

Shorewood Board of Appeals Meeting Agenda

December 13, 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 November 8, 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 portions of a paver patio within the three-foot zoning side yard setback at residential property 4315-17 N. Newhall Street.
7. Public Hearing: Appeal of denial by the Village of Shorewood Design Review Board of three prohibited internally illuminated box window signs at Kensington Liquor business at 4496 N. Oakland Avenue.
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 7th day of December, 2016

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



**Public Hearing Notice
Board of Appeals
Village of Shorewood**

PLEASE TAKE NOTICE that a meeting of the Village of Shorewood **Board of Appeals** will be held on **Tuesday, December 13, 2016 at 5:30 P.M.**, in the Shorewood Village Hall Court Room, 3930 N. Murray Avenue, Shorewood, WI 53211, at which time the following matter(s) will be considered:

1. Appeal of denial by Shorewood Design Review Board of three prohibited window signs at commercial property 4496 N. Oakland Avenue. Legal Description J H Myers & H B Walkers Subdivision NW Qtr Section 3 Township 7 Range EXC W 7FT Taken for N Oakland Ave Lot 28 Blk 3 in the Village of Shorewood, Milwaukee County, Wisconsin. Tax ID 237-0232-000.
2. Appeal of notice to remove patio section found within the zoning side yard setback at residential property 4317 N. Newhall Street. Legal Description: Miswald & Wildes Subd #1 SE Qtr Section 4 Township 7 Range 22 E. N 36FT of Lot 1 Blk 2 in the Village of Shorewood, Milwaukee County, Wisconsin. Tax ID 240-0160-000.

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

Dated at Shorewood, Wisconsin, this 22nd day of November, 2016

Village of Shorewood

Tanya O'Malley
Village Clerk, WCPC

Publish December 1, 2016

CHAPTER 535: ZONING

ARTICLE X. Board of Appeals

§ 535-52. Establishment and purpose.

There is hereby established a Board of Appeals for the Village of Shorewood for the purpose of hearing appeals by any person feeling himself aggrieved by any administrative order, decision or determination and, further, for the purpose of hearing applications and granting variances and exceptions to the provisions of this chapter in harmony with the purpose and intent of this chapter.

§ 535-53. Membership; terms of office.

A. The Board of Appeals shall consist of five members appointed by the Village President and confirmed by the Village Board.

B. Terms shall be for staggered three-year periods commencing annually on the first day of June.

C. The Chairman shall be designated by the Village President.

D. Alternative members, two in number, shall be appointed by the Village President and confirmed by the Village Board for a term of three years who shall act only when a regular member is absent or refuses to vote because of a personal interest in the matter.

[Amended 9-26-2005 by Ord. No. 1892]

E. The Secretary of the Board shall be the Village Clerk.

F. A member of the Planning and Development Department shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

G. Official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointment. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).*

H. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term. Members shall continue to serve until their successors are appointed.

I. Members of the Board shall be residents of the Village.

§ 535-54. Organization.

[Amended 9-26-2005 by Ord. No. 1892]

The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

A. Meetings shall be held at the call of the Chairman and shall be open to the public, except as provided by law.

Shorewood Board of Appeals- Zoning Chapter 535

B. Minutes of the proceedings and a record of all actions shall be kept by the Secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Secretary and shall be a public record.

C. If a quorum is present, the Board of Appeals may take action by a majority vote of the members present.

§ 535-55. Powers.

A. The Board of Appeals shall have the following powers:

(1) Errors and interpretations. To hear and decide appeals where it is alleged that there is an error in any administrative order, decision, determination or interpretation of zoning districts or other code regulations.

(2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.

(3) Special exceptions. To hear and decide special exceptions to the terms of this chapter upon which said Board is required to pass under this chapter.

B. Permits. The Board may reverse, affirm wholly or partly, or modify the requirements appealed from and may issue or direct the issuance of a permit.

C. Assistance. The Board may request assistance from other Village officers, departments, commissions and boards.

D. Oath. The Chairman may administer oaths and compel the attendance of witnesses.

§ 535-56. Appeals.

A. Appeals from an administrative decision concerning the literal enforcement of this chapter or of any other Village Code provisions may be made by any person aggrieved or by any officer, department, board, commission or bureau of the Village.

B. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the administrative decision or order. Such appeals shall include the following:

(1) Name and address of the appellant and, if a matter involving this chapter, all owners of record of property located within 100 feet of the property in question.

(2) Additional information required by the Village Plan Commission, Planning and Development Department, Board of Appeals or other Village employees having an interest in the matter.

(3) Fee receipt from the Village Treasurer in an amount as set forth in the Village Fee Schedule.

Shorewood Board of Appeals- Zoning Chapter 535

[Amended 5-15-1989 by Ord. No. 1553]

§ 535-57. Hearings.

The Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof as required by law, and shall give due notice to the parties in interest and the Planning and Development Department. At the hearing the appellants may appear in person, by agent, or by attorney.

§ 535-58. Findings.

No variance to the provisions of this chapter shall be granted by the Board unless it finds that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

A. Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.

B. Absence of detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and the spirit of this chapter or the public interest.

§ 535-59. Decision.

The Board of Appeals shall decide all appeals and applications within 30 days after final hearing and shall transmit a signed copy of the Board's decision to the appellant and the Planning and Development Department.

A. Conditions may be placed upon any permit ordered or authorized by this Board.

B. Variances granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.

§ 535-60. Review by court of record.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a verified petition setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Secretary.

Shorewood Board of Appeals Meeting Minutes

November 8, 2016

3930 N. Murray Avenue, Shorewood, WI 53211



1. Call to Order.

The meeting was called to order at 5:40 p.m.

2. Roll Call.

Jeff Schmeckpeper, chair	aye
Beth Aldana	aye
Lance Mueller	aye
Kathy Nusslock	aye
Michael Paulson	aye

3. Statement of Public Notice.

Planning Director Ericka Lang stated that the meeting was published and posted according to local and state requirements.

4. Approval of October 11, 2016 meeting minute transcription.

Planning Director Ericka Lang asked to correct an address identified in the agenda item regarding 1701-03 E. Menlo. The neighboring property that received a variance for a parking slab without having to build a garage was for 1627-29 E. Menlo Blvd.

Mr. Paulson moved to approve the clarification and minutes, seconded by Mr. Mueller. Motion to approve 5-0.

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

Village Attorney Nathan Bayer reviewed the standards for agenda item #6, which is a request for a variance, granting only if exceptional circumstances and absence of detriment.

6. Public Hearing: Appeal of building inspector notice to remove an accessory shed within the side yard zoning setback at residential property 4141 N. Woodburn St.

Planning Director Ericka Lang and Building Inspector Justin Burris were sworn in. Mr. Burris introduced the item. The Village received a Board of Appeals application on October 19, 2016 from residential property owner Alex and Laurie Hansen Cardona, requesting a variance for keeping a storage shed in the side yard zoning set back.

The lot is a corner parcel at Olive and Woodburn. The shed is located at the rear interior of the property aside the detached garage. The shed dimension is 8'x13' and the space between the garage and the interior side yard is 11 feet. There is approximately 1'7" distance between the south side of the shed to the interior property boundary, putting 1'3" of the shed within the zoning side yard setback. The shed is considered a temporary structure and does not have a concrete pad.

The property is zoned R-6 One and Two-Family Residence District No. 1 with a minimum 40-foot

Board of Appeals Meeting Minutes – November 8, 2016

lot width and minimum lot are of 4500 sqft.

Per 535-19F(5)[c] the side interior setback is 3 feet.

Mr. Schmeckpeper let members know there were three neighbors' letters in the meeting packet: Marlene Cook at 4133 Woodburn; Jay Blind at 1301 Olive; and, Sarah and Ben Dembroski at 4201 Woodburn. All residents are in support of the current shed location.

Applicant and property owner Ms. Hansen Cardona was sworn in. She explained that a patio was constructed earlier in the year at which time village staff confirmed a building permit is not needed to erect a shed that does not have a foundation. A variance is requested because of how small the backyard is: the shed would encompass most of the backyard area.

Ms. Linda Freese at 4137 North Woodburn Street was sworn in. Ms. Freese contacted the building inspector with questions about the neighbors shed. The inspector measured the location of the shed from her property and discovered her fence was actually on the Cardona's property, so the fence was moved. Ms. Freese stated that the shed is too large and shouldn't have to view the shed every time in her rear sunroom or backyard. Her fence is four feet in height and the Cardona's is shorter.

Mr. Burris stated that Ms. Freese did have a permit for her fence, installed in 2014. The village's policy at that time did not have inspectors measure the location of fences- it was the responsibility of the homeowners. After measuring the shed and fence locations, it was determined Ms. Freese's fence was encroaching on the Cardona's property so the village generated a correction notice for the fence to be moved as well as the shed.

Mr. Lee Frederick, 4945 North Bartlett Avenue in Whitefish Bay was sworn in. He is frequently in Ms. Freese's backyard. It is a plastic shed that is higher than the garage roof. It is not a small structure.

Ms. Cardona clarified the height of the shed is 8'7" and not as high as the garage.

Mr. Schmeckpeper does not see any uniqueness of the property to justify a variance. Ms. Nusslock is troubled with application and was told a temporary structure and didn't require a building permit and the term of setbacks, but struggling that a building permit not required because temporary structure and by inference.

Mr. Burris stated that at the time of the patio project and prior to this appeal, the property owners were given an explanation about the three-foot zoning setback as the patio must also comply with the setback. The inspectors always explain about setbacks in conjunction with any structures.

Mr. Schmeckpeper moved that the findings were not made and to deny the appeal application. Seconded by Ms. Nusslock.

Roll Call:

Jeff Schmeckpeper	Yes
Kathy Nusslock	Yes
Lance Mueller	Yes
Beth Aldana	Yes
Mike Paulson	Yes

Motion to deny approved 5-0.

7. Public Hearing: staff request for reconsideration of granted variance for constructing a parking slab without required garage at rental property 1701-03 N. Menlo Blvd.

Attorney Bayer stated that the courts in Wisconsin interpreted Shorewood's chapter 535 granting the Board of Appeals authority to reconsider if there was an error. The question is if there was a mistake of fact. First, the village will offer why a mistake of fact or mistake of how the facts were applied to the variance or if there's new evidence that can be applied to the decision. The village is seeking reconsideration at this board instead of circuit court.

Ms. Lang explained there was a mistake of facts. There are new materials provided in packet showing a detached garage overlaid on the property survey. At the previous meeting members discussed that a garage could not fit because of the slope of the backyard. Measurements show a garage can fit. Another mistake is the assumption that there will be a loss of parking spaces. Members also said that the whole block on the south side of East Menlo Boulevard is unique.

Mr. Burris stated that the lot is 47.5 feet by 110 feet deep, larger than 90% of the 40-foot wide residential lots in the village, and the driveway is 12 feet (house to side property boundary) which usually are 8-9 feet wide. Staff overlaid a detached garage and proposed parking slab on the property survey, showing both very similar in area. The survey shows 17 feet from the house to a detached garage without the garage going into the slope in the backyard. Staff contacted a reputable garage builder to determine if a garage would fit in this location. The email in your packet confirms a 20'x22' garage can fit and allow easy access for cars. The minimal standard two-car garage is 20'x20'. The preferred standard is 20'w x 22'd. The garage builder recommended a garage 22'w x 20'd with an 18-foot door versus the standard 16-foot wide door. The garage dimensions were reversed to allow a larger car to easily enter and exit on the west side of the garage. It would be difficult for vehicles to access a parking slab on the west side of a two-car garage, but a parking slab would easily fit adjacent the back of the house.

