

Meeting Minutes of
Board of Zoning Appeals
Held May 4, 2023

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

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

Audience: Lilli Foxx, Rob Jackson, Lorelei Suehrstedt, Kelli Mancuso, John Russo, Craig Suehrstedt, Joseph Kenney, Kim Brisset & Lep, David Maddux, Elizabeth Jones, Mark Reinhold, Jeffery Jackson

**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. and introduced the first item on the agenda the approval of the minutes that were held April 20, 2023.

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

Motion Passed 6-0
Abstained: Miller

<p>1) Jim Koenig with Slife Heating & Cooling representing Vincent and Heidi Bilardo 30909 Huntington Woods Parkway</p>	<p>Applicant is seeking a variance to section 1359.01 to place an AC condenser closer than 10 ft. from a property line. The variance is for 1.5 feet, the unit is rated at 80 decibels <i>Tabled 4/20/23 to explore different locations that wouldn't require a variance</i></p>
<p>2) John Dubecky representing Holly Stamper 514 Canterbury</p>	<p>Applicant is requesting a variance to section 1359.01 to place an AC condenser closer than 10 ft. from the property line. The variance is for 9 ft. the unit is rated at 72 decibels with sound blanket. <i>Tabled 4/20/23 to explore different locations that wouldn't require a variance</i></p>

Mr. Norton announced that the first two items on the agenda have been withdrawn and they will be pursuing A/C locations that do not require a variance.

<p>3) Lilli S. Foxx 23921 Bruce Rd.</p>	<p>Applicant is requesting a variance to section 1163.05(h)(3) to install more than 32' of 6' privacy screen in one direction. She would like to install 50' in total making her request 18' feet. 49.4 feet is 10% of the perimeter.</p>
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Mr. Norton introduced the next item on the agenda 23921 Bruce Rd noting that the board has had an opportunity to review the application and visit the site.

Mr. Bruno stated that he feels it is a minimal request based on the 10% rule. The only issue is the one direction factor - which they've had lot of discussions about. Based on the intent of the code he personally feels that he'd be more amendable to 8' sections which are tapering near the ends.

Mr. Norton explained that often the board suggests a tapered fence so that it doesn't look like a severe drop from 6' to 4'. The variance lives with the property forever, but he is swayed by the small request given then 10% rule.

The applicant and board proceeded to discuss the tapering option and the goals for the additional fencing.

Mr. Saurman stated that in the past 6 months or so they've granted a few variances taking the 10% factor into consideration. The reasoning was not too dissimilar than this request.

Mr. Burke commented that their discussion doesn't negate the 32' in one direction requirement. If you take that into consideration it's actually a 50% variance request. Over the years many of the requests for higher fencing aren't something unique to the property, but rather when someone has an issue with their neighbor and this board has found that not to be a sufficient reason for granting.

The applicant and board discussed the location of her garage, the neighbors shed as it relates to the variance request, and the fact that tapering might be a good option taking the 10% rule into consideration.

Mr. Norton summarized that there is 9' at each end that she's trying to get variances for so if they allowed a taper, it would architecturally make sense.

Mr. Burke suggested an additional 8' panel and a tapering panel in addition to that. Allowing 40' of 6' with one additional tapering panel.

Ms. Foxx confirmed that she would be amendable to that.

The board proceeded to discuss what options they may consider as well as explaining both the 10% perimeter rule and 32' in one direction component.

Mr. Gess remarked that he is still having trouble accepting the proposed suggestion as it seems much more than they've done in the past especially when this isn't done in effort to contain the yard. It seems the fence could be kept much closer to what code would allow adding in arborvitae.

Mr. Bruno, following the discussion, summarized that the board is comfortable with offering two 8' tapering panels that the applicant uses as she sees fit.

Ms. Foxx clarified that she could have a 4' fence in the southwest corner, behind his shed, and she can plant arborvitae there if she's permitted to have an additional 8' panel of 6' fencing.

