

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Wednesday, July 27, 2022 at 5:00 p.m. The Village Clerk took roll call. Those present included:

Nancy Filsinger, Chairman
Thomas Dunst
Mark Grady
Scott Ratke
Adam Bazelon

Staff members also present were Village Attorney Luke Martell, 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.

Approval of Minutes of May 19, 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 (4 - 0 - 1, Member Grady abstained) to approve the May 19, 2022 minutes and the Findings of Fact, Decision and Order of the last meeting, as presented.

Case 2022-04: 940 E Wye Lane. (Continuation of May 19, 2022)

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 Attorney Luke Martell reviewed Board of Appeals acts as a quasi-judicial body and the Board decision and determination is to apply local law and ordinances. The Board cannot ignore the law and ordinances; the Board is not here to changes the local laws and ordinances. The Board is just here to apply. The standard for variance is pretty high. Variances are something that goes against village ordinances. The applicant must show that their property meets three standards.

1. Unnecessary hardship
2. Due to conditions unique to the property
3. There is no harm to the public interest if the variance is to be granted.

The Board should keep the standards in mind and provide the reasoning for each one of those standards when you make your decision.

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.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

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 side yard setback should be 20 feet and the generator would be inside that setback area. approximately 3 feet. Therefore, it was denied due to noncompliance with regard to the side yard setback.

Member Mark Grady inquired if the Building Inspector Michael Rakow was out on the property, do you have an opinion of whether there is a different location then where it is proposed that would still meet the set back requirements. Building Inspector Michael Rakow stated they can put it anywhere else if it meets the setbacks without a problem, but they are requesting the proposed location as submitted.

Member Adam Bazelon stated that it looks like from the diagram, it could be placed behind the home and still be in compliance with the setback. Is there any reason it is not being placed in that location? Building Inspector Michael Rakow stated it could be placed there and again, it could be placed anywhere that is compliant with the setbacks, but again the applicants are proposing that the generator be placed in the location provided in the application.

Owner Kristie Kosobucki

The Owner Kristie Kosobucki stated his name and was sworn in to provide testimony by the Village Clerk Treasurer.

Owner Kristie Kosobucki commented she was out of the village for the first meeting and will now try to provide a better picture. There were some questions that weren't answered and she is hoping to provide some clarification.

Owner Kristie Kosobucki stated that they were without power a couple of days last summer. She needs to have consistent power at the house for some other reasons. They looked into a generator and they have been doing some remodeling. The old site plan that was originally included with the packet doesn't show the updated window and door situation at the house. There is a letter submitted from Adams Generator explaining that the generator cannot go within a certain place by the window or door because of the exhaust fumes. It needs to be further away from the house from any opening to the home; this includes AC, venting, windows or doors. There is an updated plan [Exhibit A] that may not have been submitted. She passed Exhibit A around to the Board members. There was an updated photo sent that shows if it were to go in the back yard, it would be in the middle of the yard. The reason Adams Generator stated that is the way to go is because we have a chimney right there and it juts out, so they are able to keep it close to the house. They would still have the five-foot clearance for the exhaust issue from any window or door in that location. The other option was to put it on the west side of the home by the garage which definitely would be great if they were going to keep it there. Next year they are planning a remodel with an addition in that location, so it is not financially responsible to spend money to put the generator in that location and come back next year to have the same discussion with the Board. That addition will be a sunroom with all windows and doors.

Member Scott Ratke inquired how often will the generator cycle. Owner Kristie Kosobucki stated it runs a test cycle every 30 days. The neighbors to the east have a

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

generator on our side of the home as well, so it is not really a noise issue. She offered to play the video of them standing in the driveway on the west side when the neighbors generator turned on when they lost power a couple of weeks ago. When their generator is on, our generator will most likely be on.

Chairperson Nancy Filsinger inquired if the rendering that was given to them [Exhibit A] is a future home rendering. Owner Kristie Kosobucki stated that is the rendering for the current design of their home, stating they are just in the beginning phases of the remodel. That does show the updated window and door configuration.

Chairperson Nancy Filsinger inquired where the generator would be placed if it was in the backyard. Owner Kristie Kosobucki clarified the area the generator would have to be placed if it were placed in the back yard.

Member Mark Grady stated apart from the picture that you gave us [Exhibit A], apart from the generator being more in the middle of the backyard, are there any other hook-up issues that would keep you from placing it in that location. Owner Kristie Kosobucki commented there is power, but they would need to run the gas line and she was unsure how expensive that would be because it would have to cross some concrete. Owner Kristie Kosobucki stated the gas line is on the northeast corner of the home.