Appeals applicant Mr. James Curro was present. He agreed a garage can fit on the property, but it would eliminate parking spaces alongside the garage. He disagreed a 20'x22' garage can fit and the driveway is 9 feet wide. He also feels the back slope is greater than 8 feet [staff determined 8 feet from a contour map]

Ms. Lang requested proof of some of Mr. Curro's dimensional conclusions and stated that there is 17 feet measured from the back of the house to where a garage could start.

Ms. Aldana reviewed the previous meeting transcript and noted it was accepted that a two-car garage could fit. Mr. Mueller agreed. Mr. Paulson added that the decision for the variance was only about the loss of parking.

Mr. Burris referenced the zoning code and surrounding parking requirements. Per §535-47 only two spaces in an approved garage is required in the R-6 District for a two-family dwelling. Two more spaces could be added outside of the garage.

Mr. Schmeckpeper stated that the procedures for as long as he has been on the board that the village presents basic facts and the board hears the appellant and makes a decision. He doesn't remember any instance where the village advised the board, opposing or recommending a position. By taking a position, the village has deprived itself from making a case. The fact that the village did not have

Board of Appeals Meeting Minutes – November 8, 2016

the opportunity to present its views on the loss of parking, he is inclined to allow reconsideration. In the future, if the village has a position, it needs to make it explicit and explain why the first time the board takes up the issue.

Ms. Nusslock inquired if it is a detriment to lose parking and questioned what is the proper application of the facts. She agrees the village has not had an opportunity to present about the argument.

Ms. Aldana noted it would be hard to find that it is a detriment to reduce the number of parking spaces. If in code compliance is there a detriment?

Mr. Paulson said it seems to be a sufficient factual confusion to the extent of loss of parking and application of law and impact on parking.

Mr. Mueller said there was evidence and testimony that there would be a loss of parking spaces and feels the village had the opportunity to respond.

Mr. Burris reminded members that the overlay survey shows that the same number of parking spaces could be maintained with a two-car garage.

Attorney Bayer stated that members need to first answer the question if there was a mistake of fact, how the facts were applied or new evidence.

Mr. Paulson said that it seems there's a sufficient basis for reconsideration regarding facts of parking spaces and moved to reconsider, seconded by Mr. Schmeckpeper.

The attorney reviewed other applications for reconsideration.

Roll Call:

Mike Paulson	Yes
Beth Aldana	No
Jeff Schmeckpeper	Yes
Kathy Nusslock	No
Lance Mueller	No

Motion failed.

8. Adjournment.

Mr. Paulson moved to adjourn the meeting at 8:15 p.m., seconded by Ms. Aldana. Motion to adjourn 5-0.

Recorded by,



Planning Director Ericka Lang



Report to Board of Appeals

December 13, 2016

Prepared by: Planning Director Ericka Lang

RE: Appeal of notice to remove patio within rear side yard zoning setback at 4315-17 North Newhall Street

On August 29, 2016 the village code compliance inspector observed a patio in the rear side yard setback at a two-family dwelling at 4315-17 N. Newhall Street. The Village received a Board of Appeals application on November 21, 2016 appealing the notice to remove the pavers within the three-foot setback. Village staff accepted the application knowing it was received greater than 30 days after the correction notice.

Per the applicant, the patio was constructed in 2013 and no building permit was applied for. Patios are considered a structure and therefore require a building permit and all structures must meet the zoning setback requirements.

Zoning/Applicable Regulations:

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.

Driveways are exempt from meeting zoning setbacks.

Existing Conditions

The lot is 40 feet wide by 120 feet deep and the patio is approximately 256 square feet (16'x16).

Materials provided:

1. BOA application
2. Pictures
3. Enforcement letter

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

Reason for Application:

Applicant's Appeal Ruling

APPROVED

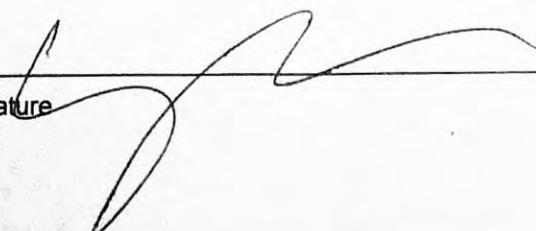
NOT APPROVED

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.