Motion by Mr. Burke, **Second** Mr. Bruno, that the property located at 23921 Bruce Rd. be granted an 8' variance from the maximum 32' in any one direction provision of S 1163.05 (h)(3) of the Codified Ordinance to add to the fence across the back of the property.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

4) Kimberlee Brisset 23937 Russell Rd.	Applicant is requesting a variance to section 1163.05(h) (3) to install a 6' privacy fence. She currently has 32' and would like an additional 24' in the same direction. The Variance is for 24'. 38.4 feet is 10% of the perimeter.
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Mr. Norton introduced the next item on the agenda as 23937 Russell Rd. Noting that this is a similar request to the last one. He added that there are quite a few examples throughout the street and their neighboring properties of fence tapering.

Lep, who was with Ms. Brisset the homeowner, remarked that they only have one fence and he's made it 32' long and he's now asking for the additional 24' because the people behind them had already build theirs, as had their neighbors, so he's left with an odd portion to complete. He listens to music and plays guitar so he'd like to have privacy from their elderly neighbors. He can drop it down to 5' if they'll let him have 3 spaces of 5' panels.

Mr. Norton replied that if he does that then he's pretty close to what's allowed at 4'4" and no variances would be required.

Lep reiterated his request for 3 - 5' panels so it looks a whole lot neater than what his neighbor's yard looks like. He doesn't like the way the neighbors' fencing works. He has already put the 6' panels in and he'd like to just finish up his fence with the 5' panels so it looks more uniform. The yard is sunken so he'll need at least 5' to make his fence look decent.

Ms. Young stated that the only thing unusual with the yard is that 4 different neighbors have the perimeter established already with 6' fencing.

Lep approached to show visuals of his current yard/fencing situation.

Mr. Gess stated that this is a smaller lot than the previous example. They just gave a larger lot an 8' variance when it had the 10% rule helping it's cause. This is a smaller total perimeter and there is nothing unique about this property.

Mr. Bruno stated that the 10% rule helps this one by getting it almost another panel.

The board proceeded to discuss the option of allowing one more panel or potentially tapering.

Lep requested all 3 panels at 5' so he could make them all match.

Mr. Bruce stated that Ms. Young brings up a good point, but the existing neighboring fences can go away. He advised that the applicant could potentially also use year-round evergreens as he did on his property.

Ms. Young commented that tapering will be difficult because it's meeting up with the neighbors 6' fences.

Mr. Miller suggested a tapering on both sides.

The board proceeded to discuss the existing condition of the neighboring fences and potential tapering options with applicant.

Mr. Miller advised that they're struggling with considering 3 panels over the 4'4" as that would be unprecedented. So, they're suggesting, considering the surrounding fences, off the end of his existing 6' fence allowing an 8' run of fence which tapers from 6' to 4' and then have a run of 8' at 4' tall and then it tapers back up to 6' next to his neighbors fence.

Lep stated that he's using panels that you buy prefab from Lowes so if he buys a panel, it's \$300 and he needs to know if it's a 4', 5', or 6' panel. He needs 3 - 5' panels – that's what he needs.

Ms. Young suggested that the sloping panel be granted at 5' given the style of fencing the applicant is using.

Lep replied that will look bad.

Mr. Gess advised he understands, but they are limited to what is consistent with past discussions.

Mr. Norton inquired if they've considered vegetation.

Lep replied that they have. They want to plant emerald greens wherever there is a post in the fence. His fence is going to look like dookie.

Ms. Young suggested that he gather all the emerald greens in the back corner to cover the shorter fence.

Lep replied that he can't make it look right.

Mr. Bruno stated that they're working within the limitations of the code and they didn't write the code.

Lep remarked that he's here to say his part. He paid \$50 to say his piece and suggested Mr. Bruno watch his mouth. He advised that he doesn't even need a fence. He suggested that he and Ms. Brisett should just go home. He commented that this isn't right and he's going to say his piece wherever he is. Lep proceeded to leave council chambers.

Mr. Norton advised that one part of the board wants to grant everything, but the difficulty is that council makes the laws and they are supposed to 'tinker around the edges' and not go beyond that. It does seem in a certain sense to be arbitrary, but they have to be careful about setting precedent. As soon as they allow this much of a variance then to be fair to everyone else, they've got to allow them to do the same. Sometimes they search for an answer that addresses the applicant's need. He believes their need centers around blocking the view of the next-door yard and the board has been trying to come up with a way to do that. One is year-round vegetation another is allowing a little more in various ways of tapering. The style of fence does not lend itself to be tapered, it comes premanufactured and doesn't lend itself to be cut down.

