

Shorewood Board of Appeals Meeting Agenda

June 14, 2016 at 5:30 P.M.

Shorewood Village Hall Court Room
3930 N. Murray Avenue, Shorewood, WI 53211



1. Call to Order.
2. Roll Call.
3. Statement of Public Notice.
4. Approval of May 10, 2016 meeting minutes.
5. Attorney to Review the Standards by which the Board of Appeals must abide.
6. Public Hearing: Appeal of notice to remove an air condenser unit within the zoning side yard setback at residential property 2106 E. Lake Bluff.
7. Public Hearing: Appeal of notice to remove pergola structure within the zoning side yard setback at residential property 4504 N. Newhall.
8. Adjournment.

PLEASE BE ADVISED THAT A REPRESENTATIVE OF THE APPLICANTS FOR THE ABOVE ITEMS MUST BE PRESENT AT THIS MEETING.

Dated at Shorewood, Wisconsin, this 8th day of June, 2016

Village of Shorewood
Tanya O'Malley, WCMC
Village Clerk-Treasurer



**VILLAGE OF SHOREWOOD
BOARD OF APPEALS MINUTES**

May 10, 2016

DRAFT

1. Call to Order

Mr. Schmeckpeper called the meeting to order at 5:30 p.m.

2. Roll Call

Members present: Jeff Schmeckpeper, Kathy Nusslock, and Lance Mueller. A quorum was noted present.

Others present: Village Attorney Bill Dineen, Planning and Development Director Ericka Lang, and Village Clerk Tanya O'Malley.

3. Statement of Public Notice

Planning and Development Director Lang stated that the meeting had been posted and noticed according to law.

4. Approval of Minutes of April 12, 2016

Ms. Nusslock moved, seconded by Mr. Mueller to approve the Board of Appeals minutes of April 12, 2016. Motion carried 3 – 0.

5. Attorney to Review the Standards by which the Board of Appeals must Abide

Attorney Dineen indicated that the second case was appealing the order of the Planning Director and that the authority of the Board was to determine if the decision was made in error. The other two cases were seeking special exceptions. The Board has the authority to grant special exceptions under 535-34E after considering “(a) The effect the granting of the exception will have on the appearance and character of applicant's property, adjacent properties and neighboring properties, (b) The effect the granting of the exception will have on the value of applicant's property, adjacent properties and neighboring properties, (c) Whether the granting of the exception will serve the public interest in improving and preserving the value of the property, (d) Such other matters as the Board of Appeals deems relevant and material.

Mr. Schmeckpeper outlined the procedures for the meeting.

6. Appeal of denial of application for construction of driveway and parking slab at residential property 1627-29 E Menlo Blvd

Planning and Development Director Ericka Lang was sworn. Her Department had received a building permit application for reconstruction of a driveway and rear parking slab from Bianca Costanzo who owns the duplex at 1627-29 E. Menlo Blvd. The permit was denied because the property is located in the R-6 Zoning District; Village code section 535-9-F (4) Site Restrictions states: “Driveway shall not be constructed unless they lead to a garage” and Village code section 535-47 A. (4) (b) Schedule of requirements states: “ Two-family dwellings: one space in an approved garage per dwelling unit” requiring a Two-family dwelling to have a two car garage and allows up to a two-car parking slab. The lot is legally nonconforming. Residential lots in the R-6 district must be a minimum of 40 feet in width per 535-19F(3). The lot is 35.939 feet wide. The property is unique due to the grade change, which results in an eight foot drop down from the existing parking slab. The code requires a two-car garage, which equates to a garage that is a minimum of 20’x 20’. This width does not allow for any storage. If a garage would be erected in the existing slab location, it would leave 14.9 feet to enter and exit the garage, making it difficult. In answer to a question, Ms. Lang indicated that it was not impossible to construct a functional two car garage.

Mr. Schmeckpeper asked for clarification as to whether the Board was considering a variance or a special exception.

Mr. Dineen indicated that this was a non-conforming lot and that he felt the Board should be considering a special exception.

Mr. Schmeckpeper indicated that the applicant had requested a variance from the Zoning Code requiring a garage. He asked if the Board were to grant the variance, would the applicant then need to seek a special exception.

Mr. Dineen advised that the Board should review the case under the standards for both special exceptions and variances. After hearing all evidence, the Board could then decide which was most appropriate.

Ms. Lang stated that driveways, parking slabs, and patios are structures and the application was denied because of 535-9F(4), which required a garage.

Ms. Bianca Costanzo, 1627-29 E Menlo Boulevard was sworn. The lot was only 35.9 feet wide and was non-conforming. The driveway was only 10 feet across and there would be a sharp corner to get into the left hand side of the garage. There would need to be a lot of maneuvering, as well as potential damage, to get a car in a garage. In answer to a question, Ms. Costanzo indicated that a two car garage would not be usable to its full potential. A second car would be near to impossible to get in the garage, especially if it were a larger vehicle. The property had been without a garage for at least 40 years.

Ms. Nusslock stated that the existing use is as a driveway without a garage and that the application was not an expansion or enlargement of a non-conforming structure but rather a repair of a non-conforming structure. With the existing, it is apparent that the concrete is cracked and not visually appealing and there are limitations with space. There are no other garages in the area and the requested change would not impact property values. The project meets the qualifications for a special exception. Requiring the property owner to build a two car garage, given the narrow width and elevation issues, would result in practical difficulty and unnecessary hardship. The project would uphold the spirit of the Code and meets the qualifications for a variance.

Mr. Schmeckpeper indicated that he believed the Board should grant a special exception and a variance that would run with the land.

Ms. Nusslock moved to grant the variance and special exception under these circumstances. Mr. Mueller seconded.

Roll Call Vote:

Lance Mueller –Aye

Kathy Nusslock – Aye

Jeff Schmeckpeper - Aye

7. **Appeal of notice to remove prohibited window signs at commercial property 4496 N Oakland Ave**
Planning and Development Director Ericka Lang was sworn. A Board of Appeals application was received from business owner Keith Marquardt, appealing the Village of Shorewood enforcement order to remove prohibited signs hung in three of the windows from the Kensington Liquor business at 4496 N. Oakland Avenue. The business is located at the southeast corner of Oakland Ave and Kensington Blvd. There are four windows along Oakland and one large one along Kensington. Within three of the Oakland windows the business has displayed three large internally illuminated box sign in each pane. The sign type is a box sign that is internally illuminated and is prohibited per sign code 445-20 F “Illuminated signs. Internally illuminated box signs and standard channel letter signs are prohibited.” The size of the signs is also in violation of sign code 445-11 that says window signs cannot occupy more than 10% of a single window pane and no more than 25% of the entire window area. The prohibited signs occupy greater than 50% of a single window pane and the total area that all window signs far exceed the 25% limit. This Code was developed to make the district more inviting and to allow pedestrians to see into businesses.

Mr. Schmeckpeper stated that the appeal asks for a special exception as well as a determination on the staff interpretation of the Code and asked the Attorney about the Board's authority.

Mr. Dineen indicated that there is not an option for the Board of Appeals to grant a special exception in the Sign Code as it is under the authority of the Design Review Board. In this matter, the Board of Appeals only has the authority to determine if the Code was properly interpreted.

Ms. Nusslock indicated that section 445-11A appeared to only apply to professionally painted or vinyl decal signs.

Ms. Lang stated that signs are measured from the outer edges squared. The 10% restriction may not apply but the 25% restriction did apply.

Keith Marquardt, 4496 N Oakland Ave, was sworn and in response to a question, stated that he understood the focus of the discussion in that the Board would be limited to determine if the Planning Department property applied the code. The signs were put up to help prevent the products from spoiling due to sun exposure. Blinds had been considered but they would need to be closed from approximately 12:30 p.m. – 7:30 p.m. every day and the store would look like it was closed. Additionally, the signs help protect the store in that they will not break and prevent the entire window from breaking if someone tries to break in. In response to a question, he indicated that signs were internally illuminated and occupied 25% or more of the windows. The Attorney questioned the applicant on the intent of the appeal. Mr. Marquardt indicated that he wanted to Board to allow the existing signs.

Mr. Schmeckpeper indicated that he understood why the signs made sense but that he saw no basis to find that the Village improperly interpreted or applied the Code.

Mr. Marquardt indicated that other businesses in Shorewood use more than 25% of the windows, including Metro Market.

Mr. Dineen advised the Board that the applicant had not met the burden for a special exception. Section 445-23 of the Code allows for consideration of special exceptions to the Sign Code but give the Design Review Board the authority to grant such special exceptions. If the Design Review Board did not grant the special exception, then the applicant could appeal that decision to the Board of Appeals. At this point, the Board of Appeals only had the power to determine if the Village properly applied the Code.

