

Meeting Minutes of  
Board of Zoning Appeals  
Held June 2, 2022

Members Present: Jack Norton, Jan Saurman, Scott Bruno, Clete Miller, Dan Gess

Excused: Carolyn Young, Terrance Burke

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

Audience: Leah & Scot Prebles, George Pelesky, Tim & Jil Lis, Charles Merchant, Darcy Pederson, Mary Kate Glowe, Mike Vonderau, Mr. Bruner

*\*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 May 19, 2022.

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

**Motion Passed 5-0**

Mr. Norton explained the rules of a quorum and advised that any applicant is welcome to request their item be heard by the full board.

1) Tim Lis 27031 Lake Rd.	Applicant is requesting an 8 ft. variance to section 1359 (a) to place Air Conditioning equipment closer than 10 ft. from the property line. The Unit will be 2 ft. from the property line a <b>variance of 8 ft.</b> <i>Tabled May 5, 2022 - Survey received 5/20/22</i>
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Mr. Norton introduced the first item on the agenda as 27031 Lake Rd.

Mr. Saurman stated that the original application mentioned that there was a question regarding the property line and there was a question about who's property the fence was on and requested if Mr. Lis could explain what the survey findings showed.

Mr. Lis replied that the survey shows that the fence is on the neighbor's property, likely 8-10" from their line, and is not completely parallel with the property line. It's angled in relation to the property line. The furthest outward jag of the fence is actually right at the intersections of the property.

Mr. Saurman stated that last week there wasn't a lot of opposition to the request it was more a matter of getting the measurements correct.

Mr. Norton remarked that there is quite a bit of distance between him and the neighboring house. The neighbor has a driveway which seems to create a corridor for utilities between the houses.

Mr. Bruno stated that he had a hard time figuring out where the Air Condenser would be located on the survey in relation to the rest of the application.

Mr. Lis approached the board and showed on the survey exactly where it's going to be placed in relation to the windows and condenser lines. Providing clarification that the unit will be placed on the ground.

Mr. Bruno inquired if Mr. Tuck-Macalla has observed where it was going to be placed and if he has concerns from a code perspective.

Mr. Tuck-Macalla replied that there is no problem with the Air Conditioning unit location.

**Motion** by Mr. Gess, **Second** by Mr. Bruno, that the applicant at 27031 Lake Rd be granted a variance from section 1359 (a) such that the unit will be 2' from the property line requiring a variance of 8' provided that the unit be placed in such a manner that it be screened with year round decorative fencing or vegetation.

The applicant and the board proceeded to discuss the screening requirements, and limitations, for the unit.

Mr. Gess made the point that his understanding was that if there was already a gate/fence in place an additional fencing structure may not be required adjacent the unit itself.

Mr. Bruno made suggestions as to the screening that could be placed on the Northside.

The applicant and board continued to discuss site specific requirements until the applicant's questions and concerns were met.

**Roll Call Vote:**

**Yeas – Saurman, Norton, Gess, Bruno, Miller**

**Nays –**

**Motion Passed 5-0**

2) Gary & Pamela Ebert 153 Kensington Circle	Applicant is requesting a variance to section 1163.05 (h)(1). The applicant is requesting a six ft. privacy screen of 155 ft. where a 32 ft. privacy screen is permitted. The <b>variance would be for 123 ft.</b> 73.84 lin. ft. is 10% of the perimeter of the lot. <b>**5/25/22-Applicant requested item be tabled until a full quorum is available**</b> <i>Tabled from 4/28/22, 5/5/22, &amp; 5/18/22</i>
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Mr. Norton stated that 153 Kensington Circle has been put off to a future meeting.

3) Kristen & Charles Merchant 347 Oakmoor Rd	Applicant is requesting a variance to section 1163.05 to install a 6 ft. privacy fence around their back yard, there is a current six ft. fence of 32 feet at the rear lot line. 10% of the perimeter is 33.5 ft. <b>The variance would be for 152 lin. ft. of 6 ft. fencing</b> <i>Tabled from 5/18/2022 – modified request to be provided.</i>
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Mr. Norton introduced the next item on the agenda as 347 Oakmoor Rd. He advised that a modified request has been received as of this evening.

