

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

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

WEDNESDAY
MARCH 2 2022
5:00 P.M.

AGENDA

- 1. Roll Call**
- 2. Approval of the Minutes and Determinations – February 10, 2022 Meeting**
- 3. Case 2022-02: 8303 N Greenvale Rd.** The applicant is requesting a variance pertaining to Section 745-16 of the Fox Point Village Code in the B Residence District, concerning front yard setback requirements. A front yard setback 60 feet from the centerline of Greenvale shall be provided for the building. The applicant is proposing to install an improved garage approximately 8 feet into the setback area.
- 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.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, FEBRUARY 10, 2022**

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Thursday, February 10, 2022 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 Board of Appeals' Attorney Christopher Jaekels, Building Inspector's 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 December 9, 2021 Meeting and the Findings of Fact, Decision and Order

Member Mark Grady requested grammatical errors be corrected in the minutes of December 9, 2021 on lines 254, 302, 303, 305, 388, 424, and 617.

On the motion by Member Mark Grady, seconded by Member Thomas Dunst, and carried unanimously, the Board of Appeals approved the December 9, 2021 minutes and the Findings of Fact, Decision and Order of the last meeting, as amended.

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.

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's Attorney Eric Larson

Building Inspector's Attorney Eric Larson stated his name and was sworn in to provide testimony by the Village Clerk Treasurer.

Building Inspector Michael Rakow gave background on Case 2022-01. The first item, the applicant would like to raze the garage and move the accessory building. If you refer to the survey with legal descriptions, this property has three parcels. Parcel 1, parcel 2 and a parcel 3 with an easement that the village owns.

Building Inspector Attorney Eric Larson inquired if the Building Inspector had received a survey from the applicant regarding this property. Building Inspector Attorney Eric Larson commented it is in the Board of Appeals packet.

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Building Inspector Attorney Eric Larson distributed [Exhibit A-also included in the packet], the property survey. It was noted the date shown on the survey was August 18, 2020. On the survey it shows two parcels – parcel 1 and parcel 2. The lot line that separates parcel 1 and parcel 2 actually goes right through the home.

Building Inspector Attorney Eric Larson stated when you said there is more than one parcel on this property, that is what you are referring to, correct? Building Inspector Michael Rakow stated it is.

Parcel 3 was briefly discussed. Building Inspector Attorney Eric Larson stated the crux of the matter is parcel 1 and parcel 2.

Further clarified was the applicant, Kenneth Erdmann is not the owner, but is the appellant/applicant in Case 2022-01.

Building Inspector Attorney Eric Larson inquired further of the Building Inspector Michael Rakow what the applicant is seeking here. Building Inspector Michael Rakow stated the frame garage on parcel 2 is going to be razed. The frame shed on parcel 2 is going to be moved to parcel 1. The applicant is also seeking a new garage build on parcel 1 as well.

Chairman Kurt Ostoic inquired if the everything currently standing meets the current setbacks. Building Inspector Michael Rakow stated in his opinion it does not; these are two separate parcels, parcel 1 and parcel 2. This is not one lot. He is using the middle line or the center line between parcel 1 and parcel 2 as a lot line because if the owners were to raze the home, they could theoretically sell a parcel in his opinion. These are separate lots; therefore, it is being evaluated by working off the lot lines/setbacks. It appears that the frame shed, as placed on parcel 1 will be too close to the center lot line.

Building Inspector Attorney Eric Larson addressed Chairman Kurt Ostoic asking if he would prefer to swear the appellant in or if the Board would like to hear from him. He further stated he has a legal argument. To better clarify, Attorney Eric Larson stated tonight, he is not representing the Board, he is representing the Building Inspector. That is the reason for special council representing the Board tonight.

Chairman Kurt Ostoic stated he would like to understand the Building Inspector Attorney Eric Larson's determination of definition of the two parcels.

Member Mark Grady stated he is not sure he understands the argument, so the Board will hear from Attorney Larson. If this is treated as one entire parcel, rather than two for the sake of argument and ignore the dividing line down the center of the lot, are there any setbacks requirements with what they want to do in that scenario. So, the issue really is the parcel lot line.

Building Inspector Michael Rakow stated that is correct.

Building Inspector Attorney Eric Larson stated the entire issue is whether this is one lot

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or two lots. Prior to 2017, he would have ruled in his opinion that it is one lot. He would have made that argument under theory called merger title. Meaning, even though it appears to be two parcels, he would have said that is one lot because the title to those parcels are being held in common and fairly intending it to be one lot the title is considered merged. In 2017, in a case in Murr v. Wisconsin, that was Attorney Larson's office argument before the Supreme Court. This went to the U.S. Supreme Court. The issue was they were representing St. Croix County. There were two lots up against the river. One property owner owned both the lots. The owner had a home over on the side of one lot, with some things over the lot line. The owner wanted to sell the other lot. The county said no you cannot sell the lot; it is one lot. We realize that is shows up in the tax records as two lots, but we have taxed it as one lot, you have used it as one, you own it as one, and it is treated as one. But you cannot sell that lot because the title is merged. Municipal Law & Litigation Group argued that in Wisconsin State Court and it went all the way to the U.S. Supreme Court. They won in the Court of Appeals, they won in state court and they won in the U.S. Supreme Court saying that is one lot. Property rights people in the State of Wisconsin didn't like that result. They thought you have taken away one of his lots. That is not right. You have two lots. You should be allowed to have two lots. You should have been allowed to sell that lot. I understand that lot is too small. It is non-conforming and doesn't comply with the zoning code, but it exists and he should be able to sell it. They convinced the state legislature to change our laws in 2017. In 2017, Wisconsin Act 67 laws changed to prohibit merger title. Ever since this case happened, throughout the State of Wisconsin, including Fox Point, many people have said I don't like that result. The property owners have combined their parcels by CSM (Certified Survey Map) to get rid of that lot line. As shown in Attorney Larson's drawing, there is a lot line going through their house. That creates problems for the owners. So, it is combined by a CSM. Then it is cleared and everyone agrees it is one lot. Certified Survey Maps get approved as a matter of course to get rid of that problem. The fact that they are assessed as one, that was true in Murr v. Wisconsin as well.

Chairman Kurt Ostoic inquired why the owners have not combined the lot. Attorney Larson replied yes you can ask the appellant that questions once they are sworn in.

Attorney Larson stated the fact that they are assessed as one was true in Murr v. Wisconsin, as well. It supports the theory of merger entitlement. There is no merger entitlement statutorily. We do have a state law that says that the assessor can treat them as one; that is still the law of assessment. For purposes of property law, when there are two lots, you can sell them or you can build on them. They are nonconforming, but there are two lots.

Member Mark Grady inquired of Building Inspector Attorney Eric Larson, if it is possible that the U.S. Supreme Court ruling addresses property ownership and the ability to transfer property which can be distinguished from zoning interpretation. Perhaps you could have one lot under assessment according to the law, you could have one lot for zoning interpretation in a different legal standard that applies to property ownership law.

Building Inspector Attorney Eric Larson distributed Wisconsin State Stats, Section 66.10015 with highlighted provisions. He stated we are preempted from treating the parcels as though they have been merged. Attorney Larson pointed out the language in Section 66.10015(2)(e)1. We cannot prevent them from zoning exemption. He further noted, in Section, 66.10015(2)(e)2, in this case they probably could not use the parcel as a building site.

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Subsection, 66.10015(4), without the consent of the owners of the lots that are to be merged. He stated this is potentially relevant. It is potentially possible that the owners could consent to these lots being merged. It could not be implied. That was the whole reason for the merger entitlement, it was implied. This cannot be implied and therefore needs clear written consent. That is Attorney Larson's position that unless these lots consist under the current configuration, they cannot move a nonconforming building from one lot to the other. They cannot move it across that property line and they also have to measure the setbacks because that property line exists.