Mr. Schmeckpeper moved to deny the appeal and find that the Village properly applied the Code. Mr. Mueller seconded.

Roll Call Vote:

Kathy Nusslock – Aye

Lance Mueller – Aye

Jeff Schmeckpeper – Aye

8. Appeal of denial to construct a building addition within the zoning side yard setback at residential property 1900 E Beverly

Planning and Development Director Ericka Lang was sworn. The Village received a Board of Appeals application on April 20, 2016 from property owners Patrick Schroder and Holly Kaster, appealing the denial of a building application to put an addition onto the side of the single family house at 1900 E. Beverly Rd. The bay area of the proposed addition would be in the zoning side yard setback. The property is located in the R-6 Zoning District; Village code section 535-19 F. (5) states: Setback: (c) Side: [2] Street side: 25% of the width of the lot but not less than 10 feet, provided that the buildable width of the lot shall be not less than 20 feet. The house currently does not meet the setback requirement as the survey indicates 8.21' at the SW corner and 7.6' at the NW corner. The proposed alteration to the 1st floor encroaches into the street side yard setback an additional 2' 11 1/4" (including roof overhang)

lessening the setback to 4.6'. Therefore, the proposed addition and alteration is not permitted.

Daniel Merkel, consultant for the project, was sworn and indicated that the proposed addition for the kitchen will stick out 2 feet into setback. They wanted to add functionality to the kitchen without decreasing functionality in other rooms. There would be trees planted on either side of the bay to shield it. The addition would fit with the character of other homes in the area. In response to a question, Mr. Merkel indicated that due to financial reasons and a potential impact on the neighbor, they were unable to expand on the other side of the house. There would be a slight encroachment on the second floor.

Ms. Nusslock stated that the application indicated that this was a request to appeal the staff interpretation of the Code and asked for clarification as to what standards to consider.

Mr. Dineen stated that based on his review, this was a non-conforming structure and the Board should consider the standards for a special exception.

Mr. Schmeckpeper stated that it was clearly a non-conforming structure and the project was an expansion of that non-conforming structure and that it should be viewed as a request for a special exception.

Mr. Merkel stated that the footprint of the space would encroach 2 feet and the overhand would encroach another 1 foot. The encroachment would not touch the ground.

Ms. Lang stated that she had not received any calls or e-mails from any of the neighbors.

Patrick Schroeder, 1900 E Beverly Rd, stated that there had been a positive e-mail from one of the neighbors read into the record at the Design Review Board meeting.

Mr. Schmeckpeper stated that granting a special exception would improve the applicant's property, would increase the property values, and would not have an adverse impact in anyway.

Mr. Schmeckpeper moved to grant a special exception to allow the additional encroachment in the side yard setback. Mr. Mueller seconded.

Roll Call Vote:

Lance Mueller –Aye

Kathy Nusslock – Aye

Jeff Schmeckpeper - Aye

9. Adjournment

Mr. Mueller moved, seconded by Ms. Nusslock to adjourn at 6:40 p.m. Motion carried 3-0.

Respectfully submitted,

Tanya O'Malley, WCPC
Village Clerk/Treasurer

June 9, 2016



To: Board of Appeals- Meeting June 14, 2016

Cc: Nathan Bayer

From: Ericka Lang, Planning Director

RE: Board of Appeals – 2106 E. Lake Bluff

The Village received a Board of Appeals application on May 19, 2016 from property owner Karen Weinberg, appealing the correction notice under the electrical permit to relocate a newly installed AC unit. The unit is currently in the zoning side yard setback.

The property is located in the R-6 Zoning District; Village code section 535-19 F. (5) states: *Setback: (c) Side: [1] Interior, minimum three feet.* Per the attached survey, the house is located 2.9 feet from the property boundary at the southwest corner and 2.77 feet at the northwest corner. The AC unit outside edge is measured 2.58 feet from the house and is entirely within the setback. Given the house is not setback three feet from the property boundary, it is a legal nonconforming structure.

The neighbor's house to the west is measured 9.58 feet from Ms. Weinburg's house, measured to the farthest point. Per the attached survey and picture, the neighbor's AC unit is essentially located across from each other.

Ms. Weinberg conveyed that the electrical contractor said that the AC unit cannot be located elsewhere on the property. Ms. Weinberg will supply further information at the meeting.

Materials provided:

1. BOA application
2. Pictures/aerials
3. Electrical permit
4. Notice of Correction letter
5. Survey
6. REFER TO THE CODE SECTION FROM OTHER AGENDA ITEM.



BOARD OF APPEALS APPLICATION

Village of Shorewood
 Planning & Development Department
 3930 N. Murray Avenue, Shorewood, WI 53211
 Phone (414) 847-2640 Facsimile (414) 847-2648
www.villageofshorewood.org

26433

Village of Shorewood
 Date: 05/19/2016 10:09:17 AM
 Permit # 16-0859
 Receipt # 12084
 Amount: \$150.00

The Board of Appeals has the authority to grant exceptions, variances or review appeals regarding Village official code interpretations. A *Variance* allows dimensional variations for items within the zoning code. Use variances are prohibited. *Special Exceptions* are granted for allowed uses when certain conditions must be met.

OFFICE USE ONLY	
PERMIT #	16-0859 FEE: \$150.00
DATE RECEIVED:	5.19.16
SCHEDULED MEETING:	June 14, 2016
TAX KEY #	

Property Address <u>2106 Lake Bluff.</u>	
Owner's Information	Applicant Information
Name <u>Karen Weinberg</u>	Name <u>same</u>
Address <u>2106 E. Lake Bluff</u>	Address
City/State/Zip <u>Shorewood, WI 53211</u>	City/State/Zip
Phone # <u>414-429-6501</u> Alt #	Phone # Alt #
Email <u>weinbeka@yahoo.com</u>	Email
Check if prefer Board of Appeals Meeting Agenda Emailed: <input checked="" type="checkbox"/> OWNER <input type="checkbox"/> APPLICANT	

I/We are requesting a: (refer to guidelines for explanation)

- variance
 special exception
 appeal to interpretation to allow

Describe in detail the reason you are applying for a Board of Appeals application:

MATERIALS REQUIRED WHEN APPEAL IS PROPERTY-BASED (FIVE COLOR COPIES OF EACH) :

- Picture – Of front of property taken from street curb
 Picture(s) – Of property area in question
 Property survey marked with appropriate dimensions

Variance Granting Criteria

1. Describe how the hardship is due to physical limitations (lot shape, lot size, grade, drainage, neighboring uses, access, etc.) of the property rather than the circumstances of the appellant (economic, family, personal, and physical [other than certified disability] hardships are not considered, nor are the nature, condition or configuration of structures or improvements on the property):

Because of slab on grade and placement of heating unit in basement lines would exceed requirements and some excessive length on outside of house.

2. Describe how unnecessary hardship exists because compliance is unreasonably burdensome. The hardship must be unique to the property and cannot be self-created.

*No basement under rear of property (garage) + all concrete drive or garage slab.
Length of line sets would exceed requirements (max length).*

3. Describe how you think the granting of this variance would not harm public interest such as public safety, the environment, property values, etc.:

*There are no safety or environment issues.
Neighbors air conditioner unit is directly across from our unit.*

OFFICE USE ONLY – Findings of the Board of Appeals after consideration of the criteria

Reason for Application:

Applicant's Appeal Ruling

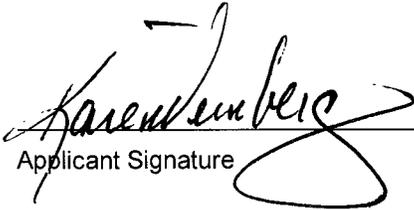
APPROVED

NOT APPROVED

Reason for Ruling:

* Please verify with the Planning and Development Department prior to placement on the Board of Appeals Agenda whether site plans or other documentation are required.

* A copy of the Board of Appeals Meeting Agenda will be mailed to the applicant/contractor unless otherwise indicated or emailed if an email is provided.



A handwritten signature in cursive script, appearing to read "Karen Kember", is written over a horizontal line. The signature is fluid and somewhat stylized.

