

Meeting Minutes of  
Board of Zoning Appeals  
Held September 15, 2022

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

Also Present: Lauren Oley (Secretary), Tracy Workley

Audience: Sean Kinzel, Michael Barnes, Sandra Juba, Ed Konopka, Phil Faulhaber

*\*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 18, 2022.

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

**Motion Passed 4-0**

1) Phil Faulhaber on behalf of Diane Aldridge 293 Saddler	Applicant is seeking two variances one to section 1359.01 to place Air Conditioning equipment & Generator less than 10 feet from a side lot line. Both the new AC unit and the new Generator will be 6'4" from the property line, there is an existing AC unit in the position now. The variance will be for 3'8".
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Mr. Norton introduced the next item on the agenda as 293 Saddler Rd.

Mr. Bruno remarked that the DB rating looks good. The location looks good based on current location of AC and proximity of garage.

Mr. Norton added that the next-door neighbor has a garage in that area.

The board discussed that the DB rating seems good for this unit, but that it might be good to coordinate with an HVAC contractor to ensure they're ensuring the units have good ratings.

Mr. Faulhaber stated that, in his opinion, the unit is low, but he's an electrician as opposed to the HVAC Contractor.

Mr. Norton explained that typically when they make these motions, they include that it needs to be concealed from neighbors and street although this unit appears to be pretty well concealed already.

**Motion** by Mr. Burke, **Second** by Mr. Bruno, that the property located at 293 Saddler be granted two variances. The first variance is 3'8" from the side yard requirements of 1359.01 for the placement of an air conditioning unit and the second is a similar variance of 3' 8" from the same section for the installation of a generator as per

the drawings submitted with the application provided that both units be screened with year-round screening from the neighbors and the street.

**Roll Call Vote:**

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

**Nays –**

**Motion Passed 7-0**

Ms. Young clarified that what is there currently is sufficient for screen, but it's in the motion to ensure that if that were to come down it would need to be replaced with something suitable for screening.

1) Sean Kinzel on behalf of Michael Barnes 28928 Buchanan Dr.	Applicant is seeking a variance to section 1153.02 to build an addition to the existing garage that encroaches into the required 50' front yard set-back by 8 ft. The variance will be for 8'.
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Mr. Norton introduced the next item on the agenda as 28928 Buchanan Dr.

Mr. Bruno stated that when he visited the location it appears that the property to the east of the corner on Dwight is a little bit forward from the setback. So, it's worth taking into consideration for the sight line. He advised that he wasn't sure what the address was, but visually it's forward.

Mr. Kinzel stated that one of the big reasons they want to do this is that there is a master bathroom above the garage. The big issue is the insulation in that space causes the shower trap in that space to freeze up. They would like to gain square footage underneath that bedroom/bathroom and push the garage out. That's one of the big reasons they're asking for the variance in the front of the house.

Mr. Bruno inquired if there were drawings for the addition?

Mr. Kinzel stated that they wanted to come forward to see if they were going to get the variance prior to having the drawings completed.

Mr. Burke summarized that they're pushing the garage space forward 8'.

Mr. Kinzel confirmed saying that the garage, as they see it, will look exactly the same with the change that instead of two single bays it will be one double garage door.

Mr. Norton inquired if the full 8' was necessary to solve the problem?

Mr. Kinzel replied that without doing full architectural drawings that is what they're anticipating will be needed to cover that bathroom space.

Mr. Barnes stated that their house was built in 1966 and the whole reason they're going through this process right now is that they want to maintain the integrity of their home and on the street. They had the heritage home program come out and they felt that their home was up to their standards, but it's all predicated on this drain that they have to deal with in the wintertime. The other thing is that they'd like to continue to stay in Bay Village as they age. They've done an addition on their home to improve it, with Mr. Kinzel as their architect, and as they get older, they want to bring their laundry up to the first floor. That is the 2<sup>nd</sup> part of why they're

asking for the variance and in the winter time when the drain freezes up in the winter until it thaws. There are some houses on the street that may not be exactly in line as you look down the street, but there is a house on Osborn that brought their garage almost out to the street. What they're asking for is about one concrete block in the garage and they want to maintain their garage size. His daughter's bedroom has a beam above the garage and her room is very cold because it's over the garage in the winter time.

