

Meeting Minutes of
Board of Zoning Appeals
Held July 7, 2023

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

Excused: Dan Gess

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

Audience: Jeff Gonser, Paul Beckwith, Jill Drabik, David Bordine, Beth Orr, Patti Saracusa, Mike Darcy, Rob & Becky Rua, Rick Diliser, Eric Schearer, Sam Sherwood

**Full recording of the meeting is permanently available on the City of Bay Village website under Government/Board of Zoning Appeals/View Most Recent Agendas and Minutes/Media*

Mr. Norton called the meeting to order at 7:30 p.m. and introduced the first item on the agenda the approval of the minutes that were held June 15, 2023.

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

Motion Passed 6-0

Before moving on, Mr. Norton explained the quorum rules advising that if the applicant would like to wait for a vote they're welcome to do so.

1) Jill Drabik 27913 Osborn Rd	Applicant is requesting a side yard variance of 3.38' to build a new home on a vacant lot. The code section is 1153.03 the minimum side yard is 22.5', the proposed side yard is 19.12 feet.
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Mr. Norton introduced the first item on the agenda is 27913 Osborn Rd advising that the board has had an opportunity to review the application and visit the site.

Mr. Bruno inquired, of the applicant, since the project is new construction – why can't it be built to code?

Ms. Drabik replied that there are limited builder models to select from. This is the smallest one that will fit within the allotted square footage - it's not a custom home.

Mr. Miller inquired if the builder has any leeway to shift the plans?

The builder advised that they did try doing that, but the design doesn't allow for it.

Mr. Bordine stated that it's a modest home and it fits in with the neighborhood. It's a traditional colonel style home.

Ms. Drabik commented that she has approval from the neighbors on both sides.

Mr. DiLisi stated that he lives directly next-door and they have no objection and they're happy to have the family stay on the property. He has also written a letter of support for the request.

Mr. Bruno stated that he certainly wants the city improved and this is a minimal request.

Mr. Norton added that it's a generous size lot for Bay Village both in frontage and depth. He pointed out that there are house designs that are more orientated for length vs. width. However, the request is quite small – in the neighborhood of 10%. He advised he won't be opposed due to how small the request is.

Mr. Bruno remarked that they are not an architectural review board, but he agreed it is a nice design. Additionally, there is a lot of variety in style of home and frontage on Osborn.

Ms. Young remarked that this lot, as opposed to all the others that are 150' deep, is quite deep at almost 400'. There are lots of houses that are staggered so it doesn't appear that they are on top of each other regardless of the placement.

The board and applicant continued to discussed the house placement on the lot.

Motion by Mr. Burke, **Second** by Mr. Bruno, the property located at 27913 Osborn Rd. be granted a variance of 3.38' from the minimum total side yard setback requirement of section 1153.03 of the Codified Ordinances for the construction of a new home as shown in the application.

Roll Call Vote:

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

Nays –

Motion Passed 6-0

2) Paul Beckwith 30429 Ednil Drive	Applicant is requesting a 5' variance to section 1370.05 to place a generator closer than 10' from the property line. The unit is in the rear yard and behind a fence.
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Mr. Norton introduced the next item on the agenda as 30429 Ednil Drive advising that the board has had an opportunity to review the application and visit the site.

Mr. Beckwith approached and provided additional paperwork which showed the generator in relationship to his neighbor's properties, generators, and bedrooms. He added that he also has a solar power array which he's accounting for.

Mr. Bruno inquired if they could shift it over 5' to avoid needing a variance?

Mr. Beckwith replied that there is a patio door, electrical solar system, basement egress windows which necessitates the proposed location.

The board, applicant, and building director discussed the requirement for 5' from an operable window/door and generator location.

Mr. Tuck-Macalla advised that he defers placement to the installer as far as placement location.

Mr. Bruno suggested that he would want to know the distance to the doorway before making a vote.

Following a short discussion, Mr. Burke inquired if Mr. Bruno would be in favor of a motion that requires the applicant to be in compliance with the manufacturer's requirements to ensure the location is acceptable.

