

# Commercial Zoning Update Working Group



## Meeting Agenda Wednesday, October 5, 2022 5:00 p.m. – Village Hall Court Room 3930 N. Murray Ave., Shorewood WI

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Written comments on any of the following agenda items may be submitted to [bgriepentrog@shorewoodwi.gov](mailto:bgriepentrog@shorewoodwi.gov) through 3:00 pm the day prior to the meeting. Comments received prior to the deadline will be shared with the Working Group. Comments after that deadline will need to be shared verbally within the meeting during available public comment periods.

1. Call to order
2. Roll call
3. Discussion of Module 3 (Procedures, Planned Development Districts, and Legal Nonconformities)
4. Discussion of any remaining matters from Module 1 (Commercial & Mixed Use Districts, and Uses) and Module 2 (Building Design, and Landscape & Site Design)
5. Confirmation of public open house date and format
6. Public comment
7. Adjournment

**Dated at Shorewood, Wisconsin, this 30<sup>th</sup> day of September, 2022**

Village of Shorewood  
Toya Harrell  
Village Clerk

Should you have any questions or comments regarding any item on this agenda, please contact Bart Griepentrog, Planning Director, Planning & Development Department, at (414) 847-2640. Upon reasonable notice, efforts will be made to accommodate the needs of all individuals.

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

# MODULE 3

Note: This module includes revisions to existing sections of the code. Pages are numbered sequentially, 1 to 12, to avoid multiple numbering systems.

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## **ARTICLE VI. PROCEDURES<sup>1</sup>**

### **535-31. REVIEW PROCEDURES**

#### **535-31A DESIGN REVIEW<sup>2</sup>**

##### **535-31A(1) PURPOSE<sup>3</sup> & INTENT**

The design review procedures of this section are intended to ensure timely, competent review of building designs and site improvements by the Design Review Board. The design review process is intended to promote the public health, safety, convenience, prosperity, comfort, and general welfare of the citizens of the Village and to strike a reasonable balance between the desire of the property owner to choose the design of proposed buildings and site improvements and the continuing interest of the Village in:

~~Protecting the general appearance of buildings, structures, landscaping, and open areas;~~

~~Encouraging and promoting acceptability attractiveness and compatibility of new buildings, development, remodeling and additions so as to maintain established standards and property values.~~

- (a) Promoting high-quality, durable, well-designed, well-constructed, and attractive buildings, structures, landscaping, and open space areas to maintain and enhance established Village standards and property values;
- (b) Protecting the walkable, human scale of the village as a whole, including its architecture and land use, with an accompanying recognition that the village is characterized by a substantial amount of pedestrian and bicycle traffic;
- (c) Supporting a diversity of architectural styles, which are, at the same time, compatible with their surroundings;
- (d) Ensuring adequate light, air, and privacy for village residents; and
- (e) Complying with applicable building design regulations of this zoning ordinance.

1 Moving the 2 items in the previous "Modifications" article to Article III, section 535-10 (formerly Uses).

2 This is a new proposed section of the zoning ordinance outlining the procedures for review and approval by the Design Review Board. It is based in part on provisions now found in 225-12 of the village code.

3 Purpose statement moved from 225-12B combined with design criteria pulled from 225-12H.

##### **535-31A(2) APPLICABILITY<sup>4</sup>**

Except as expressly exempted in accordance with [535-31A\(3\)](#), the design review procedures of this section shall apply to all:

- (a) New building construction, building additions, and exterior building modifications that require a permit;
- (b) Installation, placement, or modification of any structure or sign (per [445-20A](#)) that requires a permit;
- (c) Outdoor lighting in MX, CX, GX, or RX districts;
- (d) Circular driveways in R districts per [535-9F\(4\)](#);
- (e) Other activities expressly requiring review and approval by the Design Review Board under the terms of this zoning ordinance, such as land management plans per 220-3; and
- (f) Other matters pertaining to planning, zoning, building or design that are referred to the Design Review Board for findings and determination.

