

HYBRID ZONING BOARD OF APPEALS MEETING MINUTES
WEDNESDAY, FEBRUARY 19, 2025
LARGE MEETING ROOM – SISTER BAY-LIBERTY GROVE FIRE STATION
2258 Mill Road, Sister Bay, WI
& VIA “ZOOM” VIDEO CONFERENCING SOFTWARE
(APPROVED)

Agenda Item 1. Call Meeting To Order: The February 19, 2025 hybrid meeting of the Sister Bay Zoning Board of Appeals was called to order by Chairperson Tom Sadler at 6:15 P.M.

Agenda Item 2. Roll Call: Chairperson Sadler and Board members Pat Wisner, Deb Duren, Hristo Blagoev, and Liz Hecht. Alternate Board Member Terry Kelly was also present.

Staff Members: Administrative Assistant Janal Suppanz, and Village Attorney Randy Nesbitt.

Excused: Village Administrator/Zoning Administrator Julie Schmelzer

Others: The Appellants, Douglas and Ellen Roberts and their Attorney Dan Gawronski, Mark Waeghe, Mike Mercurio, Paula Anschutz, Chris Hecht, John Stollenwerk, and one unidentified individual.

Agenda Item No. 3. Approval of the Agenda:

Motion by Sadler, second by Wisner that the Agenda for the February 19, 2025 meeting of the Village of Sister Bay Zoning Board of Appeals be approved as presented. Motion carried – All ayes.

Agenda Item No. 4. Approval of minutes for the December 19, 2024 meeting of the Zoning Board of Appeals and the related document that is entitled, Findings of Fact, Conclusions of Law & Formal Determination That “No Decision” Could Be Reached:

Motion by Hecht, second by Kelly that the minutes for the December 19, 2024 virtual meeting of the Zoning Board of Appeals as well as the related document that is entitled, Findings of Fact, Conclusions of Law & Formal Determination That “No Decision” Could Be Reached be approved as presented. Motion carried – All ayes.

Agenda Item No. 5. Public Hearing on the Petition For Grant of Variance for the property located at 10631 Little Sister Road that was filed by Attorney Daniel Gawronski on behalf of Douglas B. Roberts and Ellen B. Roberts:

Sadler, who is the Chair of the Village’s Zoning Board of Appeals, introduced himself as well as the other Zoning Board of Appeals members and the Village Attorney, Randy Nesbitt, and briefly explained the procedures that would be adhered to during this meeting. He also noted that the members of the Zoning Board of Appeals, who are bound by the provisions of the Wisconsin Statutes, are appointed by the Village Board, and they have been charged with hearing appeals of decisions that are made by the Village Administrator/Zoning Administrator and/or the Village’s Plan Commission as well as requests for variances.

On January 16, 2025 Attorney Dan Gawronski of the Michael, Best & Friedrich Law Firm filed a request for a variance from Section 66.0311(4) of the Municipal Code for the Village of Sister Bay, which limits the height of a principal building to 35’. (That section of the Code is commonly

1 referred to as “the Zoning Code”). In their application/petition for a variance Mr. and Mrs. Roberts
2 allege that the literal enforcement of the definition of the term “Building Height” as set forth in
3 Section 66.2001 of the Zoning Code, combined with the unique sloped incline of their lot, which
4 has been assigned an address of 10631 Little Sister Road, presents a practical difficulty and
5 unnecessary hardship to their ability to construct a new home with an overall maximum height of
6 37’11” which will preserve their enjoyment of substantial property rights possessed by other
7 residents in the R-1 Zoning District. All the required documentation was filed in a timely fashion
8 and was included in the digital packets for this meeting.
9

