

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

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

WEDNESDAY
JULY 27, 2022
5:00 P.M.

AGENDA

- 1. Roll Call**
- 2. Approval of the Minutes and Determinations – May 19, 2022 Meeting**
[Pages 1-9]
- 3. Case 2022-04: 940 E Wye Lane.** The applicant is requesting a variance pertaining to Section 745-13 B. (3) of the Fox Point Village Code in the A1 Residence District, concerning side yard setback requirements. A side yard setback of not less than 20 feet from the side yard setback shall be provided for each side of every building. The request also pertains to Section 756-34 B., Exterior Structures regarding the installation of a generator. The applicant is proposing to install a generator approximately 17 feet from the property line.
[Pages 10-33]
- 4. Case 2022-06 7001 N Yates Road.** The applicant is requesting a special exception to install a new 6-foot-high cedar fence, on a corner lot, forward of the front line of the home, on Green Tree Road. 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.
[Pages 34-58]
- 5. Case 2022-07 7900 N Club Circle.** The applicant is requesting a special exception to install a new 6-foot-high rustic stockade cedar fence on a corner irregular shaped lot forward of the front line of the home on N. Lake Drive. 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.
[Pages 59-78]
- 6. Case 2022-08: 200 W Nokomis Ct.** The applicant is requesting a variance pertaining to Section 745-15 B. (4) of the Fox Point Village Code in the A3 Residence District, concerning rear yard setback requirement of not less than 20 feet. The request also pertains to Section 756-34 B., Exterior Structures regarding the installation of a generator. The applicant is proposing to install a generator approximately 10 feet from the property fence line.
[Pages 79-98]
- 7. Board of Appeals Rules Amendment.** The Board of Appeals will consider and may act to adopt an Amendment to Section 2(B) of the Fox Point Board of Appeals Rules of Procedures, to modify the method for scheduling meetings of the Board of Appeals and establish a regular meeting date.
[Page 99]

8. 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, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 1 of 99

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Thursday, May 19, 2022 at 5:00 p.m. The Village Clerk took roll call. Those present included:

Nancy Filsinger, Chairman
Thomas Dunst
Scott Ratke
Lucille Sells (Alternate 1)
Susan Yale (Alternate 2)

Staff members also present were Village Attorney Eric Larson, Member Alan Polan (Alt. 4), Julianna Javor (Alt. 3), 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 board and the village website.

Board of Appeals Continuing Education

Village Attorney Eric Larson held a continuing education regarding Board of Appeals procedure and open meetings law with Board of Appeals members. No action was taken.

Approval of Minutes of March 2, 2022 Meeting and the Findings of Fact, Decision and Order

Motion by Member Thomas Dunst, Seconded by Member Scott Ratke, and carried by roll call vote (5-1) to approve the March 2, 2022 minutes and the Findings of Fact, Decision and Order of the last meeting, as presented.

Case 2022-04: 940 E Wye Lane

The applicant is requesting a variance pertaining to Section 745-13 B. (3) of the Fox Point Village Code in the A1 Residence District, concerning side yard setback requirements. A side yard setback of not less than 20 feet from the side yard setback shall be provided for each side of every building. The request also pertains to Section 756-34 B., Exterior Structures regarding the installation of a generator. The applicant is proposing to install a generator approximately 17 feet from the property line.

Village of Fox Point Building Inspector Michael Rakow

Building Inspector 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 2022-04, stating the applicant would like a variance concerning side yard setback requirements to install a generator approximately 17 feet from the property line in the A1 district with a side setback of 20 feet. The generator would be in the setback approximately 3 feet. Therefore, it was denied due to noncompliance with the setbacks.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 2 of 99

Owner Kristie Kosobucki's Representative Michael (MJ) Thalman

The Owner's Representative Michael (MJ) Thalman stated his name and was sworn in to provide testimony by the Village Clerk Treasurer.

Chairman Nancy Filsinger asked representative Michael Thalman to provide comments regarding owner Kristie Kotobuki's case.

Michael Thalman stated that they had moved into the home in late August of 2021 after purchasing the home in late May. There was a huge storm that knocked out the power; our block's power went on and off for approximately four days. There was only one home on the block with a generator. After that experience and considering Kristie's health condition, which required power and refrigerated medication. They began the process of looking into the installation of a generator. They would be installing the same generator as the neighbors on the left side of them. It will be 17 feet instead of 20 feet. In regard to issues with the placement of the generator, there are no other spots available due to the placement of the windows and the placement of the side doors for the backyard. It would have to be in the middle of the back yard. Aesthetically and for noise, it would be on the same side as the neighbors, so theoretically, the two generators would run at the same time. They tried to find a generator that was relatively attractive and small.

Chair Nancy Filsinger inquired if they looked at other locations for the generator. Representative Michael Thalman confirmed they did, but due to the window placement in the back of the home and where the patio door is in the home, it would have to be smack in the middle of the yard. Therefore, that is the only location the company they are working with stated the generator could be located.

Member Dunst inquired if they did not want the generator near a window because of noise; he further noted that if they put it right near the chimney, they would make the three feet needed. Representative Michael Thalman stated they had asked the company if the generator could be located there and they said it could not be by the windows. It is impossible. It would have to be pushed into the actual back yard. Chairperson Nancy Filsinger showed Representative Michael Thalman the rendering submitted to confirm the location. Mr. Thalman stated there have been changes to the home since those designs were submitted to Board of Appeals. A kitchen renovation has been done, which included windows and the door to the back yard being moved. There was a lengthy renovation completed.

Member Scott Ratke inquired if there would be an issue with the combustion if the generator was moved near a window. Representative Michael Thalman stated that is possible, but he is not an expert.

Member Lucille Sells inquired if they had a basement window well there. Representative Michael Thalman stated the basement windows are along the side of the house. That has since been removed because sliding windows have been put in. The door has been put in the side wall in that location. The window well area has been closed off now. The actual door is on the other side.

Member Susan Yale inquired if there were any other units like a Central Air unit. Representative Michael Thalman stated they have an AC unit. It is located on the side of the home.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 3 of 99

Member Susan Yale inquired if the generator could be installed in the same area. Representative Michael Thalman stated that is where it would be – along the same wall. He further stated that it may not be showing in the rendering the Board has. Representative Michael Thalman stated he apologizes, he wasn't sure when the pictures were submitted. The photos may not be the updated photos of the current home design.

Member Scott Ratke inquired if that is the neighbor's garage that is facing the generator. Representative Michael Thalman noted it was not the neighbor's garage. Their garage is actually on the other side of the home. The photo you are looking at is the side the neighbor's generator is installed. Representative Michael Thalman noted that would be the same side that they would hope to install the generator as well. Both the neighbor's generator and their generator would be on the same side, together. From a noise perspective, if the neighbor's is on, theirs would also be on at the same time. The neighbor's stated they have no issue with the generator being placed near the same location as their generator.

Member Lucille Sells inquired if there are clearances necessary for the piece of equipment that are being taken into account for those three feet it is encroaching into. Meaning exhaust or airflow that might come out of this unit that permits a certain distance from the home. Representative Michael Thalman stated he believes there is not any additional space needed. Also, it seems like there is a lot of space behind the garage. Member Lucille Sells inquired if there is a reason, looking at the site, with the functionality of the equipment why it could not be placed somewhere in another area. Representative Michael Thalman stated the company came out, they looked at the property, and stated there is literally only one place for the location of the generator. Representative Michael Thalman commented it can be by the windows, but not on the side of the home because of the trees on their property. There are underground wires for the telephone company near the garage area as well.

Ratke inquired if the electrical panel is right there where it is coming into the home. Representative Michael Thalman commented the electrical is in the middle of the basement. The contractors moved the electrical panel.

Attorney Eric Larson stated to be clear for the record, the Village Board of Appeals received an application from Kristie Kosobucki who made the request. The application included the photos being referred to. There is a photo marked with the proposed location of the generator, and a second photo from another angle that has the same identification as the proposed location of the generator. It also includes a site plan/lot survey showing the generator right in front of the fireplace chimney. The Board is currently referring to those documents, as provided with the application and included in the packet tonight. Also included is the description of the Generac generator that is proposed.

Village Attorney Eric Larson inquired of the applicant the other location the installer said would work, which he understands the applicant and representative feels would not be good. It is unclear to Attorney Larson when looking at the survey what the representative means by "the back yard".

Representative Michael Thalman responded that it is his understanding from the company he pushed back a number of feet – although he is unsure of the exact number of feet. It would be right in the middle of the back yard.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 4 of 99

Village Attorney Eric Larson stated the site plan shows what looks like quite a big back yard. It looks like the top of a ravine line back there. Representative Michael Thalman stated there is a ravine. The ravine is slowly eroding and they are losing footage. The neighbors have lost several feet over the last couple of years. He further noted that is also the reason for the placement of the generator where it is requested, because there is a ravine that backs up to it.

Village Attorney Eric Larson inquired if he knew where the generator would be placed in the back yard. Representative Michael Thalman stated he wasn't there meeting with the company so he is unclear where they would propose the generator be located in the back yard. From what he was told, it would have to be right in the middle of the back yard.

The Board of Appeals members noted they felt there was a lack of information regarding Case 2022-03, 940 E Wye Lane.

Chairperson Nancy Filsinger asked for clarification on the survey provided, inquiring if the home looks different now then the portrayal in the packet survey. Representative Michael Thalman reiterated there was a door that led out to the back yard, which has now been cemented and closed up. The door is now coming from the side of the home. The windows that were in the back of the home were closed in and re-located to different areas of the home. The whole layout has been changed.

Village Attorney Eric Larson clarified that apparently what the Board has in their packet is not accurate. The photos are not accurate and site plan is not accurate. Much of the testimony is based on someone who is not here. Both the property owner and installer are not present. One option would be to give them a chance to re-group and come back with a complete case. Another option would be to just decide the case on just what the Board has before them.

Member Susan Yale asked if they would consider asking another company/installer for their opinion on the placement of the generator. Michael stated that he trusts the company's opinion and the company has installed for two other properties already.

Member Scott Ratke inquired if there were any obstacles to placing it in the back yard, like utilities. Representative Michael Thalman stated he is unsure. He would love to have the company clarify this.

One of the Board members asked where the gas line comes in. Representative Michael Thalman stated he is not positive where the gas line comes in.

Member Thomas Dunst stated he would like to see more accurate images and an explanation from the installer as to precisely why.

Village Attorney Eric Larson stated the Board should adjourn the matter to the next meeting date, although there is not a next meeting date scheduled at this time. Therefore, this Case 2022-03 will need to be re-noticed.

Adjournment of Case 2022-03 to the next Board of Appeals meeting

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022

BOA Packet - July 27, 2022
Page 5 of 99

Motion by Member Scott Ratke, seconded by Member Thomas Dunst, and carried unanimously at 5:39 p.m. (5-0), to adjourn Case 2022-03 to the next meeting of the Board of Appeals for the consideration and allow the applicant to present additional evidence.

Case 2022-05: 6936 N Barnett Ln.

The applicant is requesting a variance pertaining to Section 756-34 of the Fox Point Village Code in the A-1 Residence District, concerning side yard setback requirements. Section 745-13, A-1 Residence District states a side-yard of not less than 20 feet shall be provided for on each side of every building, which applies to this generator per Section 756-34 B. of the Village code. The applicant is proposing to install a generator located approximately +/- 4 feet into the setback area.

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 2022-05. The property is located in the A-1 District. The applicant would like a variance concerning side yard setback requirements to install a generator located approximately +/- 4 feet into the setback area.

Chairperson Nancy Filsinger communicated that Case 2022-05 is the property owned by a doctor that she recently received care from; she stated she believes she can be fair and impartial and has no conflict of interest with regard to Case 2022-05.

One of the Board members inquired if the generator was already installed. Michael Rakow stated it is installed already.

Owners Alan and Betsy Kimmel's Representative Electro-Tronics, LLC Dan Claas and Commercial Realty Advisors, LLC Ryan Persitza.

The Owner's Representative Electro-Tronics, LLC., Dan Claas stated his name and Commercial Realty Advisors, LLC, Ryan Persitza were sworn in to provide testimony by the Village Clerk Treasurer.

Chairman Nancy Filsinger asked the representatives to provide testimony regarding owner Alan and Betsy Kimmel's case.

Electro-Tronics, LLC., Dan Claas stated he is the owner of Electro-Tronics, LLC. He was contracted to install the generator. Electro-Tronics installed the generator as they have done dozens of times in the past. Electro-Tronics installed the generator on the side of the home where all the utilities are located. The gas meter is there; the electric meter is there. There are multiple AC units on that side of the building. Typically, they look for all of the utilities to place the unit. It is usually best to be in a certain proximity to the gas meter to feed the generator and the purpose in an emergency when there is not power. There are limitations on how far you can install from that gas meter without oversizing the gas pipe to an extreme measure and also feeding back to the main electrical service. There is also an 18-inch set-back from the building for clearance to access the area around the unit.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 6 of 99

238 A Board member asked if that was state code and Mr. Claas replied it was and is also the
239 recommendation of Generac.

240
241 Representative Electro-Tronics, LLC, Dan Claas also stated that in likeness to the prior case,
242 regarding the proximity to the windows, they have a five-foot setback from any window that opens for
243 combustion and exhaust fumes. They review those setbacks in addition to where they are going to
244 place the unit for installation. In this particular circumstance, the whole back of the property is all
245 glass windows, doors, patio and deck; going around the corner on that same side working from the
246 rear of the building, east to west are all windows that open. They pushed as far to the street away
247 from all those windows that open and it then falls into what is the backside of the garage. With that,
248 Electro-Tronics felt they had the perfect placement for the generator until they found out about the 20-
249 foot setback. He has installed dozens of generators in multiple municipalities and he has never run
250 across a 20-foot setback on the property line, which is the issue on the installation of this generator.
251 This is why it was installed before hand and did not get caught ahead of time.

252
253 Representative Commercial Realty Advisors, LLC, Ryan Persitza stated there is also a bump
254 out on the structure of the home that caused the contractors to be requesting a 4-foot variance, again
255 16 feet from the property line, as opposed to 17, which is one foot. These new units do not run a full
256 capacity. They can be set to run at 50 percent. Older models run at 100 percent once a week. The
257 newer models can run at 50 percent twice a month. They are able to schedule the time that the newer
258 models run during the two times a month. They are aware that they received some communication
259 from a neighbor. They would be able to schedule the generator to run at the same time as the
260 neighbor's generator.

261
262 Chairperson Nancy Filsinger inquired if they had a permit.

263
264 Representative Electro-Tronics, LLC, Dan Claas stated they did get a permit. With that permit
265 the setback was noted. He said the only thing they can say about the setback note is almost every
266 municipality that Electro-Tronics has dealt with has given them a copy or emailed a copy of the permit
267 directly to them. Village of Fox Point does not do that; you have to go to the website and to the
268 property address and print out that permit. He did not take that step. That was his mis-step.

269
270 Member Lucille Sells asked for clarification on the need to run the generator. Representative
271 Electro-Tronics, LLC, Dan Claas stated the generator basically runs every two weeks to make sure it
272 operates properly when needed. It runs through a certain number of tests to make sure that all
273 electronics and everything is functioning properly. It gets the oil flowing, especially in an environment
274 where there are different changes in temperature. In the winter months with the colder temperature,
275 the oil can get thicker.

276
277 Member Lucille Sells inquired how long the generator cycle would run. Representative Electro-
278 Tronics, LLC, Dan Claas stated it runs for a 10-minute period. The newer model is set to run twice a
279 month at only 50 percent power for a 10-minute period each time. It is a little bit quieter than it would
280 be in an actual emergency situation.

281
282 Representative Commercial Realty Advisors, LLC, Ryan Persitza possibly part of the reason
283 for the letter from the neighbor is the 10:00 schedule on Saturdays. They were able to set that to a
284 Tuesday at 11:00 or any day of the week. They normally ask the homeowner when they will be home

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 7 of 99

to run the generator so they know it is running properly. If they can hear it run once every two weeks, they know it is functioning properly. If they don't hear it start up when they normally would hear it run, then they know there is an issue with it. In hind-sight, in probably wasn't the best time to have the generator running at 10:00 a.m. on a Saturday. She has agreed that she will go with whenever the neighbor would like it to run or coordinate a time with the neighbor's generator because they do have a very similar generator.

Member Lucille Sells stated that Representative Electro-Tronics, LLC, Dan Claas talked about sizing the gas lines if you had to install it elsewhere. She commented that would also be assumably buried gas lines. Representative Electro-Tronics, LLC, Dan Claas in this circumstance, the gas line is run on the exterior of the building. They have done buried gas lines, but it leads to a lot of other issues, such as other utility lines and special gas pipe which adds to the cost of the project. A lot of people don't like to do that. In this circumstance with all the other utilities and piping on the house, there was really no need or reason to go underground with it at that point. Plus, there are other obstructions like cement pads and an old vault in the basement where the old well pump was located. Access would be difficult.

Member Lucille Sells inquired if Representative Electro-Tronics, LLC, Dan Claas knew the age of the AC units. He stated he did not know the age. Just from looking at the units, the units may be less than 10 years old.

Member Susan Yale inquired if the AC units required a variance because the units looked as if they are in the same spot. Representative Electro-Tronics, LLC, Dan Claas stated they are in the same area; Building Inspector Michael Rakow may be able to speak on the matter.

Building Inspector Michael Rakow stated they are in the same area and fall under the same code, but the AC unit installations would have been completed prior to his employ. He further stated they may have been placed there without a permit; it was before his time.

Member Lucille Sells stated one of the owners talked about the generator being an eyesore. She inquired if the owner talked about their willingness to obscure the view.

Representative Electro-Tronics, LLC, Dan Claas stated he was actually contracted from Nelson's Landscaping Service for the project because they do all the landscaping needs for the Kimmel's. It was actually contracted into the same proposal. There was going to be shrubbery and bushes all around the generator. You can see the side view of it from the street and the homeowner to the north who has objected has their generator in the front of the home, which is what they were trying to avoid for the installation. It is contracted to have front and side landscaping shrubbery which should obscure the view of it and also muffle some of the sound.

Member Lucille Sells inquired where the generator would be placed, in the event it would have to move.

Representative Electro-Tronics, LLC, Dan Claas stated where it is currently located now is the north wall. The only location they could move it to would be the front yard; it would be on the front face of the garage, staying on the north side, continuing the gas pipe and electric on that side of the home. They would have to go the additional five feet to make that setback. So it would be placed

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022**

BOA Packet - July 27, 2022
Page 8 of 99

more on the center of that wall. It would not have to be away from the window area of the garage because it is a garage window.

Building Inspector Michael Rakow stated he believes it would meet the setbacks in that particular area on the front face area of the garage, but he would have to check for certain.

Closing of Testimony

Without objection and by unanimous consent, Chairperson Nancy Filsinger closed testimony at 5:56 p.m.

Village Attorney Eric Larson read for review, the variance standards that the Board should consider regarding Case 2022-05. After reading the standards, Village Attorney Eric Larson did reiterate that they did hear from one neighbor who is opposed to the installation of the generator. He stated the determination is the Boards.

