



HYBRID ZONING BOARD OF APPEALS MEETING AGENDA

Monday, June 2, 2025, 2025 at 5:00 P.M.

**Large Meeting Room – Sister Bay-Liberty Grove Fire Station
2258 Mill Road, Sister Bay, WI**

If you are unable to attend the meeting in person, the following link will allow access to it electronically:
<https://zoom.us/j/4439901723?pwd=yAVpi40M1OlqgNufcVUE8XWCUSkKaH.1&omn=97063638580>

Meeting ID: **443 990 1723** Password: **304078**

To connect by telephone, please dial 1-301-715-8592 - Meeting ID: 443 990 1723#

For additional meeting information visit: www.sisterbaywi.gov, click 'Agendas and Minutes' or watch the meeting video online.

A video of this meeting will be available for viewing on the Village's website ASAP

For additional information check: <http://www.sisterbaywi.gov>

AGENDA

1. Call to Order
2. Roll Call & Declaration of Quorum

1	Chairperson – Terry Kelly	2	Pat Wisner
3	Deb Duren	4	Hristo Blagoev
5	Elizabeth Hecht	6	ALTERNATE - VACANT
7	ALTERNATE – VACANT		

3. Approve Agenda
4. Approve Meeting Minutes & Decision Document: February 19, 2025
5. Public Hearing:
 - a). Petition for Grant of Variance; 2248 Maple Drive; Anthony Zito; Road Setback
6. Public Hearing Discussion and Action
7. Discuss New Rules of Order
8. Appoint Vice-Chair
9. Adjournment

Public Notice

Questions regarding the nature of the Agenda items or more detail on the items listed can be directed to Julie Schmelzer, Village Administrator, at julie.schmelzer@sisterbaywi.gov. Testimony, include e-mail, will be accepted per the Public Hearing Notice. It is possible that members of and possibly a quorum of members of other governmental bodies may attend the meeting to gather information; no action will be taken by any governmental body other than the body specifically referred to above. Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid or accommodation at no cost to the individual. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferably a minimum of 48 hours. For additional information or to request this service, contact the Sister Bay Village Administration Office at 854-4118, (FAX) 854-9637, or by writing to the Village Administration Building, 2383 Maple Drive, PO Box 769, Sister Bay, WI 54234. Copies of reports and other supporting documentation are available for review at the Village Administration Building during operating hours (8 a.m. – 4 p.m. weekdays).

The Village of Sister Bay is an Equal Opportunity Provider.

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
APPROVAL PENDING

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

**ZONING BOARD OF APPEALS
PETITION FOR GRANT OF VARIANCE
FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION**

Village of Sister Bay, Door County, Wisconsin

Application/Petition #2025-01

**Petitioner: ATTORNEY DANIEL GAWRONSKI of MICHAEL BEST & FRIEDRICH, LLP on Behalf of
DOUGLAS B. ROBERTS AND ELLEN B. ROBERTS**

Zoning Board of Appeals Members Present: Chairperson Tom Sadler &
Pat Wisner, Deb Duren, Hristo Blagoev and Liz Hecht,
As Well As Alternate Member Terry Kelly

FINDINGS OF FACT:

After having reviewed the official file that is maintained in the Administration Office for the Village of Sister Bay that pertains to the above referenced Application/Petition; and giving careful consideration to the testimony presented at a Public Hearing that was conducted on Wednesday, February 19, 2025, the Zoning Board of Appeals for the Village of Sister Bay, Door County, Wisconsin, hereby determines that the facts related to the above-mentioned Application/Petition are as follows:

APPLICANTS/PETITIONERS:

Attorney Daniel Gawronski of MICHAEL BEST & FRIEDRICH, LLP On Behalf of the
Property Owners, DOUGLAS B. ROBERTS & ELLEN B. ROBERTS

Property Address:	10631 Little Sister Road
Zoning District:	The Single Family Residence (R-1) Zoning District
Owners' Mailing Address:	33 Franklin Court S. St. Petersburg, FL 33711
Filing Date:	Thursday, January 16, 2025
Public Hearing Date/Time:	Wednesday, February 19, 2025 at 6:15 P.M.

APPLICATION/PETITION:

ATTORNEY DANIEL GAWRONSKI of MICHAEL BEST & FRIEDRICH, LLP on behalf of DOUGLAS B. ROBERTS AND ELLEN B. ROBERTS requested 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 a maximum height of 35'. Mr. and Mrs. Roberts requested that they be allowed to build a home with an overall maximum height of 37'11".

In the previously mentioned Application/Petition Mr. and Mrs. Roberts allege that the literal enforcement of the definition of the term "Building Height" as set forth in Section 66.2001 of the Village of Sister Bay Zoning Code, combined with the unique sloped incline of their lot, presents a practical difficulty and unnecessary hardship to their ability to construct a new home that preserves their enjoyment of substantial property rights possessed by other residents in the same zoning district. They also requested that a variance be granted, so that the construction plans for the home with an overall maximum height of 37'11" that are attached to the

previously mentioned Application/Petition which have been labeled “Exhibit A”, can be approved and a related Zoning Permit issued.

