

Meeting Minutes of
Board of Zoning Appeals
Held June 17, 2021

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

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

Excused: Dan Gess, Lauren Oley (Assistant to Building Director)

Audience: Gloria Oster, Jim Noell, Judy Trefz, Neil Klein, Ross Leighliter, Scott & Tama Ohnmeis

**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 June 3, 2021

Motion by Mr. Burke, **Second** by Mr. Bruno, to approve the minutes of the meeting held June 3 as prepared and distributed.

Motion passed 7-0

1) Judy Trefz 577 Kenilworth Rd.	Applicant is seeking a variance to section 1359.01 (a) to install an air condition unit closer than the permitted 10'. The unit is 26"x26" with DB Rating of 73. The variance request is for 9' or 90%.
-------------------------------------	--

Mr. Norton introduced the first item on the agenda as 577 Kenilworth Rd. The board has had an opportunity to visit the site and review the application.

Ms. Trefz advised that she'd like to provide a little background. She's been a resident of Bay Village since 1971 and she has never requested anything. She wouldn't be requesting this, except she had a tree fall on her home and had very extensive damage. She was living at the Marriott for six months and she is just getting her home back in order. This is the final piece to getting everything back together. She doesn't want the A/C replaced on her patio. To place it on the north side of the house won't be seen from anywhere. There is a fence on all sides. The outside edge would be over 15 from her neighbor's house and that includes his driveway and car. There is no way to meet the 10' because her house isn't even 10' from the property line. This is why

she's requesting the variance so the A/C isn't on her patio. His neighbor provided her with a letter advising its okay with him, but he didn't get it in early enough to include it with her application. It's only a 26"x26" A/C.

Mr. Norton remarked that he noticed that both she and the neighbor have fences. Sometimes in these situations they request that there be year round screening. That may become part of the variance so that in the future if the fence disappears they, or a future owner, would be required that fence be placed with another to block the A/C.

Ms. Trefz remarked that her whole yard is fenced in with chain-link and she doubts if someone would take it down. Her neighbor has a solid fence.

Mr. Norton stated that if it was just the chain-link on her side, they would say that she needs to have some other screening. It's not the neighbor's obligation to screen it for himself. Looks like Bob Lyons gave you a pat on the back a few years ago.

Mr. Burke inquired about the photograph that was submitted with the application – have she since put a new wood section up there?

Ms. Trefz replied that has been repaired. It was part of the damage from the storm.

Motion by Mr.Burke, Second by Mr. Saurman, to grant the property located at 577 Kenilworth Rd. a 9' variance from the minimum side yard requirements of 1153.01 of the C.O for the installation of an Air Conditioner as per the drawings submitted with the application provided that the applicant provide year round screening from the street and the neighbor and that the unit be equipped with a sound blanket if not already.

Mr. Miller explained to the applicant that a sound blanket is an encapsulating blanket that goes around the motor of the condenser. It doesn't go on the outside it goes on the interior. It helps to keep the motor quiet, but it doesn't prohibit it from staying cool.

Mr. Trefz advised that she's sure her HVAC contractor can handle that.

Roll Call Vote:

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

Nays –

Excused – Gess

Motion Passed 6-0

2) Neil M. Klein 31016 Walker Rd	Applicant is seeking a variance to section 1153.02(1) . The set-back from the R.O.W. is 65'. The applicant want to build a porch that encroaches on the set back 9' or 13%.
-------------------------------------	--

Mr. Norton introduced the next item on the agenda as 31016 Walker Rd.

Mr. Klein remarked that they are looking to do a front porch - nothing obnoxious. It's a southern exposure and they've tried to put a brick patio out there, but with the sun it's very unusable throughout a lot of the day. What they'd like to do is to add a porch and put a very modest roof on it. They're not looking to enclose the porch and they don't want to do something that obstructs the view from anyone, but they simply want a modest porch to walk straight out of the front door and be shaded. They are trying to avoid a sunshade or other unsightly things. They want to put, what they feel would be, a nice front porch to house to add some additional charm to the neighborhood.

Mr. Saurman inquired if the porch still be within the fence?

Mr. Klein remarked that they would go no greater than that. Certainly if there is any area of compromise they could potentially move back a little back from that. They'd go no further than that.