Member Lucille Sells asked the Village Attorney Eric Larson for clarification on grandfathering the AC units.

Village Attorney Eric Larson responded the testimony is closed; the testimony could be re-opened. Village Attorney Eric Larson stated the Boards jurisdiction today is to consider what the applicants have applied for which is the generator.

Member Thomas Dunst stated the primary difficulty seems to be the gas line or appearances.

Member Scott Ratke stated they mentioned all the hook-ups – the electrical and the gas line; this was the most feasible spot to place the generator unit.

Member Lucille Sells commented the practicality of the two locations mentioned with the second potential location being in the front yard. When talking about public interest, other residents are not going to want to view the generator. It could be encased in a bush, but that can also be done on the side of the home. In terms of its practical location, a front yard setting seems odd between the two potential locations.

Member Scott Ratke stated it seems to be in the appropriate place in regard to aesthetics and in the most practical place for the utility hook-ups.

Member Lucille Sells stated she appreciates the willingness when noting the noise issue and being willing to work with that issue to prevent further public harm.

Village Attorney Eric Larson commented that he is gathering from the Boards discussion, not stated, that the Board believes it is reasonable and appropriate that the owners should be entitled to have a generator.

Motion by Member Scott Ratke, Seconded by Member Lucille Sells to grant the variance for the generator in terms of the practicality of placing it where the owners are installing it and there seems to be no better spot and there is not much public harm from

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
THURSDAY, MAY 19, 2022

BOA Packet - July 27, 2022
Page 9 of 99

it and they are doing everything than can do in terms of keeping the noise down in terms of cycling it twice a month at half power.

With no further discussion, the roll was called.

<u>Thomas Dunst</u>	<u>Aye</u>
<u>Scott Ratke</u>	<u>Aye</u>
<u>Lucille Sells</u>	<u>Aye</u>
<u>Susan Yale</u>	<u>Aye</u>
<u>Nancy Filsinger</u>	<u>Aye</u>

The variance was granted by roll call vote, 5-0.

Consideration of Board Rules Concerning Meetings

The Board held a discussion regarding Section 2(b) of the Rules of Procedure of the Fox Point Board of Appeals, which says the meetings are held at the call of the Chair or at the call of any two members. Board of Appeals considered, whether to act to adopt an amendment to their Rules of Procedure to establish a regular monthly or bi-monthly meeting schedule for Board of Appeals meetings.

Motion by Member Scott Ratke, Seconded by Member Thomas Dunst, and carried unanimously to amend the Board of Appeals Rules of Procedures Section 2. (a), Meetings to be held every other month on the fourth Wednesday of the month, beginning in July.

Adjourn

Motion by Member Scott Ratke, Seconded by Member Lucille Sells, and carried by roll call vote (5-0) or unanimously, to adjourn the meeting at 6:23 p.m.

Respectfully Submitted,

Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer

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

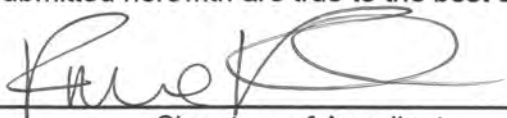
1. Name of Appellant Kristie Kosoubcki
Address of Appellant 940 E Wye Lane
Phone Number _____ 262-302-0413
Home Work Cell
E-mail Address Kristie@holtonbrothers.com
2. Address of Property 940 E Wye Lane
Present Use of Property Residential
Proposed Use of Property Residential
Owner's Name and Address if Different than Above _____
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 _____
Date of Notice of Such Decision Received by Appellant _____
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: Kristie KosobuckiVillage 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

3/21/22

Date

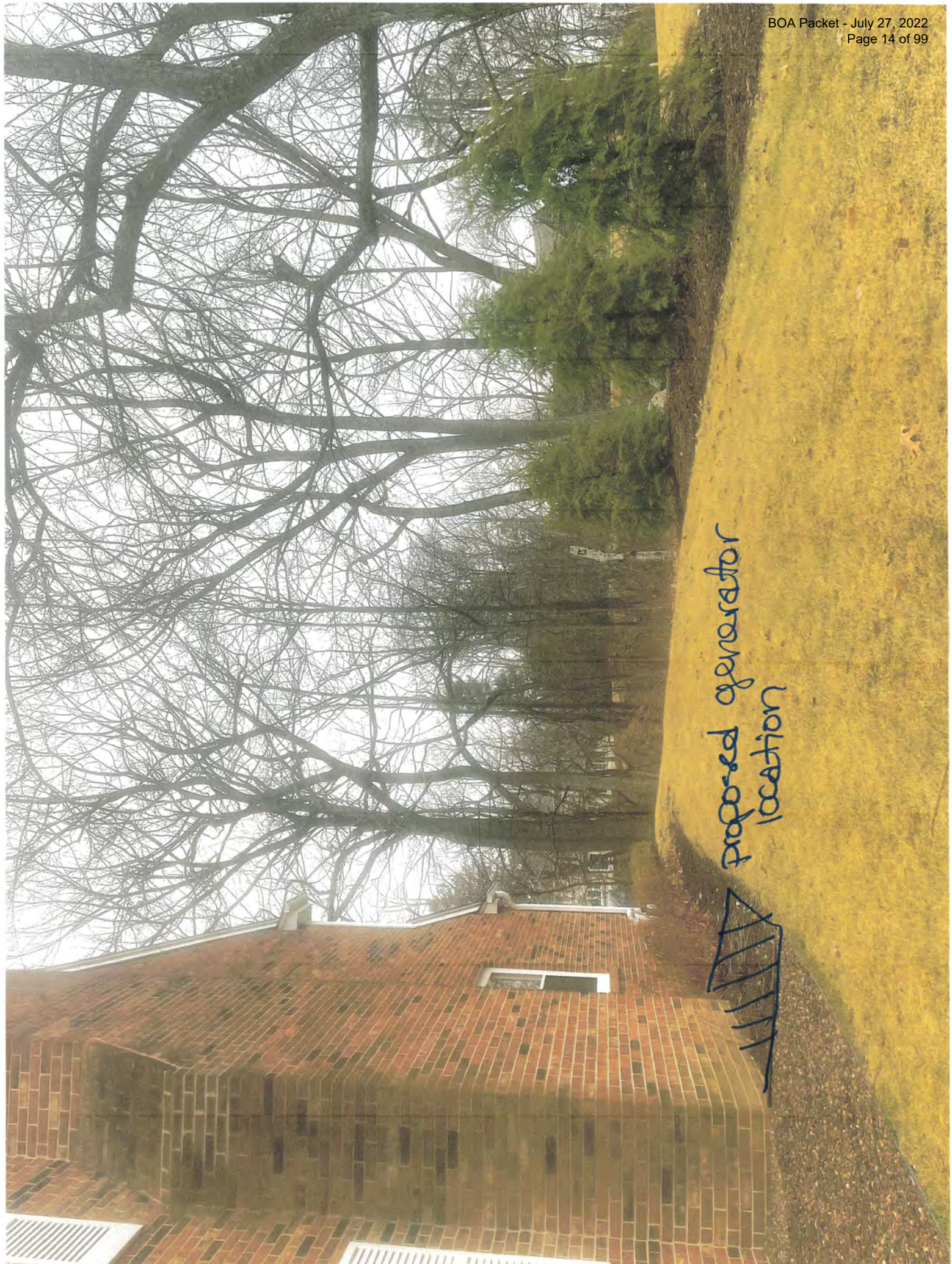
For Office Use Only:

Date Application Received 03/23/2022 Receipt Number for \$200 Filing Fee 1.057329
Case Number Case 2022-04 Hearing Date _____
Disposition _____

Fox Point Variance Request – Kosobucki – 940 E Wye Lane

1. We are requesting a variance on the Generator Setback from side yards.
2. The way the code was currently written, there is no place in the side yard we could place a generator that met the current requirements. If we are not granted a variance we would be unable to install an automatic generator to protect our home against power outages. These power outages have been a normal occurrence in our area, and it is important to have consistent power to our property for specific medical reasons.
3. The variance requested places the generator in an area that is as far from the property lines that is feasible. Where we propose to place it is approximately 17 feet from the property line and 30 feet from our neighbor's house as well. That neighbor also has a generator in place at their residence that is between the 2 houses.
4. I believe the code is in place to make sure the generator is in a safe and unobtrusive area. Our placement does that to the best extent possible at this location.
5. Not approving this variance will inhibit this resident of your community from having piece of mind and maintaining our quality of life when the power goes out.





proposed generator
location

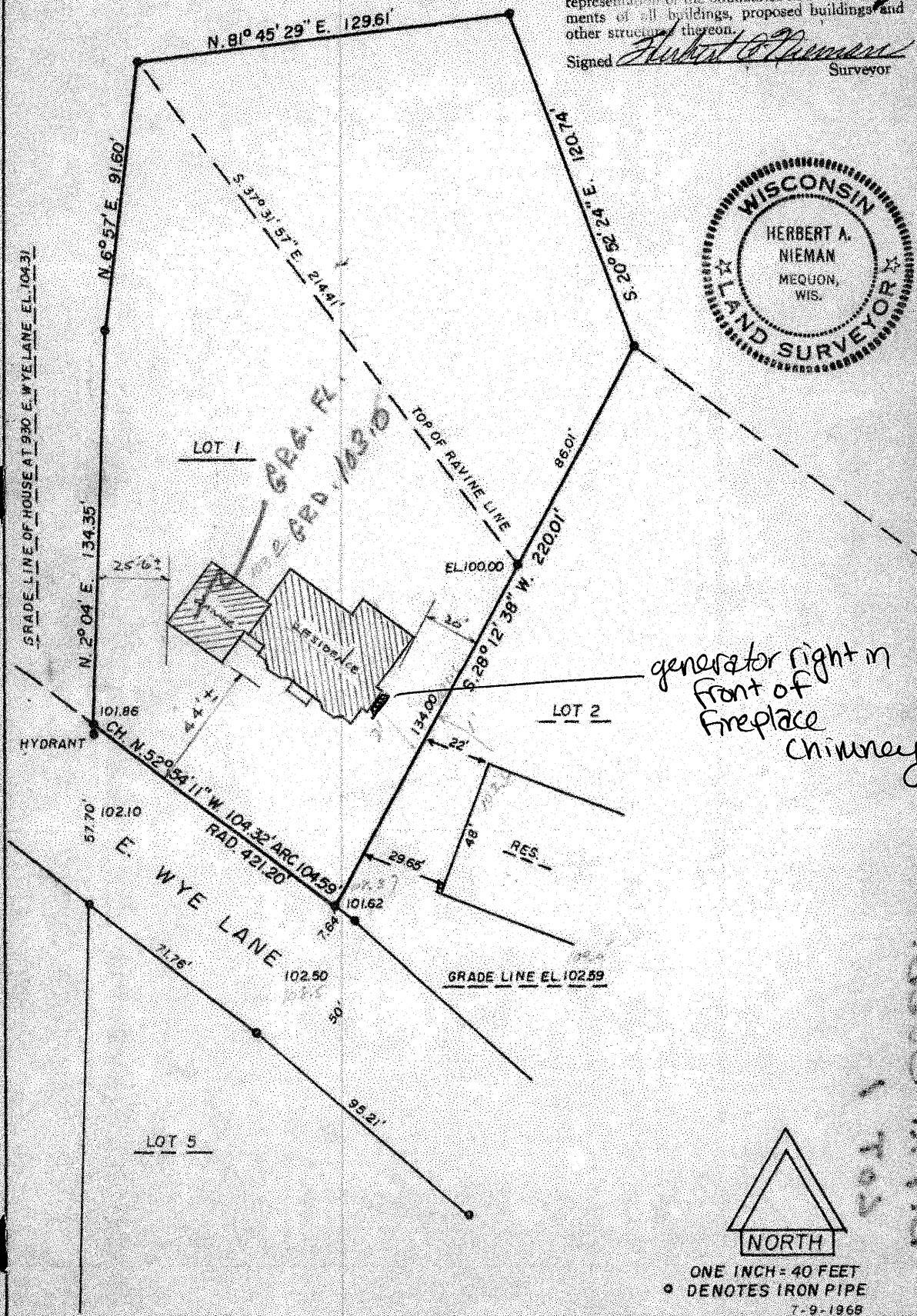
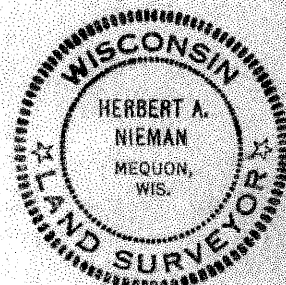


SURVEY PLAT of LOT 1 in B. & K. SUBDIVISION, being a subdivision of a part of the N E. 1/4 and S E. 1/4 of the S W. 1/4 of Section 16, and also part of the N W. 1/4 and S W. 1/4 of the S E. 1/4 of Section 16, T. 8 N., R. 22 E. in the Village of Fox Point, Milwaukee County, Wisconsin.

Prepared for WM. F. THALMAN

I hereby certify that on the 9th day of July, 1968, I have surveyed the above described property according to the official records and that the above plat is a correct representation of the boundaries and the measurements of all buildings, proposed buildings and other structures thereon.

Signed Herbert A. Nieman
Surveyor



GENERAC®

GUARDIAN® SERIES Residential Standby Generators Air-Cooled Gas Engine

20/22/24 kW

1 of

20/22/24 kW

INCLUDES:

- True Power™ Electrical Technology
- Two-line multilingual digital LCD Evolution™ controller (English/Spanish/French/Portuguese)
- 200 amp service rated transfer switch available
- Electronic governor
- Standard Wi-Fi® connectivity
- System status & maintenance interval LED indicators
- Sound attenuated enclosure
- Flexible fuel line connector
- Natural gas or LP gas operation
- 5 Year limited warranty
- Listed and labeled by the Southwest Research Institute allowing installation as close as 18 in (457 mm) to a structure.*
*Must be located away from doors, windows, and fresh air intakes and in accordance with local codes.

https://assets.swri.org/library/DirectoryOfListedProducts/ConstructionIndustry/973_DoC_204_13204-01-01_Rev9.pdf

Standby Power Rating

G007038-1, G007039-1, G007038-3, G007039-3 (Aluminum - Bisque) - 20 kW 60 Hz
G007042-2, G007043-2, G007042-3, G007043-3 (Aluminum - Bisque) - 22 kW 60 Hz
G007209-0, G007210-0 (Aluminum - Bisque) - 24 kW 60 Hz



or **QUIET-TEST™**



Note: ETL or CUL certification only applies to unbundled units and units packaged with limited circuit switches. Units packaged with the Smart Switch are ETL or UL certified in the USA only.

FEATURES

- **INNOVATIVE ENGINE DESIGN & RIGOROUS TESTING** are at the heart of Generac's success in providing the most reliable generators possible. Generac's G-Force engine lineup offers added peace of mind and reliability for when it's needed the most. The G-Force series engines are purpose built and designed to handle the rigors of extended run times in high temperatures and extreme operating conditions.
- **TRUE POWER™ ELECTRICAL TECHNOLOGY:** Superior harmonics and sine wave form produce less than 5% Total Harmonic Distortion for utility quality power. This allows confident operation of sensitive electronic equipment and micro-chip based appliances, such as variable speed HVAC systems.
- **TEST CRITERIA:**
 - ✓ **PROTOTYPE TESTED**
 - ✓ **SYSTEM TORSIONAL TESTED**
 - ✓ **NEMA MG1-22 EVALUATION**
 - ✓ **MOTOR STARTING ABILITY**
- **MOBILE LINK® CONNECTIVITY:** FREE with select Guardian Series Home standby generators, Mobile Link Wi-Fi allows users to monitor generator status from anywhere in the world using a smartphone, tablet, or PC. Easily access information such as the current operating status and maintenance alerts. Users can connect an account to an authorized service dealer for fast, friendly, and proactive service. With Mobile Link, users are taken care of before the next power outage.
- **SOLID-STATE, FREQUENCY COMPENSATED VOLTAGE REGULATION:** This state-of-the-art power maximizing regulation system is standard on all Generac models. It provides optimized FAST RESPONSE to changing load conditions and MAXIMUM MOTOR STARTING CAPABILITY by electronically torque-matching the surge loads to the engine. Digital voltage regulation at $\pm 1\%$.
- **SINGLE SOURCE SERVICE RESPONSE** from Generac's extensive dealer network provides parts and service know-how for the entire unit, from the engine to the smallest electronic component.
- **GENERAC TRANSFER SWITCHES:** Long life and reliability are synonymous with GENERAC POWER SYSTEMS. One reason for this confidence is that the GENERAC product line is offered with its own transfer systems and controls for total system compatibility.
- **PWRVIEW™ TRANSFER SWITCH:** The Generac PWRview Automatic Transfer Switch integrates the PWRview energy monitor to provide real-time energy consumption data that can help lower a home's electricity bill. Using a convenient mobile app, homeowners can access energy usage and alert information while under utility power or generator power. The PWRview energy monitor is a simple to use and low cost tool which helps save money over the life of the generator. Included with model G007210-0.

THE GENERAC
PROMISE



GENERAC®

PWRVIEW

* Assembled in the USA using domestic and foreign parts.

20/22/24 kW

Specifications

Generator

Model	G007038-1 G007039-1 (20 kW)	G007042-2 G007043-2 (22 kW)	G007038-3 G007039-3 (20 kW)	G007042-3 G007043-3 (22 kW)	G007209-0 G007210-0 (24 kW)
Rated maximum continuous power capacity (LP)	20,000 Watts*	22,000 Watts*	20,000 Watts*	22,000 Watts*	24,000 Watts*
Rated maximum continuous power capacity (NG)	18,000 Watts*	19,500 Watts*	18,000 Watts*	19,500 Watts*	21,000 Watts*
Rated voltage	240				
Rated maximum continuous load current – 240 volts (LP/NG)	83.3 / 75.0	91.7 / 81.3	83.3 / 75.0	91.7 / 81.3	100 / 87.5
Total Harmonic Distortion	Less than 5%				
Main line circuit breaker	90 amp	100 amp	90 amp	100 amp	100 amp
Phase	1				
Number of rotor poles	2				
Rated AC frequency	60 Hz				
Power factor	1.0				
Battery requirement (not included)	12 Volts, Group 26R 540 CCA minimum or Group 35AGM 650 CCA minimum				
Unit weight (lb / kg)	448 / 203	466 / 211	436 / 198	445 / 202	455 / 206
Dimensions (L x W x H) in / cm	48 x 25 x 29 / 121.9 x 63.5 x 73.7				
Sound output in dB(A) at 23 ft (7 m) with generator operating at normal load**	67	67	67	67	67
Sound output in dB(A) at 23 ft (7 m) with generator in Quiet-Test™ low-speed exercise mode**	55	57	55	57	57
Exercise duration	5 min				

Engine

Engine type	GENERAC G-Force 1000 Series				
Number of cylinders	2				
Displacement	999 cc				
Cylinder block	Aluminum w/ cast iron sleeve				
Valve arrangement	Overhead valve				
Ignition system	Solid-state w/ magneto				
Governor system	Electronic				
Compression ratio	9.5:1				
Starter	12 VDC				
Oil capacity including filter	Approx. 1.9 qt / 1.8 L				
Operating rpm	3,600				
Fuel consumption					
Natural gas	ft ³ /hr (m ³ /hr)				
1/2 Load	204 (5.78)	228 (6.46)	164 (4.64)	203 (5.75)	
Full Load	301 (8.52)	327 (9.26)	287 (8.13)	306 (8.66)	
Liquid propane	ft ³ /hr (gal/hr) [L/hr]				
1/2 Load	87 (2.37) [8.99]	92 (2.53) [9.57]	86 (2.36) [8.95]	92 (2.53) [9.57]	
Full Load	130 (3.56) [13.48]	142 (3.90) [14.77]	136 (3.74) [14.15]	142 (3.90) [14.77]	

Note: **Fuel pipe must be sized for full load.** Required fuel pressure to generator fuel inlet at all load ranges - 3.5–7 in water column (0.87–1.74 kPa) for NG, 10–12 in water column (2.49–2.99 kPa) for LP gas. For BTU content, multiply ft³/hr x 2500 (LP) or ft³/hr x 1000 (NG). For Megajoule content, multiply m³/hr x 93.15 (LP) or m³/hr x 37.26 (NG).