Chairman Kurt Ostoic clarified his understanding that the property owners can go ahead and build a new garage and a new shed, as long as they have the proper setbacks per parcel.

Building Inspector Attorney Eric Larson stated that is correct. But they cannot move that building across the lot line. There is a separate ability to move a building over from one lot to another but it would need Plan Commission's approval. They are contending they do not need Plan Commissions approval because nonconforming buildings are allowed to be moved on the same lot. So again, it comes down to whether this is just one lot or two lots. From his perspective and as the Building Inspector said, it is easily solved by a CSM. Unless we fix these problems when we see them, the problems are just going to occur. So, it is in the best interest to fix the problems where we see them.

Board of Appeals Christopher Jaekels asked to clarify both issues. The first issue is razing the garage and moving the shed is the second issue.

Building Inspector Attorney Eric Larson stated they can raise the shed and they can build a new garage but it just has to be in an appropriate location. The lot line is the issue.

Member Thomas Dunst inquired what the procedure is for obtaining a CSM.

Building Inspector Attorney Eric Larson stated they already have a survey. What they need to do is talk to their surveyor and say give us a Certified Survey Map, which is an advanced version of the survey map, which eliminates that lot line. Then it gets filed and reviewed by the Plan Commission. Plan Commission makes a recommendation to the Village Board and then the Village Board acts on it.

Member Mark Grady stated just looking back over personal recollection in the last year or two, I found at least two instances one of which he was involved with for Fox Point Lutheran Church taking 11 parcels and combining them into one parcel in the last year according to the CSM process mentioned prior. The other being a homeowner that was going through the same CSM process in the last year.

Building Inspector Attorney Eric Larson stated it is happening all the time all over the state for this very reason; it creates problems. Before 2017, this problem did not exist. It is due to a change in the law that is now requiring it.

Board of Appeals Attorney Christopher Jaekels inquired if there was a change in Village Code due to the changes with Wisconsin Act 67.

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Building Inspector Attorney Eric Larson stated he cannot remember if there were amendments. He does not think there were any directly related to this. There is some archaic language in our Village Code.

Board of Appeals Attorney Christopher Jaekels inquired to Building Inspector Attorney Eric Larson, none of that is implicated here as you see it. Building Inspector Attorney Eric Larson confirmed that is correct.

Owners Appellant/Representative Energy Save Solutions Kenneth Erdmann

Appellant/Representative Energy Save Solutions Kenneth Erdmann stated his name and was sworn in to provide testimony by the Village Clerk Treasurer.

Appellant/Representative Energy Save Solutions Kenneth Erdmann gave background testimony to Case 2022-01. He stated from his point of view, this is one of these situations where trying to make one size fits all does not work here. One of the issues we have here is this property has one tax key on Milwaukee County site, with a different legal description than what is shown here. We did note that there was this home survey lines showing division of the property and then these parcels were combined. All the time the two parcels keep showing up on the surveys. It is not a CSM at this point. One thing is the owner could sell this parcel to either the neighbor to the north or the neighbor to the south. But obviously not with a house right on top of the property lines. If you create a CSM, it prevents the owners from tearing down the house in the future and selling it to the neighbor to the north or to the south. They believe they are giving up some of their rights by forcing the owners to create a CSM. In the future, the owners may decide to tear everything down, sell it off, and move to a different state. They do not know what the future holds. We would like to not go down that avenue. Looking at the Village Code, it seems to be pretty straight forward. It is not talking about setback lines; it is talking about yard setbacks. It is talking about setbacks to protect your neighbor's rights. That is what the setbacks are for. You are guaranteed certain things you can do to enjoy your property. One of them is building structures within 20 feet of your neighbor. It says the neighboring yard. They are not contesting that they need to be 20 feet away from their neighbor. As far as moving those structures, you are also guaranteed the right to move the structures that already exist to a conforming spot on the property. There does not exist a spot on either parcel where those structures can be moved 20 feet from the edge, 20 feet from the center and 20 feet from the other edge. We have created a special circumstance here, where one size does not fit all. The owners are looking to keep 20 feet away from the neighbors and 30 feet away from the road and in the future if they decide to tear everything down and sell the parcels off, so be it. That is where he is at as far as relocating the structures. Everything we are trying to do here is to make it conforming. It is not only two feet off the property line. They want to move everything back from the property line and into a conforming status within that property. As far as welling one lot off, or the other lot, the property cannot be sold off other than to be purchased with another property because the lot is too small to sell off the parcels. Neither one of those parcels is a conforming lot. They could not be sold off if you separated the parcels unless the neighbor to the north or south were to purchase a lot. He stated that was not addressed by anything Building Inspector Attorney Eric Larson has mentioned. In the past by inference, the fact that the house was built with a property line right down the center, even then, the parcel line went right down the center. So even in the beginning it was viewed as one lot. He stated the code clearly states it is a yard setback and not a parcel setback.

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Chairman Kurt Ostoic inquired of Building Inspector Attorney Eric Larson what the definition of a yard setback is versus a parcel setback.

Building Inspector Attorney Eric Larson stated that is an interesting question. After 2017, Act 67 legislature has told us that these little segments have to be treated as separate ownership interests. They define what a substandard lot is means a legally created lot for a parcel that met an applicable lot size requirement when it was created. Therefore, these parcels were legal when they were created. We could look to the definitions in our Zoning Code book, but the fact of the matter is they are probably not right because it is preempted by Act 67. Act 67 says lot or parcel are interchangeable. Each of these is either a lot or parcel.

Appellant/Representative Energy Save Solutions Kenneth Erdmann said following that theory thought means you are forcing my clients to do something they do not necessarily want to do, which is creating a CSM. Which creates a hardship because they cannot ever build a garage or anything they want on their property, unless this whole thing is in court. He stated this is not the same scenario. There are nuances with this.

Member Mark Grady inquired of Attorney Larson, if he is understanding the argument correctly, your argument would be that by interpreting the zoning ordinance to treat this as one lot for zoning purposes, we are thereby requiring one or more lots to be merged. His question is, isn't there another alternative that those are not the same thing. Why isn't the interpretation of the zoning ordinance the same thing as requiring the lots to be merged. Requiring them to be merged in any legal fashion in terms of property ownership rights or the ability to convey it at some date in the future, we are not merging them for all intensive purposes and for all time. We are just interpreting a zoning ordinance to treat it within the context of the zoning ordinance like yard setbacks within the policy of the zoning ordinance that underlies the zoning ordinance.

Building Inspector Attorney Eric Larson stated the only way they can allow the property owners to move that shed from one lot to another, is to merge those two parcels, into one parcel.

Member Mark Grady stated skipping the moving of the shed, what about the setbacks?

Building Inspector Attorney Eric Larson stated it is the same thing. It is legal and conforming where it is; it can stay where it is. If the owners move that shed, they have to move it to a conforming location. The code requires that. So, they currently have not proposed doing that as he understands it, with regard to the distance between shed and the center lot line.

Appellant/Representative Energy Save Solutions Kenneth Erdmann for the sake of argument, this is not what they are doing. The garage is falling apart and it is in need of replacement. Even not moving it, the code requires one detached garage. Neither parcel 1 or parcel 2 can have a garage unless they meet the setbacks for all four requirements. So again, you are interfering with the property rights of this property owner. They cannot even have a garage until they have a CSM. They don't want a CSM. So now they can never have a garage. But they are guaranteed their right to have a garage.