~~Findings and determination regarding sign proposals shall be in accordance with § 445-20A of the Village Code.<sup>5</sup>~~

~~Findings and determination regarding land management plans shall be in accordance with § 220-3 of the Village Code.~~

~~Circular driveways shall be subject to the review and approval of the Design Review Board in accordance with § 535-9F(4) of the Village Code.~~

##### **535-31A(3) EXEMPTIONS<sup>6</sup>**

The following structures and site improvements are expressly exempt from the design review procedures of this section when located in R, PDD, or P zoning districts:

- (a) Concrete walks, patios, and slabs, when located within rear yards of residences.
- (b) Parking slabs on alley frontages;
- (c) Grade- or first floor-level decks within rear yards of residences; and
- (d) Structural landscape features located within rear yard areas that are not visible from public rights-of-way.

4 Moved from 225-12E(1)

5 The references from (g), (h), and (i) were moved up to each item in the list above.

6 Exemptions moved from § 225-12.E(1)(a).

**535-31A(4) APPLICATIONS**

Design review applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department. Applications shall include at least the following information, as applicable:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor;
- (b) Address of the subject property; type of structure; description of proposed improvements, and proposed use;
- (c) Building **site plans**, drawn to scale, showing all proposed buildings, building additions, structures, **signs**, and site improvements. Building designs including **floor plans**, roof plans, and **building elevations**, as required to illustrate the building meets all regulations. Site design plans and details including **landscaping (including trees to be removed and retained)** and off-street parking areas;
- (d) A description of exterior building and structure materials, including color and texture;
- (e) The required review fee, as specified in the Village Fee Schedule<sup>7</sup>; and
- (f) Any additional information required by the Zoning Administrator or Design Review Board to determine whether the proposed activity complies with all applicable provisions of this zoning ordinance and the Village Code.

**535-31A(5) REVIEW AND DECISION-MAKING AUTHORITY**

The Design Review Board is authorized to review and take final action on all design review applications, unless otherwise specified.

**535-31A(6) REVIEW PROCESS**

See Figure 535-31-A for an illustration of the review processes.

- (a) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the building design and/or site plan to determine whether the proposal complies with applicable provisions of this zoning ordinance.
- (b) **Meetings.** The Design Review Board shall conduct the following meetings:

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<sup>7</sup> May be appropriate to consider a tiered fee structure for different types of review applications.

- [1] **New Commercial or Multi-Unit Residential Buildings.** At least 2 meetings are required on all design review applications that involve the construction of a new commercial or mixed-use building or a residential building occupied by more than 4 dwelling units.
- [2] **Other.** All other design review applications may be acted upon after a single meeting.

(c) **Notice.** Notice of the Design Review Board's consideration of any design review application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners within ~~100 feet~~ 250 feet of the subject property at least 7 days before the first Design Review Board meeting at which the design review application will be considered.

(d) **Board Process.** The Design Review Board shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.

- [1] Where appropriate, the Design Review Board may make site inspections to better familiarize itself with the proposal.
- [2] The Design Review Board may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard.

(e) **Board Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed building design and/or site plan. In taking action, the Design Review Board may recommend modifications or conditions that, in its judgment, will help the project comply with applicable regulations and ensure consistency with the purposes of subsection [535-31A\(1\)](#).

- [1] **Approval.**<sup>8</sup> In order for the Design Review Board to approve an application, it shall find and determine that the applicant's proposal complies with all applicable regulations, is consistent the purposes of subsection [535-31A\(1\)](#), and will not contribute to substantial depreciation in the value of the applicant's property or neighboring properties.
- [2] **Modifications or Conditions.** If building design and/or site plans are approved subject to specific modifications or conditions, the applicant shall revise the building design and/or site plan

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<sup>8</sup> From Findings and Determination 225.121