At the previously mentioned Public Hearing Mr. and Mrs. Roberts made the following allegations:

1. The topography and steep slope at the above-mentioned address create an unnecessary hardship that prevents them from complying with the previously mentioned 35’ height limit.
2. Complying with the 35’ height limit on this particular lot would require a significant reduction to the pitch of the roof of the home they would like to construct, which would result in a substandard building design, and would compromise the safety of that home.
3. Altering the natural topography of the terrain on the previously mentioned parcel in such fashion that the rear elevation is raised could create safety issues for those wishing to safely navigate the rear terrain on the property by foot, especially young children, the elderly and those with disabilities.
4. The variance is necessary for their preservation and enjoyment of substantial property rights possessed by other residents in the same zoning district.
5. The proposed building height does not create a substantial detriment to any adjacent property, nor is it contrary to the spirit of the Code or the public interest. (Mr. and Mrs. Roberts allege that this can be evidenced by the fact that letters from eight of their neighbors who actually support their request were introduced into evidence during the previously mentioned Public Hearing.)

PROPERTY DESCRIPTION:

Parcel No. 181-23-0006 in the Village of Sister Bay, which has been assigned an address of 10631 Little Sister Road. Said property is located in the R-1 – Single Family Residence Zoning District.

NOTICE:

A Class 2 Notice was published in The Peninsula Pulse on January 31, 2025 and February 7, 2025, and that Notice was posted in all the Village’s designated posting locations on February 6, 2025. Neighbors within 300’ of the property were also mailed a copy of a related Public Hearing Notice on February 6, 2025, and an applicable Affidavit of Publication is available for review and is contained in the previously mentioned file that is maintained in the Village Administration Office at 2383 Maple Drive, Sister Bay, WI.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact the members of the Village of Sister Bay Zoning Board of Appeals concluded that by a preponderance of the evidence the following facts and conditions exist:

The requested variance satisfies all of the following tests:

1. *Preservation of Intent. No area variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located.*

The Board found that the requested variance is consistent with the purpose and intent of the regulations for the Single Family Residence (R-1) Zoning District.

2. Exceptional Circumstances. There must be unique circumstances or conditions applying to the lot or parcel or structure that do not apply generally to other properties or uses in the same zoning classification within 1,000 feet of the subject property, and the granting of the area variance should not be of so general or recurrent a nature as to suggest that the zoning chapter should be changed.

The Board found that the topography of the lot at 10631 Little Sister Road constitutes a unique circumstance or condition applying to that lot or parcel that do not apply generally to other properties or uses in the same zoning classification within 1,000 feet of the subject property, and also found that the granting of the area variance is not of so general or recurrent a nature as to suggest that the Zoning Code should be amended.

3. Hardship. Economic hardship and self-imposed hardship are not grounds for an area variance. No area variance shall be granted solely based on economic gain or loss. The hardship must be based upon conditions unique to the property rather than considerations personal to the owner.

The Board found that accommodating the topography of the lot at 10631 Little Sister Road would be difficult, and, therefore, there is hardship associated with Mr. and Mrs. Roberts' variance request that is based upon conditions that are unique to the property rather than considerations personal to the owners.

4. Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.

The Board found that the granting of the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.

5. Absence of detriment. No area variance shall be granted that will create substantial detriment to adjacent property, or that will materially impair or be contrary to the purpose and spirit of the Village's Zoning Code or the public interest.

The Board found that the granting of the variance will not create substantial detriment to adjacent property, and/or will not materially impair or be contrary to the purpose and spirit of the Zoning Code or the public interest.

ACTION:

Based upon the above Findings of Fact and Conclusions of Law, a motion was made by Hecht, seconded by Duren, that the 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 a maximum height of 35', that was requested by Attorney Daniel Gawronski of Michael Best & Friedrich, LLP on behalf of Douglas B. Roberts and Ellen B. Roberts for the property that is located at 10631 Little Sister Road, and will allow Mr. and Mrs. Roberts to build a home with an overall maximum height of 37'11", be and hereby is granted. A roll call vote was taken on that motion, and the Board members voted in the following fashion:

Sadler – Aye; Hecht – Aye; Duren – Aye; Wisner – Aye; Blagoev - Aye

Motion carried.

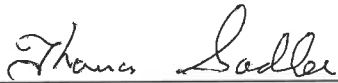
ORDER AND DETERMINATION

On the basis of the above Findings of Fact, Conclusions of Law, and the record in the matter of the Petition for Grant of Variance noted herein, the Zoning Board of Appeals for the Village of Sister Bay hereby orders that the previously mentioned variance that was requested by Douglas B. Roberts and Ellen B. Roberts be and hereby is granted, and, therefore, the Village Administrator shall see that a related Zoning Permit is issued in as timely a fashion as possible.

