

Meeting Minutes of
Board of Zoning Appeals
Held April 28, 2022

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

Also Present: Eric Tuck-Macalla (Building Director), Lauren Oley (Secretary)

Audience: Dan Wagner, Jennifer Filiatraut

**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 7:30 p.m.

Mr. Norton introduced the first item on the agenda, the approval of the minutes that were held April 7, 2022.

Motion by Mr. Bruno, **Second** by Mr. Burke, to approve the minutes as prepared and submitted.

Motion Passed

1) Dan & Diane Wagner 27039 Bruce Rd.	Applicant is seeking a variance to section 1149.01 to place a new garage closer than 3 feet from the property line. The new garage would be 1'6" from the line a 50% or 1'6" variance is required.
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Mr. Norton introduced the next item on the agenda at 27039 Bruce Rd. He advised that the board has had an opportunity to review the application and visit the site.

Mr. Wagner advised that it's basically where the existing garage is now, but they're going to go into their yard more – it's at 20' now 24' proposed it's wider than the existing garage. He also confirmed that they are not reusing the existing foundation.

Mr. Norton remarked that it's a 1929 house which would have been placed before the ordinances were written. He also noted that the house to the west can't get a garage to the backyard. They've got a front-loading garage in the front of the house.

The board and Mr. Tuck-Macalla discussed similar cases that the board had recently reviewed regarding garage setbacks on Westlawn, also an 18" variance request, and Cliff Dr. On the Westlawn case they initially had said no, but she came back and they granted the variance.

Mr. Bruno added there was an additional case on Bassett where they came to a compromise given the size of the lot and its proximity to the High School.

Mr. Gess remarked that on the Westlawn case the garage was much closer in proximity to the back of the house and there was dialog about how much offset and difficulty with making the jog – compared to this which is maybe two times the distance from the rear of the house.

Mr. Norton summarized that in that case they set a precedent of flexibility. They were making some judgements of the probability of the neighboring house wanting to put a garage right next to it.

Mr. Bruno remarked that the neighbor to the west or south wouldn't put a primary structure anywhere near that.

Mr. Miller inquired, since the applicant mentioned it's going to be larger, of Mr. Tuck-Macalla if there were any issues with the scale of the proposed garage?

Mr. Tuck-Macalla replied that that there isn't.

Mr. Saurman stated that a difference, to him, is that the one on Westlawn was moving the garage closer to the lot line and here the applicant wants to put it in the same footprint of what's been there since 1929 plus 4' (on the other side).

Mr. Burke inquired if the applicant considered moving the garage to comply?

Mr. Wagner replied that they did, but it was 3' more feet into their yard and it throws off the driveway.

Motion by Mr. Burke, **Second** by Mr. Bruno, that the property located at 27039 Bruce Rd. be granted a variance from the side yard setback requirements of 1149.01 to permit the building of a new enlarged garage replacing the old one the amount of the variance would be 1'6" from the property line.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

2) Andrew & Jennifer Filiatraut 389 Bassett Rd.	Applicant is seeking a variance to section 1350.03 to install a Utility Building larger than the 120 sq. ft. permitted the proposed Utility Building would be 200 sq. Ft. a variance of 80 sq. ft.
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Mr. Norton introduced the next item on the agenda as 389 Bassett Rd and advised that the board has had an opportunity to visit the site and review the application.

Mr. Burke remarked that he didn't see a plan in his packet proposing the location of the proposed shed. He explained to the applicant that the board usually gets a drawing showing where the proposed building would be placed.

Ms. Filiatraut advised that her husband put up stakes and flags where the proposed shed would go on their property.

Mr. Burke inquired where the building is proposed to go?

Ms. Filiatraut replied that it would be going in the back of the property in front of all the trees in the far back.

Mr. Burke stated that they've got their garage on the right hand side and then the trees are in the back. Will it be left, right, or center?

Ms. Filiatraut replied that it will be more to the left or north side of the yard.

Mr. Norton stated that he noticed the neighbor to the left has about an 8 car garage – double height.

Ms. Filiatraut confirmed - adding that it's a big barn.

Mr. Norton remarked that he thinks it was probably grandfathered in. It looks to be older...

Ms. Filiatraut replied that they have two things on their property. A little house, that they rent, and the big barn.

Mr. Burke commented that this would be about a 66% increase in the allowable size which seems kind of excessive.

Mr. Bruno interjected to add that considering the request in the application being such a sizable request for a variance he would prefer that they have a drawing submitted with the application as to the location of where it would be. He appreciates that there are stakes, but that is something they require.

Ms. Filiatraut stated that she wishes someone had told her that.

Ms. Oley stated that she can check to see if there is one downstairs – typically they require one.

Mr. Tuck-Macalla went to see if there was one on file in the building department.

The board pointed out that the application states that one is required and discussed that the application inaccurately states that this would be a special permit, but the agenda states it as a variance.

