

Meeting Minutes of
Board of Zoning Appeals
Held October 7, 2021

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

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

Excused:

Audience: Katie Leininger, Bill & Kristen Foreman, Mark Eisaman, Carthy & Gerry Patno

**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 September 16, 2021.

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

Motion passed

2) 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 18" or 50% . <i>Item was tabled 8/19/21 & discussed 9/2/21</i>
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Mr. Norton introduced the second item on the agenda as 30027 Westlawn Dr.

Ms. Leininger remarked that she brought some pictures and handed them out to the board. Her home is the beige on in the photographs. The property is pretty torn up because she's already demoed her garage and had waterproofing completed. She's learned since the last meeting that there is some precedence for granting this style of variance on a similar property/for the same reason. The picture is showing how much property is between the two homes and you can see how close the other homes are. Her goal is to make it more practical and less difficult to drive straight down the driveway into the garage. She needs to ensure the door is going to clear as well.

Mr. Saurman remarked that the last time the applicant was in front of the board there was some discussion of approaching the neighbor to see if he would sell some property so that she wouldn't need a variance.

Ms. Leininger admitted that she did not approach him for that. She advised that he is giving her a sliver of land to straighten out the property lines and she thought that was generous enough. If the answer from the board is 'No' then she'll make due. Now that she knows it has been granted before, on the Cliff Drive property, and she's got these newer pictures she'd like to put it to a vote.

Mr. Tuck-Macalla added that he brought up the precedence at the 9/2/21 meeting after the item was tabled. There was a property on Cliff Dr. with similar circumstances.

Ms. Leininger added that she has plenty of room in the back, but she doesn't want to have to drive out of the way to pull in. The width of the driveway isn't what she's after – it's clearing the overhead door to the side of her house so that she can pull straight in and straight out.

Mr. Norton commented that the board had discussed the fact that in a somewhat similar circumstance granted a variance that happened to be the same amount (18") and perhaps Ms. Leininger has made a good argument that, in the sake of consistency, there are similarities in this case – and the board might want to consider that.

Mr. Gess sought clarification of the Cliff Dr. property with the board members.

Mr. Tuck-Macalla advised that it was a small lot on Cliff Dr. and the garage had been demolished by a tree or a storm.

The board clarified that the home had other variances as well for A/C and height of garage as well.

Ms. Leininger reminded the board that she identified that her driveway was on her neighbor's lot during a property survey she had completed for the garage. Her neighbor opted to give her some of his property in the front yard in order to straighten that part out – the back of her property is staying the same. She advised they are going to be getting the Mylar next week and hoping to wrap that up soon.

Mr. Miller stated that the neighbor has a fairly sizable piece of property on the garage side if someone was to doze the neighboring property to rebuild it. Even if they balanced it 50/50 they're not creating a close proximity from one structure to another.

Mr. Tuck-Macalla added that the neighboring property couldn't be split.

Mr. Miller added that while it can't be split they could still doze and rebuild, but even if they have to respect the side yard setbacks they'd never create too close of a property situation.

Motion by Mr. Burke., **Second** by Ms. Young, that the property located at 30027 Westlawn Dr. be granted a variance of 18" from the side yard setback requirements of section 1149.01 of the C.O. for the construction of a garage as per the application.

Roll Call Vote:

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

Nays –

Motion Passed

3) William & Kristen Foreman 303 Appleblossom Ln.	Applicant is seeking a variance to section 1359.01 (a) to move their Air Conditioning equipment closer than 10 ft. from the property line. The current setback is 10'2", the variance would be for 3 ft.
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Mr. Norton introduced the next item on the agenda as 303 Appleblossom Ln. the board has had an opportunity to visit the site and review the application. It is to be noted that there is some uniqueness to the situation, as the house to the North is a corner lot and this request backs up to this houses' back yard. So the chances of that house getting any closer to the line is pretty slim.

Mr. Bruno noted that the decibel rating as reflected in the application is at 75 decibels, so whatever the board does decide they should add a contingency that a sound blanket be added to the condenser unit if it is not already equipped with one.

