

No. 603, A.]

[Published July 20, 1927.]

**CHAPTER 408.**

AN ACT to create section 59.98 of the statutes, relating to the board of adjustment in enforcing county zoning ordinances. *The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is added to the statutes to read: 59.98 (1) The county board may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of section 59.97 may provide that the said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(2) The board of adjustment shall consist of three members, who shall be appointed as herein provided. The chairman of the county board shall appoint, with the approval of the county board, three members for terms of one, two, and three years, respectively, dating from July 1, 1927. Successors shall be appointed in like manner at the expiration of each term and their terms of office shall be three years in all cases, beginning July first in the year in which they are appointed and until their successors are appointed. The members of the board shall all reside within the county and outside of the limits of incorporated cities and villages, provided, however, that no two members shall reside in the same town. The board shall choose its own chairman. Office room shall be provided by the county board, and the actual and necessary expenses incurred by the board in the performance of its duties shall be paid and allowed as in cases of other claims against the county. The county board may likewise compensate the members of said board and such assistants as may be authorized by said county board. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(3) The county board shall adopt rules for the conduct of the business of said board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to section 59.97. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the

county board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(4) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(5) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(6) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(7) The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of section 59.97 or of any ordinance adopted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(8) In exercising the above-mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(9) The concurring vote of two members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(10) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

(11) Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(12) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to

return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(13) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(14) Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 18, 1927.

---

No. 692, A.]

[Published July 20, 1927.

## CHAPTER 409.

AN ACT to repeal paragraph (a) of subsection (4) of section 20.15 of the statutes, relating to repairs and maintenance at the Wisconsin veterans home; and to amend paragraph (a) of subsection (3), and paragraphs (b) and (c) of subsection (4), all of section 20.15 of the statutes, relating to appropriations for the Wisconsin veterans home.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Paragraph (a) of subsection (4) of section 20.15 of the statutes is repealed.

SECTION 2. Paragraph (a) of subsection (3), and paragraphs (b) and (c) of subsection (4) of section 20.15 of the statutes are amended to read: (20.15) (3) (a) *Annually, beginning July 1, 1927*, for maintenance of each inmate and employe in such