

Meeting Minutes of
Board of Zoning Appeals
Held August 19, 2021

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

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

Excused: Scott Bruno, Lauren Oley (Assistant to Building Director)

Audience: David Maddux, Martin Reuben, John D’Amico, Mark Eisaman, Elise Auvil, Michael Smith, John Hudec, Prakash Vemulapalli, Jacqueline Collins, Katie Lininger

**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 August 5, 2021

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

Motion passed

1) Gene Lustik agent for John Hudec 23724 Cliff Dr.	Applicant is seeking a variance to section 1359.01 to install Air Conditioning equipment closer than 10 ft. to a property line. This would be on the west side of the house 24 ft. from the front of the garage. There is an existing variance for the generator and A/C on the same side of the house. The variance will be for 3.5 ft. or 35% . <i>Item was tabled 6/15/21 & 8/5/21 – Additional information to be provided by Building Director & Law Director prior to meeting</i>
--	---

Mr. Norton introduced the first item on the agenda as 23724 Cliff Drive. He advised that the Law Director is in attendance and inquired if the BZA was appropriate in its decision to hold up this review as an unrelated matter?

Mr. Barbour stated that he reviewed the file on this going back to 2013 when there was the original driveway violation and there were extensive discussions between the prior Law Director, Gary Ebert, and attorneys for the then property owner for a few years and the property was

transferred in 2016. There was a variance approved in 2016 for the generator and at that same time the owner was cited for the driveway again by Safebuilt, but after 2016 there was no follow up by the building or law departments. The property changed hands again in September of 2020 the record reflects that even though there was a prior building violation a subsequent variance was granted for the generator.

Mr. Burke inquired when the current property owner was made aware of the property violation?

Mr. Barbour replied that he's not 100% sure, but he believes it was a part of this process of seeking a variance for the air conditioner.

Mr. Burke inquired if this matter was filed in court by Gary Ebert?

Mr. Barbour replied that it was not filed.

Mr. Burke commented that at one point they were at least getting ready to file and thing things slowed down – was never actually filed?

Mr. Barbour replied that was correct. It was prepared to be filed in Fall 2014 and then at that time the O'Donnells enlisted help from a fair housing advocate and then at that point they engaged another attorney and discussions took place. It sort of came to a stalemate in 2015 and in 2016 they moved out.

Mr. Burke inquired that given it's a current violation is there any reason it should not be enforced?

Mr. Barbour advised there is no reason it shouldn't be enforced.

Mr. Norton inquired of Mr. Hudac if he's given any further consideration to what was discussed at the last meeting as far as bringing that complaint to a conclusion.

Mr. Hudac replied that he didn't think he needed to because he was under the impression they were going to have a discussion with the Law Director.

Mr. Norton replied that if he's taking it properly it sounds like the law department is comfortable with the BZA withholding any further action...

Mr. Barbour interjected to say that because the BZA granted a prior variance in 2016, with the pending violation, they have set a precedent with this particular property. If they were going to withhold variance due to the violation that would have been the time to do it. Now they have a precedence with this property and circumstance. In this instance, his opinion, as the city's law director, is that there is a violation however he doubts that Mr. Hudac was aware of it and he suspects that the previous owner did not make him aware of it. It's not something that would show up on the title search. In this instance, he didn't create the violation he inherited the violation. He believes some consideration should be given to those two facts. It doesn't excuse the violation, but a prior variance has been granted and that puts the BZA in a spot.

Ms. Young clarified that her opinion is that because there is precedence it shouldn't inhibit this variance from being granted, but because there is a violation – is still needs to be remedied.

Mr. Barbour replied in the affirmative. He advised that the violation still needs to be correct, but he's not sure they'd want to deny this variance under these circumstances because of this violation in light of the circumstances. This goes back to 2013 and the resident bought this home in 2020 and was not made aware of the violation until this application was filed. These are unique facts for this case and they do carry some weight.

Mr. Burke commented that knowing now that it's still outstanding is the law department moving forward to enforce it?