Mr. Norton advised that the board's attitude towards porches in general is a very positive one. It's a good thing for a neighborhood. The difficulty is that when they're encroaching on a building setback they try to minimize it so it's still a functional porch and it provides the comfort of porch without becoming too big of a structure. When these have been considered he's hard pressed to remember when one got past 6' in depth. The board feels like you can have chairs and a table and still be able to walk around. They tend to make sure that it includes a statement that it remain open. The railings are necessary, but that they be of an open design as one of the requirements. It makes the obstruction more minimal from a visual standpoint.

Mr. Klein advised that he would be open to that statement regarding the openness. He further acknowledged that 9' out is probably more than has ever been approved, but he can take what he can get 6-7'.

Mr. Miller remarked that he has a question regarding the steps. The steps really aren't indicated on any of the plans or elevations provided. Is there going to be steps from the front or the side?

Mr. Klein replied that they didn't want to invest a whole lot in architectural drawings until he got a temperature from the board. The intent would be for the front steps to be removed and then they'd create steps coming from the west side of the porch to the house – from the drive.

Mr. Miller commented that Mr. Norton spoke to what they traditionally allow regarding depth. One consolation is how far the roof hangs over which is the physical footprint of the structure. If the overhang were 10" more than 6' that should help with additional shading of the space. The history is that we're most often looking at a 6' deep patio/porch footprint.

Mr. Norton replied that traditionally that is where they've settled.

Mr. Klein inquired if that means it's the maximum that the board has approved in the past?

Mr. Miller replied that pretty consistently what they allow.

Mr. Bruno clarified that the porch roof, based on the drawings submitted with the application, would be barely going past the decking of the porch because it's going to be pitched east to the west.

Mr. Klein replied that it most likely would be pitched to the east and west. They haven't engaged an architectural firm yet, but they haven't concluded the exact design yet, but there would be some pitch.

Mr. Bruno remarked that typically they include in the motion 'per the drawings as prepared and submitted with the application' that is what he's looking at. He wants to make sure that the applicant is aware of that. It would be accordingly with that type of language which he can take that into consideration when refining the drawings before they move forward.

Mr. Norton advised that right now the roof is pitched east to west and if it changes to a shed roof design and pitched to the south they would end up in the same position – so the verbiage may not be needed in this instance per drawings submitted and just refer to the 6' for the roof and porch.

Mr. Miller commented that one of the items he's observing is that if there is a pitch with the gable in the center running north/south and he is pitching to the sides he is going to most likely wish to have gutters to conduct the water to the ground. If they were to go with a shed roof the lowest pitch for the shingled roof is 3/12 and so if it's 6' then you've got 6" of drop. You're likely to have no issues creating a forward facing shed roof vs. a gabled roof and still get the clearances over the front door and a bay window. He is okay with either orientation. It's just a matter of having gutters on the side or the front.

Mr. Klein replied that from their standpoint they certainly want to make sure they can encroach but reasonable. His main concern with the gable is that it's as aesthetically pleasing as possible for everyone in the neighborhood. He thought the gable would be nicer for everyone around.

Mr. Saurman confirmed with Mr. Klein that he is willing to put on the record that he was amending his application from a 9' variance request to a 6' variance request.

Motion by Mr. Bruno, Second by Mr. Burke, to grant the property located at 31016 Walker Rd. a variance per CO 1153.02 (1) for the encroachment to the right-a-way setback of 65' required for a variance of 6' to construct a porch on the front of the main home structure similar to the drawings and the application as prepared and submitted and further provided that the railings be of an open nature visible from the street and further provided that the steps will descend to grade on the west side of the porch.

Roll Call Vote:

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

Nays –

Excused – Gess

Motion Passed 6-0

3) James Noell 559 Vineland	Applicant is seeking a variance to section 1153.03 (1) the minimum side yard set-back
--------------------------------	---

	<p>is 14' one side must be 6'. The proposed side-yard set-back would be 16.5' and the smallest side would be 4.5'. The total side-yard set-back request would be for 2.5' or 17%.</p> <p><i>Note: This proposed property location has been heard by the board 1/21/21 & 2/18/21</i></p>
--	---

Mr. Norton introduced the next item on the agenda as 559 Vineland. It's to be noted that this location has been heard by the board 1/21/21 & 2/18/21.

