

**MINUTES OF THE BOARD OF APPEALS MEETING**  
**Board of Appeals**  
**02-01-12**

The meeting of the Slinger Board of Appeals was called to order by Chairman Martin at 300 Slinger Road, Slinger, Wisconsin on Wednesday, February 1, 2012 at 5:30 p.m.

<b>I. Roll Call &amp; Notice of Meeting:</b>	<u>Present</u>	<u>Absent</u>
Candi Martin	x	
Eugene Mueller	x	
Dawn Smith	x	
Larry Toraason	x	
Craig Wolf		x, excused
Dave Malecha (Alternate)	x	
Erin Rauh (Alternate)		x, excused
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**Also Present:** Terry Frederickson, Village Building Inspector/Zoning Administrator  
Marty Marchek, Village Planner  
Margaret Wilber, Deputy Administrator/Deputy Clerk

Chairman Martin called the meeting to order at 5:30 p.m. Deputy Clerk Wilber took the roll call and stated that the open meeting law had been complied with in connection with this meeting.

Deputy Clerk Wilber administered the Oath of Witness to all who wished to speak before the Board at this time. Sworn in were Zoning Administrator Terry Frederickson 300 Slinger Road, Village Planner Marty Marchek 300 Slinger Road, Scott Walters 6600 Midland Court, Allenton and Caleb Morisette 6600 Midland Court, Allenton.

**II. Public Hearing**

**A. Petition for Appeal**

Deputy Clerk Wilber read the Notice of Public Hearing and announced that the petitioners, Larry Wagner and Edward Shanley d/b/a DMT Workholding, were requesting two variances. Variance No. 1 would allow the nonconforming building to be enlarged and Variance No. 2 would allow the encroachment of the building addition into the code-required 20-ft. minimum side yard. Deputy Clerk Wilber informed the Board that all posting and publication requirements had been met and no commentary had been received prior to this meeting.

Chairman Martin opened the public hearing portion of the meeting at 5:33 p.m. and asked the petitioners to present their case.

**B. Petitioner's Case**

Scott Walters from Walters Buildings appeared before the Board to represent the petitioners. Mr. Walters discussed details of the proposed addition to the DMT Workholding building. He explained that the proposed addition would be 6.2 feet by 10.2 feet and is needed to accommodate a large crane that will be used by the business. He stated that the addition would be finished in the same material as the existing building.

Mr. Walters stated that the building is nonconforming due to the existing encroachment into the southern side yard, which must have been approved by the Village on a prior date. He stated that approving a variance to allow another encroachment into the 20-ft side yard would improve the look of the building and avoid an odd bump-out shape on the south side of the building.

**C. Zoning Administrator's Determination**

Zoning Administrator Frederickson presented the Board with a copy of his notice to the petitioner that the building permit was denied due to the encroachment into the side yard. He stated that the building's nonconforming status and the new side yard encroachment were the only objections to issuing a building permit.

Planner Marchek informed the Board that since the Notice of Public Hearing was issued, staff had researched the history of this building and found that a variance was granted by the Village in 1994. He stated this was the variance that allowed the existing encroachment and made the building nonconforming. Planner Marchek stated that a copy of the minutes from the 1994 Board of Appeals meeting was provided for the Board's review.

Planner Marchek stated that Village Engineer Haggerty had informed him that the former sewer main that was located on the property had been moved and is now entirely on the Village property to the south of this parcel. He stated the sewer main was the reason there was a utility easement shown on the parcel plat, and with the removal of the sewer main the easement is no longer needed. Planner Marchek stated there was the chance that underground electric lines may be found in the area, but they would be discovered during the normal Diggers Hotline process that will take place before construction. He stated that any lines that should be found in the area would have to be relocated off the property and would still not require an easement.

**D. Public Comment Period**

Chairman Martin asked if anyone else in attendance wished to make a comment during this time. There was no further public comment.

**E. Closing Statements**

In closing, Mr. Walters stated that DMT Workholding has been a good citizen of the Village. He stated the business is asking for these variances in order to expand their operations and enable them to remain in their present location.

### **III. Deliberation of Petition:**

#### **A. Discussion on the required variances:**

1. Variance #1 to allow any enlargement of the nonconforming building
2. Variance #2 to allow the proposed addition to be located 6.2 ft to 6.8 ft from the south lot line

Chairman Martin stated that the two variances could be discussed at the same time since both concerned the encroachment into the southern side yard.

Board members discussed the petition and stated that the proposed addition would have very little impact to the area since the building was already nonconforming. They stated that granting the variances would allow the property owner to expand the building in a way that would improve the appearance of the building. Board members stated that it was a positive development that the company was expanding and trying to find a way to do this at their present location.

Board members asked about neighboring property owners and how they would be affected if the variances are approved. Planner Marchek stated that the property directly to the south of the parcel is owned by the Village and consists of the Library and Department of Public Works parking lot and storage area. He stated that the property to the north and east of the building is owned by the Weyer Limited Partnership and is part of the strip mall parcel.

#### **B. Findings of Fact**

Chairman Martin asked Deputy Clerk Wilber to review the findings of fact that are used to make any determination on variance requests. Deputy Clerk Wilber read the findings of fact as listed in Village of Slinger Zoning Code Section 12.07. She explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and not Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment. Deputy Clerk Wilber stated there appeared to be a consensus of the Board that both variances would meet the preservation of intent finding since they are consistent with the purpose of regulations of the district. She further stated the Board finds there are exceptional circumstances in this situation, there is no self-imposed economic hardship, there is the preservation of property rights and there is an absence of detriment to adjacent property.

#### **C. Additional Conditions (if necessary)**

Chairman Martin asked the Board if there were any additional conditions that they wished to propose in this matter. Board Member Toraason stated it was his opinion that a stipulation should be added that would prevent any further encroachment into the side yard in this particular section of the building.

**D. Action to Approve, Modify, or Deny the Requested Variance**

Board Member Toraason moved to approve both requested variances subject to the stipulation that there is no further encroachment into the southern side yard in the area of the approved additions and based on the findings that the variances would be consistent with the purpose of regulations in the area, there were extraordinary circumstances in this situation, there is no self-imposed economic hardship, the approval would preserve property rights and the variances would not create a substantial detriment to adjacent property. Board Member Mueller seconded the motion and a vote was taken with the following results: Yea's: Martin, Malecha, Mueller, Smith, Toraason; Nay's: None. The motion was passed and the variances were approved.

**E. Notice of Appeal Rights**

Deputy Clerk Wilber informed Mr. Walters that written confirmation of the approval of the variances will be sent to the petitioners within the next few business days.

**IV. Adjourn Meeting**

Motion Malecha/Toraason to adjourn at 5:50 p.m.; carried.

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Margaret Wilber, Deputy Administrator/Deputy Clerk