

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

A meeting and public hearing Fox Point Village Board was held virtually via telephonic and video conferencing on Tuesday, February 9, 2020 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Frazer called the meeting to order at 7:00 p.m. and asked the Village Clerk-Treasurer to take roll call. Roll Call of the Village Board present included:

Village President Douglas H. Frazer
Trustee Eric Fonstad
Trustee Christine Symchych
Trustee Liz Sumner
Trustee Marty Tirado
Trustee Greg Ollman
Trustee Bill Kravit (left at 9:13 p.m.)

Also, present were Village Attorney Eric Larson, Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Public Works Director Scott Brandmeier, and Village Clerk Treasurer Kelly Meyer.

Notice of the meeting was provided to the North Shore Now and to all others as required by State open meetings laws and posted on the official bulletin board at 7200 N Santa Monica Boulevard, as well as the village website at www.villageoffoxpoint.com, as per 2015 Wisconsin Act 79 and as described in Village Ordinance Chapter 116-2, 116-2(C).

Persons desiring to be heard

President Frazer opened Persons desiring to be heard and clarified the rules, including the matter of the Conditional Use Permit Public Hearing for Spring North Corporation and the Public Hearing regarding the Ordinance to Repeal and Re-Create Section 745-13 B. (6), 745-14, 745-15, 745-16 B. (6) and 745-17 B. (6) of the Village of Fox Point Zoning Code Concerning Residence District. Comments on the two matters should be reserved for the Public Hearing portion of the meeting. Any other matter on the agenda or off the agenda can be heard at this time.

District 23 Assembly Representative Deb Andraca

Assembly Representative Deb Andraca introduced herself and gave a brief background on serving on behalf of the 23rd assembly district over the next two years. If there is anything that Deb Andraca or her staff can do, please contact them.

Milwaukee County Office on African American Affairs (OAAA) Executive Director Jeffery Roman

Jeffery Roman gave background on what he and his office will do during his term. Mr. Roman noted his office is one of the key drivers in Milwaukee County with an expanded vision to achieve racial equity and become the healthiest county. Milwaukee County will focus on equity and inclusiveness in the communities. Contact his office directly through Facebook, social media or 414-335-4181 or jeff.roman@milwaukeecountywi.gov.

Without objection and hearing no other remarks, President Frazer closed the public comment period.

Committee Reports – Plan Commission

President Frazer reported Plan Commission met last Monday on February 1, 2021.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

President Frazer reported Plan Commission reviewed and recommended to Village Board the approval of the Certified Survey Map, which includes a proposed land combination of eleven parcels submitted by Applicant Fox Point Lutheran Church, located at 7510 North Santa Monica Blvd. This was expected and mostly for administrative convenience. This makes the zoning requirements a little less cumbersome.

President Frazer announced Plan Commission reviewed and unanimously recommended to Village Board the approval of Ordinance to Repeal and Re-Create Section 745-13 B. (6), 745-14, 745-15, 745-16 B. (6) and 745-17 B. (6) of the Village of Fox Point Zoning Code Concerning Residence Districts. This was recommended by staff, Building Inspector, and the Village Attorney due to the language of the code as it stands is confusing and difficult to navigate.

Village Manager Scott Botcher gave details of the Plan Commission's review and recommendation to Village Board to deny the request for a Conditional Use Permit from Spring North Corp., d/b/a Pantry 41, 8000 N. Port Washington Road, Fox Point, for a Convenience Store and Gas Station. President Frazer, Trustee Fonstad and Commissioner Yauck recused themselves. Plan Commission voted, 4-0 to recommend to Village Board denial of the Conditional Use Permit application.

Public Hearing: Ordinance to Repeal and Re-Create Section 745-13 B. (6), 745-14, 745-15, 745-16 B. (6) and 745-17 B. (6) of the Village of Fox Point Zoning Code Concerning Residence Districts

Motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to open the Public Hearing at 7:14 p.m.

There were no comments.

Motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (6-0-1, Trustee Sumner was unable to vote due to technical difficulties), the Village Board closed the public hearing at 7:15 p.m.

Public Hearing: Conditional Use Permit for Spring North Corporation, d/b/a, Pantry 41, 8000 North Port Washington Road, Fox Point

Motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (6-0-1, Trustee Symchych unable to vote due to technical difficulties) to open the Public Hearing at 7:17 p.m.

President Frazer gave a brief synopsis of the procedures regarding the Public Hearing. The Village Manager will report on his recommendation concerning the application, then the applicant will be asked to present, and following the applicant's presentation comments will be taken from the public.