## DESIGN REVIEW PROCESS

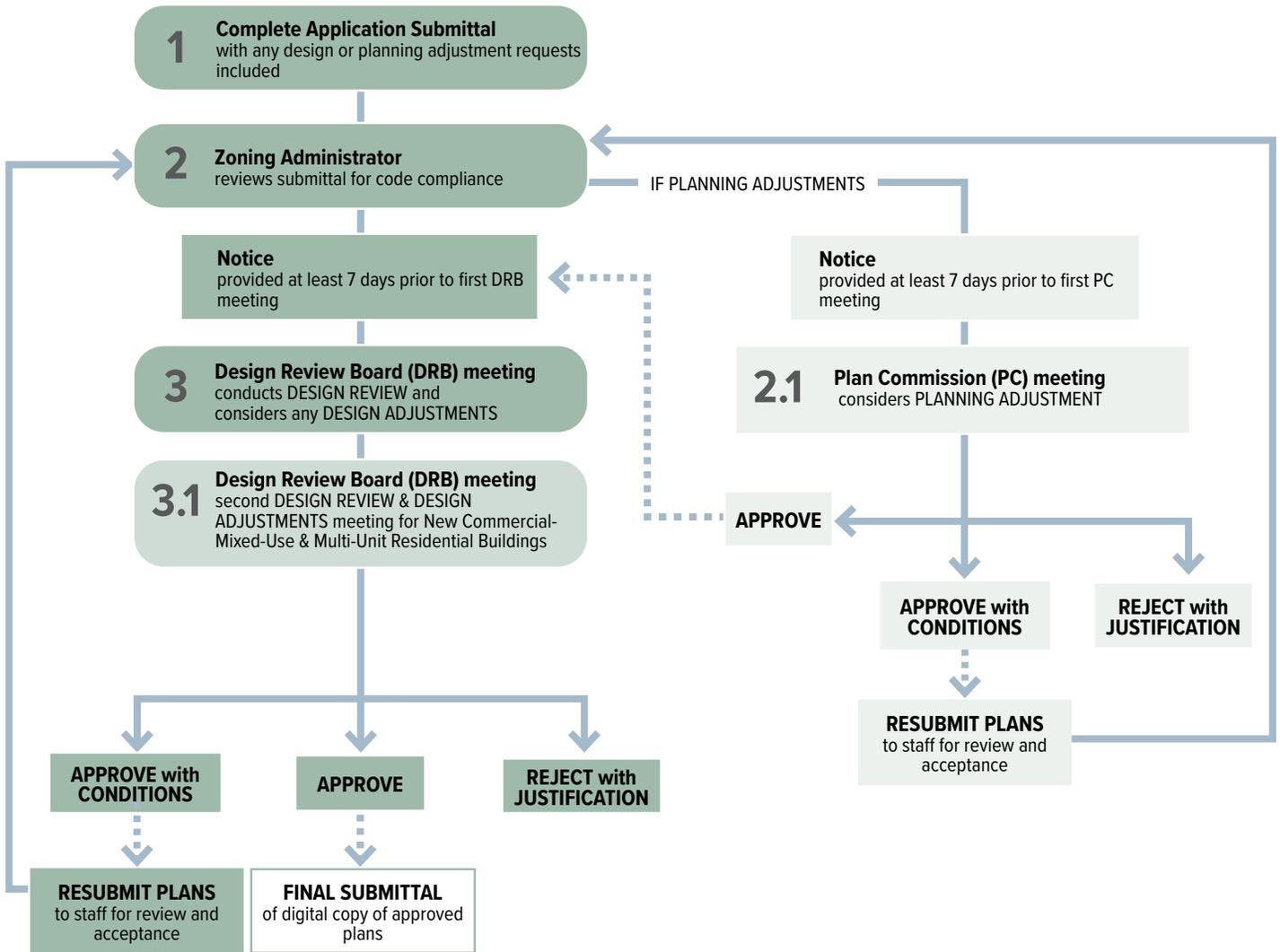


Figure 535-21-A. Design Review Process

in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator, or their designee. The Zoning Administrator (or designee) is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Design Review Board.