Dated this 19th day of February, 2025

VILLAGE OF SISTER BAY ZONING BOARD OF APPEALS

By:



Thomas Sadler

Chairperson of the Village of Sister Bay Zoning Board of Appeals

Attest:



Janal Suppanz, Administrative Assistant
Secretary for the Zoning Board of Appeals

Filed: Apr. 14, 2025



Zoning Board of Appeals Public Hearing Notice

NOTICE IS HEREBY GIVEN that the Village of Sister Bay Zoning Board of Appeals will hold a Public Hearing on **Monday, June 2, 2025, at 5:00 p.m.** for the purpose of considering a petition for grant of variance. The petition will be heard at the Sister Bay-Liberty Grove Fire Station at 2258 Mill Road, Sister Bay.

PETITION

Anthony Zito petitions for a variance from Section 66.0311(4) of the Municipal Code which requires a structure to be setback 70' from the centerline of a public road. Mr. Zito proposes to retain a deck built 54' from the centerline of Maple Drive (County Highway ZZ). This property is located at 2248 Maple Drive in a Single-Family Residence (R-1) zoning district.

The purpose of this public hearing is to hear testimony from the petitioner or agent(s), and from any party in favor or opposed to the petition. Interested parties are urged to participate in the public hearing and give testimony. Written testimony, including email, will be accepted at the Administration Office, 2383 Maple Drive, PO Box 769, Sister Bay, WI, FAX (920) 854-9637, or by emailing info@sisterbaywi.gov. Deadline to submit correspondence is 2:00 pm, Wednesday, May 28, 2025. Letters will be available for public inspection during normal business hours until the close of business on the day of the hearing. Letters will be entered into the record and a summary presented at the hearing, but individual letters may not be read aloud. Anonymous correspondence will not be accepted.

A copy of the petition, zoning code and zoning map are on file at the Village Administration Office, 2383 Maple Drive, Sister Bay, and may be viewed Monday through Thursday, between 8:00 a.m. and 4:00 p.m.

Julie Schmelzer
Village Administrator/Zoning Administrator
julie.schmelzer@sisterbaywi.gov

This Application
is A DRAFT



Appeals and Variances

Village of Sister Bay

Area variances may be granted if there are unusual circumstances that apply to a lot, structure or use that don't apply to other properties or uses in the district, granting a variance would not adversely impact the purposes of the ordinance, strict application of the ordinance provisions would result in exceptional difficulties or hardship, and literal interpretation of the ordinance would leave the owner with no practical use of his land or buildings.

A variance may not be granted to increase the profitability of the property, because of personal inconvenience, because of construction errors, for personal economic gain, because of self created hardships, or if the present use of the property is nonconforming.

Appeals may also be taken a party aggrieved by a decision of the Plan Commission. Said appeal must be made within thirty days of the date of the decision

FIRST NAME

Anthony

LAST NAME

Zito

APPELLANT (AGENT) ADDRESS

2248 Maple Drive, Sister Bay, WI 54234

FIRST NAME

Anthony

LAST NAME

Zito

If different from Appellant (Agent)

PROPERTY OWNER ADDRESS

2248 Maple Drive, Sister Bay, WI 54234

If different from Appellant (Agent)

PARCEL IDENTIFICATION NUMBER (PIN)

4220017

181-

SUBDIVISION OR CSM (VOLUME/PAGE/LOT)

ADDRESS OF PROPERTY

2248 Maple Dr.

(DO NOT include City/State/Zip Code)

FIRST NAME

Anthony

LAST NAME

Zito

PHONE

(708) 935-3700

EMAIL

anthonyzito@gmail.com

Village of Sister Bay

Variance Criteria Information Sheet

421 MAPLE DRIVE SISTER BAY, WI 54234

PHONE: (920) 854-4118 FAX: (920) 854-9637

E-MAIL: INFORMATION@SISTERBAY.COM

No area variance to the provisions of this chapter shall be granted by the Board unless it finds by a preponderance of the evidence that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

1. Preservation of intent.

No area variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located.

2. Exceptional circumstances.

There must be unique circumstances or conditions applying to the lot or parcel or structure that do not apply generally to other properties of uses in the same zoning classification within 1,000 feet of the subject property and the granting of the area variance should not be of so general or recurrent nature as to suggest that the zoning chapter should be changed.

3. Hardship.

Economic hardship and self-imposed hardship are not grounds for an area variance: ***No area variance shall be granted solely based on economic gain or loss.*** The hardship must be based upon conditions unique to the property rather than considerations personal to the owner.

4. Preservation of property rights.

The area variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.

5. Absence of detriment.

No area variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

I HEREBY APPEAL THE FOLLOWING DECISION

Front deck constructed is 54' from the centerline. To try to resolve this violation we would need to remove the portion of the deck that is not at least 70' from the platted centerline of the road.

DECISION MADE BY

Julie Scheimzer & Carla Heck

REASONS STATED

Chapter 66 of the Municipal Code.

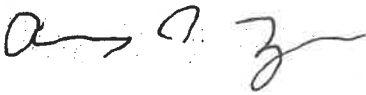
I HEREBY APPEAL FOR THE FOLLOWING VARIANCE

Please allow the deck to exist in its current state.