Mr. Merchant stated that, per their recommendation, he approached the neighbors to the east side, where there is already a privacy fence, they're willing to pull the fencing permit and have it on their side for the same 32'. The neighbor to the south, Kristin Scully, is also in agreement to pull a fence permit for 32' of privacy screening, but they're currently negotiating the aesthetics of it. She may have a need to ask for a variance so that she can have 2 panels that to step down to the 4'.

Mr. Bruno replied that would be consistent with requests they've received in the past.

Mr. Merchant commented that he's been working with her directly on that request. That leaves his current variance request on the northside and across the driveway. They've significantly reduced it down so that they're only requesting a variance of 15.5' of the 6' – they would still like to keep the 6' going across the driveway. The swim spa is visible from the road and would be visible above a 4' fence. They'd like to eliminate the attractive nuisance. They are requesting 34' of 6' fencing on the north property line – in line between the garage and the corner of the house.

Mr. Saurman remarked that this is assuming that the existing fence on the east side is torn down?

Mr. Merchant replied that it would be torn down and then covered under a fence permit for the neighbor.

Mr. Bruno inquired, of Mr. Tuck-Macalla, what the parameter of the lot is.

Mr. Tuck-Macalla replied that 10% of the property parameter is 33'.

The board continued to discuss the newly proposed layout of the fencing.

Mr. Bruno confirmed that the amount of the variance is 14% of the parameter and he feels it's a relatively reasonable request based upon the swim spa issue and taking into consideration their dialog.

Mr. Norton confirmed that he has rights to 32' out of the 34' on the northside. He reiterated that he thinks he's made good changes based on their previous conversation and the current proposal will still fulfill their needs.

Mr. Merchant stated that he doesn't want to confuse the request of his variance with that of his neighbor to the south. He proceeded to ask some questions about that property line potential future variance request.

Mr. Gess replied that in the past additional panels for a step down hasn't been met with a lot of resistance, but it still needs to come before the board and discussed on its own merit.

**Motion** by Mr. Bruno, **Second** by Mr. Saurman, to grant the property at 347 Oakmoor Rd. a variance per CO 1163.05 to install 6' of privacy fence along the northside of the property line and the west side of the property line per the drawing prepared and submitted with the revised application via an email June 1, 2022. The total variance would be 15.5' based on the revised drawing.

**Roll Call Vote:**

**Yeas – Norton, Gess, Bruno, Miller, Saurman**

**Nays –**

**Motion Passed 5-0**

<p>4) Scott &amp; Leah Prebles (potential Purchasers of property) Parcel #20113011 AKA 30888 Nantucket (address not yet assigned)</p>	<p>Applicant is requesting two variances. The first is for the front setback (1153.03) which has been established at 50' from the R.O.W. <b>A variance of 16.23', or 32%, is being requested.</b> Leaving a front yard setback of 33.77 ft. The second is a variance to the rear yard set-back (1153.04) requirement which has been established to be 24.5 ft. <b>A variance of 19.50', or 79%, is being requested.</b> Leaving a rear yard setback of 5'.</p>
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Mr. Norton introduced the next item on the agenda as Parcel#20113011 aka 30888 Nantucket. The board has had an opportunity to review the application and visit the site.

Mr. Vonderau stated that what is drawn as a proposed property line is not the actual property line. It's actually closer to 14' at the closest point on the right side.

Mr. Prebels approached and showed the board that the distance to the line will be closer to 14' not 6'.

The board and concerned parties continued to discuss the location of the existing home, the lines, and the proposed home.

Mr. Tuck-Macalla explained that this is a grandfathered lot. So once the lines are changed, in anyway, that grandfathering goes away. That line was established in 1925 and the Bruner's built over it likely because it was their lot, but now that building has to be removed in order to build.

The applicants, building director, and board proceeded to discuss the legal implications and potential need for an easement, the existing home 274 Bradley and its existing garage, and proposed boundaries of the subject property.

Mr. Tuck-Macalla stated that in going forward, the easement is really off the table.

Mr. Gess inquired what would cause that to not have to happen regardless of this project? Does the same person own both lots?