Member Scott Ratke inquired if she has any special circumstances, as she mentioned earlier. Owner Kristie Kosobucki stated she does have special circumstances that are medical.

Member Mark Grady stated that where the proposed location is the setback encroachment is possibly three feet. Owner Kristie Kosobucki stated that is correct, but it is also about 30 feet from the neighbor's home.

Member Mark Grady stated to key off on Village Attorney Luke Martell's earlier clarification of the variance standards, one of the factors is unnecessary hardship. Therefore, what you have considered to be unnecessary hardship is putting it in the backyard versus the east side. Owner Kristie Kosobucki stated it is an eyesore, cost prohibitive to try to figure out how to get the gas line to that location in the backyard and they do not have a huge yard.

Village Attorney Luke Martell stated the law has been pretty clear that the unnecessary hardship cannot be self-imposed or created. It has to be something that is unique to the land. The second factor when you consider conditions unique to the property, it is conditions unique to the property and not to the applicant and the unnecessary hardship cannot be self-imposed.

Owner Kristie Kosobucki stated if there are any suggestions on where to put this generator, they would consider that. This is where they are stuck.

Member Mark Grady inquired if the lot was rectangular. Owner Kristie Kosobucki stated it is and, on the survey where the dotted line is, that is where the ravine is. Most of the area to the northwest is woods. Member Mark Grady stated the house is parallel to Wye Lane. Not exactly parallel to the lot line on the east. It is a little further south to the house as you get closer to the home.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

Nancy inquired if anyone was here from the company Adams Generators. Owner Kristie Kosobucki stated no but they did provide a letter which is in the packet.

Member Adam Bazelon inquired when the owners plan to start the addition. Owner Kristie Kosobucki they are hoping for some time next year. Member Adam Bazelon inquired if that was on the north side of the home. Owner Kristie Kosobucki confirmed the addition location. Member Adam Bazelon commented if it wasn't for the addition, the generator could be placed in that area. Owner Kristie Kosobucki agreed.

Adams Generators told Owner Kristie Kosobucki that it would cost a significant amount of money to run the gas line over there because there is no basement over in that location. To do that for potentially 9-12 months and then come back to Board of Appeals to request another new location.

Closing of Testimony

Without objection and by unanimous consent, Chairperson Nancy Filsinger closed testimony at 5:21 p.m.

Chairperson Nancy Filsinger pointed out the standard of unnecessary hardship and meeting that criterion.

Member Mark Grady stated I understand it is the Village Attorneys role to emphasize how rare variances should be. All of these cases could be argued either way. You could make an argument, whether you all agree is a different question, that it is an unnecessary hardship to put it in any other location. The reason he asked the questions about the shape of the lot is the house is situated on this lot. There are angled lot lines and the house is not square to those lot lines. Regarding the unique nature of the property, this is a uniquely shaped piece of property. The home is situated on it uniquely compared to most homes in the village. Particularly when you look on the east side of the home, it was 20 feet to the northeast corner. It is more than that to the southeast corner. You can make an argument that there is an unnecessary hardship for the owners to install the generator somewhere else due to the unique shape and configuration of the lot. The lot lines upon the house and the house upon the lot lines. He is unclear if that is self-imposed or not. The home was built most likely many years ago. Under the legal test I don't know if that is considered self-imposed. Maybe it is. I think there is an argument to make that the variance could be granted under the standards.

Member Scott Ratke stated he agreed with the analysis, commenting the lot is unique.

Motion by Member Mark Grady to grant the variance for the reasons that were just discussed, believing it is an unnecessary hardship to put the generator somewhere else and it is an unnecessary hardship to go without a generator under the conditions and the unique nature of the lot and the building upon the lot makes the variance necessary for the generator and there is no harm to the public interest. Thomas Dunst seconded the motion. Roll call was taken.

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022

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

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

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 frontline 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.

Village Attorney Luke Martell read the standards for a special exception, as the following: Section 745-7(B)(3), 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.

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 2022-06. For this particular case, the fence is on a corner lot and according to Village Code, on a corner lot each road side frontage is considered a front yard.

Mark Grady stated that the existing fence is currently in violation of the ordinance.

Owners Paul Bodis & Rebecca Kiefer

The Owner's Paul Bodis and Rebecca Kiefer were sworn in to provide testimony by the Village Clerk Treasurer.

