



Village of Bayside  
9075 N Regent Rd  
August 23, 2021  
Village Hall Boardroom, 5:00 pm

## BOARD OF ZONING APPEALS AGENDA

**PLEASE TAKE NOTICE** the meeting of the Village of Bayside Board of Zoning Appeals will be held at Bayside Village Hall, 9075 North Regent Road, Bayside, Wisconsin at the above noted time and date, at which the following items of business will be discussed and possibly acted upon.

### I. CALL TO ORDER AND ROLL CALL

### II. PUBLIC HEARING

- A. The purpose of the public hearing is to consider the request for a special exception by Mike and Stephanie Tack, for the property located at 9300 N Fairway Dr, to allow an installed tree house to remain in place, contrary to Section I 25-90(b) (5).

1. Public Discussion
2. Board Discussion

### III. APPROVAL OF MINUTES

- A. June 2, 2021, Board of Zoning Appeals Public Hearing and Meeting.

### IV. BUSINESS

- A. Discussion/recommendation on the request for a special exception by Mike and Stephanie Tack, for the property located at 9300 N Fairway Dr, to allow an installed tree house to remain in place, contrary to Section I 25-90(b) (5).

### V. ANY OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE BOARD

### VI. ADJOURNMENT

Lynn Galyardt, Administrative Services Director

Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. Contact Village Hall at 414-206-3915. It is possible that members of and possibly a quorum of members of other Boards, Commissions, or Committees of the Village including in particular the Board of Trustees may be in attendance in the above stated meeting to gather information; no action will be taken by any other Boards, Commissions, or Committees of the Village except by the Board, Commission, or Committee noticed above. Agendas and minutes are available on the Village website ([www.baysidewi.gov](http://www.baysidewi.gov))

STATE OF WISCONSIN - VILLAGE OF BAYSIDE - MILWAUKEE & OZAUKEE COUNTIES

**NOTICE OF PUBLIC HEARING**

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In the matter of a request for a special exception by Mike and Stephanie Tack, for the property located at 9300 N Fairway Dr, to allow an installed tree house to remain in place, contrary to Section I 25-90(b) (5).

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**PLEASE TAKE NOTICE** that a public hearing will be held before the Board of Zoning Appeals of the Village of Bayside at 9075 N Regent Road, on August 23, 2021 at 5:00 pm. The purpose of the public hearing is to consider:

The request for a special exception by Mike and Stephanie Tack, for the property located at 9300 N Fairway Dr, to allow an installed tree house to remain in place, contrary to Section I 25-90(b)(5).

**PLEASE TAKE FURTHER NOTICE** that at such time and place, all interested parties will be heard via remote teleconferencing on this matter.

**DATED** this thirteenth day of August 2021.

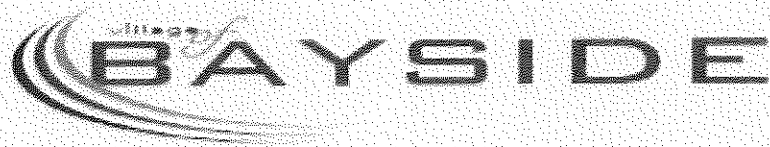
  
Lynn Galyardt  
Administrative Services Director

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Sec. 125-90. - "B" residence district regulations.

- (a) *Permitted uses.* In a "B" residence district no building or premises, unless otherwise provided in this chapter, shall be erected or used, except as a single-family dwelling, together with accessory uses incidental thereto, provided always the accessory use does not constitute or become a public or private nuisance.
- (b) *Areas.* In a "B" residence district, no building may be erected, enlarged or altered except in accordance with section 125-3(b) and as follows:
- (1) The lot area of a lot on which a dwelling is erected or proposed to be erected shall not be reduced to less than 22,000 square feet for each family.
  - (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 hereafter provided for.
  - (3) Every building shall be set back from the centerline 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 from the setbacks specified on the official zoning map:
    - a. Five feet when depth of lot is more than 80 feet but less than 90 feet;
    - b. Ten feet when depth of lot is more than 70 feet but less than 80 feet;
    - c. 15 feet when depth of lot is 70 feet or less;however, no setback will be less than 15 feet plus half the width of the abutting road or area reserved for highway purposes.
  - (4) A side yard of not less than ten feet shall be provided for on each side of every building.
  - (5) A rear yard of not less than 20 feet shall be provided for every building, except one of not less than ten feet shall be provided for a building used for or classified as an accessory use.
  - (6) Lot frontage shall be not less than 85 feet. Exceptions may be permitted to conform with cul-de-sac design or when considered in the total street design.