Mr. Tuck-Macalla replied in the affirmative. So, it's a grandfathered situation. So, if someone wants to buy that property they would have to split up that section and then they lose the grandfathered lot.

Mr. Bruner stated that they had talked to an attorney and the proposed easement as part of the potential sale to allow for the back overhang of the garage.

Mr. Tuck-Macalla stated that they should get new drawings that show that proposal.

Mr. Bruno concurred that he would like to see that.

Mr. Norton commented that in order to get around the issue of the corner of the garage they could submit to the planning commission for a change in the lot line to add to the new parcel and take away from the old one.

Mr. Tuck-Macalla reiterated that if that happens the new lot loses its grandfathered status. It's too small for an R1 district – that's the issue with the lot line.

Mr. Gess remarked that his thought is that the existing of a property line violation isn't germane to their conversation. They need drawings that show the property lines and the variance proposed on those lines. It's a separate issue and he doesn't want to get too bogged down in that issue that will affect what they discuss relative to the position of the new home.

Mr. Tuck-Macalla clarified that it's a buildable lot because it meets the exceptions of 1155.04 and then all the other portions of the zoning code come into play.

Mr. Pelesky inquired if that throws out the other requirements?

Mr. Norton replied that it does not it will still be subject to front and side yard requirements, etc. They have minimum square footage which is what is grandfathered in. He believes the only thing that they might explore tonight is what size is the house proposed vs. what would fit in the footprint.

Mr. Tuck-Macalla replied that what would fit in the lot is the minimum allowed house in an R1 district which is 1750 sq. ft. of livable area with a one car attached garage. They have to have one covered car space. That would just fit.

Mr. Pelesky inquired if the livable space needs to be on one floor? Because it's going to be 2200 totally finished with a basement.

Mr. Tuck-Macalla replied in the negative and clarified that he's just saying that's the livable space without any variances. That is the size of the building without any variances. He believes it ends up being a two-story house with a finished 3<sup>rd</sup> floor. The reason that it is a one car attached garage is because a two-car garage will take up 200 sq. ft. of non-livable space and the code says you have to have one covered car space.

Mr. Prebles advised that he'd like to tell you his story, not that it would matter much to this conversation. He has been appointed the new superintendent for the school district which should not matter at all other than the fact that he and his wife, Leah, want to live in Bay Village. Having been a superintendent in Brecksville, Columbus, and Cincinnati they've travelled a lot through Bay Village and they love it here and want to be here. Given that, they've taken a look at the property there and tried to find something that would be aesthetically pleasing to that area. They've driven that property there many times and they'd like to put something that looks nice and fits in there, not a two-story stacked house with a one car garage on the front, but something that is complementary to the homes that are adjacent to it. They are certainly familiar with the need to have something that is aesthetically pleasing for them that maintains the value of their homes on that street as well. They are well aware of the backyard circumstance. They actual talked to Mr. Bruner about the back of the property and all of us were surprised to find out that it's actually larger than what we thought it would be. Absent to Mr. Tuck-Macalla's concerns about the corner of the barn. They have no intention to put a fence in. They're trying to take bedroom location into consideration of the neighbors as well. The company that is building the home is Drees home, they have other homes in Bay Village and George can speak to that, but they live in the Cincinnati area and they have a family member that owns a Drees home and they know it's a quality home. On the left side they would be 10' from the fence to the existing home which is consistent with what he's seen in other areas. On the right side of the house, where the driveway would be, there is an extensive amount of property compared to be what would be left on other parts of the property, but again a much more open more aesthetically pleasing drive coming back through there. In the front, they've taken a look at that as 37', but it's about 34' from the back of the sidewalk which puts them about 50' from the street. So, the house, even though it is closer, would actually be far enough back that you could have a car in the driveway with a lot of room left to walk on the sidewalk and also having traffic come by. Property in Bay Village, as you know, is difficult to find. The property that a school superintendent can afford is even more difficult to find and they've worked

hard and looked around and so they found a place that they might be able to put something in there being very cautious of being complementary to the neighborhood and trying to meet the zoning requirements. He appreciates Mr. Tuck-Macalla's understanding of the law and zoning and requirements.

Mr. Norton clarified that in Mr. Tuck-Macallas's calculations the only way to meet both minimum house size, of 1750 sq. ft., and the allowed footprint given this lot – is to go up?

Mr. Tuck-Macalla replied in the affirmative.

Mr. Prebles stated that the house on the right and the house on the left cannot be 1750 on one floor – those homes are not that large.

Mr. Tuck-Macalla replied that is what happens when you build in the R1 district today you have to build a house that is 1750 sq. ft. of livable space.

Mr. Prebles remarked that that's the requirement even if it's not pleasing to the Bay Village aesthetic.

Mr. Vonderau introduced himself as a life long Bay Village resident and advised that he is representing the seller. When they hired him to sell the lot they had a conversation with the building department and they were told, in no uncertain terms, that this is a buildable lot. So, he went to four different builders and an architect and they all said the same thing - it's a buildable lot with variances. To him there is a conflict, to make this lot something more than an empty lot on Nantucket there is going to have to be some variances granted.

Mr. Saurman clarified that Mr. Tuck-Macalla is saying that it's a buildable lot without variances if you do a different design than what this individual wants.

Mr. Tuck-Macalla replied that his determination is all within the framework of the code as it's written. They can grant a variance for a smaller house in an R1 district.

Mr. Bruno commented that it's not lost on the board that they know it's a buildable lot, without variances, to the point that Mr. Tuck-Macalla is making – going up to a third floor. It's a quandary of the code in this district. It's a buildable lot with variances to be more aesthetically pleasing. It makes this lot a unique lot, which is one of the things they things they take care and consideration to. He is taking in the dialog and having driven past the lot a million times, his wife grew up around the corner, he sees the quandary. There is uniqueness to the lot, but it comes back to what is reasonable.

Mr. Saurman remarked that he lives right down the street from there and he has walked by the house 100's of times and he's seen the for-sale sign on that lot for years. This is a situation where, when he was asked to join the Board of Zoning appeals, it was if there was a hardship to the owner then that is a reason to consider the variance. Now whether the owner is Mr. Bruner or Mr. Prebles it's a hardship because otherwise there isn't going to be a house built on that lot probably ever because it's so unique. Because of the uniqueness and hardship to have the ability to put, what he sees as a nice plan for a home, he thinks it's reasonable from what he is looking at.

Mr. Vonderau replied that is how he is approaching it as both a Bay Village resident and a real estate agent. There aren't any houses in Bay Village with a third floor. As a resident, he doesn't know that next to ranch on one side and a cape cod on the other he's interested in seeing a colonel with a third floor – it's not a good look.

Mr. Norton commented that the difficulty that he's having is the magnitude of the request. Particularly the rear yard. This is a quandary and he's not sure they're going to be able to property settle it tonight given 5 members vs. the 7, but the lack of a rear yard is what it comes down to for him.

Mr. Gess commented that Mr. Tuck-Macallas calculations are taken off of the proposed dark property lines which might not come into play?

Mr. Tuck-Macalla clarified that his numbers didn't actual come from that plan. They were from the auditor's website. He took an average between the two side lot lines...

Mr. Gess clarified that he was curious if the calculations were redone with the new lines perhaps the variance request would go down?

Mr. Tuck-Macalla replied that they could, but from his recollection he did everything off of the auditor's site and he took an average of the depth.

Mr. Bruno reiterated the need for a revised site plan with correct lines. The current variances requested are pretty aggressive based on the precedent that the board has set. They are held to the code and tinker around the edges. Based on the percentages of variances it's pretty significant which is where their comments are coming from. They want to improve lots, but sometimes their hands are tied with to what extent they can tinker around those edges.

Mr. Prebles confirmed that he hasn't closed on the property yet – not until he gets a variance.

Mr. Bruno continued to say that he doesn't believe they're going to resolve this tonight, but they certainly want to get as much information as they can and he thinks they're getting there and he defers to other folks to make sure they cover as much as they can before everyone is present.