Chairman Nancy Filsinger asked the owners to provide testimony regarding the case.

Property Owner Rebecca Kiefer stated the fence has been there since they purchased the property. The way the fence is situated now, there is a large privacy fence as pictured in one of the photographs is kind of in the middle of much of the useful property. To the north, it grades down a bit to the neighbor's house. As you look to the south, it is level. Beyond a large portion of the yard is outside of what is fenced and the rest is what is in the fenced in area now. The existing fence is at a point where it needs to be replaced. In speaking with a fencing company and in deciding how to go about doing that, they decided to seek this special exception so that they could both improve the appearance of the fence and to fence in more of their yard. As outlined in the submission, it would add to the aesthetics of the property. The fence style would fit better with the mid-century style of the home. They are hoping to make more usable the entirety of the back yard property. Supplemental

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

materials [Exhibit A] were passed out to the members of the board.

Member Mark Grady stated he understands why they are looking at replacing the existing fence, but why make the footprint larger?

Property Owner Paul Bodis commented they have young children. There have been tire tracks on Green Tree in the yard. The post from the mailbox has been replaced twice already on Yates Road. It is a big safety issue for them. They would like to incorporate the large portion of the back yard into the fenced in area to become more of a useful space for them.

Property Owner Rebecca Kiefer stated the way their house is situated, the fence as proposed and submitted to the Board for a variance, would incorporate and make more usable space in the yard that they do have. It does look like a big vacant lot right now. The vacant area is not used currently by them because of the safety concerns. The owners also have a small dog; the fence is also very helpful for the safety of the dog. The fence is great for peace of mind when it comes to the safety of the kids and the dog. They are not asking for permission of the fence, only to make the fenced in area larger in respect to safety.

Member Scott Ratke asked if the owners could walk them through the diagram.

Property Owner Rebecca Kiefer stated the existing fence includes the dotted line and a portion of the pink line. The orange line is not being requested in this application.

Member Mark Grady inquired if they are going approximately 10 feet further to the east for the fence and further south, closer to Green Tree Road.

Briefly, Property Owner Rebecca Kiefer commented on the letter received from a concerned property owner regarding the obstruction of traffic from Green Tree Road. She stated she feels it is merely regarding the confusing renderings submitted, which the Board also raised questions on. They are not trying to fence in their entire lot at all. There is still a very large amount of greenspace that would still be maintained and would give a fair amount of visibility.

The owners received input and feedback from the neighbors that they are happy the owners are replacing the fence and improving the look. They are not concerned about a visibility issue.

Member Mark Grady clarified the Board is need to review the application and make a decision regarding the several feet that extends beyond the back of the house and then even to the front of the house.

Closing of Testimony

Without objection and by unanimous consent, Chairperson Nancy Filsinger closed testimony at 5:45 p.m.

Member Mark Grady stated there is a preliminary standard to be considered as well, Section 745-7(B)(3)(h)[2], that it is reasonably necessary to protect the safety of people residing on the property, in addition to the additional findings and conditions required. For Mark, it is easier to show a legitimate need for a fence than for someone who is not on a busy street, especially with young children involved. That rationale qualifies under the ordinance that requires the fence be reasonably

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

necessary to protect the safety of persons residing on the property. As the Board has discussed, they talked about the traffic impeding their property or onto their property on Green Tree. With respect to the other standards, the legitimate need is for the same reasons for the safety of the children on the property. The fence has been there in a slightly different location on the south and west side of the house and it has not adversely affected the health, safety, or welfare of the community in the past with the extension further south and west it would not do that either. The ordinance does generally frown on fences in front yards but on corner lots, especially busy corner lots, the homeowners have shown a need for special exceptions.

Motion by Member Mark Grady, to grant the special for the new 6-foot-high cedar fence, based on the prior points made and as depicted in the diagram.

Member Adam Bazelon when he thinks of legitimate circumstances, it would be something that is more unforeseen than children and dogs because that would apply to many people applying. There is a fence already existing so the legitimate need of the health and safety of the children and dog is already served. This is a very visible piece of property. The purpose of this ordinance is to preserve open green spaces which by extending it is infringing upon that purpose when there is already a fence in his opinion that would serve the legitimate need. He is not necessarily opposed to it but is concerned that the legitimate need is what is says it is, then it almost becomes standardless if kids and dogs is sufficient to meet it.