Mr. Miller stated that as he thinks back to another example on Bracken Way and Wolf Rd. They had a similar board on board situation which wouldn't allow for tapering. They gave them the option to have two 8' panels at 5' and then they had 4' panels beyond that. They ultimately filled with arborvitaes. He wonders if that might work here. It might look a little clumsy, but it keeps them within the precedents they've established in the past.

Mr. Brisset stated that if they can't do 5' then there isn't much of an option and they could be amendable to that.

Mr. Norton suggested that the board create a variance that doesn't specifically mention where the 5' panels need to be so the applicant can determine which looks best. If that gets them towards their goal, he doesn't believe the board to be establishing a dangerous precedent.

The board proceeded to discuss the specifics of their motion.

Motion by Mr. Bruno, Second by Mr. Burke, to grant the property at 23937 Russell Rd a variance per C.O. 1143.05 (h) (3) to install two 8' long sections 5' in height, beyond the 32' permitted, and taking into consideration that this is a variance of 9.6' from the limitations of the 10% rule.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

5) Deck Tech on behalf of Kelli Mancuso & John Russo 23920 Knickerbocker	Applicant is requesting a variance to section 1153.02, front yard setback, to install an 8' x16' porch onto the front of his house. The permitted setback on this street is 42' and the existing house is 43' feet from the ROW the request is for a 7' variance.
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Mr. Norton introduced the next item on the agenda as 23920 Knickerbocker adding that the board has had an opportunity to review the application and visit the site. He noted that he noticed there were several examples of homes along that stretch of Knickerbocker that have a raised deck on the front of their homes. None of them had a roof on them so that makes this request somewhat different. If the board wants to consider this, they may also want to include, in the variance, that it must be left open and can't, in the future, by this applicant or future owner be enclosed because then it becomes part of the house.

Ms. Mancuso stated that their intent is to keep the rain off and they have no intention of enclosure.

Mr. Burke stated that previously they've had requests for porches 8' in depth and they've suggested that 6' is sufficient to limit variances to setback requirements. As such, he wonders if a reduction in the depth might be appropriate.

Mr. Bruno agreed with Mr. Burkes statement noting that there have been many they reviewed where they came to this determination.

Mr. Norton remarked that they're allowed to come out 1'. They've determined, as a board, that 6' is enough to have chairs and a table and so on. So, if they gave them a 6' variance they could have 7'.

The board clarified that they were discussing offering a 5' variance to give them a 6' porch.

Mr. Tuck-Macalla confirmed that the ROW measurement should be taken from the inside of the sidewalk.

Mr. Russo advised that there was rationale for the 7' variance request. He showed a diagram and explained that the depth was determined in an effort to use the existing sidewalk/stoop/stairs.

The board and applicant proceeded to discuss the needed depth, as shown on provided drawings, as well as supplemental pictures provided by the applicant. Upon review, the hand drawn picture may not be as accurate as previously thought. The board determined that a 6' variance would be all that was needed to meet the applicant's sidewalk goal requirement.

Ms. Mancuso clarified that the steps will come off to the side as opposed to the front as shown on one of the example drawings.

Mr. Russo continued to show the drawings and explain the proposed layout which takes the existing sidewalk into consideration.

Mr. Burke stated that he'd be amendable to a 6' variance for a 7' porch that meets up with the sidewalk.

Mr. Saurman confirmed that suggestion would be making a revision to the size of the porch from 8' to 7'.

Mr. Russo confirmed that to be correct. Based on the discussion they had this evening he believes his drawing to be a little off. 7' should be all that is needed to have the front of the porch line up with the sidewalk as appropriate.

