

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/24/2001

Received By: **shoveme**

Wanted: As time permits

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: **Tessmer**

This file may be shown to any legislator: NO

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Munis - zoning
Counties - zoning**

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

ARC:.....Tessmer - AM94,

Topic:

Changing the standards under which certain zoning variances may be granted

Instructions:

See Attached. Same as AB 395, LRB -2470/1

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>
/?	shoveme 06/24/2001	hhagen 06/24/2001		_____			
/1			haugeca 06/25/2001	_____	lrb_docadmin 06/25/2001		
/2	shoveme 06/28/2001	jdye 06/28/2001	jfrantze 06/28/2001	_____	lrb_docadmin 06/28/2001		

FE Sent For:

<END>

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/?	shoveme 06/24/2001	hhagen 06/24/2001					
/1		1/2 6/28 jld	haugeca 06/25/2001		lrb_docadmin 06/25/2001		

FE Sent For:

Handwritten notes: 6/28, 6/28, cis/llb

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

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By/Representing: Tessmer

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Subject: Munis - zoning
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ARC:.....Tessmer - AM94,

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Instructions:

See Attached. Same as AB 395, LRB -2470/1

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1?	shoveme	1. hmk 6/24/01	CH 6/25	6/25			
11 MES 6/24/01				PSH/AR6 6/25			

FE Sent For:

<END>

The notice may be electronic (such as via electronic mail with a site link to additional information) or in writing at the discretion of the municipality. The political subdivision may charge an annual fee that may not exceed the approximate cost of providing the notice or \$12.00 per year.

In addition, require that for any purchase of land or restrictions or easements, the Department of Natural Resources notify in writing, notify the city, village, town or county of such proposed purchase, at least 60 days in advance of completing the transaction.

Affected agency: DNR

Fiscal Impact: Unknown

Location/Status: 1999 AB 739 changed to emphasis electronic format for information and to loosen approximate costs and updated to match comprehensive planning laws. (Albers)

C. Variances

Amend 59.694 (7) [c] to read: "To authorize upon appeal in specific cases variances from the terms of the ordinance that 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. A property owner may establish "unnecessary hardship", as that term is used in this paragraph, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

WES
similar to
2001
AB 345
-2470/1

Make an identical amendment to ss. 62.23(7)(e)(7), which relates to the powers of the board of appeals.

Fiscal impact: \$0

D. Non-Conforming Uses

Prohibit communities from placing limits on the repairs or improvements of existing structures built within the shoreline setback area if the repairs or improvements do not alter the footprint of the building or are built within the otherwise permissible building area of the lot.



Affected agency: DNR

Fiscal Impact: \$0

Location/Status: New motion (Kedzie)

E. Non-Conforming Uses of Historical Structures

Prohibit the Department of Natural Resources from placing limits on the repairs or improvements of existing structures that have an historic or cultural value, as determined by a state or local historical society, built within the shoreline setback area if the repairs

2001

Date (time) needed _____

LRB b 1725, 1

**ARC CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]**

MES: hmb: _____

RMR

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page 668, line 13: *after that line insert:*



#. Page, line:

#. Page, line:

#. Page, line:

#. Page, line:

#. Page, line:

2001 ASSEMBLY BILL 395

May 14, 2001 - Introduced by Representatives STASKUNAS, ALBERS, SERATTI, MUSSER, STARZYK, HUBLER, HAHN, GARD, STONE, SYKORA, OWENS and PETROWSKI, cosponsored by Senators HUELSMAN, GROBSCHMIDT and WELCH. Referred to Committee on Urban and Local Affairs.

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.**

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town that is authorized to exercise village powers (municipality), or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for various purposes.

