

CHAPTER XXXI
ZONING ORDINANCE
VILLAGE OF SLINGER, WASHINGTON COUNTY, WISCONSIN

ARTICLE 12.00 ZONING BOARD OF APPEALS

12.01 ESTABLISHMENT

There is hereby established a Zoning Board of Appeals for the Village of Slinger or the purpose of hearing appeals and applications and granting variances and exceptions to the provisions of this Zoning Ordinance.

12.02 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members appointed by the Village President and confirmed by the Village Board.

- A. Terms shall be for staggered three-year periods.
- B. Chairman shall be designated by the village president.
- C. Alternate members must be appointed by the village president for a term of three (3) years and shall act only when a regular member is absent or refused to vote because of interest.
- D. Zoning administrator shall attend all meetings for the purpose of providing technical assistance when requested by the board.
- E. Official oaths shall be taken by all members in accordance with section 19.01 of the Wisconsin statutes within ten (10) days of receiving notice of their appointment.
- F. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

12.03 ORGANIZATION

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

A. Meetings

Meetings shall be held at the call of the chairman and shall be open to the public.

B. Official Record

Minutes of the proceedings and a record of all actions shall be kept, showing the vote of each member upon each question, the reasons for the board's determination, and its finding of facts. These records shall be immediately filed in the office of the board and shall be public record.

C. Quorum

A quorum is a majority of the members of the Zoning Board of Appeals.

D. Voting

If a quorum is present, the concurring vote of a majority of the members present shall be necessary to correct an error, grant a variance, make an interpretation, and permit a utility, unclassified, or substituted use.

12.04 POWERS

The Zoning Board of Appeals shall have the following powers:

A. Errors

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator.

B. 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 ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.

C. Interpretations

To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the village plan commission has made a review and recommendation.

D. Substitutions

To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the village plan commission has made a review and recommendation. Whenever the board permits such a substitution, the use may not thereafter be changed without application.

E. Floodplain Mapping Disputes

To hear and decide upon the delineation of the F-1 floodplain district where it is alleged there is a difference between the elevation of the floodplain and lands shown within the floodplain based upon field surveys, or for determining the precise location of the floodplain in unnumbered a zones.

F. Permits

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

G. Assistance

The board may request assistance from other village officers, departments, commissions, and boards.

H. Oaths

The chairman may administer oaths and compel the attendance of witnesses.

12.05 APPEALS & APPLICATIONS

Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the Village. Such appeals shall be filed with the secretary within thirty (30) days after the date of written notice of the decision or order of the zoning Administrator. Applications may be made by the owner or the lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:

- A. Name & address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing all of the information required under Section 2.04 for a Zoning Permit.
- C. Additional information required by the Village Plan Commission, Village Engineer, Zoning Board of Appeals, or Zoning Administrator.

12.06 HEARINGS

The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing, and shall give notice as specified in Section 14.00 of this ordinance. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

12.07 FINDINGS

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

A. Preservation of Intent

No variance shall be granted that is not consistent with the purpose and intent of the regulations of the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

B. Exceptional Circumstances

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

C. Economic Hardship & Self-Imposed Hardship Not Grounds for Variance

No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

D. Preservation of Property Rights

The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

E. Absence of Detriment

No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this ordinance or the public interest.

F. Additional Requirements in the F-1 Floodland District

No variance shall be granted where:

1. Filling and development contrary to the purpose and intent of the F-1 Floodplain District would result.
2. A change in the boundaries of the F-1 Floodplain District would result.

3. A lower degree of flood protection than a point two (2') feet above the 100-year recurrence interval flood for the particular area would result.
4. Any action contrary to the provisions of Chapter NR-126 of the Wisconsin Administrative Code would result.

12.08 MAPPING DISPUTES

The following procedure shall be used by the Board of Appeals in settling disputes of a floodplain zoning district boundary:

- A. The flood district boundary shall be determined by uses of the flood profiles contained in an engineering study, or where such information is not available, by experience flood maps or any other evidence available to the Board.
- B. The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the Village Plan commission of its findings and the Plan Commission shall proceed to petition the Village Board for a map amendment.

12.09 DECISION

The Zoning Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and Village Plan Commission.

- A. Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.
- B. Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

12.10 NOTICE TO DNR

The Zoning Board of Appeals shall transmit a copy of each application for a variance to floodland regulations to the Wisconsin Department of Natural Resources (DNR) for review and comment. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendations, whichever comes first. A copy of all decisions relating to variances to floodland regulations shall be transmitted to the DNR within ten (10) days of the effective date of such decision.

12.11 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified, setting forth that such decision is illegal

and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.