

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 395**

January 4, 2002 – Offered by Representative STASKUNAS.

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

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

4             **SECTION 1.** 59.694 (7m) of the statutes is created to read:

5             59.694 (7m) AREA VARIANCES. (a) In this subsection, “area provisions” means  
6             those provisions of a zoning ordinance which govern area, setbacks, frontage, height,  
7             bulk, or density.

8             (b) Notwithstanding sub. (7) (c) and except as provided in par. (d), the board of  
9             adjustment may authorize upon appeal in specific cases variances from area  
10            provisions if all of the following apply:

11            1. Due to special conditions, strict compliance with the area provisions would  
12            render conformity with the zoning ordinance unnecessarily burdensome.

1           2. The variance will not have substantial impact on the character of the  
2 neighborhood.

3           3. The variance is consistent with the spirit of the zoning ordinance and the  
4 public interest.

5           4. The variance complies with any regulations governing the granting of  
6 variances set forth in the zoning ordinance.

7           (c) To obtain a variance under this subsection, a property owner is not required  
8 to show that without the variance there is no reasonable use of the property.

9           (d) The board of adjustment may not authorize a variance under this subsection  
10 if the variance would apply to territory to which an ordinance, that relates to zoning  
11 in wetlands, shorelands, or floodplains and which is enacted or adopted under s.  
12 59.692, 61.351, 62.231, or 87.30, applies.

13           **SECTION 2.** 62.23 (7) (ef) of the statutes is created to read:

14           62.23 (7) (ef) *Area variances.* 1. In this paragraph, “area provisions” means  
15 those provisions of a zoning ordinance which govern area, setbacks, frontage, height,  
16 bulk, or density.

17           2. Notwithstanding par. (e) 7. and except as provided in subd. 4., the board of  
18 appeals may authorize upon appeal in specific cases variances from area provisions  
19 if all of the following apply:

20           a. Due to special conditions, strict compliance with the area provisions would  
21 render conformity with the zoning ordinance unnecessarily burdensome.

22           b. The variance will not have a substantial impact on the character of the  
23 neighborhood.

24           c. The variance is consistent with the spirit of the zoning ordinance and the  
25 public interest.

