

ARTICLE IX. VARIANCES, PENALTIES AND VIOLATIONS

Sec. 9.1. Variance and Exceptions.

- (a) **Purpose.** The Board of Appeals, after a public hearing, may determine and vary the regulations of this ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this ordinance.
- (b) **Application for Variance and Notice of Hearing.** An application for a variance shall be filed in writing with the Zoning Administrator. The application shall contain such information as the Board of Appeals may, by rule, require. Notice of the time and place of such public hearing shall be published at least once in a newspaper of general circulation in the Village of Kronenwetter and also by mailing notice thereof to the parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of the hearing. The board shall thereafter reach its decision within ninety (90) days from the filing of the application.
- (c) **Standards for Variances.** The Board of Appeals shall not vary the regulations of this ordinance, as authorized in Section 9.1(a), above, unless it shall make findings based upon the evidence presented to it in each specific case that:
 - (1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
 - (2) The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;
 - (3) The purpose of the variance is not based exclusively upon a desire to make more

money out of the property;

- (4) The alleged difficulty or hardship has not been created by any persons presently having an interest in the property;
- (5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

- (d) **Authorized Variances.** Variances from the regulations of this ordinance shall be granted by the Board of Appeals only in accordance with the standards established in Section 9.1(c), above, and may be granted only to permit the use of a lot or lots otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 80 percent of the required area and width. The concurring vote of four of the members of the Board of Appeals shall be necessary to grant a variance.

Sec. 9.2. Enforcement, Penalties and Remedies.

- (a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Ordinance or statute and no person shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, land division or replat within the jurisdiction of this Ordinance not of record as of the effective date of the Ordinance from which this Ordinance is derived until the provisions and requirements of this Ordinance have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this Ordinance or the

applicable statutes.

- (b) **Penalties.** Any person, firm, or corporation, or agent, employee, or contractor of such, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this ordinance, shall, upon conviction, forfeit not less than \$10.00 nor more than \$300.00 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail of Marathon County until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

(c) **Proceedings:**

- (1) *Civil Proceedings.* An action for violation of a municipal ordinance is deemed a civil action. Accordingly, Wis. Stats. §801-847 shall apply where applicable to violations of this chapter.
- (2) *Village Attorney.* The Village Attorney may, in the Village Attorney's discretion, commence legal action or proceedings and may proceed pursuant to the proceedings outlined in Wis. Stats. §66.0113, 66.0114 or 778.10, or pursuant to the issuance of a summons and complaint.
- (3) *Citations.* Citations may be issued by the Zoning Administrator or authorized deputies.
- (4) *Special Inspection Warrants.* The provisions of Wis. Stats. §66.0119 shall govern the issuance of all special inspection warrants.
- (5) *Statute of Limitations.* Pursuant to Wis. Stats. §893.93(2)(b), any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two years of the violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day a violation

occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two-year period prior to the issuance of the complaint.