Mr. Bruno inquired, of the board, how many times over the years have they considered things like this? Usually, they have drawings to see what is actually going to be done. If that was submitted today than it would be a much clearer picture.

Mr. Barnes replied that he understands, but if the board isn't going to approve this variance, he's not going to do it. He'd rather have their approval because everything else is within the house so it shouldn't impact their decision.

Mr. Norton expressed his understanding of not wanting to engage an architect for drawings if it is not going to be approved. This is a very wide lot at 75' for this neighborhood. The requirement is a minimum of 70' so this is wider than normal zone 1. Part of making a variance to a norm is the concept of proportionality. If this was a 50' lot then 8' forward is a bigger deal – the bigger the lot the smaller deal it becomes proportionally.

Mr. Burke advised that they all have concerns for setting a precedent. He'd like to find out a little more about what other front yard setback variances have been granted in similar circumstances. There was one on Donald that was recently granted.

The board discussed how the ravine on Donald played a part in their decision.

Mr. Gess advised that he remembered one on Fairlawn...

Mr. Bruno stated that, in his opinion, Osborn is like Lake and Wolf – there is so much variety there. They're trying to find an example of one similar on a different street.

Ms. Young stated that she drove west on Buchanan and it seems like the same builder and style of home all the way down with a couple exceptions that are flipped.

Mr. Norton proposed a variance of 4' with an overhead notch that is open (warm area) and the hood of the car could go underneath it. Stating that there may be a way to accomplish this goal without having a full 8' variance.

Mr. Kinzel pointed out that there is a door into the house which complicates that suggestion. They really aren't changing anything to the front of the house – they're not making a big two-story addition they're just bring it out.

Mr. Miller advised they looked at one earlier this year, on Osborn, where they wanted to bring the garage forward by 3' and they discussed that. As far as the interior, they can't renovate/alter the lines?

The board, applicant, and architect proceeded to discuss the bathroom layout and potential for alternative solutions. Ultimately, they decided they'd like to see some research regarding front yard variances granted.

Mr. Norton commented that this would set quite a large precedent. If it was 2 or 3 feet, they'd be more comfortable, but an 8' variance against a 50' requirement is enough of a change that council isn't always happy

if they do something to change the rules. If they had research, they'd be more comfortable that they're not setting a precedent. Once it's set then their hands are tied. They have to let anyone with similar circumstances have the same thing.

Mr. Miller commented that he believes they're going to see a number of porches. They've gotten comfortable with adding porches on.

Mr. Norton agreed pointing out that the porches are always open to ensure they didn't push a lot of mass towards the street.

Mr. Burke added that often, when they grant front yard variances, it has to do with the actual property itself. He would propose that they continue this until their next meeting and request that the building department research what front yard setback variances have been granted or turned down.

Mr. Bruno commented that they often discuss these matters over the course of a couple weeks to ensure that they've thoroughly discussed the issue.

The applicant confirmed that they could get copies of the research found.

Ms. Oley advised that the next meeting is 10/6 and that it would be easier to catalog the information over the last couple years because it's in the computer system. Once you start going back further than 4 years it will take more time.

The applicant confirmed that the 6<sup>th</sup> will work for them.

The board advised quorum voting requirements.

Mr. Saurman stated that he just confirmed that they granted a 15' foot variance on Osborn.

Mr. Bruno replied that he thinks that he believes that was granted because of the variety on Osborn.

Mr. Saurman stated that, in his opinion, once they start granted those variances then they're hard pressed to not grant other variances.