Mr. Barbour replied that the law department will move forward to discuss remedies with the homeowner. To make it look less like a parking area without having to remove the cement – they will move forward with it. Consideration should be given to all the facts in this case. If Mr. Hudac had created the violation and ignored our request for 8 years that would be a different circumstance.

Mr. Norton commented that he feels, based on this information, the BZA should ignore the previous violation as an inhibition to hearing this item. He puts it back on the table as a request for an air conditioning unit too close to the property line.

Mr. Burke remarked that sometimes they discuss if it's too far forward and suggest that it be moved further back.

Mr. Gess added that the location was objectionable due to the porch, but the thought was that there should be adequate room next to the other condensing units or by the generator by the other equipment.

Mr. Norton inquired if there was a way to define that? To keep it away from the neighbor's patio and define how far back it needs to be.

Mr. Saurman advised that they call them utility areas and the suggestion is that is where it should go perhaps we should reference the utility area.

Mr. Reuben, the neighbor, commented that he is absolutely fine with that location. He wants it placed by the rest of the mechanicals.

Motion by Mr. Burke, **Second** Mr. Gess, that the property located at 23724 Cliff Drive be granted a variance from the requirements of 1359.01 of the CO to permit the installation of an additional air conditioning unit on the west side of the house provided that the unit be placed in close proximity to the other air conditioner and generator units that are already installed and further provided that there be a sound blanket on the air conditioner if it's not already equipped with one and further provided that it be screened year round from view of the neighbors on the street.

Roll Call Vote:

Yeas – Gess, Miller, Norton, Saurman, Young

Nays – Burke

Excused – Bruno

Motion Passed 5-1

2) Mike Smith (Green Leaf Properties LLC) for Prakash Vemulapalli 31408 Narragansett Ln	Applicant is requesting variance to section 1153.02 to build a 4’5” porch to the front of his home. The setbacks on Naragansett are 50 ft. from the Building Line. The request is for a 4’5” variance or 9% . <i>Item was tabled 8/5/21 – Additional information to be provided by Building Director & Law Director prior to meeting</i>
---	---

Mr. Norton introduced the next item on the agenda as 31408 Narragansett Lane. Since tabling more information has been given to the board regarding the deed restrictions that were part of the Huntington Development that outline the restrictions. There has also been a discussion with the previous law director, who happens to be the president of the home owners association in this area, and according to the restriction the home owners association can, in effect, override these deed restrictions. Mr. Ebert has indicated that the homeowners association has no problem with this. The BZA can’t make that decision and all we can do is address the City of Bay Village ordinances. Going forward, in the future, if there are any problems with deed restrictions we are not giving the city’s blessing. That said – the request for porches has become a fairly common one and his only comment is that this is fairly generous. They’re asking for 9’ for a porch. So the board might consider reducing the depth of this addition so that we minimize the amount of variance. They have 5’ available so adding this creates a porch of 9’1”.

Ms. Jackie Collins introduced herself as Prakash’s wife. She grew up in the area and brought her husband back here and has been searching for a spot to build their home. The beautification of this area is very important to her. When they were working on plans for the home part of the decision, as far as the depth of the porch, had to do with the layout of the lot and the way the front of the house is laid out. They want to retain as much of the original home as possible without doing too much to it, but modernize it a little bit. She wants a home and porch where there is enough room to move around. There are some with shorter porches with rocking chairs and they’re done beautifully, but it’s always been her dream to have a sideways porch swing and then you need a certain amount of space to get around it. That is where they came up with the number for that space.

Mr. Vemulapalli advised that the official setback is 5.5’ from the property line is what they’re allowed to have, but they are asking for 4.5’ more.

Mr. Smith added that he has an elevation to distribute to the board.

Mr. Vemulapalli commented that the hard part is that they're trying to manage trying to retain as much of this house as they can and on top of that they want to put in some of the features that they wanted. So that is where that measurement came in. If they had shifted the house back 4.5' when the originally built it – it wouldn't have been a problem. The hard part is trying to retain the external façade.