Applicant Signature



APPLICATION FOR ELECTRICAL PERMIT

Village of Shorewood
 Planning & Development Department
 3930 N. Murray Avenue, Shorewood, WI 53211
 Phone (414) 847-2640 Facsimile (414) 847-2648
 www.villageofshorewood.org

Village of Shorewood
 Date 02/02/2016 8:13:15 AM
 Receipt 110400
 Amount \$79.50

25541

~~\$159.00 DUE~~

Rough and Final inspections are required on all work covered by this permit
 Permits are Valid for four (4) Months

CALL FOR ALL INSPECTIONS
 24- 48 HOUR ADVANCE NOTIFICATION REQUIRED

INSPECTIONS MONDAY THROUGH FRIDAY
 10:00 A.M. - 12 NOON & 1:00 - 3:00 P.M.

OFFICE USE ONLY	
PERMIT #	16-0013
APPROVAL DATE	2.1.16 JB

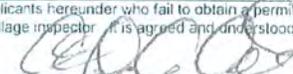
Job Address	4106 E LAKE BLUFF BL.	Building Type (circle)	SF	DUP	MULTI	COMM	CONDO	PUBLIC
Job Description, Location on site & Cost of Job (PLEASE INCLUDE ALL INFORMATION REQUESTED)								
Switches & lights basement								
Owner's Information					Contractor's Information (PLEASE PRINT)			
Name	KAREN WEINBERG				Name	BRANDA ELECTRIC		
Address	SAME				Address	2029 S. 32 ST.		
City/State/Zip	SHOREWOOD, WI 53211				City/State/Zip	MILWAUKEE, WI 53215		
Phone	414-429-6501				Phone	414-531-3756		
Property Tax Key #					Shwd Lic. #	666710		Business Credential #

Description	Rate(s)	Qty.	Amount
Devices (fixtures, switches, receptacles, etc.)	\$.75 ea	5	3.75
All tubular discharge lamps (fixture mounted)	\$.50/Tube		4.50
Arc, mercury, quartz, AV, other search or floodlight or HID Fixture	\$5.00 ea		
Illuminated sign	\$35.00 ea		
Dimmer - recessed (1000 watts or above)	\$3.00 ea		
Pole-mounted fixture, area lighting pole	\$10.00 ea		
Automatic heating system, gas or oil, other heating devices CSST must be bonded	\$15.00 ea	1	15.00
Central air conditioner - residential **	\$15.00 ea	1	15.00
Central air conditioner - commercial (3HP and up)	\$25.00 ea		
Unit air conditioners; wall insert type (up to 3 HP)	\$12.00 ea		
Other refrigeration - air handling, compressors	\$12.00 ea		
CSST Grounding	\$15.00 ea		
Commercial Building Grounding	\$15.00 ea		
Dishwasher, disposal, dryer, range, cook top, water heater, whirl pool/hot tub (circle)	\$12.00 ea		
Exhaust hood/fan, vacuum cleaner, low voltage transformer, paddle fan (circle)	\$5.00 ea		
Exhaust system - Commercial	\$25.00 ea		
Bus way, wire way, under floor raceway, ect. - per foot	\$1.00/Foot		
Strip lighting, Plug-in Strip, trolley duct, ect - per foot	\$.50/Foot		
Fire alarm, exit, or fuel dispensing system, Class 1-3, less than 50 volt system	\$50.00/System		
Motors - each HP or fraction thereof	\$.75/HP		
Services:			
A. 0-100 Amp service/feeders	\$30.00 ea	1	30.00
B. 101-200 Amp service (per service)	\$45.00 ea	1	45.00
C. Each additional 100 Amps (per service)	\$15.00 ea		
D. Each additional service switch or disconnect switch	\$15.00 ea		
Generator, rectifier, transformer	\$1.50/kw		
Additional Charges			
Re-inspection fee	\$30.00		
Failure to arrange final inspection within 15 days of completion	\$50.00		
On-site information	\$25.00/ 1/2 Hour		
Additional Information			
Is this part of a non-compliance statement? (N) Y, CC#	Subtotal Fees		\$79.50
Is this part of an occupancy correction notice? (N) Y, Permit #	Or Minimum Fee		\$60.00
Failure to procure permit - TRIPLE TOTAL FEES	-3x Total Fee-		119.50
	Total Fee		238.50

150 amp

SEE NOTE IN BSA

Triple fees shall be chargeable to all applicants hereunder who fail to obtain a permit before work has been started. No further permits shall be issued to any applicant who owes fees to the Village or who fails to comply with any lawful orders of the Village inspector. It is agreed and understood that all work shall be done in accordance with the state of Wisconsin's applicable codes and ordinances of the Village of Shorewood (10/2012)

Contractor's Signature:  Date: 1.20.16

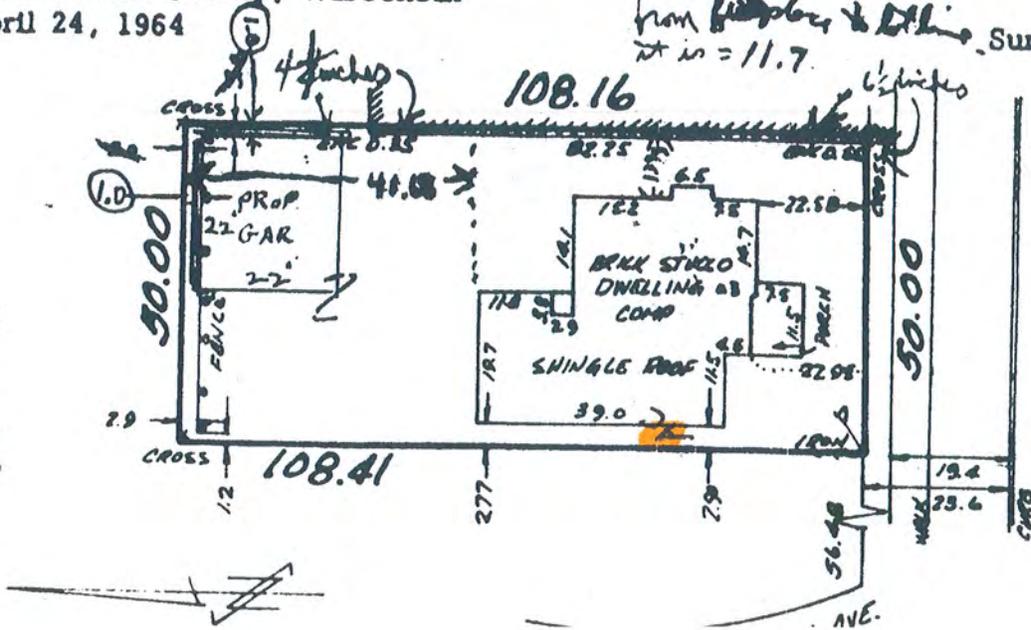


Known as 2106 East Lake Bluff Boulevard, Village of Shorewood, Wisconsin
 Lot 2 in Block 1 in DEUSTER'S SUBDIVISION of SHOREWOOD HEIGHTS, being a part
 of the S W 1/4 of Section 3, T 7 N, R 22 E, in the Village of Shorewood,
 Milwaukee County, Wisconsin

April 24, 1964

from *Maple to Lake* Survey No. 107779-S
 at 10 = 11.7

277
 197
 141
 36.57
 50.00
 36.57
 13.43



E LAKE BLUFF BLVD.