Mr. Bruno replied in an affirmative and the board and applicant proceeded to discuss specifics of the existing limitations as it relates to the existing electrical equipment and doorways/windows.

Motion by Mr. Burke, **Second** by Mr. Bruno, the property located at 30429 Ednil be granted a 5' variance from the side setback requirements of 1370.05 for the installation of a generator provided that the placement be confirming with not just city code, but also the manufacturers requirements and shrouded year-round from the neighbors view with decorative fencing or landscaping.

Mr. Saurman noted that he noticed the generator next door wasn't covered and they're not sure if it had a variance for the side location.

Mr. Miller added that he's looked up the manual and the way it would be placed the exhaust would be on the west end of the unit away from the siding doors.

Roll Call Vote:

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

Nays –

Motion Passed 6-0

3) Odell Construction Inc. 27016 Bruce Rd	Applicant is requesting a variance to section 1359.01(a) to place AC equipment closer than 10' from a property line. The unit will be 8' from the line and require a 2' variance.
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Mr. Norton introduced the next item on the agenda as 27016 Bruce Rd advising that the board has had an opportunity to review the application and visit the site.

Mr. Bruno commented that it is a minimal ask in his opinion.

Mr. Miller stated that there are actually two units and inquired if the applicant was here. Hearing that they were not he proceeded to explain that the plan shows two units – one in the rear yard that will be moved to that area and a second installed. The decibels for the new unit are 73.

Mr. Bruno stated that they typically look for 74 or below.

Mr. Miller continued on to say that he believes they should account for both A/C units in their motion and state that the enclosure should account for both.

Motion by Mr. Bruno, **Second** by Mr. Burke, to grant the property at 27016 Bruce a 2' variance per CO 1359.01 (a) to place a second A/C condenser on the property per the drawings as prepared and submitted provided that both condensers as placed on the property are screened year round be decorative fencing or evergreen vegetation.

Roll Call Vote:

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

Nays –

Motion Approved 6-0

4) Patti Saracusa with Dover Home Remodeling on behalf of Robert Rua & Becky Ranallo 31030 Nantucket Row	Applicant is requesting a variance to section 1153.04, minimum rear yards, in order to build an attached garage on the rear of the home. The required rear yard setback is 33' and the current set back is 38.5'. The new pavilion would encroach 21' the variance is for 21'.
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Mr. Norton introduced the next item on the agenda as 31030 Nantucket Row advising that the board has had an opportunity to visit the site and review the application.

Mr. Bruno stated that he feels this is a pretty big ask given the placement of the primary structure.

Mr. Norton stated that it appeared to him that the neighboring homes detached garage was very close to the property line and he assumed it was a similar situation, but they've checked the records and while it did have a variance granted for the structure it was for height only. He had mistakenly thought it was an attached garage and since it's detached it's permitted to be 3' from the property line. It's similar from the standpoint that it's a large structure and gets close to the property line. These houses are unusual in that the houses meet the front yard setbacks, but by the nature of the lots which are shallow it doesn't leave much room in the rear yard. He tried to maneuver his car to try and park in the existing garage and it's no fun – however, as Mr. Bruno mentioned, this is a big percentage.

Mr. Darcy advised that he lives in the house in question next-door, 31022 Nantucket Row, and has lived there for many years. He has no personal objection to what the applicants are proposing. He came before this same group in 2015 to ask for a 4-5' height variance for his detached garage because he didn't want to put a flat roof on the garage. This board granted his variance with the stipulation that no one can live in it. The garage is the appropriate distance from the property lines as well as their home. He came to speak on their behalf and to make sure the record was clear as it relates to his detached garage.

Ms. Saracusa, with Dover Home Remodelers, commented that the existing sunroom is already noncompliant by 10'. What they are proposing is to tear that down and build off that to the west.