Mr. Miller remarked that it would seem that even though the request is for 4.5' the 2.5' for that extension for that entry extends out 2' – so it's a bit more than 4.5'. With the construction ahead of the porch line that to him is part of the additional encroachment. The roofline in the center of the porch – he's looking at this as a 6.5'. He thinks that they've had numerous discussion about how that geometry works with front porches and how does all this fit with the encroachment...

Mr. Young added that they are trying to decide if it's part of the façade or the design or is it encroaching on the setback. We had one like this last meeting regarding the overhang. Does it make it aesthetically pleasing or does it add to the encroachment.

Mr. Gess commented that the difference with that one is that it was an architectural feature that did not touch the ground – it was just overhang. This appears, best he can tell, the columns are jettied out as well. They could be back in line and it would be an overhang, but he assumes it would bump out – its hard to tell.

Mr. Norton stated that one of the things they try to do is help to accommodate some of these wishes while at the same time try to minimize the amount of the variance needed. That is why they've come up with the facts that a 4' stoop, before steps, is not enough to safely open the door and stand there - so then they've settled on 4' not enough and fallen between 6-7' dimensions. It's enough to have safety plus a sitting area. It would be nice to have 10', but the board has tried to minimize the percentage of variance needed. The 9' is a stretch compared to the variances they've granted in the past.

Mr. Miller commented that the 9' is the total depth of the porch and if they work with the setback of 60' to the front face then he thinks they're looking at what does the 5' and 2' of the gable lend itself to? He could get comfortable if the gable was a 1' extension vs. a 2' extension because that would roll it back to the 6' conversations of encroachment which they often have. He would say that for him, if they could get to a total of the encroachment being at 6' it would keep with the conversations they've been having.

Mr. Burke clarified that he's saying a variance of 6'.

Mr. Miller replied in the affirmative.

Mr. Norton so if you still wanted the overhang to be there then you'd be reducing the depth of the porch.

Ms. Collins commented that, for her, the space to move around is the key to what she's looking for. So if pushing the gable back makes a difference...

Mr. Norton if the gable moves back then they can retain the depth of the desired porch.

The board and applicant continued to discuss the depth combinations for the front porch.

Mr. Norton advised that there might be a typo on the agenda that says the setback for that street is 50' whereas may actually be 60'. The board asked Mr. Tuck-Macalla to confirm the correct setback for the street.

Mr. Tuck-Macalla confirmed there was a 50' setback.

The board continued to discuss the depths and dimensions on the plans provided. It's possible they won't need a variance at all given the information provided on the plans.

Mr. Miller stated that if the extension, working from the face of the garage, is a total of 7.1' so not exactly sure where the 4.5 variance comes from, but they show a 5.5' allowed porch plus a 4.5' proposed porch which gives the full 9' of covered porchway. Perhaps the older sketch is outdated.

Mr. Norton commented that if they made that assumption and the folks left with a variance in hand and it turns out they didn't need it because 50' is the correct dimension then they don't have to come back with clarification if the 60' is correct.

Ms. Young commented that if the document that is blown up is the correct document then its 58.29' to the front of the gable and 60' to the garage. So if there is a 50' setback then they're still within the range – if she's reading it property.

The board discussed the various documents provided and engineered stamps with Mr. Tuck-Macalla confirming that the building line of 50' is front the inside of the sidewalk.

Mr. Norton stated that he believes it appears they don't need a variance, but that can be confirmed with the building department with the survey that the house has.

Mr. Gess inquired if, in Mr. Tuck-Macalla's experience, is the county GIS fairly accurate? If that's the case it doesn't look like the road is centered within the right of way. The right of way line is going down the tree line. This isn't perfect, but on the south side of the street the right of way line is on the street side of the sidewalk not the house side.

Mr. Tuck-Macalla advised they could always go from the centerline of the road.

