

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
AUGUST 7, 2018

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Tuesday, August 7, 2018 at 5:00 p.m. Chair Zien noted a quorum is present. Roll call was taken. Those present included:

Don Zien, Chair
Nathan Eisenberg
Nancy Filsinger
Sara Bowen
Bob Cory

Also, staff members present were Village Attorney Eric Larson, Building Inspector Michael Rakow, Village Deputy Clerk Treasurer Jeanne O'Brien and Village Clerk Treasurer Kelly Meyer.

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

Approval of Minutes – July 12, 2018 Meeting

On the motion of Mr. Eisenberg, seconded by Ms. Bowen, and carried unanimously, the Board of Appeals approved the submission of minutes and determinations from the July 12, 2018 meeting.

Case 2018-03: 8029 North Regent Road

The applicant's request is for a variance pertaining to section 745-17(B)(4) of the Fox Point Village Code in the C Residence District. A rear yard of not less than 20 feet shall be provided for every building, except one of not less than 10 feet shall be provided for a building used for or classified as an accessory use. The applicant is proposing to erect a detached garage that will be 7.3 feet from the rear property line. The variance is requested pursuant to 745-36 of the Fox Point Code.

Village Attorney Eric Larson gave an explanation of the Board of Appeals procedures prior to Case 2018-03.

Village of Fox Point Building Inspector Michael Rakow

Building Inspector Mr. Michael Rakow stated his name and was sworn to provide testimony by the Village Clerk.

Village Building Inspector Mr. Rakow outlined the request of the applicant Frank Oliver's submittal for a proposed variance for a detached garage for garden and lawn equipment and car storage and noted Section 745-17 (B)(4) of the Village Code states the building must be at least 10' from the property line and the applicant is asking for 7.3 feet from the property line which is in violation of the code.

There were a few brief questions by the Board of Appeals were answered by Mr. Rakow.

Property Owner/Applicant Frank Oliver, 8029 North Regent Road

The property owner/applicant, Mr. Oliver stated his name and address and was sworn in to provide testimony.

Property owner/ applicant Mr. Oliver noted that the other garages as shown in his exhibit, as abutted to the property are all 5 feet off a lot line because they have a smaller lot. He commented he cannot do that because he has a larger lot, adding it is a little discriminatory. He noted it is ten feet on two sides and only gets

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tight on one corner, the corner is so secluded the corner would barely be visible. The shed has been standing since 1998 and there was no issue with the shed. Mr. Oliver is asking for a little bit of room in the northwest corner and added the appearance would be architecturally appealing to the property and it would be usable.

Ms. Filsinger inquired if there was a driveway leading to the garage. The applicant confirmed there is no driveway at this time.

Chair Zien inquired whether Mr. Oliver could move it two and a half feet forward so it meets the 10 foot set-back. Mr. Oliver noted he would lose a large area of the back yard. It is already eleven and a half feet from where he started. If you keep moving the garage forward, there is an angle and you would have to continue to move it forward to be in compliance with the ten foot set-back. He wants to place his lawn equipment and store classic cars in the new garage. This would be a garage for storage only and not for driving cars in and out of it.

Village Attorney Eric Larson clarified Board of Appeals is not bound by strict rules of evidence and the Board of Appeals did receive a letter today that was distributed to the Board. He inquired whether the Board would permit the letter to be part of case 2018-03. If so, all of the parties should receive the letter and have a chance to speak on behalf of the letter prior to closing the testimony. It was consensus that the Board consider the submitted letter as part of the record; how much weight is given to the letter is another issue. Copies were distributed to the petitioner, as well as the building inspector to review.

Chairman Zien closed the testimony at 5:22 p.m. for the Board of Appeals to make a decision.

Village Attorney Eric Larson noted he brought the WI State Stats to remind you of the variance standards and also because state law has been changed within the last few months on the applicable variance standards. Copies of the WI State Stats were distributed.

On the motion of Chair Zien, seconded by Ms. Bowen, the Board of Appeals to deny applicant, Mr. Oliver's request for a variance to erect a detached garage that would be A rear yard of not less than 20 feet shall be provided for every building, except one of not less than 10 feet shall be provided for a building used for or classified as an accessory use.

A short discussion ensued.

Motion passed by roll call vote; (NE-Nay) 4-1.

Case 2018-04: 403 East Apple Tree Road

The applicant's request is for a variance or alternately a special exception pertaining to section 745-7(B)(3)(h) (intro) of the Fox Point Village Code in the C Residence District. An arbor shall not exceed a height of eight feet seven inches from the finished lot grade. The applicant is proposing to erect an arbor as designed with the final approximate height of 10 feet 2 inches. The variance is requested pursuant to 745-36 of the Fox Point Code. The special exception, alternatively, is requested pursuant to 745-7(B)(3)(j) of the Fox Point Code.

Mr. Rakow was sworn in to give testimony.

Village Building Inspector Mr. Rakow outlined the request of the applicant Frank Oliver's submittal for a proposed variance pertaining to section 745-7 (B)(3)(h)(intro) or alternately a special exception 745-7 (B)(3)(j) of the Fox Point Village Code in regards to a proposed arbor being built exceeding 8'7" from the finished lot grade with a proposed height no higher than approximately 10'4"; the applicant is proposing an arbor height of 10 foot 2 inch height, which is in violation of the village code.

Appellants Alex and Erika Bantz, 403 East Apple Tree Road

The property owner/applicant Erika Bantz each stated her name and was sworn in to provide testimony.

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Mrs. Bantz provided and distributed for record, exhibits of two color renderings of the proposed arbor for the record.

Mrs. Bantz stated the home was built in 1937; a sunroom addition was built in the 1970's or 1980's. Mrs. Bantz noted they are proposing the installation of an arbor that accompanies a patio on the back of the home to make the rear of the home more aesthetically appealing and also very usable. They are constrained by the height of the windows at the back of the home; the height of the windows causes the installation to be above the height limitation of 8 foot 7 inches. The arbor would be attached to the back of the home and secured above the windows.

The neighbors to the west have a fence and the homes sun room would actually obscure approximately 90 percent of the view of the arbor. The neighbors to the east share trees, shrubs, and greenery and lots of screening.

Chair Zien asked for any other comments. There were none.

Chair Zien closed the testimony at 5:38 p.m. for Board of Appeals to make a determination on Case 2018-04.

Village Attorney Eric Larson explained the alternative proposal for a special exception 745-7(B)(3)(j), which permits the height of structures, including the above noted arbor. Attorney Larson also noted, as relevant, "The Board of Appeals may grant the request for a special exception on finding that the property owner has shown clear and convincing evidence to believe that the applicant has a legitimate need for the special exception and that granting the special exception will not adversely affect the health, safety, welfare of the community or the immediate area where located and will not impede the purpose and intent of this section."

On the motion of Mr. Eisenberg, seconded by Ms. Bowen, the Board of Appeals to grant applicant Mrs. Bantz's request for a special exception 745-7 (B)(3)(j) to exceed the proposed arbor height to a height of eight feet, seven inches for Case 2018-04, 403 East Apple Tree Road.

Motion amended by Mr. Eisenberg, Seconded by Ms. Bowen, the Board of Appeals amends the motion to be contingent upon the Building Board's consideration.

Motion carried by roll call vote.

Adjourn

On the motion of Mr. Eisenberg, seconded by Ms. Filsinger and carried unanimously, the Board adjourned at 5:44 p.m.

Respectfully Submitted,



Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer