

**NOTICE OF MEETING
VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING**

SCHWEMER HALL - MUNICIPAL BLDG.
7200 N. SANTA MONICA BLVD.
FOX POINT, WISCONSIN

THURSDAY
FEBRUARY 10, 2022
5:00 P.M.

AGENDA

- 1. Roll Call**
- 2. Approval of the Minutes and Determinations – December 9, 2021 Meeting**
- 3. Case 2022-01: 7250 N Beach Rd. (Dr.)** The applicant is requesting the interpretation of Village Zoning Code and reversal of order, requirement, decision or determination of an administrative official in regard to Village Zoning Code 745-4 C. (1-3) and 756-9.
- 4. Adjourn**

PLEASE NOTE: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aids. For additional information or to request these services, contact the Village Clerk at (414) 351-8900. It is possible that members of, and possibly a quorum of members of, other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

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A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Thursday, December 9, 2021 at 5:00 p.m. The Village Clerk took roll call. Those present included:

Kurt Ostoic, Chairman
Thomas Dunst
Nancy Filsinger
Mark Grady
Scott Ratke

Staff members also present were Village Attorney Eric Larson, Building Inspector Michael Rakow, 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, Village ordinances and posted on the official bulletin boards.

Approval of Minutes of August 4, 2021 Meeting and the Findings of Fact, Decision and Order

On the motion by Member Mark Grady, seconded by Member Thomas Dunst, and carried unanimously by roll call vote (5-0), the Board of Appeals approved the minutes and the Findings of Fact, Decision and Order of the last meeting.

Case 2021-07: 7272 N Bridge Ln

The applicant is requesting a special exception from the fence ordinance to erect a six-foot high double-swing ornamental gate at the entrance to the driveway between two existing lannon stone columns forward of the front line of the home. The special exception request is made pursuant to 745-7(B)(3)(h)[2] and 745-7(B)(3)(j) of the Fox Point Code.

Chair Ostoic asked if there was a copy of the Email letter regarding the postponement of Case 2021-07 for the special exception. The Board indicated they had received a copy of the Email letter. Chair Ostoic shared with those present that the applicant has proposed postponement of Case 2021-07 hearing until the first week in January.

Representative Leslie Bucholtz noted she was here to represent Thomas Scannell in regard to Case 2021-07 for the Special Exception. She also stated unless there are any objections to it, she is here to represent Thomas Scannell, if there are no objections to her representation for Thomas Scannell Case 2021-07 can be heard today. If there are objections from the Board, then Thomas Scannell would like to come back before the Board, as proposed.

Steve Fulton also stated he is also here at the Board of Appeals meeting on behalf of Thomas Scannell regarding Case 2021-07 for the Special Exception. He also commented that if the Board wishes to move forward, they can.

Chair Ostoic inquired of Village Attorney Eric Larson, if the Board can move forward with Case 2021-07 for a Special Exception.

Village Attorney Eric Larson stated the Board of Appeals can proceed without the applicant with the representatives. He noted that is not to say it would be granted. One of the comments was if

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the Board is going to grant the Special Exception, he does not have to be here. If the Board is not going to grant it, Mr. Scannell want to be heard. Village Attorney Eric Larson again noted there are no guarantees.

Member Mark Grady noted because he does not have any idea what the other Board members think about this, as it is not discussed in advance of the meeting, he has no idea whether the members of the Board will object or not object to the Special Exception. He noted he does not even have his mind made up until the Board comes here and hears the case. Member Mark Grady noted that if Ms. Bucholtz really wants Thomas Scannell to be here in the event there are objections, a better course of action would be to adjourn Case 2021-07 to a mutually convenient time as soon as reasonably possible. He can not guarantee it the first week in January because he does not know what every one else's schedule is.

Representative Leslie Bucholtz stated that he did send a letter to Village Clerk Treasurer Kelly Meyer stated Leslie would be attending as his representative.

Member Mark Grady inquired if Village Clerk Treasurer Kelly Meyer had the Emailed letter available from Thomas Scannell that states Leslie Bucholtz would be attending as his representative.

Member Mark Grady inquired if Representative Leslie Bucholtz was also a property owner at 7272 N. Bridge Lane. Leslie Bucholtz stated she was not an owner of said property.

Member Mark Grady stated he was uncomfortable with hearing the case unless there was a Power of Attorney stated she could act on his behalf. There was a brief discussion regarding the Board's consensus.

Motion by Member Mark Grady to adjourn it to a mutually convenient time in January if that is possible or February if that is not possible. Seconded by Scott Ratke.

Village Attorney Eric Larson stated the rules allow us to adjourn to a date and time certain.

Steven Fulton stated he works for Thomas Scannell when he is on the property and when he is off the property. Right now, he is out of town and he has been out of town for about two weeks now. About two weeks ago, he stated he came in to speak with Village Clerk Treasurer Kelly Meyer about the fact that Thomas Scannell was going to be unable to make the meeting. At that time, Village Clerk Treasurer Kelly Meyer was not sure if he could be rescheduled to another time. Therefore, Leslie Bucholtz and he are here to represent Thomas Scannell. Mr. Fulton stated that both Leslie Bucholtz and he would prefer if Case 2021-07 move forward and proceed if the Board is willing to do that. If the Board is not willing to do that, then we do not have a choice.

Leslie Bucholtz stated she is also pretty sure that Thomas Scannell is pretty thorough. I cannot imagine that the Special Exception wouldn't be granted.

Chair Ostoic commented the Board has surprised people.

Member Mark Grady stated the gate is not going to get constructed in the next month or so anyway. He feels that the Board sets themselves up for an issue if the case is heard without the

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property owner. Mark offered that he is available to hear the case on Thursday, January 6, 2021 although he is not sure what the rest of the Board has available. If the rest of the Board members are available, he would still prefer to move to adjourn to the date and time certain of Thursday, January 6, 2021.

Motion amended by Member Mark Grady to adjourn to a date certain of Thursday, January 6, 2021.

Steven Fulton inquired what are the steps that a person has to go through whether Thomas Scannell is here or not here.

Chair Ostoic stated the steps would be the same whether he is here or not here. The determination is going to be the same he believes whether Mr. Scannell is here or not. Information is information. Unless Mr. Scannell has information that he did not reveal to the Board and that he feels is more important than what was submitted, there is information provided for the Board to discuss. Thorough does not necessarily grant a special exception.

Chair Kurt Ostoic inquired of Village Attorney Eric Larson if he felt comfortable enough if the Board moved forward to hear Case 2021-07 tonight.

Village Attorney Eric Larson asked Village Clerk Treasurer Kelly Meyer to produce the Emailed letter regarding representation for Mr. Scannell's Case 2021-07 Special Exception.

Village Clerk Treasurer Kelly Meyer left the meeting to print a copy of the Emailed letter regarding representation for Case 2021-07.

Village Attorney Eric Larson read from the rules and procedures of the Board of Appeals. Section 3(b) states the appeal shall be heard at the time set in the notice. In the event of the appellant not appearing personally or by attorney or by other authorized representative, the Board may dismiss the appeal or make a decision thereon in on the records before them. Subsection (h) states the time set for the hearing for the appeal may be adjourned to a day certain as the Board may order, which shall be considered a continuance of the hearing and no further notice regarding the adjournment may be given other than the announcement at the time of the hearing, subject to new laws. There are a few options here. The first option is the case can be dismissed due to him not being present for the hearing. The second option is that the Board can hear the case and the representatives can participate assuming that confirmation is produced. Lastly, the Board can adjourn it to a date certain.

Village Clerk Treasurer Kelly Meyer returned to the meeting with a copy of the Emailed letter regarding Thomas Scannell's representation for Case 2021-07; the letter was presented to the Board for review.

Village Attorney Eric Larson stated there is a motion on the floor; there was another motion but it was not seconded.

Member Mark Grady requested the withdrawal of his motion, if his seconder concurs. The seconder, Member Scott Ratke concurred.

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143 Village Attorney Eric Larson stated the Board is back to the three options given prior.
144 The Board needs to decide which option they want to utilize.

145
146 Chair Kurt Ostoic stated he thinks the Board should proceed; they have received the
147 Emailed letter with the Thomas Scannell's authorized representative.

148
149 Village Attorney Eric Larson stated to be specific, the Emailed letter named Leslie
150 Bucholtz as his representative.

151
152 Chair Kurt Ostoic asked Village Clerk Treasurer Kelly Meyer to swear in Building
153 Inspector Michael Rakow.

154
155 Village of Fox Point Building Inspector Michael Rakow

156
157 *Building Inspector Mr. Michael Rakow stated his name and was sworn in to provide*
158 *testimony by the Village Clerk Treasurer.*

159
160 Building Inspector Michael Rakow gave background on Case 2021-07, stating anytime
161 a driveway gate is in front of the principal building, the requirements are to go before the Board
162 of Appeals. This special exception is a request for a driveway gate.

163
164 Michael Rakow stated to his knowledge no work has begun on the requested gate.

165
166 Appellant/Applicant Representative Leslie Bucholtz, 7272 N. Bridge Lane, Fox Point

167
168 *Applicant Representative Leslie Bucholtz stated her name and was sworn in to provide*
169 *testimony by the Village Clerk Treasurer.*

170
171 Representative Leslie Bucholtz stated Thomas Scannell would like to put the gate up
172 now because it is a thoroughfare for a lot of people and a lot of cars. Cars pull into the
173 driveway continuously and Mr. Scannell is hoping to stop the cars from pulling into the
174 driveway the driveway. She stated there is a lot of foot traffic now also, much more than there
175 used to be. Mainly cars are the issue; there are a lot of people coming into the driveway and
176 the cars use the driveway as a turn-around.

177
178 Chairman Kurt Ostoic inquired if they have any signage that states it is personal
179 property.

180
181 Representative Leslie Bucholtz stated she and Thomas Scannell feel the gate would
182 negate cars from pulling into the driveway. Mainly the cars pull into the driveway and stop
183 when they realize it is not a parking area. They are always turning around in the driveway. It is
184 a very busy spot, so Thomas Scannell would like to put up a gate.

185
186 Chairman Kurt Ostoic inquired if there were any instances that they had to call the
187 police to the property.

188
189 Representative Leslie Bucholtz stated no they have not had to call the police, but there
190 are people who will walk around there. The cars pull in with the lights on and sit there and look

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191 around. Once they realize there is no where else to go, they turn around.

192
193 Member Nancy Filsinger inquired when Ms. Bucholtz states they pull into the driveway,
194 she inquired if they pull all the way up to the home.

195
196 Representative Leslie Bucholtz stated there are two large pillars and the cars will pull up
197 and look around and realize this is someone's place.

198
199 Member Mark Grady inquired if this is just a request for the driveway gate.

200
201 Representative Leslie Bucholtz stated Thomas Scannell sent all the information in with
202 the application.

203
204 Member Scott Ratke inquired how often the cars/people trespass.

205
206 Representative Leslie Bucholtz stated it happens at least twice a day; she is at the
207 residence all the time.

208
209 Caretaker/Witness Steven Fulton, 7737 N Bell Rd, Fox Point

210
211 *Caretaker Steven Fulton stated his name and was sworn in to provide testimony by the*
212 *Village Clerk Treasurer.*

213
214 Steven Fulton, stated 7272 N Bridge Lane has been in Thomas Scannell's family for 95
215 years. He just recently spent money to put a brand-new driveway in. The brand-new driveway
216 is kind of an invitation feature which allows people to drive in, sometimes all the way to the
217 house where there is a large parking area and a place to turn around. There have been
218 several instances where people have driven in up to the house and then discover it is private
219 property and turned around to drive back out. There was another instance this summer when
220 Thomas Scannell was away from the house in the morning; he came back later on and there
221 was an entire family with young kids playing in the yard as if it was a park. Thomas Scannell
222 approached the people nicely and asked them what they were doing. The people responded
223 that they thought it was a public area. He informed them it was private property and asked
224 them to leave. He is trying to stop that situation. Thomas Scannell also has three dogs, two of
225 which are very large. They are very well trained. He also would like to keep his dogs
226 contained. Another purpose of the gate is for security reasons when he is not at home. The
227 number one reason he wants the gate is for security, especially when he is out of town.

228
229 Village Attorney Eric Larson noted the application did include a letter dated October 11,
230 2021 along with numerous attachments to the letter. The Board had the chance to review the
231 application and attachments. Those documents should be included in the record for this case.

232
233 Attorney Larson read the standard that the Board is obligated to provide, prior to closing
234 the testimony in the event that any standard should give rise to additional testimony. The two
235 applicable paragraphs of the code that allow for a special exception - Section 745-7(b)(3)(h)(2)
236 and Section 745-7(B)(3)(j) were read. 745-7 (B)(3)(h)[2]. He further noted in the code, every
237 special exception granted by the Board of Appeals for a driveway gate shall be conditioned

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upon the applicant filing with the Village Clerk/Treasurer the written approval of the Village Police Chief in consultation with the Fire Chief for the specific driveway gate and gate location that is proposed; and if such is denied, the special exception is thereby denied.

Mark Grady asked if the representative/witness have anything they want to add with respect to how the gate is necessary to protect those residing on the property.

Representative Leslie Bucholtz stated it would be a good thing to stop people who drive in and turn around.

Caretaker/Witness Steven Fulton stated when Thomas Scannell spent the money and had a brand-new driveway put in, it became a very appealing driveway for people to turn around in and as he stated, to drive completely down to the house, make a loop and drive back out. When people see a nice big convenient driveway, it is always a great spot to turn around.

Member Mark Grady inquired if either Representative Leslie Bucholtz or Caretaker/Witness Steven Fulton know how land is with the property.

Representative Leslie Bucholtz stated it is approximately 5 acres.

Member Mark Grady inquired if the house sits towards the back of the property.

Representative Leslie Bucholtz stated it is towards the back of the property.

Member Mark Grady inquired how long the house is from the road.

Caretaker/Witness Steven Fulton stated approximately 100 yards.

Member Mark Grady inquired if there was any lighting along the driveway.

Representative Leslie Bucholtz stated there is no permanent lighting along the driveway.