[3] **Rejection.** If the Design Review Board acts to reject the proposed plans, the minutes of the Design Review Board's meeting shall include a statement of justification.

(f) **Written Findings.** The Board shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable.

[1] The written findings and determination shall be signed by the Chair and filed with ~~and be binding upon the Building Inspector and the Planning and Development Department.~~

[2] A copy of the written findings shall be provided to the applicant or appellant.

(g) **Approved Plan Submittal.** Once a building design and/or site plan is approved, the applicant shall submit a dated digital copy of the approved plan(s) to the Planning and Development Department.

[1] A copy of all approved building design and site plans shall be retained in the permanent files of the Village, and the approved plans shall then govern the issuance of building permits and other required approvals in accordance with this zoning ordinance.

#### **535-31A(7) REVIEW AND APPROVAL CRITERIA**

(a) In making its findings and determination concerning each proposed project, the Design Review Board shall give substantial weight to the intent of the Village that the decisions of the Design Review Board perpetuate and further the character of Shorewood, fulfilling the purpose and intent statements for this procedure in [535-31A\(1\)](#) and the zoning regulations.

(b) The Design Review Board may adopt and amend, from time to time, as appropriate and consistent with the contents of this section, written design guidelines and design review procedures.

#### **535-31A(8) EFFECTIVE DATE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section becomes effective upon approval.

#### **535-31A(9) LAPSE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a) A building permit has been issued (if required);
- (b) The use or structure has been lawfully established; or
- (c) A different lapse of approval period or point of expiration has been expressly established by the Design Review Board at the time of design review approval.

#### **535-31A(10) MODIFICATION TO APPROVED DESIGN**

(a) Minor modifications to approved design review applications may be reviewed and approved by the Zoning Administrator, provided the modifications do not substantially affect any aspect of the approved design, such as the building footprint and location, facade design, site layout, or parking layout and location, and the application continues to comply with applicable regulations and is consistent with the purposes of subsection [535-31A\(1\)](#).

(b) The Zoning Administrator may request a review and approval of the Design Review Board for a minor modification.

(c) Major modifications that substantially affect aspects of the design, such as the building footprint and location, facade design, site layout, or parking layout and location, must be reviewed and reapproved by the Design Review Board as a revised design review application.

#### **535-31A(11) PERMITS AND CONTINUING COMPLIANCE**

(a) No permit may be issued for any development or construction subject to the design review procedures of this section until a design review application has been submitted and approved for such development in accordance with this section.

(b) No permanent certificate of occupancy may be issued for such development or construction until all terms and conditions of the approved building design and/or site plan have been satisfactorily completed or provided for.

(c) Construction, grading, or other development activities may be carried out only in compliance with the approved plan(s).

(d) When a building design and/or site plan has been approved for a property pursuant to this section, the property shall be used and maintained in compliance with the approved plan(s).

## 535-32A. Design Adjustments

### 535-31A(12) APPEALS OF DESIGN REVIEW BOARD DECISIONS

Any person aggrieved by a final decision of the Design Review Board may appeal the decision to the Board of Appeals in accordance with 535-56. An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought. The fee for appealing in each case shall be as provided by the Village Fee Schedule.

## 535-32. ADJUSTMENTS

### 535-32A DESIGN ADJUSTMENTS<sup>9</sup>

#### 535-32A(1) PURPOSE

The design adjustment procedures of this section provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Design Review Board.

#### 535-32A(2) APPLICABILITY

The Design Review Board is authorized to review and approve design adjustments expressly authorized in this zoning ordinance as a "design adjustment."

#### 535-32A(3) BURDEN OF PROOF OR PERSUASION

The burden is on the applicant to demonstrate that the requested design adjustment meets the criteria for approval.

#### 535-32A(4) APPLICATIONS

Design adjustment applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department in conjunction with a Design Review application. Applications shall include at least the following information, as applicable:

- (a) Applications for design adjustments shall be accompanied by the required fee established in the Village Fee Schedule.
- (b) The application shall include a written statement describing why the design adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the design adjustment.
- (c) Any additional information required by the Zoning Administrator or Design Review Board to enable competent review of the requested design adjustment.