(Code 1967, § 22.05; Code 1997, § 106-193; Ord. No. 98-420, § 5, 7-1-1998; Ord. No. 01-483, § 9, 8-1-2001)



**Application for Appearance before the  
Board of Appeals**

Owner's Name Mike + Stephanie Tack

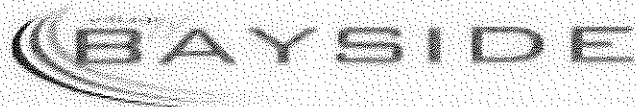
Property Address 9300 N. Fairway Dr., Bayside

Proposed project details (type of work, size, materials, etc.):

Tree house. Two levels with an enclosed area approximately 42 sq. ft. Structure includes a climbing wall on the back and ladder to get up in front. There is also a slide that splits the structure from back to front. Under the enclosed area is a spot to hang hammocks. We plan to paint the structure a very neutral color this year.

Fee: \$500.00

- ~ Lower platform 80sq.ft
- ~ Upper platform 90sq.ft.
- ~ Pressure treated lumber



**APPLICATION FOR SPECIAL EXCEPTION TO ZONING CODE REQUIREMENTS**

The Board of Appeals, pursuant to Wis. Stats. 62.23(7)(e), and, Section 125-57(e) of the Zoning Ordinance, and after appropriate notice and hearing, may, with regard to any requirement imposed by the Zoning Ordinance, or any other section of the Municipal Code which specifically allows for special exceptions, recommend a special exception to the Village Board for approval. Notice of application for special exception shall be provided to all property owners adjoining or abutting the property proposed for a special exception. Denials of special exceptions shall not be appeal able to the Village Board.

1. State the section of the Village of Bayside Municipal Code for which you are requesting a special exception:.

10 feet from property line

2. Give a brief description of what you want to do and why.

We built a tree house surrounding a large tree near the property line & would like to keep it in its place.

3. State why compliance with Municipal Code is unreasonably burdensome or negatively impacts the use of the property.

We built it not knowing the 10 foot rule.

4. State how the Special Exception requested, including any proposed restrictions, will be consistent with the existing character of the neighborhood; will not effectively undermine the application or enforcement of the Code to other properties; and will be in harmony with the purpose and intent of the Code.

We didnt take down any trees & is next to unusable property. It is well made & used by neighborhood kids.

Applicant Printed Name

Stephanie Tack

Applicant Signature

Stephanie Tack

Date

7/10/2021

Hello Bayside Board of Appeals

By way of introduction, we are the Tacks. Me (Mike) and Stephanie have been married almost 14 years and have three kids: Charlotte (9), Andrew (7) and Owen (3). We moved to Bayside about 5 years ago and have loved the community and the neighborhood.

In May of 2020 when the fear and unknown of COVID was gaining steam, my father in law came to us with an idea. Knowing that we were going to be home bound for a while, he suggested we build a treehouse. We knew that pre built playgrounds were already in short supply given shipping issues and companies not being able to operate during the pandemic, so building something was likely our best bet. I also think this was an opportunity for a my father in law to do something for his grand kids. They bring him a ton of joy and I think he ultimately wanted to help build something for them that they could use during COVID but also for years to come.