39	22.58
4.5	2.5
2.2	16.5
2.2	15.0
2.2	2.4
11.8	
66.48	
66	
108.16	
4.44	
41.65	

ArcGIS Web Map



June 7, 2016

Address Numbers

Parcels

Streets

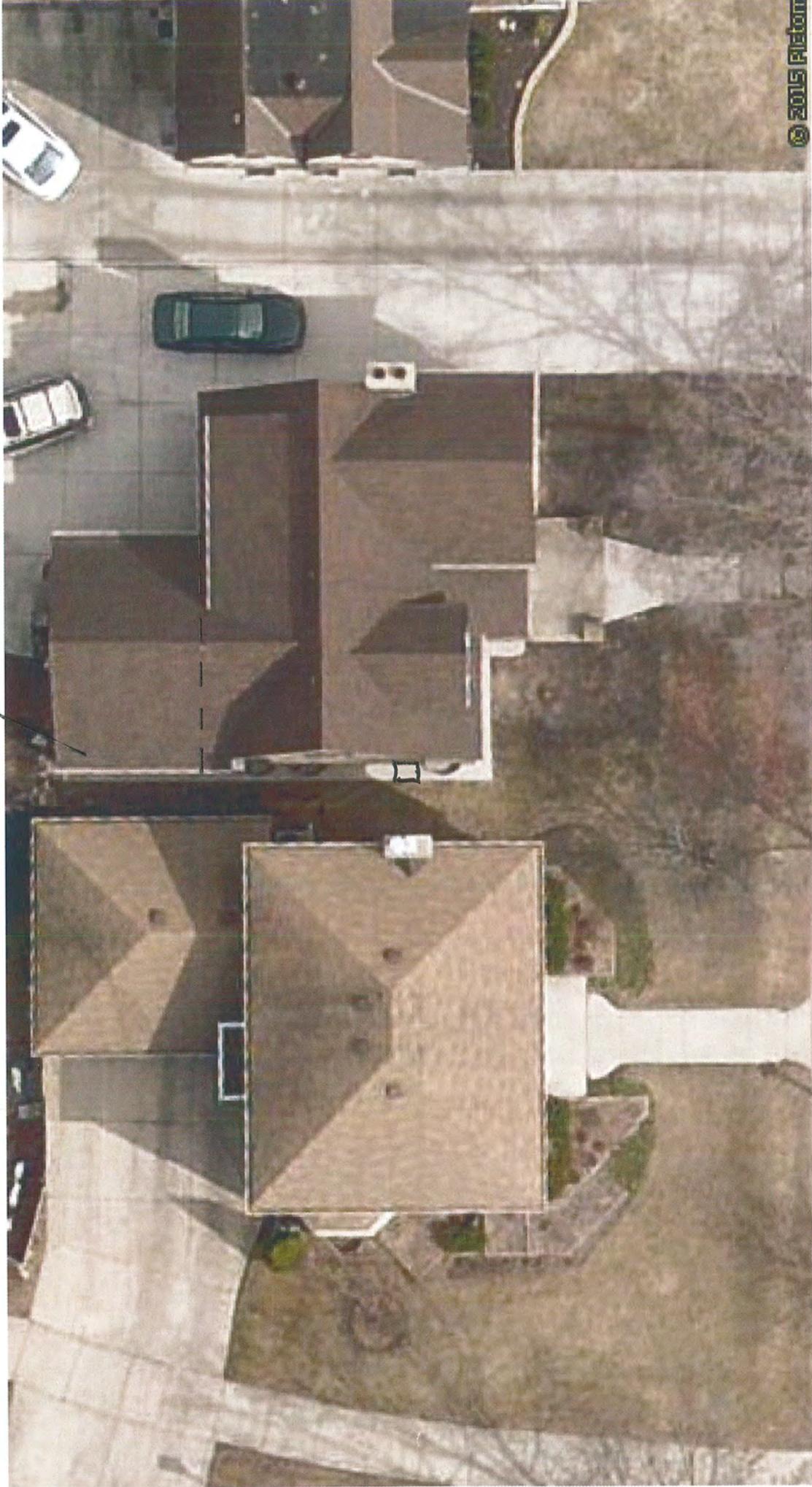
1:282

0 0.00225 0.0045 0.009 mi
0 0.00375 0.0075 0.015 km

Milwaukee County Land Information Office

2106 Lake Bluff

Slab on grade
Foundation





↑ 2106

2106



SCHNEIDER SURVEYOR SERVICE

Est. 1897

PLAT OF SURVEY

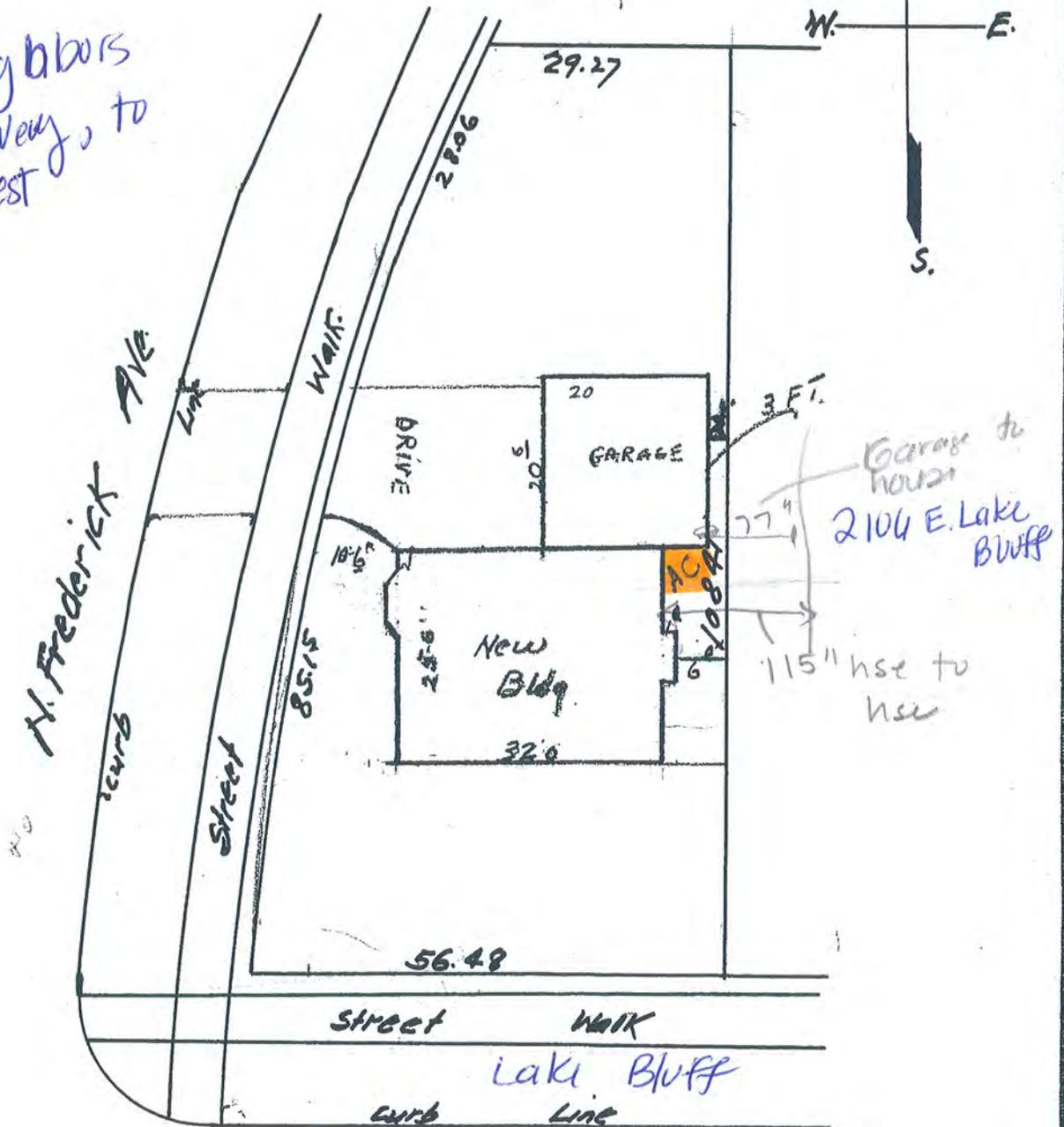
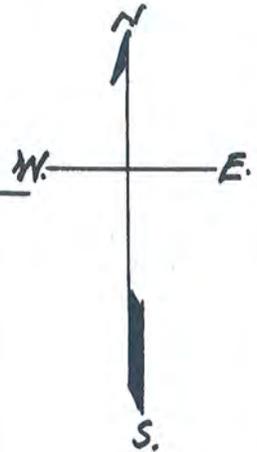
Property of *Wm Rieger*

Property described as follows: *Lot 1, in Block 1, Deuster's Subd. of Shorewood. Heights in S.W. 1/4 of Section 3, T. 7 N. R. 22 E. in the Village of Shorewood.*

Scale 1 inch = 20'

*2100 E. Lake
BLUFF*

*Neighbors
survey to
west*





NOTICE OF CORRECTIONS

Village of Shorewood
Planning & Development Department
3930 N. Murray Avenue, Shorewood, WI 53211
Phone (414) 847-2640 Facsimile (414) 847-2648

Date: 04/28/2016

Contractor:	Reeves HVAC	Owner Name:	Jeanne Weinberg Life Estate
Address:	3898 State Road 80	Addresses:	2106 E Lake Bluff Blvd.
City/State/Zip:	Highland, WI 53543	City/State/Zip:	Shorewood, WI 53211
Phone:	608-429-6501	Phone:	414-429-6501

REGARDING PROPERTY: 2106 E LAKE BLUFF BLVD

PERMIT #: P15-2515

INSPECTION DATE: 04/13/2016

Description of Work: Install heating system, ac unit and humidifier

Correction(s):

1. Relocate A/C condenser currently within the side yard setback. The property is located in the R-6 which has a three foot (3') side yard setback requirement for which the condenser may not be placed.

EXTENSION: If an extension is needed to comply with this order, please forward a written request, addressed to the undersigned, stating your phone number, your mailing address, the action you are taking towards compliance and the anticipated completion date.