#### 535-32A(5) APPROVAL CRITERIA

The design adjustment provisions of this section are intended to authorize the granting of relief from strict compliance with certain design-related regulations in the following instances:

- (a) When specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or

<sup>9</sup> This is a new proposed section of the zoning ordinance authorizing the Design Review Board to approve "adjustments" (formerly called "exceptions") to specified design-related provisions.

- (b) When an alternative design would result in equal or better implementation of the regulation's intended purpose, the purpose and intent of the Design Review procedure, and consistency with the Comprehensive Plan.

**535-32A(6) REVIEW PROCESS**

Requested design adjustments shall be processed concurrently with a design review application (see [535-31A](#)).

- (a) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the design adjustment application.
- (b) **Meetings.** The design adjustment review must be considered concurrently with the design review process, conducting the number of meetings required per [535-31A\(6\)](#).
- (c) **Notice.** The design review notice required per [535-31A\(6\)](#) must also include notification of any design adjustments.
- (d) **Process.** The process the Design Review Board shall include consideration of the design adjustment.
- (e) **Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed design adjustment per the design review process in [535-31A\(6\)](#).
- (f) **Written Findings.** The Board shall include its findings and determination of the design adjustment in its findings for the design review.

**535-32B PLANNING ADJUSTMENTS<sup>10</sup>**

**535-32B(1) PURPOSE**

The planning adjustment procedures of this section provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Plan Commission.

**535-32B(2) APPLICABILITY**

The Plan Commission is authorized to review and approve planning adjustments per the following:

- (a) Decrease any minimum and increase any maximum building siting or parking and accessory structure regulation in the commercial and mixed-use zones building types (535-21) by 10% or one foot, whichever is greater.
- (b) Increase any floor-to-floor story heights in the height regulations that apply to the commercial and mixed-use zones building types (535-21) by one foot;
- (c) Any other provision of this zoning ordinance that expressly authorizes a "planning adjustment."

**535-32B(3) BURDEN OF PROOF OR PERSUASION**

The burden is on the applicant to demonstrate that the requested design adjustment meets the criteria for approval.

**535-32B(4) APPLICATIONS**

Planning adjustment applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department. Applications shall include at least the following information, as applicable:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor;
- (b) Address of the subject property; type of structure; description of proposed improvements, and proposed use;
- (c) A site plan, drawn to scale, showing all proposed buildings, building additions, structures, signs, and site improvements, including landscaping (including trees to be removed and retained), and off-street parking areas;
- (d) A written statement describing why the planning adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the planning adjustment;

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<sup>10</sup> This is a new proposed section of the zoning ordinance authorizing the Plan Commission to approve adjustments to specified design-related provisions.

## 535-32 Adjustments

### 535-32B. Planning Adjustments

- (e) The required review fee, as specified in the Village Fee Schedule; and
- (f) Any additional information required by the Zoning Administrator or Plan Commission to enable competent review of the requested planning adjustment.

#### 535-32B(5) APPROVAL CRITERIA

The planning adjustment provisions of this section are intended to authorize the granting of relief from strict compliance with certain regulations as defined in [535-32B\(2\)](#), based upon the following criteria:

- (a) When those specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or
- (b) When relief defined would result in equal or better implementation of the regulation's intended purpose and consistency with the Comprehensive Plan.

#### 535-32B(6) REVIEW PROCESS

Requested planning adjustments must be submitted with the design review application (see [535-31A](#)).

- (a) **Design Review Process.** Notification and commencement of the Design Review Board's review of a design review application shall not occur until any requested planning adjustment has been reviewed by the Plan Commission.
- (b) **Zoning Administrator Review.** Following receipt of a complete application, the Zoning Administrator, or their designee, shall review the planning adjustment.
- (c) **Meetings.** The Plan Commission shall conduct a meeting on all planning adjustment applications.
- (d) **Notice.** Notice of the Plan Commission's consideration of any planning adjustment application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners and tenants within 250 feet of the subject property at least 7 days before the Plan Commission meeting at which the planning adjustment application will be considered.
- (e) **Process.** The Plan Commission shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.