Mr. Noell remarked that he thought he'd come back to the board to ask for this smaller variance. He has been in contact with a landscaper and the main concern is the bed on the south side of the house regarding the driveway. Originally he had the driveway at 9' and now he's got 8'6" there now and he probably wants to go 8'9" and he'd like to have a bed between the house and the driveway – between the driveway and the garage to the south. Even with that he's going to have to have his neighbor to agree to plant some arborvitaes along her garage. He thinks she will and she's actually talking to him about potentially doing her garage. He definitely wants to do this landscape work. If he can't make the whole property look like its deliberate then he's not sure he'll go ahead with the project. He does have a lot wrapped up in this so far. He's brought the storm drain up to the house and he's dug some clearing of big rotten trees. He has architect drawn plans which he believes he sent in with the application.

Mr. Norton remarked that the design of the house has an overhang and sometime in the future there would be nothing to prohibit the neighboring property, to the north, of wanting a 4.5' setback and with both having a similar overhang the houses could end up 4' apart and that's where he's hung up. You start off with 12' by design from the house to the property line and if you took 1.5' out of that you'd still have 10.5' and that would require no variance at all because you'd have 6' on the north side. So 10.5' would allow you to accomplish a plain bed and a driveway. A 9' driveway, while not overly generous, is not untypical.

Mr. Noell replied that his problem is that he needs two beds not just one. He needs one along the house and the drive and one along the drive and the property line. He further detailed the issues with the required sizes of the beds. He is confused by the overhang comment.

Mr. Norton remarked that most house designs have an overhang. They're talking about the footprint of the base of the house. The overhang, which would be typical, is about 2'. So if both houses are 4.5' away from the property line with a 2' over hang the houses would be 4' apart. That in and of itself is a fire hazard. The state laws may even prohibit that. They'd be taking a right away from a neighbor as a result of this potential issue. He doesn't see why he needs two plantings on either side of his driveway - that's a wish not a need. The board needs to be careful not to set a precedent that they can't defend. What is good for one person has to be the same treatment for anyone else in the future. He continued to explain the issue with the potential overhang proximities.

Mr. Noell referenced two homes on Parkside that he can stand between and touch them with both hands. He doesn't know how that happened, but when he looks at that and what he's asking for here doesn't seem like much.

Mr. Norton replied that they can put this off and he can see if they got a variance – he's not sure if it was done legally. He can't answer that without further investigation.

Mr. Miller inquired if the image that was submitted to the board was produced by an architect?

Mr. Noell replied that it's a rendition of what he's going to try to draw up. So far they're in the first stage of the drawings which is just a floor plan. As far as the roofline and the exact shape of the roof it's going to be similar to that, but he doesn't know what the overhang is going to be for the exact dimensions.

Mr. Miller remarked that the craftsman's style that he submitted typically has a very deep edged side and there are also brackets and things like that as decoration depending on how it's built. So the side that is closest to the driveway that could be leaned up quite a bit and they probably could do the same thing on the opposite side just bring them in a little bit. What they are trying to achieve is that they're not as close to the property line with the roof. The building code does allow for a 2' ease, but as Mr. Norton pointed out they have to account for that and the proximity to the buildings potentially next to you – even if there is a garage there now there may not be one there a year from now. They had similar conversation about the properties on Humiston when they were looking at their overhangs and how close they were to adjoining properties. Even though the walls were fairly close together the overhangs they pulled back to keep them from being too close in. If you have them within the 5' distance then all that edge for at least 4' of that surface needs to be fire rated and that is really quite a big cost between all the trim board and the roofing. Just an observation on how to accomplish this. He then directed two questions to Mr. Tuck-Macalla: On the plan that is submitted they have a detached garage do we know that the scale of the garage is acceptable to the size of the property?

Mr. Tuck-Macalla replied that it is and they've been through that. Although the size of the garage changes with the square footage of the house. When he first looked at this the square feet of the house it did fit. It was just enough to make it work.

Mr. Miller advised his second question was on the northside between the neighbor's garage and the new home there is a square that appears to be a condensing unit. Is that something that they need to discuss as part of this variance?

Mr. Noell replied that would be in the future. He believes that he automatically put that in there and it's not planned yet. Most likely it will be in the back, but as far as the overhang. He can talk to his architect and see what he has in mind. If it's going to be a gable roof to the north there doesn't have to be much of an overhang at all as far as he can see. It could be minimal - like 4".

Mr. Miller replied that the architect may try to stay true to the natural style of the craftsman home and it usually comes with deep rake sides so he'd be good, if there was a motion, that they kept it under 18".