APPEAL: If after discussions with staff, you find that you are not in agreement with the enforcement of the above listed item(s), it is your right to appeal to Shorewood's Board of Appeals within 30 days of receipt of this order, where applicable. APPEALS SHALL NOT BE CONSIDERED FOR violations under Wisconsin's State Uniform Dwelling Code, Commercial Code or other state regulations. Please contact the Planning and Zoning Administrator at (414) 847-2647 to discuss your right to appeal. Forms and explanations are available at the Planning & Development Department at Village Hall or online on the Village website villageofshorewood.org.

NEXT STEPS: You are strongly encouraged to contact the Planning & Development Department as soon as you receive this letter so that we can work together to bring the above referenced violation(s) into compliance. Please call the Planning & Development Department at (414) 847-2640 Monday through Friday, 8am – 4:30pm.

YOU WILL HAVE 30 DAYS TO COMPLETE CORRECTIONS AND CALL FOR INSPECTION.

Re-inspection or additional fee payable BEFORE re-inspection \$ N/A

Please make check payable to Village of Shorewood

INSPECTOR

Cc: Homeowner

Electrical contractor

June 9, 2016



To: Board of Appeals- Meeting June 14, 2016

Cc: Nathan Bayer

From: Ericka Lang, Planning Director

RE: Board of Appeals – 4504 N. Newhall

The Village received a Board of Appeals application on May 12, 2016 from property owner Sarah Burghardt, who is requesting a variance for a gazebo that is located within the zoning side yard setback.

The property is located in the R-6 Zoning District; Village code section 535-19 F. (5) states:
Setback: (c) Side: [1] Interior, minimum three feet. The gazebo is about one foot within the side yard setback.

The gazebo is being repaired which is what brought the matter to the attention of the village inspector. The village inspector sent a correction notice on May 4, 2016 to obtain a building permit as there is none on file with the village. It is understood that the gazebo was constructed over 20 years ago and Ms. Burghardt has lived there for 12 years.

Per the survey and graphic attached:

- the side yard width is 12.9 ft
- the gazebo is 8 ft in diameter
- the gazebo is located 2.5 ft from the house
- the gazebo is located about 1 ft within the side yard setback
- there is a small retaining wall that is part of the gazebo and on the side closest to the neighbors because of the grade change: the neighbor's back yard at 1600 E. Kensington is higher than Ms. Burghardt's.

Materials provided:

1. BOA application
2. Applicant materials
3. Pictures
4. Enforcement letter
5. Building application
6. Survey
7. Code section 535-19F.

Sarah Burghardt
4504 N. Newhall
Shorewood, WI 53211

June 8, 2016

Dear Members of the Board for the Village of Shorewood,

Thank you for taking the time review the following information and considering my request for a variance.

Re: code deficiency

Tax Key: 236-0160-000

Enforcement Number: EEN16-0156

On May 5th, 2016, I received a letter from the village stating that my gazebo at 4504 N. Newhall is “a non- conforming structure potentially built in the setback area (within 3 feet of the property line) and originally constructed without first obtaining a building permit. A **building permit** is required for full replacement and possibly a **Board of Appeals application** if the structure was built in the setback area”.

This information came as quite a surprise to me as I met all local and state requirements upon purchase of the home 12 years ago: the structure existed at that time of the purchase; I have not expanded, enlarged or changed the location of the gazebo; the roof and concrete remain exactly as it was when I purchased the home. I have had the village inspectors at home on several occasions during this 12 year span and this was never brought to my attention

I have maintained the gazebo to ensure the structure is safe and that it was visually appealing. In an effort to follow the guidelines set forth by the village, I placed a call a call to the village prior to performing maintenance. It was my understanding I didn't need to obtain permit as I was not expanding, enlarging or changing the location of the gazebo nor was I altering the base or roof of the structure. If I misunderstood, I apologize and will move forward following the dictates set forth by the Village of Shorewood.

Please consider these factors while you review my request to keep the gazebo (Please note: when I refer to the “neighbors”, it is in reference to the home on the corner of Kensington and Newhall: 1600 E. Kensington. This is the home in which the setback requirements refer to).

PRIVACY: The Gazebo Blocks Sight Line and Serves as a Structure to Create Privacy*:

It is important to note that upon receipt of letter, I ceased all maintenance on gazebo. The photographs do not show the gazebo in its completed state and therefore the pictures do not reveal that the gazebo is quite effective for providing privacy. However, the pictures are effective in showing that eliminating the gazebo is eliminating the privacy I expected to have upon purchase of the home.

As a single mother of two daughters, I not only chose a community that was safe, I selected a home that gave me a sense of security and privacy.

My neighbors live on a corner lot; I am one house north of the corner. When I purchased the home, my backyard was very private as my neighbors had thick shrubs and bushes which created a visual barrier from people and traffic on Kensington. However, the new owners have removed all the foliage and now my backyard is visible from Kensington. We planted trees to create more privacy but our backyard is still quite visible to those who driving, walking for biking on Kensington as the trees do not provide coverage at their base. If we are sitting in a lawn chair, we are visible to onlookers. .

- Removal of the gazebo will create a wide open, direct sight light line from Kensington to my back door (fig. 1a and 1b); people can see when my daughters and I are leaving or coming home. The gazebo eliminates this sight line and creates a visual barrier from Kensington to my back door.
- In contrast, keeping the gazebo not only blocks the sightline, the structure itself provides privacy. Other than partial coverage from the trees there at the property line, we are fully exposed to Kensington (fig. 1c).

ENCLOSURE- the gazebo serves as part of the enclosure of my backyard (fig. 2).

My home is not positioned on the same plane as my neighbors, nor are the homes oriented in the same way: the side of my home faces the neighbor's' back yard (fig. 3a and 3b)

Should we have to remove the gazebo and add a fence to serve as an enclosure, one of the following would occur:

- an unsightly zig zag fence to connect the yards
- a difficult to access space for the neighbors (mowing, accessing drainage, gutters, etc.) (fig. 4)
- I would lose a portion of my backyard (fig 5).

- I have complete support from the neighbors to keep the structure. Incidentally as their yard is on the east side of their home.”. They do not have a “back door” on the back of their home.

QUESTIONS/ CONCERNS:

Although I am not knowledgeable in the areas mentioned below, I have unfortunately experienced some of these issues as a home owner. Furthermore, over the 20 years as an Interior Designer, I know these types of issues can be very detrimental and costly so I believe they must be addressed. If I were to have known upon purchase of the home that the gazebo was not obtained with a permit nor built according to the setback requirements, I would not have purchased the home as I would not want the liability as it would pertain to my neighbors, nor would I have wanted to assume the responsibility of researching and hiring professionals to assess the risk. Finally, I would have determined that the cost and time involved to remove and redesign the topography was more of an undertaking than I wanted to commit to.

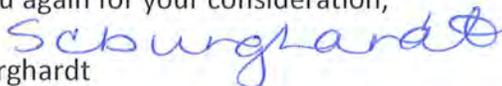
DRAINAGE/ GRADING- There is slight grade between the two homes, my house being lower (fig. 6). The gazebo creates a more level area. If the concrete is removed, there will be a huge “void” and because of the slope, the “void” may collect water during the removal process. Who is liable if the neighbor’s basement leaks should inclement weather occur during the removal of the concrete? What if the neighbor’s basement leaks after the project is completed?

STRUCTURAL: I have concerns about ripping out the concrete base with a jack hammer. I have very little experience with this but I certainly do not want to be liable for my neighbor’s foundation should impact of a jack hammer put cracks in their basement walls. Who incurs the cost?

As a degreed Interior Designer for 20 years, I respect and appreciate the guidelines which dictate that permits need to be attained, codes must be adhered to and inspections must be completed. Since purchasing my home, I have done remodeling to my kitchen as well as to my second floor. On both projects, I complied with the village policies guidelines from inception to completion. These guidelines ensure a safe and visually attractive community and eliminate the problem which we are addressing today.

Thank you again for your consideration,

Sarah Burghardt



PRIVACY:

FIG. 1A, 1B, 1C

The Gazebo Blocks Sight Line and Serves as a Structure to Create Privacy

Removal of the gazebo will create a wide open, direct sight light line from Kensington to my back door (fig.1a). People can see when my daughters and I are leaving or coming home. The gazebo eliminates this sight line and creates a visual barrier from Kensington to our back door.

In contrast, keeping the gazebo not only blocks the sight line, the structure itself provides privacy. Other than partial coverage from the trees there at the property line, we are fully exposed to Kensington (fig.1b).