A municipality's board of appeals or a county's board of adjustment is authorized under current law to hear and decide appeals that allege that there is an error in the enforcement of a zoning ordinance, to hear and decide special exceptions to the terms of a zoning ordinance, and to authorize a variance from the terms of a zoning ordinance. A "use" variance grants permission for a use that is not permitted by the zoning ordinance and an "area" variance relaxes restrictions on dimensions, such as setback, frontage, height, bulk, density, and area. To grant a variance, a board of appeals or board of adjustment must find four things:

1. The variance will not be contrary to the public interest.
2. Substantial justice will be done by granting the variance.
3. The variance is needed so that the spirit of the ordinance is observed.

ASSEMBLY BILL 395

4. Due to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.

Although the term "unnecessary hardship" is not defined in the statutes, a recent decision of the Wisconsin supreme court, *State v. Kenosha County Board of Adjustment*, 218 Wis. 2d 396, 398 (1998), held that the legal standard of unnecessary hardship requires that the property owner demonstrate that without the variance, he or she has no reasonable use of the property.

Under this bill and subject to an exception, a local board of adjustment or appeal may grant an area variance, which will not be contrary to the public interest, solely on the grounds that strict compliance with the area provisions of a zoning ordinance either would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. A variance may not be granted under this provision, however, for an area to which an ordinance that relates to zoning in wetlands, shorelands, or floodplains applies.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 " SECTION ^{2003 WS} 59.694 (7) (cm) of the statutes is created to read:

2 59.694 (7) (cm) Notwithstanding par. (c), to authorize upon appeal in specific
3 cases involving area provisions of a zoning ordinance, variances from the terms of the
4 ordinance that will not be contrary to the public interest, solely on the grounds that
5 strict compliance with the area provisions of the zoning ordinance either would
6 unreasonably prevent the property owner from using the property owner's property
7 for a permitted purpose or would render conformity with the zoning ordinance
8 unnecessarily burdensome. The board may make the order, requirement, decision,
9 or determination under this paragraph without regard to any other purpose of the
10 ordinance. A variance that may be granted under this paragraph may be granted
11 only for an area other than an area to which an ordinance that relates to zoning in
12 wetlands, shorelands, or floodplains, that is enacted or adopted under s. 59.692,
13 61.351, 62.231, or 87.30, applies. //

ASSEMBLY BILL 395

#. Page 669, line 17: after that line insert:

1 SECTION ~~2~~^{2003xm} 62.23 (7) (e) 7. of the statutes is renumbered 62.23 (7) (e) 7. (intro.)
2 and amended to read:

3 62.23 (7) (e) 7. (intro.) The board of appeals ~~shall have the following powers:~~
4 To hear may do all of the following:

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

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

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

16 d. Permit in appropriate cases, and subject to appropriate conditions and
17 safeguards in harmony with the general purpose and intent of the ordinance, a
18 building or premises to be erected or used for such public utility purposes in any
19 location ~~which is~~ ^{that} reasonably necessary for the public convenience and welfare.

20 SECTION ~~2~~^{2003xn} 62.23 (7) (e) 7m. of the statutes is created to read:

21 62.23 (7) (e) 7m. The board of appeals may authorize upon appeal in specific
22 cases involving area provisions of a zoning ordinance, variances from the terms of the
23 ordinance that will not be contrary to the public interest, solely on the grounds that
24 strict compliance with the area provisions of the zoning ordinance either would
25 unreasonably prevent the property owner from using the property owner's property

ASSEMBLY BILL 395

SECTION 3

1 for a permitted purpose or would render conformity with the zoning ordinance
2 unnecessarily burdensome. The board may make the order, requirement, decision,
3 or determination under this subdivision without regard to any other purpose of the
4 ordinance. A variance that may be granted under this subdivision may be granted
5 only for an area other than an area to which an ordinance that relates to zoning in
6 wetlands, shorelands, or floodplains, that is enacted or adopted under s. 59.692,
7 61.351, 62.231, or 87.30, applies.