We got the kids involved in the idea process and started to look online. Two ideas kept going up. One is that it had to have some kind of protection. Second, they liked the ones that were built around trees. Pinterest gave us a bunch of great ideas (see attached) and so we started to draw what it could look like in our yard. In our backyard, we only have one tree that is more toward the middle of the property. This tree is pretty small and wasn't going to work for what the kids were hoping for. That led us to pick a tree near the back of our yard. NOTE: We really thought that our property went further back and did not realize these trees were extremely close to the lot line. We thought we had at least until the power lines which would have given us several more feet.

After several sketches and ideas we got to work just before the wood shortage and price surge began. Over the course of several weekends, my father in law and I started building. The design is as follows:

- A little house with windows that is tall enough to accommodate kids heights as they grow
- A set of stairs/ladder leading to the little house
- A lower and an upper platform, both built around the tree
- A ladder that goes to a trap door
- A slide to get down
- A rock climbing wall on the back
- Under the house, a spot equipped with 2 hammocks

A 10 week delay in the slide led us to a mid summer completion. Not only did this bring immediate joy to our kids but also to the kids in our neighborhood. Over the last several years, we have been lucky enough to have families move in with kids similar in age to us. Quickly this became a place they could all hang out, use their imaginations and have a space that is their own.

There were a few things are backyard neighbor had concerns about which we are more than willing to address. One included not having any electricity in the treehouse. We will not have power back there and won't even run extension cords to have things like hanging lights. The rest of the concerns involved the look. This list below is not limited to these options so if something else comes up we are more than willing to consider.

- He mentioned either leaving the treehouse it's natural color or painting it grey. That is great and we are happy to do either. Our original idea was to paint the house part grey and then stain the rest of it some kind of darker stain so that it blended into the trees. We would be more than happy to have Woody Ok the colors before we moved forward.
- We could make either a natural fence right at the property line with arborvitae or tall grasses or a more permanent fence to deter children from entering his property.

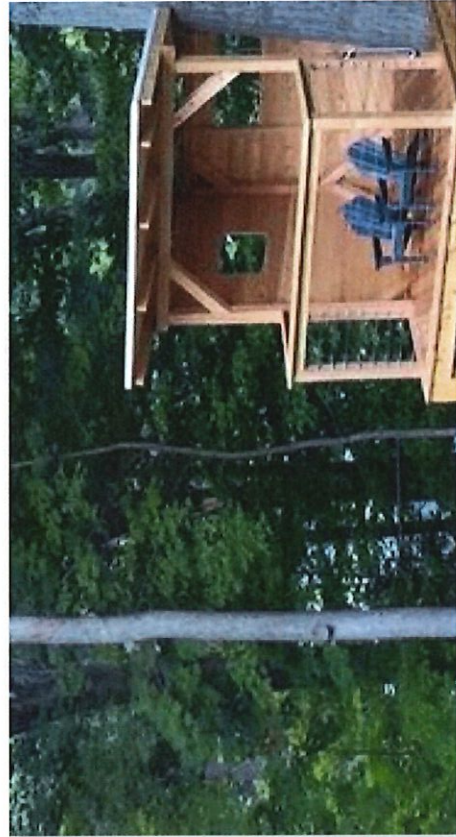
-One thing that we have not discussed is essentially closing off the back of the treehouse. Right now, the back has a climbing wall which is another entry into the treehouse. Closing off the back would lead to less of a possibility of kids entering into his property.

Again, we are open to any of these to make our neighbor feel more comfortable.

2020 was obviously such a crummy year. We know we have it better than most and feel super fortunate to be able to build something that that brings enjoyment, laughter and excitement in such tough times. This project has only been about giving our kids something that we thought would make them happy, and it really has done that.

We thank you for your consideration.