Controls

Two-line plain text multilingual LCD	Simple user interface for ease of operation.
Mode buttons: AUTO	Automatic start on utility failure. Weekly, Bi-weekly, or Monthly selectable exerciser.
MANUAL	Start with starter control, unit stays on. If utility fails, transfer to load takes place.
OFF	Stops unit. Power is removed. Control and charger still operate.
Ready to Run/Maintenance messages	Standard
Engine run hours indication	Standard
Programmable start delay between 2–1500 seconds	Standard (programmable by dealer only)
Utility Voltage Loss/Return to Utility adjustable (brownout setting)	From 140–171 V / 190–216 V
Future Set Capable Exerciser/Exercise Set Error warning	Standard
Run/Alarm/Maintenance logs	50 events each
Engine start sequence	Cyclic cranking: 16 sec on, 7 rest (90 sec maximum duration).
Starter lock-out	Starter cannot re-engage until 5 sec after engine has stopped.
Smart Battery Charger	Standard
Charger Fault/Missing AC warning	Standard
Low Battery/Battery Problem Protection and Battery Condition indication	Standard
Automatic Voltage Regulation with Over and Under Voltage Protection	Standard
Under-Frequency/Overload/Stepper Overcurrent Protection	Standard
Safety Fused/Fuse Problem Protection	Standard
Automatic Low Oil Pressure/High Oil Temperature Shutdown	Standard
Overcrank/Overspeed (@ 72 Hz)/rpm Sense Loss Shutdown	Standard
High Engine Temperature Shutdown	Standard
Internal Fault/Incorrect Wiring protection	Standard
Common external fault capability	Standard
Field upgradable firmware	Standard

**Sound levels are taken from the front of the generator. Sound levels taken from other sides of the generator may be higher depending on installation parameters. Rating definitions - Standby: Applicable for supplying emergency power for the duration of the utility power outage. No overload capability is available for this rating. (All ratings in accordance with BS5514, ISO3046 and DIN6271). * Maximum kilovolt amps and current are subject to and limited by such factors as fuel BTU/megajoule content, ambient temperature, altitude, engine power and condition, etc. Maximum power decreases approximately 3.5% for each 1,000 ft (304.8 m) above sea level; and also will decrease approximately 1% for each 10 °F (6 °C) above 60 °F (16 °C).

Switch Options

20/22/24 kW

Service Rated Automatic Transfer Switch Features

- Intelligently manages up to four air conditioner loads with no additional hardware.
- Up to eight additional large (240 VAC) loads can be managed when used in conjunction with Smart Management Modules (SMMs).
- Electrically operated, mechanically-held contacts for fast, clean connections.
- Rated for all classes of load, 100% equipment rated, both inductive and resistive.
- 2-pole, 250 VAC contactors.
- Service equipment rated, dual coil design.
- Rated for both aluminum and copper conductors.
- Main contacts are silver plated or silver alloy to resist welding and sticking.
- NEMA/UL 3R aluminum outdoor enclosure allows for indoor or outdoor mounting flexibility.

Dimensions

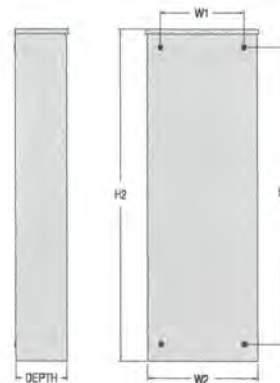
	200 Amps 120/240, 1Ø Open Transition Service Rated				
	Height		Width		Depth
	H1	H2	W1	W2	
in	26.8	30.1	10.5	13.5	6.9
cm	67.95	76.43	26.67	34.18	17.5

Wire Ranges		
Conductor Lug	Neutral Lug	Ground Lug
250 MCM - #6	350 MCM - #6	2/0 - #14

Model	G007039-1, G007039-3 (20 kW) G007043-2, G007043-3 (22 kW)
No. of poles	2
Current rating (amps)	200
Voltage rating (VAC)	120/240, 1Ø
Utility voltage monitor (fixed)*	
-Pick-up	80%
-Dropout	65%
Return to Utility*	Approx. 13 sec
Exercises bi-weekly for 5 minutes*	Standard
ETL or UL listed	Standard
Enclosure type	NEMA/UL 3R
Circuit breaker protected	22,000
Lug range	250 MCM - #6

*Function of Evolution controller

Exercise can be set to weekly, bi-weekly, or monthly



PWRview Automatic Transfer Switch Features

- Integrated PWRview monitor provides real-time energy usage data through PWRview app.
- Intelligently manages up to four air conditioner loads with no additional hardware.
- Up to eight additional large (240 VAC) loads can be managed when used in conjunction with Smart Management Modules (SMMs).
- Electrically operated, mechanically-held contacts for fast, clean connections.
- Rated for all classes of load, 100% equipment rated, both inductive and resistive.
- 2-pole, 250 VAC contactors.
- Service equipment rated, dual coil design.
- Rated for both aluminum and copper conductors.
- Main contacts are silver plated or silver alloy to resist welding and sticking.
- NEMA 3R aluminum outdoor enclosure allows for indoor or outdoor mounting flexibility.
- Heavy duty Generac Contactor is an ETL recognized device.

Dimensions

	200 Amps 120/240, 1Ø Open Transition Service Rated				
	Height		Width		Depth
	H1	H2	W1	W2	
in	26.8	30.1	10.5	13.5	6.9
cm	67.95	76.43	26.67	34.18	17.5

Wire Ranges		
Conductor Lug	Neutral Lug	Ground Lug
250 MCM - #6	350 MCM - #6	2/0 - #14

Model	G007210-0 (24 kW)
No. of poles	2
Current rating (amps)	200
Voltage rating (VAC)	120/240, 1Ø
Utility voltage monitor (fixed)*	
-Pick-up	80%
-Dropout	65%
Return to Utility*	Approx. 13 sec
Exercises bi-weekly for 5 minutes*	Standard
ETL or UL listed	Standard
Enclosure type	NEMA 3R
Circuit breaker protected	22,000
Lug range	250 MCM - #6

*Function of Evolution controller

Exercise can be set to weekly, bi-weekly, or monthly



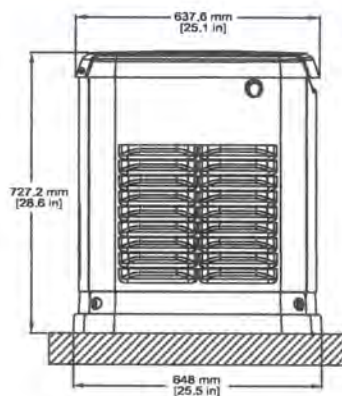
20/22/24 kW

Available Accessories

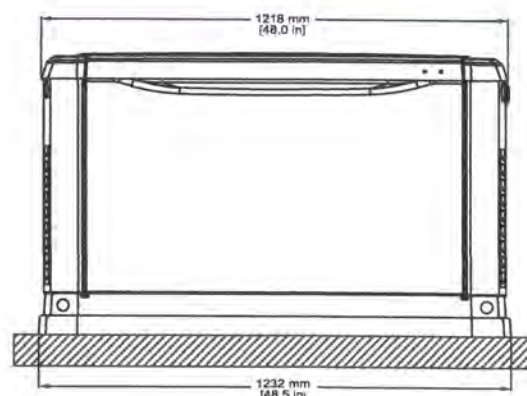
Model #	Product	Description
G005819-0	26R Wet Cell Battery	Every standby generator requires a battery to start the system. Generac offers the recommended 26R wet cell battery for use with all air-cooled standby product (excluding PowerPact®).
G007101-0	Battery Pad Warmer	Pad warmer rests under the battery. Recommended for use if temperature regularly falls below 0 °F (-18 °C). (Not necessary for use with AGM-style batteries).
G007102-0	Oil Warmer	Oil warmer slips directly over the oil filter. Recommended for use if temperature regularly falls below 0 °F (-18 °C).
G007103-1	Breather Warmer	Breather warmer is for use in extreme cold weather applications. For use with Evolution controllers only in climates where heavy icing occurs.
G005621-0	Auxiliary Transfer Switch Contact Kit	The auxiliary transfer switch contact kit allows the transfer switch to lock out a single large electrical load that may not be needed. Not compatible with 50 amp pre-wired switches.
G007027-0 - Bisque	Fascia Base Wrap Kit (Standard on 22/24 kW)	The fascia base wrap snaps together around the bottom of the new air-cooled generators. This offers a sleek, contoured appearance as well as offering protection from rodents and insects by covering the lifting holes located in the base.
G005703-0 - Bisque	Touch-Up Paint Kit	If the generator enclosure is scratched or damaged, it is important to touch up the paint to protect from future corrosion. The touch-up paint kit includes the necessary paint to correctly maintain or touch up a generator enclosure.
G006485-0	Scheduled Maintenance Kit	Generac's scheduled maintenance kit provides all the items necessary to perform complete routine maintenance on a Generac automatic standby generator (oil not included).
G007005-0	Wi-Fi LP Tank Fuel Level Monitor	The Wi-Fi enabled LP tank fuel level monitor provides constant monitoring of the connected LP fuel tank. Monitoring the LP tank's fuel level is an important step in verifying the generator is ready to run during an unexpected power failure. Status alerts are available through a free application to notify users when the LP tank is in need of a refill.
G007000-0 (50 amp) G007006-0 (100 amp)	Smart Management Module	Smart Management Modules (SMM) are used to optimize the performance of a standby generator. It manages large electrical loads upon startup and sheds them to aid in recovery when overloaded. In many cases, using SMM's can reduce the overall size and cost of the system.
G007169-0 - 4G LTE G007170-0 - Wi-Fi/ Ethernet	Mobile Link® Cellular Accessories	The Mobile Link family of Cellular Accessories allow users to monitor generator status from anywhere in the world, using a smart phone, tablet, or PC. Easily access information such as the current operating status and maintenance alerts. Users can connect an account with an authorized service dealer for fast, friendly, and proactive service. With Mobile Link, users are taken care of before the next power outage.
G007220-0 - Bisque	Base Plug Kit	Base plugs snap into the lifting holes on the base of air-cooled home standby generators. This offers a sleek, contoured appearance, as well as offers protection from rodents and insects by covering the lifting holes located in the base. Kit contains four plugs, sufficient for use on a single air-cooled home standby generator.

Dimensions & UPCs

Model	UPC
G007038-1	696471074185
G007038-3	696471074185
G007039-1	696471074192
G007039-3	696471074192
G007042-2	696471074208
G007042-3	696471074208
G007043-2	696471074215
G007043-3	696471074215
G007209-0	696471071511
G007210-0	696471078220



LEFT SIDE VIEW



FRONT VIEW

Dimensions shown are approximate. See installation manual for exact dimensions. DO NOT USE THESE DIMENSIONS FOR INSTALLATION PURPOSES.

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

414-351-8900

Receipt No: 1.057329

Mar 23, 2022

Kosoubcki-BOA App

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	200.00
10-44540 OTHER PERMIT	
Total:	200.00
CHECK	200.00
Check No: 180	
Payor: Kosoubcki-BOA App	
Total Applied:	200.00
Change Tendered:	.00

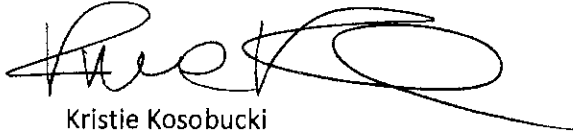
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03/23/2022 8:12 AM

To whom it may concern,

I will be unavailable to attend the variance meeting scheduled for May 19th at 5pm in regard to 940 E Wye Lane. I give permission to Michael (MJ) Thalman to represent my interests regarding the variance request for this property.

Thanks,

A handwritten signature in black ink, appearing to read 'Kristie', with a large, stylized flourish extending to the right.

Kristie Kosobucki

Owner of 940 E Wye Lane



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 Thursday, May 19, 2022, at 5:00 p.m. to hear the following appeal:

1. **Case 2022-03: 940 E Wye Lane.** The applicant is requesting a variance pertaining to Section 745-13 B. (3) of the Fox Point Village Code in the A1 Residence District, concerning side yard setback requirements. A side yard setback of not less than 20 feet from the side yard setback shall be provided for each side of every building. The request also pertains to Section 756-34 B., Exterior Structures regarding the installation of a generator. The applicant is proposing to install a generator approximately 17 feet from the property line.

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: [April 25, 2022]
Posted: [April 25, 2022]



Village of Fox Point GIS
940 E Wye Lane



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

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'

Print Date: 3/30/2022





To Whom it may concern,

Regarding the Kosobucki home and placement of their generator, the best place to set the unit based upon my in-person assessment is the Southeast corner.

When installing a generator there are guidelines that need to be followed. One of those are the unit must be 5 feet from windows doors or openings into the house such as furnace vents.

This spot was chosen because the chimney is there and as such made a large gap between the windows of the house. Due to that we were able keep the generator close to the house.

This side of the house is an ideal choice as the gas and electric meters are both located in close vicinity. I also saw that the neighbor to that side of the house has a generator that we installed, too.

The area behind/next to the garage was not a good choice as the homeowners indicated they will be doing an addition in the next few years which will consist of two walls of windows. This creates the same issue noted above where the generator must be 5 feet from windows and doors into the house. Behind the garage is also not a viable location as the basement does extend under the garage and trenching to get to the location would be cost prohibitive.

The area by the A/C unit was also not a good choice because where the windows and the A/C unit are currently located, the unit would be at minimum 5 feet out into the back yard possibly more as we need to stay 3 feet from the A/C unit and 5 feet from the windows and doors. Which would account for the unit at minimum being 7 feet into the yard and right in the walkway.

With this in mind, it is Adams Generators recommendation the unit goes in the side yard. This is the only viable spot for the generator in the yard.

Dan Schopp

Standby Power Sales

262-723-6565

801 N. Wisconsin Street
Elkhorn, WI 53121

§ 745-13. A-1 Residence District.

- A. Uses. In an A-1 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 accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-1 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, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 40,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% 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; and 15 feet when the 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. **[Amended 9-11-2012 by Ord. No. 2012-11]**
 - (3) A side yard of not less than 20 feet shall be provided for on each side of every building, except that in the case of lots existing as of May 6, 1958, and less than 100 feet in width measured at the narrowest place adjacent to the location of the dwelling, the side yard may be reduced by 1/4 of the difference between said width and 100 feet; provided, however, that the side yard shall in no event be less than 15 feet.
 - (4) A rear yard of not less than 20 feet shall be provided for every building.
 - (5) Every lot on which a building is erected shall have a minimum width of 120 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, with the exception in that, upon application to the Board of Appeals, the Board of Appeals may grant a special exception on a lot of not less than 80,000 square feet in total area upon the following criteria: **[Amended 2-9-2021 by Ord. No. 2021-01]**
 - (a) Special exceptions to the height limitations as hereinbefore set forth may

§ 745-13

§ 745-13

be granted by the Board of Appeals upon consideration of the following:

- [1] Reasonable compatibility with the character of the immediate neighborhood.
 - [2] Whether there will be unreasonable interference with the aesthetics and scenic views of residences in the surrounding area.
 - [3] Compatibility of the overall size of the structure in relation to the size of the lot.
- (b) For any special exception granted, an additional two feet of setback on all sides of the structure is required for each foot of additional height allowed.
 - (c) In no event shall the Board of Appeals grant a special exception allowing a height greater than 55 feet.
 - (d) 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.¹
 - (e) The special exceptions herein are not deemed to be variances from this chapter, but an allowed height upon satisfactory compliance with the foregoing conditions.
 - (f) The Clerk/Treasurer shall provide notice of Board of Appeals proceedings under this subsection to owners or occupants of properties the boundaries of which are within 500 feet of any boundary of the subject property.

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

§ 756-34. Air conditioning and refrigeration systems and backup generator installations.

A. Permit requirements.

- (1) Permit required. Except as hereinafter provided, before proceeding with the construction, erection or installation of any air-cooled, water-cooled or mechanically cooled air-conditioning or refrigeration system or unit or backup generator installations, in or to serve any building, a permit shall first be obtained from the Building Inspector.
- (2) Permits shall not be required for the installation of any air-conditioning or refrigeration system or unit that does not use water for cooling and where the source of operating power is obtained by plugging in an electrical cord connection to an electrical outlet. This subsection shall be applicable to portable units.
- (3) Application for a permit shall be made by the installing contractor upon a form provided by the Building Inspector, shall be filled out completely and shall provide the following information:
 - (a) Name and address of contractor.
 - (b) Location of premises where installation is proposed.
 - (c) Name and address of owner.
 - (d) Location of unit on premises, including distance to lot lines for exterior apparatus.
 - (e) Manufacturer's identification, classification and size of unit.
 - (f) Nature of coolant, if applicable.
 - (g) If water cooled, source of water and method of discharging wastewater. (Refer to Department of Building Inspection.)¹
 - (h) Where water conservation devices are required, manufacturer's name, identification, classification and size of equipment.
 - (i) Such additional information as shall be required by the Building Inspector.