8 SECTION ~~62.23~~ ^{2003 10} (7) (e) 8. of the statutes is amended to read:

9 62.23 (7) (e) 8. In exercising the above-mentioned powers ~~such~~ under subs. 7.
10 and 7m. the board of appeals may, in conformity with the provisions of ~~such~~ section
11 those subdivisions, reverse or affirm, wholly or partly, or may modify the order,
12 requirement, decision, or determination appealed from, and may make such order,
13 requirement, decision, or determination as ought to be made, and to that end shall
14 have all the powers of the officer from whom the appeal is taken, and may issue or
15 direct the issue of a permit. // ,

16 (END)

Shovers, Marc

From: Johnson, Dan (Legislature)
Sent: Thursday, June 28, 2001 2:41 PM
To: Shovers, Marc; Pirlot, R.J.
Subject: FW: (enviro pkg)FW: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

Follow Up Flag: Follow up
Flag Status: Flagged

1725/1 revision...

Dan Johnson
Research Assistant
Clerk, Committee on Environment
State Representative Neal Kedzie
43rd Assembly District
(608) 266-9650

SECTION 1. 59.694 (7) (c) of the statutes is amended to read:

59.694 (7) (c) To authorize upon appeal in specific cases variances from the terms of the ordinance that 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. A property owner may establish "unnecessary hardship", as that term is used in this paragraph, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

SECTION 2. 62.23 (7) (e) 7. of the statutes is amended to read:

62.23 (7) (e) 7. The board of appeals shall have the following powers: 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 this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; 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 practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare. A property owner may establish "unnecessary hardship", as that term is used in this subdivision, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

Adam Raschka
Assembly Republican Caucus
adam.raschka@legis.state.wi.us
Direct Line: 608-267-0892
Toll-Free: 888-394-1452
Fax: 608-264-6999

-----Original Message-----

From: Tessmer, Paul
Sent: Monday, June 25, 2001 4:39 PM
To: Raschka, Adam
Subject: (enviro pkg)FW: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

-----Original Message-----

From: Haugen, Caroline
Sent: Monday, June 25, 2001 4:39 PM
To: Tessmer, Paul
Cc: Legislative Fiscal Bureau; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

Following is the PDF version of draft 01b1725/1.

<< File: 01b1725/1 >>

Shovers, Marc

From: Shovers, Marc
Sent: Tuesday, June 26, 2001 2:41 PM
To: Raschka, Adam
Subject: RE: (enviro pkg)FW: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

Hi Adam:

I've drafted several versions of the "unnecessary hardship" provisions since the Wisconsin Supreme Court's decision in *State v. Kenosha County Board of Adjustment*, 218 Wis. 2d 396 (1998). One of the drafts I produced in the 1999 session is very similar to the language you have submitted, but when I redrafted the bill this session I made a number of changes that result in a much more effective bill. These changes appear in 2001 AB 395, which was cosponsored by Rep. Albers, among others. I believe that the most effective way to achieve your intent is to use the language that is in AB 395, on which I based b1725/1, and not the language that you have submitted. If you want the amendment redrafted to use the language you've submitted, that's your choice but it is my legal opinion that b1725/1 will more effectively achieve your intent. Please let me know how you would like me to proceed.

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us

-----Original Message-----

From: Raschka, Adam
Sent: Tuesday, June 26, 2001 12:22 PM
To: Shovers, Marc
Subject: FW: (enviro pkg)FW: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

This is going to be redrafted to address the following...

SECTION 1. 59.694 (7) (c) of the statutes is amended to read:

59.694 (7) (c) To authorize upon appeal in specific cases variances from the terms of the ordinance that 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. A property owner may establish "unnecessary hardship", as that term is used in this paragraph, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

SECTION 2. 62.23 (7) (e) 7. of the statutes is amended to read:

62.23 (7) (e) 7. The board of appeals shall have the following powers: 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 this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; 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 practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare. A property owner may establish "unnecessary hardship", as that term is used in this subdivision, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

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Assembly Republican Caucus
adam.raschka@legis.state.wi.us
Direct Line: 608-267-0892
Toll-Free: 888-394-1452
Fax: 608-264-6999

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From: Tessler, Paul
Sent: Monday, June 25, 2001 4:39 PM
To: Raschka, Adam
Subject: (enviro pkg)FW: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

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Cc: Legislative Fiscal Bureau; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 01b1725/1 Changing the standards under which certain zoning variances may be granted

Following is the PDF version of draft 01b1725/1.