Member Mark Grady inquired if there were heavy trees in the front yard area.

Caretaker/Witness Steven Fulton stated there are not thick trees in the front yard.

Member Mark Grady inquired if a car was to drive down the driveway at night, would someone be able to see that car parked near the house?

Caretaker/Witness Steven Fulton stated yes and no. At certain points they might see the car, but in certain areas of the driveway, the vehicle could blend in with the landscape and may not be seen. At nighttime or when the owner is out of town, then it becomes a security issue.

Member Scott Ratke inquired if it is disturbing at night to have cars coming in with their lights on.

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Both Caretaker/Witness Steven Fulton and Representative Leslie Bucholtz stated yes, it is disturbing and it happens all the time, every day, all day long and at night. They close the blinds in the front because they come down and sit there trying to figure out how they can get out of there during the night. Then they turn around.

Chairman Kurt Ostoic inquired if there has been any property damage with the cars coming down the driveway.

Representative Leslie Bucholtz stated there has not been, but it happens constantly.

Representative Leslie Bucholtz stated that the gate would make it very secure, especially when he is out of town. The gate would prevent people from pulling in further to the property.

Motion by Member Mark Grady, seconded by Member Kurt Ostoic, and carried unanimously to close testimony at 5:35 p.m.

Member Mark Grady stated what he is hearing is them say is in the context of the village code. They feel that the location of the home near the dead end originally and the size of the property, the physical acreage of the property, the driveway leading into the property off of Daisy Lane and Bridge Lane, are sort of rendering the house and property as an attraction nuisance, as referenced to the "witches house" or the Nohl House. The question for the Board is does that rise sufficiently as a risk to the safety of those persons residing on the property. Member Mark Grady stated he is not personally to concerned with the second standard in the paragraph. The first question of safety is a close call. His gut reaction is leaning in favor of granting the special exception.

Member Scott Ratke stated it is a close call but he agrees at this point. It is an attractive place for people to turn around and having people dropping into your driveway at night and having the lights come in, there is some risk; Member Scott Ratke is in favor of it.

Member Thomas Dunst stated it is an attractive nuisance and that makes it lean to the side of approval. It is a close call.

Chairman Kurt Ostoic stated he would personally feel better if there were signs up that said "private property, do not enter". Just simple things like that instead of going to something that needs a special exception.

Member Mark Grady stated that because of the way the property is laid out with the house being so far back into the property, he does think there is a risk there. They clearly had examples of people driving all the way up to the house. They heard nothing about breaking into the house or threatening, but clearly with the long driveway and the acreage it is a little bit of a risk to having people drive back there, especially at night. It is far enough back on the property; he is not sure how easy it would be to spot a strange car in front of their house. He is 51/49 in favor.

Member Nancy Filsinger stated she also agrees. It is just over the edge of a safety

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issue, especially if you are saying it is more than once a day or once a week. It is multiple times per day. It creates a potential safety risk.

Motion by Member Mark Grady, to grant the special exception for the reasons that they have discussed and subject to the conditions of the ordinance with the necessary approval of the Building Board, the Fire Department, and Police Chief. Seconded by Scott Rake.

<u>Scott Ratke</u>	<u>Aye</u>
<u>Thomas Dunst</u>	<u>Aye</u>
<u>Mark Grady</u>	<u>Aye</u>
<u>Nancy Filsinger</u>	<u>Aye</u>
<u>Kurt Ostoic</u>	<u>Nay</u>

Passed by roll call vote, 4-1.

Case 2021-08: 8300 N Gray Log Ln

The applicant is requesting a special exception to install a new 6-foot-high brick fence wall on the west side of the property. The special exception request is made pursuant to 745-7(B)(3)(h) [1-2, 5] and 745-7(B)(3)(j) of the Fox Point Code.

Village of Fox Point Building Inspector Michael Rakow

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

Building Inspector Michael Rakow gave background on Case 2021-08. In this case, there is a wall that was installed. If the wall is forward of the front line of the home, it should come before the Board of Appeals to be considered for the special exception.

Chairman Kurt Ostoic stated the wall does not appear to be forward of the frontline of the home.

Building Inspector Michael Rakow stated it is on a corner lot. It is on the Lake Drive side.

Chairman Kurt Ostoic inquired if the Board of Appeals, then needs to determine the front of the home.

Building Inspector stated the Board does have to determine the front of the home.

Member Mark Grady asked Building Inspector Michael Rakow to finish his thought on why he sent this case to Board of Appeals.

Building Inspector Michael Rakow noted if you look at the survey, it is a corner lot so the front of the home must be determined. According to the survey, it is on Lake Drive.

Chairman Kurt Ostoic asked for clarification regarding the location of the installed wall.

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379 Building Inspector Michael Rakow stated technically the Board has to determine the
380 frontline of the home (whether it is on N. Lake Drive or N. Gray Log Ln).

381
382 Chair Kurt Ostoic asked if a brick wall permitted in the Village Code.

383
384 Michael Rakow stated in the same ordinance, a wall, fence, and driveway gate, should
385 all be treated the same.

386
387 Member Mark Grady stated if it was not on an irregularly shaped corner lot, if this was a
388 square of rectangle and the door is where it is now, this wall or fence would have been
389 something you could have approved.

390
391 Michael Rakow stated he would have approved it. Mark Grady stated the only reason it
392 is here is that it is on an irregular lot.

393
394 Mark Grady stated that he would defer to the attorney on the distinction between a
395 fence, wall, or other list of special exception. He does not see any distinction between a wall
396 and a fence. Subsection h on location and height descriptions, the subsection states a fence, a
397 wall, a screening device, or a driveway gate. In the definition of a wall, it is described as a solid
398 masonry, wood, or composite structure. It is his understanding the walls be treated the same,
399 as long as it is not forward of the frontline of a home, proper height, and proper set-backs. To
400 be honest, the only reason he can see why it is in front of us is because the lot is irregularly
401 shaped. The Board just has to determine where the front of the home is located.

402
403 Member Thomas Dunst stated in the village code 747-7 B.(h)[5], the side yard of any
404 corner lot that abuts a road shall be treated as a front yard: if a building footprint is other than
405 square or rectangular in configuration, the provisions of Subsection B(3)(h)[1] generally shall
406 control over the provisions of this subsection.

407
408 Village Attorney Eric Larson stated there are two provisions, sub [1] and sub [5] that
409 need to be analyzed in regard to this lot. The fact that is a wall rather than a fence for the
410 Boards purposes, they have applied for a special exception and the Board is really only
411 dealing with the special exception and it does treat a wall and a fence exactly the same.

412
413 Chairman Kurt Ostoic asked if the Board wants to ask Building Inspector Michael
414 Rakow if the building is a square, rectangle, or another shape.

415
416 Building Inspector Michael Rakow stated it is kind of a rectangle.

417
418 Member Mark Grady inquired of Village Attorney Eric Larson, if the Board were to find
419 that the building footprint is either square or rectangular, then the Board must treat the side
420 yard as though it is a front yard.

421
422 Village Attorney Eric Larson answered yes.

423
424 Member Mark Grady then the Board would move to Subsection (h)[2], and in order to
425 grant the wall, the Board has to find a special exception is reasonably necessary to protect the

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safety of people residing on the property, in addition to the other sections. Subsection B(3)(j). It is basically the same conditions as the Board had in the prior case. What he said earlier is not true. This is a front yard for purposes of the ordinance; the fact that it happens to be that the Board is treating it as a front yard fence. Someone is asking to put a wall in their front yard. That is how it is reading; is that correct?

Village Attorney Eric Larson stated that is correct.

Member Mark Grady stated his whole premise was on the fact that it is a rectangle.

Village Attorney Eric Larson stated to continue the thought, if the Board determines it is not a rectangle, then Subsection [1] would be followed and the Board would have to go to Subsection B(3)(j), finding 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 purpose, spirit and intent of this section. This section would apply if it is not a rectangle.

Village Attorney Eric Larson stated one other thought on that, the Board has to decide if it is a rectangle or a square does that really mean geometrically, as in math. That is the question. It clearly is not mathematically a rectangle or a square.

Member Mark Grady stated he would like to hear from the applicant.

Appellant/Applicant Ellen Irion, 8300 N Gray Log Ln, Fox Point

Applicant Ellen Irion stated her name and was sworn in to provide testimony by the Village Clerk Treasurer.

Applicant Ellen Irion stated the wall is already installed. The idea of the wall came when she was sitting on her patio which has a short wall around it. People walking down and cycling down Lake Drive seemed like the sound of zipping was five feet away from me.

There is a short wall around it. People walking down and cycling down Lake Drive sounded as if they were only 5 feet away from her on her property. It provided some security for her while she is out in the yard. It creates a garden and a micro-garden which helps the plants to grow. Literally there were 30-40 people talking close to the patio. The wall provides some security for her when she sits outside. There are three walls for all intensive purposes. The fourth wall was going to be a green wall with plants. This creates a micro-garden. This allows plants that are not very hardy to grow. Those are the main reasons.

Chairman Kurt Ostoic inquired if Applicant Ellen Irion considers her structure/home to be rectangular.

Applicant Ellen Irion stated the lot of course is not rectangular; she stated the structure/home has all sorts of protruding structures so she doesn't know if would be considered a rectangle.

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Village Attorney Eric Larson confirmed it is the building footprint.

Chairman Kurt Ostoic inquired how far the wall was going to be from Lake Drive.

Applicant Ellen Irion commented she has not measured it, but would guess it to be approximately 30 to 40 feet. At least 30 feet. The driveway can park three cars across the driveway, a small bit of lawn, the windbreak, the storm sewer ditch and then Lake Drive. It is a bit of a distance from Lake Drive. It is possibly 40-50 feet from Lake Drive.

Member Mark Grady inquired how long Applicant Ellen Irion has lived in her home. Applicant Ellen Irion stated she has lived there since May of 2021.

Chairman Kurt Ostoic asked if there were any other questions for the Applicant.

Chairman Kurt Ostoic without objection and hearing no other questions, closed Applicant Ellen Irion's testimony.

Witness/ Neighbor Ann Marie Finley, 8320 N Lake Drive, Fox Point

Witness/Neighbor Ann Marie Finley stated her name and was sworn in to provide testimony by the Village Clerk Treasurer.

Witness/Neighbor Ann Marie Finley stated she is the neighbor to the north of 8300 N Gray Log Lane. She stated her address is 8320 N Lake Drive. She stated she does believe the above forementioned lot is a rectangular lot.

Village Attorney Eric Larson stated his mis-spoke earlier. The lot is not the issue, it is the building footprint.

Witness/Neighbor Ann Marie Finley stated from what she can see it looks like a rectangle to her. If this were just simply a matter of someone wanting privacy, she would not be here. She is concerned about the much more extensive project than just putting up a wall. There was extensive excavation on that site. That site abuts a heavily wooded area. It ran between our properties. She stated she did pay for a survey to be done. Her patio is nine and a half feet from the property line or as it was when she acquired the property. There was extensive extension of the area towards her property and built up as well. In addition, there were at least two drains, if not three water drains that are shooting water underneath. They are covered up now, but she has photographs, towards that property line. That property line takes a lot of run-off water. To look at the topography, the Board is welcome to come look at her back yard. All of the surrounding properties are higher than her property. There is tremendous destruction of trees. The few trees planted along the patio have not offset that. She stated she is a Master Gardener. This is very distressing; she could not see the house most of the time, except maybe in the dead of winter. These are tall evergreens approximately four stores high. They had to be at least 50 years old. In the photograph there are at least three of them facing north towards her property that were destroyed, one of which was on her property. She can see right into her patio, as a result of all the construction. She has planted a few arborvitaes from what she can see right along the property line, but it will not offset the damage that has been done. In addition to the patio, she doesn't feel any awards would be won for beauty. She

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also stated she has not noticed any huge issues when people are walking down Lake Drive. All of this has been excavated. She noted she has been in touch with Village Hall multiple times about this project. She is very concerned about flooding in her yard. The problem is that this is not just a six-foot fence. She built up that area. It is much higher property wise. She invited the Board to come look at her side yard anytime they want. Her understanding is the fence was built without a permit or maybe it was denied and she went ahead and built it anyway. She is not sure what the Board has to say about that.

Chairman Kurt Ostoic asked Michael Rakow if there was a permit denied earlier.

Building Inspector Michael Rakow stated there was not. It was constructed without any permits or without Building Inspector Michael Rakow's knowledge.

Village Attorney Eric Larson inquired if Witness/Neighbor Ann Marie Finley wanted the photographs she held up to be submitted for record.

Witness/Neighbor Ann Maire Finley stated these are photographs that were in the Board packet.

Chairman Kurt Ostoic stated as far as the water run-offs, that can be investigated by Department of Public Works. Building Inspector Michael Rakow stated he does not handle drainage issues.

Witness/Neighbor Ann Maire Finley stated she has been in arduous conversations with the Village and noted she has not been able to get a satisfactory response on the issue. She is quite surprised because that is such a serious water issue.

Member Mark Grady stated he is sorry and understands there are a lot of emotions here, but the Board is not here to talk about water. He stated everything Witness/Neighbor Ann Maire Finley is saying could be 100 percent correct, but stated the Board has no authority over water. He stated he really would like if she could to have anything you want to say specifically regarding the wall in this location, not the patio, not the drainage, and not the trees. Just comment on the wall.

Witness/Neighbor Ann Marie Finley noted the wall here to extend beyond the patio. The patio is only 9 and a half feet from the lot line.

Chairman Kurt Ostoic thanked Witness/Neighbor Ann Marie Finley for her testimony.

Chairman Kurt Ostoic inquired if anyone else was here to talk about the case.

