



TOWN OF ENFIELD

A-1

Town of Enfield Zoning Board of Appeals Information Sheet Variance or Appeal Applications

How do I present my case?

When filing the application:

1. Read and follow all of the directions on the application. If you have questions, please ask for help from the Planning Office (860-253-6355).
2. Review Land Use Application Guide.
3. Identify the zoning ordinance from which you require relief. Zoning ordinances are found online at: <http://enfield-ct.gov/153/Planning-Zoning>
4. Describe your property's unique characteristics that do not allow you to comply with the zoning ordinance above.
5. Send certified letters to the abutting property owners of record.
6. Review the application making sure all required attachments are included.
7. Sign and date the application. Property owners and applicants (if not the same) must sign the application.
8. Have the application notarized and signed in front of a public notary.
9. Post all necessary signs as required by the zoning ordinances prior to the public hearing. Complete public hearing sign affidavit.
10. Electronic submission of all documents and plans received to the Planning Office.

What is a Variance?

A variance is authority granted to a property owner to vary a zoning regulation due to an exceptional difficulty or unusual hardship.

To obtain a variance, three conditions must be met:

1. Adherence to the strict letter of the zoning regulations must be shown to cause unusual hardship unnecessary to the carrying out of the general purposes of the zoning regulations.
2. The variance must be shown not to substantially affect the comprehensive zoning regulations.
3. The hardship may not be financial or self-created, that is due to the actions of the owner.

A variance is not personal to the person who applied for and received it. It does not expire when there is a transfer of title to the property. Rather, the variance runs with the land permanently and passes to future owners.



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What is a Hardship?

The hardship is the justification for granting the variance. A hardship has two parts:

1. It originates in the property, and
2. Arises directly out of the application of the ordinance to circumstances or conditions beyond the control of the party involved.

The applicant has the burden of proving hardship particularly affecting his land by application of the zoning ordinance.

The applicant must show that because of some peculiar characteristic of his/her property, the strict application of the zoning ordinances results in an unusual hardship, as opposed to the general impact, which the ordinance has on other properties in the zone.

For example: Topographical conditions on the property involved in the application may be the basis for granting a variance as long as other properties in the area do not have the same problem. Location of a structure on the property may also create the hardship.

Examples of conditions generally not considered hardships:

- Hardships that result from the applicant's voluntary act are called self-created.

This usually includes the problems caused by someone hired by the property owner. A self-created hardship does not result in a variance.

- Aesthetic reasons are not a hardship.
- Financial loss or the potential of financial advantage to the applicant is not the proper basis for a variance, and does not constitute a hardship.
- Loss of competitive advantage is not sufficient for a variance.

What happens at the Public Hearing?

1. You will be called to come forward to present your request.
 - a. You and/or your representative may participate.
 - b. You must submit all supporting materials to the Enfield Planning Office 25 days prior to your hearing.
2. You will be asked to state your name and address, as will any person accompanying you.
3. You will be asked to state what variance you are seeking.
4. You will explain what you hope to do with your property.
5. You will explain the hardship and how it impedes your efforts.
 - a. Remember to state the Enfield Zoning Ordinance from which you are seeking relief.



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- b. The hardship must meet the criteria outlined in this information sheet.
6. The Zoning Board of Appeals Chairperson will entertain comments from the public.
 - a. Any person may speak in favor of your application.
 - b. Any person may speak against your application.
 - c. Any person may make general comments about your application.
7. Once all persons interested in speaking for/against or in general about your application have spoken, the Zoning Board members may ask you and/or your representative questions about your application. This is the opportunity for the ZBA to dialogue with the applicant/representative on matters relating to the application.
8. Once all comments and questions are heard, the public hearing will be closed.
9. After the public hearing is closed, no additional information may be provided to the ZBA.
10. The ZBA will then discuss the merits of your application.
11. A ZBA vote will most likely be taken at the meeting where your application is originally heard. Should the ZBA need further information or have questions that cannot be answered at the meeting, the application may be tabled.
12. The ZBA has 65 days to act on your application.
13. After a decision is made, you will be informed in writing by certified mail of the ZBA's decision.

What must I do after a variance is approved?

1. Once a variance is approved it is the applicant's responsibility to file the Notice of Variance on the Land Records in the Enfield Town Clerk's Office. A filing fee is charged.
2. No variance is in effect until filed in the Land Records.
3. Apply for a Certificate of Zoning Compliance.

What if I do not like the decision of the Zoning Board of Appeals?

An appeal on the ZBA's decision can be made to the Connecticut Superior Court as provided for in the Connecticut General Statutes. Check with your attorney for filing time, limits and procedures.

NOTE: This document is intended as a general guide only and is not meant, nor should it be relied upon, to provide legal advice. An applicant should seek advice and guidance from an attorney and/or other professionals as to the appropriateness of the information contained herein. Enfield Zoning Board of Appeals, its members and the Town of Enfield are not responsible for errors or inaccuracies contained in this guide.



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APPLICABLE ENFIELD ZONING ORDINANCE SECTIONS

Section 11.00H of the Enfield Zoning Ordinances, Powers and Duties of the ZBA states:

“Variances: The ZBA shall have the authority to vary or adjust the strict application of these Regulations in those cases where the unusual size, shape or topography of a lot or other unusual physical conditions pertaining to it or to any building situated thereon make it impossible to strictly apply a specific provision of these Regulations to such lot without resulting in exceptional difficulty or unusual hardship, so that substantial justice shall be done and the public hear, safety and welfare secured.

Section 11.20 of the Enfield Zoning Ordinances – Decisions states:

A. A. No variance shall be granted by the ZBA unless it finds:

- i. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to the lot or structure for which the variance is sought, which are peculiar to such lot or structure and do not apply generally to lots or structures in the neighborhood and which have not resulted from any willful act of the applicant subsequent to the date of adoption of the regulation from which the variance is sought, whether in violation of the provisions herein or not;
- ii. That, for reasons fully set forth in the findings of the ZBA, the aforesaid circumstances or conditions are such that the particular application of the provisions of these Regulations would deprive the applicant of the reasonable use of the lot or structure, that the granting of the variance is necessary for the reasonable use of the lot or structure, and that the variance as granted by the ZBA is the minimum adjustment necessary to accomplish this purpose;
- iii. That the granting of the variance shall be in harmony with the general purposes, and intent of these Regulations and the Town's Plan of Conservation and Development, and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare.

Subsections 11.20Ai - iii are three sections of local criteria, based in statutory enabling legislation, all of which must be met to grant a variance. These local ordinance subsections deal substantially with the criteria for hardship and applicability covered under statute and case law; any single subsection cannot be used alone to justify granting a variance. The Zoning Board of Appeals must find that a legal hardship exists. A hardship exists when the Zoning Ordinance uniquely affects a parcel of land differently from other properties, and where use of the property or reasonable use of the land would be impossible without the variance. Self-inflicted or financial hardships cannot, by law, be considered as a reason for granting a variance.