Applicant Signature

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a solid horizontal line.

VARIANCE APPLICATION

Currently, as the owner of the property in question, I am writing to appeal for a variance regarding the backyard paver patio that was put in in the summer of 2013. This patio was put in with the goal of improving the quality/functional use of this small backyard space. At the time of implementation and construction, I was unaware that a permit was required for a ground level patio. Its design, functionality, grade was done with the assistance and guidance of a local landscaping company and with the approval of the neighbor to the North, Joseph Lesage. We are good friends and this space since its completion has been a shared space. He was involved in the planning process, kept informed throughout and assisted in some of the work.

As I stated previously, the patio was put in to improve the beauty, quality, and functional use of the backyard. This property is a duplex and thus there was/is a need to provide a safe, pleasant space for owner/tenant/neighbor use and has provided this thus far. The patio surface design as indicated on the scaled survey is brought up to the northern property line as we were unaware at the time of a zoning setback of 3 feet. In regards to the setback, in looking at the space, his driveway is within 1-1.5 feet of the property line and the property to the south has a poured driveway that is within 1.5-2 feet from the southern property line which are both within the zoning setback. This would indicate that there is no regularity of the setbacks from one property to the next. The intended grade and pitch of the patio is such that drainage sheds away from house toward the backyard and to an in-ground drainage system that runs west towards the back of the property. The base and underlayment for the patio were extensive, the pavers are 2.5 inches thick and were chosen dually for their sturdiness and aesthetic. The pavers are driveway rated and the size and shape of the patio was designed to provide a nice atmosphere for patio/BBQ use and to maximize space for vehicle parking if the need should arise, while maintaining a nice green-space in the backyard as well.

In my estimation, it would be extremely burdensome to remove a portion of the patio on the north-side as it would likely greatly undermine the stability of the patio and could affect the drainage system. Also, making the patio smaller would affect the ability to park a car which is important to note because there is no street parking allowed in this part of Shorewood. In the 3 plus years this patio has been in place, it has not shifted or sunk. I fear that removing close to 3 feet could create unsafe shifting/settling that could affect its supportive nature for car parking, overall drainage and pitch of the patio and may result in complete failure of the patio. In addition, the pavers are not placed in equal rows and portions would have to be cut which

would be very difficult.

In closing, this patio has been in place for over 3 years and has provided a safe and pleasant space for friends, neighbors, families to gather. Its design and implementation has functioned as intended and there have been no issues or consequences post construction. This has positively impacted the Shorewood neighborhood, property value, and has not had a negative impact on the environment. This property is my home and my intention was/is to beautify the space which contributes to the overall appeal of living in Shorewood.











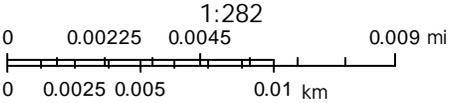


4315-17 Newhall



December 7, 2016

- Address Numbers
- Parcels
- Streets



Milwaukee County Land Information Office



**RESIDENTIAL INSPECTION REPORT
ACTION REQUIRED**

Date: 08/29/2016

Owners Name: Leslie Spencer
Owners Address: 4317 N NEWHALL ST
City, State, Zip: Shorewood, WI 53211

Property Address: 4315 17 N NEWHALL ST
Tax Key: 240-0244-000
Enforcement #: EEN16-0427

Dear: Leslie Spencer

I am writing you in order to inquire about some work done at your house (rear yard paver patio) located at **4315 17 N NEWHALL ST**. Currently, we do not have any building permits outstanding for your address. Please notify the Village of Shorewood **By 09/09/2016** about the nature of work being done so we may contact you or your contractor about any applicable permits.

CODE REFERENCE **CODE DEFICIENCY**

Uncorrected

Work Without Permit 225-3 F. (5) If any construction or work governed by the provisions of this section or any applicable building codes is commenced prior to the issuance of a permit, triple fees shall be charged.

