

Meeting Minutes of
Board of Zoning Appeals
Held July 1, 2021

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

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

Excused:

Audience: Mark Eisaman, Allyson Kidik, Tim Hansen, Michael Kishmarton, Robert Greenberg, Mr. & Mrs. Costa, Kim & Robert Hart, Scott 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 17, 2021

Motion by Mr. Bruno to approve the minutes of the meeting held June 17, 2021 as prepared and distributed.

2) Lee Westervelt 30505 Ednil Dr.	Applicant is seeking a variance to Section 1370.05(c) to place a generator in the side yard closer than ten feet from the property line, the request is for a 2 ft. variance or 20% .
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Mr. Norton introduced the next item on the agenda as 30505 Ednil Drive. The board has had an opportunity to visit the site and review the application.

Mr. Burke inquired if the generator was going to be on the east or west side.

Mr. Eisaman introduced himself as the representative from PowerOn Generators for this agenda item and advised that it was going to be on the east side.

Mr. Norton remarked that the DB rating on this unit is 67 when operational.

The board, applicant, and Building Director discussed the City regulations regarding testing of generators and requested that the representative advise his customer of the current city regulations.

Mr. Norton added that they often recommend the unit be hidden year-round by way of decorative fencing or year-round shrubbery.

Mr. Eisaman advised that they are agreeable to do that. He advised that ideally the unit would be on the back of the house, but the reason they selected that location is that the way the house was built plus it's had multiple additions put onto it. The gas meter is located where they are requesting it which makes it an easier install. The only other way to tie in is through a crawlspace which is adjacent to that area to get to the panel otherwise they'd have to run electric the entire distance around the house to get to where they need to be to tie into the panel. That is why they chose that location.

Ms. Young noted that there was an HVAC noted on the property line on the documents submitted, but it doesn't appear there is a unit at the site now.

Mr. Bruno sought clarification if the applicant/representative is intending to place an HVAC unit on that side of the house. He added that it looks to appear even with the garage of the property to the east. From a sound perspective its pretty good placement. He then echoed Ms. Young's sentiments and advised there may be an issue with the HVAC.

Mr. Norton stated that if it is not in place presently, if it's around the back of the house, he assumes before they put an HVAC unit in there they'll need to come get a variance for that placement also. The HVAC contractor can complete the application.

Motion by Mr. Burke, **Second** by Mr. Bruno, that the property located at 30505 Ednil Dr. be granted a variance of 2' from the sideline setback requirements of section 1370.05(c) of the Codified Ordinances for the installation of a generator on the east side of the house, as per the drawings submitted, provided that the installation be screened with year round screening from view of the neighbor or from the street and further provided that this variance only applies to the installation of the generator and no other installation such as an HVAC.

Motion passed 7-0

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

3) Jason and Allyson Kidik 29075 Buchanan Dr.	Applicant is seeking a variance to Section 1359.01(a) to place an air conditioner closer than ten ft. from a property line. The variance is for 8 ft. or 80%.
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Mr. Norton introduced the next item on the agenda as 29075 Buchanan Dr. He advised that the agenda incorrectly states that this is a generator, but they are requesting a variance for an air conditioner. The board has an opportunity to review the application and visit the site. It's noted

that the unit is a 74 db rating which is fairly good for an air conditioner. Sometimes the board asks that, if a variance is granted, a sound blanket be added if it doesn't already come with the unit. He also noted that they've got a unit there now so this is going to be a second unit. The unit that is there now is exposed to the street and the neighbor. The board may want to consider requiring both the new and the old unit to be shielded year round.

Ms. Kidik advised that they would be happy to do that.

Ms. Young commented that she would like to clarify where the property line is. Is the existing unit is already 2' from the property line? Because it looks like the front bed comes out a little further.

Ms. Kidik confirmed that is the location of the A/C and that the property line is actually at her neighbor's driveway. Their neighbor's driveway kind of bumps out so that is where it is. She didn't put in the beds they were there when they moved in.

Ms. Young inquired if the new unit is not going to be any further than the existing unit?

Ms. Kidik replied that it is going to be immediately behind it.

Motion by Mr. Bruno, **second** by Mr. Burke, to grant the property at 29075 Buchanan Dr. a variance per CO 1359.01 (a) to place a second HVAC condenser closer than the 10' side yard setback for a variance of 8' or 80% provided that both HVAC condensers will be screened from the street with year round screening either vegetation or some decorative fencing and the new HVAC unit be equipped with a sound blanket if the condenser unit does not have one as manufactured.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

4) Barbara Lahey 443 Pellet Dr.	Applicant is seeking a variance to Section 1153.03(1) to retain an uncovered stair and stoop for the side entrance. The required side yard is 10 ft. the existing side yard is 11 ft. the request is for 4 ft. 10 1/2 inches
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Mr. Norton introduced the next item on the agenda as 443 Pellet Dr. He advised that there was some confusion on this situation as to whether a variance might be needed at all based on what the Ohio code requires.

Mr. Tuck-Macalla replied that he wouldn't say that would be determining factor. Generally a stoop in the front yard would not be counted in the front building line, but this is in essence a stoop on the side yard and it's not listed – they have exceptions for side yard encroachments and this is not listed. There is no listing for this.

Mr. Norton inquired if Mr. Tuck-Macalla thought this would be a special permit rather than a variance?

Mr. Tuck-Macalla replied that he is deferring to the board because despite his research he couldn't find anything in any past cases to help him make that determination.

Mr. Norton stated that it sounds like there has been some communication from Tim Hansen and some other neighbors who are effected by this. It sounds like the objection is the light rather than the stoop/stairs.

Mr. Hansen advised that he isn't going to speak for the neighbors, but one of the issues for him is the light. They could all go back to the original drawings that were approved and there was no door on the drawings, there was no step or deck on the drawings, there was no walkway out on the drawings and had there been - he would have been here in February 2020 in front of them voicing his concerns with adding a door on his side of the property when there is already going to be a door on the north side of the property and there is already an existing patio that was built in 1959 that is there. If you look at the first three houses on Pellet Drive starting with the Heller house and then going to his house, on the south side of Ms. Lahey, and you look at Ms. Lahey's property - all three properties were designed the same way. You walk through a family room or off of the family room to the patio. Ms. Lahey's property is exactly the same as his and the Hellers. She decided to put a 40' in law suit on her home. He wishes John Faile was here tonight because he'd like to ask him why he designed it this way, he has a feeling it was designed to make logical sense which his to put the door on the northside where the patio is already existing with an existing walkway. Before the addition was built he looked at the drawings and didn't see a major objection other than a 40' addition that hadn't been there for 25 years or longer. All of the sudden after it was built there was a permit issued for a sidewalk and a driveway extension. There was no permit, in his opinion, issued for the door.

Mr. Norton replied that he believes that is why we are here tonight.

Mr. Hansen stated that he thought it was for the stoop or step?

Mr. Norton advised that someone can put a door in and there wouldn't be a question of that. The door is not in violation. Just because somebody objects to the way someone is designing their home is not cause to not allow them to do it. You can argue on the other hand that this becomes a private entrance to an in law suite. It appears that the door on the other side goes out to the lawn, but he's not sure. If they wanted a door on that side the city wouldn't object to that - there is nothing in the code that would prohibit that. Really they're only talking about the side yard. A resident is allowed a chimney or bay windows, overhangs - all of which don't count towards the side yard. It seems fairly simple to him that the objection that Mr. Hansen legitimately has, in addition to his neighbors, is the nature of the light. The stoop doesn't seem to be bothering anybody.

Mr. Hansen remarked that the light is part of it. He's not sure that the board is following his point as far as the building permit for the addition goes. He never had an opportunity to object because the door, light, and stoop wouldn't have been there. Now that they've done it without

getting a building permit he never had a chance to object to it – now after the fact. Now when she opens the door on the south side, when she could exit on the northside – there was already an existing walkway and patio there that went to the garage to exit and enter the main house. He understands the point that there is no ordinance which states she can't put a door there, but he is saying he never had a chance to object to the door. Now she is going out on the southside, which is basically 5' from his patio. He has a 20'x40' patio there. Now for the last 24 years he has never heard a vacuum, dishes, or church music blaring at 6 pm while he's trying to eat dinner and now because there is a door there he is subjected to something that he didn't have any opportunity to object to based on the contractor not following the building permit process.

Mr. Gess advised that the board received emailed copies of the 2020 drawings where there was not a stoop or a door and then at some point there was a drawing 6/21/21. Change in construction is not uncommon.

Mr. Tuck-Macalla advised that John Faile submitted new plans this month or last month when they identified this issue. There were 3 or 4 issues that came up on final inspection. He was called out for a final inspection, by the homeowner.

Mr. Gess clarified that the applicant didn't submit these plans until after the project was completed when these questions were raised. Submitting 'as-built' drawings is what has prompted these questions.

Mr. Tuck-Macalla advised that was correct.

Mr. Burke inquired if the door on the south side and steps had been part of the original drawing – would that have required a variance on the side yard setback?

Mr. Tuck-Macalla replied that for the stoop they would have come for a variance.

Mr. Burke went on to clarify that the variance would have been the same as what is requested here this evening?

Mr. Tuck-Macalla replied that is correct – it's for the stoop not the door.

Mr. Burke stated to Mr. Hansen that he is being given the opportunity to object exactly in the same manner as if it was being built because it's the same variance that should have been requested back then.

Mr. Gess commented that he thinks it's fair to say that if the sideyard was 4' wider they wouldn't be here because they would not have encroached. It wouldn't have raised a question to need a variance.

Ms. Young stated that the builder also had the option of just putting stairs going down instead of a stoop and that wouldn't have infringed.

Mr. Hansen replied that the builder did do that, but then all the sudden the applicant wanted a deck – so now that deck went on. The original drawing had the deck on the other side.

Mr. Norton stated that if it was just stairs he's not sure that code would have allowed for that.

Mr. Tuck-Macalla replied that there are two entrances so that one entrance does not require a stoop because the second entrance would be a main entrance and that would fulfill that section of the code.

Mr. Norton clarified that you can exit the door directly to the steps.

Mr. Tuck-Macalla replied you could and that it's not as quite as high as you'd think. He's not sure the exact height, but likely about 24".

Mr. Hansen commented to get back to the light question it's an irritant for him and for three other neighbors. The applicant put motion detectors on – however branches trigger it, she triggers it by going out there at 10:45/11 pm. It's an ongoing issue and will be an ongoing issue. He knows that they're not here for these reasons, but they're going to make one neighbor happy by granting a variance, but they're going to upset four other ones.

Mr. Norton stated that his read on it was that the only thing that was really effecting the neighborhood was the brightness of the light which would be easily solved by changing the light or putting a screen in front of it so that the light comes down. He believes it may be in the code if you have a door, going outside, that you have to have a light.

Mr. Tuck-Macalla confirmed that you do.

Mr. Norton remarked that from his perspective if the light was not an issue, and that was taken out of the formula, then he doesn't see it harming the neighborhood at all. He has also questioned whether this is a variance or special permit.

The board discussed if the stoop is part of the structure and if so then it would be a variance.

Mr. Tuck-Macalla advised that he has spoken to other cities regarding if a stoop part of the structure. In other cities if you don't have a roof it's not part of the structure. It's not spelled out in our code that way. A special permit would be throwing this back in the air – if they were to grant a variance then going forward he'd know how to treat these.

Ms. Young stated that this is not necessarily a hardship. The fact that this is already built doesn't mean it should sway their decision one way or another either. They've looked at other properties where they've said something doesn't fit the property, based on the setbacks, and made them change it. If it wasn't part of the original plan she might argue that if the stoop isn't required then just because it's there now doesn't mean it needs to stay.

Mr. Tuck-Macalla stated that if the court were leaning in that direction than Mr. Faile or Ms. Lahey would be need to be here to address that. If the deck were gone it may need a 1' variance or something like that.

The board discussed the fact that no one representing the applicant was present at the meeting.

Mr. Tuck-Macalla advised that he didn't have a preference regarding if this is treated as a special permit or a variance, but he could use this determination to help him determine these cases in the future.

Mr. Burke stated that he believes in the past they've had cases where a variance was given to wooden decks that were encroaching.

They continued to discuss if this was a part of the structure – if so treating it like a variance would likely be consistent.

Mr. Norton made the comparison between front yard setbacks, in the case of porches, and side yard encroachments. He sees it as less of a variance in a side yard than in a front yard. Regarding the noise, the door doesn't make the noise – there are windows on that side of the house. Someone has the windows open and if they have music on. The light does bother him if it's infringing on the neighborhood, but that seems like an easy solution which could be incorporated into any motion.

