

2005 DRAFTING REQUEST

Bill

Received: **12/03/2004**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Rep. Albers**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - zoning**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Members of a zoning board of adjustment who must be present for the board to act

Instructions:

See Attached. Redraft 2003 ASA 1 to AB 442 (LRB s0271/1)

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>
/?	mshovers 12/03/2004	chanaman 12/08/2004		_____			Local
/1			rschluet 12/08/2004	_____	Inorthro 12/08/2004	Inorthro 12/08/2004	

LRB-1130

12/08/2004 03:11:17 PM

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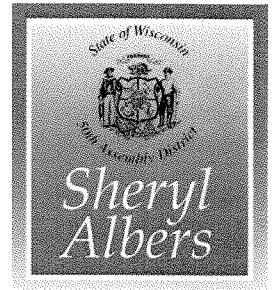
/? mshovers

11 MES 12/3/04

FE Sent For:

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MES



To: LRB – Drafting
From: Representative Sheryl K. Albers

Date: December 3, 2004
Subject: Zoning – Quorum requirements

Please redraft Assembly Substitute Amendment 1 to 2003 Assembly Bill 442 as a 2005 Assembly Bill and jacket for introduction in the Assembly.

Thank you. Please contact my office at 266-8531 with any questions.

- 1130/11

cmh (R.M.N.R.)

PWR

ASSEMBLY SUBSTITUTE AMENDMENT 1,

2005 TO 2003 ASSEMBLY BILL 442

November 19, 2003 - Offered by COMMITTEE ON PROPERTY RIGHTS AND LAND MANAGEMENT.

reger

1 **AN ACT to repeal 62.23 (7) (e) 9.; to amend 59.694 (2) (bm) and 62.23 (7) (e) 2.;**
2 **and to create 59.694 (2) (am), 59.694 (3m) and 62.23 (7) (e) 3m. of the statutes;**
3 **relating to: quorum requirements for a zoning board of appeals or adjustment.**

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. Currently, the county board chair of a county with a population of 500,000 or more and the chief executive officer of a municipality (a city mayor, village board president, or town board chair) may appoint two alternate members of the board of adjustment or appeals, who act when a member of the board of adjustment or appeals refuses to vote because of a conflict of interest or when a member is absent.

bill
 This substitute amendment requires all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board. The substitute amendment also specifies that if a quorum is present the board of appeals or adjustment may take action by a majority vote, and repeals a current law provision that requires four out of five votes for action by a city, village, or certain town board of appeals.

For further information see the *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 1.** 59.694 (2) (am) of the statutes is created to read: *to which par. (a) applies*

2 59.694 (2) (am) The chairperson of the county board shall appoint, for
 3 staggered 3-year terms, 2 alternate members of the board of adjustment, who are
 4 subject to the approval of the county board. Annually, the chairperson of the county
 5 board shall designate one of the alternate members as the first alternate and the
 6 other as 2nd alternate. The first alternate shall act, with full power, only when a
 7 member of the board of adjustment refuses to vote because of a conflict of interest or
 8 when a member is absent. The 2nd alternate shall act only when the first alternate
 9 refuses to vote because of a conflict of interest or is absent, or if more than one
 10 member of the board of adjustment refuses to vote because of a conflict of interest or
 11 is absent.

12 **SECTION 2.** 59.694 (2) (bm) of the statutes is amended to read: *to which par. (b) applies*

13 59.694 (2) (bm) The chairperson of the county board ~~may~~ shall appoint, for
 14 staggered 3-year terms, 2 alternate members of the board of adjustment, who are
 15 subject to the approval of the county board. Annually, the chairperson of the county
 16 board shall designate one of the alternate members as the first alternate and the
 17 other as 2nd alternate. The first alternate shall act, with full power, only when a
 18 member of the board of adjustment refuses to vote because of a conflict of interest or

1 when a member is absent. The 2nd alternate shall act only when the first alternate
2 refuses to vote because of a conflict of interest or is absent, or if more than one
3 member of the board of adjustment refuses to vote because of a conflict of interest or
4 is absent.

5 **SECTION 3.** 59.694 (3m) of the statutes is created to read:

6 59.694 (3m) QUORUM REQUIREMENTS. If a quorum is present, the board of
7 adjustment may take action under this section by a majority vote of the members
8 present.

9 **SECTION 4.** 62.23 (7) (e) 2. of the statutes is amended to read:

10 62.23 (7) (e) 2. The board of appeals shall consist of 5 members appointed by
11 the mayor subject to confirmation of the common council for terms of 3 years, except
12 that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years.
13 The members of the board shall serve at such compensation to be fixed by ordinance,
14 and shall be removable by the mayor for cause upon written charges and after public
15 hearing. The mayor shall designate one of the members as chairperson. The board
16 may employ a secretary and other employees. Vacancies shall be filled for the
17 unexpired terms of members whose terms become vacant. The mayor ~~may~~ shall
18 appoint, for staggered terms of 3 years, 2 alternate members of such board, in
19 addition to the 5 members above provided for. Annually, the mayor shall designate
20 one of the alternate members as 1st alternate and the other as 2nd alternate. The
21 1st alternate shall act, with full power, only when a member of the board refuses to
22 vote because of interest or when a member is absent. The 2nd alternate shall so act
23 only when the 1st alternate so refuses or is absent or when more than one member
24 of the board so refuses or is absent. The above provisions, with regard to removal and
25 the filling of vacancies, shall apply to such alternates.

Northrop, Lori

From: Gruber, Ryan
Sent: Wednesday, December 08, 2004 2:48 PM
To: LRB.Legal
Subject: Draft review: LRB 05-1130/1 Topic: Members of a zoning board of adjustment who must be present for the board to act

It has been requested by <Gruber, Ryan> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1130/1 Topic: Members of a zoning board of adjustment who must be present for the board to act