Motion by Mr. Burke, **Second** Mr. Bruno, that the property at 23920 Knickerbocker be granted a 6' variance from the front setback requirements of Section 1153.02 for the installation of a porch as per the plot plan drawings, although some discrepancies have been acknowledged, it would be a 7' porch in depth provided that at no time shall the sides or front be enclosed and further provided that the steps come down parallel with the house and not towards the street.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

6) David Maddux for Flatiron Bait, LLC Lots across from Middle School on Cahoon Rd Parcels# 203-09-060 / 203-09-059 / 203-09-058 / 203-09-057 / 203-09-056	Applicant is requesting a variance to section 1153.02 front yard setback. The setback on Cahoon in this area is 50' they are requesting a setback of 30' a total variance of 20' for each parcel. This is in order to build 4 houses and contingent on the consolidation of lots 483 and 485 Cahoon.
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Mr. Norton introduced the next item on the agenda as the lots across the street from the middle school on Cahoon Rd. Parcels# 203-09-060 / 203-09-059 / 203-09-058 / 203-09-057 / 203-09-056.

Mr. Maddux stated that everyone knows these properties and that they've been trying to make something work over there for a couple years. They were brought on by the current owner and the lots were already split into single family lots. It's a tricky piece of land which is all fill and the closer you get to the creek it really gets steeper. The foundation systems will need to go down to rock. They're trying to create some uniformity along this section of Cahoon across the middle school. The houses nearest Wolf Rd are really close to the street with

the closest only being 13' from the sidewalk. As you go further down past these lots the first one is pretty close to 30' from the ROW, but then it starts tapering back.

Mr. Norton pointed out that the ROW, indicated in red on the provided drawing, jogs back a bit 7-8'.

Mr. Bruno remarked that Mr. Maddux has already made the point he came here with - the existing homes are all pretty close to the ROW.

Mr. Maddux added that the proposed homes don't quite square up to the street so a portion of their homes are required less of a variance. They're trying to be respectful to the existing neighbors, but still make them buildable lots.

Mr. Miller inquired if the riparian setback was shown on the plans.

Mr. Maddux replied that they went through riparian setback requirements when the other side of Cahoon was developed. He believes it's 25' off the water edge, but they are well clear of it. He intends to address it.

Mr. Tuck-Macalla stated that when they submit their plot plan it will be reflected on there. It's 25'.

Mr. Bruno referenced a Lake Rd. property where they made the homeowners use the existing foundation as a result of the riparian setback.

Mr. Maddux stated that he believes they're okay, but if they get pushed back further it will be very difficult to develop those lots. They're trying to maintain what is appropriate and still maintain a buffer along the street line.

Mr. Burke brought up an email from a landowner inquiring about maintenance of the creek. Is he correct in assuming that those questions/items that aren't within the jurisdiction of this board?

Mr. Barbour replied in the affirmative. They're here to talk about the setback and whether or not the variance is appropriate. The creek maintenance falls on the homeowner. The ownership of the creek goes back and forth. There is no need to address that this evening.

Mr. Bruno advised that he believes this meets the uniqueness requirement as a result of the topography and the middle school across the street. The improvements to the property, in proximity to the middle school, would be aesthetically pleasing. He feels this is a reasonable ask.

Mr. Miller commented that the first 3 lots won't be 50' wide. Is this something planning commission was okay with?

Mr. Maddux replied in the affirmative. These were already deeded single family lots when the project was brought to him. They weren't involved with that portion of the project.

Mr. Tuck-Macalla stated that they had to go back to planning commission to split those lots. They were one parcel and then they got split into the five.

Mr. Barbour added that it was a single lot. It then got subdivided by request of the prior property owner who never actually divided them, then they got consolidated back, and then divided again. Planning commission went through all that with the lot sizes and determined that they met the requirements to be lots twice.

Mr. Maddux advised that the homes will be built as they are sold. They're building them to suit. They will be consistent in the aesthetic – they won't be a hodge podge of designs. There will be some deed restrictions to encourage similar aesthetics. There will be 4 homes because two of the lots will be consolidated.

Mr. Miller stated that they have 3 elements to evaluate and this checks off all three especially the peculiarity of the property.

Mr. Gess added that from a line-of-sight perspective they will be in line with the other properties.

Mr. Kenney clarified that he submitted those questions, which he now realizes aren't meant for this board, but for future clarification who should provide answers?