Member Mark Grady stated he agrees that dogs are not sufficient to meet the legitimate need. Member Mark Grady stated the difference is the location of the property owner. He agrees that the ordinance is to create more open space. That is why he feels there are special exceptions. In a different location and on a different street he would agree with Member Adam Bazelon. With this case, you have to grant a special exception to rebuild this in the exact same location. If you are granting a special exception to rebuild the fence in the exact same location, he doesn't see the significant harm in moving it partway to Green Tree - not all the way to Green Tree to give them more usable space for the children. He can understand Member Adam Bazelon's point.

Seconded by Member Scott Ratke,

Roll call was taken.

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

Granted by roll call vote, 3 – 2.

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 frontline 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.

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

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 2022-07. This is a corner lot and they requested installation of a fence on Club Circle and Lake Drive. Corner lot on the street side.

Member Mark Grady inquired which side of the street the house faces. Building Inspector Michael Rakow stated it faces Club Circle.

Member Mark Grady asked Building Inspector Michael Rakow to clarify why this came to Board of Appeals.

Building Inspector Michael Rakow stated Lake Drive is on the side of the fence and it is on Club Circle so it is a corner lot. Pursuant to the Village Code, the street fronts are considered the front yard.

Member Mark Grady stated the ordinance talks about a house on a corner lot, but then it says if a building footprint is other than square or rectangular in configuration, then a different section of the code applies. Just to be clear, you are considering this building to be square or rectangular.

Building Inspector Michael Rakow stated he would consider the building to be square or rectangular.

Owners Robert A. Jones

The Property Owner Robert A. Jones was sworn in to provide testimony by the Village Clerk Treasurer.

Chairman Nancy Filsinger asked the owner(s) to provide testimony regarding case.

Property Owner Robert A. Jones stated he simply would like this fence put up to provide privacy. The property is open; the traffic and noise from lake drive is difficult. There is currently no fence on the property.

Member Adam Bazelon inquired how long he lived in the home. Property Owner Robert Jones noted he lived there eight years.

Member Mark Grady stated he believes he was present during the last discussion regarding fences. He further stated that one of the things the Village Codes refers to is that it would be reasonably necessary to protect the safety of people residing on the property, in addition to additional findings. He inquired why property owner Robert Jones feels the fence is reasonably necessary to protect the safety of people residing on the property.

Property owner Robert Jones stated he has no children or dogs on the property. The driveway runs along lake drive on the west side of the home.

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022

Member Scott Ratke stated the proposed fence is only on the north side of the property. Property owner Robert Jones noted that is correct. He further stated it is a clear shot – like a racetrack by lake drive.

Closing of Testimony

Without objection and by unanimous consent, Chairperson Nancy Filsinger closed testimony at 6:01 p.m.

Motion by Member Adam Bazelon to grant the special exception to install a new 6-foot-high rustic stockade cedar fence on the basis of heavy traffic in the area and it is a legitimate purpose to have a fence there and it would not adversely affect the community in any way.

Chair Nancy Filsinger inquired Village Attorney Luke Martell to clarify the standards for a special exception.

Village Attorney Luke Martell read the standards pursuant to 745-7 (B)(3)[1]. He further stated this is a new fence that is going to be placed forward of the frontline of the home. He agrees the other standards also apply, that there should be a need for safety to apply as pursuant to 745-7(B)(h)[2] to allow for a new fence.

Chair Nancy Filsinger commented it is forward of the frontline of the home due to the parcel being on a corner lot.

Member Mark Grady inquired of Village Attorney Luke Martell clarification of the village codes intent when referencing square and rectangular homes versus other shapes. If this is considered an odd shaped home rather than rectangular or square, then this would not have to come to the Board. If it is found that it is not a square or rectangular footprint, then the front yard and corner yard requirements did not apply. If this is a corner lot with a square or rectangular footprint, then he cannot approve this because he has not met the requirement of it being necessary to protect the safety of people residing on the property. On the other hand, if this is a corner lot with a non-square or non-rectangular footprint, then the fence is in the back yard and there is no issue. So, it comes down to whether this is a square or rectangular footprint and if he is going to be consistent with the way he acted in the past.

Chair Nancy Filsinger stated there is a motion on the floor.

Member Mark Grady seconded the motion.

The motion was restated.

Member Mark Grady withdrew his second.

Member Mark Grady moved pursuant to 745-7(B)(h)[5], Board of Appeals find that the footprint of this location is other than square or rectangular in configuration and therefore the provisions of 745-7(B)(3)(h)[1] apply, the Board of Appeals shall review the determination of the front, side and rear yards. In this case the front is

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022

the side on Club Circle, as proven under section (B)(3)[j] which says the homeowner has a legitimate need for it without harm to the neighborhood, public safety and public welfare. For purposes of that section, he would agree with Member Adam Bazelon that the owner has a legitimate need for the fence.