- [1] Where appropriate, the Plan Commission may make site inspections to better familiarize itself with the proposal.
- [2] The Plan Commission may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard.

- (f) **Action.** After conducting the required meeting, the Plan Commission shall act to approve, approve with modifications or conditions, or reject the requested planning adjustment. In taking action, the Plan Commission may recommend conditions or modifications that, in its judgment, will help the project comply with applicable regulations and avoid adverse land use impacts on the nearby properties.

- [1] **Approval.** If the planning adjustment is approved by the Plan Commission, the written findings must be forwarded to the Zoning Administrator for inclusion in the Design Review application for the project.

- [2] **Modifications or Conditions.** If the planning adjustment is approved subject to specific modifications or conditions, the applicant shall revise the plan(s) in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator, or their designee. The Zoning Administrator (or designee) is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Plan Commission.

- [3] **Rejection.** If the Plan Commission rejects the planning adjustment, the minutes of the Plan Commission's meeting shall include a statement of justification.

- (g) **Written Findings.** The Plan Commission shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable.

- [1] The written findings and determination shall be signed by the Chair and filed with the Planning and Development Department.
- [2] A copy of the written findings shall be provided to the applicant or appellant.

#### 535-32B(7) EFFECTIVE DATE OF PLANNING ADJUSTMENT APPROVAL

A planning adjustment approved under the planning adjustment procedures of this section becomes effective upon approval of the design review application.

**535-32B(8) LAPSE OF PLANNING ADJUSTMENT APPROVAL**

A planning adjustment approved under the planning adjustment procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a) A building permit has been issued (if required);
- (b) The use or structure has been lawfully established; or
- (c) A different lapse of approval period or point of expiration has been expressly established by the Plan Commission at the time of planning adjustment approval.

**535-32B(9) APPEALS OF PLAN COMMISSION DECISIONS**

Any person aggrieved by a final planning adjustment decision of the Plan Commission may appeal the decision to the Board of Appeals in accordance with 535-56. An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought. The fee for appealing in each case shall be as provided by the Village Fee Schedule.

**225-12. DESIGN REVIEW BOARD<sup>11</sup>**

**A. ESTABLISHED**

There shall be a Design Review Board in and for the Village of Shorewood.

~~**INTENT AND PURPOSES<sup>12</sup>**~~

~~This section is adopted, for all zoning districts and for all uses in the Village, to promote the public health, safety, convenience, prosperity, comfort and general welfare of the citizens of the Village and to strike a reasonable balance between the desire of the property owner to choose the design of his or her land use ("the project") and the continuing interest of the Village in the design and appearance of that property, by:~~

- ~~(a) Protecting the general appearance of buildings, structures, landscaping and open areas;~~
- ~~(b) Ensuring adequate light, air and privacy for property; and~~
- ~~(c) Encouraging and promoting acceptability, attractiveness and compatibility of new buildings, development, remodeling and additions so as to maintain established standards and property values.~~

**B. MEMBERSHIP**

The Design Review Board shall consist of 9 members, appointed by the Village President with the approval of the Village Board, who shall serve without compensation.

- (1) The membership shall include at least 2 architects, 2 additional architects or other design professionals, one real estate broker, and 4 additional members, all of whom shall be residents of the Village. In addition, 3 former members of the Design Review Board may serve as alternate members pursuant to 225-12C(5) of this section.
- (2) The Village Manager, Village Attorney and Zoning Administrator, or their designees, shall be ex officio nonvoting members.
- (3) Members of the Board shall elect their own Chair and adopt such rules as they deem advisable, but which shall not conflict with the provisions of this section.
- (4) All appointments shall be for staggered terms of 3 years commencing June 1 of the year of appointment, provided that any vacancy shall be filled for the

<sup>11</sup> This a mark-up of the current Design Review Board provisions of the village code, with strike-through showing which provisions are proposed to be moved to the zoning ordinance.