REASON FOR VARIANCE

When we purchased the home the front deck was existing, we do have photos showing the existing front deck. We added a portion of the deck based on the existing to cover the broken concrete patio.

I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Sister Bay Plan Commission, members of the Zoning Board of Appeals and the Zoning Administrator to enter the above described property for purposes of obtaining information pertinent to my application/appeal/variance request.

SIGNATURE

Signed electronically on 4/16/2025

PAYMENT

PAID \$1,000.00

ACCOUNT #**RECEIPT #**

83780

SUBMITTED AT: 4/16/2025



STAFF REPORT

ZITO PETITION FOR VARIANCE

Date: June 2, 2025

Board/Committee: Zoning Board of Appeals

Author: Carla Heck, Code compliance Officer

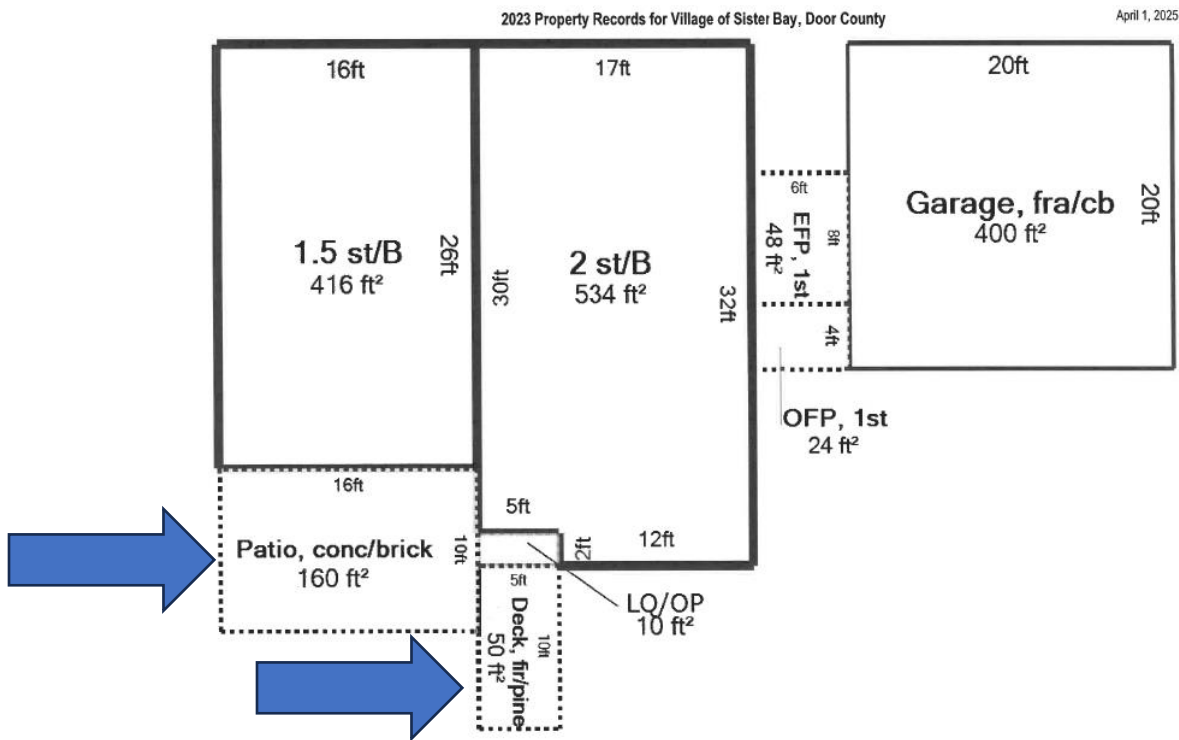
In 2023 it was reported to our office that Mr. Zito built a deck without a permit. Upon further investigation, staff verified a deck had indeed been built, but it violated the road setback. The required road setback is 70' from the platted centerline of the road, and the deck is just 54' from the centerline of the road.

Site Conditions and Setbacks

Per the Assessor, the below is what existed on the property prior to Mr. Zito's purchase of the property. In the photo it is difficult to see what was there previously, but the following floor plan, also from the Assessor, shows there was 10' x 16' at-grade patio (at-grade patios are exempt from setbacks) and a 5' x 10' deck with a 2' x 5' entry area (presumably a stoop to get in the door).



The following was the floor plan:



Below is what Mr. Zito replaced the at-grade patio and 5' x 10' deck with:

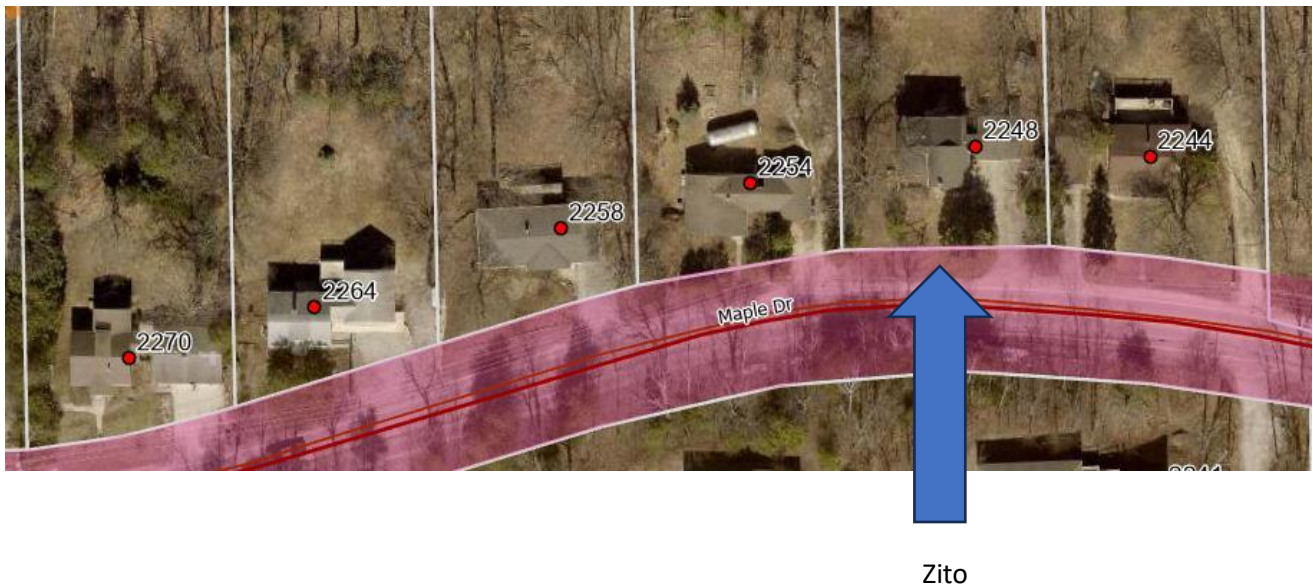




One challenge Mr. Zito has is the home itself does not meet the required 70' setback, so any deck to exit the front door would need a variance, unless it was restricted to a landing to exit the door and step down to an at-grade patio. The home is as close as 64' from the centerline, and the longer wall, which is setback, is about 71' from centerline. (Measurements are from a survey Mr. Zito had prepared on his behalf in October 2023).

Facts to consider:

1. The original deck (5' x 10') which extended 10' from the home was replaced with a deck that extended 9'3" from the home, so the new deck is *slightly* less intrusive on the setback than the original structure.
2. Mr. Zito's neighborhood is comprised of homes frequently less than 70' from the centerline of the road. Per GIS, his neighbor to the west is just 43' from centerline (approximate, and based on aerial photography) and one more lot further west the home is about 54' from centerline. (Note: Surveys could prove different, but GIS is the best available tool at this time to determine distances.) As shown below, homes in the immediate neighborhood typically do not meet the setback and are nonconforming.



Variance Requirements:

1. Is there a hardship? Staff argues 'no' and 'yes'. The previous owner had a stoop to exit the door and stepped down to a patio, so we do know the home has a reasonable use without the deck. However, a hardship lies in that the home is nonconforming, and even a stoop to exit the door would require a variance.
2. Is the hardship self-imposed? Yes, Mr. Zito should have applied for relief prior to building the deck.
3. Are there unique property limitations or exceptional circumstances? Again, 'no' and 'yes'. 'No', because other homes are close/closer to the road, Mr. Zito's situation is not unique. And 'yes', because on this property, they have no alternative to have some type of access infringe on the setback, unless they closed off the entrance point altogether (which is not advised due fire and safety reasons).
4. Is there 'no harm to public interest' (often referred to as 'absence of detriment')? Since other homes are closer to the road than the Zito deck, and there are no recorded accidents involving structures being closer to the road than allowed, there appears to be no harm to the public interest.
5. Does the variance meet the purpose and intent of the code (referred to as 'preservation of intent')? To find the answer to this question, we have to look at the 'intent' section of the code:

Sec. 66.0103 Intent

- (1) It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters; and to:
 - (a) Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
 - (b) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services and utilities;

- (c) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of the streets, highways and waterways;
- (d) Secure safety from fire, flooding, panic, pollution, contamination and other dangers;
- (e) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (f) Provide adequate light and air, including access to sunlight for solar collectors;
- (g) Assure the protection of groundwater;
- (h) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (i) Stabilize and protect existing property values;
- (j) Further the appropriate use of land and conservation;
- (k) Preserve and promote the beauty of the community;
- (l) Implement those municipal, county, watershed, and regional comprehensive plans or plan components adopted by the Village of Sister Bay; and,
- (m) Provide for the administration and enforcement of this chapter and to provide penalties for its violation.

To staff it appears not all the items listed would be applicable to this property, but as for those that appear applicable:

- a). Lot coverage is not an issue with this lot; it is a large lot.
- h). The deck does not appear to pose a threat to the travelling public in that other structures are closer to the road.
- l). Staff does not know the impact the deck will have on neighboring property values.
- j). The deck would further the residential use of the property.
- k) This is objective – some may feel the deck is attractive, while others may view it as obtrusive and prefer the stone patio that was previously onsite.
- m). This deck is a violation and the owner has paid a citation for the violation.

