



TOWN OF WINCHESTER - CITY OF WINSTED

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REGULATING LAND USE

The Town of Winchester Zoning Regulations and the Comprehensive Plan of Development were established for the benefit of the community as a whole to decide which uses can go where and to what extent. However, power to regulate is not unlimited. A municipality must strike an appropriate balance between private rights and public good.

WHAT IS THE ZONING BOARD OF APPEALS?

The Zoning Board of Appeals (ZBA) consists of five (5) regular members and three (3) alternates who are electors of the Town and are appointed by the Board of Selectmen. The board has the following powers and duties:

- to hear and decide variance requests from the zoning regulations;
- to hear and decide appeals from decisions of the Zoning Enforcement Officer;
- to regulate the location of businesses dealing with motor vehicle repair and gas stations. (In this capacity, the board serves as an agent for the State)

WHAT IS A VARIANCE?

A variance is permission granted to the owner of a property to use his land in a manner that is prohibited by the zoning regulations. The Zoning Board of Appeals is given the power to vary the application of the Zoning Regulations. The requirements for the Zoning Board of Appeals to grant a variance follow.

1. Strict adherence to the zoning regulations will cause “exceptional difficulty and unusual hardship”;
2. The variance must be shown not to substantially affect the town’s zoning plan, is in harmony with the general purpose and intent of the regulations, and will not impair the public’s health, safety and welfare.

WHAT CONSTITUTES A HARDSHIP?

Variances run with the land and not the owner or applicant, therefore, they are granted based on conditions of the land and not the owner. Economic hardship such as financial loss is not a proper basis for granting a variance. Some examples of conditions, which have been sometimes successful to demonstrate hardship are: □ restrictive topography of the land;

- extensive rights of way or easements;
- unusual parcel shape;
- public health and safety (such as restricted sight distance on a road); and
- environmental considerations (such as extensive amounts of wetlands or flooding areas).

It should be noted that the parcel of land must have unusual conditions that are unique and not generally affecting other properties in the same zone district. Proof of exceptional difficulty or unusual hardship is absolutely necessary as a condition precedent to the granting of a zoning variance. Plans, photographs and other documentation should support explanations of hardship.

For further information: Town of Winchester Zoning Regulations – Section 13.

**Zoning Board of Appeals Instructions for Filing A Variance Application And
Check-Off Sheet**

- 1) Fill out Application completely and submit all items to the Building Department before the Due Date of the meeting.
- 2) An A-2 survey, unless waived, shall accompany an application for any variances requiring any setback or lot coverage variances. The survey shall include all property lines, the location of all structures on the property with respect to the property lines, the zone and the setback requirements that the property is located in,
- 3) Building elevation plans, with Height dimensions, and typical floor plans, with dimensions, must be submitted with application, if variance is for construction of any type of structure.
- 4) The Application **must be** signed by the owner of the property.
- 5) The Applicant shall submit 10 copies of the application, survey map, building drawings, and any other documents that are submitted with the application. 6) The application fee must accompany the application.
- 7) The applicant, after submitting an application, shall receive a sign from the Building Department.
- 8) The sign shall be posted within (2) two days of filing the application, and remain posted until after the meeting has occurred.
- 9) The sign shall be posted ten (10) feet from the front property line as measured from the street side, or on the building itself, whichever is closer to the street. The sign shall be posted so as to be visible from the street. 10) Replacement signs may be purchased for \$20.00.
- 11) The Applicant must submit a list of all property owners within 100 feet of the subject property, a minimum of 7 days before the date of the Public Hearing, to the building department
- 12) The Applicant shall mail a notification of the public hearing to all property owners within 100 feet of any property line of the subject property.
- 13) Such notice shall be mailed **certificate of mail**.
- 14) The Applicant shall present the receipts from the postal service a minimum of 7 days before the date of the Public Hearing, to the building department, to demonstrate compliance with the notification.
- 15) The Applicant, at the public Hearing, shall submit the "Certification of Notice" that is enclosed with the Application.
- 16) The owner, or Applicant must be present at the meeting, to answer any questions that the Board may have.
- 17) A fee of **\$410.00 shall** accompany the application.