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284 Kurt Ostoic stated it doesn't mean they are guaranteed to have a garage. They are allowed to
285 have a garage. It has to meet the setbacks and it has to be conforming.
286

287 Building Inspector Attorney Eric Larson stated we are not here today to talk about a variance.
288 The owners could apply for a variance. We are here today in regard to the interpretation of the code
289 of saying that the Building Inspector has interpreted the code incorrectly. Essentially, the owner states
290 this is one parcel; the Building Inspector's point it that this is two parcels.
291

292 Appellant/Representative Energy Save Solutions Kenneth Erdmann stated actually, our
293 question is setbacks. Whether there would be a setback requirement lot lines in common. That is our
294 issue. There would not be a setback requirement where the two lots merge.
295

296 Member Mark Grady requested some interpretation or advice from Board of Appeals Attorney
297 Christopher Jaekels.
298

299 Board of Appeals Attorney Christopher Jaekels stated this is and administrative decision,
300 regarding the Building Inspector Michael Rakow. You are hearing an appeal of his interpretation of
301 state and local zoning laws. The Board is to determine whether he is correct or not. You can make
302 your own determination, you can approve what he did absolutely 100 percent, or you can modify it. It
303 is all up to you as the Board. The question is whether he was proper in interpreting the Wisconsin
304 State Statute, in the way that has been described by Building Inspector Attorney Eric Larson. Is there
305 a requirement to keep these parcels separate for purposes of side yard setbacks? The word "yard" is
306 used all the time. In the legal sense, municipal codes all over the place in their zoning codes talk
307 about front yard setbacks, side yard setbacks, and there is even a definition of yard setbacks in some
308 of those codes. All of that having been said, your task is to decide whether or not you agree with
309 Building Inspector Michael Rakow based on his interpretation through Attorney Larson or whether the
310 burden of proof has been met by the applicant/appellant or whether you find something either, all or
311 in-part, that was incorrect in his decision. I am well familiar with Act 67, as it was giving us headaches
312 when it first came out and this is where it has gone. I am the Attorney for the Village of Whitefish Bay
313 and a lot of the old planning that was done in the 1890's and so on, result in homes that are straight
314 through lot lines. There was a merger process in the past that worked, but it is gone. Now the only
315 answer is Chapter 236, which is the CSMs that Attorney Larson was talking about. He stated he didn't
316 think this would be eligible for a lot line correction, which is another way of two neighbors getting
317 together and saying I need three more feet so that I can get my car past the fence. As advice to the
318 Board, he agrees that the CSM is the best approach to handling this. The question is whether you are
319 satisfied with Building Inspector Michael Rakow's decision and the applicant/appellant's decision,
320 why it matters so much, and why they cannot do the CSM that the Building Inspector is asking them
321 to do.
322

323 Member Mark Grady is asking if there is a way to interpret in 66.10015 consistent with our
324 zoning ordinance to allow the property owners to treat this as one lot for setbacks.
325

326 Board of Appeals Attorney Christopher Jaekels stated he agrees with Attorney Larson's
327 argument and stated keep in mind that it just becomes legal nonconforming. It is still legal. The
328 footprint of the house can still be rebuilt if it burns down or something.
329

330 Member Mark Grady asked if there is a way to interpret our Fox Point zoning ordinance to say

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we are going to treat this as one lot so they can build a garage in compliance with the setback requirements and not run in violation of the WI State Stats, 66.10015.

Board of Appeals Attorney Christopher Jaekels responded to Member Mark Grady, stating he doesn't think you can. That is his personal opinion. A CSM is the way this has done. I cannot see a way that you can allow for new construction, new structures, and a new footprint without having to get through the Building Inspectors review and his application of Act 67. The question of whether he is right about Act 67 is part of the question that is presented to you. If you have seen a copy of it and what it states and that is a true and correct copy, as he has been in front of a bunch of municipal boards on this topic. He is not taking an advocacy position in one way or the other. Your job is to decide whether or not the Building Inspector correctly interpreted the code.

Chairman Kurt Ostoic stated if they did the CSM and later down the road they wanted to split the parcel back up to sell part of the lot to neighbors, could they do that? Are they really giving up anything by creating a CSM?

Attorney Larson stated it could probably be done. He doesn't want to state that for certain.

Appellant/Representative Energy Save Solutions Kenneth Erdmann inquired if it was an automatic with a CSM stating you have to apply for it and it could be denied.

Chairman Kurt Ostoic stated it sounds pretty automatic.

Appellant/Representative Energy Save Solutions Kenneth Erdmann stated what about a separation of the parcel after the combination CSM.

Chairman Kurt Ostoic answered if you are not creating a non-conforming lot, it would be the same thing.

Member Mark Grady asked for Attorney Jaekels thoughts of future land separation of the parcel.

Board of Appeals Attorney Christopher Jaekels clarified how a land separation in the future would be handled. And stated that the Plan Commission makes a recommendation to the Village Board. The Village Board would consider it. It is still a legislative decision on the part of the Board. It is pretty rare to see a denial of a CSM, unless there are other circumstances. City of Milwaukee is extremely militant right now regarding CSMs, regarding any change in lot lines.

Member Mark Grady stated the point the Chairman is getting at is to a comment the applicant made earlier that they don't want to do a CSM because they are giving up their property rights. The point that Attorney Jaekels is making is that they are not really giving up their property rights irreversibly.

Board of Appeals Attorney Christopher Jaekels stated that is correct. If in the future they were to ask for a different CSM that is making more lots or less lots there is still going to be an arbitrary capricious standard that applies to this issue. We have our constitutional protections. It is not an absolute to get a future CSM, but it is within the realm of normal property ownership to understand

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what your rights are now and in the future.

Member Mark Grady stated, setting aside the setback requirement, he believes that between Attorney Larson and/or Michael Rakow said that if this is one lot there is no setback issue with respect to the garage in its new location. It would be more than within the setback requirements. The other question that came up was with the moving requirement. Again, if there is a CSM, there is no issue with them moving this from one side of the lot to the other side of the lot.

. Building Inspector Michael Rakow stated he doesn't have a problem with them moving it, but if you are moving it, you still have to follow the moving ordinance.

Member Mark Grady commented on Village Code, Section 756-9 regarding the moving ordinance. He asked for clarity from Building Inspector Michael Rakow on moving the building from one lot to the other and whether it would be a move involved with the village public right-of-way.

Building Inspector Michael Rakow commented he is specifically referring to 756-9. B. would apply if they pick the building up and it falls apart.

Member Mark Grady clarified that Michael Rakow's interpretation is 756-9. B., and A. doesn't limit the sections that come after it. Member Mark Grady stated he was interpreting 756-9. A. to be general and would be applied to every section following that.

Member Mark Grady stated he feels that none of this part of village code, Section 756-9 would apply to move a building from one lot side of a lot over to another side of a lot.

Attorney Jaekels stated that is a valid question he would like to hear Attorney Eric Larson's feelings on because as Member Mark Grady described, it seems to refer to Section 756-9. A., if you go out on the public rights of way and if that applies to all of the rest of the sections in 756-9. As a matter of fact, it does in D., again in F., and again in H. talk about permits. The permit described in 756-9 A. as being a permit to move on a public right-of-way. Attorney Jaekels stated this is really just to get down to the root of it more than anything else.

Member Mark Grady continued that this applies to whether or not they agree with the Building Inspectors decision.

Attorney Christopher Jaekels asked about a second Section of the moving ordinance, 745-4. C. (1-3).

Attorney Larson stated he agrees that 756-9 does not apply because we are not going on a public road presumably. We can assume that given the plat map they would not move the building on a public road.

The Board agreed they still have a setback issue.

Building Inspector Michael Rakow pointed out that parcel 3 is owned by the village and a public right-of-way. He stated he was unclear as to how they would move the building. In his opinion, if they are going to move the building and anything is damaged with the machinery, the village cannot

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invoice for the damage.

