



**VILLAGE OF SHOREWOOD
BOARD OF APPEALS MEETING MINUTES
August 16, 2022**

1. Call to Order

Acting Chair Wendy Smith called the meeting to order at 5:32pm.

2. Roll Call

Present: Wendy Smith, Jon Toutenhoofd, Michael Paulson, Kara Espera
Not Present: Adam Burns
Recused: David Keating
Others: Attorney Nathan Bayer, Inspector Justin Burris, Clerk Toya Harrell

3. Statement of Public Notice

Clerk Harrell stated the meeting has been properly noticed and posted according to law.

4. Consideration of meeting minutes—July 12, 2022

Wendy asked the Board if there were any commentary or requests for modifications to the proposed meeting minutes. None from the Board. Michael Paulson moved that the minutes for the Board of Appeals meeting dated July 12, 2022 be approved as presented in the packet. Jon Toutenhoofd seconded. Motion carried by a roll vote of 4-0.

5. Attorney to review standards by which the Board of Appeals must abide. Village Attorney Bayer reviewed the standards of both the request for a variance and the consideration of an appeal of the Design Review Board's decision from July 14, 2022 on the agenda.

6. Request for a variance of Village Code 225-8 B. (2) to place a 5' high fence in the street side yard setback at residential property 4076 N. Downer Avenue. Legal Description: LAKE AVE SUBD SW 1/4 SE 1/4 3-7-22 E ALL EXC S 5FT OF LOT 41 BLK 8 in the Village of Shorewood, Milwaukee County, Wisconsin. Tax ID: 238-0122-000.

Inspector Burris gave a sworn review of the applicants' request. Wendy asked if members of the Board had questions to present to inspector Burris. There was none. Wendy then asked for a point of clarification as to the height of the fence. Hearing no further questions from the Board, Wendy asked if there were any representatives from the property owners that would like to speak. Mark Lien, property owner of 4076 N Downer Ave, gave sworn testimony as to why the request has been made to replace the existing fence on his property. After his testimony, Wendy opened the floor for members of the Board to ask questions. After questions by Kara Espera and Jon Toutenhoofd were presented and answered, Wendy asked for a member of the Board to make a motion to have an opened discussion on this matter. Kara Espera so moved, seconded by Jon Toutenhoofd. Opened discussion closed. Michael Paulson moved to grant the request

for a variance of VillageCode 225-8 B. (2) to place a 5' high fence in the street side yard setback at residential property 4076 N. Downer Avenue. Seconded by Kara Espera. Motion carried by roll call vote of 3-1 (Smith).

7. Consideration of appeal of the Design Review Board's decision from July 14, 2022 to deny the alteration of a window on the front elevation at residential property 2031 E. Wood Place. Legal Description: OAKWOOD SW 1/4 3-7-22 E W 20FT OF LOT 9 & ALL OF 10 BLK 1 in the Village of Shorewood, Milwaukee County, Wisconsin. Tax ID: 239-0534-000.

Attorney Bayer revisited the standards of this particular appeal consideration by with the Board of Appeals must abide. Wendy asked if the property owners or representatives from the property owners that would like to speak. Matthew Krier, from Design Group Three, gave sworn testimony as to his clients' request for an appeal. Wendy asked if members of the Board had questions for Mr. Krier. There was none. A second witness, Lisa Creegan, property owner of 2031 E. Wood Place, gave sworn testimony as to the reason for their request for an appeal and expressed concerned that, according to the July 14, 2022 minutes, the Design Review Board seemed to be more concerned with esthetics than about the energy efficiency of this project. Wendy asked if members of the Board had questions for Ms. Creegan. There was none. Wendy asked to have this matter opened for discussion by the Board and review the two (2) elements reflected by Attorney Bayer; 1) whether or not the Design Review Board was operating under the correct theory of law, 2) whether there was substantial evidence to support their decision.

- 1) *Whether or not the Design Review Board was operating under the theory of Law:* Jon stated concerns as to how much of the Design Review Board's decision was according to the law and how much was personal opinion. Wendy stated that this particular matter doesn't have any reference of the design review criteria or specific language referencing within Section 225-12 ("Design Review Board") and shared the same concerns as Jon and Ms. Creegan.
- 2) *Whether or not there was substantial evidence to support their decision:* because the members of the Board agreed there was not enough evidence in the minutes to show the Design Review Board was proceeding under the correct theory of law.

Opened discussion closed. Wendy moved that the appeal of the Design Review Board's decision from July 14, 2022 that denied the alteration of a window in the front elevation at residential property at 2031 E. Wood Place to be remanded to the Design Review Board for reconsideration for the purpose of more clearly developing the record and the basis of the theory of law considered by the Design Review Board and for consideration any new evidence by the applicants in reconsidering their application. Seconded by Michael Paulson. Motion carried by roll call vote of 4-0.

8. Adjournment

Wendy moved to adjourn the meeting. Seconded by Kara Espera. Motion carried by a unanimous vote of 4-0. The meeting was adjourned at 6:35pm.

Respectfully submitted,



Toya Harrell, Village Clerk