Mr. Noell replied he could get back with the architect and get the exact overhang dimension before drawing it.

Mr. Burke clarified that some of the documentations show the variance request at 2.5', but he thinks it's 1.5' when he does the numbers.

Mr. Noell replied that he's looking for 1.5.

Mr. Leighliter advised that he's the neighbor to the north and he too was confused about that error.

Mr. Norton replied that he's still confused. It's not like this was grandfathered in in anyway and he doesn't find any unnecessary hardship that they're required to find with this kind of a situation. The dimensions of the house are easily manipulated as are the driveway. He finds it hard to say this is an unnecessary hardship that can't be designed around.

Mr. Burke replied that he would concur with the Chairman's comments which are very similar to what was discussed at the last meeting. He thinks the only difference is 6" – he questions whether that is substantial enough change to even be bringing a new application, but he's not opposed to it being considered and voted on.

Mr. Noell replied that if he could get a 1' it would help out.

Mr. Miller advised that he would see there is an opportunity in the driveway. A 10' driveway is pretty nice and broad. He would like to see if there anything that can be it taken out of the driveway.

Mr. Noell replied that he's got 8'6" for the driveway right now.

Mr. Miller replied that the drawings provided to them show 10'.

Mr. Norton inquired why he still needs a variance.

Mr. Noell replied that he's done that, but with the two beds he still needs the variance.

Mr. Burke replied that since he's willing to go to an 8'6" driveway. If that's on the northside that would clear this up completely.

Mr. Miller replied that he'll still have the room for the beds, but it sounds like if the drive is 8'6" and he moves the house to the south by 1.5' then you'd still get what you're looking for.

Mr. Norton advised that he'd have a total of 2' for the planning beds.

The board continued to discuss the distance of the beds, driveway, and home.

Mr. Norton inquired if his discussion with his neighbor would permit them to put arborvitaes along the south side of the driveway on their property.

Mr. Noell replied that he hasn't discussed that with her, but he's discussed that she may want to replace her garage if and when he does his garage he said he'd look into doing her garage.

Mr. Norton advised they can vote on it tonight. He doesn't see enough of a difference that it qualifies for a revote and he fails to see this as a necessary hardship. Choosing a bed along the house or driveway or denying a bed on both sides is not a hardship.

Mr. Noell replied that it's not a hardship, but it would be curb appeal and a better look to the neighborhood. He is planning on moving into the house, but he's thinking about resale value.

Mr. Leighliter commented that it was 6' in the last vote and they are very excited about Mr. Noell building the house. One of the things that they have to consider is that they are going to have to put a fence. With the trees pushed back now all of the homes that are along the side there – he's getting a lot of noise from them. He was out on Sunday afternoon and someone had a leaf blower and it's blowing down the hill into their yard. They don't want to do anything about the fence because Mr. Noell is doing all this construction. There is some concern that when they put up a fence that it is going to be too close to the house. It could be a problem.

Mr. Norton inquired if they were all clear enough on the dimensions to make a motion.

Ms. Young remarked that she would like to have clarification of it straight across. So 4.5' then 30' then what is the other side yard?

Mr. Noell replied that it leaves 12.5'. If he went with 8'6" that would leave 4'. That would be good for the plantings.

The board further discussed the motion.

Mr. Leighliter inquired if they could extend the discussion a bit more. From what he's looking at the stake that is on his line. When he considers the fact that he wants to put in a fence he's concerned that there would be an issue.

Motion by Mr. Burke, **Second** by Ms. Young, that the property at 559 Vineland be granted a variance of 1.5' along the northside of the property from the minimum side yard setback requirements of Section 1153.03 (1) for the construction of a new home on the property.

Roll Call Vote:

Yeas –

Nays – Burke, Saurman, Young, Norton, Bruno, Miller

Excused – Gess

Motion Failed – 0-6

4) Scott Ohnmeis 30322 Provincetown Ln.	Applicant is requesting a variance to section 1163.05 (h)(2) limiting a privacy screen to 32 feet in any direction. The owner is seeking a variance of 194 lineal feet. 10% of the lot perimeter is 54 feet. <i>Tabled 6/3/21 – Additional research to be completed by Building Director</i>
--	--