Mr. Norton summarized that he believes they need clarification to make a decision because they are not sure where the starting line is. It should show up on the legal line of the survey. He believes they need to table it for tonight.

Motion by Mr. Burke, **Second** by Mr. Saurman, that since there is a lot of conjecture, and it is possible the applicant may not even need a variance, to table the item for 31408 Narragansett Ln as to allow the building director time to review any additional blueprints and surveys to determine where the setback line is on this property and what, if any, variance is needed.

Roll Call Vote:

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

Nays –

Excused – Bruno

Motion Passed 6-0

Mr. Miller stated that he was looking at the expansion of the home and it looks like they're building out into the back. Are there any backyard issues?

Mr. Tuck-Macalla advised that he'd have to relook back over it to check. If they need to they'll be back and if they don't they won't.

3) Dave Maddux (Modern Smart Homes) for Angelo Petitti 24000 Lake Rd	Architect for the owner is requesting a variance per section 1308.08(8) A to perform work within the Riparian set-back. The plans presented do not indicate that the storm sewer work would encroach but the depth of that storm sewer took the exit within the set-back.
--	--

Mr. Norton introduced the next item on the agenda as 24000 Lake Rd. The board has an opportunity to visit the site and review the application.

Ms. Elisa Auvil introduced herself as the neighbor who is on the east side of the creek. If they were on the site then they probably noticed that they built a very large patio on the east side facing the creek. Their only request would be, and she's spoken to the builder, is that the pipe be camouflaged maybe painted or something because in the winter when all the leaves fall it's just going to be such an eyesore.

Mr. Maddux advised they're fine with that.

Mr. Burke stated that they only get a few riparian setback requests. Is there any other state or federal agency that needs to give their approval on this?

Mr. Tuck-Macalla replied in the negative.

Mr. Burke commented that the way the pipe sticks out it's almost in the middle of the creek. It's taking the rain water off the roofs?

Mr. Maddux replied that it's both the storm drains and the foot drains.

Mr. Burke commented that in a storm that would be a considerable amount of water. Is that water coming out of that pipe a danger to further erosion in that creek?

Mr. Maddux replied that the two ways to do it are either to hang the pipe out so that it drains not on the bank or you cut the pipe way back and then have to rework the bank to drain it down the bank. They are okay doing it whichever way disturbs the riparian setback the least amount. He's not sure – it seems to him that to get the water into the creek you have to somehow get into the riparian setback. Whether that's in the bank or hanging the pipe out and they don't want it to be an eyesore. Its rouged in right now, but they can accommodate whatever the city determines the proper course they are open.

Mr. Burke stated that given the proximity to the cliff edge is there a reason the exits wasn't put to the north instead of the east?

Mr. Maddux replied that they didn't want to compromise the integrity to the bluff at all.

Mr. Tuck-Macalla added that there are other storm lines off the property, that are older, that exit into the creek also. This just happens to be a new one that is there now. The original one was a little further back towards the road and since the house sits back further they had to put a new one in. The request is really to be able to do work within that setback.

Mr. Maddux replied that there was a house on the property that drained into the creek previously – it's a pretty deep creek it won't impact anyone upstream.

Mr. Miller commented that if they cut the pipe back and used some heavy river stones it could use that as a river ground base and to help camouflage the pipe.

Mr. Maddux replied that they're completely fine doing that they're just not sure which disturbance of the riparian is the least impactful.

Mr. Saurman stated that either way they need the variance to go into the riparian setback.

Mr. Miller stated that he'd rather see the pipe cut back and heavy stone used to dilute the flow of water into the creek so there is no further erosion, but also satisfy the neighbors concern about viability.

The board continued to discuss the type of potential stone used for this project.

Mr. Norton stated that in a heavy rain that creek drains a fair bit of territory and if you get rushing water down there it will move the stone right out of there. You can't use smaller stone and expect that it won't move the stone. The way it is it is above the water. In order to cut it back you'll need to make a slew of stone and you're going to need to underbed that because the water will come through and keep making muddy water and the stone will keep going lower and then a good rain can cause the interlocked stone to disappear. Technically they have to give a variance to do anything and then it's a matter of trying to acknowledge the neighbors situation and the builder situation. If the builder decides to camouflage or put in armor stone as a pad that won't be moved.

