

A Practical Guide to the Variance Process

**Zoning Board of Appeals
Town of Suffield, Connecticut
September 2010**

What Is a Variance?



In general terms, a variance is the legal relaxation of the town's Zoning Regulations in a specific situation where an unusual or unique condition associated with a parcel of land makes it impossible to meet one or more requirements of the regulations. This unusual or unique condition is referred to formally as a "hardship."

The hardship must be different in kind from those generally affecting properties in the same zoning district, and must arise directly out of the application of the regulation to circumstances or conditions beyond the control of the applicant. Self-created or financial hardships are typically not considered proper grounds for a variance.

A variance is a legal status granted to a piece of property and not a personal exemption from the zoning regulations. It "runs with the land", which means it is enjoyed by subsequent owners of the property.

How Do I Obtain a Variance?

Variations are granted following a public hearing by the Zoning Board of Appeals (ZBA), an eight-member board of citizens appointed by the Board of Selectmen.

You must first file an application for your variance request to be on the ZBA's agenda for a public hearing, typically held once a month. This is done with the assistance of the Zoning Enforcement office, located at 230C Mountain Road.

The Zoning Enforcement office acts as an administrative arm of the ZBA and is responsible for processing all ZBA applications. The staff will provide you with the necessary application forms, offer assistance and advice, and try to answer your questions. The Zoning Enforcement office is open from 7:30 AM to 3:30 PM, Monday through Thursday, and the telephone number is (860) 668-3848.

Filing an Application: An application for a variance consists of a completed application

form, copies of a map or plan, the filing fee, and on occasion other additional information. The Zoning Enforcement staff can assist you with the form and provide you with certain technical information, such as the Assessor's Map and Lot numbers, zoning district, and type of variance. The application must be signed by every owner of the property (e.g., both you and your spouse, if you own the lot together). Additionally, notice of the application must be provided to abutters within 100 feet of any portion of your property.

Map: The map or plan should show the existing features of your property (e.g., lot lines, location of the house, driveways), the proposed activity for which the variance is needed (e.g., location and size of the proposed garage), and the location and extent of the proposed variance (e.g., the shortest distance between the proposed garage and the side property line). The map or plan should be drawn by a design professional such as a surveyor or an engineer. An existing plot plan of your property, brought up to date, may be acceptable – check with the Zoning Enforcement Office.



Fee: The application fee of \$310 is payable at the time you file your application with the Zoning Enforcement Office. The fee helps defray the cost involved with processing your application (staff time, legal notices, etc.). Checks should be made payable to "Town of Suffield". Please note that the fee is generally not waived or refundable.

Other Information: Occasionally, a variance is requested for a situation that cannot be shown on a map or plan – for example, a height variance for a garage or a size variance for a sign. If you are applying for this type of variance, you should submit additional explanatory materials such as measured drawings or sketches which clearly illustrate the type of variance you are requesting. Again, check with the Zoning Enforcement Office.

Each ZBA meeting has an application filing deadline associated with it; the deadline falls approximately two-and-a-half weeks before the meeting. In order for your variance application

to be heard by the Board at a particular meeting, you must submit your completed application to the Zoning Enforcement Office no later than 12:00 noon on the filing deadline day for that meeting. The Zoning Enforcement Office maintains a list of the ZBA's meeting dates and filing deadline days for the current year.

ZBA Timetable



By State law, the Zoning Board of Appeals operates within the following timeline:

The Board has 65 days from the “day of receipt” of your application to hold the public hearing. The day of receipt is the day of the next regular meeting of the Board after you have filed your application with the Zoning Enforcement Office, or 35 days after filing, whichever is sooner. The Board usually will begin the hearing on your application at the meeting it first appears on the agenda, unless a postponement is requested (e.g., cannot be present) or as necessary.

Once the public hearing begins, the Board has 30 days to complete it. Once the public hearing is closed, the Board has 65 days in which to make a decision. Usually (but not always), the Board tries to make a decision on your application right after the close of the public hearing. The Board has the right to extend these time limits but needs your consent in order to do so.

Before the Meeting

When your completed application is submitted to the ZBA through the Zoning Enforcement Office, all efforts are made to place it on the agenda for the next public hearing. Notice of your application before the ZBA is published in the Journal Inquirer for each of the two Fridays before the scheduled hearing. This allows anyone who may be affected by the proposed action to prepare for the hearing.

About one week before the hearing on your application, you will receive a copy of the meeting agenda from the Zoning Enforcement Office.

At the Meeting

The ZBA usually hears the applications in the order in which they appear on the agenda. When your application is announced, you or your representative should step up to the table and address the Board, first by giving your name and address, and then briefly explain to the Board what it is you propose to do, why you need a variance, what your hardship is, and any other information which will give the board a full understanding of your request. During the hearing, Board members may ask you questions about your application.

When you have finished, the Chairman will give the public the opportunity to speak either in favor of or against your application. If anyone speaks against it, you will be given the opportunity to respond to their comments.

When all parties have spoken, the Board will close the public hearing on your application. Once the hearing is closed, no member of the public, including the applicant, is allowed to address the Board regarding the application. Sometimes the Board may feel that it needs additional information regarding an application. If it does, it may choose to leave the hearing open and continue it to the following month's meeting, to allow the additional information to be provided and entered into the record of the public hearing.

After the public hearing is closed, the Board will discuss your application and vote to either approve or deny it. There are typically five members designated in advance to vote on an application. Four affirmative votes are needed for the approval of a variance request. In approving your variance, the Board may attach conditions that it feels necessary to protect the public health, safety and welfare.

After the Meeting

Within 15 days after the Board's decision on your application, you will receive a letter from the ZBA stating the outcome of your application request: approval, denial, withdrawal, postponement or continuation. If approved, this letter which describes the variance must be filed

on the land records with the Town Clerk in order for your variance to become effective. There is a recording fee for this filing. The decision of the board is also published in the Journal Inquirer on the Saturday following the meeting.

If the ZBA approves your variance request, there is a 15-day appeal period starting the day after the legal notice of action taken is published in the Journal Inquirer. During this time, an “aggrieved” landowner who wishes to appeal the Board's decision may file a suit in Superior Court. We recommend waiting until after the appeal period to record the variance or to begin construction.

If the ZBA denies your application, you may appeal the decision to the Superior Court or file a new application for hearing by the Board. A court appeal is a legal matter, and you should consult your attorney about it. If you file another application, you should be aware that under State law the Board is not required to hold a public hearing on the same or substantially the same variance request if your previous application was decided upon within the past six months.

Helpful Tips

- At any time during the process of obtaining a variance, you may represent yourself or have someone else represent you, such as an attorney. That decision is entirely up to you. There is no requirement that anyone else represent you before the ZBA.
- Your hardship cannot be self-created or based upon economic or financial considerations.
- You should bring anything to the public hearing that you think might help clarify or support your application, such as letters from neighbors or visual aids such as photographs.
- The variance you request should be the smallest variance needed to accomplish your objective.
- Refer to the Town of Suffield Website for more information

○ www.suffieldtownhall.com