Village Manager Scott Botcher gave a brief synopsis of the Conditional Use Permit for Spring North Corporation, d/b/a, Pantry 41, 8000 North Port Washington Road, Fox Point regarding the Plan Commissions Village Board recommendation for denial, as is found in his memo in the Village Board packet.

President Frazer asked for the applicant's presentation at 7:25 p.m. Verification was made that the applicant was not present.

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021

President Frazer asked for public comment at this time.

Nancy Filsinger, 220 W Cherokee Circle

Ms. Filsinger stated there were 30 petitions regarding Pantry 41; 21 were returned with 35 signatures. Everyone appreciated the Village Board looking to activate the corner in the Village, but there were many concerns. Ms. Filsinger gave a summary of concerns, including redundancy of another gas station, liquor sales would deteriorate the neighborhood, lighting, hours, noise, no added value to neighborhood or added quality of life.

Patrick and Tina Lavake, 425 W Bradley Road

Patrick and Tina Lavake live about 100 feet away from the proposed location of Pantry 41. While they really love Fox Point, there is a lack of social meeting places, such as a café, coffee shop, ice cream parlor, wine bar, beer garden, a butcher, a baker, pet supply store, or a post office. This is an opportunity for the Village and community to place something in this area that would enhance it socially. They support the comments made by Ms. Filsinger.

Jess Langerman, 7946 N Fairchild Road

Mr. Langerman stated he is opposed to this plan and is looking forward what the Village can do in this area as a community. He is in favor of development, keeping community in mind.

Bruce Arbit, 7900 N Beach Drive

Mr. Arbit thanked the Plan Commission for their early findings. He commented on his frustration as a contiguous property owner not being individually noticed of the Plan Commission meeting. He is opposed to the plan for Pantry 41 and concerned about the potential for crime. He is in support of the potential for redevelopment in this area, as it is significant and necessary for the village.

Traci Schwartz, 7740 N Club Circle

Ms. Schwartz, a resident and business owner who resides at 7963 N Port Washington Road, stated she is opposed to the gas station/convenience store. She is concerned about crime in the area and would look forward to something that would be more for social gatherings.

Nate Matke, 8030 Mohawk Road

Mr. Matke agreed with everything that was said and wants to reiterate his opposition with all the points that have been made.

Deborah Hangsterfer, 312 E Bradley Road

Ms. Hangsterfer commented she was on the Plan Commission call and was happy with how that went. She agreed with those who commented before her and is also opposed to the gas station. This is not the best use of space for the area, due to increased traffic, potential crime and another redundant business.

Beth Gregg, 7414 N Boyd Way

Ms. Gregg is opposed to the gas station. Once the gas station has been on the property, remediation would have a very large price tag.

Gary Krenz, 8021 N Seneca Road

Mr. Krenz routinely runs through the village he runs on Green Tree Road past the Mobil gas station. He reiterated the traffic congestion in that area. Traffic congestion should be considered for the corner of Bradley Road and N Port Washington Road.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

Lucille Sells, 8068 N Seneca Road

Ms. Sells and her husband are both strongly opposed to the gas station and convenience store. Remediation is not insurmountable. This should be looked at as a positive. She supports the village potentially investing in this. She suggested thinking of this as an infrastructural element to our village to make our community a better place. The village and residents as a community support and should be catalysts to a potential development there. Ms. Sells volunteered to assist on a committee, if needed.

Christine Daleness 81140 N Navajo

Ms. Daleness has two children out their riding bikes and she has concerns with traffic patterns and safety with late hours. She is opposed to the gas station and agrees with the concerns everyone else has mentioned.

Therese Gripentrog and Scott Mittelstadt, 8145 N Navajo Road

Ms. Gripentrog sent a letter to the Village Board and the Plan Commission. Ms. Gripentrog and Mr. Mittelstadt are solidly opposed to this proposal. This is the gateway to Fox Point and the village can do so much better.

Paul Schwartz, 7861 N Mohawk Road

Mr. Schwartz is opposed to the gas station and convenience store. The applicant did not show up to make their own case is troubling; this does not show responsibility and commitment to the village. He strongly urges the Village Board to reject this application.

President Frazer stated hearing no other comments, the Board will nevertheless not close the public hearing at this point. Additional public comment may be invited at another time during this meeting.

