

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATIONS
OCTOBER 12, 2015

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on October 12, 2015 at 5:00 p.m. Those present included:

Jon Margolies, Chair
Robert Schley
Kurt Ostoic
Jeffrey Davis, Alternate
Nathan Eisenberg, Alternate

Also present were Village Clerk Kelly A. Meyer, Inspector Scott Miller, and Village Attorney Eric Larson.

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.

Approval of Minutes – March 23, 2015 Meeting

On motion of Mr. Schley, seconded by Mr. Davis, and carried unanimously, the Board of Appeals approved the minutes of the March 23, 2015 meeting.

Village Attorney Eric Larson provided background information as a reminder to Board of Appeals members, as well as everyone present, in regard to Board of Appeals procedures and various Village of Fox Point Code from Sections 745 as it applies to the cases before Board of Review.

Case 2015-03: 610 E Dean Road, Grant of Special Exception.

The applicant is requesting a special exception in regard to a corner lot fence that is located forward of the frontline of the principal building pursuant to Sections 745-7(B)(3)(h)(1), (2) and 745-7(B)(3)(j) of the Fox Point Village Code. The application shows a new, four foot high, black chain link fence with two four foot by four foot gates in the front area of the lot located at the home of 610 E Dean Road.

Scott Miller, Building Inspector was sworn in and provided testimony.

John and Barbara Halpin, 610 E Dean Road, Fox Point were sworn in and provided testimony. John and Barbara Halpin provided aerial photographs and testified that safety is their concern. They testified that this lot is adjacent to two busy streets and the railroad tracks, and they have a two-year-old daughter and a dog. They also testified that their request would allow their house to be oriented toward Indian Creek Parkway, the same as the neighbor's house.

Carol and Robert Patterson, 8430 N Indian Creek Parkway, Fox Point were sworn in, asked questions and provided testimony, with Mr. Patterson noting his opposition to chain link fencing and aesthetic concerns.

It was noted that the appearance, design and construction materials would return

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to the Building Board if the request is granted.

On the motion of Mr. Davis, seconded by Mr. Eisenberg to grant the special exception having found that the fence is reasonably necessary to protect the safety of people residing on property and that the owner has shown clear and convincing evidence to believe the applicant has a legitimate need for the special exception and that granting this special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the purpose spirit and intent of this section, and that the grant is conditioned upon the applicant submitting the visual rendering to the Village Building Board pursuant to the ordinance.

With all members voting aye, the motion carried.

Case 2015-04: 411 E Daphne Road, Decision to Deny Variance.

The applicant is requesting a variance on the proposed new garage addition, with a six feet ten inch setback from the west property line, which is contrary to Section 745-17(B)(3) of Village of Fox Point code requiring a ten foot side yard setback from the property line.

Scott Miller, Building Inspector, was sworn in and provided testimony, describing the applicant's request to locate a new garage addition 6 feet 10 inches from the property line, when the Zoning Code imposes a ten foot setback requirement.

Brian Shive, Architect and Building with Lakeside Development Company, was sworn in and provided testimony. Mr. Shive testified that the property owners have a two car attached garage that was built in the 1930's that is "ridiculously small," in his words. He testified that it is difficult to open car doors when both cars are parked in the garage. He testified that the proposed addition would allow two cars to more reasonably use the garage. Mr. Shive testified that the garage is 18 feet 2 inches wide.

Mrs. Sharon Rosenblum, 411 E Daphne Road, Fox Point was sworn in and provided testimony. Mrs. Rosenblum testified that the proposed garage addition lines up directly with their neighbor's garage and dog run. She testified that her neighbor has submitted a letter in support of the application.

Chair John Margolies read a letter into record from Amy Burke, 411 E Daphne, neighbor of The Rosenblum's, asking for approval of the variance.

Dr. Andy Rosenblum, 411 E Daphne road, Fox Point was sworn in and provided testimony. Dr. Rosenblum testified that the former property owner did not use the garage for vehicles.

The Board discussed the application, and whether the applicant had met the statutory requirements of proving a basis for the variance. The Board was not persuaded that the applicant proved sufficient cause for a variance.

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The Board notes that the garage was built in 1930 and use of the property in compliance with the Zoning Code apparently has not been difficult or a hardship prior to now. The apparent fact that some vehicles would be too large to park in this garage has been true for decades and has not prevented the property from being reasonably used in compliance with the Zoning Code. The Board notes that there are ample areas on this lot for garage structures to be built in compliance with the Zoning Code. Moreover, this is not an issue that is unique to this property. Financial hardship alone is not sufficient cause for a variance. A significant percentage of the development in the Village dates from the 1930's era or before, with the garage sizes that were common in that era, such as this garage. The majority of the members of the Board find that the property owner has not demonstrated a sufficient practical difficulty or unnecessary hardship, in light of the purpose of the ordinance and the statutory standards, to warrant that a variance be granted. Motion of Chair Margolies, seconded by Mr. Schley to deny the variance. 3-2 vote (Nay-Mr. Davis and Mr. Eisenberg), the motion passed and was carried, and the variance request denied.

Case 2015-05: 310 E Daphne Road, Grant of Special Exception.

The applicant is requesting a special exception in regard to a fence to be located on an irregularly shaped lot, and that is located forward of the frontline of the principal building pursuant to Sections 745-7(B)(3)(h)(1), (2) and 745-7(B)(3)(j) of the Fox Point Village Code. The application describes a new, four foot high, cedar picket fence.

Scott Miller, Building Inspector was sworn in and provided testimony. The applicant is requesting to add short sections of fence to connect the house and garage to an existing fence, to enclose the yard.

Gary Rosenthal, 310 E Daphne, Fox Point was sworn in and provided testimony. Mr. Rosenthal testified that they have had coyotes in the area and he is concerned about safety. He showed that the fence connections he proposes to make are interior to the lot from the existing fence that is presumed to pre-date the Zoning Code, and are the least substantial changes that can be made to the fence line for accomplishing the enclosure.

On the motion of Mr. Ostoic, seconded by Mr. Davis to grant the special exception finding that the proposed fencing is the least obtrusive alternative; it is reasonably necessary to protect the safety of people residing on the property; the property owner has shown clear and convincing evidence to believe the applicant has a legitimate need for special exception; and that granting the special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the purpose spirit and intent of this section; and finally that the special exceptions conditioned upon the applicant's submitting the visual renderings to the Building Board for the ordinance.

With all members voting aye, the motion carried.

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Case 2015-06: 6586 N Birch Hill Court, Case Rendered Moot.

The applicant is requesting a special exception in regard to a fence and arbor to be located forward of the frontline of the principal building pursuant to Sections 745-7(B)(3)(h)(2) and 745-7(B)(3)(j) of the Fox Point Village Code. The application photos provided show a new fence and arbor in the front of the new single family residence.

Scott Miller, Building Inspector was sworn in and provided testimony.

Professor Ken Dahlin, Architect for 6586 N Birch Hill Court, Fox Point, Adam and Kari Janecek, owners of 6586 N Birch Hill Court, Fox Point were sworn in and provided testimony.

Based on the evidence tonight, Village Attorney Eric Larson stated he has reconsidered his finding on the necessary special exception of the free floating aesthetic wall, as the new information provided at the hearing shows it is not forward of the roof structure. Having concluded that no special exception is required, this case is rendered moot and no action is taken by the Board in the matter.

Adjourn

On motion of Chair Margolies, seconded by Mr. Eisenberg, and carried unanimously, the Board adjourned at 6:56 p.m. Motion carried.

Respectfully Submitted,



Kelly A. Meyer, WCMC