Mr. Hansen advised that the applicant believes they've fixed it, but it's not. It's on a motion detector, but there is also a double flood light on the back of the property. There is another light over the original patio on the northside of the house and there is a light that lights up $\frac{3}{4}$ of his backyard every time it goes on and it stays on for 10 minutes. He has been told by the son-in-law that it can't be adjusted. The other night when they were sitting outside, until 11 pm, it went on 3 times. He clarified that's the light on his side, but the other neighbors are upset about the back lights and they signed a petition.

Mr. Norton stated that the thing about the lighting is that there are numerous homes in Bay for whatever reasons, they'd likely say security reasons, have lights all around the perimeter their house. He can think of quite a few examples. The key is that that lighting is somewhat confined to their property - this light is a 180-degree light pattern so it's not contained. If that is corrected to a downward light he would think that would be a solution.

Ms. Young stated that she might still argue that if the door was not a part of the original plan, that was approved by the city, adding a door is not illegal, but then adding the stoop does infringe and she thinks it would set prescient to build right up to the area they are allowed because then they'd be allowed to build a stoop and infringe on the setback.

Mr. Bruno stated that he agrees. Steps are appropriate and this is a secondary entrance.

Mr. Norton stated that if this was a deck they'd like to see it 3' away just as they would a shed or a garage. This is over 5'. He doesn't see this being any different than that. He advised that once it's a certain height it needs to be 3' from the line – if you were to take a patio that is on grade you could go right to the property line.

Ms. Young remarked that a deck is a non-permanent structure that is attached to the house. Personally with hers – she could not put a deck within 50' of her back property line, but she could pour 100 ton of rock because that's not considered permanent.

Mr. Tuck-Macalla clarified that it's possible in her situation that it was the 30 % rule that was impacting her ability to build near the property line as opposed to the 3' distance which is permitted for decks.

Mr. Miller stated that it's an impervious structure. If she put stone down it's pervious so it still counts towards the 30%?

Mr. Tuck-Macalla replied that isn't correct. He went back into it and looked at the 30% - patios and paving don't count.

Ms. Young stated that she wasn't permitted to put a deck, which wasn't very large, on the back of her house and she was at least 35' from the property line, but was permitted to put as much stone as she wanted.

Mr. Gess advised that this is impacted by what it is considered. If it's a part of the structure it's a variance and if that is the case he has a problem with the % of the variance because it's 50%+. If it's considered a deck then that is permitted to be built in this location, but they don't meet the size requirements.

Mr. Tuck-Macalla replied that they should take decks off the table because this is a stoop. The question is part of the structure or not part of the structure.

Ms. Young referenced a pergola that they discussed last year.

Mr. Norton stated that recently they have discussed front porches. The house might presently be up to the front building line. They've sort of set a precedent or settled on this 6' size – they could call that a little porch.

Mr. Miller stated that is not equitable here. In those cases, they're talking front yard setbacks that are 70', 50', or 35', etc. They would still have a great distance to the neighbor across the street and you aren't infringing on the proximity to the side yard. You're infringing on the front yard, but there is still a great distance. In this case, they're infringing on the side yard. For him, the stoop, by residential code, does not need to be an elevated object. It can be a series of steps and a door that opens to a top step – even one riser down from the interior elevation. They don't need the large 5'x7' structure to treat this as a secondary entrance. That is how he sees it being significantly different. He wouldn't see why those steps would need a variance – similar to the overhang, etc. stairs are not considered part of the setback.

Mr. Norton stated that if they're talking about the side yards they just gave a permit to a generator which is a much larger of a situation for a side yard and they've given those consistently.

Mr. Bruno stated that the generator doesn't infringe on someone's enjoyment of their back yard.

Mr. Norton stated that the steps are not infringing on anyone's enjoyment – the light is.

Mr. Bruno stated that he is okay with the steps, but not the stoop as it's built.

Mr. Burke inquired if the structure is permanently attached to the house as it's built right now.

Mr. Tuck-Macalla replied that it is.

Mr. Miller stated that if this was an in-law suite for someone who was not ambulatory and they needed a ramp then he could consider justification for having a ramp that is 40' long to raise up

to a landing which gives an opportunity to turn and enter the residence unassisted. If that was the case he could see the cause for that because they wouldn't want the 40' ramp on the front of their home. There was one recently removed from Wolf Rd. That is not the case.

Ms. Young added that even that situation would be a special permit that would have to get removed.

Mr. Saurman stated that would also demonstrate hardship.

Mr. Bruno stated that they'd have to remove it upon the demise of the individual requiring the ramp or the transfer of ownership.

Mr. Gess stated that he would argue that the neighbor has a point. Even if there wasn't a neighboring property it shouldn't change the justification.

Mr. Norton stated that they don't have the argument from the homeowner.

Mr. Bruno advised that he has a neighbor doing a similar project and if he had seen plans that showed what had happened here then he would have some of the same concerns as Mr. Hansen. He might have concerns for on his own property on Russell Rd. which has smaller yards.

Mr. Hansen advised that the houses were built the way they were for privacy.

Mr. Bruno stated that there have been good concerns raised by the board and neighbor, but he is concerned that neither the applicant or the architect is present this evening to withdraw or modify their request. He would like to suggest this item be tabled to encourage the owner or architect to come out and raise any reasons why they think it should be granted.

Mr. Saurman stated that the bottom line is if this is not granted they're going to need to take off the stoop and put in a few steps. It would be good to hear from the people who are asking for a variance.

The board continued to discuss the suggestion of tabling the discussion.

Motion by Mr. Burke, **second** by Mr. Bruno, that the application for a variance or special permit for the property at 443 Pellet Dr. be continued until the next regular meeting to give the owner/and or the owners architect an opportunity to come and raise any arguments that they may have. If they don't show at that meeting we can vote on the matter.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

5) Michael Kishmarton 30108 Crestview Dr.	Applicant is seeking a variance to Section 1350.03 to build a shed that is 40 sq. ft. larger than the permitted 120 Sq. Ft. this is a 33% variance.
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Mr. Norton introduced the next item on the agenda as 30108 Crestview Drive.

Mr. Kishmarton advised that he'd like a little bit of a bigger shed because they have a riding lawnmower and a trailer to pull things behind it. He'd like to get it out of his garage so that he can park his vehicles there.