BACK DOOR

**it is important to that upon receipt of the code compliance letter from the village of of Shorewood, I ceased maintenance on gazebo. The gazebo is not in its completed state and therefore the pictures do not reveal that the gazebos' effectiveness in providing privacy. However, the pictures are effective in showing that eliminating the gazebo is eliminating the privacy I expected to have upon purchase of the home and the subsequent 12 years years I have been living in the home.*

ABOVE: VIEW OF MY BACKYARD FROM KENSINGTON

BELOW: VIEW OF KENSINGTON FROM MY YARD

west end of backyard



KENSINGTON BLVD FIG 1C



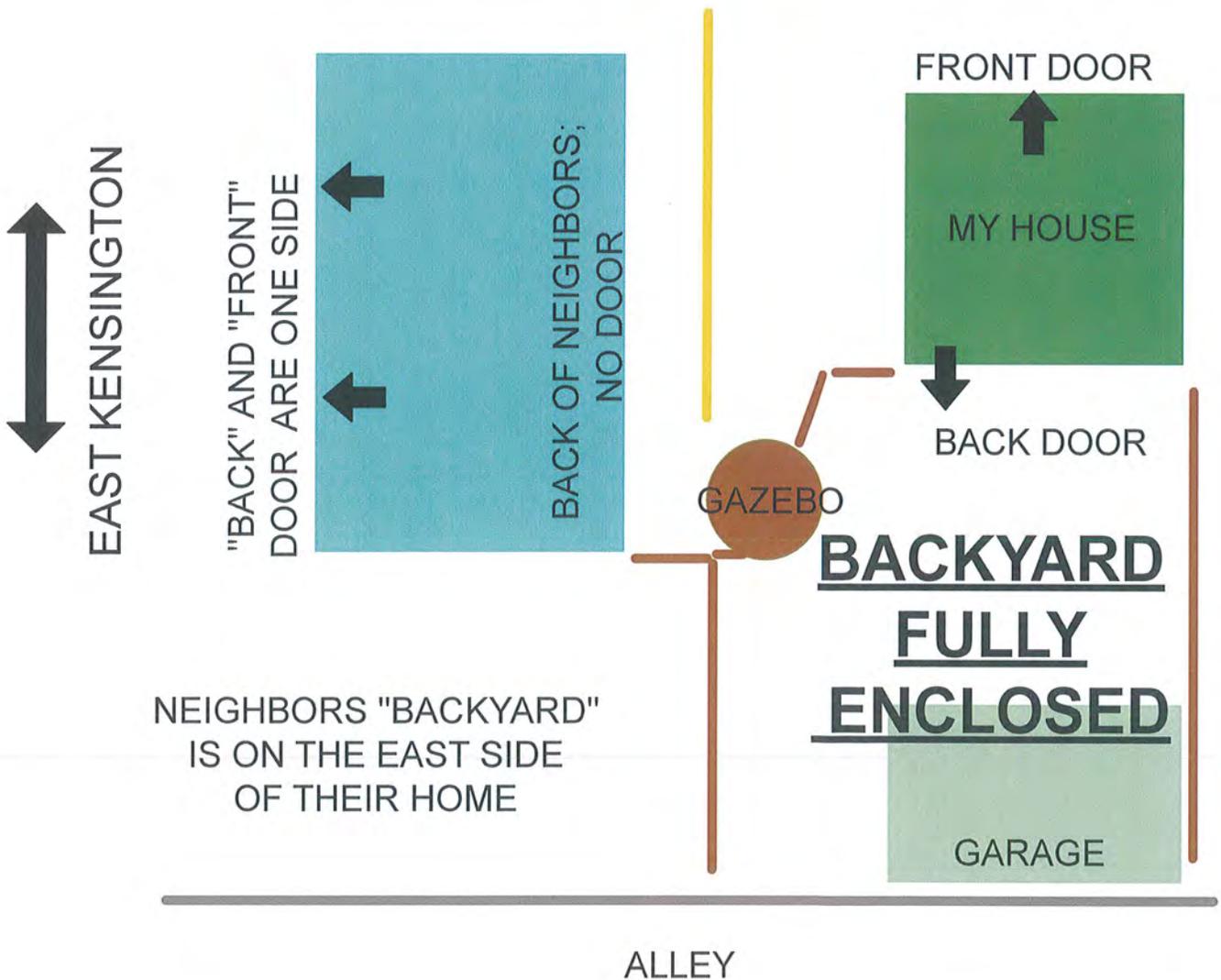
east end of backyard



ENCLOSURE:

FIG.2 ,3

THE GAZEBO SERVES AS PART OF ENCLOSURE FOR BACK YARD



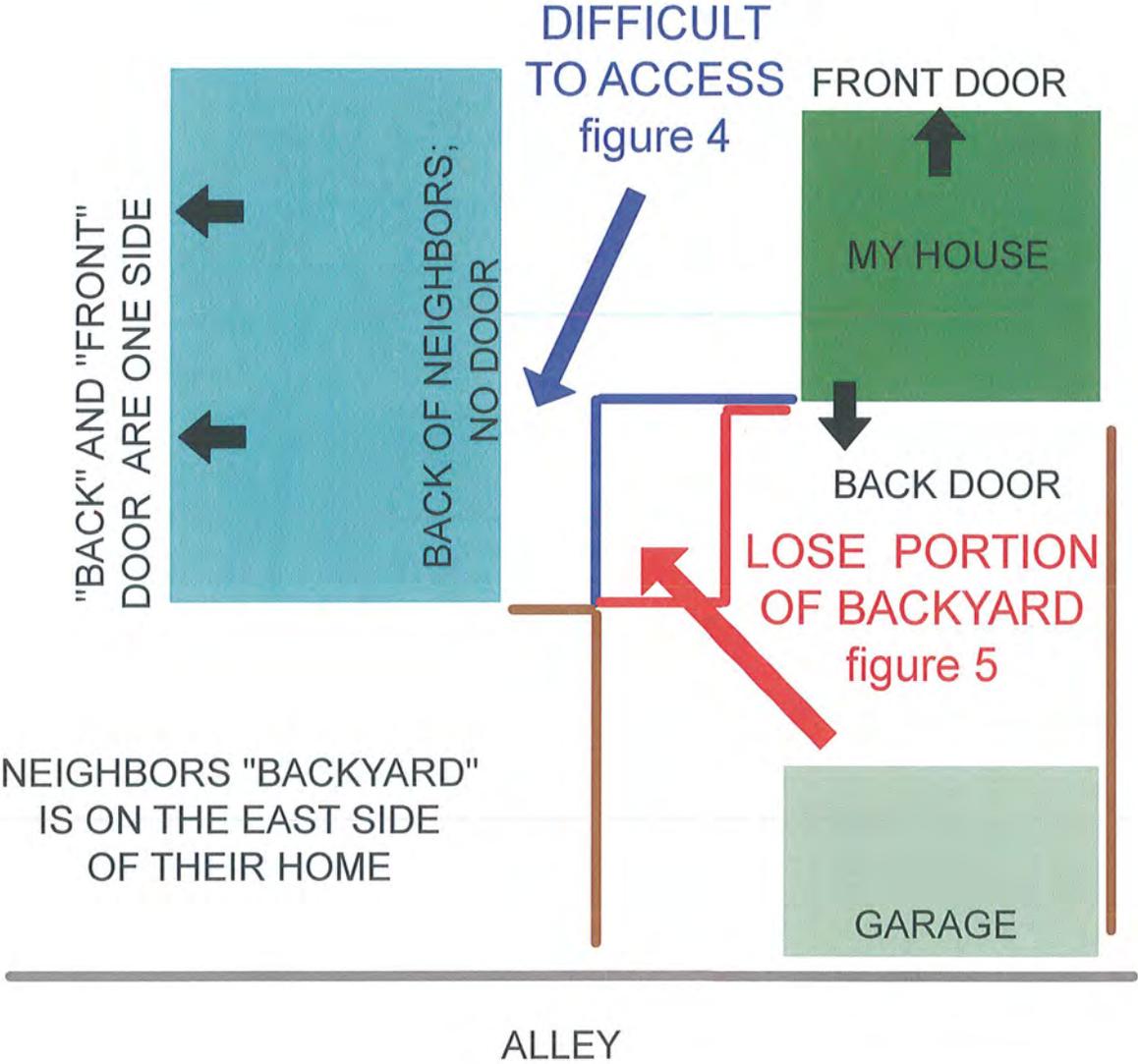
ENCLOSURE:

FIG.4 AND 5

REMOVING THE GAZEBO AND ADDING A FENCE:

KEY

- = CREATES A DIFFICULT TO ACCESS SPACE FOR NEIGHBORS (mowing, accessing drainage, gutters, etc.) (figure 4)
- = I WOULD LOSE A PORTION OF MY BACKYARD (figure 5)



DRAINAGE AND GRADING

FIG. 6

There is slight grade between the two homes, my house being lower. The gazebo creates a more level area.