- B. Exterior structures.** Where any unit of an air-conditioning or refrigeration system or backup generator installation is located outside of the structure, said unit shall comply with setback requirements for accessory structures as set forth in the Chapter 745, Zoning, and said location shall be subject to approval of the Building Inspector. Said location shall not, by noise or sight, be detrimental to adjoining property. As an exception to the requirements of this subsection, however, the

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

§ 756-34

§ 756-34

Village Manager may authorize a temporary backup generator installation to be located anywhere on a lot if the Village Manager finds that the generator serves a public purpose and will be removed no later than 12 months from the date of the approval, subject to the temporary structure approval procedure described in § 745-7D of this Code. **[Amended 2-12-2010 by Ord. No. 2010-02]**

(e) *Board of appeals.*

1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.
2. The board of appeals shall consist of 5 members appointed by the mayor subject to confirmation of the common council for terms of 3 years, except that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the mayor for cause upon written charges and after public hearing. The mayor shall designate one of the members as chairperson. The board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
3. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this section. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- 3m. If a quorum is present, the board of appeals may take action under this subsection by a majority vote of the members present.
4. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
5. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
6. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. In any action involving a listed property, as defined in s. 44.31 (4), the board shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning commission.
7.
 - a. In this subdivision, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, "use variance" means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.
 - b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the

enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- c. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.
 - e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.
 - f. A variance granted under this subdivision runs with the land.
8. In exercising the above mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
10. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the board of appeals, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board of appeals and on due cause shown, grant a restraining order. The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.
14. Costs shall not be allowed against the board unless it shall appear to the court that the board acted with gross negligence or in bad faith, or with malice, in making the decision appealed from.
15. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

S. c ION 18. 62.23 (7) (e) 7. a. of the statutes is created to read:

62.23 (7) (e) 7. a. In this subdivision, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

SEC ION 19. 62.23 (7) (e) 7. d. of the statutes is created to read:

62.23 (7) (e) 7. d. A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner



VILLAGE OF FOX POINT
BOARD OF APPEALS

NOTICE OF APPEAL & APPLICATION FOR REVIEW

1. Name of Appellant PAUL BODIS & REBECCA KIEFER
Address of Appellant 7001 N. YATES RD.
Phone Number N/A (414) 412-5927 (414) 559-0121
Home Work PB CEL RK Cell
E-mail Address paulbodis@gmail.com / beccakiefer@gmail.com
2. Address of Property 7001 N. YATES RD
Present Use of Property RESIDENTIAL
Proposed Use of Property RESIDENTIAL
Owner's Name and Address if Different than Above N/A
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

N/A
Disposition of Previous Appeal N/A
Date of Decision in Previous Case N/A
4. Date of Decision or Order of Administrative Official from which Appeal is Taken N/A
Date of Notice of Such Decision Received by Appellant N/A
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: Paul Bodis / Rebecca Kiefer

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.

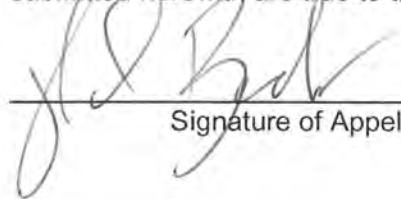


D. Other: _____
State relief requested and attach separate sheet, listing reasons why appellant is entitled to such relief.

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

5/27/22
Date

For Office Use Only:

Date Application Received 05/27/22

Return Fee - Waived
Receipt Number for \$200 Filing Fee 1.057612

Case Number 2022-046

Hearing Date 07/27/22

Disposition _____

Attachment to Rebecca Kiefer & M Paul Bodis Application

Requesting Special Exception from Fence Ordinance

1. Height of the proposed fence

6.0 feet

2. Exact location of the proposed fence

- A. Along the property line between 7001 N Yates Rd and 220 E Green Tree Rd, running from existing neighbor's fence [at 7021 N Yates Rd], on the NW corner of the lot, beginning at an angle to accommodate the utility easement/pole on the SW corner of the lot, and moving South along said property line towards the SW corner of the lot for a total distance of 107 ft.; then running from that point East for a total distance of 78 ft.; then running from that point North for a total distance of 72 ft. to meet the existing house. Gate on South fence line and gate on East fence line as outlined in attached drawing.

This fence would replace existing fence already on property, and would expand the amount of property enclosed by the existing fence on the South/East side of the property. This portion of the property directly abuts the busy intersection at Green Tree and Yates Rd, and runs parallel to the Village walkway already existing on the parcel. See attached drawing from A1 fence. [Portion highlighted in Pink]

- B. Along the property line between 7001 N Yates Rd and 7021 N Yates Rd, running from existing neighbor's fence [at 7021 N Yates Rd] moving East for a total distance of 8 feet; then running from that point South for a total distance of 12 ft. to meet the existing house. Gate on East fence line as outlined in attached drawing.

This fence would replace existing fence already on property. See attached drawing from A1 fence. [Portion highlighted in Pink]

- C. Small ornamental fence within fenced portion on property to screen the A/C unit on property. This portion would be 4 ft. high rather than 6 ft. high. See attached drawing from A1 fence. [Portion highlighted in Pink]

3. Indicate whether the fence is replacement fence

A 6 ft privacy fence already exists on the property; this fence would replace that existing fence and expand the property enclosed by the existing fence, as outlined in #2 above and as reflected on the attached drawing from A1 fence.

Attachment to Rebecca Kiefer & M Paul Bodis Application

Requesting Special Exception from Fence Ordinance

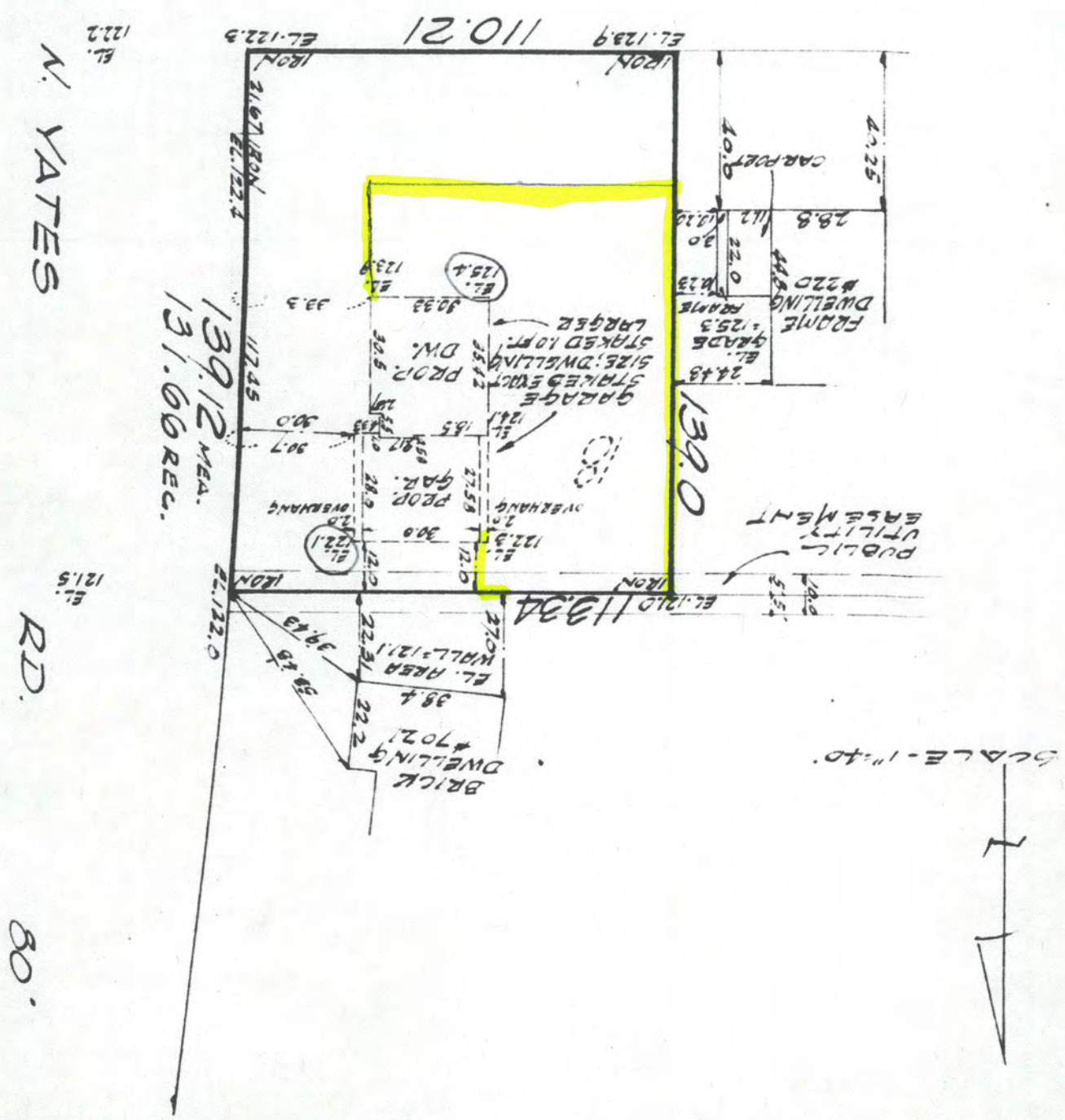
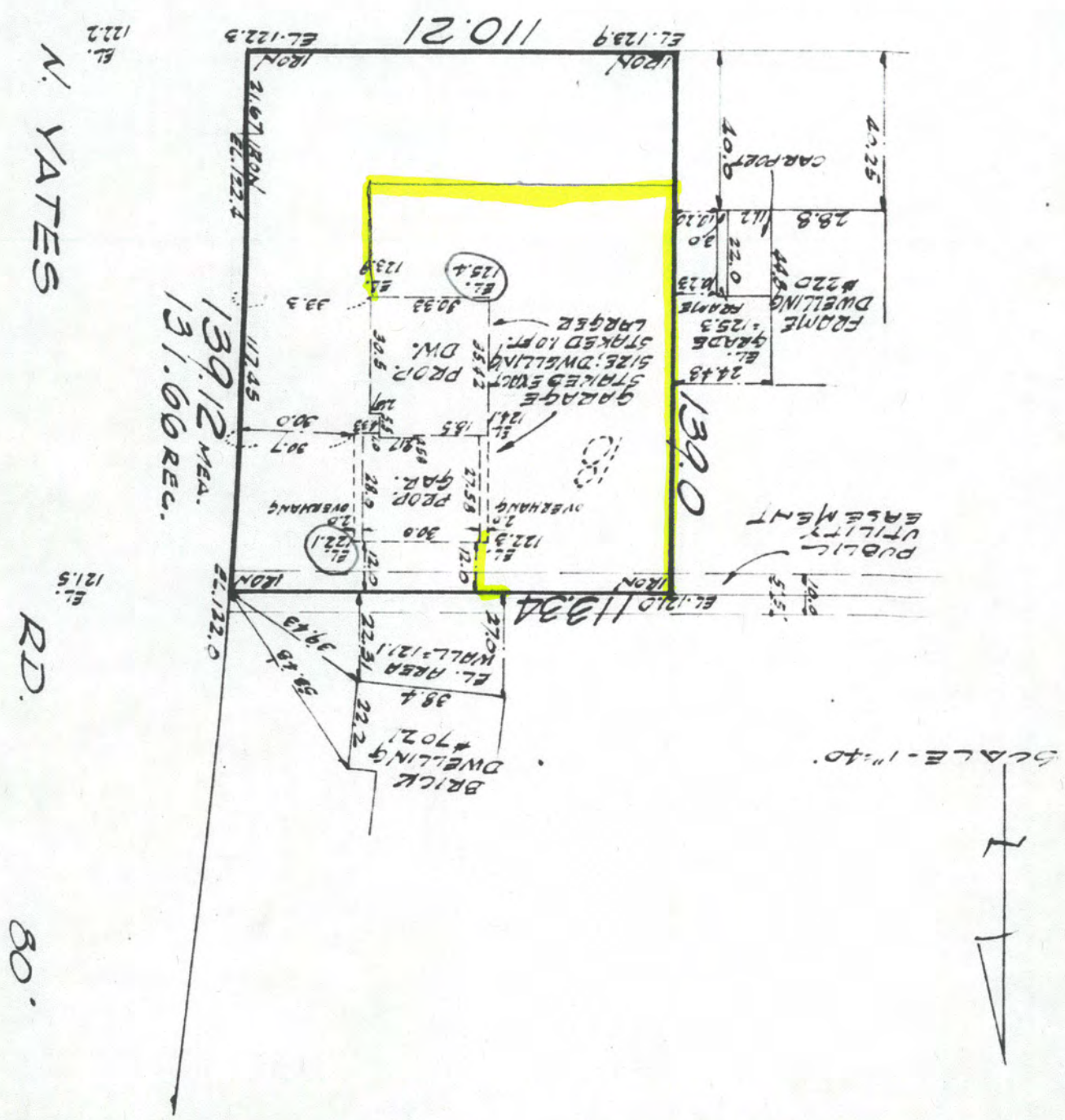
4. Type of fence and materials

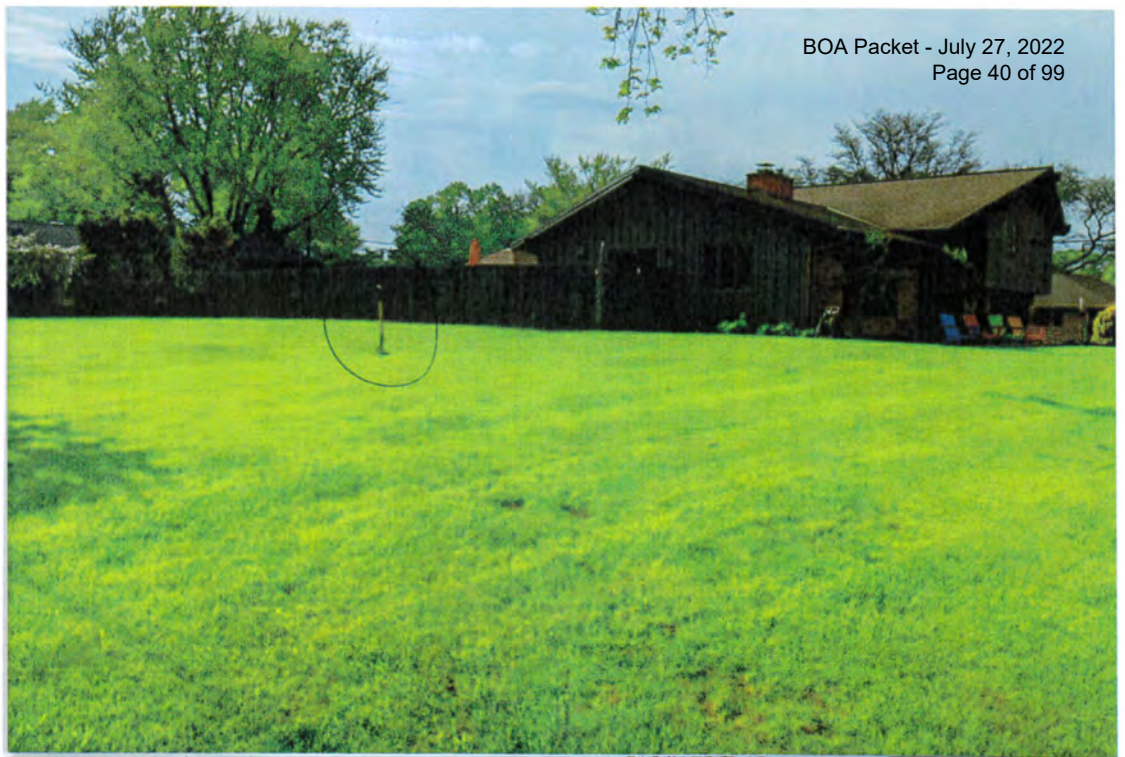
All portions of fence would be cedar. Portions would be dog-eared privacy fencing and portions would be horizontal open fencing. Horizontal open fencing along the corner of the lot facing the corner of Green Tree and Yates Rd, for a more open look than existing privacy fence and more in keeping with the midcentury style of the home. Specifically, the 42 ft and 78 ft portions described in 2A above, enclosing the southeast portion of the lot and abutting the corner of Green Tree and Yates Rd would be horizontal style open fence. For portions running along the property line between 220 E Green Tree Rd and 7001 N Yates Rd described in 2A above, and the entire fence described in 2B above, that fence would be dog-eared privacy fence. For portion described in 2C, that portion would be 4 ft cedar horizontal open fencing. See attached photos from A1 fence for examples of fence style types.

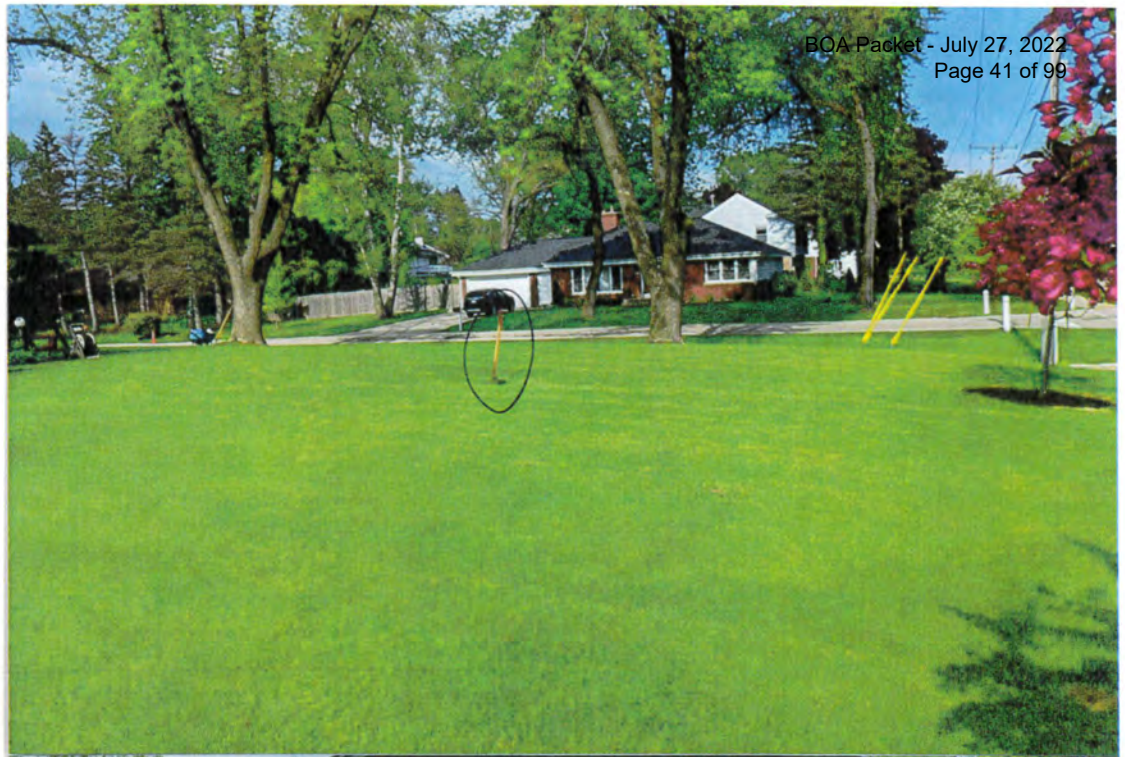


Plot of Survey

Known as 7001 North Yates Road, Village of Fox Point, Wisconsin.
Lot 18 in Block 1 in CARL MILLER SUBDIVISION NO. 4, being a Subdivision of a part of the N. E. 1/4 of Section 20 and the N. W. 1/4 of Section 21, T 8 N., R 22 E., in the Village of Fox Point, Milwaukee County, Wisconsin.
November 6, 1958
Survey No. 87050-S