Ms. Auvil stated that if they noticed it really is all mud and no shale in that area and she wouldn't want to do anything to disrupt that. And to his point, when it storms they see it and those waters are torrential and there is a lot of force. If it needs to come out they're fine with that, but as long as the pipe is a darker color and they were hoping the new owners might add some ivy along the cliff. As it grows it will hold up some of that mud. The root systems of those trees that hold both sides of the cliff over the long term sometimes nature holds things better – it's a mud cliff that is going to keep eroding over time. Seems like the pipe dropping the water in the middle may be better long-term.

Mr. Maddux stated that he hopes it will be landscaped well.

Mr. Gess stated that there is another storm outlet.

Mr. Maddux stated that the yard drain won't carry as much or have as much flow as the drain from the house.

Motion by Mr. Burke, second by Ms. Young, that the property located as 24000 Lake Rd. be granted a variance for the requirements of 1308.08 (8)A for the installation of a storm drain into the adjacent creek provided that the pipe be camouflaged a darker paint to better blend in with the surroundings.

Roll Call Vote:

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

Nays –

Excused – Bruno

Motion Passed 6-0

4) Houston Generator for Dave Petro 578 Linford Dr.	General Contractor for owner is seeking a variance to section 1370.05 (c) to place a generator closer than ten ft. from a property line. The new generator is 8 ft. from the property line a variance of 2 ft. is requested a variance of 20%.
--	--

Mr. Norton introduced the next item on the agenda as 578 Linford Dr. He noted that the opposite of where this generator is proposed is the garage of the house to the south side.

Mr. Saurman commented that is the logical place from a utilities standpoint – the gas line and the electric are right there. The north side of the house he wouldn't want to put it there because of the neighbor's patio.

Mr. Eisaman advised there is no issues with it venting back into the house. They have to be away from windows.

Mr. Norton stated that normally they have some standard requirements for this kind of request that include the operational hours as far as testing are concerned as well as concealing the unit with year round vegetation or with decorative fencing so it can't be seen by the neighbors or the sidewalk.

Mr. Burke inquired if the testing requirements were in the code.

Mr. Tuck-Macalla replied in the affirmative.

Motion by Mr. Burke, second by Mr. Saurman, that the property at 578 Linford Dr. be granted a variance from 2' from the side yard setback requirements of CO 1370.05 (c) for the placement of a generator provided that the generator have year round screening artificial or natural and that the other code requirement regarding testing are met.

Roll Call Vote:

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

Nays –
Excused – Bruno

Motion Passed 6-0

5) John D’Amico (The Great Garage) for Katie Leininger 30027 Westlawn Dr.	General Contractor for owner is seeking a variance to section 1149.01 to build a garage closer than 3 ft. to a property line, the variance requested is 1.5 ft. or 50% .
---	--

Mr. Norton introduced the next item on the agenda as 30027 Westlawn Dr. He advised that one of the reasons the ordinance has a minimum of 3’ from the property line is just for the maintenance of it. In some future time the neighbor could put a fence up and then you’d only have 18” to get in and paint the side of it. It appears that you had adequate space to keep the garage 3’ away and still have almost no offset. It appears that you have several feet in addition to the 3’ of where the existing garage is, but you have something like 6’ so the side of the garage moving it in that direction would not be much of an offset at all.

Mr. D’Amico replied that the current garage is about 7’ off the sideline. What they’re looking to do, by moving this over, on this lot – is that this lot has a very small backyard. It’s 19’ from the house. His truck wouldn’t even fit between the house and the garage. By moving it over it does allow the garage door to have complete clearance from the corner of the house. She worked with her neighbor, her neighbor is giving her some property, which is in process right now of being surveyed/expanded, there is nothing on the side of the garage. He is aware of the 18” a lot of the communities they worked in have 18”. He used to have one that was 18” off the line and it’s not the easiest maintain, but you can get back there to maintain it. That would mean another person would also need to put a building very close to the line.

