

**MINUTES OF THE BOARD OF APPEALS MEETING  
1-20-16**

The meeting of the Slinger Board of Appeals was called to order by Chairman Toraason at 300 Slinger Road, Slinger Wisconsin on Wednesday, January 20, 2016 at 5:32 p.m.

<b>I. Roll Call &amp; Notice of Meeting:</b>	<u>Present</u>	<u>Absent</u>
Craig Wolf	x	
Rick Knipfer	x	
Chris Leis	x	
Eugene Mueller	x	
Larry Toraason	x	
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**Also Present:** Tammy Tennies, Clerk  
Greg Darga, Village Building Inspector/Zoning Administrator

Clerk Tennies took the roll call and stated that all posting and publication requirements had been met. Clerk Tennies read the Zoning Board Announcement of Proceedings and the public notice.

Clerk Tennies administered the Oath of Witness to all who wished to speak before the Board at this time. Sworn in were Chad and Kristen Bonlender of W179 N8602 Village Ct. Menomonee Falls, WI 53051 and Zoning Administrator, Greg Darga, 300 Slinger Rd. Slinger, WI 53086.

**II. Public Hearing:**

**Variance No. 1 is required to allow the minimum width of the subject lot to be reduced from the zoning code required width of 150 feet to 141 feet. Variance No.2 is required related to the requirement on the subject lot for the street yard setback of the new home to be reduced from 74 feet to 60 feet from the right-of-way line of Grandview Drive.**

It was noted that both variances would be discussed concurrently.

A. Petition for Appeal

Clerk Tennies announced that Chad & Kristin Bonlender are petitioning for two variances to allow construction of a new home on a vacant lot located at 2077 Grandview Drive a/k/a Lot 62 in Sherman Heights Subdivision. It was noted that the existing width of the subject lot is 150 feet and the Bonlender's are requesting a width of 141 feet. It was also noted that the existing setback from the right-of-way line of Grandview Drive is 74ft. and the Bonlender's are requesting a setback of 60ft.

B Opening Statement of Petitioner

Mr. Chad Bonlender, owner of the subject property 2077 Grandview Drive, appeared before the Board to discuss the variances he is asking for on his property. Mr. Bonlender stated that he has a unique lot which has a stormwater easement on the side of the property and the back corner. He stated that there is also a steep hill in the back and he would like to build the house in a functional area away from the hill. Mr. Bonlender stated that due to the shape of his lot, without the variances, the placement of his

house would look odd in comparison to the neighbors as his neighbors' are at a 40ft. setback.

C. Zoning Administrator/Staff Review of Petition

Chairman Toraason asked Zoning Administrator Darga to discuss the Village's position on this petition. Zoning Administrator Darga stated that he went out to Lot #62 and the lot does steadily drop off from the NE to SW corner of the lot and the back of the house would be the start of the drop off if built at the 74ft. setback. He stated that the grading and elevation were checked and if the variances were approved, the Bonlender's would need to provide fill to touch up the grading and that works with the elevation. Zoning Administrator Darga stated that the neighboring houses adjacent to lot #62 have setbacks of 42.2ft. (Lot #61 with an existing house on it) and 41ft. (Lot #63 a proposed plan that the Zoning Administrator has in his office). He stated that moving the house up to have a setback of 60ft. does meet the side setbacks requirements within the R-1 zoning district. Zoning Administrator Darga also stated that moving the house up would line up the houses better and even though there is still a 20ft. difference, it would even things out a little bit when viewing it from the neighboring homes. Zoning Administrator Darga stated that this variance was a reasonable request.

Zoning Administrator Darga noted that there had been a variance in this subdivision in 2007.

Discussion was held on setting a precedent and how the Board of Zoning Appeals viewed each case individually and the Board does not set precedents.

D. Public Comment Period

There was no further comment.

E. Closing Statements & Close Hearing

Chairman Toraason asked Mr. Bonlender and Zoning Administrator Darga to present their closing statements.

No further comments were made.

**III. Deliberation of Petition:**

A. Discussion on required variances:

1. Variance No. 1 to allow the minimum lot width to be reduced from 150ft. to 141 ft.
2. Variance No. 2 to allow the new home to be located 60 ft. from the right-of-way line of Grandview Drive.

B. Findings of Fact

Chairman Toraason read the findings of fact that are used to make any determination on variance requests as listed in Village of Slinger Zoning Code Section 12.07.

Board members discussed that rather than a 150ft. lot width the petitioners would like a 141ft. width. Also, rather than a 74ft. setback from the right-of-way line of Grandview Drive, the petitioners are asking for 60ft.

Chairman Toraason explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment.

Chairman Toraason stated that in regards to preservation of intent, the variances are consistent with the purpose and intent of the regulations of the district in which the development is located. The variances do not 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. It was stated that the setback for R-1 zoning has been met in this case because there is a 15ft. side setback and a 40ft street setback have been met. All Board members, with the exception of Mr. Knipfer, agreed that preservation of intent had been met.

In regards to exceptional circumstances, discussion was held both for and against there being an exceptional circumstance. It was noted that the Bonlender's purchased the property knowing that the lot was a unique shape and that the house would have to be set back further than the adjacent properties. It was stated that because of the steep slope in the back yard and drainage easements, this property does have exceptional circumstances.

Chairman Toraason stated that in regards to exceptional circumstance, there are exceptional conditions applying to the lot that do not apply generally to other properties in the same district and the granting of the variances would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed. Board members agreed that there are exceptional circumstances due to the steep slope in the back yard and drainage easements.

Chairman Toraason stated that in regards to economic hardship and self-imposed hardship, there aren't any hardships for consideration in this case. It was noted that the variances are not based solely on economic gain or loss and that the hardship in this situation is not self-imposed based on the lay of the land which the developer created.

Chairman Toraason stated that in regards to preservation of property rights, these variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity. It was stated that without Variance #2, the house would look out of place in relation to the adjacent homes.

Chairman Toraason stated that in regards to absence of detriment, the variances do not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the public interest because the water flow is not affected and by moving the house up to 60ft. it will enhance the look of the neighborhood.

C. Additional Conditions (if necessary)

No additional conditions were presented.

D. Action to Approve, Modify, or Deny the Requested Variances

Motion Wolf/Mueller to approve Variance No. 1 to allow the minimum lot width to be reduced from 150ft. to 141 ft. and Variance No. 2 to allow the new home to be located 60 ft. from the right-of-way line of Grandview Drive. A roll call vote was taken on this motion with the following results: Yea's: Wolf, Toraason, Leis, Mueller; Nay's: Knipfer. Motion passed.

E. Notice of Appeal Rights

It was stated to the Bonlender's that they could proceed with a building permit yet they were informed that 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. It was noted that 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.

**IV. Adjourn Meeting**

Motion Mueller/Knipfer to adjourn at 6:21 p.m. Motion passed.

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Tammy Tennies, Clerk