

**MINUTES OF THE BOARD OF APPEALS MEETING
4-25-17**

In the absence of the chairman, the meeting of the Slinger Board of Appeals was called to order by Clerk Tennies at 300 Slinger Road, Slinger Wisconsin on Tuesday, April 25, 2017 at 6:00 p.m.

I. Roll Call & Notice of Meeting:	<u>Present</u>	<u>Absent</u>
Craig Wolf		x
Rick Knipfer	x	
Chris Leis		x
Eugene Mueller	x	
Ken Leeson (alternate)	x	
Greg Bayer (alternate)	x	
Doug Thiel	x	
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Also Present: Tammy Tennies, Clerk
Greg Darga, Village Building Inspector/Zoning Administrator

Clerk Tennies stated that in the absence of the chairperson, a motion is necessary to appoint another member of the Board to chair the meeting.

Motion Leeson/Bayer to elect Eugene Mueller to chair the meeting. Motion passed.

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 Mr. Eric Draskowski, Excel Engineering, 100 Camelot Dr. Fond Du Lac, WI 54935, Mr. Craig Wolf, 120 Park Ct. Slinger, WI 53086, Mr. & Mrs. Norman & Eileen Lehman, 509 Kettle Moraine Dr. S. Slinger, WI 53086 and Zoning Administrator, Greg Darga, 300 Slinger Rd. Slinger, WI 53086.

II. Public Hearing:

- A. Petition for Appeal: E.H. Wolf & Sons, Inc. is requesting a side yard setback variance in the M-2 Manufacturing District to allow construction of a new office building at the site of their existing office building at 501 Kettle Moraine Drive South. Section 3.18 G. 2. of the Village Zoning Ordinance requires that a side yard setback in the M-2 Manufacturing District be a minimum of 40ft. from a residentially zoned lot line. The proposed site plan indicates a setback of 30ft. from the lot line common to the properties at 509 & 501 Kettle Moraine Drive S. Thus, a variance is being requested to reduce the south side setback for the new office building from the zoning ordinance requirement of 40ft. to 30ft.

Clerk Tennies announced that E.H. Wolf & Sons, Inc. is petitioning for a variance to reduce the south side setback for the new office building from the zoning ordinance requirement of 40ft. to 30ft.

- B Opening Statement of Petitioner

Mr. Craig Wolf, owner of the subject property 501 Kettle Moraine Dr. S., appeared before the Board

to discuss the variance he is asking for on his property. Mr. Wolf stated that he is asking for a variance because there is a need to have a safe driving area between the buildings. Mr. Wolf stated that the variance would provide a 30ft. driving area for vehicles to travel and provide a safer area for people to enter and exit their vehicles. He also stated that if the variance is granted it would improve the parking area on the property, because without the variance there would be more noise and activity in the front of the property. Mr. Wolf noted that by granting this variance visibility will be improved for 509 Kettle Moraine Dr. S. He stated that moving the building back will enhance their view of the downtown.

Mr. Eric Drazkowski, Excel Engineering reiterated the need for the variance for safety reasons. He stated in regards to the grading on the property the house located on 509 Kettle Moraine Dr. S is at elevation 1085ft. and the proposed new building will be at 1065ft., so the building will not be an imposing structure.

C. Zoning Administrator/Staff Review of Petition

Chairman Mueller asked Zoning Administrator Darga to discuss the Village's position on this petition. Zoning Administrator Darga stated that the subject property is in the M-2 zoning district, which requires a 40ft. setback measured parallel to the residential property line. He stated that as proposed the building is set at 33.65ft. off the north property line, but not for the entire length. Zoning Administrator Darga stated that the petitioner is asking for the 10ft. variance even though the building is set at 33.65ft. to have room for any adjustments. Zoning Administrator Darga stated that staff does not have any recommendations and will abide by the decision of the Board of Appeals.

D. Public Comment Period

Mrs. Eileen Lehman asked for clarification on the address listed as 515 Kettle Moraine Dr. S in the petition. The Board informed Mrs. Lehman that is a clerical error and that 515 should be 501. Mrs. Lehman also commented that she is pleased with the changes E.H. Wolf is doing to the property and does not have any objections to the variance they are requesting.

E. Closing Statements & Close Hearing

Chairman Mueller asked Mr. Craig Wolf and Zoning Administrator Darga to present their closing statements.

No further comments were made.

III. Deliberation of Petition:

A. Discussion on required variance:

Variance: Required to reduce the south side setback from the zoning code requirement of 40ft. to 30ft.

Commissioner Knipfer inquired why the plan drawing states a 33.65ft. set back and the variance being asked for is 10ft resulting in a 30ft. setback.

Mr. Draskowski replied that the reasoning for the 33.65ft. setback and asking for the setback to be at 30ft. is to allow for grading issues, possibly allow the widening of the sidewalk and to allow for more cushion for the traffic flow.

B. Findings of Fact

Chairman Mueller 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 the project on this property is an improvement to the existing building and will provide a safer environment for the trucks entering and exiting.

Chairman Mueller 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 Mueller stated that in regards to preservation of intent, the variance is consistent with the purpose and intent of the regulations of the district in which the development is located. The variance does 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. The Board stated that this request is not out of the ordinary and is reasonable.

In regards to exceptional circumstances, discussion was held that there are exceptional circumstances. It was noted that the terrain of the property and the steep slope in the back yard of this property creates exceptional circumstances.

Chairman Mueller 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 variance 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 terrain of the property.

Chairman Mueller 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 variance is 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.

Chairman Mueller stated that in regards to preservation of property rights, the variance is 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 the variance there could be a potential safety issue.

Chairman Mueller stated that in regards to absence of detriment, the variance does 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 it will enhance the look of the neighborhood and it will improve the view of the adjacent property.

C. Additional Conditions (if necessary)

No additional conditions were presented.

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

Motion Knipfer/Leeson to approve the requested variance of 10ft. to reduce the south side setback for the new office building from the zoning ordinance requirement of 40ft. to 30ft. A roll call vote was taken on this motion with the following results: Yea's: Bayer, Mueller, Knipfer, Leeson and Thiel; Nay's: None. Motion passed.

E. Notice of Appeal Rights

It was stated to the Wolf's that they could proceed with a building permit yet Clerk Tennies did inform them 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 Leeson/Bayer to adjourn at 6:31 p.m. Motion passed.

Tammy Tennies, Clerk