OFFICIAL RULES OF ORDER FOR THE VILLAGE OF SISTER BAY ZONING BOARD OF APPEALS

SECTION 1.0 ESTABLISHMENT

The Zoning Board of Appeals for the Village of Sister Bay will be governed by Sections 61.35 and 62.23 of the Wisconsin Statutes, the provisions of the Village's Zoning Code, and by these Rules of Order.

SECTION 2.0 MEMBERSHIP

The Zoning Board of Appeals will consist of five members and two alternates who have been recommended by the Village President and confirmed by the Village Board for staggered terms of three years.

- A. Chair. The Chair of the Zoning Board of Appeals will be designated by the Village President and will be expected to preside at any and all meetings of the Board. He or she will also be expected to supervise the work of the Secretary; and will decide all points of procedure or order, unless otherwise directed by a majority vote of the Board.
- B. Vice- Chair. The Vice-Chair of the Zoning Board of Appeals will be selected by a majority vote of the Board and will serve whenever the Chair is absent or unable to fulfill his or her official duties.
- C. Alternates. Two Alternate Members will also be recommended by the Village President for a term of three years, and if their appointments are confirmed by the Village Board, they are welcome to attend as many meetings of the Board as possible, but are not required to do so unless the Secretary informs them that quorum issues have arisen. An Alternate Member engages in discussion and votes only when their presence is needed to establish a quorum; if a quorum is present they shall observe proceedings only.
- D. Staff. The Administrative Assistant for the Village will be designated as the Secretary of the Zoning Board of Appeals and will be expected to prepare any and all correspondence for the Board; receive and file all applications, papers and related documentation; prepare, publish, and mail all notices that are required; and prepare and keep complete and accurate minutes and records of the Board's proceedings. In the absence of an Administrative Assistant, staff from the Village Administrative Office shall assist.

Unless he or she has been formally excused by the Chair of the Zoning Board of Appeals, the Village Administrator/Zoning Administrator will be expected to attend all meetings of the Zoning Board of Appeals, and will also be expected to provide technical assistance when requested by the Chair of the Board. In some instances the Village Administrator/Zoning Administrator may be required to testify before the Board.

- E. Oath of Office. In accord with Section 19.01 of the Wisconsin Statutes, official oaths of office will be taken by all members of the Zoning Board of Appeals within ten (10) days of receiving formal notice of their appointment to the Board, or at the next scheduled meeting of the Zoning Board of Appeals.

- F. Vacancies. If any vacancies arise for any unexpired term(s) on the Zoning Board of Appeals, the terms that have been vacated will be filled in as timely a fashion as possible, and the previously mentioned appointment procedures will be adhered to.

SECTION 3.0 MEETINGS

- A. Meetings of the Zoning Board of Appeals will be held whenever necessary at the call of the Chair of the Zoning Board of Appeals, but in all instances, before a meeting is actually scheduled the Secretary shall contact all members of the Board and confirm that there will be a quorum present.
- B. When possible, meetings of the Zoning Board of Appeals will be “hybrid” in nature, and, therefore, those meetings must be conducted in the Large Meeting Room at the Sister Bay-Liberty Grove Fire Station, which is located at 2258 Mill Road, Sister Bay, WI, as that is where all the required electronic equipment is accessible.
- C. Notice that a meeting of the Zoning Board of Appeals has been scheduled must be provided to the appellant or applicant and his or her attorney, if the identity of that individual is known, as well as all Zoning Board of Appeals members, the Village Administrator/Zoning Administrator, and the Village Attorney, at least three weeks prior to the actual hearing.
- D. All meetings of the Zoning Board of Appeals will be open to the public.
- E. A quorum will be considered three members of the Zoning Board of Appeals. If a quorum is present, the Board may take action by a majority vote of the members present.
- F. The order of business at all meetings of the Zoning Board of Appeals will substantially be:
 1. Call to order
 2. Roll call and declaration of a quorum
 3. Approval of minutes from the previous meeting
 4. Comments and correspondence from the public
 5. Public Hearing and taking of testimony
 6. Discussion
 7. Declaration of Findings of Fact
 8. Declaration of Conclusions of Law
 9. Declaration of the formal decision of the Board
- G. Minutes of the proceedings of the Zoning Board of Appeals and the record will be maintained by the Secretary, who shall record all motions as well as the vote of each member upon each motion, or indicate if a member was absent or failed to vote. The reasons cited by the Board members for their determinations and their findings must be clearly delineated in the minutes, and the minutes maintained as official Village records in the Village Administration Office.
- H. Closed Sessions. The Board may go into closed session for the purposes enumerated in Section 19.85 of the Wisconsin Statutes.

