

**MINUTES OF THE BOARD OF APPEALS MEETING**  
**Board of Appeals**  
**03-25-09**

The meeting of the Slinger Board of Appeals was called to order by Chairman Stuetzgen at 300 Slinger Road, Slinger, Wisconsin on Wednesday, March 25, 2009 at 6:00 p.m.

| <b>I. Roll Call &amp; Notice of Meeting:</b> | <u>Present</u>                               | <u>Absent</u>                                |
|--|--|--|
| Robert Stuetzgen                             | x  |  |
| Candi Martin                                 |  | x, excused                                   |
| Mike Patenaude                               | x  |  |
| Larry Toraason                               | x  |  |
| Craig Wolf                                   | x  |  |
| Rick Kohl (Alternate)                        | x  |  |
| Erin Rauh (Alternate)                        |  | x, excused                                   |
|  | <hr style="width: 50px; margin: 0 auto;"/> 5 | <hr style="width: 50px; margin: 0 auto;"/> 2 |

**Also Present:** Terry Frederickson, Village Building Inspector & Zoning Administrator  
Margaret Wilber, Deputy Administrator/Deputy Clerk  
Philip Eckert, Village Attorney

Deputy Clerk Wilber took the roll call and stated that all posting and publication requirements had been met. Chairman Stuetzgen stated that a letter requesting an adjournment had been received from the petitioner and asked Deputy Clerk Wilber to read the letter into the record. Deputy Clerk Wilber read the correspondence as follows:

Dated March 18, 2009 to Mr. Robert Stuetzgen, Chairman  
Village of Slinger Board of Appeals

Dear Mr. Stuetzgen:

At this time I would respectfully request an adjournment of the Board of Appeals meeting scheduled for March 25, 2009 until a date convenient to all parties approximately sixty (60) days from the scheduled date. The reason for the postponement is threefold. First, an individual we are relying on for historical information related to our appeal is out of state and will be unavailable until after the scheduled meeting. Second, a member of my wife's family was recently diagnosed with stage 3 throat cancer and my wife would like to attend to family matters the week of the meeting. Finally, we received a copy of the Board of Appeals agenda on Friday, March 13, 2009 and noticed that the Board intends to move into closed session. After careful review of Wisconsin Open Meeting Law I question whether this action is proper.

State statutes clearly state that all meetings of the board of appeals shall be open to the public. Furthermore the statute states that bodies that consider zoning appeals, such as boards of zoning appeals and boards and adjustments may not convene in closed session.

Even if it is permissible to convene the Board of Appeals meeting in closed session the notice procedures do not appear to have been followed. The State's notice provision for a closed session states that the notice must contain the subject matter to be considered in closed session. Such notice must contain enough information for the public to discern whether the subject matter is authorized for closed session under State statute 19.85(1). The State's Attorney General has advised that notice of closed sessions must contain the specific nature of the business, as well as the exemption(s) under which the chief presiding officer believes a closed session is authorized. I am bringing these issues to your attention in advance so that they can be addressed prior to any hearing. In that fashion the Board will be able to correct these matters and avoid any technical issues in the event there is a further appeal by either party.

Thank you for your time and consideration. Please feel free to contact me if you have any questions or need additional information.

Deputy Clerk Wilber stated the letter was signed by Shawn Graff. Chairman Stuetzgen asked for the Board's commentary on this request.

Attorney Eckert asked to address the Board prior to their discussion and Chairman Stuetzgen asked him to provide his comments regarding the request. Attorney Eckert informed the Board that staff had conducted considerable research on the subject of closed session procedures and his legal opinion was that the Board of Appeals was well within their authority to convene in closed session if a majority of the members determined it was appropriate and necessary. Attorney Eckert explained that the Board's status as a quasi-judicial body could require closed session deliberations based on the fact that the Board's role is to hear and deliberate on testimony brought before it, and the nature of that testimony will not always be known to the Board prior to notice publication and agenda preparation.

Attorney Eckert further stated that while it was unknown to him whether Mr. Graff had any legal training, it was his opinion that the concerns raised in Mr. Graff's adjournment request were merely an attempt to unduly influence the Board prior to the completion of a formal hearing. He informed the Board that this meeting's agenda and publications had been prepared in accordance with all applicable State statutes.

Chairman Stuetgen asked the Board if they wished to consider Mr. Graff's request for an adjournment at this time. Motion Wolf/Patenaude to adjourn the meeting for a period not to exceed 60 days.

Attorney Eckert asked that the Board members consider amending the motion to reflect the fact that another request for a Board of Appeals hearing must be received within 60 days and would have to include the payment of a second hearing fee of \$175 to cover the publication and notice costs associated with this action. Board Member Wolf and Board Member Patenaude stated they would amend the motion as requested.

Motion amended by Wolf/Patenaude to adjourn the meeting for a period not to exceed 60 days, during which time a new request for hearing would have to be filed accompanied by the payment of the necessary hearing fee of \$175. A vote was taken on this motion with the following results: Yea's: Kohl, Patenaude, Stuetgen, Toraason, Wolf; Nay's: None. The motion was carried.

## **II. Adjourn Meeting**

Motion Wolf/Toraason to adjourn at 6:12 p.m.; carried.

---

Margaret Wilber, Deputy Administrator/Deputy Clerk