



## OFFICE OF THE CLERK

**Supreme Court of Wisconsin**

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CLERK OF WISCONSIN

SUPREME COURT

December 22, 2022

**To:**Hon. William Andrew Sharp  
Electronic NoticeMitchell R. Olson  
Electronic NoticeLori Lowe  
Electronic NoticePahoua Thao  
Electronic NoticeKathleen Henry  
Electronic NoticeTed Waskowski  
Electronic Notice

You are hereby notified that the Court has entered the following order:

No. 2021AP1764

Miller v. Zoning Board of Appeals of the Village of Lyndon Station  
L.C. #2020CV178

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of plaintiff-respondent-petitioner, Thomas Miller, and considered by this court;

IT IS ORDERED that the petition for review is granted on the following issues, and plaintiff-respondent-petitioner may not raise or argue issues not set forth in this order:

1. Whether there is a Due Process right to impartial decisionmakers in rezoning hearings in Wisconsin and, if so, whether it is commensurate with the recusal requirements of Wis. Stat. § 19.59;
2. Whether rezoning of a single parcel is a quasi-judicial or legislative determination; and
3. Whether the zoning board of appeals had jurisdiction to hear petitioner's appeal from the village board's rezoning decision, and, if not, whether the court of appeals' decision should be vacated?

IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the petitioner-respondent-petitioner must file a brief in this court; that within 20 days of filing the intervenor-appellants, Larry Whaley and Kristi Whaley,

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must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the intervenor-appellants, within 10 days of filing the plaintiff-respondent-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that, if a party has not previously filed an electronic copy of the briefs filed on behalf of that party in the court of appeals, the party, within 30 days after the date of this order, must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; but if the party has already filed an electronic copy of such briefs, then there is no obligation to provide additional copies of those briefs to the clerk of this court; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review.

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Sheila T. Reiff  
Clerk of Supreme Court