Mr. Bruno stated that in the context of Bassett Rd there are a lot of different types of lots, positioning of primary structures and garages – including, to the Chairman's point, the adjacent house. He will take that into consideration, but not knowing where it is going to sit in the yard, specifically with the property feet from the setbacks is something that he would prefer to table.

Mr. Gess commented that he doesn't remember a shed being granted such approval at such a large percentage variance. He remembers similar proposals, but through discussion the applicant sort of revised on the fly to something in the 140-150 sq. ft. type thing.

Mr. Saurman commented that they've done that a couple of times most recently on Osborn.

Mr. Tuck-Macalla advised that they didn't have a plot plan downstairs adding that if this structure was 201 sq. ft. they wouldn't even be here because it would be an accessory structure with a full foundation.

Mr. Gess added that they've had that discussion as well. For people to get the size that they want for their shed/garage and it's pushed over that threshold – it will require a more permanent foundation.

Mr. Tuck-Macalla stated the he believes he did bring that up with the applicant.

Ms. Filiatraut inquired how big of a shed can they get?

The board replied that code states they can have a shed that is 120 sq. ft.

Ms. Filiatraut clarified her question to ask how big of a variance can they get?

Mr. Bruno replied that would depend on where it is being placed relative to the primary structure.

Ms. Filiatraut stated that she thought someone was going to come out.

Mr. Saurman replied that he went out and did not see flags and he was looking around the backyard...

Ms. Filiatraut advised that there were four stakes.

Mr. Burke replied that he pulled all the way back in the driveway and didn't see any stakes.

Mr. Bruno added the he too didn't see stakes.

Mr. Burke stated that he would feel more comfortable with a drawing as stated on the first page of the application.

Mr. Bruno added that the drawing needs to have measurements on all four sides of the structure from the property line and measurements of the actual walls of the structure.

Mr. Norton asked Mr. Tuck-Macalla if he could explain the requirements of an accessory structure foundation.

Mr. Tuck-Macalla replied that it would need a monolithically poured foundation. It would be a foundation about a 1' deep with footers on the side, anchor bolts every 6', curbs...

Mr. Burke inquired, of the applicant, if she's considered that type of foundation?

Ms. Filiatraut replied that they are working with a company in Westlake and they were just going to do what they advise. They advised that their first step was to come and get approval.

Mr. Burke inquired if she understood what the Building Director was proposing?

Ms. Filiatraut confirmed that the building would require a foundation.

Mr. Tuck-Macalla stated that if she was to put in the foundation that he described she could build it without coming back to BZA because it would be permitted as an accessory structure whereas a shed is built on wood or gravel.

Mr. Norton stated that it might be a good solution. It would add some cost to it, but then she'll have permanent floor in the structure. As the structure gets bigger and bigger and if it's just on packed earth or gravel the structures weight can work against you. It may start to sink in a corner because it's so heavy or if you've got some heavy equipment in there it could be problematic. This size is basically a one car garage.

The board and building director proceeded discussed specifics of monolithic poured foundations.

Mr. Tuck-Macalla suggested the applicant consider that solution and if she doesn't think that's the right solution then she can come back to BZA.

Mr. Bruno remarked that they've had other applicants do that.

Mr. Burke suggested tabling it tonight to give them a chance to consider the possibility of building it in the manner that the building director suggested. She likely also picked up some of the comments regarding the reluctance of granting of a variance.

Motion Mr.Burke, **Second** Mr. Gess, the application for variance at 389 Bassett Rd. be continued to a later meeting to allow the applicant time to consider if they want to change to a permanent structure, but to minimally provide us with a drawing.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

<p>3) 153 Kensington Circle Gary & Pamela Ebert</p>	<p>Applicant is requesting a variance to section 1163.05 (h)(1). The applicant is requesting a six ft. privacy screen of 165.35 ft., a 32 ft. privacy screen is permitted. The variance would be for 133.35 ft. 73.84 lin. ft. is 10% of the perimeter of the lot.</p>
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Mr. Norton stated that the third item on the agenda at 153 Kensington Circle has been requested to be tabled.

Motion by Mr.Bruno, **Second** Mr. Burke, to table the application for the property at 153 Kensington Circle to a date that is good for the applicant as well as the other concerned parties relative to the application.

Roll Call Vote:

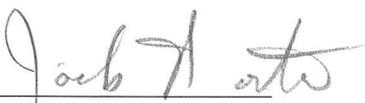
Yeas – Young, Saurman, Burke, Norton, Gess, Bruno, Miller

Nays –

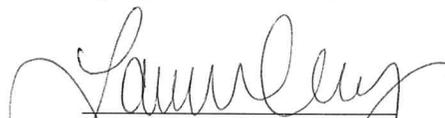
Motion Passed 7-0

Mr. Bruno stated that he will not be able to make the next meeting.

There being no further business to discuss the meeting adjourned at 7:53 p.m.



 Jack Norton, Chairman



 Lauren Oley, Secretary