Mr. Norton remarked that he sees a couple of things that maybe can be established more firmly. He would like to see what the setback is on the house to the North. It appears, just looking at it, that it might be a little bit in front of the 50' setback and they'd take that into consideration because that sets a partial precedent. Bay is an unusual place because it started as little cottages, which still exist, and then that changed over time. He would also like to know about the 50' setback because it seems to taper off to 40' across this lot and it says 'per plat'. So, at some time in the past, apparently some level of authority when they were platting it and they were accepted by the City, proposed that the setback was 40' by the time you go to the other side of this lot – the way it curves. He thinks that's something that is at least a factor. He's doesn't know which is legally right currently. Maybe keeping it at 50' is the technical legal way to do, but he thinks it's would influence their decisions if they said over time the rules had changed on this lot. He thinks they could come up with something perhaps more reasonable. Maybe not the 1700 by stacking it totally, but they could get some variation of that to minimize the variance that is requested. He thinks that perhaps they should put it off for this evening.

Mr. Bruno concurred and advised he'd like to finish with the comment that they all certainly appreciate the comments that the applicant is trying to maintain the character. Knowing that most of those homes are single floor in the neighborhood along Nantucket, but to the chairman's point they would appreciate some more creativity with possibly a split level or partial second flooring. They can't comment on the aesthetics specifically, but they do appreciate the comments.

Mr. Norton added that it will also give the board time to revisit both the site and the neighborhood. He believes everyone has been over to it and looked at it, but it was the first look and to trying to develop a complete sense of the situation as well as the nature of the street is difficult.

The board provided the applicant with the next meeting date 6/16/22 and advised normally whatever is on that docket is due today.

Mr. Norton commented that over the next several days if he has a redesign that the building department would try to accommodate them.

The applicant confirmed that the board would like more set lot lines at minimum.

Mr. Prebles stated that he fully appreciates the rules and regulations and he appreciates the fact that they take the time out of their lives to participate in a process like this and serve the community. He understands that this is not a personal matter - it's about business and making sure the community is maintained which is precisely the reason people want to come to Bay Village. He will do everything he can between now and the 16<sup>th</sup> to ensure the board has all the information that they need. If it works it works and if it doesn't then they will continue on their quest to find a place in Bay Village that meets their needs.

Mr. Miller stated that he appreciates the applicant taking the conscious effort to respect the aesthetics and the scale of the neighborhood, but he would like for him to take a look at some of the other neighborhoods, on the east side of dover, where there are typically smaller structures. Overtime those have been replaced to meet that 1750 sq. ft. rule with two stories – there is a momentum to move that way. The neighbors on Nantucket may not always have the same homes that they have today. He thinks there is some president in Bay Village of the taller homes working.

Mr. Norton inquired if Ms. Glowe had any questions about the meeting tonight as a neighboring property?

Ms. Glowe replied that it's nice to hear everyone's thoughts come together collectively. They do this all the time, but she's just a neighbor. She's also happy to meet potential neighbors because you never know who your neighbors are until they walk into the house. She remarked that she is grateful the board raised some of her concerns. It can be aesthetics and what the street vibe is, etc. She thinks more her focus, if she's being selfish, is what does this mean in regards to water/drainage and sewer lines. She's had issues where it's actually backed up in the past. She wants to make sure that if there is construction that there is drainage, but she doesn't know if this is the appropriate time to raise that.

Mr. Norton replied that when the building department approves the plans they address all those concerns to make sure that the land drainage is proper and the sewer sizing is all proper. The building department protects the neighborhood from those concerns.

Ms. Glowe added that she was grateful of their discussion of sight lines and how that would impact the neighbors. She's here to listen.

Mr. Bruno added that it's definitely part of the reason for the setback discussion that they will continue to have.

**Motion** by Mr. Bruno, Second by Mr.Saurman, that the application for the property parcel #20113011, also known as 30888 Nantucket, be tabled to a future meeting of the earliest convenience to the property owner and our building department to gather the information the has been requested by the board.

**Yeas – 5**

Nays –  
**Motion Passed 5-0**

There being no further business to discuss the meeting adjourned at 8:37 p.m.

  
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Jack Norton, Chairman

  
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Lauren Oley, Secretary