Mr. Norton commented that they get these requests pretty regularly. Everyone feels more storage space is a good thing. They've been somewhat reluctant to grant too much of a variance. They've sort of pinned it to the size of the yard. He's got a pretty good size yard compared to some of the lots in the city. Would he consider downsizing the request from 10x16 to 10x14?

Mr. Kishmarton stated that he'd probably be okay with that.

Mr. Norton advised that he wasn't sure how the board would feel about that kind of a change.

Mr. Miller advised that he had a question on the placement of the shed.

They discussed the exact placement of the shed.

Mr. Kishmarton stated that he has a large tree on the west side so he'd like to stay further from that tree because of the roots. A lot of the yard has shale underneath. When they put in the fence they were hitting shale. Most of the roots are coming up towards the surface. He advised that he wanted to stay towards the back of the yard so the neighbor on the back wouldn't be impacted.

Mr. Miller stated that they often see the sheds a minimum of 3' from the fence/property line so he was just curious why it was 9'.

Mr. Kishmarton stated that he wanted to be able to cut behind it without having to get his walking lawnmower – he'd have enough room behind it.

Mr. Burke inquired, for the record, if the applicant was willing to amend his application to 10'x14' as opposed to 10'x16'?

Mr. Kishmarton confirmed that he would amend his application.

Motion by Mr. Bruno, **second** by Mr. Burke, to grant the property at 30138 Crestview Dr. a variance per C.O. 1350.03 to build a shed that is 10'x14' in dimension which is 20' sq. ft. larger than the 120' provided by code. The placement of the shed would be placed per the drawings as prepared and submitted.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

<p>6) Robert Greenberg 27839 Aberdeen Ave.</p>	<p>Applicant is seeking a variance to Section 1149.01 the location of accessory buildings and sheds, the permitted distance is 3 ft. from the property line. Mr. Greenberg would like to replace his current shed with a new one and keep it in the same place which appears to be right on the property line. The request would be for 3 ft. or 100%.</p>
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Mr. Norton introduced the next item on the agenda as 27839 Aberdeen Ave.

Mr. Greenberg advised that he bought the house 33 years ago and the shed has been there the whole time on the property line. He's talked to his neighbor, he doesn't care – he's just excited to have a nice new building. After 33 years it's getting pretty worn.

Mr. Bruno inquired if Mr. Tuck-Macalla had any concerns regarding the fire rating of the side that is going to be right at the property line?

Mr. Tuck-Macalla stated that as long as it's below 200 sq. ft. there really isn't a concern.

Mr. Norton stated that the one thing that occurred to him is that oftentimes when something is out of compliance and it disappears, or is removed, the ordinances reference it being brought back into compliance – since they're starting from scratch. In this kind of a case, a neighbor could want a fence along that line sometime in a future. The variance stays with the property. It doesn't stay with the owner.

Mr. Greenberg stated that there is a fence there and it's his fence.

Mr. Norton advised that the neighbor could want the same thing and its pretty tight quarters and then neither neighbor would be able to maintain their sheds without being on the other person's property. Since he's starting from scratch is there a reason not to move it?

Mr. Greenberg replied that that he didn't want to move it too far over into the yard. He likes where it is at because it's right by the driveway – when you open the doors to get things out. He likes it by the driveway. If he moves it over 3-4'. It will open into the yard/grass as opposed to the driveway.

Ms. Young clarified that it is a single driveway going back that dead ends into the shed – is the shed is on a slab?

Mr. Greenberg replied that the location she described is correct and that the shed is not on anything – it's just sitting on the ground. They're going to put blocks underneath the new one. The fact that the driveway dead ends into the shed makes it easier when he's cleaning or blowing the driveway.

Mr. Gess stated that he didn't measure the location and inquired if the black fence was Mr. Greenbergs.

Mr. Greenberg advised that the black fence is his on the front and on the side.

Mr. Gess stated that the roof or eave of the roof doesn't appear to overhang the fence and it has to be at least an 8-10" soffit. The footprint/foundation make it appear that it be 10" off the property line, but it might be the angle of the photo that he's looking at.

Mr. Tuck-Macalla advised that when he was looking at it he thought that the eave might be over the property line.

Ms. Young stated that she specifically did look at that and she didn't think that the overhang went over the fence.

Mr. Greenberg stated that the new shed isn't going to have a roof like that. It's going to have a gable roof. He spoken to the neighbor.

Mr. Gess confirmed there was no variance for the existing shed.

Mr. Norton stated that he doesn't see the negative side of moving it another 2-4" and then he'd be at the 3' mark. In fact, the grass has been cleared.

Mr. Greenberg advised that he did that. The shed he's getting is going to be wider 10'x12' and the shed he currently has is 8'x10'. So it's already going to be 2' over. He confirmed the width of his lot is 50'.

Mr. Norton stated that if he had at least 2' to the property line he could get into to maintain the wall. Currently he gets along with his neighbor successfully, but everyone has their own property rights – in the future there could be someone who doesn't want him to come on the property. They have to think on those terms since a variance doesn't disappear.

Mr. Greenberg stated that this is his 4th neighbor he's had since he's lived there and he's gotten along with all of them.

Mr. Burke advised that means he's a good neighbor.

Mr. Gess commented that he's struggling to remember a time when they've given a variance on the setback of a shed. They've done size, but not the placement that he can remember.

The board discussed a variance they granted for an accessory structure, but they believed they still left a couple of feet.

Mr. Norton stated that at some future time they could be forced to do the same thing for someone and then there could be two buildings that are touching each other.

Mr. Bruno stated that, to the Chairman's point, this is a situation that could be set right or be given less of a variance.

Mr. Greenberg advised that he understands, but it's just perfect where it is.

Mr. Burke remarked that he believes they've allowed 2' in the past – would the applicant be agreeable to amend his application?

Mr. Greenberg advised that he would be agreeable to that.

Mr. Burke clarified that now he is requesting a 1' variance?

Mr. Greenberg confirmed that was correct.