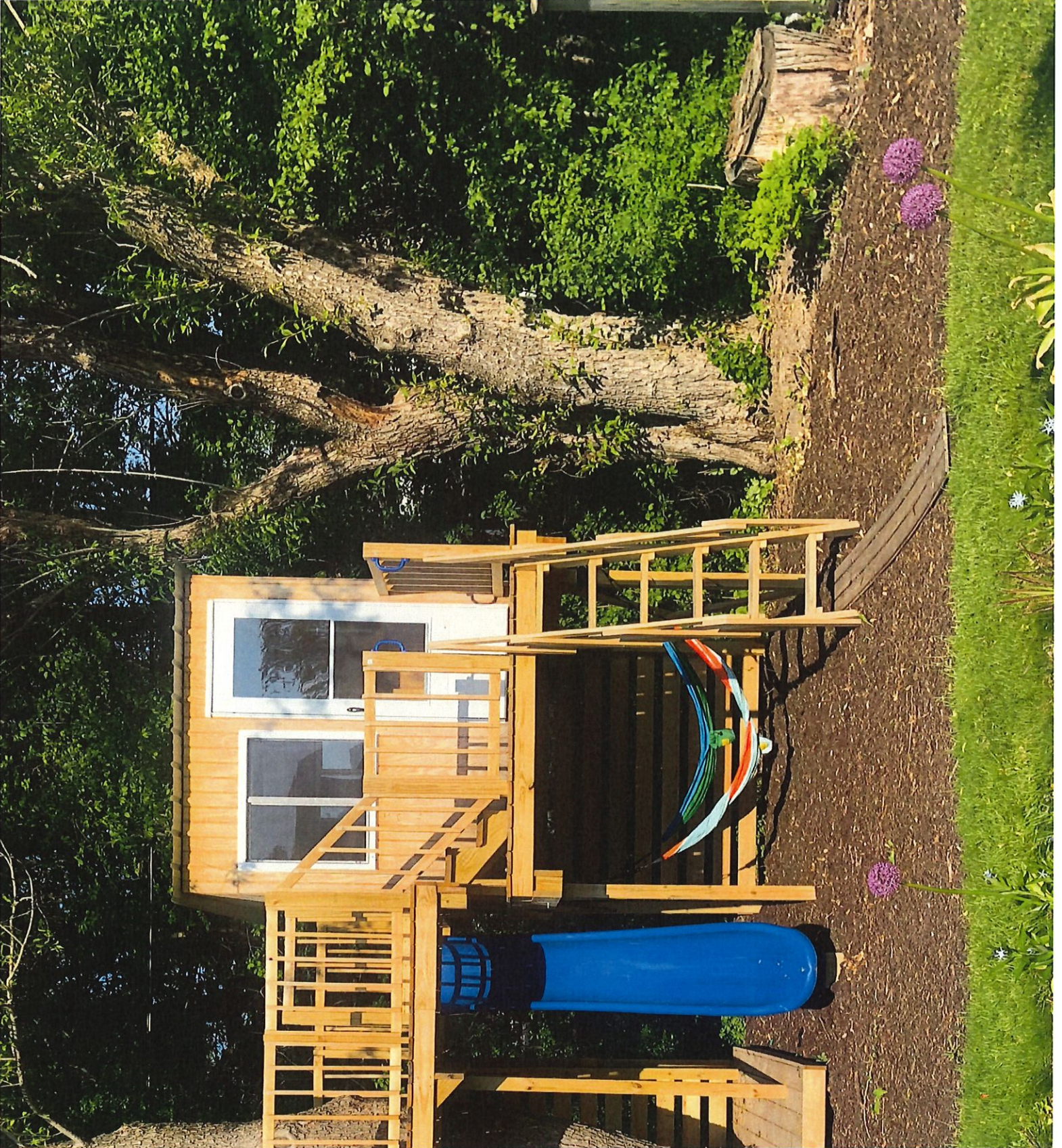
Mike and Stephanie Tack