Witness/Neighbor Barbara Paulini, 8224 N Lake Drive, Fox Point

Witness/Neighbor Barbara Paulini stated her name and was sworn in to provide testimony by the Village Clerk Treasurer.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
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Witness/Neighbor Barbara Paulini stated she lives directly to the south. There has been extensive, extensive changes to the property. She was a little bemused to find the wall was already in existence. Tonight, she thought there was going to be a big wall lining Lake Drive. She has not even noticed the wall. However, she has to say that obviously this new neighbor extensive things to make this her home her home. She is a huge supporter of that. One of the best things she has done so far is with the driveway. She has gone back to less yellow-colored lights instead of harsh LED lighting. As far as exceptions or rules, it is always amusing. The reason she came tonight is she wants to learn. Eighteen years ago, when she moved into her home, she was unable to put a fence up anywhere except where it was in the site-line of her home. She finds it interesting that there is some flexibility happening. She wants to learn when that happens. It is important to live in a Village that respects the aesthetics here. However, she stated she does have empathy for the neighbor who has lost so many trees because of the extensive changes. She also completely understand how someone wants to build their own nest and have privacy. She commented she is in support of both people. In truth, we need to support both people so that we can all live in the Village together and find ways to compromise.

Chairman Kurt Ostoic stated as a note, the Board did receive one other letter regarding the wall. He asked for any comments.

Village Attorney Eric Larson stated for the record, it is a letter, an Email, dated December 9, 2021, Email address of Howard Zeft, signed by Jane Zeft. The Zeft's are not in favor of the wall. The applicant should be given a copy of the letter and speak in response to the letter and to ask any questions.

Applicant Ellen Irion was given a copy of the letter from the Zeft's.

Chairman Kurt Ostoic asked for a response from Applicant Ellen Irion.

Applicant Ellen Irion responded to the letter stating she did not understand the letter. The driveway is the driveway so a car will pull out regardless and there is no other place to place the driveway. The wall cannot even be seen from Lake Drive; it is completely covered by vegetation and arborvitae trees that are 30-40 feet tall.

Member Scott Ratke stated he speculates that perhaps they do not realize the wall is up and think it will be built along Lake Drive.

Motion by Chairman Kurt Ostoic, Seconded by Member Thomas Dunst, and carried 5-0 to close testimony at 6:15 p.m.

Village Attorney Eric Larson noted as the Board has already identified the first issue determined is what standards apply. That will depend on how the Board interprets the Village Code. Specifically, 745-7 B. (h)[5] should be the starting point to determine whether that applies. He read the section.

Chairman Kurt Ostoic asked whether the Board members felt the building was

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BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
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rectangular, square, or neither.

Member Mark Grady stated when the Village adopted this ordinance, what were they trying to exclude. What isn't square or rectangular? It would have to be a triangular house, an L-shaped house, a round house or something other than rectangular or square. Why would they make that distinction? He is having a hard time grasping what difference it would make with a square, rectangular or odd-shaped home.

Village Attorney Eric Larson was asked for clarification regarding Member Mark Grady's thoughts. Attorney Larson clarified with a hypothetical regarding the difference between the two and the possibilities.

The discussion was the shape of the home. In order to grant the special exception, there should be a safety reason for the wall.

Motion by Chairman Kurt Ostoic, that Subsection 745-7 B (h) [5] is the applicable provision because the Board concludes it is rectangular. Seconded by Member Scott Ratke. Roll call vote, as follows:

<u>Thomas Dunst</u>	<u>Nay</u>
<u>Nancy Filsinger</u>	<u>Nay</u>
<u>Mark Grady</u>	<u>Nay</u>
<u>Scott Ratke</u>	<u>Aye</u>
<u>Kurt Ostoic</u>	<u>Aye</u>

Motion failed by roll call vote, 3-2.

Motion by Member Mark Grady, for purposes of Subsection 745-7 B (h) [5] of the ordinance, the Board consider the building footprint in this location to be other than a square or rectangle. Member Thomas Dunst seconded. Roll call vote, as follows:

<u>Thomas Dunst</u>	<u>Aye</u>
<u>Nancy Filsinger</u>	<u>Aye</u>
<u>Mark Grady</u>	<u>Aye</u>
<u>Scott Ratke</u>	<u>Nay</u>
<u>Kurt Ostoic</u>	<u>Nay</u>

Motion passed by roll call vote, 3-2.

Attorney Larson read Subsection 745-7 B. (h)[1].

Motion by Member Mark Grady, seconded by Chairman Kurt Ostoic, and carried unanimously, for the purposes of Subsection 745-7 B (h) [1], that the Board finds for this particular structure there appear to be multiple front sides of the structure, given that there is front door on Gray Log and a garage facing opening on Lake Drive and determine that the front of the house is the side that faces Gray Log Lane.

**VILLAGE OF FOX POINT
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Village Attorney Eric Larson stated the ordinance refers the Board to B(3)(j).

Member Mark Grady with respect to the standards set forth in Subsection B (3)(j), which Village Attorney Eric Larson referenced, as we heard Building Inspector Michael Rakow say, if this were a rectangular lot and the front was Gray Log Lane, the wall would satisfy the ordinance in all other respects. By definition, once the Board has established the front of this lot to be Gray Log Lane, it would be hard for the Board to find that this wall in this location would adversely affect the health, safety or welfare of the community given that it is in compliance with the ordinance in all other respects now that the Board found the front yard to be Gray Log Lane on the lot. It is clearly consistent with that. It does not impede the purpose, spirit and intent of this section again because it is consistent with the ordinance and the code once the Board has made the findings the Board has made.

Member Mark Grady spoke briefly with regard to the objection. The Board is not dealing with the drainage of the lot. The issues he heard the neighbor concerned about had to do more with the patio, grading, and trees. None of that is what the Board is here for today. We are only here for the section of wall that is on the west side of the property. We are not here for the patio, the walls around the patio. That is not before the Board. All that is here before the Board tonight is the wall. Whether the other items are in violation of the code or not, the other items are not in front of the Board. DPW or the Building Inspector may be able to take a look at that.

Motion by Member Mark Grady, seconded by Member Thomas Dunst, the Board finds the standards have been met within Subsection B(3)(j) and has shown clear and convincing evidence to believe that the applicant has a legitimate need for the special exception; thereby granting the special exception.

Village Attorney Eric Larson commented there is a requirement within this section when you grant the special exception it is conditioned upon the applicant's submission to the Village Building Board.

Roll call was taken regarding the motion:

<u>Thomas Dunst</u>	<u>Aye</u>
<u>Nancy Filsinger</u>	<u>Aye</u>
<u>Mark Grady</u>	<u>Aye</u>
<u>Scott Ratke</u>	<u>Aye</u>
<u>Kurt Ostoic</u>	<u>Nay</u>

Motion passed by roll call vote, 4-1.

Case 2021-09: 6755 N Lake Dr.

The applicant is requesting a variance pertaining to Section 745-15 of the Fox Point Village Code in the C Residence District, concerning front and side yard requirements. A side yard of not less than 10 feet and a front yard from the centerline of Lake Drive not less than 85 feet shall be provided for every building in the C Residence District. The applicant is proposing to install a new 7-foot by 7-foot shed ten feet from the neighboring property and 70 feet from the centerline of Lake Drive.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
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The Applicant was not present.

Village of Fox Point Building Inspector Michael Rakow

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

Building Inspector Michael Rakow gave background on Case 2021-09. In this particular case, the applicant is on a corner lot on Lake Drive. Therefore, the applicant needs to meet the setbacks of Lake Drive and Holly Court. The setback for Lake Drive is 85 feet from center line and Holly Court is 60 feet from center line. The applicant originally wanted to put the shed on the back corner of his lot. The side yard setback is ten feet. The applicant has a really hard time placing it at that location. The applicant has a fence and if he installs it in the fence area, the applicant will have a hard time because the fence is in the way. The Applicant really does not have much of a spot to place his shed.

Chairman Kurt Ostoic inquired if he has no physical way to get out of the fenced in area with his lawn mower.

Building Inspector Michael Rakow stated he has yet to see the fence or the property and it is unclear if the fence is for animals or for some other reason. He is just going by what was discussed over the phone with the Applicant.

Member Mark Grady stated he is struggling with this because one of the documents he sent in Drawing 1, shows 2 different locations that would have complied with the setback requirements; the first one puts it in the middle of his driveway and it really doesn't work there. The second one puts it in the back yard inside the fenced in area and the Applicant says on the drawing, this location is inside our fence and would prevent us from getting the riding lawn mower out of the fenced-in area. On that same drawing on the north side of the fence, it says gate. He is baffled why the Applicant cannot put it there and drive out the gate. He does not understand why that location wouldn't work and without the Applicant here, it is pretty hard to figure that out.

Member Mark Grady inquired if Village Clerk Kelly Meyer heard from the Applicant regarding his absence. Village Clerk Kelly Meyer stated for record, the Applicant did not contact her regarding his absence. She did send him an Email with the time and date of the Board of Appeals meeting, in addition to the Notice that was mailed out.

Chairman Kurt Ostoic inquired what the options are for Board of Appeal without the Applicant here.

Village Attorney Eric Larson stated the rules say in the event of the Appellant not appearing personally, by Attorney or other authorized representative, the Board may dismiss the appeal or make a decision therein on the records before them. The subsequent section says the time for hearing an appeal may be adjourned to a day certain. You can dismiss it without considering the merits at all. You can take it up and decide the case on the merits. Or the Board could pick a date certain.

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
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THURSDAY, DECEMBER 9, 2021

Motion by Chairman Kurt Ostoic, seconded by Member Nancy Filsinger, to dismiss Case 2021-09 for failure to appear before the Board of Appeals.

<u>Thomas Dunst</u>	<u>Aye</u>
<u>Nancy Filsinger</u>	<u>Aye</u>
<u>Mark Grady</u>	<u>Aye</u>
<u>Scott Ratke</u>	<u>Aye</u>
<u>Kurt Ostoic</u>	<u>Aye</u>

Motion carried unanimously by roll call vote (5-0).

Adjourn

Without objection and by unanimous consent the Board adjourned at 6:46 p.m.

Respectfully Submitted,

Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer



**VILLAGE OF FOX POINT
BOARD OF APPEALS**

NOTICE OF APPEAL & APPLICATION FOR REVIEW

1. Name of Appellant Energy Save Solutions
Address of Appellant P. O. Box 698 Oconomowoc, WI 53066
Phone Number (262) 957-4187 Same Same
Home Work Cell
E-mail Address ke@energysave.company
2. Address of Property 7250 N. Beach Rd., Fox Point WI
Present Use of Property Residential
Proposed Use of Property Residential
Owner's Name and Address if Different than Above Matthew & Renee Kirchner
7250 N. Beach Rd., Fox Point, WI
3. Has a Previous Appeal or Application Been Made to the Board of Appeals with Respect to This Property?
Yes () No () If Yes, State the Nature of Previous Appeal or Application

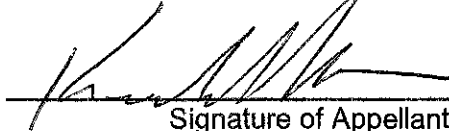
Disposition of Previous Appeal _____
Date of Decision in Previous Case _____
4. Date of Decision or Order of Administrative Official from which Appeal is Taken 12/20/21
Date of Notice of Such Decision Received by Appellant 12/20/21
5. Purpose of Grounds of Appeal or Application. Check Below the Relief Requested by This Appeal or Application:
- ☒ A. Request for interpretation of Zoning Code and reversal of order, requirement, decision or determination of administrative official. Attach separate sheet listing reasons why you claim this order, requirement, decision or determination is erroneous.
- ☐ B. Request for variance. Attach separate sheet explaining the following:
1. Variance requested.
 2. What special conditions exist which will cause unnecessary hardship if the variance requested is not granted.

Appellant Name: Energy Save Solution

Village of Fox Point - Board of Appeals
Notice of Appeal and Application for Review

3. Why the variance requested is not contrary to the public interest and will not endanger public safety and welfare.
4. Why the variance requested will be in accord with the spirit of the Zoning Code.
5. How the variance, if granted, will cause substantial justice to be done.
- ☐ C. Request for a special exception from the Fence Ordinance. Please obtain a copy of the Fence Ordinance to determine specific requirements. Attach a separate sheet or related materials explaining the following:
 1. Height of the proposed fence.
 2. Exact location of the proposed fence.
 3. Indicate whether the fence is replacement fence.
 4. Type of fence and materials.
- ☐ D. Other: _____
State relief requested and attach separate sheet, listing reasons why appellant is entitled to such relief.
6. Each appeal or application must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties, and improvements thereon, and the requested change or addition. A \$200 filing fee must also accompany this application.
7. All applications for variances or special exceptions must include an area plat map, survey, pictures or other documentation depicting the location of the structural improvements on adjacent properties. These materials must be reasonably accurate in the judgment of the Board of Appeals.

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.

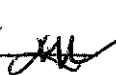


Signature of Appellant

12/24/21

Date

For Office Use Only:

Date Application Received 12/28/21  Receipt Number for \$200 Filing Fee 1.057D32
Case Number 2022-01 Hearing Date Thursday, February 10, 2022 5:00 pm
Disposition _____

Board of Appeals
Village of Fox Point
7200 N Santa Monica Blvd.
Fox Point, WI 53217

December 24, 2021

Dear Members,

This appeal to the Board of Appeals is in reference to the property located at 7250 N. Beach Rd., Fox Point, WI, owned by Matthew and Renee Kirchner.

I am applying and requesting a reversal from the decision of the building inspection department denying a building permit for the building of a new detached garage and the moving of an existing shed located on the property to a new location. The entire project was approved by the Building Board on Wednesday, October 13, 2021 at which time all aspects of the project were discussed including setbacks and placement (moving) of the existing non-conforming shed.

The inspections department is denying the permit in its present form for the following reasons:

- 1) The project does not meet the setback requirements as the property consists of 2 parcels on the Survey with the adjoining parcel lines also having a setback requirement.
- 2) The re-location of the shed needs the approval of the plan commission and a bond must be secured before moving.

Concerning setbacks:

Upon research I have discovered that the property has only 1 tax key and the county of Milwaukee, through Ruekert & Mielke, Inc. GIS web site, has no distinction of parcels for zoning purposes and only shows the property's outer boundaries (Yard lines) excluding the line where the 2 parcels meet.

I submit that by inference the Village of Fox Point and the County of Milwaukee have already admitted that this is one property (lot/yard) with its yard boarding the neighbor's yard to the north, the neighbor's yard to the south, the Village of Fox Point to the west and Lake Michigan to the east.