Building Inspector Attorney Eric Larson stated if they are going on the road, they would need it. If there are not going on the road, they do not need the permit. The more relevant issue is 745-4. C. regarding the non-conforming structures. It can be moved as stated in that paragraph.

Member Mark Grady assuming for the sake of argument this is one lot, either through interpretation or a CSM. As long as they are not going on the road, there is no reason they cannot move the nonconforming building from one side of the lot to the other side of the lot without getting a permit.

Attorney Eric Larson confirmed if it were all one lot, yes.

Without objection and by unanimous consent, Chair Ostoic closed testimony at 5:56 p.m.

Chairman Kurt Ostoic stated in his opinion he does not believe that Building Inspector Michael Rakow applied the practice of the laws to his position to deny. If the property owners get a CSM they are not giving up any rights in the future. Doing this will make all the other issues with setbacks disappear. This seems like the simplest solution for the owners.

Member Mark Grady commented he came to the meeting tonight wondering why no one suggested combining the lots. That seemed like the simple solution, as it avoids the setback requirements. He did not anticipate the argument that it gives up some property rights. At first it struck him as a legitimate argument, but after thinking about it as the Chairman indicated it seems like there is no reason you could not reverse the combination to sell to the neighbor to the north or south if that's what an owner would end up doing down the road. The Board has what we need from both the Applicant, Building Inspector, Building Inspector Attorney and the Board of Appeals Attorney. Both legal counsels seem to be telling us there is no way we can interpret the ordinance to treat this as one lot that doesn't violate Chapter 66.10015, Act 67. Therefore, he feels constrained by the legal opinions that he has been given in that regard. He would affirm the Building Inspector's interpretation with respect to the setbacks. Member Mark Grady stated he would overturn the building inspector's interpretation of the moving ordinance, under the assumption that they not use the roadway.

Both Member Thomas Dunst and Member Nancy Filsinger agreed.

Motion by Member Mark Grady, to affirm the building inspector's decision with respect to the setback requirements and overturn the building inspector's decision with respect to the moving ordinance applicability, assuming as the Board has been assured that the movement of the building will not occur on the right-of-way. Seconded by Member Nancy Filsinger.

<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>Aye</u>

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Motion carried by roll call vote, 5-0.

Adjourn

Without objection and by unanimous consent the Board adjourned at 6:01 p.m.

Respectfully Submitted,

Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer

Sold Parcels containing 23,889.3 sq. ft/0.548 acres of land, more or less.

James G. Schneider
Surveyor - S-2127

THIS IS AN ORIGINAL PHOTO
CALL IF IT EVER IS IN THE

[illegible][illegible]

Sold Parcels containing 23,889.3 sq. ft/0.548 acres of land, more or less.

- NOTES:**
SITE BENCHMARK ON NORTH UPPER
FLANGE BOLT OF FIRE HYDRANT ADJACENT
TO SUBJECT PROPERTY. ELEV. = 394.98
- () DENOTES BEARING OR
DISTANCE PER DEED
- ALL BEARINGS ARE REFERENCED TO THE
EAST LINE OF N. BEACH DR., WHICH
BEARS S55°31'E, PER LEGAL DESCRIPTION
OF PARCEL

() DENOTES BEARING OR
DISTANCE PER DEED

NORTH SHORE ENGINEERING, INC.
Consulting Engineers & Land Surveyors
1433 N. Port Washington Rd., Waukegan, Wisconsin, 53092
(262) 241-9400 • FAX: (262) 241-8337

SEN

for
Matthew Kirchner

7250 N. Beach Dr.
Fox Point, WI

DATE:	August 18, 2020	DRAWN BY:	A.R.H.
FIELD CREW:	E.A. & S.F.Z.	Plot No.	LS-1795-20

66.10015 Limitation on development regulation authority and down zoning.

(1) DEFINITIONS. In this section:

- (a) "Approval" means a permit or authorization for building, zoning, driveway, stormwater, or other activity related to a project.
- (as) "Down zoning ordinance" means a zoning ordinance that affects an area of land in one of the following ways:
 - 1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - 2. By reducing the permitted uses of the land, that are specified in a zoning ordinance or other land use regulation, to fewer uses than were allowed under its previous usage.
- (b) "Existing requirements" means regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision.
- (bs) "Members-elect" means those members of the governing body of a political subdivision, at a particular time, who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation, or removal from office.
- (c) "Political subdivision" means a city, village, town, or county.
- (d) "Project" means a specific and identifiable land development that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways, and easements.
- (e) "Substandard lot" means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.
- (f) "Zoning ordinance" means an ordinance enacted by a political subdivision under s. 59.69, 60.61, 60.62, 61.35, or 62.23.

(2) USE OF EXISTING REQUIREMENTS.

- (a) Except as provided under par. (b) or s. 66.0401, if a person has submitted an application for an approval, the political subdivision shall approve, deny, or conditionally approve the application solely based on existing requirements, unless the applicant and the political subdivision agree otherwise. An application is filed under this section on the date that the political subdivision receives the application.
- (b) If a project requires more than one approval or approvals from one or more political subdivisions and the applicant identifies the full scope of the project at the time of filing the application for the first approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project, unless the applicant and the political subdivision agree otherwise.
- (c) An application for an approval shall expire not less than 60 days after filing if all of the following apply:
 - 1. The application does not comply with form and content requirements.
 - 2. Not more than 10 working days after filing, the political subdivision provides the applicant with written notice of the noncompliance. The notice shall specify the nature of the noncompliance and the date on which the application will expire if the noncompliance is not remedied.
 - 3. The applicant fails to remedy the noncompliance before the date provided in the notice.

(e) Notwithstanding any other law or rule, or any action or proceeding under the common law, no political subdivision may enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

1. Conveying an ownership interest in a substandard lot.

2. Using a substandard lot as a building site if all of the following apply:

a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

b. The substandard lot or parcel is developed to comply with all other ordinances of the political subdivision.

(3) DOWN ZONING. A political subdivision may enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

(4) Notwithstanding the authority granted under ss. [59.69](#), [60.61](#), [60.62](#), [61.35](#), and [62.23](#), no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

(5) EXPIRATION DATES. A political subdivision may not establish an expiration date for an approval related to a planned development district of less than 5 years after the date of the last approval required for completion of the project. This section does not prohibit a political subdivision from establishing timelines for completion of work related to an approval.

(6) ZONING LIMITATIONS, INSPECTIONS.

(a) If a political subdivision or a utility district requires the installation of a water meter station for a political subdivision, neither the political subdivision nor the utility district may require a developer to install a water meter that is larger than a utility-type box, and may not require a developer to include heating, air conditioning, or a restroom in the water meter station. Any requirements for such a project that go beyond the limitations specified in this paragraph must be funded entirely by the political subdivision or utility district.

(b)

1. If a political subdivision employs a building inspector to enforce its zoning ordinance or other ordinances related to building, and a developer requests the building inspector to perform an inspection that is part of the inspector's duties, the inspector shall complete the inspection not later than 14 business days after the building inspector receives the request for an inspection.

2. If a building inspector does not complete a requested inspection as required under subd. [1.](#), the developer may request a state building inspector to provide the requested inspection, provided that the state inspector has a comparable level of zoning and building inspection qualification as the local building inspector.

3. If a developer provides a political subdivision with a certificate of inspection from a state building inspector from an inspection described under subd. [2.](#), which meets the requirements of the inspection that was supposed to be provided by the local building inspector, the political subdivision must accept the certificate provided by the state building inspector as if it had been provided by the political subdivision's building inspector.

History: [2013 a. 74](#); [2015 a. 391](#); [2017 a. 67](#), [68](#), [243](#).

Appellant Name: Gino Carini

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.