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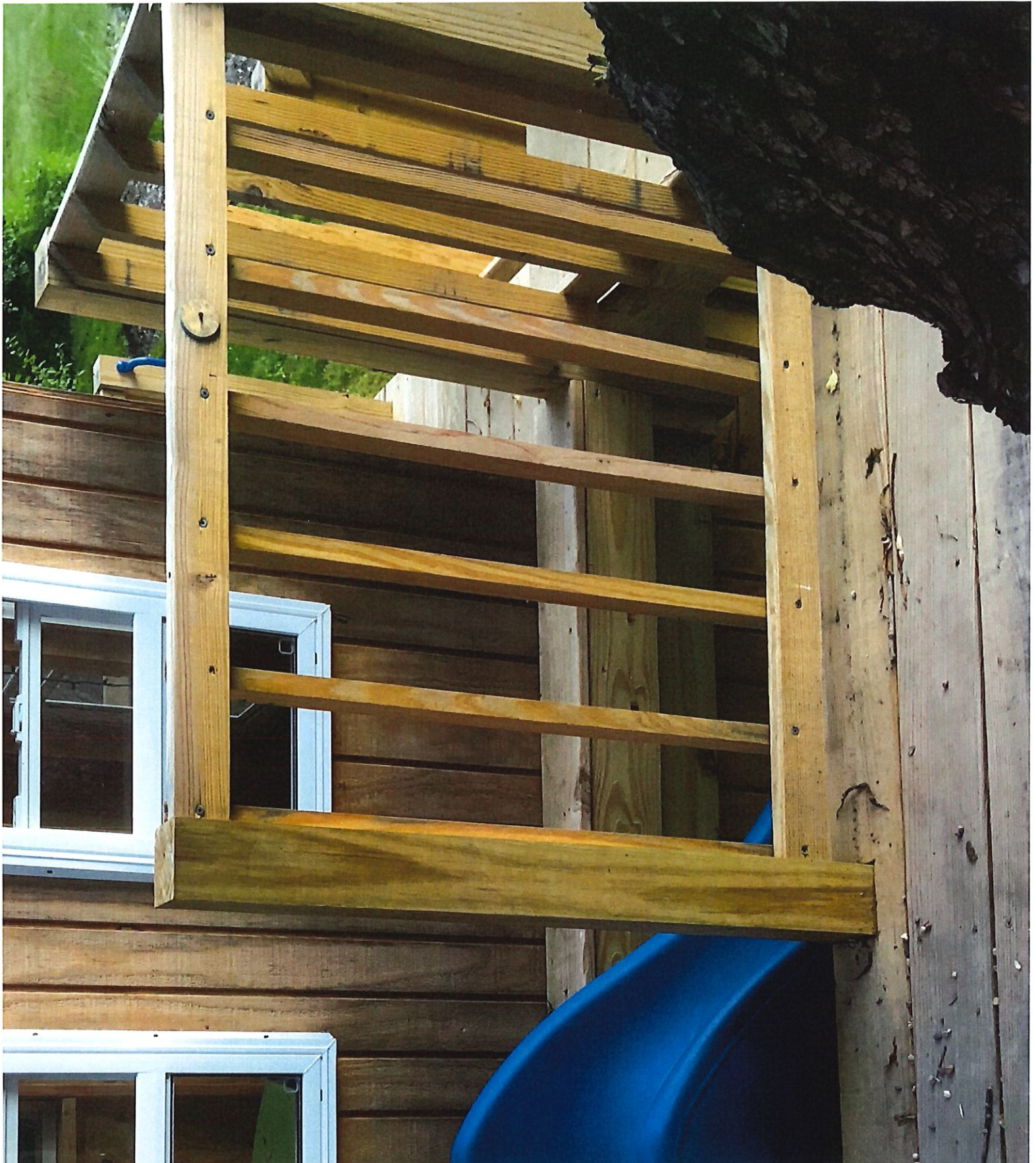