Ms. Orr advised that they tried a few different ways to maneuver the car and they've also looked at doing a detached garage. If they were to stay within the rear and side lot requirements for the detached garage it would need to be less than 10' from the house and even then, you'd have to brush your car against the house to get into the garage. So, they're trying to get the appropriate size garage on the house.

Mr. Bruno stated that he believes they can detach the garage and have the setbacks met. This board may give some consideration to how they would see the distance from the primary structure to the detached garage. It's his opinion that the board would be more favorable to that as opposed to the significant ask in this current application.

Mr. Saurman referenced a recent review of a detached garage the board saw on Bruce Rd. Given the size of the lot they did end up granting that variance to have the garage closer to the primary structure.

Ms. Orr replied that they would have to not only request a variance for less than 10' from the home, but also they'd need to be less than 3' from the side yard to make the 23'x26' garage fit.

The board continued to discuss the possibility of a detached garage.

Mr. Rua inquired if that would be ideal given it'll be closer to the neighbors' residence.

Mr. Bruno replied that it would be code.

Mr. Norton replied that it would be code, but Mr. Rua is correct it would be closer to the neighbors.

Mr. Rua commented that if he was the neighbors, he'd prefer it to be further away.

Ms. Orr stated that they reviewed this at length. Another con of the detached garage is they're taking up more of the yard in that version because they'd be leaving the sunroom. Additionally, an attached garage is just preferable.

Mr. Norton stated, for the record, that there is a communication from Susan Schearer, the rear yard neighbors, which had some questions about this variance and brought some points to light as to whether or not this is a unique lot. This particular neighbor is not in favor of this request.

Mr. Schearer confirmed he's the rear yard neighbor on Arlington Circle and that his wife wrote that letter. Their concern is that the proposed garage encroaches on their lot more than it does now.

Mr. Tuck-Macalla advised that the only one he knew off that was similar was a pavilion on Rye Gate, but that it was open. They talked about it not being detached – the reason that it went to BZA was because it was attached to the home and encroaching on the rear yard setback.

Mr. Burke stated that unlike this applicant that request was open and they made it a requirement that it stay open.

Ms. Rua stated that they have another letter of support from a different neighbor.

Mr. Miller inquired, of Mr. Tuck-Macalla, if the detached garage would be permitted at the proposed size given the size of the home.

Mr. Tuck-Macalla replied that it would be approved.

Mr. Norton pointed out how difficult it is to maneuver when turning into the garage. He went on to say, for the record, that the neighbors at 31110 Nantucket Row have issued a letter with no objection. He went on to say that one thing to consider is that it would be legal to put this size detached structure in the back northwest corner 3' from the property line, but from the neighboring standpoint both to the West and the North that structure would impinge on their view more than what is proposed and yet it would be perfectly legal. One of the things the board tries to consider is the effect on the neighbors and neighborhood. One could argue that what is requested, a two-car attached garage, is better for the neighbors and neighborhood. It may be better to get a

variance for this than shoving it in the rear yard. While they could a detached garage legally the neighbors may not be better served.

Mr. Darcy inquired if/why if they changed the garage to a detached garage would they not be removing the sunroom? He inquired why it would be removed in one scenario and not the other.

Mr. Bruno stated, to add to Mr. Norton's comments, that in driving through that neighborhood there are many garages doors that are not visible driving by. From a context perspective – what they're asking for is more consistent with the rest of the properties in that area of Bay Village.

Mr. Miller inquired if the applicant would consider slimming up the garage – so that it's still attached, but less of a variance.

The Architects, owner, and board proceeded to discuss this option as a compromise to the request.

Ms. Rua advised they are open to it as long as they can fit two modern cars into the garage.

Ms. Orr advised that she thinks the smallest it can be to fit two SUV's, and still get in and out comfortably, is 24'.

Mr. Schearer stated that their main concern is that if you have a garage with a wall in the back that it's human nature, if you don't see the back, to put things back there. Do they plan on adding trees to potentially conceal that?

Ms. Rua stated that the existing landscaping will stay in addition to a walkway. They're going to see the same bushes that they see now.

The neighbors discussed the proposed garage addition location.