**Motion** by Mr. Burke, **Second** by Mr. Bruno, that the application for the property located at 28928 Buchanan be tabled until the next meeting on October 6<sup>th</sup> in order to give the building department time to research the request for front yard setback variances in recent times and provide a report on that and provide that to the applicant as well.

**Roll Call Vote:**

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

**Nays –**

**Motion Passed 7-0**

Ms. Sandra Juba, 25470 Wolf Rd, introduced herself advising that she's lived in Bay Village for 47 years. She's had the pleasure of coming to one meeting back in September 2013 and the reason she is here is because she really values the way this board treasure the codes. She has a question and she'd like a sincere answer. As a resident, if she were to put a trailer in her backyard with 6 boats on it and her neighbor had a trailer with 15

boats on it. How many boats are allowed on a trailer in a yard and is it considered decoration? The reason she's asking is because all the properties are very close. Living on Wolf Rd she's got homes all around her. What is the code that protects a residents? How many trailers, how many boats are you allowed in a yard?

Mr. Norton inquired if this was kayaks?

Ms. Juba confirmed that she means kayaks and other boats. She values everything in this city. She's contacted the Mayor to get someone to take a look at this backyard. In 2013, this board ruled a resident is only allowed one trailer. Her problem is that in today's world when you make a complaint on a neighbor you create a hostile environment. In December 2021 that boats all appeared again. She thought that he may not be able to use the marina, due the pandemic, all the kayaks were back. There are two other trailers with boats. There is also debris and junk in the yard.

The applicant proceeded to provide paperwork from the 2013 BZA meeting, photographs of the neighboring yard, and copies of a recent communication with the building director.

Ms. Juba continued to say that the Building Director advised her that one trailer was permitted with as many boats as possible, but she doesn't think that's true. If it's true then she could put a trailer in her backyard with 20 boats. Mr. Butcher has 6. Someone else has 15. Where does it stop? It makes no sense. On top of it, he said they could be considered a decoration. She is at a loss. They need to stop this – it's repeating 2013. In 2013 Mr. Butcher advised that he was going to store them in a marina.

Mr. Young remarked that it sounds like they've already made a ruling and perhaps it just needs to be enforced?

Mr. Norton recalled that they weren't kayaks, but sunfish. Which is a 16' hull and he recalled that the neighboring property had wanted an outbuilding that was larger than permitted.

Mr. Bruno inquired if she's spoken with the law director?

Ms. Juba replied that she has not, but she felt that something is missing with the City.

Mr. Bruno stated that there are limited things they can do at this time.

Ms. Juba advised that she did file a formal complaint with the building director and his response is what she gave to the board. That he's allowed one trailer with as many boats as allowed and they can be considered decoration. To her that's a dangerous statement to make – you're opening a can of worms.

Ms. Oley advised that the process if she wants to appeal the building director's decision is that she would submit to the board of zoning appeals and come before them. They'd have an application. It's a unique situation because she's not requesting a variance, but that is generally how the process works.

The board proceeded to continue discussing the situation, and potential violations, with the resident.

Ms. Juba stated that people are afraid to come before the building department to make a formal complaint because they are worried about a hostile living environment.

Mr. Bruno thanked the applicant for coming tonight and advised that Ms. Oley is going to check into this process and will get back with the resident to see where the complaint stands and what the next steps are.

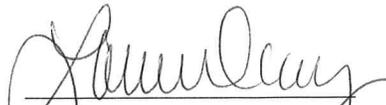
Ms. Juba reiterated that she is upset that the building director called boats a decoration. There is a reason we have codes and a building department and to say that they're considered decoration is demoralizing. They value the city as a resident.

Mr. Gess stated that what he thinks the building director was trying to convey is that it doesn't matter if the boats are seaworthy, but that he's permitted to have them on a trailer.

Ms. Oley confirmed the residents' statement that a complaint cannot be anonymous and further advised that she will follow up with the resident on the next steps.

There being no further business to discuss the meeting adjourned at 8:20 p.m.

  
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Jack Norton, Chairman

  
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Lauren Oley, Secretary