

VILLAGE OF FOX POINT  
BOARD OF APPEALS MEETING  
MINUTES AND DETERMINATIONS  
JULY 18, 2017

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Tuesday, July 18, 2017 at 5:01 p.m. Roll call was taken. Those present included:

Jon Margolies, Chair (last)  
Alan Brown  
Kurt Ostoic  
Robert Schley  
Don Zien

Also present were Building Inspector Scott Miller, Pro Tem Village Attorney R. Valjon Anderson and Village Clerk Kelly A. Meyer.

Notice of the meeting was provided to the North Shore Now, to all others as required by State open meetings laws, and posted on the official bulletin boards.

Chair Margolies gave a brief explanation on Board of Appeals procedures.

**Approval of Minutes – April 6, 2017 Meeting**

*On the motion of Mr. Schley, seconded by Mr. Ostoic, and carried unanimously, the Board of Appeals approved the submission of minutes and determinations from the April 6, 2017 meeting.*

**Case 2017-02: 8405 N Lake Drive**

*The applicant is requesting a variance for a side yard installation of two (2) air conditioning units approximately 29" in height x 29" in width x 26" in depth, to be installed 8'2" away from the side (north) property line. This request seeks to reduce the 10 foot setback required by section 745-16 (B)(3) of the Fox Point Village Code.*

Building Inspector Scott Miller was sworn in to provide testimony.

Building Inspector Mr. Miller noted this is a request for a variance for an application that he received to installation of two (2) air-conditioning units to be installed at the rear of the property located at 8405 North Lake Drive. He noted this is a new house that is currently being built at this property by Steve Pott Construction. The application shows that the air-conditioning units will be installed approximately 8'2" away from the rear property. This is contrary to the section 756-34(B) and 745-16(B)(3) of village code, which requires the air-conditioning units be installed at least 10 feet away from the property line. The permit was denied because of the setback encroachment.

Mr. Schley inquired if Mr. Miller meant side instead of rear. Mr. Miller confirmed he did mean to say side (north) yard.

Chair Margolis inquired if this is an unusually small parcel. Mr. Miller replied it is, the house is built right at the setback lines.

Mr. Schley inquired if the lot size is sub-standard and inquired if that relaxes any of the setback standards. Mr. Miller's response was that he believes it is sub-standard and commented it does not relax any of the setback standards. It relaxes the lot coverage requirement, but it does not relax the

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setbacks.

Mr. Miller confirmed the front faces east. Mr. Miller noted that the set back is from the centerline of the road right-of-way; per the official zoning map, the setback off of the centerline on Dean Road is 70 feet. The setback off the centerline of North Lake Drive is 75 feet. He noted Bayside is immediately to the north of this property. He noted the rear setback is 20 feet. On the west side, it is 20.6 feet away from the property line and then the side setback is 10 feet. Looking at the survey, it shows 11 feet. Also on the survey, the house is setback at 75.5 feet and the setback is 75 feet off of North Lake Drive. The setback off of Dean Road is 70 and the house is at 70.5 feet.

There were no other questions for Mr. Miller.

Representative of owner (Mr. Craig Karmazin), Steve Pott from Steve Pott Construction, Inc. 1976 W. Telemark Circle, Green Bay, WI 54313 was sworn in to provide testimony.

Mr. Pott, representative for Mr. Karmazin of 1801 East Fox Lane, stated the only place that the air conditioners can be placed is on the front porch.

Mr. Ostoic inquired if the air conditioners could be placed on the roof. Mr. Pott stated it is a possibility, but it would be 22 inches farther back from the lot line. With the vegetation and the location of the home, there is no way that anyone could see the air conditioners if they were placed in north side yard. Mr. Pott noted that the closest resident is approximately 90 feet away from those air conditioning units. He noted they residents are getting more road noise from Lake Drive then they would from the air conditioning units.

Mr. Pott noted it is not contrary to public interest and will not endanger public safety and welfare. With the tree line and vegetation on the property, the air conditioning unit would not be visible to neighbors, people or cars on either North Lake Drive or Dean Road. This is approximately 98 feet to the house which is on the north side.

Mr. Pott commented in keeping with the importance of the spirit of the zoning code and any requirements imposed by the village, ensure that the curb appeal of the homes in this municipality are desirable and do not detract from the beauty of the neighborhood. It would seem that if that location of the air conditioning unit on the side yard versus the front porch would be in the spirit of the zoning code.

How the variance if granted would cause substantial injustice to be done as mentioned above, the location of the air conditioning units as requested in this appeal would be more curb appeal to the home at 8405 North Lake Drive; it will not impact the neighbor on North Lake Drive. This home would be 98 feet from the units.