Motion by Mr. Burke, **second** by Mr. Bruno, that the property located at 27839 Aberdeen Ave. be granted a 1' variance from the side setback requirements of section 1149.01 of the C.O for the construction of a new shed replacing the existing shed. The new shed will be built in the same corner.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

7) Jorge Costa 381 Oak Cliff Dr.	Applicant is seeking a variance to Section 1153.02 to install a two-story front porch to the front of his home. The Building line for this house is 50 Ft. The proposed porch is 6 ft. for a variance of 6 ft. or 12% .
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Mr. Norton introduced the next item on the agenda as 381 Oak Cliff Dr. He then advised that there was a communication from Mr. Busch that there was some confusion of the nature of whether the architects drawing was correct or the surveyor was correct – he believes they've settled that the surveyors drawing was correct?

Mr. Tuck-Macalla stated that he believes the matter is settled. He spoke to the architect and it wasn't an issue with the project, but just the layout and the measurements.

Mr. Bruno inquired then if the issue with the neighbor was resolved?

Mr. Tuck-Macalla confirmed that it wasn't really with the neighbor, but more by the architect with a discrepancy.

Mr. Norton stated that it's to be noted that this is a request at 381 Oak Cliff and a variance was granted at 389 Oak Cliff that was 44.8' and this is a request for 44' so the difference is a 10.4" request. In effect, they set a precedent along this street. The homes are fairly small and on shallow lots.

Ms. Young noted, for the record, that what the applicant is asking for is similar in scope to the neighbor's house to the north which protrudes further than the new house to the south. Did that house, to the north, get a variance?

Mr. Tuck-Macalla advised that he didn't look into that one. They were basing everything off the house to the south.

Mr. Costa stated that the house to the north has a larger deck than they're going to have.

Mr. Saurman stated that the house to the south is the one with a similar porch.

The board continued to discuss the house to the north and whether or not it would be in line with the proposed actions at 381 and that this proposed porch would be most similar to 389 Oak Cliff.

Motion by Mr. Burke, **second** by Mr. Bruno, that the property located at 381 Oak Cliff Dr. be granted a variance of 6' from the front yard setback requirements of Section 1153.02 of the C.O. for the construction of a 2-story front porch to the front of the home as per the drawings submitted with the application.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

8) Kim & Robert Hart 26210 Lake Rd.	Applicant is seeking a Seeking a variance to section: 351.16 - Prohibition of parking of motor vehicles on lawns. (a) Definitions. As used in this section: (1) Driveway means an area graded and provided with a hard surface of granulated material, asphalt, cement, brick or decorative stone, used as a means of ingress and egress, providing that such driveway shall not occupy over 40 percent of the total required front yard
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Mr. Norton introduced the next item on the agenda as 26210 Lake Rd. He advised that Mr. Tuck-Macalla did an analysis for the board because there are different ways to come up with the total area for the yard. As he recalls, on a front yard set back after 50' you can pave the rest. Once you're 50' from the front yard setback and this house is 81'. So from 50'-81' they could pave that. They could pave a parking area or a turn around area up closer to the house. This area is closer to the street so it falls within that 50' and the 40% consideration. It looks like the desire is to make it 2' deeper than the pad that is poured and then 22' further north. He tried to turn around in there and the depth of it right now is really tight. It can be done, but it's difficult.

Ms. Hart stated that it was kind of one of those, 'Oh, we should have done an extra two feet' moments.

Mr. Norton clarified that after the first design was approved this was an afterthought saying, 'Wait a minute this is too tight'. The one thing that sort of flavors this is that you could have the turn around even more generous if you got into that last 30' up towards the house and they wouldn't be here. Is it better for the neighborhood and the appearance and everything else to have the turn around an extra parking area, they've only got a single car garage, is it better to

have it concentrated where they have it laid out or force them to put it back into that 30' area and sort of have two areas. It's a legitimate concern – backing out onto Lake Rd. is a legitimate concern.

Mr. Bruno stated that his initial thoughts were to have the new, either the impervious or pervious section, within that 30' further back – towards the home.

Mr. Norton inquired what he thought of the 2' that they're asking for?

Mr. Bruno stated that he thinks that's reasonable.

Ms. Young stated that she parked there and she was driving her smaller vehicle. She was still 1-2' into the driveway. As a parking spot it wasn't usable.

The board and applicant discussed the various calculations that Mr. Tuck-Macalla provided to the board. What layouts would require a variance and if so, how much of a variance would be needed. The 40% is not the entire front yard, but only the 'required front yard' which is at the building line. The 50' building line back to the house wouldn't require a variance to pave.

Mr. Tuck-Macalla replied that it is on the building department's shoulders that this was approved to begin with. 66% of that 50' section - would be for the existing and proposed and they would need a variance for what is existing.

Mr. Burke stated that it would be unfair to the applicant to ask them to change on the fly. Would they like to postpone to be able to discuss this and determine what the best course of action is?

Ms. Hart replied that they may want them to postpone, but when you drive into their driveway if they put the parking pad up closer to their home they would be right next to their neighbor's patio. They'd be able to park so many cars outside their neighbor's patio and they'd be right outside their living room. She'd like it further from their home and closer to the road so that they're not bothering their neighbors and his patio area and they won't see cars immediately outside their window. She personally doesn't want it right in front of her window.

Mr. Hart stated that when they replaced the blacktop driveway last year they just went with the existing footprint. They briefly thought about it, but they decided to go with the existing.

Ms. Hart inquired if they went closer to the front – how would they even get to those spaces? They wouldn't be able to maneuver. She's having a hard time visualizing it.

Mr. Norton stated that if they want a 20'x20' area for parking as they came out of the garage they'd want to come out 10' then put a 20'x20' pad that would park cars and act as a turn around and then you'd still have the front area. He suggested, again, postponing tonight so that the board and the applicant can take another look at it.

Ms. Hart stated that she thinks it would be weird to break up the driveway into those separate spots.

Ms. Young sought clarification with Mr. Tuck-Macalla regarding the 50' building line.

Mr. Tuck-Macalla went to get additional paperwork for the board and application while their general discussion of how much of a variance will be needed to accomplish their goal continued.

Mr. Burke stated that he'd like to visit the property again and go over the additional information that was provided and discussed this evening.

General coconscious from board members and applicant that this was the best course of action.

Motion by Mr. Burke, **second** by Mr. Bruno, that the application for a variance for the property located at 26210 Lake Rd. be tabled until the next meeting for further consideration.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed 7-0

9) Scott Ohnmeis 30322 Provincetown Lane	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>Item Tabled 6/3/21 & 6/17/21.</i>
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Mr. Norton introduced the last item on the agenda as 30322 Provincetown Lane. He advised that they've met this applicant previously via zoom and welcomed him. He commented that the request is worded as a 4'-8" request, but in reality it's a 5' request since you say plus 4".