ACTION REQUIRED:

1. A qualified contractor with the benefit of a building permit at triple fee to review the installation of a rear yard paver patio prior to obtaining the proper permit. A survey and green space calculation are also required.
2. A Master Plumber with the benefit of a plumbing permit to review the installation of the water heater under permit # 11-2296 which expired in 2012.

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 tkoepf@villageofshorewood.org.

Sincerely,

**RESIDENTIAL INSPECTION REPORT
ACTION REQUIRED**

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





Report to Board of Appeals

December 7, 2016

Prepared by: Ericka Lang, Planning Director

RE: Appeal of Design Review Board denial of Window Signs at Kensington Liquor, 4496 Oakland Ave

A Board of Appeals application was received by business owner Keith Marquardt, appealing the denial of a design review board application for three window signs at the Kensington Liquor business at 4496 N. Oakland Avenue. The window sign type is prohibited and the size is larger than permitted.

The business is located at the southeast corner of Oakland Ave and Kensington Blvd. The business has four windows along Oakland and one large window along Kensington. Within three of the Oakland window panes the business displays three large internally illuminated box signs.

Review History

On March 10, 2016 the business was sent an enforcement correction order to remove the signs. On May 10, 2016 a board of appeals application was denied for the window signs because there was no basis found that the village improperly interpreted or applied the code. The village attorney added that the design review board may grant exceptions allowing the prohibited signs to remain.

The design review board denied the three signs on October 13, 2016 and staff did not support the signs. Excerpts from both meeting minutes are included in your packet.

Sign Code/Applicable Regulations

Shorewood's sign codes were completely amended in 2007. Any signs that did not meet the new codes were considered legal nonconforming. The applicant's signs were installed approximately 3 years ago.

Sign Size: per sign code 445-11 -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 exceed the 25% limit. Window signs do not require a permit.

Sign Type: per sign code 445-20 F "Illuminated signs. Internally illuminated box signs and standard channel letter signs are prohibited." The three signs are box signs and are internally illuminated, which is prohibited.

Materials provided:

1. BOA application
2. Pictures
3. Sign code
4. Enforcement letter dated 3/10/16
5. Minutes excerpt Board of Appeals 5-10-16
6. Minutes excerpt Design Review Board 10-13-16



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

Village of Shorewood
11/02/2016 10:31:42 AM
Ref 00027882
Receipt 125683
Amount \$150.00

27882

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 #	16-2882 FEE: \$150.00
DATE RECEIVED:	10.31.16
SCHEDULED MEETING:	Dec 13, 2016
TAX KEY #	

Property Address 4496 N. Oakland Ave. Shorewood, WI. 53211

Owner's Information	Applicant Information	Contractor?	YES	NO
Name Keith Marquardt	Name Keith Marquardt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Address 4496 N. Oakland Ave.	Address 3803 S. Rutland Ave.			
City/State/Zip Shorewood, WI. 53211	City/State/Zip St. Francis, WI. 53235			
Phone #414-332-3600 Alt # 414-617-3581	Phone # 414-239-8939 Alt # 414-617-3581			
Email keith@kensingtonliquor.net	Email keith@kensingtonliquor.net			
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:

Appeal the request to remove the three custom box signs from the front windows of my business facing Oakland Avenue.

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):

2. Describe how unnecessary hardship exists because compliance is unreasonably burdensome. The hardship must be unique to the property and cannot be self-created.
The signs (custom steel frames bolted to inside of window with lexon panels) were placed in the window for security because the windows are very large for a liquor store and also to block most of the sun to prevent product spoilage.

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

I feel the signs are more eye appealing than the bright neons and cardboard that was in the windows before I bought the store. I constantly get compliments from customers about how nice the signs look. Panels can be replaced at times to change the look of the store.

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.