I further submit that in §745.4(C) when referencing setbacks, does not refer to them as parcel setbacks, lot line setbacks, or property setbacks. They are referred to as yard setbacks. Yard setbacks are put in place to protect the rights of neighboring property owners. The setback is the distance you must maintain from a neighbor's yard. It stands to reason that there are no owner property rights to maintain or protect within your own property.

Concerning nonconforming structures and the moving of them:

§745.4(C)(1) grants the property owner the right to continue the use of a legal nonconforming structure even though the size of the structure does not conform to provisions of this chapter.

§745.4(C)(3) grants the property owner the right to move a legal nonconforming structure to a new location as long as established yard setback provisions of this chapter are maintained.

§756-9 (Regulations for moving buildings) is referencing the moving of structures **(on)** or **(off)** a property within or outside the boundaries into the Village. It is clear in its reading that one must address road repairs if needed, utilities, possible property damage, road closures, and bonding.

None of these provisions could apply to the re-locating of a structure within its own established yard and with said re-location already granted as a right under §745.4(C)(3).

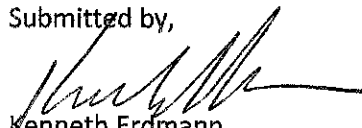
Summary:

The approved project located at the above noted address does meet all the yard setback requirements as set forth in the provision of the code and applying §756-9 to the re-locating of the shed within its established yard would be in direct conflict with the rights granted under §745.4(C)(3).

Action:

The Board of Appeals should direct the building inspections department to issue the permit in its present form.

Submitted by,



Kenneth Erdmann
Energy Save Solutions
P.O. Box 698
Oconomowoc, WI 53066
(262) 957-4187



Search...

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Layers

All Available Layers

Filter Layers...

Filter

Operational Layers

- ☒ Fox Point
- ☐ Bluff Line
- ☐ Easements
- ☐ Plow Routes
- ☒ Fox Point Utilities
- ☐ Trees
- ☐ Paser Ratings
- ☐ Water Distribution
- ☐ Garbage Collection

MCLIO/Streets

- ☐ MCLIO/Census
- ☐ MCLIO/Operational
- ☒ MCLIO/Parcel
- ☐ MMSD Impervious Surfaces (2015)

Base Maps

- ☒ MCLIO/Cadastral
- ☒ MCLIO/Basemap
- ☐ Ortho Photo
- ☒ 2020
- ☐ 2018
- ☐ 2015
- ☐ 2013
- ☐ 2010
- ☐ 2009 Aerial Imagery

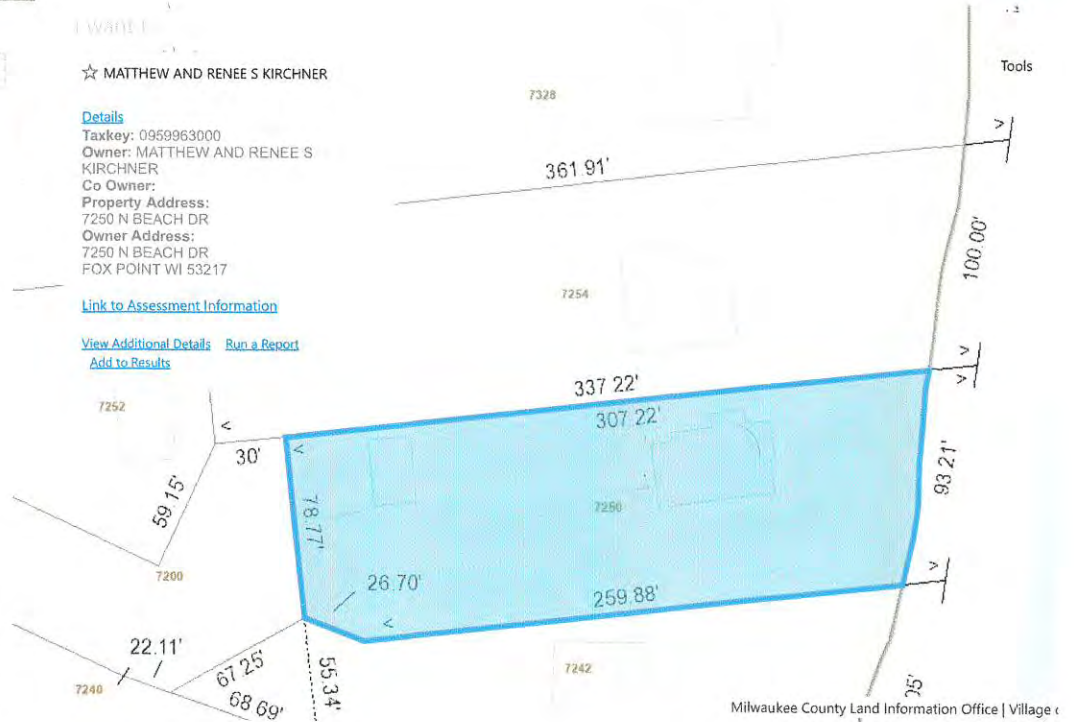
☆ MATTHEW AND RENEE S KIRCHNER

Details

Taxkey: 0959963000
 Owner: MATTHEW AND RENEE S KIRCHNER
 Co Owner:
 Property Address:
 7250 N BEACH DR
 Owner Address:
 7250 N BEACH DR
 FOX POINT WI 53217

[Link to Assessment Information](#)

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The following proposed project is located at 7250 N. Beach Rd., Fox Point, Wisconsin, consisting of main house, framed shed with porch, and detached garage.

The owners desire to:

- 1) Move the framed shed with porch new location.
- 2) Raze existing detached garage.
- 3) Build new detached garage with bathroom.
- 4) Build Pergola on Southwest corner of house.

The proposed detached garage on the property is in compliance with provisions set forth in §745-4(C)(1) allowing for a 1 detached garage, maintaining a front yard setback of 30 feet as required by §745-13(B)(2), a side yard setback of 20 feet as required by §745-13(B)(3), and provisions set forth in §756-36 (garages).

The proposed new placement of the framed shed and porch is in compliance with provisions set forth in §745-4(C)(3) allowing for a legal non-conforming structure to be moved to a new location on the property while maintaining setback provisions of the chapter.

The proposed placement maintains a front yard setback of 30 feet as required by §745-13(B)(2) and a side yard setback of 20 feet as required by §745-13(B)(3).

The building exterior (windows, siding, trim, soffit, and fascia) will match the existing principal structure (see pictures).

This project will allow the Owner's and guests to park off street and bring the structures, with new garage, in compliance with front and side yard setback provisions of the chapter.

The proposed Pergola on the property is in compliance with provisions set forth in §745-7(B)(3)(h) height and front yard setback and §745-13(B)(2) side yard setback.

PROPOSED PROJECT

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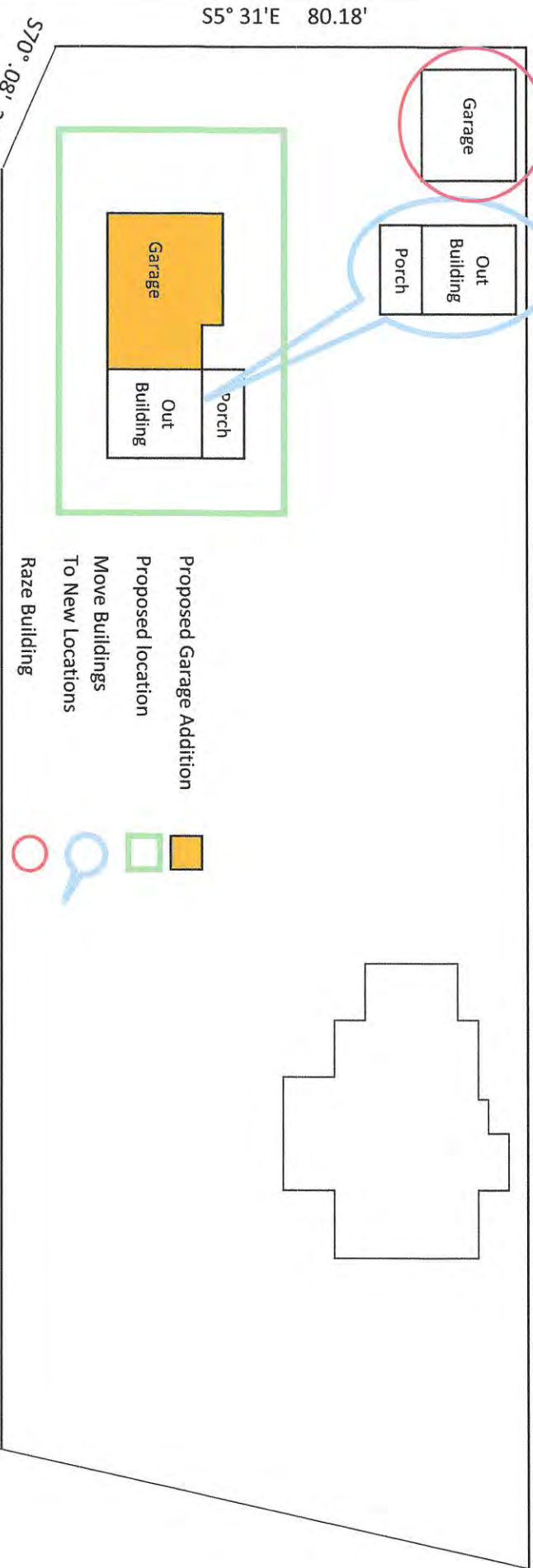
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Choice No