Mr. Burke commented that the neighbor to the west is splitting off some of her property.

Ms. Leininger replied that she had her land surveyed and her driveway is already on his land. Her goal is drive straight back and be able to pull back out after living there for 9 years and being unable to. His lot seems to be very wide and he has an attached two car garage to his home already. He can’t imagine what he would be building in the back...all she is trying to do is to take the back property line and take it perpendicular to the street. It keeps the backyard the same, but it gives her the ability to not have an 8-9’ driveway in the front and she can have more like 11’. The driveway will still be off the new property lines and she thinks there is roughly 3’ in the front that she’s taking.

Mr. Gess stated that the drawing reflects what will be with the change of property.

Ms. Leininger stated that drawing is what they want it to be and there is a draft line on the plans. She has a second property survey being completed right now. She went on to say that her lot, from today’s standards is completely unbuildable. She is just trying to stay in the house and she can’t let her child in the garage – she wants to give her a new garage and have a nice driveway that she can pull back into. The main thing is to drive straight back and drive out.

Mr. Norton stated that one of the problems with this is setting precedent. Without this being a unique lot, because there are a lot of small lots in Bay, it's hard to justify a variance without changing the law. If there is nothing unique about this and there is a lot of lots that could ask for the same thing and then by rights they'd have to say yes. So in effect they're changing the law rather than making an exception for an unusual circumstances. Adding 18" this much to your backyard is not denying property rights if this isn't granted and he doesn't think it will make a meaningful difference. She obviously needs a new garage because it's not servicing her, but it's not necessary to have a variance to build the new garage.

Ms. Leininger stated that she believes it makes a meaningful difference for her to be able to park in and out of it with how far the garage is from the house.

Mr. Norton stated that she's going to have a straight shot. If she's got 7' now and she only needs to use 3' of it as a buffer – so her present garage can shift over 4' so she'll have a straight shot going into it.

Mr. Gess commented that they had a similar discussion and the solution was looking at the width of the driveway... 11' may be more than what is necessary. If you wanted your garage to align with the edge of the driveway – what if it's a 10' driveway? Then in theory we're only talking about 6" difference. He doesn't know if there is a favor for that or not... It looks like the garage is not parallel with the property line.

Mr. D'Amico confirmed that it's not – it's parallel with the house.

Mr. Gess replied that it's only the front corner that is out...

Mr. D'Amico replied that he average of the distance is more than 18".

Ms. Leininger commented that the start of the door has to be 2' in. She is just make sure that it's ascetically correct and not swing behind her house.

Mr. Miller inquired how critical is it that she has the swing door on the same surface on the garage.

Ms. Leininger replied that she's trying to minimize extra concrete on the side of her house.

Mr. Miller commented that the dimension of 1' 2" that is on the righthand side of the garage he doesn't believe actually 1' 2" because that's also repeated on the other side of the swing door and the other side looks a little bit more like 2'.

Mr. D'Amico replied that must be a typo because that is 2'.

Mr. Miller inquired about the neighbor's gesture to square up her property. The back corner is going to stay where it is, but the front corner is trying to get corrected to gain her the ability to put in the driveway. Have you had a conversation with them about gaining an additional 18"? Because if this garage is situation now where you can drive into it do you think they would sell or give you 18" more so you can hit the 3'?

Ms. Leiniger replied that he may be, but she feels he's being quite generous already. At one point there was an existing half fence up the portion of the back of the driveway when she first moved in and it was falling over and it was an eyesore, but they always thought her property was straight to the road. They've even shared the cost of a tree removal in the front corner because it was always believed to be her property, but once she got a survey they realized it's been his property the whole time. He advised that he would give her a part to make it whole in the front, but she never thought about asking in the back because she thought they had the space.