Consent Agenda

- a. Approve the minutes of the January 12, 2021 Village Board meeting.
- b. Approve the Land Combination and Certified Survey Map submitted by Applicant Fox Point Lutheran Church for the property located at 7510 North Santa Monica Blvd upon all terms and conditions recommended by the Plan Commission.
- c. Approve payment of the bills in the amount of \$1,040,073.35 for the period January 1, 2021 through January 31, 2021 per the report submitted by the Village Manager.

Motion made by Trustee Fonstad, seconded by Trustee Ollman, and carried by roll call vote (7-0), the Village Board approved the consent agenda, as presented.

Consideration of Ordinance to Repeal and Re-Crete Section 745-13 B. (6), 745-14, 745-15, 745-16 B. (6) And 745-17 B. (6) of the Village of Fox Point Zoning Code Concerning Residence Districts

Motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (7-0) to adopt the Ordinance to Repeal and Re-Crete Section 745-13 B. (6), 745-14, 745-15, 745-16 B. (6) And 745-17 B. (6) of the Village of Fox Point Zoning Code Concerning Residence Districts.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

Conditional Use Permit to Spring North Corp., d/b/a Pantry 41, 8000 North Port Washington Road, Fox Point, for a Convenience Store and Gas Station

President Frazer invited the applicant to present on the application; the applicant was not present to present the application.

President Frazer opened the matter up to the Village Board for questions. There were no questions by the Village Board members.

Village Attorney Eric Larson asked to be very clear as to our record about the matter.

President Frazer detailed the record regarding the Conditional Use Permit to Spring North Corp., d/b/a Pantry 41, 8000 North Port Washington Road, Fox Point. The record included the following:

1. All written communications submitted to Plan Commission or the Village Board submitted before this Village Board meeting.
2. All concerned citizens/persons comments at the public hearing, the small area study conducted several years ago regarding the corner by the Village of Fox Point.
3. The draft 2021 Comprehensive Plan that is now before the Plan Commission which speaks in certain ways to planned use in the Village.
4. The current Comprehensive Plan.
5. The petition that was included in the Plan Commission packet with 35 signatures.
6. Evidence that the letters and documents referenced above were provided to the Applicant.

President Frazer stated without objection and by unanimous consent, the record will include the documents mentioned above and the oral comments received at the public hearing tonight.

President Frazer asked the Village Attorney to explain the state of the law and what the Village Board is required to do to make a determination in the Board's capacity as a quasi-judicial body on this matter.

Village Attorney Eric Larson assisted the Village Board with proceeding through the standards of the Ordinance, by use of a Decision Matrix. The Village Board made findings as reflected within the Decision Matrix, by unanimous consent announced by the Village President, as to each item within the matrix,

[As a matter of record, Attachment A, the Decision Matrix for Village of Fox Point D-Business District Approval Process, is based on the determinations of the Village Board and the final motion. Attachment A follows the Village Board meeting minutes of February 09, 2021].

Upon review of the Village Board's findings within the Decision Matrix, the Village Attorney Eric Larson noted the Village Board found twelve of the standards of the ordinance have not been met by the applicant.

Trustee Fonstad added for the record one of the documents submitted by and included with a citizen's comment, and attached to several of the emails received. This references some articles that provide additional substantial evidence to support the Village Board actions.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

Motion modified by Trustee Fonstad, seconded by Trustee Sumner, and carried by roll call vote (7-0) and to deny the D-Business District conditional Use Application to Spring North Corp., d/b/a Pantry 41, 8000 North Port Washington Road, Fox Point, as the applicant has failed to show by substantial evidence that the applicant meet's or agrees to meet all the requirements and conditions specified in the Village of Fox Point zoning ordinances or those imposed by the Village of Fox Point Village Board and substantial evidence in the matter supports this position to deny, subject to the following: This matter shall be placed upon an upcoming agenda to consider the final form of the written denial for final action in the matter, and to close the meeting's public hearing at 8:40 p.m.

Future Agenda Items - None

Announcements

Trustee Fonstad

Trustee Fonstad reported on the last meeting of the North Shore Library Board and the North Shore Library Agreement.

Village President Frazer

President Frazer stated it is coming time to appointment time for Committees, Boards and Commissions. If you know anyone who would like to serve, please encourage them to apply.

Village Manager Scott Botcher

Village Manager Scott Botcher commented on the ice rinks high usage, no complaint calls and request for longer hours on Friday and Saturday.

Village Manager Scott Botcher has been in discussions with school regarding their summer program and the use of the grass where the ice rink is located. Principal Laura Witkov and Village Manager Scott Botcher agreed to meet to work out the use.

