

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, MAY 24, 2023**

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Wednesday, May 24, 2023 at 5:00 p.m. Chair Nancy Filsinger called the meeting to order at 5:07 p.m. The Village Deputy Clerk-Treasurer took roll call. Those present included:

Nancy Filsinger, Chair
Mark Grady, Board Member
Thomas Dunst, Board Member
Scott Ratke, Board Member
Adam Bazelon, Board Member (Absent)

Staff members also present were Village Attorney Eric Larson, Building Inspector Michael Rakow, and Village Deputy Clerk-Treasurer Nathan Schafer.

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.

Approval of Minutes of March 22, 2023 Meeting and the Findings of Fact, Decision and Order

Motion by Member Ratke, Seconded by Member Dunst, and carried unanimously, to approve the March 22, 2023 Meeting Minutes and the Findings of Fact, Decision and Order of the last meeting.

Case 2023-05, 7250 N Beach Drive

The applicant is requesting a special exception to install a new four-foot, six-inch-high, powder coated, aluminum driveway gate and fieldstone pillars forward of the frontline of the home. The special exception request is made pursuant to 745-7 B.(3)(h)[2] and 745-7 B.(3)(j) of the Fox Point Code.

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 Deputy Clerk-Treasurer.

Building Inspector Michael Rakow stated the applicant is requesting a drive way gate and needs a special exception.

Chair Nancy Filsinger asked if anyone has any questions for the building inspector.

Building Inspector Michael Rakow stated that if approved, the applicant would need to get an approval letter from the fire and police commission and then go to the building board.

Village Attorney Eric Larson reviewed the standards of the Village Code, regarding special exceptions.

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Applicants/Appellants Renee and Matthew Kirchner

Applicant Renee Kirchner of 7250 N Beach Drive stated her name and was sworn in to provide testimony by the Village Deputy Clerk Treasurer.

Chair Nancy Filsinger asked applicant Renee Kirchner to give background regarding Case 2023-05.

Applicant Renee Kirchner described the height and materials for the pillars. She stated that the driveway gate would be needed to prevent it from being used as a turn-around and general safety of the property.

Member Scott Ratke asked is they had any incidents in the past.

Applicant Renee Kirchner stated there have not been any incidents. She stated that the neighbors have lights and she would like to have lights.

Chair Nancy Filsinger asked if she had spoken with anyone at the Village.

Village Attorney Eric Larson stated that the lights are a separate issue and have to meet the Village Code. He reminded the Board, the issue at hand is the driveway gate.

Member Mark Grady asked for the address and relation of the Mary Nohl House.

Applicant Renee Kirchner stated that the Mary Nohl House is close and is now going to be a thoroughfare and they do not want people turning around.

Member Mark Grady stated that the street dead ends further South.

Chair Nancy Filsinger asked about safety; she inquired if the applicants had other means of security measures.

Member Mark Grady asked if any neighbors had driveway gates.

Applicant Renee Kirchner stated that they do; there are two or three, South of their house.

Applicant Renee Kirchner stated that there was a police incident where someone ran up the beach.

Member Mark Grady asked how much time the owners spend away from the house.

Applicant Renee Kirchner stated approximately ten to twelve weeks away from the home in a year.

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Member Scott Ratke asked if any neighbors had any comments regarding the gate.

Applicant Renee Kirchner stated that the neighbors are probably jealous of all the work they've done.

Closing of Testimony, Case 2023-05

Without objection and by unanimous consent, Chair Nancy Filsinger closed testimony for Case 2023-05 at 5:20 p.m.

Member Thomas Dunst stated that gate doesn't protect people when they are away.

Member Mark Grady stated that they are familiar with Beach Drive and it is a unique area. It is pretty isolated and has some of the villages most expensive homes. Board members carry this knowledge and it is a factor in favoring a driveway gate.

Chair Nancy Filsinger disagreed with Member Mark Grady because it is set back on the property and there are other people off that same drive. Chair Nancy Filsinger also stated that that there is not a lot of traffic in her area and there are not many gates.

Member Scott Ratke stated that there is an attraction due to the art and the turnaround; this means that the special exception should be considered based on his experience, while living in the Village.

Member Mark Grady agreed that it is an attraction and there will be some increase in traffic.

Village Attorney Eric Larson stated that there should be a legitimate need of safety reasons to protect the people on the property. He also stated that the Village Board could have written this portion of the Village Code differently. The Board must make a finding based on a motion of the evidence the Board has heard whether the standard has been met or has not been met.

In response to Village Attorney Eric Larson's comments, Applicant Mark Grady stated that it is true the Village could amend this Section of the Village Code or permit all the houses on Beach Drive to be entitled to driveway gates. He feels that the reason the Village Code reads this way is so the Board of Appeals is allowed to use their discretion based on each circumstance.

Motion: Case 2023-05

Motion by Member Mark Grady, to grant the special exception to install a new four-foot, six-inch-high, powder coated, aluminum driveway gate and

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fieldstone pillars. **Seconded by Member Ratke.**

Roll call vote:

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

Motion failed by roll call vote, 2-2.

Applicant Renee Kirchner asked if the pillars could be approved.

Building Inspector Michael Rakow and Village Attorney Eric Larson had a brief discussion regarding the process and the type of structure a pillar would be considered to be.

Village Attorney Eric Larson stated that the Board should act on the pillars.

Building Inspector Michael Rakow stated that since they are considered structures, the pillars must meet set back requirements. The setbacks should be 60 feet from the centerline and 20 feet from the side yard setbacks.

Village Attorney Eric Larson stated that this means the pillars would need a variance and not a special exemption.

Member Mark Grady asked if the pillars would be considered an ornamental fence.

Village Attorney Eric Larson said the Board should rely on the building inspector and his opinion; it should be treated as an accessory structure and it does not meet the required setbacks r. The special exception application doesn't address this separately from the gate. The applicants are able to apply for a variance.

Applicant Renee Kirchner asked if she applied for a special exception or a variance.

Village Attorney Eric Larson stated that the applicant applied for a special exception and due to the special exception notice, we are not able to change it without proper notice.

Applicant Renee Kirchner asked why it didn't pass with a 2-2 vote. Village Attorney Eric Larson stated that in order for the special exception to be granted, it needed a majority vote.

Adjourn

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Motion by Member Mark Grady, seconded by Member Scott Ratke, and by roll call vote, the Board of Appeals adjourned the meeting at 5:51 p.m. Motion carried unanimously.

Respectfully Submitted,

Nathan Schafer
Village Deputy Clerk Treasurer