Applicant Signature



KENS

INDIA PALE ALE

INDIA PALE ALE

BOSTON LAGER



KENSINGTON LIQUOR

EXIT ONLY!
ENTRANCE DOOR



**HELP
WANTED**



KENSINGTON LIQUOR

Pabst
Blue Ribbon

LAKEFRONT
INDIA PALE ALE

BREWED IN MILWAUKEE
for people who like beer

IPA
INDIA PALE ALE

BOSTON LAGER

BALLAST POINT



4-WAY

4496

KENS

dogfish head
craft brewed ales

Come in and see our newest arrivals of *Pinot* wine

HELP WANTED

Pabst Blue Ribbon

LAKEFRONT
INDIA PALE ALE

BREWED IN MILWAUKEE
for people who like beer.

IPA
INDIA PALE ALE

ROAD CLOSED





BALLAST-POINT-BREWING COMPANY

SCULPIN

Handcrafted in San Diego, CA





KENSINGTON LIQUOR

for people who like beer

LAKE FRONT
INDIA PALE ALE

IPA

LAGUNITAS
IPA PLUS
\$15.99

BUY 2 GET THE 3RD FREE



**RESIDENTIAL INSPECTION REPORT
ACTION REQUIRED**

Date: 03/10/2016

Kensington Liquor
Keith Marquardt
4496 N. Oakland Avenue
Shorewood, WI 53211

Property Address: 4496 N OAKLAND AVE
Tax Key: 237-0232-000

Dear Keith:

In accordance with the Village of Shorewood's signage code a recent inspection of the above referenced address revealed the following deficiencies.

CODE REFERENCE CODE DEFICIENCY

445-11 Window and Decal Signs

Window signs shall be limited to one location on the primary display windows or doors. Signs can occupy up to 10% of the glass area of a single pane and up to 50% of the transom area. Signs may not exceed 25% of the entire window area excluding the transom.

445-20F Prohibited Signs

Internally illuminated box signs are prohibited.

Responsibilities of owner:

Action Required:

Remove the three internally illuminated box signs from the front windows of your business, facing Oakland Avenue. Ensure that no more than 25% of your windows are covered in signage.

COMPLETION DATE: March 21, 2016

INSPECTION REPORT ACTION REQUIRED



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

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.

REINSPECTION FEES

In accordance with section 326-18 of the Village Code, a fee may be charged for any reinspection, except no fee shall be charged for the final reinspection when compliance is recorded. **The fee is \$50 for the first reinspection, \$75 for the second, \$150 for the third, and \$250 for the fourth and all subsequent reinspections. Reinspection fees will be invoiced, or if unpaid, a lien shall be applied upon the real estate where the reinspections were made and shall be assessed and collected as a special tax.** If you wish to contest the assessment of a reinspection fee, contact the inspector.

**INSPECTION REPORT
ACTION REQUIRED**

Respectfully,

A handwritten signature in cursive script that reads "Ericka Lang". The signature is written in black ink and is positioned below the word "Respectfully,".

Ericka Lang
Planning Director
Planning & Development Department
3930 N. Murray Avenue
Shorewood, WI 53211
414.847.2647
elang@villageofshorewood.org



**VILLAGE OF SHOREWOOD
BOARD OF APPEALS MINUTES**

May 10, 2016 **EXCERPT**

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.

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

Design Review Board
Meeting Minutes
October 13, 2016

3930 N. Murray Avenue, Shorewood, WI



1. Call to order.

The meeting was called to order at 5:04 p.m. Members present: Acting chair Wesley Brice, John Rizzo, Mike Skauge and Bryan Koester.

2. Approval of September 22, 2016 meeting minutes.

Mr. Skauge moved to approve, seconded by Mr. Koester. Vote 4-0.

3. Consideration of non-conforming window signs at commercial property 4496 N. Oakland Avenue, business owner Keith Marquardt.

Mr. Keith Marquardt was present. Planning Director Ericka Lang introduced the item. The business received an enforcement order earlier this year to remove the three window signs along Oakland Avenue at the Kensington Liquor business. The sign types are prohibited. They are internally illuminated box signs and prohibited per sign code 445-20F. 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%.