CASE# _____



DATE RECEIVED _____
AMOUNT RECEIVED _____

ZONING BOARD OF APPEALS
TOWN OF WINCHESTER WINSTED, Ct. 06098
Variance Application

Name of Applicant _____ Telephone # _____

Email Address _____

Mailing Address _____

Address of Property for Variance _____

Tax Assessors Map ____ Block ____ Lot ____ Zone where property located _____

Name of Owner(if Different) _____

Mailing Address _____

If owner not same as Applicant, State reason. _____

Is property located within 500 feet of the town line? _____

Is there an Easement or right of way granted for this property? _____ (If yes, then show on drawing where they are located?)

Present Use of premises: _____

Proposed Use of premises : _____

Type And Amount of Variance Requested:

Section	Description	Amount requested
Section	Description	Amount requested
Section	Description	Amount requested
Section	Description	Amount requested

Has a variance been granted for on this property? no (If yes, then include a copy of the land records with application)

Explanation of what you propose to do: _____

Give an explanation of why you need for a variance, explaining your hardship: _____

I declare that I have read the instruction sheet and application and that the information given herein is a true statement to the best of my knowledge or belief.

Further, the undersigned hereby authorizes the Zoning Board of Appeals or its agents to enter upon the property in question for the purpose of inspection in regards to this application.

Owners Signature _____ Date _____

TOWN OF WINCHESTER
Zoning Board of Appeals

CERTIFICATION OF NOTICE

I certify that in accordance with all of the requirements of the Winchester Zoning Board of Appeals, I have posted a sign on the property for which an application is pending before said Board for a minimum of fourteen (14) days prior to the public hearing scheduled for _____.

Signature (applicant)

Date

Signature (owner)

Date

THIS CERTIFICATION SHOULD NOT BE SIGNED UNTIL AFTER THE POSTING REQUIREMENTS HAVE BEEN MET. THE APPLICANT OR HIS REPRESENTATIVE SHOULD BE PREPARED TO SIGN THIS IN FRONT OF THE ZONING BOARD OF APPEALS AT THE TIME OF HIS/HER PUBLIC HEARING.



Approved 8/5/1989
Revised 11/27/1990
Revised 12/11/1990
Revised 08/26/2003
Revised 12/16/2008

TOWN OF WINCHESTER - CITY OF WINSTED

ZONING BOARD OF APPEALS

Regulations

1.) DEFINITIONS

(reserved)

2.) FEES 2.1 Schedule of Fees

Application of Variance - **\$350.00 + State Fee**

Application of other matters requiring a public hearing, except an appeal. **\$350.00+ state Fee**

Application for other matters when no public hearing is required. **-\$150.00 + state Fee**

Appeal from Decision of Zoning Officer- **\$50.00**

Replacement Sign - **\$20.00**

2.2 The fee must accompany the application form and other documents.

2.3 The Zoning Board of Appeals, for good cause shown, may waive any fee. The five members seated to hear a given application shall make the decision on a fee waiver, by simple majority.

3.) APPLICATIONS

6.1 Application to the Zoning Board of Appeals for variances, appeals, and other matters shall be on form as prescribed by the Zoning Board of Appeals, and from time to time amended.

6.2 Application shall be accompanied by such materials as are specified in these rules and/or as may be necessary for a proper determination of the Application.

6.3 Ten (10) copies of the application and all accompanying documents shall be filed.

6.4 After the first publication of notice for a public hearing, no changes in an application will be accepted unless such changes make the proposal less non-conforming. Any other changes shall require a new application, fee, notice and publication.