Mr. Norton introduced the next item on the agenda as 30322 Provincetown Lane. The board was provided research by the building director for a property at 30313 Provincetown Lane which is across the street from this property. This relates to a 2003 request for a 5' fence for 68'. To provide a little background in 2003, the board, after quite a few request for a variation for a 5' fence because of athletic dogs that could actually top it the board, was entertaining and encouraging council to review the idea that the principal of something over 4'4" being a privacy screen and blocking the view that if the fence was almost totally open (75%), they felt that council ought to look at that and they thought that was a reasonable change. To test the waters, in a couple of cases, they granted a variance along that line as they did for that property. It turns out, that after much prodding council finally, just a couple years ago, picked up the whole fence ordinance and the board pushed for that change to be made. After a year of hearings and discussions by council it was resolved that they did not want any change and so, in effect, they sent BZA new marching orders saying 'no don't do that - whether they are open or function as a privacy screen by blocking the view it doesn't matter'. They're the elected people. This board is elected to tinker around the edges and they made it clear we were not to tinker around that edge. The board can appreciate Mr. Ohnmeis' position since he's right across the street from them and he wants something similar, but council has put the board in the place and said no to that just recently. He would have a hard time going up against council when they clearly said in the very recent past that they do not accept the BZA's version of that.

Mr. Ohnmeis commented that he was thankful to the Bay Village building department for providing the information to him so quickly and it's nice as a Bay Village resident to know that they've been so helpful for residents. There is nothing, and Mr. Norton mentioned the proposed changes to the code with regard to the height of fences, but none of that is mentioned in the minutes that the building department provided. He doesn't know if he just didn't pick up on that last time, but if he's hearing correctly – is he saying that this fence was allowed at 30313 Provincetown Lane for 'testing the waters'? There is nothing in the minutes - so it's throwing him off.

Mr. Norton replied that was probably a poor choice of words. They felt that one of the biggest issues was the blocking of the view and since this was totally open they felt it still kept the spirit of the law and the height had less to do with that. At that time, the vote was close (4-3), and they were sympathetic to that and that is why they granted it. Since that time council has reviewed that.

Mr. Ohnmeis replied that the provision that there be 75% open for visibility and 4" spaced between spindles is not in the code. It's is not in the code there is no language about that.

Mr. Norton replied that they put that in as a provision based on the design that would be a requirement for them to grant that variance.

Mr. Ohnmeis replied that as he understood in the last meeting that they are not adding or subtracting to the code and he could see why they want to do it, but it wasn't in the code. The precedent has been set on this street in this neighborhood and allowing, for the sole purpose of containing a dog, allowing a 5' fence. With regard to the 75% open space – he sent an email with

photographs. If you look at those it comes out pretty clear you can see that the section of the fence that goes back towards the back they've since had to add this mesh, but that is what they've had to do to prevent the dog from getting through the fence. So does that mesh then negate the 4' requirement? He explained that the neighbor's fence is also greater than 5 – what's allowable regarding posts?

Mr. Norton replied that most fences are manufactured in 1' increments. So you have a 4' fence, but you normally don't want that touching the grade whether it is wood or moisture wicking up the moisture, etc. It allows it to be 4" above the grade to prevent damage and that's why the posts are permitted to be 4'6". If it's a privacy screen then they can be as high as 6'4" and the posts can be 6'6". That is where the 4" comes in. If the neighbor added an element that made it a solid screening then the building department can visit the site and confirm that. The variance clearly stated that it needs to be 75% open. He advised he hadn't had an opportunity to see the new pictures that were sent today. The building department doesn't have a fence police force. There could be examples of that throughout the city.

Mr. Ohnmeis replied that his point was to say that someone asked for a fence to contain a board and the board approved a fence that does not contain the dog so a modification had to be done. He will drop it at that. They're wonderful neighbors. He doesn't believe the code is thought through very well. To him, the precedent has been set and he's heard the board talk about precedent as being important. Once the precedent has been established even if it's only passed by a small margin that's important. He feels like a precedent has been set a 5' fence was allowed on this street and his neighbor has one on his corner lot which is more visible than his own. If a motion was made to vote and he got shot down is he allowed, in the same meeting, to propose another request?

Mr. Norton replied that prior to the vote he could change his request.