Mr. Ohnmeis stated that it was his understanding from previous meetings – for example the variance granted to his neighbor across the street was for a 5'. That fence was actually 5'4" and he brought that up previously and he believes that Mr. Norton stated that was permitted. He is trying to squeeze as much out. He is saying he will reduce his request to 4'8" which means he'll max out at 5'.

Mr. Norton commented that is the same as his request previously.

Mr. Ohnmeis stated that his request previously was for 5' so he'd be able to go 5'4". So he's reduced again another 4" in height, but not lineal feet. The math that he's coming up with is that he's asking for 226' and he gets 54' so that's 172'.

Mr. Norton stated that's correct, but the 54' is the total, but 32' is what is allowed.

Mr. Ohnmeis stated it'll be less than that. If he looks at the 9' on the northwest corner and he'd do higher there. He may not even take advantage of that because he'd like a uniform fence. As he walks around the neighborhood he sees people that take advantage of that 10% and there is a staggered fence. To be honest, if they don't get anything...the struggle he's having is that the

board is looking at this a linear footage and he's looking at it as a percentage. He's not asking for 6'. He originally asked for an extra 1' to get a little extra security and he's reduced it to 8" as an attempt to compromise. He's seen lots of compromises tonight. He's asking for an additional small percentage in height and not lineal percentage. He feels like he's left it all on the field since it's his 3rd time here. One other way he'll propose is how he's looking at it. If he did take advantage of the additional 2', which he gets over the 4', he'd get 54' that's 108 sq. ft. of extra fence height that he is allowed. If you take the 226' that he's asking for 8" that is 151 sq. ft. so he's asking for an additional 43' sq. ft. of fence. If the board were to approve the 4'8" height then he would not do the 54' of 6' – he would do the whole thing at 4'8" he doesn't necessarily want multi-teared. He just wants to get a little bit more fence. He doesn't need the privacy he's just trying to contain people and pets in his yard. And if he were to make another compromise, can he take that 108' sq. ft. of additional height that he is allowed, at 54', if he spread it around – through the whole fence. If they gave him 6 additional inches from 4' to 4'6" that would be 226'x6" or 113 sq. ft. vs. the 108. If they wanted him to get to 108 sq. ft. he'd do the calculations from that. He is just trying to squeeze some additional height. He wanted an additional foot of height and he doesn't think he's going to get that. He thinks the board is looking at this like he's requesting all this additional lineal footage, but he is asking for a little extra height.

Mr. Burke stated that he is having difficulty connecting the information. It seems like they can pick from various options as opposed to a specific request.

Mr. Ohnmeis stated that he's made his request as specific as possible. He is asking for 4'8" and he is asking them to consider all the things that he presented and the fact that his neighbor, someone came and measured their fence, to the west have the exact same construction he wants to have a board on board treated wood fence. They have 5'8" all the way around. That is what he would really like to do is to match their fence all the way around. That's the house with the pool.

Mr. Burke inquired if he's looking for a 4'8" fence all the way around except where it meets that neighbors fence – is that correct?

Mr. Ohnmeis stated that he has an agreement with them that their fence is going to become their eastern fence. Whoever came out today would have noticed that they already replaced part of the fence. They saw the fence that was replaced – the part that isn't replaced he is going to incur that cost to repair that part of the fence, but it's still their fence – it's on their property, but it essentially will be our eastern board. The alternative is that we'd have two fences right up next to each other. The previous owner, if you saw the fence along the back that we're tearing out, they got a variance to tie that fence into the neighbor's fence. There is a history of that.

Mr. Miller stated that one minor element is that they don't typically grant a variance to span the property line. So if these two elements of fence span the property line – the post that holds that side needs to be on your side of the property and no element should touch the ground between the post and the neighbor's fence. So if the neighbor's property changes hands or removes the pool, etc. they can come back and say we are okay with those wings extending over the line.

Mr. Ohnmeis stated that is the way it is now. The previous owner of their home and the current neighbor that was there at the same time did just that. They explained the process to him that

they just had to sign a letter. There is a split rail that the previous neighbor did along the back of the property with chicken wire. They got a variance or a sign off – that exists right now. They're just replacing that fence along there. It's deteriorated. There neighbors to the east turns we don't know why. When the fence contractor applies for the permit they will work all that out with the building department. Any concerns that were had about that could be hashed out then.

Mr. Miller advised that his comments are really specific to this application and not the existing condition. So the split rail is rarely taller than 4'. So how it may span over the property line he doesn't know how that is happening, but in his application and this case – board on board is a much more dense structure. What he is saying is that the post must remain on his property line and the part that reaches over cannot touch the ground and has to be removable in the future in case a future property owner wants that.

Mr. Ohnmeis stated he is not asking the board to approve that. He believes that would be part of the application that the fence contractor would resolve.

Mr. Miller stated that they've had previous cases with these requests and they can't approve the request carte blanche to jump the property line.

Mr. Ohnmeis stated that he's not asking for carte blanche he's supposed to meet with the fence contractor tomorrow and hash out all the details, including what happens in this meeting, and they've build fences in Bay Village and he assumes he can put the ownness on them to do that. It's fine if they have to charge for another post or something – that's fine.

Mr. Tuck-Macalla advised that one neighbor will have a permit and the other neighbor has a permit. The finished side has to face the neighbor and they're offset.

Mr. Ohnmeis stated that one of the nice things with this board on board fence is that both sides are finished – so it's a win win for both sides. He didn't think this was that big of an issue because the previous owners brought the split rail and the post terminates right up against their fence and they said that they remembered and the previous owners had them sign something. Maybe it's more of a process than that, but he assumes that's part of the application process, but not necessarily part of the variance he's requesting. He doesn't want to muddy the waters and lose focus on the higher fence – over this which will be taken care of with the application of the permit. He will take this to the contractor tomorrow regarding the termination into the fence. The alternative is that there is his neighbor's fence and 2' in is another fence and then they've created a little narrow alleyway. He assumes they're not the first homeowners in Bay Village to share a fence with a neighbor – it seems pretty common. They were originally going to do to a vinyl coated chain link fence or plastic fence and after talking to the neighbors they decided to keep it uniform. And the neighbors two fences down have the same board on board style. He doesn't think its part of the variance request.