6.5 Any Application may be denied and any approval, if granted, may subsequently be withdrawn, suspended, modified, or revoked if it is discovered that any information or required certifications supplied by the applicant or owner in connection with the application subsequently, proves to be false, deceptive, incomplete, or inaccurate.

4.) SURVEY

6.1 An A-2 survey, unless waived, shall accompany an application for a variance of front, rear, sideyard, or lot coverage requirements for an external construction of, or to the primary building, including, but not limited to attached garages, decks, or porches. Accessory buildings, such as tool sheds and separate garages are excluded from this requirement, unless the Zoning Board of Appeals deems it necessary in a particular case.

6.2 The Zoning Board of Appeals may request an A-2 survey, with respect to any case in which it deems such a survey to be necessary. The five members seated to hear a given application shall make the decision on such a request.

6.3 The A-2 survey shall include:

- a) all property lines
- b) the location of all buildings with respect to said property lines
- c) the zone and setback requirements
- d) any easements, or right-of-ways associated with the property.

- 4.4** The Zoning Board of Appeals may Waive the requirement for an A-2 survey for good cause shown. The five members seated to hear a given application shall make the decision on said waiver, by simple majority.

5) SIGNS & NOTICE

- 6.1** The applicant, for all matters, except an appeal, shall be required to post a sign on the property for which an application is pending and shall notify all property owners, within 100 feet of the property line of the subject property, by certificate of mail, of the date, time, and location of the Public Hearing. Such notice shall be mailed a minimum of 7 days prior to the Public Hearing. The Applicant, by the public Hearing, shall present receipts from the postal service, to demonstrate compliance with this section. as described within this section
- 6.2** The applicant, for all matters, except an appeal, shall be required to post a sign on the property for which an application is pending, as described within this section. Failure to post the sign shall result in a denial of the application.
- 6.3** The sign shall be in a form and size approved by the Zoning Board of Appeals, which shall, at a minimum:
- a.) Have a heading in bold print letters at least one (1) inch high stating:
Zoning Board of Appeals
Application Pending on this Property
For Information Call. 379-3 81 8
Winchester Zoning Enforcement Officer
 - b.) shall have a minimum size of 11 inches by 17 inches.
- 6.4** The sign shall be posted ten (10) Feet from the property line as measured from the street side, or on the building itself, whichever is closer to the street. The sign shall be posted so as to be clearly visible from the street.
- 6.5** The sign shall be posted within two (2) days of the filing of the application in the office of the Zoning Enforcement Officer. The sign shall remain posted on the property for a minimum of fourteen (14) full days.
- 6.6** To the extent that pre-printed signs are available, the first sign shall be free upon payment of the application fee. Replacement signs may be purchased for \$2.00 each.
- 6.7** The applicant and the property owner, at the public hearing, shall submit a signed certification as follows:

CERTIFICATION OF NOTICE

I certify that in accordance with all the requirements of the Town of Winchester Zoning Board of Appeals, that I have posted a sign on my property, for which an application is pending before said Board, for a minimum of Fourteen (14) days prior to the public hearing scheduled for _____.

Signature of Applicant

Signature of Owner

6.) APPEALS FROM THE DECISION OF THE ZONING ENFORCEMENT OFFICER

6.1 This rule is adopted under Connecticut General Statutes Section 8-7

6.2 Appeals taken under Connecticut General Statutes Section 8-7 shall be filed with the Zoning Commission OR the Zoning Enforcement Officer from whom the appeal has been taken AND with the Zoning Board of Appeals under whichever is the sooner of the following time periods:

- a.) Within 45 days of the order, requirement, or decision: or
- b.) Within 21 days of actual notice of decision; or
- c.) Within 21 days of the posting of a sign on the property that a certification has been issued by the Zoning Enforcement Officer for the issuance of a building permit, if said posting is required by the Planning and Zoning Regulations.

The effective date of approval of these rules shall be upon passage by the Zoning Board of Appeals.