

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATIONS
September 19, 2016

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on September 19, 2016 at 5:01 p.m. Chair Margolies informed those present of cases 2016-02 is being heard tonight; roll call was taken. Those present included:

Jon Margolies, Chair
Robert Schley
Alan Brown
Del Wilson-Alternate
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 – May 24, 2016 Meeting

On the motion of Mr. Brown, seconded by Mr. Ostoic, and carried unanimously, the Board of Appeals approved the submission of minutes and determinations from the May 24, 2016 meeting.

Board of Appeals waited to hear testimony. 5:03 p.m. The tape was turned until applicant's arrival.

Village Clerk Kelly Meyer telephoned the applicant regarding his arrival; applicant was noted to be on his way and would arrive in ten to fifteen minutes.

Board of Appeals member Don Zien was in attendance, departing at 5:22 p.m.

Applicant arrived at 5:30; upon his arrival, the tape was turned back on.

Case 2016-02: 6702 North 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 driveway gate between existing stone columns that reaches 7' in height at the top of the arch, and to erect two 6' high by 8' wide fence panels, one on each side of the driveway gate and columns, all 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 he received an application for a special exception for a driveway gate and 2 metal fence panels forward of the frontline of the home at 6702 N Lake

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Drive, for section 745-7(b) (3) (h) (2) of the village code, no new fence, wall, architectural screening device, driveway gate or arbor may be erected forward of the frontline of the principal building on a property without a special exception from the Board of Appeals. The fence ordinance were to allow us fences and driveway gates to be located, limits the heights of these structures to the 6 feet. The application shows that the proposed driveway gate is 7 feet at the center. Because of these reasons, Mr. Miller is withholding the building permit per section 745-7(b) (3) (j) of the village code. The Board of Appeals may grant this special exception in this matter upon finding that the property owner has a legitimate need for this 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, or intent of the ordinance. Please note that every special exception granted by the Board of Appeals shall be conditioned upon the applicant obtaining the Building Board's approval of the architectural appearance, design and structure materials of the fence and driveway gate. Also for the ordinance, any special exception granted by the Board of Appeals for a driveway gate must be conditioned upon the applicant filing with the Village Clerk/Treasurer the approvals of both the Police and Fire Departments.

There were no questions following for Scott.

Chair Margolies asked for clarification on the aspects of denial.

Village Attorney Eric Larson clarified the special exception is for what they have asked for. If you grant this special exception you are granting for everything they have asked for including the height, the location, the materials, and so forth, but it will be subject to the Building Boards approval and the Police Chief in consultation with the Fire Chief as Scott Miller had indicated.

Ideal Property Management Rick James Dassow, W264 N6615 Hill View Drive, Sussex, Wisconsin, 53089 was sworn to give testimony.

Chair Margolies asked Mr. Dassow to explain why he thinks the applicant at 6702 North Lake Drive deserves a special exception and for your benefit and the benefit of the Board.

Chair Margolies reminded everyone that what they are looking for is proof by clear and convincing evidence that the driveway gate and fencing is reasonably necessary to protect the safety of the people residing on the property, in addition to finding that granting the special exception there is a legitimate need and 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, purpose and intent of this section of regulations.

Mr. Dassow noted this is about safety. Dr. Rahul Desai, the resident owner recently purchased the home and has 2 young children. The owner's concern is for safety in the front yard with access to the road. The owners also stressed the concerns of privacy and security of the home. They will be mounting thirty-three cameras. Friday night a couple approached the home knocked on the front door and the back door of the home. The Police Department was called on Friday due to the intrusion. This is the third time this has happened since they have lived there. The previous owners, also clients of Mr. Dassow's had also indicated their concerns of this as well. The neighbor's property to the north has also had some intrusion

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concerns on their property. So this special exception is for both security and the children's safety.

The row of arborvitae trees along the front was to assist in providing some privacy and also they were grabbing some of the architectural features of the home to make this ornate entry gate appealing and aesthetically flow with the rest of the home.

Chair Margolies asked for questions from the Board members.

Mr. Wilson inquired whether there was enough room for a car to pull safely off the road, into the driveway and out of the traffic if the gate is constructed. The gate would be approximately 50' from the center line of the road. Mr. Dassow commented the gates are 33 feet off the road edge. Mr. Dassow noted the pillars were existing on the property and were there at the time of purchase.

Dr. Rahul Desai is a gastro-surgeon and feels as if they are a target.

Mr. Brown inquired on how the ordinance did get to where it is now. Village Attorney Eric Larson noted the background of the ordinance and situations when a fence was necessary and a special exception may be needed. It does have a standard both for health and safety.

Chair Margolies noted this board has been identifying whether all of these items are met in each case. He noted this is a legitimate question to step back and ask if we are following the ordinance or if we are being too lenient. They have also asked for two lights on top of the posts, but they are not in the drawing. This is a new request from the owner. Mr. Dachau noted he is not sure if this is possible.

Mr. Dachau indicated the children are 7 and 10 years old.

Chair Margolies noted Lake Drive is a very fast road and there is an issue with children there; this distinguishes it differently from any other area.

It was clarified the testimony was over.

On the motion of Chair Margolies, seconded by Mr. Schley to grant Case 2016-02, 6702 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, 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,

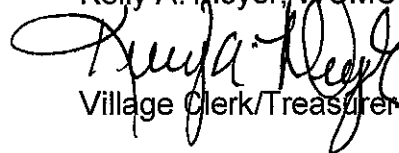
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design and construction material. With all members voting aye, the motion carries by roll call vote.

Adjourn

On the motion of Mr. Brown, seconded by Mr. Wilson, and carried unanimously, the Board adjourned at 5:57 p.m. Motion carried.

Respectfully Submitted,
Kelly A. Meyer, WCMC



Village Clerk/Treasurer