Mr. Norton inquired if there was an easement or responsibility for maintaining the creek and bridge?

Mr. Tuck-Macalla advised he can get with Mr. Kenney tomorrow.

Mr. Barbour stated that there is an easement, but it's an elevated easement for a forced main under the bridge. He doesn't have the drawings in front of him, but from his recollection there isn't an easement that would run north/south it would run east/west.

Mr. Kenney added that he believes there is a sewer easement somewhere across Cahoon.

Mr. Barbour replied that there is an easement that goes basically across Cahoon into that south lot from the middle school. He doesn't believe it's being used.

Mr. Tuck-Macalla replied that there are two different easements. The one furthest north is abandoned and he's not sure about the one further south.

Mr. Barbour replied that they can't build on any of the storm sewers. They've had cases where they have had sewers that need to be rerouted. It's technically feasible.

Mr. Maddux advised the houses will be roughly 3,000 sq. ft. 1400-1600 a floor. He confirmed these will be single family lots and this won't be a development. They're approaching four all at one time instead of coming to four separate variance meetings. It seems to make sense to attack them all at once.

Motion by Mr. Burke, **Second** Mr. Young, that the properties on Cahoon Rd known as PP# 203-09-060 / 203-09-059 / 203-09-058 / 203-09-057 / 203-09-056 each be granted a 20' variance from the current 50' setback requirements of Section 1153.02 of the code provided that it's contingent on the consolidations of 203-09-057 / 203-09-056 to permit the construction of homes on each of these lots as per the drawings submitted with the application.

Roll Call Vote:

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

Nays –

Motion Passed 7-0

<p>7) Jeffery Jackson & Elizabeth Jones 372 Oak Cliff Drive</p>	<p>Applicants are requesting three variances in order to build an addition.</p> <ol style="list-style-type: none"> 1. 1153.02- Front yard setback. The setback on this street is 50', they are requesting a 23'11" variance. The new setback will be 26'1" 2. 1153.03- minimum side yard. The minimum side yard for this lot is 9' they are requesting a 3'11" variance. The new side yard setback will be 5'1" 3. 1153.04- rear yard setback. The required rear setback is 18', the proposed rear setback is 15' 9" to the balcony. The variance is for 2'3"
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Mr. Norton introduced the next item on the agenda as 372 Oak Cliff Drive.

Mr. Miller commented that they were updated, following the setting of the agenda, that this was for a new build project. On the provided sheet there is a dashed line indicating the new build and a smaller dashed line indicating the existing build.

Mr. Burke clarified that the side yard variance request is on the south side of the home.

Mr. Norton inquired if the bump out on the south side, is that an overhang?

Ms. Young replied that was the overhang to the entryway.

Mr. Norton remarked that the variance is just the bump out that allows entry. The notes from the building department indicated that that will still need a variance? If that's just a stoop it might not normally require a variance.

Mr. Tuck-Macalla said that the overhang typically requires a variance, but he didn't have plans in front of him.

The builder interjected to clarify that the 5'1" is to the building line. He didn't catch the overhang and didn't calculate that in.

Mr. Tuck-Macalla advised if the overhang is beyond the 5'1" then the variance required would be greater because that's pushing it closer to the neighbors by the width of the overhang.

The board, applicant, and building proceeded to discuss the required side yard setback as they relate to the overhang ultimately determining that small overhang does not need to be included in the setback requirements. The agenda variance request for the south side is accurate as listed in the agenda at 3'11".

Mr. Norton stated that upon review, the existing home is closer to the setback than the proposed home.

Mr. Tuck-Macalla commented that, in his opinion, they have to understand that the existing home is grandfathered, but once they removed that then they don't have the benefit of that grandfathered spot.

Mr. Bruno replied that he's not even thinking that way. He's thinking of it in the sense of the new construction relative to what was there and grandfathered in.

Mr. Tuck-Macalla replied that he believes that once you take a house down it's a clean slate. Every day he gets asked these questions.

Mr. Norton inquired what the distance was from the front south east corner of the house to the cul-de-sac.

Mr. Reinhold stated that he could get that number for them tonight.

Mr. Norton stated that is actually the closest to the setback line.