Mr. Norton stated that the basic issue is that his request is still for a 5' fence.

Mr. Ohnmeis replied that his request is for a 4'8" fence.

Mr. Norton stated that when the city has the dimensions they assume it is to the top of the fence.

Mr. Ohnmeis stated that was different than what Mr. Norton said at the last meeting.

Mr. Norton clarified that right now the law says 4'4" posts can be 4'6", but the fence itself can be 4'4" and they base it on a 4' section of fencing that is 4" off the ground. So they're saying we don't want it higher than 4'4" (the fence), you're asking the top of your fence to be 5' – so lets just be clear on that. You're asking for 5' and the rule is 4'4".

Mr. Ohnmeis replied that by this city's ordinance that is not a nominal 5' fence. He got this information from the last meeting. He went back to the drawing board. He keeps compromising. This is based on what they told him. It seems like every time he comes back to these meetings he comes back with what they ask him to come back with and they change the rules. He asked about 5' fence – and they said, 'oh yeah, the city allows 5'', but he's saying he'll reduce it to even 4'6".

Ms. Young clarified that what she believes Mr. Norton is saying is that in the backyard you're allowed a 4', but taking it off the ground it ends up being 4'4". The applicant is asking for a 4'8" fence 4" off the ground which would become 5'.

Mr. Norton stated that the rule is 4'4" to the top of the fence and this request is for 5' to the top of the fence or 8" more. That's all he is saying.

Mr. Ohnmeis stated that he is requesting for 8" over allowed height per code – that is as clear and specific as possible.

Mr. Norton advised that he keeps referring to it as wanting a 4'8" fence, but he wants a 5' fence. It doesn't matter if it's all wood to the ground, but lets just get some clarity. If the request is for 5' then that's what they're dealing with because that is where he wants the top of the fence. The hang up that he has goes back to the first meeting. BZA appealed to council, this took months and months, and they prodded council and they talked to the council representative with this extensive discussion. They talked about if it's 75% open – wouldn't that make a difference? Council, in their wisdom or lack of it, sat down after all this time and they said 'No, we don't want to change it'. This was meeting after meeting that they did – months of it. If we now, set a new precedent –

Mr. Ohnmeis interrupted to say that they've already set precedent. His neighbor across the street they set a precedent. He was allowed a 5' fence. They're bring up the nomenclature on the height of the fence and he thinks he's being criticized like he's trying to pull a fast one by calling a 5' fence a 4'8" fence. The BZA approved a 5' fence, and there is at least one member that remains, that approved his fence by a close margin a 4-3 vote. His fence is 5'4" he brought that up because he noticed that. He asked and the board advised that it was a 5', but he's allowed 4" to raise it above grade. So what would he call his neighbors fence if it's 5'4" in height?

Mr. Norton replied that if it was 5'4" to the top elevation. When the city refers to a 4' fence, and it's very clear in the code, and it's a 4' section of fence that can be up to 4" off the grade. So 4'4" is the top elevation.

Mr. Ohnmeis stated that he doesn't know what to call it.

Mr. Norton stated if the rule is 4'4" and using the same nomenclature he's asking for 5'.

Mr. Ohnmeis stated that if he's allowed a 4' and he can go 4'4" based on the cities code and if a 5' fence is approved he could go 5'4". He reduced it 4". What he's heard tonight that the board can give a little, but not a lot. You want 50% more that's a lot – how about 10%.

Mr. Bruno stated that he keeps referring to his neighbor having that 5' fence that was approved by the board previously. For the record, that was in 2003 and he, nor were most of these members, on that board – that fence is 75% open. There was a very tight vote on that as well and it was very clear that it had to be 75% open. The only reason the board considered anything above code. He continues to project that this board approved something and set precedent. Yes, they set precedent, but on something very specific being very open by percentage. So you're asking for something very different board on board.

Mr. Ohnmeis replied that he isn't. He is asking for board on board. Does the ordinance...

Mr. Bruno stated that they're going around in circles and he feels that Mr. Norton has been disrespected. He has described the code the same way each time.

Mr. Ohnmeis inquired if the code says anything about the openness of the fence? Does the code say anything about allowing taller fences if there is 75% open? Then to him it's not a consideration.

Mr. Burke stated that he's ignoring the fact that the panel does have the ability and prerogative to set conditions on the granting of a variance.

Mr. Bruno stated that the condition of openness based on the judgement of the board members at this time.

Mr. Ohnmeis advised that his point of the neighbor's fence was they asked for a 5' fence for the sole purpose of containing dogs. The dog that they had at the time is deceased. They have a new dog. They went for a time without a dog. His point is to shed a little light on the decision that was made. They allowed a fence for the containment of a dog that didn't contain a dog because they had to put this chicken wire all the way around the fence, which is more unsightly – not that he's complaining about it, but they had to modify the fence.

Mr. Norton stated that they're going around in circles and the bottom line, he thinks, is that whatever happened in the past was conditioned upon 75% open. It was stipulated in that motion. That then went back to council and council said, 'No, we don't want to change it' and so if we change it now they're sticking our finger in council's eye and they don't like that. They want to be the ones to make the laws and they're the ones that are elected to make the laws. They're at a point where they've got to make a motion and the motion would be to allow what he is requesting which is a fence that the top elevation is 5'0" and they make that motion and they see where they're at.

Mr. Ohnmeis stated that he heard earlier tonight is that they can negotiate. All he wants is to squeeze a little extra height out of the fence for the protection of the inhabitants.

Mr. Norton replied that they understand what he wants and they can make a motion to that effect.

Mr. Bruno advised that the applicant hasn't reduced his lineal foot request above what is requested by code. In his opinion, nothing has changed – he still wants to be above the height and the lineal feet required by code.

Mr. Ohnmeis replied that could be another thing the board could counter with. They could say we can't give you 176'...

Mr. Bruno stated that they have started that discussion, but it was met with resistance by the applicant.

Mr. Young remarked that she'd like to make some comments. She was not on the board in 2003, but she understands his point about precedent. She was on the board when council reviewed the ordinance. They were highly irritated and combative meetings. Some people wanted higher fences and many people did not. Council voted and said they're sticking with the ordinance. From that point forward they have not approved fences over what the council has ruled is allowable by code – with the exception of a little around the fringes. They might allow one extra panel. Many people, almost every meeting, ask for high fences. It's not anything they can do – their hands are kind of tied, frankly, because it's not their position to change the law – it's to work around the fringes. So asking for 100's of feet of any kind of variance over what council says they're allowed to do is not the fringe.