Mr. Ohnmeis replied that he sort of wants to go on the records with a vote, but he also, based on the last meeting, he's coming up with a revised proposal based on suggestions from the board. If it gets shot down and the board is going to say, 'if you have a secondary proposal then fill another application and pay another \$50, wait another 2 weeks, etc.'. In 4 weeks, this fence is going in. Worst case scenario they're going to match the fence that their neighbors have at 6' and they are going to put a 4'4" board on board fence and with 54', but not more than 32' in any one direction. The fence is going up in a month – what's he's hoping, if he's voted down – which he expects to be, is to get 5' for the entire parameter he has a very quick alternative proposal based on what is explained to him.

Mr. Burke advised, in answer to Mr. Ohnmeis' question, part of the purpose of the discussion is to give the applicant a sense of what the commission is thinking. It is common, that prior to any vote the applicant would amend application to conform more to the boards thinking. To take a vote and then turn around and say, "okay what about this" their requirement has to require resubmission that has to be substantially changed from what was denied.

Mr. Norton confirmed that historically that is how business has been conducted.

Mr. Ohnmeis replied that he's running out of time. Contractors are so far out currently and they can't wait any longer. If it's okay as part of the email, which he apologizes for being so late on sending, there is a pdf file named 'alternate request'. If you go back to the photographs, the primary reason for the fence is a dog. There were a couple secondary reasons though. First his backyard is adjacent to a utility easement which several neighbors use as a dumping ground. There is also a very unsightly transformer and they've sent someone out and it looks worse. The electric company has advised that even though it looks bad it's safe. There are animals burrowing underneath it. He's provided photos of the transformers. One of his neighbors for years and years he'd put them there and piled them up there. There are entire trees that are cut up and dumped back there.

Mr. Norton replied that he agrees it looks a bit trashy, but a 4'4" fence that you couldn't see through, which you're allowed to have, would block all that. He feels the applicant may be stretching to say it wouldn't cover his view.

Mr. Ohnmeis replied that he didn't feel that was the tone of the last meeting where at least one board member stated that they might allow more fencing to block some of the area back there which wouldn't take away from the 54' which was allowed – maybe the tone has changed. That is why he came back with photographs. The last thing he mentioned is – if someone has a residential home in Bay Village that cares for individuals with special needs is that a reason for a variance if they want a privacy fence.

Mr. Burke inquired what sort of special needs he is referring to.

Mr. Ohnmeis responded by saying he's referring to a residential adult home with developmentally disabled adults and/or children.

Mr. Burke replied that there are additional considerations that the city must respect and that is the federal fair housing laws – which he's not aware that they have any situation in this case.

Mr. Miller replied that typically if they do have that situation it's considered a special permit so that if that home no longer becomes a group home the fences are removed.

Mr. Ohnmeis replied that he mentioned last time his wife and him are licensed foster care givers licensed by the state. They foster for Cuyahoga County and they've been doing it for 5 years they currently have their 5th placement. They have cared for children with special needs. He doesn't like to sound like he's 'pulling this card' and he doesn't know if it's going to do any good with the board, but among the reasons that they want this fence is that there has been one situation where, in most cases this has not been the case, there was concern for a biological parent that we were very concerned was going to discover where the child was in addition to the special needs kids. A little taller fence might provide us with more security for their home and the individuals staying in it. He was thinking that since there was a residential home on Ashton that is behind them and they were very nice to go around and let neighbors know that the home was going to be caring for adults with special needs. They were very welcoming to them and we are glad they were in the neighborhood, although it's possible that some neighbors were not happy, because they have since left. They do have a fence. He didn't want to go over and measure it, it's

doesn't look like it's a full 6' might be taller than 4', but he wanted to find out if they got the fence because of that. Someone has purchased it and is in the process of flipping it. He doesn't know if that would be a consideration. He doesn't want to beleaguer this he's getting fence either way.

Ms. Young commented that she believes in the case of the group homes they had a requirement by law to allow that fence to be higher than normal for the time that it was used as a group home. There is also the consideration that the variance would go away when the home is no longer being used for that purpose. That more of a law mandate than them making a decision based on what they heard. Their hands were tied, by law, to accommodate that.

Mr. Norton added that he believes the house they did allow that was under Cuyahoga County supervision.

Mr. Ohnmeis replied that their home is also under Cuyahoga County supervision. They are licensed with the state. The county comes out periodically regardless of if they have a placement or not. They have to have the fire department come out and check their home for a variety of things, they had to be fingerprinted, and this is all for the county. In a sense, this house is in supervision of the county. He doesn't want to stretch things and he's not trying to pull an emotional card, but he is honest in saying this is among the reasons they have wanted to fence in their yard. He thought if there was any chance the same rules applied to foster care gives he thought he'd throw it out there.