Ms. Orr advised that upon review, 24' appears to be the needed size for a two-car garage.

Mr. Burke confirmed that they are modifying their request to a 19' variance?

Ms. Orr stated that they would prefer what they are asking for, but if this is what they need to do they are willing to reduce the size.

Mr. Burke commented that this is a 55% variance request which is pretty substantial so anything that could be done is helpful.

Mr. Norton suggested that the board make a special point of stressing the rationale for making this decision by a finding of fact following their motion.

Mr. Saurman inquired if they are setting themselves up for a dangerous precedent given the amount of this variance, but given the discussion and the uniqueness of the property/layout. Adding that given the sunroom is out of compliance already the reduced request is almost 8' which doesn't sound as large as the 19' requested.

Mr. Bruno inquired if they should be tabling this to review the neighborhood and see how many driveways/garages are in the neighborhood.

The board discussed the pros and cons of delaying the vote.

Mr. Norton stated that these lots are unique. They are almost as deep as they are wide. For a lot to be this wide be only 132' deep makes it out of precedent – from that standpoint he is comfortable deciding tonight with a finding of fact

Mr. Schearer stated that the detached idea is better for him as the backdoor neighbor because it moves it further to the west and there are large evergreens back there. The proposal now moves it closer to their yard – there are some trees in between, but those trees are gone. He understands that maybe the detached option is closer to the lot line, but it is further from some of the back neighbors.

Mr. Bruno commented about how far back the houses are setback very far on this street.

Mr. Norton stated that he feels a side entrance is better for the neighborhood.

The applicant advised that they'd like to vote tonight.

Mr. Norton clarified that they're changing the request from 21' to 19'.

Motion by Mr. Burke, **Second** by Mr. Bruno, to grant the property located at 31030 Nantucket Row a variance of 19' from the rear yard setback requirements of Section 1153.04 of the Codified Ordinances for the construction of an attached garage as per the plans submitted which has been amended to 19'.

Roll Call Vote:

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

Nays –

Motion Approved 6-0

Mr. Bruno continued on to say that in view of the substantial nature of the variance he proposes the following findings of fact of this board for the record.

Finding of Fact Motion by Mr. Burke, **Second** by Mr. Bruno:

- 1) The property is unique in that the depth of the property is very shallow compared to the width and does not leave a lot of land behind the house for the construction of a new garage
- 2) The plans that were submitted, and the variance approved, would permit the construction of a garage with a side door access that would not be viewed from the street as opposed to a garage door open to the street
- 3) While a detached garage in the back left corner of the property could conceivably be done within code it would not necessarily be beneficial to the overall appearance of the neighboring properties
- 4) The existing sunroom, which will be demolished, is currently already out of compliance and that the variance for the new garage would be extending only 8' beyond where the current sunroom extends.

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

Nays –

Motion Passed 6-0

5) Sam & Kendra Sherwood 27104 Midland Rd	Applicant requesting a special permit to place a 3'9" fence/column structure in the front yard where a 3'6" structure is permitted. The variance would be for 3".
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Mr. Norton introduced the last item on the agenda as 27104 Midland Rd. advising that they have reviewed the application and visited the site.

Mr. Bruno stated that he feels this request is quite minimal and they had a similar request near Oakmoor and that was for decorative fencing whereas this has some purpose.

Motion by Mr. Bruno, **Second** by Mr. Burke, to grant the property at 27104 Midland Rd a special permit for the placement of a fence column structure in the front yard where 3'6" is permitted and 3'9" is requested resulting in a variance of 3".

Roll Call Vote:


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

Motion Passed 6-0

Mr. Norton commented, prior to adjournment, that council has approved a utility building size change from 120' to 199' and he thanked Mr. Tuck-Macalla for this change.

Mr. Tuck-Macalla advised that they also refreshed the ordinance on Home Based Businesses.

There being no further business to discuss the meeting adjourned at 8:50 p.m.



Jack Norton, Chairman



Lauren Oley, Secretary