SLOPE



SLOPE

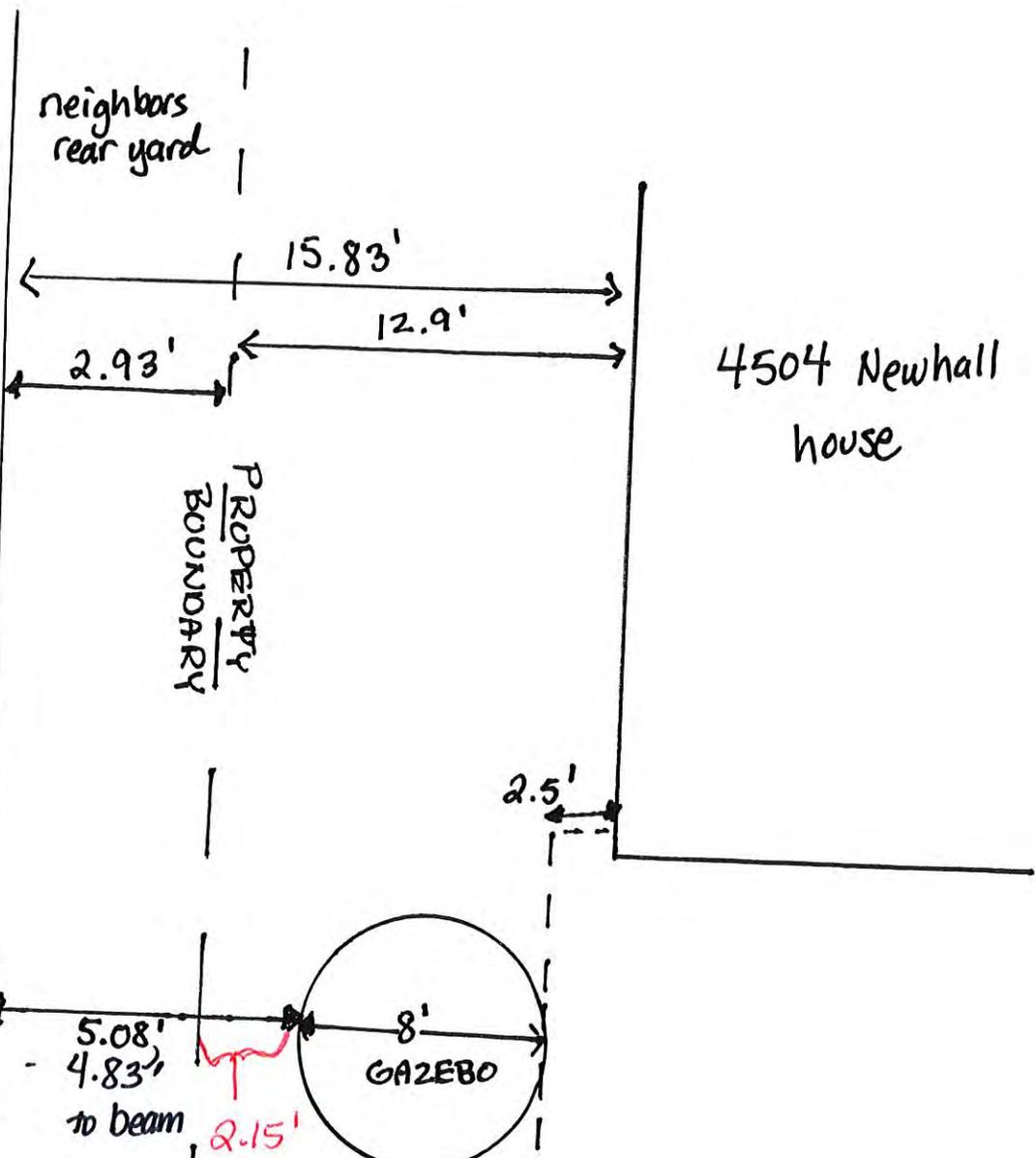


NEIGHBORS

MY HOME

NOT TO SCALE

1600 Kensington
Neighbor's House



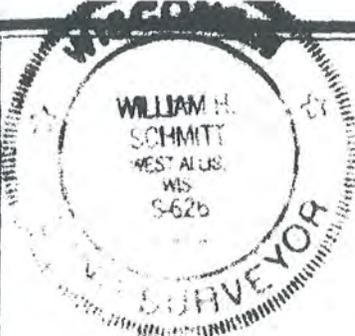
PROPERTY BOUNDARY

GAZEBO

5.08'
- 4.83'
to beam

2.15'
from
property
boundary,
not including
overhang.

Retaining wall
also in setback. N →



WILLIAM H. SCHMITT & ASSOCIATES
SURVEYORS — DESIGNERS — PLANNERS

445-3833

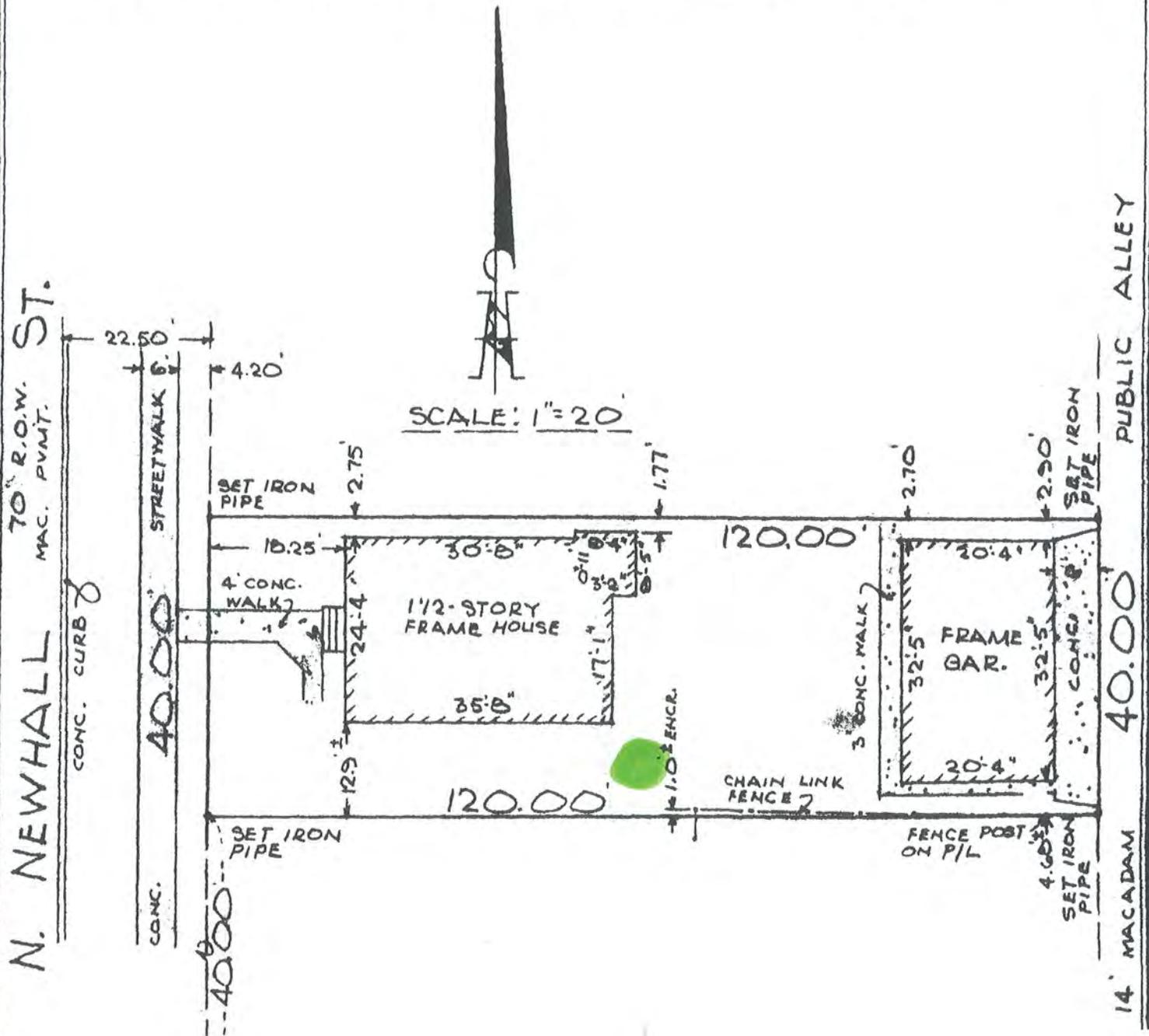
6330 W. APPLETON AVENUE
MILWAUKEE, WISCONSIN 53210

PLAT NO. HILL

PLAT OF SURVEY

Description of lot or parcel of land Lot 10 in Block 13 in "GLENDALE INVESTMENT ASSOCIATION No. 1", in the Northeast 1/4 of Section 4, Township 7 North, Range 22 East, in the Village of Shorewood, Milwaukee County, Wisconsin.

