schill said it was further east on Lake Road.

Mr. Saurman asked if the proposed structure is attached to the existing home, would it still require that the lots be consolidated into one.

Mr. Schill said yes.

Mr. Saurman said then the consolidation of the lots is a precursor to any of this.

Mr. Schill agreed and said regardless of which direction this goes, the lots have to be consolidated.

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

Motion by Mr. Burke, **second** by Mr. Bruno that the application be tabled to a future meeting pending the filing by the applicant with a revised application.

Roll Call Vote:

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

Nays-

Motion Passed-6-0

Mr. Norton discussed an email that was sent out in regard to a previous application that was taken to the Court of Common Pleas. For the first time in about 30 years of doing this, the Board lost. The BZA's perfect record has been over turned. This was in the situation where there were 5 members present at the meeting. As applications are discussed and as citizens come before the Board, there needs to be 4 members that agree with the request out of 7 that are appointed. The Board can do that even if there is only a bare quorum. (4 members) It has always seemed very unfair that the Board changed the odds on the citizen based on somebody being sick or on vacation. The Board lost that case because the applicant said to the Court of Common Pleas that that is not fair treatment and the Court agreed. First, the Board will have to rehear the case which is fine and secondly, many times Council has been asked to fix that and they have not done that. If you agree that that is something that could be included for the fairness of the citizen, each Board member could put their two cents in to Council. It is a very simple fix. Make it a majority and not a minimum of four.

Mr. Norton also discussed continuing to hold meetings via Zoom. At one point this was going to be the last Zoom meeting and then the Board was going to go back to live meetings like they have been in the past. He proposed that the Board does not go to live meetings. He feels the virus situation is serious and filled with a lot of unknowns both nationally and locally. He feels that the Zoom meetings are working out well and he does not think it is a burden on the community to

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say that their case is going to be heard via Zoom and it is not a burden on the Board either. He proposed that a request be made to Mark Barbour and City Council that the BZA would continue meetings via Zoom for the foreseeable future when there is a clearer picture. He asked for comments from the Board.

Mr. Bruno said that he was completely okay with that unless an applicant specifically said they were not comfortable and would like to be heard in person. It could be accommodated accordingly.

Mr. Burke agreed with Mr. Norton and said it could help with members of the Board be able to attend easier if they could connect up via Zoom and not have to be in person.

Mr. Norton asked Ms. Vincent to draft a brief letter to Council and to Law Director Barbour to make that request or asked Mr. Tuck-Macalla to make that request through his office.

Mr. Tuck-Macalla said he could make that request.

Mr. Burke asked if a request was really necessary. He asked if anybody complained about having meetings via Zoom or if it was better to continue the way the Board has been going unless somebody objects.

Ms. Vincent mentioned that she had just spoken with Mr. Barbour and he had said that the BZA would stick with Zoom for the foreseeable future.

Mr. Tuck-Macalla said he was okay with it as well.

Mr. Saurman mentioned that he would not be available to attend the next BZA meeting.

There being no further business to discuss the meeting adjourned at 8:10 p.m.

Jack Norton

Kateri Vincent, Secretary