The board, and building director, continued to discuss what the correct spot would be in regards to measuring the front yard setback.

Mr. Tuck-Macalla advised that it is 26' 1.5".

Mr. Reinhold said that the existing house has porches on all 3 sides – east, west, and north. Other than the screened porch that sticks out to the north. It may not be super clear, but they held those lines, where the porches are, as the furthest point that we came out. The proposed new house is in line with the existing eastern porch and the same to the west.

Mr. Bruno added that the agenda is calculated correctly.

The group proceeded to discuss the rear yard setback requirement.

Mr. Burke stated that he has concerns about the proposed setbacks on the south and frontside. On the south side and the west side the variance is in excess of 30% of the required setback and in the front it's in excess of 40%. It seems like more than tinkering around the edges.

Mr. Gess commented that he would echo Mr. Burke's statements. It's a new build. It's not an existing house line that they're putting an addition to. These variances aren't needed to build the house. He struggles with the need. The discussion should always be to limit the amount of the variances at all. He believes with any new build they should challenge the applicant and builders to work within the ordinances. They're asking for 3 of 4 sides – which is a struggle for him. He also confirmed, with the building director, that the proposed height is allowable.

Ms. Young added that while the east and west footprint is in line with the existing houses porches – the existing porches are open and not enclosed or covered in anyway. So, this will be taking up much more space.

Mr. Reinhold replied that he doesn't want to be argumentative, but rather informative in saying that the code footprint is about 10' wide north to south – which would permit only a single wide trailer because of the rear and front yard requirements. He believes it could be done bell shaped because of the cul-de-sac, but regardless of the outcome they'll be back because it's a very unique lot. Part of the explanation is that Rob and Beth started this, prior to his involvement, and their intention was always to fix up the house that was there. Multiple builders advised that the foundation is crumbling and there is nothing to save. This is not without a fair amount of thought. They're moving from a house where all three kids share a bedroom so it's about raising a family and having the right number of bedrooms. It was an expensive lot and they can't put an 1800 sq. ft. house there.

Mr. Norton commented that his feeling is that given the restrictions on the lots, along this kind of a street, this application seems to be pushing the size of the lot with a little more house than it's capable of. He doesn't particularly have a problem with the rear because the rear yard of this lot is the side yard of the lot behind it

which has a Lake Rd address. This one, in that regard, might not change the nature of the neighborhood. He would like to see a broader study of the other setbacks on the street. He couldn't visually get much of a sense of it. He thinks that would have a bearing on the discussion.

Mr. Bruno concurred that would be fair. They've reviewed some recently on Sunset which is not too unlike this neighborhood. In his opinion, the existing footprint on this home should be considered because in some spots this ask is actually less. Yes, you could reconfigure some of the square footage, but more than likely it would ask this board to consider potentially a greater variance towards the front yard setback.

Mr. Tuck-Macalla stated that across the street, in the past three years, there were two variances that were heard across the street for porches. They wanted 8' and the board gave them 6' – there were two right next to each other.

Mr. Burke inquired if the square footage of the house, not including the basement, was 4700 sq. ft. It looks like, from his calculations, they wouldn't be stuck with an 1800 sq. ft. house. They could scale it back some and still have a sizable residence. He is concerned with the south and east setbacks.

Mr. Miller commented that in his opinion the previous application stayed within the lines to an extent. The charge is to stay within the setback lines and design something appropriate for the client. For him it is a clean slate.

Mr. Reinhold stated that the front and rear setback lines are only 8-10' apart from each other.

Ms. Young replied that can't be accurate because he's asking for 24' in the front and 4' in the back...

Mr. Reinhold advised that the house is currently proposed at 42' width.

Mr. Miller stated that he can appreciate there may be some challenges to staying within the lines, but if they're so significantly beyond the lines in the first pass. There needs to be an alternative submitted that comes closer to staying within the bounds.

Mr. Norton remarked that he could get comfortable if they took the bubble out of the cul-de-sac. It seems more reasonable to say 'go to a straight line' because the cul-de-sac does make this property pretty difficult to do much with, but that is still way less than the 50'. You wouldn't need the 23'11". You still have to reduce the overall house. He can appreciate if it's measured from the top of the bubble, it doesn't leave a reasonable footprint for a house.

Mr. Miller stated that he can't get behind that. They've had applications in cul-de-sacs in the past and they have vehemently stuck to the perimeter of that because, in most cases, both the properties are splaying around the cul-de-sac. He personally can't make an exception for this one property being on a cul-de-sac because there is a property across the street on the cul-de-sac as well. The fact that the other 2/3 of the pie isn't filled in doesn't excuse the use of the setback. It's a clean slate, it doesn't check A, B, or C for him on the application.

Mr. Norton inquired what did they do on the Huntington Woods property? He seems to recall that they measured it from the center of the cul-de-sac.

Mr. Barbour stated that the city disagreed with that decision which is this board's prerogative.

Mr. Miller added that there were also deed restrictions based on where it was located.

Mr. Tuck-Macalla clarified that, in that instance, the ROW wasn't marked clearly on the map which was the reason why. There are other cul-de-sacs in the city, including this one, where it is clearly marked on the map. The argument that came up on that one was that it wasn't clearly marked on the map.

Mr. Norton reiterated that it makes it important for him to understand what the front yard setbacks are in the existing neighborhood. As Mr. Tuck-Macalla mentioned they have given some front yard relief for open porches which were 6'. They have to be somewhat in line with what they've done in the past to be fair to everybody.

Mr. Tuck-Macalla stated that the view came up during their discussion of the 6' porches. There was also feedback from neighbors on both of those because as the house came out towards the street it blocked the view of the neighbors.

Mr. Saurman stated that the existing house is apparently out of compliance with front yard setbacks. How far is the front of the house now from the right of way? The new request is 26'1". If this house is going to be torn down and rebuilt as it stands today – what would the variance requirement be?

Mr. Reinhold replied that it's 3.4' from the east, but he'd have to calculate the other number.

Mr. Bruno added that he does feel this is unique lot. This is not a standard lot. This is on the lakeshore on a neighborhood on a cul-de-sac. The existing home on this property already has a footprint that is out of compliance.

Mr. Barbour pointed out that there likely was not setback in 1938 when this home was built.

Mr. Bruno went on to say that he appreciates the comments about the amount of variance being requested. He agrees that it should go back to the drawing board to try to work on the southside given that there is obviously new construction much further to the north and he sees the east as less of an issue because the uniqueness of the lot.

Ms. Young stated that she'd like to compare it to her own home. Her house was built in 1857 and then added on over the years. It was built so far back into the lot that the lot looks square to the road, but in the backyard it's angled. Even though her house seems to be squared to the street in the back they have a garage that goes back. She has had to adhere to a rear setback through the years despite the oddly shaped lot.

Mr. Reinhold replied that his calculations puts the existing home 31' from the street.

Mr. Saurman stated that if they rebuilt, as it's placed today, they'd need a 19' variance and they're asking for a 24' variance and the difference being 5'. He thinks that goes to the uniqueness of it. If it's not given a variance of some sort then they probably can't build there because it'll be so narrow.

The board and builder proceed to continue to discuss the existing home and its distances to the property lines.

Mr. Reinhold added that they have limitations to the north because it erodes about 2' every 10 years.

Mr. Norton reiterated that he'd like to see what is existing in the neighborhood to see how far out of line this would be from the other homes.

The builder and board proceeded to discuss how the board would like to see that information and how accurate they need it to be for their review.

Mr. Norton stated that he believes they can make a motion tonight that they don't have enough information to make the judgement tonight and request a submittal at the level that was discussed to be circulated to the board and they can bring it back on the next agenda.


Motion by Mr. Burke , **Second** by Mr. Gess, that the application for the property at 372 Oak Cliff Drive be tabled until the next meeting to give the applicant sufficient time to do a study with measurements of the surrounding properties on that street for the boards consideration and also he would request that during that time they might consider changing the size of the property to allow bigger setbacks.

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

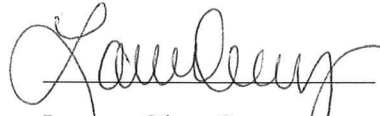
Nays –

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