Name and address of owner Susanne E Hill 4504 North Newhall Street, Shorewood
Address of premises No. 4504 North Newhall Street, Shorewood, Wisconsin



ArcGIS Web Map



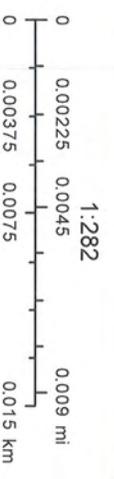
June 7, 2016

Address Numbers



Parcels

Streets



Milwaukee County Land Information Office





APPLICATION FOR BUILDING PERMIT

Village of Shorewood
Planning & Development Department
3930 N. Murray Avenue, Shorewood, WI 53211
Phone (414) 847-2640 Facsimile (414) 847-2648
www.villageofshorewood.org

TYPE OF WORK: CHECK ONE

- Addition Fence/Wall Garage/Shed Alteration/Finish Deck/Patio Pool/Hot Tub Roof Driveway
- Concrete work (front stoop, other) Demolition Renovation Other, explain _____

Final inspection is required when work is completed.
Forms inspections are required before concrete pours.
Rough inspections may be required, please ask.

OFFICE USE ONLY	
PERMIT #	FEE: PLAN REVIEW \$45 Y N
APPROVAL DATE	

Job Address	Building Type (circle) SF DUP MULTI COMM CONDO PUBLIC
Owner's Information	Contractor's Information
Name <i>Sarah Burghardt</i>	Name
Address <i>4504 N. Newhall</i>	Address
City/State/Zip <i>Shorewood WI</i>	City/State/Zip
Phone <i>262-224-4185 5321</i>	Phone
EMAIL <i>scburghardt@gmail.com</i>	EMAIL
	DC#
Cautionary Statement (if applicable) N Y	LEAD CERTIFIC. SAFE RENOVATOR LIC. #

Describe work in detail (include floor levels of where work is being done)

± 6' d gazebo

Estimated Cost of Job \$ *500⁰⁰* *Permit voided 4 months from issuance if no work started or if building operations cease for more 4 months. Call to request extension.*

Is this part of an Occupancy permit correction request?	N	Y	If Yes, Permit #
Is this part of a Non-Compliance Statement?	N	Y	If Yes, Permit #
Are plans, sketches or drawings attached?			YES NO NA
Is a certified plot plan or survey attached?			YES NO NA
Have your plans been approved by the Department of Commerce?			YES NO NA

OFFICE USE ONLY - Conditions of Approval

Design Review Board Approval Needed (circle one)	YES	NO	Approval Date
--	-----	----	---------------

scburghardt
Signature of Owner/ Architect/ Contractor (circle one)

3 5/12/2016
Date

Sarah Burghardt
Print Name

Triple fees shall be chargeable to all applicants hereunder who fail to obtain a permit before work has been started. No further permits shall be issued to any applicant who owes fees to the Village or who failed to comply with any lawful orders of the Village inspector. It is agreed and understood that all work shall be done in accordance with the state of Wisconsin's applicable codes and ordinances of the Village of Shorewood.

NOTE: COMMERCIAL BUILDING OR LARGE SCALE REMODEL OR ALTERATION WORK WILL BE SUBJECT TO A PLAN EXAMINATION FEE.
NOTE: COMMERCIAL BUILDING REMODEL OR ALTERATION WORK WILL BE REQUIRED TO SUBMIT AN APPLICATION TO THE FIRE DEPT.

Electrical Contractor _____

Plumbing Contractor _____

Heating Contractor _____

Missed Appointment	\$30.00
Failure to Call in Final Inspection	\$50.00
\$9.00 per \$1,000 of estimated cost of job	
Commercial NEW construction \$0.25/SQ. FT.	
\$60.00 minimum fee	



RESIDENTIAL INSPECTION REPORT ACTION REQUIRED

Date: 05/04/2016

Owners Name: Sarah Burghardt
Owners Address: 4504 N NEWHALL ST
City, State, Zip: Shorewood, WI 53211

Property Address: 4504 N NEWHALL ST
Tax Key: 236-0160-000
Enforcement #: EEN16-0156

Dear: Sarah Burghardt

In accordance with the Village of Shorewood's exterior maintenance program a recent inspection of the above referenced address revealed the following deficiencies according to the Village Code.

Failure to respond to this letter will result in re-inspections that may trigger forfeitures after the date indicated below.

CODE REFERENCE CODE DEFICIENCY

Uncorrected

Exterior Surfaces 326-6 E. All exterior surfaces which are subject to rot, decay, or deterioration or which may become unsightly as a result of exposure to the elements, except roofs and the glass portion of windows, shall be protected from the elements and against decay and deterioration by an approved protective covering.

Permit Required 225-3 D. (2) Repairs and additions requiring permit. No addition, alteration or repair to any one or two family dwelling, not deemed a minor repair by the Planning and Development Department, shall be undertaken unless a permit for this work is first obtained by the owner or his agent from the Planning and Development Department.

Structure 326-6 A. Every foundation, exterior wall and roof shall be reasonably weathertight, waterproof, insectproof and rodentproof and shall be kept in a good state of maintenance and repair.

Structure 326-6 C. All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any building or structure or part thereof.

Structure 326-6 F. Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be reasonably safe to use and capable of supporting such a load as normal use may cause to be placed thereon and shall be maintained in a good state of repair.

Clean Up Orders 326-9 C. The owner or occupant shall keep said premises in a clean and sanitary condition, free of dust, unsightly weeds and growth, as well as free of and uncluttered by building materials, tools and equipment, miscellaneous paraphernalia, rubbish, debris and waste.

RESIDENTIAL INSPECTION REPORT ACTION REQUIRED

ACTION REQUIRED:

1. A contractor with the benefit of a **building permit** to review the north shed roof structure and replace the north shed roof shingles to a water proof condition. Contact our department to schedule the final inspection.
2. Remove any trash, liter, or debris from the rear east yard, posts, wood, building scraps from demolition, and maintain in a clean and sanitary condition.
3. Clean the garage gutters of any sticks, leaves, stems, or debris and maintain in a clean and sanitary condition.
4. The Gazebo is a non-conforming structure potentially built in the setback area (within 3 foot of the property line) and originally constructed without first obtaining a building permit. A **building permit** is required for full replacement and possibly a **Board of Appeals application** if the structure was built in the setback area.
5. Install an elbow on the garage south east downspout to pitch the water away from the garage.
6. Install an extension to the house north east corner downspout to terminate into the gutter of the shed roof.

COMPLETION DATE: 06/09/2016

Preserving the integrity of our beautiful Shorewood homes is a top priority for the village. For the majority of us, our homes are our most significant investment. Protecting our property value is a responsibility of every property owner because it affects not only our personal investment, but also the village as a whole. With that in mind, *we are committed to requiring code compliance village-wide.*

EXTENSION

If an extension is needed to comply with this order, please forward a written request, addressed to the undersigned, stating your phone number, your mailing address, the action you are taking towards compliance and the anticipated completion date.

APPEAL

If after discussions with staff you find that you are not in agreement with the enforcement of the above listed violations, it is your right to appeal to Shorewood's Board of Appeals within **30 days** of receipt of this order. The Board of Appeals meets once a month. Forms and explanations are available at the Planning & Development Department at Village Hall or online on the Village website *villageofshorewood.org* under Application Forms.

NEXT STEPS

You are strongly encouraged to contact me as soon as you receive this letter so that we can work together to bring the above referenced violation(s) into compliance. I may be reached at **(414) 847-2640** Monday through Friday, 8:00 A.M.-4:30 P.M. or by email at tkoepp@villageofshorewood.org.

Sincerely,



Tim Koepf
Code Compliance Inspector
Planning & Development Department
3930 N. Murray Avenue
Shorewood, WI 53211

**RESIDENTIAL INSPECTION REPORT
ACTION REQUIRED**