Village Manager Scott Botcher announced there is a COVID-19 testing organization who would like a temporary location in the village at the prior Kerns Carpet location for 90 days; testing would be by appointment only. Findings were this COVID-19 testing site would be permitted under the emergency proclamation that is under effect.

Closed Session

Motion made by President Frazer, seconded by President Frazer, Seconded by Trustee Fonstad and carried unanimously by roll call vote (7-0), Village Board convened into closed session at 8:51 p.m., (a) Pursuant to Wisconsin Statutes Section 19.85(1)(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved with regard to existing and potential sinkholes in the Village, affected Village infrastructure, liabilities and potential claims. Participating in the closed session will be the Village Board, Village Manager, Assistant Village Manager, Public Works Director Scott Brandmeier, Village Clerk, and Village Attorney, and (b) Pursuant to Wisconsin Statutes Section 19.85(1)(e) to Deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session: Specifically, discuss possible acquisition opportunities for municipally owned

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
FEBRUARY 9, 2021**

properties, and related property transfers. Participating in the closed session will be the Village Board, Village Manager, Assistant Village Manager, Village Clerk, Village Attorney, and (as announced) the Public Works Director.

President Frazer asked to take a brief two-minute recess to give Village Assistant Manager Michael Pedersen time, to move those not participating in the closed session, to the waiting room.

(Bill Kravit left the closed session at approximately 9:13 p.m.)

Reconvene and Possible Action on Closed Session Items

Motion made by Trustee Fonstad, seconded by Trustee Tirado, and carried unanimously to reconvene into open session at 9:52 p.m.

President Frazer announced no action is being taken on agenda item 9a or 9b.

Adjourn

Motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (6-0); the Village Board adjourned the Village Board meeting at 9:53 p.m.

Respectfully submitted,



Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer

**Decision Matrix
Village of Fox Point
D-Business District Approval Process**

The State of Wisconsin has preempted municipal authority regarding conditional use permits in a number of respects, effective November 29, 2017. Under Wis. Stat. §62.23(7), which applies to Villages under §61.35, decisions concerning conditional use permits must be based upon “substantial evidence,” which is defined as follows:

“‘Substantial evidence’ means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”¹

The statute defines the term “conditional use” broadly as follows:

“‘Conditional use’ means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a [Village], but does not include a variance.”

Note two additional requirements of the statute:

- If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance, the conditional use permit must be granted.
- Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.

This decision matrix is provided as a tool to work through the decision-making process in light of the statutory requirements and applicable Village of Fox Point ordinances. As this statute has only been in effect since 2017, we will reserve the ability to proceed differently than outlined in this decision matrix if we find it is appropriate to do so.

Eric J. Larson

¹ §62.23(7)(de) 1. b., Wisconsin Statutes

Criteria	Applicant Provided Substantial Evidence ²		Opponents Provided Substantial Evidence ³		Village finds Standard is met ⁴	
1. 745-18 D. (1) Permitted Conditional Use: (a) Bowling alleys. (b) Dance, music or physical health studios. (c) Gasoline Service stations. (d) Greenhouses. (e) Hotels and motels. (f) Personal Wireless service facility (subject to criteria and procedures outlined in § 745-23). (g) Premises licensed to sell alcoholic beverages. (h) Restaurants except drive-ins. (i) Retail and services stores except commercial sale or purchase of guns. (j) Schools and day-care centers. (k) Television, video and photo production studios. (l) Theaters, except outdoor theaters. (m) Video game arcades. (n) Wholesale office or sample rooms. (o) Other uses found to be substantially similar uses to those listed here by the Village Plan Commission.	Yes	No	Yes	No	Yes	No
2. 745-18 D. (4)(b) Whether there will be compliance with all other provisions of this chapter, including Subsection F of this section*, except if the project is deemed to be of superior quality by the Plan Commission. Then, in such cases, the front setback shall not be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes. [* Subsection F is attached, and criteria are described below.]	Yes	No	Yes	No	Yes	No
3. 745-18 D. (4)(c) Whether the approval of the application would impede the normal and orderly development and improvement of the adjoining properties or properties in the same D Business District.	Yes	No	Yes	No	Yes	No
4. 745-18 D. (4)(d) Whether adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.	Yes	No	Yes	No	Yes	No
5. 745-18 D. (4)(e) Whether adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets.	Yes	No	Yes	No	Yes	No
6. 745-18 D. (4)(f) Whether there will be compliance with all other applicable laws and regulations.	Yes	No	Yes	No	Yes	No
7. 745-18 D. (4)(g) Whether traffic entering or exiting the site is likely to endanger safety or cause congestion on nearby streets.	Yes	No	Yes	No	Yes	No

² The Village finds that the applicant has provided substantial evidence to show that the applicant meets or agrees to meet this standard.