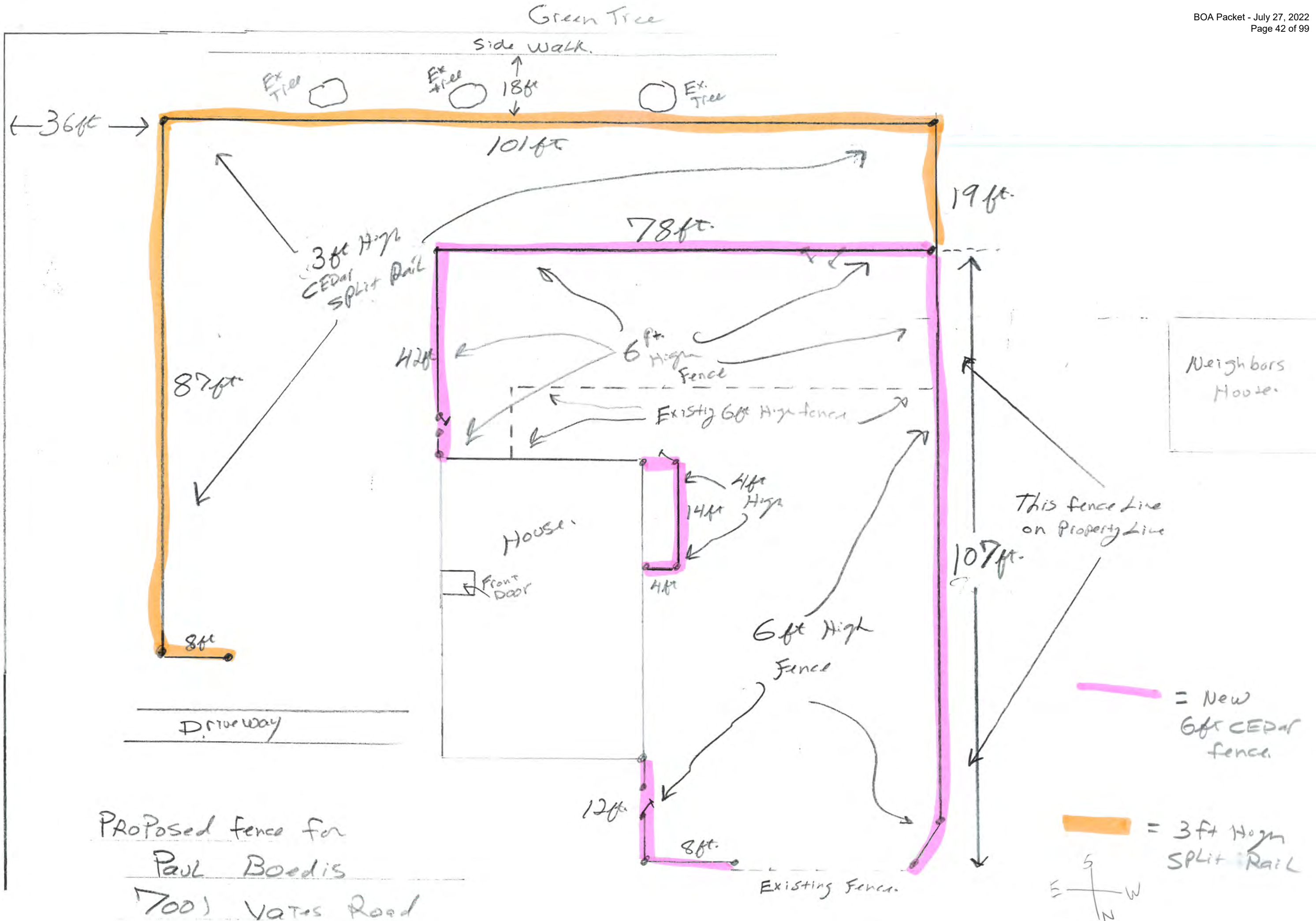






pitchfork represents proposed
fence placement

Yates







June 29, 2022

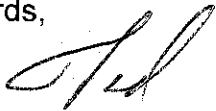
Kelly A. Meyer
Village Clerk Treasurer
Village of Fox Point
7200 N. Santa Monica Blvd.
Fox Point, WI 53217

Dear Ms. Meyer:

First, please change my address of record to: 1991 Wittenberg Ct. Mt. Pleasant, SC 29464-3977. Address all future mail, including annual real estate taxes, regarding my property, 401 E. Green Tree Road to this new address.

Second, re the proposed fence at 7001 N. Yates Road. I believe that a solid 6 foot high fence at this corner location will obstruct the view of traffic on Green Tree Road. I would be opposed to permitting this.

Regards,



Theodore E. Fine
1991 Wittenberg Court
Mt Pleasant, SC 29464-3977



§ 745-7. Accessory uses and structures.

A. General.

- (1) Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as is specifically otherwise provided.
- (2) No accessory use or structure shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property.
- (3) Any of the requirements hereinafter established in this section relating to accessory uses and structures, except for permanent buildings in excess of 100 square feet in ground area, may be modified in their specific application to a given situation with the approval of the Village Manager or his/her designee, where in the Village Manager's or designee's opinion the strict application of the requirement would be unnecessarily burdensome or would not in fact achieve the actual intent of the requirement, or where modification would more effectively achieve such intent, provided in all cases such modification is consistent with the basic spirit and intent of this chapter. Appeal from the determination of the Village Manager or his/her designee may be made to the Building Board, provided such appeal is filed with the Village Manager within 30 days from the date of the Village Manager's or designee's action.

B. Permanent structures.

- (1) Any permanent roofed structure serving an accessory use if attached to the principal building shall be considered a part of such principal building for all regulatory purposes. If such structure is a building and is not attached to the principal building, no roofed or enclosed portion shall be closer than 10 feet to any roofed or enclosed part of the principal building, and such structure shall conform to the open area, height, and front, side and rear setback requirements of the district in which such building is located except as permitted by § 756-36 of this Code.¹
- (2) Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., where subject to "permanent structure" classification, shall not be permitted closer than three feet to an abutting property line other than a street line.
- (3) Fences, walls, architectural screening devices, driveway gates and arbors. The following regulations are established to ensure that the Village of Fox Point retains the openness and semirural character of its landscape.
 - (a) Permit required. No person shall erect or construct any fence, wall, driveway gate, architectural screening device or arbor, unless specifically exempted by the provisions of this subsection, on any property within the

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

§ 745-7

§ 745-7

Village of Fox Point without having first obtained a permit from the Building Inspector and having paid the fee prescribed by ordinance. Retaining walls regulated by § 285-4 of this Code are exempt from the requirements of this subsection. A survey by a licensed surveyor shall be submitted with each application for a fence, wall, architectural screening device, driveway gate or arbor 10 feet or less from the lot line of the property. The determination of the Building Inspector as to proximity shall be final. When required, the survey shall show the location of the proposed fence, wall, architectural screening device, driveway gate or arbor in relation to the property line but need not depict any other aspect of the subject property. The Building Inspector shall deny a permit if the proposed fence, wall, architectural screening device, driveway gate or arbor is in the right-of-way or if its proposed location will impede visibility of vehicular traffic.

- (b) Replacement or reconstruction. If an existing fence, wall, architectural screening device, driveway gate or arbor is substantially or completely destroyed or becomes deteriorated to a material degree, it may be replaced or reconstructed in the same location, height and materials by first obtaining a permit, provided that it must be replaced or reconstructed within 12 months of being removed. All other replacement or reconstruction of existing fences, walls, architectural screening devices, driveway gates or arbors must fully comply with the terms of this section.
- (c) Temporary fences. Temporary safety, snow or deer fences of any type may be allowed in the discretion of the Village Manager for the purpose of safety, protection from the elements or protection from deer, for a period not to exceed 120 days, unless extended by the Village Manager. Temporary construction fences may be allowed in the discretion of the Village Building Inspector for the time that a building permit is in effect on the property.
- (d) Lake, bluffs and ravines. Where property abuts Lake Michigan, or is located on a bluff or a ravine in such a locale that construction of a fence, wall, architectural screening device, driveway gate or arbor would materially obstruct the aesthetic views of adjoining and surrounding property owners, the Building Inspector may deny a permit based upon his determination that there is a substantial negative impact upon the aesthetic enjoyment of surrounding properties. Any affected party may appeal the Building Inspector's determination to the Board of Appeals within 30 days of the Building Inspectors' determination. No fence, wall, architectural screening device, driveway gate or arbor shall be constructed on the side of a ravine or bluff in violation of § 285-3 of this Code.
- (e) Construction in right-of-way prohibited. Any fence, wall, architectural screening device, driveway gate or arbor that is erected in a street right-of-way or impedes traffic visibility may be removed by the Village of Fox

§ 745-7

§ 745-7

Point at any time.

- (f) Definitions. For purposes of this subsection, the following terms shall have the following meanings; the terms "front yard," "rear yard" and "side yard" shall be defined as set forth in § 745-2 of this chapter:

ARBOR — Any structure intended to provide a support system for plantings or to designate an aesthetically pleasing outdoor seating or walk area.

ARCHITECTURAL SCREENING DEVICE — Any self-standing fence or wall type of structure employed for gardening, screening, ornamental, decorative, signage or landmark purposes.

DRIVEWAY GATE — A fence that opens and closes across a driveway.

FENCE — A structure which creates an enclosure, barrier or boundary, having a set or permanent location in the ground, or which is attached to something having a permanent location on the ground. A fence is considered to be a structure.

FINISHED LOT GRADE — Does not include berms, artificial hills and mounds.

HEIGHT — Does not include two inches of clearance at the bottom of the fence, nor does it include two inches in excess of the height limitation of the fence posts, nor a lighting device on the top of a wall.

OPEN FENCE — A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include chain link, picket, rail and cyclone fences, which are not merely ornamental.

ORNAMENTAL FENCE — A structure whose primary purpose is to decorate, accent or frame a feature of the landscape or premises.

SOLID FENCE — A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Solid fences are those with 50% or less of their surface open for free passage of light and air and designed to conceal from view the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave and louvered fences.

WALL — Substantially a solid masonry, wood, or composite structure which shall be self-supporting, but is not incorporated into an enclosed structure, and shall include any nonenclosed structure having as its purpose the denomination or accent of driveways or entryways. Any structure that satisfies the foregoing definition but which also fully complies with the requirements of one or more of the following, as determined by the Village Building Inspector, is excluded from this definition of "wall":

§ 745-7

§ 745-7

- [1] Signs. This exclusion applies if the wall is primarily intended to be a sign as regulated by Chapter 540 of this Code.
 - [2] Lights. This exclusion applies if the wall is intended primarily as a pediment to support a light fixture.
 - [3] Small size. This exclusion applies if the wall is smaller than three feet wide, and smaller than three feet deep, and smaller than five feet high.
 - [4] Retaining wall. This exclusion applies if the wall is intended primarily as a landscape feature for retaining soil and the top of one side of the wall is approximately at grade.
- (g) Construction standards. Fences, walls, architectural screening devices, driveway gates and arbors shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. Fences shall be constructed of wood or other wood-simulated natural-appearing materials, wrought iron or other metal materials generally employed to obtain an aesthetically pleasing appearance. Open fences may be permitted; however, barbed wire, electric wire, chicken wire, or double- or triple-strand wire shall not be used in the construction of a fence, except as allowed by the Building Board.
- (h) Location and height restrictions. Subject to the following exceptions, a fence, wall, architectural screening device, driveway gate or arbor may be permitted up to the lot line in the side and rear yard of any property in Fox Point. A fence, wall, driveway gate or architectural screening device located in a rear or side yard shall not exceed a height of six feet from the finished lot grade and shall not project forward of the front line of the principal building. An arbor shall not exceed a height of eight feet seven inches from the finished lot grade and shall not project forward of the front line of the principal building.
- [1] In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance with Subsection B(3)(j) herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to

§ 745-7

§ 745-7

balance the interests of the applicant with the interests of the surrounding property owners.

- [2] No new fence, wall, architectural screening device, driveway gate or arbor shall be located beyond the front line of the principal building unless permitted by the Board of Appeals by special exception after a hearing, pursuant to the procedures described in Subsection B(3)(j) below. The Board of Appeals may grant a special exception under this subsection only if it finds that the fence, wall, architectural screening device, arbor or driveway gate is reasonably necessary to protect the safety of people residing on the property, in addition to the additional findings and conditions required by Subsection B(3)(j) below. Every special exception granted by the Board of Appeals for a driveway gate shall be conditioned 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 approval is denied, the special exception is thereby denied. **[Amended 6-11-2013 by Ord. No. 2013-04]**

- [3] If the rear of the applicant's lot abuts a neighbor's side yard, any proposed fence shall be an "open fence," unless the neighbor consents to an alternate type fence in writing.

- [4] An ornamental fence or architectural screening device may be allowed anywhere on the property without a permit, provided the fence or screening device does not exceed 3 1/2 feet in height and is set back in its entirety 20 feet or more from all boundaries of the property.

- [5] For purposes of this section, the side yard of any corner lot that abuts a road shall be treated as a front yard; however, if a building footprint is other than square or rectangular in configuration, the provisions of Subsection B(3)(h)[1] generally shall control over the provisions of this subsection.

- [6] The provisions of this section, the limitations set forth herein, and the requirement for a permit shall not apply to: **[Amended 4-1-2012 by Ord. No. 2012-05; 11-10-2020 by Ord. No. 2020-06]**

[a] Lands owned by the state, school district, county, Village or any other publicly held land, where fencing is employed for sport or recreational purposes such as baseball diamonds, backstops, swimming pools, playgrounds or any other public recreational or safety purpose;

[b] Private athletic or country clubs, or cemeteries, employing such fencing for similar uses as stated herein;

§ 745-7

§ 745-7

- [c] Chicken enclosures for permitted keeping of chickens pursuant to § 579-17.5 of this Code;
 - [d] Beehives for permitted beekeeping pursuant to § 579-17.6 of this Code;
 - [e] Dog kennels or runs less than 120 square feet, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property;
 - [f] Private residential swimming pool fencing; or
 - [g] Tennis court fencing, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property unless modified pursuant to § 745-10G(3).
- [7] Notwithstanding the otherwise applicable height limitations stated elsewhere in this section, a fence may be constructed to a height of 11 feet from the finished lot grade on property in the D Business District or the adjacent single-family residential use district along a lot line which separates a large business use from such single-family residential use. For purposes of this exception, a large business use is defined as a use conducted in the D Business District for which 150 or more off-street parking spaces are available to the business. Such a fence may be constructed on the top of a berm, provided the berm is constructed in compliance with the requirements of this Code and all applicable laws, and further provided that the height of the fence shall be measured from the finished lot grade as defined in this section. This exception is intended to allow a fence to be constructed which will screen the large business use from the abutting single-family residential use.
- (i) Maintenance. The owner, occupant or their agent shall keep all fences, architectural screening devices, walls, driveway gates and arbors structurally sound and maintained in a neat and attractive manner. The maintenance standards established in this section shall be enforced as provided in §§ 681-7 and 681-8 of the Village of Fox Point Code.
 - (j) Special exceptions. A special exception to the height, size, material, design, setback or other physical standards set forth in this subsection or to allow a driveway gate may, upon filing a written application, be considered by the Board of Appeals after a hearing. The application must include an accurate visual rendering of the proposed wall, architectural screening device, driveway gate or arbor, along with a written statement outlining the applicant's need for the same. Notice of hearing shall be given to all property owners within a radius of 500 feet of the property upon which the fence, wall, architectural screening device, driveway gate or arbor is proposed to be constructed and the notice shall include the

§ 745-7

§ 745-7

visual rendering submitted by the applicant. The Board of Appeals may grant the request for a special exception upon finding that 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, in addition to such other specific findings as may be required by other subsections of this section. Every special exception granted by the Board of Appeals shall be conditioned upon the applicant submitting the visual rendering to the Village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction materials for the proposed fence, wall, architectural screening device, arbor or driveway gate, taking into consideration the existing development on the lot and in the surrounding neighborhood, and if the Building Board denies the application, the special exception is thereby denied.

- C. Garages. Garages in a residence district or on a lot where the principal use is single- or two-family residences shall conform to the following:
- (1) Not more than one detached private garage structure shall be permitted on a lot. A detached garage is allowed without regard to whether or not there is also one or more attached garages on the premises. In the event there exists or is built a detached garage, only one other accessory detached structure shall be permitted, which structure shall be limited in size to 170 square feet. Notwithstanding the foregoing, as to lots in excess of 25,000 square feet, one additional detached garage or accessory structure shall be allowed for each additional 25,000 total square feet of lot size. All setback requirements and requirements of Chapter 756, Building Construction, must be satisfied in addition to any requirements of this provision.
 - (2) The floor area of garages shall be subject to all regulations of Chapter 756, Building Construction, as from time to time adopted.
 - (3) The side and rear yard provisions for a detached private garage on a lot less than the required minimum width of 80 feet in B and C Residence Districts may be reduced by three inches for every foot less than 80 feet of lot width but to not less than five feet.
 - (4) No detached private garage shall be located closer than 20 feet to the principal residence building on an adjoining lot.
 - (5) Subject to such other provisions of the Fox Point Code as may regulate the construction of structures, there is no limit on the number of attached garages for the private use of the resident.
- D. Temporary structures.
- (1) Any temporary structure over 500 cubic feet in bulk shall require a building

§ 745-7

§ 745-7

permit, except as follows: **[Amended 6-11-2013 by Ord. No. 2013-04]**

- (a) No building permit is required for the placement of a trash receptacle for purposes of disposing demolition materials from a building or structure on the property in conjunction with a project for which a building permit has been issued, subject to the following. Such trash receptacle shall not be placed prior to the issuance of a building permit, or prior to one week before commencement of demolition work, whichever is later. Such trash receptacle shall be removed within one week of completion of the demolition work, or when the work is suspended for more than seven days, or when the building permit expires or is terminated, whichever occurs first. Notwithstanding the foregoing, the Village Building Inspector may impose more restrictive requirements regarding trash receptacles as a condition of the building permit, which must be stated on the building permit when it is issued, or may be added by the Building Inspector after the permit is issued if the use of a trash receptacle was not shown in the plans submitted with the building permit application.
- (2) Every temporary structure shall comply with the front, side and rear yard requirements of the district in which it is located, except that such structure may be permitted anywhere on the lot with the approval of the Village Manager where in his opinion such structure where proposed to be located would not be detrimental to general community aesthetic values or enjoyment of use of adjoining properties.
- (3) Appeal from the decision of the Village Manager may be taken to the Board of Appeals.
- (4) No person shall build, place, or maintain any portable outhouse, privy vault, surface privy, dry closet, septic tank, or other moveable method of sewage disposal or cause the same to be built, located, placed, or constructed on any lot or premises within the Village limits except as follows: **[Added 3-13-2012 by Ord. No. 2012-03]**
 - (a) The Village Building Inspector may grant permission in conjunction with the issuance of a building permit. Such permission shall be expressly set forth on the face of the building permit and shall terminate upon the Building Inspector's determination that the project for which the building permit was issued has been substantially completed, or the expiration, suspension, or revocation of the building permit by the Village, whichever occurs first.
 - (b) The Building Inspector or Village Manager may grant a permit to allow such temporary structure for a special event or other limited use, based upon a determination by the Building Inspector or Village Manager that restroom facilities are not otherwise available or that restroom facilities are available but are not reasonably adequate for the size of the expected assemblage. Application for a permit under this subsection shall be made on the application form provided by the Village and shall be accompanied

§ 745-7

§ 745-7

by the fee as established by the Village Board from time to time. For purposes of this subsection, the Building Inspector and Village Manager shall consider the proximity of existing restroom facilities without regard to whether such facilities are subject to payment of a fee for their use.