<< File: 01b1725/1 >>



RMA + JLD

ARC:.....Tessmer – AM94, Changing the standards under which certain zoning variances may be granted

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

D-NOTE

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 668, line 13: after that line insert:

3 ~~“SECTION 2003ws. 59.694 (7) (cm) of the statutes is created to read:~~

4 59.694 (7) (cm) Notwithstanding par. (c), to authorize upon appeal in specific
5 cases involving area provisions of a zoning ordinance, variances from the terms of the
6 ordinance that will not be contrary to the public interest, solely on the grounds that
7 strict compliance with the area provisions of the zoning ordinance either would
8 unreasonably prevent the property owner from using the property owner’s property
9 for a permitted purpose or would render conformity with the zoning ordinance
10 unnecessarily burdensome. The board may make the order, requirement, decision,

INS
1-2

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 **2.** Page 669, line 17: after that line insert:

7 **“SECTION 2003xm.** ~~62.23 (7) (e) 7.~~ of the statutes is renumbered ~~62.23 (7) (e)~~

8 ~~7. (intro.) and amended to read:~~

9 62.23 (7) (e) 7. (intro.) The board of appeals shall have the following powers:

10 ~~To hear may do all of the following:~~

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

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

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

22 d. Permit in appropriate cases, and subject to appropriate conditions and
 23 safeguards in harmony with the general purpose and intent of the ordinance, a

INS
2-7

1 building or premises to be erected or used for such public utility purposes in any
2 location ~~which~~ that is reasonably necessary for the public convenience and welfare.

3 **SECTION 2003xn.** 62.23 (7) (e) 7m. of the statutes is created to read:

4 62.23 (7) (e) 7m. The board of appeals may authorize upon appeal in specific
5 cases involving area provisions of a zoning ordinance, variances from the terms of the
6 ordinance that will not be contrary to the public interest, solely on the grounds that
7 strict compliance with the area provisions of the zoning ordinance either would
8 unreasonably prevent the property owner from using the property owner's property
9 for a permitted purpose or would render conformity with the zoning ordinance
10 unnecessarily burdensome. The board may make the order, requirement, decision,
11 or determination under this subdivision without regard to any other purpose of the
12 ordinance. A variance that may be granted under this subdivision may be granted
13 only for an area other than an area to which an ordinance that relates to zoning in
14 wetlands, shorelands, or floodplains, that is enacted or adopted under s. 59.692,
15 61.351, 62.231, or 87.30, applies.

16 **SECTION 2003xo.** 62.23 (7) (e) 8. of the statutes is amended to read:

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

24 (END)

Dr. Note
(after ins 2-7) →

1999 BILL

FNS
1-28
2-7

1
2
3

AN ACT to amend 59.694 (7) (c) and 62.23 (7) (e) 7. of the statutes, relating to changing the standards under which certain zoning variances may be granted by a local board of adjustment or appeals.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town that is authorized to exercise village powers (municipality) or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population and the location and use of buildings, structures and land for various purposes.

A municipality's board of appeals or a county's board of adjustment is authorized under current law to hear and decide appeals that allege that there is an error in the enforcement of a zoning ordinance, to hear and decide special exceptions to the terms of a zoning ordinance and to authorize a variance from the terms of a zoning ordinance. A "use" variance grants permission for a use that is not permitted by the zoning ordinance and an "area" variance relaxes restrictions on dimensions, such as setback, frontage, height, bulk, density and area. To grant a variance, a board of appeals or board of adjustment must find four things:

1. The variance will not be contrary to the public interest.
2. Substantial justice will be done by granting the variance.
3. The variance is needed so that the spirit of the ordinance is observed.
4. Due to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.