Mr. Norton added that they may also want to add the year round screening statement. It's well screened now, but in the future someone could tear out all that vegetation then some future use of that lot would need a visual barrier.

Ms. Foreman stated that the place they'd put the new condenser unit would not necessarily be by the corner of the house it would be by the house that is closest to us, but either way it's less than 10' and backs up to quite an amount of shrubbery.

Mr. Norton clarified that it is still on the North side of their home?

Ms. Foreman replied in the affirmative. It's just pushed back towards the back corner of the house. That is our likely spot for it to be as opposed to the Northwest corner.

Mr. Bruno stated that the drawings provided state that they're requesting a 'heat pump' – he assumes that's in error? Could we have the record reflect that the applicant's submission is for an A/C?

Ms. Foreman commented that, as far as the noise, it's a new unit so it will be substantially lower decibel than the current unit. The other unit was put in approximately 1990 and this one should be quieter.

Motion by Mr. Burke., **Second** by Mr. Burke, that the property at 303 Appleblossom Lane be granted a variance per C.O. 1359.01 (a) to place their Air Conditioning unit closer than the 10' setback, requiring a variance of 3', provided that a sound blanket be placed on the unit, if it is not equipped with one, and that also provided that there be year round screening whether that be decorative fencing or evergreen vegetation.

Roll Call Vote:

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

**Nays –
Motion Passed**

4) Houston Generators For Gerald Patno 24531 Lake Rd.	Applicant is requesting a variance to section 1370.05 to place a Generator in the front yard closer than 10 ft. from the side lot line. In this case the generator will be 6' from the lot line. The variance request is for 4 ft. and for front yard placement.
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Mr. Norton introduced the next item on the agenda as 24531 Lake Rd. The board has had an opportunity to visit the site and review the application. It might be noted that he can't recall a variance for the front yard placement. A variance for the side yard has been requested in the past and granted with some regularity.

Mr. Bruno stated that the only one he can recall, and his memory may fail him, but he believes the old Lanigan property was allowed one in the front yard, but it may have been an AC. They lived on a hill and there was no place for the unit. That is the only one in his time that received a front yard variance.

Mr. Miller added that he thinks he recalls one more property where an applicant had a major ravine.

Mr. Norton noticed that the house to the East is an open area – it's not very close to that house. Is there a reason not to request it to come around the side?

Mr. Eisaman replied that the biggest concern they had there was that there wasn't 10' to the property line anyhow. There is some aluminum fencing there now, but the electric meter and gas meter are located right just past the corner of the house. There is a lot of landscaping that is already there and they thought it would be extremely difficult to get the gas and electric to the back. Typically they are trying to install as close to the gas meter and electric meter as they can, but the big concern on the side of the house is that they'd have to watch venting into windows and other vents on the side of the house because they need to be 5' from any venting windows from an exhaust. From a practicality standpoint - this is the best location.

Mr. Gess sought clarification on if they would need to grant two variances? The front yard and side yard? If they moved 4' further towards the middle of the property would they not need a variance?

Mr. Norton replied that our requirements are that the unit be behind the face of the house.

Mr. Gess went on to say that, in that case, it's really less to do with its proximity to the side yard as it is that it's simply in the front yard.

Mr. Norton agreed that it's missing on both those points. When he visited the property he did not walk out back, which would have been the southeast corner of the house, behind there and so he doesn't know what the window situation would be back there.

Ms. Young stated that she did, but she wasn't paying attention to windows. She remarked that there is one window facing east where the lights are, but she doesn't remember in that area.

Mr. Norton commented that the distance is only 38' on that side so to go where the gas and electric meter are now, down around the corner is a shorter distance, but he doesn't feel 38' is excessive to run both the gas and electric line.

Mr. Eisaman remarked that he could, if they were okay with that, but they'd have to be off the house far enough which puts them even closer to the property line which they thought was going to be an issue.

Mr. Bruno added that they have landscaping on the northeast corner anyway...the unit is required to be in the back.

Mr. Eisaman advised that they need to be 5' from any venting or windows.

Mr. Bruno inquired if there was anything in the backyard that would prohibit that?

