

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATIONS
May 24, 2016

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on May 24, 2016 at 5:07 p.m. Chair Margolies informed those present of cases 2016-01 is being heard tonight; roll call was taken. Those present included:

Jon Margolies, Chair
Robert Schley
Alan Brown
Donald Zien
Kurt Ostoic

Also present were Village Clerk Kelly A. Meyer, Building 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 – December 2, 2015 Meeting

On the motion of Mr. Schley, seconded by Mr. Zien, and carried unanimously, the Board of Appeals approved the submission of minutes and determinations from the December 2, 2015 meeting.

Case 2016-01: 7816 N Lake Drive

The applicant is requesting a special exception pertaining to fences, walls, arbors, architectural screening devices, driveway gates and arbors – section 745-7(B)(3) of the Fox Point Village Code. The applicant is proposing to erect a new 5' high ornamental fence forward of the front line of the principal building improvement. The special exception is requested pursuant to 745-7(B)(3)(a), 745-7(B)(3)(h)(2), and 745-7(B)(3)(j) of the Fox Point Code.

Building Inspector Scott Miller was sworn in to provide testimony.

Building Inspector Mr. Miller noted the denial was due to a request to a special exception. The village received the application to install a fence at 7816 North Lake Drive. In reviewing the application, Mr. Miller observed there are 2 front yards at this property. One front yard is located on the north side of the home because that is where the front door is located; the other front yard is located on the west side of the home. The village code states that whenever a side yard of a corner lot abuts a road, it shall be treated as a front yard when applying to the fence ordinance. The application show that the applicant is proposing to install a new 5 foot tall aluminum fence in both front yards. Per section 745-7(B)(3)(h)(2), no new fence may be erected forward of the frontline of the principle building without a special exception granted by the Board of Appeals. The Board of Appeals has the authority to grant a special exception for a front yard fence only if it finds that the fence is reasonably necessary to protect the safety of the people residing at the property. Also, per section 745-7(B)(3)(j) of the village code, every special exception granted by the Board of Appeals shall be conditioned upon the applicant obtaining Building Board approval for the architectural appearance, design and construction materials of the fence.

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATIONS
May 24, 2016

Chair Margolies inquired if the fence was proposed to be in front of the building on the north side with the door.

Mr. Miller noted in looking at the survey, there is a fence outlined in blue. The frontline of the house is identified on the survey and shown to be about 18 feet forward of the home.

Mr. Miller clarified this is a corner lot because the side yard faces the road. The portion fencing west of the house would also be considered forward of the frontline of the home. He noted the portion to the north does require a special exception.

Mr. Miller noted the 5 foot fence is permitted, as the village code permits up to 6 feet in the side yard, but not forward of the frontline of the house. The fence cannot extend past the front edge of the house. Anything forward of the frontline of the home would need a special exception.

Dr. Sushil Sabnis and Mrs. Ethel Sabnis, 7816 N Lake Drive was sworn in to provide testimony.

Applicant Dr. Sabnis thanked everyone he appreciated the board being present to hear this case. He quickly showed photographs of the parcel. He noted the backyard is really the only fundamental area to utilize. The house was built in 1952 with two best friends living with the front of the homes facing each other. This is one of the only homes on Lake Drive that the back yard faces Lake Drive. The original 1952 east facing front yard is definitely front yard; there is only about 10 yards of space with is not enough room for a back yard. In the year 2000, the owners built an extension onto the home, making it an "L" shaped home. The extension faces north. The garage doors and the new front door and mudroom door basically face north. The north is a 10 foot strip before that driveway. There are no recreational possibilities there. If you look at the "L" shaped home, really it is only the back yard that is southwest facing that can actually function as a family backyard. The southwest yard is the only area that can be utilized as backyard. The primary reason the fence exception is being requested is primarily for safety. There are a lot of family, friends and neighbors who visit when the family entertains. With 35-45 mile an hour traffic on Lake Drive, safety concerns arise. It would also help the village safety-wise as well.

The fence will be well within the village easement which is 30 feet; this would be east of the silver maples. It will be west of most of the pines and will be enclosed by the fence.

The area in front of the house faces a shared driveway or 7020 N Lake Drive. No one on the north side of the fence would be able view the fence; a driveway is at the proposed north side fence location.

Exhibit #1 supportive letter from the David J. Frank Landscape Contracting, Inc. (enclosed with packet) and Exhibit #2 supportive neighbor letter from Robert J. Taylor (7800 N. Lake Drive) immediately south of the Sabnis family were both submitted record by Dr. Sabnis (retained for record).

Mr. Donald Zien moved to approve case 2016-01 to install the fence and the special

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
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May 24, 2016

exception.

Village Attorney Eric Larson asked if all the testimony was in prior to closing the testimony portion.

Village Attorney Larson inquired on the road to the north if it is not actually a public road if that is just driveway, inquiring whether that changes the analysis the Building Inspector Miller previously made of the yards and whether a need for a special exception is necessary. Mr. Miller noted that hearing from the testimony the front door actually faces east.

Mrs. Ethel Sabnis was sworn in to give testimony.

Mrs. Sabnis noted there are two front door on the home. The Main entry/original door actually faces east. The new edition door faces north facing the private driveway, currently the new main entry door.

Building Inspector Mr. Miller confirmed this is deemed a corner lot. It is a private road with fencing on the west side of the home; there is fencing on the north side of the house. Therefore is was viewed as a corner lot.

Chair John Margolies noted this is a unique situation in that the second road or the corner is a private driveway as opposed to a village street.

Alan Brown noted there are two issues here. The first issue is the issue of going east to west to Lake Drive and then there is the issue of going north of the house to the private road. Those may be two different exceptions.

Dr. Sabnis noted his two children are 13 years old and 15 years old, in addition to the family dog they have. His other concerns are for the safety of all the family, neighbors, and friends who often come to visit them.

Chair John Margolies noted, historically, the board has considered many fences on Lake Drive due to the traffic and speed for safety reasons. The second issue is the front of the home that is on the private driveway. The spirit of the ordinance is to prevent fences in the front of the houses on larger streets. This home does not seem to implicate this issue because it faces a private driveway and the back of another house. Therefore he noted his support for the exception.

On the motion of Mr. Zien, seconded by Mr. Ostoic to grant Case 2016-01, 7816 North lake Drive, requesting a special exception pertaining to fences as well as arbors, architectural screen devices, driveway gates and arbors of the Fox Point village code to erect a new 5 foot fence forward of the principle building and finds that the fence is reasonably necessary to protect the safety of the people residing on the property, 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, or welfare of the community or the immediate area where located and will not impede the spirit,

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATIONS
May 24, 2016

purpose or intent of the code section and subject to the applicant submitting a visual rendering to the village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction material. With all members voting aye, the motion carries by roll call vote.

Adjourn

On the motion of Chair Margolies, seconded by Mr. Brown, and carried unanimously, the Board adjourned at 5:34 p.m. Motion carried.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kelly A. Meyer". The signature is stylized with large, flowing loops and a prominent initial "K".

Kelly A. Meyer, WCMC
Village Clerk/Treasurer