10 *At 6:28 P.M. Sadler called the Public Hearing on Mr. and Mrs. Roberts’ request for a variance to*
11 *order, and requested that Suppanz read the related Public Hearing Notice that was published and*
12 *posted aloud. Suppanz complied with that request, and Sadler then explained that since Julie*
13 *Schmelzer, the Village Administrator/Zoning Administrator, had another obligation and would not*
14 *be able to attend this meeting he would be reading the Staff Report that she had prepared aloud.*
15 *(A complete and accurate copy of that document is hereby attached and incorporated by*
16 *reference, and Sadler requested that it be made part of the official record.)*
17

18 *Attorney Gawronski was subsequently sworn in by Attorney Nesbitt, and he indicated that he*
19 *would be joined at this hearing by Mr. and Mrs. Roberts as well as Mark Waeghe, who is the*
20 *builder who has been working on the plans for the Roberts’ new home. He also read a prepared*
21 *statement aloud, and displayed a related Power Point presentation, and a copy of that Power Point*
22 *presentation, that was included in the digital meeting packets, is likewise attached and*
23 *incorporated by reference. It, too, will be made part of the official record. Attorney Gawronski*
24 *indicated that despite the comments that were made by Schmelzer in the previously mentioned*
25 *report, he believes Mr. and Mrs. Roberts’ request for an area variance should be granted. He also*
26 *stated that he believes Schmelzer’s Staff Report contains a number of false and misleading*
27 *statements as well as incorrect interpretations of State law, and stressed that he finds the*
28 *“discriminatory comments that were made by Ms. Schmelzer regarding Mr. Roberts’ disability to*
29 *be disgusting”. Attorney Gawronski pointed out that only one portion of Mr. and Mrs. Roberts’*
30 *home is over the Village’s maximum height requirements, and also noted that those height*
31 *requirements have only been exceeded by 2’11”. Mr. and Mrs. Roberts are respectfully requesting*
32 *that an “area variance” be granted for their proposed new home because they believe the design*
33 *of that home is essential for the safe, functional and accessible use of it on their property and don’t*
34 *want to disrupt the “natural God-given topography”. Attorney Gawronski acknowledged that*
35 *there are alternative design options available for Mr. and Mrs. Roberts’ home, such as lowering*
36 *the roofline or backfilling the exposed foundation, but pointed out that lowering the roofline below*
37 *35’ would result in a substandard building design as there would have to be a significant reduction*
38 *to the pitch of the roof. Further, if backfilling were to be done it could lead to, among other things,*
39 *drainage and erosion control issues as well as disjointed elevations with neighboring properties.*
40 *The change in topography could also create safety issues for those wishing to navigate the rear*
41 *terrain on the property, especially young children, the elderly and those with disabilities. In*
42 *conclusion Attorney Gawronski requested that during their deliberations on this matter the Board*
43 *members pay particular attention to the factors that are clearly delineated on the slide that has*
44 *been labeled “Conclusions of Law”. He also stressed that Mr. and Mrs. Roberts are requesting an*
45 *“area variance” because the unique topography of their lot creates a hardship and makes*
46 *compliance with the Code practically difficult and unnecessarily burdensome.*
47

1 *Ellen Roberts was sworn in by Attorney Nesbitt, and she indicated that she feels it's important to*
2 *explain how she and her husband "got to this point". She then elaborated on that comment, and*
3 *stated that she and her husband bought the property at 10631 Little Sister Road in October of*
4 *2020. That purchase was honestly "a dream come true" for them. Originally they worked with the*
5 *employees from Great Northern Construction on designing their new home, but some very*
6 *unfortunate family issues arose, and they had no option but to delay the start of construction.*
7 *They eventually determined that the folks from Great Northern "were not a good fit" for them, so*
8 *after speaking with several different builders they decided to hire Mark Waeghe. Every single*
9 *builder that they spoke with informed them that the 14' to 15' steep slope on the back of their*
10 *property would require construction of a home with an exposed foundation and a "walk-out", so*
11 *those features were added to their building plans. In conclusion Ms. Roberts stated that she and*
12 *her husband "did their homework", and never expected to be subjected to all the turmoil they've*
13 *had to deal with on the Village level. They are merely asking for some "understanding" and a fair*
14 *and reasonable solution to the previously mentioned issues associated with their property, and*
15 *hope that the Board members will find that "hardship" does exist because of the nature of the*
16 *"God given topography" of that property. They have no intention of ever renting their new home*
17 *out on a transient basis, as they intend to move up here as soon as possible, and fully intend for*
18 *their new home to be a place for their family members to gather for years to come.*