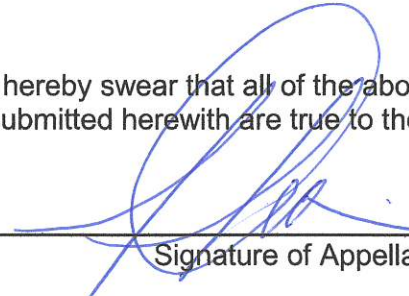
4. Type of fence and materials.

☐ 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

01-13-2022

Date

For Office Use Only:

Date Application Received 1/18/2022

Receipt Number for \$200 Filing Fee LD57099

Case Number 2022-02

Hearing Date _____

Disposition _____

Variance Request – 8303 N. Greenvale Avenue

Our client currently has a single car garage, which has a failing foundation and is putting the structure of the garage in jeopardy and is allowing rodents to find their way in the structure, and therefore the home. In an effort to design a new garage that is usable by modern standards, we are proposing a larger two car garage so our client and his wife can both park their cars safely inside.

We are requesting a variance as the proposed design as well as the curved layout of the lot have put our design into the setback by approximately 8'. Given the design of the current home, we cannot grow the current garage in the opposite direction without significantly effecting the floor plan. While the addition does go into the current setback, it is only a small portion of the garage as the curved setback is perpendicular to structure itself (see pages 1 or 2).

We believe that the proposed two car garage will not invade the public or any neighbors as this is a corner lot, and the nature of the curved setback does not significantly affect either the public or our clients neighbors.

Booner Rd

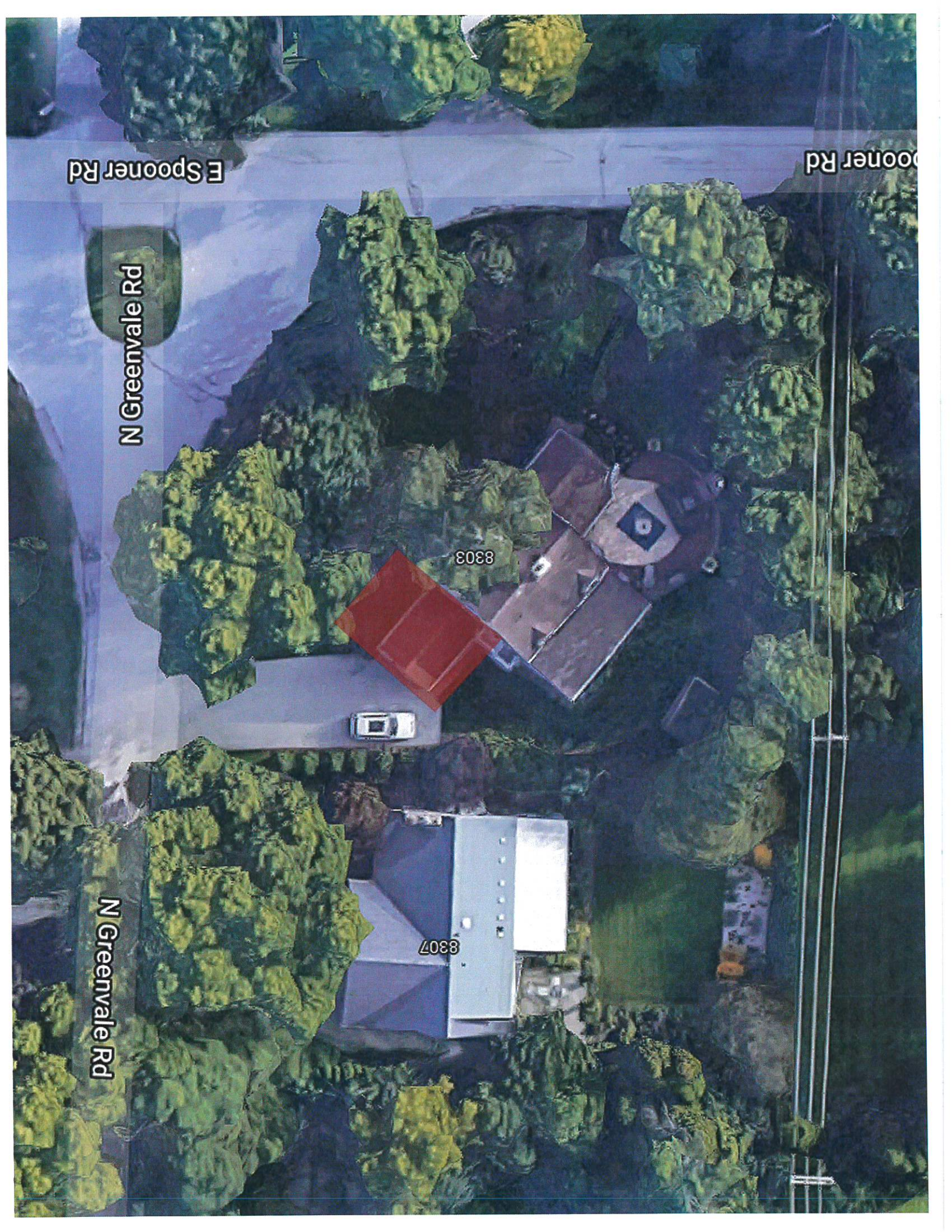
E Spooner Rd

N Greenvale Rd

8303

8307

N Greenvale Rd













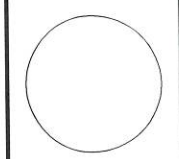






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www.feindesigns.com

contacts
RORY
cell : (414) 881 - 1936
CATIE
cell : (262) 483 - 4342



proposed construction drawings for :
THE CARINI RESIDENCE
8303 N. GREENVALE AVENUE
FOX POINT, WISCONSIN

sheet contents
EXTERIOR
PERSPECTIVES

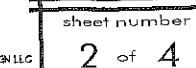
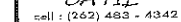
date :
11. 22. 2021
revisions :

project number
2133

sheet number
COVER

PROPOSED EXTERIOR PERSPECTIVES

SCALE - 1/4" = 1'-0"



© DRAWINGS COPYRIGHT TO FEIN DESIGN LLC



W EXISTING FRONT ELEVATION
SOUTH-EASTERN FACING SCALE - 1/8" = 1'-0"



W PROPOSED FRONT ELEVATION
SOUTH-EASTERN FACING SCALE - 1/4" = 1'-0"

PRELIMINARY DOCUMENTS FOR
FOR BOARD OF APPEALS
-NOT FOR CONSTRUCTION-



Z EXISTING SIDE ELEVATION
NORTH-EASTERN FACING SCALE - 1/8" = 1'-0"



Z PROPOSED SIDE ELEVATION
NORTH-EASTERN FACING SCALE - 1/4" = 1'-0"



fein design

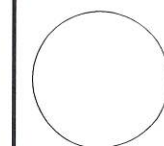
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proposed construction drawings for :
THE CARINI RESIDENCE
8303 N. GREENVALE AVENUE
FOX POINT, WISCONSIN

sheet contents
FRONT & SIDE
EXTERIOR
ELEVATIONS

date :
11.22.2021
revisions :

project number
2133

sheet number
3 of 4

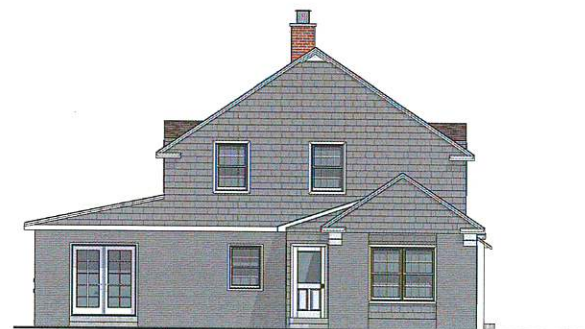


W EXISTING REAR ELEVATION
NORTH-WESTERN FACING SCALE - 1/8" = 1'-0"