Please note that the previous home that was on this location was 7 foot 4 inches from the lot line on the north side.

Chair Margolies opened discussion to Members

Mr. Brown inquired on proper notification. Village Clerk Treasurer Kelly Meyer responded that the properties within 500 feet were properly notified. It was noted there were no neighbors present.

Attorney Val Andersen inquired on the division between the properties in picture number 1. It was noted there was greenery/foliage at that location.

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Attorney Val Andersen inquired on the division between the properties in picture number 1. Building Board did approve this building plan, but not the air conditioners. The contractor was not aware of the limitations in the Village of Fox Point. He is a contractor from Green Bay and Green Bay's ordinances are different.

Chair noted you presented a nice case here and we are not going to get many properties where the closest next home is over 90 feet away. The 2 alternatives which are the front porch or the roof are actually worse for the neighborhood. He commended Mr. Pott on his presentation to the Board of Appeals.

Mr. Zien asked about the location of the home and why it was chosen. Mr. Pott noted the owner wanted the building plan to be as large as possible on this property - over 3500 square feet.

Mr. Schley inquired if air conditioners are permitted in the front yard. Building Inspector Mr. Miller noted they are allowed in the front yard if the air conditioners comply with the setbacks and they are screened (plant material or a fence-generally not permitted in the front yard and would most likely require a special exception) from view. Mr. Schley asked how much room is needed to allow the side by side installation. Mr. Potts answered side by side and width wide, potentially 5 feet. Mr. Schley noted if the garage was built smaller, the compressors could be placed in that area (the north back side of the garage) and still conform. Mr. Pott stated the foundation is poured and the roof tresses are set already and it would be difficult to change at this point; the home is currently roughed out. Mr. Schley inquired if the bonus room above covers the entire lower garage; Mr. Pott noted it does.

Mr. Zien inquired on the setback off of Dean Road. Mr. Miller commented they are right at the maximum setback, 70 feet off the center line of the right-of-way of Dean Road and the survey shows they are 70.5 feet. They only have a half a foot.

Chair Margolies noted the uniqueness of this lot, the uniqueness of the distance from the neighbor on the other side of the lot line, and the lack of better alternatives suggested the Board of Appeals would not be setting a precedence and seems to fall under the 4 criteria for granting a variance.

Mr. Pott did comment, as hearsay without the neighbor present, that the neighbor to the west (the closest neighbor in Fox Point) is aware of where the air conditioners would be installed and told Mr. Pott he was in agreement to have them placed at that location.

Attorney Andersen noted one of the situations you should address here is that had this not been this far along, the home could have allowed for an indentation to allow for the air conditioners.

Mr. Pott noted the company's intent was not to try to push something through with a variance after-the-fact, in 35 years of construction he has never run into this situation. He does understand that every municipality does have code and guidelines and this is one he was not aware of.

*On the motion of Chair Margolies, seconded by Mr. Schley to approve Case 2017-02, 1801 E Fox Lane, requesting a variance for a side yard installation of two (2) air conditioning 8'2" away from the side (north) property line., reducing the 10' setback required by section 745-16 (B)(3) of the Fox Point Village Code, in this specific circumstance as based on the facts as told to the Board of Appeals, especially the fact that the nearest house is over 90 feet away and this request for variance does meet the 4 standards/criteria for the variance.*

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A brief discussion took place by Board of Appeals members.

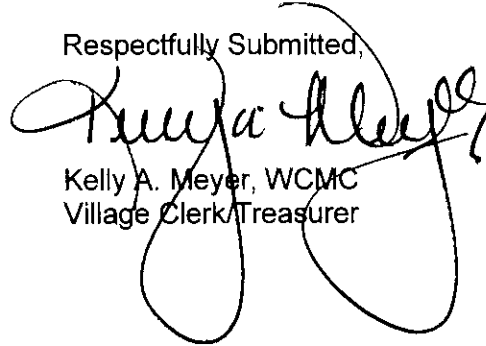
Chair Margolis noted there is a pending motion which has been seconded on the floor.

*With all members voting aye, the motion carried by roll call vote and the variance granted.*

**Adjourn**

*On the motion of Mr. Margolis, seconded by Mr. Ostoic, and carried unanimously, the Board adjourned at 5:36 p.m. Motion carried.*

Respectfully Submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Kelly A. Meyer', is written over the typed name and title.

Kelly A. Meyer, WCMC  
Village Clerk/Treasurer