

Guide to the Z.B.A. Process

City of New Britain, Connecticut

Rev. January 2018

WHAT IS A VARIANCE?

A variance is permission granted by the Zoning Board of Appeals (ZBA) to build or develop in a way that is not consistent with the standards of the Zoning Ordinance(s). Variances are not intended to be granted frequently. The applicant must clearly show the Board that his or her request is due to very unusual characteristics of their property and that it satisfies the variance standards. In deciding variance requests, the Zoning Board of Appeals acts as an agent of the city, not the property owner.

FINDING OF FACTS

The burden of proof to grant a variance is the responsibility of the applicant and must be based on a finding of facts that indicates a **HARDSHIP TO THE LAND** that is caused by the Ordinance(s). If there is any question or doubt of hardship, the Board may ask the applicant for justification. It would be in the best interest of the applicant to review the following conditions that create a hardship:

- A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. ***It is not sufficient to grant a variance based on economic hardship, unique personal or family hardship, or hardship suffered by the applicant in common with neighbors. Justification must relate to the property in question.***
- B. That the literal interpretation of the provisions of the Ordinance(s) would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of said Ordinance(s). ***The Board is required to limit itself to the evidence of hardship resulting from the application of the Ordinance(s) to the property. Facts and arguments need to show that the variance represents the least possible deviation from the letter of the Ordinance(s).***
- C. That the special conditions and circumstances to be considered do not result from the actions of the applicant. ***Previous knowledge or violations of the Ordinance(s) prior to an application to the Board are not conditions which the Board would consider justification to grant a variance.***
- D. That granting the variance will not confer on the applicant any special privilege that is denied by said Ordinance(s) to other lands, structures, or buildings in the same district. ***State facts and arguments that the variance will be in harmony with the general purpose and intent of the Ordinance(s) and that the public safety and welfare is secured and does substantial justice by showing, if the variance is granted, the benefits to the applicant will not outweigh the benefits to the public.***

<http://www.newbritainct.gov>
https://www.municode.com/library/ct/new_Britain/codes/zoningordinances

The ZBA Meeting & Public Hearing

Signs: At least 17 days before the hearing you must post a sign on the subject property informing the public that the property is the subject of a variance or special exception request. If a corner lot is involved, signs must be posted on each street frontage. The sign(s) must be posted for the entire 17 day period up to and including the date of the public hearing. If the sign is posted improperly or not at all, the application will not be heard by the ZBA and the application may be dismissed. Specific information about the required signs are available in both the Building and City Plan offices.

The Meeting: The Zoning Board of Appeals meets on a **bi-monthly** basis on the third Thursday of the month at **6:00 p.m.** in Room 201, on the second floor of City Hall.

The ZBA usually hears the applications in the order as they appear on the agenda. When your application is announced, you or your representative should step up to the podium and address the Board. Speak clearly into the microphone and give your name and address; then briefly explain what it is you propose to do, why you need the variance or special exception, what your hardship is, and any other information you feel is related to 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 or against your application. If anyone speaks

against your application, 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. Sometimes, the Board may find that it needs additional information regarding an application; if so, it may choose to keep the hearing open and continue it to the following meeting to allow 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 take a vote to either approve or deny it. Once the hearing is closed, no member of the public, including yourself, is allowed to address the Board regarding the application.

Your application needs five (5) affirmative votes of the ZBA in order for your variance or special exception to be approved. In approving your variance or special exception request, the Board may attach conditions that it feels may be necessary to protect the public's health, safety and welfare.

If your application is approved, you will receive a "Certificate of Action" form. The Certificate must be filed on the City's Land Records in the City Clerk's office (Room 109) for the variance to become effective. There is a fee for this filing.

The Decision: Within 15 days after the ZBA's decision on your application, you will receive a Certified Letter from the Secretary of the Board stating the outcome of your application.

If your application was denied, you may appeal the ZBA's decision to the Superior Court or file a new application for hearing by the Board. New applications must show substantial new information and there is a 6-month waiting period before a new application may be filed with the Board.

ZONING BOARD MEMBERS

Jerrell Hargraves, Chairman
Matthew Malinowski, V-Chairman
James Adams
Paul Catanzaro
Marion Fischbein
Kathy W. Olandt
Henry Zembko III
Mario Santos, Alternate
Alan Zaniewski, Alternate



FEE SCHEDULE (Effective April 15, 2014)

Variance, Special Exception or Appeal of the Decision of the Building Official.....\$260.00

Variance or Special Exception for liquor permit location; or for Motor Vehicle Sales, Service or Repair Uses.....\$400.00

Other Information:

- ⇒ Each Zoning Board of Appeals meeting has an application filing deadline; please refer to the application package for filing deadline dates.
- ⇒ Applications for variances or special exceptions of the sections pertaining to liquor outlets shall be accompanied by five (5) copies of a map showing the location of other liquor outlets within 1,500 feet, as defined in the Ordinances.
- ⇒ The applicant (or applicant's agent) must be present at the meeting and be prepared to proceed with their petition. Failure to appear may lead to the dismissal of the application.
- ⇒ At any time during this process, you may represent yourself or have someone represent you, such as an attorney. However, there is no requirement that anyone else represent you.
- ⇒ 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. These items will be entered as exhibits and will become part of your file. They will not be returned to you.
- ⇒ Your hardship cannot be self-created or based upon economic or financial considerations.
- ⇒ The City Plan Commission issues an advisory report for each application to the ZBA. The Commission meets on a bi-monthly basis on the first Monday of the month at 6:30 p.m. in Room 201. It is not a necessity, but you may appear before the Commission on behalf of your application if you have any information which will give the Commission full understanding of your request.