

# VARIANCE

A Variance is an exception to a Zoning Regulation which allows use of the land outside the requirements of the *zoning* for that area. **A Hardship must be demonstrated – something unique about your lot in that you cannot improve it in strict conformance to the Zoning Regulations of the Town of Haddam.**

## Process – in order:

1. **Complete the yellow Application of Variance.** Fee, Payable to the Town of Haddam: \$125.00 (includes cost of Legal Notices). On the application, include the **reason** the Variance is requested – and the **dimensions** of any proposed structure(s). With the completed application, submit the Supporting Documentation: 12 copies each of Plans, Plot(Site) Plans, and other documents pertinent to the application.
2. At time of Application, get a **List of Abutting Property Owner Names and Addresses** from the Land Use Office.
3. At time of Application, get the **Date** of the **Zoning Board of Appeals** Meeting, at which your Variance Application will be heard by the Board.
4. The Town will publish a **Legal Notice** of the Application in the newspaper of record (The Haddam News, published each Thursday).
5. **Create a letter** to Abutting Property owners (example of letter included in Application Packet). This letter contains the Date of the Zoning Board of Appeals meeting.
6. Between 10 and 15 days before the Date of the Hearing, **mail letters** to Abutting Property owners using USPS CERTIFICATE OF MAILING.
7. You will receive an **Agenda** from the Town of Haddam Land Use Office – either by email (if provided) or US Mail.
8. Applicant attends the meeting of the Haddam Zoning Board of Appeals. All USPS Certificate of Mailing receipts should be brought to the ZBA meeting.
9. At the **ZBA meeting**, the Applicant will be asked to explain the Variance Request. The applicant is encouraged to bring any visual aids that will help – aerial photos, drawings, photos, maps, etc. Please make sure that any documents that are submitted can be left with the Recording Secretary and are no larger than 11" X 17".

\*\*\* **Note:** If a Variance is granted, there is a 15 day appeal period.

After the 15 days, you will receive a letter.

This letter must be filed with the Haddam Town Clerk.

Once the letter is filed, you can then proceed with a Zoning/Building Permit Application.

**HADDAM ZONING BOARD OF APPEALS**  
**APPLICATION FOR: VARIANCE,**  
**APPEAL OR CERTIFICATE OF LOCATION**  
PHONE: 860-345-8531 FAX: 860-345-5169

\_\_\_\_\_  
(Date)

APPLICANT: \_\_\_\_\_ PHONE # \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

OWNER: \_\_\_\_\_ PHONE # \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

LOCATION OF SUBJECT PROPERTY: \_\_\_\_\_

DEED: VOLUME \_\_\_\_\_ PAGE \_\_\_\_\_

ZONING CLASSIFICATION: \_\_\_\_\_ ASSESSORS MAP # \_\_\_\_\_ LOT # \_\_\_\_\_

PLEASE CHECK ONE: Variance request ☐ Appeal ☐

SECTION(S) OF THE ZONING ORDINANCE APPEALED: \_\_\_\_\_

If application is for a variance, please complete the following section (attach additional sheets if necessary):

a.) List section of Zoning Regulations for which you seek a variance: \_\_\_\_\_

b.) Describe nature of variance: \_\_\_\_\_

c.) What specific Hardship is claimed? (Please print or type) \_\_\_\_\_

If application is to APPEAL an order of the Zoning Enforcement Officer, please describe the nature of the order and basis of the appeal

SUPPORTING DOCUMENTS: attach twelve (12) copies each of plans, plot plans, and other supporting documents with this application. Please do not mount on poster board.

I/We hereby depose and say that all the above statements, and the statements contained in all papers attached to this application are true to the best of my (our) knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF OWNER

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
PRINT NAME

**For ZBA use only:**

DATE RECEIVED \_\_\_\_\_ DATE OF HEARING \_\_\_\_\_ DATE OF DECISION \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_ WITHDRAWN: \_\_\_\_\_

CONDITIONS OF APPROVAL: \_\_\_\_\_

SIGNED: \_\_\_\_\_ Chairman, Haddam Zoning Board of Appeals

PRINT NAME: \_\_\_\_\_ PERMIT #: \_\_\_\_\_

## **GUIDELINES FOR DETERMINING HARDSHIP**

The following information should be considered when determining whether a hardship is present in a variance application:

1. According to Thomas P. Byrne, in his book Connecticut Zoning Boards of Appeal, "the power to determine what are the needs of a town, with reference to the use of real property located in it and to legislate in such manner that those needs will be satisfied is, by statute, vested exclusively in the zoning commission. The Zoning Board of Appeals has quite a different function. It stands between the public and the individual property owner to protect the latter from unnecessary hardship. The hardship must be one different in kind than imposed upon property in general by the ordinance. It is not usually enough that the owner can obtain a better income from the property if the variance is granted. A hardship resulting from the peculiar topography or condition of the land, or a particular location which makes the property unsuitable for the use permitted in the zone in which it lies, may well be such a hardship as is contemplated by the ordinance. The requirement that the hardship be unnecessary has closely allied this to the second essential condition, that the granting of a variance shall be in harmony with the general purposes of the zoning regulations and shall work substantial justice. If the use to be permitted by the variance is such that it runs counter to the fundamental principles of zoning, then the hardship resulting from the strict application of the ordinance is one which must be borne. It is a necessary hardship."
2. Terry Tondro stresses in his book, Connecticut Land Use Regulation, that the hardship necessary for a variance must be related to conditions of a specific parcel and not one generally applicable to the zoning district. Thus, if all property owners in a given district are similarly affected, no hardship exists. The particular characteristics of the specific parcel must be the source of the problem.
3. Thomas P. Byrne also states in his book, Connecticut Zoning Boards of Appeal, that in Connecticut financial hardship, of itself, is not sufficient to warrant the granting of a variance.
4. Section 8-6 of the Connecticut General Statutes states, in part: "The zoning board of appeals shall have the following powers and duties... (3) to determine and vary the application of the zoning bylaws, ordinances or regulations in harmony with their general purpose and intent and with due consideration for 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, a literal enforcement of such by laws, ordinances or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are otherwise allowed."

## ZBA General Information

Please fill out the attached (yellow) application. If you have questions staff will be able to assist you.

### **Adjacent Property Owners:**

The applicant is required to mail a letter by way of **certificate of mailing** to adjacent property owners. Adjacent means property owners who share any part of a property line with you. While you are not legally required to mail a letter to neighbors across the street who do not share a property line with you, it is not a bad idea.

A *certificate of mailing* is proof that you mailed the letter. This is frequently confused with a *certified mailing*, which requires a signature. It is not necessary to do a certified mailing but you must do a certificate of mailing at the minimum. As of September 2009 the cost of a certificate of mailing is \$1.15.

At the start of the ZBA Hearing, you will be asked to submit your certificate of mailing slips (green slips) from the USPS demonstrating that you have mailed a letter to your neighbors. Please bring them to the Hearing with you!

**The Mailing:** Letters must be mailed between 10 and 15 days prior to your Hearing. The letter, in a general way, should state your name and address, the nature of your request and the date of the Hearing. A sample letter is attached as a template.

**Hardship:** An applicant before the board seeking a variance must be able to demonstrate hardship (see the attached sheet for determining hardship). In Land Use applications hardship means that there is something unique about your lot in that you cannot improve it in strict conformance with the Zoning Regulations. Some examples of hardships are things like steep slopes on the lot, an undersized lot, historic features, wetlands etc. Some examples of things that are *not* considered legal hardships are financial hardship, convenience, self created hardships etc.

**The Hearing:** At the ZBA Hearing you will first be asked to submit your certificate of mailing stubs. Then, the Board will ask you to explain the nature of your request. If you are applying for a variance you be asked to explain the hardship. You are encouraged to bring any visual aids that will help you, aerial photos, drawings, photos, maps etc. Please make sure that any documents that are submitted can be left with the recording secretary and are no larger than 11" x 17".

**Other Permits:** If you require a variance prior to construction you may want to consider filing your variance application and health permit at the same time. This way they can be reviewed at the same time in the event the Health District requires changes to your plans. It is recommended that you file both at the same time, however it is not required.

## CERTIFICATE OF MAILING

The Haddam Zoning Regulations state that a Certificate of Mailing proof is required to be presented to the Zoning Board of Appeals meeting when a Variance Application is heard.


Certificate of Mailing is the least expensive method of proof that a letter was mailed, meeting the Zoning Regulation requirements. The cost is \$ 1.30 per letter for Certificate of Mailing. You do not need to provide proof that the addressee received the letter, nor does the addressee need to sign for it.

