



## **Town of Washington – Zoning Board of Appeals**

P. O. Box 383 • Washington Depot, CT 06794

Land Use Office: 860-868-0423 • Pam Osborne, ZBA Secretary

### **Guidelines for Variance Applications**

Although variances are often requested from the Washington Zoning Board of Appeals, many applicants do not understand what a variance really is and what it means to the Town when they are granted.

Variances are supposed to be issued only sparingly, and the legal standards for granting them are strict and complicated. The Zoning Board of Appeals has prepared these guidelines in an effort to help take some of the mystery and confusion out of the application process. These guidelines are intended to give only a general overview of variances. They should not be viewed as comprehensive. The Zoning Board of Appeals cannot give legal advice.

#### **Consider the Nature of a Variance**

Of Washington's many charms, a small-town sense of community and rural character are among its most prized. Our Zoning Regulations have been carefully crafted to preserve and protect these charms. Yet a request for a variance, in effect, asks that those rules be broken. Would you still love the looks and nature of this Town if everyone could break the zoning rules? Probably not. So carefully consider whether yours is, in fact, a unique situation that deserves special consideration.

#### **Proof of Hardship**

A variance constitutes permission to act in a manner that is otherwise prohibited under the Zoning Regulations of the Town. Therefore, an applicant must show that, because of some peculiar characteristic of the property, the strict application of the Zoning Regulations produces an “exceptional difficulty or unusual hardship.” Because a variance is granted for a property and holds for all subsequent owners, hardship is a term that applies to the conditions of the property—not the owner. It is **not** a matter of personal circumstance. Furthermore, the hardship must differ from the general conditions that affect other properties in the same area, and it must arise from circumstances beyond the control of the applicant.

#### **What the ZBA Must Consider**

The following circumstances are among the facts the ZBA must typically consider when deciding whether to issue a variance. Although other factors may also be important to a particular application, an applicant should be prepared to discuss these issues:

- Does the applicant have reasonable use of the property without the variance?
- Do extraordinary physical conditions peculiar to and inherent in the subject property amount to more than a mere inconvenience to the owner, and do those conditions arise out of the lot rather than the personal situation of the current owner of the lot?
- Would adhering to the Zoning Regulations deprive the applicant of substantial rights commonly enjoyed by owners of other lots subject to the same provision?
- Will granting a variance result in a use or development of the subject property that would not be in harmony with the general and specific purposes of the applicable Zoning Regulations?
- Will the results of the variance be in harmony with the Zoning Regulations' “general purpose and intent and with due consideration of conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated”?

## **How to Present Your Application**

- Be sure that your application is complete.
- Before the public hearing on the application can proceed, the applicant must supply evidence of certified mail notification of the owners of record (in the Assessor's office) of all properties within 200 feet of the subject property's boundaries, as to the nature of the request and date of the hearing.
- The applicant or his/her designated agent or attorney **MUST** attend the hearing. The ZBA, in its discretion, may dismiss any application without prejudice for failure to comply with any of the foregoing guidelines and procedures.
- Be prepared to explain why the unusual characteristics of your property make it more difficult for you to use your property in compliance with the Zoning Regulations than it is for other owners of property in the same district.
- Remember that financial constraints, health problems or any self-created hardship cannot justify a variance.
- The inclusion of photographs to depict existing conditions is appreciated.
- All documents presented at the hearing will be taken as evidence in the application file, and will not be returned.

## **Dates of ZBA Meetings**

Regular meetings of the ZBA are usually held on the third Thursday of each month at 7:30 p.m. in the Land Use room on the lower floor of Town Hall. Please check the Town Calendar or Web site [[www.washingtonct.org](http://www.washingtonct.org)] for possible schedule changes.

Every effort will be made to schedule any application for hearing at the next regular meeting of the ZBA provided that the completed application is filed with the Secretary not less than twenty-one (21) days prior to the date of the meeting.