<sup>12</sup> moved to Design Review Procedure

## 225-12. Design Review Board

unexpired term of the original appointment. Members shall serve until their successors have been appointed.

### C. ORGANIZATION

- (1) Meetings shall be held at the call of the Chair, when requested by the Building Inspector, or when a ruling and determination is required hereunder.
- (2) All meetings shall be open to the public except as allowed by applicable law.
- (3) Minutes shall be kept showing all actions taken and shall be a public record.
- (4) A quorum shall be 4 members and all action shall require the concurring vote of at least the majority of those members present.
- (5) In the event that there are at least 3 members present, a specified former member may serve as a voting member for the purpose of providing a quorum to conduct the meeting.

### DUTIES AND RESPONSIBILITIES.<sup>13</sup>

No building permit for any new structure or for any exterior alterations or additions to any structure and no sign permit shall be issued unless the application therefor shall have been referred to the Design Review Board and said Board shall have made the necessary findings and determinations as hereinafter required:

- [1] Excepted from the requirement of this subsection shall be the following:
  - [a] All concrete walks, patios, and slabs, when located within rear yards of residences:
  - [b] Parking slabs on alley frontage:
  - [c] Grade or first floor level decks within rear yards of residences:
  - [d] Structural landscaping located within rear yards not visible from the public right-of-way:
- [2] Recommendations regarding proposals filed under the Village Planned Development Ordinance shall be in accordance with § 535-22D(3) of the Village Code:
- [3] Findings and determination regarding sign proposals shall be in accordance with § 445-20A of the Village Code:

- [4] Findings and determination regarding land management plans shall be in accordance with § 220-3 of the Village Code:
- [5] Circular driveways shall be subject to the review and approval of the Design Review Board in accordance with § 535-9F(4) of the Village Code:
- [6] Other matters pertaining to planning, zoning, building or design may be referred to the Design Review Board for findings and determination:

### NOTICE OF MEETING

Matters referred to the Design Review Board shall be noticed for the next scheduled meeting of the Board seven or more days after receipt of application. The Building Inspector shall give written notice to each member of the Design Review Board, to the applicant or appellant, to such other parties as he deems advisable, and, in case of new construction or construction that adds 200 square feet or more to an existing structure, to all owners of property located within 100 feet of any boundary line of the applicant's or appellant's property. Written notice shall be given by mail or in person and shall include the time, place and purpose of the meeting:

### CONSIDERATION OF APPLICATION

The Design Review Board shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination. Relevant data shall include, but shall not be limited to, where applicable, site plan, floor plans, elevations, landscaping plan, including the location of existing trees to be retained or moved or removed, renderings and specifications, signs, parking area plans, and description of materials, including color and texture. All illustrations shall be drawn to scale. Where appropriate, the Board may make site inspections to better familiarize itself with the proposal. The Board may recommend changes that, in its judgment, will help the project meet the design criteria stated in this section. The Board may adjourn to closed session, at its discretion, to deliberate after all presentations have been made and the public has been heard:

### DESIGN CRITERIA:

- (f) In making its findings and determination concerning each proposed project, the Design Review Board shall give substantial weight to the intent of the Village that the decisions of the Board perpetuate and further the character of Shorewood, including, without limitation by enumeration, the following:
  - [1] A human scale in the Village as a whole, including its architecture and land use, with an accompanying

<sup>13</sup> Moved to Design Review Procedure

## 535-24. Planned Development District

recognition that the Village is characterized by a substantial amount of pedestrian and bicycle traffic;

- [2] A high quality of design and construction;
- [3] A consistency in the design of commercial properties with the primarily residential nature of the Village; and
- [4] A diversity of architectural styles, which are, at the same time, compatible with their surroundings.