19
20 *Douglas Roberts was sworn in by Attorney Nesbitt and he reiterated that he and his wife are*
21 *requesting a variance because there are unique topographical features associated with their lot.*
22 *He did lose his leg as the result of a car accident that nearly ended his life, and, quite honestly,*
23 *finds the comments that were made by Schmelzer in her Staff Report concerning his disability to*
24 *be very offensive. In conclusion Mr. Roberts stated that he believes it's "ridiculous" that this matter*
25 *has "gotten to this point". He also stated that he believes the concept of "height averaging", which*
26 *is utilized in several other municipalities throughout the State of Wisconsin, should be utilized in*
27 *the Village.*

28
29 *Mark Waeghe was sworn in by Attorney Nesbitt, and he explained that he is the builder who was*
30 *retained by Mr. and Mrs. Roberts. He went on and indicated that he has been working in Door*
31 *County for the better part of two decades, and is aware that it's not uncommon at all for the height*
32 *of homes throughout the County to be "averaged". He believes the proposed pitch of the roof of*
33 *Mr. and Mrs. Roberts' new home is necessary because there will actually be five "valleys" on it. If*
34 *the pitch of the roof were to be reduced there would definitely be more potential for debris to*
35 *accumulate in the "valleys", and if that occurred, from a property maintenance standpoint, it*
36 *would definitely be necessary for someone to actually climb on the roof to remove it, which*
37 *obviously is a safety concern.*

38
39 *Sadler asked if Attorney Gawronski wished to call any further witnesses, and when he responded*
40 *that he did not, Sadler noted that copies of letters which were sent by Michael and Sarah Mercurio,*
41 *David and Randall Johnson, T.A. and R.M. Downey, John and JoEllen Stollenwerk, Lance and*
42 *Bridget Crane, Paul and Cathy Luber, Nicholas and Katherine Gerrits, and Dave and Carole*
43 *Frykman were all included in the digital meeting packets. He then proceeded to read those letters*
44 *aloud. (In their letters all of the previously mentioned individuals indicate that they own property*
45 *on Little Sister Road and support the Roberts and their variance request. They also indicate that*
46 *they not only believe Mr. and Mrs. Roberts' home is "consistent" with the existing neighboring*
47 *homes, but also believe it will be "a wonderful addition to their neighborhood". Mr. and Mrs.*

1 Frykman also sent an e-mail, and in that document they indicate that their home, like Mr. and Mrs.
2 Roberts' proposed home, is situated on a slope, thus necessitating the need for a walk-out lower
3 floor, but a single level of it is only visible from the road. In conclusion Mr. and Mrs. Frykman
4 indicate that they believe permission should be granted for Mr. and Mrs. Roberts to construct their
5 new home as they believe that home will "fit nicely on Little Sister Road".

6
7 Sadler then asked if anyone in the audience would like to comment in favor of granting Mr. and
8 Mrs. Roberts' request for a variance.