W PROPOSED REAR ELEVATION
NORTH-WESTERN FACING SCALE - 1/4" = 1'-0"

PRELIMINARY DOCUMENTS FOR
FOR BOARD OF APPEALS
-NOT FOR CONSTRUCTION-



Z EXISTING SIDE ELEVATION
SOUTH-WESTERN FACING SCALE - 1/8" = 1'-0"



Z PROPOSED SIDE ELEVATION
SOUTH-WESTERN FACING SCALE - 1/4" = 1'-0"



fein design

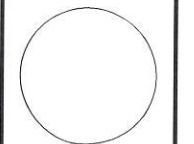
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proposed construction drawings for :
THE CARINI RESIDENCE
8303 N. GREENVALE AVENUE
FOX POINT, WISCONSIN

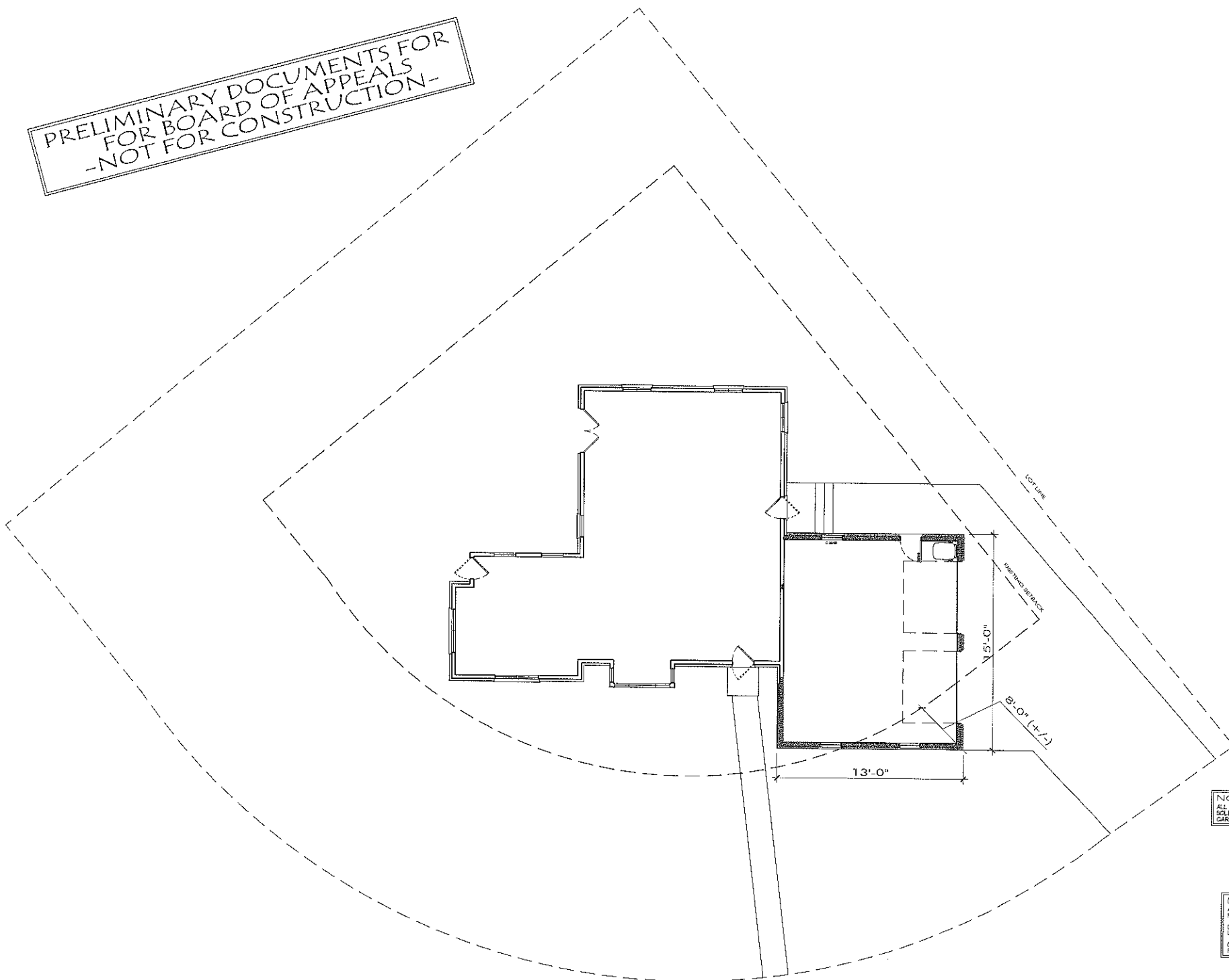
sheet contents
REAR & SIDE
EXTERIOR
ELEVATIONS

date :
11.22.2021
revisions :

project number
2133

sheet number
4 of 4

PRELIMINARY DOCUMENTS FOR
FOR BOARD OF APPEALS
-NOT FOR CONSTRUCTION-



SHEET INDEX:	
COVER	PROPOSED EXTERIOR PERSPECTIVES
SHEET 1	SITE PLAN, SHEET INDEX, 'COMM' NOTES, PROJECT DATA
SHEET 2	PROPOSED DEMO + GARAGE FLOOR PLANS, NOTES
SHEET 3	PROPOSED FRONT + SIDE ELEVATIONS, NOTES
SHEET 4	PROPOSED REAR + SIDE ELEVATIONS, NOTES

NOTICE:
TO ALL CONTRACTORS BIDDING THIS PROJECT

ENORMOUS ATTENTION AND EXERTION HAVE GONE INTO THE ARCHITECTURAL DESIGN OF THESE DRAWINGS. FOR THIS REASON, FEIN DESIGN ASSUMES NO RESPONSIBILITY FOR ANY DAMAGES, INCLUDING STRUCTURAL FAILURES, DUE TO DEFICIENT WORKMANSHIP BY ANY CONTRACTORS AND / OR SUPPLIERS.

CONTRACTORS TO NOTIFY FEIN DESIGN IMMEDIATELY IF ANY ERRORS ARE FOUND IN THE PRINTS THEMSELVES.

CONTRACTORS TO VERIFY ALL PARTS OF THESE PRINTS PERTAINING TO THEM.

LUMBERYARDS TO REVIEW STRUCTURAL LAYOUTS AND CALCULATIONS BASED ON PROPOSED DESIGN AND CONFIRM FOR APPLICATION.

ALL RELEVANT CONTRACTORS INVOLVED WITH THIS PROJECT TO PROVIDE FEIN DESIGN WITH ONE (1) BOTTLE OF CANADIAN CLUB + JAMES EAT (ONLY) IF THEY DO NOT REMARK ABOUT THIS NOTE WHICH IS INTENDED TO MAKE SURE THAT THE CONTRACTOR HAS REVIEWED THESE DOCUMENTS AND BROUGHT TO THE DESIGNER'S ATTENTION ANY FORESEEABLE CONCERNS SO THAT THESE CONCERNS MAY BE DEALT WITH PRIOR TO CONSTRUCTION.