- (5) Enclosures for keeping of chickens that have been approved pursuant to § 579-17.5 of this Code and beehives that have been approved pursuant to § 579-17.6 of this Code, during such time that such permit has been approved and is in effect, shall not be subject to the requirements of this Chapter 745 except as expressly stated otherwise, and except as follows. The structure in its totality, including any fencing, covered enclosure, chicken coop, hive or any other structure or structural elements, shall be completely removed from the property within 15 days of the lapse, revocation or expiration of the permit. Violation of this section shall be subject to the penalties and remedies described in §§ 745-33 and 745-34 of this chapter in the event the requirements of this Chapter 745 differ from § 579-17.5 regarding any matter regulated therein, or differ from § 579-17.6 regarding any matter regulated therein, the most restrictive provision shall apply as determined by the Village Manager. **[Added 11-10-2020 by Ord. No. 2020-06]**

E. Unenclosed storage.

- (1) No camp, boat, house or other trailer, bus, boat, recreational vehicle, camp trailer on a truck, or truck over three-quarter-ton capacity may be stored or parked regularly on a lot in a residence district except within a garage or other enclosed storage structure except as hereinafter set forth:
- (a) For the period extending from April 15 to October 31 of each year, the following type of vehicle may be parked unenclosed on the driveway of a lot in a residential district, provided it is in actual use during such period and is not merely being stored, and that when parked it is sufficiently far in from the street as to not interfere with the view of operators of vehicles on the street, or on an adjacent intersecting street:
- [1] A camp trailer or boat on a trailer, in either case not exceeding 35 feet in length, and designed to be hauled by a passenger automobile.
- [2] A recreational vehicle not exceeding 35 feet in length.
- [3] A camp trailer on a pickup truck not exceeding three-quarter-ton capacity.
- (b) Open storage of any such vehicle may be permitted at any time with the approval of the Chief of Police or designee if such vehicle is effectively shielded from normal observation from the street or adjoining properties by landscaping, walls or fencing, and provided such storage is not between any portion of the building and an abutting street. No such permitted storage shall by reason of the permissive grant have any future claim to legal nonconforming use rights and such permissive grant may

§ 745-7

§ 745-7

be rescinded at any time for due cause.²

- (c) Parking a vehicle as permitted above or storage as permitted above does not authorize the use of any such trailer, boat or truck for the housing (sleeping and/or eating) therein of any person, and such housing is a violation of this chapter.
- (2) Materials, equipment, supplies or waste. **[Amended 9-11-2012 by Ord. No. 2012-11]**
 - (a) Definition. For purposes of this subsection, "materials, equipment, supplies or waste" shall mean the following: worn out or discarded material of little or no value, including but not limited to household appliances or parts thereof; machinery and equipment or parts thereof; vehicles or parts thereof; tools; iron, chain, brass, copper, tin, lead and other base metals; trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials; lumber or building materials; rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever; oil, kerosene, benzene, or other similar oil or oily substance or liquid; wood, brush, and any form of discarded vegetation; yard trimmings, grass clippings, foundry sand and industrial waste of any kind or description; sewage material removed from septic tanks and dry wells used in connection with sewage disposal systems; or any similar materials which constitute health, fire or safety hazards or which contribute to a blighting influence upon the immediate or surrounding area or other unsightly debris.
 - (b) Prohibition; exceptions. No unenclosed storage of materials, equipment, supplies, or waste shall be permitted where such storage may be viewed from a public street or another property, except as follows:
 - [1] Firewood. Firewood may be stored for use on the property as follows. Firewood must be neatly stacked and may be stacked not closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this subsection shall not include hedges or other vegetation. Notwithstanding the foregoing, wood piles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.
 - [2] Lawn and garden items. Lawn and garden items that are in regular seasonal use may be stored outdoors provided they are neatly arranged on the property. Such items may include but not be limited

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

§ 745-7

§ 745-7

to outdoor furniture, planters, flowerpots, and grills.

- (c) Public nuisance. Violation of this Subsection E(2) is hereby declared to be a public nuisance.
 - (d) Nonexclusive authority. This subsection may be enforced by the Village Building Inspector, which shall be in addition to, and not to the exclusion or prejudice of, the matters enforced by the Village Building Inspector pursuant to Chapter 681, Property Maintenance, of this Code.
- (3) In the case of such storage related to the construction, remodeling, or repairing of a building on the property, this regulation shall apply to items placed on the property and allowed to remain thereon more than one week prior to the commencement of such operation or more than one week after its completion.

F. Home occupations.

- (1) Restrictions. A home occupation may be permitted in residential zoning districts in the Village, in single-family or multifamily dwellings, together with accessory uses incidental thereto, subject to the restrictions described in this subsection "Home occupation" is defined as an accessory use of a dwelling carried on by one or more members of the immediate family residing in the premises, which is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the residence so as to adversely affect the residential character of the neighborhood. Home occupations shall be limited to professional and nonmanual labor, or nonindustrial type uses, and shall not involve the use of machinery or equipment not generally found or maintained on residential premises. A home occupation shall be conducted with minimal disturbance, or it shall be minimally apparent from the exterior of the building that any type of business activity is taking place on the premises, and without materially increasing traffic, noise or pedestrian activity on the premises or the surrounding neighborhood. No sign relating to the home occupation shall be visible from the exterior of the building.
- (2) Home occupation permit required. A home occupation shall be deemed a special use and shall require that an application for a home occupation permit be filed with the Building Inspector. A home occupation permit for a home occupation may be granted by the Building Inspector if he/she determines that such use shall not have an adverse impact on the residential aesthetics and residential character of the surrounding area. In making his/her determination, the Building Inspector shall consider, without limitation, the effects on the surrounding area of noise, pedestrian and motor vehicle traffic which may be generated by such use. A home occupation permit for a home occupation shall be subject to review every five years, or sooner if the Village receives a complaint concerning the use of residential property for home occupation purposes. A home occupation permit may be revoked upon a determination that the home occupation has adversely impacted the residential character of the surrounding neighborhood. Violation(s) of any portion of the Fox Point

§ 745-7

§ 745-7

Code pertaining to noise, odors, hazardous materials and emissions generated as the result of a home occupation being conducted on a residential premises may serve as the basis for the immediate revocation or nonrenewal of a home occupation home occupation permit, as it is expressly intended that the impact of a home occupation on surrounding neighbors in any of the foregoing respects be of a far more minimal nature than is prohibited by the general regulations of the Village Code as to each of the foregoing matters. **[Amended 11-11-2014 by Ord. No. 2014-08]**

- (3) Permit exception. Home occupations shall expressly be prohibited without permit, except home occupation activities conducted solely by a resident of the household via telephone or employing only computer, facsimile and copy-type services, and which have no employees, clients or visitors to the premises.
- (4) Permit fee. A permit fee shall be paid at the time of filing the application for a home occupation permit, the amount of which shall be set by the Village Board from time to time.
- (5) Appeals. The Building Inspector's determination to deny the application for or the renewal or revocation of a home occupation permit may, upon written application, be reviewed by the Plan Commission. Any denial of an application or nonrenewal or revocation of a home occupation permit to be heard by the Plan Commission shall not be heard until 14 days have elapsed from the date notice has been served, by first class mailing, to any and all surrounding residences or structures within 500 feet of the applicant's premises. The applicant shall bear the burden of identifying the property owners to whom notice shall be served and mailing the notice required hereunder. In making its determination whether to affirm or reverse the Building Inspector's determination, the Plan Commission shall take into consideration the same factors considered by the Building Inspector, including evidence or testimony of surrounding property owners. The determination of the Plan Commission shall be final. **[Amended 11-11-2014 by Ord. No. 2014-08]**

G. Solar energy systems. **[Added 3-10-2020 by Ord. No. 2020-02]**

- (1) Where permitted. Subject to the provisions of this Subsection G, solar energy systems are a permitted use in any district in the Village of Fox Point.
- (2) Approval procedure. No solar energy system shall be installed unless all applicable Building Code and Electrical Code requirements are met, including the issuance all necessary permits. Such permits cannot be issued until an application has been submitted and reviewed by the Building Board. In addition to the powers of the Building Board described in Chapter 19, Article II of this Code, the Building Board shall have the powers described in this Section 745-7G.
- (3) Conditions under which permitted.

§ 745-7

§ 745-7

- (a) General. Unless modified by the applicable conditions described below or by the Building Board, solar energy systems are subject to all accessory structure provisions of this Code.
- (b) Structure-mounted solar energy systems.
 - [1] Structure-mounted solar energy systems may be mounted on principal and accessory structures.
 - [2] Only structure-integrated and/or flush-mounted solar energy systems may be installed on street-facing structure elevations.
 - [3] In residential zoning districts, solar energy systems shall not extend more than three feet above the applicable maximum structure height limit for the subject structure type or more than five feet above the highest point of the roof line, whichever is less. In nonresidential zoning districts, solar energy systems shall not extend more than eight feet above the applicable maximum structure height limit.
- (c) Ground-mounted solar energy systems.
 - [1] Ground-mounted solar energy systems are only permitted as an accessory use to an existing principal use of the lot where located, and only as an accessory structure.
 - [2] In residential zoning districts, ground-mounted solar energy systems shall not be located between the principal structure and an abutting street.
- (d) Building Board modifications. The Building Board is directed to modify the requirements of this Code when an applicant shows that such standards significantly increase the cost of the system or significantly decrease its efficiency. In that event, the Building Board shall either approve the application as presented or conditionally approve the application subject to specified modifications that meet the intent of the Code as closely as reasonably possible while allowing construction of a solar energy system of comparable cost and efficiency. In every case, the Building Board shall not approve an application or a modification to this Code that jeopardizes the public health or safety. In the event of a conflict between this subsection and from the authority described in Wisconsin Statutes § 66.0401(1m), now or in the future, the Building Board is directed to apply the statutory standard to its consideration of solar energy system applications.



VILLAGE OF FOX POINT BOARD OF APPEALS

NOTICE OF APPEAL & APPLICATION FOR REVIEW

1. Name of Appellant Robert A. Jones
Address of Appellant 7900 N. Club Circle
Phone Number 414-526-7710 Home Cell Work Cell
E-mail Address alstonjon@gmail.com
2. Address of Property 7900 N. Club Circle
Present Use of Property residence
Proposed Use of Property NA
Owner's Name and Address if Different than Above _____
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 _____
Date of Notice of Such Decision Received by Appellant _____
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: Robert A. Jones

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.

Robert A. Jones
Signature of Appellant

May 31, 2022
Date

For Office Use Only:

Date Application Received 5/31/2022 Receipt Number for \$200 Filing Fee Waived
Case Number 2022-07 Hearing Date 7/27/2022 5pm
Disposition _____

May 31, 2022

TO: Village of Fox Point
Board of Appeals

FROM: Robert A. Jones

I request your approval to have Suburban Fence Co. install approximately 150 feet of new 6'-high rustic stockade (cedar) fencing along my rear yard bordering on the northbound lane of Lake Drive.

Fencing would begin at north end of driveway (see Photo #1), inside lot line (see attached survey), and extend northward for c. 150 feet with one gentle bend at point where Lake Drive curves. Fence would terminate at a point behind Norway Spruce (see Photo #2). Fence would provide privacy and noise reduction from Lake Drive traffic.

I appreciate your consideration of this request.

A handwritten signature in black ink that reads "Robert A. Jones". The signature is written in a cursive style with a large, stylized 'R' and 'J'.

Privacy Fences

BOA Packet - July 27, 2022
Page 62 of 99



Rustic Stockade



Square Lattice



Lattice Top



2 x 2 Top



Sloped Estate Plank



Lock Board w/ Cap



#1

RA

From: Robert A.Jones alstonjon@gmail.com
Subject: Pic 1
Date: May 26, 2022 at 2:21 PM
To: Robert A Jones alstonjon@gmail.com



Sent from my iPhone

From: Robert A.Jones alstonjon@gmail.com
Subject: Pic 3
Date: May 26, 2022 at 2:23 PM
To: Robert A Jones alstonjon@gmail.com

N. Spruce #2

RA



Sent from my iPhone

§ 745-7. Accessory uses and structures.

A. General.

- (1) Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as is specifically otherwise provided.
- (2) No accessory use or structure shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property.
- (3) Any of the requirements hereinafter established in this section relating to accessory uses and structures, except for permanent buildings in excess of 100 square feet in ground area, may be modified in their specific application to a given situation with the approval of the Village Manager or his/her designee, where in the Village Manager's or designee's opinion the strict application of the requirement would be unnecessarily burdensome or would not in fact achieve the actual intent of the requirement, or where modification would more effectively achieve such intent, provided in all cases such modification is consistent with the basic spirit and intent of this chapter. Appeal from the determination of the Village Manager or his/her designee may be made to the Building Board, provided such appeal is filed with the Village Manager within 30 days from the date of the Village Manager's or designee's action.

B. Permanent structures.

- (1) Any permanent roofed structure serving an accessory use if attached to the principal building shall be considered a part of such principal building for all regulatory purposes. If such structure is a building and is not attached to the principal building, no roofed or enclosed portion shall be closer than 10 feet to any roofed or enclosed part of the principal building, and such structure shall conform to the open area, height, and front, side and rear setback requirements of the district in which such building is located except as permitted by § 756-36 of this Code.¹
- (2) Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., where subject to "permanent structure" classification, shall not be permitted closer than three feet to an abutting property line other than a street line.
- (3) Fences, walls, architectural screening devices, driveway gates and arbors. The following regulations are established to ensure that the Village of Fox Point retains the openness and semirural character of its landscape.
 - (a) Permit required. No person shall erect or construct any fence, wall, driveway gate, architectural screening device or arbor, unless specifically exempted by the provisions of this subsection, on any property within the

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

§ 745-7

§ 745-7

Village of Fox Point without having first obtained a permit from the Building Inspector and having paid the fee prescribed by ordinance. Retaining walls regulated by § 285-4 of this Code are exempt from the requirements of this subsection. A survey by a licensed surveyor shall be submitted with each application for a fence, wall, architectural screening device, driveway gate or arbor 10 feet or less from the lot line of the property. The determination of the Building Inspector as to proximity shall be final. When required, the survey shall show the location of the proposed fence, wall, architectural screening device, driveway gate or arbor in relation to the property line but need not depict any other aspect of the subject property. The Building Inspector shall deny a permit if the proposed fence, wall, architectural screening device, driveway gate or arbor is in the right-of-way or if its proposed location will impede visibility of vehicular traffic.

- (b) Replacement or reconstruction. If an existing fence, wall, architectural screening device, driveway gate or arbor is substantially or completely destroyed or becomes deteriorated to a material degree, it may be replaced or reconstructed in the same location, height and materials by first obtaining a permit, provided that it must be replaced or reconstructed within 12 months of being removed. All other replacement or reconstruction of existing fences, walls, architectural screening devices, driveway gates or arbors must fully comply with the terms of this section.
- (c) Temporary fences. Temporary safety, snow or deer fences of any type may be allowed in the discretion of the Village Manager for the purpose of safety, protection from the elements or protection from deer, for a period not to exceed 120 days, unless extended by the Village Manager. Temporary construction fences may be allowed in the discretion of the Village Building Inspector for the time that a building permit is in effect on the property.
- (d) Lake, bluffs and ravines. Where property abuts Lake Michigan, or is located on a bluff or a ravine in such a locale that construction of a fence, wall, architectural screening device, driveway gate or arbor would materially obstruct the aesthetic views of adjoining and surrounding property owners, the Building Inspector may deny a permit based upon his determination that there is a substantial negative impact upon the aesthetic enjoyment of surrounding properties. Any affected party may appeal the Building Inspector's determination to the Board of Appeals within 30 days of the Building Inspectors' determination. No fence, wall, architectural screening device, driveway gate or arbor shall be constructed on the side of a ravine or bluff in violation of § 285-3 of this Code.
- (e) Construction in right-of-way prohibited. Any fence, wall, architectural screening device, driveway gate or arbor that is erected in a street right-of-way or impedes traffic visibility may be removed by the Village of Fox

§ 745-7

§ 745-7

Point at any time.

- (f) Definitions. For purposes of this subsection, the following terms shall have the following meanings; the terms "front yard," "rear yard" and "side yard" shall be defined as set forth in § 745-2 of this chapter:

ARBOR — Any structure intended to provide a support system for plantings or to designate an aesthetically pleasing outdoor seating or walk area.

ARCHITECTURAL SCREENING DEVICE — Any self-standing fence or wall type of structure employed for gardening, screening, ornamental, decorative, signage or landmark purposes.

DRIVEWAY GATE — A fence that opens and closes across a driveway.

FENCE — A structure which creates an enclosure, barrier or boundary, having a set or permanent location in the ground, or which is attached to something having a permanent location on the ground. A fence is considered to be a structure.

FINISHED LOT GRADE — Does not include berms, artificial hills and mounds.

HEIGHT — Does not include two inches of clearance at the bottom of the fence, nor does it include two inches in excess of the height limitation of the fence posts, nor a lighting device on the top of a wall.

OPEN FENCE — A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include chain link, picket, rail and cyclone fences, which are not merely ornamental.

ORNAMENTAL FENCE — A structure whose primary purpose is to decorate, accent or frame a feature of the landscape or premises.

SOLID FENCE — A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Solid fences are those with 50% or less of their surface open for free passage of light and air and designed to conceal from view the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave and louvered fences.

WALL — Substantially a solid masonry, wood, or composite structure which shall be self-supporting, but is not incorporated into an enclosed structure, and shall include any nonenclosed structure having as its purpose the denomination or accent of driveways or entryways. Any structure that satisfies the foregoing definition but which also fully complies with the requirements of one or more of the following, as determined by the Village Building Inspector, is excluded from this definition of "wall":

§ 745-7

§ 745-7

- [1] Signs. This exclusion applies if the wall is primarily intended to be a sign as regulated by Chapter 540 of this Code.
 - [2] Lights. This exclusion applies if the wall is intended primarily as a pediment to support a light fixture.
 - [3] Small size. This exclusion applies if the wall is smaller than three feet wide, and smaller than three feet deep, and smaller than five feet high.
 - [4] Retaining wall. This exclusion applies if the wall is intended primarily as a landscape feature for retaining soil and the top of one side of the wall is approximately at grade.
- (g) Construction standards. Fences, walls, architectural screening devices, driveway gates and arbors shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. Fences shall be constructed of wood or other wood-simulated natural-appearing materials, wrought iron or other metal materials generally employed to obtain an aesthetically pleasing appearance. Open fences may be permitted; however, barbed wire, electric wire, chicken wire, or double- or triple-strand wire shall not be used in the construction of a fence, except as allowed by the Building Board.
- (h) Location and height restrictions. Subject to the following exceptions, a fence, wall, architectural screening device, driveway gate or arbor may be permitted up to the lot line in the side and rear yard of any property in Fox Point. A fence, wall, driveway gate or architectural screening device located in a rear or side yard shall not exceed a height of six feet from the finished lot grade and shall not project forward of the front line of the principal building. An arbor shall not exceed a height of eight feet seven inches from the finished lot grade and shall not project forward of the front line of the principal building.
- [1] In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance with Subsection B(3)(j) herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to

§ 745-7

§ 745-7

balance the interests of the applicant with the interests of the surrounding property owners.

