

Meeting Minutes of  
Board of Zoning Appeals  
Held August 3, 2023

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

Excused: Terry Burke

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

Audience: David Perry, Phil Sain

*\*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 July 20, 2023.

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

Motion Passed 6-0

1) Phil Sain 357 Kenilworth Rd	Applicant is seeking variance to section 1359.01 to place AC Equipment closer than 10' from the property line. The current equipment is currently in this position, the new unit will replace the existing. The variance is for 6'.
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Mr. Norton introduced the next item on the agenda as 357 Kenilworth Rd.

Mr. Bruno noted that the decibel rating is 71.5 is what they expect.

Mr. Norton advised that they often when they grant variances for air conditioners that they require sound blankets if it's not already provided and they often require year-round screening.

**Motion** by Mr. Bruno, **Second** by Ms. Young, to grant the property at 357 Kenilworth Rd a 6' variance from CO 1359.01 to place an air conditioning unit in the position on the property as prepared and submitted provided that the applicant install a sound blanket if not already installed and to require year round screening whether that be decorative fencing or vegetation.

**Roll Call Vote:**

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

**Nays –**

**Motion Passed 6-0**

2) David Perry 23928 Russell Rd.	Applicant is seeking a variance to section 1163(h)(3) to place a privacy screen along the rear lot line, the ordinance permits 32' the variance would be for 18'. The owner is also
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	requesting a variance to section 1163.05 (a) to have the finished side of the fence facing toward his house.
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Mr. Norton introduced the next item on the agenda as 23928 Russell Rd.

Mr. Gess advised that he was having a hard time because there wasn't a clear diagram of where the fence would go.

Mr. Bruno stated that he is curious to the parameter of the lot – lineal footage.

Mr. Norton inquired if anyone had an opportunity to read the letter submitted by the neighbor that lives behind this home.

Ms. Oley advised that the parameter is 400' – 50'x150' which makes 10% 40'.

Mr. Bruno stated that seems consistent with the lots in that neighborhood.

Mr. Norton explained that the second requirement of the ordinance is to not exceed 10% of the parameter lot. He added that the applicant has the good side of his neighbor's fence facing him. Adding another fence very close to it – might not gain very much since he already has a good-looking fence facing him.

Mr. Perry stated that when they built that fence it's 18" in on their property line. So, there is a gap that is their property between his yard and their fence which is technically the neighbor's property. There have been numerous issues – for example placing these signs in the middle of the night. They only effect their line of sight from their backyard. His only option to eliminate these signs is to build their own fence.

Mr. Norton inquired if there were any ordinances regarding posting signs on fences?

Mr. Tuck-Macalla replied that there is not. You can't paint the fence with graphics, but you can put signs on it. These types of signs are captured under the sign ordinances, as informational signs, so it's permitted. There are a lot of situations where people have 'do not trespass' signs.

Mr. Perry stated that it is a nice-looking fence, but it drops off to 4' to finish off the 50'. He wants to stop the peering into their back yard and close the gap.

Mr. Norton stated that he could use his allowable 6' to shield their 4' which would end the neighbor's ability to peer into the yard.

Mr. Saurman confirmed that they gave the neighbor behind him an 8' variance and allowed them to put 40' in one direction.

Ms. Young stated that the reason she put it 18" off the line is because there was an existing fence on Mr. Perry's property.

Mr. Perry stated that if he had known they were going to build a fence he would have happily taken down the chain link fence. He stated that he is uncomfortable because they are placing and moving these signs during the night hours. He's trying to get that to stop. They haven't been able to enjoy their yard since May because of this and he has 3 young daughters. It's a toxic environment.

The board and applicant discussed the necessity to have more than 40' fencing in that area given the fact that there is an existing 6' fence that covers the majority of the rear property line and a garage.

Mr. Bruno proposed that given the parameter they'd be looking to consider something around 40', but he proposed that they take this in two parts because he sees this as two things. The second request to have the good side of the fence face his property is a non-starter for him.

Ms. Young inquired if there was any discussion about splitting the cost to the property line.

Mr. Perry stated the he would love to move this one to the property line. If he had known he would have gladly taken his chain link fence down. He asked her when he was taking down his chain link fence, she pointed out that the 18" left was her property. It's an eyesore to have a chain link in front of a large wooden fence. He asked her what they can do about it – closing the gap, etc. He would have preferred to spend much less on lumber and close that gap, but the neighbor's response was that it wasn't her problem.

Mr. Tuck-Macalla stated that by state law she has to be able to access the other side of the fence to maintain it. So likely in her mind she was thinking that she kept it 18" away so she could maintain it. He stated that when she got the variance letters would have gone to all the neighbors including Mr. Perry regarding the variance request.

Mr. Perry stated that he never saw the letter or he would have been sitting here back in May to express his concerns. It's gotten so toxic back there that she cut all the Hosta leaves that draped over the property line. He doesn't know what to do. He understands the rules, but he doesn't want any visible line sight from his neighbor's yard into his own.

The board and applicant proceeded to discuss options for the layout of the proposed fence as it relates to the existing fence, garage, and signage.

Mr. Tuck-Macalla advised that the sign, in order to be out of compliance, would need to be 18' square feet. These would be considered 'informational signs'

Mr. Norton stated that he feels it's violating the 'spirit of the law', but there may be no repercussions.

Mr. Gess advised that the board often suggest arborvitaes to help shield/provide privacy along the fence line. It might get him what he needs, but prevents the board from granting a variance that is outside precedence.

Mr. Perry inquired if there is anything that prevents her from posting signs higher up?

Mr. Gess stated that there may be other departments that can help mediate, but unfortunately, it's not this board.

Mr. Saurman confirmed that the applicant plans to build the fence right up to his property line – would he be able to maintain it?

Mr. Tuck-Macalla advised that, by law, he would be able to go onto her property to maintain it.

Mr. Bruno reiterated that he would be okay with a 40' run in that area.

The board concurred with Mr. Bruno's statement.

Mr. Perry inquired about the good facing side.

Mr. Bruno reiterated that it's his opinion that it needs to face the neighbor as a courtesy and that's the code.

Mr. Miller suggested that there are fence styles that are the same on both sides – so that might avoid that issue.

**Motion** by Mr. Bruno, **second** by Mr. Saurman, that the property at 23928 Russell Rd to grant the applicant a variance per CO 1163 (h3) to grant additional privacy screening granting a variance of 8' for a total of 40' so that consideration is given to the 10% perimeter rule and consideration has been given to the 32' in any one direction such that the applicant and the property has the ability to place 40' on the northside of their property.

**Roll Call Vote:**

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

**Nays –**

**Motion Passed 6-0**

**Motion** by Mr. Bruno, **second** by Mr. Gess, that the property at 23928 Russell Rd that the variance be granted per CO 1163.05 (a) for the good facing side of the fence to face the applicant's property per the application as prepared and submitted.


**Roll Call Vote:**

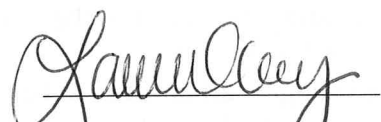
**Yeas –**

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

**Motion Passed 6-0**

There being no further business to discuss the meeting adjourned at 7:59 p.m.

  
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Jack Norton, Chairman

  
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Lauren Oley, Secretary