9
10 Paula Anschutz was sworn in by Attorney Nesbitt, and she indicated that she met Mr. and Mrs.
11 Roberts last summer. At that time Mr. and Mrs. Roberts stated that they were aware of her efforts
12 to "recycle" or "convert" existing older homes and cottages into "affordable workforce housing"
13 and expressed interest in donating the cottage that was on their property to her, but unfortunately
14 that donation never came to fruition. (Ms. Anschutz stated that it's her understanding that
15 Schmelzer informed Mr. and Mrs. Roberts that she could not issue a permit for the cottage to be
16 moved because Little Sister Road was not wide enough. To be perfectly honest, she was quite
17 confused by that comment because she personally had made arrangements to have other cottages
18 that were either on or adjacent to Little Sister Road moved, and didn't encounter any road width
19 issues.) Mr. and Mrs. Roberts informed her that they fully intend to retain as many trees as possible
20 on their lot, and she firmly believes the related maintenance and safety issues are definitely
21 another factor that must be taken into consideration by the Zoning Board of Appeals members. In
22 conclusion Ms. Anschutz implored the Board members to consider all the testimony that was
23 presented at this hearing, and also indicated that she firmly believes Mr. and Mrs. Roberts' request
24 is reasonable and satisfies all of the previously mentioned criteria. She also stated that she believes
25 the "issues" that Mr. and Mrs. Roberts and Mr. Waeghe have had to deal with on the Village level
26 are not only "burdensome" but are also quite "embarrassing".

27
28 Sadler asked if anyone else would like to testify in favor of Mr. and Mrs. Roberts' request, and Chris
29 Hecht was sworn in by Attorney Nesbitt. He indicated that he sat on the Plan Commission for many
30 years, and it is his understanding that previous Administrators did utilize the theory of "height
31 averaging", especially on sloped lots. He is the Chief of the Sister Bay-Liberty Grove Fire
32 Department, and quite frankly does not believe there is anything wrong with what Mr. and Mr.
33 Roberts are requesting, as if fill were to be added and a retaining wall created on the lot at 10631
34 Little Sister Road it would be very difficult, if not impossible, for fire trucks to gain access to the
35 property should the need arise. In conclusion Hecht stated that to be perfectly honest, if the
36 benchmark that was described during the course of this meeting had been strictly adhered to in
37 the past, he does not believe it would have been possible for many of the existing homes in the
38 community, including his own home, which he considers to be a very simple, two story single family
39 residence with a walk-out basement, to ever satisfy the Village's height requirements. He then
40 implored the Zoning Board of Appeals members to grant Mr. and Mrs. Roberts' request for a
41 variance.

42
43 John Stollenwerk was sworn in by Attorney Nesbitt, and he confirmed that he does own a home
44 on Little Sister Road. He and a number of his neighbors are definitely in favor of granting the
45 variance, and believe Mr. and Mrs. Roberts' new home will not only be a great enhancement to
46 their neighborhood, but the Village as a whole.

1 *Sadler asked if anyone else would like to comment in favor of Mr. and Mrs. Roberts request, and*
2 *when no one responded he asked if anyone who was opposed to the request would like to speak.*
3 *Again no one responded, and, therefore, he noted that Attorney Gawronski would be granted one*
4 *final opportunity to make very brief closing statements.*

5
6 *Attorney Gawronski thanked the Zoning Board of Appeals members for taking the time to attend*
7 *this hearing, and stressed that he firmly believes Mr. and Mrs. Roberts have proven that all the*
8 *requirements for the granting of a variance have been satisfied. He also stated that he believes*
9 *the proposed home is consistent with the “intent” of all the Village’s zoning regulations, and does*
10 *not believe there will be any health, safety or aesthetic concerns if the proposed plans are*
11 *approved as presented. Further, property owners have the right to build within prescribed*
12 *setbacks, and quite frankly he firmly believes that for the Village to suggest otherwise is*
13 *“inappropriate”. Attorney Gawronski stated that he believes evidence has been presented which*
14 *clearly proves that “hardship” exists because compliance with the Zoning Code would be*
15 *“burdensome”, and he also indicated that Mr. and Mrs. Roberts are asserting that because of its*
16 *“God given topography” the property at 10631 Little Sister Road is quite “unique”. They also are*
17 *alleging that the granting of the previously mentioned variance is necessary to preserve property*
18 *rights. In conclusion Attorney Gawronski indicated that as can be evidenced by the fact that no*
19 *one spoke in opposition to Mr. and Mrs. Roberts’ request there is no detriment to the granting of*
20 *the variance, and he and they hope the Board members concur.*