- NOTE:**
ALL LOCALIST BEAMS SHOULD BEAR
SOLID TO FOUNDATION IN BEAM JOISTS
CARPENTER TO PROVIDE BLOCKING WHERE NEEDED
- NOTE:**
PROPOSED WINDOW DEPTH HERE
ARE TO BE USED AS A DESIGN GUIDE ONLY
UNDO SUPPLIER TO VERIFY ALL SIZES
WITH DESIGNER PRIOR TO FABRICATION
UNDO SUPPLIER WILL BE LIABLE FOR
INCORRECTLY BUILT WINDOWS
- NOTE:**
LUMBERYARD AND / OR STRUCTURAL ENGINEER TO VERIFY
AND PROVIDE PROPER WALL BRACING SPECIFICATIONS
PER WISCONSIN UNIFORM DWELLING CODE 2025
- NOTE:**
ALL TRUSS LAYOUTS AND DESIGNS TO BE
PROVIDED BY THE TRUSS MANUFACTURER
DESIGNER HAS PROVIDED A CONCEPTUAL
LAYOUT AND DESIGN OF THE TRUSSES
CARPENTER TO USE TRUSS MANUFACTURER
PROVIDED SHOP DRAWINGS
- NOTE:**
THIS BUILDING TO CONFORM TO ALL
APPLICABLE CODES ACCORDING TO THE
"WISCONSIN UNIFORM DWELLING CODE"
ALL CONTRACTORS ARE RESPONSIBLE FOR
KNOWING THE CODES - COMM 20 THRU COMM 25
- NOTE:**
DIMENSIONS MAY NOT BE EXACT
ALL CONTRACTORS AND SUPPLIERS
TO FIELD VERIFY ANY AND ALL
REQUIREMENTS PRIOR TO CONSTRUCTION
AND / OR FABRICATION
CONTRACTORS AND SUPPLIERS
TO MAINTAIN DESIGN INTENT
- NOTE:**
ROUGH CARPENTER TO PROVIDE 6" OF FRAMING (OR AS MUCH AS
POSSIBLE OVER 4" OF FRAMING BEFORE DOOR OPENINGS
(PERPENDICULAR TO ADJACENT WALL)
- NOTE:**
ALL MECHANICAL LOCATIONS WILL BE VERIFIED
BY THEIR RESPECTED INSTALLER THEY MAY NEED
TO BE RELOCATED FOR OPTIMAL EFFICIENCY, FEIN SITE
- NOTE:**
ALL EXTERIOR WALLS TO BE MADE OF THE CONSTRUCTION
UNLESS OTHERWISE NOTED - FRONT ENTRY WALL
EXTERIOR WALLS SCALE OUT AT 6'-10" / 02' + 5'-10" + 10"

- NOTE:**
IT IS UNDERSTOOD THAT THE PLANS AND
SPECIFICATIONS CONTAINED HEREIN WERE DRAWN
UP FOR THE OWNER(S) AND ARE THE PROPERTY
OF BOTH THE OWNER(S) AND FEIN DESIGN, LLC
THESE DOCUMENTS ARE FOR THE SOLE USE OF
FEIN DESIGN, LLC FOR THE CONSTRUCTION OF
THIS PROJECT AND USE OF THESE DRAWINGS BY
ANY OTHER PARTY VIOLATES ANY RESPONSIBILITY
OF FEIN DESIGN, LLC OF GENERAL REPRESENTATION
- NOTE:**
LUMBERYARD AND UNDO SUPPLIER
TO VERIFY ALL BEAM AND TRUSS LAYOUT SIZES
INCLUDING ALL RELEVANT HANGER SIZES
AND SPECIFICATIONS

PROPOSED SITE PLAN

SCALE - 1/8" = 1'-0"

fein design

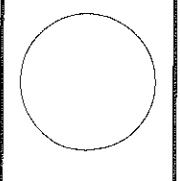
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proposed construction drawings for :

THE CARINI RESIDENCE
8303 N. GREENVALE AVENUE
FOX POINT, WISCONSIN

sheet contents

SITE PLAN
SHEET INDEX
'COMM' NOTES
PROJECT DATA

date :
11.22.2021

revisions :

project number

2133

sheet number

1 of 4

March 22, 2005

PLAT OF SURVEY

Survey No. 050096
Gino J. Carini

LOCATION: 8303 N. Greenvale Avenue, Fox Point, Wisconsin

LEGAL DESCRIPTION:

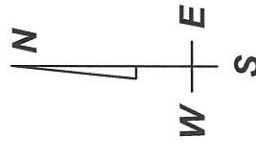
Lot 9, in Block 3, in **FOX POINT TERRACE**, being a Subdivision of part of the Southwest 1/4 of Section 9, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin. Excepting therefrom that part conveyed by Warrant Deed recorded in Volume 3100 of Deeds, page 50, as Document No. 3164511 and also Excepting therefrom that part of Lot 9 Dedicated in an instrument Dated January 26, 1933, and recorded February 9, 1937 in Volume 1462 of Deeds, page 370 as Document No. 2118790.

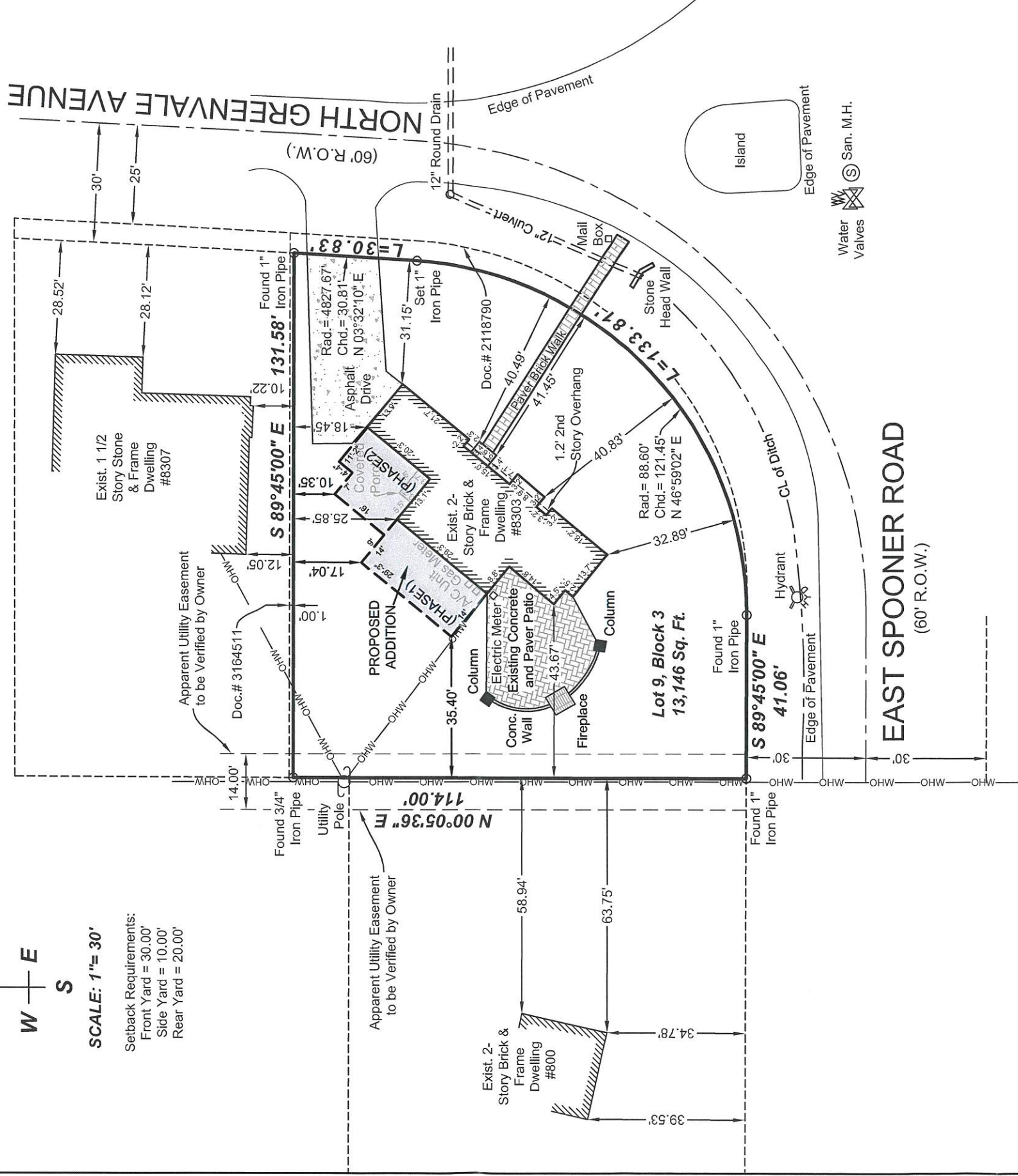
Revised: March 20, 2013 - Field Work By: RT, Drawing By:ST - Updated Survey and Found/Set Missing Lot Corners.