- (g) The Design Review Board may adopt and amend, from time to time, as appropriate and consistent with the contents of this section, written design guidelines and design review procedures.

### FINDINGS AND DETERMINATION:

- (h) In order for the Board to approve an application, it shall find and determine that the applicant's proposal is consistent with design criteria and will not contribute to substantial depreciation in the value of the applicant's property or neighboring properties. In all instances when the determination is to reject the application for the proposed project and in all other cases in which the Board believes it appropriate, the minutes of the Board's meeting shall include a statement of the findings which a majority of those present rely on in support of the Board's decision.
- (i) The Board shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable. The written findings and determination shall be signed by the Chair and filed with and be binding upon the Building Inspector and the Planning and Development Department. A copy shall be given to the applicant or appellant by mail or in person.

### APPEALS

Any person aggrieved by a determination of the Design Review Board may appeal to the Board of Appeals of the Village in accordance with the provisions of § 535-56 of the Village Code, except as otherwise provided hereunder. The fee for appealing in each case shall be as provided by the Village Fee Schedule

## 535-24. PLANNED DEVELOPMENT DISTRICT

### 535-24A. LEGACY DISTRICT STATUS<sup>14</sup>

- (1) Land classified in a PDD zoning district on [Insert Effective Date of CZU Amendments] will continue to be classified in the PDD zoning district, which shall function as an overlay zoning district. Overlay zoning districts "over-ly" the underlying base zoning district classification to alter some or all of zoning regulations that apply to particular sites.
- (2) Applications to establish new PDD zoning districts or to expand the boundaries of existing PDD zoning districts will not be accepted for processing after [Insert Effective Date of CZU Amendments].
- (3) Except as expressly approved by the Village as part of any plans, agreements, or written conditions of approval of a PDD zoning district established before [Insert Effective Date of CZU Amendments], the regulations of the underlying base zoning district shall govern all new development within a PDD overlay district, including physical improvements and the review of new uses and occupancies.
- (4) Amendments to existing PDD overlay districts shall be processed in accordance with the Changes and Amendments procedures of Article XI. Any approved amendments shall comply with all applicable regulations of the underlying base zoning district.

<sup>14</sup> All new replacing any existing PDD

## ARTICLE VII. Legal Nonconformity

### ARTICLE VII. LEGAL NONCONFORMITY<sup>15</sup>

#### Definition in 535-6: **NONCONFORMING USES OR STRUCTURES**

Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, building type, building design, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.<sup>16</sup>

### 535-34. CLASSIFICATION AND REGULATION

For the purpose of administration, such nonconformity shall be classified and regulated as follows:

#### 535-34A. NONCONFORMING STRUCTURE

- (1) **Expansion or Enlargement.** No such structure shall be expanded or enlarged if such expansion or enlargement will add to or increase the degree of nonconformity, unless such structure is made to conform to the regulations of the district in which it is located.
- (2) **Restoration of Significantly Damaged Structures.** ~~When such structure is damaged to the extent of more than 50% of its current assessed value as equalized, it shall not be restored except in conformity with the regulations of the district in which it is located.~~ A nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation ~~after March 2, 2006,~~ may be restored in accordance with the provisions of § 62.23(7)(hc), Wis. Stats.[1]
- (3) **Facades.** In the commercial districts, if more than 50% of the area of a nonconforming facade is replaced, the entire facade must conform with the facade regulations of an allowed building type in the district per 535-21 and with the building design regulations in 535-22, except as defined in (2) of this subsection 535-34A.
- (4) **Roofs.** In the commercial districts, if more than 50% of a nonconforming roof is replaced, the replaced roof must conform with a roof type of an allowed building type

in the district per 535-21 and with the roof type design regulations in 535-22, except as defined in (2) of this subsection 535-34A. Resurfacing and repairing a roof does not count as roof replacement.

<sup>15</sup> Existing section copied to show proposed addition (c)

<sup>16</sup> Separate the definitions into nonconforming use and nonconforming structure