- [2] No new fence, wall, architectural screening device, driveway gate or arbor shall be located beyond the front line of the principal building unless permitted by the Board of Appeals by special exception after a hearing, pursuant to the procedures described in Subsection B(3)(j) below. The Board of Appeals may grant a special exception under this subsection only if it finds that the fence, wall, architectural screening device, arbor or driveway gate is reasonably necessary to protect the safety of people residing on the property, in addition to the additional findings and conditions required by Subsection B(3)(j) below. Every special exception granted by the Board of Appeals for a driveway gate shall be conditioned 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 approval is denied, the special exception is thereby denied. **[Amended 6-11-2013 by Ord. No. 2013-04]**

- [3] If the rear of the applicant's lot abuts a neighbor's side yard, any proposed fence shall be an "open fence," unless the neighbor consents to an alternate type fence in writing.

- [4] An ornamental fence or architectural screening device may be allowed anywhere on the property without a permit, provided the fence or screening device does not exceed 3 1/2 feet in height and is set back in its entirety 20 feet or more from all boundaries of the property.

- [5] For purposes of this section, the side yard of any corner lot that abuts a road shall be treated as a front yard; however, if a building footprint is other than square or rectangular in configuration, the provisions of Subsection B(3)(h)[1] generally shall control over the provisions of this subsection.

- [6] The provisions of this section, the limitations set forth herein, and the requirement for a permit shall not apply to: **[Amended 4-1-2012 by Ord. No. 2012-05; 11-10-2020 by Ord. No. 2020-06]**

[a] Lands owned by the state, school district, county, Village or any other publicly held land, where fencing is employed for sport or recreational purposes such as baseball diamonds, backstops, swimming pools, playgrounds or any other public recreational or safety purpose;

[b] Private athletic or country clubs, or cemeteries, employing such fencing for similar uses as stated herein;

§ 745-7

§ 745-7

- [c] Chicken enclosures for permitted keeping of chickens pursuant to § 579-17.5 of this Code;
 - [d] Beehives for permitted beekeeping pursuant to § 579-17.6 of this Code;
 - [e] Dog kennels or runs less than 120 square feet, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property;
 - [f] Private residential swimming pool fencing; or
 - [g] Tennis court fencing, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property unless modified pursuant to § 745-10G(3).
- [7] Notwithstanding the otherwise applicable height limitations stated elsewhere in this section, a fence may be constructed to a height of 11 feet from the finished lot grade on property in the D Business District or the adjacent single-family residential use district along a lot line which separates a large business use from such single-family residential use. For purposes of this exception, a large business use is defined as a use conducted in the D Business District for which 150 or more off-street parking spaces are available to the business. Such a fence may be constructed on the top of a berm, provided the berm is constructed in compliance with the requirements of this Code and all applicable laws, and further provided that the height of the fence shall be measured from the finished lot grade as defined in this section. This exception is intended to allow a fence to be constructed which will screen the large business use from the abutting single-family residential use.
- (i) Maintenance. The owner, occupant or their agent shall keep all fences, architectural screening devices, walls, driveway gates and arbors structurally sound and maintained in a neat and attractive manner. The maintenance standards established in this section shall be enforced as provided in §§ 681-7 and 681-8 of the Village of Fox Point Code.
 - (j) Special exceptions. A special exception to the height, size, material, design, setback or other physical standards set forth in this subsection or to allow a driveway gate may, upon filing a written application, be considered by the Board of Appeals after a hearing. The application must include an accurate visual rendering of the proposed wall, architectural screening device, driveway gate or arbor, along with a written statement outlining the applicant's need for the same. Notice of hearing shall be given to all property owners within a radius of 500 feet of the property upon which the fence, wall, architectural screening device, driveway gate or arbor is proposed to be constructed and the notice shall include the

§ 745-7

§ 745-7

visual rendering submitted by the applicant. The Board of Appeals may grant the request for a special exception upon finding that 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, in addition to such other specific findings as may be required by other subsections of this section. Every special exception granted by the Board of Appeals shall be conditioned upon the applicant submitting the visual rendering to the Village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction materials for the proposed fence, wall, architectural screening device, arbor or driveway gate, taking into consideration the existing development on the lot and in the surrounding neighborhood, and if the Building Board denies the application, the special exception is thereby denied.

- C. Garages. Garages in a residence district or on a lot where the principal use is single- or two-family residences shall conform to the following:
- (1) Not more than one detached private garage structure shall be permitted on a lot. A detached garage is allowed without regard to whether or not there is also one or more attached garages on the premises. In the event there exists or is built a detached garage, only one other accessory detached structure shall be permitted, which structure shall be limited in size to 170 square feet. Notwithstanding the foregoing, as to lots in excess of 25,000 square feet, one additional detached garage or accessory structure shall be allowed for each additional 25,000 total square feet of lot size. All setback requirements and requirements of Chapter 756, Building Construction, must be satisfied in addition to any requirements of this provision.
 - (2) The floor area of garages shall be subject to all regulations of Chapter 756, Building Construction, as from time to time adopted.
 - (3) The side and rear yard provisions for a detached private garage on a lot less than the required minimum width of 80 feet in B and C Residence Districts may be reduced by three inches for every foot less than 80 feet of lot width but to not less than five feet.
 - (4) No detached private garage shall be located closer than 20 feet to the principal residence building on an adjoining lot.
 - (5) Subject to such other provisions of the Fox Point Code as may regulate the construction of structures, there is no limit on the number of attached garages for the private use of the resident.
- D. Temporary structures.
- (1) Any temporary structure over 500 cubic feet in bulk shall require a building

§ 745-7

§ 745-7

permit, except as follows: **[Amended 6-11-2013 by Ord. No. 2013-04]**

- (a) No building permit is required for the placement of a trash receptacle for purposes of disposing demolition materials from a building or structure on the property in conjunction with a project for which a building permit has been issued, subject to the following. Such trash receptacle shall not be placed prior to the issuance of a building permit, or prior to one week before commencement of demolition work, whichever is later. Such trash receptacle shall be removed within one week of completion of the demolition work, or when the work is suspended for more than seven days, or when the building permit expires or is terminated, whichever occurs first. Notwithstanding the foregoing, the Village Building Inspector may impose more restrictive requirements regarding trash receptacles as a condition of the building permit, which must be stated on the building permit when it is issued, or may be added by the Building Inspector after the permit is issued if the use of a trash receptacle was not shown in the plans submitted with the building permit application.
- (2) Every temporary structure shall comply with the front, side and rear yard requirements of the district in which it is located, except that such structure may be permitted anywhere on the lot with the approval of the Village Manager where in his opinion such structure where proposed to be located would not be detrimental to general community aesthetic values or enjoyment of use of adjoining properties.
- (3) Appeal from the decision of the Village Manager may be taken to the Board of Appeals.
- (4) No person shall build, place, or maintain any portable outhouse, privy vault, surface privy, dry closet, septic tank, or other moveable method of sewage disposal or cause the same to be built, located, placed, or constructed on any lot or premises within the Village limits except as follows: **[Added 3-13-2012 by Ord. No. 2012-03]**
 - (a) The Village Building Inspector may grant permission in conjunction with the issuance of a building permit. Such permission shall be expressly set forth on the face of the building permit and shall terminate upon the Building Inspector's determination that the project for which the building permit was issued has been substantially completed, or the expiration, suspension, or revocation of the building permit by the Village, whichever occurs first.
 - (b) The Building Inspector or Village Manager may grant a permit to allow such temporary structure for a special event or other limited use, based upon a determination by the Building Inspector or Village Manager that restroom facilities are not otherwise available or that restroom facilities are available but are not reasonably adequate for the size of the expected assemblage. Application for a permit under this subsection shall be made on the application form provided by the Village and shall be accompanied

§ 745-7

§ 745-7

by the fee as established by the Village Board from time to time. For purposes of this subsection, the Building Inspector and Village Manager shall consider the proximity of existing restroom facilities without regard to whether such facilities are subject to payment of a fee for their use.

- (5) Enclosures for keeping of chickens that have been approved pursuant to § 579-17.5 of this Code and beehives that have been approved pursuant to § 579-17.6 of this Code, during such time that such permit has been approved and is in effect, shall not be subject to the requirements of this Chapter 745 except as expressly stated otherwise, and except as follows. The structure in its totality, including any fencing, covered enclosure, chicken coop, hive or any other structure or structural elements, shall be completely removed from the property within 15 days of the lapse, revocation or expiration of the permit. Violation of this section shall be subject to the penalties and remedies described in §§ 745-33 and 745-34 of this chapter in the event the requirements of this Chapter 745 differ from § 579-17.5 regarding any matter regulated therein, or differ from § 579-17.6 regarding any matter regulated therein, the most restrictive provision shall apply as determined by the Village Manager. **[Added 11-10-2020 by Ord. No. 2020-06]**

E. Unenclosed storage.

- (1) No camp, boat, house or other trailer, bus, boat, recreational vehicle, camp trailer on a truck, or truck over three-quarter-ton capacity may be stored or parked regularly on a lot in a residence district except within a garage or other enclosed storage structure except as hereinafter set forth:
- (a) For the period extending from April 15 to October 31 of each year, the following type of vehicle may be parked unenclosed on the driveway of a lot in a residential district, provided it is in actual use during such period and is not merely being stored, and that when parked it is sufficiently far in from the street as to not interfere with the view of operators of vehicles on the street, or on an adjacent intersecting street:
- [1] A camp trailer or boat on a trailer, in either case not exceeding 35 feet in length, and designed to be hauled by a passenger automobile.
- [2] A recreational vehicle not exceeding 35 feet in length.
- [3] A camp trailer on a pickup truck not exceeding three-quarter-ton capacity.
- (b) Open storage of any such vehicle may be permitted at any time with the approval of the Chief of Police or designee if such vehicle is effectively shielded from normal observation from the street or adjoining properties by landscaping, walls or fencing, and provided such storage is not between any portion of the building and an abutting street. No such permitted storage shall by reason of the permissive grant have any future claim to legal nonconforming use rights and such permissive grant may

§ 745-7

§ 745-7

be rescinded at any time for due cause.²

- (c) Parking a vehicle as permitted above or storage as permitted above does not authorize the use of any such trailer, boat or truck for the housing (sleeping and/or eating) therein of any person, and such housing is a violation of this chapter.
- (2) Materials, equipment, supplies or waste. **[Amended 9-11-2012 by Ord. No. 2012-11]**
 - (a) Definition. For purposes of this subsection, "materials, equipment, supplies or waste" shall mean the following: worn out or discarded material of little or no value, including but not limited to household appliances or parts thereof; machinery and equipment or parts thereof; vehicles or parts thereof; tools; iron, chain, brass, copper, tin, lead and other base metals; trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials; lumber or building materials; rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever; oil, kerosene, benzene, or other similar oil or oily substance or liquid; wood, brush, and any form of discarded vegetation; yard trimmings, grass clippings, foundry sand and industrial waste of any kind or description; sewage material removed from septic tanks and dry wells used in connection with sewage disposal systems; or any similar materials which constitute health, fire or safety hazards or which contribute to a blighting influence upon the immediate or surrounding area or other unsightly debris.
 - (b) Prohibition; exceptions. No unenclosed storage of materials, equipment, supplies, or waste shall be permitted where such storage may be viewed from a public street or another property, except as follows:
 - [1] Firewood. Firewood may be stored for use on the property as follows. Firewood must be neatly stacked and may be stacked not closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this subsection shall not include hedges or other vegetation. Notwithstanding the foregoing, wood piles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.
 - [2] Lawn and garden items. Lawn and garden items that are in regular seasonal use may be stored outdoors provided they are neatly arranged on the property. Such items may include but not be limited

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

§ 745-7

§ 745-7

to outdoor furniture, planters, flowerpots, and grills.

- (c) Public nuisance. Violation of this Subsection E(2) is hereby declared to be a public nuisance.
 - (d) Nonexclusive authority. This subsection may be enforced by the Village Building Inspector, which shall be in addition to, and not to the exclusion or prejudice of, the matters enforced by the Village Building Inspector pursuant to Chapter 681, Property Maintenance, of this Code.
- (3) In the case of such storage related to the construction, remodeling, or repairing of a building on the property, this regulation shall apply to items placed on the property and allowed to remain thereon more than one week prior to the commencement of such operation or more than one week after its completion.

F. Home occupations.

- (1) Restrictions. A home occupation may be permitted in residential zoning districts in the Village, in single-family or multifamily dwellings, together with accessory uses incidental thereto, subject to the restrictions described in this subsection "Home occupation" is defined as an accessory use of a dwelling carried on by one or more members of the immediate family residing in the premises, which is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the residence so as to adversely affect the residential character of the neighborhood. Home occupations shall be limited to professional and nonmanual labor, or nonindustrial type uses, and shall not involve the use of machinery or equipment not generally found or maintained on residential premises. A home occupation shall be conducted with minimal disturbance, or it shall be minimally apparent from the exterior of the building that any type of business activity is taking place on the premises, and without materially increasing traffic, noise or pedestrian activity on the premises or the surrounding neighborhood. No sign relating to the home occupation shall be visible from the exterior of the building.
- (2) Home occupation permit required. A home occupation shall be deemed a special use and shall require that an application for a home occupation permit be filed with the Building Inspector. A home occupation permit for a home occupation may be granted by the Building Inspector if he/she determines that such use shall not have an adverse impact on the residential aesthetics and residential character of the surrounding area. In making his/her determination, the Building Inspector shall consider, without limitation, the effects on the surrounding area of noise, pedestrian and motor vehicle traffic which may be generated by such use. A home occupation permit for a home occupation shall be subject to review every five years, or sooner if the Village receives a complaint concerning the use of residential property for home occupation purposes. A home occupation permit may be revoked upon a determination that the home occupation has adversely impacted the residential character of the surrounding neighborhood. Violation(s) of any portion of the Fox Point

§ 745-7

§ 745-7

Code pertaining to noise, odors, hazardous materials and emissions generated as the result of a home occupation being conducted on a residential premises may serve as the basis for the immediate revocation or nonrenewal of a home occupation home occupation permit, as it is expressly intended that the impact of a home occupation on surrounding neighbors in any of the foregoing respects be of a far more minimal nature than is prohibited by the general regulations of the Village Code as to each of the foregoing matters. **[Amended 11-11-2014 by Ord. No. 2014-08]**

- (3) Permit exception. Home occupations shall expressly be prohibited without permit, except home occupation activities conducted solely by a resident of the household via telephone or employing only computer, facsimile and copy-type services, and which have no employees, clients or visitors to the premises.
- (4) Permit fee. A permit fee shall be paid at the time of filing the application for a home occupation permit, the amount of which shall be set by the Village Board from time to time.
- (5) Appeals. The Building Inspector's determination to deny the application for or the renewal or revocation of a home occupation permit may, upon written application, be reviewed by the Plan Commission. Any denial of an application or nonrenewal or revocation of a home occupation permit to be heard by the Plan Commission shall not be heard until 14 days have elapsed from the date notice has been served, by first class mailing, to any and all surrounding residences or structures within 500 feet of the applicant's premises. The applicant shall bear the burden of identifying the property owners to whom notice shall be served and mailing the notice required hereunder. In making its determination whether to affirm or reverse the Building Inspector's determination, the Plan Commission shall take into consideration the same factors considered by the Building Inspector, including evidence or testimony of surrounding property owners. The determination of the Plan Commission shall be final. **[Amended 11-11-2014 by Ord. No. 2014-08]**

G. Solar energy systems. **[Added 3-10-2020 by Ord. No. 2020-02]**

- (1) Where permitted. Subject to the provisions of this Subsection G, solar energy systems are a permitted use in any district in the Village of Fox Point.
- (2) Approval procedure. No solar energy system shall be installed unless all applicable Building Code and Electrical Code requirements are met, including the issuance all necessary permits. Such permits cannot be issued until an application has been submitted and reviewed by the Building Board. In addition to the powers of the Building Board described in Chapter 19, Article II of this Code, the Building Board shall have the powers described in this Section 745-7G.
- (3) Conditions under which permitted.

§ 745-7

§ 745-7

- (a) General. Unless modified by the applicable conditions described below or by the Building Board, solar energy systems are subject to all accessory structure provisions of this Code.
- (b) Structure-mounted solar energy systems.
 - [1] Structure-mounted solar energy systems may be mounted on principal and accessory structures.
 - [2] Only structure-integrated and/or flush-mounted solar energy systems may be installed on street-facing structure elevations.
 - [3] In residential zoning districts, solar energy systems shall not extend more than three feet above the applicable maximum structure height limit for the subject structure type or more than five feet above the highest point of the roof line, whichever is less. In nonresidential zoning districts, solar energy systems shall not extend more than eight feet above the applicable maximum structure height limit.
- (c) Ground-mounted solar energy systems.
 - [1] Ground-mounted solar energy systems are only permitted as an accessory use to an existing principal use of the lot where located, and only as an accessory structure.
 - [2] In residential zoning districts, ground-mounted solar energy systems shall not be located between the principal structure and an abutting street.
- (d) Building Board modifications. The Building Board is directed to modify the requirements of this Code when an applicant shows that such standards significantly increase the cost of the system or significantly decrease its efficiency. In that event, the Building Board shall either approve the application as presented or conditionally approve the application subject to specified modifications that meet the intent of the Code as closely as reasonably possible while allowing construction of a solar energy system of comparable cost and efficiency. In every case, the Building Board shall not approve an application or a modification to this Code that jeopardizes the public health or safety. In the event of a conflict between this subsection and from the authority described in Wisconsin Statutes § 66.0401(1m), now or in the future, the Building Board is directed to apply the statutory standard to its consideration of solar energy system applications.