Mr. Miller continued to say that this property is not unique so they don't have the clear opportunity to give her 18" where it should be 3'.

Ms. Leiniger inquired if they could give her a 1' variance?

Mr. Miller went on to suggest that they table this and she goes back to her neighbor to advise that she's talked with the BZA and they're set on having 3'. How would her neighbor feel about transferring a certain part of property and figure out that cost/give. This meeting is evidence that they don't break that standard, almost ever, for any reason – so it might be an opportunity to go back if they'd consider it.

Mr. Gess added that taking the drive from 11' to 10' would dramatically reduce the ask. Then she'd only need 6".

Mr. D'Amico commented that the door is more of the problem. The drive is flexible. What if they agreed to make the rear part of the garage at 3' and then the front of the garage somewhat less than 3', but more than the 18"?

Mr. Miller inquired if that would skew the position of it?

Mr. D'Amico replied that it is already skewed. Right now this back corner of the garage is further away from the property line than the 18". If they maintain 3' off this back line and leave the squareness of the house and the garage. It might be closer to 2' off the side/front and maintain the 3'.

The board discussed different possible layouts for the garage.

Ms. Leiniger stated that the lot is unique because of the shape of her lot and the location of her home.

Mr. Norton stated that one of the difficulties that the board has with this is that they've recently had two cases – one they wanted an 11' drive and they told them that they don't need an 11' drive and that's not a good enough reason to grant that variance. The other one they had an existing foundation and the garage was on the property line and we said 'no, you're starting from scratch so it's not grandfathered in and you've got to move it 3'. If you look at what 18" does to the backyard and the usability it's almost a non-issue. If you look at getting in and out of the garage with a normal 8' with practically no offset is no issue. Most of the garages in Bay Village are a lot harder to get into. If we don't have a rationale that says this is unique then he believes they are treading on thin ice.

Ms. Leiniger stated that she feels it's unique that she's working with a house that is positioned the wrong way on the lot that makes it hard to go in and out of the garage?

Mr. Norton stated that she can go in and out with ease. An 11'6" drive that you're asking for is very generous 9-10' is reasonable.

Ms. Leiniger stated that it is the door that is the issue. The door needs to be 2' in from the edge of the garage. So the closer she keeps moving to the house the angles are off to get into the garage.

Mr. Norton inquired what the requirement architecturally to turn a corner on a garage? 24" by code? Even with 24" with the 11'6" driveway there is 18" right there – if you think of it is as 10' driveway. The driveway can go right up to the property line, but you don't have to drive right down the edge of it. 9' is a more usual driveway.

Mr. Miller stated that ultimately if they were to vote tonight and say no then any reapplication she'd have to be in compliance with the 3'. So if you go back to the neighbor and say 'could we consider an additional amount of property' whatever the slivers or angles must be. We just had a shed where the owner wanted to put it back where it was, but it wasn't in compliance so regrettably the person had to move it over – so we are pretty strict about it. He'd suggest having a conversation with the property since they're on good terms because then she gets to keep everything she wants and then if she has to come back to them then she does.

Ms. Leiniger inquired if they'd ever consider a variance?

Mr. Miller remarked that this saves her having to come back as a second submission. More than likely it seems like they're going to say no because they don't have the grounds to say yes since it's not a unique property. They often given the applicants the option to table it and go back and work at it, have the conversation with the neighbor, etc. If they say no tonight and wanted to come back it would need to be something strongly significant to be different. There are many properties throughout Bay that are not square.

Motion by Mr. Burke, **Second** by Ms. Young, that applicant for variance at 30027 Westlawn drive be tabled until the next meeting while the applicant has an opportunity to speak with her neighbor regarding a land transfer.

Roll Call Vote:

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

Nays –

Excused – Bruno

Motion Passed – 6-0

There being no further business to discuss the meeting adjourned at 9:01 p.m.

Jack Norton, Chairman

Lauren Oley, Secretary