

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 523**

February 22, 2000 – Offered by Representative STASKUNAS.

1 **AN ACT** *to renumber and amend* 62.23 (7) (e) 7.; *to amend* 62.23 (7) (e) 8.; and
2 *to create* 59.694 (7) (cm) and 62.23 (7) (e) 7m. of the statutes; **relating to:**
3 changing the standards under which certain zoning variances may be granted
4 by a local board of adjustment or appeals.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 59.694 (7) (cm) of the statutes is created to read:
6 59.694 (7) (cm) Notwithstanding par. (c), to authorize upon appeal in specific
7 cases involving area provisions of a zoning ordinance, variances from the terms of the
8 ordinance that will not be contrary to the public interest, solely on the grounds that
9 strict compliance with the area provisions of the zoning ordinance either would
10 unreasonably prevent the property owner from using the property owner's property
11 for a permitted purpose or would render conformity with the zoning ordinance
12 unnecessarily burdensome. The board may make the order, requirement, decision

1 or determination under this paragraph without regard to any other purpose of the
2 ordinance. A variance that may be granted under this paragraph may be granted
3 only for an area other than an area to which an ordinance that relates to zoning in
4 wetlands, shorelands or floodplains, that is enacted or adopted under s. 59.692,
5 61.351, 62.231 or 87.30, applies.

6 **SECTION 2.** 62.23 (7) (e) 7. of the statutes is renumbered 62.23 (7) (e) 7. (intro.)
7 and amended to read:

8 62.23 (7) (e) 7. (intro.) The board of appeals shall have the following powers:
9 ~~To hear~~ may do all of the following:

10 a. Hear and decide appeals where it is alleged there is error in any order,
11 requirement, decision or determination made by an administrative official in the
12 enforcement of this section or of any ordinance adopted pursuant thereto; ~~to hear.~~

13 b. Hear and decide special exception to the terms of the ordinance upon which
14 such board is required to pass under such ordinance; ~~to authorize.~~

15 c. Authorize upon appeal in specific cases such variance from the terms of the
16 ordinance as will not be contrary to the public interest, where, owing to special
17 conditions, a literal enforcement of the provisions of the ordinance will result in
18 practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall
19 be observed, public safety and welfare secured, and substantial justice done. ~~The~~
20 ~~board may permit~~

21 d. Permit in appropriate cases, and subject to appropriate conditions and
22 safeguards in harmony with the general purpose and intent of the ordinance, a
23 building or premises to be erected or used for such public utility purposes in any
24 location which is reasonably necessary for the public convenience and welfare.

25 **SECTION 3.** 62.23 (7) (e) 7m. of the statutes is created to read:

1 62.23 (7) (e) 7m. The board of appeals may authorize upon appeal in specific
2 cases involving area provisions of a zoning ordinance, variances from the terms of the
3 ordinance that will not be contrary to the public interest, solely on the grounds that
4 strict compliance with the area provisions of the zoning ordinance either would
5 unreasonably prevent the property owner from using the property owner's property
6 for a permitted purpose or would render conformity with the zoning ordinance
7 unnecessarily burdensome. The board may make the order, requirement, decision
8 or determination under this subdivision without regard to any other purpose of the
9 ordinance. A variance that may be granted under this subdivision may be granted
10 only for an area other than an area to which an ordinance that relates to zoning in
11 wetlands, shorelands or floodplains, that is enacted or adopted under s. 59.692,
12 61.351, 62.231 or 87.30, applies.

13 **SECTION 4.** 62.23 (7) (e) 8. of the statutes is amended to read:

14 62.23 (7) (e) 8. In exercising the ~~above-mentioned~~ powers such under subds. 7.
15 and 7m. the board of appeals may, in conformity with the provisions of ~~such~~ section
16 those subdivisions, reverse or affirm, wholly or partly, or may modify the order,
17 requirement, decision or determination appealed from, and may make such order,
18 requirement, decision or determination as ought to be made, and to that end shall
19 have all the powers of the officer from whom the appeal is taken, and may issue or
20 direct the issue of a permit.

21 (END)