VILLAGE OF FOX POINT
BOARD OF APPEALS

NOTICE OF APPEAL & APPLICATION FOR REVIEW

1. Name of Appellant MAX & CINDY PASANSKY
Address of Appellant 200 W. NOKOMIS CT.
Phone Number 414-351-4180 Home 414-331-3311 Work (PREFERRED)
E-mail Address MAXPASANSKY@GMAIL.COM
2. Address of Property 200 W. NOKOMIS CT
Present Use of Property RESIDENTIAL / OUR HOME
Proposed Use of Property ADDITION OF GENERATOR
Owner's Name and Address if Different than Above _____
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

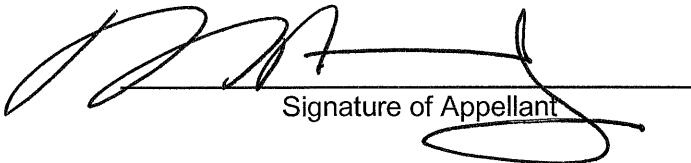
Disposition of Previous Appeal _____
Date of Decision in Previous Case _____
4. Date of Decision or Order of Administrative Official from which Appeal is Taken _____
Date of Notice of Such Decision Received by Appellant _____
5. Purpose of Grounds of Appeal or Application. Check Below the Relief Requested 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: MAX & CINDY KASANSKY

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

June 27, 2022
Date

For Office Use Only:

Date Application Received 6/27/2022 Receipt Number for \$200 Filing Fee 1.051783
Case Number 2022-08 Hearing Date July 21, 2022
Disposition _____

Request for Variance:

We are respectfully requesting a Variance on the generator setback from side yards:

- On two occasions in the last approximate year we have lost power from storms for 24 hours. Our area of Fox Point seems to be one of the last areas to regain power.
- We have an odd-shaped lot and the way the code is written we have a difficult time meeting the current requirements.
- The enclosed aerials and photograph give a good view of where the generator will be positioned and how it will be screened from any vehicular or pedestrian traffic.
- The best place to locate the generator is on the north side of the house, next to existing air conditioning units, 5' from any windows per Generac recommendation, and shielded from Indian Creek Parkway by mature Arborvitae trees and a 6' fence between us and our neighbor to the north. The 6' fence extends around our entire side and rear patio.
- The dimensions of the generator are 4 feet wide 2 feet deep 3 feet high.
- The generator gets tested one time per week for about 5 minutes.
- The sound is rated in decibels at 23 feet 57 decibels when testing and 67 decibels when running under average load.
- We have lived in our current home for about 20 years. We love our home and our neighborhood. More violent storms and loss of power have and are becoming more frequent.
- The location of the generator is a very safe area of our yard and we literally do not congregate with friends or Family in this area.
- We can assure you as we have done in maintaining our home and yard for the last approximately 20 years, everything will be done in a first-class manner respecting our neighbors and the Village of Fox Point in the process.







Looking West from Indian Creek Parkway





Services Offered

Commercial Site Development
Subdivision Design and Plotting
Planning and Plan Review
Streets and Highway Design
Drainage Studies
Water Distribution Systems
Sewer Collection Systems
Construction Surveying and Stake-out
Services
Structures



5417 NORTH 118TH COURT
MILWAUKEE, WI 53225
PHONE: (414) 616-4880
FAX (414) 616-4885
mccluremw@worldnet.att.net

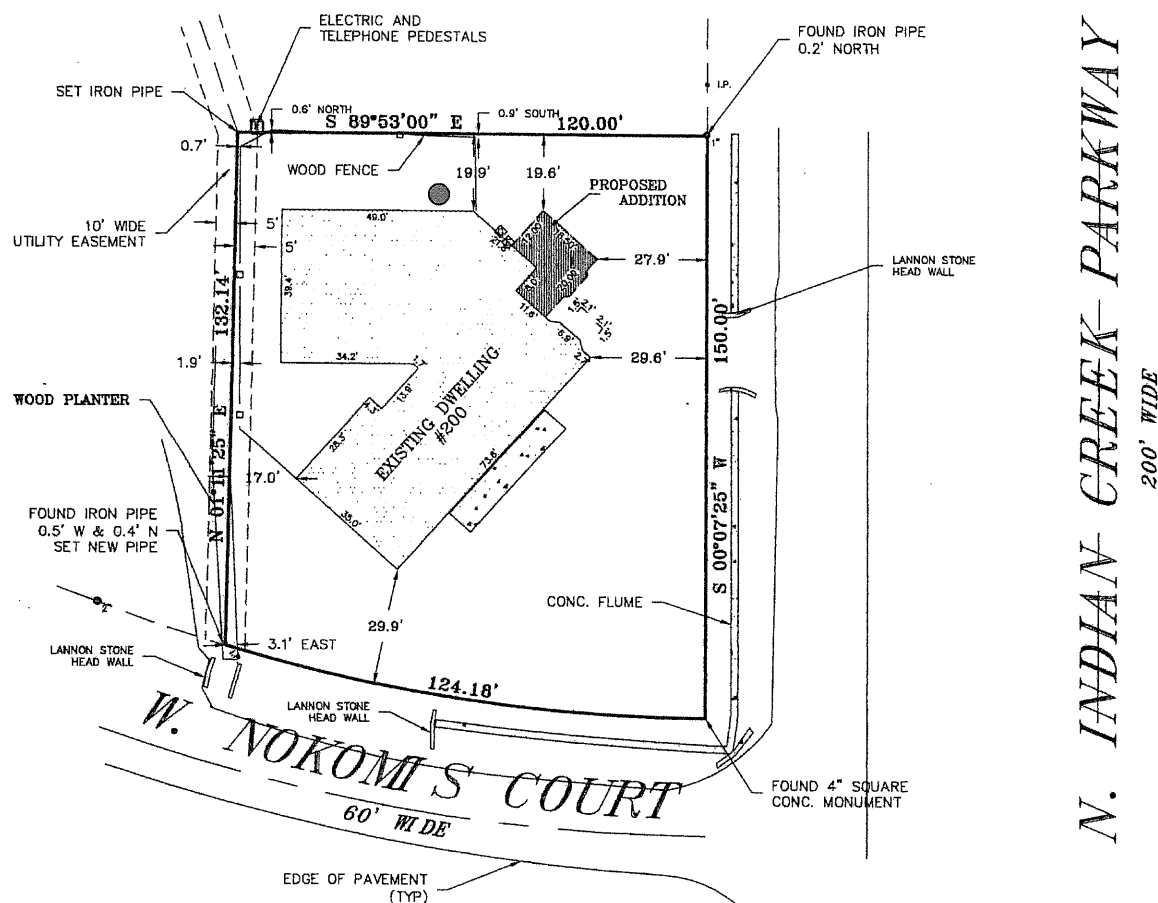
PROJECT NO: 08-13-00-128
DRAWING: 00128S2.DWG

PLAT OF SURVEY

PREPARED FOR: B & E CONTRACTORS

LEGAL DESCRIPTION:

LOT 11, INDIAN CREEK PARKWAY, BEING A REDIVISION OF VACATED BLOCKS 1, 2, & 4 OF THE SAVINGS AND INVESTMENT ASSOCIATION OF MILWAUKEE SUBDIVISION NO. 24, AND THE INTERIOR STREETS AND ALLEYS THEREIN, AND ALSO A SUBDIVISION OF LANDS LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWN 8 NORTH, RANGE 22 EAST, VILLAGE OF FOX POINT, MILWAUKEE COUNTY, WISCONSIN.



CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	428.29'	124.18'	123.75'	S81°34'12\"E	16°36'48\"

REVISED 9/12/00 - SHOW PROPOSED ADDITION

STATE OF WISCONSIN }
MILWAUKEE COUNTY }

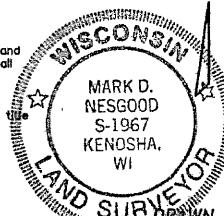
I hereby certify that I have surveyed the above described property and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location of all visible structures and dimensions of all principal buildings thereon, boundary fences, apparent easements, roadway and visible encroachments, if any.

This survey is made for the present owners of the property, and also those who purchase, mortgage, or guarantee, the title thereto within (1) year from date hereof.

Dated at MILWAUKEE, this 10TH day of AUGUST 20 00

Recertified _____

Surveyor *Mark D. Nesgood*



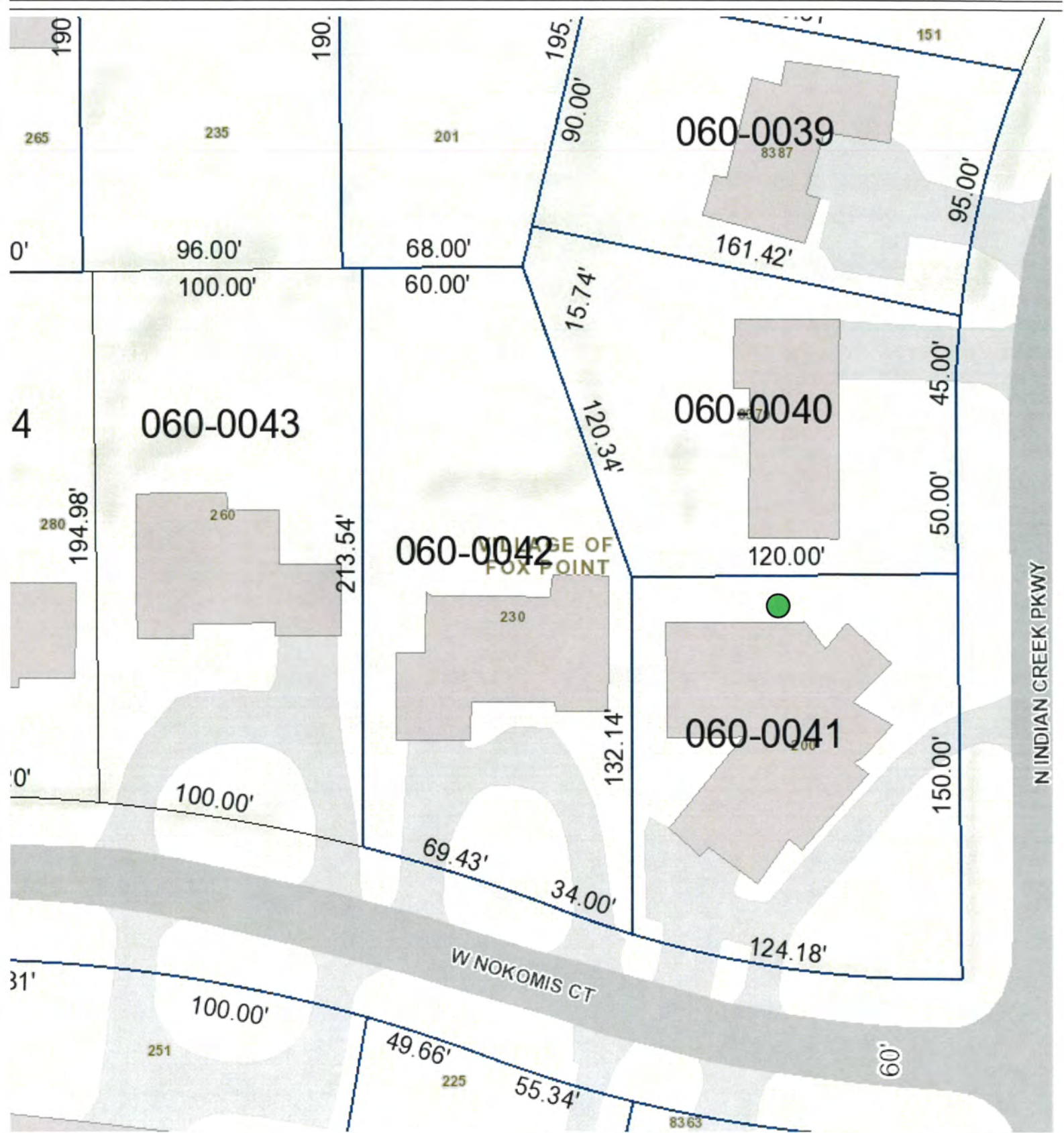
SCALE N 1" = 30'

DRAWN BY: MDN
CHECKED BY: _____



MILWAUKEE COUNTY INTERACTIVE MAPPING SERVICE

804 Packet - July 27, 2022
Page 88 of 99



N INDIAN CREEK PKWY

Projection
NAD_1983_2011_StatePlane_Wisconsin_South
_FIPS_4803_Ft_US

Notes

DISCLAIMER: This map is a user generated static output from the Milwaukee County Land Information Office Interactive Mapping Service website. The contents herein are for reference purposes only and may or may not be accurate, current or otherwise reliable. No liability is assumed for the data delineated herein either expressed or implied by Milwaukee County or its employees.

94

47

94 Feet

1:564



THIS MAP IS NOT TO BE USED FOR NAVIGATION © MCAMLIS

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

414-351-8900

Receipt No: 1.057783

Jun 27, 2022

Rasansky, Max-BOA 200 W Nokomis

Previous Balance:	.00
LICENSES & PERMITS - LIQUOR/BEER/CIGARETTE LICENSE	200.00
10-44120 LIQUOR/TOBACCO LICENSES	
Total:	200.00
CHECK	200.00
Check No: 9273	
Payor: Rasansky, Max-BOA 200 W Nokomis	
Total Applied:	200.00
Change Tendered:	.00

06/27/2022 2:45 PM



VILLAGE OF FOX POINT

MILWAUKEE COUNTY

WISCONSIN

BOA Packet - July 27, 2022
Page 90 of 99

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, for the date of Wednesday, July 27, 2022, at 5:00 p.m. to hear the following appeal for a variance:

1. **Case 2022-08: 200 W Nokomis Ct.** The applicant is requesting a variance pertaining to Section 745-15 B. (4) of the Fox Point Village Code in the A3 Residence District, concerning rear yard setback requirement of not less than 20 feet. The request also pertains to Section 756-34 B., Exterior Structures regarding the installation of a generator. The applicant is proposing to install a generator approximately 10 feet from the property fence line.

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: [June 29, 2022]
Posted: [June 29, 2022]



Village of Fox Point GIS 200 W Nokomis Ct - 500' Buffer

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
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Fox Point, WI 53217
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Print Date: 6/27/2022

§ 745-15. A-3 Residence District. [Amended 2-9-2021 by Ord. No. 2021-01]

- A. Uses. In an A-3 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 accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-3 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, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 20,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% 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; and 15 feet when the 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 12 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.
 - (5) Every lot on which a building is erected shall have a minimum width of 90 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.

§ 756-34. Air conditioning and refrigeration systems and backup generator installations.

A. Permit requirements.

- (1) Permit required. Except as hereinafter provided, before proceeding with the construction, erection or installation of any air-cooled, water-cooled or mechanically cooled air-conditioning or refrigeration system or unit or backup generator installations, in or to serve any building, a permit shall first be obtained from the Building Inspector.
- (2) Permits shall not be required for the installation of any air-conditioning or refrigeration system or unit that does not use water for cooling and where the source of operating power is obtained by plugging in an electrical cord connection to an electrical outlet. This subsection shall be applicable to portable units.
- (3) Application for a permit shall be made by the installing contractor upon a form provided by the Building Inspector, shall be filled out completely and shall provide the following information:
 - (a) Name and address of contractor.
 - (b) Location of premises where installation is proposed.
 - (c) Name and address of owner.
 - (d) Location of unit on premises, including distance to lot lines for exterior apparatus.
 - (e) Manufacturer's identification, classification and size of unit.
 - (f) Nature of coolant, if applicable.
 - (g) If water cooled, source of water and method of discharging wastewater. (Refer to Department of Building Inspection.)¹
 - (h) Where water conservation devices are required, manufacturer's name, identification, classification and size of equipment.
 - (i) Such additional information as shall be required by the Building Inspector.

- B. Exterior structures.** Where any unit of an air-conditioning or refrigeration system or backup generator installation is located outside of the structure, said unit shall comply with setback requirements for accessory structures as set forth in the Chapter 745, Zoning, and said location shall be subject to approval of the Building Inspector. Said location shall not, by noise or sight, be detrimental to adjoining property. As an exception to the requirements of this subsection, however, the

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

§ 756-34

§ 756-34

Village Manager may authorize a temporary backup generator installation to be located anywhere on a lot if the Village Manager finds that the generator serves a public purpose and will be removed no later than 12 months from the date of the approval, subject to the temporary structure approval procedure described in § 745-7D of this Code. **[Amended 2-12-2010 by Ord. No. 2010-02]**

(e) *Board of appeals.*

1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.
2. The board of appeals shall consist of 5 members appointed by the mayor subject to confirmation of the common council for terms of 3 years, except that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the mayor for cause upon written charges and after public hearing. The mayor shall designate one of the members as chairperson. The board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
3. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this section. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- 3m. If a quorum is present, the board of appeals may take action under this subsection by a majority vote of the members present.
4. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
5. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
6. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. In any action involving a listed property, as defined in s. 44.31 (4), the board shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning commission.
7.
 - a. In this subdivision, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, "use variance" means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.
 - b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the

enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- c. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.
 - e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.
 - f. A variance granted under this subdivision runs with the land.
8. In exercising the above mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
10. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the board of appeals, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board of appeals and on due cause shown, grant a restraining order. The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.
14. Costs shall not be allowed against the board unless it shall appear to the court that the board acted with gross negligence or in bad faith, or with malice, in making the decision appealed from.
15. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

S. C ION 18. 62.23 (7) (e) 7. a. of the statutes is created to read:

62.23 (7) (e) 7. a. In this subdivision, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

SEC ION 19. 62.23 (7) (e) 7. d. of the statutes is created to read:

62.23 (7) (e) 7. d. A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner

STATE OF WISCONSIN

VILLAGE OF FOX POINT

MILWAUKEE COUNTY

BOARD OF APPEALS AMENDMENT #1

AN AMENDMENT TO SECTION 2(b) OF THE FOX POINT BOARD OF
APPEALS RULES OF PROCEDURES

WHEREAS, the Fox Point Board of Appeals sets its rules for its procedures and meetings pursuant to Wisconsin Statutes Section 61.35 and 62.23(7)(e)3.; and

WHEREAS, the Fox Point Board of Appeals believes it is in the best interest of the Board and of the residents of the Village of Fox Point to have regularly scheduled meetings throughout the year; and

WHEREAS, the Fox Point Board of Appeals also wishes to allow the Chair of the Board to cancel meetings when there is no business to conduct; and

NOW, THEREFORE, the Board of Appeals of the Village of Fox Point, Milwaukee County, Wisconsin, hereby amends its Rules of Procedure as follows:

SECTION 1: The Fox Point Board of Appeals Rules of Procedures, Section 2 entitled "Meetings," Subsection (b) entitled "Call," is hereby amended as follows:

(a) Call. The Fox Point Board of Appeals shall have regular meetings held on the 4th Wednesday of the months of January, March, May, July, September, and November. The regular meetings shall be held at 5:00pm at Village Hall. Regular meetings can be cancelled at the call of the Chair when there is no business to conduct. Alternative meeting dates and/or times or special meetings of the Board of Appeals may be called by action of the Board at any duly noticed meeting as it deems to be necessary. ~~Whenever an appeal has been filed with the Secretary or there is other business to come before the Board, the Secretary shall advise the Chair who shall then designate a time and location for meeting of the Board. The Chair may call a meeting at any time, or a meeting may be called by any two members of the Board.~~

Dated this _____ day of _____, 2022.

VILLAGE OF FOX POINT

Nancy Filsinger, Chair

ATTEST:

Kelly Meyer, Village Clerk