The business owner appealed the village's enforcement order and submitted a Board of Appeals application. At the Board of Appeals meeting May 12, 2016 the appeal was denied and the chair advised the applicant to seek a special exception by the Design Review Board per 445-23A that says the design board may grant exceptions to the provisions of the sign chapter as it relates to the number, size, location and type of signs.

The sign code was adopted in 2007 and the window signs were installed about two years ago.

Mr. Marquardt explained the signs are custom made with side LED lights so see the same illuminated sign inside and outside. They are also for safety and for product integrity. The sun ruins many alcoholic products.

Ms. Lang reminded members the reason for the code minimizing how large window signs is so pedestrians can see into a business and customers can see out. Seeing into a business is a welcoming factor and if no windows or can't see in, it would deter certain demographics from entering. Windows help activate a streetfront. The Police Department also likes to see into businesses as a safety factor.

Members appreciated the design and noted there's other ways to shade product.

Mr. Skauge moved to approve the window signs by exception, seconded by Mr. Koester. Vote 2-2. The window signs were not approved.

Village of Shorewood, WI
Monday, May 9, 2016

Chapter 445. Signs

§ 445-11. Window and decal signs.

- A. Window signs shall be limited to one location on the primary display windows or doors. Professionally painted or vinyl-applied decal signs may be mounted within the transom or at the lower section of the storefront window. Decal signs can occupy up to 10% of the glass area of a single pane located at the lower section and occupy up to 50% of the transom area; signs may not exceed 25% of the entire window area excluding the transom. Grease paint is strictly prohibited on all windows and doors.
- B. Window signs shall not require a sign permit and approval by the Design Review Board.

§ 445-20. Prohibited signs.

- A. General. No person shall paint, paste or otherwise fasten any paper or other material, grease paint, stencil or write any number, sign, name or any disfiguring mark on any building, sidewalk, curb, gutter, or street, any post, pole or tree, or any other sign, fence or other structure, nor shall any of said objects be defaced in any manner, unless sanctioned by the provisions of this chapter or other provisions of the Village Code or by the Planning and Zoning Administrator or Building Inspector in carrying out or on any public work or construction.
[Amended 2-25-2008 by Ord. No. 1935]
- B. Beacon and flashing-type devices. No flashing, alternating, rotating or swinging sign, whether illuminated or not, shall be permitted hereunder. No flashing, alternating, rotating or swinging flood, spot or beacon light shall be permitted for illuminating any sign or any structure for the purpose of advertising.
- C. Flood or spot lights. No flood or spot light shall be located and directed in such a manner as to cause a glare or light to be directed to surrounding buildings and premises.
- D. Obstruction of traffic control devices. It shall be unlawful to erect or maintain any sign which constitutes a traffic hazard or is a detriment to traffic safety by obstructing the vision of drivers or detracting from the visibility and prominence of any official traffic control device.
- E. Miscellaneous. The use of any banner, pennant, flag, balloons, streamers or other similar media for advertising or identification purposes shall be strictly prohibited, except as may be permitted to promote special events for a period not to exceed 30 days, and which shall be subject to the written approval of the Village Manager.
- F. Illuminated signs. Internally illuminated box signs and standard channel letter signs are prohibited. This does not include individually pin-mounted reverse illuminated solid-faced channel letter signs, often called "halo-lit signs."
- G. Advertising vehicles are prohibited, subject to the following exceptions:
 - (1) Vehicles parked on public or private property used solely for business use for the purpose of transporting or delivering goods or providing services directly related to the business being advertised on the vehicle.
 - (2) Vehicles temporarily parked on public or private property for the purpose of delivering goods or providing services.
- H. Portable signs are prohibited except as enumerated in § 445-10 of this chapter.
- I. Freestanding pole-mounted signs are prohibited.
- J. Backlit and vinyl plastic awning signs are prohibited.
- K. Billboards are prohibited.
- L. Electronic message board signs are prohibited except where explicitly provided for within the Code.
[Amended 11-3-2014 by Ord. No. 2045]