SECTION 4.0 POWERS

The Zoning Board of Appeals shall have the following powers:

- A. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision or determination made by any administrative official of the Village in the enforcement of the Village's Zoning Code.
- B. To hear and grant area variances that will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship; so that the spirit and purpose of the Zoning Code will be observed and the public safety and welfare secured; and substantial justice done. The Board shall only grant a variance when it is found the requested variance satisfies those standards for issuance listed in the Wisconsin State Statutes and the Municipal Code. Use variances shall not be processed or granted.
- C. The Board may reverse, affirm - in whole or part, or modify an order, requirement or decision, and, if applicable, may issue or direct the issuance of a Zoning Permit.

SECTION 5.0 APPEALS AND APPLICATIONS

Appeals from a decision of the Village Administrator/Zoning Administrator or Plan Commission may be made by any person aggrieved or by any officer, department, board or commission of the Village. Applications may also be submitted by the owner(s) or lessee(s) of the structure, land or water affected.

- A. Time Limit. Appeals shall be filed with the Secretary within thirty (30) days after the date of written notice of the decision or order of the Village Administrator/Zoning Administrator or Plan Commission.
- B. Form. Every petition for grant of variance or appeal must be submitted to the Secretary on forms furnished by the Village Administrator/Zoning Administrator. The applicant or appellant must provide all information required on the form as well as any additional information requested in writing by the Zoning Board of Appeals or Village Administrator/Zoning Administrator. Failure to supply such information could be considered grounds for dismissal of the appeal or petition. The Village Administrator/Zoning Administrator will be expected to transmit all papers that constitute the "record" upon which the appeal is being taken to the Secretary.
- C. Fee. The non-refundable fee for each appeal or request for a hearing on a Zoning Board of Appeals application shall be set by resolution of the Village Board and must accompany the application.
- D. Resubmission. No appeal or application which has been dismissed or denied by the Zoning Board of Appeals will be re-considered within one year of the Board's decision, unless there is an affirmative vote of three or more members of the Zoning Board of Appeals, and a finding has been made that substantial new evidence has been submitted which could not reasonably have been presented at the previous hearing.

SECTION 6.0 HEARINGS

- A. Notice. Notice of the time, date and place of the public hearing for a variance or appeal before the Zoning Board of Appeals must be published in a newspaper of general circulation in the Village as a Class 2 Notice; that is, at least once each week for two consecutive weeks, the last publication of which shall be at least one week before the public hearing. Notice of the public hearing shall also be mailed to all parties-in-interest at least ten days before the hearing. Parties-in-interest shall be defined as the applicant, the Clerk of any municipality whose boundaries are within 1,000 feet of lands included in the application, the owners of all lands included in the application, and all lands lying within 300 feet of the lands included in the application. The failure to give notice to any property owner shall not invalidate the action taken by one of the aforementioned bodies.

- B. Appearances. Any party may appear in person or by agent or attorney at a Zoning Board of Appeals Hearing. However, if the Petitioner or Appellant or their attorney wishes to appear virtually, permission must first be obtained from the Chair of the Board. In the absence of an appearance for or against an petition or appeal, the Board may deny, dismiss, table, or grant the petition or appeal or find that the application should be approved or denied based upon the records presented.

- C. Oaths and Witnesses. The Chair of the Zoning Board of Appeals may require that witnesses be sworn in before testifying and may also compel the attendance of witnesses by subpoena.

- D. The order of business at Zoning Board of Appeals hearings will substantially be:
 - 1. Introduction by the Chair and explanation of process.
 - 2. Reading of the Public Hearing Notice by the Secretary.
 - 3. Swearing in of witnesses and oaths.
 - 4. Presentation by the petitioner or appellant or their agent; said presentation shall include the petitioner's request or appellant's reasons for appeal, case and related testimony.
 - 5. Testimony and letters from those interested parties in support of the petition or appeal. Testimony may be limited to three minutes per speaker; letters may be summarized. The Chair may request testimony be limited to one spokesperson in favor of the petition or appeal versus having multiples of people testify.
 - 6. Presentation by the Village Administrator/Zoning Administrator or designee, followed by testimony by those opposed to the petition or appeal and any letters received opposed to the petition or appeal. Testimony may be limited to three minutes per speaker; letters may be summarized. The Chair may request testimony be limited to one spokesperson in opposition to a petition or appeal versus having multiples of people testify.
 - 7. Rebuttal by the petitioner or appellant or their agent.
 - 8. Rebuttal by one person representing those in favor of the petition or appeal.
 - 9. Rebuttal by the Village Administrator/Zoning Administrator or the designee.
 - 10. Rebuttal by one person representing those opposed to the granting of the petition or appeal. The Chair may allow more people to speak, dependent on time, number present, and repetitiveness of subject matter.
 - 11. The Board may ask for clarification on facts presented, but not engage in dialogue.
 - 12. Close public hearing and discuss the case amongst the Board of Appeals members; no public testimony is allowed at this point.

- E. Adjournment. If the Chair of the Zoning Board of Appeals determines that it will not be possible for a decision to be made on a petition for grant of variance or appeal, they may conclude their

deliberations and then reconvene at a mutually agreeable date and time to discuss the case further and make a decision.

- F. Withdrawal. A petitioner or appellant may withdraw a petition or appeal at any time prior to the decision being made thereon; but if a motion is pending to grant, deny, or dismiss the petition or appeal, such motion shall have precedence. Withdrawal will not entitle the appellant or applicant to the return of his or her filing fee.

SECTION 7.0 FINDINGS OF FACT AND CONCLUSIONS OF LAW - VARIANCES

No area variance shall be granted by the Zoning Board of Appeals unless it finds by a preponderance of the evidence that all the following facts and conditions exist and that fact is clearly delineated in the minutes of its proceedings.

- A. Preservation of intent. No area variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located.
- B. Exceptional circumstances. There must be unique circumstances or conditions applying to the lot or parcel or structure that do not apply generally to other properties or uses in the same zoning classification within 1,000 feet of the subject property, and the granting of the area variance should not be of so general or recurrent a nature as to suggest that the Zoning Code should be amended.
- C. Hardship. Economic hardship and self-imposed hardship are not grounds for an area variance. No area variance shall be granted that is solely based on economic gain or loss. The hardship must be based upon conditions unique to the property rather than considerations personal to the owner.
- D. Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same zoning district and same vicinity.
- E. Absence of detriment. No area variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and intent of the Zoning Code or the public interest.
- F. Additional requirements in wetland districts. No variance shall be granted where:
 - (a) Filling and development contrary to the purpose and intent of the W-1 District would result.
 - (b) A change in the boundaries of any wetland district would result.
 - (c) Any action contrary to the provisions of Chapter NR 116 or Chapter NR 166 of the Wisconsin Administrative Code would result.

SECTION 8.0 DECISIONS

- A. The Zoning Board of Appeals must make a decision on a petition or appeal within a reasonable period of time after conducting a related Public Hearing, and the Secretary must transmit a copy of the executed Findings of Fact, Conclusions of Law and the Board's Decision to the

appellant or applicant, their agent, the Village Administrator/Zoning Administrator or designee, and, if applicable, the members of the Plan Commission, as soon as that document has been executed by the Chair of the Board of Appeals.

- (1) Modifications or additions to any condition attached to a permit may be made by the Zoning Board of Appeals, and those modifications or additions shall be enforced by the Village Administrator/Zoning Administrator.
 - (2) Variances granted by the Zoning Board of Appeals that relate to the commencement of construction of a building or structure, shall expire 12 months from the grant of variance unless a regular zoning permit has been issued within that 12-month period and substantial work has commenced prior to such expiration. The zoning permit may be renewed as allowed in Ch. 66. If no permit has been issued within 12 months of the grant of variance, and there has been no substantial work within that 12-month period, the variance shall expire and a new variance shall be required before commencing with construction.
 - (3) In that variances are unique to a property or hardship, variances run with the land and transfer to new property owners.
- B. Voting. If a quorum is present, the Zoning Board of Appeals may take action by a majority vote of the members present.
 - C. Record. The Secretary shall record any and all motions made and the votes of each member in the minutes, or, if a member is absent or fails to vote, must indicate that fact in the minutes.
 - D. Personal Interest. No member of the Zoning Board of Appeals will participate in the decision of, or vote on any case in which he or she directly or indirectly has a personal interest; and in such instance the Chair will excuse that member and direct one of the alternate members to act in his or her stead.
 - E. The final disposition of a petition for grant of variance or appeal will be in the form of a formal document that is entitled, 'Findings of Fact, Conclusions of Law and Decision' that is signed by the Chair and Secretary of the Zoning Board of Appeals. Such document must clearly state the reasons for the Board's determination, and will either affirm, reverse, or modify the order, requirement, decision or determination appealed from in whole or in part.
 - F. Conditions imposed with respect to any permit or variance will be stated in the Findings of Fact, Conclusions of Law and Decision, and such permit or variance will only be valid as long as the conditions upon which it is granted are observed.
 - G. Expiration. Variances, amendments to existing permits, and permits that have been granted by the Zoning Board of Appeals will expire within 12-months from the date of the previously mentioned decision unless substantial work has commenced pursuant to such grant.

SECTION 9.0 REVIEW BY A COURT OF RECORD

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals, or any taxpayer, or any officer, department or board of the Village may, within 30 days after the filing of the fully executed Findings of Fact, Conclusions of Law and Decision in the Village Administration Office, commence an action seeking the remedies available by Certiorari.

SECTION 10.0 AMENDMENTS

These Rules of Order may be amended, suspended, or revoked at any time by a majority vote of the Zoning Board of Appeals.

SECTION 11.0 CONFLICT

Whenever any conflict occurs between these Rules of Order and the laws of the State of Wisconsin or any ordinances of the Village, State law and Village regulations shall prevail.

SECTION 12.0 EFFECTIVE DATE

These Rules of Order shall become effective upon approval by a majority vote of the members of the Zoning Board of Appeals.

Approved by a majority vote of the Village of Sister Bay Zoning Board of Appeals this ____ day of _____, 2025.

Tery Kelly
Chairperson
Village of Sister Bay Zoning Board of Appeals

Attest:

Julie Schmelzer, Acting Recording Secretary