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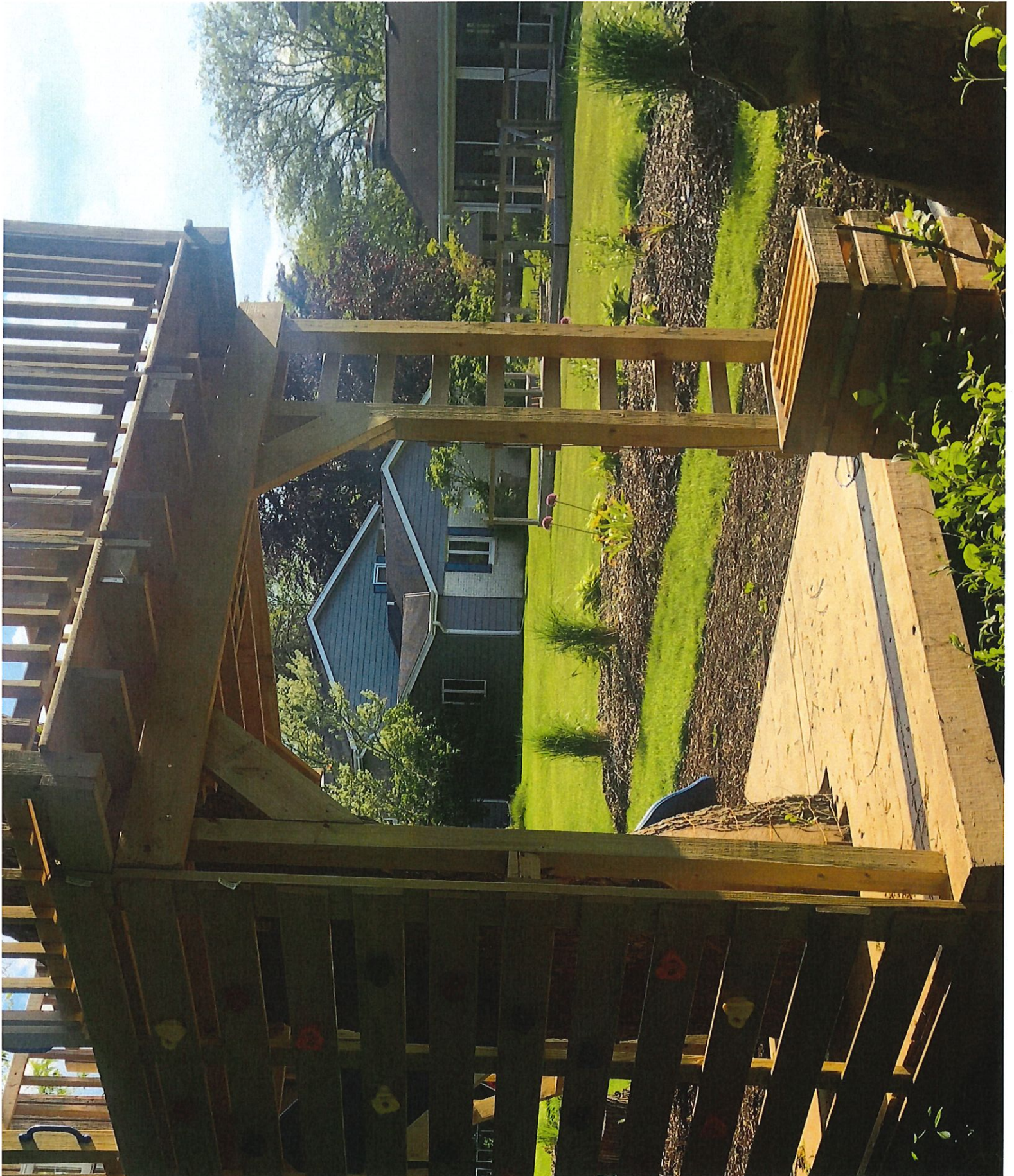