Member Scott Ratke seconded the motion.

With no further discussion, the roll was called.

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

Granted by roll call vote, 5-0.

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.

Village Attorney Luke Martell reviewed with the Board, the standards for a variance. There is a three-part test set forth in the WI State Stats. 1) unnecessary hardship, 2) due to conditions unique to the property, and 3) no harm to the public interest. He also added this is similar to a previous variance application. Each application should be treated separately. You are not creating a pattern of decisions. You are solely applying the State Stats and Village Code individually to each application.

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 2022-08. In this particular case, the generator is requested to be installed; the setback for that property is 20 feet. They want to install it approximately 10 feet in the setback.

Owners Max Rasansky and Friend Earl Halverson (EJ)

Owner Max Rasansky and Friend Earl Halverson were sworn in to provide testimony by the Village Clerk Treasurer.

Chairman Nancy Filsinger asked the representatives to provide testimony regarding owners Max and Cindy Rasansky's case.

Owner Max Rasansky stated where they are placing the generator is an area that they never use. It is an irregular shaped lot. There is not a lot of room to work with. It will be placed adjacent to

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022**

the central air unit. If you look at the pictures from Indian Creek, it is completely shielded by beautiful trees. The owners have a six-foot high fence. His wife has talked to the neighbor to the north, who they have an excellent relationship with. They have given her their word that for the five minutes that it is tested one time a week, they will test when she is playing bridge away from the house. Originally, they were going to put it in the corner. Unfortunately, when Adams came out to install it, they made a mistake and they would have to replace or move all the trees. The area they want to move it to is not bothering anybody.

Member Mark Grady commented he was looking at the aerial photograph of the home. There is a green dot in the proposed location. You can see the arborvitae trees that you are referring to just to the east of that location. There is a V-shape between the two portions of the residence. If you placed it inside the V on the west side of the property, it would be further away from the property. Is there a reason it cannot be placed in the location?

Friend Earl Halverson (EJ) stated that is where they originally wanted to place it, but the village has its requirements, Adams has their requirements and Generac has their requirements. When all three of those were considered, the lot line was the issue. They were too close to the lot line. The new location with the proposal tonight is actually further from the lot line than the V location would have been.

Owner Max Rasansky commented that they would have been approved at the V location without coming to the Board, but Adams came out and they measured wrong. He then called the village and to have the Building Inspector come out because they had to move the location of the generator. The only way they can place the generator in that spot would be to move all of the trees. The trees cannot be that close to the generator.

Owner Max Rasansky continued that they are extremely sensitive; they are on a corner lot. They keep their property in great shape.

Member Mark Grady inquired how close to the lot line the generator would be.

Owner Max Rasansky stated it would be ten feet to the fence; the fence is on the lot line.

Owner Max Rasansky stated they have lost power twice for 24 hours in the last year and they are traveling more in the winter time.

Closing of Testimony

Without objection and by unanimous consent, Chairperson Nancy Filsinger closed testimony at 6:22 p.m.

Member Scott Ratke stated it doesn't look like there is another spot for the generator on the property.

Nancy stated it looks like unnecessary hardship and conditions unique to the lot and no harm to others.

Motion by Member Scott Ratke to grant the variance for the generator based on

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JULY 27, 2022

the unnecessary hardship, based on no other area for placement of the generator and there will be no harm to the public interest and the hardship is peculiar to this property because of the shape of the property.

Member Thomas Dunst seconded the motion.

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

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

Board of Appeals Rules Amendment

The Board held a discussion to consider the adoption of an amendment to Section 2 (B) of the Fox Point Board of Appeals Rules of Procedures, to modify the methodology for scheduling meetings of the Board of Appeals and establishing a regular meeting date.

Motion by Member Mark Grady, Seconded by Member Scott Ratke, and carried unanimously to amend the Board of Appeals Rules of Procedures Section 2. (B), of the Fox Point Board of Appeals Rules of Procedures, to modify the methodology for scheduling meetings of the Board of Appeals and establishing a regular meeting date.

Adjourn

Motion by Chairperson Nancy Filsinger, Seconded by Member Adam Bazelon, and carried by roll call vote (5-0) or unanimously, to adjourn the meeting at 6:27 p.m.

Respectfully Submitted,



Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer