

Public Notice Standards for Variance

The Zoning Board of Appeals of the Town of New Fairfield hereby notifies the property owners of the Town of New Fairfield that upon advice of Town Counsel, the following hardship rules will guide the Board in granting variances. Those who apply for zoning variance must meet the following criteria:

Two criteria must be met in order for the ZBA to grant a variance:

1. The variance must be in harmony with the general purpose of the zoning regulations and must be consistent with safety and public interest.

For example, a variance could not be granted for a machine shop in a residential zone because industrial activity is not in harmony with residential use.

2. There must be some specific condition affecting the parcel of land, but not generally affecting other parcels in the zoning district, which would cause an exceptional difficulty or unusual hardship if a variance were not granted. The condition must derive from the land itself; for example, its shape, topography or surface features. Personal hardships of the owner will not justify a variance.

For example, a lot may be oddly shaped, or may contain severe slopes or ledge, so that unless a variance is granted, the lot will be worthless or will be buildable only with enormous expense and effort. These conditions would not exist on other lots in the zoning district, and so could justify a variance.

But, a property owner who has created his own hardship, such as buying an undersized lot, or is seeking an increased use because of personal needs, or who hopes to profit from additional construction, has only a personal hardship. Such needs may generate great sympathy, such as when a growing family seeks to enlarge a crowded house, but they do not justify a variance under the zoning law of Connecticut.

The Zoning Regulations set forth the general rules for an entire zoning district. These rules are necessarily arbitrary, and although they may work well for over 90% of the lots in the district, there may be a few lots which cannot be used unless the application of the Zoning Regulations is varied. This is the job of the Zoning Board of Appeals, to examine the unique conditions of each lot on a case-by-case basis, and to decide whether the lack of a variance would leave the lot with no reasonable use, or with a use that could only be achieved through exceptional difficulty and hardship. The ZBA has wide discretion in making these determinations. However, each decision must be based upon the condition of the land and not the personal circumstances of the owner.

DATED AT NEW FAIRFIELD, CT, THIS 17TH DAY OF FEBRUARY, 1989
ZONING BOARD OF APPEALS,
TOWN OF NEW FAIRFIELD