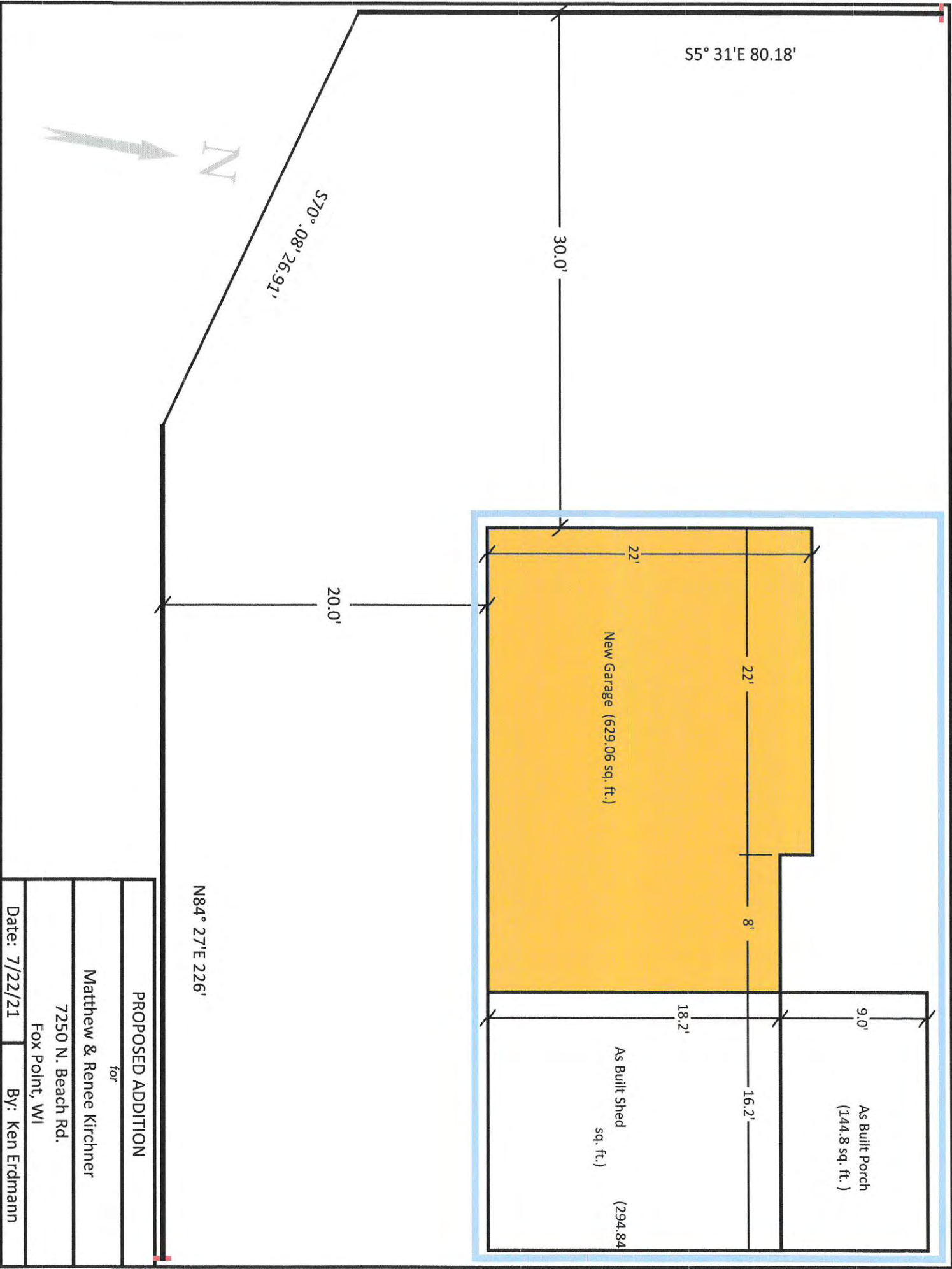
A.R.H.
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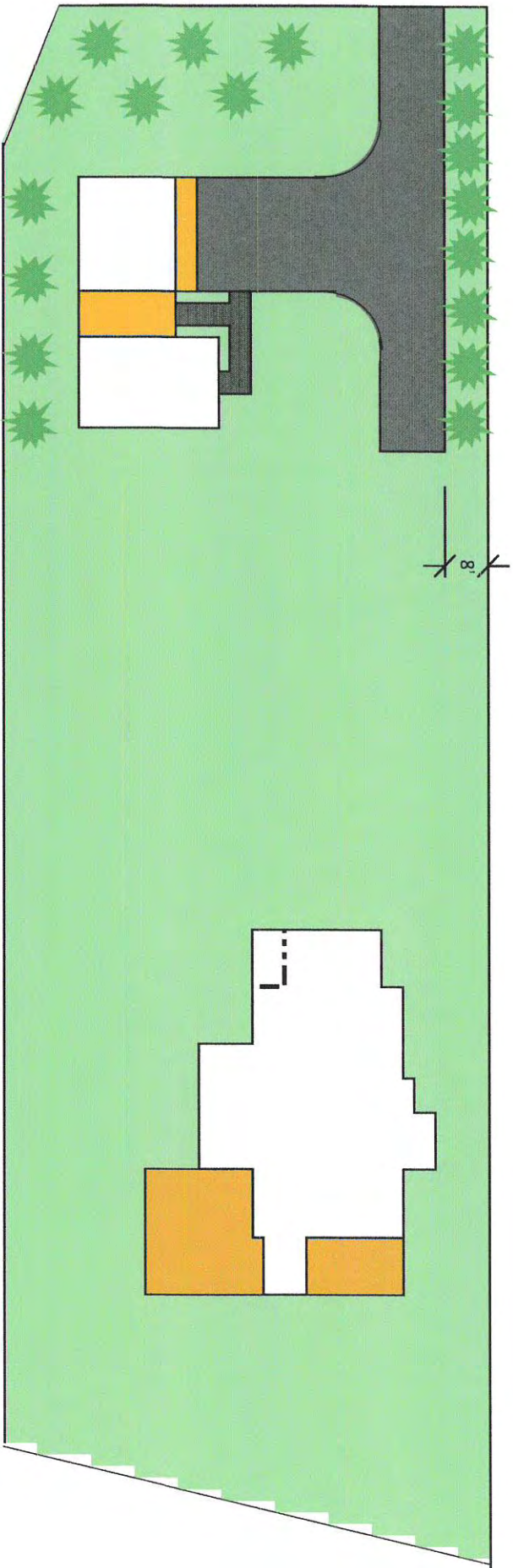
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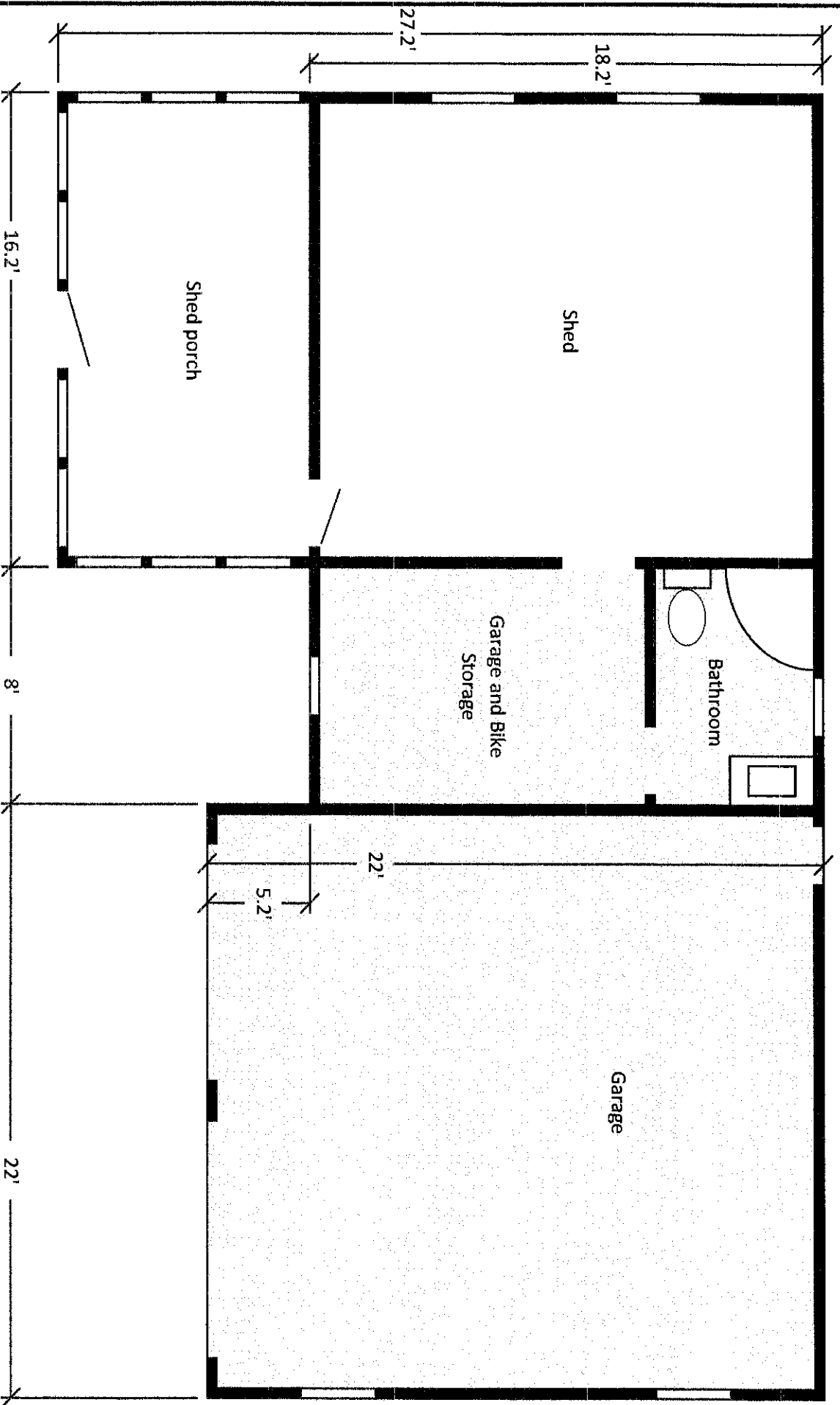
Building Area		Lot Area	
Main House:	1,549.25 sq. ft.		
Garage:	629.60 sq. ft.		
Porch:	144.80 sq. ft.		
Out Building:	294.84 sq. ft.		
Total:		23,889.30 sq. ft.	10.96%

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann





PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann

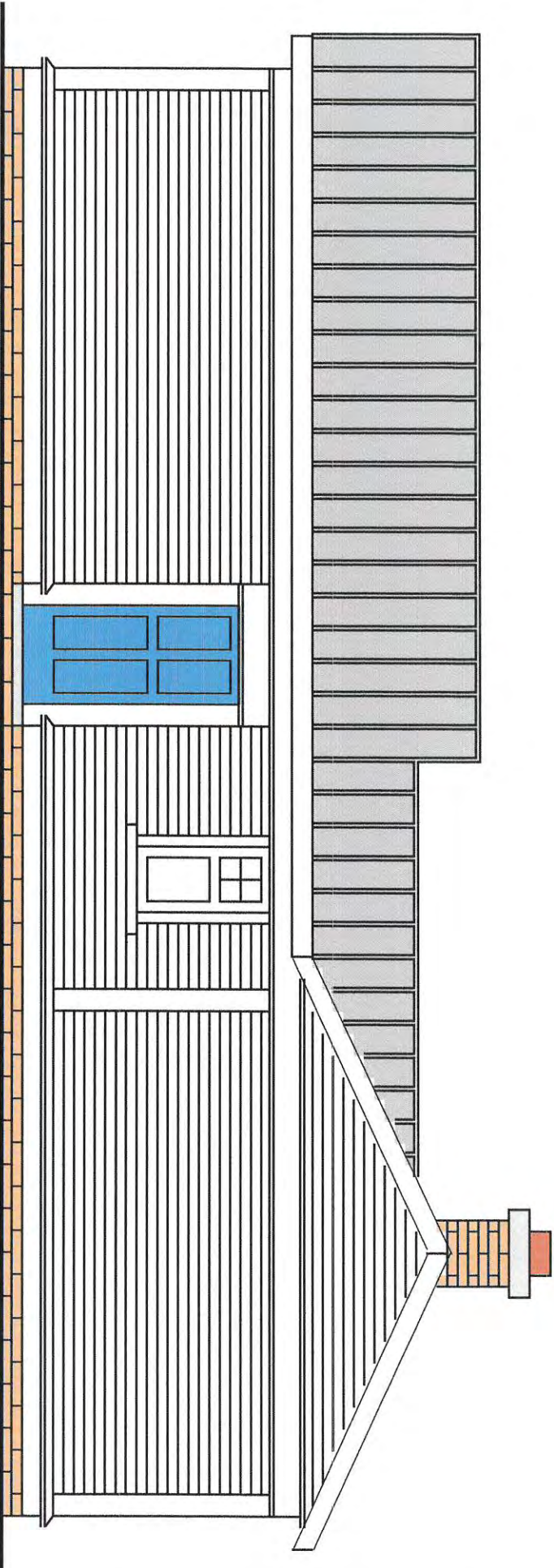


PROPOSED ADDITION		
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Matthew & Renee Kirchner		
7250 N. Beach Rd.		
Fox Point, WI		
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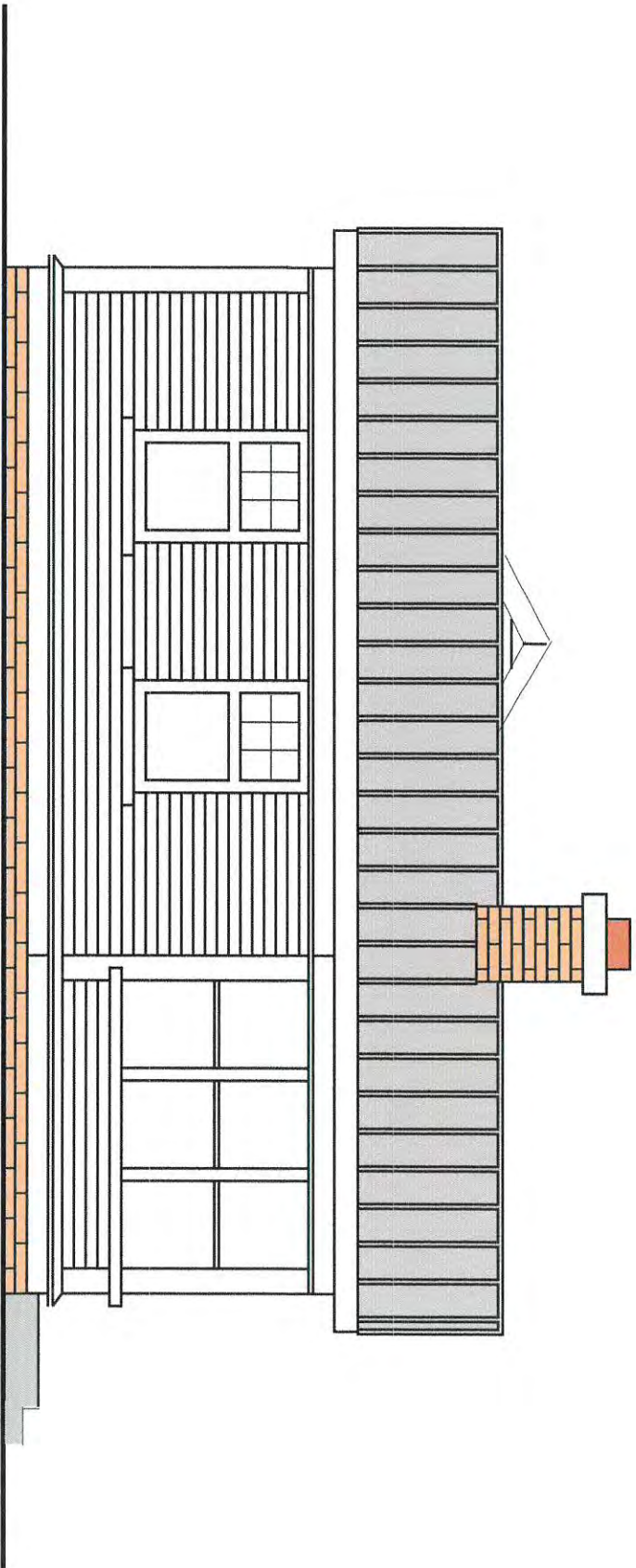
North Elevation