Mr. Patno stated that first of all - they don't want it in the backyard and secondly it's so much more cost effective to put it in the front corner. As far as being close to the property line, the neighbors just built a new addition to the house which is basically a garage they're not going to be building anything more on top of that. So there is a driveway and a garage before you get to the house. There is plenty of room. There is plenty to hide it from view – and how often is this unit even going to run?

Ms. Young inquired then, what the issue was with having it in the backyard.

Mr. Patno replied that that they don't want to put it in the backyard, number one, and number two it's just going to be more cost effective, for them, to put in the front yard.

Ms. Young commented that her concern is that a future buyer of this property does some landscaping and then has to rip out stuff in the front and exposes a generator in the front yard.

Mr. Bruno added that the city code is written to try to keep units from people in view and that is a high profile road – which they don't want to set precedence on homes that are high profile where everyone has their generators, A/C units, with decorative fencing or year round evergreen unless it's a unique situation like the Lanigans. They had a cliff facing Lake Rd. and there really was no place to put it behind, west, or east. That was the only practical place to put it. This doesn't seem to meet those qualifications.

Mr. Norton added that he would be very hesitant to set a precedence. In the boards experience they don't have a situation, other than a very radical one, where the land was a cliff. That wouldn't apply in this situation. Once the board opens up and set precedent they can't go back on it. That lives with this property forever and anyone else who has a similar request almost has to be granted. In effect, they'd be changing the law which council frowns upon. They're particularly prohibited from making a judgement based on economics.

Mr. Patno commented that it's more than economics. The building connects are right there. It's efficiency. By the way once, those shrubs grow back up – They are hardly going to be able to see that from the street. It's 50' from the street. People wouldn't even notice it.

Mr. Gess stated that those are the reasons that govern this process. There has to be something unique about the property that would warrant or permit you to do something different than everyone else in the city. That is the struggle – there isn't necessarily anything unique or challenge with the property.

Mr. Eisaman inquired if they were to identify a location on the east side of the house – would that be a better choice? His initial assumption was that they'd automatically be too close to the property line, but it sounds like they might have an option of that if they can figure out the venting. Is that more reasonable? He's not asking for an answer they'd need to revisit the site, but is that a reasonable thought?

Mr. Gess advised that typically they have found that there have been plenty more variances granted for side yard setbacks instances provided the generator is at least on the side of the house.

Mr. Miller inquired what the objection with putting it in the backyard?

Mr. Eisaman stated that getting the utilities back there was the main issue.

The board, applicant, and contractor discussed the feasibility of revisiting the site, running the lines around the side or back, and resubmitting the request.

Mr. Bruno added that he hopes he's had to deal with this at his own property and they did what they had to do for the utilities. He hopes the applicant understands where the board is coming from, but this property lacks the uniqueness required.

Mr. Miller stated that they've seen some applications in the past year where they've seen generators on the side of the property, but not the front. He'd be more amendable to a side yard request.

The board continued to discuss alternate locations for the generator.

Mr. Norton advised that the applicant has the option for the board to make a motion either as requested, they can't make a motion yet as it relates to a side yard placement, or they can delay/table it for them to examine the situation. They can then bring the same proposal back and they can make a motion at a future meeting or if they modify the request to remove the front yard aspect they're welcome to do that.

Mr. Saurman advised that the last alternative is to put it in the backyard, and not need a variance, which is always preferable.

Mr. Eisaman stated that it sounds like he needs to revisit the property.

Ms. Young inquired if the unit would be serviceable if it was 24" off the fence?

Mr. Eisaman advised that wouldn't be an issue.

Mr. Norton inquired if the applicant would like them to proceed as is or table it?

Mr. Eisaman replied that they'd like to revisit, resurvey, and table.

Motion by Mr. Burke., **Second** by Mr. Bruno, the application for a variance for 24531 Lake Rd. for the installation of a generator be tabled until the next meeting pending further review by the applicant.

Roll Call Vote:

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

Nays –

Excused –

Motion Passed

Motion by Mr. Miller, **Second** by Mr. Saurman, to adjourn.

There being no further business to discuss the meeting adjourned at 8:06 p.m.



Jack Norton, Chairman



Lauren Oley, Secretary