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**Subject:** Re: Tree House ideas

**Date:** Monday, July 26, 2021 at 9:49:06 AM Central Daylight Time

**From:** Woody Dugan

**To:** Andy Pederson, Sug

Good morning, Andy...thanks for staying on top of the issue.

Mary Louise and I are very satisfied with the direction of the correspondence below and agree to all of it and will sign related paperwork. We feel the children's safety is paramount and hope the neighbors can follow through with the arborvitae. We are constantly uncovering bottles and sharp sticks which can endanger anyone.

I expect the board of appeals will have to be involved. If you/they require our presence, please be in touch.

Our thanks to Stephanie and all.

Woody Dugan

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**From:** Andy Pederson <apederson@baysidewi.gov>

**Sent:** Monday, July 26, 2021 10:16 AM

**To:** Woody Dugan <woodydugan@hotmail.com>

**Subject:** FW: Tree House ideas

Woody-

I am not sure if this may be of interest. Mike and Stephanie Tack asked that I forward this to you. Thanks,

Andy

Are you signed up for the [Bayside Buzz](#)?

Andy Pederson  
Village Manager  
Village of Bayside  
9075 N. Regent Road  
Bayside, WI 53217

414-206-3925

[www.baysidewi.gov](http://www.baysidewi.gov)

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**From:** Stephanie Tack <steph.a.tack@gmail.com>

**Date:** Sunday, July 25, 2021 at 9:38 PM

**To:** Andy Pederson <apederson@baysidewi.gov>

**Subject:** Tree House ideas

Hi Andy,

We are writing to offer up some possibilities as it relates to our treehouse. As you know our neighbor has some concerns and we hope we can make him comfortable with one or several of the options below. This treehouse has been such a fun rallying point for kids in the neighborhood so we'd hate to have to take it down.

I quickly want to start with something we unintentionally omitted in our email to Woody which was his concern about electricity in the treehouse. **We will 100% not put electricity out there.** At this moment, we have some battery powered string lights up there that we will take down. Additionally, this last Christmas the kids wanted to decorate so we ran an extension cord out there to string up lights. I'm not sure if his concern was having actual power in the treehouse but regardless we won't have any kind of electricity even if it's running from our house.

As far as the look and feel and other concerns, again we are willing to be more than accommodating. This list below is not limited to these options so if something else comes up we are more than willing to consider.

- He mentioned either leaving the treehouse it's natural color or painting it grey. That is great and we are happy to do either. Our original idea was to paint the house part grey and then stain the rest of it some kind of darker stain so that it blended into the trees. We would be more than happy to have Woody Ok the colors before we moved forward.

- We could make a natural fence right at the property line with arborvitae or tall grasses thereby deterring children from entering his yard.

- We could make a more permanent fence made of wood

- One thing that we have not discussed is essentially closing off the back of the treehouse. Right now, the back has a climbing wall which is another entry into the treehouse. Closing off the back would lead to less of a possibility of kids entering into his property.

It was never our intention to make any neighbors feel uncomfortable with this build. Our goal all along was to provide, not only our kids, but the neighborhood kids something they could be excited about. It has been really neat to provide that space for all of them. We do hope that the treehouse is something that can be enjoyed for years more to come.

If you could forward this onto Woody, we would really appreciate it.

Hope you had a great weekend.

Thank you.

Mike and Stephanie Tack

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**I. CALL TO ORDER**

Chairperson Dickman called the meeting to order at 6:00pm via remote teleconferencing.

**II. ROLL CALL**

Chair: Max Dickman  
Members: Darren Fisher  
Amy Krier  
Ben Minkin  
Eido Walny-1<sup>st</sup> alternate  
Dan Rosenfeld-2<sup>nd</sup> alternate  
Barry Chaet

Also Present: Village Manager Andy Pederson  
Assistant to the Village Manager Leah Hofer  
Police Chief Doug Larsson  
Administrative Services Director Lynn Galyardt  
There were nine people in the audience.

**III. PUBLIC HEARING**

- A. The purpose of the public hearing is to consider the request for a variance by Jeffrey and Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c).**

Chairperson Dickman read the above meeting notice and called for public discussion at 6:01pm.

Attorney Jaekels stated the submittal from the Billings will require four affirmative votes to be approved and noted the incorrect form had been used to submit the request for a variance as this is an area variance. The form stated it was a use variance.