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann



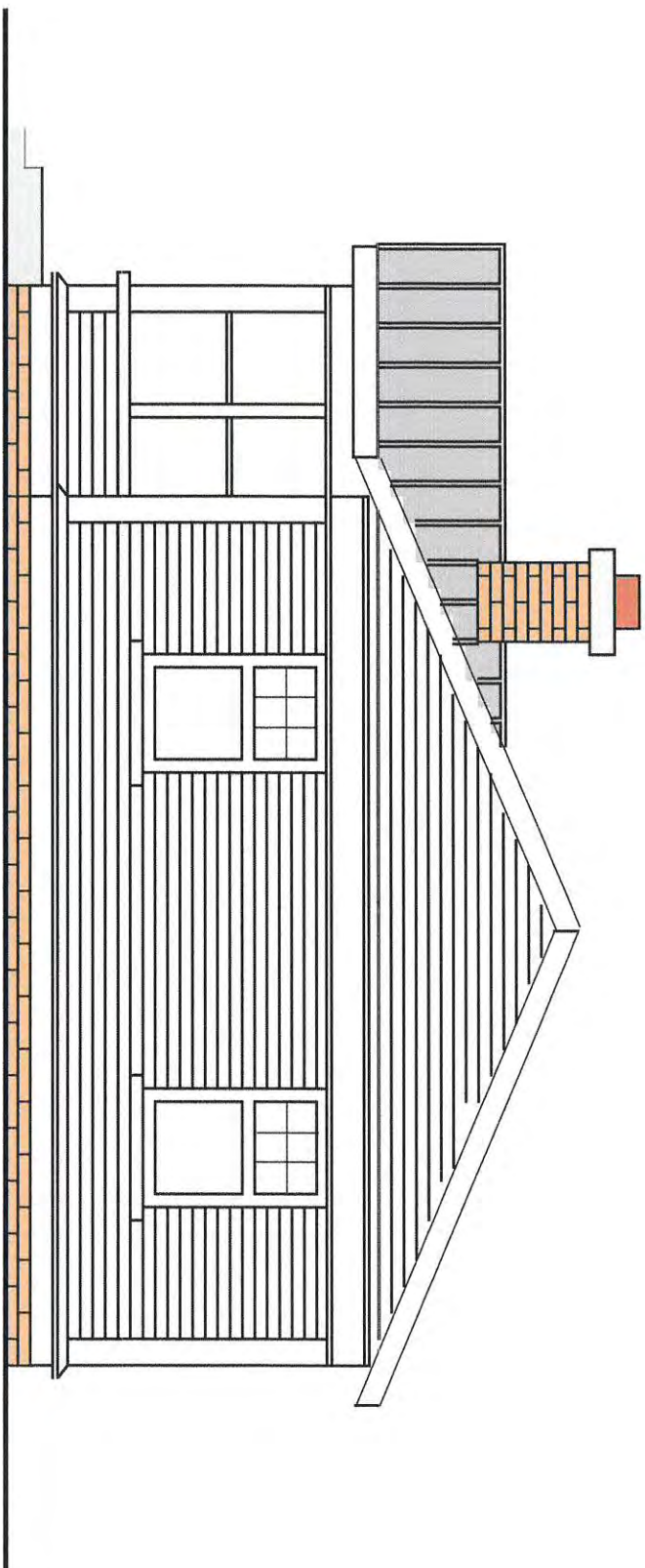
South Elevation

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann



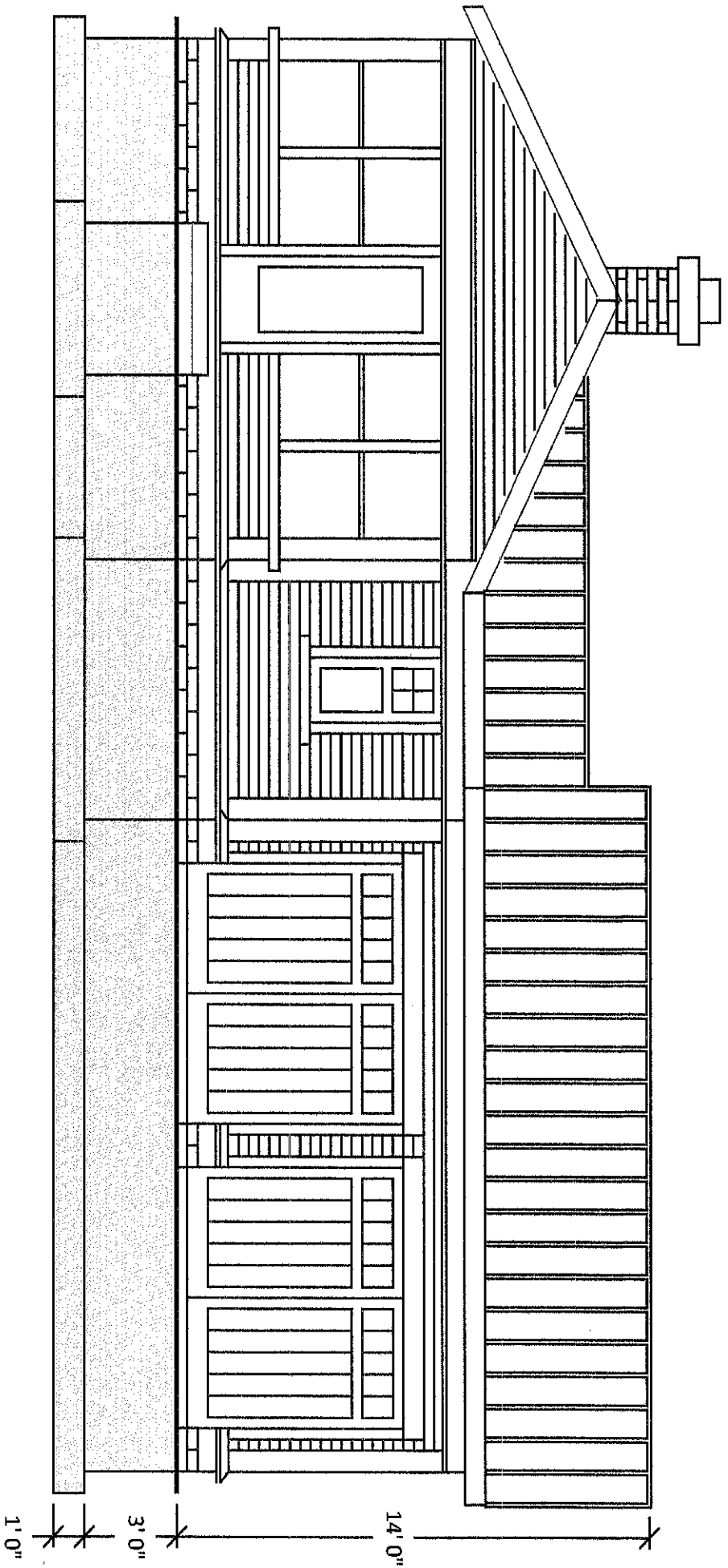
East Elevation

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann



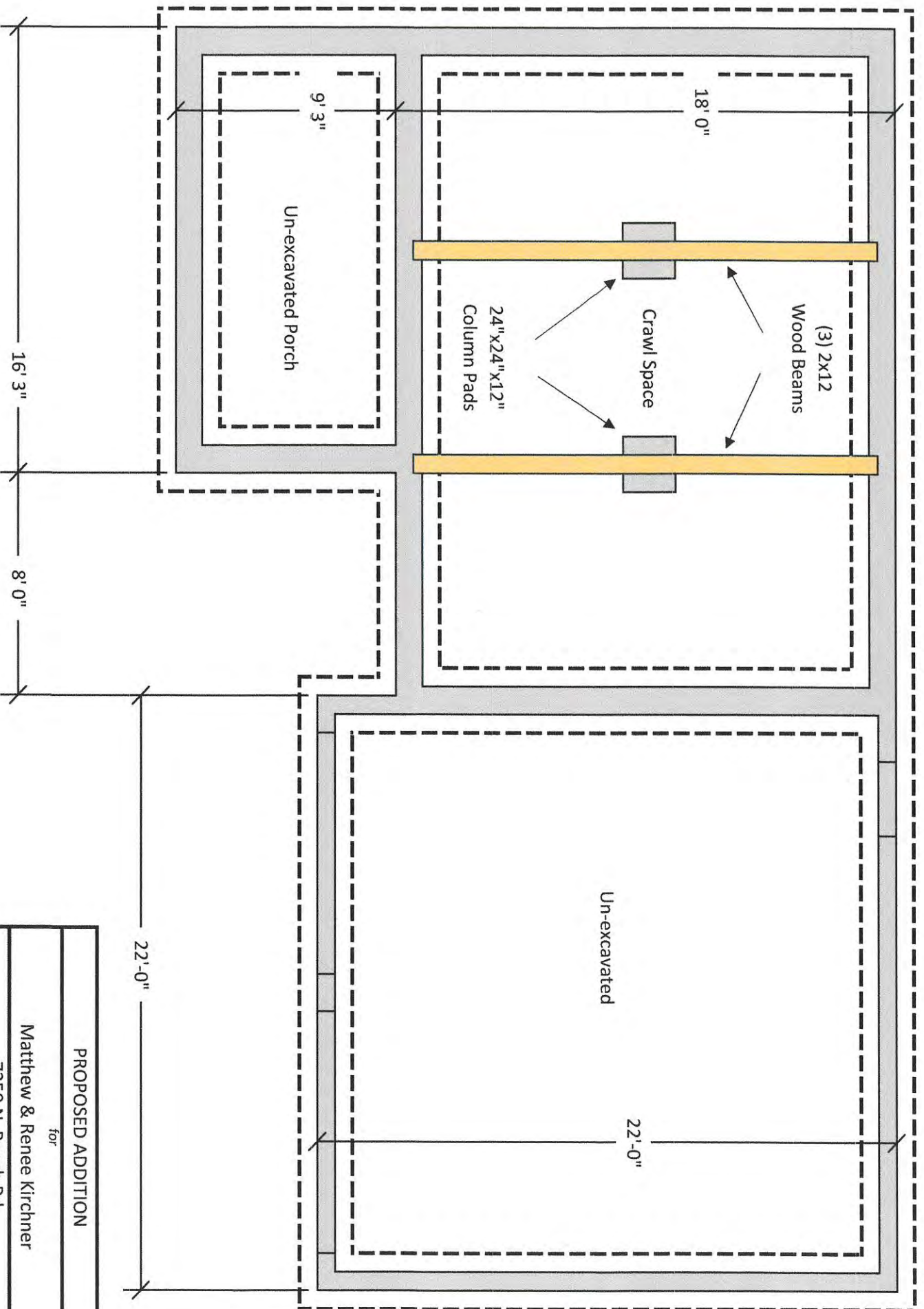
West Elevation

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann

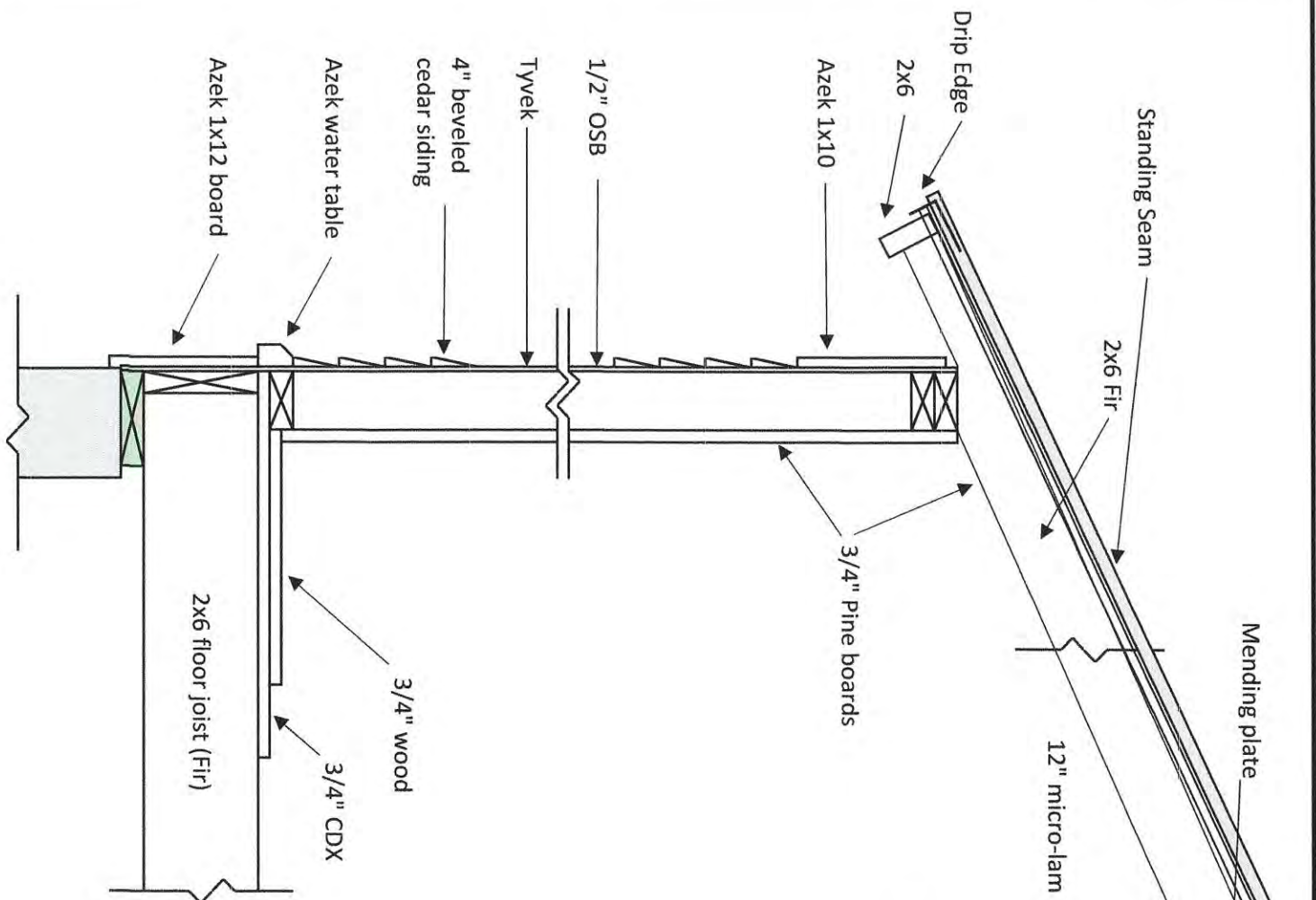


North Elevation

PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann

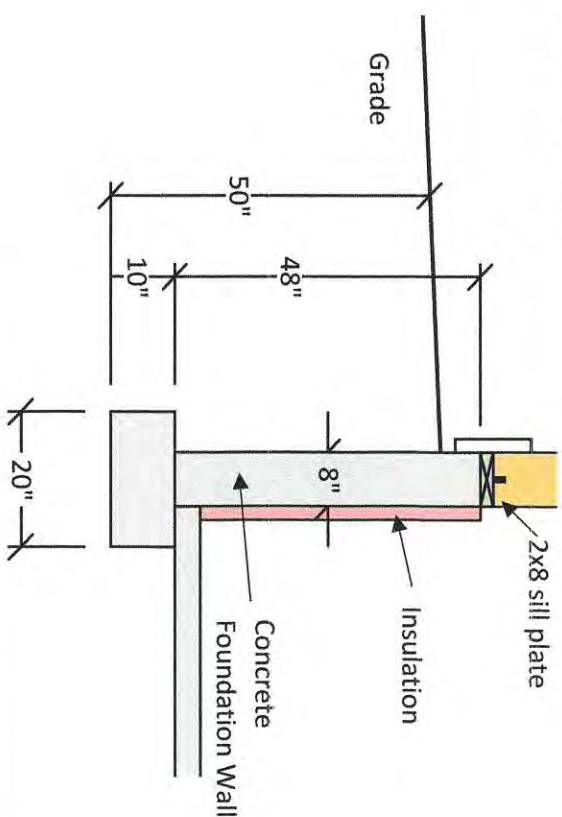


PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann



Notes:

- 1) Insulation - spray closed cell foam
- 2) Roof - Standing seam
- 3) Windows and doors- TBD
- 4) Fireplace - TBD



PROPOSED ADDITION	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
Date: 7/22/21	By: Ken Erdmann

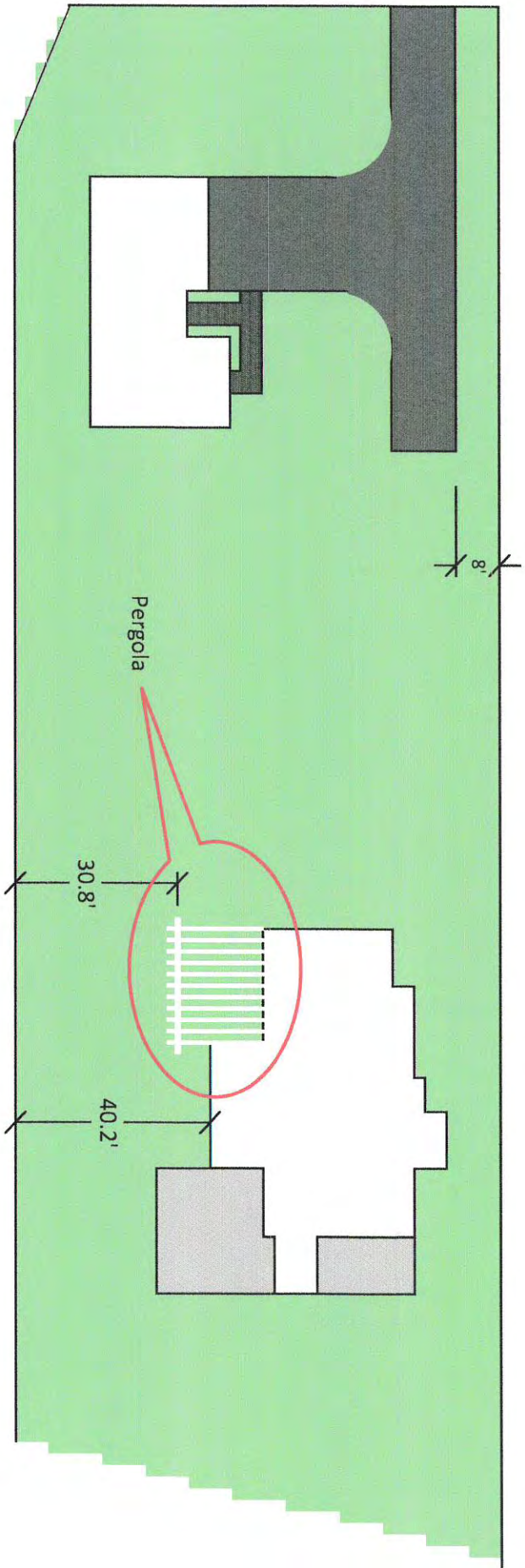








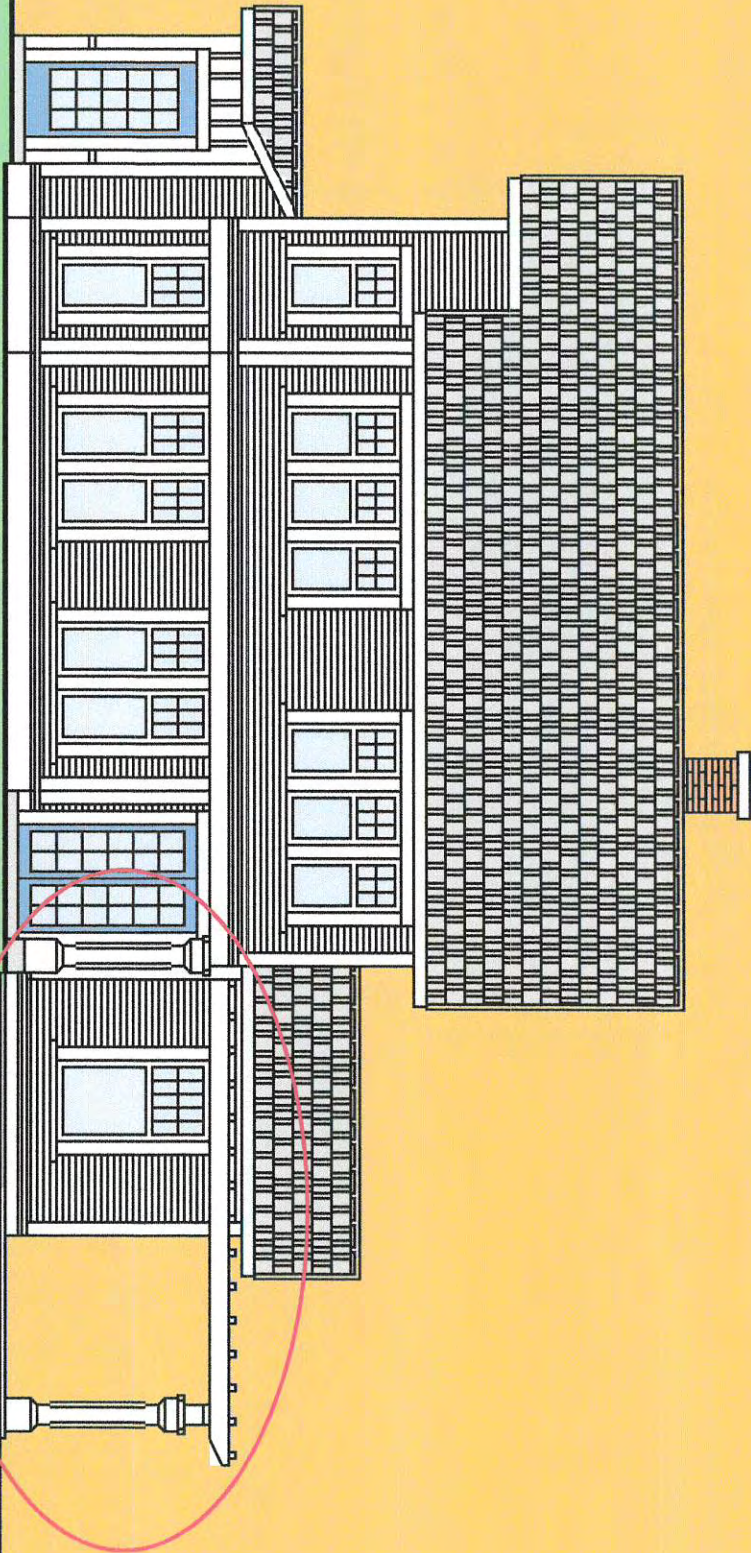




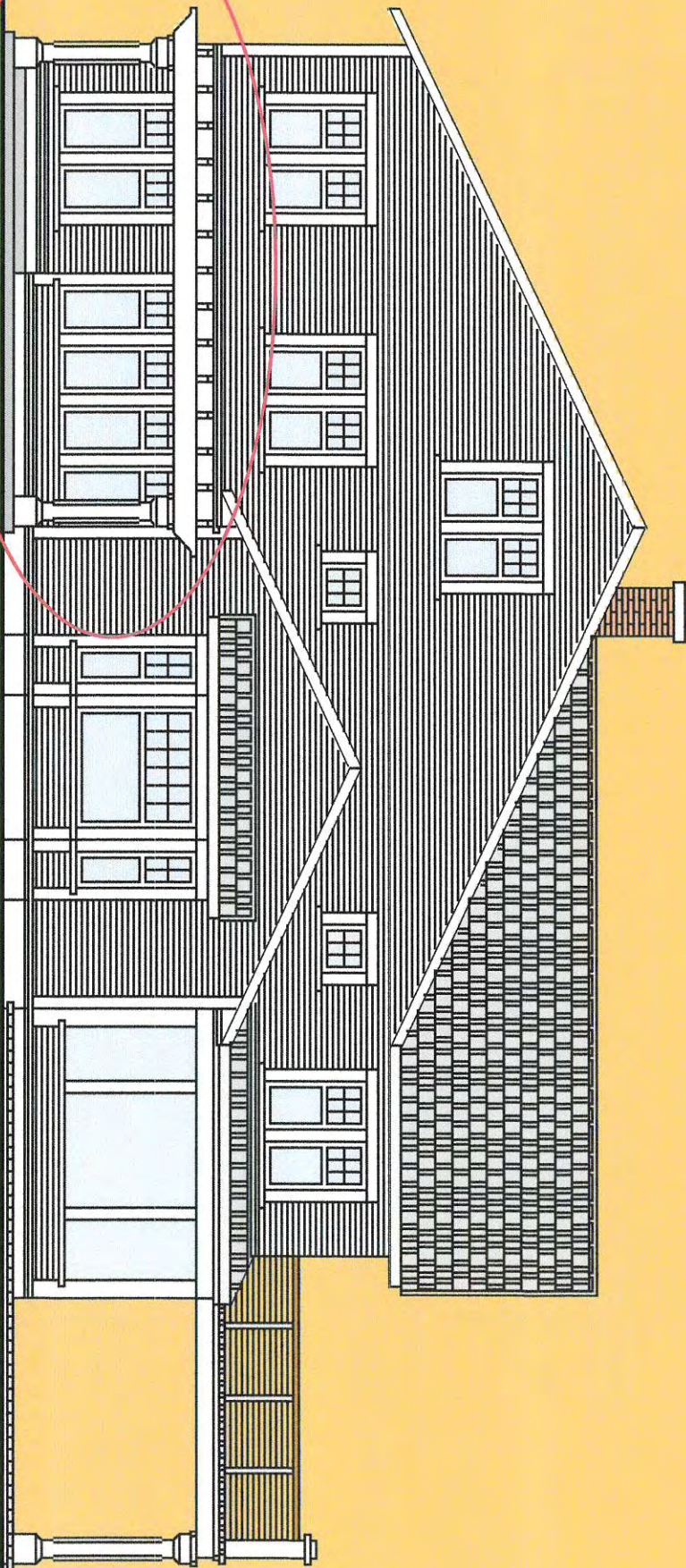
PROPOSED PERGOLA	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
9/1/2021	By: Ken Erdmann

West Elevation

Pergola



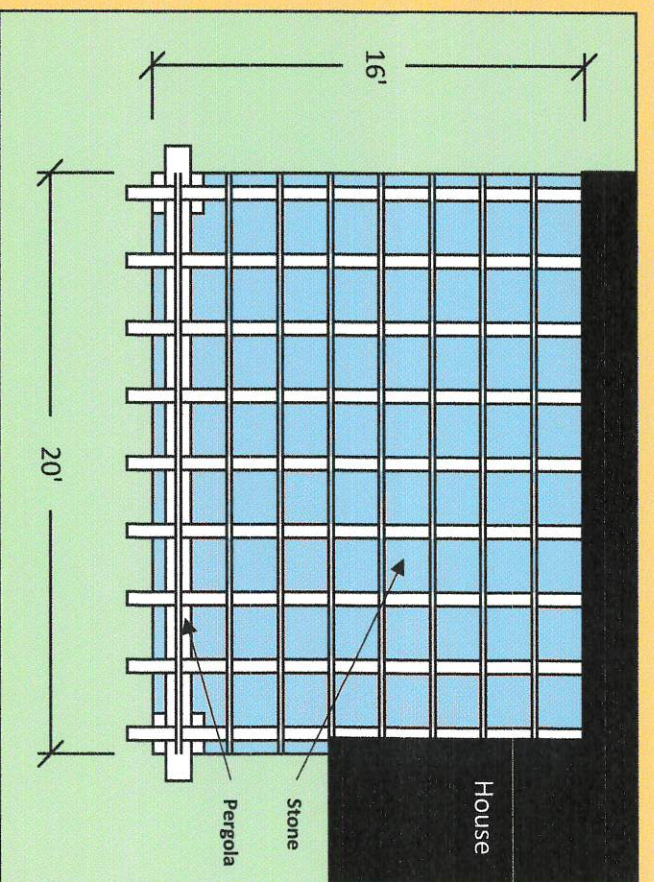
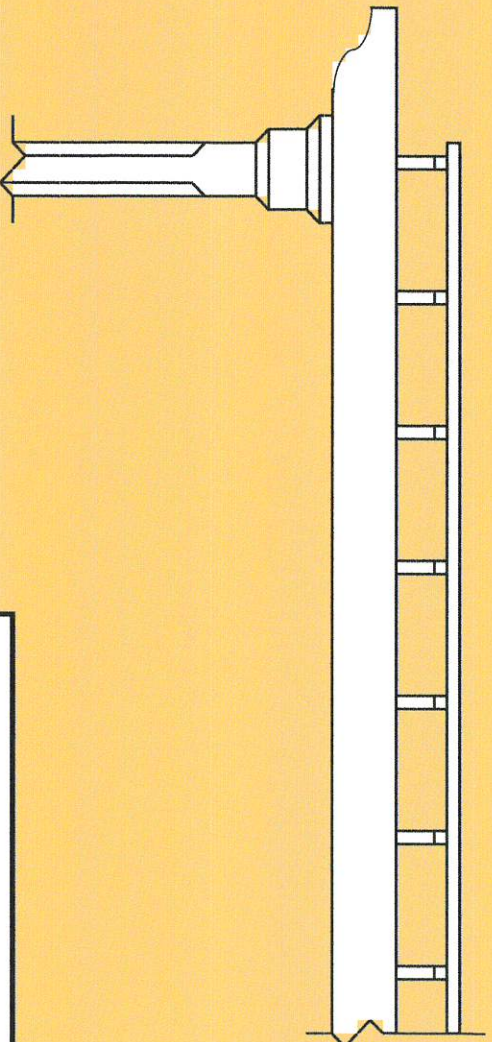
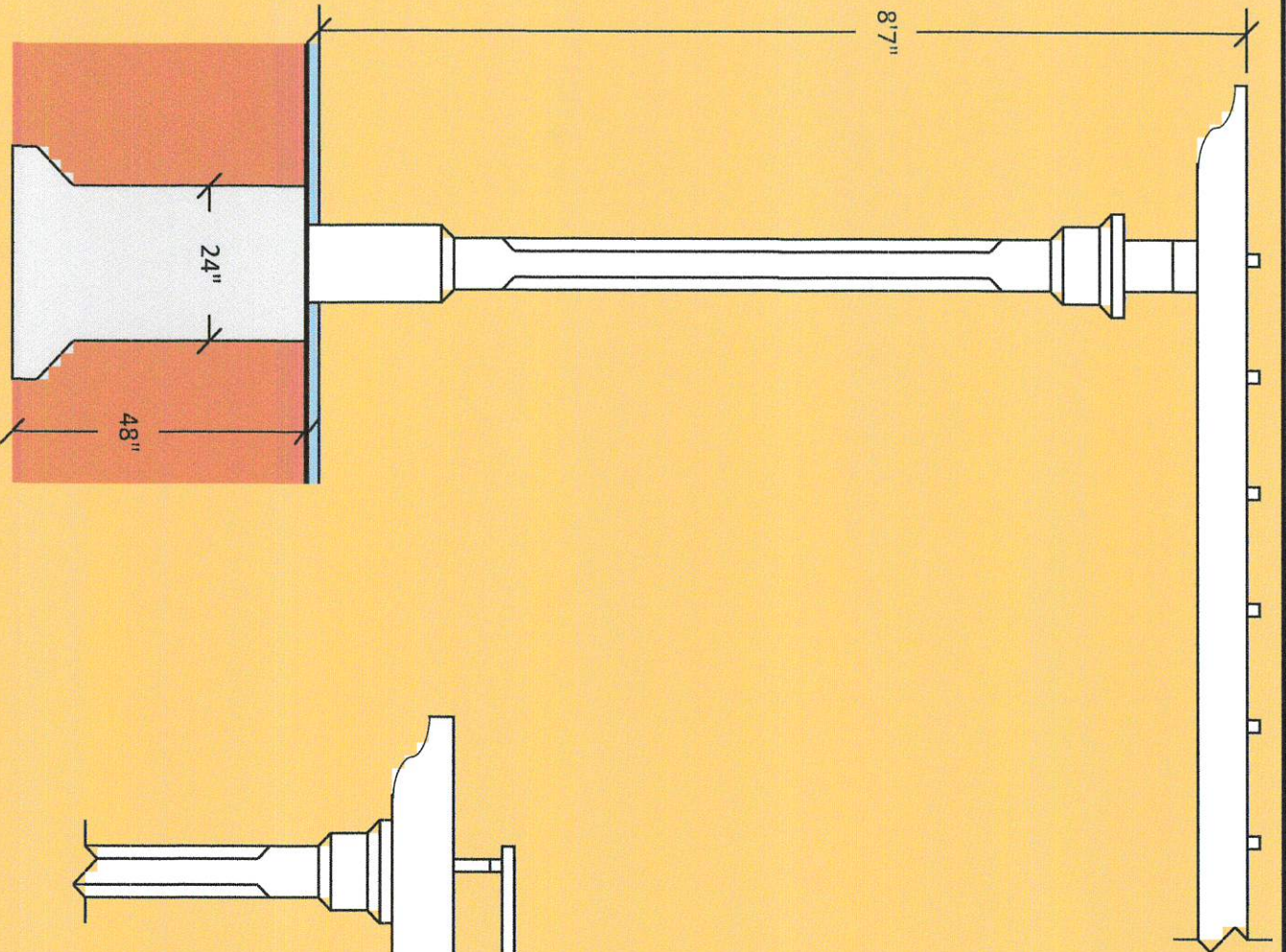
PROPOSED PERGOLA
FOR
Matthew & Renee Kirchner
7250 N. Beach Rd.
Fox Point, WI
9/1/2021 By: Ken Etomann