Note: Field Conditions = Deep Snow and Ice.

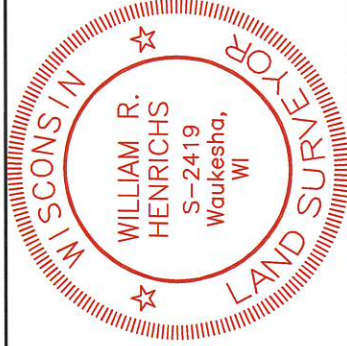
Revised: June 10, 2013 - Added Proposed Addition.

Revised: April 15, 2014 - New Proposed Addition Plan.


SCALE: 1"= 30'
Seiback Requirements:
Front Yard = 30.00'
Side Yard = 10.00'
Rear Yard = 20.00'



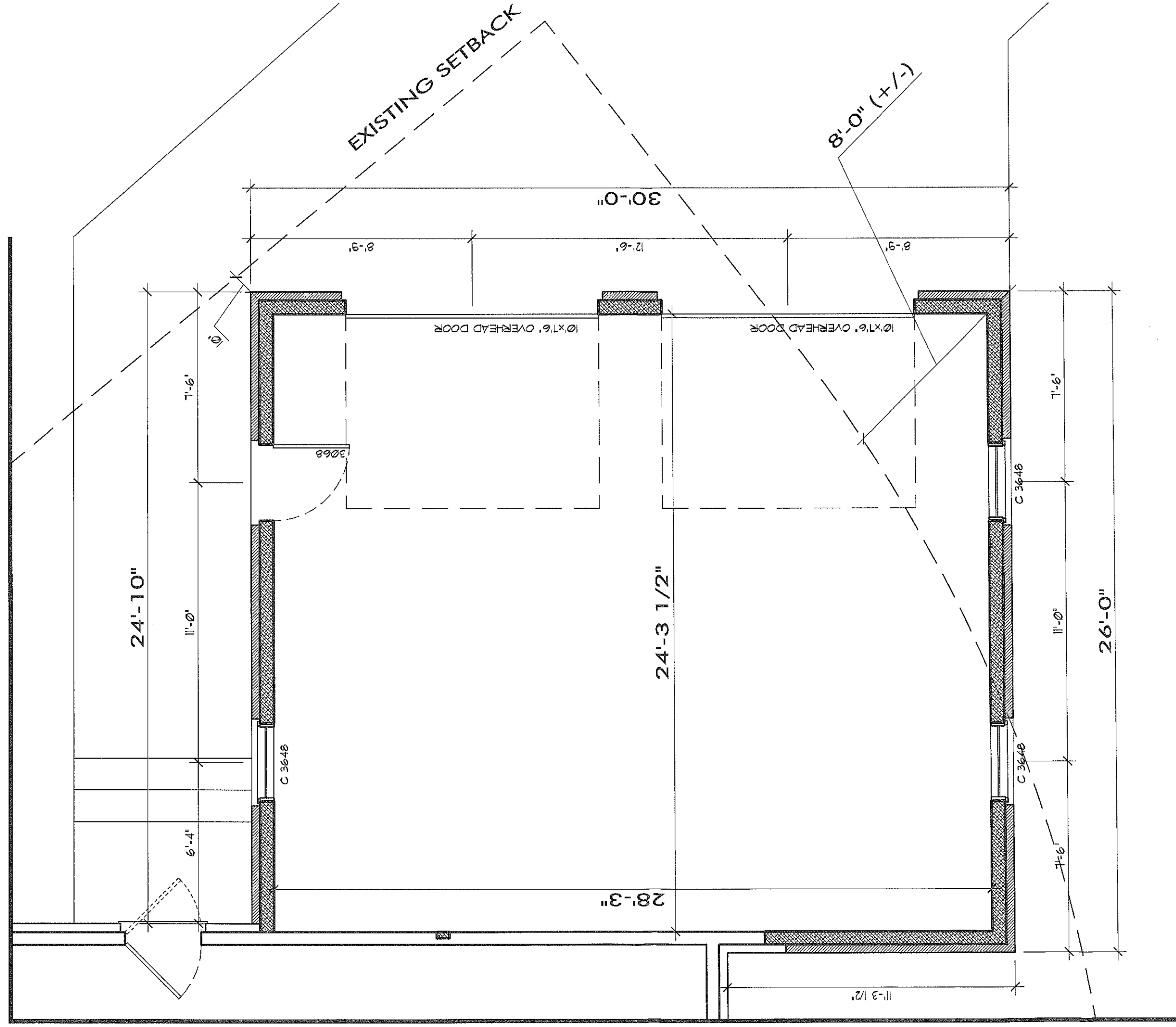
DRAWING BY: JJAW
FIELD WORK BY: JJ



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENT, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM THE DATE HEREOF.

SIGNED 
William R. Henrichs, Registered Land Surveyor S-2419



NORTH-EASTERN FACING

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

414-351-8900

Receipt No: 1.057099

Jan 18, 2022

Gino Carini-BOA 8303 N Greenvale Rd

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	200.00
10-44540 OTHER PERMIT	
Total:	200.00
CHECK	200.00
Check No: 4393	
Payor: Gino Carini-BOA 8303 N Greenvale Rd	
Total Applied:	200.00
Change Tendered:	.00

Duplicate Copy

01/18/2022 3:01 PM

MARENZO CONSTRUCTION GROUP LLC OPERATING ACCOUNT

Village of Fox Point

1/18/2022

4393

200.00

US Bank Checking 76

200.00



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 VARIANCE**

PLEASE TAKE NOTICE that the Fox Point Board of Appeals will meet in Schwemer Hall, 7200 N. Santa Monica Blvd, Fox Point, WI, on Wednesday, March 2, 2022 at 5:00 p.m. to hear the following appeal:

1. **Case 2022-02: 8303 N Greenvale Rd.** The applicant is requesting a variance pertaining to Section 745-16 of the Fox Point Village Code in the B Residence District, concerning front yard setback requirements. A front yard setback 60 feet from the centerline of Greenvale shall be provided for the building. The applicant is proposing to install an improved garage approximately 8 feet into the setback area.

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 Sent: [February 1, 2022]
Posted: [February 1, 2022]

§ 745-16. B Residence District.

- A. Uses. In a B Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use; provided always the accessory use does not constitute or become a public or private nuisance. **[Amended 11-11-2014 by Ord. No. 2014-08]**
- B. Areas and yards. In a B Residence District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The open area of a lot on which a dwelling is erected, or proposed to be erected, shall not be reduced to less than 15,000 square feet for each family. No building not erected for a dwelling shall occupy more than 20% of the gross area of the lot or exceed a height of 25 feet.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; 15 feet when width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
 - (3) A side yard of not less than 10 feet shall be provided for on each side of every building.
 - (4) A rear yard of not less than 20 feet shall be provided for every building, except one of not less than 10 feet shall be provided for a building used for or classified as an accessory use.
 - (5) Every lot on which a building is erected shall have a minimum width of 80 feet.
 - (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including, but not limited to, attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas. **[Amended 2-9-2021 by Ord. No. 2021-01]**