

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

SECTION 34 BOARD OF APPEALS

(a) **Establishment**

1. Authority: This ordinance incorporates Section 62.23(7)(e) of the Wisconsin Statutes as it presently exists, or any amendments or revisions thereto. Pursuant to the statutes as it presently exists as of the date of the adoption of this ordinance, the board of appeals shall consist of 3 members to be appointed by the Town Chairperson, subject to confirmation by the Town Board. Not more than one town board supervisor may be a member of the board of appeals. The initial terms of the members of the board of appeals are one, 2 and 3 years, respectively, starting from the first day of the month next following the appointment. The first appointed shall be for a term of one (1) year, the next for two (2) years, and the next for three (3) years. Successors shall be appointed or elected at the expiration of each term and their term of office shall be 3 years and until their successors are appointed or elected. Members of the board of appeals shall reside within the town and outside the limits of incorporated areas. The board of appeals shall choose a chairperson and vice-chairperson, and may also designate a secretary or other positions as needed. The Town Chairperson shall appoint 2 alternate members of the board of appeals, subject to confirmation by the Town Board, for staggered 3-year terms. The chairperson of the Town Board shall designate one of the alternate members as the first alternate and the other as 2nd alternate. The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the board of appeals refuses to vote because of a conflict of interest or is absent. Vacancies shall be filled for the unexpired terms of any members whose positions become vacant by an alternate or by appointment of the Town Chairperson, subject to confirmation by the Town Board. The members of the Board of Appeals shall be removable by the Town Chairman for cause upon written charges and after a public hearing is held. The members of the Board of Appeals shall receive such compensation for performance of its duties as determined by the Town Board.

(b) **Rules**

1. General: The chairperson will hold office for one (1) year and until his or her successor is appointed. The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

The board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent, of failing to vote indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall be immediately filed in the office of the board of appeals and shall be a public record.
2. Meetings: Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board of appeals may determine, and said meetings shall be open to the public. Meetings where the board of appeals may go into closed session shall be noticed as such, including the reason for closed session.
3. Procedural: The board of appeals shall adopt bylaws or other rules governing its procedure as are deemed necessary, consistent with this ordinance.
4. Cooperation with the Town of Lisbon Building Inspector: The board of appeals shall keep the Town Building Inspector informed as to any matters brought before it and shall call upon the Building Inspector for such information as is pertinent to the matters under consideration.

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

5. Notification: The Wisconsin Department of Natural Resources shall be notified of any decision of the Board of Appeals in the shoreland and floodland areas of the Town of Lisbon within ten (10) days from the date of the decision.

(c) **Powers**

1. Defined: The Board of Appeals shall have the following powers as defined by statute:
- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Section 59.69 Wisconsin Statutes, or of this Ordinance.
 - B. To hear and decide variances to the terms of this ordinance upon which such board of appeals is required to pass under this ordinance.
 - C. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - D. To grant variances for renewable energy resource systems if said system cannot meet normal locational requirements of this ordinance for accessory structures. If the board of appeals denies an application for a variance for a renewable energy resource system, the board of appeals shall provide a written statement of its reasons for denying the application. In this paragraph, "renewable energy resource systems" means a solar energy system, a waste conversion energy system, a wind energy system or any other energy system that relies on a renewable energy resource.
2. Additional requirements: In making its determination, the Board of Appeals shall consider whether the proposed variance would be hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood by reason of physical, social, or economic effects; and may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this ordinance, as the board of appeals may deem necessary for the protection of adjacent properties and the public interest and welfare.
3. Performance standards: In order to reach a fair and objective decision, the Board of Appeals may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances, or which have been developed by planning, manufacturing, health, architectural, and engineering research organizations.
4. Enforcement of decision: In exercising the above-mentioned powers, such board of appeals may in conformance with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issuance of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; of allowing a variance which would have the effect of intensifying a use in a manner contrary to what a similarly situated property would be allowed; of permitting, without the approval of the Town Board, any building within the base setback area as established by Section 3 (g) 1 of this Ordinance; or of granting exceptions to Chapters COMM 83, NR115 or NR116 of the Wisconsin

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

Administrative Code, the Waukesha County Sanitary Ordinance and any other state or local ordinance. All variances shall be utilized and the building permit issued, where required, within two (2) years of the date of filing of the decision of the Board of Appeals or the variance decision shall expire, and the entire process shall recommence in the event a variance is sought in the future. The date of filing shall be the day following the date of the original decision of the Board of Appeals regarding the subject matter.

5. Required vote: A majority vote of the members of the board of appeals present shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated. A quorum shall consist of a simple majority of the entire Board. If a quorum is present, the board of appeals may take action by a majority vote of the members present. On all votes where the Board is equally divided, the question shall be deemed lost.
6. Further appeal: Any person or persons, jointly or severally, aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, may appeal from a decision of the board of appeals within thirty (30) days after the filing of a decision in the office of the Board of Appeals in the manner provided in the Wisconsin Statutes.

(d) **Appeals**

1. How filed: Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any such decision of the Building Inspector or other administrative officer. Such appeal shall be taken within twenty (20) days from the date of the decision of the Building Inspector or other administrative officer appealed from by filing with the officer from whom the appeal is taken, and with the board of appeals, a notice of appeal specifying the grounds thereof and together with the proper fee as established under Section 37 (b) 5 of this Ordinance. The officer from whom the appeal is taken shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.
2. Stay: An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whose decision the appeal is taken certifies to the board of appeals, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
3. Hearing: Each appeal shall be heard within a reasonable time and not to exceed ninety (90) days from the time the appeal was filed with the board of appeals. Notice of hearing shall be given by publishing in a newspaper of general circulation in the vicinity of the appeal at least once each week for two (2) consecutive weeks and not less than seven (7) days from the date of hearing which includes the date of publication, but not the date of the hearing. Written notice shall be given to the state department of natural resources not less than ten (10) days prior to the hearing if the appeal is in a shoreland and floodland area. Written notice shall also be given to the administrative officer appealed from and by regular mail to the petitioner, the clerk of the town, the owners of each parcel of land within three hundred (300) feet of the land in question, and any other specifically interested parties. At the hearing, any party may appear in person, by agent, or by attorney.

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

4. Decision: The decision on any appeal variance or interpretation shall be made within fifteen (15) days after completion of the hearing thereon unless such time is extended with the mutual consent of the board of appeals and the petitioner. At such time as a decision is made, the petitioner and the department of natural resources (when in a shoreland and floodland area) shall be notified in writing within ten (10) days of the date of the decision.

(e)

Filing requirements

1. Fee: A variance petition submitted by other than a governmental body or agency shall be accompanied by the proper fee as established under Section 37 (b) 5 of this Ordinance, payable to the Town of Lisbon to help defray administrative and professional costs of such petition.
2. Data required: In addition to all information required on the application form, the petitioner shall supply the following to the Town Clerk:
 - A. A minimum of fourteen (14) copies, or the number required by the Deputy Town Clerk, of a map accurately drawn to scale of not less than one hundred (100) feet to the inch showing all lands within 500 feet of the subject property, the land in question, its location, the length and direction of each boundary thereof, and the location and existing use of all buildings on such land.
 - B. The names and complete mailing addresses, including zip codes, of the owners of all properties within three hundred (300) feet of any part of the land included in the request.
 - C. Any further information that may be required by the zoning administrator or Board of Appeals to facilitate the making of a comprehensive report to the Board of Appeals.