

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: 06/10/99

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-9916**

By/Representing: **Olin**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous
Counties
Nat. Res. - LWSR stewardship**

Extra Copies:

Pre Topic:

LFB:.....Olin -

Topic:

Local zoning ordinances, variances; unnecessary hardship

Instructions:

See Attached, motion # 1348

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 06/10/99	ygeller 06/10/99	martykr 06/10/99	_____	lrb_docadmin 06/10/99		

FE Sent For:

<END>

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FE Sent For:

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Representative Albers

MISCELLANEOUS

Local Zoning Variances

Motion:

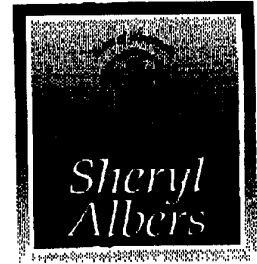
Move to define unnecessary hardship for purposes of granting variances to local zoning ordinances as a condition where compliance with the strict letter of the zoning restrictions would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

Note:

State law authorizes municipalities to enact zoning ordinances that regulate and restrict: (1) the height, number of stories and size of buildings and other structures; (2) the percentage of a lot occupied by a building or structure; (3) the size of yards, courts and other open spaces; (4) population density; and (5) the location and use of buildings, structures and land for various purposes. State law requires the governing body to create a board of appeals that can make special exceptions to the terms of the local ordinance. Also, individuals may appeal actions of the local government's administrative officers to the board regarding: (1) errors in administrative decisions and determinations; (2) special exceptions to the zoning ordinance; and (3) variances to the zoning ordinance. To grant a variance, the board must find that the variance is not contrary to the public interest and that, due to special conditions, the literal enforcement of the zoning ordinance will result in practical difficulty or unnecessary hardship. The motion would define unnecessary hardship.

1348 amend to include

further, specify that the definition does not apply to variance requests relating to shoreland, wetland and conservancy zoning ordinances



To: Legislative Fiscal Bureau
From: Representative Sheryl K. Albers

Date: June 8, 1999

Subject: Statutory Definition of "Unnecessary Hardship" for Variances

Please draft a motion, as one of my two miscellaneous free standing motions, which will accomplish the following:

Amend Wisconsin's zoning variance laws [section 62.23(7)(e)(7), and at all other applicable locations] to specifically define "unnecessary hardship," for variance purposes, as follows:

"Where compliance with the strict letter of the (zoning) restrictions would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Thank you.

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Home: 86896 Seeley Creek Road • Loganville, WI 53843 • (608) 727-5084



State of Wisconsin
1999 - 2000 LEGISLATURE

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LFB:.....Olin – Local zoning ordinances, variances; unnecessary hardship
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION
LFB AMENDMENT
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 1. Page 793, line 14: after that line insert:

3 “SECTION 1580g. ✓ 59.694 (7) (c) ✓ of the statutes is amended to read:

4 59.694 (7) (c) To authorize upon appeal in specific cases variances from the
5 terms of the ordinance that will not be contrary to the public interest, where, owing
6 to special conditions, a literal enforcement of the provisions of the ordinance will
7 result in unnecessary hardship, and so that the spirit of the ordinance shall be
8 observed and substantial justice done. Except in cases where a ^{property owner} ~~petitioner~~ requests
9 a variance from an ordinance enacted under s. ✓ 59.692, or adopted or reinstated by
10 the department of natural resources under s. ✓ 59.692 (7), or a conservancy zoning
11 ordinance, a ~~petitioner~~ may establish “unnecessary hardship”, as that term is used
12 in this ✓ paragraph, by demonstrating that strict compliance with an area zoning

25
property owner's

property owner

property owner's

1 ordinance would unreasonably prevent the ~~petitioner~~ from using the ~~petitioner's~~
2 property for a permitted purpose or would render conformity with the zoning
3 ordinance unnecessarily burdensome.”

History: 1973 c. 60, 336; 1981 c. 289, 354; 1983 a. 192 ss. 132, 133, 303 (2); 1987 a. 395; 1991 a. 316; 1993 a. 171; 1995 a. 201 s. 479; Stats. 1995 s. 59.694; 1997 a. 35.

4 **2.** Page 797, line 19: after that line insert:

5 **“SECTION 1591g. 62.23 (7) (e) 7.** of the statutes is amended to read:

6 62.23 (7) (e) 7. The board of appeals shall have the following powers: To hear
7 and decide appeals where it is alleged there is error in any order, requirement,
8 decision or determination made by an administrative official in the enforcement of
9 this section or of any ordinance adopted pursuant thereto; to hear and decide special
10 exception to the terms of the ordinance upon which such board is required to pass
11 under such ordinance; to authorize upon appeal in specific cases such variance from
12 the terms of the ordinance as will not be contrary to the public interest, where, owing
13 to special conditions, a literal enforcement of the provisions of the ordinance will
14 result in practical difficulty or unnecessary hardship, so that the spirit of the
15 ordinance shall be observed, public safety and welfare secured, and substantial
16 justice done. The board may permit in appropriate cases, and subject to appropriate
17 conditions and safeguards in harmony with the general purpose and intent of the
18 ordinance, a building or premises to be erected or used for such public utility
19 purposes in any location which is reasonably necessary for the public convenience

20 and welfare. Except in cases where a ~~petitioner~~ requests a variance from an
21 ordinance enacted under s. 59.692, 61.351 or 62.231, or adopted by the department
22 of natural resources under s. 61.351 (6) or 62.231 (6), or from a conservancy zoning
23 ordinance, a ~~petitioner~~ may establish “unnecessary hardship”, as that term is used
24 in this subdivision, by demonstrating that strict compliance with an area zoning

property owner

property owner

1 ordinance would unreasonably prevent the ^{property owner}~~petitioner~~ from using the ^{property owner's}~~petitioner's~~
2 property for a permitted purpose or would render conformity with the zoning
3 ordinance unnecessarily burdensome.”.

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246.

4

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0619/1
MESjlg:km

LFB:.....Olin – Local zoning ordinances, variances; unnecessary hardship

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

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9 requests a variance from an ordinance enacted under s. 59.692, or adopted or
10 reinstated by the department of natural resources under s. 59.692 (7), or a
11 conservancy zoning ordinance, a property owner may establish “unnecessary
12 hardship”, as that term is used in this paragraph, by demonstrating that strict

1 compliance with an area zoning ordinance would unreasonably prevent the property
2 owner from using the property owner's property for a permitted purpose or would
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24 used in this subdivision, by demonstrating that strict compliance with an area

1 zoning ordinance would unreasonably prevent the property owner from using the
2 property owner's property for a permitted purpose or would render conformity with
3 the zoning ordinance unnecessarily burdensome."

4 (END)