Pergola

South Elevation

PROPOSED PERGOLA
for
Matthew & Renee Kirchner
7250 N. Beach Rd.
Fox Point, WI
9/17/2021 by: Ken Erdmann



PROPOSED PERGOLA	
for	
Matthew & Renee Kirchner	
7250 N. Beach Rd.	
Fox Point, WI	
9/1/2021	By: Ken Erdmann

VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-351-8900

Receipt No: 1.057032

Dec 28, 2021

Energy Savings Solutions-7250 N Beach

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	200.00
10-44540 OTHER PERMIT	
Total:	200.00
CASH	200.00
Payor: Energy Savings Solutions-7250 N Beach	
Total Applied:	200.00
Change Tendered:	.00

Duplicate Copy

12/28/2021 8:26 AM

§ 745-4. Existing nonconforming uses, structures and lots.

- A. Existing nonconforming uses. The lawful nonconforming use of land without structures, or the lawful nonconforming use of water, or a lawful nonconforming use in a conforming structure, or a lawful nonconforming use in a nonconforming structure, or a lawful nonconforming use on a conforming lot, or a lawful nonconforming use on a nonconforming lot, or a lawful nonconforming use of land with conforming structures, or a lawful nonconforming use of land with nonconforming structures which existed at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter; however:
- (1) Only that use in actual existence at the time of the adoption or amendment of this chapter may be so continued as a legal nonconforming use and said use may not in any way be extended, enlarged, substituted, moved, added to or changed.
 - (2) No structure on lands containing a legal nonconforming use may be extended, enlarged, totally rebuilt, substituted, moved, remodeled, modified, or added to except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter. This subsection does not apply, however, to structural repairs or alterations that are made in strict compliance with § 62.23(7)(h), Wis. Stats., including such amendments as may be made thereto from time to time.
 - (3) No lot or lands containing a legal nonconforming use may be reduced in size, modified, increased in size or changed in any manner except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter.
 - (4) If a legal nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water must conform to the provisions of this chapter.
- B. Existing nonconforming lots containing conforming uses and/or conforming structures. A building may be erected on a lot of record on April 22, 1958, which lot does not comply with the requirements of this chapter, provided as follows:
- (1) In the case of such substandard lot which adjoins, along a side lot line, property held in the same ownership, as defined in Chapter 738, Subdivision of Land, of this Code, no building permit shall be issued until a determination has been made by the Plan Commission in the manner provided by § 738-6.
 - (2) No building permit shall be issued where in the opinion of the Building Inspector the erection of a building on such substandard lot would impair or jeopardize the health, safety and general welfare of the surrounding neighborhood or of the Village.
 - (3) No dwelling erected pursuant to the provisions of this section shall occupy an area of a lot which exceeds:

- (a) A Residence District: 15% of the gross area of the lot together with the area of abutting land reserved for highway purposes, whether public or private, to the center line thereof;
 - (b) B Residence District: 30% of the gross area of a lot; or
 - (c) C Residence District: 45% of the gross area of a lot.
- (4) Where the proposed erection of a building on such substandard lot would require a variance from requirements in addition to the lot area and width, such variance must be sought in the normal manner in such case from the Board of Appeals.
- (5) The application of this section in respect to any area annexed to the Village shall apply to parcels of land and lots as they are owned when annexed.
- C. Existing legal nonconforming structures on a conforming lot or nonconforming lot with legal conforming uses.
 - (1) The legal conforming use of a nonconforming structure existing at the time of the adoption or amendment of this chapter whether on a conforming lot or nonconforming lot may be continued, even though the structure's size or location does not conform to the established building setback line along streets, or the open space, yard, height, parking, loading and/or access provisions of this chapter.
 - (2) The aforementioned structure may be extended, enlarged, substituted, moved, remodeled, modified or added to as long as any such change which alters the footprint of the structure must conform to the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter. In addition, such structure may be totally rebuilt if such reconstruction is identical in size and shape and use to the original structure.
 - (3) Legal nonconforming structures existing at the time of the adoption or amendment of this chapter with a legal conforming use whether on a conforming or nonconforming lot may be moved and if moved must conform to the established building setback lines along streets and the open space, yard, height, parking, loading, and access provisions of this chapter.
 - (4) Any applicable restriction in this section which prohibits restoration of a damaged or destroyed nonconforming structure shall not apply to the extent that 2005 Wisconsin Act 112 applies to such restoration, including such amendments and renumbering of the applicable statutes referred to therein as may be made from time to time.¹
- D. Burden of proof. The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Building Inspector upon proof presented by the property owner that the use, structure and/or

1. Editor's Note: See § 62.23(7)(hc), Wis. Stats.

lot is in fact legal nonconforming. Appeals from the decision of the Building Inspector concerning the determination of legal nonconformity may be made by any person aggrieved to the Village Board of Appeals. Such appeal shall be filed with the Village Clerk/Treasurer within 30 days after the determination of the Building Inspector.

- E. Reversion. Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to legal nonconforming status.
- F. Conditional use status.
 - (1) Conditional use status may be granted to existing legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, upon petition of the owner, where such use, structure or lot is determined to not be any of the following:
 - (a) Adverse to any of the following:
 - [1] Public health;
 - [2] Safety; or
 - [3] Welfare.
 - (b) Would not conflict with the spirit or intent of this chapter; or
 - (c) Would not be otherwise detrimental to the community and particularly the surrounding neighborhood.
 - (2) Such conditional use status may be granted by the Village Board only after the Village Board conducts a public hearing in the matter, and following receipt of a recommendation from the Village Plan Commission.

§ 756-9. Regulations for moving buildings.

- A. General. No person shall move any building or structure upon any of the public rights-of-way of the municipality without first obtaining a permit therefor from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
- B. Moving damaged buildings. No building shall be repaired, altered or moved within or into the municipality that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) 50% or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the municipality.
- C. Continuous movement. The movement of buildings shall be a continuous operation during all the hours of the day, and day by day and at night, until such movement is fully completed. All of such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.
- D. Street repair. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report the fact to the Building Inspector, who shall thereupon in the company of the Director of Public Works/Village Engineer inspect the streets and highways over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in good repair as they were before the permit was granted. On the failure of the said permittee to do so within 10 days thereafter to the satisfaction of the governing body, said body shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of same.¹
- E. Conformance with chapter. No permit shall be issued to move a building within or into the municipality and to establish it upon a location within said municipality until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling, with reference to such building, shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that when same are completed, the building, as such, will so comply with said Building Code. In the event a building

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

is to be moved from the municipality to some point outside of the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

F. Bond.

- (1) Before a permit is issued to move any building over any public way in this municipality, the party applying therefor shall give a bond to the municipality in a sum, to be fixed by the Building Inspector, and which shall not be less than \$1,000, said bond to be executed by a corporate surety or two personal sureties to be approved by the governing body or designated agent conditioned upon, among other things, the indemnification to the municipality for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment, together with the costs or expenses incurred by the municipality in connection therewith, arising out of the removal of the building for which the permit is issued.
- (2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the falling into such excavation by children under 12 years of age unlikely, the bond required by Subsection F(1) shall be further conditioned upon the permittee erecting adequate barriers and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

G. Insurance. The Building Inspector shall require, in addition to said bond above indicated, public liability insurance covering injury to one person in the sum of not less than \$100,000 and for one accident in a sum not less than \$200,000, together with property damage insurance in a sum not less than \$50,000, or such other coverage as deemed necessary.

H. Plan Commission or other assigned board or commission.

- (1) No such permit shall be issued unless it has been found as a fact by the Plan Commission of the municipality by at least a majority vote, after an examination of the application for the permit which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved or moved and altered will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district established by the zoning ordinances of the municipality or any ordinance amendatory thereof or supplementary thereto as

to cause a substantial depreciation in the property values of said neighborhood within said applicable district. In case the applicant proposes to alter the exterior of said building after moving the same, he shall submit, with his application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a bond to the municipality's Plan Commission, which shall not be less than \$1,000, to be executed in the manner provided in Subsection F hereof to the effect that he will, within a time to be set by the Plan Commission, complete the proposed exterior alterations to said building in the manner set forth in his plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the municipality. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.

- (2) Upon application being made to the Building Inspector, he shall request a meeting of the Plan Commission to consider applications for moving permits which he has found comply, in all respects, with all other ordinances of the municipality. The Plan Commission may, if it desires, hear the applicant for the moving permit in question and/or the owner of the lot on which it is proposed to locate the building in question, together with any other persons, either residents or property owners, desiring to be heard, giving such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time and within 48 hours after the close of the hearing, the Plan Commission shall, in writing, make or refuse to make the finding required by Subsection H(1) hereof and file it in the office of the Clerk/Treasurer, who shall send a copy of it to the Building Inspector.



VILLAGE OF FOX POINT

MILWAUKEE COUNTY

WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT WI 53217-3505
414-351-8900
FAX 414-351-8909

**VILLAGE OF FOX POINT
NOTICE OF BOARD OF APPEALS MEETING
REQUEST FOR INTERPRETATION OF ZONING CODE &
REVERSAL OF ORDER, REQUIREMENT, DECISION OR DETERMINATION OF
ADMINISTRATIVE OFFICIAL**

PLEASE TAKE NOTICE that the Fox Point Board of Appeals will meet in Schwemer Hall, 7200 N. Santa Monica Blvd, Fox Point, WI, on Thursday, February 10, 2022 at 5:00 p.m. to hear the following appeal:

1. **Case 2022-01: 7250 N Beach Rd.** The applicant is requesting the interpretation of the Village Zoning Code and reversal of order, requirement, decision or determination of an administrative official in regard to Village Zoning Code 745-4 (C)[1-3] and 756-9.

Any interested party may attend this meeting and be heard concerning this case.

The applications, drawings, and related materials are available for viewing in the office of the Village Clerk/Treasurer, Monday through Thursday from 8:00 a.m. - 4:00 p.m. and on Friday from 8:00 a.m. to 12:00 noon.

Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer

Notice Mailed: [January 18, 2022]
Posted: [January 18, 2022]



Village of Fox Point GIS 7250 N. Beach Drive

DISCLAIMER: The Village of Fox Point Does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives. SCALE: 1" = 188'



VILLAGE OF FOX POINT
7200 North Santa Monica Blvd
Fox Point, WI 53217
(414) 351-8900

Print Date: 1/14/2022