Mr. Ohnmeis replied that they keep looking at it in terms of lineal footage and he's only asking for height. He'd be happy if he got 2".

Mr. Burke stated that he'd like to tack down what he's asking for so they can tack down the motion.

Mr. Ohnmeis stated that he doesn't think he's going to get anywhere tonight.

Mr. Bruno replied for the record that they did talk about year round vegetative screening for the property in their first conversation, they've also talked about different sections and runs to get up to the 54' lineal feet that they'd be most comfortable accommodating which is 10% of the perimeter. He wants for the record that they started to propose those things/alternatives...

Mr. Ohnmeis replied that every meeting they've proposed an alternative...

The board and applicant continued to discuss the specifics of the height of the fence and nailing down the precise elements.

Mr. Burke stated that he's asking for a fence that is 5'0" above grade from grade to the top of the fence – is that correct?

Mr. Ohnmeis replied in the affirmative.

Mr. Burke stated that he is asking for 194 linear feet?

Mr. Ohnmeis stated that he's asking for 176'.

Mr. Burke advised that if they add up what's on his drawing...

Mr. Ohnmeis interjected that the numbers don't matter – he knows they are going to vote no. He would like to go on the record, the one thing that everyone has avoided....

Mr. Saurman interrupted to inquire if Mr. Burke could continue trying to clarify the motion.

Mr. Burke inquired what the linear feet was of the fence that he was requesting?

Mr. Ohnmeis replied that it is 226'.

Mr. Burke stated that includes the 54' that is allowable. So the 172' is what he's asking for over the 54'. He is asking for the board to approve 172' of fencing, which is in addition to the allowable 54' or 10% of the parameter, fencing to be 5'0" from grade to the top.

Mr. Ohnmeis replied in the affirmative.

Mr. Norton stated that it would be in 22' in excess of the 32' in one direction. Those three components would match the request.

Mr. Burke sought finalization of the items in the motion:

- 1) Requesting 5'-0" in height from grade to top of the fence
- 2) Requesting 172' in length in addition to the allowable 10% of parameter
- 3) Requesting a variance of 22' in excess of the 32' allowed in any one direction

Mr. Ohnmeis advised that he didn't see how that was in addition when he's asking for the linear footage.

Mr. Burke advised that it's two different sections of the code.

The board proceeded to discuss that all runs go beyond the 32' feet in one direction requirement. Determining that it may not even be necessary to include that portion in the motion.

Mr. Ohnmeis advised that he's not clear on that part, but it doesn't matter...

Mr. Burke advised that he doesn't know that because they haven't voted on it.

Mr. Ohnmeis remarked that he doesn't see how...he is not asking for 6' he is asking for a little extra height. It is a certain amount of lineal footage, but to him that makes the one direction thing go away. He is no longer doing a staggered fence – it's a uniform height fence.

Mr. Ohnmeis advised he does understand.

Mr. Gess advised that the code defines a privacy fence as anything that is over 4'4". There is not a tiered gradient of heights. That is very black and white. It is either black and white or it isn't. He can appreciate what Mr. Ohnmeis presented – as food for thought, but once it eclipses 4'4" then it's in that privacy fence. Then they're looking at it as length of run.

Mr. Ohnmeis advised that he gets it. It's just that they're asking him to confirm the math and honestly, he cannot. He's mildly dyslexic. He cannot do the math in his head.

Motion by Mr. Burke, **second** by Mr. Burke , that the property at 30322 Provincetown Lane be granted a the following variances from the fence height and length requirements of section 1163.05 of the CO. 1) A variance to permit the construction of a fence around the perimeter of the backyard as shown in the drawings submitted by the applicant. Such fence to be 5’0” from grade to the top and not more than that. 2) A variance of 172’ from the maximum permissible of 10% of the lot perimeter 3) A variance to permit the fence to exceed the maximum allowable privacy fence in 32’ in any one direction thus permitting on at least three of the sides of the back to exceed that 32’.

Roll Call Vote:

Yeas –

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

Excused –

Motion Failed 0-7

Mr. Ohnmeis advised that his neighbors came to him yesterday and they, on their own, have been researching what the definition of a pool is. They told him he’d be surprised to learn how minimum the requirements of an inground pool is then he could do 6’. They offered to come over and help him build a 10’x10’ hole in the ground – that is how silly this whole thing has gone. He’d also like to go on record that he brought up what group homes are allowed. He mentioned that, but nobody dared touched that tonight.

Mr. Burke advised that he’d be happy to. That is based on the requirement of federal law that are in turn required by the agency that control that group home. He is not aware of any such order of a public agency that effects his property.

Mr. Bruno inquired if he had provided this proof at this meeting or any other previous meetings?

Mr. Ohnmeis replied that he did.

Mr. Bruno replied that he represented verbally that he has foster children.

Mr. Ohnmeis stated that he didn’t read the revision. It’s documented. It’s part of the record of this body.

Mr. Miller remarked that it wasn’t mandatory by the county.

Mr. Ohnmeis advised he’s just saying that it wasn’t verbal. It was in the written request that he submitted in his timeline. He advised that he did bring it to the board’s attention in the revised document. He advised that they will find out. He doesn’t have time or money to pay tens of thousands of dollars for a lawyer to do this. What he asked, in his request, was should the same consideration be given to families that provide foster care for the same government agency that Cuyahoga county. He was asking for this body to just consider that. He documented it.

Ms. Young stated that they got an email on how they should behave for group homes from a federal agency.

Mr. Ohnmeis commented that it wasn't that it was legal – he was just asking this body to consider if it's allowed for a group home should not the same consideration. Could they provide a few extra inches of fence and this body declined. Honestly, your comments last time about how you said, 'your hands were tied'...The law is there to protect individuals in care and to say, 'well our hands are tied' like we didn't really want to do it, but our hands were tied. Those were your words.

Ms. Young advised that he is misconstruing her statement.

Mr. Norton replied that they're back to circling and inquired if there was any more business before the board this evening.

Motion by Mr. Burke, second by Mr. Burke, for adjournment.

There being no further business to discuss the meeting adjourned at 9:41 p.m.

Jack Norton, Chairman

Lauren Oley, Secretary