21
22 *Sadler asked if any of the Board members had any questions for Mr. and Mrs. Roberts or Attorney*
23 *Gawronski, and none of them responded. Kelly did, however, state that he believes Hecht’s*
24 *comments were “key”; in that what is being proposed would actually enhance safety from the Fire*
25 *Department’s perspective.*

26
27 *At 8:05 P.M. Sadler declared that the Public Hearing was officially closed.*
28

29 **Agenda Item No. 6:** **Discussion regarding the Petition for Grant of Variance for the property**
30 **located at 10631 Little Sister Road that was filed by Attorney Daniel Gawronski on behalf of**
31 **Douglas B. Roberts and Ellen B. Roberts; Consider a motion for action if appropriate:**

32 Discussion took place regarding Mr. and Mrs. Roberts request for a variance, and during that time
33 Wisner pointed out that unfortunately, because of actions that were taken by previous Village
34 Administrators Schmelzer basically has found herself in a “no win” situation. She also stated that
35 she is certainly not opposed to the granting of the variance that has been requested by Mr. and
36 Mrs. Roberts, but is concerned “that precedence will be set”.

37
38 Hecht and Duren as well as Blagoev and Sadler indicated that they also would not be opposed to
39 the granting of the variance, but Duren and Hecht did stress that in light of the information that
40 was presented at this meeting they believe related Zoning Code amendments are warranted.

41
42 The Board members referred to a template for a document that was entitled “Findings of Fact,
43 Conclusions of Law & Decision” that had been presented to them by Attorney Nesbitt, and they
44 subsequently found that the requested variance satisfies all of the following tests:
45
46
47

1 Preservation of intent,
2 Exceptional circumstances,
3 Hardship,
4 Preservation of property rights, and,
5 Absence of detriment.

6
7 They also agreed upon the verbiage that the variable portions of the previously mentioned
8 document should contain, and Suppanz took note of all the recommended revisions.
9

10 *Motion by Hecht, second by Duren that the variance from Section 66.0311(4) of the Municipal*
11 *Code for the Village of Sister Bay, which limits the height of a principal building to a maximum*
12 *height of 35' that was requested by Attorney Daniel Gawronski of Michael Best & Friedrich, LLP on*
13 *behalf of Douglas B. Roberts and Ellen B. Roberts, and will allow Mr. and Mrs. Roberts to build a*
14 *home with an overall maximum height of 37'11" at 10631 Little Sister Road, which property is*
15 *located in the R-1 Zoning District, be and hereby is granted.*

16
17 *A roll call vote was taken on that motion, and the Board members voted in the following fashion:*

18
19 *Sadler – Aye; Blagoev – Aye; Hecht – Aye; Duren – Aye; Wisner – Aye.*

20
21 *Motion carried.*

22
23 *Attorney Gawronski thanked the Zoning Board of Appeals members for their consideration, and*
24 *indicated that since the previously mentioned variance was granted he is assuming that a Zoning*
25 *Permit will be issued to Mr. and Mrs. Roberts for their new home. Nesbitt indicated that he will*
26 *inform Schmelzer of the outcome of this hearing "first thing in the morning" and will ask her to*
27 *see that a Zoning Permit is issued to Mr. and Mrs. Roberts in as timely a fashion as possible.*

28
29 **Adjournment:**

30 *At 8:16 P.M. a motion was made by Wisner, seconded by Duren that the February 19, 2025*
31 *meeting of the Village of Sister Bay Zoning Board of Appeals be adjourned. Motion carried – All*
32 *ayes.*

33
34 Respectfully submitted,

35 

36 Janal Suppanz,
37 Administrative Assistant
38