Ms. Young apologized advising that she wasn't at the last meeting, but she didn't see if an electric fence was discussed. If you have a shorter fence, but then train the dog to not go near the fence.

Mr. Ohnmeis replied that the majority or all the members of their household don't believe in electric fences. And to be honest with them, one of the reasons they love Bay Village is the walking community. Recently he was walking by an electric fence and a dog charged him and he had to pray the batteries didn't die out. Their dog is extremely friendly, but he's a handful. He appreciates the suggestion, but it's not something they're interested in. If you look at the PDF attachment, he is now reducing his request to that request which is a 5' fence along the back of the property, adjacent to the utility easement, and then on the west side 9' of 5' fencing and the variable would be.

Mr. Norton replied he is hard pressed to change this on the fly. He for one hasn't see the file. Perhaps they could postpone it to the next meeting. He doesn't want to do it on the fly.

Mr. Ohnmeis apologized again for this late submission. He walked away from the meeting last time thinking that would be okay. The sole reason the last one was 68' of 5' and he's requesting far more.

Mr. Bruno replied that he's opened the PDF that the applicant sent and it's not clear what is being request. He is also not comfortable moving or voting on what was sent on the PDF.

Mr. Norton advised that these changes cannot be done on the fly to give fair consideration. He advised it can be withdrawn from tonight and then put it on next weeks meeting. The board cannot operate without the information.

Mr. Ohnmeis advised that he is in agreement to postpone it to the next meeting and understands that he will provide an updated drawing. He has two weeks and he will make sure that he sends the email sooner. At some point the board has to vote on this issue at some point correct? He would like to regroup and decide what he'd like to produce.

Mr. Tuck-Macalla advised that they will put this item on the agenda and if he gets the information to us by Monday we can get it on the board.

Mr. Ohnmeis advised that he isn't sure if he would like a fence at this point, it's possible they may not see him, but he may show up simply because he would like a vote because of the precedent. He's confused. They speak about the spirit of the law and he's confused. If he understands correctly he has until Monday to provide the revised documentation.

Mr. Tuck-Macalla advised that he will be on the agenda the next Monday regardless.

Mr. Burke replied that if nothing is submitted they will vote on the application before them as proposed.

Motion by My Burke, **Second** by Mr. Miller, that the application for the property at 30322 Provincetown Lane for variances regarding the installation of a fence be tabled until the next regular meeting.

Roll Call Vote:

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

Nays –

Excused – Gess

Motion Approved – 6-0

5) Gloria Oster 538 Dover Center Rd.	Applicant is seeking a variance to section 1153.02 (1) to build a new porch on their home the set-back is 50 ft. the request is for an 8 ft. variance or 12%.
---	--

Mr. Norton introduced the next item on the agenda as 538 Dover Center Rd. He thanked the applicant for her patience and advised that the board has had an opportunity to visit the site. He referenced the previous conversation the board had regarding the positive nature of front porches. He advised that 6' seems to be the dimension that has been settled on from a depth standpoint.

Mr. Oster advised that they plan to replace the existing porch and extend it north to the end of the house.

Mr. Norton clarified that the existing porch is 5' and they want to make it 8'.

Mr. Oster advised that after listening to the other gentleman they will be happy to do 6’.

Mr. Norton confirmed that they want to make a formal change to their application and request 6’ as opposed to 8’.

Mr. Burke inquired if the front of the house was built right on the setback line.

Mr. Tuck-Macalla confirmed that he went and measured it and it was right at the setback line.

Mr. Young inquired if the stairs will go off the side or the front.

Mr. Oster confirmed it will be off the front. There is an existing sidewalk there.

Mr. Norton remarked that the board typically discounts the steps as their encroachment into the front yard.

Mr. Tuck-Macalla confirmed that the steps do not count towards the setback.

Motion by Mr. Burke, **Second** by Mr. Bruno, that the property at 538 Dover Center Rd. be granted a variance of 6’ from the front yard setback requirements of 1153.02 (1) of the C.O for the construction of front porch 20’ in length and not more than 6’ depth provided that the railings on it shall be of an open design and the porch shall not be enclosed.

Roll Call Vote:

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

Nays –

Excused – Gess

Motion Passed – 6-0

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

Jack Norton, Chairman

Lauren Oley, Secretary