Letters must be sent to all abutters of the property boundaries for the parcel that is seeking a variance. The Haddam Land Use Office will provide all Variance Applicants a list of abutter names and addresses that require a mailing. The mailing should be a minimum of 10 days prior to the date of the Zoning Board of Appeals meeting.

A Certificate of Mailing (PS Form 3817 for individual letters and PS Form 3877 for three or more letters) indicates that a letter was presented for mailing.

The form is obtained at the US Post Office and must be presented to a USPS employee for examination at the time the letter is placed in the mail. The USPS employee examines the form, and assures that proper fees are paid.

With a Certificate of Mailing the mailing postage is affixed to the letter, but postage for the appropriate fees is affixed to the Certificate of Mailing form 3806. The USPS employee stamps the form 3806 with an official stamp which indicates the location and date the letter(s) was mailed and places an official stamp on each page of the corresponding manifest (form 3877) and signs the last page of the manifest. The USPS employee returns the validated receipt to the mailer. The USPS does not maintain a copy of the Certificate of Mailing, or the manifest for that Certificate of Mailing. The USPS does not track these letters through the mail stream. The USPS does not verify that the addresses on those letters are complete or accurate, nor does it keep a record of whether any of those letters were returned to sender. A Certificate of Mailing is NOT proof that a letter was received by the addressee.

	<b>UNITED STATES POSTAL SERVICE®</b>	<b>Certificate Of Mailing</b>	To pay fee, affix stamps or meter postage here.
This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.			
From:			
<hr/> <hr/> <hr/> <hr/>			
To:			
<hr/> <hr/> <hr/> <hr/>			
			Postmark Here
PS Form <b>3817</b> , April 2007 PSN 7530-02-000-9065			

# **SAMPLE LETTER TO ADJACENT PROPERTY OWNERS**

September 2, 2009

Sam Smith  
1002 Skunk Misery Road  
Haddam CT 06438

Dear Neighbor:

I would like to construct a new shed on my property located at 1002 Skunk Misery Road. It will be 20 feet by 30 feet in size and one story. I am seeking a variance from the Town of Haddam to locate this shed 10 feet from my eastern side property line.

My zoning hearing before the Zoning Board of Appeals is October 5, 2009 at 7:30 at the Haddam Town Hall on Field Park Drive. My application is on file at the Haddam Town Office building in the Land Use department, or give me a call and I can show you my plans.

As part of my application process I am required to mail you this letter. You are not required to respond or attend the hearing unless you would like to; this letter is for your information.

Sincerely,

Sam Smith

## **PLANNING & ZONING APPLICATIONS**

Any home/land owner can apply to the Land Use Department for uses outlined in the Haddam Zoning Regulations. Some uses are allowed by Zoning Permit only and do not need further Commission approval. Many uses require site plan review or Special Permit and require Planning and Zoning Commission approval. Certain types of activities, per Zoning Regulations, must be heard by the Planning and Zoning Commission. Haddam Zoning Regulations can be found at: <http://www.haddam.org/zoning-regulations.html> or in the Haddam Land Use Office.

Any time someone seeks relief from the Code, it is heard by the Haddam Zoning Board of Appeals – the most common application type is a Variance.

Note: The Commission or Board may deny any incomplete application.

### **IF AN APPLICATION IS DENIED:**

#### Zoning Permit:

If Denied by the Zoning Officer, you may make an appeal to the Haddam Zoning Board of Appeals.

#### Site Plan, Special Permit, Subdivision or other application:

If Denied by the Planning and Zoning Commission, you may make an appeal to the Haddam Zoning Board of Appeals.

If Denied by the Haddam Zoning Board of Appeals, the Applicant can appeal the denial decision to the Connecticut Superior Court within 15 days of the publication in the newspaper of the Legal Notice of Decision.

The Applicant can also substantially change the details of the Application, and reapply to the Commission or Board. A new Application Fee will apply.

Note: All Decisions (Approval or Denial) by either the Planning and Zoning Commission or the Haddam Zoning Board of Appeals are published in the Middletown Press. Anyone may appeal a Decision within the 15 day appeal period, which begins the date that the Decision is published in the newspaper.

Sections 8-7, 8-9 of the Connecticut State Statutes discuss the Appeals process in detail. Please see [www.cga.ct.gov](http://www.cga.ct.gov) Chapter 124, Section 8