³ Opponents of the application have shown substantial evidence that the applicant will not meet this standard.

⁴ The Village Board finds, based upon substantial evidence presented, that the applicant meets or has agreed to meet this standard.

Criteria	Applicant Provided Substantial Evidence ²		Opponents Provided Substantial Evidence ³		Village finds Standard is met ⁴	
	Yes	No	Yes	No	Yes	No
8. 745-18 F. (1)(b) No building or use should have a negative impact on the maintenance of safe and healthful conditions in the Village.	Yes	No	Yes	No	Yes	No
9. 745-18 F. (1)(c) No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment should be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers should be screened from the street and from neighboring facilities. The Village Board may permit the outdoor display of product or merchandise upon finding that such display is essential to a business use.	Yes	No	Yes	No	Yes	No
10. 745-18 F. (1)(d) Buildings and uses should serve to implement the Village's existing and planned stormwater drainage systems.	Yes	No	Yes	No	Yes	No
11. 745-18 F. (1)(e) Buildings and uses should provide for safe traffic circulation and safe driveway locations.	Yes	No	Yes	No	Yes	No
12. 745-18 F. (1)(f) Buildings and uses should provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Village Board to allow the same due to extraordinary circumstances.	Yes	No	Yes	No	Yes	No
13. 745-18 F. (1)(g) Buildings and uses should be provided with adequate public services as approved by the appropriate utility.	Yes	No	Yes	No	Yes	No
14. 745-18 F. (1)(h) Buildings and uses shall make appropriate use of open spaces and the Village Board may require appropriate landscaping and planting screens.	Yes	No	Yes	No	Yes	No
15. 745-18 F. (2) No building shall exceed two stories in height, excluding spires, towers, roofs or other architectural embellishments not usable for business purposes, provided that a balcony or mezzanine floor shall be considered as a story.	Yes	No	Yes	No	Yes	No
16. 745-18 F. (3) No such permitted building shall be closer than 20 feet to any adjoining residence district, or closer than 10 feet to any lot line except in the case of "row" type buildings, where by mutual consent common walls are provided between adjoining buildings.	Yes	No	Yes	No	Yes	No
17. 745-18 F. (4) 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; provided, however, that no	See Below	See Below	See Below	See Below	See Below	See Below

Criteria	Applicant Provided Substantial Evidence ²		Opponents Provided Substantial Evidence ³		Village finds Standard is met ⁴	
	Yes	No	Yes	No	Yes	No
setbacks will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.	Yes	No	Yes	No	Yes	No
18. 745-18 F. (6) The provision of any exterior lighting shall be subject to Chapter <u>670</u> , Article <u>XI</u> of this code regulating exterior lighting and any amendments thereto, or other ordinance enacted regulating exterior lighting.	Yes	No	Yes	No	Yes	No
19. 745-18 F. (7)(a) At least five parking stalls for automobiles shall be provided for each 1,000 square feet of gross area of a building exclusive of storage areas. [745-18 F. (7)(d) A lesser or greater number of parking stalls may be recommended by the Plan Commission on taking into consideration the location of the parking area, the type and use of building which the parking area is to serve, and other parking areas available in close proximity to the area being considered. Such recommendation will be effective only on approval by the Village Board.]	Yes	No	Yes	No	Yes	No
20. 745-18 F. (7)(c) In addition to the required parking stalls, adequate driveways or space required for movement of automobiles on such parking area shall be provided.	Yes	No	Yes	No	Yes	No
21. 745-18 F. (7)(e) Such off-street parking area shall be surfaced and maintained reasonably dustless in accordance with standards prescribed by the Director of Public Works/Village Engineer and shall be adequately lighted when in use. In no case shall any portion of the paved parking area be closer than 20 feet to any adjoining residence district or to any street line lying between the business district and residence district, and said 20 feet shall be landscaped and maintained in an attractive manner.	Yes	No	Yes	No	Yes	No
22. 745-18 F. (7)(f) An off-street parking area, in addition to the defined off-street parking area, having an area at least 10 feet wide by 25 feet long and with a minimum fourteen-foot height clearance shall be provided for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building area used for commercial purposes.	Yes	No	[Not Applicable]		Yes	No
23. 745-18 F. (9) Adequate screening shall be provided under the circumstances and in the manner as follows: (a) Screening shall be provided along any property line adjoining a property zoned in a Residence District, and along that portion of a street where the opposite frontage is zoned in a Residence District. (b) Such screening shall be of such a nature as to attractively and effectively screen from ordinary view the commercial operation and shall be subject to approval of the Director of Public Works/Village Engineer. (c) If the	See Below	See Below	See Below	See Below	See Below	See Below