**1. Public Discussion**

Jeffrey Billings provided a statement regarding a letter they received from Attorney Jaekels which informed the Billings the fence project that was completed in the fall of 2020 was in noncompliance of Section 104-125(c) of the Municipal Code and stated the fence needed to be moved to the original fence footprint, remove it entirely or obtain a variance or special exception under Section 62.23 of the Wisconsin Statutes to allow the fence to remain in place. Mr. Billings noted they had spent five months preparing and planning their fence project, as well as going back to the fence manufacturer to request they build a fence that complied with the 25% openness requirement. It was noted the only concerns brought forward during the process regarding the fence project were the openness and the drainage and that the SAFEbuilt documentation provided at the Architectural Review Committee meeting stated the fence complied with municipal code. At no time was the issue of the fence exceeding the 50% limit of the horizontal linear footage of the property brought up.

Mr. Billings stated the option of removing the fence was not an option due to code stating their pool needed to have a fence surrounding it. The option of putting the fence back to the original

footprint was not possible as the original fence was installed on their neighbor's property and therefore would encroach on the neighbors' properties.

Paul Gondek stated his objections to the fence positioning, the layout, the scope of work of the fence project and the maintenance of the fence.

Ken Force stated he objected to granting the area variance.

Jon and Melissa Dorf stated they objected to granting the area variance.

Jeff Billings stated that at approximately 9:25am on December 29, 2020 SAFEbuilt, the Village's contracted building inspector spent 20-30 minutes on their property with Paul and Ken and at 10:16am on December 29, he emailed Andy Pederson to ask if the Village was aware of the visit and questioned if there was anything they needed to be aware of. Monday, January 4, Andy responded that Paul Gondek had requested a meeting to express his concerns and that the building inspector opined and reiterated that the project meets the spirit and the intent of Municipal Code.

Paul Gondek stated they had talked to SAFEbuilt regarding the drainage issues and the height of the fence and were not discussing the variance or the linear footage of the fence.

Motion by Ben Minkin, seconded by Darren Fisher to close the public discussion of the public hearing at 6:23pm. Motion carried unanimously.

## **2. Board Discussion**

Attorney Jaekels stated the area variance requires the applicant to show unnecessary hardship when compliance would prevent the owner from using the property for permanent purpose or would render conformity unnecessarily burdensome or if there are unique characteristics for the property or no reasonable harm to the public to enforce the code going forward.

The Board discussed the area variance procedure.

Chairperson Dickman stated the option's he believes available are the applicant is to tear down the fence, build another fence around the pool which then creates a hardship to the applicant, or apply for a variance or special exception.

Ben Minkin questioned if the hardship is at the present point with the fence already being built. Attorney Jaekels stated the hardship is at the present point in time due to the fact the fence was built in reliance from the building inspector.

Barry Chaet questioned if the fact that the building inspector made a mistake is grounds to consider the variance. Attorney Jaekels stated it is a grounds to consider if this creates a hardship.

Chairperson Dickman closed the Public Hearing at 6:39pm.

## **IV. APPROVAL OF MINUTES**

### **A. May 5, 2021 Board of Zoning Appeals Public Hearing and Meeting.**

Motion by Ben Minkin, seconded by Amy Krier, to approve the May 5, 2021, Board of Zoning Appeals Public Hearing and Meeting minutes. Motion carried unanimously.

## **V. BUSINESS**

### **A. Discussion/recommendation on the request for a variance by Jeffrey and**

**Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c).**

Motion by Ben Minkin, seconded by Amy Krier, to approve the request for an area variance by Jeffrey and Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c) based on the fact there is unnecessary hardship because a literal compliance would render conformity unnecessarily burdensome and due to unique physical property limitations coming from the building inspectors mistake and not being contrary to public interest. Motion carried unanimously by roll call vote.

**VI. ANY OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE BOARD**

None

**VII. ADJOURNMENT**

Motion by Darren Fisher, seconded by Amy Krier, to adjourn the meeting at 6:42pm. Motion carried unanimously.

Respectfully submitted,

Lynn Galyardt  
Administrative Services Director