BILL

Although the term "unnecessary hardship" is not defined in the statutes, a recent decision of the Wisconsin Supreme Court, *State v. Kenosha County Board of Adjustment*, 218 Wis. 2d 396, 398 (1998), held that the legal standard of unnecessary hardship requires that the property owner demonstrate that without the variance, he or she has no reasonable use of the property.

Under this bill, except in cases where a property owner requests a variance from a shorelands, wetlands in shorelands or conservancy zoning ordinance, a property owner may establish "unnecessary hardship" by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

~~Section 1~~ 59.694 (7) (c) of the statutes is amended to read:

59.694 (7) (c) To authorize upon appeal in specific cases variances from the terms of the ordinance that 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. Except in cases where a property owner

requests a variance from an ordinance enacted under s. 59.692, or adopted or reinstated by the department of natural resources under s. 59.692 (7), or a

conservancy zoning ordinance, a property owner may establish "unnecessary hardship", as that term is used in this paragraph, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. //

~~Section 2~~ 62.23 (7) (e) 7. of the statutes is amended to read:

INS
1-2

PWF

INS
2-7, p. 1 of 2

BILL

INS 2-7 cont

PWF

62.23 (7) (e) 7. The board of appeals shall have the following powers: 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 this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; 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 practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare. ~~Except in cases where a property owner requests a variance from an ordinance enacted under s. 59.692, 61.351 or 62.231, or adopted by the department of natural resources under s. 61.351 (6) or 62.231 (6), or from a conservancy zoning ordinance,~~ a property owner may establish "unnecessary hardship", as that term is used in this subdivision, by demonstrating that strict compliance with an area zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

//
↑↑

end of ins 2-7

amendment
D-NOTR

This ~~bill~~ is drafted according to your instructions. It would allow a property owner to establish "unnecessary hardship" even in the face of a shorelands, wetlands in shorelands, or conservancy zoning ordinance. Is this OK?
MES

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1725/2dn
MES:jld:jf

June 28, 2001

This amendment is drafted according to your instructions. It would allow a property owner to establish "unnecessary hardship" even in the face of a shorelands, wetlands in shorelands, or conservancy zoning ordinance. Is this OK?

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ARC:.....Tessmer – AM94, Changing the standards under which certain zoning variances may be granted

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 668, line 13: after that line insert:

3 **“SECTION 2003ws.** 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. A property owner may establish
9 “unnecessary hardship”, as that term is used in this paragraph, by demonstrating
10 that strict compliance with an area zoning ordinance would unreasonably prevent

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

3 **2.** Page 669, line 17: after that line insert:

4 **“SECTION 2003xm.** 62.23 (7) (e) 7. of the statutes is amended to read:

5 62.23 (7) (e) 7. The board of appeals shall have the following powers: To hear
6 and decide appeals where it is alleged there is error in any order, requirement,
7 decision or determination made by an administrative official in the enforcement of
8 this section or of any ordinance adopted pursuant thereto; to hear and decide special
9 exception to the terms of the ordinance upon which such board is required to pass
10 under such ordinance; to authorize upon appeal in specific cases such variance from
11 the terms of the ordinance as will not be contrary to the public interest, where, owing
12 to special conditions, a literal enforcement of the provisions of the ordinance will
13 result in practical difficulty or unnecessary hardship, so that the spirit of the
14 ordinance shall be observed, public safety and welfare secured, and substantial
15 justice done. The board may permit in appropriate cases, and subject to appropriate
16 conditions and safeguards in harmony with the general purpose and intent of the
17 ordinance, a building or premises to be erected or used for such public utility
18 purposes in any location which is reasonably necessary for the public convenience
19 and welfare. A property owner may establish “unnecessary hardship”, as that term
20 is used in this subdivision, by demonstrating that strict compliance with an area
21 zoning ordinance would unreasonably prevent the property owner from using the
22 property owner's property for a permitted purpose or would render conformity with
23 the zoning ordinance unnecessarily burdensome.”.

24 (END)