Criteria	Applicant Provided Substantial Evidence ²		Opponents Provided Substantial Evidence ³		Village finds Standard is met ⁴	
screen is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such plant varieties as to provide adequate visual screening within no more than two years and during all seasons of the year. (d) Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such fence or wall to create an attractive view from the residential side. Any wall or fence shall be not less than four feet nor more than six feet in height. (e) Where the screen is for a parking area, it shall be sufficiently opaque to prevent the penetration of headlight glare.	Yes	No	Yes	No	Yes	No

[Not Applicable]

Approval Conditions.

Section 745-18 D. (5) of the Village of Fox Point Zoning Code states the following regarding conditions that may be imposed:

"Conditions. Conditions which may be imposed as deemed necessary by the Village Board shall include: (a) Commencement, staging and completion dates. (b) Types of construction. (c) Landscaping. (d) Planting or other screening. (e) Parking. (f) Fencing. (g) Lighting. (h) Hours of operation. (i) Front, rear and side yard setbacks and whether parking within them is permitted. (j) Operational plan. (k) Highway access and loading provisions. (l) Traffic circulation. (m) Highway dedication. (n) restrictions. (o) Sureties. (p) Signs. (q) Noise control. (r) Special requirements characteristic to the use as may be deemed necessary to protect the aggregate property values of adjoining properties or the Village as a whole and/or to protect as provided in Subsection A above.

Should additional conditions be imposed related to the purpose of the ordinance, based on substantial evidence, that are reasonable and to the extent practicable measurable or conditions be added concerning the permit's duration, transfer or renewal?

YES	NO
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If yes, name the additional conditions:

Has the applicant agreed to meet all of the requirements and conditions specified by the Village of Fox Point Village?

YES	NO
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If the Village answer is “yes” proceed to the next section. If the Village answer is “no” the application must be denied.

Proposed motions:

A. **Motion to Approve:** I move to approve the application for a conditional use in the D-Business District of the Village as presented, subject to the following: [Mark all that apply.]

- ☐ The Village of Fox Point Attorney (alternatively: _____) is directed to prepare a written determination and order based upon this decision matrix and place it in final form consistent with the discussion of at the Village of Fox Point Village Board meeting.
- ☐ The written decision and order shall be circulated to the members of the Village Board who will confirm in writing whether they find the final form to be as decided by the Village Board, and if there is any doubt in the mind of any member of the Village Board in that regard, the matter shall be brought back to a subsequent Village Board meeting for further consideration of the final form of the decision and order.
- ☐ This matter shall be placed upon an upcoming agenda to consider the final form of the decision and order, and for final action in the matter.
- ☐ The record of this determination is clear and is on the tape. The Village Clerk shall preserve the tape of the Village Board's discussion which along with this decision matrix shall serve as the final order in the matter.

B. **Motion to Deny:** I move to deny the D-Business District conditional use application as the applicant has failed to show by substantial evidence that the applicant meets or agrees to meet all of the requirements and conditions specified in the Village of Fox Point Zoning Ordinance or those imposed by the Village of Fox Point Village Board, and substantial evidence in the matter supports the decision to deny, subject to the following: [Mark all that apply.]

- ☐ The Village of Fox Point Attorney (alternatively: _____) is directed to draft a written decision for denial and place it in final form consistent with the discussion of the Village of Fox Point Village Board.
- ☐ The written decision shall be circulated to the members of the Village Board who will confirm in writing whether they find the final form to be as decided by the Village Board, and if there is any doubt in the mind of any member of the Village Board in that regard, the matter shall be brought back to a subsequent Village Board meeting for further consideration of the final form of the written denial.
- ☒ This matter shall be placed upon an upcoming agenda to consider the final form of the written denial, and for final action in the matter.
- ☐ The record of this determination is clear and is on the tape. The Village Clerk shall preserve the tape of the Village Board's discussion which along with this decision matrix shall serve as the final order in the matter.